

ARTICLE 19

Bangladesh: Violations against journalists and online activists in 2016

Policy Brief

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Executive Summary

In 2016, Bangladesh faced a series of violent attacks against journalists, secular bloggers, academics, gay rights activists, foreigners, women, and members of religious minorities. On 1 July, armed youth extremists attacked the Holy Artisan Bakery in Dhaka, held staff and customers hostage and killed 22 people, including 17 foreigners. On 7 July, an attempted bomb attack on a gathering of thousands of Muslims for Eid-ul-Fitr Prayers failed but claimed the lives of three people.

Three killings continued to create an atmosphere of self-censorship. A Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) magazine editor and activist along with his friend were brutally killed with machetes while a secular online activist was attacked with machetes and shot to death. These killings, along with the arrests of three officials of a publishing house for allegedly hurting religious sentiments of Muslims by publishing a book titled *Islam Bitorko* (“Debate on Islam”), were an example that progressive views continued to be silenced. Notably, we have seen attempted killing as a new form of violation emerge, which was used to silence a national-level and a local-level journalist.

Overall, 2016 saw a notable increase in the number of violations against journalists and online activists compared to previous years. This year 141 journalists, three online activists and three officials of a publishing house, including the owner, were subjected to a total of 320 violations in 147 different incidents. Harassment through the unwarranted application of laws, including criminal defamation cases, vexatious cases under different laws, and the use of Section 57 of the Information Communication Technology (ICT) Act, constituted 39%, attacks against physical integrity 19.4%, destruction of equipment and/or property 18.4%, threats and intimidation 15%, arrests and/or police remand 7.2% of the total violations used to silence journalists and online activists. Only four gender-based violations were noted, 1.3% of the total violations; however, these figures do not reflect the actual number of occurrences of this type of violation, as most cases are not reported for fear of repercussions.

In 2016, harassment through the unwarranted application of laws posed the most significant threat to freedom of expression. Various laws have been used to silence journalists and online activists, including the Penal Code 1860, the Information and Communication Technology Act 2006 (amended in 2013) and the Special Powers Act 1974. The use of criminal defamation has increased seven-fold and amounted to 78 cases, compared to only 10 in 2014. The use of Section 57 of the ICT Act for criminalisation of online expression remained significant. This year different laws have been used in conjunction to harass targeted individuals, such as *The Daily Star* editor Mahfuz Anam, who faced 66 criminal defamation cases, and 17 cases filed with vexatious intent for alleged sedition by leaders and activists of the ruling Awami League and its affiliated bodies across the country, after his admission regarding a lapse in editorial judgement while publishing a report containing unverified information.

The destruction of equipment and/or property of targeted journalists and online activists reached unprecedented levels compared to previous years and was particularly used to silence local-level camera operators and photojournalists when reporting on local-level crimes, corruption, local-level political party activists, high-level politicians, public officials, and sensitive issues such as child marriage.

In 2016, we have seen threats and intimidation being used on a large scale as 36 journalists were threatened as a group when organising a protest against the physical attack against, and abduction of, a fellow journalist by followers of a municipal mayor.

In December, a lower court delivered a verdict in the case of journalist Manik Saha, who was murdered in a bomb attack 12 years ago, sentencing nine of the eleven accused to life imprisonment and acquitting the other two. However, overall only two out of the 51 cases where journalists have been killed since 1995 have led to convictions, while most cases did not pass beyond the investigation stage. This was also illustrated in 2016, as the majority of filed police reports and cases remained under investigation.

ARTICLE 19's records clearly showed a continuation of the trend of increased vulnerability to violations for local-level journalists compared to Dhaka-, national-level journalists. Journalists, including especially photojournalists and camera operators, and online activists were also particularly vulnerable to violations when reporting on high-profile politicians, local-level political party activists, protests, sensitive issues such as child marriage, and exposing corruption and illegal businesses.

Further, ARTICLE 19's records indicate that 86.9% of the violations were committed by non-state actors, of whom an alarming 11.03% were actors such as lawyers, journalists, business people, diagnostic centre staff, and teachers. Out of all violations, only 10.34% were committed by state-actors, of whom an alarming 2.76% were elected public officials, including MPs and mayors.

Gender-based violations against women journalists continued in 2016; however most violations continued to be unreported for fear of repercussions. In those that do get reported prompt investigation and prosecution continues to be rare.

ARTICLE 19 makes the following recommendations for protecting the safety of journalists and freedom of expression of all citizens to the following actors:

The Government of Bangladesh

- Vigorously condemn violations when they do occur, investigate them promptly and effectively in order to duly sanction those responsible, provide compensation to the victims where appropriate, and regularly update the public on the proceedings;
- Take effective measures to address cases where state actors are involved in attacks, send strong signals that it is not appropriate and will not be tolerated;
- Ensure that law enforcement agencies, including police, uphold the right of journalists' and citizens' freedom of expression;

- Adopt a “holistic” protection approach for addressing issues of protection, safety, security, and impunity, including by establishing a specialised mechanism to provide protection and to investigate attacks on freedom of expression overseen by an independent body;
- Repeal section 57 of the ICT Act 2006 and drop pending cases against individuals for exercising their right to freedom of expression under the ICT Act; Repeal criminal defamation and replace it with an appropriate civil defamation law;
- Ensure that the Foreign Donations (Voluntary Activities) Act does not curb the legitimate activities and expressions of civil society organisations and human rights defenders;
- Substantially revise any similar bill proposed in the future to bring it into accordance with international law and standards on the rights to freedom of expression, peaceful assembly and association;
- Ensure a safe and enabling environment in which human rights defenders and civil society organisations are able to carry out their legitimate work without unnecessary or disproportionate restrictions;
- Put in place anti-SLAPP (strategic litigation against public policy) legislation to prevent cases being brought simply to harass those who have exercised their right to freedom of expression;
- Provide appropriate training on crimes against freedom of expression, including gender-specific crimes, to relevant law enforcement officials including the police and prosecutors;
- Strictly follow the due process of law in cases of closure of newspapers or television channels, or any other media even if such closure is necessary and justified in law; and
- Review other legal restrictions on the content of what may be published or broadcast to bring them in line with international standards.
- Extend the remit of the NHRC to cover discrimination and/or anti-discrimination law covering private parties and enable the Human Rights Commission to investigate and take action against organisations and institutions found to be discriminating against women journalists.

Media Houses and Organisations

- Adopt equality action policies and anti-harassment guidelines to address discrimination and harassment of women, including in terms of pay and promotion;
- Make a clear commitment to support their staff when they are the subject of attacks and/or legal harassment, including by supporting them to take legal action against the perpetrators;
- End the climate of impunity, ensure that criminal cases are filed for each and every attack on journalists affiliated with them, and monitor the progress of investigation and trial;

- Provide adequate safety, risk awareness, and self-protection training and guidance to journalists affiliated with them;
- Provide necessary security equipment to local correspondents, photographers, and reporters covering political agitations and clashes;
- Ensure the formulation of guidance to address gender discrimination, gender-based censorship and sexual harassment as a serious barrier to women's participation and representation in the media and the establishment of robust and effective mechanisms to address complaints from women journalists;
- Promote policy measures such as gender policies, internal code of conduct, equal opportunity employment and anti-bullying and anti-harassment policies toward the development of good practices to free the media from such negative trends; and
- Work in partnership with NGOs to raise awareness among journalists on issues of discrimination, censorship and harassment on the basis of gender.

Civil Society Organisations

- Monitor the progress of implementation of Bangladesh's Universal Periodic Review (UPR) commitments regarding protection of journalists and online activists, and exert effective pressure on the government to ensure due compliance.

Context

In 2016, Bangladesh faced a series of violent attacks against journalists, secular bloggers, academics, gay rights activists, foreigners, women, and members of religious minorities. On 1 July, armed youth extremists attacked the Holey Artisan Bakery in Dhaka, held staff and customers hostage and killed 22 people, including 17 foreigners. On 7 July, an attempted bomb attack on a gathering of thousands of Muslims for Eid-ul-Fitr Prayers failed but claimed the lives of three people. These attacks prompted law enforcement agencies to heighten counter-terrorism activities and on 26 July nine extremists, including a number of those allegedly associated with the Holey Artisan incident, were killed by the government's counter terrorism unit in their hideout in Dhaka's Kalyanpur district. The government subsequently imposed a restriction on live telecast of any counter-terrorism operation and organised a drill for shutting down the Internet and mobile phone networks in the case of a national crisis.

Religious extremism continued to be an issue throughout 2016. On 2 May, the religious fundamentalist group, Islamic Liberation Front, issued for the first time a hit list of ten prominent people, including five journalists, in Rajshahi. The Bangladesh Telecommunication Regulation Commission (BTRC) subsequently blocked some 30 websites and Facebook pages on the grounds of "controversial" content likely to incite religious hatred and extremism. On the same grounds, Peace TV was taken off-air on 10 July, and on 25 September the secular blogging platform Istishon was blocked by the government for users in Bangladesh. This move has drawn criticism from writers and activists across the country and the founder and editor of the platform has condemned the restriction as a curb on people's right to freedom of expression and information.

In 2016, three journalists were murdered in Bangladesh, bringing the total of journalist murders since 1995 to 51. On 25 April, the editor of the LGBTI magazine *Roopban* and a theatre activist were hacked to death in Dhaka. On 6 April, secular online activist Nazimuddin Samad was hacked and shot to death on a busy road in Dhaka for criticising religious fundamentalism on his Facebook page.

