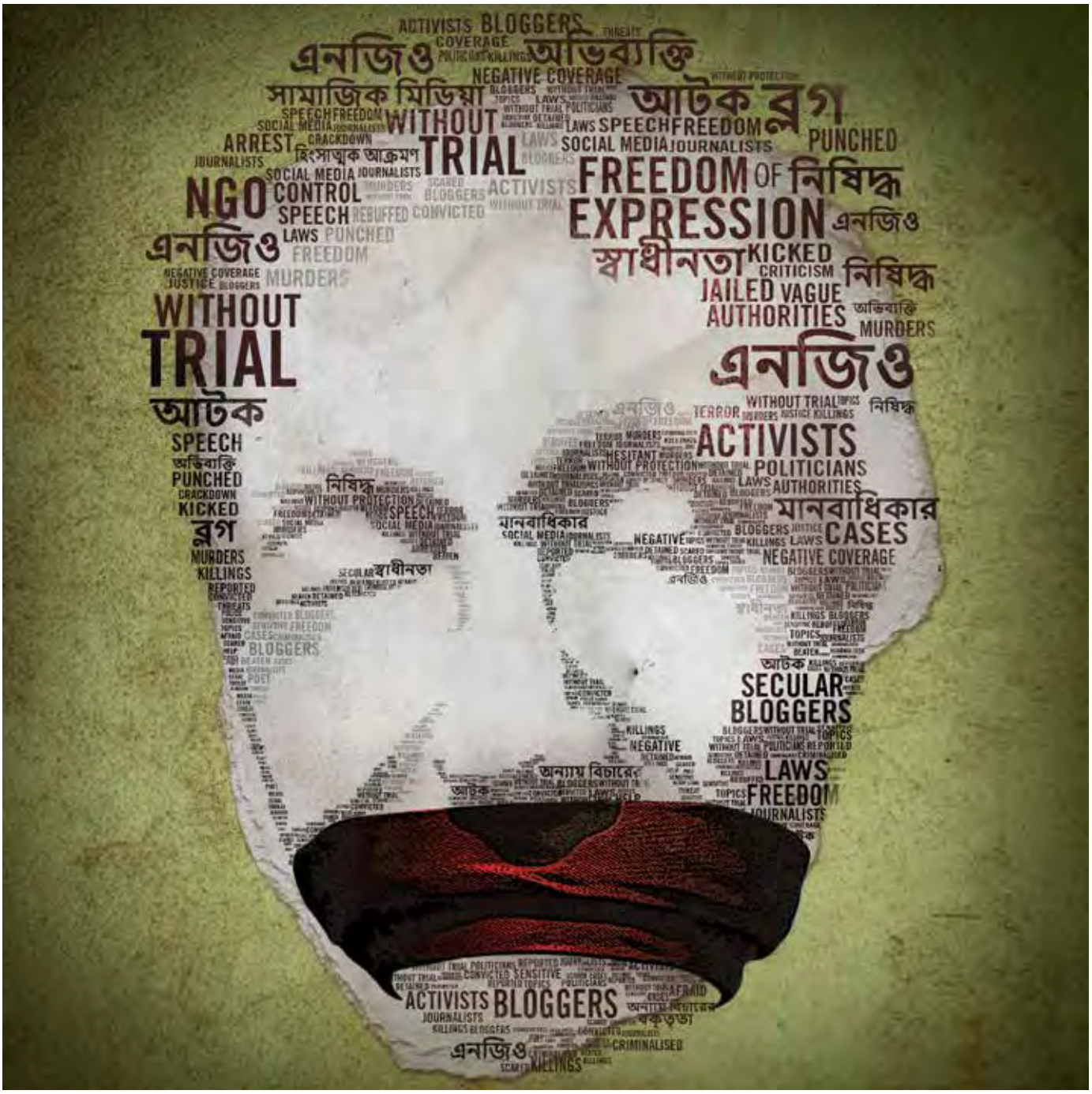


CAUGHT BETWEEN FEAR AND REPRESSION

ATTACKS ON FREEDOM OF EXPRESSION IN BANGLADESH

AMNESTY INTERNATIONAL

Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

First published in 2017 by Amnesty International Ltd
Peter Benenson House, 1 Easton Street, London WC1X 0DW, UK

Index: ASA 13/6114/2017
Original language: English
amnesty.org

Cover design and illustration: *© Colin Foo*

AMNESTY INTERNATIONAL

CONTENTS

Glossary

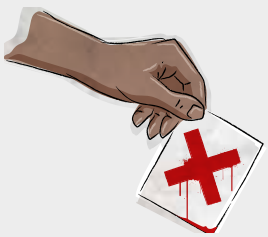
AQIS - al-Qa'ida in the Indian Subcontinent
BNP - Bangladesh National Party
BTRC - Bangladesh Telecommunication Regulatory Commission
CHT - Chittagong Hill Tracts
CPJ - Committee to Protect Journalists
DGFI - Director General Forces Intelligence
DS Act - Digital Security Act 2016
FDRA - Foreign Donations (Voluntary Activities) Act
GD - General Diary (the standard first report of transgressions filed with the police)
HRD - Human Rights Defender
ICCPR - International Covenant on Civil and Political Rights
ICT Act - Information and Communications Technology Act 2006
NGO - Non-governmental organisation
Jamaat – Jamaat-e-Islami
JMB - Jamaat-ul-Mujahideen Bangladesh
LGBTI - Lesbian, gay, bisexual, transgender and intersexual
RAB - Rapid Action Battalion

BANGLADESH
FREEDOM OF EXPRESSION TIMELINE

FEBRUARY 2013

Tens of thousands of people take part in street protests centred around Dhaka's Shahbag square, demanding that the senior Jamaat-e-Islami leader Abdul Quader Molla is sentenced to death for crimes committed during the 1971 War of Independence. Secular bloggers and other activists play a key role in organising the protests.

On 15 February, the secular blogger Rajib Haider is hacked to death by men wielding machetes in Dhaka.



JANUARY 2014

Prime Minister Sheikh Hasina's Awami League Party secures an overwhelming victory in the general election, which is boycotted by the main opposition parties. Scores of people are killed in election-related violence.

OCTOBER 2013

Parliament passes an amendment to the ICT Act, increasing prison terms and giving police powers to arrest without warrant. Since then, the use of the ICT Act against government critics, human rights activists and religious minorities has increased dramatically.

APRIL 2013

Between 1 and 3 April, four secular bloggers are arrested for what government officials call their "anti-Islamic writing", and are eventually charged for "hurting religious sentiments" under the Information and Communications Technology (ICT) Act. Among them are Asif Mohiuddin, who had only recently been released from hospital after narrowly surviving an attack on his life by an armed group earlier in the year.

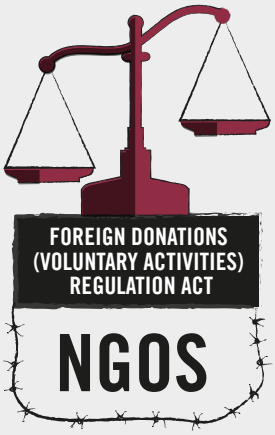
2015

Five secular activists are killed during the year, starting with the murder of Dr Avijit Roy in February. After the August 2015 killing of Niloy Neel, Bangladesh's national police chief A.K.M. Shahidul Hoque says:

"No one should cross the limit. And for hurting someone's religious sentiment, the person will be punished by the law."

JULY 2016

Five gunmen from Jamaat-ul-Mujahideen Bangladesh storm the Holey Artisan Bakery in Dhaka's Gulshan neighbourhood, killing at least 20 people, including 18 foreigners. The authorities respond with a heavy-handed anti-"terror" crackdown, arresting thousands of people – including many opposition supporters – and killings dozens of suspected "militants" in shootouts.



OCTOBER 2016

The President signs the new Foreign Donations (Voluntary Activities) Regulation Act into law on 13 October. The law sparks an outcry among civil society actors in Bangladesh, as it significantly increases official control over the NGO sector.

FEBRUARY 2016

On 7 April, Nazimuddin Samad is hacked to death when leaving Dhaka University, marking the seventh killing of a secular activists since 2013. Just a few weeks later, the well-known LGBTI activists Xulhaz Mannan and his friend Mahbub Rabbi Tonoy are also killed.

AUGUST 2016

The Digital Security Act is approved by the Cabinet. Although government officials say that it is partly meant to be an improvement on the ICT Act, the law would impose further restrictions of the right to freedom of expression online. It has yet to be sent to parliament for a vote.

DECEMBER 2016

Nazmul Huda, a well-respected print and television journalist, is arrested on 23 December after he had covered protests by garment industry workers in Ashulia outside of Dhaka. Nazmul Huda says that he is beaten so badly by police on his arrest that he needed hospital treatment. He is eventually charged under the ICT Act, as police claim his reporting "instigated" protests.

EXECUTIVE SUMMARY

It was an ordinary Friday afternoon in Bangladesh's capital Dhaka when, on 7 August 2015, Niladri Chattopadhyay Niloy - better known by his pen name Niloy Neel - and his partner Asha Moni heard a knock on their door. A man in his early 20s entered their flat, took a quick look around, and made a call on his mobile phone. A few moments later, a group of men armed with machetes stormed into the apartment and went straight for Niloy Neel. Within minutes they viciously hacked him to death and fled – his head was almost completely severed from his body.

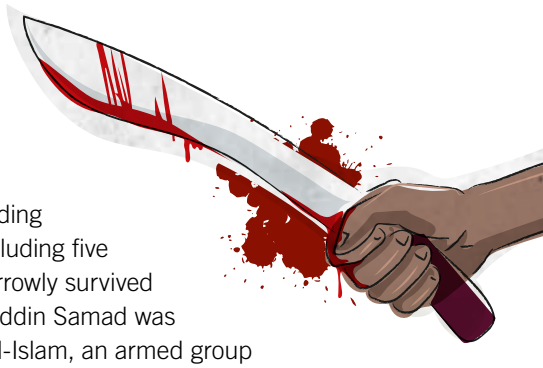
Niloy Neel

Niloy Neel was a known activist and blogger in Bangladesh who had written on secular issues and in support of human rights on the secular web platform, Mukto Mona ("free mind"). His death was not an isolated incident. Since 2013, at least seven secular activists have been killed in Bangladesh simply because of their peaceful writings or opinions, while others have narrowly survived similar attacks.

The response of the Bangladeshi authorities to this wave of violence has been troubling. Senior government officials have failed to unequivocally condemn the killings and almost none of the perpetrators have been held to account. Many activists who have approached police after receiving death threats have been rebuffed when seeking assistance. The police, for example, did not act on Niloy Neel's pleas for protection when he reached out a few days before his death. The violence has had a profound effect on other secular activists, many of whom now engage in self-censorship, or have felt compelled to leave Bangladesh to ensure their safety.

These murders of secular activists have received considerable international and domestic attention. However, they have taken place against a backdrop of a drastically shrinking space for freedom of expression in Bangladesh, which has been less widely reported. Since its re-election for a second term in 2014, the ruling Awami League party under Prime Minister Sheikh Hasina has intensified a crackdown on public debate and criticism. The authorities have used criminal charges and other tactics to harass and interfere in the work of media outlets in an effort to silence critical reporting. To this end, the government has made use of a repressive legal framework, which contains a number of laws that stifle the right to freedom of expression. Some of these laws date back to the country's colonial-era Penal Code, while others have been more recently introduced.

This report, *Caught between fear and repression: Attacks on freedom of expression in Bangladesh*, documents how restrictions have increased in Bangladesh since 2014. It focuses on three main aspects of this trend: the authorities' failure to protect secular and other activists in the face of threats and attacks from armed groups; increasing restrictions on the media sector; and the country's legal and regulatory framework.



Activists living in fear and without protection

The first killing of a secular activist in Bangladesh took place in February 2013, when the well-known blogger Rajib Haider was attacked by men wielding machetes outside of his home in Dhaka. At least seven secular activists, including five bloggers and one publisher, have lost their lives since, while others have narrowly survived similar attacks. The latest such killing occurred in April 2016, when Nazimuddin Samad was hacked to death as he was leaving his university campus in Dhaka. Ansar al-Islam, an armed group which claims to have ties to al-Qa'ida in the Indian Sub-continent, has claimed responsibility for each of the attacks.

Senior Bangladeshi government officials have not only refused to condemn the killings, but on occasion even shifted the blame onto the victims themselves. For example, after the killing of Nazimuddin Samad, Home Minister Asaduzzaman Khan Kamal said that, as part of its investigation, the government would instruct police to scrutinize his writings to see if they contained anything "objectionable" about religion. In the same month, Prime Minister Sheikh Hasina said of secular writers: "I consider such writings as not free thinking but filthy words. Why anyone would write such things? It's not at all acceptable if anyone writes against our Prophet or other religions."

The 2013 murder of blogger Rajib Haider is still the only case, to date, where anyone has been convicted. In December 2015, eight alleged members of Ansar al-Islam were convicted of carrying out or taking part in the planning of the attack. Although police have arrested individuals suspected of involvement in some of the other fatal attacks documented in this report, few cases have been brought to trial. For instance, immediately after the killing in March 2015 of the secular blogger Washiqur Rahman, eye witnesses apprehended two of the suspected perpetrators on the scene of the crime and police later arrested them. Although the two men caught at the scene have since been charged for their role in the murder, as of this writing, their trials had yet to begin.

This failure to ensure accountability for killings has contributed to pervasive distrust of the police in the secular activist community. Moreover, several activists told Amnesty International that they had approached police for protection, only to be ignored. Others said that the criminal cases brought against four secular bloggers in 2013 for "hurting religious sentiments" under the Information and Communications Technology (ICT) Act meant they were too afraid to approach the police at all, since they feared they too would face charges. Although there has not been a violent attack on a secular activist in Bangladesh since April 2016, there has been no let-up in threats against them. Amnesty International has interviewed many bloggers who say they still receive regular death threats as of late 2016 or 2017, but are either reluctant to approach police for protection, or say they have been refused assistance when they have done so.

The killings have had a profound impact on Bangladesh's secular activist community. Scores have seen no option but to flee Bangladesh over the past years in order to ensure their own safety, while self-censorship has become the norm among those who have remained. A previously vibrant civil society has been left in disarray, with activists too afraid for their safety to organize public events, or to post their opinions on social media, even anonymously.

A media under siege

While Bangladesh, like many South Asian countries, has a large and vibrant media scene, the authorities have since 2014 significantly increased efforts to interfere in the work of journalists and other media workers. The government has used a range of different tools and tactics to intimidate media and to silence critical coverage. As one journalist told Amnesty International: "The government has more or less 'managed' the opposition, the only real threat now comes from media or civil society."

Authorities have brought politically motivated criminal charges against several journalists from across the political spectrum. Some editors and other high-profile media workers appear to have been singled out for such charges as a means of sending a signal to the wider media landscape to refrain from covering certain sensitive topics and to avoid criticizing the authorities. Mahfuz Anam and Matiur Rahman, the editors of the daily newspapers *The Daily Star* and *Prothom Alo* respectively, have since 2015 both had to face dozens of sedition and defamation charges. The charges stem from different articles from both publications, but broadly relate to allegations of corruption against the government. In these and several other cases documented in this report, authorities have been able to take advantage of Bangladesh's politicized judiciary to subject editors and journalists to legal harassment.

Several other media workers who do not have the same notable public profile have also faced criminal charges since 2014. Journalists have been charged under the ICT Act and other repressive laws, often for reporting on government corruption or in other ways criticizing the authorities. One of the most recent examples is Nazmul Huda, a print and television journalist who in December 2016 was charged under the ICT Act after covering protests by garment workers in Ashulia outside of Dhaka. Nazmul Huda said that he was beaten by police on his arrest to the extent that he required hospital treatment. Another telling case is that of Siddiqur Rahman Khan, who was charged under the ICT Act in August 2016 after publishing articles highlighting allegedly corrupt hiring practices in a sub-department of the Ministry of Education. Both journalists, who have been released on bail, face a minimum of seven years in prison if convicted.

Journalists told Amnesty International that local police forces are often hesitant to file charges against or investigate influential politicians or businessmen who have harassed or used physical violence against media workers, allowing such crimes to be carried out with impunity." To "Journalists told Amnesty International that local police forces are often hesitant to file charges against or investigate influential politicians or businessmen who used physical violence against media workers. This has allowed such crimes to be carried out with impunity.

Many journalists that Amnesty International spoke to described restrictions on media as the most severe at any point since Bangladesh's return to civilian rule in 1991. Self-censorship is pervasive, and journalists from many outlets told Amnesty International that there are particular "red lines" they are afraid to cross in their coverage. These include, in the main, any negative coverage of Sheikh Hasina, her family or the ruling party. In other cases documented in this report, authorities have moved to shut down media outlets without explanation or legal justification, and in one case put pressure on companies not to advertise with critical media outlets.

Repressive legal framework

The crackdown on freedom of expression since 2013 has been facilitated by Bangladesh's legal framework, which has become one of the most potent tools of the authorities to silence public debate and criticism. The government has made use of a range of laws – some dating back to the colonial-era Penal Code, others more recently introduced – against its critics.

Sedition and criminal defamation charges – both part of the Penal Code - are, for example, frequently used against critical journalists. Of the more recently introduced laws, the Information and Communications Technology (ICT) Act has had a particularly harmful effect on freedom of expression. The law was first passed in 2006 and amended in 2013, and some of its provisions are so vague and overbroad that it gives the authorities enormous scope to bring criminal charges against critics. Since 2013, in addition to being used against media workers, the ICT Act has been used against a range of individuals including members of human rights NGOs, student activists, and even a man who was jailed for seven years after sharing a song parodying Sheikh Hasina on his mobile phone.

The ICT Act has also been labelled a "de facto blasphemy law", due to the vague wording of its Section 57, which criminalizes "hurting religious sentiments". Members of religious minorities and secular activists have been arrested and imprisoned after being charged under Section 57. In 2013, for example, four bloggers were charged under Section 57 for "hurting religious sentiments" simply because of their peaceful writings on secular issues, while in October 2016 a Hindu man was charged under the same section after being accused of posting an image on Facebook that supposedly denigrated Islam.

Another recently introduced law, the Foreign Donations (Voluntary Activities) Regulation Act, which was passed in October 2016, significantly strengthens the authorities' control over the NGO sector. It contains a provision which could result in deregistration or fines for NGOs who make "inimical" remarks about the parliament or other constitutional bodies. Nowhere in the law is the word "inimical" defined, giving the authorities wide discretion to use the law against NGOs who are simply criticizing state institutions. Civil society activists, who are already facing growing restrictions on their work, told Amnesty International that they were deeply concerned about the potentially harmful effects the law will have.

Equally worrying is that the government is moving forward with plans to introduce other laws which would place additional restrictions on freedom of expression. Some of these laws are aimed at the online sphere, such as the proposed Digital Security Act 2016. Others, such as the draft Liberation War Denial Crimes Act, appear designed to stifle debate about Bangladesh's 1971 War of Independence, a highly politically charged issue in the country. As one head of a Dhaka-based NGO told Amnesty International: "The purpose and spirit of these laws is the same, which is to restrict. It's about sending a message that you need to be careful when you criticize the government."

Ensuring the right to freedom of expression

Since 2013, Amnesty International has documented a range of serious human rights violations and abuses in Bangladesh, including enforced disappearances, extrajudicial executions by security forces, mob violence against religious minorities such as the Hindu community, and a sharp increase in the use of the death penalty. Bangladesh's vibrant media scene, civil society and community of activists all play key roles in the country's political life and national discourse to highlight and bring justice for such abuses. The increasingly harsh restrictions imposed by the authorities on freedom of expression and their inadequate response to attacks by armed groups are, however, making this crucial work extremely difficult.

Amnesty International urges the Bangladeshi authorities to create an environment where freedom of expression is respected and protected, and media, civil society and activists can carry out their work without fear of reprisal. The very first steps towards this must include:

Repealing all laws used to criminalise freedom of expression, in particular the ICT Act, or substantially revising them to comply with international human rights law and standards;

- Immediately and unconditionally dropping all criminal charges against journalists, activists and others who have solely peacefully exercised their right to freedom of expression; and
- Providing effective protection to secular activists and others whose security is at risk, and
- ensuring that those responsible for violent attacks against activists are held to account in fair and impartial trials without recourse to the death penalty.

For more detailed recommendations, see Chapter 5.

Methodology

This report focuses on events in Bangladesh since 2013. Due to the large number of incidents of human rights violations and abuses against media workers and activists, it was not feasible to research every publicly-reported case in detail. This report, however, focuses on incidents of abuse that Amnesty International believes to be emblematic, reflecting a broader pattern of violations of the right to freedom of expression.

