

DIGITAL SECURITY ACT



A HANGING SWORD ON HUMAN RIGHTS DEFENDERS IN BANGLADESH



Executive Summary

Human rights defenders in Bangladesh report they are facing a crackdown on freedom of expression that is unprecedented in their lifetimes, according to research conducted by Front Line Defenders between July to October 2021. A slew of harsh new criminal penalties targeting free speech, along with physical attacks and [violent murders of dozens of Bangladeshi writers and activists](#), has made the last decade an immensely dangerous struggle for HRDs.

Since 2018, the Digital Security Act has empowered law enforcement and ruling party political cohorts to harass dissenting voices. Front Line Defenders analysed cases against eight HRDs from diverse backgrounds, with researchers interviewing the complainant, the accused HRDs, their family members and colleagues, their lawyers and other relevant parties. An expert lawyer also conducted legal analysis of First Information Reports (FIR), charge sheets and other court documents.

Five out of eight HRDs were targeted by complaints filed by ruling party members. In three cases, HRDs were taken into police remand and reported being tortured in police custody. In six cases, HRDs were denied bail multiple times; in two cases police arrested the HRDs first and submitted a case under DSA later. In all eight cases, the accused HRDs were pressured to give up writing or activism in exchange for withdrawing the charges. In all cases, the complainant worked in collusion with law enforcement agencies. Family members and colleagues of the accused HRDs endured intimidation by law enforcement agencies and/or ruling party members; they also faced isolation and social stigma. All eight HRDs reported reducing their activism, being in fear and claimed to be under surveillance by the law enforcement agencies.

A small group of Human Rights Defenders, including lawyers, extended critical legal and other forms of support to them. All eight accused felt that their respective communities have either failed or have been intimidated from extending them support during their ordeal. The personal costs borne by the accused HRDs were also severe. In addition to the physical harm sustained by some, all eight HRDs endured psychological abuse and trauma, and all are paying huge financial costs.



Journalists protest attacks on freedom of expression, Dhaka.

Introduction

In 2013, an amendment (Section 57) to the Information Communication Technology (ICT) Act introduced 14-year prison sentences for defamation or content seen to be “hurting religious sentiment,” plus an optional fine of 10 million Bangladeshi Taka (approximately €114,730). Over next few years, law enforcement agencies and ruling party men sued dozens of journalists, writers and HRDs under Section 57.

In response to widespread domestic and international criticism of the sweeping amendment, the Bangladeshi government repealed sections 54-57 and 66 of the ICT Act in 2018, only to effectively reinstate them in the Digital Security Act (DSA) of 2018. The DSA even allows cases filed under the repealed sections of ICT Act to be prosecuted by the cyber tribunal established under DSA. The number of cases filed under both Acts stands at 4,657; with more than 80% filed since the DSA came into effect, demonstrating that the DSA has been even more disastrous for free speech than the widely criticized ICT amendment that came before.

The DSA criminalizes many forms of freedom of expression, particularly those practiced by HRDs, and imposes heavy fines and prison sentences for legitimate forms of dissent. It gives the government absolute power to initiate investigations into anyone whose activities are considered a ‘threat’ by giving law enforcement agencies the ability to arrest without a warrant, simply on suspicion that a crime has been committed through the use of social media. The Act allows the Government to order the removal and blocking of any information or data on the internet it deems necessary, giving broad scope to silence those critical of its policies or who share information on human rights violations. The DSA also allows for invasive forms of surveillance by permitting authorities to ask service providers and other intermediaries for data without requiring a court-obtained warrant.

The application of the DSA has been a serious impediment to the creation of a safe and enabling environment for freedom of expression and human rights defense in the country. Since it came into force, journalists, human rights defenders, educators, members of civil society, diplomats, and various international organizations strongly objected to nine sections of the law, which they described as detrimental to freedom of speech. They also underscored that these sections are unclear and many of the terms are not properly defined. Out of the 20 provisions of the law that deal with offences and punishments, 14 are non-bailable. Five are bailable and one can be negotiated. The lowest punishment is 1 year in prison and the highest life-term but mostly in the range of between 4 and 7 years. The non-bailable provisions of the law practically allows the accused to be detained for an indefinite period.

There is general recognition that the DSA hangs like a Sword of Damocles over Human Rights Defenders critical of the government. The overwhelming majority of these cases are not filed by aggrieved persons but by those whose intent is to silence legitimate criticism, usually on behalf of political actors. In addition to the threat of penalty that the DSA imposes, the procedure itself is onerous and costly; the trial process of DSA cases is very slow; and bail petitions by the accused are generally denied by the lower courts compelling the victims to remain in jail for several days. Finally, going to the High Court for relief is also not easy and requires significant financial resources.

Target: Shariat Boyati

Folk singer Shariat Boyati came under attack by Moulana Faridul Islam and his organization - Kawmi Olama Parishad who demanded that he give up singing and stop arranging folk music events at his home. Unwilling to heed the threats, Shariat Boyati publicly announced at a musical performance that music was not forbidden by the Quran in a video that went viral. In response, the religious group demanded his arrest and Moulana Faridul Islam filed a case on 9 January 2020 at Mirzapur police Station of Tangail under section 28 of the Digital Security Act, even though the event occurred in a locality far away. Police arrested Shariat Boyati from a music event at Valuka, Mymensingh on 10 January 2020 and took him to Mirzapur police station overnight - blindfolded and handcuffed. He was produced before the court on 11 January 2020 and the court granted three days remand for police interrogation. Because of pressure mounted from different quarters, including the Prime Minister, criticising Shariat Boyati, bail was delayed. Finally, after six months he was granted bail by the High Court on 26 July 2020. Shariat Boyati remains under constant fear and surveillance and he is not able to perform music freely. On 11 March 2021, the police submitted a charge sheet against him. His trial is ongoing.



Shariat Mia, aka Shariat Boyati, is a folk singer from Agdholla village of Mirzapur Upazilla in Tangail district. Despite being a restaurant worker, he has established himself as a folk singer through his determination and passion for singing. Folk music, particularly baul songs are very popular in rural Bangladesh among the rural poor population. This kind of music connects people to love, relationships, family, culture and traditions in their own language. Baul songs promote harmony, tolerance

and pluralism. In 2005, the Baul tradition of Bangladesh was included in the list of 'Masterpieces of the Oral and Intangible Heritage of Humanity by UNESCO'. Shariat Boyati was frequently invited to perform at different events and festivals, and he would arrange musical performances at his house, inviting other baul singers. Conservative Islamist figures consider Baul music anathema to Islam and actively campaign against the performance of the folk music.

