

Mandates of the Special Rapporteur on the independence of judges and lawyers; 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

Ref.: AL BGD 2/2024
(Please use this reference in your reply)

3 April 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers; 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 53/12, 52/9 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning a reported pattern of judicial harassment through abusive litigation and misuse of laws to intimidate and silence Nobel Peace Prize Laureate Professor Muhammad Yunus.

Professor Muhammad Yunus is a social entrepreneur, banker, economist and human rights defender who was co-awarded the Nobel Peace Prize with Grameen Bank in 2006 for his microfinance work to combat poverty.

According to the information received:

In recent years, Professor Muhammad Yunus has been the subject of a pattern of judicial harassment through abusive litigation and misuse of laws to intimidate and silence his critical message, to deprive him of his assets, and damage his image.

Since 2009, at least 199 cases have been filed by the Bangladeshi authorities against Professor Yunus. Reports indicate that Professor Yunus is one of the country's most heavily investigated individuals, with his bank accounts and tax affairs enquired into multiple times by the Bangladesh Financial Investigation Unit (BFIU).

Recent Cases

The information suggests that after a period of relative calm, a sudden resumption of the judicial harassment of Professor Yunus began in 2022, in the run up to the 2024 national elections. He faced accusations of tax evasion and corruption, and a criminal accusation.

In late April 2022, he received notification in the form of a "demand notice" that the government was alleging, that he had unpaid taxes dating back to the early 1990s. Working through the Eid holidays, he completed his response to the government proving that the allegations were untrue.

In April 2023, Professor Yunus, who is 83-years old, was requested to appear before a court every few weeks to prove that he is available for government

“investigations,” requiring him to wait for up to six hours for a 15-minute process. Oftentimes, the elevator to the court, which is located on the fifth floor, was apparently out of order when Professor Yunus was summoned, forcing him to walk up many flights of stairs.

In May 2023, the High Court in Bangladesh ruled that Professor Yunus owes more than \$1.1 million in “gift taxes” related to contributions he made to a charitable trust some years ago from his income earned through speaking fees and book sales. In this way, Professor Yunus was denied a tax benefit amounting to 120 million taka by the High Court, which cited an unusual interpretation of vaguely worded statutes. Reports indicate that legal counsels believed the tax reduction to be valid and in accordance with common practices under Bangladeshi law.

Legal proceedings related to corruption charges in the case of Grameen Telecom

Grameen Telecom was established in Bangladesh by Muhammad Yunus with a partial stake in Grameen Phone and registered as a Not-for-Profit Company, Limited by Guarantee, under section 28 of the Companies Act, 1994. It launched the program of Village Phone that enables rural poor to own a mobile phone and turn it into a profit-making venture. In 2022, Professor Yunus was a board member for Grameen Telecom.

The facts of the case emanated during the pendency of Company Matters Case No-271/2021 which was filed in the High Court Division by the Sramik-Karmachari Union (CBA) of Grameen Telecom. Although he could not do so as the Chief Law Officer of the State, the Attorney General of Bangladesh appeared in the hearing on behalf of CBA. On 4 April 2022 the High Court accepted the application of the CBA leaders for winding up and appointment of liquidator and issued an order to publish a notice in the "Dainik Kaler Kontho" and "Dainik Observer" newspapers for the appointment of provisional liquidator for the dissolution of Grameen Telecom.

As a result of the said order, Grameen Telecom was under intense pressure from the office of the Attorney General as well as from the leaders of CBA for settlement and despite being a 'Not for profit' company under the Companies Act, Grameen Telecom had no other option but to enter into a "Compromise Agreement" which was submitted to the High Court on 23 April 2022. On the basis of such settlement agreement between the parties which was also found lawful by the Honourable Court, the case was thus settled on May 2022. According to the terms of the Settlement Agreement, Grameen Telecom paid Tk. 409 crore through cheques to all officers and employees including the labor union. From the said amount, the CBA requested to pay an advance of Tk. 26 crore from the money received by them for the fees of lawyers and meeting the litigation expenses, including 107 lawsuits filed by the CBA and the employees, and the said amount was paid by Grameen Telecom after taking undertaking from the workers and employees.