Notably, in December, a lower court delivered a verdict in the case of journalist Manik Saha, who was murdered in a bomb attack 12 years ago, sentencing nine of the eleven accused to life imprisonment and acquitting the other two.

Violence against religious minority communities continued throughout 2016.¹ On 30 October, online hate campaigns resulted in targeted attacks against the minority Hindu community in Nasirnagar, Brahmanbaria district. Religious groups burned down hundreds of households and 15 places of worship following a Facebook post

¹ According to a government-sponsored survey, in 2016 the Hindu population increased from 9.9% to 10.7% while Christians and other religious minorities constituted 1.1%.

caricaturing the Qaba. In November, the Santal community of Gaibandha faced a brutal attack by the police and ruling party activists as the minority group sought to claim back their land which had been allegedly expropriated by the government in 1955 for sugar-cane farming.

On 20 March, the rape and murder of a female college student sparked a storm of protest, but no legal developments have yet been reported. This shows that violence against women and girls continued to be a great concern, while prompt investigation and prosecution in such cases continued to be rare. In 2016, 1,050 women were raped including 166 women gang raped and 44 killed after rape, while over 4,890 women and girls were subjected to multiple forms of torture, according to women's rights organisation Bangladesh Mohila Parishad. As per their report, violence against women and girls in 2016 was worse compared to the previous three years.²

Legal developments affecting freedom of expression in 2016 included the release of the second version of the Draft Broadcasting Act, 2016 regulating television channels, radio stations, and online media, on 30 November. Provisions regarding penalties for violating the law, related policies, or any other directives of the Broadcast Commission have been changed to include up to three years' imprisonment and a fine of fifty million Bangladeshi taka. Further, on 22 August, the Cabinet approved the Draft Digital Security Act, which contains a provision on punishment up to life imprisonment and a ten million taka fine for spreading "propaganda against the Liberation War and the Father of the Nation Bangabandhu Sheikh Mujibur Rahman" through digital devices. However, it fails to provide clear definitions and to stipulate the components of such "propaganda". Furthermore, on 6 November, the Foreign Donations (Voluntary Activities) Regulation Act came into effect, regulating the operations of NGOs in Bangladesh. The law enables the NGO Bureau to cancel the registrations of NGOs simply for exercising their right to freedom of expression by criticising government bodies.

² <http://www.dhakatribune.com/bangladesh/crime/2017/01/08/violence-4896-women-girls-2016/>

Safety of journalists and online activists in 2016

In 2016, ARTICLE 19 recorded a total of 320 attacks against journalists working in print, electronic, and online media, and online activists. These attempts to limit freedom of expression and the press included:

- a) Attacks against physical integrity, including killing, attempted killing, serious bodily injury, minor assault, abduction and attempted abduction;
- b) Intimidation and threats;
- c) Harassment through unwarranted application of laws, including criminal defamation cases, vexatious cases under different laws, and use of Section 57 of the ICT Act;
- d) Arrests or police remand;
- e) Gender-based violations; and
- f) Destruction of equipment and/or property.

With 125 violations, harassment through unwarranted application of laws, including criminal defamation cases, vexatious cases under different laws, and use of Section 57 of the ICT Act, constituted 39.1% of the total violations and more than double the attacks against physical integrity where 62 violations were noted. With 19.4% of the total violations, attacks against physical integrity constituted the second highest category of violations. The third highest category of violations used to silence journalists and online activists was the destruction of equipment and/or property and 58 violations of this type were recorded, equalling 18.1% of the total number of violations. Under intimidation and threats, 48 violations were noted, constituting 15% of all violations, while 23 arrests and/or police remand constituted 7.2% of all violations. Only four gender-based violations were noted, 1.3% of the total violations; however, these figures do not reflect the actual number of occurrences of this type of violation, as most cases are not reported for fear of repercussions.

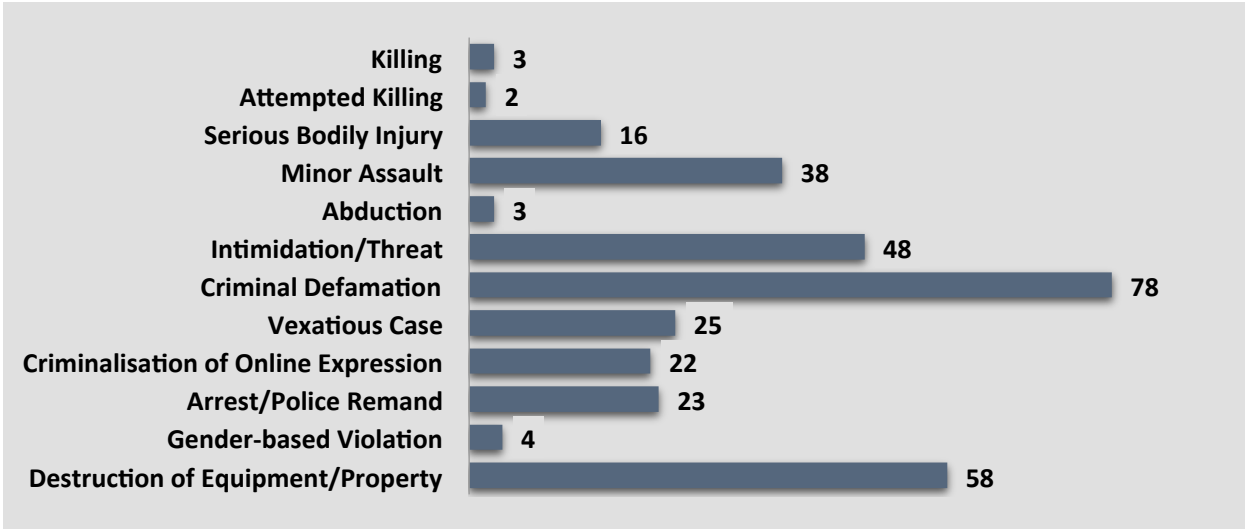


Chart 1: Frequency of different types of violations against journalists and online activists

ARTICLE 19 recorded that 141 journalists, three online activists, and three officials of a publishing house, including the owner, faced a total of 320 violations in 147 different incidents. Of the victims, 94% were journalists, including 62% reporters, 19% editors/sub-editors and 13% photojournalists.

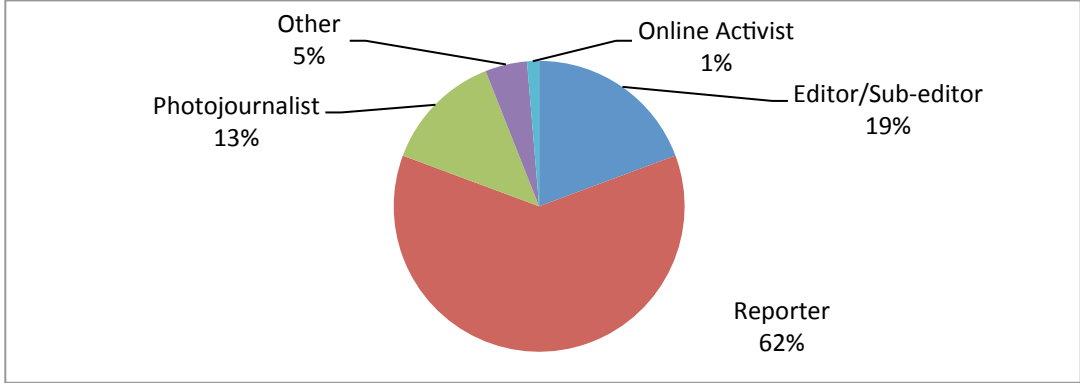


Chart 2: Percentage of victims by job category

The majority of the victims (51%) worked at the local level. However, at the national level an increase in violations has been noted too, compared to previous years, mostly due to 83 violations committed against *The Daily Star* editor, and criminal defamation cases such as those brought against the editor, executive editor, and reporter of *Janakantha* (for more details see Chapter 3).

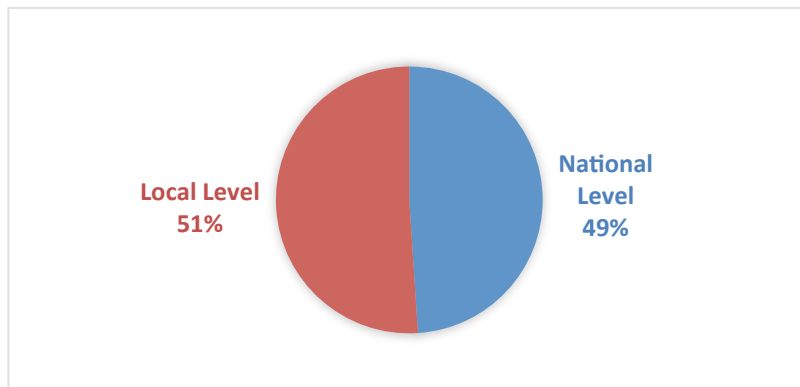


Chart 3: Percentage of victims working at national and local level

Of the victims, 82.8% worked in print media, 7.6% in electronic media, and 9.7% in online media. This shows that journalists working in print media were targeted even more than those working on electronic and online media, consistent with our findings over the years. Notably, 22 cases of criminalisation of online expression were recorded this year, affecting mainly journalists and activists. There were also 58 cases of destruction of equipment and/or property, which had a strong impact on photojournalists.

