



*Joint submission to the mid-term Universal Periodic Review of  
Bangladesh by Freemuse, Drik, and PEN International*

**4 December 2020**

**Executive summary**

Freemuse, Drik, and PEN International welcome the opportunity to contribute to the mid-term review of the Universal Periodic Review (UPR) on Bangladesh. This submission evaluates the implementation of recommendations made in the previous UPR and assesses the Bangladeshi authorities' compliance with international human rights obligations with respect to freedoms of expression, information and peaceful assembly, in particular concerns related to:

- Digital Security Act and Information and Communication Technology Act
- Limitations on freedom of religion and belief
- Restrictions to the right to peaceful assembly and political engagement
- Attacks on artistic freedom and academic freedom

As part of the third cycle UPR process in 2018, the Government of Bangladesh accepted 178 recommendations and noted 73 out of a total 251 recommendations received. This included some aimed at guaranteeing the rights to freedom of expression, information and peaceful assembly. However, a crackdown on freedom of expression has been intensified since the review and civil society, including artists and journalists, has faced adversity from authorities. These are in violation of Bangladesh's national and international commitments to artistic freedom, specifically the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights which were ratified by the authorities in 2000 and 1998, respectively.

This UPR mid-term review was compiled based on information from Freemuse, Drik and PEN International.

## SECTION A

### Digital Security Act: a threat to freedom of expression

#### Third Cycle UPR Recommendations

The Government of Bangladesh accepted recommendations **147.67, 147.69, 147.70, 148.3, 148.13, 148.14, and 148.15** concerning the Information and Communication Technology Act and Digital Security Act. In accepting those recommendations, the government stated:

*“With a view to establishing balance between freedom of expression and public morality & interest, the GoB has approved the Digital Security Bill.”<sup>1</sup>*

The Government of Bangladesh also stated:

*“The Information and Communication Technology Act had been enacted in 2006 to legalize electronic signatures.” Following questions raised by the media, the Government had found the section incongruous and agreed to repeal Section 57. “To combat cybercrime and ensure cybersecurity, Bangladesh was in the process of enacting the Digital Security Act, and would ensure it did not affect freedom of speech and of expression.”<sup>2</sup>*

#### Brief Assessment

In September 2018, Bangladesh accepted recommendations agreeing to review and amend existing laws and refrain from adopting new legislation placing undue restrictions and deterrents on the exercise of the rights to freedom of expression, information, and peaceful assembly. This included seven recommendations on the Digital Security Act (DSA), which was created using Section 57 of the 2006 Information and Communication Technology Act (ICT Act). Prior to enactment, the government repeatedly said that the Central Bank of Bangladesh has been the victim of cyber-related crimes several times in recent years and that the DSA was implemented to curb these crimes.

However, despite strong protests from international, regional and local journalists, lawyers, teachers-students, internet users and human rights activists, the DSA was passed by voice vote in the Bangladesh Parliament on 18 September 2018 and the law has been in force since 8 October 2018. The DSA poses a grave danger to freedom of artistic expression through its provisions of absolute power for the government to arrest anyone – without a warrant – whose activities are considered harmful or a threat on suspicions that a crime might be committed in the digital space. This is supported by the 1898 Code of Criminal Procedure in Bangladesh which also permits authorities in the country to arrest individuals without a warrant.

The transition from Section 57 of the ICT Act to the DSA has been enacted in a context of growing social movements that do not justify the repression of protests and dissenting voices. Crucially, the impact of these restrictions has been amplified during 2020 due to the spread of COVID-19, and at a time when the government of Bangladesh released 2,800 prisoners convicted of minor offences, the

<sup>1</sup> A/HRC/WG.6/30/BGD/1, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/050/26/PDF/G1805026.pdf?OpenElement>

<sup>2</sup> A/HRC/39/12, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/211/03/PDF/G1821103.pdf?OpenElement>

authorities have continued to imprison people who are expressing their right to freedom of political and cultural expression.<sup>3</sup>

Moreover, following the first three cases of COVID-19 being reported in Bangladesh on 8 March 2020, the Department of Information and Communication Technology, a division of the Ministry of Posts and Telecommunications, issued the Digital Security Rules 2020 under the DSA 2018 (ICT Department, Government of Bangladesh) which contains several provisions that restrict the right to freedom of expression, privacy and various civil rights and criminalize pro-opposition activities by the citizens. This has contributed to a challenging environment for artists and civil society actors in the country, with the DSA and its arbitrary implementation not only threatening the right to free expression and speech, but also threatening the right to life and livelihood in the country.

## 1. DIGITAL SECURITY ACT

Not implemented  
No progress perceived

- 147.69** Take effective measures to ensure freedom of expression and end all assaults on journalists and human rights defenders, as well as ensure that the proposed Digital Security Act is in line with international standards (Estonia)
- 147.70** Guarantee freedom of expression in the Digital Security Act (France)
- 148.14** Review and redraft the proposed Digital Security Act to ensure online freedom of expression (Norway)
- 148.15** Redraft the Digital Security Act in line with international norms and standards for freedom of expression (Sweden)

### Legislation

In the two years since the third cycle UPR, authorities in Bangladesh have not redrafted the Digital Security Act in alignment with international human rights standards. This has created a dangerous precedent in Bangladesh whereby the vague wording of the DSA provides authorities with the ability to criminalise any creative and political expressions that are deemed to undermine their authority, such as during a demonstration.

