

**Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on extreme poverty and human rights**

REFERENCE:  
UA BGD 5/2018

6 June 2018

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on extreme poverty and human rights, pursuant to Human Rights Council resolutions 33/30, 36/6, 35/15, 34/18, 32/32, 33/9 and 35/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received that **more than 132 people have been killed by security forces in Bangladesh since 15 May 2018 in the context of the announcement of a 'war on drugs'; that more than 13,000 individuals have been arrested and a number of others have been subjected to enforced disappearance in the same context; that drug users have been facing increasing difficulties to access health care services; and that the draft Narcotics Control Act, 2018 extends the death penalty to additional drug offenses.**

According to the information received:

On 3 May 2018, at an anniversary event celebrating the Rapid Action Battalion (RAB), Prime Minister Sheikh Hasina called for this joint elite force to combat the drug trade with the same fervor that was applied to operations against 'militant extremists'.

Since 15 May 2018, there have been at least 132 individuals killed by the security forces, and more than 13,000 arrested, as part of 'anti-drug drives'. The numbers of killings and arrests are increasing daily. The authorities have also been sending mass text messages inviting people to inform the Police about drug dealers.

According to the security forces, the deaths occurred after suspected drug dealers or traffickers were confronted and opened fired on them, leading to a ‘shootout’ or ‘encounter’ in which they were killed. The families of victims indicate that in many cases the individuals were not drug dealers or traffickers, and that security forces arrested the victims and they were taken away alive. It is alleged that drug users have also been targeted, that ‘slum’ areas have been particularly subjected to raids and that that the ‘war on drugs’ disproportionately targets poor and underprivileged people. There are also reports that lists of individuals, to be subjected to operations have been prepared, that members of the RAB are accepting money not to target certain individuals, and that in some cases killings may have been politically motivated.

A number of individuals have been reported missing and are believed to have been forcibly disappeared. A driver of a requisitioned human hauler that was used in an anti-drug operation allegedly went missing in one district.

Centers providing health services to drug users including Drop in Centers are being hampered or even stopped due to requests from the security services. Drug users are not accessing the Drop in Centers due to fear. This is causing risks for HIV prevention and treatment and increasing health risks for people already in vulnerable situations.

The draft Narcotics Control Act, 2018, introduces the death penalty for producing or processing more than 200 grams of ‘yaba’ pills or transportation, possession, purchase or sale, export or import, and preservation of more than 400 grams of the tablets or their ingredients. The death penalty can already be imposed for other drug offences, such as heroin trafficking.

On 1 June 2018, the Daily Star news site which has been reporting on the aforementioned allegations was blocked for 20 hours following instructions by Bangladesh Telecommunication Regulatory Commission, apparently after they published an article related to a case of an alleged extrajudicial killing.

On 3 June 2018 a public rally and march organized to protest against the alleged extrajudicial killings, was broken up by the authorities on the basis that the organisers had not sought permission before the event.

Without making a judgement as to the accuracy of the information made available to us, we are expressing gravest concern at these alleged extrajudicial killings, either intentionally, in the custody or at the hands of security forces or through excessive use of force. We are also extremely concerned at allegations that more cases are occurring every day, that lists of suspected individuals are allegedly being drawn and that people mentioned on these lists might be the target of similar extrajudicial killings. We are

alarmed by the arrest of 13,000 individuals and allegations of enforced disappearance linked to the so called ‘war on drugs’. Moreover, we are alarmed that drug users are reportedly being impeded from accessing health care services hampering efforts linked to HIV prevention and treatment, that this is causing risks for HIV prevention and that the ‘war on drugs’ disproportionately targets poor and underprivileged people, many living in slums, which have been the subject of several raids. We also express concern that the draft Narcotics Control Act, 2018 would extend the death penalty to additional drug offences which is incompatible with international standards on the use of the death penalty. We express serious concern at the blocking of the Daily Star, which appears to constitute an unlawful interference with the independence of the media and which deprives the public of information about a matter of high public interest. We express further concern that these measures take place in a context of a deteriorating civic space and that the authorities broke up a peaceful assembly protesting against the alleged extrajudicial killings.