Moulana Faridul Islam, who is also a resident of Agdholla village of Mirzapur Upazilla of Tangail district and a teacher of Agdholla Hafizia Madrasha filed the case against Shariat Boyati under the Digital Security Act (DSA), 2018. Moulana Faridul is a member of Qawmi Olama Parishad (a network of teachers and students from religious institutions).

Shariat Boyati was invited to perform at a music festival in Dhamrai, Dhaka district. While performing there on 24 December 2019, he said, "some people say singing is forbidden in Quran, but if anyone can prove that I will give up singing." Moulana Faridul filed a complaint that he watched a video of Shariat's performance on YouTube on 28 December 2019. On 5

January he heard Shariat Boyati saying the same in front of his house. He filed the case under section 28 of DSA on 9 January 2020 at Mirzapur police Station of Tangail accusing Shariat Boyati of 'purposefully hurting religious sentiment'.

As residents of the same village, Moulana Faridul Islam and Shariat Boyati were known to each other. For a number of years, Moulana Faridul Islam and others from his movement threatened Shariat Boyati when he would organize musical performances at his house, inviting other baul singers. In 2018, Moulana Faridul Islam brought the police to Boyati's house to stop the musical performances, but later he was able to continue it with the help of the villagers.

Moulana Faridul mentioned in his complaint that he watched the video of Shariat's musical performance on 28 December 2019, but he filed the case much later on 9 January 2020 after discussion with his organization Qawmi Olama Parishad. This indicates that the Qawmi Olama Parishad was also involved with this case. The same group also published and distributed posters and leaflets to mobilize public opinion against Shariat Boyati. They also organized rallies demanding for his arrest and execution.

After the case was filed on 9 January 2020 at Mirzapur police Station of Tangail, the police took swift action to arrest Shariat Boyati from a musical event at Valuka, Mymensingh the very next day on 10 January 2020. He was taken to Mirzapur police station overnight, during which time he was blindfolded and handcuffed – a clear violation of his human rights and in contradiction to the [guidelines on arrest and detention](#) issued by the High Court of Bangladesh.

The police asked for 10 days remand for interrogation after producing him before the court on 11 January 2020, but the court granted only three days. On 20 January 2020, the day of the bail hearing at the High Court, leaders of the Qawmi Olama Parishad gathered at Attorney General's office and the very same day the [Prime Minister criticised Shariat Boyati in the Parliament](#). Due to a backlog in cases and pressure mounting from different quarters, his release was delayed by over six months. During the six months, villagers organised by Qawmi Olama Parishad interfered with Shariat's legal team and organised protests, which ultimately influenced the judicial process, leading to the delay. Shariat was finally released on 26 July 2020 after the High Court granted him bail. Shariat Boyati's lawyer believes, because of all this pressure, the court opted to issue a question to the government asking for a justification for the singer to be denied bail, instead of granting him relief.

Since his release, Shariat Boyati has claimed that he is not able to perform music like before. He has been fragile physically and mentally; and has suffered public humiliation in the community. Moreover, he is wary that any performance would require permit by law enforcement agencies, which places him in a vulnerable position. He is not able to move freely and feels that he is being followed and watched. He also speaks very carefully and has been traumatised by the experience. Because of this case, he is facing financial hardship, as he cannot perform as he used to. Because of the DSA case, his family has also faced a lot of trouble; it was reported to his lawyer that some influential villagers tried to isolate the whole family and stopped his kids from going to school. According to the First Information Report (FIR), the case was filed against Shariat Boyati under section 28 (2) of DSA. Police submitted a charge sheet against him at Tangail court on 11 March 2021 and included section 28 (3), which refers to repeated

crimes and higher punishment. The crime has been defined in 28 (1): 'If any person or group intentionally or knowingly with the aim of hurting religious sentiments or values or with the intention to provoke publish or broadcast anything by means of any website or any electronic format which hurts religious sentiment or values then such activity of that person will be considered an offence.'

Shariat Boyati did not himself upload the video of his performance on YouTube, nor is there any indication in the complaint or FIR or the charge sheet that he instructed anyone to upload the video, which is the prerequisite of 'Publication, Broadcast, etc. of information in any website or in any electronic format' in order to make a crime under DSA. As such, it is very clear that the case has been filed in order to stop Shariat Boyati from performing folk songs as well as to create fear among other folk singers.

Baul Music

Baul music is a form of folk music, unique to Bangladesh and West Bengal (India), which became widely popular in the 19th and 20th centuries. It continues today mostly in village and rural settings in Bangladesh, with festivals and music events drawing wide audiences. With the internet and social media, Baul music is being shared more widely than ever before, with some music performances on YouTube receiving tens of millions of views.

The lyrics of Baul songs are mystical and urge people to search for God within themselves. Because of this, the music has been interpreted by some conservative and fundamentalist Islamic leaders to be heretical. In recent years, Baul singers have been increasingly targeted with physical violence or brought up on charges claiming that they are 'anti-Islam', as Bangladesh has experienced a society shift with the rise of influence of conservative and fundamentalist Islamic leaders, politicians and educators.

While the music is an indelible part of the cultural heritage of Bangladesh and an important form of artistic and cultural expression, the artists who perform this music in this context are practicing and encouraging freedom of expression on issues that are increasingly taboo in the socio-political context.



Target: Rita Dewan

Rita Dewan, a folk singer performed in a 'Pala Gaan,' an allegorical theatrical production which portrayed a debate between a human and the Creator; the singer played the role of the human. Parts of this 'Pala Gaan' were selectively edited and uploaded on Facebook from a fake account and subsequently shared on YouTube by other users. Subsequently, a lawyer, Imrul Hasan, filed a complaint against Rita Dewan on 2 February 2020 under the DSA at the Dhaka Cyber Tribunal. The court directed the Police Bureau of Investigation (PBI) to investigate the allegations and submit a report. On 29 October 2020, the PBI submitted a report accusing Rita Dewan and the tribunal issued an arrest warrant against her. After being in hiding for several days, Rita Dewan surrendered to the court and received bail. Aside from this DSA case, three more complaints by individuals were filed against her in different parts of the country under the Bangladesh Penal Code. These cases have created major problems for Rita Dewan; she cannot continue performing music as authorities deny permission for any musical performance in which she would be singing. In addition to creating an economic burden, as music is her livelihood, this situation is also traumatising for the artist. On 25 October 2021, the Dhaka Cyber Tribunal formally charged Rita Dewan and the case is ongoing.



