

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA
BGD 5/2015:

11 August 2015

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the reported stigmatization of the non-governmental organizations **Odhikar** and the **Bangladesh Human Rights Commission (BAMAK)**, as well as possible threats against Mr. **Adilur Rahman Khan**, Odhikar Secretary, **his relatives and colleagues**.

Odhikar disseminates information relating to human rights and human rights abuses through monitoring and training projects, with a particular focus on civil and political rights. BAMAK similarly undertakes human rights monitoring.

Odhikar and its members, including Mr. Adilur Rahman Khan, were the subject of previous communications sent by several special procedures mandate holders on 25 March 2014 (BGD 2/2014), on 13 November 2013 (BGD 14/2013), on 6 September 2013 (BGD 10/2013), on 14 August 2013 (BGD 9/2013), on 11 October 2011 (BGD 5/2011), on 14 March 2011 (BGD 3/2011), on 12 March 2010 (BGD 4/2010), and on 9 May 2007 (BGD 11/2007). We acknowledge receipt of your Government's replies of 14 November 2013, 10 September 2013, 12 October 2011, 4 April 2011, and 10 May 2007 informing that the concerns raised in the letters of 13 November 2013, 6 September 2013, 11 October 2011, 14 March 2011, and 9 May 2007 had been transmitted to the authorities in

Dhaka. We regret that Your Excellency's Government has not provided any substantive information on the abovementioned cases to this day, except the case raised in the letter of 9 May 2007 where information was received on 7 August 2007.

According to the information received:

On 2 August 2015, following the publication of a report by Odhikar and BAMAK on extra-judicial executions allegedly committed by police forces, the police headquarters in Dhaka issued a media release where they rejected the report and labeled the two human rights organizations as subversive.

In their media release entitled "Police did not commit extrajudicial killings. Statements of Odhikar and BAMAK are unlawful; only subversive campaigns", the police accused the organizations of "contraven[ing] the existing laws of Bangladesh, which is synonymous of challenging the rule of law and the judicial system". They further accused Odhikar and BAMAK of "lowering the reputation of the police in the eyes of the public" and that their action amounted to "defamation and a criminal act". The police also stated that "[r]eports from various organizations using foreign funds are making [Bangladesh's] law enforcement and judicial systems look controversial in the eyes of the world. This has a negative impact on Bangladesh's reputation, foreign investment and political and other issues; and may be considered as subversive activities".

In the context of the issuance of the media release, it is feared that Mr. Adilur Rahman Khan, his relatives and colleagues may face serious threats.

Serious concerns are expressed about the above-mentioned media release issued by the police alleging defamation that targets the legitimate human rights work of Odhikar and BAMAK, and which may have a "chilling effect" on all organizations monitoring human rights violations, in particular those receiving foreign funding. This intimidating action on the part of the police could contribute to stifling reporting on issues of public interest, including on human rights violations, and restrict the legitimate exercise of the right to freedom of expression and opinion and the right to seek, impart and receive information. Similar concerns are expressed regarding the physical and psychological integrity of Mr. Adilur Rahman Khan, his relatives and colleagues, and all human rights defenders denouncing alleged violations committed by law enforcement authorities in Bangladesh.

In connection with the above alleged facts and concerns, we would like to refer to the articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR) that Bangladesh acceded to in 2000, which guarantee the rights to freedom of opinion and expression and to freedom of peaceful assembly respectively.

We wish to stress that however unpleasant or inconvenient, the mere fact that forms of expression are considered to be insulting to a public figure or, in this instance, amounting to “defamation and a criminal act” are not sufficient to justify the imposition of criminal penalties or other severe sanction. In this regard, we wish to remind your Excellency’s Government that any restrictions to the exercise of the right freedom of expression, in accordance with article 19(3) ICCPR, must be provided by law and necessary and proportionate. State Parties should consider the decriminalization of defamation and, *in any* case, the application of the criminal law should only be considered in the most serious of cases (CCPR/C/GC/34, para. 47).

Moreover, we would like to draw your Government attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which “reminds States of their obligation to respect and fully protect the [right] of all individuals to... associate freely... including human rights defenders... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of [this right is] in accordance with their obligations under international human rights law”.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6 and and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please indicate how the above-mentioned actions of the police are compatible with the international human rights norms and standards governing the exercise of the rights to freedom of association.

3. Please indicate what protective measures will be taken to ensure the physical and psychological integrity of Mr. Adilur Rahman Khan, his relatives and colleagues.
4. Please indicate what measures have been, or will be, taken to ensure that the rights to freedom of peaceful assembly and freedom of opinion and expression are respected in the country.
5. Please kindly indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

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Special Rapporteur on the rights to freedom of peaceful assembly and
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