

URGENT APPEAL - THE OBSERVATORY

BGD 004 / 1118 / OBS 133
Slander / Harassment /
Obstacles to freedom of association
Bangladesh
November 13, 2018

The Observatory for the Protection of Human Rights Defenders, a joint partnership of the World Organisation Against Torture (OMCT) and FIDH, requests your urgent intervention in the following situation in **Bangladesh**.

Description of the situation:

The Observatory has been informed by reliable sources about slanderous accusations that were published in the pro-government *Daily Janakantha* newspaper against the human rights non-governmental organisation (NGO) Odhikar, a member of OMCT SOS-Torture Network and of FIDH, in a further attempt to stop its human rights activities¹.

According to the information received, on November 11, 2018, the *Daily Janakantha* published an article by the newspaper's reporter Bibhash Baroi titled "*The controversial organisation Odhikar is again involved in murky activities*"². In the article, Odhikar was accused of involvement in "various nefarious activities critical of the forthcoming elections [scheduled for December 30, 2018], the State and the government", "anti-State conspiracies", and "constantly spreading false propaganda against Bangladesh."

The author of the article alleged that intelligence agencies recommended that the activities of Odhikar be shut down due to its "violating a circular issued by the Prime Minister's Office with regard to the NGO Bureau [NGOAB]" and its "taking cash money from donor agencies after funds were closed due to cessation of projects". In addition, the author himself recommended that "the registration of [Odhikar] be cancelled and all its activities stopped".

The article also accused Odhikar of having published distorted and false information through a fact-finding report on the killing of civilians by security forces in May 2013, which had already led to the arbitrary arrest on trumped-up charges of Mr. **Adilur Rahman Khan**, Secretary of Odhikar, in August 2013 (see background information).

The Observatory condemns in the strongest terms the politically-motivated attacks and accusations against Odhikar, which manifestly aim at discrediting its reputation and hindering its peaceful and legitimate human rights activities.

The Observatory recalls that since 2013, attacks and harassment against Odhikar have been ongoing. These attacks include the judicial harassment of Mr. Adilur Rahman Khan, and the surveillance and acts of intimidation against its staff and their relatives. Moreover, Odhikar has not been authorized to conduct any project or receive funds since the NGOAB refused to renew Odhikar's registration and froze its bank accounts in 2014. As of today, its registration with the NGOAB remains pending, despite Odhikar having submitted all the required documents to the NGOAB on time. As a consequence, Odhikar has only been able to continue its activities on a very limited scale.

¹ Odhikar is a prominent human rights NGO that since its inception in 1994 has been vocal against all human rights violations in Bangladesh, showing its commitments towards the universality of human rights. Activities of Odhikar include reporting, advocacy and fact-finding activities on violations considered "sensitive" - such as disappearances, torture, political violence, etc.

² Translated from Bangla.

The Observatory reiterates that the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association has unequivocally stated that the ability of NGOs to access funding and other resources from domestic, foreign, and international sources is “an integral part of the right to freedom of association”. The Special Rapporteur stated that constraints such as outright prohibitions to access funding or requiring NGOs to obtain government approval prior to receiving funding violate Article 22 of the International Covenant on Civil and Political Rights (ICCPR) and other human rights instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR)³. Bangladesh is a State party to both the ICCPR and the ICESCR.

The Observatory is further concerned that in a letter dated of November 6, 2018, the Election Commission announced without any notice that it had cancelled the registration of Odhikar as election observer, an action that is contrary to the Election Observation Rules 2017. According to the Election Commission, Odhikar’s registration was cancelled because Odhikar is no longer registered with the NGOAB.

The Observatory urges the authorities in Bangladesh to put an end to all forms of harassment against Odhikar and its staff, and to comply with the relevant international norms and standards, including the United Nations (UN) Declaration on Human Rights Defenders and the ICCPR, in order to create an environment where human rights defenders can operate freely.

Background information⁴:

Odhikar has been under extreme pressure since August 2013, when the authorities arrested Mr. Adilur Rahman Khan, also a member of OMCT General Assembly and FIDH Vice-President, on trumped up charges in relation to a fact-finding report issued by Odhikar on the killing of civilians by security forces in May 2013.

