

# Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the Economic and Social Council of the United Nations*  
Promoting human rights by protecting those who defend them

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10<sup>th</sup> October 2013

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**Re: Arbitrary arrest and ongoing detention of Mr. Adilur Rahman Khan, Secretary of Odhikar; search and seizure of documents and computers from Odhikar offices, and allegations against Odhikar's Director, Mr. ASM Nasiruddin Elan**

Dear Prime Minister; Ministers of Home Affairs; Law, Justice and Parliamentary Affairs, and Inspector General of Police,

Lawyers Rights Watch Canada (“LRWC”) is a committee of Canadian lawyers providing support internationally to lawyers and other human rights advocates whose rights, safety, or independence are threatened as a result of their human rights advocacy.

This letter follows up on our recent letter of 10<sup>th</sup> September 2013, and earlier letter of August 12<sup>th</sup>, 2013 concerning the arbitrary arrest and detention of Mr. Adilur Rahman Khan, Secretary of the Bangladesh human rights non-governmental organisation Odhikar since August 10<sup>th</sup> 2013.

LRWC is deeply concerned by the ongoing arbitrary detention of Mr. Adilur Rahman Khan, despite the granting of ad-interim bail to Mr. Adilur Rahman Khan on 8<sup>th</sup> October 2013 by the High Court Division of the Supreme Court of Bangladesh. This result came about after three previous bail petitions had been denied.

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We understand that the Office of the Attorney General challenged this bail order before the Bench of the Chamber Judge of the Supreme Court. Whatever the outcome of this latest development, LRWC is deeply concerned at the apparent politicisation of the Attorney General's role as part of a strategy by the current government to prolong Mr. Khan's detention and thereby prevent further investigation by Odhikar of wrongdoing by state agents in the 5-6 May 2013 protest.

It is apparent that Mr. Khan was arrested because Odhikar published a fact-finding report on the killing of 61 people during an operation carried out on 5-6 May 2013 by security forces against Hefazat-e Islam activists in Dhaka. Subsequent to this event, a charge sheet was filed against Mr. Khan as well as against Odhikar's Director Mr. Nasiruddin Elan for allegedly "distorting images" and "publishing a fabricated report", under Section 57 (1) and (2) of the Information and Communication Technology (ICT) Act and Sections 505 (c) and 505A of the Penal Code, in relation to Odhikar's report. If found guilty, the two human rights defenders may face up to 14 years in jail or Tk 10,000,000 (about 93,660 €) fine under the ICT Act and seven years' jail term under the Penal Code.

LRWC regards the charges against Mr. Khan as a gross misuse of the criminal law and criminal justice system to prevent investigation of acts and omissions of government agents alleged to have caused or contributed to the deaths and injuries to participants in the protest identified above by Hifazate Islam on 5-6 May 2013 in the Motijheel area of downtown Dhaka.

LRWC condemns the Government of Bangladesh's failure to initiate a competent and independent investigation of these deaths and injuries; a duty that arose as soon as each death and injury occurred. Bangladesh's duty to investigate was made more urgent by the publication of the Odhikar's 10 June 2013 report, [Assembly at Hefazate Islam Bangladesh and Human Rights Violations](#) which confirmed the 61 deaths and many injuries.

LRWC draws the Prime Minister's attention to the fact that the approval of the charges against Mr. Khan, clearly contravenes the provisions of the United Nations Guidelines on the Role of Prosecutors. These Guidelines impose on prosecutors duties to protect the interests of the public and to "give due attention to crimes committed by public officials" (Articles 13 (b), 16) and on states, the duty to ensure that prosecutors are able to perform their duties without improper interference (Article 4).

The combination of circumstance outlined above lead LRWC to believe that the charges have been brought for the highly improper purpose of retaliation by State authorities against Odhikar for their legitimate investigation, reporting and advocacy on human rights issues in Bangladesh.

LRWC reminds the Prime Minister that Mr. Adilur Rahman Khan is entitled to the presumption of innocence and to release pending trial pursuant to the provisions of the International Covenant on Civil and Political Rights (ICCPR) to which Bangladesh is a party.

Bangladesh is obliged by law to release Mr. Khan unless there is proof of a substantial risk that Mr. Khan would fail to appear in court as directed or be a danger to the public, or interfere with the integrity of the legal system, and there is no reasonable alternative to imprisonment that could prevent the proven

danger(s). International law requires a fair trial before a competent, independent and impartial court and prohibits conviction except where there is evidence of guilt beyond a reasonable doubt.

The charges and ongoing arbitrary detention of Mr. Adilur Rahman Khan are directed at curtailing his work as a human rights defender and thus constitute an extra-legal punishment of his right to freedom of expression. The right and duty of Mr. Adilur Rahman Khan and other human rights defenders to protect human rights (Article 1) and, in so doing, to collect and disseminate information on issues of public interest is confirmed by the Declaration on Human Rights Defenders, Articles 6 (c ), 8.2, 9.2, 9.2 (c ), 12.3, 13, 18.2)

LRWC repeats our requests in earlier letters that steps are taken immediately to:

- Ensure the pre-trial release Mr. Adilur Rahman Khan in accordance with international law;
- Ensure the withdrawal of all unfounded charges and false allegations against Mr. Adilur Rahman Khan and Mr. ASM Nasiruddin Elan;
- Ensure that all judges, prosecutors and other officials in this case are properly mandated and empowered to act independently and impartially in accordance with the law, including all international obligations arising from or recognized by, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Basic Principles on the Independence of the Judiciary;
- Ensure that Mr. Adilur Rahman Khan is provided with proper and adequate medical attention, and ensure the physical and psychological safety and wellbeing of Mr. Adilur Rahman Khan while in custody.

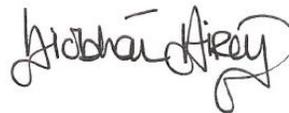
LRWC also urges your government to ensure the safety of all human rights defenders advocating for human rights in Bangladesh, and an immediate halt to all forms of intimidation and harassment of human rights defenders in Bangladesh including journalists and others calling for adherence to Bangladesh's international and domestic law obligations.

We look forward to your prompt response to the matters raised in this letter.

Yours sincerely,



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