Print	Electronic	Online
82.8%	7.6%	9.7%

Table 1: Violations segregated by print, electronic and online media

ARTICLE 19’s records show that the highest number of violations occurred in February (32.2%) and December (20.9%). This was mostly due to 83 cases being filed against *The Daily Star* editor in February, while in December 36 journalists were threatened with death and a *Bangladesh Protidin* journalist faced six charges and was put on three-day police remand.

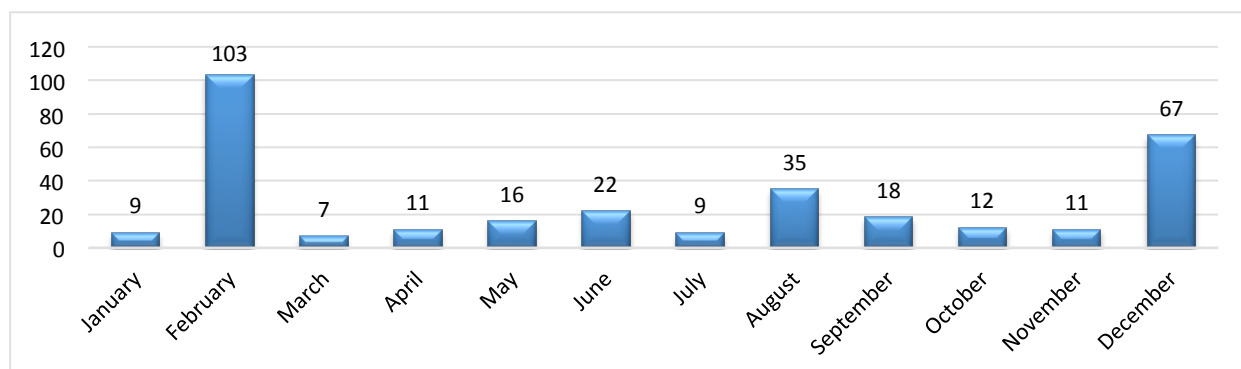


Chart 4: Violations by month

In 46.9% of the 147 incidents where journalists and online activists were targeted, the main cause for the violations was alleged criminal defamation, in 11.6% it was alleged crimes such as sedition, and in 3.4% the allegations were based on harming religious sentiments. Notably, ARTICLE 19’s records demonstrate that journalists and online activists have been targeted for reporting on sensitive issues, such as local-level crimes, in 14.3% of all incidents, while in 12.9% of the incidents they were targeted for writing about local-level political party activists, public officials, and high-level politicians and in 5.4% for writing about protests.

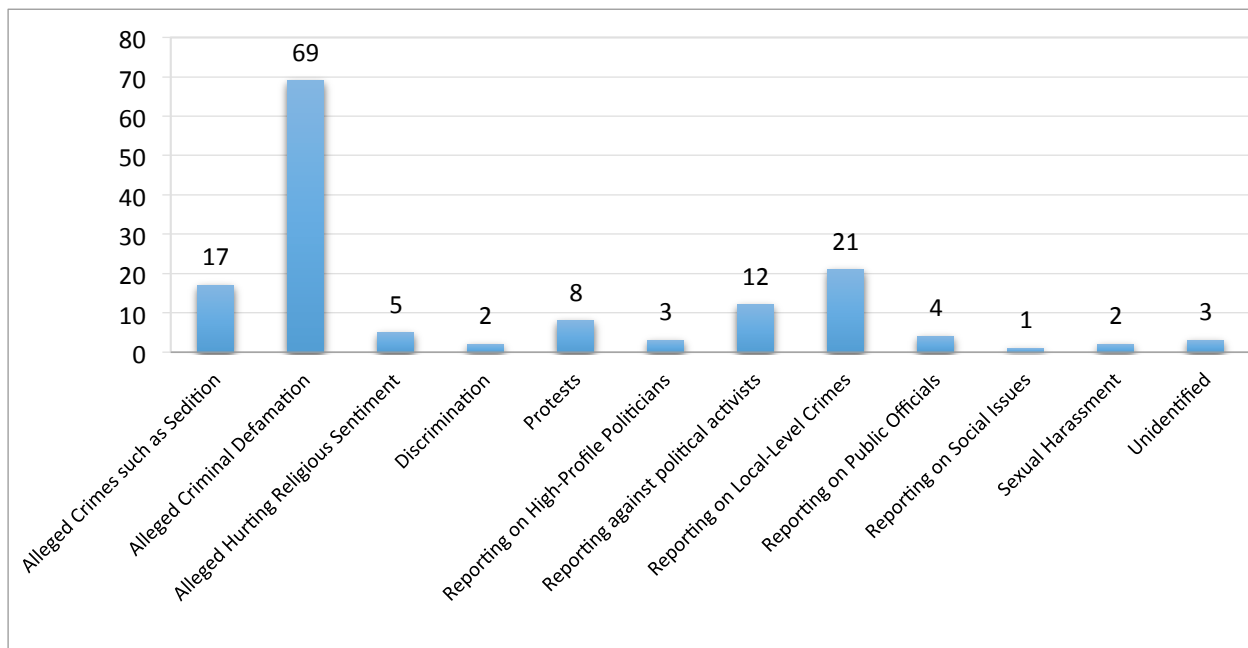


Chart 5: Causes of violations against journalists and online activists

Mapping of violations against journalists and online activists in 2016

a) Attacks against physical integrity

ARTICLE 19's records indicate that in 2016, 62 attacks against physical integrity were carried out, equalling 19.4% of the total violations against journalists and online activists, which constitutes the second highest category of violations after harassment through unwarranted application of laws, which amounted to 39.1% of all violations. A total of 57 journalists and three online activists came under attack against physical integrity.

Killing: The killings of three journalists in 2016 including an LGBTI activist brought the total of journalist murdered since 1995 to 51, contributing to an atmosphere of self-censorship. The victims were:

- **Xulhaz Mannan** (editor of the country's first and only LGBTI magazine *Roopban*) and his friend **Khandaker Mahbub Rabbi Tonoy** (a theatre activist): On 25 April, they were hacked to death by a group of extremist youths at Xulhaz's Dhaka residence. Police suspected Xulhaz's involvement in the publication of the LGBTI magazine *Roopban*, launched in 2014, to be the prime motive for his killing. On 15 May, the police arrested a suspect and put him on three-day police remand. Since then no progress in the investigation has been reported .. Notably, Xulhaz had also been an organiser of the annual "rainbow rally" in Dhaka on 14 April, the beginning of the Bengali New Year. However, in 2016, the rally was cancelled on the instructions of the police. In Bangladesh, homosexual sex is illegal and punishable. Following the killing, the LGBTI community reportedly feared for their lives and many of them went into hiding.
- **Nazimuddin Samad** (secular online activist and law student at Jagannath University): On 6 April, he was brutally attacked and shot on a busy road in Dhaka. According to the police, his Facebook criticism dogmatic Islamic views were suspected to be the prime motive for his murder. Nazimuddin, an activist in the well-known Shahbagh movement demanding execution of war criminals, was also vocal against social injustice, including the case of college student Sohagi Jahan Tanu, who was raped and killed. Nazimuddin was the first online activist killed in 2016, while in 2015 four online activists were killed in machete attacks allegedly carried out by Ansarullah Bangla Team (ABT), an Islamic fundamentalist group. Police suspected that ABT members were also involved in Nazimuddin's murder. In October, the police arrested a suspect, an alleged member of ABT; however, charges have yet to be pressed.

Attempted Killing: In 2016, two incidents of this new form of silencing journalists emerged. A national-level and a local-level journalist faced this type of attack.

- **Shakil Hasan** (Staff Reporter of *Jamuna Television*): On 6 November, Shakil Hasan, along with camera operator Shahin Alam, was gathering information and making video footage for reports against illegal polythene production in Dhaka's Chalkbazar district, when a cohort of illegal polythene factory owners attempted to kill him by pouring 25 litres of kerosene over his body. He was able to escape to a safe shelter. Although the *Jamuna Television* authority contacted the police forthwith, the officers reached the spot only one hour later. Reportedly, the police patrol did not intervene during the attack, and the factory owners, affiliated with the ruling Awami League, stated "Killing journalists has no consequence." Shakil filed an attempted murder charge and subsequently the police arrested some suspects but all of them were freed on bail.
- **Mahibur Rahman Chowdhury Tasnu** (Nabiganj upazila Correspondent of *NTV*): On 27 December, Mahibur was intercepted on his motorbike at the entrance to Nabiganj-Aushkandi road by about eight persons and the perpetrator, Abul Hossain, attempted to kill him by running him over with a tractor. He evaded being run over but was beaten so badly that he needed nine stitches and was hospitalised for five days. Tasnu believed that his investigative report on illegal activities and crimes may have led to the brutal attack. Police arrested the key perpetrator in the attempted murder case. However, the perpetrator was later released and on 15 January 2017, with the intervention of the local Union Parishad Chairman, the case was settled out of court through reconciliation.

