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BANGLADESH: GUARANTEE THE RIGHT TO FREEDOM OF ARTISTIC EXPRESSION AND RELEASE DETAINED ARTISTS

Amnesty International is deeply concerned about the recent arbitrary detention and other forms of harassment of artists who are facing increasing attacks on their right to freedom of expression in Bangladesh. We call on the Bangladesh authorities to immediately and unconditionally release all artists unlawfully detained, drop the charges against them, and guarantee people's right to freedom of artistic expression and creativity, as enshrined in domestic and international law.

In December 2020, a Dhaka-based film director Anonno Mamun (34) released the trailer of his latest movie, "Nabab LLB". Actor Shaheen Mridha (46) is seen in the movie playing the character of an investigating police officer, who was grilling a female rape victim seeking legal remedies.¹ The movie scene, which unambiguously featured the conduct of a rogue police officer harassing a female rape victim with intrusive questioning, is a bitter reality that female rape victims in Bangladesh are routinely subjected to. However, following the release of the trailer, on 25 December 2020 the Dhaka Metropolitan Police Cyber Crime Unit filed a case against both artists and arrested them under the Pornography Control Act 2012² alleging that the scene contains "very offensive gestures and obscene language" which will create "negative perceptions about policing among the public".³

¹ Netra News, *How the Bangladesh police now censors fiction*, 3 January 2021, www.medium.com/netranews/how-the-bangladesh-police-now-censors-fiction-ba1695e3934e

² New Age, *Director, actor held over portrayal of police in film*, 26 December 2020, www.newagebd.net/article/125368/director-actor-held-over-portrayal-of-police-in-film

³ Al Jazeera, *Bangladesh director arrested after film shows police in bad light*, 26 December 2020, www.aljazeera.com/news/2020/12/26/bangladesh-director-charged-after-film-depiction-of-police-angers

Local filmmakers have publicly condemned such censorship, calling it a threat to the freedom of artistic expression in the country.⁴ The High Court granted the artists bail on 11 January 2021, and have been released pending trial.

In December 2020, a Dhaka court issued an arrest warrant against Rita Dewan, a female folk singer, and her two daughters, in a case filed in February 2020 under the Digital Security Act (DSA) 2018. Rita and her daughters were accused of “hurting religious sentiments”.⁵ Rita was performing a *Pala Gaan* (a variant of local folk music festival where two folk singers engage in an extempore musical battle) in Tangail district on 1 February 2020, and was debating with her colleague about the “Living Things Versus the Greatest”. According to the Police Bureau of Investigation (PBI) report on the case, they found evidence of the “crime” [*hurting religious sentiments*]. “Hurting religious sentiments” is a vaguely defined crime under Section 28(1) of the Digital Security Act, which can carry a penalty of up to 10 years imprisonment.

Since the musical show, a total of four cases have been filed against Rita on similar grounds—one was dismissed by the court, while three others are pending trial.⁶ On 13 January 2021, the Dhaka Cyber Tribunal granted Rita bail in one of the cases.⁷

In May 2020, Bangladesh police detained celebrated cartoonist Ahmed Kabir Kishore, and writer Mushtaq Ahmed from their Dhaka residence under the Digital Security Act accusing them of “spreading rumours and misinformation on Facebook about the coronavirus situation” and “undermining the image of the father of the nation”, the “national anthem” or “national flag”.⁸ Kishore, an international award-winning cartoonist, is famous for his satirical caricature critical of government officials and their policies. His recent works entitled “Life in the Time of Corona” published in his Facebook page “I am Bangladeshi” critiqued corruption of ruling party politicians. Mushtaq Ahmed, the author of the book *Kumir Chasher Diary*, runs a Facebook page

⁴ The Daily Star, ‘*Unexpected; a threat to artistic expression*’: Filmmakers said about arrests of filmmaker, actor, 27 December 2020, www.thedailystar.net/backpage/news/unexpected-threat-artistic-expression-2017749

⁵ The Daily Star, *Digital Security Act: Arrest warrant issued against Baul Rita Dewan*, 2 December 2020, www.thedailystar.net/country/news/digital-security-act-arrest-warrant-issued-against-baul-rita-dewan-2004665

⁶ Two cases were filed in Jhenaidaha district on 2 and 9 February 2020 by two individuals, and one was filed in Chittagong district on 9 February 2020 by a local lawyer.

