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NO PLACE FOR CRITICISM

Bangladesh Crackdown on Social Media Commentary

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No Place for Criticism

Bangladesh Crackdown on Social Media Commentary

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Summary

On April 9, 2018, Bangladesh listed its new Digital Security Bill in parliament, which was then sent to a parliamentary standing committee for review. The proposed law is in part intended to replace section 57 of the Information and Communication Technology Act (ICT Act) 2006, which has been widely criticized for restricting freedom of expression and has resulted in scores of arrests since 2013. However, the current draft of the Bill replicates, and even enhances, existing strictures of the ICT Act. This report documents abuses under section 57 of the ICT Act to warn that any new law should protect rights, not be used to crack down on critics.

For instance, exactly a year ago, Monirul Islam, a rubber plantation worker in Srimongol, southern Bangladesh, experienced an unwelcomed surprise. He was arrested on April 13, 2017, accused of defaming the country's prime minister and harming the image of Bangladesh. His crime: he had "liked" and then "shared" a Facebook post, something social media users around the world do every day. The post, allegedly from a colleague, criticized the ongoing visit by Prime Minister Sheikh Hasina Wazed to India, saying that she was meeting her Indian counterpart, "for the sake of power and to win the coming election." The post included some cartoons of the prime minister.

He was accused of offences under section 57 of the ICT Act claiming that he, and the publisher of the post, were "opposition supporters" and that the post was an "injustice," "condemnable," and a "betrayal to the country." Denied bail by both the magistrate and district courts, Islam, who denies the offence, was detained for three months before the High Court released him in July 2017. Meanwhile, the author of the original post, reportedly went into hiding fearing his own arrest.

Section 57 of ICT Act authorizes the prosecution of any person who publishes, in electronic form, material that is fake and obscene; defamatory; "tends to deprave and corrupt" its audience; causes, or may cause, "deterioration in law and order;" prejudices the image of the state or a person; or "causes or may cause hurt to religious belief." These broad and sweeping terms invite misuse of the law.

When Bangladesh first enacted the ICT Act in November 2006 to regulate digital communications, legal protections within the law limited the number of arrests and prosecutions. In 2013, the government amended the law, eliminating the need for arrest warrants and official permission to prosecute, restricting bail, and increasing prison terms if convicted. A new Cyber Tribunal dedicated to dealing with offences under the ICT Act was also established. As a result, the number of complaints to the police, arrests, and prosecutions has soared.

Between 2013 and April 2018, the police submitted 1271 charge sheets, most of them under section 57 of the ICT Act. Many of these cases involved multiple accused.

Often, it seems, the intent is to intimidate, with relatively few convictions—according to anecdotal comments from court officials—resulting from prosecutions. In September 2017, Md Nazrul Islam Shamim, special public prosecutor of the Cyber Tribunal, told *The Dhaka Tribune* that 65 to 70 percent of cases filed under section 57 cannot be proved in court. “Some cases are totally fabricated and are filed to harass people,” he said. In the first three months of 2018, of the nine cases where trials were concluded, eight were acquitted.

However, the impact of being arrested for a criminal offense can be severe on the individual, their family, and on free speech, as those who might otherwise speak out choose to self-censor rather than risk arrest and months of imprisonment. “A sinister section such as section 57 must be repealed soon,” the Bangladesh daily, *New Age*, said in an August 2017 editorial, “or, else it must be resisted and repulsed by not only the journalist community but also society at large.”

Following public outrage, Bangladesh authorities pledged to repeal the ICT Act, and on January 29, 2018, the cabinet approved a new Digital Security Act. However, the proposed draft is in some instances even broader than the law it seeks to replace and violates the country’s international obligation to protect freedom of speech.

This report—based on investigation of police and court documents and interviews with dozens of accused—details violations of free speech rights under section 57 of the ICT Act and concludes with recommendations to the Bangladesh government aimed at ensuring that any new law does not open the door to further violations.

Information and Communication Act

Between 2006, when the law was first enacted, and 2013, when it was amended, police data shows that while there were 426 complaints, only a few resulted in arrests or prosecution. However, after the law was amended in October 2013 the situation changed dramatically.

Hundreds, including several journalists, have been accused under section 57 for criticizing the government, political leaders, and others. In the first three and half months of 2018 alone, police submitted 282 charge sheets with Cyber Tribunal officials. Most involve criticism of the government, defamation, or offending religious sentiments, while the rest are allegations against men publishing intimate photographs of women without their consent. After recent student protests, on April 8, 2018, a police officer filed a complaint referring to 43 “provocative” Facebook posts which “many have liked and commented on” that has, as a result, “created a situation which could potentially harm society and create chaos.” Yet, apart from a few lewd characterizations, these posts contained legitimate commentary about an ongoing political protest.

The Cyber Tribunal provides no official data on the number of convictions and acquittals, but anecdotal evidence suggests few people have been convicted to date. The impact, however, of an arrest for a criminal offense may be significant. As Frank La Rue, former UN special rapporteur on the promotion and protection of the right to freedom of opinion and expression, has stated:

Individuals face the constant threat of being arrested, held in pretrial detention, subjected to expensive criminal trials, fines, and imprisonment, as well as the social stigma associated with having a criminal record.

In addition, such treatment may chill free speech. “The government has reassured the public of their commitment to freedom of speech,” the *Dhaka Tribune* said in a September 2017 editorial. “Then why does section 57 continue to be a tool of harassment?”

Punishing Government Critics

Section 57 is often used in Bangladesh to prosecute those who criticize individual politicians, particularly the prime minister and her relatives. Under the 2013 amendments, a person may be arrested simply on the basis of a complaint to the police, regardless of whether the person filing it has themselves been prejudiced, defamed, or otherwise “injured” by the offending material.

Members and supporters of the ruling Awami League party have exploited this rule to file numerous complaints alleging that online speech has defamed or prejudiced the prime minister, other government officials, or the ruling party.

For example, on August 27, 2016, Rashedul Islam Raju, general secretary of the Awami League’s student wing based at Rajshahi University, complained to police about three Facebook posts by Dilip Roy, a student involved with a left-wing opposition party. Raju said the posts, including one that stated, “I can’t label a dog Awami League, because it would be ashamed to be labeled as such,” constituted a threat to the prime minister, insulted her father (the country’s first president), and defamed the Awami League. Roy was arrested the next day, and remained in custody for three months before the High Court granted bail.

In other cases, police have acted directly against government critics without waiting for a complaint. For instance, on September 5, 2016, Shahadat Hossen Khondaker, a Bangladesh railways employee, was arrested for allegedly posting “anti-government statements” on Facebook. These posts criticized the trial of Mir Quasem Ali, convicted of crimes committed during the country’s independence war. Shahadat remained in detention for 11 months before he finally obtained bail in August 2017.

One of the most well-known uses of section 57 to target government critics involves Odhikar, a Dhaka-based human rights organization. On August 10, 2013, Odhikar’s secretary, Adilur Rahman Khan, was arrested on “suspicion of causing disruption to society” and “carrying out a conspiracy against the state.” His arrest came three months after the group published a report documenting alleged killings of protesters by law enforcement during a rally by the conservative Islamist organization, Hefazet-e-Islami. On September 3, police filed a case against Rahman and Nasiruddin Elan, Odhikar’s director,

under section 57 of the ICT Act, alleging the report was “fiction.” Both men were eventually released on bail, but the case remained pending at time of writing.

Journalists have also faced arrest for writing online about alleged government or corporate corruption or inappropriate conduct. On September 1, 2016, Siddique Rahman, editor of the *Daily Shikkha*, a news website dedicated to education reporting, was arrested in Dhaka after publishing articles about alleged corruption in a government education department. The arrest followed a complaint by the department’s former director general, who said the allegations were false and defamatory to her and “the nation,” would “provoke anyone to commit crimes,” and thus wreak “havoc in the law and order of the country.”

Protecting Religious Sentiment

Section 57 also criminalizes those whose online words or pictures “cause, or may cause hurt to religious belief.” At a time when religious fundamentalism has become hotly debated on social media, these vague provisions create a significant risk of arrest for anyone writing about Islam with any critical perspective.

For example, one of the earliest prosecutions for hurting religious belief involved the arrest of four young men in Dhaka on April 1, 2013 for making “derogatory comment[s] about the Prophet Mohammad” on Facebook and in various blogs. The High Court granted bail a month later and during hearings in February 2014 issued an order asking the government to explain why proceedings against the four men should not be quashed—one of the few cases in which the High Court has stopped a section 57 prosecution.

On September 26, 2015, Mohan Kumar Mondal and his colleague Shawkat Hossain were arrested in Satkhira after an Awami League activist filed a case alleging that a Facebook post by Mondal had hurt religious beliefs of Muslims. The post criticized Saudi Arabia's security arrangements during the Haj that led to a deathly stampede killing hundreds. The men were detained for two months before the Cyber Tribunal granted bail on November 29, 2015.

Blogger Limon Fakir was arrested in April 2017 after a case was lodged against him and another well-known blogger, Asaduzzman Noor, for comments “defamatory of the prophet

Mohammed”. Noor was subsequently arrested from Dhaka airport. They both remain in detention, refused bail by the High Court at a hearing in April 2018.

Digital Security Act

In 2015, several leading members of civil society filed a High Court petition against section 57, saying it violated freedom of expression and that prosecutions on vague grounds had created a “sense of terror” and self-censorship among writers, bloggers, journalists, and citizens. They argued section 57 violated article 39 of the constitution which provides, with exceptions, the right to free expression. The case remained pending at time of writing.

However, in August 2017, media outrage following the arrest of a reporter in Khulna for sharing an article on Facebook—about a goat that died almost immediately after being given by a minister to a villager as a relief measure—resulted in some action to restrict use of the law and enabled greater scrutiny of complaints. Acknowledging that section 57 is misused, the government proposed to replace the law with a new Digital Security Act that they argue places some checks and balances on arrests over speech.

However, some provisions of the proposed new law are even more draconian than those in section 57. These include forbidding discussion of facts around the independence movement and setting prison terms for vague offenses like publishing “aggressive or frightening” information. The law would also impose sentences of up to 10 years in prison for posting information which “ruins communal harmony or creates instability or disorder or disturbs or is about to disturb the law and order situation”—overbroad language that opens the door to further abuses.

Bangladesh’s journalists are also concerned about section 32 of the proposed act, which will treat the use of secret recordings to expose corruption and other crimes as espionage, arguing it will restrict investigative journalism and muzzle media freedom. Even as the law minister, Anisul Huq, said, “no journalist will be harassed by Section 32 of the Digital Security Act, as this law is not being formulated [to target] journalists,” the commerce minister, Tofail Ahmed, told journalists, “Various media reports often turn out to be humiliating for the MPs. Their images are tarnished. They are representatives of the people after all. So, this act has been formulated to prevent these [media reports].”

Also concerning is a life sentences provision in the proposed law for “negative propaganda and campaign against liberation war of Bangladesh or spirit of the liberation war or Father of the Nation.” The United Nations Human Rights Committee, the independent expert body that monitors compliance with the International Covenant on Civil and Political Rights (ICCPR), to which Bangladesh is a party, has said that laws that penalize opinions about historical facts are incompatible with a country’s obligations to respect freedom of opinion and expression.

It is also essential that restrictions on public debate or discourse, even when the goal is a laudable one such as protecting racial harmony, are not implemented to the detriment of human rights, such as freedom of expression and freedom of assembly. A prohibition on speech that hurts someone’s religious feelings, reinforced by criminal penalties, cannot be justified as a necessary and proportionate restriction on speech.

Under international law, governments are required to protect and respect freedom of speech. Speech can only be restricted when this is clearly set out in domestic law, for legitimate reasons (as set out in international treaties), and only when the measures to restrict the speech are proportionate. Criminalization of speech offenses should only be imposed for the worst cases, such as direct incitement to violence, and not for speech such as criticism of the authorities or defamation.

The internet and social media give individuals unprecedented ability to communicate and access information across borders. Governments, including that of Bangladesh, have welcomed and sought to actively harness the internet to further social and economic development. Instead of fearing such communication will amplify dissatisfaction, Bangladesh should take steps to protect freedom of expression, and welcome peaceful dissent and criticism.

Key Recommendations

- Bangladesh authorities should publicly uphold the right to free speech, including criticism and dissent.
- While the government should immediately act on its pledge to repeal section 57 of the ICT Act, it should ensure that the proposed Digital Security Act that will replace the ICT Act conforms to international standards for the protection of freedom of expression.
- Bangladesh should consult with various UN mechanisms, including the UN special rapporteur on the promotion of the right to freedom of opinion and expression to ensure the Digital Security Act conforms to international standards.

Methodology

This report is based on field research and interviews conducted in Bangladesh from March 2017 to January 2018.

It is based on information obtained by Human Rights Watch relating to over 115 cases involving more than 200 individuals filed at police stations involving allegations under section 57 of the ICT Act. Human Rights Watch worked with Odhikar, a Dhaka based human rights organization, to identify and collate much of the information.

Human Rights Watch also examined 40 written police complaints and First Information Reports, and more than 20 bail applications. In addition, Human Rights Watch interviewed more than 15 people accused of violating the ICT Act, including authors of social media posts and journalists. We also interviewed a dozen civil society activists, lawyers, and some government officials.

The interviews were conducted in person, by phone, or email. Translators were used in interviews conducted in Bengali. We also examined social media content that led to prosecutions. We paid no remuneration or other inducement to victims and witnesses that spoke with us.

A significant number of complaints under section 57 of the ICT Act have been filed against men who allegedly posted or distributed intimate images of women with whom they have fallen out or otherwise wished to humiliate, without the women's consent. These latter cases are not dealt with in this report.

I. Background

Bangladesh authorities have long sought to limit freedom of expression, particularly in relation to media. However, the current ruling Awami League government is particularly harsh on critics, using a range of laws to prosecute dissent.

History of Crackdown on Free Speech

From 2001-2006, when the Bangladesh Nationalist Party (BNP)—in an alliance with the Jamaat-e-Islami—was in office, the government repeatedly took legal action against its critics and those affiliated with the opposition Awami League.

The privately owned ETV, which received its license from the previous Awami League government, was closed following a court order.¹ Sedition cases were filed against civil society members, and criminal defamation cases were initiated against journalists.² In its 2004 annual human rights report, the US State Department said of Bangladesh, “Individuals cannot criticize the Government publicly without fear of reprisal.”³

In 2006, after violent protests over a disputed voter list around impending elections, the military stepped in and proclaimed a state of emergency.⁴ During the two years in which

¹ Alistair Lawson, “Blow for Bangladesh Broadcaster,” *BBC News Online*, September 26, 2001, http://news.bbc.co.uk/1/hi/world/south_asia/1564791.stm (accessed August 2, 2017).

² In August 2006, Mahmudur Rahman, then executive chairman of the Board of Trade, filed defamation cases against five trustees of a think-tank, Centre for Policy Dialogue. See “Mahmudur Rahman sues five CPD Trustees,” *bdnews24.com*, August 6, 2006, <https://bdnews24.com/politics/2006/08/08/mahmudur-rahman-sues-five-cpd-trustees-arrest-warrant-issued-3rd-ld>. Rahman subsequently became editor of *Amar Desh* and, after the Awami League came into power, was arrested for offences under section 57 of the ICT Act along with other offences, discussed in Section III.

³ In relation to the media, the report stated: “While some journalists were critical of the Government, most practiced some degree of self-censorship. Many journalists cited fear of possible harassment, retaliation, or physical harm as a reason to avoid sensitive stories. Government leaders, political party activists, and others frequently launched violent attacks on journalists and newspapers. Political parties and persons acting on their behalf conducted attacks both on media offices and on individual journalists targeted as a consequence of their news reporting.” See US Department of State, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices – 2003: Bangladesh,” February 25, 2004, <https://www.state.gov/j/drl/rls/hrrpt/2003/27944.htm> (accessed August 2, 2017).

⁴ “The coup that does not speak its name,” *Economist*, January 18, 2007, <http://www.economist.com/node/8560006> (accessed August 2, 2017).

the military-backed caretaker government was in power, the Emergency Powers Rules allowed legal action against media critics, and authorized forced broadcast or publication of stories supporting the government.⁵ The military's intelligence wing, the Directorate General of Forces Intelligence (DGFI), threatened and intimidated journalists.⁶

Continuing Speech Restrictions

When the Awami League came to power following an overwhelming victory in elections at the end of 2008, the DGFI remained a powerful influence in reducing critical commentary in the media. In 2010, a current affairs program was cancelled based on claims that it was “anti-government and anti-state.”⁷ Several broadcast journalists said the intelligence agency influences the content and what guests are allowed on talk shows. Newspaper editors and journalists also reported threats from intelligence agencies for criticizing the government or the military.

The state's regulatory body closed two TV stations in 2009, including the pro-opposition Channel One. In 2013, the government-controlled regulatory body stripped two more pro-opposition stations, Diganta TV and Islamic TV, of their licenses for criticizing a security force crackdown on a protest by the Islamist group Hefazet-e-Islami.⁸ The main pro-

⁵ Under a State of Emergency, article 39 of the constitution guaranteeing “Freedom of thought and conscience, and of speech” no longer applies. Article 2(i) and (j) of the Emergency Powers Ordinance 2007 allowed restriction on the media. See unofficial English translation of Emergency Power Ordinance, January 12, 2007, <http://bangladesh.ahrchk.net/docs/EPO2007en.pdf>. Section 5 of the Emergency Powers Rules prohibited the publication of any criticism of the activities of the government deemed to be “provocative” by the authorities. See A.K.M Masudul Haque, “Emergency Powers and Caretaker Government in Bangladesh,” *Journal of the Australasian Law Teachers Association*, vol. 81 (2008), <http://www.austlii.edu.au/au/journals/JIALawTA/2008/9.pdf>. In August 2007, the government banned TV talk shows and only allowed them to function after developing strict rules restricting the format. Newspapers critical of the government, particularly of the military, came under strong pressure—with reporting subject to direct restriction by the military's Inter-Service Public Relations office (ISPR) and the army intelligence agency, Directorate General Forces Intelligence (DGFI). Journalists are reported to have been warned frequently by DGFI against criticizing the government or the military.

⁶ Human Rights Watch, *Torture of Tasneem Khalil*, vol. 20, no. 1(C) February 2008, <https://www.hrw.org/report/2008/02/13/torture-tasneem-khalil/how-bangladesh-military-abuses-its-power-under-state>.

⁷ The show was called “Point of Order” and broadcast on Banglavisision. See US Department of State, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices – 2010: Bangladesh,” April 8, 2011, <https://www.state.gov/j/drl/rls/hrrpt/2010/sca/154478.htm> (accessed August 2, 2017).

⁸ “Diganta, Islamic TV off Air,” *Daily Star*, May 7, 2013, <http://www.thedailystar.net/news/diganta-islamic-tv-off-air> (accessed August 2, 2017).

opposition newspaper, *Amar Desh*, was closed for a month in 2010⁹ and was permanently shut down in December 2013, after its editor was arrested under the ICT Act.¹⁰

The Awami League won a second term in January 2014, after controversial elections that the main political opposition parties boycotted due to the government's failure to hold the elections under a neutral caretaker government.¹¹ More than half the seats in the election were uncontested.¹² In its second term, the Awami League has become more authoritarian and even less tolerant of criticism.

On the one-year anniversary of the 2014 elections, opposition parties organized a series of violent national strikes and blockades. By the end of February 2015, up to 120 people, mostly members of the public, had been killed, most allegedly due to violence by opposition picketers.¹³ Towards the end of March 2015, under intense public and international pressure, opposition parties stopped the strikes. However, scores of opposition activists then faced arbitrary arrests, secret detention, and enforced disappearances amid a crackdown on the opposition.¹⁴

⁹ "Govt closes Amar Desh," *bdnews24.com*, June 1, 2010, <http://bdnews24.com/bangladesh/2010/06/01/govt-closes-amar-desh> (accessed August 2, 2017).

¹⁰ "Amar Desh stops publication for now," *Daily Star*, April 16, 2013, <http://www.thedailystar.net/news/amar-desh-stops-publication-for-now> (accessed August 2, 2017).

¹¹ On June 30, 2011, the government amended the constitution, removing provisions that required the government to hand over power to a non-political, caretaker administration three months before elections. The BNP and the Jamaat-e-Islami demanded the provision be reintroduced before the 2014 elections to ensure free and fair polling. They had themselves sought to control the caretaker government in 2006, which had catalyzed the earlier constitutional crisis in 2007 that led to the state of emergency.

¹² "Turnout low in deadliest polls," *Daily Star*, January 6, 2016, <http://www.thedailystar.net/turnout-low-in-deadliest-polls-5632> (accessed December 12, 2016). See also Human Rights Watch, *Democracy in the Crossfire: Opposition Violence and Government Abuses in the 2014 Pre- and Post- Election Period in Bangladesh*, (New York: Human Rights Watch, 2014), <https://www.hrw.org/report/2014/04/29/democracy-crossfire/opposition-violence-and-government-abuses-2014-pre-and-post>.

¹³ For detailed breakdown of deaths until February 24, 2016, see "Political Crisis 2015 – analysis of deaths," *Bangladesh Politico*, January 18, 2015, <http://bangladeshpolitico.blogspot.com/2015/01/political-crisis-2015-analysis-of-deaths.html> (accessed January 17, 2017).

¹⁴ "Bangladesh: End Disappearances and Secret Detentions," Human Rights Watch news release, July 6, 2017, <https://www.hrw.org/news/2017/07/06/bangladesh-end-disappearances-and-secret-detentions>.

In 2015, DGFI instructed major advertisers to stop advertising in *Prothom Alo* and *Daily Star*, the country's largest Bengali and English language newspapers.¹⁵ In January 2015, the owner of ETV was arrested after the station broadcast a speech by BNP politician Tarique Rahman.¹⁶

The government continued to put forward an image of respect for media freedom. In a hearing before the UN Human Rights Committee in March 2017, the law minister called Bangladesh “one of the most liberal countries of the world in terms of freedom of press and media,” citing publication of “1106 daily newspapers, 1169 weeklies, 127 fortnightlies and 280 monthlies” and “more than 28 TV channels, 25 of them...private.”¹⁷ While there are indeed a large number of registered newspapers, many are not active or circulated. Of the main newspapers with wide readership, few are independent of the government or they face informal state restrictions. While there are 28 private television stations, in the last nine years, almost all new stations that received licenses were owned by pro-Awami League businessmen.¹⁸

In 2016, the Bangladesh Law Commission drafted legislation to outlaw “inaccurate” representation of war history and “malicious” statements in the media that “undermine

¹⁵ David Bergman, “Bangladeshi spies accused of blocking media adverts,” Al Jazeera, October 7, 2015, <http://www.aljazeera.com/indepth/features/2015/10/bangladeshi-spies-accused-blocking-media-adverts-151005083755483.html> (accessed August 2, 2017).

¹⁶ Ian Silvera, “Bangladesh police arrest Ekushey TV boss Abdus Salam on ‘trumped-up’ pornography charges,” *International Business Times*, January 7, 2015, <http://www.ibtimes.co.uk/bangladesh-police-arrest-ekushey-tv-boss-abdus-salam-trumped-pornography-charges-1482282> (accessed October 8, 2017); Also see US Department of State, Bureau of Democracy, Human Rights, and Labor, “Country reports on human rights practices – 2016: Bangladesh,” March 3, 2017, <https://www.state.gov/j/drl/rls/hrrpt/2016/sca/265532.htm> According to the US State Department report a talk show was cancelled by military intelligence: “When the host continued working on another program, he reported receiving word for word instructions from security forces for behavior on air and being subject to surveillance and death threats via text, letter, and voice messages. The host was ultimately forced to flee the country.”