Serious Bodily Injuries: In 2016, 16 cases of bodily injuries were observed, equalling 5% of all violations against journalists and online activists. Notably, serious bodily injuries were all inflicted upon local-level journalists and included beatings with machetes, sticks, iron rods, microphones, and cleavers. The perpetrators ranged from criminal groups (i.e. local gamblers, drug peddlers and quack doctors), and law enforcement agencies (i.e. prison guards), to leaders and activists of political parties (i.e. the ruling Awami League), and elected public officials (i.e. a municipal mayor). When looking at the underlying causes for serious bodily injuries inflicted upon journalists and online activists, it becomes clear that they were more vulnerable when covering highly sensitive issues, such as child marriage, or clashes with prison guards. For instance:

- **Babul Hossain, Omer Razib, and Osman Goni** (Dhamrai Correspondents with *Daily Amader Shomoy*, *Daily Amar Sangbad* and *Local Daily Jalamoyee*, respectively) were beaten heavily on 17 August, while covering child marriage in a village in Dhamrai upazila, and sustained such serious bodily injuries at the hands of the bride and groom's families that they had to be hospitalised. Babul is still suffering from sight problems, while Razib's left hand was fractured. Babul's father filed a case against 18 persons, all of whom are now on bail. In September, the police pressed charges against the perpetrators.

- **Anis Mahmud** (photojournalist with *Prothom Alo*), **Shohidul Islam** (photojournalist with *Sakaler Khobor*, a national daily), **Mamun Hossain** (photojournalist with *Jogo bheri*, a local daily), and **Yusuf Ali** (photojournalist with *Samakal*) were physically attacked on 21 July as they photographed a clash between aggressive Sylhet Prison Guards and members of the Bangladesh Chattrra League. About 20 prison guards beat the journalists with sticks as a result of which Anis Mahmud sustained serious bodily injuries to his hands and left leg which required hospitalisation.. Nine prison guards were transferred to different duties for their involvement in the incident; however, the police did not take any further action.

Reporting on local-level crimes, such as illegal gambling and corruption, also increased local-level journalists' vulnerability to serious bodily injury as the following examples illustrate:

- **Mahbubur Rahman Chowdhury** (Golapganj upazila correspondent of *banglanewsuk.com*) was beaten by followers of a former mayor and ruling Awami League leader of Golapganj municipality in Sylhet on 15 February as he reported on the politician's alleged corruption. Mahbubur was hospitalised for 23 days and needed a major operation on his left hand. He filed a case for attempted murder. The police pressed charges in January 2017.
- **Sarkar Arifur Rahman Arab Ali** (acting editor of local daily *A Juger Deep*): On 15 November, the journalist was beaten by a group allegedly hired by the mayor of Bera upazila because his newspaper had published many reports on the mayor's alleged corruption. A case was filed with the police the next day but no progress in the investigation has been noted.
- **Kamruzzaman Shahin** (reporter of local news portal *Bholarsangbad.com*): On 26 November, the owner of a dental clinic and his brother beat the journalist for reporting on illegal dental clinics. Kamruzzaman filed a case with the local police but they did not register it and although initially they carried out a raid to arrest the perpetrators, the investigation did not continue. Kamruzzaman could not file the case with the court as he learnt that the perpetrators were prepared to file a false case implicating him instead.
- **Sujauddin Rubel** (Cox's Bazar correspondent of *Somoy TV*): On 13 May, he was attacked with cleavers and hit with a stick and a microphone by yaba peddlers for covering yaba peddling in Teknaf upazila in Cox's Bazar.
- **Md Nazrul Islam** (Staff reporter of *Amader Somoy*, and secretary of *Mymensingh Divisional Press Club*): On 18 September, 10 to 12 persons beat him heavily as they feared that he would report on their crimes. Nazrul did not file a case as he was afraid of being targeted again. The matter was resolved through reconciliation on the intervention of the local Union Parishad chairman.

Finally, camera operators and photojournalists were targeted for collecting footage of local-level crimes and election fraud.

- **Azharul Hoque, Atikur Rahman Amin, and Abdullah Al Mamun** (Gazipur district correspondents with *RTV, Mohona TV* and *Gazi TV*, respectively) were attacked on 20 June, while making video footage of illegal gambling at Shirirchala in Sadar upazila, Gazipur. About 30 gamblers attacked the journalists with machetes, sticks, iron rods, and microphones so that they needed to be hospitalised for three days. On 21 June, Atikur registered a case with the police against 24 named and seven unnamed persons but the case was resolved out of court through reconciliation.
- **Nirob Chowdhury** (photojournalist with *Prothom Alo* in Khagrachari): In December, Nirob sustained serious bodily injury when he was assaulted by a local municipal mayor for photographing the illegal extraction of sand from Chengi River and needed to be hospitalised for three days. He is still suffering from hearing impairment, and requires surgery.
- **Sumon Roy** (Camera operator with *ATN Bangla*): On 23 April, supporters of an Awami League-backed candidate for the Union Parishad elections beat Sumon for making video footage of fake voting in Union Parishad election at a polling centre in Sarail Upazila, Brahmanbaria district. Sumon was hospitalised, and suffered hearing impairment that needed treatment abroad. Sumon filed a case against three persons, including the candidate. In June, the police pressed charges; however, after the intervention of the district Awami League Secretary the case was resolved out of court.

Minor Assaults: A total of 38 minor assaults were sustained by local-level journalists after being attacked with iron rods, sticks, bricks, microphones, and cleavers. The perpetrators ranged from criminal groups (i.e. local gamblers, drug dealers), to leaders and activists with political parties (i.e. the ruling Awami League, and the Bangladesh Chatra League³), and elected public officials (i.e. municipal mayors, government officials). Camera operators and photojournalists were particularly vulnerable to minor assaults in various incidents when covering local-level crimes, or actions of local political activists and public officials:

- **Tawfiqul Islam Lipu** (Cox's Bazar correspondent for *Independent Television*), and **Faraj Uddin, Shariful Islam, and Babu Kanti Dey** (camera operators with *Somoy TV, Independent TV, and Ekattor TV*, respectively) sustained minor assault injuries on 13 May when they were attacked by a yaba trader's hired gang for covering illegal trading in Teknaf upazila. On 15 May, a case was filed with the local police station and the police arrested three persons. On 25 May, the police pressed charges against 18 persons. In

³ A student body affiliated to the ruling Awami League.

November, the court agreed to proceed against the perpetrators but the accused filed a review petition against the order on which the hearing was being held.

- **Kamal Dey** (Chittagong Bureau chief of *Somoy TV*), **Romen Dash Gupta** and **Uzzal Dhar** (Special Correspondent and Senior photojournalist of *Banglanews24.com* respectively), and **Anurup Kanti Dash** (photojournalist with *The Daily Star*) were physically assaulted by a Hindu religious fundamentalist youth group in Chittagong on 7 December. The journalists filed a case; however, as the parents of the youths offered apologies, the case was withdrawn.
- **Jewel Shil** (photojournalist with *Prothom Alo*) was physically assaulted by a Bangladesh Chatra League unit in Chittagong city on 17 February for photographing their attack on a motorcycle rider and his photos were deleted. Jewel filed a police report and in January 2017 the police pressed charges against three accused.
- **Sagar Ahmed** (Kaliakoir upazila correspondent of the daily *Alokito Bangladesh*): On 29 June, Sagar was beaten by Forest Department staff as he photographed the perpetrators' illegal extortion from drivers on the Dhaka-Tangail highway in Kharajora, Kaliakoir upazila in Gazipur. The police rescued Sagar and arrested an agent of the Forest Department. Sagar Ahmed filed a complaint with the local police station but no case was registered and the issue was resolved through reconciliation.
- **Adhir Rajbangshi** (Srinagar upazila correspondent of *Bhorer Kagoj*) and **Mir Ratul** (Srinagar upazila correspondent of the daily *Roopbani*) were beaten by a group led by two Awami League leaders when photographing an attack on the house of an independent chairman candidate of the polls. The police pressed charges but as they spared a local Awami League leader the journalists filed a Naraji petition in January 2017.⁴

In separate incidents, the following minor assaults occurred:

- **Milon Khondokar** (Gaibandha district correspondent of the daily *Janata*) sustained minor assault while covering alleged corruption of the Gaibandha Deed-writer's Association president and sub-registrar's office. The police pressed charges in March 2017 but the main perpetrator is now on bail.
- **Nayan Khandaker** (Kaliganj Correspondent of the daily *Amader Somoy* and organising secretary of Kaliganj Press Club in Jhenaidah district) was physically assaulted by a group at the Kaliganj upazila parishad for writing a report on the arrest of the municipal mayor on 4 February. Nayan was rescued by police and filed a report; however, no further action was taken by the police.

⁴ A Naraji petition is a defence petition.

