

Can a new law balance cybersecurity and free expression?



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The critical question of cyber safety is at the forefront with governments globally striving to protect citizens online while preserving freedom of expression. Bangladesh too is on the cusp of a transformation that hinges on robust reforms of cyber safety laws.

The Cyber Security Act 2023 (CSA), mirroring the now-repealed Digital Security Act 2018 (DSA), continues the legacy of vaguely defined offences that restrict free speech and impose severe penalties, including up to 14 years of imprisonment and hefty fines. Such provisions, reminiscent of the earlier repealed section 57 of the Information and Communication Technology Act, 2006 (ICTA), have been criticised for stifling dissent, with accusations of misuse by authorities to target journalists, academics, and others. Although section 57 of the ICTA and several DSA provisions have been challenged in the Supreme Court, many cases under these laws continue.

In a significant move, the law ministry announced an initiative to withdraw speech-related cases filed until August 2024 under the ICTA, DSA, and CSA. This was followed by a stakeholders' meeting to discuss CSA reform proposals. By early October 2024, the government decided to repeal the CSA. As a result, a significant number of draft versions of the Cyber Shurokha Ordinance (CSO) have been produced even after the approval of an initial draft by the advisory council in December 2024, reflecting deliberations among rights activists, legal experts, and other citizens. These drafts penalise various offences similar to earlier iterations but notably reduce the number of speech offences while introducing penalties for new harmful content. However, some definitions and procedures remain concerning, as discussed further below.

Cyber violence
The proposed CSO penalises "sexual harassment," "revenge porn," and "child sexual abuse material" on cyberspace. This will potentially have a positive impact on women and girls, who experience such forms of cyber

violence. However, these terms are not defined, creating a scope for subjective interpretation and inconsistent application of the proposed ordinance.

Similarly, the proposal's aim to criminalise sharing videos that are deemed "obscene," is rooted in subjective moral standards adopted from the colonial-era Penal Code. As the meaning of "obscene" varies widely among people, it risks limiting freedom of expression, complicating enforcement, and causing inconsistent application. It may also lead to self-censorship among creators and artists. Besides, obscenity laws are often misused, including those under the Pornography Control Act 2012. These laws particularly affect women, often leading to moral policing.

The draft CSO shifts focus from protecting religious sentiments to penalising speech deemed hateful or provocative towards religions or their followers. However, its vague language may lead to misuse and subjective interpretation, threatening free expression and public discourse, crucial for societal progress. This conflicts with Article 20 of the International Covenant on Civil and Political Rights (ICCPR), which limits speech of religious hatred among others only when inciting discrimination, hostility, or violence.

While defamation has been removed from the proposals, the offence of criminal defamation considered a disproportionate response to protecting reputation, persists under the Penal Code. It applies equally to offline and online platforms and makes the change in the CSO largely ineffective. International bodies recommend decriminalisation of defamation, as echoed in the Media Reforms Commissions' March 2025 report to ensure free expression.

The draft also aims to curb frivolous lawsuits by limiting case filings to aggrieved individuals, their representatives, or law enforcers. However, this may fail in situations such as alleged religious provocations, where many can claim grievances. In contrast, when victims of online sexual harassment and their

representatives choose to avoid reporting due to the lack of victim and witness protection, perpetrators might escape accountability if case filing is restricted to these parties.

Procedural issues

The draft grants extensive powers to the director general of the Cyber Protection Agency, resembling those held by agencies under the CSA and DSA. They may demand the blocking of data through the

criteria still risk misuse. Investigations can still last up to 105 days, with extensions approved by Cyber Tribunals on vague "reasonable grounds." Severe penalties, including up to 10 years in prison and Tk 1 crore fine, without sentencing guidelines, risk inconsistent application. Collectively, these measures threaten freedom of expression, privacy, and due process rights, potentially leading to pre-trial harassment.

while upholding fundamental freedoms, such as the right to expression outlined in the ICCPR (Articles 19 and 20), offences must be clearly defined. Any restrictions on speech must be legitimate and proportionate. Warrantless arrests should be restricted to instances of direct threats to the body, with clear investigation protocols ensuring due process. Fair sentencing guidelines, including non-punitive options like community



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Bangladesh Telecommunication Regulatory Commission (BTRC) or the Information and Communication Technology (ICT) Division based on vague criteria including undermining "solidarity" and "religious sentiments." The vagueness of criteria, the overlapping roles between the BTRC and the ICT Division, and the latter's power to demand data blocking, present significant risks for surveillance and threats to free expression.