Central to this is Section 21 of the DSA which authorises a 30 million taka fine (approx. 300,000 euro) and/or life imprisonment as *“punishment for making any kind of propaganda or campaign against liberation war, spirit of liberation war, father of the nation, national anthem or national flag”*, including *“If any person, by means of digital medium, makes or instigates to make any propaganda”*.<sup>4</sup> Artists, journalists, and human rights defenders are often charged under this clause due the vague language allowing for an arbitrary application to silence dissenting expressions.

Similarly, Section 25 of the DSA provides special protection to the state and thus may be used to prohibit or punish legitimate political expression by considering it an offence to undertake the *“transmission, publication, etc. of offensive, false or threatening data-information”* through *“any*

<sup>3</sup> AA (2020). *Bangladesh starts releasing prisoners amid pandemic*, <https://www.aa.com.tr/en/asia-pacific/bangladesh-starts-releasing-prisoners-amid-pandemic/1827739>

<sup>4</sup> Government of the People’s Republic of Bangladesh (2018). *Digital Security Act*, <https://www.cirt.gov.bd/wp-content/uploads/2020/02/Digital-Security-Act-2020.pdf>

*website or any other digital medium*".<sup>5</sup> If found guilty, individuals can be jailed for five years and fined, with the vague clause and disproportionately harsh penalty leading to self-censorship amongst artists and human rights defenders.

Also restrictive to the right to artistic freedom is Section 28 of the DSA which charges individuals with a penalty of up to five years imprisonment for the *"publication, broadcast, etc. of information in website or in any electronic format that hurts the religious values or sentiment"*.<sup>6</sup> Unlike Section 57 of the ICT Act, this clause requires *"an intention to hurt or provoke the religious values or sentiments"* but is often applied in ways that do not uphold international human rights standards.

To enable authorities to arbitrarily implement the DSA, Section 43 permits police officers to *"search, seizure and arrest without warrant"* if *"any police officer has reasons to believe that an offence under this Act has been or is being committed, or is likely to be committed in any place, or any evidence is likely to be lost, destroyed, deleted or altered or made unavailable in any way"*.<sup>7</sup>

### **Violations on freedom of expression online**

In 2020, Freemuse has documented three imprisonments of artists in Bangladesh under the DSA. According to the Bangladesh government's Cyber Crime Tribunal more than 2000 cases have been filed since the DSA came into effect on 8 October 2018, including more than 800 cases in the first nine months of 2020.<sup>8</sup> This proliferation is part attributable to COVID-19 as artists, academics, journalists, and other civil society actors have been charged and/or imprisoned for criticising the government's handling of the pandemic, including more than 20 journalists imprisoned for their criticisms on social media.<sup>9</sup> These negative developments were also highlighted in the 2020 World Press Freedom rankings which placed Bangladesh at 151 out of 180 countries as a result of the increase in media freedom violations and a *"custom-made judicial weapon for silencing troublesome journalists"* in the DSA.<sup>10</sup>

Illustrative of the restrictions on freedom of expression is the 5 May 2020 arrest of cartoonist Kabir Kishore and writer Mushtak Ahmed from their homes in the Kakrail and Lalmatia areas by the anti-crime and terrorism enforcement, Rapid Action Battalion (RAB).<sup>11</sup> On 2 May 2020, the artists were detained in secret by RAB for 96 hours and charged at the Ramna Police Station under Sections 21, 25, 31 and 35 of the DSA for criticizing the government's response to COVID-19 in Kishore's cartoon series, *Life in the Time of Corona*, and Ahmed's recently published article documenting the shortage of protective equipment in the medical industry. Alongside Kishore and Ahmed, the authorities arrested two others and charged seven more under the DSA for *"spreading rumours and misinformation on Facebook"*.

On 17 May, 16 and 28 June, and 23 July 2020, police officers subject Kishore and Ahmed to jail gate interrogations claiming that their activities on social media led to confusion, instability, and chaos among the people. The Dhaka division of the RAB (RAB-3) cyber team discovered a Facebook page, /

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> Ibid

<sup>8</sup> Amnesty International (2020). *Bangladesh: Escalating attacks on the media must stop*, <https://www.amnesty.org/en/latest/news/2020/10/bangladesh-escalating-attacks-on-the-media-must-stop/>

<sup>9</sup> Human Rights Watch (2020). *Bangladesh: Mass Arrests Over Cartoons, Posts*, <https://www.hrw.org/news/2020/05/07/bangladesh-mass-arrests-over-cartoons-posts>

<sup>10</sup> Reporters Without Borders (2020). *Bangladesh/Index details*, <https://rsf.org/en/bangladesh>

<sup>11</sup> Human Rights Watch (2020). *Bangladesh: Mass Arrests Over Cartoons, Posts*, <https://www.hrw.org/news/2020/05/07/bangladesh-mass-arrests-over-cartoons-posts>

*am Bangladeshi*, which is being used as evidence by the RAB 'cyber verification cell' as spreading rumours about COVID-19 and which Ahmed is alleged to be an administrator of. Freemuse, Drik, and PEN International call for the immediate release of Kishore and Ahmed, and are concerned that the short period of enforced disappearances and use of a terrorist unit to silence the criticisms of the artists is in clear violation of the Constitution of Bangladesh and international human rights standards, particularly the ICCPR and ICESCR.

