

**Mandates of the Special Rapporteur on freedom of religion or belief; 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 situation of human rights defenders; the Special Rapporteur on minority issues; and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

REFERENCE:  
AL BGD 5/2020

1 September 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; 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 situation of human rights defenders; Special Rapporteur on minority issues; and Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 40/10, 36/6, 35/15, 43/4, 43/16, 43/8 and 41/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **threats, acts of intimidation and legal prosecution of Mr. Asaduzzaman Noor, and the ongoing harassment of his family members in Bangladesh.**

Mr. Asaduzzaman Noor (also known as Asad Noor) is a blogger and human rights defender. Since 2013, he has been actively criticizing violent and religious extremism, as well as the politicization of the State religion in Bangladesh. He also writes about minority rights and advocates against human rights violations in Bangladesh. Moreover, he defends educational platforms for lesbian, gay, bisexual and transgender (LGBT) persons. He has been facing recurrent intimidation and death threats for his online activism and human rights work since 2015, from State and non-state actors.

According to the information received:

*Persecution and prosecution of Asad Noor*

In 2017, Mr. Noor, together with another blogger, exposed alleged marketing frauds of a multinational corporation by a member of the political party [REDACTED]. In early January 2017, the supporters of the party initiated a hate campaign against Mr. Noor and his fellow blogger, staging demonstrations and demanding for them to be arrested and to be sentenced to death for hurting religious sentiments of Muslims and insulting the Prophet Mohammad.

On 11 January 2017, a mufti belonging to the ██████ filed a case under section 57 of the Information Communication and Technology Act 2006 (ICT), against Mr. Noor and another blogger, on the basis of fabricated provocative comments that had not been written by them, accusing them of “writing defamatory words” in social media against Prophet Muhammad. In response to these allegations, on 25 December 2017, the police arrested Mr. Noor from Hazrat Shahjalal International Airport in Dhaka while he was on his way to travel abroad.

He was detained in the Kashimpur-2 Central Jail of Dhaka for several months. He was only granted bail on 9 August 2018 and released from the prison on 16 August 2018. However, his release triggered strong protests by ██████ ██████, a radical Islamist advocacy group. On 28 August 2018, the leaders of the group and their supporters organized demonstrations in Chittagong demanding that the Government re-arrest Mr. Noor and hang him to death; and threatening that they would otherwise take justice into their own hands.

As a result of the death threats, Mr. Noor tried to leave the country again on 11 September 2018. However, prior to his departure, the Directorate General of Forces Intelligence officials found him at a friend’s residence. They seized his passport, and interrogated him, his wife and friends for four hours before detaining them at an unknown location for three days. Subsequently, his wife and friends were released on condition that they did not speak about the incident to others. Mr. Noor remained incarcerated, where he faced fabricated drug related charges. After spending more than four months in jail, the court granted bail to Mr. Noor and he was released in the first week of January 2019.

After his release, Mr. Noor made several applications to the court to get his passport back without success. Due to the numerous death threats he was receiving, Mr. Noor fled the country in February 2019.

In a press conference on 11 July 2020, a Buddhist monk, founder of Gayanasarana Buddhist Monastery, criticized the Government for its decision to appropriate the land of the Buddhist temple in Chittagong to the sibling of a Government Minister. The day after the press conference, a local leader of the students’ political organization Chhatra League filed a case against the monk under the Digital Security Act 2018 (DSA) for hurting religious sentiments of Muslims and for derogatory comments against Prophet Mohammad. On 14 July 2020, Mr. Noor posted two videos on his YouTube channel and Facebook speaking in support of the monk and appealing for his protection. Just about a week before that, Mr. Noor published a video supporting the human rights of LGBT persons and defending the “10 Minute School” (an online educational platform in Bangladesh).

On 14 July, another local Chhatra League leader filed a case against Mr. Noor for the videos he posted speaking in support of the monk under the DSA and he was charged under sections 21 (2), 25 (2), 28 (2), 29 (2), 31 (2), and 35 for hurting religious sentiments, including by supporting the human rights of LGBT persons,

defaming the Government and writing against the spirit of the Liberation War of 1971.

