

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers

Ref.: AL BGD 1/2025
(Please use this reference in your reply)

7 March 2025

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; Working Group on Arbitrary Detention and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 52/9, 51/8 and 53/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **arrest, prosecution and imprisonment of journalists Ms. Farzana Rupa and Mr. Shakil Ahmed**, who have been charged with murder and inciting murder.

Ms. **Farzana Rupa** is a Bangladeshi journalist and former special correspondent and presenter at the privately-owned broadcaster Ekattor TV. She also worked for the international TV channel France 24. Ms. Rupa is married to Mr. Shakil Ahmed.

Mr. **Shakil Ahmed** is a Bangladeshi journalist and former head of news at the privately owned broadcaster Ekattor TV. He also worked for the international TV channel France 24.

According to the information received:

On 8 August 2024, Ms. Farzana Rupa and Mr. Shakil Ahmed were dismissed from their positions at the news organization Ekattor TV, a private media company, after their names were included in a public letter that accused 50 journalists of supporting the previous government and the police response against the student-led uprising that took place in July and early August 2024 as well as of having committed crimes against humanity against students and other citizens during such protests.

On 21 August 2024, Ms. Rupa and Mr. Ahmed were prevented from boarding a flight to France at Hazrat Shahjalal International Airport in Dhaka by the immigration officers. Subsequently, they were arrested by the Police Detective Branch in connection with a murder that occurred during a demonstration in Dhaka on 5 August 2024 and two cases of inciting murder during the mass protests. Reportedly, the officers confiscated their mobile phones and passports.

On 31 August 2024, after 9 days in police custody, a court in Dhaka reportedly issued an order to imprison Ms. Rupa and Mr. Ahmed on charges of murder and inciting murder. Since then, Ms. Rupa and Mr. Ahmed have remained in prison.

No progress has reportedly taken place regarding the criminal proceedings initiated against them.

In November 2024, Ms. Rupa was reportedly transferred to a condemnation cell, usually reserved for those sentenced to death. As a result, Ms. Rupa is forced to remain in her cell during the entire day, with no walks or contact with other prisoners. She has reportedly been denied her weekly phone call and has seen her lawyer only once.

The health conditions of Ms. Rupa and Mr. Ahmed have reportedly deteriorated substantially since their imprisonment.

Ms. Rupa and Mr. Ahmed were also included, together with over 20 other journalists, in a complaint filed before the Bangladesh's International Crimes Tribunal, a domestic war crimes tribunal, accusing them of involvement in crimes against humanity during the mass protests.

Without prejudging the accuracy of these allegations, we wish to express our grave concern regarding the legal grounds on which Ms. Rupa and Mr. Ahmed have been arrested, charged and imprisoned. It is notably concerning that journalists have been accused of charges of the utmost seriousness, reportedly including murder and inciting murder, and put under provisional detention without reportedly having had any evidence of their direct participation in such acts presented. We are concerned that the arrest and detention of Ms. Rupa and Mr. Ahmed may be directly linked to their work as journalists and their exercise of the right to freedom of expression.

Furthermore, we are seriously concerned about reports that over 140 journalists have been accused of murder of protestors in July and August 2024, and that cases have been filed against them on the basis of their reporting of the student-led uprising at that time. Twenty eight journalists are reported to have been charged with "crimes against humanity", and an unknown number of journalists and media workers allegedly remain in detention. There are reports of harassment and threats against journalists and editors by non-State groups for their journalistic work which is creating a chilling effect on the wider media.

We respectfully remind your Excellency's Government that article 19 of the International Covenant on Political and Civil Rights guarantees the right to freedom of opinion and expression, including not only views or information that is favourable, but also those which may criticize, shock or offend. In this context, we draw your Excellency's attention to the Human Rights Committee's general comment No. 35, which underscores that arrest or detention as punishment for the legitimate exercise of rights guaranteed by the ICCPR, including freedom of opinion and expression, constitutes arbitrary detention.

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (ordre public), or of public health or morals; and (iii) be

necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant (CCPR/C/GC/34, para. 35).

Article 20 of the ICCPR provides that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. However, this prohibition, that may entail restrictions of free expression, has a high threshold as it requires the fulfilment of three components: a) advocacy of hatred; b) advocacy which constitutes incitement and c) incitement likely to result in discrimination, hostility or violence (A/67/357, para. 43).

While States have the right and obligation to prosecute alleged acts of incitement to discrimination, hostility or violence, these must not be conflated with the offences of incitement to murder or murder. We recall that any legal charges, and notably those connected to the exercise of freedom of expression must fully abide by the principles of legality, necessity and proportionality. Any such accusation must be crafted with care to ensure that they comply with paragraph 3 of article 19 ICCPR, and that they do not serve, in practice, to stifle freedom of expression or create a chilling effect on journalists or other citizens.

We recall that any judicial proceeding must carefully respect the principles of due process, the right to a fair trial and the guarantees of the right to defence ensured under international law, including article 14 of ICCPR. We call on Your Excellency's Government to take all the measures necessary to protect the right to a prompt, fair and public hearing for Ms. Rupa and Mr. Ahmed as well as for any other journalists currently detained or prosecuted, and to ensure that procedural guarantees are respected. We trust that your Excellency's Government will attentively consider these concerns and take all necessary steps to uphold the rights guaranteed under international law.

