



THE ORDEAL

**FIVE YEARS OF THE
DIGITAL SECURITY ACT
2018-2023**



Centre for
Governance Studies

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<https://freedominfo.net/>

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INTRODUCTION

On September 13, 2023, almost five years after the introduction of the Digital Security Act (DSA) 2018, Bangladesh Parliament replaced it with a new law called the Cyber Security Act (CSA) 2023. Within five days, the new Act was officially proclaimed as a law through a Gazette notification after receiving the Presidential assent. The decision to replace the DSA was made in a cabinet meeting on August 21, 2023. Prior to that, on August 7, Law Minister Anisul Huq informed that the government has decided to 'amend' the law for 'better interest' of the people. He said, 'to stop the misuse and abuse of the DSA, we have changed its name. By evaluating the amended legislation correctly now, we have named it the Cyber Security Act' (Rahman, 2023). The DSA, which the Law Minister Huq once again tacitly acknowledged of 'abuse', remained a nightmare for five years and used wantonly. On September 23, the Law Minister informed the Parliament that since the introduction of the law on October 8, 2018, and January 31, 2023, a total of 7,001 cases were filed under the law (The Daily Star, 2023). The Minister's statement, the first official account of the extent of the use of the DSA, was far short of being transparent as it didn't inform the number of accused or how many are being detained, let alone how many cases have been disposed off through the eight cyber-crimes tribunals set up by the government to deal with these cases.

When it was introduced in 2018, the DSA was purported to safeguard citizens in the digital realm. However, over the years, multiple academic studies, and reports from international and national human rights organizations, as well as media freedom monitoring groups, demonstrated that the law has been frequently used by the government and supporters of the ruling party to suppress dissenting voices. The DSA became the weapon of choice of the government and the ruling party for stifling freedom of expression.

The replacement of the DSA with CSA was reminder of the background of the introduction of the DSA in 2018. Since 2006, ahead of each general election, incumbents had introduced either new digital security legislation or revised existing laws of such nature (Chowdhury, 2023).

The replacement of the DSA with CSA was reminder of the background of the introduction of the DSA in 2018. Since 2006, ahead of each general election, incumbents had introduced either new digital security legislation or revised existing laws of such nature (Chowdhury, 2023). On August 20, 2013, an ordinance was enacted amending the Information Technology and Communication Act of 2006. On October 9, 2013, the amended version was

ratified by Parliament and became a law. Despite a few notable alterations, the core aspects of the 2006 Act persist with all their inherent inconsistencies (Barua, 2014). However, the amendment added stringent punitive measures in Section 57. The ICT Act 2006 was initially introduced in response to rising cybercrimes and e-commerce, but Section 57, introduced in 2013, triggered concerns due to vague definitions and restrictive measures, including arrests without warrants. It is worth noting that the ICT Act 2006, until it was amended in October 2023, was seldom used by the government and others, whereas after the amendment the number of cases spiked (Digital Security Act 2018: How It Is being Implemented, pp. 1-2). A controversial election, boycotted by the opposition, was held on January 5, 2014.

As the country was gearing up for another election in 2018, on October 8, the successor to the Information and Communication Technology (ICT) Act 2013 was introduced. The Digital Security Act (DSA) with draconian provisions was passed and implemented. The DSA was immediately met with international scrutiny and calls for amendment, with critics highlighting its repressive nature. Although the government assured various stakeholders that their concerns would be addressed, and the law will be judiciously amended accordingly. But the final version of the law disregarded the concerns and demands of the journalists, editors, and human rights activists.

The Act provided the law enforcement agencies with the power to arrest without a warrant, simply on suspicion that a crime has been committed using social media.

The DSA provided the government absolute power to initiate investigations into anyone whose activities are considered a 'threat' by the government. The Act provided the law enforcement agencies with the power to arrest without a warrant, simply on suspicion that a crime has been committed using social media. It provided the police with the power to search and seize without any warrant and oversight. Also, the Act allowed the Government to order the removal and blocking of any information or data on the internet it deems necessary, thereby providing broad scope to silence those critical of its policies or who share information on human rights violations in the country. Objections were raised about nine sections of the law, which were described as detrimental to freedom of speech; these Sections are 8, 21, 25, 28, 29, 31, 32, 43 and 53. It was argued that these sections are unclear and many of its terms are not defined properly. Out of the 20 provisions of the law that deal with offences and punishments, 14 were non-bailable. Five were bailable and one can be negotiated. The lowest punishment is one year in prison and the highest life-term but mostly in the range of between four and seven years. These were viewed by editors and journalists as a recipe for creating a climate of fear. The non-bailable

provision of the law practically allowed the accused to be detained for an indefinite period before the trial.

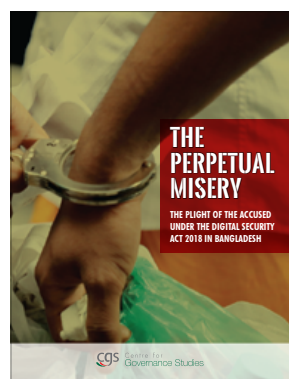
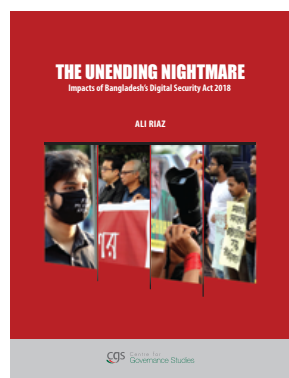
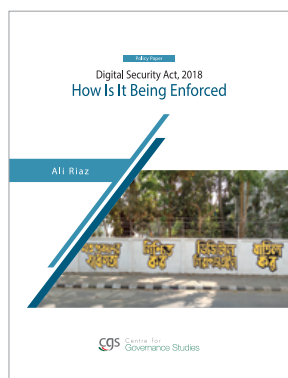
Mounting and repeated criticisms of the DSA, by international organizations such as Human Rights Watch (HRW) (2018a, 2018b, 2018c), Amnesty International (AI) (2018), Reporters Without Borders (RSF) (2018), Committee to Protect Journalists (CPJ) (2018), concrete suggestions for amendments from the Office of the High Commissioner for Human Rights (OHCHR) (OHCHR, 2023), and call from the UN Human Rights Chief Volker Türk (OHCHR, 2023), the government declined to make any changes, let alone scrapping the law. Domestically, the criticisms came not only from the Human Rights groups but also from the Editors' Council, who described the implementation of the law as their worst nightmare coming true (The Daily Star, 2023). National and international experts and activists as well as international organizations had repeatedly reminded the government that the law's various provisions are contravention of International Covenant and Charters signed by Bangladesh (Ahmed, 2023).

National and international experts and activists as well as international organizations had repeatedly reminded the government that the law's various provisions are contravention of International Covenant and Charters signed by Bangladesh (Ahmed, 2023).

It is against this background, this report presents a comprehensive picture of the implementation of the DSA between October 8, 2018 and September 18, 2023. This report, prepared by the Centre for Governance Studies, builds on an ongoing project, documenting the DSA's implementation and impacts initiated in early 2020. Four reports documenting how the law has been implemented and who has become the victims of the cases have been published previously. These are 'Digital Security Act, 2018: How Is It Being Enforced' (CGS, 2021); 'The Unending Nightmare: Impacts of Bangladesh's Digital Security Act 2018' (CGS, 2022); 'What's Happening: Trends and Patterns of the use of the Digital Security Act 2018 in Bangladesh' (CGS, 2023); 'The Perpetual Misery: Plights of the Accused Under the Digital Security Act 2018' (CGS, 2024). The project continues to gather information about the use of the DSA since its introduction in October 2018 and a dedicated website continues to update as we receive and verify the information. All data relevant to this project is available at <https://freedominfo.net/>.

While this report presents and analyzes data from October 2018 and September 2023, it is necessary to mention two points. First, the replacement of the DSA with the CSA does not mean that the cases filed under the DSA in

the past five years have been scrapped. Instead, the Law Minister Anisul Huq has clearly stated that the cases will continue to be pursued (The Business Standard, 2023). As we have mentioned in a previous report, the misery of those accused and convicted, at times, through miscarriage of justice, will continue and has become unending. Second, the newly introduced CSA is by no means an improvement but rather a rebranding at its best and a whitewash at its worst. The Cyber Security Act (CSA) retained many problematic elements. A few sections of the DSA, namely 17, 21, 22, 25, 26, 28, 29, 30, 31, 32, and 40, have been altered, with section 33 being abolished. Consequently, section 34 of the DSA became section 33 of the CSA, and section 40 became section 39. Sections 17, 19, 21, 22, 23, 24, 26, 27, 28, 30, 31, 32, 33, and 34 were non-bailable under the DSA, where under the CSA every section has been made bailable except for the section 17, 19, 27 and 32 (The Perpetual Misery, 2024). Additionally, in various sections, the punishment for a second offense was either doubled or increased under the DSA, but such provisions have been eliminated in the new CSA law. While some sections were altered or abolished, others remained unchanged, including Section 42, granting sweeping arrest powers to the police without warrants.



WHAT DO WE KNOW?

The project database, developed by gathering data from various sources, has 1436 cases with 4520 accused. We have found that 1549 of the accused were arrested under the law in these cases. We have verified information about 859 accusers, including the government agencies. This section of the report presents detail data regarding numerous features of the use of the DSA between October 2018 and September 2023.

Who is being accused, who is being detained?

In 1436 cases, between October 2018 and September 2023, at least 4520 people have been charged under the statute. We have data regarding 1534 individuals' professions. The following is a breakdown of their professions (Table 01).