The cadre of the Minister involved in the aforementioned case allegedly incited some radical Islamist groups to start a hate campaign against the monk and Mr. Noor. On certain Facebook pages, the Islamist groups posted messages and images of violent threats against the monk and Mr. Noor, demanding that they be hanged.

Mr. Noor's Facebook pages and YouTube channels, which were created before 2017 were reportedly disabled. On 15 July 2020, the Government also blocked his personal website. Subsequently, on 3 August 2020, his YouTube channel was disabled. In addition, one of his backup YouTube channels was also disabled.

#### *Harassment of Asad Noor's family*

While Mr. Noor remains in exile due to the threats to his life, his family in Bangladesh have become a target for harassment by the authorities.

Around midnight of 15 July 2020, the police forcefully entered the house of Mr. Noor's parents, searched without warrant for Mr. Noor, and interrogated his parents about his whereabouts. The police searched his parents' house again at noon on the same day and on 17 July.

In the early morning of 18 July 2020, six family members of Mr. Noor were taken to the Amtali Police Station allegedly under the instruction of the aforementioned Minister. They were arbitrarily detained for nearly 48 hours without any arrest warrant. During the 48-hour detention, the police seized all their mobile phones and threatened them with possible raids by the Rapid Action Battalion at anytime, or arrest and imprisonment under certain fabricated charges. The six family members were unable to inform Mr. Noor or other relatives of their arrest and place of detention. When relatives received informal information on the arrest, they went to the police station but the police refused to allow the individuals to meet the six detained family members. Moreover, the officer in charge told his father to call and instruct Mr. Noor to delete all the videos that he had posted in support of the monk. During the call, Mr. Noor's father was unable to inform Mr. Noor of his location. All of them were subsequently released on 19 July.

Even after their release, the authorities continued to harass Mr. Noor's father. On 28 July 2020, Mr. Noor's father was forcefully taken to the Amtali Police Station again and was kept in custody for about seven hours. Mr. Noor's father was intimidated and threatened in various ways, including with threats that his house could be set on fire and that all family members could be physically attacked. The police also allegedly forced Mr. Noor's father to call his son and read a script prepared by the authorities. The script that his father had to read criticized Mr. Noor

for all his “wrongdoings” for speaking against the Government and Islam and urged him to stop his online activism in order to save his family.

On 5 August 2020, Mr. Noor’s father was again called to the police station and forced to stay until late at night during which he was forced to read a written statement over 30 times, which the police also recorded on video. In the prepared statement, which was taped, Mr. Noor’s father told him that he was wrong to speak against the State and to defend the monks who, he said, are engaged in various terrorist activities and had misappropriated land in the Chittagong Hill Tracts. Mr. Noor was also told that if he did not stop writing against Islam his family would be attacked. Moreover, he was told to delete all the videos that remained on Facebook. On 8 August 2020, the video of his father reading this statement was posted online by the cadre of the Minister on a Facebook page, threatening the well-being and security of his family members.

*Patterns of attacks and persecution of bloggers, atheists, minorities, activists and critics*

From 2013 to 2016, at least 30 people were murdered for exercising their right to freedom of thought, conscience, religion or belief, and expression in Bangladesh. According to the Bangladesh Government’s official statistics, at least 38 journalists and more than 400 other people have been detained during the first half of 2020 under DSA.

Bloggers, atheists, freethinkers, critics of the government, aid workers, LGBT rights defenders, religious minorities and Muslims who oppose Islamist extremism are reportedly facing increasing threats of violence, physical attacks and enforced disappearances against them and persecution from State and non-State actors, forcing many to go into exile. Rather than investigate and prosecute those accused of carrying out such attacks, it is alleged that the authorities have often charged dissidents under the DSA to silence them. Moreover, the harassment of Mr. Noor’s family is example of a worrying emerging pattern of targeting families of human rights defenders in exile.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern at the alleged persecution and prosecution of Mr. Noor for the exercise of his human rights to freedom of thought, conscience, religion or belief, opinion and expression.

