



ASIAN HUMAN RIGHTS COMMISSION



To:

H.E. Sheikh Hasina Wazed  
Prime Minister of Bangladesh  
c/o Md. Nojibur Rahman  
Principal Secretary to the HPM  
Prime Minister's Office

24 April 2018

Dear Prime Minister,

### **Open Letter: Proposed Digital Security Bill will restrict free expression and promote self-censorship in Bangladesh**

FORUM-ASIA, the Asian Human Rights Commission and CIVICUS (World Alliance for Citizen Participation) are writing to you, as civil society organisations, to express our grave concern about the implications of the proposed Digital Security Bill 2018 on the right to freedom of expression of the citizens of Bangladesh.

We understand that the draft bill was presented before the parliament and was sent to a Standing Committee on 9 April 2018 and is expected to be reviewed over the next four weeks.

We believe the 2018 Digital Security Bill contains provisions that are overly broad and vague, and that impose disproportionate sentences and prescribe lengthy prison sentences for violators.<sup>1</sup> The bill, if adopted, will exacerbate a range of legal restrictions that will impinge on the right to freedom of expression guaranteed in the Constitution and the country's obligations under international law, in particular the ICCPR, which was ratified by Bangladesh in 2000.

We are particularly concerned about the follow aspects of the bill:

- The bill proposes to empower low ranking police officers with wide discretionary powers to conduct investigations, searches and seizures without applying normative digital evidentiary standards and without judicial oversight.
- The bill lacks a precise definition of what is considered a cybercrime and criminalises the use of electronic devices to "cause deterioration to law and order", harm "religious sentiments", cause incitement "against another person or organization", and carry out "acts of defamation" - all of which have been incorporated from section 57 of the ICT Act. The bill simply splits these offences into four separate sections (21, 25, 28 and 29) with punishment ranging from three to 10 years' jail term.

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<sup>1</sup> <https://www.forum-asia.org/?p=25983>

- There are concerns around the inclusion of the crime of “carrying out negative propaganda” against the Liberation War (1971 War of Independence) or the ‘Father of the Nation’ (Sheikh Mujibur Rahman, the country's first president) that carries a maximum sentence of up to 14 years' in jail or a fine of up to Tk 50 lakh (60,000 USD) or both. These provisions are in contravention of the right to freedom of opinion and expression
- Section 32 of the draft bill related to "espionage" could be used against journalists, online activists and lawyers who investigate and expose controversy or illegality within the government.
- The bill also stipulates some crimes are “non-bailable” and authorises security agencies to search or arrest anyone without any warrant if a police officer believes that an offense under the law has been committed or there is a possibility of crimes. Such provision often encourages abuse of power by law enforcement officers and promotes self-censorship.

We are concerned that, according to reports, although the draft bill is currently under consideration in parliament, cases filed under section 57 of the ICT Act will continue to be investigated and if necessary, prosecuted.

Section 57 of the ICT Act violates the right to freedom of expression by both criminalising legitimate forms of expression and through its vague wording that allows the authorities to arbitrarily and abusively apply the law. Scores of journalists have been arrested under section 57 of the Act for their reporting; around 700 cases have been filed under this Section since 2013. The provision has also been described as a “de facto blasphemy law”, as it criminalises several forms of online expression including anyone who “causes to hurt or may hurt religious belief”.

In 2017, the Human Rights Committee in its concluding observations raised concerns about the arrest of journalists, “secular bloggers” and human rights defenders under the ICT Act and called for the government to “repeal or revise the [ICT law] with a view to bringing it into conformity with the State party’s obligations under the Covenant, taking into account the Committee’s general comment No. 34 (2011) on the freedoms of opinion and expression”.

We are also highly concerned by the government's lack of meaningful consultation regarding the bill with key stakeholders including journalists, civil society and the human rights community.<sup>2</sup> We urge the government of Bangladesh to prioritise a collective review of the proposed Digital Security Bill to bring it in line with international human rights law and standards and to repeal Section 57 of the ICT Act. The government must ensure that any future legislative proposals that have implications for the media or civil society are developed in full consultation with all stakeholders.

Freedom of expression is of critical importance to hold those in power accountable. There should be no limitations on the freedom of expression and personal opinion, particularly those that systematically violate democratic spaces and practices.

It is crucial that the government takes steps to develop an enabling environment for freedom of expression in line with international standards and end its willful misuse of restrictive legislation to subvert free speech.

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<sup>2</sup> <https://www.thedailystar.net/backpage/digital-security-bill-no-discussion-stake-holders-1562158>

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The **Asian Human Rights Commission (AHRC)** works towards the radical rethinking and fundamental redesigning of justice institutions in order to protect and promote human rights in Asia. Established in 1984, the Hong Kong based organisation is a Laureate of the Right Livelihood Award, 2014.

**CIVICUS: World Alliance for Citizen Participation** is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society throughout the world. Headquartered in Johannesburg, South Africa it is a membership alliance with more than 4,000 members in more than 175 countries.

**FORUM-ASIA** is a regional human rights group with 58 member organisations in 19 countries across Asia. FORUM-ASIA has offices in Bangkok, Jakarta, Geneva and Kathmandu. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expression, assembly and association, human rights defenders, and democratization.

For further details, contact:

- AHRC, [bangladesh@ahrc.asia](mailto:bangladesh@ahrc.asia)
- CIVICUS, [josef.benedict@civicus.org](mailto:josef.benedict@civicus.org)
- FORUM-ASIA, [sasia@forum-asia.org](mailto:sasia@forum-asia.org)