Abduction: In 2016, one journalist was abducted and beaten while there were attempts to abduct two journalists their coverage of drug dealing. The incidents included:

Nirob Chowdhury (Photojournalist for *Prothom Alo*) was abducted in December by a gang connected to a local municipal mayor in Khagrachari as he photographed illegal sand extraction from the Chengi River. Some other cases include attempted abduction of Sujauddin Rubel and Tawfiqul Islam Lipu, Cox's Bazar correspondent of Somoy Television and Independent Television respectively.

b) Intimidation and threats

ARTICLE 19 recorded that a total of 48 journalists were intimidated to stop their writing and raising their voices against illegal activities and local-level corruption. Intimidation was widely used to silence journalists by a variety of actors and in several cases including mayors, a former mayor and ruling party leader, government officials, and even lawmakers, such as in the case of **Rahul Dash** (Staff Reporter of the local daily *Purbadesh*) who was threatened on 22 October by an Awami League MP for the Bashkhali Constituency as he sought information under the 2009 Right to Information Act about development work carried out the previous year in Bashkhali upazila, Chittagong district. Intimidation constituted 15% of the total violations against journalists and online activists and was often used in conjunction with other types of violations, such as serious bodily injuries and abduction, as some of the following incidents illustrate:

- On 20 December, **36 local-level journalists** were threatened with death by a gang allegedly hired by the mayor of Khagrachari when they organised a protest rally against him for assaulting and intimidating journalist **Nirob Chowdhury** of *Prothom Alo*. When he had photographed illegal sand extraction from the Chengi River, the gang had abducted him, threatened to cut his hands off, and the mayor himself had beaten him severely. Subsequently, Nirob filed a police report alleging physical assault and intimidation, and the journalist community arranged a protest rally during which the gang snatched microphones from a journalist, threatened them with death, and also said they would set fire to the "den of journalists". Fearing for their lives, the journalists filed a joint report with the police. After a police investigation, the court registered the cases; however, nobody has yet been arrested. Nirob stated, "The incident forced us to remain at home after sunset as our lives are at risk while the perpetrators are at large to continue threatening us". The threatened journalists include: **Tarun Kumar** and **Miltan Chakma** of *Ittefaq*, **H M Profullo** of *Bangla Vision TV*, **Joyonty Dewan** and **Palash Barua** of *Prothom Alo*, **Didarul Alam Raju** of *Channel 9*, **Dilip Chowdhury** of *Channel 1*, **Saikat Dewan** of *DBC News*, **Nurul Azam** of *SA TV*, **Bhag Datto Chakma** of *Bhorer Kagoj*, **S Chakma Sattojit** of the daily *Oronno Barta*, **Chinmepru Chakma** of *ETV*, **Rupayan Dewan** of *Ekattor TV*, **Al-Mamun** of the daily *Dinkal*, **Prodip Chowdhury** of *Samakal*, **Lokman** of

Sangbad Protidin, **Md. Zaman** of *Parborto News*, **Main Uddin** of *Dainik Amar Sangbad*, **Nazim Uddin** of *Deepto TV*, **Nurussafa Manik** of *Alokito Bangladesh*, **Al-Amin** of *Prothom Bhor*, **Shankar Chowdhury** of *Bhorer Pata*, **Md. Nur Hossain** of *Dainik Khaborpatro*, **Jibon Chowdhury** of *Suprohat Bangladesh*, **Sohel Rana** of *Bangladesh Somoy*, **Md. Zulhaz Uddin** of *Sabuj Patar Desh*, **Abdur Rahim** of the daily *Janata*, **Chaithoway Marma** of *New Age*, **Sujon Barua** of *Dainik Mukto Khobor*, **Biplob Talukder** of *71 TV*, **Liton Batyacharia** of *Dainik Sangbad*, **Ripon Sarkar** of *Dainik Jai Jai Din*, **Kanon Acharya** of *Machranga TV*, **Azhar Hira** of *Manobzamin*, and **Abu Daud** of *Kalerkantho*.

- **Shimanto Khokon** (Brahmanbaria district correspondent of the online news portal *priyo.com*) was threatened with death and sexual assault by a Bangladesh Telecommunication Company Limited (BTCL) staff member on 26 June for writing a report that alleged corruption of some company officials in Brahmanbaria. On 26 June, the journalist notified the police case but no action has been taken.
- **Kalyan Benarjee** (Satkhira district correspondent of *Prothom Alo*) received a death threat on 28 June for writing a report on alleged irregularities and corruption in a government food warehouse in Satkhira sadar upazila. Kalyan received the threat through the mail in a letter, together with pieces of red cloth and a shroud. Also in the letter, another journalist, **Yarab Hossain** (district correspondent of the daily *Manabzamin*) was threatened with having his hands cut off. The police interrogated a suspect for one hour but did not pursue the matter further.

c) Harassment through unwarranted application of laws

In 2016, ARTICLE 19 found 125 counts of harassment through the unwarranted application of different laws including the 1860 Penal Code, the Information and Communication Technology Act 2006 (amended in 2013), and the 1974 Special Powers Act. This constituted 39.1% of the total violations. The number of violations was augmented as *The Daily Star* editor Mahfuz Anam was implicated in 83 cases by leaders and activists of the ruling Awami League and by the cases against local journalist Nazmul Huda of *Bangladesh Protidin*

According to ARTICLE 19's records, journalists and online activists were implicated and arrested in the following types of cases: a) Criminal Defamation constituted 24.4%, b) Vexatious Cases 7.8%, and c) Criminalisation of Online Expression, 6.9% of the total violations. Notably, in 2016 different pieces of legislation were used in conjunction to silence journalists and online activists. For instance:

- **Mahfuz Anam** (Editor of *The Daily Star*) faced 66 criminal defamation cases, and 17 cases filed with vexatious intent for alleged sedition by leaders and activists of the ruling Awami League and its affiliated bodies across the country, after his admission regarding a lapse in editorial judgement while publishing a report containing unverified

information. The High Court Division stayed 82 cases between April and June, which had been filed in at least 56 districts while the other case was rejected by a lower court. Mahfuz secured bail in those cases from the High Court and lower court. The journalists' community condemned the series of cases brought against Mahfuz Anam as "harassment".

- **Nazmul Huda** (Savar Correspondent of *Bangladesh Protidin*) was arrested under Section 57 of the ICT Act on 23 December for an alleged attempt to undermine law and order through his report on the Ashulia garment workers' movement wage increase demand. After three days in police remand, Nazmul was granted bail on 23 January 2017 but was informed, surprisingly, that he had been implicated in five other vexatious cases four cases under the draconian 1974 Special Power's Act and one theft case under the Penal Code 1860. On 14 February, Nazmul was granted bail and finally released after two months in prison. Upon his release, he stated

d) Criminal Defamation

- In 2016, 78 counts of this type of violation, including 66 cases against Daily Star Editor Mahfuz Anam alone, were used to silence journalists and online activists. This constitutes 62.4% of all counts of harassment through unwarranted application of laws. Other examples include **Abu Al Morsalin Babla** (editor and publisher of the local daily *Juger Chinta*) was implicated in two criminal defamation cases under the Penal Code in December: first by an Awami League leader for publishing a report on alleged corruption, and second by a labour organisation leader for reporting on a contested election in Narayanganj. In the first case, the journalist secured bail in January 2017 and the case is pending trial. In the second case, the lower court asked the police to investigate.

e) Vexatious Cases

In 2016, 25 counts of vexatious cases have been recorded. This constitutes 20% of all counts of harassment through unwarranted application of laws. For instance:

- **Md. Akter Hossain** (Debidhar upazila correspondent for *Jugantor*) was implicated in a case of demanding extortion in November as he tried to gather information for a report on a school teacher who had been suspended for sexual assault but continued teaching in the school. He secured bail.

f) Criminalisation of online expression

In 2016, 22 counts of criminalisation of online expression were noted. This constitutes 17.6% of all counts of harassment through unwarranted application of laws. For instance:

- **Shamsuzzoha Manik** and **Shamsul Alam** (respectively, the proprietor and marketing division head of the *Ba-dwhip Prakashan* publishing house), and **Taslim Uddin Kajol** (owner of the *Shabdakoli* printing company) were arrested on 15 February for allegedly hurting Islamic religious sentiments by publishing a book titled *Islam Bitorko* (“Debate on Islam”). The arrests took place under Section 57 of the ICT Act as the book, a collection of essays, was available online. Shamsuzzoha was imprisoned for more than 8 months before he was granted bail in November, while Shamsul and Taslim were already released on bail in June. Before their arrest, police shut down the *Ba-dwhip’s* stall at the Amar Ekushey Book Fair in February for selling the book. They also seized copies of the book and several other books deemed to be critical of Islam. The police also sealed off the office of the publishing house and it has remained closed.
- **Rasraj Das** (a Hindu youth) was arrested in November under Section 57 of the ICT Act for allegedly hurting Islamic religious sentiments by a Facebook post caricaturing Qaba, which on 30 October triggered a brutal attack on the Hindu community in Nasirnagar, Brahmanbaria, where hundreds of households and 15 places of worship were burned down. Rasraj secured bail on 17 January 2017.
- **Siddiquir Rahman Khan** (editor of the education-based online news portal *Dainik Shiksha*) was arrested on 1 September under Section 57 of the ICT Act for allegedly committing defamation by publishing a report about the alleged corruption and irregularities of an ex-government official. The case was filed against him on 29 August by the previous director general of secondary and higher education directorate, Fahima Khatun, who is also the sister and wife of Qamrul Islam, cabinet minister for food, and RAM Obaidul Muktadir Chowdhury MP, respectively, who claimed that the report had defamed and tarnished her image and that of the state. He secured bail on 6 September.
- **11 local-level journalists** were implicated under Section 57 of the ICT Act for publishing reports alleging that Jalal Uddin, a lawyer, had circulated pamphlets advocating for communal hatred in Kalapara upazila, Patuakhali district in September. The journalists were: **Reshma Yasmin**, **Shahin Hafiz** and **Kabir Talukdar** (the publisher, executive editor and news editor of *Dokhiner Mukh* respectively), **S K Ronjan** (photographer of the local daily *Dokhiner Mukh* of Kolapara), **Chonchal Saha** (reporter of the local daily *Dokhiner Mukh*), **Nurul Alom**

Faridi and **Ahmed Jalal** (the editor and publisher, and the news editor of the local daily *Biplobi Bangladesh* respectively), **Md. Delowar Hosain** (editor of *News24.com* of Kalapara), **Md. Md. Nuruzzaman Mamun**, **Mosaraf Hossain** and **Uttam Kumar Hawladar** (the editor, the executive editor and the reporter of *Kuakatanews24.com*). The case is now under investigation following a court order on the plea of Jalal Uddin.