It is to be noted that according to section 234(1)(a) of the Labor Act, 10% of 5% of the profit to the Bangladesh Workers' Welfare Fund has been sent to the Ministry of Labor and Employment through email to prepare and submit a

check of Rs.38,39,49,770/- Despite several requests to hand over the same, no response has been given by the Ministry.

According to the information received, on August 3, 2022, the Bangladeshi Anti-Corruption Commission (ACC) opened an investigation into Grameen Telecom, claiming that it was involved in laundering over \$310 million and in the misappropriation of over \$7 million.

The ACC requested extensive information about Grameen Telecom's operations, history, and personnel, seeking information dating back to its establishment 25 years ago. The request included specific questions about details regarding each transaction, contract, and land deal involving any entity associated with Professor Yunus, despite the lack of apparent correlation of that information with the primary allegations leveled against Grameen Telecom.

On September 22, 2022, the government's Anti-Corruption Commission issued a formal notice to the Chairman of Grameen Telecom, requesting a substantial amount of information and documentation about its operations, history, and personnel. It also requested comprehensive financial details about 27 other companies, among them at least two situated in Italy, Grameen Italia Spa and Grameen Italia Foundation, despite their lack of legal affiliation with Grameen Telecom. The ACC further asked for information about the construction of the Social Medical College and Health Technology Institute and a company, Dhaka Logistic, with which, according to Grameen Telecom, it only had a passing relationship paying it \$5000 to draft a proposal that was not accepted. The notice included only seven days' time limit to comply.

The information suggests that at the time, the wide-ranging request was seen as a "fishing expedition".

On 2 May 2023, Professor Yunus received a summons to appear before the ACC on May 11. After this audience, Professor Yunus and other members of the Grameen Telecom board were charged with corruption charges related to a settlement that this nonprofit organization had effectively negotiated with the union representing some of its former employees.

On 30 May 2023, the ACC filed a First Information Report (FIR) alleging that Professor Yunus was among a group of 13 people who had committed offences of "forgery," "cheating", "breach of trust" and "money laundering" under the Penal Code (1860) as well as offences of the Money Laundering Prevention Act (2012). The offences alleged in the FIR relate to a financial settlement worth Taka 409.69 crore (\$37.1 million) that was agreed between Grameen Telecom and its trade union that represented 164 employees who had worked at the company at some time between 2010 to 2022. The other 12 accused in the case include six other board directors of Grameen Telecom, the managing director of the company, three trade union leaders and two lawyers who represented the trade union since 2017.

In the FIR, the ACC alleges that the settlement agreement between the company and the trade union was "fake", and that using this "fake" agreement, the company's board of directors "colluded" in the "illegal transfer" of

Taka 26.22 into the bank account of the trade union, and that most of this money was then misappropriated by the trade union leaders and their lawyers.

Reports indicate that the investigation did not uncover any evidence suggesting that Professor Yunus or the other directors misappropriated any funds associated with the settlement. The investigation only identified two clerical issues from which the ACC implied wrongdoing. For example, one of these errors involved a calculation mistake resulting in an overpayment to the lawyers representing the employees' union. Another issue related to the fact that when the agreement was signed, the union bank accounts designated to receive a payment had not yet been opened, which meant the account number information was left blank and later filled out by hand.

On 3 January 2024, the Bangladeshi Anti-Corruption Commission announced that the finalization of additional charges against Professor Yunus and his co-defendants has been postponed until 3 March 2024. However, on 29 January 2024, a charge sheet was handed down against Professor Yunus and all of the other board members of Grameen Telecom by the Anti-Corruption Commission, more than a month before it was expected.