Rita Dewan is a folk singer, a disciple of 'Dewans', who are popular folk singers. She received the Dewan title from her mentor. Folk music, particularly *baul* songs, is very popular in rural Bangladesh. This kind of music connects people to love, family, culture, traditions through their own language. Baul songs promote harmony, tolerance and pluralism, a genre that is inspired by syncretic Islam. Singing is a passion as well as means of living for Baul singers. In 2005, the Baul tradition of Bangladesh was included in the list of 'Masterpieces of the Oral and Intangible Heritage of Humanity by UNESCO'.

Rita Dewan performed in a *baul* music event at Kalihati of Tangail district in November 2019, where she played the role of the 'creature' and her co-singer Shah Alam Sarkar performed the role of the 'creator'. In the folk music format, the singers stage a symbolic debate between the 'creator' and the 'creature' through music. Parts of this performance of Rita Dewan was recorded and edited, with the intent of defaming the artists and misrepresenting the performance, and uploaded on several social media platforms, including from an anonymous Facebook account named 'keyamoni' in February 2020.

Over the following 10 months, Rita Dewan was targeted by four separate complaints and was accused of «creating outrage by insulting religious belief» under sections 295A and 298 of the

Penal Code and for «publishing and broadcasting information hurtful to religious values and sentiment,» and under section 28 of the Digital Security Act. One case was filed in Jinedha, another in Chottogram and the other two in Dhaka. One of the two cases filed in Dhaka falls under DSA in which the complainant, Imrul Hasan, member of the Dhaka Bar Association, filed the case at Dhaka Cyber Tribunal on 2 February 2020. The complainant claimed that his religious sentiment had been hurt by watching the video on YouTube. The court directed the Police Bureau of Investigation (PBI) to investigate the allegations and submit a report. On 29 October 2020, the PBI submitted a report accusing Rita Dewan and the tribunal issued an arrest warrant against the same day. She went into hiding for several days before surrendering to the court on 13 January 2021.

None of the complainants know Rita Dewan personally and none of them were present at any of her musical performances. After the cases were filed against Rita Dewan, protests were organized against her in different parts of the country, with protesters demanding her arrest and some even calling for her to be executed.

Rita alleged that only a segment of her rendition distorting her message was used by the complainant and the Police Bureau of Investigation did not go through the entire recording of the performance to establish the facts of the case.

These cases caused significant mental and physical stress for Rita Dewan – she has been humiliated in the society and has had to bear the costs of the cases, which has created financial insecurity for her. Law enforcement agencies refuse to grant permits for her performances. The stress caused by the harassment and intimidation has induced high blood pressure and increasing sugar levels for her as she has chronic diabetes.



Protest against the DSA Act.

Target: Ruhul Amin

On 1 June 2020, the government took the decision to close 25 state-owned jute mills that employed about 73,000 workers. Within days, a workers' protest movement began, which was being effectively organised by workers' rights defender Rahul Amin. As a strategy to quell the movement, on 26 February 2021 police filed a case against Ruhul Amin under the DSA for his Facebook post protesting the death of writer Mushtaq Ahmed in custody (who had also been accused under the DSA). Ruhul Amin was brought before the court next day on 27 February 2021 and the court granted police remand to interrogate him. During his interrogation, police asked Rahul Amin personal, irrelevant and humiliating questions. After remand, he was kept handcuffed in the prison and became sick. After several days of delay, he was brought for treatment to Khulna General Hospital. While he was in prison, police visited his village home and demanded bribes from his relatives. After his bail was twice rejected, he was finally released on bail on 19 April 2021. The jute mill workers got frightened after his arrest and the movement weakened. Ruhul Amin remains under constant surveillance and people from law enforcement agencies regularly call him to 'suggest' he give up activism.



Ruhul Amin was born into a farming family in the remote village, Ramnagar in Paikgacha of Khulna district. While studying at Dhaka University, he became involved in progressive student movements. After finishing his studies in 2014, he started organising with workers and returned to Khulna. Since 2020, he became a leading youth leader in the jute mill worker's movement. Police filed a case against Ruhul Amin on 26 February 2021. The complainant was Nahid Hasan Mridha, who was posted in the detective branch of Khulna Metropolitan Police as an inspector at that time.

According to Ruhul Amin, he got involved in the protests by the jute mill workers after the government announced the closure of 25 state-owned jute mills on 26 June 2020. The surprise announcement caused the jute mill workers uncertainty over their jobs and payments. As most of the Collective Bargaining Agency (CBA) leaders were affiliated with the ruling party and there was pressure from law enforcement agencies, they kept silent. Ruhul Amin organized some workers and called for protests and mill workers joined with him in huge numbers. They started organizing a series of protest rallies which gradually got bigger; this continued until the arrest of Ruhul Amin in February 2021.

On 25 February 2021, nationally-renowned writer [Mushtaq Ahmed died in prison](#). He had been detained under the DSA for his social media comments allegedly criticising the government's handling of the coronavirus pandemic. He was denied bail multiple times and was in prison for over nine months till his death. Although the prison authority claimed heart attack as the reason of his death, his relatives and lawyers suspect that he had been tortured in prison.