Following this publication, Messrs. Adilur Rahman Khan and **Nasiruddin Elan**, Director of Odhikar, were arbitrarily detained in 2013 for 62 and 25 days respectively until they were both released on bail. On January 21, 2014, the High Court Division of the Supreme Court granted a stay of the trial in the Cyber Crimes Tribunal. The stay order was subsequently challenged by the Attorney General’s Office in the Appellate Division of the Supreme Court.

On January 9, 2017, the High Court Division of the Supreme Court of Bangladesh, presided over by Justice M. Enayetur Rahim, dismissed the appeal filed by Messrs. Adilur Rahman Khan and Nasiruddin Elan, aiming to contest the charges framed against them under Section 57 of the 2006 Information and Communication Technology Act (ICT) Act, in relation to the above-mentioned report. The High Court further decided to lift the stay order which the Supreme Court had granted to the two defenders in January 2014 and directed the Cyber Crimes Tribunal to proceed with their prosecution.

On January 10, 2017, the lawyers of the two defenders filed an appeal challenging the High Court’s judgement and order before the Appellate Division of the Supreme Court of Bangladesh.

In addition, on August 2, 2015, the Media and Public Relations wing of the Police Headquarters in Dhaka issued a statement condemning newspaper reports on extrajudicial killings, which cited Odhikar and BAMAK, another NGO, and declared that the statements made by the two organisations “contravene the existing laws of Bangladesh, which is synonymous to challenging Rule of Law and the judicial system”. The police Press Release further stated that

³ See Human Rights Council, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai*, UN Doc. A/HRC/23/39, para. 20, April 24, 2013,

⁴ See Observatory Urgent Appeal BGD 001 / 0813 / OBS 074.8, issued on January 13, 2017.

questioning the activities of the police threatens the reputation of the police and amounts to defamation and a criminal act, and may be considered as a subversive activity.

Actions requested:

Please write to the authorities of Bangladesh asking them to:

- i. Guarantee in all circumstances the physical and psychological integrity of all members of Odhikar as well as of all human rights defenders in Bangladesh;
- ii. Recognise that human rights defenders play a legitimate role in ensuring peace, justice, and democracy;
- iii. Put an end to all forms of harassment against Odhikar and its staff, as well as against all human rights defenders in Bangladesh, and ensure in all circumstances that they are able to carry out their legitimate activities without any hindrance and fear of reprisals;
- iv. Respect the exercise of Odhikar's right to freedom of association, as recognized under Article 38 of the Constitution of Bangladesh and established in the International Covenant on Civil and Political Rights, in particular its Article 22;
- v. Conform to the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, in particular with Articles 1 and 12.2;
- vi. Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments to which Bangladesh is a State party.

Addresses:

- Ms. Sheikh Hasina, Prime Minister of Bangladesh. Fax: +880 2 8113243, Email: pm@pmo.gov.bd
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- Mr. Anisul Huq, Minister for Law, Justice and Parliamentary Affairs of Bangladesh. Fax: +880 2 7168557. Email: minoflaw@law.com
- Md. Shahriar Alam, State Minister for Foreign Affairs of Bangladesh. Fax: +880 2 9562188. Email: fm@mofa.gov.bd
- Justice Syed Mahmud Hossain, Chief Justice, Supreme Court of Bangladesh, Fax: +880 2 956 5058 /+880 2 7161344, E-mail: chief@bdcom.com or supremec@bdcom.com
- Mr. Mahbubey Alam, Attorney General for Bangladesh, Email: adv_mahbubey@yahoo.com
- H.E. Mr. Abdul Hannan, Ambassador, Permanent Mission of the People's Republic of Bangladesh to the United Nations in Geneva, Switzerland, Fax: +41 22 738 46 16, E-mail: mission.bangladesh@ties.itu.int
- Embassy of the People's Republic of Bangladesh in Brussels, Belgium, Fax: +32 2 646 59 98; Email: bdootbrussels@skynet.be

Please also write to the diplomatic representations of Bangladesh in your respective countries.

Geneva-Paris, November 13, 2018

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

The Observatory for the Protection of Human Rights Defenders (the Observatory) was created in 1997 by the World Organisation Against Torture (OMCT) and FIDH. The objective of this programme is to prevent or remedy situations of repression against human rights defenders. OMCT and FIDH are both members of [ProtectDefenders.eu](https://www.protectdefenders.eu), the European Union Human Rights Defenders Mechanism implemented by international civil society.

To contact the Observatory, call the emergency line:

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