The report is based on desk research during 2016 and 2017, as well as one two-week research mission to Bangladesh in November 2016. In total, Amnesty International interviewed 50 media workers and other activists whose rights to freedom of expression have been violated, either in person inside or outside of Bangladesh, or remotely over the phone or email. The report also draws on extensive interviews carried out since 2014 by Amnesty International with secular activists and others who have approached the organization for assistance, fearing that their safety was at risk in Bangladesh. Furthermore, throughout 2016 Amnesty International interviewed a range of stakeholders inside and outside of Bangladesh, including NGO workers, representatives of different UN agencies, political analysts, retired media professionals and academics.

For the legal analysis, Amnesty International made use of official English translations of laws where available, and otherwise commissioned professional translations.

Interviews with media workers, bloggers and other victims were voluntary, confidential and followed a semi-structured format, and those interviewed knew they would receive no compensation for providing their accounts. The interviews were conducted in English or Bengali, with professional interpretation where necessary. The interviewees were informed that their accounts would be kept confidential – the names of those interviewed have been changed to protect their anonymity, except for when consent was given to use their actual names. At times, information in citations has been anonymised to protect the identity of those interviewed.

Amnesty International extends its thanks to the individuals and organizations who consented to meet with its delegates and provide information for this report. In particular, the organisation wishes to extend its deep appreciation to the victims who shared their stories and trusted Amnesty International to raise their concerns. Their contributions have been crucial to identifying policy and other recommendations. The information in this report is current as of April 2017.

Background: Political context

Bangladesh achieved independence from Pakistan in 1971 following the War of Independence, when Pakistani forces carried out widespread atrocities and human rights violations, killing hundreds of thousands of people in what was then East Pakistan. The new post-independence government, however, soon collapsed when a group of army officers staged a coup in which they assassinated President Sheikh Mujibur Rahman, the political leader of Bangladesh's independence movement, and established a military-led government in 1975. Debate about the events of 1971 remains highly politically charged in Bangladesh today, in particular the alleged involvement of currently active members of political parties, mainly Jamaat-e-Islami, in war crimes at the time, as well as the conflict's total death toll.[1]

Following 16 years of rule by successive military governments, the multi-party elections of 1991 ushered in a return to civilian rule. The polls were won by the Bangladeshi National Party (BNP), led by Chairwoman Khaleda Zia, while the Awami League – led by Sheikh Hasina, the daughter of Sheikh

1 While the Awami League and its supporters maintain that some three million people were killed in the war, some scholars have placed the total death toll at closer to 300,000. For background, see for example, David Bergman in *The New York Times*, "The Politics of Bangladesh's Genocide Debate", 5 April 2016, available at https://www.nytimes.com/2016/04/06/opinion/the-politics-of-bangladeshs-genocide-debate.html?_r=0

Mujibur Rahman – emerged as the main opposition party. The BNP and Awami League won alternate elections until a military-backed caretaker government seized power in January 2007 following months of escalating political turmoil. In 2008, an Awami League-led coalition won a parliamentary majority in the general elections and assumed office in 2009.

Bangladesh's already deep political polarization has intensified in recent years. In 2009, the Awami League made good on an election promise to establish the International Crimes Tribunal, a Bangladeshi court investigating war crimes and other gross violations of human rights committed during the War of Independence.[2] Six people have so far been executed after receiving death sentences by the Tribunal, all of whom have been senior members of Jamaat-e-Islami or the BNP. The Tribunal trials have been widely criticized, including by Amnesty International and the UN, for not meeting international standards of fairness, by for example arbitrarily limiting the number of defence witnesses, relying on inadequate evidence for convictions, and for imposing death sentences.[3] Amnesty International opposes the death penalty in all circumstances and regardless of the nature and circumstances of the crime. While we have welcomed the Bangladeshi government's efforts to hold perpetrators for human rights abuses committed in the past to account, we have consistently urged the authorities to do so without recourse to the death penalty.

Tensions between secular and religious movements, long present in Bangladesh, have also grown in recent years. In early February 2013, tens of thousands of people gathered around Dhaka's Shahbag square to demand the death penalty for Abdul Quader Molla, a senior Jamaat leader who had been sentenced to life imprisonment by the Tribunal on 5 February. Secular bloggers and other activists were instrumental in organizing this so-called "Shahbag movement", which was eventually met with large-scale counter protests led by Hefazat-e-Islam.[4]

In 2011, the Awami League-dominated Parliament passed the 15th amendment to the Constitution which abolished the practice of a neutral Caretaker Government assuming power in the lead-up to elections to ensure their fairness, which had been established in 1996.[5] The BNP accused the government of attempting to cement its grip on power and undermining the democratic process. The Jamaat party, an ally of the BNP, was in August 2013 banned from taking part in future elections by the High Court, which ruled that the party's charter violated the secular principles of Bangladesh's Constitution.[6]

In protest against the government's abolition of the caretaker system, the BNP boycotted the general elections in January 2014, paving the way for an overwhelming Awami League victory. The Awami League won 273 of 350 parliamentary seats (154 of which were won uncontested), and continues to hold an absolute majority in parliament. The USA and the EU and other international organizations refused to send

2 Official website of the International Crimes Tribunal, http://www.ict-bd.org/ict1/

3 See, for example UN OHCHR, "UN rights experts urge Bangladesh to halt the execution of opposition party leader Muhammad Kamaruzzaman", 6 November 2014, available at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15260&LangID=E and Amnesty International, "Stop political leader's imminent execution: Motiur Rahman Nizami", 5 May 2016 available at https://www.amnesty.org/en/documents/asa13/3974/2016/en/

4 For more on the role of new media in organizing the "Shahbag movement", see Hussain, F., & Mostafa, M., "Digital contradictions in Bangladesh: Encouragement and deterrence of citizen engagement via ICTs", Information Technologies & International Development [Special Issue], 12(2), 47–61 2016

5 Haroon Habib, "Constitutional amendments in Bangladesh", *The Hindu*, 30 June 2011 available at http://www.thehindu.com/news/international/constitutional-amendments-in-bangladesh/article2148058.ece

6 Sanjay Kumar, "Is Bangladesh's Ban on Jamaat-e-Islami Democratic?", The Diplomat, available at http://thediplomat.com/2013/08/is-bangladeshs-ban-on-jamaat-e-islami-democratic/

observers to the elections, claiming the opposition boycott meant they were not credible.[7] The elections were the most violent in Bangladesh's history, as scores of people were killed in street protests in the months leading up to the polls. BNP and Jamaat supporters were accused of killing people who refused to honour street blockades they had set up, while members of the security forces carried out extrajudicial executions and enforced disappearances. The one-year anniversary of the vote in January 2015 saw further loss of life as the BNP and Jamaat organized street protests and *hartals* (general strikes) across the country.[8]

The years since the 2014 elections have been marked by an increasing tendency to penalize dissent. The ruling Awami League party in an apparent attempt to tighten its grip on power has arrested thousands of opposition members and supporters. Many key BNP leaders are either in prison, facing criminal charges or have been forced into exile. The next general elections in Bangladesh are due in 2019.

Recent years have also seen the re-emergence of violent attacks by armed groups claiming to act in the name of Islam. Such groups had been active in the mid-2000s, when Jamaat-ul-Mujahideen Bangladesh (JMB) and others carried out a series of attacks across the country. These included suicide bombings of courts and a grenade attack on an Awami League rally in August 2004 which killed one party leader and injured others, including Sheikh Hasina. A crackdown on such violence launched by the BNP government in 2005 led to a few years of lull in violence.[9] Armed groups, however, have been resurgent since 2013, with JMB and Ansar-al-Islam claiming responsibility for the killings of dozens of secular activists, members of religious minorities, academics, foreigners and others. These attacks culminated in the siege of an upmarket restaurant in Dhaka on 1 July 2016, when JMB gunmen killed at least 20 people, including 18 foreigners.

7 Statement by the Spokesperson of EU High Representative Catherine Ashton on EU Election Observation Mission in Bangladesh, 20 December 2013, available at http://eeas.europa.eu/archives/docs/statements/docs/2013/131220_01_en.pdf

8 Amnesty International Report 2014 / 2015, Chapter on Bangladesh, p. 72, 25 February 2015 available at https://www.amnesty.org/en/documents/pol10/0001/2015/en/

9 United States Institute for Peace, "Preventing Violent Extremism through Inclusive Politics in Bangladesh", 14 January 2016 available at https://www.usip.org/publications/2016/01/preventing-violent-extremism-through-inclusive-politics-bangladesh

1. ACTIVISTS LIVING IN FEAR AND WITHOUT PROTECTION

> ***"If you are a true activist, you are the most vulnerable person in the country. You could be arrested by the government or be targeted by an Islamist."***
>
> Bangladeshi secular activist speaking to Amnesty International.[10]

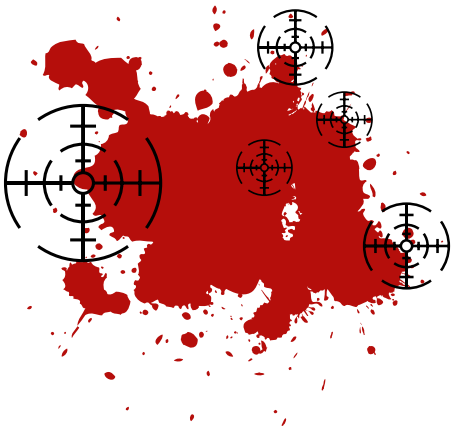
The most striking example of the increasing threats to freedom of expression in Bangladesh in recent years has been the string of violent attacks on secular bloggers and other activists, which has claimed at least seven lives. Amnesty International condemns these shocking killings; they are not only a direct attack on freedom of expression but they also show a callous disregard for human life.

This chapter details the deeply flawed response by the Bangladeshi authorities to this wave of violence, and the effects it has had on the secular activist community.

It is important to note that armed groups in Bangladesh have since 2015 widened their list of victims from secular activists to also include other individuals and groups, such as members of religious minorities, foreigners, academics and LGBTI people. While Amnesty International condemns these killings and urges the authorities to hold those responsible to account, this report focuses specifically on emblematic cases of those who have been targeted for exercising their right to freedom of expression.

Background: Violent attacks, secular activism

The early 2000s was marked by growing attacks across Bangladesh by violent groups. In 2004 the new groups Jamaat-ul-Mujahideen Bangladesh (JMB) and Harkatul Jihad Al Islami-Bangladesh launched a string of violent attacks across the country, including suicide bombings and a grenade attack on an Awami League rally in August 2004 that injured Sheikh Hasina and other senior party members. This culminated in coordinated bombings in 63 of 64 districts in August 2005, which were claimed by the JMB.[11]



10 Amnesty International interview, April 2016

11 See for example United States Institute for Peace, "The Rise of Islamist Militancy in Bangladesh", August 2006 available at http://www-preview.usip.org/sites/default/files/SRaug06_2.pdf

The then-government of BNP and Jamaat-e-Islami had been widely criticized by opposition parties and internationally for failing to take sufficient action to stem the rising violence. But following intense international pressure after the 2005 bombings, the BNP-led government intensified a crackdown, arresting and killing many suspected militants, resulting in a lull in violence. When taking office in 2009, the Awami League government empowered the police and Rapid Action Battalion – an elite anti-terrorism police force widely implicated in human rights violations – to intensify its efforts to dismantle such groups.[12]

According to a 2016 International Crisis Group report, although "the crackdown [from 2005] undermined their ability to freely recruit, plan and conduct operations, Islamist extremists are now exploiting acute political polarisation, as they did during the BNP-led coalition government, to regroup."[13] A political analyst told Amnesty International: "There is a clear relationship between the political scene and extremism in Bangladesh. When there is political instability, attacks by armed groups increase."[14]

Tensions between certain religious and secular movements in Bangladesh rose significantly from February 2013. This was when the International Crimes Tribunal sentenced the senior Jamaat-e- Islami leader Abdul Quader Molla to life imprisonment for crimes against humanity and war crimes during the War of Independence. In response to the verdict, tens of thousands of people joined street protests centred on Dhaka's Shahbag square, calling for the punishment to be changed to a death sentence. Secular activists, working under the loose umbrella group Gonojagoron Moncho, played a key role in organizing the protests of the so-called "Shahbag movement" through social media and other online platforms. This was the first time the term "blogger" really entered the public consciousness in Bangladesh, for many becoming a pejorative term associated with atheism and supposed anti-Islamic sentiments.

The Shahbag demonstrations sparked large-scale counter-protests led by Hefazat-e-Islam, a coalition of Islamic groups with close links to Bangladesh's *quami* madrasa system, the system of privately owned madrasas which operate without government oversight. The protests culminated in a Hefazat-e-Islam rally in Dhaka in the first week of May 2013 which was violently dispersed by security forces, resulting in at least 44 deaths.[15]

In February 2013, a new armed group, Ansar al-Islam (also known as Ansarullah Bangla Team), which claims links to al-Qa'ida in the Indian Subcontinent, emerged with the killing of secular blogger Rajib Haider. Since late 2015, a resurgent JMB - sometimes referred to as "neo-JMB" - which claims links to the armed group calling itself the Islamic State in Syria and Iraq, has also become increasingly active. It has claimed responsibility for a string of brutal killings of members of religious minorities, foreigners and academics across Bangladesh. On 1 July 2016, five JMB men armed with weapons and explosives stormed the Holey Artisan Bakery restaurant in Dhaka's upscale Gulshan neighbourhood, killing at least 20 people, including 18 foreigners. According to analysts, these groups appear to represent a new generation of militants in Bangladesh, with stronger ties to international networks and who make use of the internet to recruit.[16]

---

12 See Amnesty International, *Crimes unseen: Extrajudicial executions in Bangladesh* (Index: ASA 13/005/2011) https://www.amnesty.org/en/documents/asa13/005/2011/en/ or "Exclusive: Officer Exposes Brutal Killings by Bangladeshi Elite Police Unit RAB", Swedish Radio, 4 April 2017 available at http://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=6665807

13 International Crisis Group, *Political Conflict, Extremism and Criminal Justice in Bangladesh*, 11 April 2016 available at https://www.crisisgroup.org/asia/south-asia/bangladesh/political-conflict-extremism-and-criminal-justice-bangladesh

14 Amnesty International interview in Dhaka, November 2016

15 Amnesty International, "Bangladesh: Investigate deaths in protest clashes to prevent more bloodshed", 7 May 2013 available at https://www.amnesty.org/en/latest/news/2013/05/bangladesh-investigate-deaths-protest-clashes-prevent-more-bloodshed/

16 Amnesty International interviews in Dhaka and over the phone, 2016.

1.1 ATTACKS AND THREATS BY ARMED GROUPS

Killings and violent attacks

Since 2013, at least seven secular activists – five bloggers, one publisher and one online activist – have been killed as a result of exercising their right to freedom of expression.

The first victim was **Ahmed Rajib Haider**, a well-known writer on religion and atheism better known by his pen name Thaba Baba. On 15 February 2013, he was hacked to death by a group of five men wielding machetes as he was leaving his home in Dhaka's upscale Mirpur neighbourhood.[17] On 31 December 2015, two students were sentenced to death for the murder of Ahmed Rajib Haider, while six other people were given varying year prison sentences. As far as Amnesty International is aware, this is the only killing of a secular activist for which anyone has been convicted.

On 26 February 2015, two attackers murdered the well-known secular blogger **Dr. Avijit Roy** as he was returning home from the Ekushey Book Fair in Dhaka by bicycle rickshaw with his wife, Bonya Ahmed. Avijit Roy was stabbed in the head several times and passed away in the hospital later that night. Bonya injured herself badly while trying to protect her husband, but survived the attack. Avijit Roy was a dual Bangladeshi-US citizen and the founder of the influential blog Mukto-Mona (Free Thinkers). He had received threats on Facebook before his murder.[18]

Dr. Avijit Roy

Washiqur Rahman was killed little more than a month after Avijit Roy, on 30 March 2015.[19] Three men hacked him to death using machetes as he was leaving his home in the Tejgaon area of Dhaka. Prior to his death, Rahman received a series of death threats. Police arrested two suspects close to the murder scene on the day of his killings, and a further three men have been named as suspects since.[20]

On 12 May 2015, while on his way to work **Bijoy Das** was approached by masked men carrying machetes in Sylhet, Bangladesh, who struck him on the head and body. Bijoy Das was taken to hospital but did not survive his injuries. He was a well-known secular blogger in Bangladesh and contributor to the secular blogging platform Mukto Mona, and he had won Mukto Mona's annual award in 2006 for "spreading secular and humanist ideals and messages."[21] Prior to his killing Bijoy Das had received death threats.

Niladri Chattopadhyay Niloy, also known by his pseudonym **Niloy Neel**, was killed on 7 August 2015 when a group of men stormed into his apartment and hacked him to death with machetes.[22] Niloy Neel had received death threats for his writing and said just a few days before his killing that he had

17 Bdnews24.com, "Killers hacked Rajib first, then slit his throat: police", 16 February 2013 available at http://bdnews24.com/bangladesh/2013/02/16/killers-hacked-rajib-first-then-slit-his-throat-police

18 BBC News, "US-Bangladesh blogger Avijit Roy hacked to death", 27 February 2015 available at http://www.bbc.co.uk/news/world-asia-31656222

19 Amnesty International, "Bangladesh: Horrifying murder of blogger must be 'wake-up call'", 30 March 2015 available at https://www.amnesty.org/en/latest/news/2015/03/bangladesh-horrifying-murder-of-blogger-must-be-wake-up-call/

20 *Prothom* Alo, "5 'ABT men' indicted in blogger Washiqur killing case", 20 July 2016 available at http://en.prothom-alo.com/bangladesh/news/112775/5-%E2%80%98militants%E2%80%99-indicted-in-blogger-Babu-killing

21 Amnesty International, "Bangladesh: One year since secular blogger Ananta Bijoy Das was killed and still no justice", 11 May 2016 available at https://www.amnesty.org/en/documents/asa13/4021/2016/en/

22 Amnesty International, "Bangladesh: savage killing of blogger Niloy Neel must not go unpunished", 7 August 2015 available at https://www.amnesty.org.uk/press-releases/bangladesh-savage-killing-blogger-niloy-neel-must-not-go-unpunished

approached police for protection but been rejected, and that police had simply told him to leave the country.[23]

Faisal Abedin Deepan, who through his publishing company Jagriti Prokashony had published the books of, among others, Avijit Roy, was killed in his office in central Dhaka on 31 October 2015. He had filed a complaint with police over receiving death threats prior to his death. Three other men were also attacked on the same day, but survived despite serious injuries.[24]

The last known killing of a secular activist took place on 7 April 2016 when **Nazimuddin Samad**, a 28-year-old law student at Jagannath University in Dhaka, was killed by a group of men as he was leaving his campus. The men stabbed him with machetes and also shot him dead with a gun. Nazimuddin was not an active blogger but was known known for posting about secular issues on social media, including Facebook.[25]

Other secular activists have narrowly survived similar attacks.

On 15 January 2013, the well-known secular blogger **Asif Mohiuddin** was attacked by men near his office in Dhaka who stabbed him nine times. The attack left him severely injured but he survived after hospital treatment.[26] Asif Mohiuddin said that he had received threats through social media prior to the attacks, but because he had been arrested by police for his writing in 2011, he did not trust the police to provide protection and he never reported the threats to them. In April 2013, Asif Mohiuddin was one of four secular bloggers arrested and charged under the ICT Act (see p. 25).

On 7 March 2013, the secular blogger **Sunnyur Rahman** was stabbed in the head and leg by two men in central Dhaka. He was left severely injured by the attack but survived after receiving hospital treatment in Dhaka.[27]

Ahmedur Rashid Chowdhury, better known by his pen name **Tutul**, was attacked in his office in Dhaka on 31 October 2015, the same day that Faisal Abedin Deepan was killed. Tutul ran the publishing house Shuddhashar, which published the works of several high-profile secular writers, including Avijit Roy. Tutul and his family have left Bangladesh since the attack, and are currently living in Norway.[28] Two other bloggers, **Ranadipam Basu** and **Tareq Rahim**, also survived attacks by men armed with machetes on the same day.