¹⁷ Office of the United Nations High Commissioner for Human Rights, “Opening statement by Hon’ble Law Minister during consideration of the initial report of Bangladesh on International Covenant on Civil and Political Rights on 06 March 2017 at the Human Rights Committee in Geneva,” March 6, 2017, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BGD/INT_CCPR_STA_BGD_26777_E.pdf (accessed August 2, 2017).

¹⁸ When the BNP was in power, they acted in a similar fashion, giving out five licenses to pro-ruling party businessmen. The subsequent government led by Awami League has since closed down two of these stations. See Abdullah Mamun, “11 More TV stations to go on air,” *Daily Star*, January 9, 2015, <http://www.thedailystar.net/11-more-tv-channels-ready-to-go-on-air-59065> (accessed February 17, 2018) and “13 TV channels await approval” *Business News*, November 25, 2013, <http://businessnews24bd.com/13-tv-channels-await-approval/> (accessed February 17, 2018).

any events” related to the war. It proposed that efforts to “trivialize” information related to the killing of civilians during the war would also be forbidden.¹⁹ The current draft of the Digital Security Act would also impose numerous restrictions on using the internet, including a maximum 14 year sentence for “using a digital device” to spread “negative propaganda and campaign” regarding the independence war of 1971, the “spirit” of the war, or the first president.²⁰

International Legal Standards

The International Covenant on Civil and Political Rights (“ICCPR”) states everyone shall have the right to hold opinions without interference; the right to freedom of expression including freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, or in print, in the form of art or through any other media of their choice. Bangladesh became a party to the ICCPR in September 2000.

The ICCPR, in article 19(3), permits governments to impose restrictions or limitations on freedom of expression only if such restrictions are provided by law and are necessary: (a) for respect of the rights or reputations of others; or (b) for the protection of national security, public order, public health, or morals.²¹

The UN Human Rights Committee, the independent expert body that monitors state compliance with the ICCPR, in its General Comment no. 34 on the right to freedom of expression, states that restrictions on free expression should be interpreted narrowly and

¹⁹ See Law Commission draft of the ‘Bangladesh Liberation War (Denial, Distortion, Opposition) Crime Law, 2016,’ [http://lc.gov.bd/Circular/Holocaust%20Law_Draft%20\(Final\).pdf](http://lc.gov.bd/Circular/Holocaust%20Law_Draft%20(Final).pdf) A translation is available at <https://bangladeshpolitico.blogspot.co.uk/2016/04/crime-of-distortion-of-history-of.html> Also see Ashutosh Sarkar, “Liberation War Denial Crimes Act drafted,” *Daily Star*, March 23, 2016, <http://www.thedailystar.net/backpage/liberation-war-denial-crimes-act-drafted-1198240> (accessed November 2, 2017).

²⁰ “Draft Digital Security Act gets green light,” *Daily Star*, August 23, 2016, <http://www.thedailystar.net/frontpage/new-law-curb-cybercrime-1274128> (accessed November 2, 2017).

²¹ ICCPR, art. 19(3). The same three-part test has been applied by, among others, the African Court of Human and Peoples’ Rights to cases under article 9 of the African Charter on Human and Peoples’ Rights, see, e.g., *Lohe Issa Konate v. Burkina Faso*, Application no. 004/2013, December 5, 2014, <http://www.african-court.org/en/images/documents/Judgment/Konate%20Judgment%20Engl.pdf> (accessed June 17, 2015); the European Court of Human Rights to cases under article 10 of the ECHR, see, e.g. *Goodwin v. United Kingdom*, [GC] (No. 17488/90), 22 EHRR 123 (1996), para. 28-37, the Canadian Supreme Court to cases under the Canadian Charter of Rights and Freedoms, see, e.g., *R. v. Oakes*, [1986] 1 SCR 103, 138-139, and the Kenyan High Court, Constitutional and Human Rights division, to cases under the Kenyan Constitution, see, e.g., *Coalition for Reform and Democracy v. Republic of Kenya*, Petitions 628 and 630 of 2014 and 12 of 2015 (consolidated), February 23, 2015, <http://kenyalaw.org/caselaw/cases/view/106083/> (accessed June 23, 2015).

that the restrictions “may not put in jeopardy the right itself.”²² The government may impose restrictions only if they are prescribed by legislation and meet the standard of being “necessary in a democratic society.”

This implies that the limitation must respond to a pressing public need and be oriented along the basic democratic values of pluralism and tolerance. “Necessary” restrictions must also be proportionate, that is, balanced against the specific need for the restriction being put in place. General Comment no. 34 also provides that “restrictions must not be overbroad.”²³ Rather, to be provided by law, a restriction must be formulated with sufficient precision to enable an individual to regulate their conduct accordingly.²⁴

Restrictions on freedom of expression to protect national security are permissible only in serious cases of threat to the nation and not for example the commercial sector, and should not be used to prosecute human rights activists or journalists for disseminating information in the public interest.²⁵ Since restrictions based on protection of national security have the potential to completely undermine freedom of expression, “particularly strict requirements must be placed on the necessity (proportionality) of a given statutory restriction.”²⁶

With respect to criticism of government officials and other public figures, the Human Rights Committee has emphasized that “the value placed by the Covenant upon uninhibited expression is particularly high.” The “mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.” Thus, “all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition.”²⁷ The Human Rights Committee has further stressed that the scope of

²² UN Human Rights Committee, General Comment no. 34, art. 19, Freedoms of Opinion and Expression, CCPR/C/GC/34 (2011).

²³ UN Human Rights Committee, General Comment no. 34.

²⁴ *Ibid.*, para. 25. See also European Court of Human Rights, *Sunday Times v. United Kingdom*, Judgment of 26 April 1979, Series A, no. 30, www.coe.echr.int, ECHR 1, para. 49.

²⁵ Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (Kehl am Rhein, Germany: N.P. Engel, 2d ed. 1993), p. 463-64.

²⁶ *Ibid.*, p. 465-66.

²⁷ UN Human Rights Committee, General Comment no. 34, para. 38.

the right to freedom of expression “embraces even expression that may be regarded as deeply offensive.”²⁸

The Bangladeshi Constitution guarantees the fundamental right “of every citizen to freedom of speech and expression.” The enjoyment of this right is made expressly subject to “reasonable restrictions imposed by law” which are “in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.”²⁹

These restrictions are inconsistent with section 19 of the ICCPR, which requires that the restrictions be “necessary” to protect the interests listed therein, a key element of international legal protection for freedom of expression.

²⁸ *Ibid.*, para. 11; see also European Court of Human Rights, *Handyside v. United Kingdom*, (no. 5493/72), Judgment of 7 December 1976, ECHR 1976-V, www.echr.coe.int, para. 49 (freedom of expression “is applicable not only to ‘information’ or ‘ideas’ that are favorably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population”); *R. v. Central Independent Television plc*, [1994] 3 All ER 641 (“Freedom of [speech] means the right to [say] things which the government and judges, however well-motivated, think should not be [said]. It means the right to say things which ‘right-thinking people’ regard as dangerous or irresponsible.”).

²⁹ The Constitution of the People’s Republic of Bangladesh, Art. 39(2), http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=24587 (accessed April 2, 2018).

II. Challenges to ICT Act and Proposed Digital Security Act

The stated objective of the ICT Act, which the BNP-Jamaat-e-Islami government first enacted in October 2006, appeared to be a largely innocuous effort at “legal recognition and security of information and communication technology.”³⁰

In fact, most of the statute deals with digital signatures and electronic records. The current section 57 offence did exist, but it was “non-cognizable,” meaning that the police could only arrest a person after obtaining an arrest warrant from a court. Few of the 426 complaints filed with the police between 2006 and 2013 resulted in arrests.³¹ Even among those arrested, few cases went to trial because a court could only accept a case for trial if it received a written report from police and approval from the controller.

In August 2013, the government³² made significant changes to the ICT Act that increased the risk of abusive prosecutions under section 57:

- (1) The offence became “cognizable,” i.e., police could arrest without a judicial warrant;
- (2) Courts no longer needed “controller” approval to proceed to trial;³³
- (3) Offences under section 57 were made “non-bailable” i.e., bail cannot be sought as a matter of right but only at the court’s discretion; and
- (4) The maximum potential penalty rose from 10 to 14 years in prison, with a minimum penalty set at 7 years’ imprisonment.

³⁰ Information, and Communication Technology Act, 2006, <http://www.icnl.org/research/library/files/Bangladesh/comm2006.pdf>.

³¹ Data obtained from police headquarters, June 8, 2017. Details on file with Human Rights Watch.

³² The law was initially brought in as an ordinance. Under article 93 of the constitution, during parliamentary recess, the president can pass ordinances under certain circumstances which must be ratified by parliament within 30 days of its next sitting. See The Constitution of the People’s Republic of Bangladesh, art. 93, http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=24650

³³ It is notable that none of the penal code offences that overlap with section 57 allow police to arrest a person without first obtaining permission of the court.

In addition, while offences under the ICT Act were earlier prosecuted in session courts, in February 2013 the government established a Cyber Tribunal to prosecute such cases.³⁴ Since the 2013 amendments, arrests and prosecutions under section 57 have increased dramatically and have been widely criticized. For instance, pointing out that some 85 percent of the cases filed under section 57 are eventually dismissed for lack of proof or worse because the allegations are found to be “completely baseless,” *Dhaka Tribune* said in a September 2017 editorial:

Laws exist to uphold justice, and such rampant abuse of the law does a disservice to our justice system. The government has reassured the public of their commitment to freedom of speech—then why does section 57 continue to be a tool of harassment?³⁵

Section 57

Section 57 authorizes the prosecution of anyone who publishes, in electronic form, material that is (1) fake and obscene; (2) defamatory; (3) “tends to deprave and corrupt” those who are likely to read, see, or hear it; (4) causes or creates the possibility of “deterioration in law and order;” (5) prejudices the image of the state; (6) prejudices the image of a person; or (7) “causes or may cause hurt to religious belief.”

The provision duplicates long existing penal code offences, while eliminating some of the defenses or other protections provided by the penal code, and is inconsistent with international legal standards for the protection of freedom of speech.

Defamation

Section 57 allows prosecution of any online content that is found to be “defamatory” or “prejudicial to the image of a person.” Defamation is already made criminal under the Bangladesh penal code, 1860, which says:

³⁴ “Bangladesh forms tribunal to try cyber criminals,” *Bangkok Post*, February 8, 2013, <https://www.bangkokpost.com/tech/computer/334858/bangladesh-forms-tribunal-to-try-cyber-criminals> (accessed October 25, 2017).

³⁵ “Don’t Abuse the Law,” *Dhaka Tribune*, September 26, 2017, <http://www.dhakatribune.com/opinion/editorial/2017/09/25/dont-abuse-law/> (accessed March 8, 2018).

Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or published any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation or such person, is said, except in the cases hereinafter excepted, to defame that person.³⁶

Section 57 does not clarify whether safeguards in the penal code apply to claims of defamation under the section.³⁷ One safeguard that clearly does not apply is the requirement, put in place in 2011, that the court should first issue a summons to the accused person in any defamation case under the penal code.³⁸ At the time, the law minister said, "It will help put an end to harassment of journalists, editors, writers, and publishers."³⁹ Section 57 also increases the penalty that can be imposed for defamation, when committed electronically, from 2 years in the penal code to between 7 and 14 years in prison under the ICT Act.

It is increasingly recognized globally that defamation should be considered a civil matter, not a crime punishable with imprisonment. The UN special rapporteur on the protection and promotion of the right to freedom of opinion and expression has recommended that criminal defamation laws be abolished,⁴⁰ as have the special mandates of the UN, Organization for Security and Co-operation in Europe, and Organization of American States, which have together stated:

³⁶ The Penal Code, 1860, Sec. 499 "Defamation"

http://bdlaws.minlaw.gov.bd/sections_detail.php?id=11§ions_id=3540.

³⁷ For example, under the penal code, it is not considered defamatory to (1) impute anything which is true concerning any person, if it is in the public interest that the statement be made; (2) express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions; or (3) express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct. Penal Code, sec. 499, First, Second and Third Exceptions.

³⁸ "Bill seeks to stop journalist harassment," *Daily Star*, January 12, 2010, <https://dev.thedailystar.net/news-detail-121504> (accessed August 22, 2017).

³⁹ "No arrest Warrant for defamation," *Daily Star*, February 3, 2011, <http://www.thedailystar.net/news-detail-172680> (accessed August 22, 2017).

⁴⁰ Report of the special rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue Report, June 2012, UN Doc. A/HRC/20/17, para. 87.

Criminal defamation is not a justifiable restriction on freedom of expression; all criminal defamation laws should be abolished and replaced, where necessary, with appropriate civil defamation laws.⁴¹

The UN Human Rights Committee has made a similar recommendation in interpreting international law on freedom of expression. The category of being “prejudicial to the image of a person” sweeps even wider than that of defamation, as it can be used to criminalize any criticism, however justified or minor, including criticism of public officials. The mere fact that forms of expression are considered insulting to a public figure, however, is not sufficient to justify the imposition of criminal penalties.⁴² The vagueness of the offense, combined with the harshness of the potential penalty, increases the likelihood of self-censorship to avoid possible prosecution. The law also fails to restrict speech with sufficient precision to enable an individual to regulate their conduct accordingly, as the ICCPR requires.⁴³

Prejudicing the Image of the State

Section 57 also criminalizes speech that “prejudices the image of the state.” This sweeping provision potentially applies to any criticism made of the government or any state body and is far too broad to comply with international legal standards.

The UN Human Rights Committee has stated that “all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition.... States parties should not prohibit criticism of institutions, such as the army or the administration.”⁴⁴

⁴¹ Joint Declaration by the UN special rapporteur on freedom of opinion and expression, the OSCE representative on freedom of the media and the OAS special rapporteur on freedom of expression, 2002, <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=87&IID=1> (accessed June 11, 2014). Similarly, the African Court on Human and Peoples’ Rights has held that imposing a custodial sentence for defamation violates both article 9 of the African Charter on Human and Peoples’ Rights and the ICCPR. African Court on Human and Peoples’ Rights, *Lohe Issa Konate v. Burkina Faso*, Application no. 004/2013, December 5, 2014, <https://www.african-court.org/en/images/documents/Judgment/Konate%20Judgment%20Engl.pdf> (accessed June 17, 2015).

⁴² UN Human Rights Committee, General Comment No. 34, para. 38.

⁴³ *Ibid.*, para. 25. See also European Court of Human Rights, *Sunday Times v. United Kingdom*, Judgment of 26 April 1979, Series A, no. 30, [www.coe.int, ECHR 1, para. 49.](http://www.coe.int/t/e/hudocbd/echr/1979/19790030a001_01_en.htm)

⁴⁴ UN Human Rights Committee, General Comment No. 34.

Hurt to Religious Beliefs

Section 57 of the ICT Act allows prosecution for material, including social media posts, that “causes, or may cause, hurt to religious belief.”⁴⁵ Section 57 is broader than the penal code offenses against “insulting” or “wounding” religious feelings, both of which, unlike in the ICT Act, require a deliberate intent to do so, and carries a much heavier sentence.⁴⁶

Section 57 effectively criminalizes speech that may offend others or be viewed as insulting to their religion. Laws that prohibit “outraging religious feelings” were specifically cited by the former UN special rapporteur on the right to freedom of expression, Frank La Rue, as an example of overly broad laws that can be abused to censor discussion on matters of legitimate public interest.⁴⁷

Freedom of expression is applicable not only to information or ideas “that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population.”⁴⁸ Prohibiting speech that hurts someone’s religious feelings, reinforced by criminal penalties, is not necessary to protect a legitimate interest or proportionate to the supposed interest being protected.⁴⁹

Deterioration of Law and Order

Section 57 prohibits online speech that “causes, or creates the possibility of deterioration in law and order.” While protecting public order is a legitimate basis for restricting speech under international law, the restriction must be narrowly drawn to restrict speech as little

⁴⁵ Information and Communication Technology Act 2006, <http://www.icnl.org/research/library/files/Bangladesh/comm2006.pdf>.

⁴⁶ Section 295A of the penal code prohibits “outraging religious feelings,” carries a maximum penalty of two years in prison. Section 298 prohibits “wounding religious feelings,” carries a maximum penalty of one year in prison. While analysis of these provisions is beyond the scope of this report, it should be noted that the requirement of intent is insufficient to counter the fundamental problem with criminalizing harm to religious feelings or belief.

⁴⁷ La Rue Report, September 2012, UN Doc. A/67/357, para. 52.

⁴⁸ European Court of Human Rights, *Handyside v. United Kingdom*, para. 49. See also UN Human Rights Committee, General Comment No. 34, para. 11.

⁴⁹ UN Human Rights Committee, General Comment No. 34, para. 34. See also UN Human Rights Committee, Decision: *Ballantyne v. Canada*, para. 11.4 (restriction on advertising in English not necessary to achieve stated aim of protecting the francophone population of Canada).

as possible, and be sufficiently precise as to allow people to understand and comply with the restriction, and to restrict the discretion of authorities tasked with enforcing it.⁵⁰

The restriction on speech that “creates the possibility of deterioration in law and order” does not meet those standards. It is overly broad, and the vagueness of the language gives almost unfettered discretion to the government to use the law to punish speech it does not like. Almost any criticism of the government may lead to dissatisfaction and the possibility of public protests. The government should not be able to punish criticism on the grounds of protecting public order.⁵¹

Punitive Sentencing

Section 57 also permits the imposition of much heavier sentences than those that can be imposed for the penal code offenses that it duplicates. While violating section 57 can result in a sentence of between 7 to 14 years in prison, the maximum sentence for distributing “obscenity” in section 292 of the penal code is only three months’ imprisonment; two years’ imprisonment or a fine for “insulting religious sentiments” (section 295A); one year’s imprisonment or a fine for deliberately intending to “wound the religious feelings of any person” (section 298); and two years’ imprisonment for “defamation” (section 500). The severity of the criminal sanctions may cause speakers to remain silent rather than speak critically of the government or government officials.

According to court officials, as of June 2017, the Cyber Tribunal has convicted and sentenced 10 people to at least 7 years imprisonment.⁵² Among them is Tonmoy Malick, 25, an electronics shop owner in the southern district of Khulna who was convicted in September 2014 of an offence under section 57 of the ICT for distributing a song that parodied Sheikh Hasina and her father, Sheikh Mujibur Rahman, who led Bangladesh to independence in 1971.⁵³ The lyrics included:

⁵⁰ UN Human Rights Committee, General Comment No. 34, paras. 25, 34.

⁵¹ The restriction on speech that has a “tendency to deprave and corrupt” those likely to read or see it also fails to meet international standards for restriction on speech. There is no consensus on what speech has such a tendency, leaving decisions on what speech to prosecute within the broad discretion of the authorities.

⁵² Human Rights Watch interview with Nazrul Islam Shamim, Cyber Tribunal prosecutor, Dhaka, June 18, 2017.

⁵³ “Youth gets 7 yrs for writing satirical song on Hasina, Mujib,” *New Age*, September 24, 2014, <http://newagebd.net/52236/youth-gets-7yrs-for-writing-satirical-song-on-hasina-Mujib/> (accessed September 20, 2017).

The country belongs to my father, and whatever needs to be done in these circumstances, I will do it on my own, and I will not allow anyone to do anything.... Sheikh Hasina and her father have sold out the country.... they think the country belongs to them.⁵⁴

Even within Bangladesh's harsh sentencing regime, the sentence in the ICT Act is extraordinarily punitive.⁵⁵ However, few trials end in convictions. In the first three months of 2018, court officials said that eight out of the nine completed cases had resulted in unconditional release of the accused due to lack of evidence.⁵⁶

Writs Challenging Section 57

The ICT Act has been challenged as a violation of rights under the country's constitution. The High Court issued notices in two of those legal challenges asking the government to explain why section 57 should not be struck down.

The first of these two cases, filed before the harsher 2013 amendments, involved a petition by three lawyers challenging the authority of the Bangladesh Telecommunications Regulatory Commission (BTRC) under section 46 of the ICT Act to intercept information transmitted via any computer. In May 2010, BTRC had used its power to block Facebook access after one man, Mahbub Alam Rodin, was arrested for uploading cartoons of some leading politicians, including the prime minister and the leader of the opposition.⁵⁷

On July 10, 2010, the High Court passed an order asking various government bodies to explain why both section 46 and 57 should "not be declared ultra vires of the

⁵⁴David Bergman, "Free Speech under fire in Bangladesh," Al Jazeera, April 17, 2014, <http://america.aljazeera.com/articles/2015/4/17/bangladesh-press-freedom.html> (accessed September 20, 2017).

⁵⁵ Potential penalties under section 57 are heavier even than those for many offences involving direct violence.

⁵⁶ Human Rights Watch interview with Cyber Tribunal officials, Dhaka, April 13, 2018.

⁵⁷ "Facebook blocked," *Daily Star*, May 30, 2010, <http://www.thedailystar.net/news-detail-140613> (accessed June 16, 2017). Access to Facebook was restored on June 6, 2010 after Facebook agreed to remove the contents that were alleged to be "offensive and abhorrent pictures of the country's leaders." Also see affidavit in opposition, para. 6, Nov. 24, 2015. Copy on file with Human Rights Watch.

constitution,” describing them as “vague and uncertain.”⁵⁸ Since the 2010 court order, there has been no further court hearing.

Following the 2013 amendment to the ICT Act, 11 academics, writers, and political activists⁵⁹ directly challenged the constitutionality of section 57 of the ICT Act in the High Court.⁶⁰ The High Court, in response on September 1, 2015, ruled seeking a response from the government on why the law did not violate constitutional protections.⁶¹ There has been no further court hearing since this order was given, particularly after the government said it intended to repeal the law in response to repeated criticism from civil society.

Revised Procedures and the Digital Security Act

In January 2016, Law Minister Anisul Haq, acknowledging problems with the law, said that the government intended to replace it with a new Digital Security Act.⁶² He repeated this intent in May 2017, also asserting the government did not intend to curb free speech.⁶³

However, a few months after the law minister’s statement, the authorities were forced to make some administrative changes to the application of the law following a series of arrests that led to public outrage. These included the arrest in June 2017 of Golam Mostafa, the editor of a newspaper in Habiganj, for publishing an article suggesting that a particular

⁵⁸ Court ruling given by Justice Ms Imman Ali and Obaidul Hasan on July 26, 2010.

⁵⁹ The petitioners are: Ahmed Kamal, Professor, Department of History, University of Dhaka; Akmal Hussain, Retired Professor, Department of International Relations, University of Dhaka; Anu Muhammad, Professor, Department of Economics, Jahangirnagar University; Abdus Salam, Central Leader of “Ganasanghati Andolon”; Gitiara Nasreen, Professor, Department of Mass Communication and Journalism, University of Dhaka; Saiful Huq Biplobi Worker’s Party of Bangladesh; Fahmidul Haq, Associate Professor, Department of Mass Communication and Journalism, University of Dhaka; Mohammad Tanzimuddin Khan, Associate Professor, Department of International Relations, University of Dhaka; Arup Rahee, Singer, Lyricist and Poet; Samina Lutfu, Assistant Professor, Department of Sociology, University of Dhaka; Rakhil Raha, writer and Manuscript Editor.

⁶⁰ Writ Petition number 9034/2015, High Court, on file with Human Rights Watch.

⁶¹ Court ruling given by Justices Justice Moyeenul Islam Chowdhury and Justice Md Ashraful Kamal, Dhaka High Court, September 1, 2015.

⁶² “New Law for Cyber security,” *Daily Star*, January 11, 2016, <http://www.thedailystar.net/frontpage/new-law-cyber-security-200221> (accessed August 13, 2017).

⁶³ “Section 57 to be dropped from ICT Act,” *Daily Star*, May 3, 2017, <http://www.thedailystar.net/backpage/section-57-be-dropped-ict-act-1399768> (accessed August 22, 2017).

