

WHAT'S HAPPENING

ALI RIAZ

Trends and patterns
of the use of the
Digital Security Act 2018
in Bangladesh



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Cover Photo : **Sony Ramany**

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I. INTRODUCTION

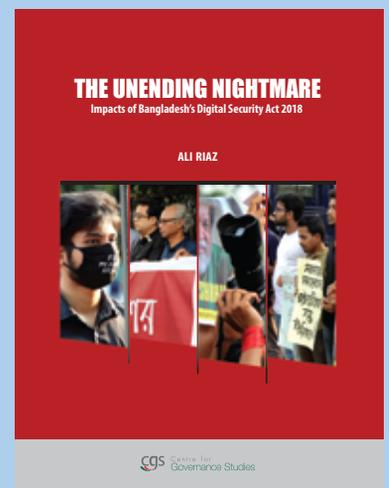
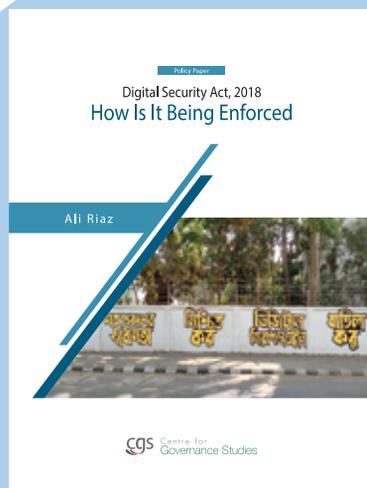
October 8, 2022 marked the completion of four years of the Digital Security Act 2018 (DSA), a legislation claimed to be enacted to provide cybersecurity to citizens of Bangladesh. The government asserted during the enactment of this law and insists that this law is akin to cybersecurity laws of many other countries. Despite occasional acknowledgments of abuse of the law, government officials, cabinet ministers and ruling party leaders contend that the law has been effective in addressing cybercrimes. However, national and international human rights organizations, and organizations which track press freedom, have been critical of the nature and scope of the law since it was proposed in early 2018. In the past years, various organizations and independent analysts have demonstrated that the law has stifled freedom of expression and muffled critical voices. They argue that the law has become the weapon of choice of the government and activists of the ruling Bangladesh Awami League (BAL) to silence its opponents. The vagueness of various provisions of the law has engendered widespread usage. Many consider the law a flagrant violation of the fundamental rights enshrined in the Constitution of Bangladesh, and Bangladesh's responsibility under the International Covenant on Civil and Political Rights (ICCPR).

It is against this backdrop that this report focuses on the trends and patterns of the use of the DSA between October 8, 2018 and August 31, 2022. Data have been gathered under the project "DSA Tracker" of the Centre for Governance Studies (CGS). This report builds on and updates data of two previous reports of the project, published in April 2021 and April 2022. The former report, titled "Digital Security Act 2018: How Is It Being Enforced" analyzed data gathered between January 1, 2020 and March 25, 2021. The latter report titled "The Unending Nightmare: Impacts of Bangladesh's Digital Security Act 2018" presented the analysis of data gathered between January 1, 2020 and February 28, 2022.

The CGS research project was initiated in early 2020 to gather information about various aspects of the Digital Security Act 2018, particularly the impact of the law. Under this project, information about cases, detentions, and legal proceedings under the Digital Security Act was gathered. These data were gathered from government-approved print and electronic media, the accused or their family and friends, the lawyer of the accused, and police stations and other concerned departments. The data are presented and regularly updated at the website: <https://freedominfo.net/>.

After the publication of two reports which compiled data from the inception of the project, we have taken a deep dive into the data about the DSA's use from the day it came into effect on October 8, 2018. This allows us to provide a comprehensive picture of the use of the DSA and compare the pattern over the past 47 months. This report provides the comparisons of various years and data about various categories such as the numbers of cases, accused, detained, age of the accused and detained. It also delves into the professions of the accused and detained individuals. We have gathered and analyzed data regarding the workplace of

journalists who have been accused and detained. As mentioned before, the law has become a weapon of the government and ruling party supporters; consequently, we have examined the identities of accusers. Broadly, there are two kinds of accusers: government agencies and individuals. In the case of individuals, their professions and political affiliations have been explored. Our report highlights a disturbing aspect: the use of the DSA against those who allegedly defamed the Prime Minister, cabinet ministers and politicians, particularly of the ruling Bangladesh Awami League (BAL). Additionally, the project examines various articles of the DSA which are widely used and focuses on who have been targeted through these provisions. In the context of the growing use of Facebook, the DSA has been used against Facebook users, the extent of which is documented in this report.



II. THE CONTEXT AND LINEAGE OF THE DSA

The government of Bangladesh enacted the Digital Security Act (DSA) in 2018 in two contexts –significant domestic and foreign criticism of the Information and Communication Technology Act 2006 (amended in 2013) and the upcoming parliamentary election. Analyzing both the context and the use of the vague provisions of this Act, it can be seen that the Act was framed as an alternative to the ICT Act to stifle dissenting voices ahead of the upcoming elections (See. “Unending Nightmare”, pp.6-9).

As the existing law could not properly address growing cybercrimes and regulate emerging e-commerce, the BNP government passed the ICT Act in 2006, which was later significantly amended by the Awami League government in 2013 with the inclusion of significant punitive measures in the controversial Section 57. This amendment included several vague definitions and identified these offenses as cognizable. It restricted bail and allowed arrests without warrants. These changes came at a time when the then-opposition Bangladesh Nationalist Party (BNP) was agitating for a caretaker government and announced a boycott of the upcoming 2014 elections unless the caretaker provision to oversee national elections is reinstated in constitution. The provision was scrapped by the Bangladesh Awami League-led parliament in 2011. Until the amendment was made in 2013, in seven years (2006 to 2013), 426 cases were filed under this Act, but in the following five years the number increased more than 1.5 times (as of 2018, 676 cases). In 2015, when authors and academics filed a petition in the High Court under Article 39, the High Court sought a response from the government, but the government did not respond. But later, when various national and international organizations heavily criticized this law, especially the controversial Article 57, and demanded the repeal of this law, the government started the process of enacting the Digital Security Act as an alternative law in the middle of 2017. In early 2018, as the new Digital Security Act was being discussed apprehension was that the number of cases would increase if the Digital Security Act were introduced (Riaz 2018).

The second context in which the DSA was enacted in 2018 was political unrest and the upcoming parliamentary elections. Before passing this Act, the government had promised to repeal all the controversial sections: 54, 55, 56, 57, and 66 of the ICT Act, but after the Act was repealed, it was found that the controversial sections were divided into different parts in the new Digital Security Act. International organizations like Reporters Without Borders (RSF) and Human Rights Watch (HRW) criticized the law. Also, Amnesty International pointed out in November that ‘the new Act is deeply problematic’ (Amnesty International 2018). But the government did not take it into account. Even after meeting with the journalist community, two ministers of the government assured that they would consider the concerns of journalists and would offer amendments. Minister of Posts, Telecommunications and Information Technology, Mustafa Jabbar, assured that “We are going to bring necessary amendments, so the freedom of press does not get hampered” (Dhaka Tribune 2018a). But after passing the law, they did not keep their word. In a statement on September 17, 2018, the editors' council expressed “surprise and disappointment” (Dhaka Tribune 2018b). As before, this Act also restricted bail and empowered law enforcement forces to arrest without a warrant.

Every year since the enactment of this law, the number of cases under this act has increased, but the Prime Minister and other ministers of the country have repeatedly assured that there will be no misuse of it. But by September 2020, two years after the law was enacted, the number of cases under the law had risen to more than 1,000 (Asaduzzaman 2020), and the number kept on rising exponentially.

III. DEFINING FEATURES OF THE DSA

The DSA provided the government absolute power to initiate investigations into anyone whose activities are considered a 'threat' by the government. The Act provides law enforcement agencies power to arrest without a warrant, simply on suspicion that a crime has been committed using social media. It gives police the power to search and seize without any warrant or oversight. Also, the Act allows 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 have been raised about nine sections of the law, which have been described as detrimental to freedom of speech; these sections are 8, 21, 25, 28, 29, 31, 32, 43 and 53. It has been argued that these sections are unclear and many of its terms are not defined properly. Out of the 22 provisions of the law that deal with offences and punishments, 14 are non-bailable. Five are bail-able and one can be negotiated. The lowest punishment is one year in prison and the highest is a life-term, but most are in the range of between four and seven years. These have been viewed by editors and journalists as a recipe for creating a climate of fear. The non-bailable provisions of the law practically allow the accused to be detained for indefinite periods before the trial.



IV. A DISTURBING ASPECT

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. But the DSA cases warrant our attention because many of the accused are detained without trial. Since the police can detain someone without a warrant, in many instances, cases are being filed after the arrest. As such, the accused only comes to know of the allegations after being detained. Non-bailable provisions continue to keep them in jail for an indefinite period.

The law, on paper, provides a measure which should prevent such a plight for the accused. 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 over the past four years, we have seen that in many cases, even if the investigation report is not given within the stipulated 75 days, the accused is still in custody and effectively being punished before the trial.