- **Saiful Islam Chowdhury** (editor and publisher of the local newspaper *Daily Bakkhali*) was arrested on 5 October after a government official filed a case against him for alleged defamation under Section 57 of the ICT Act for publishing a report with a caricature. He secured bail on 7 November.

g) Arrests or police remand

Throughout 2016, there were 18 arrests and five instances of police remand under different laws. These 23 violations constitute 7.2% of all violations faced by journalists and online activists. Out of the 23 violations, 69.6% occurred under the ICT Act, 17.4% under the Special Powers Act on sedition charges, and 9.4% under the Penal Code. Notably, the ICT Act was used as a reason in 80% of police remands and 66.7% of arrests. Some examples include:

- **Nazmul Huda** (journalist with the *Bangladesh Protindin* newspaper) was imprisoned for two months on six charges, including an ICT violation.
- **Shafik Rehman** (editor of the monthly *Mouchake Dil*) was arrested on 16 April for his alleged involvement in an attempt to abduct and murder the Prime Minister's ICT adviser and his son Sajeeb Wajed Joy. Shafik was then put on police remand for five days and secured bail from the Appellate Division of the Supreme Court in August.
- **Md. Asaduzzaman** (staff reporter for the daily newspaper *Prothom Alo*) was handed over to police by lawyers, who complained that he had breached some provisions of the ICT Act. He was remanded in custody for eight hours and then released as the police decided not to pursue the allegations.

h) Gender-based violations

ARTICLE 19 recorded only four gender-based violations throughout 2016, 1.3% of the total violations; however, these figures do not reflect the actual number of occurrences of this type of violation, as in most cases victims do not report them for fear of repercussions. The following examples illustrate the different forms of gender-based violations encountered by female journalists:

- A female journalist in Dhaka faced sexual harassment and threats from an influential person in her media house in January. Consequently, she considered leaving the profession. A similar incident took place against a district correspondent of GTV who faced verbal sexual abuse by a male journalist while covering a school event in May. She complained to the local press club but they did not take any action.
- **Nargis Lilda** (former sub-editor of the daily *Deshbangla*) faced gender-based wage discrimination in three media houses when applying for a new job.

i) Destruction of equipment and/or property

ARTICLE 19's records suggest that the destruction of equipment and/or property is widely used against journalists and online activists to silence them. Fifty-eight violations were recorded, equalling 18.1% of the total number of violations. This included theft of 14 mobile phones, 12 cameras, one laptop and some cash, and damaging eight cameras, four mobile phones, one microphone, four motorcycles, one bus, and one car. In most incidents, the destruction of equipment and/or property was used against journalists and online activists for reporting on local-level crimes, local-level party political activists, and sensitive social issues such as child marriage. For instance, on 2 January, the office of the local newspaper *Daily Cox Bazar 71* was vandalised and furniture, a television set, and two computers were damaged after it ran a series of reports against illegal gambling. The police pressed charges in December but the accused are yet to be arrested. The destruction of equipment and/or property also mostly occurred in conjunction with other types of violations, such as in:

- Two incidents of attempted killing, affecting **Shakil Hasan** and **Shahin Alam** (staff reporter and camera operator with *Jamuna Television* respectively), and **Mahibur Chowdhury Tasnu**, (Nabiganj upazila correspondent of *NTV*);
- Three incidents of serious bodily injuries, affecting **Azharul Hoque**, **Atikur Rahman** and **Abdullah Al Mamun** (Gazipur district correspondents for *RTV*, *Mohona TV*, and *Gazi TV* respectively), **Babul Hossain**, **Omer Razib** and **Osman Goni** (Dhamrai correspondents for *Daily Amader Shomoy*, *Daily Amar Sangbad* and the local daily *Jalamoyee* respectively), and **Anis Mahmud** (photojournalist for *Prothom Alo*), **Shohidul Islam** (photo journalist of Sakaler Khobor), **Mamun Hossain**, photojournalist of a local daily *Jugo Bheri*) and **Yusuf Ali** (photojournalist for *Samakal*); and
- Six incidents of minor assault, affecting **Tawfiqul Islam Lipu** (Cox's Bazar correspondent for *Independent Television*), **Faraj Uddin**, **Shariful Islam**, and **Babu Kanti Dey** (camera operators with *Somoy TV*, *Independent TV* and *Ekattor TV* respectively), **Shahinur Rahman Shahin** (Ashulia correspondent with *Naya Diganta*), **Anwar Hossain** (Chapainawabganj Correspondent for the daily *Prothom Alo*) and **Abdur Rab Nahid** (Correspondent of with the local daily *Gour Bangla*), **Adhir Rajbangshi** (Srinagar upazila correspondent for *Bhorer Kagoj*) and **Mir Ratul** (Srinagar upazila correspondent for the

daily *Roopbani*) and **Sagar Ahmed** (Kaliakoir upazila correspondent for the daily *Alokito Bangladesh*).

Protection of journalists and online activists in 2016

a) Impunity

According to ARTICLE 19's records, victims took legal action against perpetrators in 66.7% of the violations where they were complainants, including killing, attempted killing, serious bodily injury, minor assault, abduction, intimidation and threat, and gender-based violations. In terms of the victims, 33.3% victims did not take any legal action for various reasons, such as lack of knowledge of the law, fear of being targeted again, or the non-cooperation of law enforcement agencies, press associations, and respective media houses.

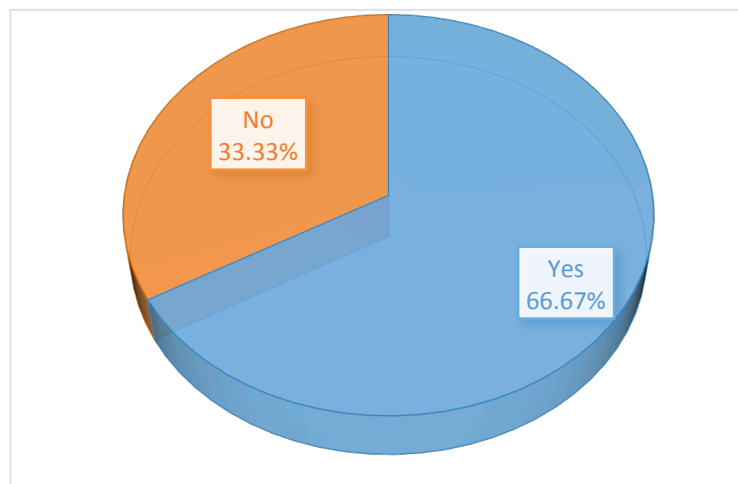


Chart 6: Legal action following violations against journalists and online activists

Thirty two cases have been filed reporting incidents where a journalist or online activists was subjected to attacks against physical integrity, intimidation and threat, or destruction of equipment and/or property. Of these, 56.3% were still under investigation. For example, no major development has been observed in the investigations into the three killings of the LGBTI magazine editor, his friend and the online activists. Thirty-six intimidated journalists still live in fear and face continuous intimidation from the followers of a mayor who beat and abducted the photojournalist working for *Prothom Alo*. Only in 34.4% of cases was the investigation completed and charges brought. Notably, 9.4% of the cases were resolved out of court.

In December, a lower court delivered a verdict in the case of journalist Manik Saha, who was murdered in a bomb attack 12 years ago, sentencing nine of the eleven accused to life imprisonment and acquitting another two. However, overall only two of the 51 cases where journalists had been killed since 1995 resulted in convictions, while most cases did not pass beyond the investigation stage.

While in some cases police have intervened and protected journalists, for instance when Sagar Ahmed (Kaliakoir upazila correspondent for the daily *Alokito Bangladesh*) was beaten by Forest Department staff for photographing extortion activities, or when Nayan Khandaker (Kaliganj Correspondent with the daily *Amader Somoy*) was physically assaulted by a group at the Kaliganj upazila parishad for writing a report on the arrest of the municipal mayor; however in other instances, the non-cooperation of law enforcement agencies and press associations continued to severely affect journalists and online activists. For instance, although the *Jamuna Television* authority contacted the police immediately after the attempt to kill staff reporter Shakil Hasan, the officers reached the spot only one hour later and reportedly a police patrol had not intervened during the attack. Both Kamruzzaman Shahin (reporter with the local news portal *Bholarsangbad.com*) and a female district correspondent of GTV highlighted that their local press clubs did not offer them any support after they faced bodily injury and verbal sexual harassment respectively.

b) Perpetrators

ARTICLE 19’s records indicate that non-state actors, such as political party leaders and activists, criminal groups, and religious fundamentalists were the perpetrators in 86.90% of the 147 incidents, which resulted in 320 violations against journalists and online activists. By contrast, state actors, including elected public officials, law enforcement agencies, and government officials, were the perpetrators in 10.34% of the incidents and 2.76% of the perpetrators could not be identified.