Ansar al-Islam has claimed responsibility for all the attacks on secular activists outlined above. In statements issued after the attacks they have claimed that they were motivated by their victims' writings on secular issues. After the killing of Niloy Neel, for example, an email apparently from Ansar al-Islam sent to media houses in Bangladesh said that the group had "carried out an operation to slaughter an enemy of Allah".[29] In April 2016, according to the US-based SITE Intelligence Group, Ansar al-Islam released a statement claiming that the killing of Nazimuddin Samad was "vengeance" and carried out to

23 *The Guardian*, "Bangladesh blogger killed by machete gang had asked for police protection", 7 August 2015 available at https://www.theguardian.com/world/2015/aug/07/machete-gang-kills-secular-bangladeshi-blogger-niloy-chakrabarti

24 Associated Press, "Publisher of secular books killed, three bloggers wounded in Bangladesh", 25 December 2015 available at http://indianexpress.com/article/world/neighbours/bangladesh-three-bloggers-attacked-one-critical/

25 Amnesty International, "Bangladesh: Authorities must act as another secular activist hacked to death", 7 April 2016 available at https://www.amnesty.org/en/latest/news/2016/04/bangladesh-authorities-must-act-as-another-secular-activist-hacked-to-death/

26 Committee to Protect Journalists, "Bangladeshi blogger hospitalized after being stabbed", 15 January 2013 available at https://www.cpj.org/2013/01/bangladeshi-blogger-hospitalized-after-being-stabb.php

27 Bdnews24.com, "Another blogger stabbed at Pallabi", 7 March 2013 available at http://bdnews24.com/bangladesh/2013/03/07/another-blogger-stabbed-at-pallabi

28 *Dhaka* Tribune, "Bangladeshi publisher Tutul wins Pen writer of courage award", 14 October 2016 available at http://www.dhakatribune.com/bangladesh/2016/10/14/margaret-atwood-selects-tutul-pen-writer-courage-award/

29 *Daily* Sun, "Ansar-Al-Islam claims responsibility for Niloy murder", 7 August 2015 avaiable at http://www.daily-sun.com/post/65035/AnsarAlIslam-claims-responsibility-for-Niloy-murder

"teach a lesson to the blasphmers of this land whose poisonous tongues are constantly abusing Allah, the religion of Islam and the Messenger under the pretext of so-called freedom of speech."[30]

Threats

> ***"I was afraid that I would not survive for long if I stayed in Bangladesh."***
>
> Secular blogger who fled Bangladesh after years of receiving death threats.[31]

Secular bloggers and other activists told Amnesty International that they have been subjected to ongoing death threats from armed groups, and that such threats have continued unabated even after the last known attack in April 2016. The threats are usually made over social media platforms like Facebook or Twitter, or over mobile phones through text messages. Occasionally, secular bloggers also told Amnesty International that they had been threatened in person, or that they themselves or family members had received threatening phone calls at home or on their mobile phones. A recurring theme in interviews with such activists was that they still feared that their lives were at risk, despite the relative lull in violence since April 2016.

One blogger said that he started receiving threats in 2010 after he posted a series of secular poems online. However, it was not until the killings of five people in 2015 that he began to take the threats more seriously. After the volume of death threats escalated significantly in early 2016 (the threats would come on social media and on his mobile phone) he decided to remove his son from school and temporarily moved to India on a tourist visa together with his family, since he feared for their safety if he stayed in Bangladesh.[32] Another prominent blogger described how he and his wife had lived in hiding since 2015, and that they felt compelled to move to a different location on a weekly basis.[33]

Since the killings started, scores of secular activists have left Bangladesh for other countries, mainly in South Asia and Europe, since they feared for their lives in Bangladesh. They have often had to seek help from human rights and humanitarian NGOs for financial and legal assistance in order to do so. Although leaving their home country has provided relative physical security, it has often had a devastating effect on them and their families. The financial and emotional toll for family members left behind in Bangladesh is often significant. "My family life has been totally destroyed. My two children are so traumatized, they keep thinking that someone will kill their father," said one secular activist who has left Bangladesh after he received threats.[34]

Nur Nobi Dulal, a prominent writer and the founder of the popular "Istishon blog" platform, said that because of persistent death threats from armed groups he had to change houses with his wife and two children five times in the years leading up to 2015. In October 2015, the intimidation had escalated to

30 SITE Intelligence Group, "Bangladesh division of AQIS claims murder of blogger Nazimuddin Samad," 8 April 2016 available at https://ent.siteintelgroup.com/Jihadist-News/bangladesh-division-of-aqis-claims-murder-of-blogger-nazimuddin-samad.html

31 Amnesty International interview, October 2016

32 Amnesty International interview, April 2016

33 Amnesty International interview, November 2015

34 Amnesty International interview, April 2016

such a level that he felt compelled to leave Bangladesh with his family.[35] While he was living outside Bangladesh, access to "Istishon blog" by anyone inside the country was blocked on 26 September 2016 by the Bangladesh Telecommunications Regulatory Commission – the body regulating all online communications - without an explanation being provided.[36] Nur Nobi Dulal – now living in a European country with his family - told Amnesty International that the blocking of his blog has led him to believe that he risks arrest if he returns to Bangladesh. He says that the past years have taken a devastating toll on his family: "My life is endangered because I spoke out about humanism and secularism. Now, my family's life is also endangered. My two children's education is on the verge of destruction."[37]

"I was afraid that I would not survive for long if I stayed in Bangladesh"

Rashed Alim (pseudonym), 29, works in the finance section but has also been blogging about secular issues since at least 2008. He contributed to some of the major blogging platforms in Bangladesh, and also ran his own popular personal blog. Rashed says that he started receiving threats almost as soon as he started writing, but did not take them seriously until the murder of Rajib Haider in 2013.[38]

The threats escalated significantly in February 2015 after the murder of Avijit Roy. Rashed noticed an unusual spike in visitors to his website shortly after, which led him to shut the site down and stop writing, since he feared that the increased popularity of the site was somehow linked to the threats. Shortly after, he received a message on Facebook reading: "You thought we would disappear just because you took down your website. We remember you. Your turn will come." The threats continued through social media and text messages on his mobile phone for the next year. Rashed approached the police who agreed to file a general diary (GD) complaint - the standard first report of transgressions filed with the police - about the threats he received as long as he didn't mention that he was a secular blogger, but he said that that they ignored his repeated pleas for protection.

In April 2016, Rashed travelled to Nepal – his plan was to make it seem like he had left Bangladesh for good, but to return to the country in secret after two weeks. He left his wife and young son in Dhaka. Still, the threats continued while he was in Nepal. One Facebook message read: "Maybe you are out of the country, but your family isn't." His mother also received a phone call saying that she is "breeding an extremist […] in her house."

With the help of several NGOs, Rashed finally managed to leave Bangladesh with his wife and son later in 2016. He is now seeking asylum in a European country. "I was afraid that I would not survive for long if I stayed in Bangladesh," he told Amnesty International.

35 Amnesty International Interview, 2016

36 *Dhaka* Tribune, "Istishon blog blocked for Bangladesh users", 27 September 2016 available at http://www.dhakatribune.com/bangladesh/2016/09/26/istishon-blog-blocked-bangladesh-users/

37 Amnesty International Interview, 2016

38 Amnesty International interview, October 2016

A civil society stifled

Virtually all secular activists told Amnesty International that the wave of violence has had a profound effect on their community. Self-censorship is now overwhelmingly common, and the vast majority of activists, in particular those still remaining in the country, said that they had ceased writing and closed down their blogs in response to the killings. Many also said that they had even grown afraid of expressing opinions on social media, or the Internet in general, altogether, even anonymously.

One secular activist in Dhaka said: "I stopped writing and publishing completely after Avijit Roy's murder. I had received threats for years, but I never took them seriously until then. Things will have to change a lot before I start writing again, it is just not safe for me to do so now."[39] The community of activists that once existed in Bangladesh has all but broken down. One secular activist who remains in Dhaka said: "It's a bit frustrating that all the active members [of our community] have left or are leaving Bangladesh. It's difficult to accept that the militants are successful to destroy the momentum completely."[40] Several activists said that public events and even private meetings have all but stopped. The NGO Frontline Defenders noted, in a November 2016 report based on interviews with dozens of human rights defenders (HRDs) in Bangladesh that "HRDs working in all fields reported a partial or complete breakdown of their activist networks following the assassination of HRDs and the subsequent government inaction."[41]

Similarly, the murder of the well-known LGBTI activist Xulhaz Mannan on 25 April 2016 has had a profound impact on many LGBTI people in Bangladesh. Xulhaz Mannan was killed along with his friend Mahbub Rabbi Tonoy in Dhaka in an attack claimed by Ansar al-Islam (see Chapter 3: Killings of journalists). Since April 2016, *Roopban* has completely ceased publication and all of its other activities. LGBTI activists told Amnesty International that they were too afraid to organize both public and private events. Online activity, such as contributing to discussion forums or posting on social media, has also declined significantly.[42] Dozens of LGBTI activists have been forced underground into hiding or fled the country.

"We are all in hiding after the killing [of Xulhaz Mannan]. We are very scared to go out or to report any threats," said Mahfuz (pseudonym), a 20-year-old LGBTI man. Mahfuz says that he used to be active on social media forums but has since April 2016 barely left his home. He has had to leave his university studies and is trying to leave Bangladesh where he doesn't feel safe.[43] Another LGBTI activist, who fled to a European country in 2016 after he was threatened, said: "There is a lot of danger, and this is stopping the entire movement which is now going backwards. We had been progressing for four or five years and now it's all going back."[44]

39 Amnesty International interview, Dhaka, November 2016.

40 Amnesty International interview over email, January 2017.

41 Frontline Defenders, *Victim Blaming: Bangladesh's Failure to Protect Human Rights Defenders*, p. 22, November 2016 available at https://frontlinedefenders.atavist.com/bangladesh-report

42 Amnesty International interviews in Dhaka, November 2016, and over the phone and email throughout, 2015 and 2016.

43 Amnesty International inteview over the phone, October 2016

44 Amnesty International interview in Dhaka, November 2016.

1.2 RESPONSE OF THE AUTHORITIES

Blaming the victim

The Bangladeshi authorities' public response to the wave of violent attacks against secular activists has been marked by a troubling unwillingness to unequivocally condemn the killings. Statements from senior government officials, including the Prime Minister, have often at best seemed indifferent to the plight of secular activists, and at worst amounted to blaming the victims themselves for their own deaths.

Prime Minister Sheikh Hasina in September 2015, shortly after the killing of Niloy Neel, said: "No one in this country has the right to speak in a way that hurts religious sentiment. You won't practise religion – no problem. But you can't attack someone else's religion. You'll have to stop doing this. It won't be tolerated if someone else's religious sentiment is hurt."[45] On 14 April 2016 just one week after the killing of Nazimuddin Samad, Sheikh Hasina also said of secular writers: "I consider such writings as not free thinking but filthy words. Why anyone would write such things? It's not at all acceptable if anyone writes against our Prophet or other religions."[46]

Other senior officials have made similar statements. After the killing of Nazimuddin Samad, Home Minister Asaduzzaman Khan Kamal said the government would scrutinize his writing to see if it contained anything "objectionable" about religion, as part of its investigation.[47] He also said that bloggers "should control their writing", implying that they were at least partly responsible for provoking the attacks. After the August 2015 killing of Niloy Neel, Bangladesh's national police chief, Inspector General of Police A.K.M. Shahidul Hoque, said: "No one should cross the limit. And for hurting someone's religious sentiment, the person will be punished by the law."[48]

Nazimuddin Samad

The authorities also frequently sought to implicate opposition parties in these violent attacks, despite an apparent lack of any evidence to back up these claims. In April 2016, for example, just hours after the killing of Xulhaz Mannan, Sheikh Hasina's Press Secretary Ihsanul Karim said: "The Prime Minister has said everyone realizes who are behind these murders. The BNP and Jamaat are doing them under various guises."[49] Such rhetoric has contributed to a strongly-held suspicion among secular activists that authorities are indifferent to their plight and are attempting to use the violent attacks to score political points.

Recently government officials have offered at least conditional condemnations of the murders. "These attacks are not acceptable, but at the same time we expect people to stop criticizing the Prophet Muhammad," said Shahriar Alam, State Minister of Foreign Affairs, on 12 June 2016.[50] On 6 March 2017, Information Minister Hasanul Haq Inu stated to the UN Human Rights Committee that attacks

45 Bdnews24.com, "Prime Minister Hasina says hurting religious sensitivities will not be accepted", 3 September 2015 available at http://bdnews24.com/bangladesh/2015/09/03/prime-minister-hasina-says-hurting-religious-sensitivities-will-not-be-accepted

46 *The Daily Star*, "PM urges all to exercise tolerance", 14 April 2016 available at http://www.thedailystar.net/country/pm-urges-all-live-tolerance-1209163

47 *The Daily Star*, "Govt to scrutinise slain Nazim's writings: Minister", 7 April 2016 available at http://www.thedailystar.net/city/govt-scrutinise-slain-nizams-writings-minister-1205716

48 AFP, "Bangladesh police chief's blogger warning sparks uproar", 10 August 2015 available at http://www.dailymail.co.uk/wires/afp/article-3192564/Bangladesh-police-chiefs-blogger-warning-sparks-uproar.html

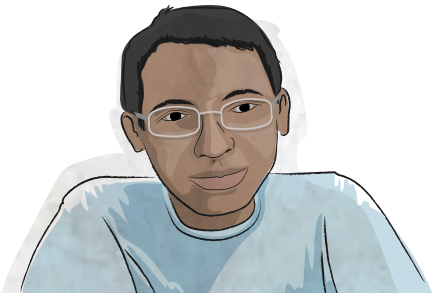
49 Bdnews24.com, "BNP, Jamaat-e-Islami behind series of killings to destabilise Bangladesh, says Hasina", 25 April 2016 available at http://bdnews24.com/bangladesh/2016/04/25/bnp-jamaat-e-islami-behind-series-of-killings-to-destabilise-bangladesh-says-hasina

50 *The Guardian*, "Inside Bangladesh's killing fields: bloggers and outsiders targeted by fanatics", 12 June 2016 available at https://www.theguardian.com/world/2016/jun/11/bangladesh-murders-bloggers-foreigners-religion

on secular bloggers are a "direct affront on an age-old tradition of tolerance".[51] While this is a positive statement, this approach has been the exception rather than the norm.

Authorities have also sought to undermine secular activists' right to freedom of expression in other ways. In 2013, the government formed an official committee to identify bloggers who had made "derogatory remarks" against Islam.[52] The committee participated in discussions with clerics to produce a list of bloggers and Facebook users they claimed had published blasphemous, anti-Islamic content. Though there were more than 80 names on the list, the Bangladesh Telecommunication Regulatory Commission (BTRC) subsequently directed domestic blog-hosting platforms to close the accounts of just four bloggers it identified as "antireligious elements".[53] All four bloggers posted on the somewhereinblog platform,[54] and were subsequently arrested for "hurting religious sentiments" (see p. 25). Other popular secular blogs have also temporarily been suspended by authorities without explanation, such as Istishon (outlined above).

Lack of accountability



Rajib Haider

There has been a troubling lack of effective investigations into the killings of secular activists. As far as Amnesty International is aware, only in one case involving the killing of a secular activists has anyone been convicted, when eight people were convicted in relation to the killing of Rajib Haider in 31 December 2015. Three men were found guilty of the murder, two of whom received death sentences, while another five men received prison sentences of varying lengths for abetting the crime. While it is positive that the authorities in this case took steps to hold those responsible to account, Amnesty International opposes the death penalty in all cases regardless of the circumstances or the nature of the crime. The Bangladeshi authorities should ensure there is no impunity for such killings, but do so without recourse to the death penalty.

Accountability through the legal system, however, has been far from the norm. The lack of progress in case of Washiqur Rahman is illustrative. Shortly after his killing in Dhaka on 30 March 2015, bystanders who witnessed the murder were able to apprehend three of the apparent perpetrators on the scene. Police arrested them shortly after. On 20 July 2016, a court formally charged five alleged members of Ansar al-Islam, including the three men apprehended on the scene, for the murder of Washiqur Rahman.[55] Two of the accused remain at large and were charged in absentia. By April 2017, however, the trial had yet to start and no witness testimony has been heard.

Police claim to have carried out arrests of suspected perpetrators in all other attacks on secular activists detailed above, except in the killing of Nazimuddin Samad. In March 2017, the government claimed that a total of 22 suspects had been arrested related to the killings in 2015 of Bijoy Das, Avijit Roy, Niloy Neel and Faisal Deepan. They all remain in detention, yet none been formally charged for

51 Speech by Information Minister Hasanul Haq Inu to UN Human Rights Committee, Geneva, Switzerland, 6 March 2017

52 Bdnews24.com, "Panel to check comments on Islam, Prophet", 13 March 2013 available at http://bdnews24.com/bangladesh/2013/03/13/panel-to-check-comments-on-islam-prophet

53 "Freedom House, Freedom on the Net 2015: Bangladesh", available at https://freedomhouse.org/report/freedom-net/2015/bangladesh

54 Somewhereinblog.net, Transparency Report: 2014, available at http://www.somewhereinblog.net/transparency_report

55 *Prothom* Alo, "5 'ABT men' indicted in blogger Washiqur killing case", 20 July 2016 available at http://en.prothom-alo.com/bangladesh/news/112775/5-%E2%80%98militants%E2%80%99-indicted-in-blogger-Babu-killing

involvement in these four murders.[56] This failure to pursue prosecutions is sending a dangerous signal that perpetrators can escape without punishment for similar attacks. It has also added to the sense of fear among secular activists in Bangladesh, many of whom expressed a strong sense that authorities were not genuine in their efforts to hold perpetrators to account. One activist described police as "indifferent", while another blogger said he had not approached the police despite frequent threats, saying he would be either "charged or ignored".

THE RIGHT TO AN EFFECTIVE REMEDY

As a state party to the International Covenant on Civil and Political Rights (ICCPR), Bangladesh is required to ensure that any person whose rights or freedoms are violated has access to an effective remedy and reparation.[57] This includes any individual whose rights or freedoms are violated by persons acting in an official capacity or by individuals or groups not connected with the state. States must establish appropriate mechanisms to address allegations of violations and to meet their obligation to ensure that such allegations are investigated promptly, thoroughly and effectively by independent and impartial bodies, and those responsible brought to justice.[58]

An essential element of the right to a remedy is the provision of effective reparation to those whose rights have been violated. The right to reparation includes restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition – that includes measures, beyond a victim-specific remedy, to prevent recurrence.[59]

The Human Rights Committee has stated that without ensuring effective reparation to individuals whose rights have been violated, states cannot be considered to have discharged their obligation to provide an effective remedy under international human rights law.[60]

Recent efforts by the Bangladesh authorities against violent groups

Since June 2016, the Bangladeshi authorities have significantly increased operations by security forces against armed groups, leading to thousands of arrests and the killings of dozens of suspects in what security forces claimed to be shootouts. This renewed intensification appears to have been partly motivated by the killing on 5 June 2016 in Chittagong of Mahmuda Aktar, a woman who was married to Babul Aktar, a senior police officer. The attack on the Holey Artisan Bakery in Dhaka on 1 July 2016 also led to a significant escalation in operations against armed groups. These measures, however, have been marked by serious concerns about human rights violations.

56 Replies of the Bangladesh Government to the List of Issues – Annex 2, UN Human Rights Committee 119th Session, 14 February 2017, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fARL%2fBGD%2f26626&Lang=en

57 UN Human Rights Committee General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, (2004) available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en

58 UN Human Rights Committee General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, (2004) available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en

59 UN Human Rights Committee General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, (2004), para 16 and 17 available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en

60 UN Human Rights Committee General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, (2004), para 15 available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en

At least 11,000 people were arrested in a crackdown on armed groups during the first weeks of June 2016. However, human rights groups and others have raised serious concerns about the nature of these arrests, claiming that thousands of the arrests were politically motivated and targeted supporters of opposition parties, and that in other cases police carried out arbitrary arrests merely as a pretext to extract bribes.[61] The BNP claimed that at least 2,100 of its party leaders and activists were among those swept up in the crackdown.[62]

Additionally, two of the surviving hostages from the Holey Bakery attack – Hasnat Karim and Tahmid Khan - were detained by police immediately after the attack and held incommunicado in an unknown location for several weeks, with no access to a lawyer or family members.[63] They were both presented in court on 4 August 2016, with police claiming that they had been arrested the day before, despite Home Minister Asaduzzaman Khan publicly admitting that they were both in the custody of the authorities in late July.[64] Tahmid Khan was released on bail in October 2016, but Hasnat Karim was still held without charge as of April 2017. Amnesty International has called on the Bangladeshi authorities to, in accordance with international law, promptly charge Hasnat Karim with a recognizable criminal offence or to release him.

While the Bangladeshi authorities have a duty to protect the lives and safety of all individuals and should ensure that those responsible for violent attacks are brought to justice, this must be done in accordance with international human rights law and standards.