V. THE BIG PICTURE

The project has recorded 1,109 cases filed under the DSA between October 2018 and August 2022. These cases have 2,889 individuals accused, of whom 1,119 persons were arrested. Mushtaq Ahmed, an author and social activist, died while being detained for ten months in February 2021.

The number, while significantly large, does not include all the cases filed nor all the people accused. This is because law enforcing agencies decline to provide statistics regarding the cases and the accused. Efforts, even under the Right to Information law, have reached a dead end (see "Unending Nightmare", pp.11-12). A veil of secrecy has been created around the information of cases and accusations under the DSA since its introduction in October 2018. The data from the cyber-tribunal only reflects the cases which have reached their dockets and are in the process of being tried. As such, these numbers represent a small portion.

Most of the cases, we observed, have more than one accused. Many of these arrestees have later secured temporary bail, but some are still lingering in jails as a pretrial detainee. In the absence of information from the government, we do not know how many people are

facing this ordeal. The continued detention of the accused is within the purview of the law as 14 sections of the law are non-bailable. In the case of any non-bailable law, the court can grant bail to an accused if it so desires. That is why some of the accused have been granted bail under this Act while many have not. Securing bail is not an easy task. Several cases have shown that the accused's bail petition has been refused by the court several times. Mushtaq Ahmed was denied bail by the courts at least six times. The increase of cyber-tribunals from one to eight, with one in each administrative division, has neither expedited trials nor helped the accused to get bail quickly.

As for the professions of the accused, we identified the professional identities of 1,029; among them are politicians, journalists and students who constituted the largest numbers; they were – 301, 280 and 106 respectively. Consequently, people of these professions were arrested in larger numbers; of the 423 arrestees that we could gather information, about 92 were politicians, 84 were journalists and 76 were students. As for the teachers, of the 51 accused, 38 were arrested; 16 of these arrestees were madrassah teachers.

These cases were filed by both the government and individuals. We could identify accusers in 636 cases. Law enforcing agencies and government officials filed 192 cases, 249 cases were filed by individuals with direct affiliations with political parties. Of these politically connected individuals, 198 belonged to the ruling Bangladesh Awami League (BAL), a staggering 80% of all individuals who had political affiliations.

In the past four years, the law has been widely used alleging that individuals have defamed the Prime Minister, other ministers and politicians. Our database shows that 140 cases have been filed alleging that the PM has been defamed. In these cases, 210 individuals have been accused and 115 were arrested. Of these 140 cases, 21 were filed by law enforcing agencies, 119 cases have been filed by individuals. Of them, we have been able to identify the political affiliations of 64 individuals, all belonged to the ruling Bangladesh Awami League and its associate organizations.

In a similar vein, 64 cases have been filed accusing 130 individuals of defaming various ministers. Of these cases, only four were filed by law enforcing agencies and six by the aggrieved ministers and his or her family members. The remaining 54 cases were filed by those who had no connections to the aggrieved party and who claimed that their feelings had been hurt. At least 51 individuals were arrested of the total 130 accused.

Cases alleging that individuals have defamed politicians have followed a similar pattern. Until August 2022, 168 cases were filed accusing 470 persons. Of these, five cases were filed by law enforcement agencies, 69 cases were filed by aggrieved politicians, while 94 were filed by his/her supporters. At least 120 individuals were arrested.

In recent years, with growing access to the internet, social media, particularly the use of Facebook, has grown exponentially. It has also become an avenue for expressing discontent against social ills and government policies. It is in the context that the DSA has been used as an instrument to silence contrarian voices. Our data show that 698 cases have been filed

against 1489 individuals for posts and comments on Facebook; of these 698 cases, 115 have been filed for hurting religious sentiments, accusing 177 individuals.

Of the 22 sections of the DSA dealing with offenses and penalties, four were the most widely used; they are – 25, 29, 31 and 35. A total of 163 cases were filed under Section 25, where 497 were accused and 112 arrested. Under Section 29, at least 162 cases were filed, 427 accused, and 76 arrested. Under Section 31, at least 105 cases were filed, 256 were accused, 70 were arrested. Under section 35, at least 113 cases were filed, total accused were 518 and 114 arrested.

(A further breakdown of the data and discussions is in Section VII of the report.)





VI. TRENDS AND PATTERNS

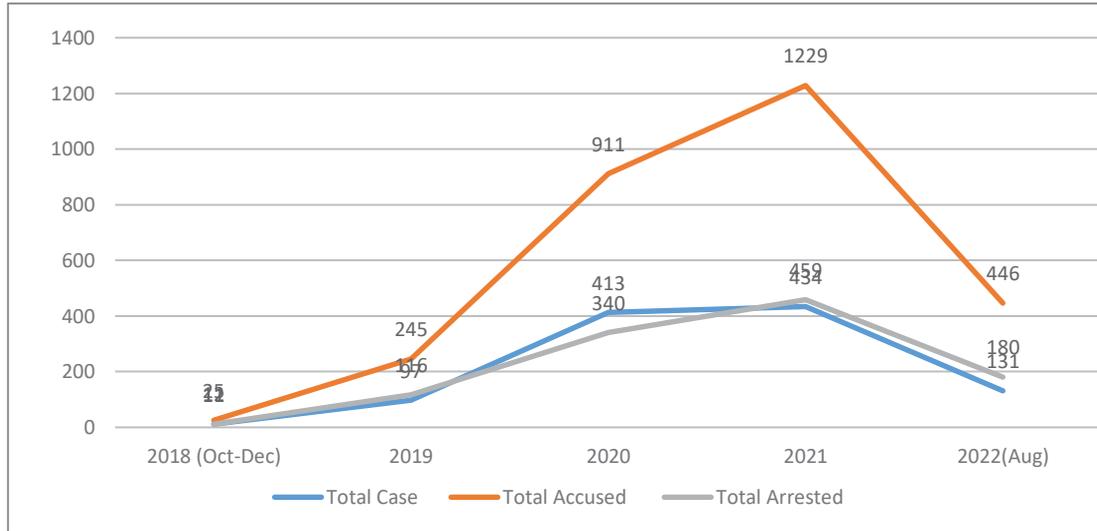
In the data gathered over the past 47 months, a few trends and patterns have emerged.

During this period, on an average per month, 23.59 cases have been filed, 61.46 persons have been accused, and 23.80 persons were arrested. Within this period, the largest number of cases were filed in 2021- per month average was 36.16 cases; 102.41 persons accused, and 38.25 persons arrested. The number of cases has declined in 2022 (until August). Per month the average cases were 16.37, average accused were 55.75 and arrests were 22.50. 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).

Table 1: Number of cases, accused, and arrests, Oct 2018 – Aug 2022

Year	Total Case	Monthly Average	Total Accused	Monthly Average	Total Arrested	Monthly Average
2018	12	4.0	25	8.33	11	3.66
2019	97	8.08	245	20.41	116	9.66
2020	413	34.41	911	75.91	340	28.33
2021	434	36.16	1229	102.41	459	38.25
2022	131	16.37	446	55.75	180	22.50
Year Not Specified	22		33		13	
Total	1109	23.59	2889	61.46	1119	23.80

Figure 1: Number of cases, accused, and arrests, Oct 2018 – Aug 2022



As mentioned previously, politicians and journalists have been professionals who have faced a significant number of cases in the past 47 months (Table 2 and Table 3).

Table 2: Cases, accusations, and arrests of politicians, Oct 2018 – Aug 2022

Year	Total cases	Total Accused	Total Arrested
2018	3	6	0
2019	7	9	6
2020	50	102	32
2021	84	141	43
2022	15	40	9
Not Found/Specified	2	3	2
Total	161	301	92

Table 3: Cases, accusations, and arrests against journalists, Jan 2019 – Aug 2022

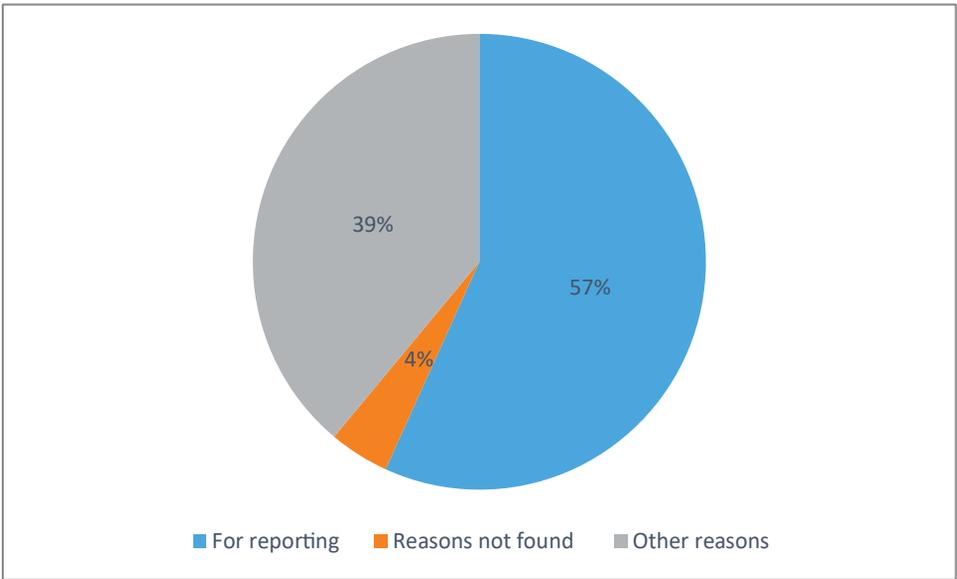
Year	Total cases	Total Accused	Total Arrested
2019	26	45	21
2020	50	100	34
2021	40	88	20
2022	12	32	3
Not Found/Specified	10	15	6
Total	138	280	84

Journalists were accused of various violations. We attempted to find out how many of these instances were related to their professional duties (Table 4).

