

DECISION No. 5/1995 (BANGLADESH)

Communication addressed to the Government of Bangladesh on
23 August 1994.

Concerning Toab Khan and Borhan Ahmed, on the one hand, and the
People's Republic of Bangladesh on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication, received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.
2. The Working Group notes with concern that to date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiry of 90 days from the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of each of the cases of alleged arbitrary detention brought to its knowledge.
3. (Same text as para. 3 of Decision No. 35/1994.)
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Bangladesh. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstances of the cases, especially since the facts and allegations contained in the communication have not been challenged by the Government.
5. According to the communication, a summary of which has been transmitted to the Government, Toab Khan, a consultant on the Janakantha newspaper's editorial staff, and Borhan Ahmed, executive editor of Janakantha, were arrested on 8 June 1994, at the newspaper premises in the Motijheel shopping centre in Dacca. According to the source, the arrest of Mr. Khan and Mr. Ahmed was due to an article published on 12 May 1994 which focused on the allegedly wrong interpretation of the Koran made by a group of religious scholars known as "fatwabaz", in the rural areas of Bangladesh. They were reportedly charged and imprisoned under article 295 (a) of the Penal Code, for "insults to the religious feelings of the Muslim community of Bangladesh", a charge which reportedly carries a prison sentence of two years. The source added that in the same case the police were hunting for two other Janakantha journalists, Atiqullah Khan Masud and A.T.M. Shamaddin. The source alleged that the two journalists had been detained and charged solely for having exercised their right to freedom of expression.
6. The Working Group is convinced, on the basis of the facts as described above, which were not challenged by the Government in spite of the opportunity given to it to do so, that the detention of the persons concerned is solely motivated by the fact that, as journalists, they peacefully, and in the framework of their duties, criticized the manner in which certain religious leaders in rural areas interpreted the Koran. This constitutes beyond doubt a

violation of their right to freedom of opinion and expression which could not come within the provisions of article 295 (a) of the Penal Code of Bangladesh.

7. In the light of the above, the Working Group decides:

The detention of Toab Khan and Borhan Ahmed is declared to be arbitrary, being in contravention of article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights, and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

8. Consequent upon the decision of the Working Group declaring the detention of the above-mentioned persons to be arbitrary, the Working Group requests the Government of Bangladesh to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 30 May 1995.