Awami League member of parliament might not get a nomination at the next election⁶⁴ and in July 2017, the arrest of Abdul Latif Moral, a reporter at a local newspaper in Khulna, for sharing an article published in an online newspaper about the death of a goat given by a member of parliament as part of local relief efforts.⁶⁵

On August 2, 2017, a few days after the arrest of Moral, the police issued instructions, requiring all officers to “maintain strong circumspection before filing cases,” and asked them to consult the legal wing of the police headquarters before registering any case under section 57.⁶⁶ Furthermore, within a week, the Awami League instructed its members, and those of its allied parties, to obtain prior permission from their central leaders before filing complaints under section 57.⁶⁷ While this did reduce the number of arrests, it did not address the fundamental problems leading to abuse.

On January 29, 2018, the cabinet approved a draft law, intended to replace the much-criticized Information and Communication Technology Act (ICT).⁶⁸ Sajeeb Wazed, the Bangladesh prime minister’s son and advisor, argued that the provisions in the new law remove the “most controversial elements” of the previous law.⁶⁹ While the offence of

⁶⁴ “Editor sued for report on MP, sent to jail,” *Daily Star*, June 13, 2017, <https://www.thedailystar.net/frontpage/editor-sued-report-mp-sent-jail-1419385> (accessed April 10, 2018).

⁶⁵ “Section 57 abused in arrest of Khulna journalist over Facebook post: AL’s Obaidul Quader,” *bdnews24.com*, August 2, 2017, <https://bdnews24.com/bangladesh/2017/08/02/section-57-abused-in-arrest-of-khulna-journalist-over-facebook-post-al-s-obaidul-quader> (accessed April 10, 2018).

⁶⁶ “Cops need counsel from HQ to accept case under section 57,” *Daily Star*, August 2, 2017, <https://www.thedailystar.net/country/bangladesh-police-need-permission-of-police-headquarters-before-accepting-case-under-section-57-of-ict-act-1442617> (accessed April 10, 2018).

⁶⁷ “AL members need clearance from HQ to file Sec-57 cases,” *bdnews24.com*, August 10, 2017, <https://bdnews24.com/politics/2017/08/10/al-members-need-clearance-from-hq-to-file-sec-57-cases> (accessed April 10, 2018).

⁶⁸ “Cabinet okays draft of Digital Security Act keeping similar provision of sec 57,” *Daily Star*, January 29, 2018, <http://www.thedailystar.net/country/bangladesh-cabinet-okays-digital-security-act-2018-keeping-section-57-ict-act-information-communication-technology-1526764> (accessed March 9, 2018). Copy of proposed law on file with Human Rights Watch.

⁶⁹ Sajeeb Wazed, “Bangladesh Digital Security Act Protects Free Speech and Minorities,” *Modern Diplomacy*, March 11, 2018, <https://moderndiplomacy.eu/2018/03/11/bangladesh-digital-security-act-protects-free-speech-and-minorities/> (accessed April 16, 2018).

prejudicing the image of a person or state has been removed and proposed sentences are in general less punitive, the draft is in a number of ways even broader than the law it seeks to replace and violates the country's international obligation to protect freedom of speech.⁷⁰

Section 14 of the draft authorizes sentences of up to 14 years in prison for spreading “propaganda and campaign against liberation war of Bangladesh or spirit of the liberation war or Father of the Nation.”⁷¹

Section 25(a) would permit sentences of up to three years in prison for publishing information that is “aggressive or frightening,” broad terms undefined in the proposed statute. The use of such vague terms violates the requirement that laws restricting speech be formulated with sufficient precision to make clear what speech would violate the law. The vagueness of the offense, combined with the harshness of the potential penalty, increases the likelihood of self-censorship.

Section 31, which would impose sentences of up to 10 years in prison for posting information that “ruins communal harmony or creates instability or disorder or disturbs or is about to disturb the law and order situation,” is similarly flawed. Without clear definition of what speech would be considered to “ruin communal harmony” or “create instability,” the law leaves wide scope for the government to use it to prosecute speech it dislikes. Section 31 also covers speech that “creates animosity, hatred or antipathy among the various classes and communities.” While the goal of preventing inter-communal strife is important, it should be done in ways that restrict speech as little as possible. UN human rights experts have stated:

It is absolutely necessary in a free society that restrictions on public debate or discourse and the protection of racial harmony are not implemented at

⁷⁰ “Bangladesh: Scrap Draconian Elements of Digital Security Act,” Human Rights Watch news release, February 22, 2018, <https://www.hrw.org/news/2018/02/22/bangladesh-scrap-draconian-elements-digital-security-act>.

⁷¹ The United Nations Human Rights Committee, the independent expert body that monitors compliance with the International Covenant on Civil and Political Rights (ICCPR), to which Bangladesh is a party, has expressly stated that laws that penalize the expression of opinions about historical facts are incompatible with a country's obligations to respect freedom of opinion and expression. See UN Human Rights Committee, General Comment No. 34, paras. 25, 34.

the detriment of human rights, such as freedom of expression and freedom of assembly.⁷²

The law's overly broad definition of "hate speech" opens the door for arbitrary and abusive application of the law and chills the discussion of issues relating to race and religion.

Section 29, like section 57 of the ICT Act, criminalizes online defamation. While, unlike the ICT Act, it limits defamation charges to those that meet requirements of the criminal defamation provisions of the penal code, it is still contrary to growing international recognition that defamation should be seen as a civil matter, not a crime punishable with prison.

Section 28 imposes up to five years in prison for speech that "injures religious feelings." While this provision, unlike section 57 of the ICT, requires intent, that addition is insufficient to bring it into compliance with international norms.

The proposed law has been widely criticized.⁷³ Journalists in Bangladesh are particularly concerned about section 32 of the proposed act, which stipulates, "If a person enters any government, semi-government or autonomous institutions illegally, and secretly records any information or document with electronic instruments, it will be considered as an act of espionage and he/she will face 14 years of imprisonment or a fine of BDT 2 million (US\$ 24,000) or both."⁷⁴ They fear that legitimate investigative journalism to expose failures by public officials will be deemed espionage.

⁷² Heiner Bielefeldt, special rapporteur on freedom of religion or belief; Mr. Frank La Rue, special rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Mr. Githu Muigai, special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, "Joint submission for the OHCHR expert workshop on the prohibition of incitement to national, racial or religious hatred," Expert Workshop on Asia-Pacific, Bangkok, 6-7 July, 2011, <http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Bangkok/SRSubmissionBangkokWorkshop.pdf> (accessed March 8, 2018).

⁷³ Partha Pratim Bhattacharjee and Tuhin Shubhra Adhikary, "Draft of Digital Security Act Approved: Gag on freedom of expression," *Daily Star*, January 30, 2018, <http://www.thedailystar.net/frontpage/draft-digital-security-act-approved-gag-freedom-expression-1527013> (accessed March 8, 2018).

⁷⁴ "According to the Digital Security Law, I am a Spy': Bangladeshi Journalists Defend Their Right to Investigate," *Global Voices*, February 7, 2018, <https://advoc.globalvoices.org/2018/02/07/according-to-the-digital-security-law-i-am-a-spy-bangladeshi-journalists-defend-their-right-to-investigate/> (accessed March 8, 2018).

Law Minister Anisul Huq has said the law will not be misused, “I can assure that no journalist will be harassed by Section 32 of the Digital Security Act, as this law is not being formulated targeting journalists.”⁷⁵ Commerce Minister Tofail Ahmed, however, told journalists, “Various media reports often turn out to be humiliating for the MPs. Their images are tarnished. They are representatives of the people after all. So, this act has been formulated to prevent these [media reports].”⁷⁶

While the government’s stated intent to repeal section 57 is commendable, it should ensure that the new legislation comports with international standards for the protection of freedom of speech, and with requirements of Bangladesh’s constitution.

⁷⁵ “Section 32 not to harass any journo,” *Daily Star*, February 7, 2018, <http://www.thedailystar.net/backpage/section-32-of-digital-security-act-bangladesh-2018-not-harass-any-journalist-1530991> (accessed March 8, 2018).

⁷⁶ “Tofail: Digital Security Act to stop journos from writing against MPs,” *Dhaka Tribune*, January 30, 2018, <http://www.dhakatribune.com/bangladesh/law-rights/2018/01/30/tofail-digital-security-act-saving-faces-mps/> (accessed March 8, 2018).

III. Targeting Criticism of Government

An analysis of cases filed under section 57 of the ICT Act demonstrates the potential for abuse of the provision and the need to ensure that any new legislation not replicate its more problematic provisions.

Section 57 cases start when a person files a complaint.⁷⁷ According to information from police headquarters, as of June 2017, a total of 927 complaints have been filed under section 57 since the ICT Act was adopted in 2006.⁷⁸ Most of the complaints that Human Rights Watch investigated were filed by government supporters or activists. While in most cases the complaints were filed against just one person, some complaints contained allegations against multiple people.⁷⁹

Under the procedures in place since the 2013 amendments, the police can use a complaint as the basis for arrest. If, after investigation, the police consider there is sufficient evidence to support the initial complaint, they submit a charge sheet⁸⁰ to the Cyber Tribunal based in Dhaka. Records of the Cyber Tribunal show the police submitted a total of 1,271 charge sheets between the creation of the court in 2013 and April 15, 2018.⁸¹ Following the submission of the charge sheet, the Tribunal “frames charges” against the accused, which is the formal beginning of the trial.

The number of charge sheets or cases submitted to the court has increased significantly each year, from three in 2013 to 568 in 2017.⁸² While the vast majority—around 90 percent

⁷⁷ These get turned by the police into a First Information Report, and form the basis for an arrest.

⁷⁸ Obtained from police headquarters, June 8, 2017. Details on file with Human Rights Watch.

⁷⁹ In one case, an allegation is made against 52 people.

⁸⁰ A “charge sheet” is a report of the investigation officer following their investigation setting out the reasons why they consider that an offence has been committed.

⁸¹ Tuhin Shubhra Adhikary, “Section 57: Over 300 cases filed this year,” *Daily Star*, November 17, 2017, <http://www.thedailystar.net/frontpage/section-57-over-300-cases-filed-year-1492531> (accessed March 5, 2018).

⁸² Human Rights Watch interview with Cyber Tribunal officials, Dhaka, April 15, 2018.

according to court officials—involve section 57 of the ICT, some of the cases involve offences under other provisions of the ICT Act.⁸³

Under the 2013 amendment of the ICT Act, police are not obliged to obtain a court warrant before making an arrest. Thus, any complaint filed at a police station can, and almost always does, lead to an immediate arrest.⁸⁴ Once an arrest has been made under section 57, the lower courts often deny bail, particularly since it was made a non-bailable offense in the 2013 amendments.⁸⁵ While the High Court generally grants bail to the accused on appeal, the process can take months. As a result, the accused is almost always detained for at least a month, often longer, before being granted bail.⁸⁶

In some cases, the accused have gone into hiding to avoid arrest. A small number of people, with access to lawyers in Dhaka, applied for interim bail at the High Court before

⁸³ Offences includes: “damage to computer, computer system” (section 54); “tampering with source code” (section 55); “hacking with computer system” (section 56); “failure to surrender license” (section 58); “failure to comply with order” (section 59, 60); “unauthorized access to computer system” (section 61); ‘misrepresentation and obscuring information’; “publishing false digital signature” (section 64).

⁸⁴ It is notable that the three penal code offences that overlap with section 57 of the ICT Act are non-cognizable, so that the police cannot simply arrest a person, but require an arrest warrant to be issued by a court.

⁸⁵ The penal code offenses of defamation and “wounding religious feelings” are bailable offenses; the penal code offense of “outraging religious feelings” is a non-bailable offense.

⁸⁶ Examples of cases involving long periods in detention, all of which are discussed in this report, include:

Hadisur Rahman, arrested on January 21, 2014 over a Facebook post which among other things, calling Sheikh Hasina “a judicial killer” in relation to the execution of Quader Mollah. He spent over a year in pre-trial detention before obtaining bail;

Robiullah Robi, 55, news editor of the *Daily Inquilab*, arrested on August 19, 2014 for a news article accusing a police officer of corruption. He spent over six months in jail before he received bail;

Rifat Abdullah Khan, 17, son of the Bangladesh Jamaat-e-Islami’s Dhaka city unit chief, arrested on February 21, 2015 for alleged critical comments about the government, was detained for 9 months before he obtained bail;

Shahadat Hossen Khondaker, an employee of the Bangladesh Railway, arrested On September 5, 2016, for allegedly posting ‘anti-government and hateful statements’ on his Facebook page was in jail for 10 months before he received bail;

Fakir Taslim Uddin Kajal, owner of Shawbdokoli Printers, Shamsuzzoha Manik, publisher of Ba-Dwip Prakashan, and Shamsul Alam, arrested on Feb 15, 2016 and only received bail from the Cyber Tribunal in Dhaka 8 months later; and

Major Samuzzoha, a retired army officer, arrested in Dhaka for allegedly commenting on FB about a picture of the prime minister, stating “Is this called the ‘Pakhi’ dress” and also supporting the policies on Hefazet-e-Islam. He was detained for nearly six months before obtaining bail.

they could be arrested.⁸⁷ In such cases, as a condition of providing short term bail, the High Court required the accused to surrender, if ordered, to a lower court.⁸⁸

Number of cases filed at the Cyber Tribunal:

Year	Number
2013	3
2014	33
2015	152
2016	233
2017	568
2018*	282
Total	1,271

* until April 15, 2018

The court does not maintain data on convictions and acquittals. The Cyber Tribunal prosecutor told Human Rights Watch that there have been 10 convictions under section 57, but was unable to provide further details.⁸⁹ Md Nazrul Islam Shamim, special public prosecutor of the Cyber Tribunal, told the *Dhaka Tribune* that most cases filed under section 57 cannot be proved. “Some cases are totally fabricated and are filed to harass people. Most of these cases are settled out of court,” he said.⁹⁰

Although the government has accepted that the ICT Act has led to abuses and proposed replacing it with the Digital Security Act, the law continues to be in force. In April 2018,

⁸⁷ For example, see the case of Afsan Chowdhury in Section IV.

⁸⁸ For instance, on March 30, 2017, cases were filed against Hasan Ali and Aslam Ali, two journalists from Kushtia, alleging that they posted defamatory information. They received ‘ad interim’ bail from the High Court on April 11, 2017 but were ordered to surrender to the magistrate’s court within a month. When the two men did so on May 9, the magistrate court in Kushtia sent them to jail. They then had to appeal against this decision to the Kushtia District and Sessions judge who then granted the two men bail after 11 days of detention. Case no-38, Kushtia police station. Additional information was obtained from the human rights organization Odhikar. See case in Section IV for more details.

⁸⁹ Human Rights Watch interview with Nazrul Islam Shamim, Cyber Tribunal prosecutor, Dhaka, June 18, 2017.

⁹⁰ Ashif Islam Shaon “Two-thirds of cases filed under Sec 57 do not even go to trial,” *Dhaka Tribune*, September 22, 2017, <http://www.dhakatribune.com/bangladesh/law-rights/2017/09/22/two-thirds-cases-filed-sec-57-not-even-go-trial/> (accessed September 28, 2017).

after students at Dhaka university started a protest aimed at reducing quotas in government jobs and demanding a merit-based system instead, the police launched a crackdown. On April 8, 2018, a police officer filed a complaint, referring to 43 “provocative” Facebook posts that “many have liked and commented on” which “created a situation [that] could potentially harm society and create chaos,” and proposed action under section 57.⁹¹

Targeting Known Government Critics

Section 57 first came to public attention via the April 2013 arrest of Mahmudur Rahman, editor of *Amar Desh*—the most prominent pro-opposition newspaper—and the August 2013 arrest of Adilur Rahman, secretary of the human rights organization Odhikar.⁹² Both of these cases were initiated before the amendment of the ICT Act.

Mahmudur Rahman

Between December 9 and 13, 2012, *Amar Desh* published transcripts of private Skype conversations of Nizamul Huq, the chairman of the International Crimes Tribunal—responsible for holding trials against those accused of international crimes during the country’s war for independence. The transcripts raised significant questions about the independence of the court.⁹³ Huq resigned after *Amar Desh* and the *Economist* published the leaked transcripts.⁹⁴

On December 14, 2012, a prosecutor filed a complaint at the magistrate’s court against Mahmudur Rahman, the paper’s acting editor, and its managing director, Hasmat Ali, stating that the publication had “been publishing negative news on the International

⁹¹ Complaint lodged by SM Shahjalal, inspector, Cyber Security and Crime Division, Bangladesh police, April 8, 2018. Copy on file with Human Rights Watch.

⁹² Unless otherwise specified all details of allegations against individuals are based on the original Bengali language complaint and FIR that were lodged at the relevant police stations.

⁹³ “The Trial of the Birth of a Nation,” *Economist*, December 15, 2012, <https://www.economist.com/news/briefing/21568349-week-chairman-bangladeshs-international-crimes-tribunal-resigned-we-explain> (accessed August 22, 2017).

⁹⁴ “Discrepancy in Dhaka,” *Economist*, December 8, 2012, <https://www.economist.com/blogs/banyan/2012/12/bangladesh> (accessed August 22, 2017).

Criminal Tribunal, and has been questioning the tribunal in different ways.”⁹⁵ The complaint then referred to the titles of five articles,⁹⁶ which it asserted had “created negative idea[s] on [the] International Criminal Tribunal in the mind of the general mass and the international media” and “defamed” the tribunal judges and prosecutors, wounding their “self-respect.”⁹⁷ It also alleged that Rahman and Ali had committed sedition.

On April 11, 2013, police arrested Rahman at his office, and seized computers and the printing press. Numerous other cases involving alleged involvement in political violence were filed against Rahman during his subsequent detention.

In November 2015, two-and-a-half years into his detention, the chief metropolitan magistrate rejected Rahman’s bail application, as did the Cyber Tribunal a couple of months later. The High Court finally granted him bail on January 25, 2016.⁹⁸ A government appeal to the appellate division against the bail ruling failed. However, Rahman was not released from jail until November 2016 when he finally received bail for all the other cases that had been filed against him.⁹⁹ The cases are still ongoing at time of writing.

Adilur Rahman Khan and Nasiruddin Elan

On May 5, 2013, a conservative Islamic organization, Hefazet-e-Islami, held a huge rally in the center of Dhaka to protest against “atheist bloggers” who criticized fundamentalist Islam, as well as in support of its 13-point charter of demands, which included restriction on women’s rights and the introduction of a blasphemy law.¹⁰⁰ There were allegations by

⁹⁵ Petition case no 34/ 2012 to Magistrate Court, Dhaka, *Md Sahidur Rahman v. Mahmudur Rahman*, based on Tejgaon Thana case no 20, dated 14/12/12. On file with Human Rights Watch.

⁹⁶ The articles named are: “The government has gone mad, they want judgment”; “Dr. Kamal does not understand the criminals, Amirul is creating havoc, Oliur is thief”; “It is good news that Sahara is removed;” “Malum bhai is strongly doubting Haider Ali”; and “Mr Shahinur suddenly fell on my feet.”

⁹⁷ Petition case no 34/ 2012 to Magistrate Court, Dhaka based on Tejgaon Thana case no 20, December 14, 2012. On file with Human Rights Watch.

⁹⁸ “No bar to Mahmudur Rahman’s release,” *Prothom Alo*, February 15, 2016, <http://en.prothomalo.com/bangladesh/news/95197/No-bar-to-Mahmudur-Rahman’s-release> (accessed October 25, 2017).

⁹⁹ “Bangladesh opposition editor Mahmudur Rahman released,” *BBC News Online*, November 23, 2016, <http://www.bbc.co.uk/news/world-asia-38081334> (accessed October 25, 2017).

¹⁰⁰ Sabir Mostafa, “Hefazet-e Islam: Islamist coalition,” *BBC News Online*, May 6, 2013, <http://www.bbc.co.uk/news/world-asia-22424708> (accessed September 19, 2017).

Hefazat and independent media that security forces used excessive force in these clashes, killing dozens.¹⁰¹

The Dhaka-based human rights organization Odhikar published a report on June 10, 2013, finding that 61 Hefazet supporters had been killed during the security operation. In July 2013, the Information Ministry wrote to Odhikar asking for details of those that had died, but Odhikar said that it would only provide this information to an independent inquiry commission.

On August 10, 2013, Adilur Rahman, Odhikar's secretary, was arrested on suspicion of causing disruption to society and carrying out a conspiracy against the state by allegedly publishing a report containing false information.¹⁰² The following day, he was produced in the magistrate court and the court gave the police permission to search Odhikar's office. Police then seized laptops and computers from his office. On September 3, police lodged a case against Rahman under section 57 of the ICT Act,¹⁰³ claiming they found a list of 61 people killed on the organization's computers that was "a product of fiction."¹⁰⁴ Odhikar says police used an "unverified" and not yet final list.¹⁰⁵

The High Court granted Rahman bail on October 8, 2013. Meanwhile, on September 11, the Cyber Tribunal had issued a warrant for the arrest of Odhikar's director, Nasiruddin Elan,

¹⁰¹ Syed Zain Al-Mahmood, "Bangladesh protest leave more than 30 dead," *Guardian*, May 6, 2013, <https://www.theguardian.com/world/2013/may/06/bangladesh-protest-violence-people-dead> (accessed Sept 19, 2017).

¹⁰² Saad Hammadi, "Bangladesh Police arrest activist over 'fabricating information' on atrocities," *Guardian*, August 11, 2013, <https://www.theguardian.com/world/2013/aug/11/bangladesh-arrest-activist-fabricating-information-atrocities> (accessed September 19, 2017).

¹⁰³ No 115 of 2013 corresponding to Gulshan police station GD 514, August 10, 2013. Copy on file.

¹⁰⁴ The police claimed that in five cases the deaths were duplicated; in four the people were found alive; that there were inaccuracies in relation to nine other cases and that there was no information whether 11 others were dead or alive.

¹⁰⁵ Odhikar, "Human rights report 2013," April 15, 2014, <http://odhikar.org/human-rights-report-2013-odhikar-report-on-bangladesh/> (accessed June 2, 2016), para. 62. It should be noted that in August 2013, Human Rights Watch concluded on the basis of hospital logs, eyewitness accounts, and media reports, "that at least 58 people died on May 5 and 6, seven of whom were members of the security forces." See Human Rights Watch, *Blood on the Streets: Use of Excessive Force during Bangladesh Protests* (New York: Human Rights Watch, 2013) <https://www.hrw.org/report/2013/08/01/blood-streets/use-excessive-force-during-bangladesh-protests>.

and on November 6, Elan was remanded in jail. The High Court granted him bail on November 24, 2013.

On January 8, 2014, the Cyber Tribunal framed charges against Rahman, rejecting an application that the accused should be discharged from the case. On January 21, a High Court bench passed an order temporarily staying proceedings after an application to quash the case.¹⁰⁶ However, following a full hearing of the defense application, on January 9, 2017, the court ruled the criminal case should continue due to “prima facie evidence” of a criminal offence.¹⁰⁷ At time of writing, the High Court ruling was being appealed at the Appellate Division.

Targeting Political Criticism in Social Media

Subsequent to the two cases discussed above, and the change in the law, section 57 began to be used more regularly against social media commentary, satire, and other forms of criticism against the prime minister, her deceased father (the country’s independence leader), ministers, judicial officials, and the government more broadly.¹⁰⁸

Most cases involve Facebook posts. None of the initial complaints in these cases have been filed by the prime minister or others mentioned in the posts. Instead, the arrests under section 57 in the cases documented by Human Rights Watch have been based most often on complaints made by police or activists of the governing Awami League.¹⁰⁹

Some complaints allege that the social media posts were “defamatory” to the prime minister or other political leaders. Others arbitrarily allege that the comments create “the possibility of the deterioration of law and order.”¹¹⁰ Some complaints even blatantly accuse the person of supporting opposition parties. In some cases, multiple complaints have been filed in different police stations, requiring the accused to seek bail in multiple courts.