Table 1: Professions of the accused, Oct 2018 – Sep 2023

Professions	No
Journalist	451
Educator	59
NGO & Activist	12
Politician	495
Student	138
Govt. Employee	54
Private Employee	90
Businessman	108
Legal Practitioners	29
Religious Leaders	15
Other Profession	83
Profession Not Found	2986

This data indicates that of individuals whose professions are known, 32.27% are politicians, and 29.40% are journalists. They constitute 10.95 percent and 9.98 percent, respectively, of the total number of accused (Figure 1).

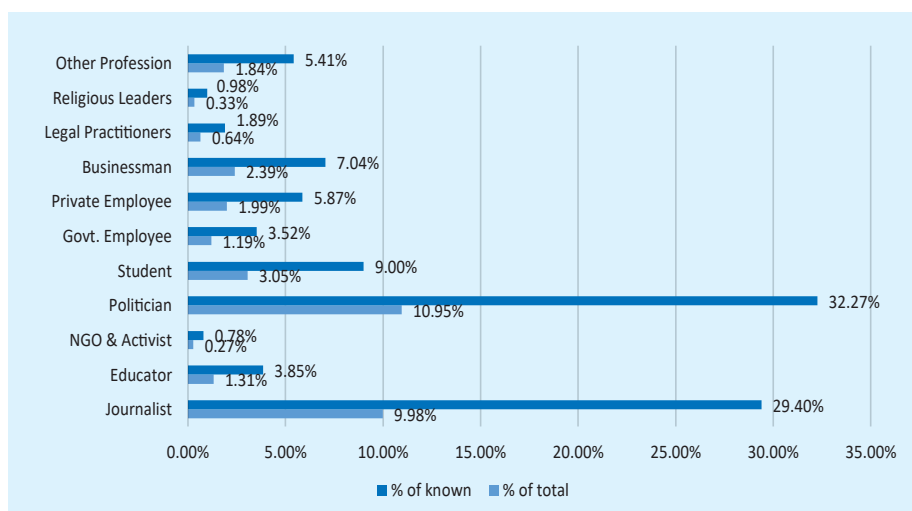


Figure 1: Professions of the accused by percentages of known information, Oct 2018 – Sep 2023

Note: 'Other profession' denotes a profession that is not included in the list of professions mentioned above; 'profession not found' refers to the individuals whose professions are not known and are not listed.

We have gathered data regarding the age of 1548 accused. Of these, 28 are below the age of 18. In total, almost 82.43 percent of the accused belonged to the age group of 18-40. In terms of the number, accused within the age group 18-25 and 26-40 are close, 542 and 734, respectively (Table 2). Their respective shares are respectively 35.01 percent and 47.42 percent (Figure 2).

Table 2: Age of the accused, Oct 2018 – Sep 2023

Age Group	No
Below 18	28
18-25	542
26-40	734
41-55	210
Above 55	34
Age Not Found	2972

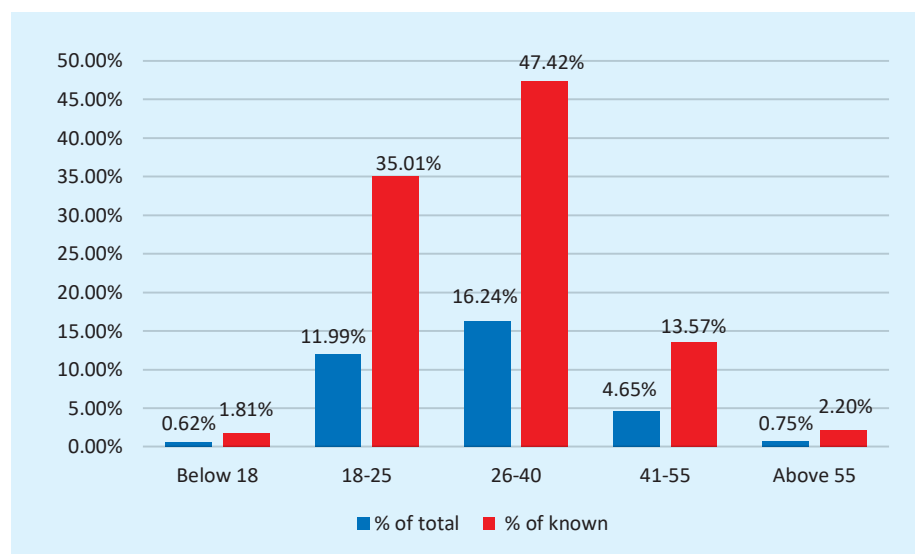


Figure 2: The percentages of age of the accused, Oct 2018 – Sep 2023

Our database has the record of 1549 individuals who have been arrested under the law over the period between October 2018 and September 2023. We obtained 572 people's occupational information from numerous sources. Of them, 143 were politicians, 97 were journalists and 104 were students (Table 3), that is 25.00 percent, 16.96 percent, and 18.18 percent, respectively (Figure 3). The share of politicians among the arrestees has increased compared to our previous study period (October 2018 – August 2022), when it was 21.75 percent.

Table 3: Professions of the arrestees, Oct 2018 – Sep 2023

Professions	No
Journalist	97
Educator	42
NGO & Activist	7
Politician	143
Student	104
Govt. Employee	28
Private Employee	52
Businessman	46
Legal Practitioners	9
Religious Leader	10
Other Profession	34

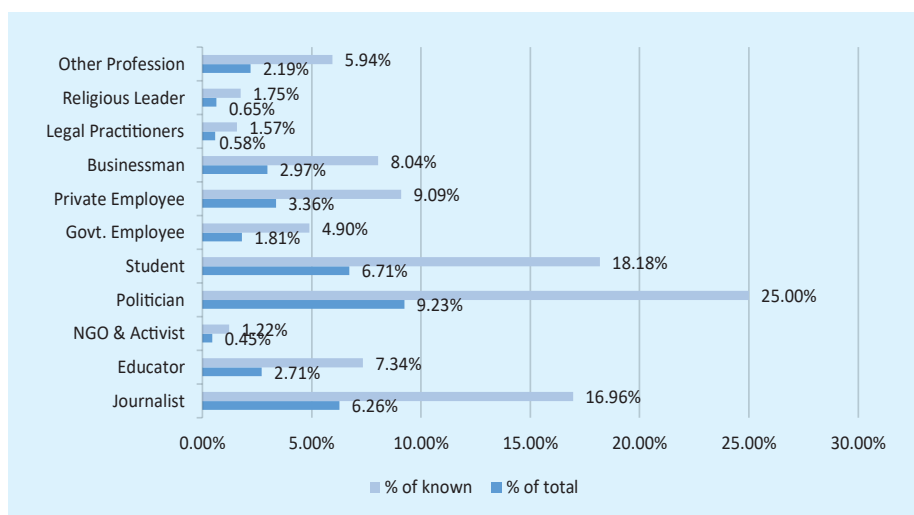


Figure 3: Percentages of professions of the arrestees, Oct 2018 – Sep 2023

We have been able to verify the age of 1016 of the 1549 individuals who have been arrested. Among them, 22 were underaged. The age range of 26–40 had the highest number of arrests (443), followed by the 18–25 age group (420). 41–55 is the third-largest age group (121). In terms of percentage, 43.60% of the known arrestees fall into the 26–40 age range, while 41.34% fall into the 18–25 age range (Figure 4).

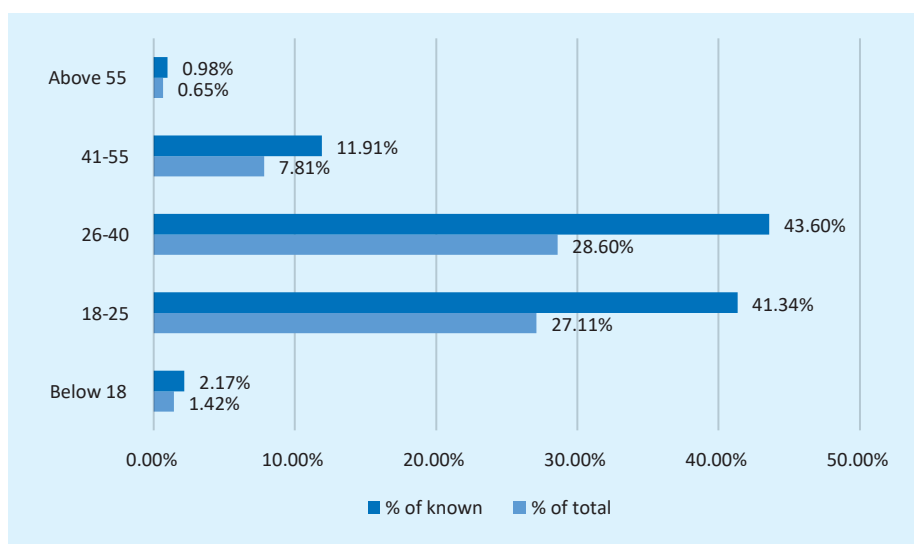


Figure 4: The age group of the arrestees, Oct 2018 – Sep 2023

Journalists as Victims

According to data gathered under the project 451 journalists have been accused, in 60-month period. Among them, we have details about 406 journalists' media affiliations: 209 are associated with national level media, and 197 are local journalists. Out of the 451 journalists, a total of 217 are associated with the print media, nearly half of the identified workplace of journalists. The second highest number of journalists are associated with online media – a total of 134 (Table 4). Online media journalists from outside Dhaka have been the largest number of victims – 113 individuals. It is not only that the journalists working outside the capital are being accused of violating the law, but they are also the victims of being detained. Of the 97 journalists who have been detained, 50 were local journalists. It is the print media journalists who were detained the most – 50, this is more than half of the total arrested journalists (Figure 5).