Table 4: Reasons for accusation against journalists, Oct 2018 – Aug 2022

Accused journalists	For reporting	Reasons not found	Other reasons
280	159	12	109

Figure 2: Reasons for accusations against journalists, by percentage, Oct 2018- Aug 2022



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 (until August), 33 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 5).

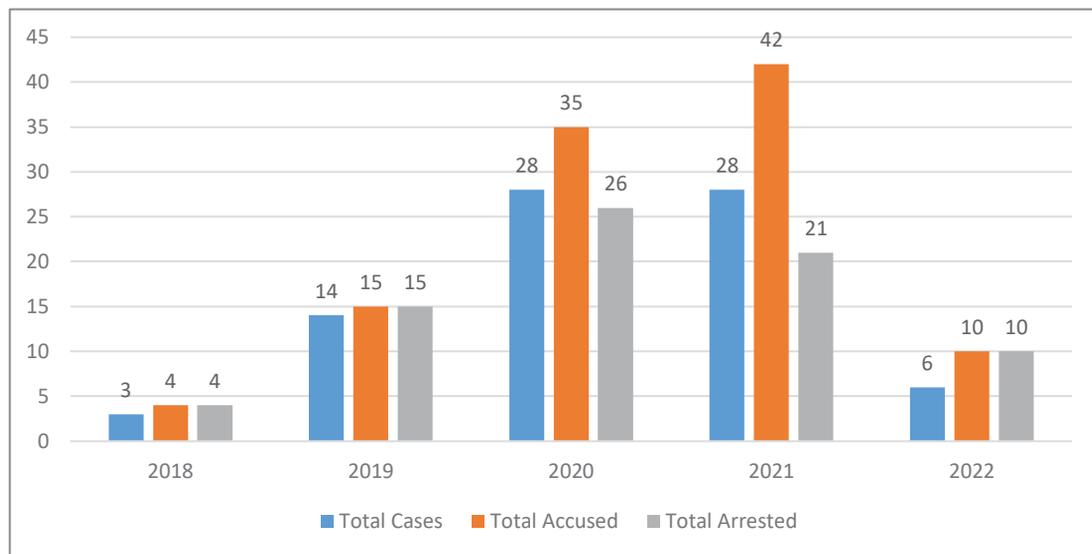
Table 5: Year-wise number of journalists accused for reporting, Jan 2019 – Aug 2022

Year	Number
2019	27
2020	70
2021	24
2022	33
Not Found/Specified	5
Total	159

Note: Data shows that there were no cases filed against journalists in 2018.

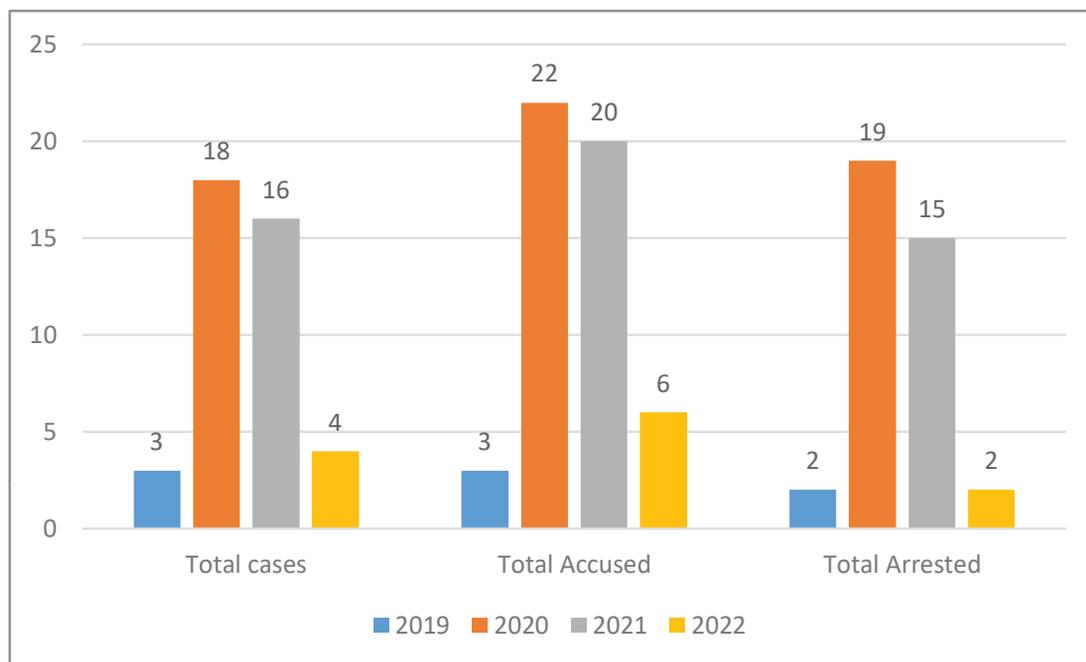
Students are the third highest number of accused persons according to our data. The year-wise breakdown shows that both 2020 and 2021 were years when students faced a large number of cases (Figure 3).

Figure 3: Cases, accusations, and arrests of students, Oct 2018 – Aug 2022



As for the teachers, 41 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 4).

Figure 4: Cases, accusations, and arrests of teachers, Jan 2019 – Aug 2022



Of these teachers, a total of 19 madrassah teachers were accused; 18 of them were accused in 2020 and 2021, 15 of them were arrested.

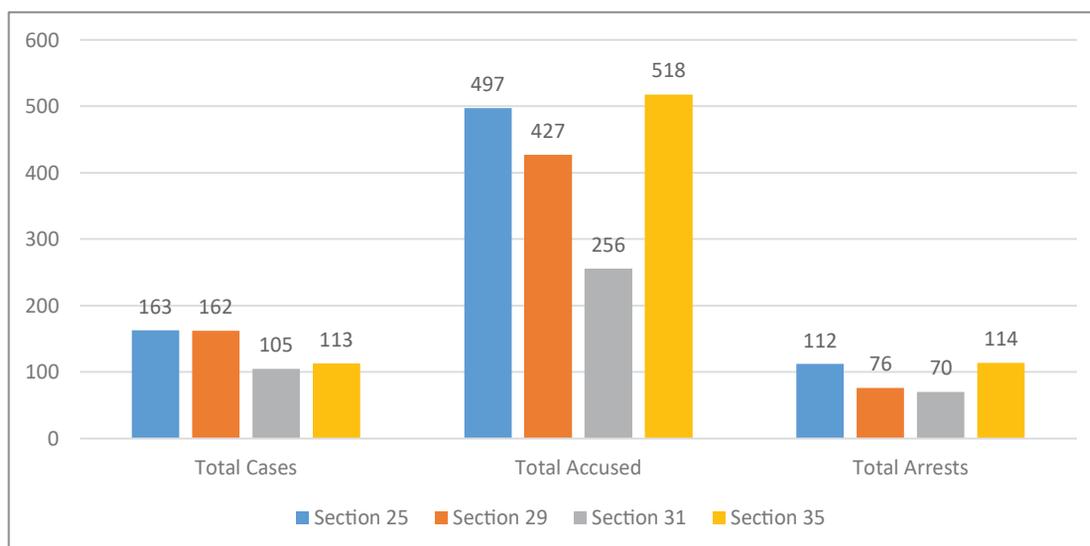
One of the key highlights of the use of the DSA is by ruling party activists against private citizens and opposition political leaders and activists. As mentioned previously, during this period, among the cases filed, we could identify 198 cases filed by ruling party activists/leaders accusing 490 people (Table 6).

Table 6: Cases filed by ruling party activists and the number of accused, Oct 2018 – Aug 2022

Year	Total cases	Total Accused
2018	6	12
2019	16	40
2020	75	215
2021	82	163
2022	19	60
Total	198	490

These data show that in the past 47 months, ruling party activists have filed 4.21 cases every month, and each case had an average of 2.4 persons accused; or in simple words, every week a case has been filed by a BAL activist against more than two persons for almost four years under one law. These cases were in addition to the cases filed by law enforcement agencies and government officials. Of the 636 cases where we identified the accusers, 192 were filed by agencies and officials; that is, on average 4.08 cases per month. This shows how pervasive the use of the law has become since it was introduced and how government agencies and party activists have used the law against people they dislike.

Figure 5: Cases, accused, and arrests under Sections 25, 29, 31 and 35, Oct 2018 – Aug 2022



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 6, 7 and 8) show the annual trends on the use of these four sections.