Between January and October 2020, at least 51 journalists have been prosecuted under the DSA.<sup>12</sup> This includes photojournalist Shafiqul Islam Kajal who was found after 53 days of an enforced disappearance following an arrest on 3 May by the Border Guard Bangladesh for an alleged illegal entry into Bangladesh near Sadipur border.<sup>13</sup> Incarcerated Kajal had three cases filed under the DSA and a case under Section 54 of the Code of Criminal Procedure (CrPC) despite there being no order for the cases under the DSA and no specific list of offences for the charge under the CrPC. Kajal was granted bail by the High Court Division on 24 November, but he is unable to leave the Keraniganj Central Jail due to two more pending cases under the DSA. The High Court Division bench asked the investigating officers of the remaining two cases to submit reports to it on 15 December explaining whether they took permission from the cyber tribunal or not for continuing their investigation for the next 30 days after completion of 75 days since the cases were filed. In addition, the High Court Division bench also asked the tribunal to submit separate reports to it on whether the tribunal granted permission to the investigating officers as per the concerned law.

On 7 April 2020, journalist Jamal Mir and five other journalists went to investigate the location of an alleged drug trade and prostitution ring in Bangladesh.<sup>14</sup> After a video showed the journalists entering the location, a case was filed on the grounds of defamation under Sections 29 and 31 of the DSA and under provisions on trespassing and extortion under 448/323/379/506 of Penal Code 1860 at the Barguna Sadar Police Station. On 10 November 2020, Mir was granted bail after three failed attempts but on 12 November government prosecutors filed an appeal to block the order, leading to Mir remaining detained under an eight-week stay. Despite no charge sheet being filed, Mir faces a maximum penalty of life in prison if convicted. Banglanews24 has temporarily expelled him and also expressed his inability to provide any kind of assistance in case of any communication.

## Recommendations

The Government of Bangladesh should:

1. Repeal the Digital Security Act to comply with the international standards for freedoms of expression, information and peaceful assembly as provided in the International Covenant on Civil and Political Rights.
2. Disband the Rapid Action Battalion and replace it with an independent force that upholds human rights.

---

<sup>12</sup> The Daily Star (2020). *Bids to silence journos deafening*, <https://www.thedailystar.net/frontpage/news/bids-silence-journos-deafening-1987781>

<sup>13</sup> The Daily Star (2020). *Bids to silence journos deafening*, <https://www.thedailystar.net/frontpage/news/bids-silence-journos-deafening-1987781>

<sup>14</sup> Committee to Protect Journalists (2020). *Bangladesh prosecutors block bail of journalist Jamal Mir*, <https://cpj.org/2020/11/bangladesh-prosecutors-block-bail-of-journalist-jamal-mir/>

3. Formulate the internet policy of Bangladesh in accordance with its obligations under international law and ensure that the internet remains an open and public forum for freedom of expression online.
4. Ensure that any restriction, limitation, or interference with the use of the internet should have an ultimate objective under international standards and such intervention should be consistent with that objective.

## 2. INFORMATION, COMMUNICATION, AND TECHNOLOGY ACT

Technically Implemented  
No Perceived Progress

- 147.67** Protect freedom of expression in media, politics and religion, and work with civil society to address concerns regarding section 57 of the Information and Communication Technology Act (United Kingdom of Great Britain and Northern Ireland)
- 148.3** Enforce constitutional provisions safeguarding freedom of expression, including by amending section 57 of the Information and Communication Technology Act and relevant provisions of the draft Digital Security Act (Australia)
- 148.13** Review and amend the laws that restrict freedom of expression, such as section 57 of the 2006 Information and Communication Technology Act (Mexico)

### Legislation

Following more than 10 years of aggressive prosecutions against dissenting expressions in the country, the Government of Bangladesh upheld their accepted recommendations in the third cycle UPR and committed to repealing Section 57 of the ICT Act, alongside Sections 54, 55, 56, and 66, and replaced Section 57 with the DSA. Under the ICT Act, police officers are permitted to arrest anyone considered to be causing a deterioration in law and order, threatening the image of the state, or insulting religious feelings. These charges come with a maximum imprisonment of 14 years.

Freemuse, Drik, and PEN International commend the introduction of intent into a number of clauses in the DSA - such as the intention to hurt or provoke the religious values under Section 28 - and the introduction of limitations preventing prosecutions on the grounds of defamation under the 1860 Penal Code of Bangladesh.

However, by reincorporating Section 57 of the ICT Act, the DSA has continued the restrictions on freedom of expression in the country and intensified the threat to human rights in Bangladesh. In particular, this has been enabled by the non-bailable penalties in more than 14 offenses and intentionally vague definitions and exceptions.

### Violations on freedom of expression

On 15 May 2019, actress Quazi Nawshaba Ahmed was charged with disseminating false and defaming information to tarnish the image of the country, deteriorating law and order, and hurting public sentiments under the ICT Act.<sup>15</sup> The charges came after Nawshaba went on Facebook Live and said

<sup>15</sup> The Daily Star (2019). *Nawshaba charged for spreading rumours on social media*, <https://www.thedailystar.net/city/news/nawshaba-charged-spreading-rumours-social-media-1749667>

that two students had been killed and another had their eyes gauged out during a road safety movement on 5 August 2018 in Dhaka, and called on people to ‘protect’ the students via protesting. Nawshaba was initially detained on 4 August 2018 by RAB and granted bail on 23 August due to her health condition. On 8 December 2019, the Supreme Court in Bangladesh upheld the High Court order on the charges.

In a similar case, photojournalist and social activist Shahidul Alam was arrested by more than 20 plain clothed officers from his home in Dhaka hours after making comments relating to a privately-operated bus running over a group of students – killing two and injuring several others – being broadcast by a Qatar-based TV station. Alam was charged under Section 57 of the ICT Act and granted bail on the 6<sup>th</sup> attempt on 20 November 2018.<sup>16</sup> During the protest, more than 100 people were injured as police fired teargas and rubber bullets and crowds of people attacked protesters, photographers and the United States ambassador’s car. The case remains ongoing.

During the third cycle UPR, the Government of Bangladesh informed the Human Rights Council that it had taken *“immediate actions to ensure justice, compensate victims, and fulfil demands of students, and enacted a new Road Transport Act 2018. The Government reiterated its commitment to ensure that everyone enjoys his or her democratic rights, including freedom of assembly and freedom of expression”*.<sup>17</sup> Freemuse, Drik and PEN International are concerned that the detentions and charges presented against actress Quazi Nawshaba Ahmed and photojournalist Shahidul Alam indicate a neglect of this recommendation and remind Bangladesh of its commitments to upholding the accepted UPR recommendations and human rights obligations.

On 15 May 2019, writer and corporate lawyer Imtiaz Mahmood was arrested in Dhaka for a Facebook post where he commented on the rights of minorities in the Chittagong Hill Tracts (CHT) region.<sup>18</sup> Police arrested Mahmood in a case filed in July 2017 under Section 57 of the ICT Act in which a private citizen, Shafiqul Islam, alleged that one of Mahmood's Facebook posts had hurt religious sentiments and incited communal violence in Bangladesh's south-eastern Chittagong region. Mahmood, known for his pro-CHT activism, secured an anticipatory bail when the case was originally brought, but a Khagrachhari Court issued another warrant for arrest in May 2019. It is concerning that the space for legitimate expressions is being reduced and curtailed by non-state and state actors in Bangladesh.

This is also evident in the case of journalist Manik Raihan Bappi who was detained on 14 November 2020 under Section 57 of the ICT Act in a case filed five years ago.<sup>19</sup> On 30 November, Bappi was released from detention after being granted interim bail on 15 November. Alongside the charges against Bappi, 15 other journalists were accused of illicit activities – including corruption – at the Rajshahi University where Bappi was the former president of the Press Club and newspaper correspondent. It is concerning that charges under the restrictive ICT Act are continuing to be used by authorities in Bangladesh to silence civil society despite sections of the legislation being repealed.

## Recommendations

<sup>16</sup> The Guardian (2018). *Photographer charged as police crackdown in Bangladesh intensifies*, <https://www.theguardian.com/world/2018/aug/06/famed-bangladeshi-photographer-held-over-road-protest-comments>

<sup>17</sup> A/HRC/39/2, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/RES/39/2&Lang=E>

<sup>18</sup> Human Rights Watch (2019). *Bangladesh: New Arrests Over Social Media Posts*, <https://www.hrw.org/news/2019/05/17/bangladesh-new-arrests-over-social-media-posts>

<sup>19</sup> Dhaka Tribune (2020) *RU journo out on bail in ICT case*, <https://www.dhakatribune.com/bangladesh/law-rights/2020/12/01/ru-journo-out-on-bail-in-ict-case>

Under the third-cycle cycle UPR on Bangladesh, Freemuse, Drik and PEN International recommended the *“Repeal Section 57 of the Information, Communication, and Technology Act (ICT Act), that criminalizes several forms of artistic expressions and is open to misuse, in its entirety.”* We commend the authorities in Bangladesh for repealing Section 57 of the ICT but continue to call for:

1. All existing charges under Section 57 of the Information, Communication, and Technology Act to be dropped.

## SECTION B

### Religious and political tensions

#### Third Cycle UPR Recommendations

The Government of Bangladesh fully supported recommendations **147.63, 147.64, 147.139, 147.256, 147.67, 147.74 and 148.4** concerning protections for freedom of religion and belief in the country. In accepting these recommendations, the government stated:

*“The GoB [Government of Bangladesh] maintains ‘zero tolerance’ policy to any form of violence against religious minorities under any pretext.”<sup>20</sup>*

The Government of Bangladesh also stated that:

*“Any incident of violence against religious minorities is addressed as promptly as possible. The GoB has unequivocally condemned all incidents of violence against religious and ethnic minorities and taken appropriate legal actions to bring the perpetrators to justice.”<sup>21</sup>*

#### Brief Assessment

Due to the proliferation of tensions in Bangladesh between civil society and government authorities and restrictions on freedom of religion and belief by marginalised groups, such as the Baul community, Freemuse, Drik and PEN International are concerned about the lack of implementation of recommendations accepted by the Government of Bangladesh during the third cycle UPR to improve political and religious freedoms.

