

Mandates of the Special Rapporteur on the independence of judges and lawyers and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

Ref.: UA BGD 1/2023
(Please use this reference in your reply)

17 January 2023

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the independence of judges and lawyers and Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 44/8 and 50/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning harassment and death threats against Mr. Shahanur Islam, a lawyer, allegedly for his legitimate activities in exercise of the legal profession.

Mr. Shahanur Islam is the Secretary General of the Bangladesh Institute of Human Rights and Justice Makers Bangladesh. Mr. Islam has defended the rights of ethnic, religious, and LGBTIQ+ individuals, as well as opposition politicians.

According to the information received:

On 26 October 2022, Mr. Islam received death and kidnapping threats targeting him and his family from different telephone numbers.

Previously, on 6 October, Mr. Islam's cousin received death threats against Mr. Islam and a family member. On that same day, three to five people forcefully stopped one of his family members and threatened to kill Mr. Shahanur Islam if he did not withdraw cases against a member of the District Council and political leader and against the individuals who allegedly physically attacked the lawyer in 2020. The case is under investigation by the Police Bureau of Investigation in Naogaon.

Mr. Islam did not file any further complaints in October because no action was taken on previous complaints.

On 6 September and 25 August 2022, Mr. Islam received two separate death threats against him and his family via text message from an unidentified phone number, related to his work on behalf of LGBTIQ+ individuals in Bangladesh.

On 14 February 2022, a member of the ruling party's student league' from Naogaon district issued death threats against a journalist and Mr. Islam by mobile phone, specifically threatening Mr. Islam if he filed a pro-bono case against a land acquisition in Naogaon Court. On the same day, the Public Prosecutor in the presence of the President of the Bangladesh Student League

of the Naogaon district branch and union president of Jubo League, reminded Mr. Islam about the enforced disappearance of political a party leader and asked Mr. Islam not to file any case against the land acquisition. The journalist in question filed a complaint with the Badalgachhi police station on 17 February but no action was taken.

In 2020, Mr. Islam was attacked by approximately 10 individuals at the court premises of Naogaon district. The attack took place just after he left a hearing in the abovementioned case. As a result of the attack, he suffered serious injuries to his face and body and was subsequently hospitalised. It is alleged that the attack was aimed at intimidating Shahanur Islam to withdraw the case.

In 2017, the same Member of the District Council allegedly made a false allegation against Shahanur Islam and two of his family members. The Naogaon Magistrate Court issued an arrest warrant against Mr. Islam and those family members. Shahanur Islam voluntarily reported himself to the authorities and was granted bail.

Mr. Islam has faced multiple death threats and other acts of intimidation, physical assault, and arrest since at least 2008.

Without wishing to prejudge the accuracy of the information received, we express serious concern regarding the threats, harassment, and attacks against Mr. Islam and his family members, whose physical safety is reportedly at risk. We take note with concern that some of the alleged acts of intimidation and harassment occurred at court premises. In this regard, we note that there has been no investigation or statement from the authorities condemning such 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. We are concerned that these threats and intimidation occur allegedly as a result of the legitimate exercise of his professional functions as a lawyer, which include the defense of LGBTIQ+ individuals and his work on cases related to land tenure.

If confirmed, the reported allegations would be in contravention of the rights of every individual to life, and physical integrity, as laid down, inter alia, in article 3 of the Universal Declaration of Human Rights (UDHR), as well as article 6 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by your Excellency's Government on 6 September 2000; as well as the general principle of equality and non-discrimination, a fundamental element of international human rights law.

As it relates to non-discrimination, we would like to highlight that all international human rights instruments, complemented by various protocols, provide for the prohibition of discrimination based on any status, including in relation to sexual orientation and gender identity (A/HRC/35/36, paragraphs 20-33). For example, the right not to be discriminated against is stated in article 2 of the UDHR and in all human rights treaties. Other provisions, for example, in particular article 7 of the UDHR and article 26 of the ICCPR, which reaffirm the right to equality before the law and equal protection of the law without discrimination, including based on

sexual orientation and gender identity.

The allegations would also be in breach of the guarantees of a fair trial, provided by article 14 of the ICCPR, which Bangladesh acceded to in September 2000. We respectfully recall that article 14 (1) of the ICCPR, sets out a general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law. Article 14 of the ICCPR provides a set of procedural guarantees that must be made available to persons charged with a criminal offence, including the right of accused persons to have access to, and communicate with, a counsel of their own choosing.

These guarantees provide that lawyers are entitled to perform their professional functions without any threat, intimidation, harassment or interference, and without suffering, or being threatened with, prosecution or any administrative or disciplinary sanctions for actions undertaken in accordance with professional duties and ethical standards.

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 information on measures taken to protect Mr. Islam while he exercises the legal profession in Bangladesh.
2. Please provide detailed information on the legislative and other measures adopted by Bangladesh to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference (principle 16 (a) of the Basic Principles on the Role of Lawyers) and to prevent their being subjected to or threatened with prosecution or administrative, economic or other sanctions as a result of their identification with their clients or their clients' causes as a result of discharging their functions (principle 18).

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.

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.

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Victor Madrigal-Borloz
Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity