

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

www.lrwc.org – lrwc@portal.ca – Tel: +1 604 736 1175 – Fax: +1 604 736 1170
3220 West 13th Avenue, Vancouver, B.C. CANADA V6K 2V5

Wednesday, August 19, 2015

Hon. Prime Minister Sheikh Hasina
Office of the Prime Minister
Gona Bhaban, Old Sangsad Bhaban, Tejgaon
Dhaka, Bangladesh.
Email: pm@pmo.gov.bd

Dear Prime Minister,

Re. Threats by Bangladesh Police to Odhikar and the Bangladesh Human Rights Commission (BAMAK)

Lawyers' Rights Watch Canada (LRWC) is a committee of lawyers who promote human rights and the rule of law internationally through advocacy, legal research and education. LRWC also campaigns for lawyers and other human rights defenders in danger because of their advocacy. LRWC has Special Consultative status with the Economic and Social Council of the United Nations.

LRWC is deeply concerned at the recent issuance of public threats by the Bangladesh Police to reputable human rights organisations in Bangladesh.

On 2nd August 2015, the Bangladesh Police issued a Media Release titled 'Statements of Odhikar and BAMAK are unlawful; only subversive campaigns' (Memo No. M and PR/1705). In this statement, the Bangladesh Police responded to earlier reports by both Odhikar and the Bangladesh Human Rights Commission (BAMAK) on Extrajudicial Killings in Bangladesh. In the Media Release, the Police assert that these reports challenge the Rule of Law, the judicial system, amount to defamation and 'a criminal act', and 'may be considered as subversive activities'.

LRWC believes the issuance of this statement constitutes a public threat from the Bangladesh Police to Odhikar and to the Bangladesh Human Rights Commission with aim of pressuring these organisations, their leaders and supporters, to cease their human rights work. This statement by the Bangladesh Police immediately undermines their impartiality and independence

as a national police force and is contrary to the many specialized declarations and bodies of principles on law enforcement which have been adopted by the United Nations.

The issuance of this statement by the Bangladesh Police is the latest evidence of a consistent pattern and practice of harassment of human rights organisations and their personnel and supporters, and human rights defenders, their families and supporters over the last several years in Bangladesh.

LRWC has communicated its concerns to the President, Prime Minister, the Minister for Justice and other senior policy makers on this deeply worrying situation several times in recent years. Prompting this has been evidence of the surveillance, harassment of staff and volunteers of Odhikar at its head office in Dhaka and around the country; the targeting of its leaders Mr. Adilur Rahman Khan, Secretary of Odhikar and ASM Nasiruddin Elan, Odhikar's Director, for arbitrary arrest and detention and issuance of charges under Section 57 of the ICT Act 2006 (amended in 2009) and Sections 505 (c) and 505 (a) of the Penal Code, and the prevention of release of funds for Odhikar's human rights work by the NGO Affairs Bureau.

Such acts of surveillance and harassment are prohibited by Bangladesh's international human rights obligations and its commitments under the Universal Declaration of Human Rights.

Specifically, the United Nations Working Group on Arbitrary Detention (WGAD) has reviewed the charges against Adilur Rahman Khan and determined that the detention and prosecution of Mr. Khan was "directed from his peaceful exercise of the right to freedom of expression" and was therefore contrary to the UDHR and the ICCPR provisions. The WGAD requested that Bangladesh immediately release Mr. Khan and "discontinue the criminal proceedings against him." The WGAD Opinion (A/HRC/WGAD/2013/) was adopted during the 68th session of the WGAD 13-22 November 2013 and was released to the public in December 2013. However, the prosecution has not been discontinued as requested by the WGAD. Instead, the charges were approved by the Court on 8 January 2014.

LRWC reminds the Prime Minister that Bangladesh, as a member of the United Nations, is expected to comply with and respect the UDHR and the various principles, guidelines, standards and recommendations adopted by the UN General Assembly and other prominent international organizations relating to pre-trial detention, as well as relevant rules of customary international law relating to arbitrary arrest and detention. Specifically:

Article 1, which states that "everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels", and

Article 12.2, which provides that the State shall "take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association

with others, 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 his or her rights”.

LRWC repeats its call for the withdrawal of charges against Adilur Rahman Khan, as requested by the UN WGAD. It also calls for the dismissal of charges against ASM Nasiruddin Elan and for these prosecutions to be discontinued.

Of particular relevance at this time is that Bangladesh is currently a member of the UN Human Rights Council. In this role, Bangladesh is obligated to act in strict accordance with international human rights obligations. These obligations are clear. They include the obligation to uphold the highest standards in the promotion and protection of human rights, [and] shall fully cooperate with the Council...”. (Human Rights Council Resolution adopted by the UN General Assembly 3 April 2006, A/RES/60/251).

LRWC demands that Bangladesh should withdraw as a member of the Human Rights Council until it has withdrawn all charges against Mr. Adilur Rahman Khan as recommended by the WGAD, and also withdraw charges against ASM Nasiruddin Elan.

LRWC requests information on the progress with the calls by Odhikar for an independent inquiry into the deaths of 61 people killed during an operation carried out by security forces against Hefazat-e Islam activists on May 5-6, 2013 in Dhaka. LRWC reminds the Prime Minister that Bangladesh has international law obligations arising from the *International Convention on Civil and Political Rights*, *Universal Declaration of Human Rights*, *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* and *United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* along with domestic law obligations arising from the *Constitution of the People’s Republic of Bangladesh 4th November 1972*.

LRWC calls on the Government of Bangladesh to:

- **Create an independent commission of inquiry to conduct an exhaustive investigation into the extra-judicial killings highlighted by Odhikar and the Bangladesh Human Rights Commission;**
- Ensure that the commission of inquiry fully complies with the applicable international law requirements including the provisions of the *United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*; and
- Ensure that the commission of inquiry is independent of the Bangladesh Police and any other “institution, agency or person that may be the subject of the inquiry” in accordance with Article 12 of the aforesaid *Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, Article 12.

Please advise LRWC of the actions that the Government of Bangladesh has/is taking in relation to the following –

- Drop charges against Mr Adilur Rahman Khan, and ASM Nasiruddin Elan;
- Investigate the deaths of 61 people killed during the operation carried out by security forces against Hefazat-e Islam activists on May 5-6, 2013 in Dhaka,
- Ensure that state officials cease their surveillance of Mr Adilur Rahman Khan, ASM Nasiruddin Elan and their families;
- Ensure that state officials and non-state actors cease their interference and harassment of Odhikar employees, volunteers and supporters, and release the funds withheld from Odhikar in order to prevent it from continuing its human rights work.

Sincerely,



Siobhán Airey
MSc LLM, PhD candidate, SSHRC doctoral fellow
LRWC Director

Copied to:

Mr. Md. Abdul Hamid
Hon. President of the People's Republic of Bangladesh
President's Office
Bangabhaban, Dhaka.
Fax: 88-02-9585502

Mr. Anisul Huq
Minister for Law, Justice and Parliamentary Affairs
Bangladesh Secretariat
Dhaka, Bangladesh
Email: info@minlaw.gov.bd

A. K. M. Shahidul Hoque
Inspector General of Police
Bangladesh Police
Police Headquarters, Dhaka

National Human Rights Commission
GulFeshan Plaza (11th Floor)
8, Sohid Sangbadik Saleena Parvin Sorok, Mogbazar
Dhaka-1217, Bangladesh
Email : nhrc.bd@gmail.com

Office of the United Nations High Commissioner for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix 1211
Geneva 10 Switzerland
Fax: +41 22 917 9006
Email: SRindependenceJL@ohchr.org

Mr. Michel Forst
Special Rapporteur on the situation of human rights defenders,
c/o Office of the High Commissioner for Human Rights – Palais Wilson
United Nations Office at Geneva
CH 1211 Geneva 10 Switzerland
Email: defenders@ohchr.org

Heather Cruden
High Commission of Canada in Dhaka, Bangladesh
United Nations Road
Baridhara
Dhaka 1212
Bangladesh

His Excellency Kamrul Ahsan High
Bangladesh High Commission
350 Sparks Street, Suite # 1100, Ottawa, ON K1R 7S8, Canada
Telephones: +1 613 236 0138 & +1 613 236 0139 [Consular inquiries], +1 613 234 3633 [Trade
& Commerce]
Fax: +1 613 567 3213
Email: bangla@rogers.com

Ambassador Marie-Anne Coninx
Delegation of the European Union to Canada
150 Metcalfe Street, Suite 1900,
Ottawa, Ontario, Canada K2P 1P1
Delegation-Canada@eeas.europa.eu

Julia Jacoby
Project Manager Governance & Human Rights
Delegation of the European Union to Bangladesh
House 7, Road 84, Gulshan 2

Dhaka 1212

Bangladesh

Email: Julia.Jacoby@eeas.europa.eu; delegation-bangladesh@eeas.europa.eu

Working Group on Arbitrary Detention

c/o Office of the High Commissioner for Human Rights

United Nations Office at Geneva

8-14, avenue de la Paix

1211 Geneva 10, Switzerland

facsimile: +41 22 9179006

Email: wgad@ohchr.org