In September 2018, the Government of Bangladesh accepted recommendations agreeing to review and amend existing laws to enhance religious freedoms and protect freedom of religion or belief for all citizens in the country. However, artistic works continue to be censored and artists detained on the grounds of insulting or hurting religious feelings and sentiments. Artist syndicates, non-state political and social groups, and artistic communities have introduced legal proceedings and social vindications against people whose expressions clash with the social and political discourses implemented by those in power; and authorities arbitrarily implement the DSA and Penal Code to criminalise criticisms of the authorities or religions, especially criticisms in the form of humour and satire.

Centrally, the public morality of a multi-ethnic and multi-cultural society like Bangladesh cannot be determined by any single nation or culture. The culture or morale of other anthropological groups outside the major culture may be different to that expressed as a social norm by those with structural and political power. This is affirmed by the 2011 General Comment 34 of the Human Rights Committee on Article 19 of the ICCPR which explains how the process or manner of protecting public morals cannot protect the morale of any single race, religion, or group.<sup>22</sup>

<sup>20</sup> A/HRC/WG.6/30/BGD/1, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/050/26/PDF/G1805026.pdf?OpenElement>

<sup>21</sup> A/HRC/WG.6/30/BGD/1, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/050/26/PDF/G1805026.pdf?OpenElement>

<sup>22</sup> CCPR/C/GC/34, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

These laws, compounded by the diverse demographic structures in Bangladesh, transcend the parameters permitted under international human rights law. This is particularly crucial given that they are vague and henceforth create an environment of uncertainty about what content is permitted and how authorities and civil society can stifle legitimate expressions. Under the Penal Code there is no clear definition of what is meant by the terms “malicious intent” or “different class”, leading to the Special Rapporteur on Minority Issues stating that in the vast majority of cases hate speech can be more effectively tackled through non-criminal measures such as education and promoting counter-speech and dialogue rather than detentions and imprisonment.<sup>23</sup>

Furthermore, in recent years, Baul’s in Bangladesh have been forcibly marginalised and their artistic freedom censored and curtailed despite Baul songs being included on UNESCO’s Representative List of the Intangible Cultural Heritage of Humanity. The Baul community are often subject to systematic harassment, partly because they do not identify with any organised religion nor deities, with the documented detentions since 2018 illustrating the protracted censorship against the mystic minstrels.<sup>24</sup>

## 1. RELIGIOUS FREEDOMS

Not implemented  
No progress perceived

- 147.63** Work with civil society to develop a road map to implement Human Rights Council resolution 16/18 on combating religious intolerance (United Kingdom of Great Britain and Northern Ireland)
- 147.64** Continue working on enhancing religious freedom and prevention of extremism and violent extremism (Holy See)
- 147.139** Take additional measures, in consultation with civil society, to strengthen progressive social reforms, in particular to empower women and girls, and to combat religious extremism (Haiti)
- 147.156** Ensure the effective investigation and sanctioning of all cases of violence against religious minorities (Austria)
- 147.67** Protect freedom of expression in media, politics and religion, and work with civil society to address concerns regarding section 57 of the Information and Communication Technology Act (United Kingdom of Great Britain and Northern Ireland)
- 147.74** Continue efforts to protect freedom of expression and freedom of religion or belief for all citizens and residents, and to support civil society participation (Poland)
- 148.4** Ensure legal and constitutional protection of indigenous and religious minorities, and facilitate the reporting of violations of their rights (Estonia)

## Legislation

<sup>23</sup> OHCHR (2015). *Council holds interactive dialogue with the Special Rapporteur on Minority Issues*, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15716&LangID=E>

<sup>24</sup> UNESCO, *Baul songs, Intangible Cultural Heritage*, <https://ich.unesco.org/en/RL/baul-songs-00107>

Section 28(1) of the DSA states *“if any person or group intentionally or knowingly with the aim of hurting religious sentiments or values or with the intention to provoke publish or broadcast anything by means of any website or any electronic format which hurts religious sentiment or values then such activity of that person will be considered an offence.”*

In addition, Article 153-A of the 1860 Penal Code prescribes punishments for promoting *“enmity, hatred or ill-will between different class”*. This mandates prosecutions for extremists who encourage religious hatred, particularly those who display evident alleged ‘malicious intent’ in their expressions, but the legislation is possible for implementation in situations whereby the authorities wish to criminalise dissenting voices.

Similarly, Section 295A of the Penal Code prohibits any person who has a *“deliberate”* or *“malicious”* intention of *“hurting religious sentiments”* and punishes those found guilty with a maximum life imprisonment. Other similar laws have been proposed by religious hardliners in Bangladesh.

Article 20 of the ICCPR explicitly provides that any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence is to be prohibited by law. However, the former Special Rapporteur on freedom of expression, Frank La Rue, clarified that this refers to very specific types of expression. In particular, the expression must meet the high thresholds of constituting *“advocacy”* and that advocacy has to be directed towards *“incitement to discrimination, hostility or violence”* against an individual because of their membership of one of the defined communities (national, racial or religious).<sup>25</sup> The Special Rapporteur is clear that the protection should be given to individuals and not to religions, concepts, or ideologies – as criticizing ideas must be allowed for democracy to exist.