Table 4: Workplace and medium of accused and detained journalists, Oct 2018 – Sep 2023

		Accused	Detained
National Journalists	Electronic Media	53	9
	Print Media	135	21
	Online Media	21	5
Local Journalists	Electronic Media	2	1
	Print Media	82	29
	Online Media	113	20
Not Specified		45	12
Total		451	97

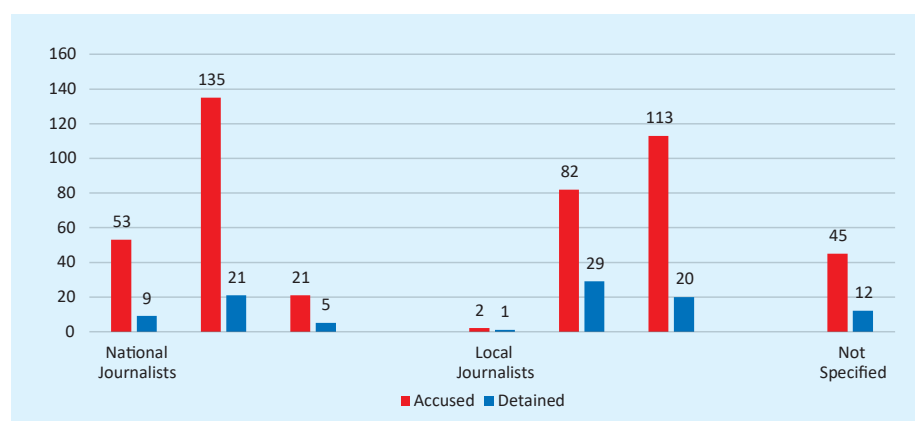


Figure 5: Workplace and medium of accused and detained journalists, Oct 2018- Sept 2023

In 202 cases, these 451 journalists have been accused by 202 people. Among these 202 accusers, 124 are aggrieved parties, while 61 individuals who haven't been directly impacted by the news or any other actions of these journalists filed cases. We have explored the political identities of these accusers and found that 43 of them belong to the ruling party and its affiliates. Among them, 20 belong to the Bangladesh Awami League, nine of them belong to the Student League, eleven of them are members of the Jubo League (youth front), two are members of the Swechhasebak (Volunteer) League and one is member of the Krishak (Farmers) League. These journalists are alleged to have violated more than one section of the DSA in many instances. However, 155 journalists are accused of a breach of Section 25, and 154 are alleged to have violated Section 29. Section 25 deals with publishing, sending of offensive, false or fear inducing data-information, etc. It says 25(1), "If any person in any website or through any digital medium – a) Intentionally or knowingly sends such information which is offensive or fear inducing, or which despite knowing it as false is sent, published or propagated with the intention to annoy, insult, humiliate or denigrate a person or b) Publishes or propagates or assists in publishing or propagating any information with the intention of tarnishing the image of the nation or spread confusion or despite knowing it as false, publishes or propagates or assists in publishing or propagates information in its full or in a distorted form for the same intentions, then, the activity of that person will be an offense under the Act. (2) If any person commits any offense mentioned within subsection (1), the person will be penalized with imprisonment for a term not exceeding 3 (three) years or fines not exceeding 3 (three) lacs taka or with both. (3) If any person commits the offense mentioned in subsection (1) for the second time or recurrently commits it, then he will be punished with imprisonment for a term not exceeding 5 (five) years or with a fine not exceeding 10 (ten) lacs taka or with both." Section 29 deals with publishing, broadcasting and disseminating defamatory information. It says 29(1), "If a person commits an offence of publication or broadcast defamatory information as described in section 499 of the Penal Code (Act XLV of 1860) in any website or in any other electronic format then he will be sentenced to a term of imprisonment not exceeding 3 (three) years or fine not exceeding Tk. 5 (five) lac or both." 29(2) says, "If any person commits the offence mentioned in sub-section (1) second time or repeatedly, he will be sentenced to a term of imprisonment not exceeding 5 (five) years or fine not exceeding Tk.10 (ten) lac or both." Three other sections of the law have been used against the journalists – section 31 (39 cases, 73 accused); section 35 (28 cases, 74 accused) and section 26 (20 cases, 53 accused).

Educators as Victims

42 of the 59 educators who have been accused, according to our total data, have been arrested. The highest number of the accused—20—are madrassah teachers, and they, along with the 16 college teachers, have the highest number of people being detained. Three university teachers have been arrested out of a total of nine accused (Figure 6). Remarkably, of the accused, 33.89 percent were madrassah teachers; in the preceding report, we stated that the percentage was 37.25 percent. Madrassah teachers make up 40.47 percent of the detained individuals, while college teachers make up 30.95 percent. According to our data, the number of educators arrested during this time period is far higher than that of any other profession: 71.19 percent of accused educators have been detained; for primary school teachers, the figure is 80 percent.

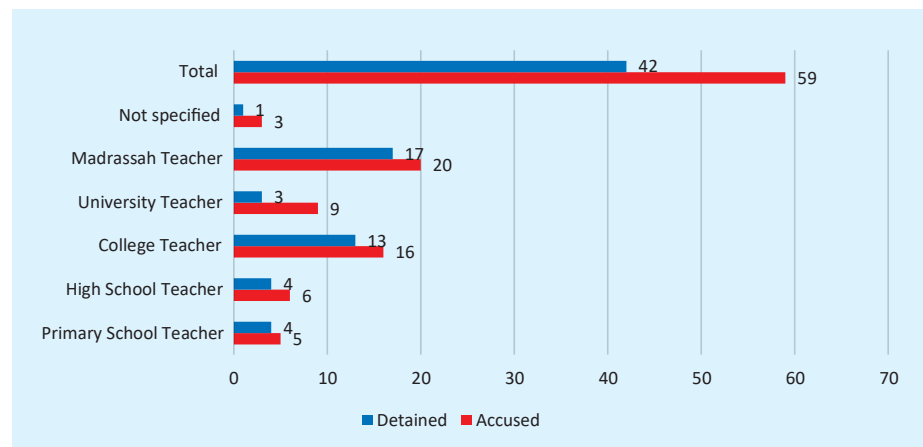


Figure 6: The workplace of accused and detained educators, Oct 2018 – Sep 2023

Accused Government Employees

Interestingly, government employees are continuing to being accused. Of the 54 government officials who were accused, fourteen were police officers (Table 5).

**Table 5: Workplace of the accused government officials,
Oct 2018 – Sep 2023**

Categories of Government Employees	Number
Assistant Surgeon of Upazila Health Complex	1
Office Assistant of Upazila Cooperative Office	1
Bangladesh Police	14
Border Guard Bangladesh (BGB)	1
Officer of Anti-Corruption Commission (ACC)	3
Work Assistant in the Office of Project Implementation Officer (PIO)	1
Auditor of District Accounts and Finance Office	1
Cash Government of Medical College Hospital	1
Upazila Election Officer	3
Deputy Secretary of Election Commission Secretariat	1
Director of Bangladesh Forest Research Institute	1
District Agricultural Marketing Officer	1
Office Assistant/ Computer Typist of Upazila Election Office	3
Technical Expert of a Upazila Election Office	1
Banker	4
Officer of Noakhali Science and Technology University	1
Upazila Health and Family Planning Officer (THO)	1
Office Assistant of Primary School	1
Employee of Land port	1
Officer of Biman Bangladesh Airlines	5
Office Assistant in Land Office	1
Bangladesh Army	2
Office Assistant in Government Degree College	1
Upazila Youth Development Officer	1
Others	3
Total	54

Who are the Accusers?

The identities of the accusers in 859 of the 1436 cases in our database have been identified. Of these, 65 cases have been filed by government officials and 189 cases filed by law enforcement agencies. Taking into account that the government has approved each of these, both explicitly and implicitly, 254 cases have the blessing from the authorities. After excluding the five cases filed by NGOs, the number of cases filed by individuals stands at 600. While there are instances of victims of wrongdoing, including sexual harassment, bullying, invasion of privacy, a significant number of complaints have been filed by individuals alleging defamation of other individuals (Table 6). Twenty-two percent of cases are filed by law enforcement agencies; this represents a rise from 22.17 percent of cases reported in January 2023. In total, 29.57 percent of cases filed between October 2018 and September 2023 had the blessing of authorities. Among the cases filed by individuals, 338 cases have been filed by individuals with affiliations with political parties—a staggering 39.35 percent (Figure 7).