Failure to protect

Several secular activists told Amnesty International that they had tried to approach the police for protection after receiving threats, but were ignored. In several cases, activists said that police had refused their attempts to file General Diary (GD) (the standard first report of transgressions filed with the police) complaints to register the threats against them. In some cases police simply told them to leave the country to ensure their safety, while others reported police harassing them for the fact that they wrote on secular topics. "I made several attempts to get some help, but [to] my face they refused to help me," said one secular blogger who had received dozens of death threats over mobile phones and social media.[65] Similarly, both Niloy Neel and Faisal Abedin Deepan stated shortly before their deaths that they had each approached police for protection but been ignored. In interviews with human rights defenders in Bangladesh, Frontline Defenders reported that at least two threatened activists who tried to seek police protection were told to "just leave the country".[66]

Others said they were extremely reluctant to approach the police since they feared they could themselves be charged. Many cited the four cases brought against secular bloggers under the ICT Act in 2013 as having seriously undermined their trust in the police. As one activist said: ""If you are a true activist, you are the most vulnerable person in the country. You could be arrested by the government or be targeted by an Islamist."[67]

---

61 Human Rights Watch, "Bangladesh: Halt Mass Arbitrary Arrests", 17 June 2016 available at https://www.hrw.org/news/2016/06/17/bangladesh-halt-mass-arbitrary-arrests

62 CNN, "Bangladesh arrests more than 11,000 after wave of killings", 14 June 2016 available at http://edition.cnn.com/2016/06/15/asia/bangladesh-nationwide-raids/

63 Amnesty International, "Bangladesh: Exact whereabouts unknown, health concern for Hasnat Karim", 8 July 2016, available at https://www.amnesty.org/en/documents/asa13/4420/2016/en/

64 AFP, "Lawyer for Bangladesh cafe survivor demands his release", 28 July 2016 available at http://www.thenational.ae/world/south-asia/lawyer-for-bangladesh-cafe-survivor-demands-his-release

65 Amnesty International interview, October 2016

66 Frontline Defenders, *Victim Blaming: Bangladesh's Failure to Protect Human Rights Defenders*, p. 5, November 2016 available at https://frontlinedefenders.atavist.com/bangladesh-report

67 Amnesty International interview, January 2016

Many LGBTI activists, too, told Amnesty International that they were extremely hesitant to approach the police. Those who have reported abuses say that they were harassed by police themselves because of their sexuality, and even threatened with criminal charges. Homosexuality is criminalized in Bangladesh, and "carnal intercourse against the order of nature" (Section 377 of the Penal Code) carries a maximum sentence of 10 years in prison. Police often use this law as a pretext to harass LGBTI individuals, and sometimes arrest them based on their appearance.[68]

One LGBTI activist, who was beaten by unknown men at Dhaka University in 2015, said: "After my attack I could have gone to police and reported it, but I did not go as it would make my situation more vulnerable. My attack would be newsworthy: an LGBT person got beaten up at Dhaka University - and they would note down my name and everything and ask me lots of questions: 'why are you LGBT', etc. People equate being LGBT as being against our government. Police will beat you because you are gay. So why would you go to the police? It's a problem – we cannot approach the police with our problems."[69]

However, some activists did report having a more positive experience. One secular activist in her early 20s, Heda (pseudonym), said that she approached police after she started receiving a flood of death threats on social media. Police granted her protection, with officers stationed outside her house and accompanying her whenever she went outside. Heda, however, still reported feeling so unsafe that in 2016 she fled to a European country where she is now seeking asylum.[70] In March 2017, the government stated in a submission to the UN Human Rights Committee that 499 "eminent persons" from civil society were under police protection. Although this includes "writers, bloggers and online activists", the government did not specify how many, nor the specific form of protection.[71] Amnesty International approached the government for clarification of these points but as of April 2017 had not received a response.[72]

Authorities also informed the Human Rights Committee they had taken steps towards ensuring better protection for threatened activists, including by starting the process of establishing a police Special Task Group charged with monitoring social networking sites for "extremist writings". Police have also "been directed" to identify IP addresses and social media accounts which have "been used to cause threats". While such measures could be a positive step, it remains to be seen what effect they will have in practice.

68 US Department of State, *2016 Country Reports on Human Rights Practices – Bangladesh*, 3 March 2017 available at http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=58ec8a7113&skip=0&query=LGBT&coi=BGD&searchin=fulltext&sort=date

69 Amnesty International interview, June 2016

70 Amnesty International interview, September 2016

71 Replies of the Bangladesh Government to the List of Issues – Annex 2, UN Human Rights Committee 119th Session, 14 February 2017 available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fBGD%2fQ%2f1%2fAdd.1&Lang=en

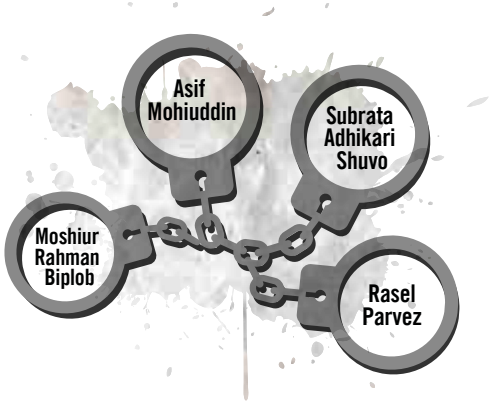
72 Internal correspondence, reference: ASA 13.2017.001

1.3 CRIMINAL CASES AGAINST BLOGGERS AND ACTIVISTS

> ***"This kind of case is surely only to harass us. The more days we could be imprisoned, and the more we could be harassed, the struggle for our rights will be more difficult. But, we try to survive, even with these types of cases. […] The people who write or express themselves on blogs or social media are very much worried about [the ICT Act]."***
>
> Mithun Chakma, indigenous rights activist arrested under the ICT Act, November 2016[73]

Since 2013, the Bangladeshi authorities have brought criminal charges under the ICT Act against secular bloggers and publishers, as well activists covering other issues, simply because of their peaceful exercise of the right to freedom of expression. Although relatively few in number, activists told Amnesty International that these cases have led to self-censorship and a reluctance to seek assistance from police.

Four secular bloggers arrested 2013



On 1 and 3 April 2013, four secular bloggers – Asif Mohiuddin, Subrata Adhikari Shuvo, Moshiur Rahman Biplob and Rasel Parvez – were arrested by police in Dhaka because of their "blasphemous" writing. Police described the four as "known atheists and naturalists" who wrote derogatory things about Prophet Mohamad, and said the four would face charges of "instigating negative elements against Islam to create anarchy." Their arrests followed the establishment of a committee earlier in the year to scrutinize the writing of secular activists (see p. 21).

One of the bloggers, Asif Mohiuddin, had only recently been released from hospital at the time of his arrest, and was still recovering from injuries sustained after narrowly surviving an attack (see p. 16). The four were held in detention for different periods lasting up to three months before being released on bail later in 2013.[74] It was not until November 2013 that they were formally charged with "hurting religious sentiments" under Section 57 of the ICT Act. The charges against all four of the bloggers still stand and their court cases are technically ongoing, although all four have since left Bangladesh since they feared for their own safety while remaining in the country.

The arrests sparked an outcry among both domestic and international human rights organizations which condemned them as an attempt by the government to restrict freedom of expression, and as a political move to placate members of hardline religious groups which had called for the arrest of secular bloggers. The administrators of eight popular blog sites shut down their websites on 4 April 2013 for 92 hours in protest against the arrests.[75]

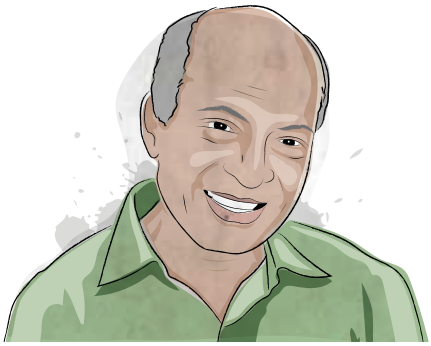
---

73 Amnesty International interview over email, December 2016.

74 *Dhaka Tribune*, "Blogger Moshiur granted bail", 2 June 2013 available at http://archive.dhakatribune.com/bangladesh/2013/jun/02/blogger-moshiur-granted-bail;

75 BBC News, "Bloggers in Bangladesh protest over arrest of writers", 4 April 2013, available at http://www.bbc.co.uk/news/world-asia-22030388

Shamsuzzoha Manik



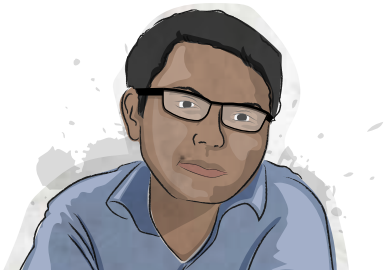
Shamsuzzoha Manik

Shamsuzzoha Manik, a 74-year-old secular writer and publisher, was arrested in Dhaka on 14 February 2016 after police claimed that a book he had edited and published, *Islam Bitorko* ("Debate on Islam"), was blasphemous. On the day of his arrest, police raided the Ekushey Book Fair in Dhaka – one of the largest literary events in Bangladesh – and seized copies of *Islam Bitorko* while also closing the stall of Baw-deep Prokahon, Manik's publishing company.[76]

After spending several months in jail, Shamsuzzoha Manik was formally charged under Article 57 of the ICT Act on 21 August 2016 for "hurting religious sentiments". More than eight months after his arrest, the Cyber Tribunal in Dhaka granted him bail on 31 October 2016. His case is currently ongoing.

Since being released on bail, he has remained in hiding as he continues to receive threats from armed groups and fears for his safety. According to his lawyer, Shamsuzzoha Manik has not reported these threats since his previous arrest means he does not trust the police to take the threats seriously.[77]

Mithun Chakma: Detained for promoting Indigenous People's rights



Mithun Chakma

It is not just secular activists who risk arrest under the ICT Act for expressing their opinions online. The authorities have also brought criminal charges against others, such as Mithun Chakma, a notable Indigenous rights campaigner in the Chittagong Hill Tracts (CHT).[78]

Mithun Chakma was arrested on 12 July 2016 by police from his home in Khagrachhari district in CHT. After being held on remand for a few days, police accused Mithun Chakma of violating Section 57 of the ICT Act for "publishing false, obscene/vulgar or defamatory information". The accusation related to an article Mithun Chakma had published on a blog in 2007, in which he accused an army officer of involvement in the disappearance of Kalpana Chakma, an indigenous rights campaigner who was abducted in 1996. Kalpana Chakma has since her abduction become a symbol for human rights violations facing Indigenous Peoples in the CHT, and her family and human rights organisations claim that the investigation into her disappearance has been ineffective and marked by obstructionism by the authorities. Additionally, Mithun Chakma was charged because of a series of tweets in which he mocked police as "musclemen" who were "equipped with battle-dress".[79]

After spending more than three months in jail without charges being filed against him, Mithun Chakma was released on bail on 18 October 2016. The investigation against him is ongoing. Mithun Chakma told Amnesty International: "This kind of case is surely only to harass us. The more days we could be imprisoned, and the more we could be harassed, the struggle for our rights will be more difficult. But, we try to survive, even with these types of cases. […] The people who write or express themselves on blogs or social media are very much worried about [the ICT Act]. I myself am also worried."[80]

76 Amnesty International interview with lawyer of Shamsuzzoha Manik, January 2017

77 Amnesty International interview with lawyer of Shamsuzzoha Manik, January 2017

78 For background, see Amnesty International, *Pushed to the edge: Indigenous rights denied in Bangladesh's Chittagong Hill Tracts* (Index: ASA 13/005/2013)

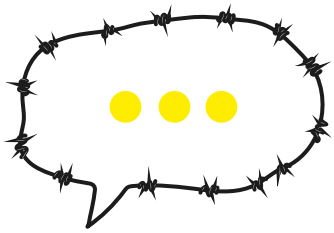
79 Amnesty International interview with Mithun Chakma, November 2016.

80 Amnesty International interview with Mithun Chakma, November 2016.

2. A MEDIA UNDER SIEGE

> ***"Either the owner of the media outlet is Awami League or there is indirect pressure. They can ban the newspaper or revoke your licence. In a very intelligent way, the government is controlling the media."***
>
> Bangladeshi journalist speaking to Amnesty International in November 2016.[81]

> ***"There's enough freedom for journalism in Bangladesh right now."***
>
> Prime Minister Sheikh Hasina, 20 October 2016.[82]



Although restrictions on media is not new in Bangladesh and has to varying degrees existed throughout the country's modern history, this has escalated significantly in recent years, and in particular since 2014. Most media workers whom Amnesty International interviewed – broadcast, online and print; editors, publishers and journalists – said that the space for media freedom in Bangladesh today is more restricted than at any point since the country returned to civilian rule in 1991. There is a pervasive fear of being charged, imprisoned or falling victim to physical violence, which has led to extensive self-censorship. This chapter provides an overview of the various ways in which the authorities' attempt to silence critical coverage has increased.

Background: Media in Bangladesh

Bengali culture has a long tradition of intellectualism and valuing the written word, and media has played an important role throughout the modern history of Bangladesh. During British colonial rule, the two Bengali language dailies *Ittefaq* and *Sangabad* were crucial in shaping Bengali nationalism.

Since Bangladesh gained independence from Pakistan in 1971, the country's media has had, to varying degrees, a tense relationship with successive governments. Although freedom of expression is set out in the Bangladeshi Constitution, it is subject to certain conditions (see Chapter 5). The new post-independence government imposed a State of Emergency in 1974 and within a year only a handful of media outlets, all state-owned, were still allowed to operate. These restrictions largely remained in

81 Amnesty International interview, April 2016

82 *New* Age, "Enough freedom; perform your duties, PM to journalists", 20 October 2016 available at http://www.newagebd.net/article/1131/enough-freedom-perform-your-duties-pm-to-journalists#sthash.aq752BsX.dpuf

place during the period of military–led governments until civilian rule returned in 1991, although some independent print outlets were allowed to operate during this period.

Both the BNP and Awami League governments of the 1990s oversaw a gradual loosening of media broadcast licensing laws, and repealed most of the emergency powers which had placed severe restrictions on media freedom during military rule. Since then, there has been a dramatic increase in the number of media outlets in the country, as well as a shift of media ownership away from the state to private actors. Broadcast media has experienced the most significant changes, in particular since 1999 when the first two private TV channels, Channel-i and Ekushey TV, were launched. Most of the national media is today owned by one of seven large corporate conglomerates. There were some 2,800 newspapers and magazines in Bangladesh in 2017, as well as scores of independent TV and radio stations throughout the country. Online news is increasingly popular and often accessed through mobile devices, with at least 500 news portals active by the end of 2014.[83]

The plethora of outlets is often cited as evidence by the Bangladeshi authorities that media can operate independently and without restrictions. However, most media outlets are deeply politicized, as successive governments have tended to issue broadcast licences to known supporters. As one scholar puts it: "Licensing television channels has become a power play for every political regime that is reflected in the increased rate of approval for television channels before each national election."[84] According to a study by the Fojo Media Institute, of the 12 broadcast licences issued by the current governments between 2009 and 2015, at least eight were given to members of the Awami League or other individuals with close ties to the government.[85] As one senior reporter with a national outlet said: "Yes, there is pluralism, but only one voice is allowed. The licences have been issued to government supporters and cronies."[86] Compared to the TV sector, newspaper ownership is more politically diverse. According to the Fojo Media Institute, however, few newspapers are profitable but are heavily subsidized by their corporate owners. Influence from these politically connected owners can compromise the editorial independence of the outlets they control.[87]

2.1 CRIMINAL CASES AGAINST JOURNALISTS

"We have noticed with concern that it has recently become very difficult for newspapers and national media to work independently and neutrally. Journalists are being attacked and falling victim of violence in name of political programmes while attempts to curb the independence of the newspapers and media are being made. The government is interfering with the media's rights. Independent and impartial news gathering and publishing are facing obstructions from the government and administration."

Statement by the Bangladesh Editors' Council, 25 February 2015[88]

83 Anis Rahman, "Print an electronic media in Bangladesh", in *Routledge Handbook of Contemporary Bangladesh*, 2016, p. 502

84 Anis Rahman, "Print and electronic media," in *Routledge Contemporary Handbook of Bangladesh*, 2016, p. 166

85 Fojo Media Insitute, *Improving investigtive journalism in Bangladesh*, November 2015, p. 16-17

86 Amnesty International interview in London, July 2016,

87 Fojo Media Insitute, *Improving investigtive journalism in Bangladesh*, November 2015, p. 8

88 Bdnews24.com, "Editors' Council deeply divided over anti-government statement", 25 February 2015 available at http://bdnews24.com/bangladesh/2015/02/25/editors-council-deeply-divided-over-anti-government-statement

> ***"[The statement is] devoid of reality, fabricated, motivated and unfortunate. The government is always working to keep the media active, free and dynamic."***
>
> Response by the Ministry of Information, 25 February 2015[89]

Making an example: Criminal cases against editors and senior journalists

Since 2013, authorities in Bangladesh have brought politically motivated criminal charges against several high-profile journalists and editors from the whole political spectrum. There was strong agreement among media workers interviewed by Amnesty International that these charges have been selectively brought against certain individuals in the public eye. This is both to send a message to the individuals themselves to avoid certain topics, and to dissuade other journalists and outlets from challenging the authorities. As one journalist said: "The government has picked a few individuals to make examples out of. This has been to instill fear in other media, to show what happens when you cross the line."[90] This section includes a summary of some of the emblematic cases against high-profile media workers.

A SYSTEM FACILITATING LEGAL HARASSMENT

The independence of Bangladesh's judiciary has been undermined by successive governments who have used their time in office to make partisan appointments. Although the lower judiciary was formally separated from the executive and placed under the supervision and management of the Supreme Court in 2007, in practice the Law Ministry still administers the appointments and postings within the lower judiciary.[91] Public prosecutors are also often appointed on the grounds of their affiliation to the ruling party at the time.[92]

According to a 2016 report by the International Crisis Group (ICG), executive interference in the judiciary is "rampant". Ruling party members often use their influence to push cases and politicized charges through the system, even as they themselves remain "above the law, with the police often refusing to file complaints against them".[93]

Both the judiciary and the police force are widely perceived as corrupt and susceptible to bribes. In 2015, Transparency International Bangladesh reported in its National Household Survey that 74.6% of respondents had been victims of corruption in dealings with law enforcement agencies,

89 Bdnews24.com, "No interference in media, says government", 25 February 2015 available at http://bdnews24.com/bangladesh/2015/02/25/no-interference-in-media-says-government

90 Amnesty International interview, Dhaka, November 2016

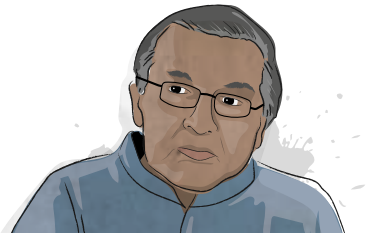
91 International Commission of Jurists, Submission to the Universal Periodic Review of Bangladesh, October 2012 available at http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2012/12/ICJ-UPR16-Bangladesh-Stakeholder-Submission-09-10-12-1.pdf

92 International Commission of Jurists, Submission to the Universal Periodic Review of Bangladesh, October 2012 available at http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2012/12/ICJ-UPR16-Bangladesh-Stakeholder-Submission-09-10-12-1.pdf

93 International Crisis Group, *Political Conflict, Extremism and Criminal Justice in Bangladesh*, 11 April 2016 available at https://www.crisisgroup.org/asia/south-asia/bangladesh/political-conflict-extremism-and-criminal-justice-bangladesh

and 48.2% when dealing with the judicial services.[94] MPs often interfere in police postings and transfers in their constituencies, and police appointments are regularly made on political grounds. This ability of the incumbent ruling party to influence both the judiciary and police force is important to understand how politically motivated criminal charges can be brought against opponents and media workers.

While few criminal cases brought against media workers have led to prosecution and conviction, the judicial process can in itself be extremely cumbersome. This is not least because Bangladesh's judicial system is notoriously backlogged, meaning verdicts can take years to reach, if they even arrive at all. In 2013, there were an estimated 2.7 million pending cases in the lower courts. Although the government has since taken steps to address the backlog, by for example encouraging specialist fast-track courts, it remains a serious issue.



Mahfuz Anam

On 3 February 2016, **Mahfuz Anam**, the long-time editor of Bangladesh's largest English-language newspaper *The Daily Star*, appeared on a talk show on the privately owned ATV channel and admitted that in 2007 and 2008, his paper had published unsubstantiated corruption allegations against Sheikh Hasina. Bangladesh had been at the time under the rule of a military government which pursued a "minus two" policy, aimed at removing both Sheikh Hasina and Khaleda Zia, the Chairperson of the BNP, from politics. Mahfuz Anam said that he had printed the allegations under pressure from military intelligence and that many other media outlets published similar articles at the time, but still called the stories in *The Daily Star* "a big mistake".