Figure 6: Number of cases under four sections, Oct 2018 – Aug 2022

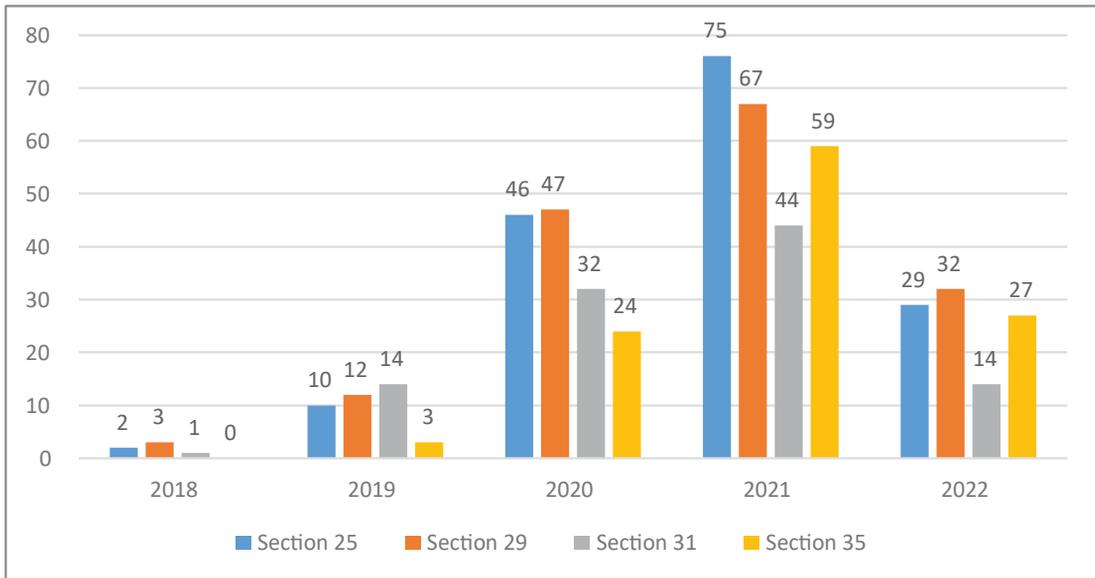


Figure 7: Number of accused under four sections, Oct 2018 – Aug 2022

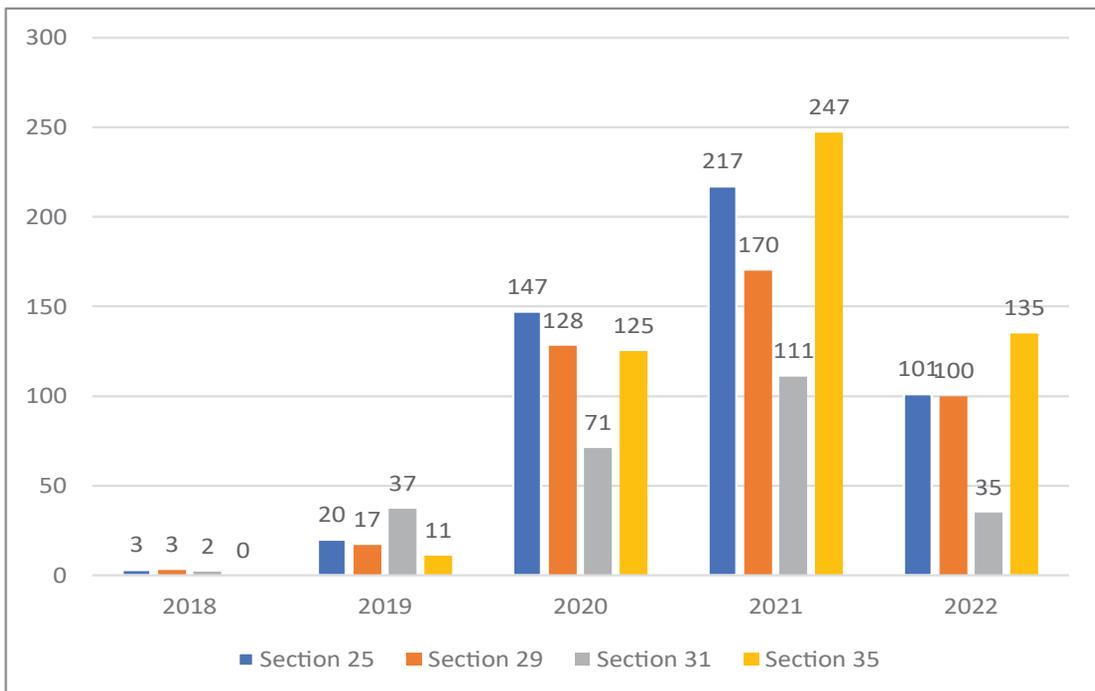
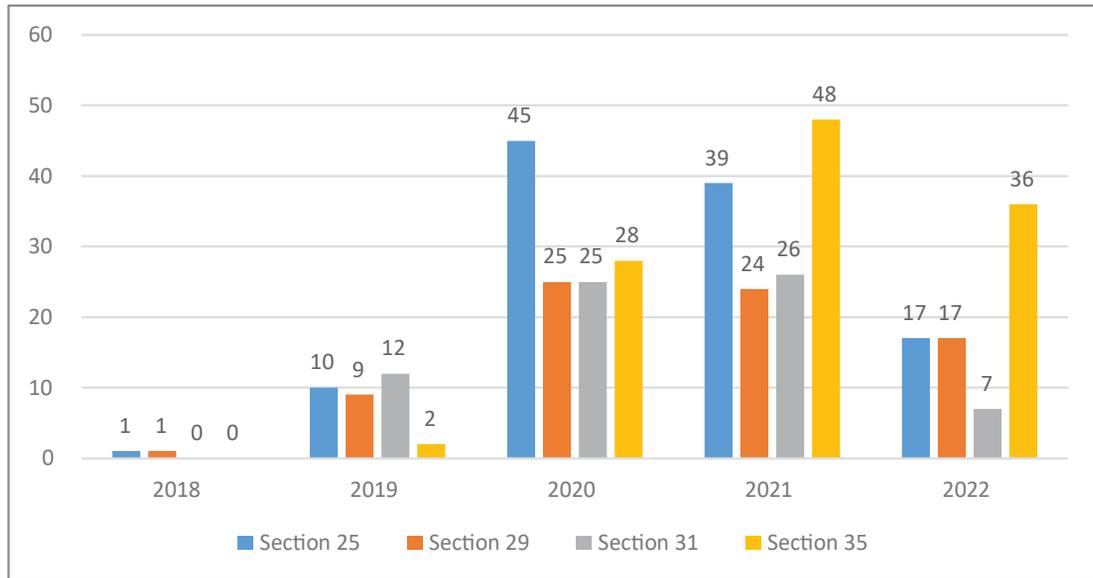


Figure 8: Number of arrests under four sections, Oct 2018 – Aug 2022



Although the DSA came into effect in October 2018, no cases alleging defamation of the PM were filed until January 2019. By then, the controversial 2018 election was held. The year-wise disaggregated numbers of the 140 cases filed for allegedly defaming the Prime Minister are the following (Table 7).

Table 7: Year-wise cases for defaming Prime Minister, Jan 2019 – Aug 2022

Year	Number of Cases
2019	12
2020	57
2021	59
2022	12
Total	140

In 2018, in three months, only one case was filed alleging defamation of a minister (Table 8).

Table 8: Year-wise cases for defaming ministers, Oct 2018 – Aug 2022

Year	Number of Cases
2018	1
2019	5
2020	34
2021	16
2022	8
Total	64

As for politicians, like others, the year 2020, was the worst since the DSA came into effect in October 2018 (Table 9).

Table 9: Year-wise cases for defaming politicians, Oct 2018 – Aug 2022

Year	Number of Cases
2018	2
2019	19
2020	63
2021	61
2022	22
Not Specified	1
Total	168

VII. WHAT DO WE KNOW?

This section of the report provides detail data regarding various aspects of the use of the DSA between October 2018 and August 2022.

Who is being accused, who is being detained?

