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Bangladesh: Ending impunity and protecting journalists from attacks

Despite international recognition of the need to protect journalists and communicators worldwide through UN resolutions and plans on impunity and the safety of journalists, there is an implementation and effectiveness gap between global agreements and local realities. This weakens the system and means the complex risks faced by journalists, media workers, and communicators remain unaddressed at the national level.

In Bangladesh, where 20 journalists were killed in just the last four years, this failure to address journalists safety and impunity has had serious consequences. ARTICLE 19 has highlighted the issue of increasing attacks against journalists, bloggers and human rights defenders and ongoing impunity as a major area of concern, in a submission for Bangladesh's third UPR cycle.

While the rate of murders of journalists and media communicators have significantly increased in the last four years, investigations have remained slow and ineffective. This continued failure to uphold commitments to investigate attacks on journalists and media communicators perpetuates a cycle of impunity, which puts journalists at heightened risk.

Deadly attacks on journalists increasing

ARTICLE 19 has found that the number of murders of journalists and communicators markedly increased in the last four years compared to the previous four years. We have recorded a total of 20 journalists and communicators who were brutally murdered from 2013 – 2017. Five of them were killed in a period of just eight months between 2015 -2016. In the previous four-year period the number was substantially lower, at just five, meaning a fourfold increase in deadly attacks. This deteriorating situation has placed Bangladesh back on the Committee to Protect Journalists' Global Impunity Index of 'spotlight' countries.

Journalists killed from 2013 – 2017:

- **Abdul Hakim Shimul** was gunned down by the Mayor of Shahad zadpur Municipality, Shirajganj, on 3 February 2017, in the north-eastern part of the country, whilst reporting on a clash between two factions of the student wing of the ruling party. The case is under investigation.
- **Xulhaz Mannan**, editor of the first LGBT magazine Roopban and organiser of the annual "rainbow rally", was murdered on 25 April 2016 in Dhaka, together with his friend Khandaker Mahbub Rabbi Tonoy. The investigation report into the murders has yet to be submitted.
- **Nazimuddin Samad** was shot dead on a busy road in the capital Dhaka on 6 April 2016. His Facebook postings on dogmatic Islamic views are thought to be the reason he was targeted.
- **Aurongozeb Sajib**, a correspondent covering Dhaka Medical College Hospital for various media outlets, was found dead in the river Dhaleswari in Munshiganj on 23

December 2015. He had unearthed irregularities in the running of the hospital in his reporting.

- **Mashiur Rahman Utsho's** body was recovered on 23 December 2015, tied to a tree beside the Dhaka-Rangpur highway and bearing stab wounds.
- **Faisal Arefin Dipan**, an owner of Shuddo Shor publishing house, was killed in his Dhaka office on 31 October 2015. Shuddo Shor was involved in the publication of books written by Avijit Roy. A final investigation report is yet to be submitted by the police.
- **Mushfikur Rahman Tuhin**, district correspondent for Mymensingh-based weekly Shathahik Aparadh Chitra, was stabbed to death on 8 October 2015.
- **Niladri Chakrabarti**, a secular blogger who wrote under the pseudonym "Niloy Neel", was killed on 7 August 2015 in a suspected religiously motivated attack. No final investigation report has been submitted.
- **Abu Sayem**, who reported on the sale of narcotics at the house of a preacher, was murdered by a follower of the same preacher on 8 July 2015. The suspect is currently facing trial.
- **Ananta Bijoy Das**, a blogger, participant in the Shahbag movement and contributor to 'Mukto Mona' and 'Somewhereinblog', well known for his secular views, was killed on 12 May 2015. The case is under trial.
- **Washiqur Rahman**, a blogger, was killed by several assailants in connection with his critical postings on religious issues on 30 March 2015. The final investigation report has not been submitted.
- **Avijit Roy**, founder of Bengali language blog Mukto Mona ("Of Free Mind"), who was well known for his liberal secular writing, often challenging religious extremism, was killed on 26 February 2015 in an attack by several unknown assailants in Dhaka. The police have yet to submit a final investigation report.
- **Sardar Nipul**, a journalist covering the illegal sale of timber from land owned by railway authorities, was found dead on 21 May 2014. A trial has commenced against the leader of the local political activists believed to be responsible.
- **Delwar Hossain**, a reporter, was killed on 9 March 2014. His death appears to have been linked to the activities of local land grabbers, on which he had been reporting.
- **Shah Alam Mollah**, a crime reporter of weekly "*Aparadh Doman*", published from Dhaka, was killed on 4 March 2014. The case has been closed due to lack of evidence.
- **Abu Raihan**, correspondent with Khulna-based daily Janma Bhumi, was hacked to death by activists of Shibir (the student wing of the extreme right political party) on 4 August 2013.
- **Shahriar Rimon**, a photojournalist for online news site Focus Bangla, was found dead in the river Padma in Rajbari on 4 August 2013. He had photographed the arrest of a local criminal and been threatened by the criminal's accomplices.
- **Shahidul Islam**, a cameraman for Bangladesh TV, was found murdered in his office on 1 April 2013.

- **Ahmed Rajib Haider**, a blogger and activist of the Shahbag movement against war crimes, was murdered near his home in Dhaka returning from a Shahbag meeting on 15 February 2013. The trial eventually concluded in 2016, with the convictions of eight individuals upheld in February 2017 by the High Court.