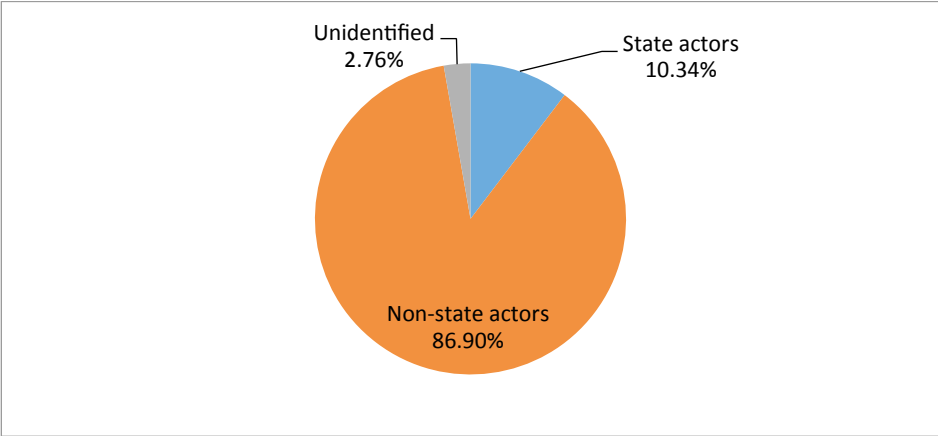


Chart 7: Percentage of actors involved in attacks against journalists and online activists

Of the non-state actors:

- 66.90% were leaders and activists of the ruling Awami League and its affiliated bodies, including Bangladesh Chatra League, and Shecchashebak League;

- 6.89% were criminal groups, including drug dealers, product syndicates, ATM impersonators, quack doctors, extortionists, illegal gamblers, and illegal polythene factory owners;
- 2.07% were religious fundamentalists, including Muslim and Hindu; and
- 11.03% were others including lawyers, journalists, businessmen, diagnostic centre staff, and teachers.

Of the state-actors:

- 4.83% were law enforcement agencies, including police and Rapid Action Battalion RAB
- 2.76% were government officials (excluding law enforcement agencies),
- 2.76% were elected public office bearers

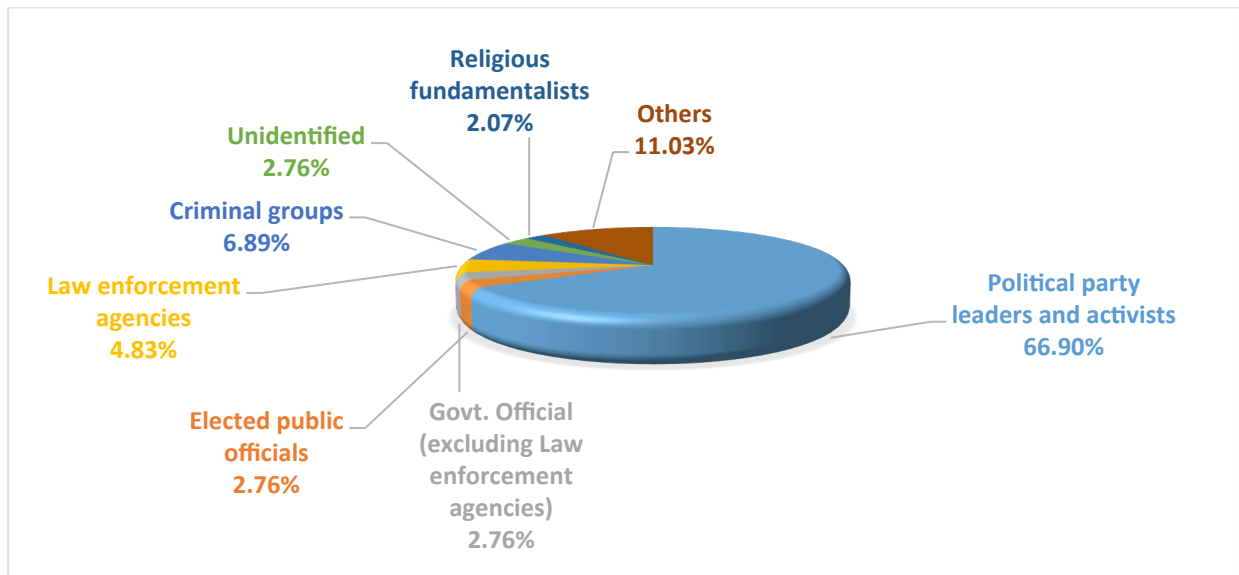


Chart 8: Percentage of perpetrators carrying out attacks against journalists and online activists

Policy interventions

a) The Broadcasting Act (Draft) 2016

The Draft Broadcast Act, which will regulate television channels, radio stations, and online media, has the provision of constituting a seven-member Broadcast Commission, which is empowered to issue recommendations for licensing, prepare guideline for broadcasters, receive complaints about broadcast contents, and take action against code of conduct violations. The draft released on 30 November for public consultation, contains several provisions related to freedom of expression. In particular the powers of the Broadcasting Commission in cases of content regulation on obscenity, national security and incitement is too broad and must be brought into line with international human rights standards.

b) The Digital Security Act (Draft) 2016

The cabinet on 22 August approved the Draft Digital Security Act on Principle. The draft law has the provision of punishment up to life imprisonment and a ten million taka fine for spreading propaganda against the Liberation War and the Father of the Nation, Bangabandhu Sheikh Mujibur Rahman, through digital devices. It, however, does not stipulate the components of such propaganda. Definitions of many crimes mentioned in the draft are “overbroad and wide” and there is a possibility for misuse now that the number of Internet users has grown, according to the Bangladesh Telecommunication Regulatory Commission (BTRC).⁵

c) The Foreign Donations (Voluntary Activities) Regulations Act 2016

The Foreign Donations (Voluntary Activities) Regulation Act 2016 came into effect on 6 November to regulate the operations of NGOs in Bangladesh. It requires all foreign-funded NGOs to submit all projects for approval to the NGO Affairs Bureau. The Act is vaguely worded and does neither specify on which grounds the Bureau could reject or make changes to proposed projects, nor a timeframe for their approval. This gives the authorities a wide discretion to interfere in the work of NGOs, cancel projects they do not agree with, and leave NGOs in legal limbo for an extended period of time. The Bureau is also granted the power to “inspect, monitor and evaluate” the activities of foreign-funded NGOs and can impose sanctions on NGOs who commit any the offences listed in the Act. Penalties range from a cautionary letter, a fine, or the cancellation or suspension of the registration of an NGO, or its individual projects, and depend largely on the discretion of the Bureau. The NGO can only appeal against the Bureau’s decision

⁵ See ARTICLE 19’s legal analyses of the law: <https://www.article19.org/resources.php/resource/38368/en/bangladesh:-draft-digital-security-act>

to the Prime Minister's Office, whose verdict is final, leaving no option for judicial oversight or effective remedy. Finally, the NGO Bureau can cancel the registrations of foreign-funded NGOs if they make derogatory and offensive remarks against the constitution or a constitutional body. Rights groups and ARTICLE 19 along with others expressed concern that the law gives sweeping powers to the NGO Bureau to arbitrarily cancel the registration of NGOs simply for exercising their right to freedom of expression and criticising government bodies.

e) Draft Community Radio Installation, Broadcast and Operation Policy, 2016

On 24 September, the Information Ministry released the draft Community Radio Installation, Broadcast and Operation Policy, 2016 for public consultation. Under the proposed policy, a nine-member National Regulatory Committee will be formed and empowered to change or amend the policy relating to community radio installation, broadcast and operation, to monitor the applicable rules, and to issue recommendations for the approval of community radio stations. The policy requires that community radio stations should be operated on a non-profit basis by an organisation, institution or group for broadcasting programmes on *"community issues, and no private enterprise or partnership, political parties or their affiliated bodies, international or foreign NGOs or foreign broadcast media or agency will be licensed"*.

f) Draft Telecommunications Policy

On 26 June, the cabinet approved the draft of the National Telecommunications Policy, 2016, aimed at boosting teledensity, Internet penetration, and expanding broadband facilities. The draft policy has been formulated primarily for a ten-year period, with the target of increasing teledensity from the current 80% to 90% by 2018. Other targets include boosting Internet penetration from 34% to 45%, expansion of mobile broadband from 7% to 20%, and the expansion of optical fibre connections in every district and upazila headquarters and 2,000 unions in the country.

Key Findings and Recommendations

We have found the following key trends and patterns in silencing those exercising freedom of press and expression:

2016 saw a notable increase in the number of violations against journalists and online activists compared to previous years. This year journalists and online activists were subjected to 320 violations, compared to 213 in 2014, and 271 in 2013.

Harassment through unwarranted application of laws poses the most significant threat to freedom of expression

In 2016, various laws have been used to silence journalists and online activists, including the Penal Code 1860, the Information and Communication Technology Act 2006 (amended in 2013), and the Special Powers Act 1974. The use of criminal defamation has increased seven-fold over the past three years and amounted to 78 cases, compared to only 10 in 2014. This constitutes 62.4% of all counts of harassment through the unwarranted application of laws. In addition, with 25 counts the use of vexatious cases remained approximately at the same level. The use of Section 57 of the ICT Act for the criminalisation of online expression remained significant. In 2016, we have seen 22 cases, equalling 17.6% of all counts of harassment. We have also found that this year different laws have been used in conjunction to harass targeted individuals, such as *The Daily Star* editor Mahfuz Anam, who faced 66 criminal defamation cases and 17 cases filed with a vexatious intent of alleged sedition by leaders and activists of the ruling Awami League and its affiliated bodies across the country, after his admission regarding a lapse in editorial judgment for publishing a report containing unverified information. Another example is Nazmul Huda (Savar Correspondent for the *Bangladesh Protidin* newspaper) who was arrested under Section 57 of the ICT Act and implicated in five other vexatious cases.