On 5 February, Sajeb Wazed Joy, Sheikh Hasina's son and a technology adviser to the government, posted on Facebook that Mahfuz Anam should be "behind bars and on trial for treason" over the admission, since the stories had tarnished the image of Sheikh Hasina.[95] During February and March 2016, a total of 83 different sedition and criminal defamation cases were brought against Mahfuz Anam because of his admission. The vast majority of the cases were filed by Awami League members and supporters. Although the Constitution guarantees that no one should be charged for the same offence more than once, the multitude of charges were despite this accepted by magistrate courts and police across the country. As a result, Mahfuz Anam had to spend much of February and March travelling across Bangladesh with his legal team to attend hearings in various courts. By the end of 2016, the High Court had stayed all 83 cases, meaning that they could be reactivated in the future.

Matiur Rahman

Matiur Rahman, the editor of *Prothom Alo*, Bangladesh's largest daily newspaper which is owned by the same company as *The Daily Star,* has similarly had to face an array of criminal charges in recent years.

In October 2014, charges of "wounding religious feelings" under sections 205 and 298 of the Penal Code were filed against Motiur Rahman in five different courts around the country, related to one cartoon published in 2007 by *Alpin*, a satirical magazine produced by *Prothom Alo* in the past. One of the cases has since been dismissed after the person who filed the case failed to show up

94 Transparency International Bangladesh, *Corruption in Service Sectors: National Household Survey 2015*, 26 June 2016 available at https://www.ti-bangladesh.org/beta3/index.php/en/activities/4988-corruption-in-service-sectors-national-household-survey-2015

95 David Bergman in Bangladesh Politico, "*The Daily Star*, media ethics and hypocrisy - 12 things you need to know", 13 February 2016 available at http://bangladeshpolitico.blogspot.co.uk/2016/02/the-daily-star-media-ethics-and.html

for the court hearing, although the four others are still the pre-trial stage.[96] Additionally, Matiur Rahman is facing 30 criminal defamation cases in different courts across the country, which stem from articles *Prothom Alo* ran in 2015 alleging irregularities in the purchase of power tillers by a government official.[97] The cases are ongoing and Matiur Rahman's legal team is still required to attend hearings in the cases across the country, although he himself has been granted permission to be physically absent from further hearings.[98]

Although it is rare for criminal defamation and sedition charges against journalists in Bangladesh to lead to convictions, the sheer number of cases against both Mahfuz Anam and Matiur Rahman means both men have had to face time-consuming and costly legal battles. One editor of a daily newspaper, who has also been subjected to numerous criminal charges, told Amnesty International: "It is 'abuse of law' by the powerful partisan [the Prime Minister]. To some extent it is a kind of harassment for us as it costs us time, energy and money."[99] Larger outlets have the financial resources to fight lengthy court proceedings, but for smaller outlets any criminal charges brought against them can be financially crippling to the point that they are forced to close. According to *Prothom* Alo, about 100 different criminal cases have been filed against the newspaper's editorial staff members since 2013, with 46 cases still active at various stages in the courts.[100]

Another stark example of legal harassment of high-profile media workers is the case of **Mahmudur Rahman**, the editor of *Amar Desh*, a large BNP-supporting Bengali daily newspaper. He was arrested on 11 April 2013 and accused of sedition after *Amar Desh* in December 2012 had published a leaked Skype conversation, recorded in 2012, between the then-chairman of the International Crimes Tribunal and a Bangladeshi legal expert, which raised serious questions about the independence of the Tribunal. It is noteworthy that there was no legal ban on the publication of that material in Bangladesh during the time that *Amar Desh* was publishing it from 9 to 13 December 2012, and that the UK publication *The Economist* had printed the same conversation earlier in December 2012. Mahmudur Rahman and his lawyer said that he was subjected to torture in police custody during the first two weeks after his arrest.[101]

From April 2013, Mahmudur Rahman spent more than three and a half years in prison, as more than 80 different criminal charges were brought against him during that time, including several criminal defamation and sedition charges. According to his lawyer, the authorities ensured his prolonged detention by bringing fresh criminal charges against him immediately after he had been granted bail in a different case, and by arbitrarily delaying the process of releasing him from prison after he was granted bail.[102] Some of the charges bordered on the absurd. On 3 August 2015, for example, Mahmudur Rahman was charged with involvement in a plot to kidnap and kill Sajeb Wazed Joy, even though he was imprisoned at the time when the alleged plot was concocted.[103] Despite the litany of charges brought against him between 2013 and 2016, he was only convicted in one case, when in August 2015 he was given a three-year prison sentence for failing to submit his wealth statement (a summary of an individual's financial assets) to the Anti-Corruption Commission (ACC).

---

96 Amnesty International interviews in Dhaka, November 2016.

97 *Prothom Alo,* "Prothom Alo editor granted bail in 5 cases", 26 August 20915 available at http://www.thedailystar.net/backpage/prothom-alo-editor-granted-bail-5-cases-132634

98 Amnesty International interviews in Dhaka, November 2016.

99 Amnesty International interview in Dhaka, November 2016.

100 Information supplied by *Prothom Alo* to Amnesty International.

101 Amnesty International, "Bangladesh: Detained editor alleges torture," 19 April 2013, available at https://www.amnesty.org/en/documents/ASA13/007/2013/en/

102 Amnesty Interntional interview in Dhaka, November 2016

103 *New Age,* "Mahmudur Rahman freed on bail", 23 November 2016 available at http://www.newagebd.net/article/3405/mahmudur-rahman-freed-on-bail

Mahmudur Rahman was released on 23 November 2016 after the Supreme Court granted him bail in the case of the alleged assassination plot against Sajeb Wazed Joy. There are, however, still more than 70 cases pending against him, and he faces the risk of being rearrested at any time.

Shafik Rehman, 82, one of Bangladesh's longest serving active journalists, is the current editor of the weekly magazine *Mouchake Dil* and a known supporter of the BNP. He was arrested on 16 April 2016 by police officers who entered his house posing as a crew of television reporters. Police stated that Shafik Rehman was suspected of being involved in a pending criminal case registered in August 2015 for "conspiring to abduct and assassinate" Sajib Wazed Joy, the same plot that Mahmudur Rahman was implicated in. Media reports have since, however, raised serious questions about the Bangladeshi authorities' claims that such a plot even existed.[104]

Shafik Rehman

A Dhaka magistrate's court placed Shafik Rehman on remand in detention a few hours after his arrest. Although not charged with a crime, he was on 28 April moved to Kashimpur Central Jail outside of Dhaka where he was kept in solitary confinement and denied access to adequate medical care, as well as access to his lawyer. He suffers from diabetes and a heart condition and his health deteriorated significantly. On 22 May, however, Shafik Rehman was moved to Dhaka Central Jail where he was moved out of solitary confinement and granted better access to medical care.[105] The conditions of Shafik Rehman's detention violated Bangladesh's obligation under international law to ensure that all people deprived of their liberty are treated humanely. Prison authorities are responsible for protecting the health of people in their custody, and provide health care free of charge that matches what is available to the outside community. Furthermore, international human rights standards state that solitary confinement should only be used in exceptional circumstances and not last longer than 15 consecutive days.[106]

Shafik Rehman was granted bail by the Supreme Court on 31 August 2016 and released from prison in early September. Despite spending more than four months in prison, Shafik Rehman has yet to be charged with a crime and according to his lawyer, the Bangladeshi authorities have presented no evidence of his involvement in the assassination plot.

On 6 January 2015, **Abdus Salam**, the owner of Ekushey TV, was arrested by police at the channel's offices in Dhaka. Although police claimed that the arrest was because of a case filed against the channel in November 2014 under the Pornography Act, it is widely believed among analysts and media workers in Bangladesh that the arrest was politically motivated. A day before Abdus Salam's arrest, Ekushey TV had aired a speech by Tarique Rahman – the son of Khaleda Zia, who lives in exile in London – in which he called for the toppling of the Awami League government.

Abdus Salam was remanded in custody hours after his arrest by a Dhaka magistrate's court. On 8 January, a sedition case was filed against him by police due to the channel's broadcast of Tarique Rahman's speech. Adbus Salam has been kept in prison since then, and was only formally charged with sedition in September 2016.[107]

---

104 *The* Telegraph, "US court documents 'clear' arrested British-Bangladeshi editor of plot to kill prime minister's son, lawyers claim", 21 April 2016 available at http://www.telegraph.co.uk/news/2016/04/21/us-court-documents-clear-arrested-british-bangladeshi-editor-of/

105 Amnesty International interviews over the phone, May 2016. Also see Amnesty International, "Bangladesh: Improved conditions for detained journalist, 27 May 2016, available at https://www.amnesty.org/en/documents/asa13/4113/2016/en/

106 The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rule 44, available at https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

107 *The Daily Star*, "Tarique, ex-ETV chairman, 2 others charged with sedition", 7 September 2016 available at http://www.thedailystar.net/backpage/tarique-ex-etv-chairman-2-others-charged-sedition-1281880

Criminal cases against other journalists

> ***"The law in many senses is something that is used at the lower level, to settle personal vendettas. The government has so many options, it doesn't need to rely on the law."***
>
> Dhaka-based political analyst, November 2016.[108]

Since 2013, many less high-profile journalists have also faced criminal cases which appear to be politically motivated.

The section below highlights some representative cases. Although they have not received the same level of international and national attention as the cases outlined in the section above, they are well-known among media workers in Bangladesh.

Probir Sikdar

One of the first journalists to face charges under the ICT Act is **Probir Sikdar**, the editor of *Daily Bangla 71* and the online news portal u71news.com. Probir Sikdar is a veteran journalist who in 2001 narrowly survived an attack by a group of men who hurled a homemade bomb at him, in which he lost one of his legs. Although no one has been held responsible for that attack, Probir Sikdar suspects that it was motivated by an article he wrote in which he accused a businessman in his home district of Faridpur outside of Dhaka of committing human rights abuses during the 1971 War of Independence.[109]

In August 2015, Probir Sikdar said that he had received threats to his life following articles he wrote which accused, among others, a politically well-connected government minister of corruption. 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. In desperation, on 10 August 2015, Probir Sikdar 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. He named three individuals – including the minister – who he said would be responsible for his death if anything happened to him.[110]

On 16 August, police approached Probir Sikdar in his Dhaka office and asked him to accompany them to a Dhaka police station to discuss the threats against him. Instead, once at the station, Probir Sikdar was arrested and brought to Faridpur, where on 18 August a court placed him on remand in custody.

His arrest sparked outcry among media workers and civil society in Bangladesh, and led to protests by different journalist unions who demanded his release.[111] He was granted bail by a court in Faridpur on 19 August 2015, just a day after he was placed on remand. Probir Sikdar says that while in detention police officers threatened him with violence, saying: "We will cut off your other leg". He was formally charged under Section 57 of the ICT Act in April 2016 for "tarnishing the image" of the government minister. The police investigation in the case is ongoing and the trial has yet to start.

---

108 Amnesty International interview in Dhaka, November 2016.

109 Amnesty International, "Human Rights Defenders Project: Probir Sikdar", 14 November 2005 available at https://www.amnesty.org/en/documents/asa13/014/2005/en/

110 Amnesty International interview with Probir Sikdar, November 2016

111 *The Daily Star*, "Journalist Probir Sikdar released on bail", 19 August 2015 available at http://www.thedailystar.net/country/journalist-probir-sikdar-gets-bail-129166

Siddiqur Rahman Khan, the editor-in-chief of Dainikshiksha, an online news portal focusing on the education sector, was arrested on 29 August 2016 under Section 57 of the ICT Act. The case had been filed by a former high-level official with the Secondary and Higher Secondary Education Directorate, the government department that regulates schools and colleges.

The official claimed that a series of Khan's articles had "defamed and tarnished" her image. In the articles, Siddiqur Rahman Khan had written of corruption, including nepotistic hiring practices in the Directorate while the official was working there. The official comes from a politically influential family, and who's husband is a sitting Awami League MP, who is also related to the Prime Minister. Siddiqur Rahman Khan claims that his articles were accurate, and that the case brought against him was a politically motivated attempt to silence further reporting on the corruption allegations, and to punish him for what he had already published.[112] He was granted bail by the Cyber Tribunal in Dhaka on 7 September.[113] The police are continuing the investigation, but he has yet to be formally charged.

On 7 August 2016, **three journalists from the banglamail24.com** news portal were arrested for publishing an article which debunked a rumour that Sajeb Wazed Joy, the son of Prime Minister Sheikh Hasina, had died in a plane crash. The three journalists were Executive Editor Maksukul Alam, acting Editor Shahadat Ullah Khan and reporter Pranta Palash.

The three journalists were arrested on the morning of 7 August when a group of officers from the Rapid Action Battalion (RAB) raided their office. Although the article was explicitly written to state that the rumour of the death of Sajeb Wazed Joy was false, a case was filed against the three media workers later that day under Section 57 of the ICT Act. The case was filed by the RAB itself, which operates under very close control of the Prime Minister's office. The banglamail24.com chairman Md Fazlul Azim, a member of the opposition BNP, was also included in the case but could not be arrested since police said he had left the country. The three journalists were released on bail by the Cyber Tribunal in Dhaka on 14 August 2016.

The case illustrates how, despite the seemingly innocuous content of the article published by banglamail24.com, the ICT Act can be abused by the authorities to lodge arbitrary criminal cases against media workers.

Nazmul Huda, a journalist with *Bangla Daily* and formerly with Ekushey TV, was arrested on 23 December 2016 after he had covered protests by garment workers in Ashulia outside of Dhaka. Nazmul Huda says that police asked him to come to the Ashulia police station under the guise of attending a press conference, but instead arrested him when he arrived. He was reportedly then beaten to the extent that he needed hospital treatment for his injuries.[114] On 24 December he was accused of violating Section 57 of the ICT Act due to his "inaccurate reporting" which had "inflamed protests" of the garment workers. He was jailed for almost a month until he was released on bail on 23 January 2017. The court case against him is ongoing.[115]

Nazmul Huda is a journalist who is well-known for reporting on cracks in the walls of the Rana Plaza factory building, just a day before it collapsed in April 2013 and killed more than 1,100 people. Other journalists with knowledge of the case and Nazmul Huda's reporting told Amnesty International that they believed the charges are trumped-up, and initiated by powerful business interests in the garment sector industry. The arrest of Nazmul Huda was part of a wider crackdown on the protests in Ashulia in November and December 2016, which were staged by garment workers demanding an increase to the minimum wage.[116]

---

112 Amnesty International interview with Siddiqur Rahman Khan, November 2016

113 *New* Age, "Journalist Siddiqur Rahman released on bail", 7 September 2016, available at http://archive.newagebd.net/250489/journalist-siddiqur-rahman-released-bail/

114 Amnesty International interview, over the phone, January 2017

115 *Dhaka Tribune*, "Journalist Nazmul Huda gets bail", 23 January 2017 available at http://archive.dhakatribune.com/crime/2017/jan/23/journalist-nazmul-huda-gets-bail

116 Clean Clothes Campaign, "Bangladeshi garment workers face mass firings and criminal charges", 5 January 2017 available at https://cleanclothes.org/news/2017/01/05/bangladeshi-garment-workers-face-mass-firings-and-criminal-charges

2.2 KILLINGS, VIOLENCE AND INTIMIDATION

> ***"It is like I have been given a second chance at life. I was sure I was going to die during the beating."***
>
> Hossein (pseudonym), a journalist beaten after covering corruption, speaking to Amnesty International[117]

Killings of journalists

Bangladesh has a long history of impunity with regard to killings of journalists. According to the Committee to Protect Journalists (CPJ), between 1992 and 2016, 20 journalists have been killed in the country as a result of their work, and a further nine where the motive was unknown. Between 2013 and 2016, seven journalists were killed as a direct result of their work, according to CPJ.[118] These include some of the secular activists whose cases are covered in Chapter 1.

In only one of the seven cases between 2013 and 2016 – the 2013 killing of the blogger Rajib Haider – has anyone been convicted.

The mutilated body of **Sadrul Alam Nipul**, a journalist with the daily *Dainik Mathabhanga* in Chuadanga district in Western Bangladesh, was found at a railway station in Chuadanga on 21 May 2014. According to his family, he left his home the night before after receiving a phone call but never returned. The family suspects that he was killed by local drug traffickers, whose illegal activities he had covered in his reporting. According to news reports, police are still investigating the killing, but as far as Amnesty International is aware, to date, no one has been prosecuted, or even faced charges, for the killing.[119]

On 25 April 2016, **Xulhaz Mannan**, a well-known activist on lesbian, gay, bisexual and transgender (LGBTI) issues, was hacked to death in Dhaka along with his friend **Mahbub Rabbi Tonoy**.[120] Xulhaz Mannan had been the editor of *Roopban*, Bangladesh's first and only magazine for LGBTI issues, since it was launched in 2014. He and other staffers of *Roopban* had been inundated with threats over the phone and social media in the months leading up to the killing.[121] Just days before the attack, activists had decided to cancel an annual pro-LGBTI "Rainbow rally" in Dhaka after police informed them of a high level of threats against the rally and specific individual activists planning to take part.[122] The killings of Xhulaz Mannan and Tanay Mojumdar were claimed by Ansar al-Islam. Although police have arrested at least two men in connection with the killings and claim to have identified other suspects, no one has yet been charged for the crime.[123] On 10 January 2017, police missed their ninth deadline for filing an investigation report into the killings, and asked for

117 Amnesty International interview, November 2016

118 Committee to Protect Journalists, Bangladesh available at https://cpj.org/killed/asia/bangladesh/

119 Committee to Protect Journalists, case file on Sadrul Alam Nipul available at https://www.cpj.org/killed/2014/sadrul-alam-nipul.php

120 Amnesty International, "Bangladesh: Authorities fail to curb brutal killing spree as LGBTI editor hacked to death", 25 April 2016 available at https://www.amnesty.org/en/latest/news/2016/04/bangladesh-authorities-fail-to-curb-brutal-killing-spree-as-lgbti-editor-hacked-to-death/

121 Amnesty International interviews with LGBTI activists in Dhaka and over the phone, 2016

122 Amnesty International interviews with LGBTI activists in Dhaka and over the phone, 2016

123 *The Daily Star*, "Detectives fear revival of ABT activities", 9 January 2017 available at http://www.thedailystar.net/city/detectives-fear-revival-abt-activities-1342573

a deferment for an unspecified amount of time. Following the attack, LGBTI activists have all but ceased their public activities in Bangladesh, and many have felt compelled to leave the country to ensure their own safety. (Chapter 1 "A civil society stifled").

On 2 February 2017, **Abdul Hakim Shimul**, a journalist with the daily *Samakal* newspaper, was shot dead while covering street clashes between rival factions of the Awami League in the northern city of Shahjadpur. He received bullet wounds to the head and his face, and died while being transferred to Dhaka for hospital treatment. Although it is still unclear whether Abdul Hakim Shimul was specifically targeted during the clashes or if he was hit by stray bullets, police had as of March 2017 detained nine suspects, for their alleged involvement in the killing, but no one had been charged as of March 2017.[124]

Physical violence

For many journalists in Bangladesh, the threat of physical violence is a daily reality. This is particularly true for media workers in the districts outside of the major towns or in rural areas, where they are often more at risk of harassment or attacks from influential local actors – such as politicians, businessmen or those involved in criminal enterprises such as drug trafficking - because of their reporting, and have less institutional support from their media outlets.

According to the Bangladeshi human rights NGO Odhikar, there were at least 69 physical attacks on journalists in 2016.[125] Ain o Salish Kendra, another Bangladeshi human rights NGO, also documented more than 20 cases of "attacks, torture or harassment" by "government officials" or members and associates of the ruling Awami League party in 2016.[126] Article 19, an international NGO focusing on freedom of expression, in 2014 recorded 40 incidents of "serious bodily injury" to journalists and 62 "minor assaults", roughly comparable to numbers in previous years. The discrepancy in numbers is likely due to different methodologies used, but in general terms these statistics clearly indicate the frequency of physical attacks on media workers.

In one recent example in August 2016, **Hossein** (pseudonym), a local reporter for one of Bangladesh's largest dailies, was physically assaulted outside his hometown in the northwest of the country. In August 2016, Hossein published an article on how businessmen linked to the district's MP had tried to seize land belonging to a community of Indigenous People. The article described how henchmen hired by a businessmen poisoned a nearby fish farm of the Indigenous community to drive them off their land.