Table 6: Identities of accusers, Oct 2018 – Sep 2023

Accuser	No
RAB	28
Police	155
Other Law Enforcement Agencies	6
Private employee	48
NGO and activists	5
Party Affiliated	338
Government Officials	65
Businessman	30
Educator	32
Journalist	51
Legal Practitioners	37
Other	32
Student	27
Religious Leader	5
Identity could not be ascertained	577
Total	1436

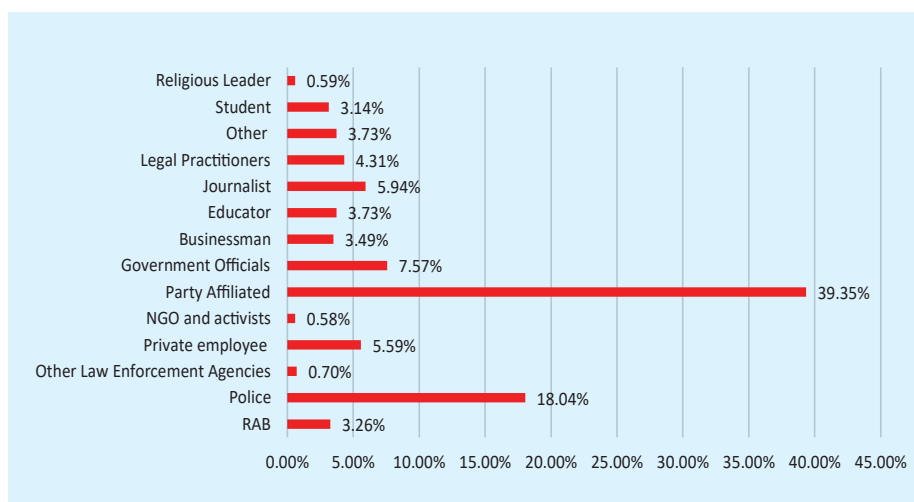


Figure 7: Identities of accusers by percentages, Oct 2018 – Sep 2023

263 of those having political party affiliations, or 77.81 percent, have a direct affiliation with the ruling Bangladesh Awami League (BAL); this percentage is nearly unchanged from January 2023. As such, the ruling party activists have not been dissuaded by public criticisms that have been in the press about this phenomenon.

Table 7: Political Identities of individual accusers, Oct 2018 – Sep 2023

Political Identities of individual accusers	No
Bangladesh Awami League	113
Bangladesh Awami Jubo League (Youth front)	41
Bangladesh Awami Swechasebak League (Volunteers front)	17
Bangladesh Student League	86
Bangladesh Sramik League (Worker's front)	3
Bangladesh Krishak League (Farmer's front)	3
Bangladesh Nationalist Party (BNP)	3
Jatiya Party	2
Jatiyo Chatra Samaj	1
Communist Party (Marxist)	1
Hefazot E Islam	1
Islami Andolan Bangladesh	1
Others	66
Total	338

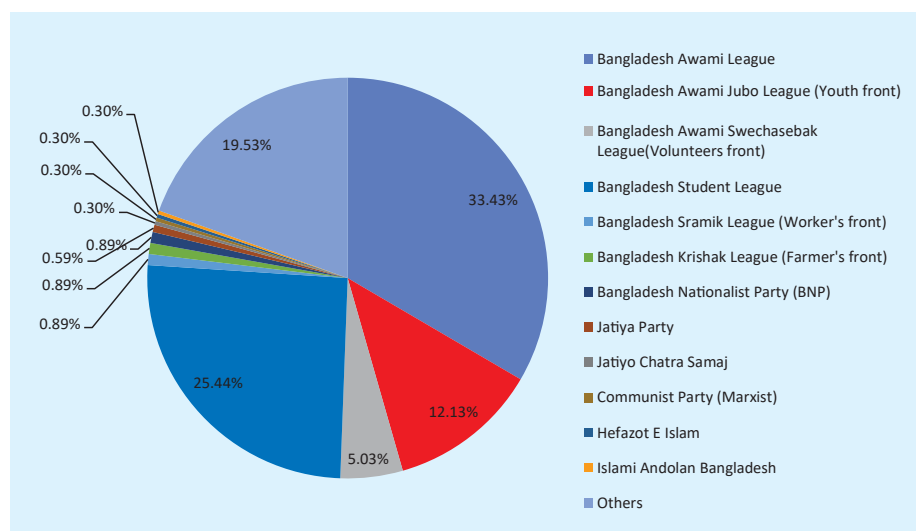


Figure 8: Percentages of political identities of the accusers, Oct 2018 – Sep 2023

Among the accusers, we have been able to identify 69 individuals who hold elected positions at various national and local levels, which include ten members of the parliament (Table 8).

Khadijatul Kubra (17), a university student, endured 14 months of pre-trial detention in 2022-23 after being accused of moderating a social media webinar in November 2020 deemed provocative by authorities. Charges against her were "spreading anti-government propaganda and harming Bangladesh's reputation". Khadija was shown as an adult when two cases were filed against her in two police stations at Dhaka for committing the same 'crime'. She was arrested on August 27, 2022. Her bail petition was denied two times in the lower courts. In July 2023, the Appellate Division of the Supreme Court adjourned her bail hearing for four months, stating she should be able to take responsibility for the views expressed on her talk show. On November 16, 2023, she secured bail from the Supreme Court and was released later on November 20, 2023. On January 28 and February 29, 2024, she was acquitted from both cases.



Table 8: Elected Representatives as accusers, Oct 2018 – Sep 2023

Categories of Elected Representatives	Number
MP	10
City Mayor	3
Municipality Mayor	5
Municipality Panel Mayor	3
Councilor	14
Chairman of Union Parishad	19
Chairman of Upazila Parishad	5
Vice Chairman of Upazila Parishad	5
Member of Union Parishad	5
Total	69

What are the Accusations, Who are the Accused, Who are the Accusers?

There are 22 sections in the Digital Security Act 2018 which deal with offenses and penalties; but the details of the cases show that primarily 16 sections have been used. In some instances, cases have been filed against the same person under multiple sections (Figure 9).

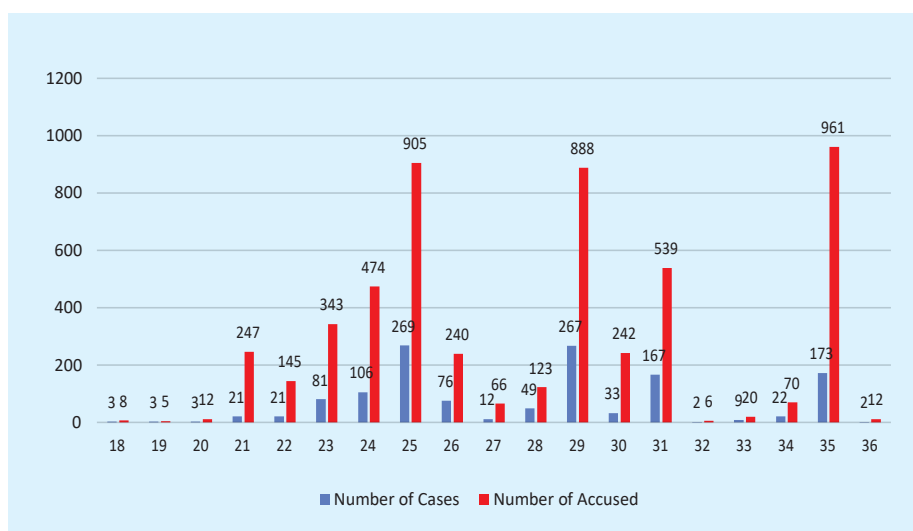


Figure 9: How many cases under which section, Oct 2018 – Sep 2023

Section 25 has been used in the most instances (269), followed by Section 29 (267). However, more people have been accused under Section 35 (961). As mentioned before, Section 25 deals with publishing, sending of offensive, false or fear inducing data-information, etc. and Section 29 deals with publishing, broadcasting and disseminating defamatory information.

We have explored the professional identities of the accused under these two sections. Of the 888 accused in 267 cases under Section 29, 394 individuals have been identified by their professions. Most of them are journalists – 154; followed by politicians – 137. About Section 25, of the 905 accused in 269 cases, 538 have been identified; most of them are politicians (76), followed by journalists (155). (Figure 10).

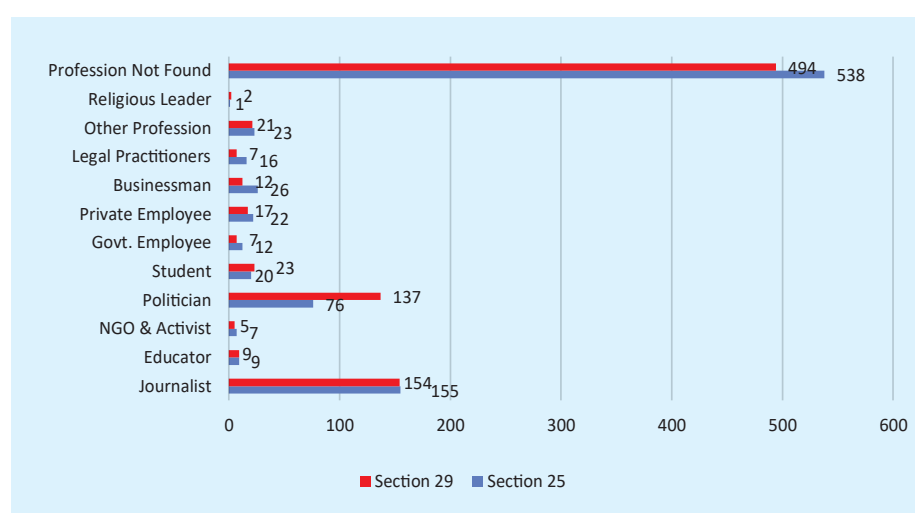


Figure 10: Professional identities of accused under Section 25 and Section 29, Oct 2018 – Sep 2023

As for the accusers under these two sections, we identified the professional identities of 267 and 269, for Section 29 and Section 25, respectively. The accusers are largely politicians in both instances. (See Figure 11)