¹⁰⁶ Criminal appeal no 84/214. Copy on file.

¹⁰⁷ Judgment given by Justices Enayetur Rahman and Shahidul Karim, criminal appeal no. 84/214.

¹⁰⁸ As is often the case on social media, language used can be harsh, and often include unpleasant sexual innuendo particularly against women public figures.

¹⁰⁹ See Annex 1 for details of 60 cases involving 127 accused people. Many of these cases were provided by Odhikar.

¹¹⁰ This is the language in section 57 of the ICT Act that is used in the FIRs.

In many cases, the accused deny involvement in the publication of the Facebook posts that form the basis of the complaint.

Criticizing the Prime Minister or Family Members

Dozens of people have been arrested since 2013 for criticizing the prime minister or her relatives. In most cases that Human Rights Watch and other human rights organizations have documented, the complaints were filed by members of the public who are supporters of the ruling Awami League.

Monirul Islam

On April 13, 2017, Monirul Islam, 32, a rubber plantation worker in Srimangal, was arrested following a complaint made by a pro-government trade union leader, Mohammad Araj Ali. The complaint said that Monirul had “liked” and “shared” a Facebook post containing objectionable photographs and comments about the Indian and Bangladesh prime ministers.¹¹¹ The original post by Kabir Hossain was alleged to have said that the prime minister was meeting her Indian counterpart “for the sake of power and to win the coming election.” Hossain went into hiding to evade arrest.

Authorities filed charges against both men, saying the Facebook comment defamed the prime minister, harmed the image of Bangladesh, and represented a “betrayal to the country.”¹¹² The trade union leader who filed the police complaint said the accused men were opposition supporters, noting, “as a citizen of this country and as a government employee, after seeing the post in Facebook.... I was extremely hurt and agitated.”¹¹³ The case remains under investigation, and no charge sheet had been submitted at time of writing.¹¹⁴

Mohammad Sabuj Ahmed

On September 10, 2016, Mohammad Sabuj Ahmed, 35, a leader of the Jamaat-e-Islami in the district of Magura, was arrested for allegedly publishing “false, obscene, and

¹¹¹ Fir No. 16/108, Sri Mangal Thana, December 4, 2017.

¹¹² *ibid.*

¹¹³ *ibid.*

¹¹⁴ Human Rights Watch phone interview with Jaman Hossain, investigating officer, February 25, 2018.

defamatory information” on Facebook relating to Sheikh Hasina’s father, Sheikh Mujibur Rahman.¹¹⁵ His arrest was based on a complaint from Awami League party member Mohammad Al Imran¹¹⁶ and related to a Facebook post that said, “Today, the people who make the whole country ‘Vatican of Mujib,’ I have one message to them—if Hasina falls, the godlike image of Bangabandhu will fall as well.”¹¹⁷ His case was before the Cyber Tribunal at time of writing.

Dilip Roy

Dilip Roy, a leftist student leader at Rajshahi University, wrote three short satirical Facebook posts in August 2016 about Sheikh Hasina, the Awami League, and the government’s energy policy. One post said, “ I can't label a dog Awami League, because it would be ashamed to be labeled as such.” Another said the prime minister would be cheated by her own party members.¹¹⁸ A third said that the prime minister risked popular protests by going ahead with a controversial energy plant in Phulbari.¹¹⁹

His arrest on August 28, 2016, followed a complaint by Rashedul Islam Raju, then-acting chairman of the Bangladesh student Awami league at Rajshahi University. Raju alleged the posts were, “a threat to the Prime Minister, an insult to the father of the nation and a provocative information against Bangladesh Awami League, which is defamatory to the

¹¹⁵ FIR No-04/177, Mohammadpur Thana, Magura, September 10, 2016. On file with Human Rights Watch.

¹¹⁶ Ibid.

¹¹⁷ He is also accused of inappropriately criticizing the Bengali poet Rabindranath Tagore. The full post reads: “The degradation of the World Poet and Father of the Nation. Is it possible for anyone to garner respect forcefully? Feraun used to make people his slave and he wanted them to worship him all the time. Today, the people who make the whole country ‘Vatican of Mujib’, I have one message to them - if Hasina falls, the godlike image of Bangabandhu will fall as well. No one worships Rabindranath except people in Calcutta and Bangladesh. The people in the West don’t even know the name of Rabindranath. All the grandsons and granddaughters of the father of the nation are citizens of western countries. Even his daughter Rehana too. When they are there in the Western countries, they don’t even bring the name of Rabindranath to their mouths. But when they come to Bangladesh, they talk about Rabindranath in faulty Bengali. That’s a shame.”

¹¹⁸ The post stated: “Prime minister, do you have your lantern ready? Maybe they will steal from your share too and you will then lament and regrettably say (her father’s dialogue).” This comment involves the idea that the Prime Minister’s colleagues will steal from the prime minister. The words “Her father’s dialogue” seems to be a reference back to Sheikh Mujib’s purported comment that “All [AL party men] are thieves.”

¹¹⁹ The full post, as set out in the FIR, was: “Prime Minister Hasina, you probably want to see another Phulbari happen congratulations for that. I believe the nation will oblige and give you that experience.” Rajpara Thana, FIR No. 33/276, August 28, 2016.

organization.”¹²⁰ Roy was detained until November 14, when the High Court granted bail.¹²¹ The police submitted their initial report to the Cyber Tribunal on November 9, 2017 and there are ongoing hearings on whether to frame charges.

Rifat Abdullah Khan

Rifat Abdullah Khan, 17, son of Jamaat-e-Islami party leader Rafiqul Islam Khan, was arrested on February 21, 2015, following a complaint lodged at Ramna Model Police Station by a police inspector claiming that Khan, along with 51 other people,¹²² had circulated false, obscene, and defamatory cartoons of the prime minister, her father, ministers, judges, and high-ranking members of the law enforcing authorities.¹²³

One post included photoshopped pictures of the prime minister, her son, and senior officials of the “highly abusive” Rapid Action Battalion (RAB) with the caption, “Wearing underwear over your pants does not make you superman.”¹²⁴ The complaint said that these images were an attempt to create sympathy for the opposition Jamaat-e-Islami, help the political opposition movement, seek cancellation of the “ongoing trial of war criminals,” and try to “create chaos in society.”¹²⁵

¹²⁰ In the FIR, Raju claimed that he confronted Roy about the posts who admitted to having written them, and stated, “So what if I did post the status update, do what you want to do.”

¹²¹ Court ruling by Justices Enayaetur Rahim and JBM Hassan, Criminal Misc Case no 35872/2016, November 14, 2016.

¹²² One other person, Ziauddin Farhad, was also arrested. The other 50 named in the case, who were not arrested at the time of the original arrests, are: Yassin Arafat, literary editor of Chaatra Shabir, Comilla; Talal al Tair; Jabir Ahsan; Abu Obaidullah, IT editor of Bangladesh Chaatra Shabir and administrator of BasherKella website; Habib Ahsan, Administrator of BasherKella website; Shahdin Mahfuz Mohon, administrator of BasherKella website; Talha Ibne Alauddin, administrator of BasherKella website; Murad Ali; Tawhid Ehsan; Nishhongo Shopnochari; Musa Tarik; Ammar Yasir; Ahmed Musa, administrator of BasherKella website; Abu Bakr Siddique, administrator of BasherKella website; Adil Khan Reza; Abu Bakr Siddique; Abil Khan Reza; Mizan Humayon, administrator of BasherKella, Tehran; Mizanur Rahman, editor of BasherKella, Tehran; Ajiz Farouqi; Ahmed Hai; Rashidul Islam; Obaidulla Mahadi; Saiful Islam; Shaheen Munir, administrator of Turun Projonmo; Hasan Al Banna; Richard Parker, administrator of Free Mahmudur Rahman website; Tajul Islam; Mirzur Hossain Mobaruk Prince; Ashikur Rahman, administrator of Islami Online Activist Network; Manmunur Rashid Polash; Tanvir Arafat, editor of Free Mahmudur Rahman website; Ahmed Sohan, administrator of Titumir BasherKella website; Arnab Zia, editor of IAM Bangladesh website; Meher Abdullah, editor of Tarun Projonmo; Abu Abdullah; Moshur Hossain, former president of Chittagong city Shibir; Nurul Amin, incumbent president of Chittagong Islami Shibir; Shahin Khan; Arafat H Biplob, journalist, Naya Diganta; Shohat Akkas; Abu Saleh; Mosharaf Hossain; Abdullah Al Zafi; Mirza Humayon Kabir; Miftatun Janat; Tuhin Hasan Murad; Helal; Morshed; Shohag; Mushfiqur Alam; Riad Khan; Shoaid Khan.

¹²³ FIR, Pallabi police station, no. 34(2)2015, March 22, 2015. On file with Human Rights Watch.

¹²⁴ Ibid.

¹²⁵ Ibid.

On December 10, 2015, after nine months in detention, the High Court granted Rifat bail. At time of writing, the police had completed their investigation and the case was before the Cyber Tribunal. The High Court subsequently stayed proceedings.¹²⁶

Imran Hossain Arif

On September 3, 2014, Imran Hossain Arif, 30, was arrested in Kushtia following a complaint from Anik Hossain, an Awami League youth leader. Hossain complained about Arif's Facebook comment which said, "If Bangabandhu Sheikh Mujibur Rahman was the father of the nation, then Sheikh Hasina is my sister and Sajib Wajed Joy is my nephew."¹²⁷ When one reporter asked the officer in charge of Kumarkhali police station why the post was derogatory when most of her party men addressed the prime minister as "sister," he replied, "He has been prosecuted as it is derogatory to us, if not to you."¹²⁸ Police submitted a charge sheet and the case was pending before the Cyber Tribunal at time of writing.

Major Samuzzoha

On August 19, 2014, Major Samuzzoha, a retired army officer working at Grameen Phone, a telecom company, was arrested in Dhaka for making a comment a year earlier on the attire of the prime minister in a photograph in which she wore a sari and scarf. The FIR said that he had written, "Is this called the 'Pakhi' dress," referring to a style of clothing made famous by an Indian television serial.¹²⁹

The officer from Demra police station who initiated the case said that this comment was derogatory, would mar the country's image, and was a threat to law and order since others

¹²⁶ Court ruling dated February 4, 2016, Misc. Case No. 2366/2016

¹²⁷ "Youth arrested for calling Sheikh Hasina sister and Joy Nephew" *ManobJabin*, September 4, 2014, <http://mzamin.com/details-archive2014.php?mzamin=39774> (accessed November 12, 2017).

¹²⁸ "Another student sent to jail for Facebook status on PM," *New Age*, September 5, 2015, <http://archive.newagebd.net/45889/another-youth-sent-to-jail-for-facebook-status-on-pm/> (accessed August 2, 2017).

¹²⁹ FIR No 37, Kafrul Thana, Dhaka relating to offences allegedly committed between May 6, 2013 and July 25, 2013. The complaint was lodged by Ibrahim Khalil, Sub-Inspector, Gulshan Zonal Team, DB North who said that he received a tip off, on August 19, 2014.

had remarked and shared the Facebook post.¹³⁰ The FIR stated that during interrogation, the accused admitted to having published this post. Major Samuzzoha denies this. “It is a total lie,” he said. “They showed me a few photoshopped printed pages of Facebook and told me those are posted from my Facebook. They didn’t find it in my Facebook, as I opened my [page] to them. And I didn’t admit any wrongdoing during my 10-day remand, despite many threats and psychological torture.”¹³¹ He was detained for nearly six months before obtaining bail. Police filed charges and the case was pending before the Cyber Tribunal at time of writing.¹³²

Hadisur Rahman

Following a “tip-off” that a group of people were publishing distorted pictures of Sheikh Hasina, police said they arrested Hadisur Rahman on January 28, 2014.¹³³ Police said they had recovered photoshopped images of the prime minister from Rahman’s mobile phone, including one where she “looked like a blood-thirsty Eagle,” and another of her in the form of a Hindu goddess. The complaint lodged by the police said that the second picture “hurts religious sentiment and is provocative to a certain religious group.”¹³⁴ Also accused were Nurul Amin and seven other unnamed individuals, whom the police claimed had made derogatory comments about the prime minister. Rahman spent a year in jail before the High Court granted him bail. The trial is continuing.¹³⁵

¹³⁰ In addition, the FIR claimed that he had made “provocative claims” about the conservative Islamic group Hefazet-e-Islami in giving a “48-hour ultimatum” to the government to agree to their demands made by the organization, and calling the government a “pitcher of sin.”

¹³¹ Human Rights Watch email correspondence with Major Samuzzoha, August 29, 2017. Also see “Police get nothing from grilling retd major over FB post on PM Sheikh Hasina,” *bdnews24.com*, August 29, 2014, <http://bdnews24.com/bangladesh/2014/08/29/police-get-nothing-from-grilling-retd-major-over-fb-post-on-pm-sheikh-hasina> (accessed September 6, 2017).

¹³² Human Rights Watch interview with Nazrul Islam Shamim, Cyber Tribunal prosecutor, Dhaka, June 18, 2017.

¹³³ FIR no 22/14, Tejgaon Industrial Area police station, January 28, 2014. Complaint lodged by Sub-inspector Nazmul Haq on file with Human Rights Watch.

¹³⁴ *Ibid.*

¹³⁵ Human Rights Watch phone interview with family of Hadisur Rahman, April 16, 2018

Mohammad Nurun Nobi Sujon

On November 11, 2013, a RAB-1 officer arrested Md Nurun Nobi Sujon, 32, at his home in Dhaka. The complaint lodged by the RAB officer at Uttara police station said after some “serious interrogation”, Sujon revealed that he was an active member of the student wing of the Jamaat-e-Islami, was involved in politics, and had revealed the names of two other men, Mohammad Abul Yusuf and Mohammad Jassim, who were “involved in disseminating false and derogatory information and photos of the present head of government.”¹³⁶ The complaint said that the three men “tried to create an unstable situation by provoking the common people. Under these circumstances section 57 is being used.”¹³⁷

Yusuf and Jassim went into hiding to evade arrest. The police have submitted a charge sheet and the case was pending before the Cyber Tribunal at time of writing.¹³⁸

Mohammad Benazir

Late on November 9, 2013, Benazir, 28, was arrested in Dhaka for allegedly posting derogatory pictures and comments about the prime minister and some government ministers.¹³⁹ One picture of the prime minister was captioned, “I am a hawk of democracy. Do you want to buy democracy?” and in another, “I respect the constitution but I will do what I want.” He also posted satirical remarks about the home minister and the Indian prime minister.¹⁴⁰ A charge sheet has been submitted to the Cyber Tribunal and a trial was proceeding at time of writing.¹⁴¹

¹³⁶ Case no 8, Uttara police station, November 11, 2013. On file with Human Rights Watch.

¹³⁷ Ibid.

¹³⁸ Human Rights Watch interview with Nazrul Islam Shamim, Cyber Tribunal prosecutor, Dhaka, June 18, 2017.

¹³⁹ Complaint made by Shafiqur Islam. Case No. 15 in Demra Police station, November 9, 2011.

¹⁴⁰ Under a picture of the former Home Minister Sahera Khatun selling oranges it read, “These oranges are full of true Indian spirit”; and under a picture of the Indian Prime Minister Manmohan Singh and Bangladesh Prime Minister Sheikh Hasina with a child on her lap, it read “Blessing for your child and family.”

¹⁴¹ In another case, Nurul Huda, 30, the Imam of a mosque in Chandpur was arrested in Matlab on October 14, 2016, for calling the prime minister an atheist and dictator on Facebook saying, “I want to say the atheist dictator Hasina has lost her ‘faith’ and has become a non-believer and believer in many gods and atheist. So the atheist Sheikh Hasina has no right to be a leader of this Muslim country. We should force her to be out of the country.” See “Facebook Post: Govt employee, imam arrested for demeaning PM,” *Daily Star*, October 16, 2016, <http://www.thedailystar.net/backpage/facebook-post-govt-employee-imam-arrested-demeaning-pm-1299430> (accessed September 2, 2017).

AKM Wahiduzzaman

In September 2013, AKM Wahiduzzaman, a geography professor, was accused by A B Siddiqui, chairperson of the Awami Jononetri Porishod,¹⁴² of defaming Prime Minister Sheikh Hasina, her family, and her colleagues in four Facebook posts.¹⁴³ The complaint referred to a number of different posts: one questioned the capabilities of the prime minister and her children;¹⁴⁴ two others criticized the organization of the upcoming 2014 election and described the ruling party members of parliament as “neo-nazis;”¹⁴⁵ and the last suggested that some of the prime minister’s relatives collaborated with Pakistan’s military during Bangladesh’s independence war.¹⁴⁶

Siddiqui argued in his original complaint that Wahiduzzaman had committed “criminal intimidation” and used “obscene language” to defame the prime Minister, her children, and other family members, causing her “image and honor” to be “ruined in the country and abroad...the kind of language that he has been using against the Prime minister is

¹⁴² A group that supports the ruling Awami League party, although not directly affiliated.

¹⁴³ The initial complaint was made to Rampura police station on September 11, 2013. It was transferred into ICT No: o8/74 Rampura, Thana: DMP, Dhaka on March 3, 2014.

¹⁴⁴ This stated in full, translated from the original Bengali, “It is being shown in big scrolls in TV, ‘The son of the Prime Minister and IT Specialist Shojib Wajed Joy,’ before that they used to show ‘disabled specialist Sayma Wajed Putul!!!!’ After graduating from public administration and doing a couple of power point presentations, he is now IT specialist! And by looking after her own disabled child, she is now a disabled specialist. And their mother has dozens of doctorate degrees! Hehehe.....the full family of specialists. It’s a good thing that their real scientist father is not alive to see all this.” Annexed to complaint to the police.

¹⁴⁵ Translated from the original Bengali. The first said, “True. There is no such country in the world where, without ending a parliament, the parliament members sit in their posts and at the same time direct and participate in the election. Those who support this neo-nazi system are themselves neo-nazis. And those who believe that it is not the responsibility of the 267 parliament members to change this system and that it is the responsibility of the opposition party that consists of 36 parliament members to come forward for a dialogue, they are the low intelligent Awami League.” And the other: “Remember, that this government is responsible for revising the constitution and creating this neo-nazi system. And those who are getting ready to give 1996 as an example, they should also know that, during that time the government did not have the two third required majority to create the care-taker government system by revising the constitution. At that time, the opposition party walked out of the parliament and made it close to impossible to revise the constitution, and due to this the election of 15 February became necessary.”

¹⁴⁶ Translated from Bengali: “The Facebook verified leader, and the future digital Facebook Prime Minister has requested everyone to support the idea that the Rajakaars should be excluded from the voter list. Mother has agreed, but before that, she has to take decision about her family rajakaars ‘Nura rajakaar’ and ‘Nula rajakaar’. It is her last chance to prove that her statement is not another political stunt. One cannot be the follower of Sheikh Foridi by carrying brick in the underarms. Come on leader...we are waiting.”

close to sedition.”¹⁴⁷ After Wahiduzzaman surrendered to the magistrate court on November 6, he was jailed for over a month before the High Court granted him bail.¹⁴⁸ Police submitted a charge sheet with the Cyber Tribunal, where the case was ongoing at time of writing. Wahiduzzaman has since left the country. ¹⁴⁹

Wahiduzzaman denied making the posts and says they came from a fake account using his name.¹⁵⁰ In a written message to Human Rights Watch, he said the consequences have been severe. “On November 7 of 2013, I was suspended from my job as the assistant professor of National University. Members of my family were threatened by pro-government activists and regularly harassed by the police. My university-going daughter is faced with abusive behaviour of pro-government student activists.” He added, “This case is a perfect example of how the [criminal justice system] functions without professional efficiency...while innocent citizens are victimized [and] how a group of pro-ruling party opportunists are offered privileges to abuse the justice process.”¹⁵¹

Criticizing Government, Corruption Allegations

Facebook posts that claim general corruption by the government and, in particular, Sheikh Hasina’s family, have also led to arrests.

Ehsan Habib and Three Others

This case involves posts written many years before the complaint was filed, with multiple cases initiated in different police stations over the same allegation, requiring the accused to make multiple bail applications.

On February 4, 2017, Nurul Baki Khan, an Awami League supporter, lodged a complaint with local police against Ehsan Habib, an assistant registrar at the Jatiyo Kobi Kazi Nazrul Islam University in Mymensingh, as well as the university’s registrar Aminul Islam. This

¹⁴⁷ Complaint to Rampura police station, in Dhaka, copy with Human Rights Watch.

¹⁴⁸ On October 10, he obtained ad-interim bail in the High Court, but was ordered to surrender to the magistrate court within one month.

¹⁴⁹ Human Rights Watch email correspondence with AKM Wahiduzzaman, May 30, 2017.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

followed student protests that started five days earlier on January 31, 2017, claiming that Habib had referred to them as “cows” on Facebook. On February 5, a university investigation committee suspended Habib.

In his police complaint, Khan said that Habib’s alleged Facebook post about “cows” had “created condemnation and hatred among the people.” He also drew attention to two posts that were published five years earlier on Habib’s Facebook page and claimed, without any evidence, that the two older posts were written jointly by Habib and another registrar, Aminul Islam, and were “indecent, defamatory, false and provocative statements undermining the honorable Prime Minister and Awami League leaders.”¹⁵²

One of these posts, published on August 16, 2012, criticized the Awami League leaders for going into hiding at key moments of Bangladesh’s history.¹⁵³ The second, published on September 10, 2012, was a comment that a new hospital wing was yet to accommodate patients because the prime minister had not yet inaugurated it.¹⁵⁴

The day after Habib was suspended, another Awami League supporter, Fozle Rabbi, lodged a complaint at Trishal Police Station in Mymensingh against Ehsan Habib and Aminul Islam as well as two other assistant registrars—Afruz Sultana and another man also named

¹⁵² FIR No: 11/155/17, Kotwali Model Police Station, February 4, 2017.

¹⁵³ The post read, “On 25th March 1971, as soon as the Pakistani military started a full-forced fascist attack on our population, the entire Awami League leaders, in order to surrender, went to India leaving the people behind to face the extreme dangers of the attack. Similarly, in 1975, when Sheikh Mujibur Rahman was murdered, they went into hiding in order to save themselves.”

¹⁵⁴ The full post stated, “Today I went to the Mymensingh Medical Collage Hospital, there was no space in the 500 bedded hospital. Along with the beds, patients were receiving treatment staying on the balconies as well. This made me sad. When I was exiting through the outdoor, the new 8/10 storey high building came into view and I know this new unit of the hospital can accommodate 500 more beds, which completed construction 8 months ago, but I don't know why this is not being used for treating patients till now. I asked one of my doctor friends and got to know the main reason is that the building is planned to be opened by the Prime Minister and only then the people of the greater Mymensingh district can avail treatment there. But the Prime Minister could not manage the time for the past 7 months and that's why we are not getting the medical services. Really our golden Bangladesh is a golden country. Our Prime Minister is also a golden Prime Minister. The bureaucrats are golden bureaucrats who are keeping the hospital unused to get the prime mister's favor. And the politicians are wrapped in gold.” The complaint also stated that the two men had insulted Professor Dr. Syed Giyas Uddin Ahammed, the previous vice chancellor of Jatiya Kabi Kazi Najrul Islam University, ‘by presenting various false, indecent, defamatory statements against him’ though no detail was provided in the complaint.

Aminul Islam.¹⁵⁵ He claimed that all four were Jamaat-e-Islami supporters who were “strategically engaged with many misdeeds, including damaging the image of the current democratic government by creating instability within the government.”¹⁵⁶ On February 13, 2017, three of the registrars obtained anticipatory bail.¹⁵⁷

Arman Sikdar

Arman Sikdar was arrested on February 4, 2017, after a local student leader of the Awami League complained that Sidkar’s Facebook post denigrated the prime minister and the Awami League student wing with his comment “Now the crooks are giving advice.”¹⁵⁸ Sikdar denied the allegation and said his account was hacked. The case was pending at time of writing.