These allegations, if confirmed, indicate, prima facie, multiple and severe violations of the right of every individual to life, liberty and security, and not to be arbitrarily deprived of one’s liberty; of and the right to a fair trial by an independent and competent court; of the right to right to freedom of expression and of the right of peaceful assembly as set forth in articles 6, 9, 14,19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), to which Bangladesh acceded on 6 September 2000. These allegations are also in contravention of the right to the enjoyment of the highest attainable standard of physical and mental health as set forth in article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which Bangladesh acceded on 5 October 1998.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites some international human rights instruments and standards relevant to these allegations. The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

**In view of the seriousness and urgency of the matter, we respectfully call on your Excellency’s Government to rescind what appears to be a deliberate policy of extrajudicial killings of drug traffickers and users, to ensure that the rule of law is upheld in the context of the so-called “war on drugs”, and that security forces carry out their duties in line with Bangladesh’s international obligations under the human rights conventions it has ratified, as well as other internally-accepted norms related to the use of force. We further call for investigations to be conducted into each and every one of these allegations, in particular those relating to extrajudicial killings and enforced disappearances, and for step to be taken to ensure drug users can safely access health care services. We also call for the draft Narcotics Control Act, 2018 to be revised to remove the death penalty for drug offences and instead to**

**develop a human rights compliant strategy to address and counter the drug problem.**

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 provide information on the Government of Bangladesh's policy and the legal framework with regard to its efforts to curb drug trafficking, the role of security forces in this context, and in particular as it relates to the recourse by state security personnel to force, including lethal force and how this policy and its implementation are consistent with the State of Bangladesh's human rights obligations under the conventions it has ratified.
3. Please provide the full details, and where available the results, of any official investigation undertaken concerning the allegations of extrajudicial killings, deaths in custody and enforced disappearances that have occurred in the context of the declared "war on drugs". In the event that these allegations are confirmed, please provide information on whether anyone been charged and whether penal, disciplinary or other sanctions have been imposed on the perpetrators. If no investigations have taken place, or if they have been inconclusive, please explain why, and how this is consistent with the human rights obligations of Bangladesh.
4. Please provide any information on the measures and safeguards that the authorities are taking in preparation to and during drug-related operations to avoid excessive use of force and related violation of the right to life.
5. Please provide information on the role of the Rapid Action Battalion and other security agencies involved in the "drug on war".
6. Please provide information about steps taken to ensure that existing legislation limits the use of force by law enforcement officials, the military and Special Forces, by incorporating international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials as per the Human Rights Committee Concluding Observations.

7. Please provide information on the draft Narcotics Control Act, 2018, including its current status and any revisions envisaged to bring it in line with international human rights standards binding on Bangladesh
8. Please provide information on the measures taken or envisaged to ensure that drug users are able to safely access health care services.
9. Please provide information on the reasons why the Daily Star news site was reportedly blocked by the Bangladesh Telecommunication Regulatory Commission for 20 hours.
10. Please provide information on why the peaceful assembly on 3 June 2018 was broken up by the authorities and how this complies with international human rights norms on the right to peaceful assembly.

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.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

We are considering publicly expressing our concerns in the near future as, in our view, the information made available to us is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be informed about the human rights implications of these violations. Any public statement on our part would indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

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.

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Bernard Duhaime  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Dainius Puras  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable  
standard of physical and mental health

Philip Alston  
Special Rapporteur on extreme poverty and human rights

**Annex**  
**Reference to international human rights law**

**Right to life**

Article 6 (1) of the ICCPR, provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life. In its General Comment No. 31, the Committee stated that there is a positive obligation on States Parties to ensure the protection of the rights contained in the Covenant against violations by its agents. A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

The arbitrary deprivation of life extends to summary executions by military and police, and the unnecessary use of lethal force in the context of drug enforcement. With regards to allegations that drug users are being arrested and later being reported dead, indicating that they died in the custody of the security services we remind that when the State detains an individual, it is held to a heightened level of diligence in protecting that individual's rights.

With regards to allegations of excessive use of force, under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal. The Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provide that the use of force and firearms must as far as possible be avoided, using non-violent means before resorting to violent means. Law enforcement officials may only use force when it is strictly necessary, and only to the extent required for the performance of their duties. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated. Furthermore, exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

We would like to remind your Excellency's Government of the obligation to carry out thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions as set forth in principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

We note that the Human rights Committee's Concluding Observations (CCPR/C/BGD/CO/1 call on Bangladesh to take immediate measures to protect the right

to life of all persons and to revise its legislation to limit the use of force by law enforcement officials, the military and special forces, incorporating international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and ensure accountability for violations and to investigate all cases of arbitrary killings, enforced disappearances and excessive use of force, prosecute and punish convicted perpetrators with appropriate sanctions and provide full reparation to the victims. We further note that at the Universal Periodic Review of Bangladesh on 14 May 2018, the Government accepted recommendations to promptly and thoroughly investigate all allegations of extra-judicial killings, while also ensuring that the perpetrators are brought to justice (such as those from France (147.8), Switzerland (147.5), Sweden (148.16) and Norway (148.17)).