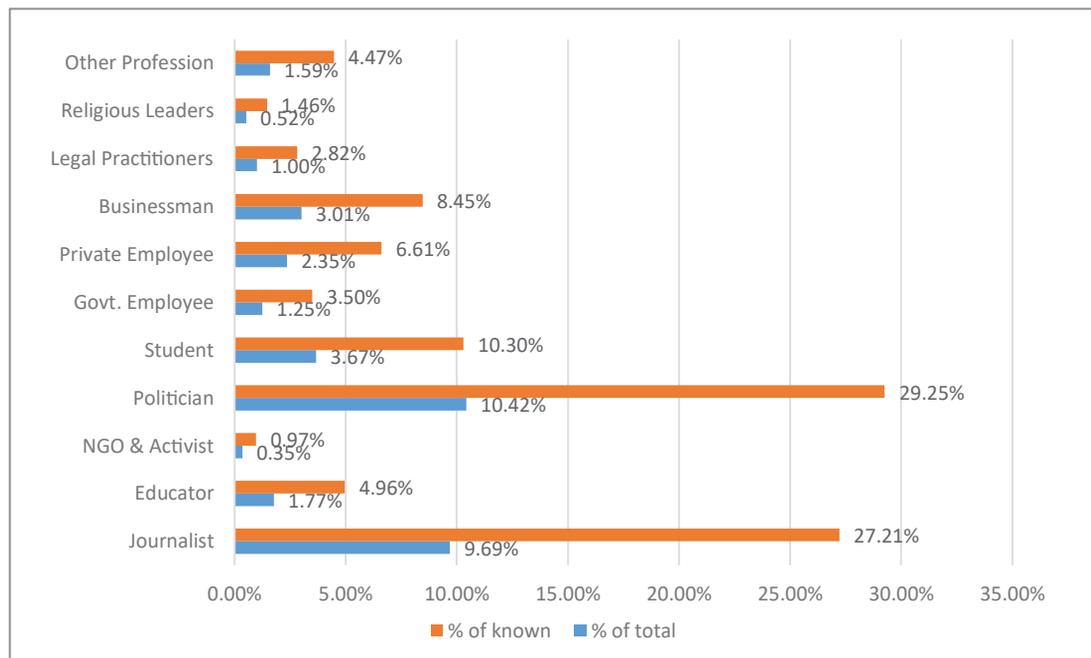
Between October 2018 and August 2022, at least 2889 individuals have been accused under the law in 1109 cases. We have been able to gather information about the occupations of 1029 people. The breakdown of their professions is as follows (Table 10).

Table 10: Professions of the accused, Oct 2018 – Aug 2022

Professions	No
Journalist	280
Educator	51
NGO & Activist	10
Politician	301
Student	106
Govt. Employee	36
Private Employee	68
Businessman	87
Legal Practitioners	29
Religious Leaders	15
Other Profession	46
Profession Not Found	1860

According to this information, of those whose professions that are known, 29.25 percent are politicians, and 27.21% are journalists. Of the total accused, they constitute 10.42 percent and 9.69 percent, respectively (Figure 9).

Figure 9: Professions of the accused by percentages of known information, Oct 2018 - Aug 2022



Note: 'Other profession' refers to the professions that are not listed under the specified professions above; 'profession not found' consists of the people that were unnamed, and their professions are not available.

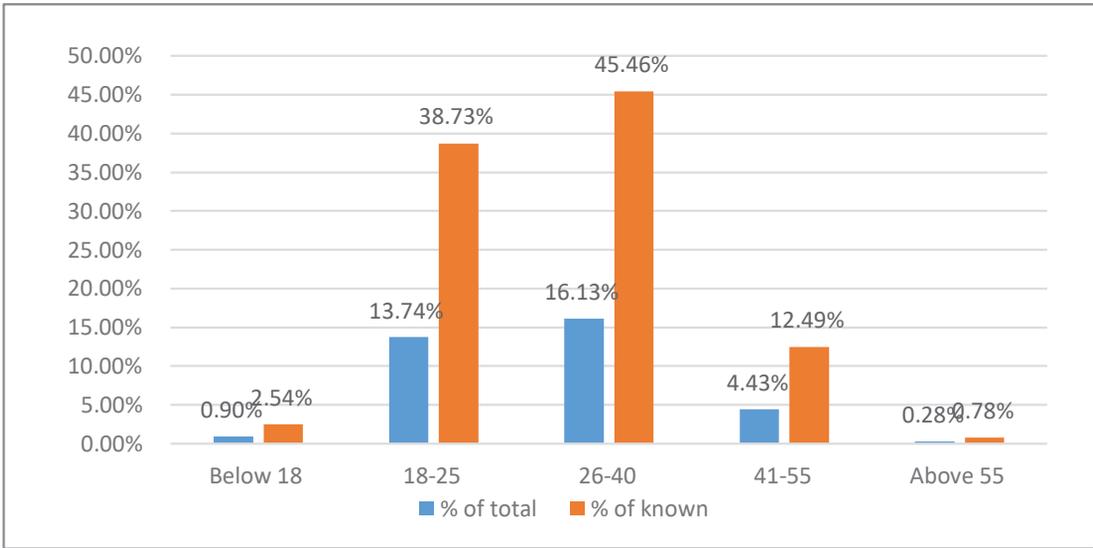
In our previous report in April 2022, the data showed that the shares of politicians and journalists were on top of the list, with 30.98 percent and 25.24 percent of the accused whose professions were known, respectively. The pattern has held, but the share of individuals in both professions has increased significantly.

We have been able to gather information about the age of 1025 accused. Of these, 26 are below the age of 18. This is a disturbing development because it clearly shows that children have continued to remain vulnerable to the unrestrained use of the law. Overall, almost 84.2 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, 397 and 466, respectively (Table 11). Their shares are respectively 38.73 percent and 45.46 percent (Figure 10).

Table 11: Age of the accused, Oct 2018 – Aug 2022

Age group	No
Below 18	26
18-25	397
26-40	466
41-55	128
Above 55	8
Age Not Found	1864

Figure 10: The percentage of age of the accused, Oct 2018 – Aug 2022

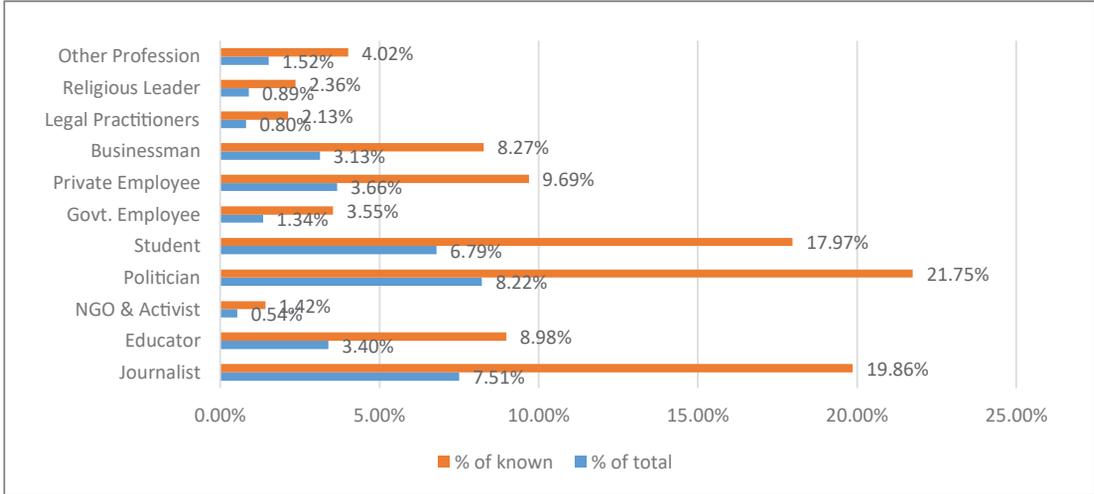


Our database has the record of 1119 individuals who have been arrested under the law over the period between October 2018 and August 2022. From various sources, we gathered occupational information of 423 people. Of them, 92 were politicians, 84 were journalists and 76 were students (Table 12), that is 21.75 percent, 19.86 percent, and 17.97 percent, respectively (Figure 11). The share of journalists among the arrestees has increased compared to our previous study period (January 2020 – February 2022), when it was 18.73 percent.

Table 12: Professions of the arrestees, Oct 2018 – Aug 2022

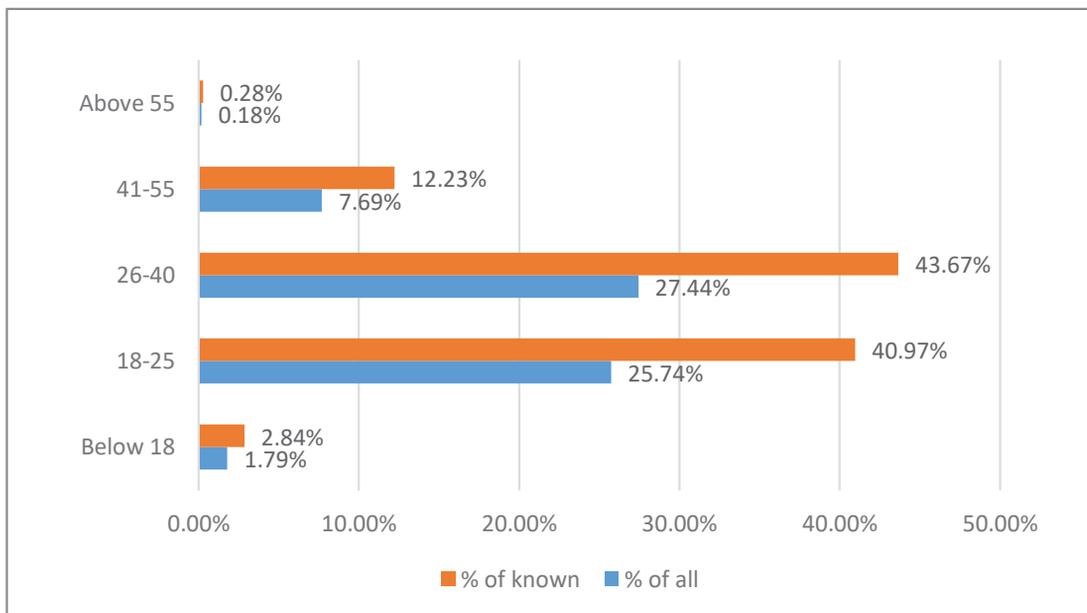
Professions	No
Journalist	84
Educator	38
NGO & Activist	6
Politician	92
Student	76
Govt. Employee	15
Private Employee	41
Businessman	35
Legal Practitioners	9
Religious Leader	10
Other Profession	17

Figure 11: Percentage of professions of the arrestees, Oct 2018 – Aug 2022



Among those who have been arrested (1119 individuals), we succeeded in confirming the age of 703 persons. Among them, 20 were underaged. The number was twelve when we analyzed the data in April 2022, covering information gathered between January 2020 and February 2022. As we mentioned regarding the underaged being accused, it is deeply disconcerting. The largest number of people arrested belonged to the 26-40 age group (307), followed by the 18-25 (288) age group. The third largest age group is 41-55 (86). Percentage-wise, 43.67% of the known arrestees are within the 26-40 group, and 40.97% are in the 18-25 age group (Figure 12).