Ruhul Amin

Ruhul Amin was arrested on September 22, 2016, after a complaint that he had “defamed” the prime minister and her family in “an indecent, defamatory, [and] provocative” Facebook post.¹⁵⁹ Amin accused the family of corruption saying, “The truth is a thief is born in a thief’s house. The whole world now know[s] that the family of Sheikh Hasina is a family of thieves. I am inviting Sheikh Hasina to tender her resignation.”¹⁶⁰ The FIR was lodged six months after the posts were published, and said that Amin was a member of the student wing of the Jamaat-e-Islami. The High Court granted him bail on January 24, 2017.¹⁶¹

¹⁵⁵ FIR no 06/37, Trishal Police Station, February 5, 2017.

¹⁵⁶ Ibid.

¹⁵⁷ See Criminal Miscellaneous Case No 5736/2017.

¹⁵⁸ “Chaatra Moitri leader arrested on complaint of distorting Prime minister’s statement,” *Daily Naya Diganta*, February 6, 2017, <http://www.dailynayadiganta.com/detail/news/193544> (accessed August 4, 2017).

¹⁵⁹ FIR Case No. 27, Natore Police station, September 22, 2016. Corresponding to GR No 490/16. On file with Human Rights Watch.

¹⁶⁰ Ibid. Full Facebook post quoted in the FIR, translated from the original Bengali, ““The first bank heist was done by Sheikh Kamal. Now it is being done by his nephew Joy. Sheikh Kamal, the brother of Sheikh Hasina was involved in the first bank heist of Bangladesh and now his nephew Joy keeps up the family tradition by conducting digital heist from Bangladesh Bank reserve. The truth is a thief is born in a thief’s house. The whole world now know that the family of Sheikh Hasina is a family of thieves. I am inviting Sheikh Hasina to tender her resignation.” [Sheikh Kamal was the younger brother of Sheikh Mujib who was politically active in the Awami League between 1971 to 1975 when he was killed along with Mujib. Joy, is the son of Sheikh Hasina.]

¹⁶¹ Criminal Miscellaneous Petition, no 157/2017.

Tanvir Ahmed, Tawhidul Hasan, and Mohammad Omar Faruq

Sometimes the complaints provided to the police do not provide details of what was allegedly written on the social networking sites, but only claim that the comments are anti-state and seeking “to create chaos in the country.”¹⁶² However these are sufficient for the police to arrest the accused.

On December 3, 2015, Tanvir Ahmed, 38, Tawhidul Hasan, 21, and Omar Faruq, 22, were arrested for such statements on Facebook. According to a complaint filed at Adabor Police station in Dhaka, Mohammad Amirul Islam, a senior warrant officer belonging to RAB-2, heard that some men had gathered near Ali Ahmed Jame Mosque and were “engaged in a meeting to carry on anti-government activities.”¹⁶³

The RAB officer said that when he arrived at the place, he found about five to six people having a discussion who then ran away, but that he and his colleagues managed to catch three of them. “When we asked them that why they had gathered there, they couldn’t give us any answer. Later, they confessed that were involved in making anti-state posts and comments in Facebook with fake IDs, and that they had gathered there to carry on such activities.”¹⁶⁴

Criticizing the International Crimes Tribunal

Two of the people mentioned above, arrested for comments about the prime minister, were also accused of criticizing the International Crimes Tribunal.¹⁶⁵ Hadisur Rahman was arrested on January 28, 2014, in part for criticizing the death sentence imposed on Jamaat leader Quader Mollah, who was executed the previous month. The complaint made by a police officer stated, “on many occasions he termed the Prime Minister as a ‘judicial killer’

¹⁶² FIR No-03/212, Adabor Police station, Dhaka, December 3, 2015.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ The International Crimes Tribunal was established in 2010 to investigate and prosecute those accused of international crimes during the country’s 1971 independence war, when they were alleged to have collaborated with the Pakistan military. The process, which has resulted in the execution of a number of leaders of the Jamaat-e-Islami, has been beset with controversy concerning unfair procedure, judicial bias, collusion amongst prosecutors and judges, and intimidation of defense witnesses. See, for example, “Bangladesh: Azam trial concerns,” Human Rights Watch news release, August 16, 2013, <https://www.hrw.org/news/2013/08/16/bangladesh-azam-trial-concerns>.

and in some posts also expressed that he would like to be like Abdul Quader Mollah, whom he termed a martyr, used poetry to express his anti-liberation war view, and reminded the prime minister about what happened in 1975.”¹⁶⁶

Rifat Abdullah Khan, arrested on February 21, 2015, was also accused of seeking “to cancel the ongoing trial of war criminals.” The complaint specifically mentioned that he had made “derogatory remarks about the skype conversations referring to the Chief Justice and the International Crimes Tribunal Judge Nizamul Huq Nasim.”¹⁶⁷

Shahadat Khondaker

On September 5, 2016, Shahadat Khondaker, an employee of the Bangladesh railways, was arrested for allegedly posting “anti-government statements” on Facebook. Police said that he had “intentionally and electronically published defamatory, indecent, false, inappropriate, and provocative statements against the Honorable Prime Minister and Supreme Court Judges to the public, creating a possibility of law-enforcement decline and damaging the image of the state and person.”¹⁶⁸

Khondaker had criticized the proceedings of the International Crimes Tribunal, arguing that the “prosecution could not prove where and whom Mir Quasem Ali murdered,” and questioning the integrity of the evidence, as well as the political neutrality, of judges.¹⁶⁹ In another message, he referred to the Jamaat-e-Islami politicians convicted of crimes by the

¹⁶⁶ FIR no. 34(2)2015, Pallabi police station, no. 34(2)2015, March 22, 2015. On file with Human Rights Watch. In August 1975, Sheikh Mujib and members of his family were assassinated by members of the military.

¹⁶⁷ FIR no. 34(2)2015, Pallabi police station, March 22, 2015. On file with Human Rights Watch. The “skype conversations” refer to conversations held on Skype by Justice Nassim, the chair of the International Crimes Tribunal, with a number of different individuals in which he discussed the tribunal, and which were obtained and released to the media. See “The Trial of the Birth of a Nation,” *Economist*, December 15, 2012, <https://www.economist.com/news/briefing/21568349-week-chairman-bangladeshs-international-crimes-tribunal-resigned-we-explain> (accessed August 22, 2017).

¹⁶⁸ FIR No-07/194, Khulshi police station, Chittagong, September 5, 2016. Copy on file with Human Rights Watch.

¹⁶⁹ The post stated, translated from Bengali, “The Prosecution could not prove where and whom Mir Quasem Ali murdered. Witnesses who were born in 1977 testified for incidents that happened in 1971. When Chattra League leader Shamsuddin Chowdhury Manik is the Judge, what kind of judgment do you expect (against his sworn enemies)? Aren't those people who were given jobs [by MQA apparently] not citizens of this country? Do their taxes not help national progress? Can't the Prime Minister remember whose money it is when she accepts checks for 12 or 15 lakh Taka?” The last sentence seems to refer to money that the prime minister’s office received for charitable purposes from the Islamic Bank, which was seen by many as a bank controlled by the Jamaat-e-Islami.

Tribunal as “roses,” writing, “Millions of roses await blossoming, if a few more flowers fall to make a complete flower necklace, then I will not stand in the way.”¹⁷⁰ Khondaker eventually obtained bail in August 2017.¹⁷¹

Mohammad Osman Gony and Abul Hasan Rasu

On April 14, 2015, Mohammad Osman Gony, 20, and Abul Hasan Rasu, 27, both student leaders and supporters of the Jamaat-e-Islami party, were arrested from Comilla Cadet College for posting “insulting cartoons and posts” about the prime minister and other officials on Facebook.¹⁷² The FIR claimed that the two men were “creating political unrest to sabotage the trial of the war criminals.”¹⁷³ The case was pending at time of writing.

Criticizing the Judiciary

Criticism of the judiciary has also led to arrests under the ICT Act.

Sheikh Noman

On April 21, 2017, Sheikh Noman was arrested in Sreemangal town in Moulvi Bazaar after the police received a complaint that he had criticized the chief justice in a Facebook post for “attending different political programs.” The complaint was made by lawyer Enayet Kabir Mintu, an assistant to the public prosecutor, who said that Noman was a BNP supporter and had, in publishing his criticism, “tarnished the image of the independent

¹⁷⁰ The full post, translated from the Bengali, “A 49-year-old garden will lose the biggest of its six roses today. Millions of roses are in this garden spanning 56 thousand square miles and their fragrance engulf the whole place. Millions of roses are waiting to be bloomed. If more flowers are needed to make the perfect flower necklace, then I won't think all of that went in vain. I still dream that humanity will triumph, unshackling from the grasp of the barbarians. The future bright, because lies are only temporary, and truth shall prevail.”

¹⁷¹ The day after he was arrested police presented Khondaker to the magistrate court and he was remanded in their custody for 5 days. On September 10, 2016, the police re-presented him to the court and he was then remanded into jail. Three months later, on December 11, 2016, the metropolitan magistrate rejected his bail application. On January 2, 2017, the sessions Judge also rejected an application for bail saying that “there is specific allegation against him [under section 57 of the ICT] which [is] grave in nature. ... The case is under investigation.” On March 29, 2017, the High Court passed an order asking the prosecution to explain why he should not receive bail, however it did not pass an interim bail order so he remained in custody. See Criminal Miscellaneous Case no 13234/2017.

¹⁷² FIR case no. 34, Ramna Model Thana District, Dhaka, February 21, 2015. On file with Human Rights Watch.

¹⁷³ Ibid.

judiciary of the country.”¹⁷⁴ Mintu argued the chief justice had become a “hated target of a vested quarter” because of his involvement in the International Crimes Tribunal.¹⁷⁵

Noman, however, said that he supported the student wing of the governing Awami League, and that someone else had published the Facebook post using a phone that he had lost at an acrimonious Awami League political meeting on March 22, 2017. He said the complaint to police was made by the assistant to the public prosecutor due to an argument he had had with public prosecutor Asadur Rahman, who had “threatened to teach me a lesson.”¹⁷⁶

Norman was remanded into police custody. “I was not allowed to assign myself any lawyer initially,” he said. “During the remand hearing, the judicial magistrate also did not ask me any question about what I have done.” He remained in detention for nearly three months before obtaining bail in July 2017. “I was branded an opposition activist. Now, I am really worried about my future,” he said.¹⁷⁷ The investigation was still under process at time of writing.¹⁷⁸

Nazmul Hossain, Othoi Aditto, Tariq Rahman, and Nusrat Jahan

On July 3, 2017, a lawyer filed a complaint at Kotwali police station in Dinajpur against Nazmul Hossain, a senior reporter at Jamuna Television. The lawyer objected to Hossain’s Facebook post criticizing preferential treatment given to judges, saying it “ridiculed the department of justice.”¹⁷⁹ Three others, Othoi Aditto, Tariq Rahman, and Nusrat Jahan Ishika, were accused of sharing the post but received anticipatory bail before they could be arrested.

The Facebook post, titled “The red staircase of Justice and Delwar’s crutch,” described how a disabled man in Kamlapur railway station used his crutch to help a couple get into a

¹⁷⁴ FIR No-04/96, Sylhet, April 21, 2017. Also see Saiful Islam, “Youth who criticized Chief Justice on Facebook arrested,” *Dhaka Tribune*, April 21, 2017, <http://www.dhakatribune.com/bangladesh/politics/2017/04/21/youth-criticised-chief-justice-facebook-arrested/> (accessed October 27, 2017).

¹⁷⁵ FIR No-04/96, Sylhet, April 21, 2017.

¹⁷⁶ Human Rights Watch phone interview with Sheikh Noman, August 28, 2017.

¹⁷⁷ Ibid. Chaatra Dal is the student wing of the opposition Bangladesh Nationalist Party.

¹⁷⁸ Human Rights Watch phone interview with Sheikh Noman, February 1, 2018.

¹⁷⁹ Case no. 22 Kotwali Thana, Dinajpur July 3, 2017.

crowded train, while a High Court judge was provided the comfort of protocol. According to the FIR, Hossain concluded:

Some days ago, a justice of the High Court was saying that judges do not get enough benefits. They don't have any computer, no AC, their roads are blocked with water. This kind of attitude hurts us. Why should a justice intimidate the authority to get this type of protocol? All these problems can be solved if they can follow the attitude of the disabled man. Then they don't have to force people to show respect to them.¹⁸⁰

The complaint to the police alleged that the journalist compared the “respected Judges of the Bangladesh High Court” with a beggar, thereby “disrespecting and defaming” the judge. The complainant said the post had “tried to lead the general people toward darkness, and make them lose faith on the system. He has all hurt the sentiment of all the people of Bangladesh.”¹⁸¹ Nazmul had not been arrested at time of writing.¹⁸²

Lewd or Morphed Images of Political Leaders

In addition to prosecutions for posts critical of the government or government officials, people have also been prosecuted for publishing tasteless images, including photo-shopped pictures of the prime minister with sexual innuendo.

¹⁸⁰ The full post reads, translated from Bengali, “The time was 7.30 at Komlapur Railway station at platform no 4. Suddenly my eyes were stuck on a disabled man. The train door was very crowded so they could not get inside through the door, they had to get in through a window. The train is going to start soon. The groom cannot decide what to do. If they take the bus, it is going to take 18 hours. He was very anxious. Suddenly the disabled man came forward; he offered the groom his crutch and advised him to get on the train. He helped his wife get into the train first, then he got in. The disabled man re-wrote history. That day, I also experienced another thing. A justice of the High Court will go to Dinajpur. The Railway authority has therefore put a red carpet at the entrance. Red Carpet will also be there in Dinajpur at the time of his exit. This is the protocol. Nevertheless, my friends, younger brothers and seniors who are working in Zilla NDC, they have got tired maintaining such protocol. Whenever the Judge visits the district, the NDC's has to arrange for the welcome of the Judge. During Eid, many Judges stay at the circuit house instead of staying at their own home. In this way, they can get benefit from the junior officials. Some days ago, a Justice of the High Court was saying that, the Judges do not get enough benefits. They don't have any computer, no AC, their roads are blocked with water. This kind of attitude hurts us. Why should a justice scare the authority just for this type of protocol? All these problems can be solved if they can follow the attitude of the disabled man. Then they don't have to force people to show respect to them.”

¹⁸¹ op. cit. Case no. 22 Kotwali Thana, Dinajpur July 3, 2017.

¹⁸² Human Rights Watch phone interview with Nazmul Hossain, Dhaka, February 1, 2018.

Mohammad Alauddin Alo

Mohammad Alauddin Alo, 30, was arrested on January 17, 2016, for creating and disseminating obscene pictures of Prime Minister Sheikh Hasina and former Foreign Minister Dipu Moni.¹⁸³

He was arrested based on the complaint of a man called Nazimuddin, who stated that on the morning of January 16, he was at the Feni Noakhali highway bus-stand when he heard the accused talking about the prime minister in a derogatory manner, calling her “bad names.”¹⁸⁴ The men boasted that they had posted satirical pictures of her on the internet. When others at the bus-stand objected the men ran away, but Nazimuddin and others managed to catch Alauddin Alo, and said they “found three or four A4 sized printed papers in his hand which had a lot of pictures. Eight of them contained distorted pictures of the prime minister and the foreign minister Dipu Moni.” The complaint stated that in two pictures, the heads of the prime minister and Dipu Moni were replaced on the bodies of two nude men.”¹⁸⁵ Nazimuddin said that Alauddin Alo admitted that, with the assistance of the other accused, he had posted two pictures on Facebook.

Hasanul Haque Mithu

On October 5, 2016, Hasanul Haque Mithu, who runs a motor-parts shop, was arrested in Natore for posting “obscene” material on Facebook involving the prime minister and state minister Alhaj Zunayed Ahmed Palok, after a complaint by Mohammad Sohel Takuder.¹⁸⁶

Mithu was denied bail by the magistrate. On November 8, 2016, he applied for bail at the sessions court, claiming the allegation against him was false and that the “case was filed to harass him politically.”¹⁸⁷ The sessions court judge rejected the bail application stating,

¹⁸³ FIR no. 57, Dagonbhuiyan police station, Feni, January 16, 2016. Two other men, Jamal Uddin, 28, and Kazi Iftekhar Hossain, 23, were also named in the case that was subsequently filed.

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Case no. 4, Singra PS, Natore, October 5, 2016. Md Sohel Takuder stated in his complaint that at about 9 p.m., he logged into Facebook and saw that Mithu, using his Facebook account “Aftab Motors Singra,” had posted the obscene comments.

¹⁸⁷ Criminal Miscellaneous Case No 38749, Bail application to High Court, September 8, 2016.

“All the proof stands against him.”¹⁸⁸ Mithu claims that he had no knowledge of the post and that someone had uploaded the post with a “view to damaging my reputation.”¹⁸⁹

¹⁸⁸ Order 2, Sessions Court, Natore, case no 1996/2016.

¹⁸⁹ Criminal Miscellaneous Case No 38749, Bail application to High Court.

IV. Crackdown on Media

While journalists are among those prosecuted under the ICT Act for their personal Facebook posts that criticize political leaders, a considerable number of cases have also been filed against journalists and editors in Bangladesh under the ICT Act concerning their professional writings. These fall into two categories: cases alleging journalists published allegedly false news about state authorities, and cases alleging journalists defamed someone in their reports.¹⁹⁰

Alleged False News

Sarwar Alam

Sarwar Alam, the publisher and editor of the news website CTN24.com, was arrested in Cox's bazaar on July 15, 2016, for publishing an article reporting the death of an individual that the police said was “false and fabricated.”¹⁹¹ A case was also filed against two other journalists of the news portal—executive editor Islam Mahmood and chief reporter Shahed Mizan—but they managed to escape arrest by going into hiding. Alam was detained for a month before the Cyber Tribunal granted him bail on August 17, 2016.

The arresting officer said in his report, “I asked Sarwar about the news and he informed me that the news had already been removed from the website. After further interrogation, he admitted that the news was in the trash folder of his computer. When asked further, he admitted that he, along with the mentioned acquaintances, had prepared the news and published it with ill-intention in mind.”¹⁹²

Sarwar Alam admitted that the news report had carried inaccurate information, but denies he published it with ill-intention, stating “A dead body was recovered and my news portal

¹⁹⁰ See Annex 2 for table containing details of 15 cases involving 27 accused. The table includes information identified and collated by Odhikar.

¹⁹¹ FIR No-17/498, Cox's Bazaar Sadar Model Thana, based on complaint made by Mohammad Zainul Abedin, Sub-Inspector, Cox's Bazaar Sadar Thana, July 15, 2016. Copy on file with Human Rights Watch.

¹⁹² Ibid.

reported the incident with the wrong identity of the deceased person.”¹⁹³ The police had not filed a charge sheet and the investigation officer had been moved to another police station, with no new investigation officer appointed, at time of writing. Since obtaining bail, Alam attended court seven times at time of writing. The two other accused journalists remain in hiding.¹⁹⁴

Nazmul Huda

On December 23, 2016, Nazmul Huda, a reporter at Ekushey Television and the newspaper *Bangladesh Pratidin*, was arrested for his reporting on protests by garment workers. The police said that he instigated the workers to continue their protests through his reporting.¹⁹⁵ He was accused of publishing “false information” using “his mobile phone and laptop,” stating the workers were demanding a 15,000 taka (USD 181) monthly salary along with a set of 16 demands.¹⁹⁶

He was also accused of writing a second article, published in the *Bangladesh Pratidin* on December 22, 2016, which allegedly included four inaccurate sentences.¹⁹⁷ The complaint, filed by the police, claimed “The false news of the mentioned defendant has created discontent among the garment workers. It has also attempted to break the reputation of the government, and to create chaos within our law enforcement system.”¹⁹⁸ A case was filed against Huda under section 57 of the ICT Act. Not only do the allegations fail to explain how the reports can cause “discontent” or “chaos,” the complaint falsely accuses Najmul of reporting that 600 factories in Ashulia were “closed.”¹⁹⁹

¹⁹³ Human Rights Watch phone interview with Sarwar Alam, May 20, 2017.

¹⁹⁴ Human Rights Watch phone interview with Sarwar Alam, January 24, 2018.

¹⁹⁵ The FIR, filed by SI Shahdat Hossain in Ashulia Thana, stated that three days earlier ‘through his mobile phone and laptop’ Huda sent false information to the *Daily Bangladesh Pratidin*. Case no. 46, December 12, 2016, Ashulia Thana, Dhaka.

¹⁹⁶ Ibid.

¹⁹⁷ The relevant sentences were: “long route public buses on the Abdullahpur-Bypile road had been stopped from the previous day ... there are more than 600 garments factories in Savar and Ashulia area ... the police did not allow any vehicle through the Bypile road ... other than the 55 closed factories, workers of other factories came to their workplaces, but did not work.”

¹⁹⁸ Case no. 46, December 12, 2016, Ashulia Thana, Dhaka.

¹⁹⁹ Ibid.

Huda says that on the day of his arrest, a police officer invited him to a press conference at the Ashulia police station, but when he arrived, several police officers bundled him into a vehicle, blindfolded him, and then beat him. “I was taken to different places and threatened with crossfire²⁰⁰,” Huda said.²⁰¹ He says that after several hours, in the early hours next morning, he was handed over to the Detective Branch of the police, from which he was taken to the Savar government hospital for treatment for injuries sustained from police beatings. Later that day, he was taken to court and remanded into police custody.

Although the Cyber Tribunal granted bail on January 23, 2017, Huda was only released after he received bail for a number other cases that had been filed against him during the same period.²⁰² The investigation is continuing and no charges had been submitted at time of writing.

Robiullah Robi, Atiqur Rahman, and Rafique Mohammad

On January 16, 2014, three journalists from the newspaper *Daily Inquilab*, Robiullah Robi, the diplomatic correspondent, and reporters Atiqur Rahman (Ahmed Atiq) and Rafique Mohammad, were arrested for publishing an allegedly false report that said Indian security forces had taken part in operations in Bangladesh’s Satkhira district ahead of the January 5, 2014 parliamentary polls. The newspaper printing press was also sealed off. Senior correspondent Afzal Bari was initially detained, but later released.²⁰³

The three journalists were taken to the office of the police Detective Branch in Dhaka and were produced before the court the following day. Robi and Rahman were remanded into police custody for two days before being sent to jail, while Mohammad was sent directly to

²⁰⁰ In Bangladesh “crossfire” is the euphemism of an extrajudicial execution.

²⁰¹ David Bergman and Muktadir Rashid, “How Repressive Law Enforcement Crushed Minimum Wage Protests in Bangladesh’s Garment Sector,” *The Wire*, February 2, 2017, <https://thewire.in/104737/bangladesh-garment-workers-minimum-wage/> (accessed October 27, 2017).

²⁰² Md Sanaul Islam Tipu, “Journalist Nazmul Huda gets bail,” *Dhaka Tribune*, January 23, 2017, <http://archive.dhakatribune.com/crime/2017/jan/23/journalist-nazmul-huda-gets-bail> (accessed October 27, 2017).

²⁰³ Committee to Protect Journalists, “Bangladesh arrests three journalists, raids news outlet,” January 17, 2014, <https://cpj.org/2014/01/bangladesh-arrests-three-journalists-raids-news-ou.php> (accessed November 4, 2017)

jail. On February 20 and 21, 2014, the High Court gave the three men bail.²⁰⁴ The police have not yet submitted a charge sheet to the Cyber Tribunal at time of writing.²⁰⁵

Alleged Defamatory Reports

The ICT Act has also been used in cases of alleged defamation along with other charges.