The proposed CSO also permit police to search, seize, and arrest without warrants on broad grounds, such as mere suspicion of hacking or cyber-attacks on Critical Information Infrastructure. Though narrower than the CSA, DSA, or ICTA, these undefined

Furthermore, the Cyber Shurokha Agency, with government-appointed directors will act as directed by the government resembling the agencies under the CSA and DSA. This raises concerns about government influence over their activities including blocking content. Meanwhile, the proposed National Cyber Shurokha Council, led by the prime minister or chief adviser, will steer the agency in applying the draft ordinance and tackling cybersecurity threats. The council, mainly composed of government and security officials, risks power misuse and surveillance issues, echoing concerns from earlier councils under the CSA and DSA.

To protect individuals from online harm

service or fines for minor offences, should be introduced. Also, digital forensic labs and an independent regulatory body, free from government influence must be established. An independent body to manage content blocking is necessary, aligning categories with permissible restrictions under the ICCPR and ensuring procedural safeguards, such as court-authorised blocks, to protect freedom of expression.

The question is: will the government roll out a cyber framework to herald a new era of restricted dialogue, or will it evolve to strike a balanced chord between protecting online discourse and safeguarding free expression? The conversation continues.

As I seek justice for my father, I want a government that practises the reforms it preaches



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SHUPROVA TASNEEM

Mamun Mia was in his garments shop, quietly working away with his shutters half-open, until a stray bullet pierced his chest. Liza Akhter, a 19-year-old domestic worker, perhaps thought her position on the balcony of a 14th floor flat would allow her to safely watch the chaos unfolding on the ground below—until indiscriminate firing ended her life. Siam was shot through the head on his way back home from what turned out to be his last ever shift at the bhaater hotel where he worked. He was only 17 years old.

They were only a few of the victims of the brutal and coordinated, state-sponsored violence that the Office of the United Nations High Commissioner for Human Rights (UN OHCHR) estimates killed up to 1,400 people during the July-August mass uprising. In almost nine months since these innocent people were killed, there has been no progress in bringing their killers to justice. No investigation reports have been submitted by the police, and no charges have been framed against their suspected killers. While cases have been filed, the poorly lodged FIRs contain a list of 50-200 accused, with no specific allegations against anyone. There are clear signs that they have been hastily compiled and contain conflicting information: in one of them, newspaper clippings submitted as "evidence" imply the killing didn't even happen in the specified city, let alone the thana, while another contains a death certificate from an entirely different part of the country.

I know all this because my 78-year-old father, cultural activist and former Awami League MP Asaduzzaman Noor, is one of the names in the long lists of accused in these cases. On September 15, 2024, he was picked up from his home at around midnight, and for over seven months now, he has been imprisoned without charge, with no legal explanation on how he can be held responsible for these crimes—committed during the uprising, when he held neither executive nor leadership positions in the government. A common refrain insinuated

by the corridors of power has been to bear this quietly, lest things become worse.

Over this period, I have watched my father become weaker and more frail by the day, be hospitalised with debilitating pain, and still be obstructed from getting bail. I have stood in court as opposition lawyers openly called for "Baker Bhai"—one of the iconic characters he played—to be hanged for Awami League's crimes, the presumption of innocence until proven otherwise completely absent from the proceedings. I have been berated for daring to suggest that anyone affiliated with the Awami League could ever be entitled to such a thing as due process.

I am not so blinded by the injustice of my father's incarceration that I cannot fathom the anger towards the former regime, especially from the students who saw so many of their compatriots killed, and from opposition groups who saw their leaders imprisoned for years on end using the same biased judiciary and repressive practices. Nor am I asking for sympathy, which the atrocities committed by the Awami League have made difficult for anyone to feel towards the party's members. What I do struggle to understand, however, is how a government full of human rights practitioners and champions who are so bent on reforms can continue to be indifferent to such a flawed and ineffective criminal justice system. Should my father be imprisoned indefinitely?

Is this also not a failure of justice for the victims of the uprising? Does having the victims' cases stuck in the deliberate purgatory of the judicial system, bouncing back and forth between courts, months going by without any movement, contribute in any way towards holding their real killers accountable? How do their families feel about their loved ones being used as pawns in what is being revealed as a blatant game of political retribution?