A few days after the article was published, Hossein visited the land of the Indigenous community together with another journalist and one of the community leaders. They were attacked by seven-eight people who punched, kicked and beat them with sticks for 30-40 minutes. The attackers also took Hossein's mobile phone and broke his camera. "I was terrified, I was sure I was going to die," Hossein told Amnesty International. The beating only ended when people from a nearby village intervened and chased away the attackers.[127]

After the attack, Hossein tried to file a General Diary complaint to the police, but says police refused to accept it if it contained the name of the local MP. In late August, police accepted a complaint from Hossein which named seven attackers, but not their connection to the local MP. The police investigation is still ongoing but no one has yet been charged for the beating.[128]

---

124 *Dhaka Tribune*, "Nasir, 3 others arrested over journo Shimul shooting", 5 February 2017 available at https://www.frontlinedefenders.org/en/case/abdul-hakim-shimul-killed

125 Odhikar, *Annual Human Rights Report 2016*, available at http://odhikar.org/annual-human-rights-report-2016/

126 Ain O Salish Kendra, 2016 statistics on journalist harassment, available at http://www.askbd.org/ask/2016/10/08/journalist-harassment-january-september-2016/

127 Amnesty International interview in Dhaka, November 2016.

128 Amnesty International interview in Dhaka, November 2016.

The lack of accountability for such attacks can have a terrifying effect on journalists who try to continue to carry out their reporting. On 28 March 2013, **Kalam** (pseudonym), a correspondent for a national newspaper, was badly beaten by a group of men close to his home, an attack in which his left hand and right knee were fractured. In the days before the attack, Kalam had written a series of articles implicating a local politician in corruption in a government-run development project. He says that during the attack, one of the men shouted "You must be punished because you have published reports against the chairman".

Kalam's injuries were so serious that he had to seek specialist treatment, which he received in India and Singapore, paid for by his media outlet. Four years after the attack he is still not fully recovered and continues to walk with a limp. The police investigation of the attack names the local politician as the main suspect, but the politician was released on bail in 2013 and there have been no further developments in the case since. Kalam has resumed his journalistic work in the region but writes under a pseudonym. He has continued to receive death threats from individuals he believes are linked to the chairman, the latest in May 2016. "I still fear for my life and I never go out alone. I am in an extremely risky situation here in Bangladesh and I'm desperate to leave the country," he told Amnesty International.[129]

"ZEESHAN": FLEEING ABROAD IN THE FACE OF THREATS[130]

Zeeshan (pseudonym) has been working as a journalist for different outlets in Dhaka, Sylhet and Khulna since the early 1980s. A known BNP supporter, he had written several stories critical of the Awami League during its time in opposition. What he calls his "problems" began in 2009 almost immediately after the new government took office.

Within a year, he had lost his job as a staff reporter with the national news agency Bangladesh Sangbad Sangstha (BSS). His editor informed him that there had been pressure, without specifying what specific form this had taken, from government officials to terminate his contract because of his past reporting. Subsequently in 2011, Zeeshan started working as a journalist again for another outlet and as a research assistant with a think-tank in Dhaka. He continued to write articles but did so anonymously since he was too afraid to use his real name.

Zeeshan told Amnesty International: "After 2011, the government started turning against journalists more. The harassment and beatings became more common." In March 2012, after a period of relative calm, the threats against Zeeshan increased in frequency. A man claiming to be from the military intelligence services Directorate General of Forces Intelligence (DGFI), which several journalists told Amnesty International had often carried out threats over the phone apparently on behalf of the government, called the office of his think-tank. The man asked him to come to the DGFI office, which Zeeshan took as an implicit threat that he could be arrested, or worse. "I stayed in my office for two days and refused to go out. I only left after my boss got some assurances from DGFI that I would not be arrested." Later the same month, an old contact from DGFI approached him at a market in Dhaka and told him that he "had to hide or be killed", because the DGFI had prepared a false criminal case against him.

A few nights later, men in plainclothes came to his home and asked for Zeeshan. He managed to evade them by hiding under his bed. The men confiscated his laptop, mobile phones and other equipment as they searched his flat. "When they left and I came out from under the bed, my son woke up and started crying. It was the most horrible night." Terrified, Zeeshan went into

129 Amnesty International interview in Dhaka, November 2016.

130 Amnesty International interview, September 2016 (location concealed to protect the identity of "Zeeshan")

hiding, and asked his wife to return with his young son to her home village in a different part of the country.

His wife was threatened in her village by a local leader of the ruling party, who said: "Zeeshan must surrender, otherwise we will kill everyone". At the same time, a contact with the DGFI told Zeeshan that the authorities had found out where he was hiding in Dhaka. Shortly after, he learned that there had been a false criminal case filed against him, in which he was accused of falsifying his education certificates in order to secure a promotion while working for the BSS.

With the help of some friends, he managed to leave Bangladesh in September 2012 and went to a different country where he applied for asylum and was granted refugee status. His wife passed away in cancer in 2014, and his son was until recently still in the care of her relatives in Bangladesh, although his son has recently been able to move to the country where Zeeshan lives as a refugee. The events over the past years have left Ahid badly traumatized.

"The phone calls": Threats and intimidation

Many media workers told Amnesty International of having received threats from government officials, intelligence agencies or security forces, or being aware of colleagues who have received such threats. Bangladeshi journalists often euphemistically refer to these threats as "the phone calls".

One senior journalist with a national daily said that he had in 2015 received information from a contact within the intelligence agencies that there was a plan on behalf of DGFI to kidnap some of his family members as a way of punishing him for his anti-government writing. He has since hired private bodyguards for the affected family members.[131] Another journalist, who used to write a column on government corruption for one of Bangladesh's largest online news portals, said he had felt compelled to use a pseudonym since 2014 due to the level of threats against him. "I received death threats in the comment section online. I think I was targeted because I have a Hindu name, they would tell me to go back to India."[132]

Threats are often not made explicitly, in particular if coming from government officials, but implied through phone calls and other conversations raising complaints about particular articles. These phone calls are either made to individual reporters or more senior editorial staff. Several journalists Amnesty International interviewed said that they or their outlets had received this type of criticism from government officials following critical articles. They all said that they assumed the criticism was a subtle attempt at interference in their work, and a veiled threat to refrain from criticizing government in the future.

As TV debate shows have increased in popularity within Bangladesh, authorities have also sought to control who appears on them. Several journalists said to Amnesty International that intelligence services are in frequent contact with producers of such shows to control which guests they can invite. One senior journalist, known for his independent and critical views, said that he had personally been told by a producer at a TV station that they could no longer invite him to appear because of orders from the government not to do so.[133] In February 2015, the long-running debate show "Frontline", hosted by BNP-supporting journalist Matiur Rahman Chowdhury on the privately owned BanglaVision

131 Amnesty International interview in Dhaka, November 2016.

132 Amnesty International interview in Dhaka, November 2016.

133 Amnesty International interview in Dhaka, November 2016.

channel, was taken off the air. While the channel's owner cited "technical issues", according to the Committee to Protect Journalists, several journalists said that the authorities ordered the closure for political reasons because Matiur Rahman Chowdhury refused to be dictated on what guests to invite.[134] Amnesty International in 2014 documented similar restrictions, when the organization interviewed eight journalists and editors as well as six people who were frequent guests on television talk shows. All said that they had since 2013 experienced attempts by security agencies to control the content of newspapers and television talk shows.[135]

On occasion, government officials have made threats, in particular against the most prominent outlets, in public. In February 2015, Sheikh Hasina promised unspecified "action" against *The Daily Star* after it had published a picture of a poster in Dhaka from the banned group Hizb-ut-Tahrir.[136] The accompanying article carried the headline "Fanatics raise their ugly heads again". Despite the evident criticism of the group contained in headline, Sheikh Hasina said the paper's actions were tantamount to "supporting the Hizb-ut-Tahrir cause". Two days later, Sajib Wazed Joy called in a Facebook post for the arrest of *The Daily Star*'s editor Mahfuz Anam.[137]

Many journalists have also received threats from armed groups over the nature of their coverage of the string of killings of secular blogger and other activists.[138] In October 2015, one journalist invited a prominent secular blogger to his talk show broadcast on a large privately owned TV channel. After airing the interview, a religious group published the journalist's picture on social media and called for him to be killed. After these threats, the journalist cancelled his talk show and went into hiding.[139]

2.3 OTHER FORMS OF HARASSMENT

> ***"We think it's a direct assault on the country's freedom of press. The government is shutting down the news organizations they don't like. They want total control of the media. By closing down news portals, the government is sending a clear message to all media firms that they won't tolerate any news organization that does not follow their line."***
>
> Ekramul Hoque, the head of Sheersha News, in August 2015 after his outlet's website had been shut down by the government without explanation.[140]

134 Committee to Protect Journalists, "Mission Journal: Bangladeshi press reined in as Hasina exerts authority", March 2015 available at https://cpj.org/blog/2015/03/mission-journal-bangladeshi-press-reined-in-as-pri.php

135 Amnesty International, *Stop them, now! Enforced disappearances, torture and restrictions on freedom of* expression (Index:ASA 12/005/2014), p. 18

136 Bdnews24.com, "Daily Star will face action: PM", 18 February 2015 available at http://bdnews24.com/bangladesh/2015/02/18/daily-star-will-face-action-pm

137 *Prothom Alo*, "Joy calls for Dr Kamal and Mafuz Anam's arrest", 27 February 2015 available at http://en.prothom-alo.com/bangladesh/news/59769/Joy-calls-for-Dr-Kamal-and-Mafuz-Anam-s-arrest

138 Shaikh Azizur Rahman in Voice of America, "Bangladesh Journalists Targeted With Threats", 20 October 2015 available at http://www.voanews.com/a/ap-bangladesh-investigates-alleged-radical-threat-against-media/3015088.html

139 Amnesty International interview, April 2016

140 International Federation of Journalists, "Mass shutdown of Bangladeshi news website", 8 August 2016 available at http://www.ifj.org/nc/en/news-single-view/backpid/1/article/mass-shut-of-bangladeshi-news-websites/

Since 2013, the government has used other forms of harassment and repression against critical media. As one journalist said: "It is as if the government is experimenting with different tools and tactics against the media, to see what works. There does not appear to be a specific plan behind it." Some of these other forms are summarized below.

Closure of outlets

> ***"The government has an enormous amount of regulatory power. They have so many tools they can use to simply shut down outlets."***
>
> Senior journalist speaking to Amnesty International in Dhaka, November 2016

The government has since 2013 on at least two occasions shut down whole news outlets in response to critical coverage.

On 6 May 2013, the government ordered the closure of the privately owned TV channels Diganta TV and Islamic TV. Both channels had broadcast live from a police raid on a Hefazat-e-Islam rally in Dhaka on 5-6 May which led to the deaths of at least 44 people, and shown footage of dead bodies and others injured with bullet wounds. The Bangladesh Telecommunication Regulatory Commission (BTRC) – the body responsible for regulating all telecommunications in the country - said that they had temporarily suspended the transmission of the two channels on orders from the Ministry of Information. Government and BTRC officials claimed that the channels had aired "irresponsible" programming which encouraged people to "attack law enforcers". Both channels were owned by supporters of opposition parties.[141] As of February 2017, neither channel had resumed broadcasting.

On 4 August 2016, without forewarning the BTRC announced that 35 news websites had been closed down indefinitely. Among them were several opposition-leaning outlets, including Sheersha News and the website of *Amar Desh*, whose print edition had been shut down in 2013 when its editor Mahmudur Rahman was arrested. Neither the BTRC nor any government body with responsibility for the media sector, such as the Ministry of Information, provided an official reason for the shutdown. An editor for one of the sites told Amnesty International that he only found out about the closure through media articles on the morning that it came into effect.[142]

Since authorities offered no official explanation for the closure or a legal justification, there is little room for the outlets to protest against it. As an editor of one news site still closed in October 2016 told Amnesty International: "We would like to appeal against the decision, but there is nothing to appeal – no court order, no official explanation."[143]

141 *The Daily Star*, "Diganta, Islamic TV off air", 7 May 2013 available at http://www.thedailystar.net/news/diganta-islamic-tv-off-air

142 Amnesty International interview over the phone, August 2016.

143 Amnesty International interview over the phone, October 2016.

Pressure on advertisers

In August 2015, authorities pressured several major companies in Bangladesh to cease advertisements in two of the country's largest newspapers, *Prothom Alo* and *The Daily Star*. The move reportedly came in response to an article carried by *Prothom Alo* in August 2015, to which the country's military took offence. The article labelled five young suspected militants killed by the army in the Chittagong Hill Tracts (CHT) as adivasi ("indigenous"), although this is a highly charged word in Bangladesh.[144]

After the article's publication, the Bangladeshi authorities – through the DGFI – instructed major Bangladeshi companies to stop advertising in the two papers. Amnesty International was told this was done over the phone, where DGFI officials would call the companies directly. According to media reports, the companies included mobile phone companies Grameenphone, Robi Axiata, Banglalink and Airtel, as well as consumer goods multinational Unilever. Telenor, the Norwegian majority shareholder in Grameenphone, confirmed in a statement to media that "along with several other large corporations, [it] received an instruction from the authorities to stop advertisements in two leading newspapers in Bangladesh."[145] None of the other companies have communicated publicly on the issue, as far as Amnesty International is aware.

Sources confirmed to Amnesty International that the advertisement ban is still in effect as of April 2017. Both *The Daily Star* and *Prothom Alo* have suffered financially, and had as of August 2016 lost some 25% and 35% respectively of their advertisement revenue since the ban came into effect. As one journalist not working for either of the outlets said: "This shows that the government has an enormous amount of regulatory power it can use against media outlets it doesn't like. The government is also very good at covering its tracks. The threats [to advertisers] were all made over the phone, there is no paper trail. The government still has deniability that it was involved."[146] Although the advertisement ban has been widely discussed among journalists in Bangladesh and covered in international media, no Bangladeshi news outlets have reported on the ban as far as Amnesty International is aware, apparently out of fear of reprisals.

144 CHT has been under military control since 1977 in response to demands for greater autonomy of Indigenous Peoples in the region, and authorities have long objected to the use of the term "indigenous" or "adivasi", since they infer certain specific human rights under international law. For background see, Amnesty International, *Pushed to the edge: Indigenous rights denied in Bangladesh's Chittagong Hill Tracts*, 12 June 2013, available at https://www.amnesty.org/en/documents/ASA13/005/2013/en/. In August 2014, the government issued a statement advising media, civil society and academics to not use the term *Adivasi* (indigenous), stating that there was "no adivasi (indigenous) people in the country". http://newagebd.net/38616/govt-circular-to-avoid-word-adivasi-criticised/#sthash.MX6Ye0m2.dpbs

145 Deutsche Welle, "Bangladesh blocks media ads, curbs press freedom", 30 October 2015 available at http://www.dw.com/en/bangladesh-blocks-media-ads-curbs-press-freedom/a-18816842

146 Amnesty International interview, July 2016.

3. BANGLADESH'S OBLIGATIONS UNDER INTERNATIONAL LAW

Bangladesh is a state party to the International Covenant on Civil and Political Rights (ICCPR), among other human rights treaties, and has obligations to respect, protect and fulfil the rights set out in these treaties. These obligations mean that state officials must not restrict or interfere with individuals' exercise of their human rights, other than in certain exceptional circumstances outlined in the ICCPR and other international laws and standards. Bangladesh must also take effective measures to protect individuals and groups against abuses of those rights by others, and must also fulfil those rights – that is, facilitate people's exercise of human rights. These obligations on Bangladesh apply to all people within its territory and subject to its jurisdiction, without discrimination of any kind.

The right to freedom of expression is set out in Article 19 of the ICCPR: "Everyone shall have the right to freedom of expression; this right shall include 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 his choice."[147] The UN Human Rights Committee, the body of independent experts established under the ICCPR to monitor states parties' compliance with its provisions, has specifically stressed that a "free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights". The Committee has also underlined the function of the media in conveying information, the importance of "a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion", and affirmed "the right of the public to receive media output".[148]

Furthermore, on public debate about public figures or institutions, the Committee has underlined that the "value placed by the Covenant upon uninhibited expression is particularly high."[149]

PERMISSIBLE RESTRICTIONS ON THE RIGHT TO FREEDOM OF EXPRESSION

Under international human rights law, any restrictions on the rights to freedom of expression, association and peaceful assembly must be the exception. Article 19(3) of the ICCPR outlines that certain restrictions may be imposed on the exercise of the right to freedom of expression (but not the right to freedom of opinion), but only if such restrictions are demonstrably necessary and proportionate for one of the specific legitimate purposes which are permissible under

147 Bangladesh ratified the ICCPR in 2000.

148 UN Human Rights Committee. General Comment 34, Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, (2011), para. 13, available at http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf

149 UN Human Rights Committee. General Comment 34, Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, (2011), para. 38, available at http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf

international law. The article provides that any interference with the exercise of the right to freedom of expression must meet a three-part test in order to be lawful:

1. Legality: any restrictions must be provided by law, which must be accessible to the public and "formulated with sufficient precision to enable an individual to regulate his or her conduct".[150]
2. Legitimacy: restrictions can only be imposed to serve a legitimate aim explicitly specified in international human rights law, namely to protect the rights and reputation of others; national security, public order, or public health or public morals; restrictions on other grounds are not permitted. Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need they are designed to address.[151]
3. They must conform to strict tests of necessity and proportionality: measures must be both necessary to achieve the specific legitimate aim and proportionate. The Committee has underlined that any restrictions, whether set out in law or applied by the administrative or judicial authorities, must be the least intrusive means possible and must be proportionate to the interest to be protected and must not be overbroad.[152] When a State party imposes restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself.[153]

All three requirements must be met for a restriction to comply with international human rights law and standards. Similar conditions also apply to any state interference with other rights, such as the right to peaceful assembly and to freedom of association.

As a state party to the ICCPR, Bangladesh is also obliged to respect rights relating to arrest and fair trials. This includes the right not to be arbitrarily arrested or detained; the right of anyone who is arrested to be promptly informed of charges against them and the right to a fair trial by a competent, independent and impartial court within a reasonable time. The right to fair trial includes the right to legal counsel as soon as a person is deprived of their liberty, and the right to not to be compelled to testify or confess guilt (Article 14). All persons detained have the right to be treated humanely (Article 10), including being allowed access to the outside world, and to be free from torture or other cruel, inhuman or degrading treatment or punishment.

Many of these and other obligations are also reflected and elaborated in other international standards, for example the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment[154] and UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).[155] The authorities in Bangladesh have flouted these obligations in certain cases documented in this report, by for example denying adequate medical care to detainees, or subjecting detainees to torture or other forms of ill treatment.

150 UN Human Rights Committee. General Comment 34, Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, (2011), para. 25, available at http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf

151 UN Human Rights Committee. General Comment 34, Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, (2011), paras. 21-22, available at http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf

152 Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para 34.

153 Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para 21.

154 UN General Assembly, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by UN General Assembly Resolution A/RES/43/173, 9 December 1988

155 UN General Assembly, UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by UN General Assembly Resolution A/RES/70/175, 17 December 2015

4. BANGLADESH'S LEGAL FRAMEWORK

> ***"The purpose and spirit of these laws is the same, which is to restrict. It's about sending a message that you need to be careful when you criticise the government."***
>
> Bangladeshi NGO official, November 2016.[156]

At the heart of repression is the Bangladeshi legal framework, which contains several laws that place undue restrictions on the right to freedom of expression. Defamation or sedition charges – which are both part of the country's Penal Code, dating from the British colonial era – have, for example, frequently been brought against media workers who have criticized the government or covered other topics deemed to be sensitive by the authorities.

This chapter summarizes the laws most frequently used to restrict freedom of expression in Bangladesh, as well as some of the regulatory measures which relate to the media sector. It also focuses on some key proposed laws, which would impose further restrictions on freedom of expression if enacted.

4.1 THE CONSTITUTION AND THE PENAL CODE

The Constitution

According to the Bangladeshi government, the Constitution "categorically provides that the right of every citizen to freedom of speech and expression and the freedom of the press are guaranteed".[157] While Article 39 does state that "freedom of thought and conscience is guaranteed", the right is only granted as long as it does not interfere with the "interests of the security of the state", "friendly relations with foreign states", and "incitement to an offence", among other vaguely worded conditions. These restrictions go beyond the narrow, "necessary" restrictions on freedom of expression permissible under the ICCPR, and are incompatible with Bangladesh's obligations under international law and as a state party to that treaty.