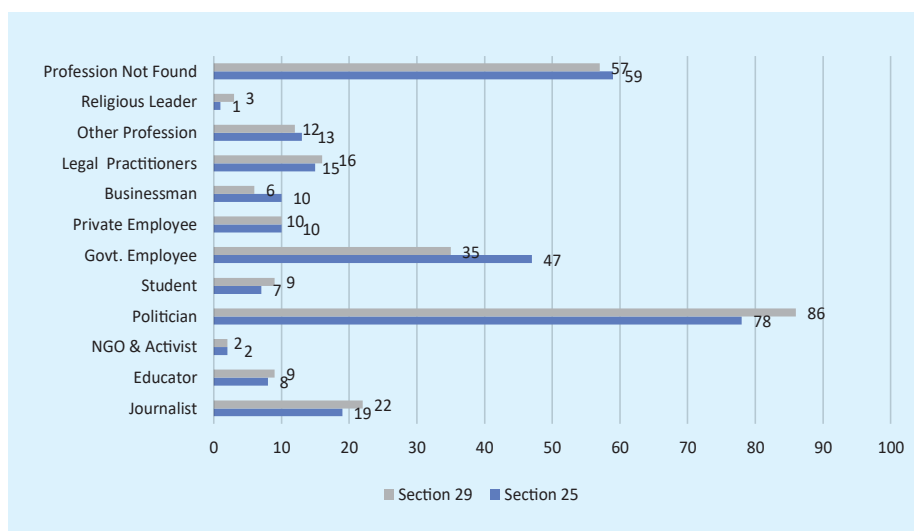


Figure 11: Professional identities of accusers under Section 25 and Section 29, Oct 2018 – Sep 2023

Allegations of defaming the Prime Minister, Ministers, and Politicians

Since the introduction of the law in October 2018, hundreds of cases have been filed by law enforcement agencies and individuals. There have been instances of being accused, charged and convicted for allegedly defaming Prime Minister Sheikh Hasina under the ICT Act, the precursor of the DSA. For example, in 2013, a lecturer at the Bangladesh University of Engineering and Technology (BUET), Hafizur Rahman Rana, was tried in absentia and sentenced to seven years of imprisonment under the Information and Communication Technology Act (Hindustan Times 2013). In 2021, a cyber-tribunal in Rajshahi sentenced Bangladesh Nationalist Party leader of Natore to seven-years imprisonment on charges of sharing distorted pictures of Prime Minister Sheikh Hasina and former Indian Prime Minister Manmohan Singh on social media. The case was filed under Section 57 of the ICT Act in 2015. In March 2021, a 17-year-old boy was arrested for making comments in a video posted online against Prime Minister Sheikh Hasina, Indian Prime Minister Narendra Modi and Bangladeshi Foreign Minister M A Momen (Sakib 2021). In 2022, a student of Jahangirnagar University, named Shamsul Alam Babu, has been sentenced to seven years imprisonment under Section 57 of the ICT Act for allegedly “defaming Prime Minister Sheikh Hasina and Bangabandhu Sheikh Mujibur Rahman.” The case was filed in 2015 (Bangla Tribune 2022). These were far from exceptions, instead, similar instances have been reported in the press over the past nine years. Punitive actions have been taken against individuals by their employers, including universities on several occasions.

We examined the allegations filed under the DSA between October 2018 and September 2023. According to our data, 190 cases have been filed during this period alleging that the accused have defamed Prime Minister Sheikh Hasina. 159 were filed by individuals, while 31 of these cases were filed by law enforcing agencies. Ninety-two of these individuals belong to the ruling BAL and its affiliates. Among these organizations, the student wing of the party has filed 37 cases, followed by the Youth League with fourteen, the Farmers' League with two, the Volunteer wing with three, and the Sramik League with one. Our database records that 161 accused were arrested.

According to our data, 80 cases have been filed for allegedly defaming ministers. Eight cases were been filed by Law enforcing agencies, and six were cases filed by the aggrieved minister or his/her family members; the remaining 66 cases were filed by other individuals. Of them, forty of these individuals have direct affiliations with the ruling party and its various wings. The members and leaders of the student wing of the party filed 18 cases. The BAL activists filed eleven cases, while the youth league filed six and the volunteer wing filed five cases. 68 individuals were arrested as a result of these cases.

Currently at least 212 cases have been filed alleging defamation of political leaders, primarily of the ruling party. In 93 instances, it was the aggrieved parties who went to the police and/or court while seven were filed by law enforcement agencies. His/her supporters filed 112 cases. Supporters of the Bangladesh Awami League (BAL) filed all but five of; three cases were filed by Jatiya Party supporters, one was filed by Islami Andolon Bangladesh (IAB) and one was filed by the Bangladesh Nationalist Party (BNP). Because of these cases, 136 individuals were arrested.



Geography of the Digital Security Act Cases and Accused (in the parentheses) in Bangladesh, Oct 2018 - Sep 2023

■ Number of Cases
■ Number of Accused

TRENDS AND PATTERNS

A few trends and patterns have appeared from the data collected during the previous 60 months.

During this period, on an average per month, 23.93 cases have been filed, 75.33 persons have been accused, and 25.81 persons were arrested. Within this period, the largest number of cases were filed in 2021- per month average was 39.75 cases; 118.58 persons accused, and 42.42 persons arrested. The number of cases has declined in 2022. Per month the average cases were 21.16, average accused were 82.67 and arrests were 30.67. A press report has drawn attention to the timing of this decline and noted that the declines coincide with the imposition of US sanctions on the Rapid Action Battalion (RAB) and seven of its officials on December 10, 2021 (Chowdhury and Lion 2022). The number of cases has declined more in 2023 (until September) because of the announcement of the replacement of CSA (Cyber Security Act). Per month the average cases were 13.11, average accused were 84.89 and arrests were 16.22.

Table 9: Number of cases, accused, and arrests, Oct 2018 – Sep 2023

Year	Total Case	Monthly average	Total Accused	Monthly average	Total Arrested	Monthly average
2018 (Oct-Dec)	14	4.67	33	11	11	3.67
2019	115	9.58	290	24.16	130	10.83
2020	430	35.83	974	81.16	367	30.58
2021	477	39.75	1423	118.58	509	42.42
2022	254	21.16	992	82.67	368	30.67
2023	118	13.11	764	84.89	146	16.22
Year Not Specified	28		44		18	
Total	1436	23.93	4520	75.33	1549	25.81

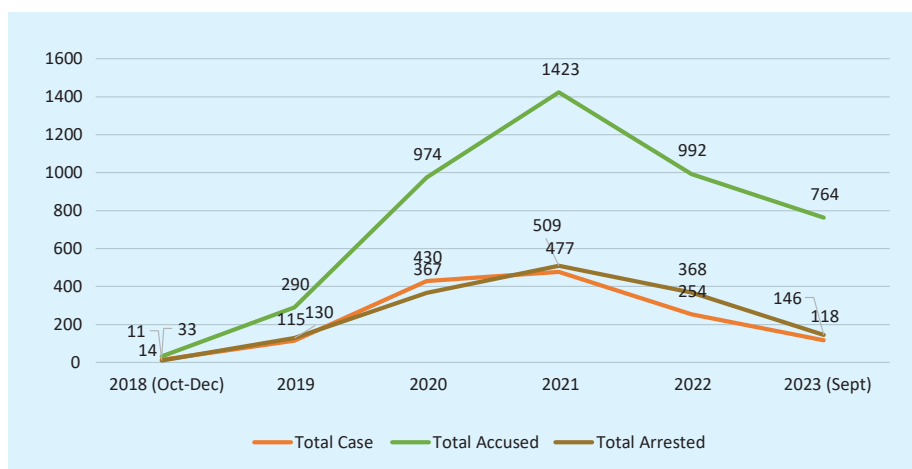


Figure 12: Trend of cases, accused, and arrests, Oct 2018 – Sep 2023

As mentioned previously, politicians and journalists have been professionals who have faced a significant number of cases in the past 60 months (Table 10 and Table 11).

**Table 10: Cases, accusations and arrests of politicians,
Oct 2018 – Sep 2023**

Year	Total cases	Total Accused	Total Arrested
2018	5	9	7
2019	9	13	8
2020	50	105	33
2021	87	145	49
2022	35	159	36
2023	21	60	23
Not Found/Specified	3	4	2
Total	210	495	158

Table 11: Cases against, and accused and arrests of journalists, Oct 2018 – Sep 2023

Year	Total cases	Total Accused	Total Arrested
2018	1	1	0
2019	30	60	24
2020	53	111	39
2021	48	117	21
2022	28	84	8
2023	33	64	1
Not Found/Specified	9	14	4
Total	202	451	97

Journalists were accused of various violations. We attempted to find out how many of these instances were related to their professional duties (Table 12).

Table 12: Reasons for accusation against journalists, Oct 2018 – Sep 2023

Accused journalists	For reporting	Reasons not found	Other reasons
451	255	14	182

Jesmin Sultana (45), an Assistant Land Officer in Naogaon, was detained by Rapid Action Battalion (RAB-5) on March 22, 2023, while she was travelling to her office. She died at the Rajshahi medical college on March 24 while being under RAB custody. Enamul Haque, a Director at the Rajshahi Divisional Commissioner's Office, lodged a case against her at Rajpara Police Station in Rajshahi city on March 23, 2023, a day after she was arrested, alleging fraud by creating a fake Facebook profile. The DSA case was filed while she was in RAB custody for 31 hours. According to the government information, Jesmin suffered a brain hemorrhage from injuries, leading to her demise. Her family alleges that she was tortured while in RAB custody, RAB denied any mistreatment, insisting that Jesmin fell ill immediately after her arrest.