Robiullah Robi

On August 19, 2014, Robiullah Robi,²⁰⁶ of the *Daily Inquilab* was arrested for alleged violations under the ICT Act relating to an article claiming that Prolal Kumar Joardar, a former protocol officer of Prime Minister Sheikh Hasina, had abused his authority in recruiting and transferring police officials, and in selecting officers to participate in UN peacekeeping missions, including by favoring Hindus.²⁰⁷ Joardar complained of defamation, saying that Robi had published an article that contained false and baseless information that hurt religious sentiment, spread negative news about the police force, created confusion among the general public, and tried to ruin law and order.²⁰⁸

The police also lodged an FIR naming the editor and the chief reporter of the paper and seized two computers used in writing and editing the report. Robi was jailed for six months before receiving bail. The High Court stayed the case on April 12, 2018.²⁰⁹

Shahnewaz Khan Sumon, Sajjad Hossain, and Six Others

In November 2014, a local Awami League leader and city mayor, Saidul Karim Mintu, filed a complaint against eight reporters following articles published two months earlier by two newspapers, the *Daily Nayadiganta* and *Bangladesh Protidin*, which had accused him of corruption. A number of the journalists argued that they were only named in the case

²⁰⁴ Human Rights Watch phone interview with Robiullah Robi, May 20, 2017.

²⁰⁵ Human Rights Watch phone interview with Atiqur Rahman, April 18, 2018.

²⁰⁶ Committee to Protect Journalists, 2014 prison census - Bangladesh: Rabiullah Robi, December 17, 2014, <http://www.refworld.org/docid/5498051911.html> (accessed November 4, 2017).

²⁰⁷ Robiullah Robi was also previously detained for writing another article under the ICT Act, as described in the section above.

²⁰⁸ FIR case no. 18, Wari Thana, Dhaka, August 19, 2014.

²⁰⁹ Human Rights Watch phone interview with Robiullah Robi, April 18, 2018

because the mayor was critical of reports that they had published in the past about him. The police took no immediate action, but on April 30, 2015, Shahnewaz Khan Sumon, the Jhenaidah correspondent of *Somoy TV*, was arrested and detained for three months before receiving bail on August 4, 2015.²¹⁰ Sajjad Hossain, from *Amader Orthoniti*, was arrested on May 1, 2015, and remained imprisoned until the Cyber Tribunal granted him bail 41 days later. Sheikh Ruhul Amin, of *Bangladesh Protidin*, evaded arrest and secured anticipatory bail.

Shahnewaz Khan said that he was named in the case and arrested even though he was not involved in reporting on the corruption allegations. “I was summoned to the Sadar police station. I went there and was then arrested under the ICT case filed by the mayor even though I had not reported anything regarding his corruption. I was the victim of the mayor’s previous anger towards me.”²¹¹ He said the mayor was annoyed with him about a TV report broadcast in May 2014, in which a victim’s wife had accused Mayor Mintu of murder.

Sajjad Hossain, from *Amader Orthoniti*, says that he was arrested in Jhenaidah town, not for his journalism, but because of a personal rivalry with another reporter close to the mayor. “I was also an accused in the case filed by the mayor, although I did not report anything about the mayor’s corruption and wrong deeds. I was taken to the city police station where a sub-inspector blindfolded me and tortured me.”²¹² As of February 2018, police had not submitted a charge sheet, but the accused had to make repeated appearances before the district court.²¹³

Joton Chandra Ghosh and Omar Farouq Sumon

In June 2015, a local civil servant in Mymensingh, Abdul Awaal, filed a case against journalists Joton Chandra Ghosh and Omar Farouq Sumon, claiming they wrote reports about him that were defamatory, accusing him of corruption.

²¹⁰ Following his arrest on the ICT charge, he was subsequently charged in two cases involving alleged violence said to have been carried out by opposition activists.

²¹¹ Human Rights Watch phone interview with Shahnewaz Khan, May 20, 2017.

²¹² Human Rights Watch phone interview with Sajjad Hossain, May 20, 2017.

²¹³ Human Rights Watch phone interview with Sajjad Hossain, January 29, 2018.

In the complaint, Awaal alleged that on June 2, 2015, Ghosh published “false, fabricated, and baseless news” on the news website Oporad Sangbad, then posted the article on Facebook. He further alleged that a week later, on June 9, Omar Farouq Sumon published a report on the same issue on another website. Awaal stated in his complaint that, “I have been performing my duty as UNO²¹⁴ with [the] utmost integrity but a vested quarter is trying to taint my image by publishing those false and fabricated news and [posting] the news on FB.”²¹⁵ Sumon was arrested on August 6, obtained bail on November 15, 2015, and was again detained during his trial in November 2016. Ghosh was detained when he surrendered to the court during the trial. Both men were acquitted on November 24, 2016.

Abu Al Moursalin Babla

Mir Mojammel Ali, a member of the Awami League, filed a complaint on March 25, 2017 against Abu Al Moursalin Babla, 45, the editor of daily *Juger Chinta* in Narayanganj and special correspondent at Channel-I, accusing him of publishing an article which was “completely false, fabricated, groundless and defamatory” resulting in negative implications for his “family, social and political image.”²¹⁶ The article claimed that Ali had taken for his own use most of the government rice he had received for distribution in his local area and also accused him “of controlling the extortion, drugs, jute, and stolen oil sectors in that area.”²¹⁷ Babla said that the report was “factual and authentic.”²¹⁸ He has avoided arrest by obtaining anticipatory bail and subsequently received bail. As of February 1, 2018, the investigation remained active but no charge sheet had been submitted.²¹⁹

Golam Mujtaba Dhruba

Golam Mujtaba Dhruba wrote an article for bdnews24.com about a heated exchange involving staff members of Manikganj court who refused to move a truck blocking the road as a family was trying to take a sick child to a hospital on motorcycle. Court staff members

²¹⁴ Upazila Nirbahi Officer, a district official.

²¹⁵ FIR lodged at Haluaghat police station, Mymensingh, June 16, 2015.

²¹⁶ FIR no 85/268, Fotulla Model Thana, Narayanganj, March 25, 2017.

²¹⁷ Ibid.

²¹⁸ Human Rights Watch phone interview Abu Al Moursalin Babla, May 22, 2017.

²¹⁹ Human Rights Watch phone interview with Abu Al Moursalin Babla, February 1, 2018.

reportedly told the family that the truck would not move until they had finished shifting the belongings of a judge, Mahbubur Rahman.

On June 13, 2017, Rahman filed a complaint with the police saying that the article published by the news website had falsely accused him of having “pushed” a “child to the ground.” He complained that the article “made me a villain before the 20 Crore people of this country” and had “disrespected the image of all the 1600 judges in this country... [and] damaged the image of the judicial system.”²²⁰ Dhruba was not arrested. As of February 1, 2018, the investigation was still pending.²²¹

Saiful Islam Chowdhury

Saiful Islam Chowdhury, editor and publisher of www.ebakkhali.com²²² in Cox’s Bazar, was arrested on October 5, 2016 following a complaint by a medical college lecturer, Dr. Abdus Salam. Salam complained about an article and cartoon on the website that he said defamed and mocked him.²²³ According to Chowdhury, who is involved in local Awami League politics, police persuaded Dr. Salam to lodge the case following an article the website published on corruption in police recruitment. He said:

Another newspaper published a story on corruption of a physician at Cox’s Bazar Medical College. On October 1, I published the news in my newspaper along with a satirical cartoon. Some people then posted the cartoon on social media and this went viral. Following this, my paper published another report on corruption in police constable recruitment. The police were angry and on October 5, they got the physician Abdus Salam to file an FIR and I was arrested a few hours after the case was registered.”²²⁴

Chowdhury said that his detention in jail was irregular. “The police took me to Cox’s Bazar police station and did not produce me before the court,” he said. “My supporters and local

²²⁰ FIR filed in Manikganj Sadar Thana, Dhaka, June 13, 2017.

²²¹ Human Rights phone interview with Golam Mujtaba Dhruba, February 1, 2018.

²²² The news website is no longer online.

²²³ Coxsbazar Sadar Model police station, case no. 08, October 5, 2016. Copy on file with Human Rights Watch.

²²⁴ Human Rights Watch phone interview with Saiful Islam Chowdhury, May 20, 2017.

journalists rushed to the police station which prompted police officers to send me to jail without even going to the court.”

The journalist was detained for five weeks and was granted bail by the Cyber Tribunal on November 9, 2016. At the time of writing, the police had not submitted a charge sheet.

Alleged Personal Defamation on Social Media

Aside from defamation allegations against journalists for their professional work, there are also cases claiming defamation filed under the ICT law by politicians and others against individuals (some of whom also happen to be journalists) writing on Facebook and other social media.²²⁵

Probir Sikdar

On August 15, 2015, Probir Sikdar, editor of the online news portal *Uttoradhikar 71News*, was arrested in Dhaka following a complaint filed by Swapan Kumar Paul, a leader of the Awami League. Paul said Sikdar had "tarnished the image" of an Awami League cabinet minister on Facebook.²²⁶

Earlier that month, Sikdar had warned on his personal Facebook page that if anything “happened to him,” minister Khandaker Mosharraf Hossain, businessman Moosa bin Shamser, and a fugitive convicted of 1971 war crimes, Abul Kalam Azad, “should be held responsible.” Sikdar made these comments after receiving threats following an article he had published on his website concerning alleged war crimes committed in 1971.²²⁷

²²⁵ See Annex 3 for table containing details of 11 cases. The table includes information identified and collated by Odhikar.

²²⁶ “Journalist Probir sent to jail,” *Daily Star*, August 17, 2015, <http://www.thedailystar.net/country/journalist-probir-sent-jail-128287> (accessed October 29, 2017).

²²⁷ Probir Sikdar says that when he approached police in Dhaka about the threats, they refused to accept his General Diary (GD) complaint because it mentioned the minister’s name. On August 10, 2015, Probir Sikdar then posted a copy of the GD form which he had filled in at the police station on Facebook along with a message expressing fear that his life was in danger.

After a media outcry, Sikdar was released on bail on August 19.²²⁸ Police filed charges before the Cyber Tribunal on April 16, 2016, and the case was at trial at time of writing.²²⁹

Tasnuva Rahman

Tasnuva Rahman, a teacher at Natore government Girls High School, was arrested on February 13, 2016, after Mohammad Sayed Hasan, a friend of the local member of parliament Mohammad Shafiqul Islam Shimul, alleged that she had uploaded a distorted photograph of Shimul's wife and posted it on Facebook along with defamatory remarks. Rahman was detained for six weeks before the High Court granted bail on March 28, 2016.

The complaint accused Rahman of publishing the photograph and comments with an intent to humiliate her for her attire.²³⁰ Rahman, however, says that she herself is comfortable wearing jeans. "I wrote a post on Facebook saying what was wrong if I wear jeans instead of traditional *salwar-kameez* and *shari*. It was nothing more than that." She says that her outspoken attitude caused resentment among many local leaders and resulted in the case being filed. The police submitted a charge sheet to the Cyber Tribunal on April 5, 2017 and the case was dismissed on the first day of hearing on January 9, 2018.²³¹

Hasan Ali and Aslam Ali

On March 30, 2017, Hasan Ali—a journalist working for the TV station Bangla Vision, the website bdnews24.com, and the newspaper, *The Doinik Barta*—and Aslam Ali, a staff reporter at the newspaper *Kushtiar Darpon*, were arrested following an allegation made by Hasibur Rahman Riju that the two journalists had made defamatory remarks on the Facebook page "Sultan Eslam."²³² Riju said in his complaint to Kushtia police station that a

²²⁸ "Journalist Probir Sikdar released on bail," *Daily Star*, August 19, 2015, <http://www.thedailystar.net/country/journalist-probir-sikdar-gets-bail-129166> (accessed October 27, 2017); "Journalist Probir Sikdar freed on bail," *Dhaka Tribune*, August 19, 2015, <https://www.dhakatribune.com/bangladesh/2015/08/19/journalist-probir-sikdar-freed-on-bail/> (accessed October 27, 2017). Sikdar's lawyer assured the court, "He is ill, he is a professor and he is the bloodline of a martyred family of the Liberation War. If he gets bail, he will not flee."

²²⁹ Human Rights Watch phone interview with Probir Sikdar, January 29, 2018.

²³⁰ FIR case no. 17, Natore Police Station, Rajshahi, February 12, 2016.

²³¹ Human Rights Watch phone interview with Tasnuva Rahman April 18, 2017.

²³² FIDH, "Bangladesh: Release on bail of Hasan Ali and Aslam Ali, two journalists associated with Odhikar," June 2, 2017, <https://www.fidh.org/en/issues/human-rights-defenders/bangladesh-release-on-bail-of-hasan-ali-and-aslam-ali-two-journalists> (accessed November 4, 2017).

tea stall worker, Miraz, had confirmed the two journalists used his phone to publish the post that “defamed” his character and “offended” him in front of his family.²³³

Hasan Ali, however, claimed the story was fabricated. “As a journalist and human rights activist, I stand by the side of victims and give them advice and other help,” he said.

I also write news about enforced disappearances and killing[s] in custody, and because of this, the police are very angry with me. On several occasions in the past, police officials have threatened me, and taken me to the police station based on baseless and trivial complaints, and [tried] to get me to suffer though they know I am innocent.²³⁴

He argued that he was targeted because he reported on a case of sexual abuse by a police officer. The police officer, he said, “has targeted me and on several occasions, threatened, and insulted me. The current case against me is part of his vindictive plan against me.”²³⁵

Aslam and Ali were initially released after journalist colleagues came to the police station, but after having received interim bail from the High Court, they were later jailed for 11 days when they surrendered to the lower court.²³⁶ The police submitted a charge sheet and the first hearing at the Cyber Tribunal was on January 4, 2018.²³⁷

Afsan Chowdhury

On June 5, 2017, retired army officer, Lt. General Masud Uddin Chowdhury filed a complaint at Gulshan police station against the columnist and lecturer Afsan Chowdhury for “false”

²³³ FIR case no-38, Kushtia police station, Kushtia, March 30, 2017.

²³⁴ Application to deputy commissioner, Zahir Rahman and police superintendent SM Mehdi Hasan, March 30, 2017.

²³⁵ Ibid.

²³⁶ “Two Kushtia journalists sent to jail in ICT case,” *New Age*, May 10, 2017, <http://www.newagebd.net/print/article/15302> (accessed Nov 4, 2017). They had received interim bail from the High Court on April 11, 2017 but were ordered to surrender to the magistrate court within a month. When the two men did so on May 9, the magistrate court in Kushtia sent them to jail.

²³⁷ Conversation with accused, Hasan Ali on February 24, 2018

comments on Facebook.²³⁸ In the complaint, the retired army officer said that on May 7, Chowdhury, “with ill-intention to taint my social reputation,” suggested on Facebook that he was the father of a suspect involved in a recent high-profile rape case.²³⁹ He said that none of his family members had been linked to the case.

The police did not arrest Chowdhury but on June 11, according to a subsequent bail application, plainclothes police went to Chowdhury’s house when he was not present and enquired about him with the gatekeeper.²⁴⁰ On June 12, Chowdhury obtained interim bail from the High Court for one month, which was subsequently extended. No charge sheet has been submitted at the time of writing.²⁴¹

²³⁸ Arifur Rahman Rabi, “Afsan Chowdhury sued under Sec 57 of ICT Act,” *Dhaka Tribune*, June 7, 2017, <http://www.dhakatribune.com/bangladesh/crime/2017/06/07/afsan-chowdhury-sued-sec-57/> (accessed November 4, 2017).

²³⁹ FIR no 6, Gulshan police station, Dhaka, June 5, 2017.

²⁴⁰ Application for bail on behalf of Afsan Chowdhury.

²⁴¹ “High Court grants Afsan Chowdhury anticipatory bail in ICT case,” *bdnews24.com*, June 12, 2017, <https://bdnews24.com/bangladesh/2017/06/12/high-court-grants-afsan-chowdhury-anticipatory-bail-in-ict-case> (accessed November 4, 2017).

V. Offending Religious Sentiment

Section 57 has been used to prosecute people for using social media to hurt religious belief.²⁴²

Mashiur Rahman Biplob, Rasel Parvez, Subrata Adhikary Shuvo Rahman, and Asif Mohiuddin

Mashiur Rahman Biplob, Rasel Parvez, and Subrata Adhikary Shuvo Rahman were arrested on April 1, 2013 in Dhaka, for hurting the religious sentiment of people and insulting Islam with “derogatory comment[s] about the Prophet Mohammad” on Facebook and in various blogs. Blogger Asif Mohiuddin was arrested two days later. The arrests took place two weeks after the government formed a committee to identify and prosecute those who made offensive statements against Islam and its Prophet.²⁴³

Biplob, a business partner of a web development company in Mirpur, wrote online about contemporary politics, science, and literature. Parvez was a school teacher in Dhaka, and Shuvo a student at Dhaka university. All three were initially arrested under section 54 of the Code of Criminal Procedure. Subsequently, police also filed a criminal case under section 57 of the ICT Act. On May 12, 2013, the High Court granted bail.²⁴⁴

On February 16, 2014, hearing an appeal from the accused, the High Court passed an order asking the government to explain why the proceedings should not be quashed, and stayed the criminal proceedings.²⁴⁵

²⁴² See Annex 4 for table containing details of 8 cases involving 20 accused. Odhikar helped collate the information.

²⁴³ The government was under pressure to take actions against so called “atheist bloggers” by the political movement Hefazet-e-Islam.

²⁴⁴ “Four bloggers’ cases on hold,” *bdnews24.com*, February 16, 2014, <https://bdnews24.com/bangladesh/2014/02/16/four-bloggers-cases-on-hold> (accessed November 4, 2017); “Bangladesh: Crackdown on Bloggers, Editors Escalates,” Human Rights Watch news release, April 15, 2013, <https://www.hrw.org/news/2013/04/15/bangladesh-crackdown-bloggers-editors-escalates> (accessed November 4, 2017).

²⁴⁵ Court ruling passed pursuant to Criminal Misc Case No 10905/2014, Dhaka High Court, February 16, 2014.

Mohan Kumar Mondal and Shawkat Hossain

On September 26, 2015, Mohan Kumar Mondal, 40, executive director of Leaders, an NGO, and his colleague Shawkat Hossain, 36, were arrested by Shyamnagar police in Satkhira.²⁴⁶ They were detained after Akbar Kabir, a local Awami League leader, filed a police complaint alleging that Mondal had mocked Haj pilgrimage to Mecca. They were jailed until the Cyber Tribunal granted bail on November 29, 2015.

Mondal had criticized Saudi Arabia's security arrangements during the Haj on Facebook, and the way in which it had dealt with dead bodies after a stampede on September 24, 2015 killed hundreds of people. The post questioned the rationality of the Muslim ritual of throwing stones at devils during Haj, suggesting, "such devils were roaming everywhere."²⁴⁷ Mondal says the complainant, Akbar Kabir, is an associate of local lawmaker SM Jaglul Hayder, with whom he had a disagreement. Mondal said, "Akbar Kabir called me over the cellphone on September 26 and asked me to meet him. I went to Garage Bazar area around 12 p.m. along with Showkat. Akbar and Kabir's people called the police and handed us over to them."²⁴⁸

Police submitted a charge sheet against Mondal in January 2016, but not against Showkat, and the trial started soon after. As of February 2018, nine witnesses had testified at the tribunal and the case was due to end soon.²⁴⁹

Sujan Mohanta

On February 1, 2017, Sujan Mohanta, 27, a roadside vendor, was arrested by police in Joypurhat in Dinajpur for allegedly posting on Facebook a picture that insulted Islam. Sujan's wife, Boby Mohanta, told journalists, "Somebody took Sujan's phone and posted

²⁴⁶ "2 arrested for Facebook status on hajj," *Daily Star*, September 26, 2015, <https://www.thedailystar.net/country/2-arrested-facebook-status-hajj-148192> (accessed May 30, 2018).

²⁴⁷ "Bangladesh: Another victim of the ICT Act - Mohon Mondal detained" Article 19, October 21, 2015, <https://www.article19.org/resources.php/resource/38154/en/bangladesh:-another-victim-of-the-ict-act---mohon-mondal-detained> (accessed October 27, 2017).

²⁴⁸ Human Rights Watch phone interview with Mohan Kumar Mondal, May 31, 2017.

²⁴⁹ Human Rights Watch phone interview with Mohan Kumar Mondal, January 24, 2018.

something on Facebook. My husband can't post such a thing on Facebook as he knows its consequences.”²⁵⁰

The Facebook post is said to have sparked tension in the area, with about 50 people demonstrating in the municipality headquarters.²⁵¹ Police were deployed at Sujan's home, Hindu temples, and mosques in the area. The case remains under investigation at time of writing.

²⁵⁰ “Vendor held for ‘insulting Islam,’” *Daily Star*, February 3, 2017, <http://www.thedailystar.net/backpage/vendor-held-insulting-islam-1355404> (accessed October 27, 2017).

²⁵¹ *Ibid.*

VI. Recommendations

To the Government of Bangladesh

- Publicly uphold the right to free speech including criticism and dissent.
- Immediately act on the government's pledge to repeal section 57 of the ICT Act.
- Ensure the proposed Digital Security Act, drafted to replace the ICT Act, conforms to international standards for the protection of freedom of expression, as set forth in the International Covenant on Civil and Political Rights and as interpreted by the UN Human Rights Committee and UN mechanisms, such as the UN special rapporteur on the promotion of the right to freedom of opinion and expression.
- Establish policies and procedures to counter hate speech through public campaigns and measures tailored to specific threats. This could include public education, promotion of tolerance, publicly countering libelous or incendiary misinformation, and strengthening security to protect threatened populations.
- Instruct police and other law enforcement departments, including RAB and DGFI, to uphold their duty to protect individuals threatened for their speech, and hold them accountable when they fail to do so.
- Pending repeal or amendment of the ICT Act, call upon the attorney general to inform prosecutors that arrests and prosecutions for peaceful speech should fully respect the standards of freedom of expression as set out in the ICCPR as interpreted by the Human Rights Committee. In general, prosecutions should be limited to speech intended to and likely to incite violence, discrimination, or hostility against an individual, or clearly defined group of persons in circumstances in which such violence, discrimination, or hostility is imminent and alternative measures to prevent such conduct are not reasonably available.
- Issue clear guidelines to the police and prosecutors that criticism or insult of the government or government policies or state institutions cannot be the basis of arrest or prosecution.
- Instruct all police departments that decisions on whether to arrest someone for speech should not be based on arbitrary claims of offended sentiment and threats of violence by those offended. Decisions to arrest someone for speech should be based solely on an evidentiary assessment of whether incitement to violence or other harms has occurred, consistent with applicable international freedom of expression law and standards.
- Instruct prosecutors that that all suspects facing charges and trials should be promptly released from detention unless there is strong and clear evidence that the

- suspects are likely to flee, destroy evidence, or interfere with the investigation, and detention is necessary and proportionate: detention should be the exception not the rule. All detainees should be brought promptly before a judge to review the legality and necessity of their detention.
- Introduce education programs for all prosecutors to ensure that they are fully aware of international freedom of expression law and standards. Cases involving publication of intimate photos without consent raise concerns separate from the speech cases addressed in this report, and should be addressed by legal provisions specifically dealing with the issue.

To Donors and Key Influential Governments including the US, UK, China, and India

- Urge Bangladesh to protect the rights to peaceful expression and assembly, including through the reforms detailed in the recommendations above.
- Regularly and publicly raise concerns about the arrests of bloggers, writers, journalists, and members of the public for exercising their right to freedom of expression; urge that all charges against them to be dropped; and call for the immediate release of those already imprisoned for doing so.
- Encourage Bangladesh to invite the UN special rapporteur on the promotion and protection of the right to freedom of opinion and expression on a fact-finding visit.
- Offer assistance to train police, prosecutors, and judges in international law and standards on freedom of expression and assembly.

