

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

REFERENCE:  
UA BGD 7/2018

10 August 2018

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 34/18 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary detention and torture of Mr. **Shahidul Alam**, writer and photographer, as well as the alleged arbitrary detention, torture, judicial prosecution and attack against Mr. **Mahmudur Rahman**, journalist.

Mr. Shahidul Alam is the founder of the Drik photo agency and of the Pathshala South Asian Media Institute. Mr. Alam has also written books including *The Birth Pangs of a Nation* and *My Journey as a Witness*. Recently, Mr. Shahidul Alam documented the ongoing student protests over road safety in Bangladesh, where student protestors were reportedly attacked for demanding safe roads.

Mr. Mahmudur Rahman is the former Acting Editor of the Daily Amar Desh newspaper. The Daily Amar Desh newspaper used to be a national newspaper in Bangladesh. It was shut down in 2014.

Several communications have been sent by the Special Procedures, notably to raise concerns regarding the violation of the right to freedom of expression: JUA BGD 8/2016 was sent on 17 June 2010, BGD 1/2013 was sent on 4 January 2013, BGD 6/2013 was sent on 30/04/2013 and BGD 1/2014 was sent on 7 March 2014.

We thank Your Excellency's Government for acknowledging receipt of our communications and notifying they will be transferred to the relevant authorities. Nevertheless, we regret not having received substantive replies to our letters and that no action appears to have been taken despite several similar cases being brought to the attention of the Special Rapporteurs and communicated to your Excellency's Government.

According to the new information received:

*Mr. Shahidul Alam:*

On 5 August, 2018, Mr. Shahidul Alam was arrested in his house in Dhaka, by a group of police personnel in plain clothes. All the CCTV cameras were destroyed and the house was searched.

The arrest took place hours after the news outlet Al-Jazeera released an interview with Mr. Alam discussing the recent student demonstrations in Bangladesh. Mr. Alam had photographed the student protesters in Dhaka and discussed the demonstrations on Facebook Live.

On 6 August, 2018, Mr. Alam was brought to the Dhaka court, where he was interrogated regarding allegations that he gave “false information to the media” and for “provocative comments”.

Mr. Alam was remanded to custody for seven days in a case filed under Section 57 of the Information and Communication Technology (ICT) Act 2006, which authorizes the prosecution of any person who publishes, in electronic form, material that is fake and obscene; defamatory; tends to deprave and corrupt its audience; causes, or may cause, deterioration in law and order; prejudices the image of the state or a person; or causes, or may cause hurt to religious belief.

Mr. Alam told his lawyer and family members at the court that he had been tortured in custody, and was not able to walk without support as a result of his injuries.

On 7 August 2018, the Court ordered immediate medical examination and treatment. The following day, Mr. Alam was taken to the hospital for medical examinations and returned to police custody on the same day.

*Mr. Mahmudur Rahman:*

On 24 November 2016, Mr. Rahman was released on bail after having been detained arbitrarily for 1,322 days under charges of “inciting people to attack the Shahbagh Projomo Chottor protests”. He was directly transferred to the United Hospital in Dhaka for medical assessment and treatment, as his health had severely deteriorated during his prolonged detention due to reported torture, including through the hammering of nails into his flesh and bones as well as electric shocks and lack of access to proper medical care.

In December 2017, Mr. Rahman was re-arrested on grounds of having made derogatory statements “demeaning Sheikh Mujibur Rahman, the first President of Bangladesh, Prime Minister Sheikh Hasina and her niece, Tulip Siddiq Member of the British Parliament”. He was released on bail following a Court hearing on 22 July 2018 in Kushtia.

On the same day, while leaving the Court room and trying to get to his car, a group of approximately 100 men were waiting for him outside. When

Mr. Rahman approached his car, the group of men violently threw broken pieces of bricks at his car and broke its windows. Mr. Rahman fled and tried to find shelter in an office. The men entered forcibly into the office and beat Mr. Rahman, leaving him with injuries to his head and face. The attackers were led by District President of the Bangladesh Chhatra League (BLC), the student wing of the ruling Bangladesh Awami League.

Shortly after the attack, the police arrived to the location of the incident. Mr. Rahman was subsequently taken on a flight out of Kushtia and then brought by ambulance to a hospital in Dhaka. The doctors reported injuries to his face, back of his head and his shoulder. He also suffered from a laceration on the right lower eyelid and a 2-3 cm long deep laceration behind the right ear. To date, Mr. Rahman is still in the hospital.

Mr. Rahman continues to face prosecution in at least 80 different criminal cases related to crimes that took place while he was in police custody.

We express serious concerns about the alleged arbitrary detention and torture of Mr. Alam, as well as the alleged arbitrary detention, torture, judicial prosecution and attack perpetrated against Mr. Rahman, which seem to be related to their journalistic activities and to their legitimate exercise of their right to freedom of expression. We are also concerned about the criminalization of the legitimate work carried out by journalists who express dissenting opinions or report on human rights concerns.

We reiterate our concerns regarding allegations describing a generally unsafe context for journalists and other media workers in Bangladesh, which prevents them from carrying out their work in a safe and enabling environment and violates their right to freedom of expression, contrary to Bangladesh's obligations under international human rights law. In recent days, journalists have been reportedly attacked by governing party student wing members, with some suffering serious injuries.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to draw your attention to article 7 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Bangladesh on 6 September 2000, which guarantees the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment. We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in Article 7 of the ICCPR and in the articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Bangladesh acceded to on 5 October 1998.

Furthermore, we would like to draw the attention of your Excellency's Government to article 12 of the Convention Against Torture and other cruel, inhuman and degrading treatment or punishment (CAT), which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture.

We would also like to draw your attention to article 9 of the ICCPR states that everyone has the right to liberty and security of the person and that no one shall be subject to arbitrary arrest or detention, except on grounds established by law and following legal procedures. Paragraph 4 of the same article states that anyone deprived of his liberty is entitled to bring proceedings quickly before a court, for it to determine the legality of such detention or to order the release of the person concerned without delay. The Human Rights Committee has established in its General Comment N. 35 that an arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion, expression, assembly and association (CCPR/C/GC/35, par. 17).

Moreover, we refer your Excellency's Government to article 19 of the ICCPR, which protects the right of everyone to seek, receive and impart ideas of all kinds. We would like to remind your Excellency's Government that any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 4 and 19(3). Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

We would also wish to refer to the fundamental principles set forth in 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, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

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 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 person(s) 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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the information on the legal grounds for the arrest and detention of Mr. Alam and Mr. Rahman, and explain how these measures are compatible with the international human rights obligations of Bangladesh, in particular under the ICCPR.
3. Please provide the details, and where available, the results, of any investigation and judicial or other inquiry undertaken in relation to the above allegations of torture against Mr. Alam and Mr. Rahman, as well as the attack perpetrated against the latter. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please indicate what measures have been taken to ensure that journalists and other media workers are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation, harassment, and prosecution 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(s) responsible for the alleged violations.

We intend to publicly express our concerns, since in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s 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.

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

Michel Forst  
Special Rapporteur on the situation of human rights defenders