It is also important to note that by conferring the right to freedom of speech and expression only to citizens (Article 39(2)(1)), the Bangladesh Constitution denies protection to non-citizens on a discriminatory basis. With respect to the ICCPR specifically, the Committee has stressed that "the

156 Amnesty International interview in Dhaka, November 2016.

157 See Consideration of reports submitted by States parties under Article 40 of the Covenant Initial reports of States parties due in 2001 Bangladesh, UN Doc: CCPR/C/BGD/1, 3 September 2015, para. 202.

enjoyment of Covenant rights is not limited to citizens of States Parties but must also be available to all individuals, regardless of nationality or statelessness […] who may find themselves in the territory or subject to the jurisdiction of the State Party.[158] International experts have underlined that, "in general, international human rights law requires the equal treatment of citizens and non-citizens".[159]

PENAL CODE

Criminal defamation

In Bangladesh, defamation is a criminal offence as well as being a matter for civil litigation. In criminal law, defamation is defined in Section 499 of the Penal Code:

> ***"Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes 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."***

The Penal Code set outs a number of exceptions, including expressing an opinion in good faith regarding the conduct of a public servant or stating anything that is true concerning any person "if it be for the public good". Sections 500-502 stipulate that anyone found guilty of defamation can be punished with imprisonment of up to two years and / or an undefined fine.

Amnesty International opposes laws criminalizing defamation, whether of public figures or private individuals, and considers that defamation should be treated as a matter for civil litigation. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has called for the decriminalization of acts considered to be acts of defamation and for civil liability proceedings to be the sole form of redress for complaints of damage to reputation.[160] He has further underlined that the only purpose of defamation, libel, slander and insult laws must be to protect reputations and not to prevent criticism of governments.[161] The Human Rights Committee has recommended that States should consider decriminalizing defamation, and has noted its approval where states have done so; in any event it has stated that imprisonment is never an appropriate penalty.[162]

158 UN Human Rights Committee General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, (2004), para. 10, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en

159 David Weissbrodt, The rights of non-citizens: Final report of the Special Rapporteur, submitted in accordance with Sub-Commission decision 2000/103, Commission resolution 2000/104 and Economic and Social Council decision 2000/283, UN Doc. E/CN.4/Sub.2/2003/23, 26 May 2003, para. 1.

160 Frank La Rue, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report to the UN Human Rights Council, 20 April 2010, UN Doc. A/HRC/14/23, para. 83

161 Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, UN Doc: A/HRC/20/17, 4 June 2012, para. 83.

162 Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para. 47.

Under Bangladeshi law, any person can bring criminal defamation charges through police or magistrate courts. Although the Code of Criminal Procedure states that such cases can only be filed by the "aggrieved" individual, police and courts have frequently accepted cases filed by others on the defamed person's behalf, meaning the laws are open to easy abuse.

The government argued in 2013 that the Code of Criminal Procedure had been reformed so that "journalists would not be arrested or harassed without being notified well ahead about the allegations brought against them".[163] Although criminal defamation cases against journalists have gradually become less common – in particular since 2013, since when the ICT Act has been more frequently used – they do still continue, as illustrated by the cases of the editors Mahfuz Anam and Matiur Rahman.

Irrespective of the frequency with which defamation charges are filed against journalists, the fact that such laws remain on the books has – and will continue to have – a negative impact on media workers and contribute to a climate of self-censorship.

Sedition

Sedition is defined in Bangladesh under Section 124A of the Penal Code, a provision that was introduced during the colonial era when it was often used against those advocating for independence from British rule:

> ***Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law shall be punished with imprisonment for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.[164]***

Under international human rights law, states are required to formulate restrictions on freedom of expression with "sufficient precision to enable a citizen to regulate his or her conduct accordingly".[165] Section 124A fails that test. Terms such as "disaffection" are both vague and subjective, and make it very difficult for individuals in Bangladesh to know what expressions violate the provision; the vagueness of the provision leaves it open to both an overreach of the law and potential for abusive application. In any event, exciting "disaffection towards the Government established by law", in itself should not be criminalized at all.

---

163 See Bangladesh's state report to the Universal Periodic Review, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Bangladesh, UN doc: A/HRC/WG.6/16/BGD/1, 7 February 2013, para. 60, and Consideration of reports submitted by States parties under Article 40 of the Covenant Initial reports of States parties due in 2001 Bangladesh, UN Doc: CCPR/C/BGD/1, 3 September 2015, para. 212.

164 Wording from original 1860 Penal Code. In 1985, the words "imprisonment for life" were replaced by "transportation for life" by section 12 of the Penal Code (Amendment) Ordinance, 1985.

165 Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para. 25.

The Human Rights Committee has stressed that international law, as set out in Article 19(3) of the ICCPR, prohibits restrictions on freedom of expression on national security grounds unless the state can demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat. Moreover states must not invoke sedition laws "to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information."[166] Additionally, governments should take "extreme care" to ensure that provisions relating to national security, including sedition laws, conform to the strict requirements for limiting freedom of expression outlined in the ICCPR.[167]

Sedition laws have been frequently used by successive governments in Bangladesh against political opponents. Senior opposition figures, including BNP Chairwoman Khaleda Zia and her son Tarique Rahman, are currently facing multiple sedition charges they claim are politically motivated.[168] Although sedition cases against media workers are rare, they do still occur – such as in the cases of Mahfuz Anam, Matiur Rahman and Mahmudur Rahman.

4.2 CURRENT LAWS

Foreign Donations (Voluntary Activities) Regulation Act (FDRA) 2016

> ***"The pressure on freedom of expression is much more institutionalized today than before. […] The authorities have more or less 'managed' the opposition, the only credible threat left now is from media and civil society."***
>
> International NGO worker, Dhaka, November 2016[169]

166 Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para. 30.

167 Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para. 30.

168 Associated Press, "Bangladesh court grants bail to ex-PM Zia in sedition case", 10 August 2016, available at: http://www.foxnews.com/world/2016/08/10/bangladesh-court-grants-bail-to-ex-pm-zia-in-sedition-case.html

169 Amnesty International interview in Dhaka, November 2016.

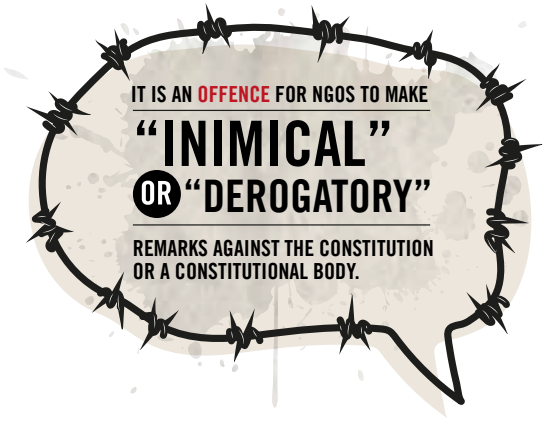
On 4 October 2016, the Bangladeshi Parliament enacted the Foreign Donations (Voluntary Activities) Regulation Act (FDRA) 2016, and it entered into force after the President gave his final approval to the law on 13 October.[170] The FDRA is a merger of two existing laws governing non-governmental organizations (NGOs), which the government has claimed is necessary for greater oversight of the civil society sector. The law not only hinders the ability of human rights defenders and civil society organizations to seek and secure resources but it also expands the government's ability to interfere with the work of NGOs and arbitrarily cancel their registrations.

The FDRA requires all foreign-funded NGOs to submit all projects for approval to the NGO Affairs Bureau, which is run from the Prime Minister's Office. The law is vaguely worded and does not specify on which grounds the Bureau could reject or make changes to proposed projects. This gives the authorities wide discretion to interfere with the work of NGOs and cancel projects they do not agree with.

Additionally, foreign-funded NGOs must apply for renewal of registration every 10 years with the Bureau. At no point, however, does the bill specify a timeframe for approval of either registration or individual projects, which opens up the possibility of NGOs being stuck in legal limbo for an extended period of time essentially unable to manage their operations or conduct their work.

The Bureau is also granted the power to "inspect, monitor and evaluate" the activities of foreign-funded NGOs. This is to be done through regular meetings between Bureau staff and NGO leaders. The Bureau can also establish monitoring committees or appoint "third- party evaluators" for specific NGOs or projects. Additionally, all proposals for foreign travel for "official purposes" by staff from foreign-funded NGOs must be submitted to the Bureau in advance.

It is also hugely troubling that in the final version of the Act passed by Parliament, an additional provision had been added which makes it an offence for NGOs to make "inimical" or "derogatory" remarks against the constitution or a constitutional body. Under the Act, the NGO Bureau is given the power to cancel the registration of NGOs that make such remarks. The words "inimical" or "derogatory" are not defined anywhere in the law, and this vagueness gives the authorities sweeping powers to punish NGOs whose members are simply exercising their right to freedom of expression and in particular for criticizing government bodies.



The provision has sparked an outcry among civil society in Bangladesh, who fear it will become a tool of the government to control the issues that NGOs and human rights defenders are able to work on and what they can say in public. The provision was introduced into the Act following a report issued by the anti-corruption NGO Transparency International Bangladesh in 2015, which criticized the performance of Parliament, including the poor attendance record of many MPs and the lack of time spent on formulating and passing laws.[171]

The Bureau can impose penalties on NGOs that commit this or any other offence listed in the Act. Penalties range from a cautionary letter; a fine; or the cancellation or suspension of the registration of an NGO, or its individual projects. However, the FDRA does not distinguish between the severities of different "offences", thereby giving wide discretionary powers to the Bureau on what punishment it can

170 This section draws extensively from Amnesty International's analysis of the FDRA published in *Bangladesh: New law designed to stifle civil society must be repealed* (ASA 13/4996/2016), 17 October 2016.

171 Transparency International Bangladesh, Parliament Watch 2015: 10th Parliament, Session 2-6, 25 October 2015 available at https://www.ti-bangladesh.org/beta3/index.php/en/research-policy/169-nis/parliament-watch/4767-parliament-watch-executive-summary-english

mete out. The NGO can only appeal against the Bureau's decision to the Prime Minister's office whose verdict would be final. As such, this then leaves no option for judicial oversight nor does it provide an effective remedy.

The FDRA contravenes Bangladesh's obligation to respect and protect the right to freedom of expression and freedom of association set out in international law. While certain restrictions on freedom of expression may be permissible under the ICCPR if they are demonstrably necessary and proportionate for a specific legitimate purpose (see Chapter 3), the UN Human Rights Committee has, in particular, underlined that states should not prohibit criticism "of institutions, such as the army or the administration."[172] Making NGOs liable to deregistration for simply criticizing state institutions goes beyond the restrictions which are permissible under international law.

Additionally, the FDRA unduly interferes with the right to freedom of association, also guaranteed in the ICCPR. The ability of civil society organizations to access funding, including from domestic and foreign sources, is an integral part of the right to freedom of association.[173] As with the right to freedom of expression, any restrictions on the right to freedom of association must meet the three part test, including being demonstrably necessary and proportionate for a specific purpose which international law recognizes as legitimate.

Amnesty International is concerned that the overly broad restrictions contained in this law may be used to stifle dissent and silence critical NGOs, which are often dependent on foreign funding for their operations. Moreover, in the case of civil society organizations engaged in activities related to human rights, restrictions on their ability to access funding can undermine those activities and have a negative impact on the lives of those on whose behalf some of these associations work.

Bangladesh's vibrant and diverse civil society plays a crucial role in ensuring that authorities respect, protect and fulfil human rights. The FDRA has been passed at a time when the authorities are increasingly seeking to control the work of NGOs and to limit their ability to criticize the government. Several NGO officials told Amnesty International that they are deeply worried about the shrinking space they are operating in, and the harmful effects the FDRA would have on their work.[174]

Information and Communications Technology (ICT) Act 2006

In interviews with media workers, NGO workers, activists and legal professionals, the Information and Communications Technology (ICT) Act was frequently cited as perhaps the single piece of legislation most responsible for restricting freedom of expression since 2013.

The ICT Act was first enacted in October 2006 under the then-BNP government. The stated purpose of the Act is "the legal recognition and security of information and communications technology". International law is clear that the right to freedom of expression extends to "all forms of audio-visual as well as electronic and internet-based modes of expression".[175] As a state party to the ICCPR, Bangladesh is therefore required to ensure that legislation regulating online communication and expression respects and protects this right. However, several provisions of the ICT Act are vague

172 Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para. 38.

173 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, UN Doc: A/HRC/20/27, 21 May 2012, para. 83.

174 Amnesty International interviews with NGO officials in Dhaka, November 2016.

175 Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para. 12.

and overbroad, granting the authorities wide discretion in who can be charged under its provisions, and some of its provisions give broad scope to stifle criticism of the authorities. With regard to laws restricting freedom of expression, the UN Human Rights Committee has stressed that a law "must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly ... [and] may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution".[176]

For example, Section 46 of the Act grants the government permission to use any security agency to restrict information through any digital resource in case it is "…necessary or expedient so to do in the interest of the sovereignty, integrity, or security of Bangladesh" or if it damages "public order" or "friendly relations with other states." Several of these restrictions do not meet the test for legitimate restrictions as set out in the three-part test established in international human rights law (see Chapter 3).

Section 57 of the Act is the provision which has most frequently been used to bring charges against government critics, activists and others:

> ***"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."***

Section 57 violates the right to freedom of expression by both criminalizing legitimate forms of expression and by being so broadly worded that it allows for arbitrary and abusive application of the law.

The provision has also been described as a "de facto blasphemy law", as it criminalizes hurting or causing hurt to religious belief. Religious minorities and secular activists found to publish "offensive" remarks about Islam online have often faced charges under the law. In October 2016, for example, a Hindu man was arrested and charged under Section 57 after he was accused of posting an image on Facebook which allegedly denigrated Islam.[177] While "protection of the rights of others" is one of the permissible reasons for which states may, where necessary and proportionate and provided by law, impose certain restrictions on freedom of expression, this does not include protection of others' religious sensibilities. The Human Rights Committee has stressed that "prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the ICCPR."[178]

176 Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para. 25.

177 Amnesty International, "Hindu fisherman kept in unlawful detention: Rasraj Das", 12 January 2017 available at https://www.amnesty.org/en/documents/asa13/5448/2017/en/

178 Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para. 48.

The UN Special Rapporteur on freedom of expression has underlined that limitations on the right to freedom of expression were "designed in order to protect individuals against direct violations of their rights" and "not designed to protect belief systems from external or internal criticism."[179] Similarly, the UN Special Rapporteurs on freedom of religion and on racism and related intolerance have underlined that "the right to freedom of religion or belief, as enshrined in relevant international legal standards, does not include the right to have a religion or a belief that is free from criticism or ridicule."[180]

The ICT Act has been met with overwhelming criticism from human rights groups and others, with the UN Special Rapporteur on freedom of religion or belief stating that the Act "has a chilling effect on civil society organizations, human rights activists and members of religious minority communities".[181] Similarly, the International Commission of Jurists has called it a "draconian assault on freedom of expression."[182]

In October 2013, the Act was amended, increasing the penalties that can be imposed and the police powers of arrest and detention. Under the amendment, prison terms were increased from a maximum of 10 years to a minimum of seven and a maximum of 14 years. Additionally, police now have the power under the Act to make arrests without a warrant and all offences are non-bailable, meaning that it is a matter of discretion of the court to grant or refuse bail. Earlier that year, the government also established a new Cyber Tribunal in Dhaka, a fast-track court charged with trying online crimes, including offences under the ICT Act.[183]

Partly in response to continuing criticism, government officials in 2016 stated their intention to replace parts of the ICT Act – including Section 57 - with a new Digital Security Act, which they claimed would better comply with international human rights law and standards and would not be open to unjust application to journalists. The draft of this proposed law does, however, in its present form instead impose further restrictions on freedom of expression (see section p. 54).

179 Report of the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, A/HRC/7/14, (2008), para. 85

180 Report of the UN Special Rapporteur on Freedom of Religion or Belief and the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, A/HRC/2/3, (2006), para. 36

181 Preliminary findings of Country Visit to Bangladesh by Heiner Bielefeldt, Special Rapporteur on freedom of religion or belief, 9 September 2015 available at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16399

182 International Commission of Jurists, *Bangladesh: Information and Communication Technology Act draconian assault on free expression*, 20 November 2013, available at: http://www.icj.org/bangladesh-information-and-communication-technology-act-draconian-assault-on-free-expression/

183 The World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), *Bangladesh: Information and Communication Technology (Amendment) Act likely to silence further human rights defenders!*, 26 August 2013, available at: https://www.fidh.org/en/region/asia/bangladesh/bangladesh-information-and-communication-technology-amendment-act-likely-13875

ICT Act: Case studies

Cases under the ICT Act have become increasingly common since the law was amended in 2013. According to the human rights organization Odhikar, there have been at least 82 arrests under the law between January 2014 and December 2016: 14 in 2014; 33 in 2015; and 35 in 2016.

Since the provision prohibiting police from making arrests without a warrant under the ACT was removed in 2013, the law has frequently been misused by individuals to settle personal scores.

The above chapters have outlined cases against media workers and activists filed under the Act, but it has been used against a range of other individuals as well, including human rights defenders and members of religious minorities. Frequently, charges under Section 57 have also been filed against individuals peacefully criticizing Sheikh Hasina and the government online. Although these cases are too numerous to cover all in detail in this report, the following selection provides a representative sample:

Dilip Roy

Dilip Roy is a 22-year-old student activist at Rajshahi University, where he is the General Secretary of left-wing student organization Biplobi Chhatra Maitri. On 28 August 2016, Dilip Roy was arrested after making two Facebook posts where he criticised Sheikh Hasina and the government for their support for a proposed coal plant in Rampal, which many environmental activists say will have a damaging effect on the nearby Sundarban mangrove forest. A member of the local Chhatra League – the student wing of the Awami League – filed a complaint against Dilip Roy under Section 57 of the Act for making "derogatory remarks" against Sheikh Hasina. Dilip Roy was eventually released on bail in November 2016, having spent almost three months in detention without charge.[184] According to police the investigation against Dilip Roy is ongoing although no new court date has been set.

Tonmoy Malik is a 27-year-old electronics shop owner from the southern district of Khulna. He had composed a parody song mocking Sheikh Hasina and her father, Sheikh Mujibur Rahman. Tonmoy Malik was arrested on 26 October 2013 after one of his friends, Rafiqul Islam, had played the song on a loudspeaker at the main square in their home village of Gorkathi in Khulna District in western Bangladesh. Both were charged under Section 57. On 25 September 2014, the Cyber Tribunal in Dhaka acquitted Rafiqul Islam, but sentenced Tonmoy Malik to seven years in prison. [185]

Rasraj Das, 25, is a fisherman and member of the Hindu religious minority in Brahmanbaria district in eastern Bangladesh. On 30 October 2016, hundreds of people gathered in the district to protest against a Facebook post allegedly made by Rasraj Das which they claimed insulted Islam. The mob, which had links to the groups Hefazat-e-Islam and Ahle Sunnat Wal Jamaat, went on a rampage through Hindu villages in the area, vandalising more than 100 homes and several temples.

184 Amnesty International, "Student hold for Facebook posts out on bail: Dilip Roy", 18 November 2016 available at https://www.amnesty.org/en/documents/asa13/5168/2016/en/

185 *New Age*, "Youth jailed for parody on Sheikh Mujib, PM", 25 September 2014, available at: http://newagebd.net/52448/youth-jailed-for-parody-on-sheikh-mujib-pm

Rasraj Das was arrested on 30 October and charged by police in Brahmanbaria for violating Section 57 of the ICT Act for "hurting religious sentiments". On 28 November, a public report by the district police stated that the image had not been uploaded by Rasraj Das, but that someone else had used his Facebook account. A separate report by the National Human Rights Commission also cleared Rasraj Das of posting the image. Despite this, the charge against Rasraj Das has not been dropped. Rasraj Das was released on bail on 16 January 2017 and is awaiting his next court date. [186]

Adilur Rahman Khan and **Nasiruddin Elan**, the secretary and director respectively of the Bangladeshi human rights organization, Odhikar, were among the first casualties of the ICT Act. Both were charged under Section 57 after publishing a report on extrajudicial executions by the security forces during mass protests in Dhaka in May 2013, which were organized by Hefazat-e-Islam as a counter-demonstration to the Shahbag movement led by secular activists.[187]

The security forces also raided the offices of Odhikar in August 2013 and confiscated potentially sensitive material, such as computers which contained material with identities of individuals including witnesses of human rights violations by security forces. Adilur Rahman Khan was picked up by plainclothes police officers in August 2013[188] and held for just over two months after being released on bail. On 9 January 2017, the High Court ruled that there was "reasonable suspicion" that Odhikar was "conspiring against the state" and rejected the organisation's petition to stop the case against them, which means their trial could start imminently.[189]

Meanwhile, the authorities have continued their harassment of Odhikar in a clear attempt to silence their human rights reporting. The NGO Affairs Bureau, which operates under the Prime Minister's Office, has since 2014 withheld foreign funding for Odhikar – including for projects which have already been approved by the Bureau - and withheld renewal of its registration since 2015 without providing an official reason. According to Odhikar, the organisation has been unable to pay its staff and is wholly reliant on voluntary work.[190]

Regulatory framework for media

There are around 50 laws and regulation which govern the news media in Bangladesh, many of which overlap in sometimes contradictory ways, in particular related to online and broadcast media. [191] Although corporate and private ownership in the media sector has increased exponentially since the return to civilian rule in 1991, the state's authority over media regulation has remained.