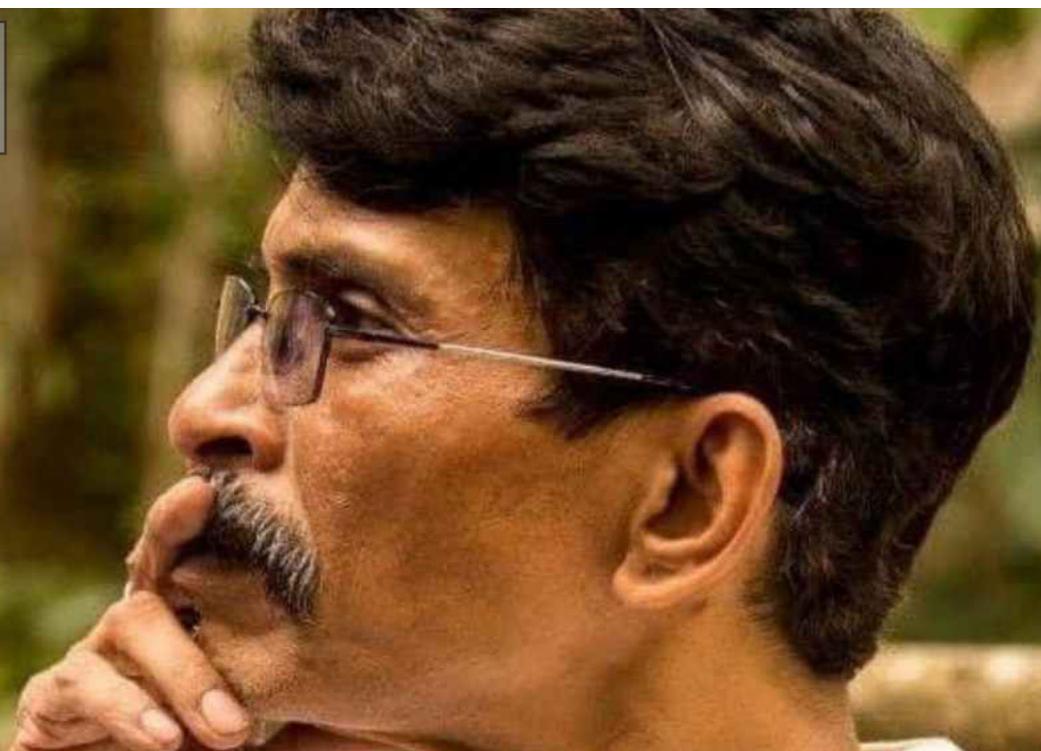
Although Ruhul Amin did not know Mushtaq personally, news of his death made him very upset. The next day, 26 February 2021 he posted twice on Facebook condemning the state for the death of Mushtaq Ahmed in one post and calling people to attend a protest rally at Shahbag in another post.

Within hours of publishing these on Facebook, 18 to 20 personnel of the Detective Branch of police (DB) in several micro-buses rushed to Ruhul Amin's rented house at Khalishpur, Khulna. They demanded Ruhul Amin come with them, saying that senior officials want to meet with him; they took him to the DB office. Ruhul Amin had previously been detained three times between April 2018 to October 2020 for his involvement in the labour movement; the October arrest was for marching in a «coffin procession» demanding the reopening of closed mills in Khalishpur. However, each time he was released after a few hours and he never faced any charges.

Police produced Ruhul Amin at the Khulna Chief Judicial Magistrate court on 27 February 2021 and asked for five days' remand; the court approved remand for two days. Although Ruhul Amin was picked up from his house on 26 February 2021, the case record showed that he was formally arrested on 27 February 2021. While in remand, he was not physically tortured but Ruhul Amin claimed that he was forced to endure questions that were irrelevant and on personal issues like why he was not employed, how he earned his living, from where he received money to organize the workers, etc. Although the DSA case was for his Facebook post about the death of writer Mushtaq Ahmed, during the interrogation Ruhul Amin was mainly questioned about the jute mill workers' movement, the source of funding for the movement, if there was any link to any foreign country, etc. After two days' remand, he was sent back to jail. His bail attempt twice failed, but was finally released on bail on 19 April 2021.

As a result of being imprisoned for over a month and a half, Ruhul Amin's health deteriorated. He had been suffering from an asthma-like condition and as a result of sleeping on the dirty and dusty floor of the prison, the condition worsened. He informed the jail authorities and requested treatment. After delaying for several days, the authorities took him to Khulna General Hospital, chaining him to the bed. Ruhul Amin also suffered jaundice in prison.

Mushaq Ahmed, renowned writer, was jailed on DSA charges over social media posts, and died in detention on 25 February 2021.



Ruhul Amin reported that after he was arrested, the police went to his village to gather more information about him. His family members became anxious hearing about his arrest, and his mother got sick. It was very humiliating for the family as socially it is seen as a bad thing if police visits any family at the village. His brother's marriage arrangement was ruined, while his sister is afraid that her son might not get any job because of the case against Rahul Amin. Ruhul Amin also claimed that police requested a bribe from his family, in order to issue a positive background report on him.

After the arrest of Ruhul Amin, the movement of the jute workers weakened. His arrest created fear among other workers and in his absence the movement was stopped for almost two months. During this time the government moved forward with turning over ownership of the jute mills to private companies.

On 26 April 2021, the police submitted a charge sheet against Rahul Amin under sections 25 and 31 of the DSA. Section 25 (1) reads: If any person, through any website or any other digital medium, (a) intentionally or knowingly transmits, publishes or propagates any data-information which he knows to be offensive, false or threatening in order to annoy, insult, humiliate or malign a person; or (b) publishes or propagates or abets to publish or propagate any information, as a whole or partly, which he knows to be propaganda or false, with an intention to affect the image or reputation of the country, or to spread confusion.

Section 25 (2) describes the punishment: If any person commits an offence under sub-section (1), he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with fine not exceeding Bangladeshi Taka (BT) 3 (three) lac, or with both. Section 31 reads: If any person intentionally publishes or transmits anything in website or digital layout that creates enmity, hatred or hostility among different classes or communities of the society, or destroys communal harmony, or creates unrest or disorder, or deteriorates or advances to deteriorate the law and order situation, then such act of the person shall be an offence. If any person commits an offence under this section, he shall be punished with imprisonment for a term not exceeding 7 (seven) years, or with fine not exceeding BT 5 (five) lac, or with both.



Ruhul Amin claimed that he did not do anything that tarnished the image and reputation of the country nor anything that creates enmity, hatred or hostility among different classes or communities of the society, destroys communal harmony, or creates unrest or disorder. Ruhul Amin reported that during interrogation, police officials admitted that they had to arrest him on the order of the 'high command'. As he was not asked many questions regarding his relationship with the deceased writer, Mushtaq Ahmed, or about his Facebook posts, Ruhul Amin believes that the main objective of the case against him and the subsequent arrest was to quell the workers' movement.

Today, Ruhul Amin believes that he is under constant surveillance. He has reported that people from the law enforcement agencies continue to contact him to warn him to stay away from activism to this day. He has publicly called for the withdrawal of the case against him as well as the repeal of the Digital Security Act, terming it as a tool used to suppress freedom of expression.



Jute mill workers protest against the closure of state owned mills.

