



Inter-Parliamentary Union

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Bangladesh

BGL/14 - Shah Ams Kibria

Decision adopted unanimously by the IPU Governing Council at its 200th session (Dhaka, 5 April 2017)

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of Mr. Shah Ams Kibria, a member of the Parliament of Bangladesh who was assassinated in a grenade attack in January 2005, and to the decision adopted at its 197th session (October 2015),

Taking into account the letter from the parliamentary authorities, dated 26 October 2016, the information provided at the hearing held with the Deputy Speaker and another member of the Parliament of Bangladesh during to the 136th IPU Assembly, as well as the information provided by the complainants and other sources of information,

Recalling, among the extensive information on file, the following:

- The initial inquiry into the assassination proved to be an attempt by the investigating officers to divert the course of justice. Since the re-opening of the investigation in March 2007, Islamist militants belonging to the Horkatul Jihad al Islami (Huji), including its leader Mr. Mufti Hannan Munshi, have been implicated. According to the March 2010 report of the Ministry of Home Affairs, several persons have been arrested, including the two who detonated the grenades (Mr. Mizanur Rahman Mithu and Mr. Md Badrul Alam Mizan). In addition, the former State Minister for Home Affairs, Mr. Lutfozzaman Babar, stands accused of harbouring and protecting the individuals who threw the grenades;
- According to the parliamentary authorities, the investigation found that a Kashmir-based Islamic militant organization led by Mr. Abdul Mazid Butt had helped Mr. Mufti Abdul Hannan and Mr. Moulana Tajuddin, Huji leader in Bangladesh, transport Arges grenades from Pakistan to Bangladesh with the intent to commit assassinations in different parts of the country. Further investigation also revealed that some of the accused had been present when the grenades were thrown at Mr. Kibria;
- On 20 June 2011, the Criminal Investigation Department (CID) submitted a supplementary charge sheet against 14 other persons, with the request that the court rule on their status;
- Mr. Kibria's family objected to the charge sheet and filed a no-confidence motion on the grounds that it was, in its view, incomplete and, among other concerns, failed to identify all the individuals involved in the assassination, in particular the real masterminds of the murder. The family further expressed concern that, unless further investigations were conducted, the evidence was unlikely to hold up in court, as it had been drawn largely from interrogations conducted in prison and the accused would claim that they had been obtained under duress. The family also remained concerned about persisting political interference in the investigations and about the fact that it was not kept regularly informed of new developments and that its proposals to help advance the investigation had been disregarded;

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- In January 2012, the judge granted the family's motion and ordered further investigations to be carried out. The newly assigned investigating officer visited Mrs. Kibria and indicated that she would remain in regular contact with the family as the third investigation proceeded;
- A third investigation was initiated. The investigating officer reviewed past case records and obtained testimony from 93 witnesses. This resulted in the identification and arrest of new suspects. A new charge sheet was submitted in December 2014 against 35 individuals. This third charge sheet was transferred to the Speedy Trial Tribunal in June 2015 and confirmed on 13 September 2015. Trial proceedings are still under way, with a total of 171 witnesses expected to provide testimony;
- According to the authorities, the new suspects identified include Mr. Harris Chowdhury (the political adviser of the then Prime Minister Khaleda Zia – Mr. Chowdhury appears to also have been involved in the August 2004 attack against the then leader of the opposition and current Prime Minister, Sheikh Hasina), who is suspected of having planned the assassination. Mr. Harris Chowdhury, as well as two other suspects identified in the latest charge sheet, has absconded. The Bangladeshi authorities confirmed that they informed Interpol so that it could take necessary action and that a red notice has been issued against Mr. Harris Chowdhury;
- According to one of the complainants, in the past few years Mr. Kibria's family had stopped receiving regular updates on the investigation. The complainant observes that this lack of information, coupled with the long history of political interference, complications and delays in the investigation, has resulted in a loss of confidence in the judicial process on the part of Mr. Kibria's family. The family did not contest the third charge sheet, as it had done in the two earlier ones, because of this loss of confidence. The family reportedly continues to believe that other individuals involved in the crime, particularly the potential instigators, have not yet been charged due to political interference and consider that justice delayed is justice denied;
- During the hearing conducted at the 132nd IPU Assembly (Hanoi, March 2015), the Deputy Speaker of the Bangladeshi Parliament stated that the case was now on the right track, that the Bangladeshi authorities were committed to completing the judicial proceedings quickly and that he was confident that quick progress would be made towards resolving the case. He observed that the delays in the investigation were initially caused by political factors. He fully acknowledged that justice delayed was justice denied and emphasized that transparency in the proceedings and due process were essential to ensure a satisfactory outcome. He was not aware that Mr. Kibria's family had not been informed of recent investigative steps and observed that it was normally a matter of routine for investigators to keep the families informed. He further pledged to convey a copy of the new charge sheet when made public, once it had been confirmed by the court, as well as continue to convey information on any new developments in the proceedings;
- The parliamentary Standing Committee on the Ministry of Home Affairs has continued to monitor the case,