On 3 March, Professor Yunus was to appear in court related to charges against him filed by the Anti-Corruption Commission and to hear the results of the appeal he filed. Professor Dr. Muhammad Yunus and 6 others surrendered before the court and obtained bail. The next date of the case is fixed on 2 April 2024.

Labor-law related proceedings on the case of Grameen Telecom

According to the information received, on 16 August 2021, officials of the Inspection for Factories and Establishments Department inspected the office of Grameen Telecom in the capital's Mirpur and allegedly found several violations of labor laws. Three days later, the Inspection for Factories and Establishments Department wrote to Grameen Telecom, expressing its concern over the failure to provide a permanent contract to 67 employees. The letter also raised concerns regarding the establishment of participation and welfare funds for employees, noting that they had not yet been established, and highlighted that the five percent of the company's dividends intended for workers had not been disbursed.

On 9 September 2021, in response to these concerns, the Labor Inspector (general) of the Inspection for Factories and Establishments Department filed a case with the Third Labor Court of Dhaka. Grameen Telecom was not named as a party in the case. The Labor Inspector charged Professor Yunus and three other directors with violations of the Bangladesh Labor Act 2006 (BLA) by Grameen Telecom, related to the classification of employees, leaves, and profit-sharing schemes. Although none of the accused directors were directly engaged in overseeing the company's daily operations or receiving compensation for their roles within the organization, they faced the possibility of a six-month imprisonment term.

On 22 August 2023, the trial of Mohammad Yunus and the three accused co-directors began. The information suggests that the allegations against the

defendants lacked merit, and the legal processes adopted by the court were flawed. For example, Professor Yunus and his co-defendants were subject to criminal prosecution, even though the Act only specifies civil liability for the alleged violations, with no provision for criminal liability. Further, the information also indicates that as a non-profit, Grameen Telecom was not subject to the Bangladesh Labor Act 2006 (BLA), and Professor Yunus does not own Grameen Telecom.

Reports also suggest irregularities during the proceedings, for example, on 5 September 2023, Professor Yunus' lawyer presented evidence that an evidentiary document had been tampered with, and observers report that judges who have initially challenged the prosecution would later fall in line with the state's narrative on the case.

Further, the information suggests that fundamental provisions of law were violated in the trial. Section 247 of the Code of Criminal Procedure stipulates that "if the summons has been issued on complainant, and upon the day appointed for the appearance of the accused, or any day subsequent thereto which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything herein before contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day. Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance, and proceed with the case."

In this case, although the case was filed on 9 September 2021, the complainant died on 14 September 2021, five days later after filing the complaint. The substituted complainant appeared in the court for the first time on August 22 in 2023. The information suggests that no complainant existed in the case before August 2023, but the court did not acquit the accused as required by law.

On 1 January 2024, Professor Yunus and his three co-defendants were convicted of labor law violations and sentenced to six-months in jail and given one month bail to allow for appeals, following allegations of breaches of the Bangladesh Labor Act 2006 by Grameen Telecom relating to the classification of employees, annual leave entitlement, and employee profit-sharing.

Forced takeovers of Professor Yunus' companies

The Grameen family of organizations has grown beyond Grameen Bank into a multi-faceted group of both commercial and non-profit ventures. Most of the organizations in the Grameen group have central offices at the Grameen Bank Complex in Mirpur, Dhaka, Bangladesh. Currently it houses 16 different companies and Dr Yunus is chairman of all of them.

On 11 February 2024, reports allege that 40 armed men came to the gate of Gramin Kolyan, one of Professor Yunus' companies, and asked for the office keys. The attackers allegedly included people from intelligence agencies and the state-run Grameen Bank.

On 15 February 2024, during a press conference, Professor Yunus said that the police refused to register a criminal case regarding the apparent takeover. He

said eight offices housed in Grameen Telecom Bhaban had been taken over by Grameen Bank on 12 February.