Figure 12: The age group of the arrestees, Oct 2018 – Aug 2022



Journalists as victims

In a 47-months period, 280 journalists have been accused. Among them, we have details about 253 journalists' media affiliations – 109 are associated with national level media, and 144 are local journalists. Of the 280 journalists, a majority are associated with the print media – a total of 132, almost half of the journalists whose workplace has been identified. The second highest number of journalists are associated with online media – a total of 88. Online media journalists from outside Dhaka have been the largest number of victims – 82 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 84 journalists who have been detained, 42 were local journalists. It is the print media journalists who were detained the most – 43, this is more than half of the total arrested journalists (Table 13).

Table 13: Workplace and medium of accused and detained journalists, Oct 2018 – Aug 2022

		Accused	Detained
National Journalists	Electronic Media	31	9
	Print Media	72	19
	Online Media	6	2
Local Journalists	Electronic Media	2	1
	Print Media	60	24
	Online Media	82	17
Not Specified		27	12
Total		280	84

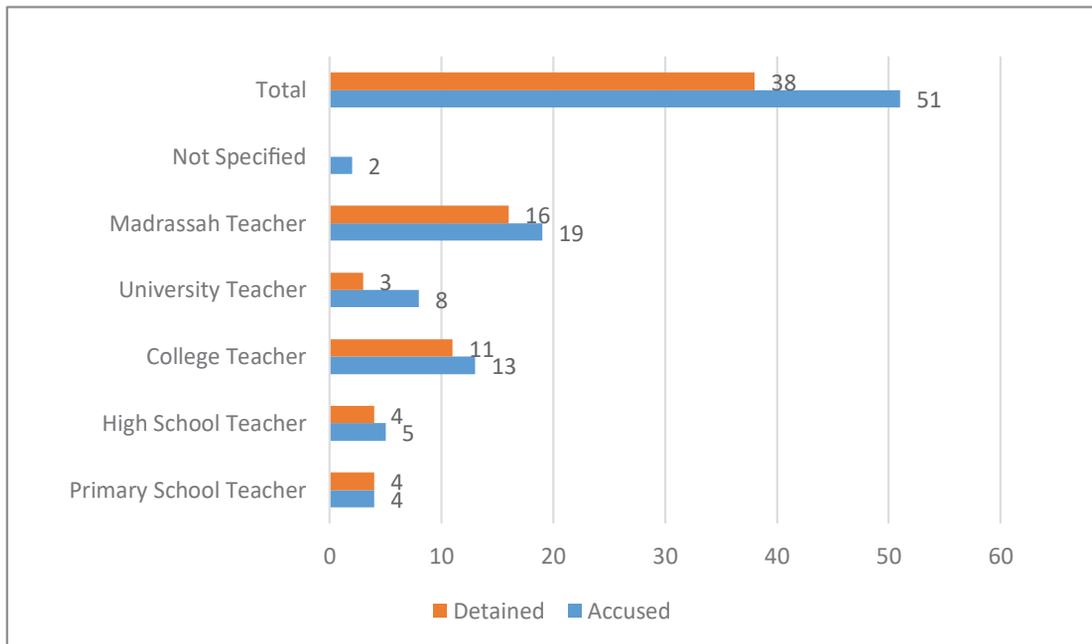
These 280 journalists have been accused in 138 cases, filed by 138 people. Among these 138 accusers, 76 are aggrieved parties, while 44 individuals who haven't been directly affected by the news or any other actions of these journalists filed cases. We have explored the political identities of these accusers and found that 27 of them belong to the ruling party and its affiliates. Of them, 13 belong to the Bangladesh Awami League, six of them belong to the Student League, six of them are members of the youth front, and two are members of the Swechasebak (Volunteer) League. In many instances, these journalists are alleged to have violated more than one section of the DSA. However, 54 journalists are accused of a breach of Section 25, and 61 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." Two other sections of the law have been used against the journalists – section 31 (18 cases, 27 accused); and section 26 (10 cases, 27 accused).

Educators as victims

Our overall data showed that 51 educators have been accused; we gathered that 38 of them were arrested. Among the accused, madrassah teachers constitute the largest number, 19 and they, along with the 13 college teachers – have the highest number being detained. Altogether eight university teachers have been accused while three of them have been arrested (Figure 13). It is notable that of the accused, 37.25 percent were madrassah teachers; in the previous report we mentioned that the share was 41.46 percent. In the case of detention, the share of the madrassah teachers is 42.10 percent and college teachers is 28.95 percent. Our data show that the rate of arrests of educators is far greater than in any other profession – 74.51 percent of accused educators have been arrested during this period; in the case of primary school teachers, the rate is 100 percent.

Figure 13: The workplace of accused and detained educators, Oct 2018 – Aug 2022



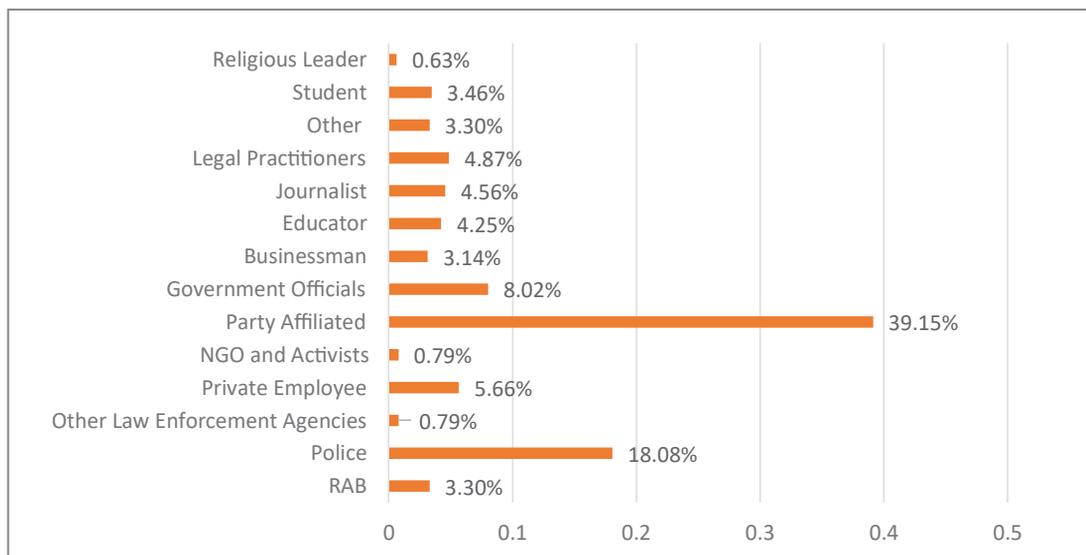
Who are the accusers?

Of the 1109 cases in our database, the identities of accusers of 636 cases have been revealed. The breakdown shows that 141 cases have been filed by law enforcement agencies, and 51 cases have been filed by government officials. Considering that all of these have the government's explicit and implicit approval, a total of 192 cases have the blessing of the authorities. After excluding the five cases filed by NGOs, the number of cases filed by individuals stands at 439. 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 14). The share of law enforcement agencies filing cases is 22.17 percent; this has increased from 21.85 percent of cases reported in April 2022. Altogether, the share of cases filed between October 2018 and August 2022 with the blessing of authorities is 30.19 percent. Among the cases filed by individuals, 249 cases have been filed by individuals with affiliations with political parties – a staggering 39.15 percent.