Regarding the draft Narcotics Control Act, 2018 which would extend the applicability of the death penalty to additional drug offences, we would also like to remind your Excellency's Government that Article 6(2) of the ICCPR provides that countries which have not abolished the death penalty may only impose it for the most serious crimes. This provision has consistently been interpreted by the Human Rights Committee to mean that the death sentence may only be imposed in respect of intentional killing and drug-related offences do not reach this threshold. The Human Rights Committee further urged Bangladesh in its 2017 Concluding Observations (CCPR/C/BGD/CO/1) to amongst other things undertake legislative reform to ensure that the death penalty is provided only for the most serious crimes, understood to be intentional killings.

### **Arbitrary Detention**

We would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights, and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

The joint commitments agreed to in the Outcome Document of the 2016 United Nations General Assembly Special Session on the World Drug Problem, include to “promote and implement effective criminal justice responses to drug-related crimes to bring perpetrators to justice that ensure legal guarantees and due process safeguards pertaining to criminal justice proceedings, including practical measures to uphold the prohibition of arbitrary arrest and detention ... and to eliminate impunity, in accordance with relevant and applicable international law and taking into account United Nations standards and norms on crime prevention and criminal justice, and ensure timely access to legal aid and the right to a fair trial.”



## **Enforced Disappearance**

The Declaration on the Protection of All Persons from Enforced Disappearances establishes that no State shall practice, permit or tolerate enforced disappearances (Article 2) and 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 (Article 7). We further highlight that according to article 10 (2) of the Declaration, accurate information on the detention of persons deprived of liberty and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information. The Human Rights Committee concluding observations (CCPR/C/BGD/CO/1) urge Bangladesh to effectively criminalize enforced disappearance as well as to investigate all cases. We further note that at the Universal Periodic Review of Bangladesh on 14 May 2018, the government accepted recommendations to investigate abductions and forced disappearances and bring perpetrators to justice.

## **Right to Health**

We would like to refer your Excellency's Government to Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded to by Bangladesh on 5 October 1998, which provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. We would also like to draw your attention to Article 2 of the ICESCR, which provides that States must undertake to guarantee that the rights enunciated in the Covenant are exercised without discrimination of any kind. As such, an individual's use of, or dependency on, drugs cannot constitute grounds for curtailing his or her rights.

We would like to refer to report A/65/255 by the Special Rapporteur on the right to the enjoyment of the highest attainable standard of physical and mental health, which recognizes that the right to health of all people who use drugs – and are dependent on drugs – is applicable irrespective of the fact of their drug use (para. 7). The report highlights that an individual's use of drugs cannot constitute grounds for curtailing his or her rights, irrespective of whether the individual is dependent on drugs or whether the applicable drug control regime allows for imprisonment or other sanctions for drug use (para. 8).

The report further emphasizes that people who use or are dependent on drugs experience violations of their rights under the current international drug control regime (para. 8). In this regard, the report highlights that the "war-on-drugs" approach to drug not only fails to prevent health-related harms of drug use, but also fails to achieve genuine drug control (para. 14-15). This approach also fails to acknowledge the realities of drug use and dependence, including the fact that people invariably continue using drugs irrespective of criminal laws; that drug dependence, as distinct from drug use, is a medical condition requiring appropriate, evidence-based treatment, instead of criminal sanctions; and that punitive drug control regimes actually increase the harms associated with drug use by directing resources towards inappropriate and ineffective methods (para. 15).

As emphasised by General Assembly Resolution of 19 April 2016 –“Our joint commitment to effectively addressing and countering the world drug problem” –drug programmes, strategies and policies must be implemented in accordance with States’ human rights obligations and with a view to promote the protection of and respect for human rights and the dignity of all individuals (A/RES/S-30/1). The joint commitments agreed to in the Outcome Document of the 2016 United Nations General Assembly Special Session on the World Drug Problem, include to “ensure non-discriminatory access to health, care and social services in prevention, primary care and treatment programmes, including those offered to persons in prison or pretrial detention.”

We further note that during the UPR of Bangladesh on 14 May 2018, the Government accepted a recommendation from Portugal to take specific measures aimed at eliminating all forms of discrimination and stigma in healthcare settings, in particular against those persons who are in a more vulnerable position, including in the context of mental health and of HIV/AIDS (147.31).

### **Right to peaceful assembly**

We would further like to highlight that the right to freedom of peaceful assembly, enshrined in article 21 of the ICCPR, is a right and not a privilege and as such its exercise should not be subject to prior authorization by the authorities (A/HRC/20/27).

State authorities may put in place a system of prior notification, where the objective is to allow State authorities an opportunity to facilitate the exercise of the right, to take measures to protect public safety and/or public order and to protect the rights and freedoms of others. Any notification procedure should not function as a de facto request for authorization or as a basis for content-based regulation. Notification should not be expected for assemblies that do not require prior preparation by State authorities, such as those where only a small number of participants is expected, or where the impact on the public is expected to be minimal (A/HRC/31/66).