Target: Shahnewaz Chowdhury

Shahnewaz Chowdhury, an engineer and environmental rights defender, was charged under the Digital Security Act after he posted on Facebook about the environmental damage caused by the construction of coal power plant at Banshkhali, Chattogram. Faruq Ahmed, the chief coordinator of the power plant, filed a complaint on 27 May 2021. Shahnewaz was accused of spreading hate, instability and chaos by publishing offensive and false information on Facebook. Police promptly arrested Shahnewaz Chowdhury the next day from his home in the East Baraghona area of Banshkhali. After being held in jail for almost three months, Shahnewaz Chowdhury was released on bail on 16 August 2021. As a result of the case and detention, he lost his job, his business was shut down, and his father lost his ability to speak because of a heart attack. Shahnewaz continues to face economic hardship due to the costs of the case. He lives in constant fear and has reduced his use of social media and other activism. On 30 October 2021, the police submitted a charge sheet against him; his trial is ongoing.



Shahnewaz Chowdhury an engineer by profession, is involved in social and environmental activism. He is a resident of East Boroghona village of Gondamara union of Banshkhali, Chattogram. Although he lived in Chattogram for his education and job, he was always in touch with his village community and was vocal about its plight. He was also active on social media, raising concerns over various environmental issues.

The complaint under DSA against Shahnewaz Chowdhury was filed on 27 May 2021 by Faruq Ahmed, the chief coordinator of S. Alam Group at Banshkhali in Chattogram.

The complainant and Shahnewaz Chowdhury were not known to each other and there was no previous enmity between them. In his complaint, Faruq Ahmed accused Shahnewaz Chowdhury of posing a security threat to the power plant by instigating locals and spreading propaganda and misinformation.

According to the case statement, Shahnewaz Chowdhury, on 26 May 2021 posted on his Facebook: «People of Banshkhali thought that Gandamara union was floating in the tide of development because of the environmentally destructive coal power plant for which 12 people have already been killed. Today, the people of the country are seeing that people of Gandamara are drowning in the tidal water. The youth of Banshkhali should play a leading role against injustice and development through fearless writing.» The post was in response to the effects of Cyclone ‘Yass’, which struck on 26 May 2021. Several villages of Banshkhali, including his



village, were submerged and people had to move to shelters leaving behind their belongings. In addition to the text, Shahnewaz posted photos.

The coal power plant at Gandamara union of Banshkhali has been a controversial project for many years. It has been under construction since 2018 after being approved in 2013. The project is owned by Bangladeshi conglomerate S. Alam Group and SEPCO III Electric Power Construction Corporation along with HTG Development Group, China.

The villagers of Gandamara stood against the land acquisition for the power plant from the very beginning. A huge protest was mounted in 2016 under the banner 'Homestead and Graveyard protection committee,' led by Gandamara Union Parishod chairman Liakat Ali. Shahnewaz Chowdhury reported that he was involved in the protest movement since then and worked to mobilize youth and students. As a result, he had come to the attention of the S. Alam Group. In 2016-2017, at least five protesters were shot dead by police. S. Alam group later implemented different carrot and stick strategies to foil the movement. The company filed cases against thousands of villagers, including the protest leader Liakat Ali. But the company also lured locals with jobs and money. Eventually the protest weakened and construction continued

On 17 April 2021, a protest organized by workers took place at the power plant over unpaid wages. Five workers were shot dead on that day, and two more died in the hospital on 20 and 21 April 2021. Then, on 26 May 2021, several villages of Banshkhali were submerged by cyclone 'Yass'. These events motivated Shahnewaz Chowdhury to write the Facebook post, which became the target of the complaint. The forest around the plant had been destroyed, while the embankment to protect villages from sea water was catastrophically damaged.

Police arrested Shahnewaz Chowdhury in the middle of the night of 28 May 2021. The next day when he was produced before the court, his bail petition was rejected and he was sent to jail. After being in prison for almost three months, he was released on bail on 16 August 2021. According to the First Information Report (FIR), Shahnewaz Chowdhury was accused of publishing false and offensive information on Facebook to create enmity, hatred or hostility in the society under sections 25, 29 and 31 of the Digital Security Act. However, a closer analysis of the Facebook post suggests that he neither published any false information nor intended to create any hostility in the society. Nonetheless, after the primary investigation, the police

submitted a charge sheet against Shahnewaz Chowdhury on 30 October 2021.

Shahnewaz Chowdhury faced great difficulties because of the case against him. He had worked as an electrical engineer at a ready-made garment factory for years. However, as a result of his extended detention, he was fired. Aside from this job, he was also running a business. In his absence, the business lost clients and he was unable to sustain it. Within seven days of his imprisonment, his father suffered a heart attack, while his wife struggled with providing for their two children amid the uncertainty and stress. Shahnewaz Chowdhury reports that he has been stigmatized socially, while attending the court every one to two months requires time and money which is taking a huge toll on his mental health. He has also reported that because of the stress he is not able to continue his activism, and he fears of constant surveillance and remains cautious when moving around.

Shahnewaz Chowdhury thinks that the Facebook post was used as a pretext for targeting him in order to stop his human rights activism, to harass him because of his role as an environmental activist and his influence among the local youth. He believes that the DSA is being used to silence dissenting voices and has become a tool of powerful and well-connected individuals to carry out personal vendettas or to silence people like himself who advocate for fundamental rights.



Coal power plant at Gandamara union of Banshkhali.

Target: Mumitul Mimma

Jahangirnagar University student Mumitul Mimma was targeted by the university administration and the ruling party student wing – Bangladesh Chitra [Students’] League (BCL) - for her active role in different protest movements in the university. In October and November 2019, when protests against the Vice Chancellor were at their peak (for alleged corruption), Mimma was sued under the Digital Security Act, mainly to create fear among the protesters and to quell the movement. A local ruling party leader filed the case at Ashulia police station on 9 November 2019. After being in hiding for 10 days, Mumitul Mimma surrendered at the High Court on 18 November 2019 and received bail for two weeks. Mumitul Mimma was bombarded with online bullying and attacks, including with vulgar and sexist comments; her study was hampered; and she faced many problems in finding a job. At present, she lives in constant fear and ongoing surveillance. She has reduced her use of social media and other activism, while her case remains idle.