⁷ The Daily Star, *Case Under DSA: Baul singer Rita Dewan granted ad interim bail*, 14 January 2021, www.thedailystar.net/backpage/news/case-under-dsa-baul-singer-rita-dewan-granted-ad-interim-bail-2027289

⁸ Dhaka Tribune, *Cartoonist Kishore, writer Mushtaq arrested under DSA*, 6 May 2020, www.dhakatribune.com/bangladesh/dhaka/2020/05/06/former-crocodile-farm-owner-picked-up-from-lalmatia

“Michael Kumir Tagore” that posts comments on social and political issues. They are being charged under Section 21 of the Digital Security Act 2018, which carries a penalty of life imprisonment and/or a hefty fine of 30 million taka [US\$ 3.5 million approx] if they are found to have engaged in "propaganda" or a "campaign" against the "spirit of liberation war", the "father of the nation", the "national anthem" or "national flag".

Since their arrest in May 2020, Kishore and Mushtaq have been arbitrarily detained in Kashimpur Central Prison amid repeated rejections of their bail petitions by the court. Prison visits by their family members have been restricted due to COVID-19 and the authorities have failed to provide alternative means for them to communicate with their families.⁹ Kishore is an insulin-dependent diabetic patient, and is exposed to increased health risk due to COVID-19.¹⁰ In December 2020, three UN Special Rapporteurs called for Kishore’s immediate release due to his worsening health conditions.¹¹

Amnesty International, in its 2018 report “Muzzling Dissent Online”, provided detailed analyses of how the Digital Security Act 2018 contravenes the right to freedom of expression, and called on the Bangladeshi authorities to repeal its repressive sections including Section 21.¹²

The right to freedom of artistic expression and creativity is enshrined both in the International Covenant on Civil and Political Rights (ICCPR) and in the International Covenant on Economic, Social, and Cultural Rights (ICESCR)—Bangladesh is a state party to both instruments. Article 19(2) of ICCPR stipulates that the right to freedom of expression includes the freedom to seek, receive and impart information and ideas of all kinds, including in the form of art. According to Article 15(3) of the ICESCR, State parties are required to “respect the freedom indispensable for...creative activity”.

Bangladesh’s Constitution also guarantees people’s right to freedom of expression (Article 39). In the 2013 Universal Periodic Review (UPR) before the UN Human Rights Council, Bangladesh accepted several recommendations concerning the right to

⁹ The Daily Prothom Alo, কার্টুনিস্ট কিশোরসহ চারজনের সঙ্গে দেখা করতেই পারছে না পরিবার [In English: *Families cannot visit cartoonist Kishore and four others*], 6 June 2020, <https://www.prothomalo.com/bangladesh/কার্টুনিস্ট-কিশোরসহ-চারজনের-সঙ্গে-দেখা-করতেই>

¹⁰ The Daily Prothom Alo, কার্টুনিস্ট কিশোরসহ চারজনের সঙ্গে দেখা করতেই পারছেন না পরিবার [In English: *Families cannot visit cartoonist Kishore and four others*], 6 June 2020, <https://www.prothomalo.com/bangladesh/কার্টুনিস্ট-কিশোরসহ-চারজনের-সঙ্গে-দেখা-করতেই>

¹¹ UN News, *Cartoonist must be released on medical grounds, urge rights experts*, 16 December 2020, www.news.un.org/en/story/2020/12/1080212

¹² Amnesty International, *Muzzling Dissent Online* (Index: ASA 13/9364/2018)

freedom of expression.¹³ However, instead of reforming the legal regime in accordance to the commitments made then, Bangladesh has further undermined the space for artistic freedom with the introduction of a more repressive and draconian law in 2018—the Digital Security Act.

Amnesty International calls on the Bangladeshi authorities to immediately and unconditionally release cartoonist Ahmed Kabir Kishore and writer Mushtaq Ahmed since they have been detained solely for the peaceful exercise of their right to freedom of expression, and drop all charges against artists Anonno Mamun, Shaheen Mridha, Rita Dewan, Kishore, and Mushtaq. We also call on the authorities to urgently repeal the Digital Security Act 2018 or substantially amend its repressive provisions. Bangladesh must uphold its obligations under international human rights law and guarantee the space of artistic and creative expression without the fear of retribution.

¹³ Austria, Bhutan, Canada, Malaysia, Norway, Portugal, South Africa, and the Russian Federation made recommendations to Bangladesh concerning freedom of expression.