## Violations on freedom of expression

On 3 February 2020, a Dhaka court ordered an investigation into Bangladeshi Baul singer Rita Dewan under the DSA for allegedly making *“derogatory comments”* against religion and *“hurting the religious sentiments of Muslims.”*<sup>26</sup> Dewan was alleged to have made derogatory comments against Allah during a musical competition performance with another singer in 2018. Another incitement under Sections 295 (A), 298,504 and 505(A) of the 1860 Penal Code was filed a day later to the Dhaka Chief Metropolitan Magistrate Court by producer and actor Russell Mia. These respectively refer to *“deliberate and malicious acts intended to outrage religious feelings”*, using words *“with deliberate intent to wound religious feelings”*, intentionally insulting and provoking the public and making prejudicial comments.<sup>27</sup> On 2 December 2020, the Cyber Tribunal Dhaka issued an arrest warrant against Dewan for hurting religious sentiments. The singer is currently in hospital after an accident whereby she hurt her spine and leg and broke her left arm.

In a similar case, on 11 January 2020 Bangladeshi Baul singer Shariat Boyati was arrested and accused of hurting the religious sentiments of Muslims for a stage performance at a folk music festival held in Dhaka on 24 December 2019.<sup>28</sup> Imam Mohammad Faridul Islam filed the case with Mirzapur Police Station on 9 January 2020 accusing Boyati of making derogatory comments that hurt his *“religious sentiment”* under Section 28 of the DSA. The musician was questioned in police custody for three days

---

<sup>25</sup>A/HRC/17/27 [https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf)

<sup>26</sup> WSWS (2020). *Folk singers charged for violating Bangladesh’s draconian Digital Security Act*, <https://www.wsws.org/en/articles/2020/02/12/bang-f12.html>

<sup>27</sup> Government of Bangladesh (1860). *The Penal Code*, <http://bdlaws.minlaw.gov.bd/act-11/section-3116.html>

<sup>28</sup> Dhaka Tribune (2020) *Why should Shariat Boyati not get bail?*, <https://www.dhakatribune.com/bangladesh/court/2020/02/12/hc-to-govt-why-shariat-boyati-should-not-get-bail>

and sent to judicial court. On 28 July, Shariat Boyati was bailed. The case is under trial at Cyber Tribunal Dhaka. Freemuse, Drik and PEN International find the trend of keeping artists in pre-trial detention without pressed charges during the COVID-19 pandemic threatening to freedom of expression and the right to health and life; and remind Bangladesh of their obligations to national and international human rights mechanisms.

On 18 May 2020, unidentified individuals reportedly burnt the Ashor Ghor of Baul singer Ranesh Thakur to ashes in Sunamganj.<sup>29</sup> Many musical instruments including drums, harmonium and monochord kept in the room for performing musical programs were also burnt. On 20 May, local police detained a suspect in the case filed over the arson attack and on behalf of the government, the district administration allocated corrugated roofing sheets and cash assistance for the rebuilding of the music room. The singer lives next to this music room and was awoken during the night when the fire started. Thakur said that there were no electrical connections to the room from where a fire might have started.

On 14 May 2019, Barisal Kotwali police arrested poet Henry Sawpon from his residence in the Goal Pukur Christian community area in south-central Bangladesh for “hurting religious sentiments of the Christian and Muslim communities”.<sup>30</sup> Barisal Metropolitan Police Commissioner Shahabuddin Khan stated that a priest of the local Catholic Church filed the allegation against Sawpon after his social media status criticising Lawrence Subrata Howlader, the Bishop of the Catholic Diocese of Barishal, for holding a cultural programme the day after many people were killed in series of terrorist attacks in churches and hotels in Sri Lanka. The poet, who was released on bail on 16 May 2019, has been charged under Sections 28, 29 and 31 of the DSA and could face up to 15 years in prison if found guilty.

## Recommendations

Whilst Section 57 of the Information and Communication Technology Act was repealed following the third cycle UPR on Bangladesh, government authorities and existing legislation continue to restrict and impinge on the rights to freedom of expression and speech in the country. The government has not implemented its supported recommendations to develop and provide a safe environment for and freedom of expression, including artistic freedom. The Government of Bangladesh should:

1. Amend Sections 123A, 124A, 153A, 153B, 292, 294, 295A, 499, 501, 505A of the 1860 Penal Code to uphold the international standards of necessity and proportionality when criminalizing insults to religion or beliefs, criticisms of the authorities, acts of sedition, and expressions deemed to disturb public order or morality.
2. Amend all provisions that criminalize defamation, as well as artistic expressions, alleged to be obscene, hurt religious feelings or sentiments.
3. Take concrete measures, including educational programs, law enforcement training, and policies for the conservation, development and diffusion of culture to promote a tolerant society where artists and audiences are free to express themselves creatively and participate in cultural events without fear of reprisal, and without artists being forced to self-censor even if they address sensitive moral, political and religious issues.