These vague, mass arrest cases have, by this

point, seen potentially hundreds of people imprisoned without charge by the current government. While the majority of the senior members of the former regime have managed to escape—the details of how that happened and who conspired to allow it have yet to come to light—it seems that anyone even remotely affiliated with or accused of being affiliated with the Awami League is fair game.

In January 2025, Human Rights Watch published a detailed report on the atrocities committed by security forces during the mass uprising, as well as wider human rights abuses committed during the Awami League's rule. There is no way to deny that this truly happened. But what went relatively unnoticed in our media, much less by our interim government, was the concerns it raised about persisting abuses under the interim government, including arbitrary

online campaign spreading disinformation about my father and the company he was part of, aimed at fuelling a social media witch-hunt. Recently, this culminated in the inclusion of the company's directors in a single murder case where 408 individuals were accused. Firdaus Zaker, who supported and participated in the student-led movement, was named alongside Sheikh Hasina, whose government conducted the slaughter last summer.

While the law adviser's acknowledgement that murder cases are being used as tools of harassment, and claim that the legal system will be prepared to combat this, is reassuring, I cannot help but wonder if this extends to every citizen of this country, or just the perfect victims. When my father was first picked up by the police, the chief adviser's press secretary gave a breakdown of his supposed guilt that was thin on evidence and heavy on populist

Police's Detective Branch, Harun-or-Rashid, to find out the whereabouts of the student coordinators who had been abducted by the police—spoke out about how my father defended her right to participate in protests to people far more powerful than him. She clarified that while that did not absolve him from criticism for his politics, his involvement in politics does not exclude him from accessing justice in a fair court of law either.

In the same vein, I will not try to convince anyone that my father went into politics with the genuine belief that it was better to create incremental change and serve your constituents from within a broken system than to expound criticisms that fall on deaf ears from the outside. I am not here to explain that, when a country takes a vicious turn towards the unbridled authoritarianism we were subjected to, there is very little that MPs from peripheral districts can do to reverse that trend, and even less they can do to extricate themselves from the situation without creating significant dangers for themselves and their families. These may very well be considered unacceptable excuses that are disingenuous, naive or lacking in moral courage.

But what I will not stop asking for, over and over again, regardless of whatever repercussions may follow, is justice. Real justice for each and every victim of the state-led killings during the Awami League regime, for Mamun, Liza, Siam and all others massacred during the uprising, and justice, equally real and meaningful, for my father, who has the right to be presumed innocent until proven otherwise. He has a right to bail, to a fair and transparent investigation, and for his dignity and fundamental rights to be protected.

Asaduzzaman Noor has now spent more than 220 days as a political prisoner. I am well aware that this has happened countless times to political opponents during the Awami League regime. I am equally aware and repulsed by the many political opponents who were victims of enforced disappearance, torture, and extrajudicial killing. I am grateful for the silver lining of this dark cloud—that at least I know where he is, that I haven't had to endure the agony of the families of the disappeared. But I am reminded of a big difference in the case of my father. When things like this happened on the Awami League's watch, we were living in an autocracy. This time around, we are not. Are we?

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arrests and failure of due process when dealing with the thousands of murder cases that have been lodged since August 5, 2024. Local media have occasionally reported on a number of irregularities in the filing of such cases, including plaintiffs signing reports without knowing who was being accused, identical cases where only the victims' details were changed, and false cases being used for extortion and furthering personal vendettas.

This weaponisation of murder cases means that my family lives in constant fear of retribution. Are we allowed to speak up about the failure of justice we see happening in front of our eyes or will we face more cases and repercussions from the government? From the very beginning, there has been a concerted

rhetoric, before my father was even arrested on a crime, let alone given the opportunity of a fair hearing. When such a senior member of the government shows no concerns about judicial bias and conflict of interest—using a platform that he admits is partly official and which he frequently uses to speak for and of the chief adviser, promulgating government talking points—I cannot help but wonder whether we can really expect due process and accountability from this government.

When my father was first arrested, his daughter-in-law, the University of Dhaka teacher Kajal Islam—who consistently stood by her students during the uprising as part of the University Teachers' Network, even going to the infamous chief of Dhaka Metropolitan