Considering that, during the hearing conducted at the 136th IPU Assembly (Dhaka, April 2017), the Deputy Speaker of the Bangladeshi Parliament reaffirmed that judicial proceedings in Bangladesh take time, and that the delays in the investigation were largely caused by the defendants and by the family when it contested the previous charge sheets. The trials were now ongoing in two separate proceedings running in parallel (assassination case and explosives case). It was taking time due to the need for the judges to hear every single witness in person and to allow the parties to cross-examine them. Great care was being taken to respect all rules of criminal procedure and the rights to defence, as the case was politically sensitive. A number of suspects were senior officials of the current opposition party and, if the court rushed the process and was not sufficiently transparent, the opposition would say that it was a political conspiracy. The court was therefore closely scrutinizing the evidence provided so as to ensure fair process. Forty-three witnesses had been examined by the court to date and the next hearing was scheduled to take place on 29 March 2017,

Bearing in mind the striking similarities between the grenade attack against Mr. Kibria and that against Sheikh Hasina and others five months earlier, with both attacks targeting key members of the opposition at the time and using the same type of grenade. In both cases, the investigation has

revealed an alleged conspiracy between members of the then ruling party and Islamist extremists. In this respect, several of the persons charged stand accused in both cases, including several members of the current opposition Bangladesh Nationalist Party (BNP) and leaders of Harkat-ul-Jihad al Islami,

Also bearing in mind that article 35 of the Bangladeshi Constitution provides that “every person accused of a criminal offence shall have the right to a speedy and public trial by an independent and impartial court or tribunal established by law”. The International Covenant on Civil and Political Rights (ICCPR) – to which Bangladesh is a party – also affirms the right to be tried without undue delay. At its universal periodic review (UPR) before the United Nations Human Rights Council, Bangladesh accepted recommendations made to end impunity and to take necessary measures to ensure that perpetrators of human rights violations are prosecuted,

1. *Thanks* the Deputy Speaker for the information provided during the hearing; however, *reaffirms its wish* to receive more detailed information in writing on a regular basis on developments in the ongoing trial proceedings; *regrets* that such information has not been forthcoming and that neither the parliamentary authorities, nor the Attorney General, have yet responded regarding the long-standing proposed trial-observation mission; *reiterates its wish* to receive a copy of the latest charge sheet, as well as further information on the grounds and evidence supporting the charges against the suspects;
2. *Notes* that the proceedings are still under way and that they are making slow progress; *takes note* of the reasons given by the parliamentary authorities in this respect;
3. *Remains deeply concerned* that, more than 12 years after the attack, none of the perpetrators has yet been held responsible in a court of law; *reiterates* that justice delayed is justice denied; and *hopes* that the trial will proceed swiftly and that further progress will promptly be made towards ensuring full accountability for this serious crime, in conformity with national and international standards of fair trial, including those regarding the application of capital punishment, and without any political interference;
4. *Is worried about* the lack of fairness of and loss of confidence in the current proceedings, including by Mr. Kibria’s family, as well as about the strong suspicions of the politicization of the judiciary;
5. *Notes with deep concern* that Mr. Kibria’s family and lawyers have claimed for several years now that they have not been kept informed of progress made in the investigation or in the trial proceedings, including dates of hearings scheduled by the court, but that the authorities continue to claim the contrary; *urges once more* the relevant authorities to take all appropriate measures immediately to ensure that the family is regularly and fully informed of all judicial developments and therefore able to participate meaningfully in the ongoing proceedings to ensure transparency in the ongoing judicial proceedings and accountability for the crimes;
6. *Notes with concern* that several suspects remain at large and takes note of the efforts undertaken by the authorities to apprehend them; *wishes* to be kept informed of progress in this regard;
7. *Notes with appreciation* that the Parliament of Bangladesh continues to monitor the case; *expects* it to convey its concerns and requests for information to the relevant executive and judicial authorities; and *trusts* that it will continue to keep the Committee regularly apprised of any significant developments and of the responses provided by all relevant authorities;
8. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainants and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.