Table 14: Identities of accusers, Oct 2018 – Aug 2022

Accuser	No
RAB	21
Police	115
Other Law Enforcement Agencies	5
Private employee	36
NGO and activists	5
Party Affiliated	249
Government Officials	51
Businessman	20
Educator	27
Journalist	29
Legal Practitioners	31
Other	21
Student	22
Religious Leader	4
Identity could not be ascertained	473
Total	1109

Figure 14: Identities of accusers by percentages, Oct 2018 – Aug 2022

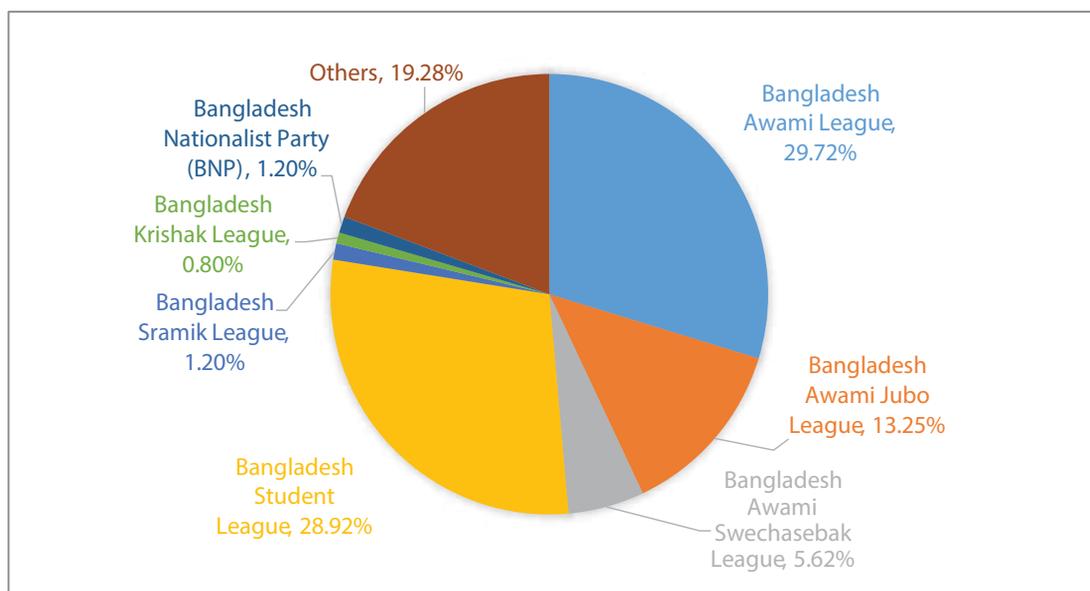


Of those who are affiliated with political parties, 198 of them or 79.51 percent are directly involved with the ruling Bangladesh Awami League (BAL); this is almost the same share from April 2022. As such, the ruling party activists have not been deterred by public criticisms that have been in the press about this phenomenon.

Table 15: Political identities of individual accusers, Oct 2018 – Aug 2022

Political Identities of individual accusers	No
Bangladesh Awami League	74
Bangladesh Awami Jubo League (Youth front)	33
Bangladesh Awami Swechasebak League (Volunteers front)	14
Bangladesh Student League	72
Bangladesh Sramik League (Worker's front)	3
Bangladesh Krishak League (Farmer's front)	2
Bangladesh Nationalist Party (BNP)	3
Others	48
Total	249

Figure 15: Percentages of political identities of the accusers, Oct 2018 – Aug 2022



Among the accusers, we have been able to identify 42 individuals who hold elected positions at various national and local levels, which include seven members of the parliament (Table 16).

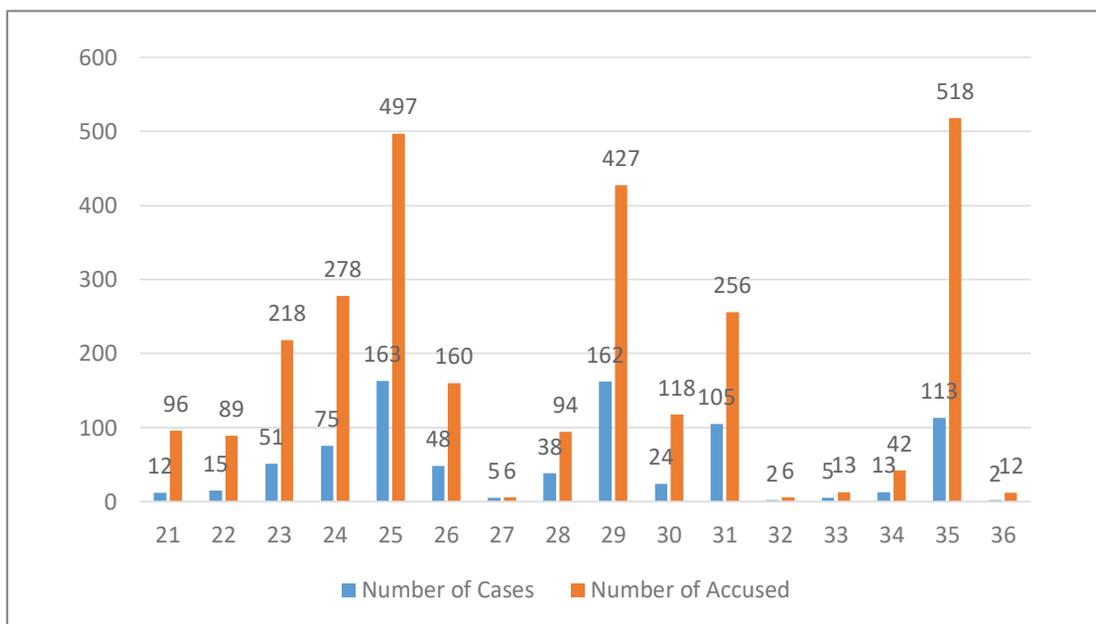
Table 16: Elected representatives as accusers, Oct 2018 – Aug 2022

Categories of Elected Representatives	Number
MP	7
City Mayor	6
Municipality Panel Mayor	1
Ward Councilor	11
Chairman of Union Parishad	11
Chairman of Upazila Parishad	4
Vice Chairman of Upazila Parishad	2
Total	42

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 16).

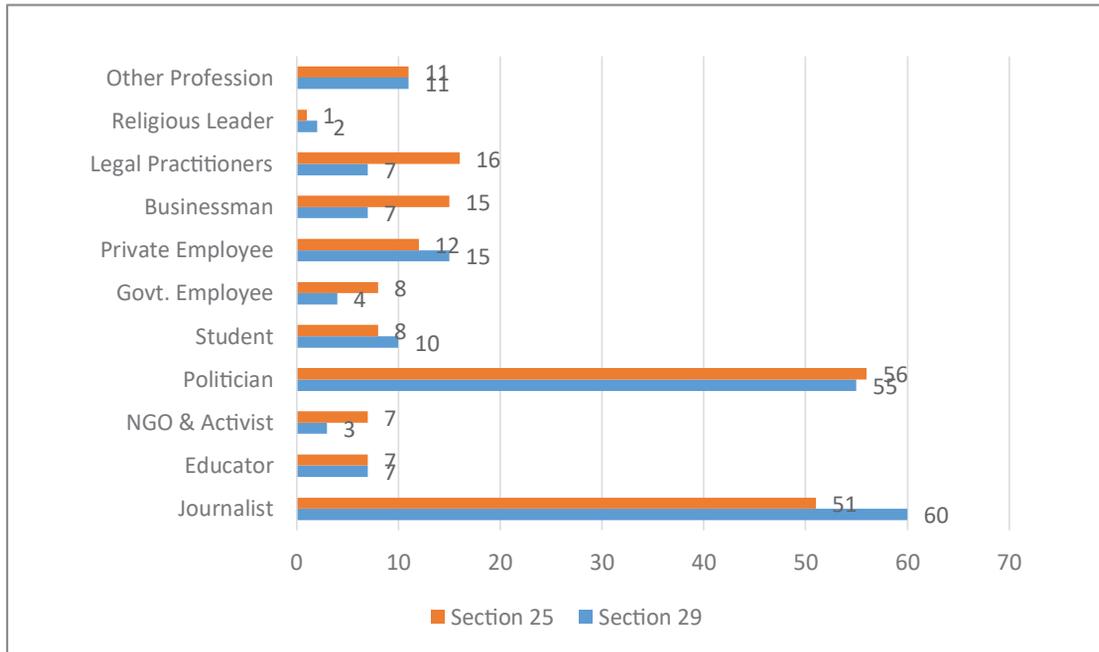
Figure 16: How many cases under which section, Oct 2018 – Aug 2022



Section 25 has been used in the most instances (163), followed by Section 29 (162). However, more people have been accused under Section 35 (518). 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.