JESMIN SULTANA

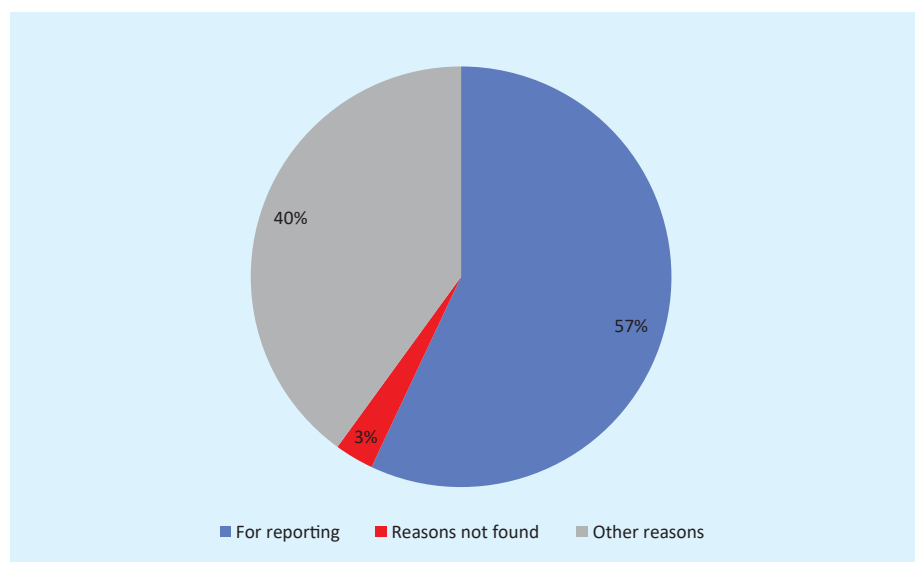


Figure 13: Reasons for accusations against journalists, by percentages, Oct 2018 – Sep 2023

Year-wise disaggregation shows that 2020 was the worst year for journalists as they were accused in significantly high numbers. However, it is also worth noting that in 2022, 60 journalists have been accused under the DSA for reports, the second highest number. While the overall number of cases is declining, journalists are finding it difficult to report (Table 13).

Table 13: Year-wise number of journalists accused for reporting, Jan 2019 – Sep 2023

Year	Number
2019	35
2020	70
2021	43
2022	60
2023	38
Not Found/Specified	9
Total	255

Students are the third highest number of accused persons according to our data. The year-wise breakdown shows that both 2020 and 2021 were years when students faced a large number of cases (Figure 14).

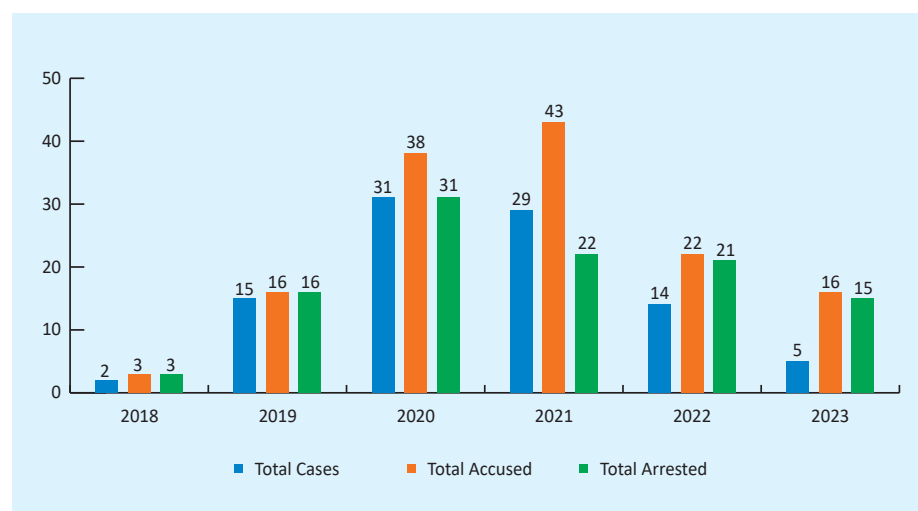


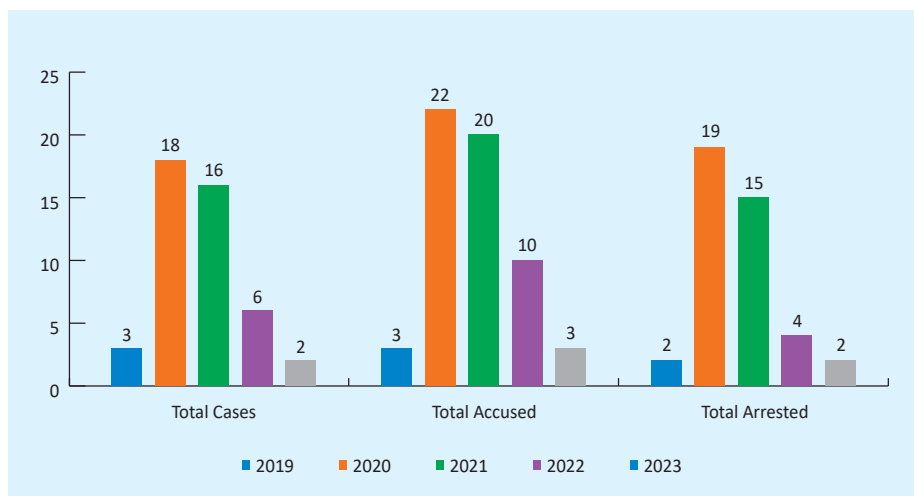
Figure 14: Cases, accusations and arrests of students, Oct 2018 – Sep 2023

As for the teachers, 46 cases were filed over the period, 34 cases were filed in 2020 and 2021– the number of accused was 42, of which 34 were arrested (Figure 15).

Pritom Das (35), a rights activist, faced charges under the Digital Security Act (DSA) for posting his views on social media allegedly hurting religious sentiment. He was arrested on September 9, 2022 from Sreemangal. His Facebook post which was cited as a cause of the alleged religious discord was a quotation from an eminent Urdu author Sadat Hasn Manto. He was detained for 131 days in jail, while courts denied bail six times. He was granted bail on January 19, 2023. The case is now under trial in Sylhet Cyber Tribunal.



PRITOM DAS



**Figure 15: Cases, accusations and arrests of teachers,
Oct 2018 – Sep 2023**

Of these teachers, a total of 20 madrassah teachers were accused; 18 of them were accused in 2020 and 2021, 17 of them were arrested.

One of the key highlights of the use of the DSA is by ruling party activists against private citizens and opposition political leaders and activists. As mentioned previously, during this period, among the cases filed, we could identify 263 cases filed by ruling party activists/leaders accusing 887 people (Table 14).

**Table 14: Cases filed by ruling party activists and the number of accused,
Oct 2018 – Sep 2023**

Year	Total cases	Total Accused
2018	6	18
2019	20	45
2020	77	234
2021	84	192
2022	44	226
2023	31	169
Not Found/Specified	1	3
Total	263	887

These data show that in the past 60 months, ruling party activists have filed 4.38 cases every month, and each case had an average of 3.37 persons accused; or in simple words, every week a case has been filed by a BAL activist against more than three persons for five years under one law. These cases were in addition to the cases filed by law enforcement agencies and government officials. Of the 859 cases where we identified the accusers, 254 were filed by agencies and officials; that is, on average 4.23 cases per month. This shows how pervasive the use of the law had become since it was introduced and how government agencies and party activists used the law against people they dislike.

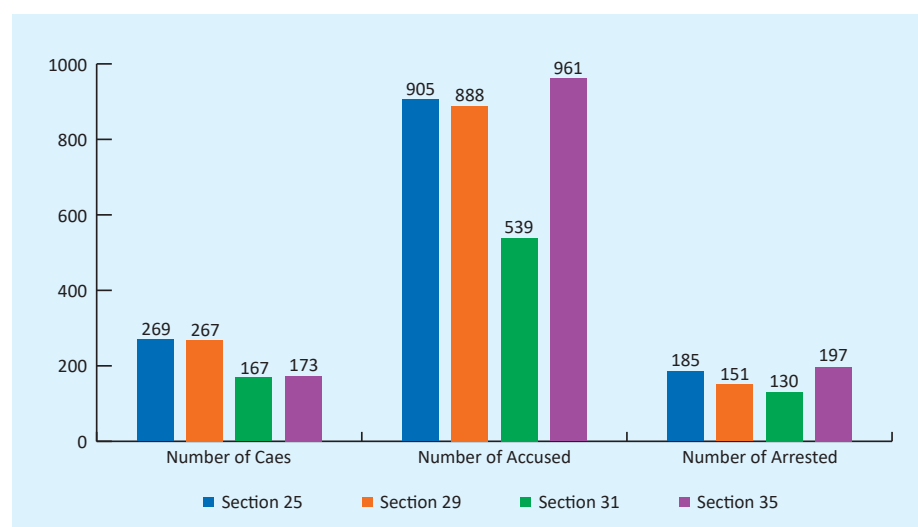


Figure 16: Cases, accused and arrests under Sections 25, 29, 31 and 35, Oct 2018 – Sep 2023

Of the four sections widely used - 25, 29, 31, and 35 - three were objected to by the journalists even before the law was passed by the parliament. On 22 May 2018, owners of private television channels, the Editors' Council and leaders of the Bangladesh Federal Union of Journalists met the parliamentary committee and expressed concerns about eight sections - 8, 21, 25, 28, 29, 31, 32 and 43. Section 25 deals with transmission, publication, etc. of offensive, false or threatening data information; Section 29 deals with publication, transmission, etc. of defamatory information; Section 31 deals with offence and punishment for deteriorating law and order, etc. and Section 35 deals with punishment for aiding and abetting any offence under the DSA.

