

Mandates of 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 situation of human rights defenders; the Special Rapporteur on the human rights of migrants; and the Special Rapporteur on minority issues

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Excellency,

We have the honour to address you in our capacity as 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 situation of human rights defenders; Special Rapporteur on the human rights of migrants; and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 35/15, 34/18, 41/12, 34/5, 34/21 and 34/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of retaliatory measures taken by Bangladeshi authorities against Rohingya refugees in reaction to the "Genocide Day" protest which occurred on 25 August 2019.

According to the information received:

On 22 August 2019, an effort to repatriate Rohingya refugees from a number of camps in Cox's Bazar failed, with no families volunteering to return due to a fear of suffering human rights violations across the border. That same evening, a young Bangladeshi man was killed by two Rohingya refugees near Teknaf. The killing sparked off a number of protests among the local community, demanding justice and expressing anger at the refugee population in general.

Subsequent to the killing on 22 August 2019, police killed three Rohingya men who were allegedly associated with the murder, although doubts over their actual involvement persist. Later, a fourth suspect was killed by police officers, while the "camp chairman", a senior refugee within the camp structure of camp 27, was also arrested and jailed in Cox's Bazar in relation to the murder. It is unclear whether the camp chairman had anything to do with the murder, or whether he was simply arrested due to his position of authority.

Anger of the host-community over the killing has had the effect that many refugees are afraid to leave their shelters, while the UN and other international agencies have been unable to return to Teknaf.

On 25 August 2019, an unconnected peaceful demonstration involving some 200,000 Rohingya refugees, known as the “Genocide Day” demonstration, took place in one of the largest camps in Cox’s Bazar, approximately an hour away from Teknaf. The demonstration called for adequate human rights safeguards and security guarantees so as to enable the return of refugees to their homes.

Since this demonstration, organisers of the protest, and other members of civil society, including human rights defenders, have been interviewed by police, military and intelligence, and remain under close surveillance. Media in Bangladesh have initiated a smear campaign against one of the organisers of the protest, stating that he is funded by an alleged funder of Al-Qaeda and that he is supported by a Bangladeshi political party which had been banned by the Supreme Court in 2013. At least two international non-governmental organisations (INGOs) have been banned for financing and aiding in the organisation of “anti-repatriation groups” involved in the demonstration, while multiple other NGOs working in the refugee camps have had their activities suspended. On 27 August 2019, a three-member committee was established by the Refugee Relief and Repatriation Commissioner of Cox’s Bazar to probe the role of NGOs in the organisation of the demonstration.

Following the demonstration, a curfew which was previously in place has been vigorously enforced, while authorities have announced that Rohingya refugees are no longer permitted to own mobile phones, with widespread confiscations occurring on 2 September 2019. Access to 3G and 4G has also been restricted in at least two camps. Large numbers of military, police, and Rapid Action Battalion police have all entered the camps and authorities have ordered refugees to remain in their own shelters. Reports of arrests, beatings and extrajudicial killings have also been received, with those arrested being denied access to legal representation.

At the beginning of September, a number of Bangladeshi officials in charge of administering the refugee camps, who had previously been supportive of Rohingya civil society groups, were transferred from their positions.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our serious concern over the overall climate of fear that Rohingya refugees are facing in Cox’s Bazar camps. We fear that the recent tragic killing of the young Bangladeshi man detailed above has exacerbated tensions between them and the local community, compromising the safety of the refugee community, and that the measures taken in the wake of the “Genocide Day” demonstration have been done so in order to appease the local community by punishing Rohingya refugees for their exercise of their right to freedom of peaceful assembly, which is guaranteed by article 21 of the International Covenant on Civil and Political Rights, acceded to by Bangladesh on 6 September 2000.

We are gravely concerned over allegations of arrests, beatings and extrajudicial killings in the camps, including the killings of those suspected to have murdered the abovementioned young Bangladeshi man, especially given the increased militarisation of the camps over the last number of days. The requirement for refugees to remain in their own shelters under curfew removes from them the possibility of engaging in collective security, and increased isolation may give rise to further human rights violations, which may occur with impunity, including beatings, torture and death. For those who have been arrested, we are concerned over reports that they have been denied access to legal representation and urge your Excellency's Government to ensure their fair trial rights under article 14 of the ICCPR.

We further express our concerns over the overall shrinking of civic space in the camps, and the impediments to assembly which have been placed on the refugee community therein. The seizure of mobile phones, often the only tool through which community members can access the internet, has a drastic effect on the ability of the refugee community to organise themselves and to peacefully assemble, associate and express themselves online. Moreover, we express our serious concern over the halting of the activities of a number of NGOs in the camps, not only because of the effects that this has on the right to freedom of association, but also because of the extraordinarily valuable services that these NGOs provide to the beneficiary community, who stand to suffer as a result.

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, including articles 6, 9, 14, 19, 21 and 22 of the ICCPR, which provide for the rights to life, liberty and personal security, fair trial, expression, peaceful assembly and association.

We note that article 6 of the ICCPR guarantees these rights for all human beings, without distinction of any kind, including for persons suspected or convicted of even the most serious crimes (CCPR/C/GC/36, para. 3). We further note that, as interpreted by the Human Rights Committee, the right to personal security under article 9 also obliges States parties to take appropriate measures (...) to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. States parties must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury". Furthermore, we would like to recall that "States have a duty to prevent and redress unjustifiable use of force in law enforcement" (CCPR/C/GC/35, para. 9).

With regards to Internet disruptions and seizures of mobile phones, we wish to express our concerns over the adverse effects that these may have on the right to freedom of opinion and expression, especially on the right to disseminate and receive information and the right to peacefully assemble and associate, including online. Any limitation to the right to freedom of expression must meet the criteria established by article 19 (3) of the

ICCPR, while any limitation to the right to freedom of peaceful assembly must conform to the criteria established in article 21 of the ICCPR.

It is important to stress that network shutdowns invariably fail to meet the standard of necessity, and that given the number of essential activities and services they affect, shutdowns restrict expression and interfere with other fundamental rights (A/HRC/35/22). Similarly, with regards to freedom of peaceful assembly, although an assembly has generally been understood as a physical gathering of people, human rights protections, including for the rights to freedom of peaceful assembly, of expression and of association, may apply to analogous interactions taking place online (A/HRC/RES/38/11).

We would also like to highlight to your Excellency's Government that "[t]he suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient."(A/HRC/20/27, para 75).

We finally wish to recall the international standards that provide for the protection and promotion of the rights of persons belonging to minorities, and in particular article 27 of the ICCPR and the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

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 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 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 any investigations which have taken place with regards to the killing of the young Bangladeshi man detailed above, along with the four men who were killed by police in connection with the murder. Please provide information on what steps have been taken to ascertain their guilt, and if no steps have been taken, please explain why.

3. Please provide information with regards to the legal and factual basis for banning the possession of mobile phones by Rohingya refugees, and give detailed information with regards to restrictions on internet access, including information on how such measures are compatible with international human rights standards.
4. Please provide information on what steps have been taken to ensure civic space and an enabling environment for human rights defenders and all those wishing to exercise their rights to freedom of expression, peaceful assembly and association, including through protecting them from all threats or acts of violence, intimidation or other forms of harassment, including judicial harassment.
5. Please provide information on the legal and factual basis for the banning of two INGOs in connection with the protests, and further provide information with regards to their right of appeal against the determination.
6. Please provide information on what steps have been taken in order to reduce ethnic tensions and safeguard minority rights, including through the prevention of smear campaigns and other acts of discrimination, including online discrimination.

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 may publicly express our concerns in the near future as, 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 to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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