

Mandates of 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 the independence of judges and lawyers and the Special Rapporteur on violence against women and girls, its causes and consequences

Ref.: AL BGD 3/2023
(Please use this reference in your reply)

20 February 2023

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; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolutions 43/4, 43/16, 44/8 and 50/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the ongoing prosecution of Ms. Rozina Islam, an investigate journalist for Prothom Alo newspaper.

Concerns regarding the arrest, detention and prosecution of Ms. Rozina Islam were the subject of a previous communication sent by Special Procedures dated 28 June 2021 (case AL BGD 4/2021) to which your Excellency's Government has not yet responded.

According to the information received:

On 17 May 2021, Ms. Rozina Islam went to the Health Ministry for a meeting with the health services secretary. Shortly after her arrival, Ms. Islam was allegedly locked in a room and had her phone confiscated, which allegedly allowed planting false evidence against her. On 23 May 2021, Ms. Islam was granted bail on the condition that she surrenders her passport and does not leave the country.

On 3 July 2022, the Detective Branch (DB) of the Dhaka Metropolitan Police submitted the final report to the court stating that no substantial evidence had been found to support the allegations against Ms. Islam.

On 19 September 2022, it is reported that the Dhaka CMM court rejected Ms. Islam's appeal for the return of her passport, press accreditation card and two mobile phones, which had previously been seized. In December, she was returned her press accreditation card, although it had still to be renewed, making it difficult for her to exercise her profession as a journalist.

His Excellency
Mr. A.K. Abdul Momen
MP, Minister for Foreign Affairs

On 23 January 2023, the Dhaka CMM court ordered the Police Bureau of Investigation (PBI) to continue the investigation after the Health Ministry filed a 'naraji'. According to the information received, this would restart the whole investigation process again. The next date of hearing is reportedly to take place on 23 February.

While we do not wish to prejudge the accuracy of the alleged facts mentioned above, we are deeply concerned at the protracted nature of the trial against Ms. Islam, which appears to be in direct retaliation for her work as an independent journalist. It is worrying that the Court has not been able to dismiss the case twenty months after the charges were first brought and six months after the police submitted its report in Ms. Islam's favor. The prolongation of the investigation despite the confirmation by the Detective Branch of the Dhaka Metropolitan Police that they have found no evidence to support the allegations against Ms. Islam would appear to be an effort to harass and intimidate her for expressing critical views about the Government's handling of the COVID-19 pandemic.

Prosecution that is undertaken in retaliation for criticism of the Government's policies, as may have been the case with regard to the situation of Ms. Rozina Islam, is likely to have a detrimental effect on the right to freedom of expression, chilling public discourse and discouraging journalists from carrying out their reporting.

We would like to remind your Excellency's Government of its obligations as a Member Party of the ICCPR to uphold freedom of expression, including the right of journalists to express their views and the right of the public to receive information of public interest through the media. Independent journalism provides an essential service by providing individuals and society as a whole with the necessary information to develop their own views. The legal and judicial system should not be instrumentalized to harass, intimidate and silence journalists. A free, uncensored, and unhindered press constitutes a cornerstone of a democratic society.

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 additional information on the factual and legal basis for the continued investigation against Ms. Islam.
3. Please provide information about the measures your Excellency's Government has taken to protect journalists from legal harassment, frivolous lawsuits and intimidation.

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.

Irene Khan

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Margaret Satterthwaite

Special Rapporteur on the independence of judges and lawyers

Reem Alsalem

Special Rapporteur on violence against women and girls, its causes and consequences

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, 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. In particular, the facts alleged, if proved correct, appear to be in contravention with articles 9, 14, and 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Bangladesh on 6 September 2000.

In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including inter alia 'political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism'. Further, the Human Rights Committee made clear that "It is not compatible with article 19 paragraph 3, for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information". Article 19 requires the States to guarantee the right to freedom of expression (Id.). It is the States' duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (paragraph 23). In our view such attacks also include the use of the legal and judicial system to instigate and prolong frivolous charges against journalists.

In this respect, we would like to refer to the Human Rights Council resolution 45/18 on safety of journalists adopted on 6 October 2020, in which the Council expressed "deep concerns about all attempts to silence journalists and media workers, including by legislation that can be used to criminalize journalism, by the misuse of overbroad or vague laws to repress legitimate expression, including defamation and libel laws, laws on misinformation and disinformation or counter-terrorism and counter extremism legislation, when not in conformity with international human rights standards, and by business entities and individuals using strategic lawsuits against public participation to exercise pressure on journalists and stop them from critical and/or investigative reporting". The resolution also recognised that the development of national legal frameworks that are consistent with States' international human rights obligations are an essential condition for a safe and enabling environment for journalists.

Attacks on journalism are fundamentally at odds with protection of freedom of expression and access to information. Governments have a responsibility not only to respect journalism but also to ensure that journalists and their sources have protection through strong laws, prosecutions of perpetrators and ample security where necessary. (A/HRC/71/373 para. 35).

In her report on the subject of gender justice and the freedom of expression, the Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression, highlighted the disproportionate risks faced by female journalists, and their subjection to sexual and gender-based violence, both online and offline

(A/76/258). The Special Rapporteur outlined that attacks on female journalists violate not only their freedom of expression, but also society's right to be informed by diverse media, and represent a gendered attack on media freedom (A/76/258, para. 46).

We wish to refer the report of the Special Rapporteur on violence against women and girls, its causes and consequences on violence against women journalists, which recommended the laws, policies and practices be fully in compliance with obligations and commitments under international human rights law and, where necessary, amend them so that they do not limit the ability of women journalists and media workers to carry out their work independently and without undue interference (A/HRC/44/52). In the report, the Special Rapporteur also recalled the Report of the Secretary-General on the safety of journalists and the issue of impunity, which emphasized the recommendations of States raised in the universal periodic review, including "the release of journalists held for exercising their freedom of expression; the removal of libel and defamation as criminal offences; the investigation and prosecution of all allegations of the torture and ill-treatment of journalists; and the modification of legislation to repeal criminal responsibility for exercising freedom of expression, particularly online, and to protect journalists from harassment" (A/74/314, para. 22).

We also wish to refer to the thematic report of the Working Group on Discrimination against Women and Girls on participation in public life (A/HRC/23/50), where the Working Group has pointed out that stigmatization, harassment and outright attacks have been used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. In its thematic report on women deprived of liberty (A/HRC/41/33), the Working Group underlined the increasing risk faced by women human rights defenders of criminalization and detention as a result of their legitimate work and recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders.

By virtue of their position as public figures, and the relevance of their conduct, work and actions to the public interest, it is well established under international human rights law that public figures in the political domain are subject legitimately to public scrutiny and criticism of their conduct, including by journalists. Furthermore, as noted by the Human Rights Committee in its general comment 34 on the interpretation of article 19 of the International Covenant on Civil and Political Rights, "the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties."

In relation to the allegations indicating that Ms. Islam may be targeted because of her activities defending human rights, we would further 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.

In addition, we would like to bring to the attention of your Excellency's Government article 12 (2) and (3) of the UN Declaration on Human Rights Defenders, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure, or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, and acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.