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Annex 1: Examples Concerning Political Criticism on Social Media²⁵²

Name	Date of Arrest	Case Details
AKM Fahim Mashroor, CEO, bdjobs.com	April 25, 2018	Arrested after a student activist of the governing party filed a case alleging he was sharing “propaganda and misleading information” and posting Facebook status updates “belittling the prime minister.” ²⁵³
Imran Sarkar, Rezaul Haque, Rumana Chowdhury, Romij Uddin, Md. Hasan, and others	April 8, 2018 (case filed)	Case filed by a police officer alleging that in relation to the students protests over civil service job quotas, 40 Facebook posts were “used to propagate false and fabricated information” resulting in “deteriorating the law and order situation in Bangladesh.” ²⁵⁴
Harun ar Rashid, BNP voluntary wing leader	Feb. 4, 2018	Arrested in Lalmonirhat for allegedly posting on Facebook a ‘caricature’ of Prime Minister Sheikh Hasina and making an ‘offensive’ comment. ²⁵⁵
Md Helal	Jan. 26, 2018	Arrested in Lakshmipur for allegedly distorting the image of the prime minister on Facebook. ²⁵⁶
Noor Mohammed	Jan. 7, 2018	Arrested in Narayangaj for Facebook comments against the prime minister, her son Sajib Wazed, the general secretary of the Awami League, Obaidul Kader,

²⁵² This data was collected in collaboration with Odhikar. We include citations only in cases not independently investigated and discussed in the report.

²⁵³ “Case Under ICT Act: Bdjobs CEO held, freed upon bond,” *The Daily Star*, April 26, 2018,

<https://www.thedailystar.net/frontpage/case-under-ict-act-bdjobs-ceo-held-freed-upon-bond-1567879> (accessed April 26, 2018).

²⁵⁴ Copy of FIR lodged by Cyber Security and Crime Unit, Counter Terrorism and Transnational Crime Unit, Dhaka Metropolitan Police, with Human Rights Watch

²⁵⁵ Article published in Bengali, *Purboposhchimbd.news*, February 5, 2018 (accessed on February 6, 2018).

²⁵⁶ “Young man detained concerning picture of prime minister,” *Manobjomin*, January 27, 2018, <http://www.mzamin.com/details-archive2016.php?mzamin=102316> (accessed April 11, 2018).

		the finance minister Abul Maal Abdul Muhit and the shipping minister, Shajahan Khan. ²⁵⁷
Abu Salek	Dec. 20, 2017	Arrested in Brahmanbaria for allegedly posting on Facebook objectionable images of the prime minister, and Ahmed Shafi, leader of Hefazet-e-Islami. ²⁵⁸
Mainul Islam, Jamaat-e-Islami activist	Dec. 19, 2017	Arrested in Jhalokhati for alleged objectionable Facebook comment about the prime minister. ²⁵⁹
Anisur Rahman, local reporter, Daily Sangbad	Oct. 31, 2017	Arrested in Kurigram for allegedly publishing on Facebook a distorted picture of the prime minister. ²⁶⁰
Professor Huda, Vice President, Satkhira BNP	Oct. 29, 2017	Arrested in Satkhira for allegedly sharing a post containing objectionable remarks about the prime minister. ²⁶¹
Rashikul Islam	Oct. 14, 2017	Arrested in Rajshai for allegedly posting derogatory comments about the prime minister on Facebook. ²⁶²
Shila Khalrun	Oct. 1, 2017	Arrested in Natore after allegedly using abusive words about the prime minister. ²⁶³
Imon Biswas, Joint Secretary of Meherpur town youth wing of BNP	Sep. 17, 2017	Arrested after allegedly publishing a derogatory statement about the prime minister on Twitter. ²⁶⁴

²⁵⁷ "Insult to prime minister on Facebook: Narayanganj Jamaat worker arrested," *Jugantor*, January 8, 2018 (access April 11, 2018)

²⁵⁸ Article published in Bengali, *Manobjoin*, December 22, 2017.

²⁵⁹ "Shibir activist arrested in Jhalakathi over objectionable comments about PM," *Jugantor*, December 20, 2017, <https://www.jugantor.com/news-archive/bangla-face/2017/12/20/181010/> (accessed April 11, 2018).

²⁶⁰ "Journalist in Jail under Section 57," *Bangladesh Protidin*, November 2, 2017, <http://www.bd-pratidin.com/country-village/2017/11/02/277304> (accessed April 11, 2018).

²⁶¹ "Bangladesh leader arrested under section 57," *Bangladesh Protidin*, October 30, 2017, <http://www.bd-pratidin.com/country-village/2017/10/30/276415> (accessed April 11, 2018).

²⁶² "Youth arrested for negative comment on prime minister," *Manobjoin*, October 16, 2017, <http://www.mzamin.com/details-archive2016.php?mzamin=87640> (accessed April 11, 2018).

²⁶³ "Woman arrested in Natore for negative comment on prime minister,"

Naya Diganta, October 3, 2017, <http://www.enayadiganta.com/news.php?nid=357321> (accessed April 11, 2018).

²⁶⁴ "Meherpur Jubo Dal Leader beaten after commenting on prime minister's Facebook page," *Manobjoin*, September 19, 2017 <http://www.mzamin.com/details-archive2016.php?mzamin=83618> (accessed April 11, 2018).

Raihan Hossain, BNP student activist	Sep. 27, 2017	Arrested in Laxmipur for allegedly publishing derogatory statements on Facebook about the prime minister and her father, Sheikh Mujibur Rahman. Case was filed by an Awami League activist. ²⁶⁵
Lelin Khan, vice-president of BNP students-wing in Narail	Aug. 10, 2017	Arrested in Narail for allegedly posting a distorted photograph of the Prime Minister Sheikh Hasina and of ex-home minister Sahara Khatun on Facebook. ²⁶⁶
Rafiq Molla	Aug. 6, 2017	Arrested in Rajbari for allegedly posting on Facebook caricatures of the prime minister. ²⁶⁷
Abdul Latif Moral	Jul. 28, 2017	Arrested in Kulna for allegedly sharing an article on Facebook titled “Goat given by minister of state in the morning, dies at night” with an “intention to defame the minister of state.” ²⁶⁸
Amir Hamza, 35, BNP youth wing member	Jul. 27, 2017	Arrested in Kishoreganj for allegedly uploading on Facebook cartoons of the former president Zia-ur-Rahman and Prime Minister Sheikh Hasina. ²⁶⁹
Ramjan Ali, 23	Jul. 24, 2017	Arrested in Habiganj for allegedly posting on his Facebook page a distorted image of the prime minister. ²⁷⁰
Dr Selim Kaji	Jul. 21, 2017	Arrested in Shariatpur for allegedly posting derogatory photos of the prime minister, former foreign minister, Dipu Moni, Food Minister Kamrul Islam and others. ²⁷¹

²⁶⁵ “Chhatra Dal activist arrested for giving objectionable status on Facebook,” *Manobjomin*, September 28, 2017, <http://www.mzamin.com/details-archive2016.php?mzamin=85027> (accessed April 11, 2018).

²⁶⁶ “JCD leader held under ICT act in Narail,” *The Observer*, August 11, 2017, <http://www.observerb.com/details.php?id=89045> (accessed April 11, 2018).

²⁶⁷ “This time case under section 57 in Rajbari,” *Prothom Alo*, August 7, 2017, at <http://www.prothom-alo.com/bangladesh/article/1279966/> (accessed April 11, 2018).

²⁶⁸ “Khulna journalist arrested over Facebook post on state minister for livestock, dead goat,” *bdnews24.com*, August 1, 2017, <https://bdnews24.com/media-en/2017/08/01/khulna-journalist-arrested-over-facebook-post-on-state-minister-for-livestock-dead-goat> (accessed April 11, 2018).

²⁶⁹ “One arrested in Bhairab for distorting prime minister’s picture on Facebook,” *Jugantor*, July 29, 2017, <https://www.jugantor.com/bangla-face/2017/07/29/143783> (accessed April 11, 2018).

²⁷⁰ “Offensive Facebook post, youth arrested in Madhabpur,” *Manobjomin*, July 26, 2017, <http://www.mzamin.com/details-archive2016.php?mzamin=75715> (accessed April 11, 2018).

²⁷¹ “One Arrested in Shariatpur for insult to prime minister” *Jugantor*, July 22, 2017.

Imtiaz Mahmood, lawyer	Jul. 21, 2017	Case filed against him for alleged Facebook posts which sought to “instigate communal violence” in Chittagong Hill Tracts area. ²⁷²
Nazmul Hossain and three others	Jul. 3, 2017	Arrested for allegedly publishing on Facebook a post that “ridiculed the department of justice.” Three others who also shared the post secured interim bail.
Hasan Ali, 45, BNP activist	Jun. 12, 2017	Arrested in Ashulia for allegedly posting caricatures on Facebook of Prime Minister Sheikh Hasina, Home Minister Asaduzzaman Khan Kamal, Information Minister Hasanul Haq Inu, Awami League joint general secretary Mahbubul Alam Hanif, and the son of the prime minister, Sajeed Wazed. ²⁷³
Maksuda Akhter Sumi, 22	May. 22, 2017	Arrested for allegedly posting on Facebook derogatory comments about the prime minister. ²⁷⁴
Sheikh Noman	Apr. 21, 2017	Arrested in Moulvi Bazaar for allegedly criticizing on Facebook the Chief Justice for “attending different political programs.” ²⁷⁵
Monirul Islam and Kabir Islam	Apr. 13, 2017	Arrested in Srimongal for allegedly liking and sharing a Facebook post containing “objectionable” photographs and comments about the Indian and Bangladesh prime ministers. ²⁷⁶
Shahed Alam	Apr. 10, 2017	Arrested in Lakshmipur for uploading on Facebook derogatory comments about the prime minister. ²⁷⁷

²⁷² “SC lawyer sued under section 57,” *Daily Star*, July 23, 2017, <https://www.thedailystar.net/backpage/sc-lawyer-sued-under-section-57-1437289> (accessed April 19, 2018).

²⁷³ “Satirical picture of prime minister: man detained in Ashulia,” *Jugantor*, June 14, 2017, <https://www.jugantor.com/news-archive/second-edition/2017/06/14/132647/> (accessed April 11, 2018).

²⁷⁴ “A facebook user is arrested for posting derogatory comments regarding Prime Minister in Dinajpur,” *Naya Diganta*, May 23, 2017, <http://m.dailynayadiganta.com/detail/news/222271> (accessed April 11, 2018).

²⁷⁵ Saiful Islam, “Youth who criticized Chief Justice on Facebook arrested,” *Dhaka Tribune*, April 21, 2017, <http://www.dhakatribune.com/bangladesh/politics/2017/04/21/youth-criticised-chief-justice-facebook-arrested/> (accessed October 27, 2017). Also see case in Section III for details,

²⁷⁶ Please see case in section III for details.

²⁷⁷ “Derogative comments on Facebook, young man arrested,” *Banglarjamin*, April 10, 2017 (accessed April 11, 2018).

Suman Hossain	Apr. 5, 2017	Arrested in Laxmipur for allegedly posting a caricature of the Prime Minister Sheikh Hasina and her father, Sheikh Mujibur Rahman on Facebook. ²⁷⁸
Md Bellal Hossain, 35, Imam of a mosque	Mar. 19, 2017	Arrested in Bhola for allegedly posting on Facebook “anti-government” commentary including derogatory comments about two Bhola lawmakers. ²⁷⁹
Chowdhury Irad Ahmed Siddiky	Feb. 23, 2017	Arrested in Dhaka after allegedly posting on Facebook offensive messages against the prime minister and her father. ²⁸⁰
Ehsan Habib, Aminul Islam, Ehsan Habib and Aminul Islam	Feb. 13, 2017 (received anticipatory bail)	Allegedly published posts that were said to be “indecent, defamatory, false, and provocative statements undermining the honorable Prime Minister and Awami League leaders.” ²⁸¹
Habul Khalifa, 35, a businessman and activist of the opposition BNP student wing	Feb. 5, 2017	Arrested in Barisal for allegedly mocking the recently deceased Awami League leader. ²⁸²
Arman Sidkar,	Feb. 4, 2017	Arrested in Narail for allegedly publishing comments on Facebook that denigrated the prime minister and the Awami League student wing by stating, “Now the crooks are giving advice” in relation to a speech she gave to the students. ²⁸³

²⁷⁸ “Derogative comments on the Prime Minister and Bangabondhu in Lakshmipur, one arrested,” *Banglarjamin*, April 9, 2017.

²⁷⁹ MA Ahad Chowdhury Tuhin, “Bhola Imam held for Facebook Post,” *Dhaka Tribune*, March 19, 2017, <http://www.dhakatribune.com/bangladesh/nation/2017/03/19/bhola-imam-held-facebook-post/> (accessed April 11, 2018).

²⁸⁰ Arifur Rahman Rabbi, “Irad Siddiky arrested upon arrival at Shahjalal,” *Dhaka Tribune*, February 23, 2017, <https://www.dhakatribune.com/bangladesh/crime/2017/02/23/irad-siddiky-arrested-shahjalal/> (accessed April 19, 2018).

²⁸¹ See case in Section III for details.

²⁸² “Jubo Dal worker arrested in Gouronodi,” *Manobjomin*, February 7, 2017, <http://www.m.mzamin.com/article.php?mzamin=52388> (accessed April 11, 2018). The police have submitted a charge sheeted to the Cyber Tribunal on 21 May 21, 2017.

²⁸³ “Chaatra Moitri leader arrested on complaint of distorting Prime minister’s statement” February 6, 2017, <http://www.dailynayadiganta.com/detail/news/193544> (accessed April 11, 2018).

Abdul Wadud, 34 a lecturer at Belkuchi Degree College	Nov. 7, 2016	Arrested in Sirajganj for allegedly posting on Facebook critical remarks about the Prime Minister Sheikh Hasina. ²⁸⁴
Mohammad Shafi	Oct. 25, 2016	Arrested for allegedly publishing, while on holiday Saudi Arabia, Facebook posts, that included derogatory images and commentary about the prime minister, her son, and lawmakers. ²⁸⁵
Nurul Huda, 30, Imam of a mosque	Oct. 14, 2016	Arrested in Chandpur for allegedly posting on Facebook comments that called for the removal of Sheikh Hasina as prime minister because she was an “atheist dictator.” ²⁸⁶
Ahmed Ullah, 45	Oct. 14, 2016	Arrested from Naogaon for alleged posting on Facebook remarks and mocking photos of the Prime Minister Sheikh Hasina as well as the local Awami League member of parliament, Ishrafil Alam. ²⁸⁷
Milon Khondaker, 30	Oct. 6, 2016	Arrested in Naogaon for allegedly posting derogatory remarks and mocking photos of the Prime Minister Sheikh Hasina and local Awami League member of parliament, Ishrafil Alam. ²⁸⁸
Ruhul Amin	Sep. 22, 2016	Arrested in Natore for allegedly “defaming the honorable Prime Minister Sheikh Hasina, her son Joy, and her family,” by “publishing an indecent,

²⁸⁴ “Lecturer arrested for insulting prime minister” *Bangladesh Protidin*, November 8, 2016, <http://www.bd-pratidin.com/news/2016/11/08/183158> (accessed April 11, 2018). The police submitted a charge sheet to the cyber-crimes Tribunal on March 7, 2017.

²⁸⁵ “Young man arrested for distorting PM’s picture on Facebook” *Prothom Alo*, October 27, 2016, <http://www.prothom-alo.com/bangladesh/article/1008523> (accessed April 11, 2018).

²⁸⁶ “Imam arrested for insulting Facebook status,” *Daily Manab Zamin*, October 16, 2016, <http://mzamin.com/article.php?mzamin=35918> (accessed April 11, 2018).

²⁸⁷ “Facebook Post: Government employee, imam arrested for demeaning prime minister” *The Daily Star*, October 16, 2016, <http://www.thedailystar.net/backpage/facebook-post-govt-employee-imam-arrested-demeaning-pm-1299430> (accessed April 11, 2018).

²⁸⁸ “Remarks against PM: youth arrested in Naogaon,” *The Daily Star*, October 7, 2016, <http://www.thedailystar.net/country/youth-arrested-naogaon-1295416> (accessed April 11, 2018).

		defamatory, provocative statement” in claiming that prime minister and her family are thieves. ²⁸⁹
Mohammad Sabuj Ahmed	Sep. 10, 2016,	Arrested in Magura for allegedly publishing “false, obscene and defamatory information” relating to Sheikh Mujib, stating that if the prime minister died, “the godlike image of Bangabandhu will fall as well.” ²⁹⁰
Shahadat Hossen Khondoker	Sep. 5, 2016	Arrested in Chittagong after alleged Facebook posts critical of the International Crimes Tribunal and questioning the role of the judges. ²⁹¹
Dilip Roy, leftist student leader at Rajshahi Univerity	Aug. 28, 2016	Arrested in Rajshahi for allegedly publishing three satirical Facebook posts about Sheikh Hasina, her father, the Awami League, and also the government’s energy policy. ²⁹²
Saddam Hossain Gazi, 20, opposition BNP supporter	Aug. 16, 2016	Arrested in Khulna for allegedly publishing anti-government comments on two Facebook pages about murders, enforced disappearances, the national budget, and calling for the downfall of the prime minister. ²⁹³
Masud Rana, elected local government politician	Aug. 10, 2016	Arrested in Natore for allegedly publishing on Facebook a picture mocking the prime minister and making derogatory comments. ²⁹⁴
Abdul Alim, Mustakim and Shamim	Aug. 8, 2016	Arrested in Satkhira for allegedly publishing on Facebook a photograph mocking the prime minister. ²⁹⁵

²⁸⁹ “Sharing of objectionable report on Prime Minister, youth arrested,” *Prothom Alo*, September 24, 2016, <http://www.prothom-alo.com/bangladesh/article/984244> (accessed April 11, 2018).

²⁹⁰ See case in Section III for details.

²⁹¹ See case in Section III for details.

²⁹² See case in Section III for details.

²⁹³ “Anti-government campaign on Facebook, Chaatra Dol leader arrested in Paikgacha,” *Daily Naya Diganta*, August 19, 2016, <http://www.dailynayadiganta.com/detail/news/146173> (accessed April 11, 2018). The case remains under investigation. On December 8, 2017, the police submitted a final report but not yet a charge sheet. Information about the current status of the case obtained from local police station, June 7, 2017.

²⁹⁴ “UP member arrested in Natore for insult to prime minister,” *Daily Naya Diganta*, August 12, 2016, <http://www.dailynayadiganta.com/detail/news/144103> (accessed April 11, 2018).

²⁹⁵ *ibid.*

Titu Khan, 32	Aug. 8, 2016	Arrested in Faridpur for allegedly posting on Facebook over a period of time derogatory comments about the prime minister. ²⁹⁶
Md. Shafiullah, 17, student	Aug. 1, 2016	Arrested in Khagrachari for allegedly posting a photo on Facebook that ridiculed a story concerning militancy, and mocked the prime minister and other public figures on Facebook. ²⁹⁷
Rafiqul Islam Miraji, 26, alleged member of Hizbu-Tahrir	Jul. 16, 2016	Arrested in Comilla for alleged anti-state comments on Facebook. ²⁹⁸
Mithun Chakma, indigenous rights campaigner	Jul. 12, 2016	Arrested in Khagrachari for allegedly publishing an article accusing an army officer of involvement in the 1996 disappearance of an activist and Twitter posts mocking police as “musclemen” who were “equipped with battle-dress.” ²⁹⁹
Foyisal Arif Junayed, Awami League member	Jul. 3, 2016	Arrested in Rangpur for allegedly posting on Facebook derogatory remarks about Prime Minister Sheikh Hasina and her father, Sheikh Mujibur Rahman. ³⁰⁰
Humayun Kabir, an employee of a furniture shop	Jun. 9, 2016	Arrested in Jessore for allegedly posting caricatures of the prime minister and the former railways minister, Surenjit Sengupta, on Facebook. ³⁰¹

²⁹⁶ “3 youths arrested in Satkhira for Facebook insult to prime minister” *Daily Naya Diganta* August 10, 2016 <http://www.dailynayadiganta.com/detail/news/143562> (accessed April 11, 2018). On November 21, 2016, the police submitted a charge sheet to the Cyber Tribunal. Information about the case obtained from police station on June 7, 2017.

²⁹⁷ “College student arrested in Ramgorh for posting satirical picture of prime minister,” *Daily Nayadiganta*, August 3, 2016, <http://www.dailynayadiganta.com/detail/news/141314> (accessed April 11, 2018).

²⁹⁸ “Hizbut tahir members arrested in Nangolkot,” *Manobjomin*, July 18, 2016 at <http://www.mzamin.com/article.php?mzamin=23074&cat=9> (accessed April 11, 2018).

²⁹⁹ “UPFD leader arrested,” *The Daily Star*, July 13, 2016, <http://www.thedailystar.net/country/upfd-leader-arrested-1252936> (accessed April 11, 2018).

³⁰⁰ “Chhatra Dal leader arrested in Rangpur for insulting prime minister and Banghubandhu on Facebook,” *Naya Diganta*, July 5, 2016, <http://www.dailynayadiganta.com/detail/news/133841> (accessed April 11, 2018).

³⁰¹ “Objectionable picture of prime minister on Facebook, Youth arrested in Keshabpur,” *Daily Nayadignata*, June 11, 2016, <http://www.dailynayadiganta.com/detail/news/126586> (accessed April 11, 2018). The arrest followed a complaint filed by Mustafizur Rahman, an Awami League leader from the same area.

Mehedi Hasan, a second-year university student	Jan. 24, 2016	Arrested in Khustia for allegedly posting an abusive statement against the prime minister on IMO, a text and video messaging service. ³⁰²
Mahfuzur Rahman, 18, AL student activist	Dec. 6, 2015	Arrested in Barguna for allegedly posting on Facebook anti-government comments. ³⁰³
Tanvir Ahmed, 38, Tawhidul Hasan, 21, and Md Omar Faruq, 22	Dec. 3, 2015,	Arrested in Dhaka for allegedly posting on Facebook statements against the government and important personalities to “create chaos in the country.” ³⁰⁴
Abdur Rahman, Imran, Golam Mostafa, Firoze, and Hanif	Nov..12, 2015	Arrested from Dhaka university for allegedly publishing on Facebook comments critical of the government and the prime minister. ³⁰⁵
Md Shahjahan, a madrasa teacher and local Jamaat-e-Islami president	Nov. 5, 2015	Arrested in Laxmipur for allegedly posting photographs on Facebook mocking the Prime Minister Sheikh Hasina and Information Minister Hasanul Huq Inu. ³⁰⁶
Mizanur Rahman Biplob, former Bandarban Mayor, and Habibur Rahman Khokon, ward councilor	Sep. 2, 2015	Arrested in Bandarban for allegedly using a fake Facebook identity called “Tungipara” to make derogatory comments against Sheikh Mujibur Rahman, the country’s independence leader and father of the prime minister. ³⁰⁷

³⁰² “Complaint about insult concerning Prime Minister picture, student jailed,” *Prothom Alo*, January 24, 2016, <http://www.prothom-alo.com/bangladesh/article/749128> (accessed April 11, 2018).

³⁰³ “Young league leader arrested for anti-government propaganda on Facebook,” *Naya Diganta*, December 8, 2015 (accessed April 11, 2018).

³⁰⁴ See case in Section III for details.

³⁰⁵ “Anti-government Facebook status: Five students of Dhaka university arrested,” *Jugantor*, November 14, 2015, <https://www.jugantor.com/old/second-edition/2015/11/14/7445> (accessed April 11, 2018).