Mumitul Mimma a student of the Institute of Information Technology of Jahangirnagar University was a familiar face involved in many of the protest movements at the university campus. A protest against the Vice Chancellor, who was accused of corruption, erupted in 2019. The Vice Chancellor’s role in suppressing the Quota reform movement and the road safety movement in 2018 had also been controversial. Mumitul Mimma was a target of the university administration and the ruling party student wing - BCL - for her active participation in all those movements.

When the protest against the Vice Chancellor was at its peak, on 7 November 2019, Mumitul Mimma posted on her Facebook page, ‘he he he mother of all khepese, chabuk chure merese’ (she was referring to the notion that BCL cadres would take the Prime Minister’s statement about the protests as a call to act). Mumitul Mimma posted this in response to other comments made by several supporters of the Vice Chancellor that the Prime Minister had warned the students to refrain from continuing the protest. Later, a graphic image of the Vice Chancellor was shared on social media, in which she was depicted as someone with a patriarchal mindset; Mumitul Mimma shared this image on her Facebook page on 9 November 2019.

Within a few hours of sharing the social media post, Shahadat Hossain Khan, a ruling party leader and Deputy Chairman of Savar Upazilla Parishod filed a complaint at Ashulia police station against Mumitul Mimma under sections 25, 29, 31 of the Digital Security Act. In the complaint, Mumitul Mimma was accused of publishing offensive, false information and a vulgar picture. He accused Mumitul Mimma of creating enmity, hatred or hostility among the students of Jahangirnagar University in order to create unrest and to deteriorate law and order.

Over the coming weeks, the student protests reduced, as multiple forms of pressure were

brought to bear on the students, including threats of DSA cases, and other efforts by the administration to stop the protests. The case against Mimma was widely known among students and served to intimidate them.

The case against Mumitul Mimma seems to be a stretch for using the DSA, and included two odd features. For one, the police added section 35 of the DSA in the complaint against Mimma accusing her of abetting, basically to cover themselves in the event that they could not prove she was the primary actor in the protests. According to section 35 of the DSA, any person abetting the offence shall face the same punishment as is provided for the main offender. Additionally, the complainant accused the student of being a threat to the sovereignty of the state, and claimed that although he did not know her personally, he was aggrieved because he is a patriotic person and a 'soldier' of the "ideals of the father of the nation." The link between a 'patriotic person' and being aggrieved by a social media post seems tenuous at best.

Mumitul Mimma came to know from sources that a case might be filed against her. She went into hiding out of fear. In the following days, news about the case against her was published in a newspaper. Her accounts on social media were flooded with threats. She decided to surrender to the court after 10 days and appeared before the High Court on 18 November 2019, receiving bail for two weeks.

Mumitul Mimma contacted Shahadat Hossain Khan to request that he withdraw the complaint. According to Mumitul Mimma, the complainant told her that he did not know her, and had not even seen the Facebook posts. He told her that he had been instructed by officers of a state agency, which he could not name. He also told her that he was sympathetic to her plight, but could not withdraw the complaint unless instructed to do so.

Mumitul Mimma suffered a lot because of the case against her; she was bombarded with online bullying and attacks, including vulgar and sexist comments; her studies were disrupted; she could not continue her tutoring, which allowed her to earn an income; and found it extremely challenging to find a job. Mumitul Mimma also believes that she is under constant surveillance. She has observed suspicious people in front of her office, who sometimes approached her and asked for her new phone number. They told her that they knew she had studied at Jahangirnagar University and they are aware of her past activities.

The case against Mumitul Mimma and the subsequent course of events clearly demonstrates that the ultimate intention of the case was to quell the growing movement in Jahangirnagar University against the corruption of the Vice Chancellor. After Mumitul Mimma's arrest, students became fearful and eventually the movement weakened.



Target: Tanvir Hasan Tanu

Tanvir Hasan Tanu is a journalist from Thakurgaon, a Northern district of Bangladesh. He is the district correspondent of Daily Ittefaq. He also contributes to several online and electronic media outlets. He is also a member of Thakurgaon Press Club. After he reported on irregularities in food supplied to Covid-19 patients at District Sadar Hospital, the superintendent of that hospital filed a case under the Digital Security Act on 8 July 2021. When Tanvir went to the Sadar Police Station on 10 July 2021 to gather information on another news story, the police arrested him. While he was at the police station, he became sick and was taken to the hospital at midnight, where he was initially refused treatment. The next day, on 11 July 2021, he was brought before the Thakurgaon senior judicial magistrate court. The court rejected the police request for a five-day remand and granted him bail, taking into account his health.



Tanvir Hasan Tanu is a journalist by profession since 2007. He is a member of Thakurgaon Press Club and is the district correspondent of Daily Ittefaq, as well as a contributor to several online and electronic media outlets.

On 5 July 2021, Tanvir Hasan Tanu published a report documenting irregularities in food served for COVID-19 patients at Thakurgaon Adhunik Sadar Hospital in the online portal Jagonews titled, 'Allocation BDT 300, but patients get food worth around BDT 70 only'. Following that report, the superintendent of Thakurgaon Sadar Hospital, Nadirul Islam Aziz filed a complaint with

Thakurgaon Police Station against Tanu and two other journalists on 8 July 2021. The case was filed under sections 25, 29, 31 and 35 of the Digital Security Act (DSA). According to the First Information Report, the complainant alleged that Tanvir Hasan published offensive, defamatory and false information in a digital platform with the intention to create unrest and to deteriorate the law and order situation.

Tanu was arrested on the evening of 10 July 2021 when he went to Thakurgaon Sadar police station in order to gather information about another incident of fighting among villagers. The duty officer arrested him, his phone was taken and he was not allowed to contact any family member, colleague or lawyer. However, news of his arrest was reported by other journalists.

During the first night of his detention at the police station, he felt severe chest pains and had trouble breathing. Since he had been infected with Covid a few days prior, he asked the police on duty to admit him to the hospital. He was taken to Thakurgaon Sadar Hospital at around 1.30 am and handcuffed to a bed. For approximately the next 10 hours, no doctor or health worker visited him or offered any treatment. His family members were also prevented from

seeing him. Finally, a doctor attended to him at around 11 am on 11 July 2021, but before any treatment could be arranged, police arranged to take him to court. Tanu believes that he was deprived of any treatment at the hospital because he had reported against the management of the same hospital.

He was produced at Thakurgaon Senior Judicial Magistrate court on 11 July 2021. The police sought a court order to take him in police custody for interrogation for five days, while Tanu's lawyer petitioned for bail. The court granted him bail as a result of his suffering post-Covid complications, and he was released the same day.