In particular, we remain concerned about the hate campaigns as well as threats and incitement to violence by the radical Islamist advocacy groups, against Mr. Noor in particular and the monk. We also express our serious concern that Mr. Noor’s family remain at risk for their physical safety, taking note of the alleged acts of intimidation and harassment from the police as well as from followers of radical Islamist groups. In this regard, we note that there has been no investigation or statement from the authorities condemning such open incitement to violence and hatred, and remind your Excellency’s

Government of the obligation to protect life, to investigate abuses against individuals and, if appropriate, to prosecute and punish those responsible.

Moreover, we note that the charges against Mr. Noor under section 57 of ICT and DSA appear to violate his rights to freedom of thought, conscience and religion or belief, freedom of opinion and expression. The charges against him appear to be based on vague provisions under criminal law, they are raised seemingly for the illegitimate purpose of silencing him in a manner which would contravene also the principles of necessity and proportionality under articles 18 and 19(3) of the International Covenant on Civil and Political Rights (ICCPR).

These allegations may also constitute violations of the obligations of States to provide, through judicial or other means, effective protection of individuals and groups who may be subject to extra-legal, arbitrary or summary executions, including those who receive death threats and to take measures to appropriately investigate and punish such acts by members of their own security forces in accordance with Principles 4, 9 and 18 of the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. 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.

Lastly, we wish to highlight that this appears not to be an isolated case, but one of a pattern of persistent harassment, intimidation and violence against journalists, bloggers, freethinkers, atheists, writers, defenders of rights of minority and LGBT persons, and critics of the government. The pattern of abuse seems to be a combination of threats from non-state actors and repression by the authorities. The threats emanating from non-state actors against individuals and their families appear in some instances to occur with the complicity or acquiescence of the authorities, and are followed by the criminal prosecution of the victims contrary to the requirements under the Covenant. We have previously expressed our concerns about the ICT and the DSA acts, which on several points appear manifestly contrary to the requirements under the ICCPR (BGD 4/2018 and BGD 4/2020), in particular they criminalizes large categories of speech for harming “religious sentiments”, and are used to silence criticism of the government, journalism, religious expression and the expression of gender identity or sexual orientation related issues.

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 international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.

2. Please provide information about the factual and legal grounds for the charges against Mr. Noor.
3. Please provide information about the measures taken by your Excellency's Government to protect Mr. Noor's family from further intimidation, harassment or pressure and to ensure their safety.
4. Please provide information on the steps taken to ensure the arrest and place of detention of all individuals is systematically made promptly available to their family members.
5. Please provide information on the measures being taken to protect journalists, government critics, and human rights defenders, including defenders of the rights of atheists, Buddhists and other religious minorities and LGBT persons, or exercising their right to freedom of thought, conscience, religion and expression in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.
6. Please provide information about steps and measures your Excellency's Government has taken to amend and review the use of DSA to ensure that its application does not adversely affect freedom of thought, conscience, religion or belief and freedom of opinion and expression.
7. Please provide information of any investigation on the hate campaign and incitement to violence by State and private actors against Mr. Noor and other victims. What measures are planned or implemented to combat the growing pattern of incitement to violence?
8. Please provide information about the steps taken by your Excellency's Government to combat politicization of religions and to protect the secular and civic space that would allow for peaceful coexistence of all persons, and the free exercise of the freedom of expression, including on political and religious affairs.

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.

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 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's to clarify the issue/s in question.

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

Ahmed Shaheed  
Special Rapporteur on freedom of religion or belief

Luciano Hazan  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan  
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Mary Lawlor  
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Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

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

In connection with above alleged facts and concerns, we wish to draw your Excellency's Government's attention to Articles 3 of the Universal Declaration of Human Rights and 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), acceded to by your Government on 06 Sep 2000, which respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life.