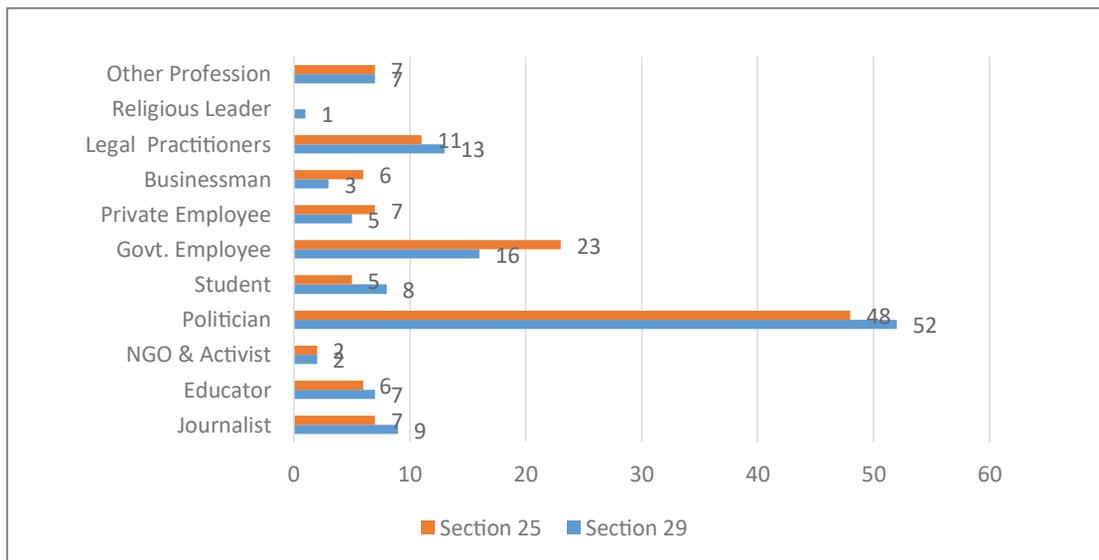
We have explored the professional identities of the accused under these two sections. Of the 427 accused in 162 cases under Section 29, 181 individuals have been identified by their professions. Most of them are journalists – 60; followed by politicians – 55. Regarding Section 25, of the 497 accused in 163 cases, 192 have been identified; most of them are politicians (56), followed by journalists (51). (Figure 17).

Figure 17: Professional identities of accused under Section 25 and Section 29, Oct 2018 – Aug 2022



As for the accusers under these two sections, we identified the professional identities of 123 and 122, for Section 29 and Section 25, respectively. The accusers are overwhelmingly politicians in both instances. (See Figure 18).

Figure 18: Professional identities of accusers under Section 25 and Section 29, Oct 2018 – Aug 2022



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 August 2022. We found that 140 cases have been filed during this period alleging that the accused have defamed Prime Minister Sheikh Hasina. 21 of these cases were filed by law enforcing agencies, while 119 were filed by individuals. Sixty-four of these individuals belong to the ruling BAL and its affiliates. Among these organizations, the student wing of the party has filed 28 cases, Youth League members have filed eleven, Farmers' League has filed two, the Volunteer wing has filed two and the Sramik League has filed one. Our database records that 115 accused were arrested.

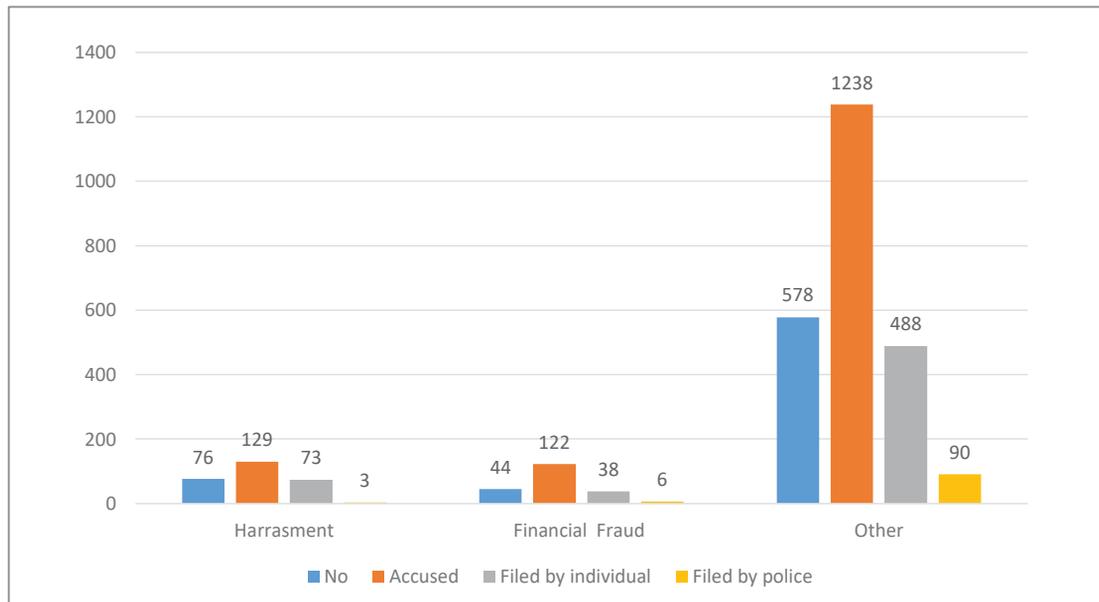
We found that 64 cases have been filed for allegedly defaming ministers. Law enforcing agencies filed four cases, and the aggrieved minister or his/her family members filed six cases; the remaining 54 cases were filed by other individuals. Thirty-two of these individuals have direct affiliations with the ruling party and its various wings. The members and leaders of the student wing of the party filed 17 cases. The BAL activists filed eight cases, while the youth league filed four and the volunteer wing filed three cases. These cases resulted in the arrests of 51 individuals.

At least 168 cases have been filed alleging defamation of political leaders, primarily of the ruling party. In 69 instances, it was the aggrieved parties who went to the police and/or court while five were filed by law enforcement agencies. His/her supporters filed 94 cases. All but three cases of these were filed by supporters of the Bangladesh Awami League (BAL); two cases were filed by Jatiya Party supporters, and one was filed by the BNP. 120 individuals were arrested because of these cases.

VIII. FACEBOOK: ALREADY PERILOUS, MORE TO COME?

Like elsewhere around the world, social media, particularly Facebook, has become immensely popular in Bangladesh and the number of Facebook users has increased significantly. According to Statista.com, Bangladesh had 44.7 million users in 2022. 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, on 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 2013, there have been scores of incidents where postings on Facebook or comments on social media have ended in individuals being tried and convicted. The Digital Security Act and its predecessor, the ICT Act, were used by individuals and government agencies in this regard.

Figure 19: Cases filed for Facebook posting, Oct 2018 – Aug 2022



The Bangladesh government has not hidden its desire to have control over social media, especially Facebook. In 2019, Posts and Telecommunications Minister Mustafa Jabbar told that the government has "plans to require its citizens to obtain licenses to use social media platforms such as Facebook and YouTube and has already installed software giving it the ability to remove online content" (Kham 2019). It was reported in the press in 2022, that the government has not backed down on its plan. The newly proposed law, called "Bangladesh Telecommunications Regulatory Commission Regulation for Digital, Social Media and OTT platforms", is meant to do so. It will require Facebook and YouTube to inform all their users in Bangladesh that they should not "display", "upload", "publish" or "share" content which "threatens friendly relations with friendly states" or "is insulting to a foreign nation" (Bergman 2022). Forty-five human rights groups objected to the proposed law in May 2022 (The Express Tribune 2022).

Even before harsher and more punitive measures are enacted, the use of Facebook has become perilous for Bangladeshis. During the period of our study, 698 cases have been filed against 1489 individuals for posts and comments on Facebook. We have divided these cases by the reasons cited in filing them into various categories and gathered data about the number of cases and the accused. Of these 698 cases, 76 cases have been filed for harassment (accused 129) and 44 cases for financial fraud via Facebook (accused 122). Of the remaining 578 cases, 115 cases have been filed for hurting religious sentiments, accusing 177 individuals (Figure 19). Further disaggregation of the cases involving hurting religious sentiments shows that 88 were for slandering and 27 were for provocation and spreading rumors through fake status or video, accusing 142 and 35 people, respectively.



IX. CONCLUSION

In August 2022, then United Nations High Commissioner for Human Rights, Michelle Bachelet, during her trip to Dhaka, expressed concerns about the use of the Digital Security Act 2018, along with other human rights abuses. She was neither the first person nor the last to express worries about the law being used improperly; in fact, human rights groups have described the law as 'draconian' and asked the Bangladesh government to repeal it. But all these have fallen on deaf ears. The law, in the past four years, has been used wantonly subjecting many innocent people to suffering. It is not only that cases have been filed and caused anguish to people, but many people have also been subjected to the threat of using the law against them by police, and individuals. In many instances, individuals threaten to use the law to settle personal scores; local ruling party activists use the law to create fear among opponents. It is also alleged that local police have used the threat of filing cases against individuals to extort money. These instances are seldom reported in the media due to the lack of evidence on the one hand and fear on the other.

Although, since late 2021, there have been some explicit and implicit acknowledgements by the ministers that the law has been abused. But they tend to diminish the scope of abuse by saying that these instances are small (Prothom Alo 2022; The Daily Observer 2022; Business Insider 2022). On the other hand, the government since December 2021 claimed that it has taken two steps to address the situation. The Law Minister said that Bangladesh has initiated a dialogue with the United Nations Office of the High Commissioner for Human Rights regarding 'best practices' and the second step is appointment of a monitoring cell within the Law Ministry. According to government sources, the monitoring cell will vet all cases before an arrest is made. Interestingly, neither civil society members nor journalists have been involved in these measures. But most importantly, there has not been any update about these steps while the number of cases has continued to increase. It appears to be window dressing measures, at its best. With the continuing onslaught of the DSA on citizens, particularly on those who dissent from the government and the ruling party, the future is unlikely to be different than the past.

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