The print sector is largely governed by the Printing Presses and Publication Act, 1973, which requires all print outlets to obtain a license from the government to operate, through the Ministry of Information. The Bangladesh Press Council, a statutory body fully controlled by the Government, was established in 1979 with the power to decide complaints made against newspapers. The Council issued a Code of

186 Amnesty International, "Hindu fisherman kept in unlawful detention: Rasraj Das", 12 January 2017 available at https://www.amnesty.org/en/documents/asa13/5448/2017/en/

187 Amnesty International, *Bangladesh: Drop charges, stop harassment of Odhikar*, 16 January 2014, available at: https://www.amnesty.org/en/press-releases/2014/01/bangladesh-drop-charges-stop-harassment-odhikar/

188 Amnesty International, *Bangladesh: Arrest of human rights defender sends a chilling message*, 12 August 2013, available at: https://www.amnesty.org/en/latest/news/2013/08/bangladesh-arrest-human-rights-defender-sends-chilling-message/

189 Amnesty International interview via email, March 2017.

190 Amnesty International interview via email, March 2017.

191 For background, see Meer Ahsan Habib, "Where we stand on media governance", *The Daily Star*, 3 May 2016, available at http://www.thedailystar.net/op-ed/politics/where-we-stand-media-governance-1217557

Conduct in 1993 (amended in 2002) for newspapers, news agencies and journalists, which highlights the basic responsibilities of the media and journalists, but also states, that they must not, "publish any news or publication detrimental to national integrity, independence, sovereignty, the oneness of the State and the Constitution of Bangladesh." The Press Council has traditionally been ineffective and lacked independence, as it has been underfunded and its members are appointed directly by the government. It also has no authority over either broadcast or online media, but only concerns the print sector.

The BTRC was established through the Telecommunications Act of 2001, and all broadcast and online media falls under its purview. The body is government-appointed and funded, but has no formal authority to handle complaints or to regulate broadcast content. In the absence of a National Broadcast Commission, such authority *de facto* sits with the Ministry of Information or other government bodies. In 2014, the Cabinet approved a new National Broadcasting Act which proposed the establishment of such a Commission, although it has yet to be signed into law. The proposed Act faced overwhelming criticism from media outlets and human rights organizations, as it would restrict what could be broadcast, by for example containing provisions against programming that runs "counter to government interest", or which could "impede national security".

4.3 PROPOSED LAWS

In addition to the laws already on the books, it is worrying that Bangladeshi authorities have since 2013 proposed additional laws which, if enacted, would impose further restrictions on freedom of expression.

Digital Security (DS) Act 2016

The draft Digital Security (DS) Act was first introduced in 2015 as the draft Cyber Security Act, but given its current name in 2016 when a revised version was presented. According to the government, it has been proposed in order to strengthen the authorities' ability to tackle cybercrime and to protect national security.[192] The DS Act would establish a new Digital Security Agency charged with "fulfilling the purposes of the Act", headed by a Director General who would be directly appointed by the government.

Although the draft DS Act was adopted by the Cabinet on 22 August 2016, it has yet to be passed into law. It has met with strong resistance from media workers and human rights lawyers in Bangladesh who fear it could be used to stifle legitimate criticism and public debate online. As of March 2017, it was still unclear when the law would be placed before parliament for a vote.

Four provisions from the ICT Act – Sections 54-57 – are to be removed from the ICT Act and incorporated into the new law. In media interviews, government officials have tacitly acknowledged the criticism against primarily Section 57 of the ICT Act, and claimed that these offences will be defined more clearly in the new law. In January 2016, Law Minister Anisul Huq specifically stated that the new law would not be "unjust" to journalists.[193]

While it is welcome that the government is apparently addressing criticism of the ICT Act, the proposed DS Act, in fact, adds further restrictions on freedom of expression online. The draft Act contains language that is worryingly similar to Section 57 of the ICT Act, with only the degree of punishment differing. It states that anyone who publishes online anything that "hurts or defames someone socially" or that "hurts the religious sentiment" of others could face two years in prison, a fine of 200,000 taka

192 *The Independent*, "Digital Security Act awaits approval from law ministry", 26 December 2016, available at http://www.theindependentbd.com/arcprint/details/73948/2016-12-26

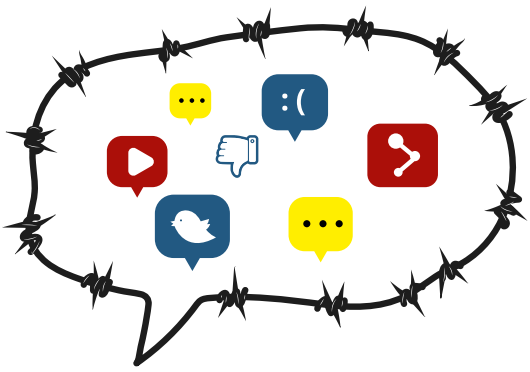
193 Deutsche Welle, "Concerns mount as Bangladesh plans new anti-cybercrime law", 13 January 2016, available at http://www.dw.com/en/concerns-mount-as-bangladesh-plans-new-anti-cybercrime-law/a-18975791

(USD2,400), or both.[194] Anyone found guilty of "creating enmity among different classes of people" or "deteriorates the law and order" through something they have published could face seven years in jail or a fine of 700,000 (USD8,400) taka. Like Section 57 of the ICT Act, such vague and broadly worded language criminalises legitimate forms of expression and allows for arbitrary and abusive application of the law.

The DS Act also contains provisions against "carrying out propaganda" against or spreading false information about the War of Independence or Sheikh Mujibur Rahman. This could be punished by life imprisonment, a fine of up to 10 million taka (USD 127,000), or both. The draft law, however, does not define what such "propaganda" entails. This could, as with the Liberation War Denial Crimes Act (see below), be used by the authorities to target anyone who questions the government's official narrative of the events of the War of Independence, and would stifle public debate on the issue.

Furthermore, Section 13 makes it an offence to commit any act that "damages relationship of Bangladesh with other countries" or "which is detrimental to the foreign policy of Bangladesh". Such unspecific language can easily be misused by the authorities against those who, for example, criticize business or development ventures in Bangladesh which involve foreign governments or companies, or to deter protests around the visits of foreign political leaders.

One Supreme Court lawyer said: "Like the ICT Act, we fear this law might turn into an oppressive law. […] The proposed law gives scope for silencing people's voice. Definitions given in it are not specific, and many oppressive measures have been justified under the broad umbrella of national security."[195] Similarly, the NGO Article 19 noted in an extensive analysis of the draft DS Act in May 2016 that the law "contains several broadly defined speech offences with harsh sentences, that could have a serious chilling effect on the right to freedom of expression online."[196]



> ***"Like the ICT Act, we fear this law might turn into an oppressive law. […] The proposed law gives scope for silencing people's voice. Definitions given in it are not specific, and many oppressive measures have been justified under the broad umbrella of national security."***
>
> A Supreme Court lawyer

194 The punishment violating an offence under the ICT Act is currently a minimum of seven years in prison and a maximum of 14 years, a fine, or both.

195 *The Bangladesh Chronicle*, "Digital Security Act, 2016", 28 October 2016, available at http://bangladeshchronicle.net/2016/10/digital-security-act-2016/

196 Article 19, *Bangladesh: Draft Digital Security* Act, 11 May 2016 available at https://www.article19.org/resources.php/resource/38368/en/bangladesh:-draft-digital-security-act

Liberation War Denial Crimes Act 2016

The draft Liberation War Denial Crimes Act, which was introduced in 2016 and is currently being reviewed by the Law Ministry, seeks to control and restrict public debate on the 1971 War of Independence. The Act would have a highly negative impact on public debate on this issue and contravene Bangladesh's international obligations to uphold the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds. The Act in its present form criminalizes any denial of the events of 1971 as well as any statement that contradicts the government's official narrative on these events (see Background: Political context).

According to Article 4 of the draft law, a wide range of actions are liable for punishment. This includes anyone who:

- "denies" events that were for the preparation of the Liberation War (although it does not specify the timeframe or which events in particular this refers to);
- gives "malicious statements in any local or foreign media that undermine any events related to the Liberation War";
- "misrepresents" or "devalues" any government publication so far published on the history of the Liberation War;
- represents Liberation War history "inaccurately or with half-truth" in text books or other mediums;
- "trivialises" any information related to those who fought or were victims of human rights abuses during the Liberation War; or
- "mocks" any events, information or data about the Liberation War.

Article 4(j) also criminalizes the "calling into question or carrying out false propaganda about the trials that deal with the crimes" committed during the Liberation War. This wording could be interpreted as ruling out any critique of the fairness of the trials in the International Crimes Tribunal. Many organizations, including Amnesty International and the UN, have raised major concerns about the fairness of Tribunal trial proceedings, concerns which have not been addressed.[197]

Anyone committing an offence under the Act could be sentenced to between three months and five years in prison as well as be fined up to 10,000,000 Thaka (USD 128,000). Repeat offenders could face double the punishment received for their first conviction, and those who are convicted of more than one crime will be punished with consecutive sentences (that is, sentences served one after the other).

The draft in numerous instances refers to "facts" relating to the War of Independence, but nowhere in the text are these "facts" defined, giving the authorities wide discretion on who or which statements could be punished. The draft law could allow for the authorities to bring criminal charges against those taking part in research, commentary or debate around the events leading up to and during the War of Independence, or those who question the incumbent government's official version of the events of 1971. The proposed law would enable the imprisonment of people solely for exercising their right to freedom of opinion and expression.

The text as proposed in the draft law cannot be interpreted as falling under the restrictions on freedom of expression permitted in the ICCPR. In particular, the UN Human Rights Committee has stressed that laws "that penalize the expression of opinions about historical facts are incompatible with the obligations that the Covenant imposes on States parties in relation to the respect for freedom of opinion and expression [and] The Covenant does not permit general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events".

197 See, for example, Amnesty International, "Bangladeshi political leader executed: Motiur Rahman Nizami", 24 May 2016, available at https://www.amnesty.org/en/documents/asa13/4098/2016/en/; and "Bangladesh: Two opposition leaders face imminent execution after serious flaws in their trials and appeals", 27 October 2015, available at https://www.amnesty.org/en/latest/news/2015/10/bangladesh-imminent-executions/

5. CONCLUSION AND RECOMMENDATIONS

> ***"The organized targeting of critical voices aims at promoting a culture of silence and fear, and affects the society as a whole. […] The Bangladeshi authorities must not only continue to strongly condemn these horrendous acts against freedom of expression, but should also ensure that their words are followed by more effective efforts to ensure greater accountability and prevent this kind of violence."***
>
> Joint statement by the United Nations Special Rapporteurs on freedom of expression, David Kaye, and on extrajudicial executions, Christof Heyns, after the killing of Niloy Neel, 7 August 2015.[198]

On 20 October 2016, Bangladesh's Prime Minister Sheikh Hasina attended a ceremony outside of the National Press Club in Dhaka where she laid the foundation stone for a new Bangabandhu Media Complex. The new 31-storey facility – named after Sheikh Hasina's father, Sheikh Mujibur Rahman who is affectionately called Bangabandhu ("Friend of Bengal") – will have a dedicated media museum, a cinema and a guest house to be used by media workers and the general public. During her speech at the ceremony, Sheikh Hasina offered choice words for the country's media sector: "It can't be that you'll enjoy facilities, but won't discharge your duties. There is a responsibility to the country, you have to perform that." When asked about reports that media restrictions are growing, Sheikh Hasina said: "In reply, I tell them if there's no freedom of the press then how do they get the scope to speak and how do they come up with these allegations?" She added: "There is enough freedom for journalism in Bangladesh right now."[199]

The remarks by the Prime Minister, which seem to imply that journalists are not performing their duty if they report on unspecified "allegations" against the government, are very disturbing. Since 2014, authorities in Bangladesh have increasingly taken steps to restrict the work of the media sector, and equated critical reporting with criminal acts. As documented in this report, a number of journalists have faced politically motivated criminal charges simply for exercising their right to freedom of expression, while the government has relied on a range of other tactics – including threats and intimidation, and

198 UNOHCHR, "Bangladesh: UN experts condemn killing of blogger Niloy Neel, a strong critic of extremism", 7 August 2015 available at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16301&LangID=E

199 *New Age*, "Enough freedom; perform your duties, PM to journalists", 20 October 2016 available at http://www.newagebd.net/article/1131/enough-freedom-perform-your-duties-pm-to-journalists

the arbitrary closure of whole outlets – to silence critical reporting. Much of Bangladeshi media remains vibrant and diligent in their reporting, but journalists are increasingly carrying out their work in fear of reprisals from authorities.

This crackdown on freedom of expression goes beyond the media sector, and has affected many other groups in society. Civil society is facing increasing restrictions on their work, as evidenced by the passing of the Foreign Donations (Voluntary Activities) Regulation Act in October 2016. Secular activists and others who have been the victims of physical attacks or death threats from armed groups should be able to look to the authorities for support and protection. Instead, a recurring theme in interviews with Amnesty International was that they felt caught between armed groups on the one hand that have killed their peers and are threatening to do so again, and on the other hand a government that is indifferent to their plight or that would seek to criminalize their peaceful writings.

When challenged about human rights issues Bangladesh authorities often point to their impressive economic improvement in recent years– the country has since 2012 enjoyed a steady annual GDP growth rate of around 6.5%.[200] The "Bangladesh model" is frequently held up internationally as an example for other developing states, and the country has made significant progress on reducing extreme poverty since the early 1990s.[201] Discrimination against women and girls remains a major issue,[202] although at the same time the World Economic Forum's Global Gender Gap Report shows Bangladesh as having outperformed its South Asian neighbours for the past two years.[203] But authorities cannot point to positive economic indicators to deflect attention from restrictions or violations of human rights. Bangladesh is failing in a range of areas to meet its obligations to respect and protect human rights, and it will need a strong and vibrant civil society, media sector and community of activists to highlight and tackle these.

Amnesty International urges the Bangladeshi authorities to take immediate steps to halt the alarming backslide on freedom of expression since 2013, documented in this report. The government should comply with its obligation to respect, protect and fulfil the right to freedom of expression and in particular work to create an environment where activists and journalists can carry out their work without fear of reprisals, whether from state officials or from non-state actors, including armed groups.

---

200 Trading Economics, Bangladesh GDP Growth Rate, available at http://www.tradingeconomics.com/bangladesh/gdp-growth

201 Speech by Jim Yong Kim, World Bank Group President, "Learning from Bangladesh's journey toward ending poverty", 17 October 2016 available at http://www.worldbank.org/en/news/speech/2016/10/17/learning-bangladesh-journey-toward-ending-poverty

202 UN Human Rights Committee, "Concluding observations on the initial report of Bangladesh", adopted by the Committee at its 119th session (6 - 29 March 2017), UN Doc: CCPR/C/BGD/CO/1, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1116&Lang=en

203 World Economic Forum, The Global Gender Gap Report 2016, available at http://reports.weforum.org/global-gender-gap-report-2016/

RECOMMENDATIONS TO THE GOVERNMENT OF BANGLADESH

Criminal charges against and detention of journalists, bloggers and others:

- Immediately and unconditionally release all those detained simply for the peaceful exercise of their human rights, and drop charges pending against those who are facing criminal charges simply for the peaceful exercise of these rights. Expunge the criminal records of all those convicted simply for the peaceful exercise of their rights;
- Ensure that all those released are able to effectively access their right to remedy in accordance with international law, and that they are provided with adequate reparations;
- End the practice of bringing criminal charges against those who have simply exercised their right to freedom of expression;
- Ensure that all individuals who have been arrested or detained are promptly charged with an internationally recognizable criminal offence or else released and have access to legal counsel of their choice from the outset of their detention, as required by international law and standards; and
- Ensure that all detainees and prisoners are provided access to adequate medical care at all times in accordance with international law and standards, and that prisoners are offered an independent medical examination as soon as possible after admission to a place of detention.

Legal framework

- Repeal or review and amend all laws that violate the rights to freedom of expression, peaceful assembly and association, in particular: the provisions of the Penal Code related to defamation and sedition; the Information Communication Technology (ICT) Act; and the Foreign Donations (Voluntary Activities) Regulation Act to ensure these and other laws comply with international human rights law and standards. Ensure that, pending the repeal or amendment of these laws no one is arrested or detained under these provisions;
- Ensure that bills currently being considered for adoption into law are amended to be brought in line with international human rights law and standards. In particular, the draft Digital Security Act and the Liberation War Denial Crimes Act in their current form impose unlawful restrictions on the right to freedom of expression, and should be revised substantially; and
- Take all the necessary legislative, administrative and other measures, including effective human rights training for judges, prosecutors and other officials, to ensure that the conduct of all criminal proceedings complies fully with international law and standards with regard to fair trials.

Protection for secular activists and others

- Ensure adequate protection of secular and other activists and their families facing threats and attacks due to their legitimate activities, while respecting their independence;
- Take effective steps to ensure that non state actors who have used violence against secular activists and others are brought to justice in proceedings that meet international fair trial standards without recourse to the death penalty;
- Ensure that police officers are adequately trained and instructed to ensure reports of harassment, attacks, and death threats by activists are received and addressed;
- Investigate reports of police officers harassing or threatening with criminal charges activists when they have approached police to report threats; and
- Unequivocally condemn attacks by armed groups on secular and other activists, without implying that their peaceful writings or other activities could serve as justification for such attacks.

The media sector

- Publicly commit to ensuring that journalists and other media workers are able to carry out peaceful journalistic activities without fear of surveillance, intimidation, harassment, arrest, prosecution or retribution, and ensure effective protection of the lives and personal integrity of journalists and media workers, including against attacks or threats coming from non-state groups.

International organisations

- Extend an invitation to the UN Special Rapporteur on the rights to freedom of opinion and expression to carry out a fact-finding visit to Bangladesh. The Rapporteur should be granted free and unimpeded access to all parts of the country, and freedom to meet with a wide range of stakeholders, including political detainees and prisoners, their families and representatives, in addition to government officials, law enforcement officers and judicial officials; and
- Ratify the First Optional Protocol to the ICCPR to enable individuals to submit complaints to the Human Rights Committee of violations of the rights set out in the Covenant;

RECOMMENDATIONS TO OTHER GOVERNMENTS, IN PARTICULAR OF CHINA, INDIA, THE USA AND EU STATES:

- Publicly call on the Government of Bangladesh to immediately and unconditionally release all individuals who have been deprived of liberty solely for the peaceful exercise of their right to freedom of expression and to drop all politically-motivated charges against journalists and other media workers, as well as secular and other activists;
- Publicly call on the Government of Bangladesh to ensure that journalists and media workers can carry out peaceful activities without fear of intimidation, arrest, prosecution and retribution from the authorities;
- Publicly urge the Government of Bangladesh to repeal or review and amend all laws that violate the right to freedom of expression;
- Use all relevant UN and EU mechanisms to urge the Bangladeshi authorities to repeal or amend all laws which run counter to Bangladesh's international obligations to respect and protect the right to freedom of expression, and ensure that all laws enacted in the future comply with international human rights law and standards; and
- China, India, the EU and its member states, the USA and all other states must ensure that any training or cooperation in regard to the criminal justice sector in Bangladesh, including police and other law enforcement officials, includes a significant human rights component, particularly in regard to their specific roles in responding to reports of threats by secular activists and others.

AMNESTY INTERNATIONAL IS A GLOBAL MOVEMENT FOR HUMAN RIGHTS. WHEN INJUSTICE HAPPENS TO ONE PERSON, IT MATTERS TO US ALL.

CONTACT US


info@amnesty.org


+44 (0)20 7413 5500

JOIN THE CONVERSATION


www.facebook.com/AmnestyGlobal


@AmnestyOnline

Index: ASA 13/6114/2017
April 2017

amnesty.org

AMNESTY INTERNATIONAL