The following three charts (Figure 17, 18 and 19) show the annual trends on the use of these four sections.

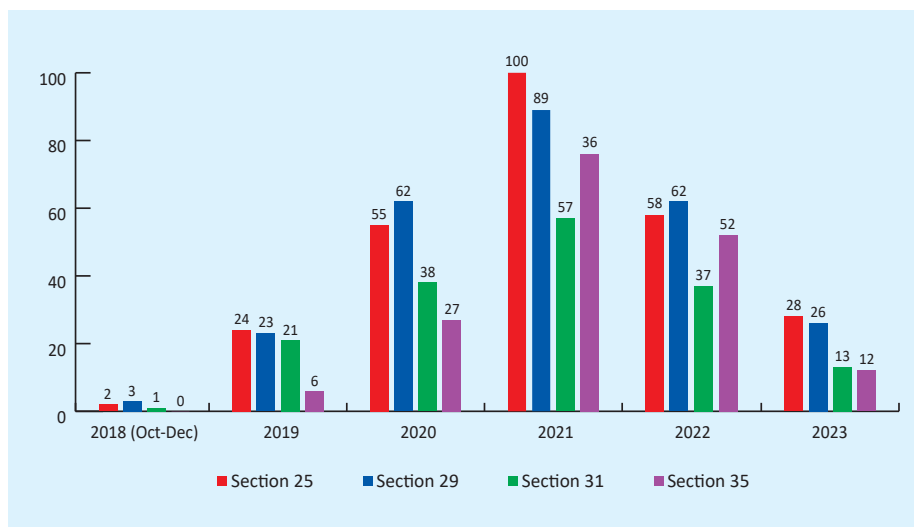


Figure 17: Number of cases under four Sections, Oct 2018 – Sep 2023

Mushtaq Ahmed (54), an author and social activist, died in prison on February 25, 2021 after being detained for 10 months. He was arrested on May 5, 2020 by Rapid Action Battalion (RAB) from his home for criticizing the government in the wake of Covid-19 pandemic. Others arrested with him were Ahmed Kabir Kishore, a cartoonist; Didarul Islam, a member of politico-civic organization called Rashtrachinta; and Minhaj Mannan Emon, managing director of BLE securities and shareholder-director of Dhaka Stock Exchange. On February 8, 2021, the police placed a charge sheet in a Dhaka court against Kishore, Mushtaq and Didarul Bhuiyan in the case. Mushtaq was denied bail six times. An investigative committee formed by the Home Ministry after his death claimed he died of "natural causes," but his former lawyer believes that Ahmed may have died of health issues that arose after alleged torture' (Dhawan, 2022).



MUSHTAQ AHMED

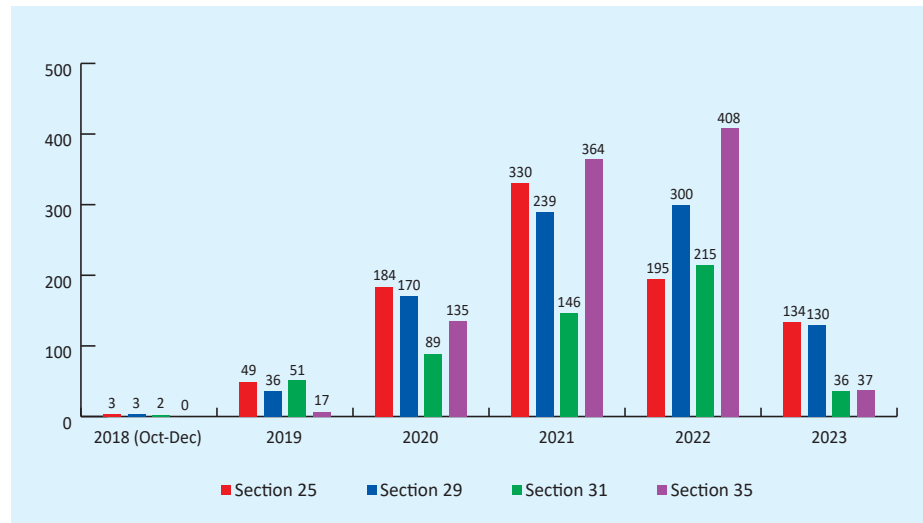


Figure 18: Number of accused under four Sections, Oct 2018 – Sep 2023

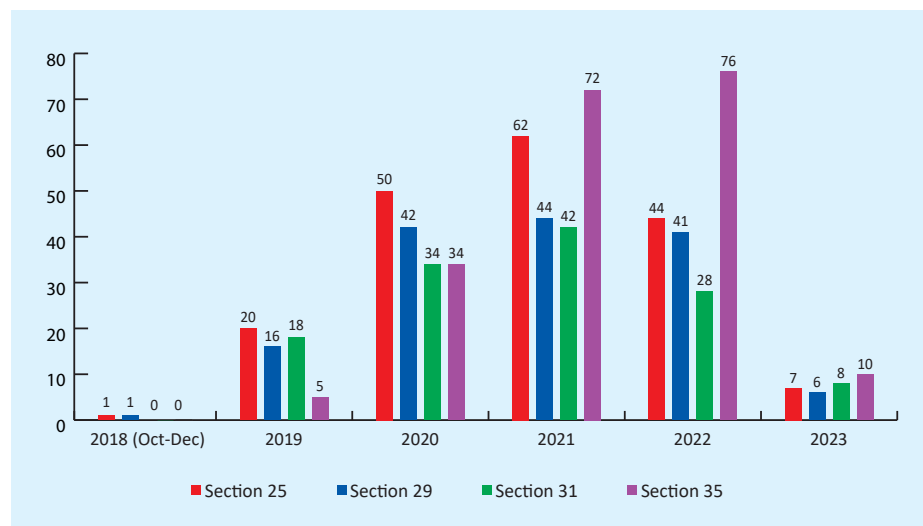


Figure 19: Number of arrests under four Sections, Oct 2018 – Sep 2023

The DSA came into effect in October 2018, no cases alleging defamation of the PM were filed until the controversial 2018 election was held. The year-wise disaggregated numbers of the 190 cases filed for allegedly defaming the Prime Minister are the following (Table 15).

Table 15: Year-wise cases for defaming Prime Minister, Oct 2018 – Sep 2023

Year	Number of Cases
2018	1
2019	14
2020	60
2021	64
2022	38
2023	13
Total	190

Shafiqul Islam Kajol (53), a photojournalist, was abducted on March 10, 2020 from Dhaka, a day after a ruling party leader filed a case under the DSA along with 32 others. He was found near the Benapole border, 150 miles away from Dhaka, after 54 days. Kajol was charged in four different cases against him: three under the Digital Security Act, an additional charge of trespassing, and was further held under Section 54 of the Criminal Procedure Code. A Dhaka tribunal on November 8, 2021 framed charges against Kajol in the three cases filed under the DSA. He was detained for eight months. Kajol was granted bail on December 25, 2020. The High Court stayed the court proceedings in three cases against him on June 1, 2022 (The Daily Star, 2022).



SHAFIQUK ISLAM KAJOL

In 2018, in three months, only two case was filed alleging defamation of a minister (Table 16).

Table 16: Year-wise cases for defaming ministers, Oct 2018 – Sep 2023

Year	Number of Cases
2018	2
2019	6
2020	34
2021	17
2022	15
2023	6
Total	80

As for politicians, like others, the year 2021, was the worst since the DSA came into effect in October 2018 (Table 17).

Table 17: Year-wise cases for defaming politicians, Oct 2018 – Sep 2023

Year	Number of Cases
2018	2
2019	21
2020	65
2021	69
2022	29
2023	22
Not Specified	4
Total	212

THE PRECARITY OF USING FACEBOOK

In recent years, social media, particularly Facebook has become immensely popular in Bangladesh and the number of Facebook users increased significantly. According to Statista.com, Bangladesh had 52.9 million users as of January 2024. Facebook has been used for inciting religious and ethnic violence on the one hand while creating avenues for expressing grievances against the government and helping to organize social movements. There is palpable discomfort among the ruling party and the government about the increasing influence of Facebook. Consequently, in several instances, the government tried to restrict Facebook. For example, in March 2021, during demonstrations against Indian Prime Minister Narendra Modi's visit to Bangladesh, services were restricted for three days (Netblocks, 2021). Since 2020, the government has repeatedly insisted that social media organizations need to have offices in Bangladesh (The Daily Star, 2020). Critics suggest that having local offices will make these organizations susceptible to the government pressure. There have been scores of incidents in recent years, particularly since 2013, incidents where posting on Facebook or comments on social media have landed in individuals being tried and convicted. The government's sensitivity about the Facebook postings can be understood from the arrest of Anisa Siddika (58), mother of a student at Michigan State University, USA in August 2023. Tanzilur Rahman, who is pursuing his doctorate at the MSU posted some critical comments about the government which landed his mother in jail. She was later released on bail (Kaur, 2023). The Digital Security Act and its predecessor, the ICT Act, were used by individuals and government agencies in situations to send a message that they are closely watching the media.