States parties have the duty to refrain from engaging in conduct resulting in arbitrary deprivation of life. They must also exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities, whose conduct is not attributable to the State. The obligation of States parties to respect and ensure the right to life extends to all threats that can result in loss of life. States parties may be in violation of article 6 of the ICCPR even if such threats have not actually resulted in loss of life.

The general legal obligations to "respect and ensure" under article 2 (1) of the Covenant entail that the State not only must take all necessary measures to give effect to and respect the rights enshrined in the Covenant. It must also take appropriate and reasonable measures to ensure the rights enshrined in the Covenant vis-à-vis private actors. Consequently, the State has a duty to act with due diligence to prevent abuse committed by private actors, and could thus be held responsible for failing to do so (see General Comment no. 31 paras 6 – 8).

We would like to reiterate your Excellency's Government's obligations to respect and protect the right to freedom of thought, conscience, religion or belief, opinion and expression, under articles 18 and 19 of the ICCPR. Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief (CCPR/C/GC/22).

Article 19(1) of the ICCPR guarantees that all individuals "shall have the right to hold opinions without interference" without exception. Thus, attacks, harassment intimidation or the limitation of rights as a consequence of one's opinion is contrary to the Covenant. Under article 19 (2) of the ICCPR, "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." This right includes not only the exchange and dissemination of information that is favorable, but also that which may shock or offend. The right to freedom of expression under article 19 may only be restricted in accordance with article 19(3). Article 19(3) states that restrictions must be "provided by law" and "necessary for respect of the rights or reputations of others" or for the "protection of national security or of public order (ordre public), or of public health or morals." It is not enough that these restrictions be enacted as domestic laws or regulations in order to satisfy the requirement that they are "provided by law". Moreover, any restriction implemented

must be necessary and proportionate to achieve its protective function, and must be the least restrictive means available in the restriction of rights.

International human rights law protects individuals from intolerance and violence based on their thought, conscience and religion or belief, but it does not protect the religion or belief itself. Consequently, the Human Rights Committee has stressed in General Comment No. 34 (CCPR/C/GC/34, para. 48) that “prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the ICCPR.”

More generally, criminalizing speech that include criticism of religious leaders or commentary on religious doctrine and tenets of faith would limit the discussion of practices within religions and be contrary to the freedom of thought, conscience, religion and expression as guaranteed under articles 18 and 19 of the ICCPR.

With regards to positive measures, the Human Rights Committee has affirmed that States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (CCPR/C/GC/34, para. 23). Further, State parties must respond appropriately to patterns of violence against categories of victims, including violence against persons on the basis of their sexual orientation or gender identity under Article 9 of ICCPR (CCPR/C/GC/35, paras. 3 and 9). Attacks against individuals for exercising their freedom of expression is incompatible with the Covenant (General Comment no. 34 para. 23). Any such attacks must be subject to prompt, effective, independent and impartial investigations, and the State must, if appropriate, prosecute and punish those responsible (*id.*, and General Comment 31 paras. 15 – 18).

In addition, limitations on these rights that are based on sexual orientation or gender identity violates international human rights norms and standards. For instance, in a joint statement on free expression and association, UN and regional human rights experts stated that they “categorically reject arguments that such restrictions to the rights of LGBTI people are necessary to protect public morals, health or the well-being of vulnerable people.”<sup>1</sup>

In relation to the incitement to violence, under article 20 of the ICCPR, the State has an obligation to prohibit propaganda for war and advocacy of national, racial or religious hatred that constitutes incitement to discrimination, violence or hostility. General Comment 34 by the Human Rights Committee and the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4) provides further guidance on discharging state obligations with regard to ‘hate speech’. While only speech that reaches a very high threshold, based on a contextual assessment using the six-part threshold test

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<sup>1</sup> Joint statement by UN Special Rapporteurs on freedom of opinion and expression, freedom of peaceful assembly and of association, right to health, and human rights defenders African Commission on Human and Peoples’ Rights, Special Rapporteur on Human Rights Defenders in Africa, Inter-American Commission on Human Rights and OSCE Representative on Freedom of the Media, “Free expression and association key to eliminating Homophobia and Transphobia” (May 2014), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14602&LangID=E>

identified by the Rabat Plan of Action, must be criminalized and all prohibitions on speech must meet the requirements for restrictions under article 19 of the ICCPR, all hate speech requires a response from the authorities to reject the dissemination of hatred and hostility.