In this regard, we respectfully encourage Your Excellency's Government to take without further delay all necessary steps to review and clarify the cases of Ms. Rupa and Mr. Ahmed and other detained journalists in accordance with international human rights standards on freedom of expression, due process, and fair trial. Should the charges underlying their arrest and detention be unsubstantiated, we further urge their immediate release.

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 clarify the legal charges currently faced by Ms. Farzana Rupa and Mr. Shakil Ahmed. Please further provide information on the current conditions of detention of Ms. Rupa and Mr. Ahmed and explain how

these conditions are consistent with the Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules).

3. Please provide information on the factual and legal grounds for the arrest, detention and prosecution of Ms. Rupa and Mr. Ahmed and explain how this is compatible with Bangladesh's obligations under international law. Please further indicate whether and how the rights enshrined in articles 9 and 14 of ICCPR have been respected, including the right not to be subjected to arbitrary arrest or detention, to be promptly informed of the reasons for the arrest and of any charges against the person, to be brought promptly before a judge and to a fair trial in accordance with international standards concerning due process, the right to a defence and to an independent and impartial tribunal.
4. Please indicate whether the arrest and detention of journalists Ms. Rupa and Mr. Ahmed are compatible with the right to freedom of expression enshrined in article 19 ICCPR and are not in any way connected to or in retaliation for their journalistic work.
5. Please provide the names and numbers of journalists who are currently in detention, arrested, charged or under prosecution and the grounds for such action against them. Please indicate what measures have been taken by Your Excellency's Government to ensure that the journalists are not being detained, investigated, charged or prosecuted in retaliation for their reporting. Please also specify what measures have been taken to ensure that those in detention or under prosecution are afforded full due process and fair trial guarantees in line with Bangladesh's international obligations, including prompt review of their cases by a court.
6. Please explain what concrete steps your Excellency's government has taken to protect the freedom of expression of journalists and editors and to able them to work in conditions of safety, without harassment or false charges and free from fear of reprisals.

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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond

separately to the present communication and the regular procedure.

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

Ganna Yudkivska
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

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 right to freedom of opinion and expression as set forth in article 19 of the Universal Declaration of Human Rights (UDHR) and article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Bangladesh acceded on 6 September 2000. Additionally, we would like to refer your Excellency's Government to articles 9 and 14 of ICCPR, which provide for the rights to liberty and security of the person, not to be subjected to arbitrary arrest or detention, to be promptly informed of the reasons for the arrest and of any charges against him or her, to be brought promptly before a judge, to a fair trial within a reasonable time.

Article 19 of the ICCPR guarantees the right to freedom of opinion without interference and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right applies online as well as offline, protects the freedom of the press as one of its core elements and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

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 “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (CCPR/C/GC/34, para. 11). The Committee states that article 19 also covers the right of a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion and a corresponding right of the public to receive media output.

The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23). Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that “all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress” (para. 23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in

specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34, para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed.

Article 20(2) ICCPR prescribes that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. Yet, this prohibition, that may entail restrictions of free expression, has a high threshold as it requires the fulfilment of three components: a) advocacy of hatred; b) advocacy which constitutes incitement and c) incitement likely to result in discrimination, hostility or violence (A/67/357, para. 43).

In its resolution 12/16, the Human Rights Council called on States to refrain from imposing restrictions that are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups (A/HRC/RES/12/26).

Regarding the allegations of arbitrary detention, article 9 of the ICCPR states that no one shall be subjected to arbitrary arrest or detention or deprived of his liberty except on such grounds and in accordance with such procedures as are established by law. As interpreted by the Human Rights Committee, the notion of "arbitrariness" should not be equated with "against the law", but should be interpreted more broadly to include considerations of inappropriateness, injustice, unpredictability and due process, as well as considerations of reasonableness, necessity and proportionality (CCPR/C/GC/35, para. 12).

In its [general comment No. 35](#), the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), or on discriminatory grounds, in violation of article 2, paragraph 1, article 3 or article 26, are in principle arbitrary.

In addition, the Working Group on Arbitrary Detention has established in its jurisprudence that preventive deprivation of liberty, as a precautionary and non-punitive measure, must also comply with the principles of legality, necessity and proportionality to the extent strictly necessary in a democratic society. It may only proceed in accordance with the limits strictly necessary to ensure that the efficient development of investigations is not impeded, and justice is not evaded, and provided that the competent authority substantiates and accredits the existence of the aforementioned requirements.

We also recall that article 14 of the ICCPR establishes essential principles regarding the independence and impartiality of the judiciary, which the Human Rights Committee has affirmed as absolute rights, immune from restriction (CCPR/C/GC/32, para. 19). In its [general comment No. 32](#) (2007) on article 14, the Committee further emphasized that the right to equality before courts and tribunals, along with the right to a fair trial, is fundamental to the protection of human rights and integral to upholding the rule of law (CCPR/C/GC/32, para. 2). Under article 14, all individuals are entitled

to be treated equally before competent, independent, and impartial courts and tribunals, and to the presumption of innocence. Moreover, specific guarantees include the right to a fair and public hearing, the right to defend oneself in person or through legal assistance. These fair trial guarantees are inviolable and must remain unaffected by any derogatory measures that would compromise the protection of non-derogable rights (CCPR/C/GC/32, para. 6). The Human Rights Committee has underscored that States must enact concrete measures to ensure judicial independence, free from any political influence from the executive or legislative branches. This independence is vital to preserving the integrity of judicial processes and ensuring just outcomes.