During a press conference held on 17 February 2024, the Grameen Bank refuted allegations of unlawfully and forcibly taking over seven of Professor Yunus' institutions. The government asserted that these institutions, established during Professor Yunus' tenure as the director of Grameen Bank, are owned by the bank itself, not by Professor Yunus. The government asserts that these companies rightfully belong to the bank.

Comments by high-level authorities

Reports indicate that the Prime Minister of Bangladesh, Sheikh Hasina, reportedly viewed Professor Yunus as a political rival since he looked into setting up a political party in 2007. Professor Yunus has reportedly faced various forms of pressure or intimidation as a result.

In public comments Prime Minister Hasina notably challenged Professor Yunus' achievements in the fight against poverty. The prime minister has accused Professor Yunus of "sucking blood from the poor in the name of poverty alleviation." In late February 2017, when the finance minister praised Professor Yunus for his work in reducing poverty through microfinance, a public rebuke from the prime minister said her government's policies were responsible for the reduced poverty rate.

Furthermore, it is reported that she has persistently and reportedly without presenting evidence, asserted that Professor Yunus obstructed the World Bank's approval of a loan for the Padma Bridge by lobbying U.S. officials. The Prime Minister also supported the creation of a commission to investigate this matter, to identify so-called "enemies of the nation," and to bring them to justice. She has repeatedly accused Professor Yunus of lobbying the World Bank against financing the Padma Bridge project, made a series of statements about him of a nature that was perceived as incitement of violence against his person: "[Yunus] blocked the funds for Padma bridge merely for the post of MD [Managing Director, of Grameen Bank]. He should be plunged into the Padma River twice. He should be just plunged in a bit and pulled out, so he doesn't die, and then pulled up onto the bridge. That perhaps will teach him a lesson."

In 2017, the Government of Bangladesh also announced plans to create a commission to identify those who "fabricated allegations of corruption" in the Padma Bridge project. The government has repeatedly accused Professor Yunus of instigating the World Bank's cancellation of the project.

The information suggests global attention has come to the case. In March 2023, a group of 40 global leaders wrote a letter to the Prime Minister, urging a halt the harassment and persecution of Professor Yunus.

While we do not wish to prejudge the accuracy of these allegations, we express our deep concerns about the reported judicial harassment and the instrumentalization of the court system described in this case. We are concerned at the number of lawsuits and proceedings against Professor Yunus, which appear to aim to

overwhelm him through protracted legal proceedings and excessive costs and could eventually result in self-censorship from public and political participation in his country.

We are very concerned at reports that suggest the justice system in Bangladesh is being used by authorities to threaten, silence and discourage Professor Yunus's continued public participation and damage his reputation by imposing financial burdens such as litigation costs, excessive legal compliance tasks and travel to court premises; as well as causing emotional stress.

We furthermore reiterate our concern at the information that suggests that Professor Yunus has not had all the guarantees of fair trial ensured and highlight that the reported misuse of criminal laws and the judicial proceedings against such a high-profile individual in Bangladesh may have a "chilling effect" on the legitimate work of human rights defenders and other civil society actors in Bangladesh, seeking to expose human rights violations or to work in combating poverty and corruption.

If proven to be true, the reported misuse of criminal laws and legal proceedings to intimidate an opposition figure, silence criticism, curtail public discussion and protect political interests, would entail serious violations of international human rights standards, such as article 19 of the ICCPR.

We wish to recall that international standards set 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. In addition, article 14 of the ICCPR provides a set of contain 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. The Human Rights Committee further noted that whenever rights and obligations in a suit at law are determined, the failure of a state party to establish a competent tribunal to determine such rights and obligations or to allow access to such a tribunal in specific cases would amount to a violation of article 14.