In response to the media report that Tanu was handcuffed and tied with rope, on 13 July 2021 the court sought clarification from the investigating officer within 48 hours, since this would violate his human rights and also contradict guidelines issued by the High Court of Bangladesh. Apparently the officer did file a response, but neither Tanu nor his lawyer received a copy.



Tanvir Hasan Tanu being taken by police to court for a bail hearing.

Target: Abdul Kaium

Abdul Kaium is a journalist, web developer and Human Rights Defender. He was arrested by the Detective Branch of Police on 11 May 2019 after meeting with his client Idris Khan, who had contracted Kaium for website development services. On 12 May 2019, Idris Khan filed a complaint against Abdul Kaium under Sections 23, 25, and 29 of the Digital Security Act. On 13 May 2019, he was brought before Mymensingh Judge Court, and the police asked for remand for five days, while his lawyer submitted a bail application. On 14 May 2019, both requests were rejected by the court, and he was sent to prison. After bail applications were rejected on multiple occasions, Abdul Kaium was finally released on bail on 3 July 2019. Kaium remains under constant fear and continuous surveillance. On 1 August 2021, the police submitted a charge sheet against him.



Abdul Kaium is a human rights defender, journalist and web developer. Since 2012, he is a member of the Human Rights Defenders Network (HRD Network) facilitated by the human rights organisation, Odhikar. As a member of the HRD Network, he provides professional legal advice and representation for victims of judicial harassment and organizes protests against human rights violations, including instances in which civilians have been killed by police in ‘anti-terrorist’ operations, enforced disappearances, border killings, violence against women, etc. He is also active on social media on these issues.

On 12 May 2019, Idris Khan, the Principal of Momenshahi D.S Kamil Madrasa (an Islamic institution) filed a case under the Digital Security Act (DSA) against Abdul Kaium. Idris Khan is also an Editor and publisher of the local newspaper, ‘Daily Mymensingh’, and a relative of Ruhul Amin Madani, a Member of Parliament from the ruling party.

Abdul Kaium and Idris Khan were known to each other and they had some previous disagreements. According to Kaium, because of his human rights work he was a target of the ruling party and the local administration. Since Idris Khan is a relative of a local member of parliament, he used his newspaper to smear Kaium; in 2016 he published an article naming Kaium as a fraud and an extremist. However, later a rejoinder was published in the same newspaper.

From the case documents and Kaium’s interview, it is known that Idris Khan owed money to Kaium for website development work. On the afternoon of 11 May 2019, Kaium went to Khan’s office to collect the payment. Oddly, Kaium was offered the payment in US Dollars, but he refused to take the payment in foreign currency and left the office. When he exited the main gate of Khan’s office, members of the Detective Branch of Bangladesh Police, who were

in plainclothes stopped him and searched him, alleging that he was holding foreign currency, which is not a crime. Kaium was searched by the police, who did not find any foreign currency, yet Kaium was arrested. He was brought to the Trishal police station around 10 pm.

Kaium reported that when the police did not find any foreign currency, they discussed this with Ruhul Amin Madani, the MP. Then they planned to frame him with the Digital Security Act. They confiscated his mobile phone and forced him to reveal the passwords of his email and Facebook accounts. Kaium also claimed that, while he was in police custody, the police posted something from his Facebook account, with the intention of framing him to be charged under DSA. However, later police reversed course and removed the post thinking that it may raise questions on how Kaium was able to use Facebook while in police custody.

Kaium also claimed that, when he was detained at Trishal police station, the son of the member of Parliament came to meet him and offered that if Kaium gave up writing on corruption issues, mishandling of government funds and refrain from human rights activism, he could be released. However, Kaium refused to accept this offer.

Even though he was detained on the evening of 11 May 2019, it is documented that the complaint filed by Idris Khan was made on 12 May 2019. Kaium was produced before the Mymensingh Judge Court on 14 May 2019; thus he was held in police custody for over 24 hours before being produced to court. This delay violated the Constitutional provision that a person who has been arrested must be produced before a court within 24 hours of their arrest. Kaium thinks that the reason for this delay was that the police were discussing with the member of parliament regarding what kind of charges they could bring against him. Another anomaly is that although both Khan and Kaium reside in Mymensingh, the case was filed in Trishal police station, which is located in the constituency of the member of the Parliament.

The charge brought against Kaium was for digital fraud - publishing offensive, false, or fear inducing information; and publishing defamatory information under Sections 23, 25, and 29 of the Digital Security Act. On 14 May 2019, when Kaium was produced in court, the police requested to have him remanded for five days, while his lawyer submitted an application for bail. The Mymensingh Chief Judicial Magistrate rejected both the remand and bail requests and sent him to the Mymensingh Central Jail.

Kaium was finally released on bail on 3 July 2019 after Mymensingh court gave him bail on 2 July 2019. Kaium claimed to be tortured in police custody and that police threatened to kill him in a staged 'crossfire' incident. He reported being slapped, punched, and whipped with a belt by police officers. While in custody, police also teased him for his human rights work and pressured him to give up human rights activism.

Along with the case, the complainant and his associates have conducted a smear campaign against Kaium, including naming him as a hacker, as anti-government, etc. This defamatory campaign has raised questions about his integrity and credibility as a web developer and as a result, he does not get as much work as before. Kaium has spent a considerable amount of time and money to fight the case. The organizations with which he is involved as a journalist and human rights defender have also been pressurized to cut their ties with him.

Kaium reported that, after arresting him, the police took his mobile phone, pen drive, national ID, and bank ATM card. On 1 August 2021, the police submitted a charge sheet against him. However, these items have not been returned to him and he still does not have access to his old social media accounts. While he was in jail, another complaint under DSA was filed against Kaium by one of the associates of Idris Khan, who was also named as a witness in the case.

As a journalist and human rights defender, Kaium was always very vocal and stood against corruption, wrongdoing and abuse of power by local politicians, police and other authorities. He believes that because of this work a number of actors worked together to harass and intimidate him with the DSA cases.

Because of the cases, he remains fearful; he is extra careful and is not able to work like before as he believes that he is under constant surveillance.

Protest by the Editors Council against the arrests of journalists.



