

Mandates of 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 rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
AL BGD 3/2016:

31 May 2016

Excellency,

We have the honour to address you in our capacities as 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 rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 26/12, 25/2, 24/5 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged assassination of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) human rights defenders, **Mr. Xulhaz Mannan** and **Mr. Mahbub Tonoy**.

Mr. Xulhaz Mannan was one of the founders and senior editor of *Roopbaan*, Bangladesh's first LGBTI magazine, which promotes greater acceptance of LGBTI communities in Bangladesh. He was among the organizers of the annual "Rainbow Rally", which has taken place on 14 April in Dhaka since 2014 to raise awareness of the rights of the LGBTI community.

Mr. Mahbub Tonoy assisted on a regular basis with the publication of *Roopbaan* and with the organization of the "Rainbow Rally".

According to the information received:

The "Rainbow Rally" was reportedly banned in 2016 by the police, due to security concerns. A week before the event was to take place on 14 April 2016, a smear campaign had begun on social media against the organizers, including against Mr. Mannan and Mr. Tonoy. They received threats of physical attack, allegedly coming from radical religious groups.

On 25 April 2016, a group of six armed men posed as couriers in order to gain access to the apartment block of Mr. Mannan and Mr. Tonoy in Kalabagan in Dhaka. The two human rights defenders were attacked in their apartment, sustaining grave knife wounds to the head and neck. They died of their wounds soon afterwards. The mother of Mr. Mannan and one of his house-keepers were also present during the attack, but were not injured. The security guard in the building was seriously injured during the attack.

Grave concern is expressed at the smear campaign against organisers of the “Rainbow Rally” and the subsequent assassination of Mr. Mannan and Mr. Tonoy, which are directly related to their legitimate human rights work in the promotion of the rights of LGBTI persons, the exercise of their rights to freedom of expression and assembly, and their own sexual orientation and gender identity.

In connection with the above alleged facts and concerns, please refer to the **Reference to International Human Rights Law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 any comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation carried out in relation to this case, both in relation to the threats made online against Mr. Mannan and Mr. Tonoy, and in relation to their assassination. If no inquiries have taken place, or if they have been inconclusive, please explain why. Please provide the full details of any prosecutions which have been undertaken in this case.
3. Please provide further information about the decision to ban the “Rainbow Rally” and about any measures taken to guarantee the security of the organizers.
4. Please indicate what measures have been taken to ensure that human rights defenders in Bangladesh, including those working on the rights of LGBTI persons, are able to carry out their legitimate work in a safe and enabling environment without fear of death threats or acts of intimidation and harassment of any sort.
5. Please indicate what measures have been taken to prohibit and combat discrimination against LGBTI persons, to prevent, investigate and prosecute violence against them, as well as provide effective remedy, protection and support to LGBTI victims of violence.

We would appreciate receiving a response within 60 days.

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.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

The above mentioned allegations appear to be in contravention articles 6 (1) and 26 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Bangladesh on 6 September 2000, which provide for the right to life, security and not to be arbitrarily deprived of life, and the prohibition of discrimination.

The Human Rights Committee in its General Comment 6, para. 3, has said that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts. We also want to recall that the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Principle 4) establish the obligation of States to ensure effective protection to those who receive death threats and are in danger of extra-legal, arbitrary or summary executions.

We also wish to recall articles 19 and 21 of the ICCPR, which provide for the rights to freedom of expression and freedom of peaceful assembly respectively. In this regard, we would like to bring the attention of your Excellency's Government to General Comment 34, in which the Human Rights Committee urged states to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. 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 (CCPR/C/GC/34). Similarly, Resolution 12/16 of the Human Rights Council, places a duty upon state to investigate effectively threats and acts of violence against persons exercising their right to freedom of expression, and to bring to justice those responsible.

Furthermore, we would also like to refer to 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 also like to bring to the attention of your Excellency's Government such provisions in the Declaration as article 12, which provides that State must 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 his or her legitimate exercise of the rights referred to in the Declaration. Articles 5 and 6 reiterate the rights to meet or assemble peacefully; to form,

join and participate in non-governmental organizations, associations or groups; to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms; as well as 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.

Finally, we would like to recall the resolutions 17/19 and 27/32 of the Human Rights Council, expressing grave concern for acts of violence and discrimination committed against individuals because of their sexual orientation and gender identity, and recommendations of UN human rights treaty bodies and special procedures mandate holders that States *inter alia* prohibit discrimination on the basis of sexual orientation and gender identity.