³⁰⁶ “Posting a distorted picture of the prime minister, one arrested,” *Prothom Alo*, November 7, 2015, <http://www.prothom-alo.com/bangladesh/article/676471> Charge sheet submitted on February 22, 2016 (accessed April 11, 2018).

³⁰⁷ “Ex-Mayor of Bandarban arrested for remarks about Bangabandhu,” *The New Age*, September 2, 2015, <http://archive.newagebd.net/153960/ex-Mayor-of-bandarban-arrested-for-remarks-about-bangabandhu/> (accessed April 11, 2018).

Sohag Bhuiyan	Aug. 15, 2015	Arrested in Barisal after allegedly posting a caricature of the prime minister on Facebook. ³⁰⁸
Selim Mujumdar, BNP voluntary wing member	Aug. 3, 2015	Arrested in Siddhirganj after allegedly posting on Facebook caricatures of the prime minister and Narayanganj member of parliament, Shamim Osman. ³⁰⁹
Shah Alam	Jul. 7, 2015	Arrested in Dhaka after allegedly posting on a Facebook account, 'Afrin Anima,' objectionable comments against various ministers. ³¹⁰
Roman Palwan, 28	May. 18, 2015	Arrested in Bhola for allegedly posting on Facebook a cartoon of Prime Minister Sheikh Hasina. ³¹¹
Arfan Ali, assistant professor of Sher-e-Bangla Agriculture University	Apr. 24, 2015	Arrested in Dhaka for allegedly posting on Facebook derogatory statements about the Prime Minister Sheikh Hasina. ³¹²
Osman Gony, 20, student leader of Islami Chatra Shibir	Apr. 14, 2015	Arrested in Comilla for allegedly posting on Facebook "insulting cartoons and posts" about the prime minister and others which created "sympathy for the Islami Chatra Shibir and Jamat e Islam and creating political unrest to sabotage the trial of the War-criminals." ³¹³
Rifat Abdullah Khan, 17, Ziauddin Farhad and 50 others	Feb. 21, 2015	Arrested in Dhaka for Facebook posts which allegedly "tried to create sympathy for Bangladesh Jamaat-e-Islami and adding fuel to the movement of the 20-party others"

³⁰⁸ "Prime Minister's distorted picture is posted on Facebook in Barisal," *Jugantor*, August 15, 2015.

³⁰⁹ "Prime Minister and Shamim Osman's Caricature on Facebook," *Jugantor*, August 4, 2015.

³¹⁰ "Offensive comments about ministers: Chaatra League activist arrested," *Prothom Alo*, July 12, 2015, <http://www.prothom-alo.com/bangladesh/article/576169> (accessed April 11, 2018).

³¹¹ "Giving cartoons ..." *Prothom Alo*, May 19, 2015 <http://www.prothom-alo.com/bangladesh/article/531757> (accessed October 27, 2017).

³¹² "Complaint of insult to prime minister: case being filed against teacher Arfan Ali of Sherebangla agricultural university" *Naya Diganta*, April 26 2015, <http://www.dailynayadiganta.com/detail/news/18199> (accessed April 11, 2017).

³¹³ See case in Section III for details.

		alliance and seeking to cancel the ongoing trial of war criminals.” Another 50 were named in the case. ³¹⁴
Rubel Hossain, 22	Feb. 8, 2015	Arrested in Naogaon for allegedly uploading on Facebook a satirical picture of Prime Minister Sheikh Hasina from his mobile phone. ³¹⁵
Fidratul Muntaha Sanjid, student	Jan. 23, 2015	Arrested in Dhaka for allegedly posting on Facebook derogatory comments about the Prime Minister Sheikh Hasina and her son. ³¹⁶
Nurul Islam, 27	Oct. 28, 2014	Arrested in Naogaon for allegedly mocking Sheikh Mujibur Rahman, the country’s independence leader. ³¹⁷
Haider Ali and Md Mainul Islam	Oct. 23, 2014	Arrested in Dhaka for publishing comments on Facebook critical of Sheikh Hasina. ³¹⁸
Kalu Miah, 50, activist of Jamaat-e-Islami, and four others.	Oct. 21, 2014	Arrested in Sirajganj for allegedly publishing on Facebook abusive comments about Prime Minister Sheikh Hasina. The case filed against him also accused four other men. ³¹⁹
Shukur Ali, 35, farmer, and son Sizan, 13, student)	Oct. 17, 2014	Arrested in Bogra for allegedly playing parodies mocking Prime Minister Sheikh Hasina on their cell phones. ³²⁰
Imran Hossain Arif, 30	Sep. 3, 2014	Arrested in Kushtia for allegedly posting a Facebook comment: “If Bangabandhu Sheikh Mujibur Rahman was the father of the nation, then Sheikh Hasina is my sister and Sajib Wajed Joy is my nephew.” ³²¹

³¹⁴ See case in Section III for details.

³¹⁵ “Youth arrested for distortion of picture of prime minister,” *Naya Diganta*, February 11, 2015.

³¹⁶ “Insult to prime minister using false ID to entrap another, young women arrested,” *Prothom Alo*, February 23, 2015, <http://www.prothom-alo.com/bangladesh/article/432277>.

³¹⁷ “For insulting Bangabandhu on Facebook, young man is arrested in Raninagar” *Prothom Alo*, October 30, 2014.

³¹⁸ “Two in remand for Facebook insult to prime minister, *Bangladesh Protidin*, October 23, 2014.

³¹⁹ “For ridiculing Prime Minister the Jamaat activist is arrested,” *Amader Shomoy*, September 21, 2014.

³²⁰ “Father and son arrested on the mobile phone,” *Prothom Alo*, October 15, 2014, <http://www.prothom-alo.com/bangladesh/article/347389/> (accessed April 11, 2018). The police submitted a charge sheet to the Cyber Tribunal on June 3, 2015.

³²¹ “Anti-government Facebook status: Five students of Dhaka university arrested,” *Jugantor*, November 14, 2015, <http://www.jugantor.com/old/second-edition/2015/11/14/7445> (accessed April 11, 2018). Also see case in Section III for details.

Major Samuzzoha, a retired army officer	Aug. 19, 2014	Arrested in Dhaka for allegedly commenting on Facebook about a picture of the prime minister and for supporting Hefazet-e-Islami. ³²²
Hadisur Rahman	Jan. 28, 2014	Arrested for allegedly posting a picture of the prime minister looking “like a blood-thirsty Eagle,” another where she was in the form of a Hindu goddess, and for criticizing the International Crimes Tribunal and describing the prime minister as a “judicial killer.” ³²³
Md Nurun Nobi Sujon (and Md Abul Yusuf and Md Jassim)	Nov. 11, 2013	Arrested in Dhaka for allegedly “disseminating false and derogatory information and photos of the present government head ... [which sought to] create an unstable situation by provoking the common people.” The two other men are in hiding to avoid arrest. ³²⁴
Benazir, student	Nov. 9, 2013	Arrested in Dhaka for allegedly posting on Facebook derogatory pictures and comments about the prime minister and other government ministers, saying: “I am a hawk of democracy. Do you want to buy democracy?” he captioned below a picture of the prime minister. ³²⁵
AKM Wahiduzzaman, academic	Nov. 7, 2013	Arrested in Dhaka for allegedly posting on Facebook comments that included “obscene language to defame” Prime Minister Sheikh Hasina, her son, daughter, and other members of her family.” ³²⁶

³²² See case in Section III for details.

³²³ See case in Section III for details.

³²⁴ See case in Section III for details.

³²⁵ See case in Section III for details.

³²⁶ See case in Section III for details.

Annex 2: Cases Against Journalists for Published Reports³²⁷

Name	Date of Arrest	Media Outlet	Case Details
Layes Mondal and Sabid, journalist	Nov 21, 2017	Administrator and news editor of Trishal News.com	Both men arrested after police alleged that the journalists published a false report about Chief Justice Sinha under headline, “Death threats after detaining relatives, Sinha resigns.” Police also claimed that article contained false and fabricated information about the president, parliament members, detective branch of the police and family members of former chief justice SK Sinha. ³²⁸
Golam Mostafa Rafiq	Jun. 12, 2017	Editor, <i>Habiganj Samachar</i>	Nephew of ruling party MP Abdul Majid Khan said that an article stating that the MP would not get the party nomination for the next election was false. ³²⁹
Golam Mujtoba Dhrubo	Jun. 2017 (case filed)	Reporter, bdnews24.com	An assistant judge in Manikganj claimed that an article had falsely accused him of pushing a child “to the ground.” He was not arrested. ³³⁰

³²⁷ This data was collected in collaboration with Odhikar. We include citations only in cases not independently investigated and discussed in the report.

³²⁸ “2 Journos held under the ICT Act,” *Daily Star*, Nov 22, 2017, <https://www.thedailystar.net/country/2-journos-held-under-ict-act-1494592> (accessed April 11, 2018).

³²⁹ “Habiganj editor arrested under ICT Act,” *New Age*, June 13, 2017, <http://www.newagebd.net/article/17653/habiganj-editor-arrested-under-ict-act> (accessed April 11, 2018).

³³⁰ See case in Section IV for details.

Ahmed Razu	Apr. 30, 2017	Executive editor, Natun Somoy	The Walton Group, a large business conglomerate, alleged that Razu had tarnished the company's image by running false stories. ³³¹ The case was dismissed on Aug 23, 2017.
Abu Al Moursalin Babla	Mar. 25, 2017 (case filed)	Editor, <i>Juger Chinta</i>	The chairman of the Awami League youth front in Fatullah claimed that published corruption allegations were false. ³³²
Nazmul Huda	Dec. 23, 2016	Reporter, <i>Bangladesh Pratidin</i>	Police alleged that articles written by Huda on a worker protest were false and instigated others. ³³³
Saiful Islam Chowdhury	Oct. 5, 2016	Editor and publisher, www.ebakkhali.com,	A doctor claimed that an article about him was defamatory. ³³⁴
Shahadat Ullah Khan, Maksudul Alam, and Pantho Polash	Aug. 8, 2016	Acting editor, executive editor and staff reporter, Banglamail24.com	Police alleged that the journalists had reproduced on their site a false story published in another newspaper suggesting that Prime Minister Sheikh Hasina's son Sajeeb Wazed had died in a plane crash. ³³⁵

³³¹ Arifur Rahman Rabbi and Asif Showkat Kallol "Journalist arrested in Dhaka," *Dhaka Tribune*, May 2, 2017, <http://www.dhakatribune.com/bangladesh/crime/2017/05/01/journalist-arrested-dhaka/> and "Journalist Ahmed Razu Granted Bail," *Dhaka Tribune*, <https://www.dhakatribune.com/bangladesh/court/2017/05/03/ahmed-razu-granted-bail/> (accessed April 11, 2018).

³³² See case in Section IV for details.

³³³ See case in Section IV for details.

³³⁴ See case in Section IV for details.

³³⁵ "RAB charges chairman, acting editor of banglamail24.com for spreading rumours," *bdnews24.com*, August 9, 2016, <http://bdnews24.com/bangladesh/2016/08/09/rab-charges-chairman-acting-editor-of-banglamail24.com-for-spreading-rumours> (accessed April 11, 2018).

Sarwar Alam	Jul. 15 2016	Editor, CTN24.com	Police claimed that an article concerning the death of a person was false. ³³⁶
Kabir Hossain, Badrul Islam Masud, and Champak Chakraborty	Sep. 21, 2015	Editor, news editor and chief reporter, <i>Dainik Sangu</i>	Manager of the KDS company claimed that articles about the company's managing director were defamatory. ³³⁷
Shakhawat Hossain	Jun. 17, 2015	Editor, Islamicnews24.com	Police alleged that the website had falsely attributed pictures of violence against Rohingyas to incite religious hatred. Site apologized for the mistake. ³³⁸
Joton Chandra Ghosh and Omar Farouq Sumon	Jun. 2015	Journalists, <i>Operad Sangbad</i>	A local government officer alleged that articles critical of him were defamatory. ³³⁹
Shahnewaz Khan Sumon, Sajjad Hossain, Sheikh Ruhul Amin and five other reporters	Apr. 30, 2015	Correspondents of <i>Somoy TV, Amader Orthoniti, Bangladesh Protidin and other media</i>	Awami League mayor in Jhenaidah said that article concerning alleging corruption had defamed him. ³⁴⁰
Robiullah Robi	Aug. 19, 2014	Journalist, <i>Daily Inquilab</i>	A former protocol officer of Prime Minister Sheikh Hasina alleged that he had been defamed in an article which argued that he had misused his power. ³⁴¹

³³⁶ See case in Section IV for details.

³³⁷ See case in Section III for details.

³³⁸ "Man held for fake posts on social media," *The Daily Star*, June 8, 2015, <http://www.thedailystar.net/backpage/man-held-fake-posts-social-media-98845> (accessed October 29, 2017)

³³⁹ See case in Section IV for details.

³⁴⁰ See case in Section IV for details.

³⁴¹ See case in Section IV for details.

Robiullah Robi, Atiqur Rahman, and Rafique Mohammad	Jan. 16, 2014	Diplomatic correspondent and reporters, <i>Daily Inquilab</i>	Police alleged that a report accusing Indian security forces of joining security operations in Satkhira ahead of the January 5, 2014, parliamentary polls was false. ³⁴²
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³⁴² See case in Section IV for details.

Annex 3: Allegations of Personal Defamation on Social Media³⁴³

Name	Date of Arrest	Defamatory Comments Against Whom	Case Details
Albab Khan, Awami League student wing member (six other activists also accused)	Jul 12, 2017	Mahmud Us Samad Chowdhury, Awami League MP for Sylhet-3	Arrested after politician alleged that Khan and others had published defamatory remarks and objectionable images. ³⁴⁴
Nurul Islam, former Awami League student wing leader	July 11, 2017	Enamul Haq, Awami League MP for Rajshahi-4 constituency	Arrested for allegedly publishing defamatory remarks against politician involving the MP's picture with a woman. ³⁴⁵
Afsan Chowdhury, university professor	Jun. 5, 2017 (got interim bail)	Lieut. Gen. Masud Uddin, retired officer	Allegedly made a false allegation that the retired office was involved in a rape case in Dhaka. ³⁴⁶
Sheikh Mohammad Ratan, and 7 journalists	Apr. 12, 2017	Mir Nasiruddin, trainee lawyer	Allegedly 'liked' an article on Facebook about a forged law degree. Case also brought against seven journalists. ³⁴⁷

³⁴³ This data was collected in collaboration with Odhikar. We include citations only in cases not independently investigated and discussed in the report.

³⁴⁴ "Facebook insult about two Awami League MPs," *Jugantor*, July 14, 2017.

³⁴⁵ Ibid.

³⁴⁶ See case in Section IV for details.

³⁴⁷ Police has filed a charge sheet. An investigating officer has been ordered to appear before the court on March 14, 2018. Human Rights Watch phone interview with Ratan, January 24, 2018.

Tasnuva Rahman, teacher at Natore government Girls High School	Feb. 13, 2016	Shamima Sultana Sume, wife of the Natore member of parliament	Allegedly uploaded a photograph on Facebook with defamatory remarks. ³⁴⁸
Junayed Ahmed Sumon, Awami league student activist	Aug. 27, 2016	Jebunnessa Afroj	Allegedly doctored a photo of the Awami League lawmaker Jebunnessa Afroj with a caption that read, "Female lawmaker now turned into a female model." ³⁴⁹
Probir Shikder, editor of the online news portal Uttoradhikar 71News	Aug. 15, 2015,	Khandaker Mosharraf Hossain, government minister	Allegedly "tarnished the image" of the minister on Facebook. ³⁵⁰
Belayet Hossain Millat, Awami League student leader	Jun. 12, 2015	Ziaul Haque Mridha, member of parliament	Allegedly made derogatory remarks on Facebook page called "True news of Surail." Millat admitted to one comment that he later removed and said the rest were fake. ³⁵¹
Arifur Rahman, student	Jan. 21, 2015	Shariful Islam, Awami League student leader	Allegedly opened a Facebook page in the name of "Ashik Hossain" and wrote defamatory comments about him. ³⁵²

³⁴⁸ See report for details.

³⁴⁹ "BCL activist sent to jail over FB comment against MP," *The New Age*, August 30, 2016, <http://archive.newagebd.net/249236/bcl-activist-sent-jail-fb-comment-mp/> (accessed October 29, 2017)

³⁵⁰ See case in Section IV for details.

³⁵¹ "Case filed against Chaatra League leader under ICT Act," *Naya Diganta*, June 19, 2015.

³⁵² "Student leader in Jail because of Facebook," *Prothom Alo*, January 23, 2015, <http://www.prothomalo.com/bangladesh/article/432031> (accessed October 27, 2017)

Annex 4: Offending Religious Sentiment under ICT Act³⁵³

Name	Date of Arrest	Case Details
Anis Alamgir, Journalist	Jan, 30, 2017	Case filed for allegedly hurting religious sentiment by writing on Facebook that a Hindu goddess “was a symbol of sex.” ³⁵⁴
Rakash Roy, 42, Hindu religious leader	Jun. 6, 2017	Arrested for allegedly posting on Facebook a derogatory comment about Prophet Muhammad. ³⁵⁵
Abdul Aziz, 35	Jun. 1, 2017	Arrested in Sylhet for allegedly posting on Facebook provocative, communal comments and threatening to kill secular people. ³⁵⁶
Rajat Roy, grocery store owner	Feb. 19, 2017	Arrested in Habiganj, Sylhet, for allegedly posting a photo on Facebook that hurt religious sentiment resulting in a mob attack on four Hindus. ³⁵⁷
Sujan Mohanta, 27	Feb. 1, 2017	Arrested in Dinajpur for allegedly posting a picture on Facebook that insulted Islam. ³⁵⁸
M.A. Motaleb Miji, Abdul Matin, Kamal Hossain,	Aug. 6, 2016	Arrested in Chittagong for allegedly posting on Facebook a distorted photograph of the prime minister and comments that hurt religious sentiment. ³⁵⁹

³⁵³ This data was collected in collaboration with Odhikar. We include citations only in cases not independently investigated and discussed in the report.

³⁵⁴ “Journo Anis Alamgir sued under section 57,” *UNB*, January 30, 2018, <http://www.unb.com.bd/bangladesh-news/Journo-Anis-Alamgir-sued-under-Section-57/61820> (accessed April 19, 2017).

³⁵⁵ “Hindu Mohajote leader held under ICT Act,” *The Independent*, June 7, 2017, <http://www.theindependentbd.com/post/98263> (accessed April 11, 2018).

³⁵⁶ “Man sent to jail for ‘communal’ Facebook posts,” *The Daily Star*, June 2, 2017, <http://www.thedailystar.net/city/man-sent-jail-communal-facebook-posts-1414291> (accessed April 11, 2018).

³⁵⁷ “Arrested in Habiganj for hurting religious feelings,” *Prothom Alo*, February 21, 2017, <http://www.prothomalo.com/bangladesh/article/1085635> (accessed April 11, 2018).

³⁵⁸ See case in Section IV for details.

³⁵⁹ “Facebook comments on prime minister, 5 arrested,” *Manobjomin*, August 6, 2016, <http://mzamin.com/article.php?mzamin=25852> (accessed April 11, 2018).

Nur-e-Jalal, and another		
Khondaker Mohin and Abdul Mannan	Apr. 29, 2016	Mohin was arrested in Natore for allegedly criticizing a person who had donated money to build a mosque in Shekhherat village. Mannan was not arrested. ³⁶⁰
Fakir Taslim Uddin Kajal, printer, Shamsuzzoha Manik, publisher, and Shamsul Alam	Feb. 15, 2016	Arrested in Dhaka for publishing a book titled “Islam Bitarko” (Arguments in Islam) during the annual Ekushey Book Festival. The police also seized the books and shut down the book stall. ³⁶¹
Mohan Kumar Mondal and Shawkat Hossain	Sep. 26, 2015	Arrested in Satkhira for allegedly mocking haj. ³⁶²
Asif Mohiuddin	Apr. 3, 2013	Arrested in Dhaka for posting “anti-religious” comments on his blog. ³⁶³
Mashiur Rahman Biplob, Rasel Parvez, and Subrata Adhikary Shuvo Rahman	Apr. 1, 2013	Arrested in Dhaka for allegedly posting on Facebook and in various blogs comments that hurt the religious sentiment of people and insulting Islam with “derogatory comments about the Prophet Mohammad”. ³⁶⁴
Chappel Poddar, 25, and Manjurul Hasan Shikder Polash, 30	Nov. 7, 2015	Arrested in Bagerhat for allegedly making offensive comments on Facebook against the Quran. ³⁶⁵

³⁶⁰ “Arrest of college student for ‘objectionable’ comments,” *Prothom Alo*, April 30, 2016, <http://m.prothom-alo.com/bangladesh/article/844819> (accessed April 11, 2018).

³⁶¹ Nure Alam Durjoy, Arifur Rahman Rabbi, “Book fair stall shut down by police,” *Dhaka Tribune*, February 16, 2016, <http://archive.dhakatribune.com/bangladesh/2016/feb/16/book-fair-stall-shut-down-police> (accessed April 11, 2018).

³⁶² See case in Section V for details.

³⁶³ “Blogger Asif Mohiuddin arrested over “blasphemous” blog posts,” *Reporters without borders*, April 3, 2013, <https://rsf.org/en/news/blogger-asif-mohiuddin-arrested-over-blasphemous-blog-posts> (accessed April 11, 2018).

³⁶⁴ See case in Section V for details.

³⁶⁵ “Offensive comments on Koran, 2 youths arrested,” *Manobjomin*, November 2015, <http://mzamin.com/details-archive2014.php?mzamin=100284> (accessed April 11, 2018). Charge sheet submitted on May 10, 2016.

NO PLACE FOR CRITICISM

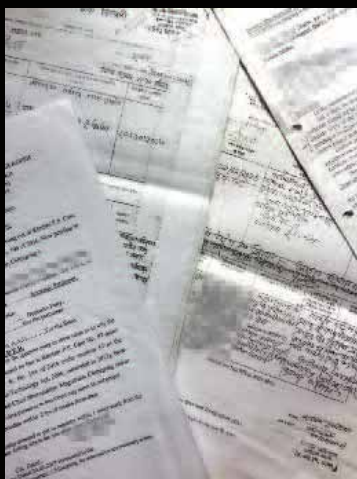
Bangladesh Crackdown on Social Media Commentary

Since 2013, Bangladesh authorities have used draconian provisions in the Information and Communication Technology Act (ICT Act) to arrest scores of people for political and social commentary critical of the current Awami League government or its leaders. Those targeted have also included journalists and editors arrested for articles critical of government officials or for writing about corruption or maladministration, as well as numerous individuals arrested for allegedly offending religious sentiment or for defamation.

No Place for Criticism details dozens of cases since authorities amended the act in 2013 to add harsher penalties and allow the police to make arrests without warrant. Since the Cyber Tribunal was established in 2013, the police submitted 1271 charge sheets to the Cyber Tribunal in Dhaka, most of them under section 57 of the act, a particularly sweeping provision. Many detainees have been held for months without trial. A significant number of those arrested are linked to Bangladesh opposition parties and were detained following complaints to the police by members of the governing Awami League.

The government has pledged to replace the ICT Act with a new law, the Digital Security Act, a draft of which is now being considered by parliament. However, the proposed new law in some respects is broader and more open to abuse than the law it seeks to replace, and it continues to violate Bangladesh's international obligation to protect freedom of speech.

Human Rights Watch calls on the government to immediately act on its pledge to repeal the ICT Act, but replace it with a law that conforms to international standards for the protection of freedom of expression. Bangladesh authorities should publicly uphold the right to free speech, including criticism and dissent.



Police in Bangladesh have registered hundreds of complaints under the Information and Communication Technology Act, including against authors of social media posts and journalists criticizing the political leadership and the ruling Awami League party.

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