Target: Maidul Islam

Maidul Islam, a teacher at Chittagong University, was a target of the ruling party student wing and the University administration because of his social media posts and his support for the 2018 quota reform movement. On 23 July 2018, a leader of the ruling party student wing lodged a complaint against Maidul under section 57 of the ICT Act 2006. On 24 September 2018, a Chittagong judicial magistrate sent him to jail. The High Court granted him bail for six months on 9 October 2018. However, he was released only on 30 October 2018 after some procedural delays. The university administration did not provide any support to Maidul, rather he was temporarily dismissed from his job on 24 September 2018 immediately after the court sent him to jail. He receives continuous threats from the ruling party student wing, even since he returned to his university residence after his job was restored.



Maidul Islam is an assistant professor of in the sociology department at Chittagong University (CU). He lives at the university campus and is known as a progressive-minded teacher. Maidul is also very vocal and active in social media on the issues of discrimination, social justice and human rights violation.

On 23 July 2018, Md Ifterkhar Uddin Ayaz lodged a case against Maidul at Hathhazari police station under section 57 of the Information and Communication Technology (ICT) Act, 2006 for 'making defamatory remarks against the Prime Minister on social media'. In the case document the complainant identified

himself as a student of the History department of Chittagong University and a leader of the ruling party student wing- Bangladesh Student League (BCL). In the First Information Report he named two witnesses who are also the leaders of BCL.

Maidul has criticized the learning environment at the universities and also supported every legitimate student movement. He has also spoken out against the wrongdoings of BCL. As a result, BCL cadres, as well as the university administration, were unhappy with him. Before the ICT case, Maidul had been threatened by BCL activists several times. Maidul publicly supported the Quota Reform movement in 2018, including posting support for the movement in social media.

According to the First Information Report, the case was filed at Hathhazari police station

under section 57 of the ICT Act, 2006 (the act has been amended in 2013 and section 57 has been repealed in 2018) referring two of his Facebook posts as 'defamatory against the Prime Minister'.

Maidul claimed that on the same day the case was filed, some BCL leaders phoned him and threatened to kill him, but offered to withdraw the case if Maidul publicly apologized to them. When he reported this to the university administration, officials refused to provide him any protection, forcing him to leave the campus and reside somewhere else more secure.

On 6 August 2018 he got interim bail from the High Court. On 24 September 2018, when he appeared before Chittagong judicial magistrate, he was sent to jail. He was taken to the court handcuffed. Later on 8 October 2018 police asked the court to take Maidul on five day remand for interrogation, while the court granted only three days. The next day, the High Court granted him bail and canceled the remand order. However it took almost three weeks for the High Court order to reach the Chittagong jail and for Maidul to be released.

After the case was filed against Maidul, BCL declared him 'persona non grata' at the university campus. Maidul and his wife claimed that when they were returning to university campus after getting bail, BCL cadres tried to block them, gathered in front of their residence at the university campus and chanted slogans against them. The university administration did not take any action against the perpetrators, despite repeated requests from Maidul.

Since returning from jail, BCL cadres have threatened him several times. He fears physical attack, even within the university campus where he studied and is now a teacher. While he has received a scholarship to go abroad for higher studies, the university administration has not granted him leave. Because of constant fear, Maidul also limited his mobility and is no longer active like before.

Maidul's wife Rozina has also suffered consequences. After the case was filed, she was always with Maidul and facilitated the process of dealing with the police and the court. She was a teacher of Chittagong College, but she had to leave the job. Rozina also received a scholarship to study abroad, but she did not feel that Maidul would be safe living in Bangladesh alone. After the case, BCL cadres flooded social media with smear campaigns against Rozina and Maidul, and made sexist comments against her. She felt humiliated and her mental health suffered.

The case against Maidul was filed under section 57 (1) of the ICT Act, 2006 that reads: If any person deliberately publishes or transmits or causes to be published or transmitted in the website or in electronic form any material which is fake and obscene or its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, or causes to deteriorate or creates possibility to deteriorate law and order, prejudice the image of the State or person or causes to hurt or may hurt religious belief or instigate against any person or organization, then this activity of his will be regarded as an offence. The punishment of such offence shall be imprisonment for a term which may extend to ten years and with fine which may extend to Taka one crore (10 million BDT). The case against Maidul remains open.

Conclusion & Recommendations

The Government of Bangladesh has made repeated public assurances that neither the ICT Act nor DSA would be misused. However, evidence clearly shows that the draconian legislation is being used by the government and security forces to punish HRDs exercising their freedom of expression, and to stop the work of activists working against corruption, organizing for workers' rights, students' rights and environmental protection.

The Government of Bangladesh is urged to:

- Conduct a full, independent review of the DSA, and bring it in compliance with the International Convention on Civil and Political Rights, to which Bangladesh is a party;
- Immediately and unconditionally release and drop charges against all who have been accused for their legitimate right to freedom of expression;
- Ensure that individuals can voice criticism and concerns, both offline and online, without fearing sanctions.
- Refrain from resorting to administrative practices that curb freedom of expression and restricts the legitimate activities of HRDs.
- Ensure effective and meaningful public participation, including human rights defenders, civil society organizations, media and other relevant stakeholders in drafting any legislation before its enactment;
- Decriminalize defamation and consider it as a matter of civil litigation in accordance with Articles 9 and 19 of the International Covenant on Civil and Political Rights that Bangladesh is a state party to;
- Strengthen the engagement and cooperation with UN human rights mechanisms in particular through issuing standing invitation to the special procedure mandate holders and submitting outstanding reports to the treaty bodies;
- Develop and enact specific laws and policies to recognise and protect the work of human rights defenders and which give full force and effect to the International Declaration on Human Rights Defenders at the national level.

Addendum

Just prior to publication of this report, at a meeting with over 40 diplomats on 16 January 2022, Law Minister Anisul Haq announced that the government was prepared to look into misuse and abuse of the Digital Security Act. Other government officials were also in attendance.

While the announcement is certainly a welcome development, with over 4,500 cases pending, the government must act with speed and purpose to address the abuses, including those documented in this report. Furthermore, the diplomatic community must capitalize on this opening to maintain pressure and monitor any government review. Two months prior to the publication of this report, Front Line Defenders sent a letter summarizing the initial findings to Law Ministry and the Home Ministry; no response was received.

Acknowledgement

Cover artwork by Ahmed Kabir Kishore, Bangladeshi artist, who himself was subjected to pre-trial detention under the DSA in 2020.