---

<sup>29</sup> Dhaka Tribune (2020). *Baul Ranesh Thakur's music room torched in Sunamganj*, [https://www.dhakatribune.com/bangladesh/nation/2020/05/19/baul-ranesh-thakur-s-music-room-torched-in-sunamganj?fbclid=IwAR3zOS2KjxOaNiwatZc\\_N-Ke74z8FKR6fTbQ8b8\\_inVw0J5-53FXPWebES4](https://www.dhakatribune.com/bangladesh/nation/2020/05/19/baul-ranesh-thakur-s-music-room-torched-in-sunamganj?fbclid=IwAR3zOS2KjxOaNiwatZc_N-Ke74z8FKR6fTbQ8b8_inVw0J5-53FXPWebES4)

<sup>30</sup> Dhaka Tribune (2019). *Poet Henry Sawpon jailed in Digital Security Act case*, <https://www.dhakatribune.com/bangladesh/nation/2019/05/14/poet-journalist-henry-swapon-arrested-jailed>

## 2. POLITICAL RIGHTS AND ACADEMIC FREEDOM

Not implemented  
No progress perceived

- 147.7** Bring legislation into conformity with the obligations under the International Covenant on Civil and Political Rights by repealing restrictive provisions that limit the rights of journalists, human rights defenders and civil society organizations to freedom of expression and free speech (Latvia)
- 147.71** Ensure democratic space for all political actors, including the implementation of domestic laws, without restrictions on the exercise of the rights to freedom of expression and of peaceful assembly (Switzerland)
- 147.75** Publicly commit to ensuring that journalists, bloggers, human rights defenders and civil society organizations are able to carry out their activities without fear of surveillance, intimidation, harassment, arrest, prosecution or retribution (Austria)

### Violations on freedom of expression

Over the last year, PEN International has received several confidential reports of individuals targeted through the discriminatory application of the DSA in retaliation for their peaceful criticism of government policies on social media. These reports highlight how the DSA has been used by government-aligned individuals to stifle dissenting views that are published online, amounting to a form of harassment and constraining the right to free expression in a manner that runs contrary to Article 19 of the International Covenant on Civil and Political Rights.

Tensions with the Rapid Action Battalion since its formation in 2004 have led to thousands of Bangladeshi citizens being extrajudicially killed.<sup>31</sup> On 4 September 2020, 100 sympathizers of the ruling party, led by Dhaka South City Councilor Hasibur Rahman Manik, disrupted a demonstration-performance against extrajudicial killings, staged at the University of Dhaka around a 2010 exhibition of photographs by artist and activist Shahidul Alam.<sup>32</sup> Demonstrators laid on the pavement outlined in chalk and held up images from Alam's acclaimed series *Crossfire*, which depicts sites of killings committed by the RAB. Drik reported that counter-protesters carrying pro-government placards tried to snatch away their banner and tear up their photographs, while displaying their own banners and shouting slogans. A woman complained of being groped and faced with a situation of likely outbreak of violence, the Drik event was cut short. Alongside obstructing the performance, the government aligned counter-protesters threatened performers whilst police officers failed to stop the attackers. Many prominent citizens condemned the attack, but no action was taken on the attackers.

In addition, leading filmmakers, researchers, movement organizers, artists, and free speech defenders have expressed their concern against the proposed draft of the Film Certification Act, 2019.<sup>33</sup> The

<sup>31</sup> Odhikar (2020). *Total Extra-judicial killings*, [http://odhikar.org/wp-content/uploads/2020/07/01\\_Statistics\\_EJK\\_2001-June-2020.pdf](http://odhikar.org/wp-content/uploads/2020/07/01_Statistics_EJK_2001-June-2020.pdf)

<sup>32</sup> ArtNet News (2020). *In Bangladesh, Pro-Government Forces Disrupted a Protest Performance Featuring Photos by Artist Shahidul Alam*, <https://news.artnet.com/art-world/performance-shahidul-alam-crossfire-attacked-1908127>

<sup>33</sup> The Daily Prothom Alo (2019). *Film certification laws would be dangerous for films*, <https://www.prothomalo.com/entertainment/%E0%A6%9A%E0%A6%B2%E0%A6%9A%E0%A7%8D%E0%A6%9A%E0%A6%BF%E0%A6%A4%E0%A7%8D%E0%A6%B0-%E0%A6%B8%E0%A6%BE%E0%A6%B0%E0%A7%8D%E0%A6%9F%E0%A6%BF%E0%A6%AB%E0%A6%BF%E0%A6%95%E0%A7%87%E0%A6%B6%E0%A6%A8-%E0%A6%86%E0%A6%87%E0%A6%A8->

proposed draft will restrict and curb the artistic freedom, creativity, and freedom of expression of artists, filmmakers, and film crews, considering the film's current technological excellence. Artistic expression and creative freedom should not disproportionately be curtailed, and certification of any films should be responsive to social change. Bangladesh should not hinder artists from adhering to its obligations under international human rights laws and principles.

Academic freedom is also at risk in Bangladesh. Three government college teachers have been fired for writing about COVID-19 on social media, an investigation is underway against one BRAC University teacher for conducting research on COVID-19, and many private university teachers' salaries are being partially deducted on various pretexts. One of the rationales provided by the university authorities is their inability to admit new students. On 8 April 2020, Ferdousi Begum Milli, an Associate Professor in the Department of Political Science at Sikandar Ali Chowdhury Degree College in the Kalikapur area of Patuakhali municipal town was detained by the police for writing an 'offensive' post on Facebook about the Prime Minister, Director of IEDCR and President of BGMEA.<sup>34</sup>

On 18 June 2020, Rajshahi University lecturer Kazi Jahidur Rahman was arrested from his home after allegedly making 'defamatory' comments on social media about former minister and Awami League leader Mohammed Nasim, who died on 12 June 2020.<sup>35</sup> In a case filed by Tapos Kumar Saha, a lawyer, Rahman was released on bail after 71 days of detention. Similarly, Sirajam Munira, a lecturer at Begum Rokeya University, was arrested on 13 June 2020 on the same accusation of making defamatory comments about Nasim on social media with the intention of hurting public sentiments.<sup>36</sup> After being arrested immediately following Begum Rokeya University registrar Abu Hena Mustafa Kamal filing the case on 13 June, Munira was granted bail on 5 August.