In addition, Human Rights Council Resolution 16/18 on Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief, which noted the call on States to speak out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence; adopt measures to criminalize incitement to imminent violence based on religion or belief; and understand the need to combat denigration and negative religious stereotyping of persons, as well as incitement to religious hatred, by strategizing and harmonizing actions at the local, national, regional and international levels through inter alia, education and awareness-building.

The Special Rapporteur on freedom of religion or belief in his country visit report to Bangladesh (A/HRC/31/18/Add.2) already raised specific concerns of the “politicization of religion”, as well as “religionization of politics”, i.e. using religion to achieve political goals. This may erode the credibility of the Government’s profession of inclusive secularism. Moreover, the Special Rapporteur reminded the Government that when publicly condemning acts of violence, including killings, that target members of religious minorities, civil society activists and Internet activists, the Government should meticulously avoid any ambiguities that could be perceived as putting the blame partially on the victims of such violence. All incidents of attacks must be investigated and the perpetrators must be brought to justice. Furthermore, the Special Rapporteur also urged the Government to repeal restrictive legislation, such as the Information and Communication Technology Act that prevents civil society activists from voicing their criticism and concerns without fear of sanctions.

The Special Rapporteur on the situation of human rights defenders highlighted that defenders promoting the rights of LGBT persons are often the target of numerous attacks and the lack of any protection under the law or in practice exacerbates the vulnerability of those defenders (A/70/217, para. 65-66). Therefore, he recommended that States (i) abolish laws that discriminate against certain categories of defenders, as well as those relating to blasphemy or apostasy, so as to guarantee the right to freedom of expression, including in it the right to criticize the State, its representatives and religious authorities, and (ii) conduct impartial investigations and ensure that the perpetrators of violations against the rights of defenders are brought to justice (*Ibid.*, paras. 93(d) and (e)).

Furthermore, the United Nations High Commissioner for Human Rights acknowledged that LGBT defenders and supporters of related rights had been subjected to violence and harassment (A/HRC/19/41, para. 64). He further noted that States have obligations to protect rights to freedom of thought and expression, association and peaceful assembly without discrimination on the grounds of sexual orientation or gender identity (A/HRC/29/23, para. 18). To that end, he recommended States (i) enacting hate crime laws that establish homophobia and transphobia as aggravating factors for purposes of sentencing, (ii) conducting prompt, thorough investigations of incidents of hate-motivated

violence against LGBT persons, holding perpetrators to account, and providing redress to victims, and (iii) ensure that individuals can exercise their rights to freedom of expression, association and peaceful assembly in safety without discrimination on grounds of sexual orientation and gender identity (A/HRC/19/41, para. 84 (f), A/HRC/29/23, paras. 78 (a) and (b)).

We would further more like to refer your Excellency's Government 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.

We would furthermore like to bring article 6 points b) and c) to the attention of your Excellency's Government, which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;

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, online as well as offline... 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 the [right] to freedom of... association are in accordance with their obligations under international human rights law”.

We would also like to bring to your attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular article 27 of the ICCPR and the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which in its article 1 refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end. Article 4 of the UN Declaration on the Rights of Persons Belonging to Minorities stipulates that states shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

Additionally, we recall that accurate information on the detention of any person deprived of liberty and their place of detention shall be made **promptly** available to their family members (Declaration on the Protection of all Persons from Enforced Disappearance, article 10) and that the Working Group on Enforced or Involuntary Disappearances has underlined that there is no time limit, no matter how short, for an enforced disappearance to occur (A/HRC/30/38 para. 102).