Flawed investigations and impunity

While the pace of investigations and rate of concluded investigations have slightly improved in 2013 – 2017 compared to the previous four years, lengthy investigations that fail to reach the trial stage remain a concern. Many of the above investigations remain open after more than a year, and in several cases much longer.

Of the seven journalists killed during the previous four year UPR cycle, justice has been secured in only two cases: in June 2013, after eight years, nine people were convicted of the November 2005 murder of journalist Goutam Das, and, in November 2016, eight people were convicted of the murder of journalist Manik Chandra Saha, killed twelve years earlier.

Process of investigations

The legal process in relation to the investigation and trial of criminal cases is mostly set out in the various provisions of the Criminal Procedure Code (Cr.PC) 1898, Evidence Act 1872, and Police Regulations of Bengal (PRB) 1943. The Police Regulations of Bengal 1943 provide detailed standards for the conduct of investigations. These include conducting investigations without “*a break in continuity*” i.e. without significant disruptions or delays to the investigation (section 261A); that it should “*rarely be necessary to prolong [initial] investigations of the even the most difficult case beyond 15 days*” (section 261C); and that the “*practice of delaying the submission of the final report after the completion of the local enquiry on the spot shall be discouraged*”. However, these standards are often not followed, and are not reflected in the procedural law, creating ample scope for ambiguity.

Disruptions in investigations

On an analysis of the process of investigations of the above cases, we have found that none of the investigations have been conducted “*without a break in continuity*”. In fact, in Bangladesh it is common practice that an officer is engaged in the investigation of several cases, resulting in a piece meal approach to individual cases of investigation.

Delays in investigations

Adjournments during investigations are one of the worst causes of unnecessary delays. It has been over 1,060 days since the initiation of the investigation in the case of Avijit Roy, 730 days in the case of Faisal Arefin Dipon, 537 days in the case of Xulhas Mannan, and they are yet to reach conclusions. In the case of Ananta Bijoy Das investigations have concluded, however it was 360 days before the commencement of the trial.

The law requires investigations to: “*....be completed within the time fixed by the magistrate*”, and “*the investigation officer (IO) shall, in any event report by the prescribed date, the progress made and the date by which he expects to complete the investigations*”. However, in practice, the case of Xulhas Mannan was adjourned 14 times, the case of Avijit Roy was adjourned 28 times, the case of Faisal Arefin Dipon was adjourned 19 times, and the case of Ananta Bijoy Das was adjourned 39 times. More seriously we have found that in almost all cases the investigating officer was not required to provide a reason for seeking an adjournment, and so the extension of time

appeared to be taken for granted. This is also an area where no specific guidance can be found to guide magistrates and/or investigation officers on the exercise of adjournments.

Another issue causing delays in investigations is the appointment of multiple investigating officers (IOs). In most of the cases more than one IO has been assigned at various stages of the investigation, often contributing to delays in the process of completion of investigations. For example, in the case of Nurul Islam Rana, there had been five IOs assigned at different points in the investigation. All of them had conducted separate interviews of all the witnesses in the case, and some of them had interviewed the accused(s) more than one time, meaning it took a total of 1,125 days to conclude the investigation. The case is only now under trial.

There are also long delays even in cases where final reports could have been submitted earlier, upon conclusion of an “*enquiry on the spot*” (where a determination is made by the investigating officer that there is no *prima facie* case). For example, in the case of Shah Alam Mollah despite there being no *prima facie* case found, the final report was submitted 366 days after the initiation of the investigation.

In addition to delays in overall investigations, delays in key parts of the investigation, such as forensic investigations, can be very damaging. The first 24 hours of a criminal investigation are critical as they involve the initial inspection of the scene of the crime by the police, the preparation of an inquest report and the conducting of the post-mortem. Time is of the essence, as with each passing moment the likelihood of degradation or contamination of physical evidence becomes higher, increasing the probability of loss of vital evidence. On an analysis of some of the above cases, we have found that in most of the cases no forensic investigations were conducted at the initial stages (for example in the case of Faisal Arefin Dipon and Xulhas Mannan).

Recommendations

International standards on safety of journalists require that States [prevent, protect against, and prosecute](#) attacks against journalists. Concrete actions must be taken by States to ensure their safety. We make the following recommendations for protecting the safety of journalists and freedom of expression of all citizens to the Government of Bangladesh in view of these commitments:

- **Vigorously condemn all attacks against journalists** when they occur, investigate them promptly and effectively in order to duly sanction those responsible and inform the public on a regular basis about these proceedings; More specifically:
 - Ensure compliance of practice relating to investigations in line with current laws of the land i.e. with relevant provisions of the Criminal Procedure Code and Police Regulations of Bengal;
 - Consider the appointment of dedicated personnel with special training for investigation of cases in relation to violations against freedom of expression;
 - Ensure that current guidelines in relation to adjournments are strictly followed , moreover specific guidelines should be developed for the exercise of provisions for adjournments;
 - Revise guidance to investigating law enforcement authorities, to ensure that perpetrators of crimes against journalists and bloggers are swiftly identified and crucial evidence collected;

- Ensure the availability of **concrete protection measures** for journalists, bloggers and HRDs identified as at risk of violence, tailored to the individual's specific needs;
- **Provide training to law enforcement** authorities in the safety of journalists, bloggers and HRDs, including how to ensure the protection of those at risk;
- **Collect and regularly publish data on the status of investigations and/or prosecutions** in cases relating to crimes against journalists and bloggers, and share these with relevant international organisations and mechanisms, including by continuing to communicate information in response to requests from UNESCO.