During the period of our study, 908 cases have been filed against 2328 individuals for posts and comments on Facebook. We have divided these cases by the reasons cited in filing cases into various categories and gathered data about the number of cases and the accused. Of these 908 cases, 95 cases have been filed for harassment (accused 175) and 77 cases for financial fraud via Facebook (accused 319). Of the remaining 736 cases, 129 cases have been filed for hurting religious sentiments accusing 198 individuals (Figure 20). Further disaggregation of the cases involving hurting religious sentiments shows that 95 were for slandering and 34 for provocation and spreading rumors through fake status or video, accusing 154 and 44 people, respectively.

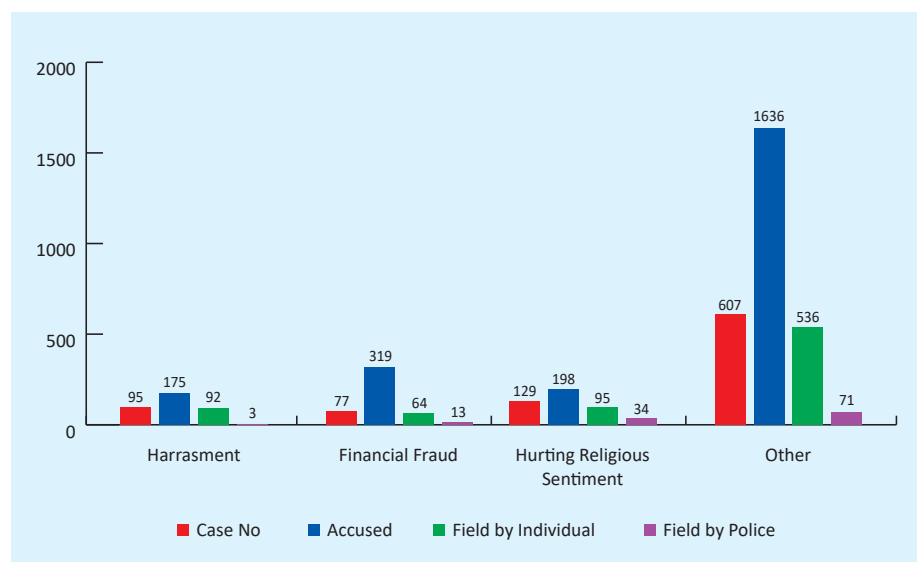


Figure 20: Cases filed for Facebook post or comments, Oct 2018 – Sep 2023

Ahmed Kabir Kishore (49), a cartoonist and social activist, was arrested on May 5, 2020 by the Rapid Action Battalion (RAB). He was arrested along with 10 others. On February 8, 2021, the police placed a charge sheet in a Dhaka court against Kishore, Mushtaq Ahmed and Didarul Bhuiyan in the case. According to police complaints, Kishore and other journalists are alleged to tarnish the image of the country by running a popular Facebook page "I am Bangladeshi". Police complaint also mentioned cartoons from Kishore's personal Facebook page, 'Life in the Time of Corona'. He faced pretrial detention for ten months and was denied bail six times until March 2021. Kishore alleged that he (and Mushtaq Ahmed) was tortured in custody, police deny such allegation. He along with six others have been indicted in February 2022.



A FEW DISTURBING ASPECTS

Notwithstanding the wanton use of the DSA against political opponents, journalists, students, and members of the civil society, at times described by several ministers as 'abuse', and creating an environment of fear, several disturbing aspects inherent to the law and its implementation has been observed. These are: the lack of transparency, lengthy trial process, pre-trial detention, allowing children to be subject of accusation and arrests, and allowing a culture of vigilante justice to flourish.

The use of the law was widespread, yet the government created a shroud of mystery regarding statistics about the number of cases, accused, arrests and convictions. As mentioned earlier, even when the Law Minister informed the parliament of the number of cases, there was no further detail. Attempts to gather data were met with stonewalling from the police and respective authorities (The Unending Nightmare, pp. 11-12). The veil of secrecy regarding basic information provides an impression that the government intended to hide the extent and the pattern of the use. This is contrary to the basic principle of transparency, especially about a law which has been subjected to widespread criticisms.

In Bangladesh, the trial process of any case is lengthy and often riddled with various problems causing suffering to the accused. Cases filed under the DSA are no exception. However, it is evident that very few cases have been disposed over the past years. As such, these cases will continue to linger for coming years causing hardships to the accused and their families.

The lengthy process is in part because of the delay in submitting reports by the police. According to the law, after filing the case, the police are required to file an investigation report on which the charge will be formed. The law stipulates that an investigation report must be submitted within 60 days. If necessary, the investigating officers can seek an extension of 15 days from the authorities. After 75 days, they will have nothing to do. It then falls under the jurisdiction of the tribunal. But throughout the period that the law was used, it has been seen in many cases, that even if the investigation report was not submitted within the stipulated 75 days.



One of the key elements of the DSA was that a case could be filed based on suspicions and an accused can be arrested. The Act empowers authorities to launch investigations into individuals considered a threat, leading to arrests without warrants based solely on suspicion of social media-related crimes. Moreover, it allows for searches and seizures without judicial oversight, granting the police extensive powers. There have been many instances where an individual was arrested even before a case was filed. As most of its provisions were non-bailable, the accused were detained for an indefinite period while bail petitions were denied by the courts. This is nothing short of effectively being punished before the trial.

That the children were subjected to the law and detained is deeply disconcerting. Our data shows that at least 28 individuals under the age of 18 were accused and 22 of them were arrested. The law clearly failed to protect the vulnerable segment of society, instead putting them more at risk.

The law allowed anyone to file a case, even if he/she is not an aggrieved party. Such provision of the law, especially in a very polarized socio-political environment and highly politicized law enforcement agencies, opened the door for vigilante justice. The law has been used to silence contrarian voices, harass political opponents, settle personal scores, and in some instances by members of law enforcing agencies for extortion. This very nature of the law had practically weaponized a law to serve the interests of powerful individuals rather than delivering a semblance of justice.



CONCLUSION

After five years since its introduction, the Digital Security Act (DSA) 2018, is no longer in use, while its successor the Cyber Security Act (CSA) 2023 is now the law of the land. Essentially the demand for the annulment of the DSA, raised by academics, journalists, and activists at home and abroad, has been evaded by the government through rebranding the draconian law. There is widespread apprehension that the CSA's impacts in muzzling the freedom of expression and criminalizing dissent would not be different from the DSA as the CSA retains many contentious provisions of its predecessor. The issues related to the trial process, prolonged pre-trial detention, and deliberate misuse of laws to stifle dissent and harass political opponents have not been eliminated from the new law. This underscores the need for developing a law in consultation with the stakeholders and relevant international bodies such as the OHCHR to protect the citizens at large from cybercrimes without the expense of civil liberties and freedom of expression. It is also important to note that the amendment of the DSA does not exonerate the government from its primary responsibility of ensuring justice to those who have been victimized by the DSA and will continue to suffer for years to come, some forever.

While this project has examined the extent of use of the DSA and its implications, it is necessary to recognize that DSA is not the only law in the country which has the power to stymie fundamental freedom of expression. Various laws are in the book and occasionally used by the government and powerful groups to their interests. The very existence of these laws acts as hindrance to an environment conducive for exercising fundamental rights. Neither the annulment of the DSA or rebranding it with a new name is going to ensure freedom.

The introduction and implementation of the DSA, its predecessor and successor laws, did not happen in a political vacuum. Instead, these laws have been devised and used by incumbent alongside the erosion of democratic norms and practices. The contraction of democratic space, on the streets and in cyberspace, had taken place concurrently. The intrinsic relationship between these requires that while particular law and its implications are examined, we need to be cognizant of the broad political environment and raise voice accordingly. Unless the principles of democracy, rule of law, and human rights are upheld, laws like the DSA and CSA will continue to be the weapon of choice of the incumbent.

RECOMMENDATIONS

Based on the data and information gathered on the patterns and trends of the use of the Digital Security Act and its impacts on the accused persons between October 2018 and September 2023, the project makes the following recommendations to the government to address in earnest and expect that the members of the civil society, human rights organizations, and activists and journalists raise for the implementation of the following recommendations:

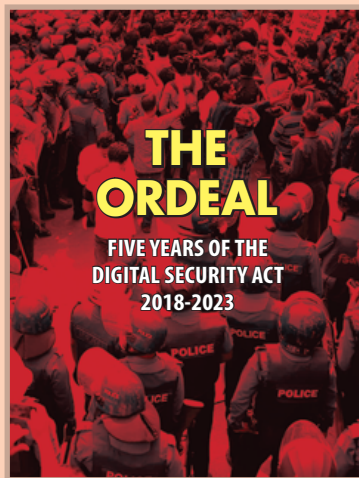
1. (a) Unless convicted or charged for committing a crime under any law(s) (i.e; grievous in nature and nonbailable) individuals accused under the DSA and detained, be granted bail.
- (b) Any such individual be tried, where applicable, with all the rights and privileges provided under the respective laws and following due process.
2. Establish an independent commission with members from the journalist community, human rights organizations, lawyers, and cyber security experts along with provisions of observers from the OHCHR and other International Human Rights organizations, and allow the commission to discharge the following acts:
 - (a) examine the documents of each case lodged under the DSA between October 2018 and September 2023.
 - (b) make public statements officially regarding the number of cases filed under DSA, the number of accused charged, arrested, and detained under DSA and the state of these cases including how many of the accused have been denied bail by the court.
 - (c) examine whether the police adhered to all legal procedures and norms in investigating and filing reports before the courts.
 - (d) examine and make reports on the harassment and sufferings of the pre-trial detainees.
 - (e) to recommend, where appropriate, that the victims of the DSA, particularly those who endured detention unlawfully, receive compensation.

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