Attacks against physical integrity remain significant

This year the cumulative percentage of physical attacks is 19.4% of all violations, which constitutes the second highest category of violations after harassment through the unwarranted application of laws. While the numbers of serious bodily injuries and minor assaults saw a decrease by almost half to 16 and 38, respectively, over the past three years, three cases of abduction were noted and three killings contributed to create an atmosphere of self-censorship.

Destruction of equipment and/or property reaches unprecedented levels

The destruction of equipment and/or property emerged as the third highest category of violations as the trend to use this violation to silence journalists and online activists saw a steep increase from only seven cases in 2014 to 58 cases in 2016, equalling 18.13% of the total number of violations. This measure was particularly used to silence local-level

camera operators and photojournalists when reporting on local-level crimes, corruption, local-level political activists, high-level politicians, public officials, and sensitive issues, such as child marriage.

Protest against physical attacks causes threats and intimidation

In 2016, we have seen this measure being widely used as 36 journalists were threatened as a group when organising a protest against the physical attack and abduction of a fellow journalist by followers of a municipal mayor. In total, 48 journalists were intimidated to stop writing and raising their voices against illegal activities and local-level corruption. The tool was widely used to silence journalists by a variety of actors and in several cases including mayors, a former mayor and ruling party leader, government officials, and even MPs, such as in the case of Rahul Dash (Staff Reporter for the local daily *Purbadesh*) who was threatened by an Awami League MP for the Bashkhali as he sought information under the Right to Information Act 2009. Intimidation constituted 15% of the total violations against journalists and online activists, and was often used in conjunction with other types of violations, such as serious bodily injuries and abduction.

Impunity yet to see substantial decline

Out of the 32 police reports or cases filed for incidents where journalists or online activists were subjected to attacks against physical integrity, intimidation and threat, or destruction of equipment and/or property, 56.3% were still under investigation. Only in 34.4% of cases was the investigation completed and charges brought. While in some cases police have intervened and protected journalists who were physically assaulted, in other instances, the non-cooperation of law enforcement agencies and lack of tangible support from press associations continued to severely affect journalists and online activists.

In December, a lower court delivered a verdict in the case of journalist Manik Saha, who was murdered in a bomb attack 12 years ago, sentencing nine of the eleven accused to life imprisonment and acquitting another two. However, overall only two of the 51 cases where journalists have been killed since 1995 saw convictions, while most cases did not pass beyond the investigation stage.

Local journalists still facing higher risks than those at a national level

ARTICLE 19's records clearly showed a continuation of the trend of increased vulnerability to violations for local journalists, compared to Dhaka-based, national media journalists. Local journalists can be targeted more easily, and they tend to cover all types of news, which poses greater risks to them, compared to national journalists, who cover specific areas of news.

Non-State Actors continue to be the main perpetratorsARTICLE 19's records indicate that 86.9% of the violations were committed by non-state actors, of whom 66.9% were leaders and activists of political parties (mostly of the ruling Awami League and its affiliated bodies), 6.89% were criminal groups, and 2.07% were religious fundamentalists. An

alarming 11.03% were other non-state actors from various professions .Of all the violations, 10.34% were committed by state-actors, of whom 4.83% were members of law enforcement agencies, 2.76% were government officials and an alarming 2.76% were elected public officials in local government.

Progressive views face challenges

Killings of an LGBTI magazine editor and activist, a theatre activist, and a vocal online activist who spoke out about religious fundamentalism underlined the lack of protection for minority groups. The arrests of three officials of a publishing house, including the proprietor, for allegedly hurting Islamic religious sentiments by publishing a book titled *Islam Bitorko* (“Debate on Islam”) were another example for the limitations freedom of expression faces.

Journalists continue to be under threat while reporting on sensitive public issues

ARTICLE 19 has found this year that journalists, including especially photojournalists and camera operators, and online activists were particularly vulnerable to violations when reporting on high-profile politicians, local-level political activists, protests, sensitive issues such as child marriage, and exposing corruption and illegal businesses.

Women journalists forced to remain silent on gender-based violations

A high number of gender-based violations inflicted upon women journalists continue to be unreported. Although only four gender-based violations have been recorded for 2016, 1.3% of the total violations, these figures do not reflect the actual number of occurrences of this type of violations, as in most cases victims do not report them for fear of repercussions.

We make the following recommendations for protecting the safety of journalists and freedom of expression for all citizens to the following actors:

The Government of Bangladesh

- Vigorously condemn violations when they do occur, investigate them promptly and effectively in order to duly sanction those responsible, provide compensation to the victims where appropriate, and regularly update the public on the proceedings;
- Take effective measures to address cases where state actors are involved in attacks, send strong signals that it is not appropriate and will not be tolerated;
- Ensure that law enforcement agencies, including police, uphold the right of journalists’ and citizens’ freedom of expression;
- Adopt a “holistic” protection approach for addressing issues of protection, safety, security, and impunity, including by establishing a specialised mechanism to provide protection and to investigate attacks on freedom of expression overseen by an independent body;

- Repeal section 57 of the Information Communications and Technology Act (ICT) Act 2006 to bring them into accordance with international law and standards; and in the meantime drop pending cases against individuals for exercising their right to freedom of expression under the ICT Act;
- Repeal criminal defamation and replace it with an appropriate civil defamation law;
- Ensure that the Foreign Donations (Voluntary Activities) Act does not curb the legitimate activities and expressions of civil society organisations and human rights defenders;
- Put in place anti-SLAPP (strategic litigation against public policy) legislation to prevent cases being brought simply to harass those who have exercised their right to freedom of expression;
- Provide appropriate training on crimes against freedom of expression, including gender-specific crimes, to relevant law enforcement officials including the police and prosecutors;
- Strictly follow the due process of law in cases of closure of newspapers or television channels, or any other media even if such closure is necessary and justified in law;
- Review other legal restrictions on the content of what may be published or broadcast to bring them in line with international standards; and
- Extend the remit of the NHRC to cover discrimination and/or anti-discrimination law covering private parties and enable the Human Rights Commission to investigate and take action against organisations and institutions found to be discriminating against women journalists.
- Oversight of bodies such as the National Human Rights Commission
- Extend the remit of the NHRC to cover discrimination and/or anti-discrimination law covering private parties and enable the Human Rights Commission to investigate and take action against organisations and institutions found to be discriminating against women journalists.

Media Houses and Organisations

- Adopt equality action policies and anti-harassment guidelines to address discrimination and harassment of women, including in terms of pay and promotion;
- Make a clear commitment to support their staff when they are the subject of attacks and/or legal harassment, including by supporting them to take legal action against the perpetrators;

- End the climate of impunity, ensure that criminal cases are filed for each and every attack on journalists affiliated with them, and monitor the progress of investigation and trial;
- Provide adequate safety, risk awareness, and self-protection training and guidance to journalists affiliated with them;
- Provide necessary security equipment to local correspondents, photographers, and reporters covering political agitations and clashes;
- Ensure the formulation of guidance to address gender discrimination, gender-based censorship and sexual harassment as a serious barrier to women's participation and representation in the media and the establishment of robust and effective mechanisms to address complaints from women journalists;
- Promote policy measures such as gender policies, internal code of conduct, equal opportunity employment and anti-bullying and anti-harassment policies toward the development of good practices to free the media from such negative trends; and
- Work in partnership with NGOs to raise awareness among journalists on issues of discrimination, censorship and harassment on the basis of gender.

Civil Society Organisations

- Monitor and highlight the progress of implementation of Bangladesh's Universal Periodic Review (UPR) commitments regarding protection of journalists and online activists, in the forthcoming UPR Review for Bangladesh.

Notes

1. The term 'killing' means causing the death of any journalist or online activist in a criminal manner;
2. 'Attempt to Kill' means attempting to cause the death of any journalists or online activist in a criminal manner;
3. 'Serious bodily injury' means a bodily injury that involves a substantial risk of death, extreme physical pain requiring an in-hospital stay of several days, disfigurement, or loss/impairment of the function of a bodily member/organ;
4. 'Minor assault' indicates the use of criminal force resulting in physical pain that does not amount to serious bodily injury;
5. 'Abduction' means compelling by force or inducing by deceitful means to leave a particular place;
6. 'Attempt to abduct' means attempting to compel by force or inducing by deceitful means to leave a particular place;
7. 'Intimidation/threats' means threatening any journalist or online activist to cause injury to his/her person, property or reputation with the intention of pushing the journalist or online activist so threatened to exercise self-censorship in exercising the right to freedom of expression;

8. 'Arrest' and 'police remand' in this report refer to the incidents where journalists/online activists were arrested by the police, and placed in police custody by judicial order;
 9. 'Vexatious case' means the filing of a criminal charge, regardless of its merit, solely to harass or subdue an individual. This does not include criminal defamation cases;
 10. 'Criminal defamation case' means the initiation of a criminal case against a journalist, alleging that something published/expressed has defamed the complainant;
 11. In this report, 'gender-based attacks' means physical or psychological attacks against a woman journalist/online activist that are inflicted because of her gender;
 12. 'Destruction of equipment/property' means causing the destruction/damage of (a) any journalistic equipment such as camera, microphone, motorbike etc; or (b) any property belonging to a journalist, when such destruction/damage is carried out to censor the journalist's right to freedom of expression;
 13. 'General Diary' is a legal term that connotes a formal written application addressed to the Officer-in-Charge of a police station at the level of an inspector. A General Diary may or may not lead to a formal investigation;
 14. 'Press Club' means an association of journalists, often created for the recreational purposes of journalists.
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