On 25 March 2020, the Ministry of Education in Bangladesh suspended two teachers from two government colleges, Assistant Professor Kazi Zakia Ferdousi of Gafargaon Government College in Mymensingh and Shahadat Ullah Kaiser, a Lecturer in the philosophy department of Barisal Government Women's College, for posting 'provocative' statements and pictures on Facebook.<sup>37</sup> According to the notice, their statement was not in line with the government's ongoing coordinated efforts to control the COVID-19 pandemic. The temporary suspension order states that teachers are being dismissed for misconduct under the Government Employees (Discipline and Appeal) Rules 2018, for their activities "against government management, discipline and public interest".

Further, on 22 March, a research report by BRAC University teacher Malay Kanti Mridha and two public health experts and epidemiologist at Johns Hopkins University in the United States claimed that if the government did not take steps to control the coronavirus, more than half a million people could die from the infection in Bangladesh. After the report was published, a statement signed by Sabina Fayed Rashid, Dean of the James P. Grant School of Public Health at BRAC University, said that "no research has been done on the COVID-19 situation in Bangladesh, no one has been asked to do so or published

---

[%E0%A6%9A%E0%A6%B2%E0%A6%9A%E0%A7%8D%E0%A6%9A%E0%A6%BF%E0%A6%A4%E0%A7%8D%E0%A6%B0%E0%A7%87%E0%A6%B0-%E0%A6%9C%E0%A6%A8%E0%A7%8D%E0%A6%AF](#)

<sup>34</sup> Manab Zamin (2020). *College teacher arrested for posting offensive post on Facebook in Patuakhali*, <https://mzamin.com/article.php?mzamin=221177>

<sup>35</sup> Dhaka Tribune (2020). *RU teacher out on bail in DSA case*, <https://www.dhakatribune.com/bangladesh/nation/2020/08/28/ru-teacher-out-on-bail-in-dsa-case>

<sup>36</sup> Dhaka Tribune (2020). *HC grants bail to BRUR teacher Sirajam Munira*, <https://www.dhakatribune.com/bangladesh/court/2020/08/05/hc-grants-bail-to-brur-teacher-sirajam-munira>

<sup>37</sup> New Age Bangladesh (2020). *2 college teachers suspended for comment on PPE shortage*, <https://www.newagebd.net/article/103286/2-college-teachers-suspended-for-comment-on-ppe-shortage>

from BRAC James P. Grant School of Public Health”.<sup>38</sup> Freemuse, Drik and PEN International consider the initiative of an institutional investigation against Dr. Malay Kanti Mridha and the threat of departmental punishment as providing obstacles to fundamental rights and academic freedom.

On 7 May, the Ministry of Public Administration issued directives to follow the Social Media Usage Guidelines in Government Offices – 2019 (Revised Edition). After the issuance of the guidelines, it was first used against four teachers from government schools in Baghmara Upazila of Rajshahi district by suspending them temporarily - Assistant Teachers from the Bujrukol Govt. Primary School, Aynul Hoq and Mozaffar Hossain; Assistant Teacher of Kulibari Govt. Primary School, Golam Mostafa; and Assistant Teacher of Boro Bihanali Govt. Primary School, Rezaul Karim alias Sweet.<sup>39</sup> The suspensions were on the grounds of ‘giving a Facebook status criticising the Government Guidelines’. Similarly, on 13 May a notification issued by the Registrar of Khulna University of Engineering and Technology (KUET) directed its teachers, officials, employees, and students to follow the Government Social Media Usage Guidelines. On 2 May, another notification was issued by the Registrar of Bangabandhu Sheikh Mujib Medical University (BSMMU) directed to all its faculty members, physicians, officials, and employees of the university not to give any statements to the media without taking prior permission.

The Government of Bangladesh should:

1. Develop programmes to increase dialogue and create awareness between political groups and artists to prevent artists from any form of harassment or violation based on support for certain political ideologies and expressions.
2. Amend all criminal defamation laws and allow issues of reputation to be addressed as civil law matters where the government has no role.
3. Ensure that law-enforcement agencies and officials manage public order according to relevant international law and standards, in particular the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and promptly investigate allegations of excessive use of force.
4. Ensure police provide adequate protection for all dissenting and minority voices, however controversial, particularly those who have been publicly targeted for attack; and ensure that all those requiring protection are able to access information about available measures and to request them with ease.
5. Stop harassing people who publish their critical opinions or call for protests on social media using the internet and drop politically motivated charges against internet users.

---

<sup>38</sup> The Netra news (2020). *Researcher in trouble for co-authoring Bangladesh Covid-19 projections*, <https://netra.news/2020/researcher-in-trouble-for-co-authoring-bangladesh-covid-19-projections-884>

<sup>39</sup> The Daily Amader Shomoy (2020). *Status on Facebook, 4 teachers fired in defiance of government directives* <http://www.dainikamadershomoy.com/post/257784>