

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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Thursday, April 17, 2014

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Re: Enforced Disappearance of Abu Bakar Siddique on 16 April 2014: Remedial action urgently required.

Dear Prime Minister; Ministers of Home Affairs; Law, Justice and Parliamentary Affairs, Attorney General, Minister for Foreign Affairs and Inspector General of Police;

Abu Bakar Siddique, businessman and husband of Syeda Rizwana Hasan, the Executive Director of the Bangladesh Environmental Lawyer's Association (BELA) is a victim of enforced disappearance and is at risk of death or grave injury. He was abducted by unknown assailants in Fatulla in Narayanganj, while enroute by car to Dhaka and his whereabouts are unknown. The *Joint Study on Global Practices In Relation to Secret Detention in the Context of Countering Terrorism* equates secret detention and enforced disappearances, "Every instance of secret detention also amounts to a case of enforced disappearance".¹ The enforced disappearance of **Abu Bakar Siddique** is believed to be in retaliation for his wife's legal work in relation to illegal encroachment, land grabbing, industrial pollution and other illegal acts affecting the environment.

¹ *Joint Study on Global Practices In Relation to Secret Detention in the Context Of Countering Terrorism of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, Martin Scheinin; The Special Rapporteur On Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak; The Working Group on Arbitrary Detention Represented by its Vice-Chair, Shaheen Sardar Ali; and The Working Group on Enforced or Involuntary Disappearances Represented By Its Chair, Jeremy Sarkin, February 19, 2010, A/HRC/13/42, para. 28.*
<http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-42.doc>

Immediate and effective action by state authorities is required to:

- locate and secure the safe release and return of **Abu Bakar Siddique**;
- investigate and ensure appropriate civil and criminal remedies;
- provide protection for Syeda Rizwana Hasan;
- provide protection to other human rights and environmental activists and advocates, their families and their staff.

LRWC fears that failure by state authorities to act quickly and effectively may contribute to further grave injury or death to **Abu Bakar Siddique**.

Bangladesh has a positive legal duty to prevent and punish enforced disappearance as part of its obligation to ensure life and liberty and other rights. These duties arise from many international instruments including the *Universal Declaration of Human Rights* (UDHR) and the *International Covenant on Civil and Political Rights* (ICCPR). Bangladesh became a member of the United Nations on 17 September 1974 and ratified the ICCPR on 6 December 2000.

The *Declaration to Protect all People from Enforced Disappearances*, A/RES/47/133, 18 1992 of the United Nations General Assembly confirmed that state duties to effectively prevent and punish enforced disappearances are part of duties under the ICCPR and UDHR to ensure rights to liberty and security, freedom from torture and equal protection of the law. The Declaration also confirms that,

“No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.”

The *Vienna Convention on the Law of Treaties* determines that States are bound by their treaty obligations and all treaty obligations must be performed in good faith (the principle of *pact sunt servanda*).² Article 27 of the *Vienna Convention* reads: “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.” This principle was part of international law long before The *Vienna Convention* came into force.

Failure to act quickly and effectively would in the circumstances, itself constitute a violation of the ICCPR. As determined by the UN Human Rights Committee,

“There may be circumstances in which a failure to ensure Covenant rights as required by Article 2 would give rise to violations by States Parties of those rights, as a result of States Parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.”³ (emphasis added)

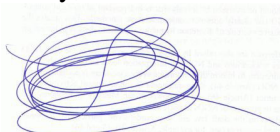
LRWC calls on the Government of Bangladesh to act immediately to locate and secure the release and return of **Abu Bakar Siddique** and to ensure remedial action to prevent future and punish past violations.

We look forward to your response.

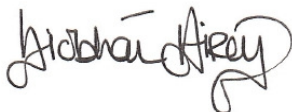
² Article 26 of the Vienna Convention on the Law of Treaties, entered into force on 27 January 1980. U.N.T.S. Vol. 1155, p. 331 [Vienna Convention].

³ Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 8.

Sincerely,



Gail Davidson, Executive Director, LRWC



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