We are also concerned at the public statements from high-level public officials against Professor Yunus and his work. We would like to recall that international standards subject freedom of expression to strict restrictions. In particular, politicians and public officials should refrain from statements that are likely to promote intolerance, discrimination or dis/misinformation and should, instead, take advantage of their leadership positions to counter these social harms and to promote intercultural understanding and respect for diversity¹.

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 2021 Joint declaration on politicians and public officials and freedom of expression, available at: [Joint-Declaration-2021-Politicians_EN.pdf \(ohchr.org\)](#).

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please identify measures your Excellency's Government is taking to ensure that Professor Muhammad Yunus can enjoy his right to freely express himself and his freedom of association without threats of judicial harassment, intimidation or any other form of retaliation.
3. Please identify measures your Excellency's Government is taking to protect the right to a fair trial of Muhammad Yunus and ensure protection against frivolous lawsuits that may be brought against government critics and human rights defenders in the country.
4. Please explain the measures taken by Bangladesh to ensure the independence of the judiciary and prevent the improper use of legal proceedings.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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.

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

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

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 human rights norms set forth in the International Covenant on Civil and Political Rights (ICCPR), to which Bangladesh acceded on 6 September 2000.

Article 14(1) of the ICCPR enshrines the requirements of independence and impartiality of the judiciary. As the Human Rights Committee has affirmed, these are absolute rights which cannot be subject to any restriction (CCPR/C/GC/32, para. 19). As the Human Rights Committee has also noted, they protect “the effective independence of the judiciary from political interference by the executive and legislative branches. States must adopt concrete measures that guarantee the independence of the judiciary”.

Furthermore, in its general comment 32 (2007) on article 14, the Human Rights Committee emphasized that the right to equality before courts and tribunals and to a fair trial is an element key to the protection of human rights and serves as a procedural means to safeguard the rule of law. (CCPR/C/GC/32, paragraph 2). Article 14 provides in particular for the principle of equality before competent, independent and impartial courts and tribunals, the presumption of innocence, the granting of time and the facilities necessary for the preparation of the defense and the right of the accused to communicate with the counsel of their choice. Fair trial guarantees can never be subject to derogatory measures that would circumvent the protection of non-derogable rights (CCPR/C/GC/32, paragraph 6).

We also recall article 19 of the ICCPR, which guarantees that everyone shall have the right to hold opinions without interference, and the right to freedom of expression, which includes 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 one's choice. Legitimate restrictions to freedom of expression may be implemented in accordance with the requirements of article 19(3) of the Covenant.

Restrictions must meet the standards of legality, meaning that they are publicly provided by a law which meets standards of clarity and precision, and are interpreted by independent judicial authorities; necessity and proportionality, meaning that they are the least intrusive measure necessary to achieve the legitimate interest at hand, and do not imperil the essence of the right; and legitimacy, meaning that they must be in pursuit of an enumerated legitimate interest, namely the protection of rights or reputations of others, national security or public order, or public health or morals. In this context, we underscore that the Human Rights Committee has found that “It is not compatible with article 19(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.” (CCPR/C/GC/34 para. 30).

We would like to refer you to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, which establish that all governmental and other institutions must respect and conform to the independence of the judiciary (principle 1) and that judges will decide cases impartially, on the basis of the facts and in accordance with the law, “without any restriction and without undue influence, incitement, pressure, threat or interference, direct or indirect, from any sector or for any reason” (principle 2). These Basic Principles on the Independence of the Judiciary also provide that “everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures” (principle 5). Further, the principles provide that “the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.”

We would also like to refer your Excellency’s Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana (Cuba), 27 August – 7 September 1990).

Principle 16 requires governments to take all appropriate measures to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and to prevent that lawyers be threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Finally, we would like to bring to your attention 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 like to draw your particular attention to the following provisions of the Declaration:

- Article 5(b), which provides for the right of all persons to form, join and participate in non-governmental organizations, associations and groups.
- Article 11, which guarantees the right of all persons to the lawful exercise of their occupation or profession.
- Article 12(2) and (3), 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.