

Bangladesh: Criticizing political leaders on social media lands you in jail - a report by Human Rights Watch

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No Place for Criticism

Summary

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

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

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

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

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

complaints to the police, arrests, and prosecutions has soared.

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

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

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

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

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

Information and Communication Act

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

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

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

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

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

Punishing Government Critics

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

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

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

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

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

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

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