



**International Commission of Jurists
South Asia
Rule of Law Programme**

**Briefing Paper on the amendments to the Bangladesh
Information Communication Technology Act 2006**

November 2013

1. Introduction

On 6 October 2013, the Bangladeshi Parliament amended the Information and Communication Technology (ICT) Act, 2006. The amendments made many offences under the Act non-bailable¹ and cognizable.² The amendments also imposed a minimum prison sentence of seven years for offences under the Act and increased the maximum penalty for offences under the law from ten to 14 years' imprisonment.

The stated objective of the ICT Act is 'the legal recognition and security of information and communication technology.' However, the amendments to the Act appear designed to stifle the legitimate exercise of public criticism and to subject various persons including journalists, bloggers, and human rights defenders to arbitrary detention. Soon after the Act was amended, the prominent human rights organization Odhikar was subjected to harassment for allegedly distorting information, presenting false evidence and manipulating photographs of a Government crackdown on a rally by Hefazat-e-Islam, an Islamist political organization. Odhikar's Secretary, Adilur Rahman Khan, was arbitrarily detained for over one month. His bail applications were rejected three times before he was finally granted interim bail for six months and released from jail on 11 October 2013. His release was followed by the arrest of Nasiruddin Elan, Director of Odhikar, who continues to be arbitrarily detained.

The original ICT Act contains a number of vague, imprecise and overbroad provisions that serve to criminalize the use of computers for a wide range of activities in contravention of the right to freedom of expression, including the right to receive and impart information, protected under international law. Although the right to freedom of information is not absolute, the restrictions contemplated under the Act do not fall within the scope of exceptions permissible under international law, including Bangladesh's treaty obligations (See section 3 below).

Section 46 of the original ICT Act, for example, grants powers to the Government to direct any law-enforcing agency to restrict information through any computer resource if in their opinion such prevention is

¹ In non-bailable offences, bail is not granted as a matter of right. The accused is required to apply to the court, and granting bail is at the discretion of the court.

² If an offence is cognizable, the police may arrest persons suspected of committing the offence without an arrest warrant.

...necessary or expedient so to do in the interest of the sovereignty, integrity, or security of Bangladesh, friendly relations of Bangladesh with other States, public order or for preventing incitement to commission of any cognizable offence.

Section 57 of the original ICT Act criminalized publishing or transmitting or causing to publish or transmit

...any material which is fake and obscene or its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, or causes to deteriorate or creates possibility to deteriorate law and order, prejudice the image of the State or person or causes to hurt or may hurt religious belief or instigate against any person or organization, then this activity of his will be regarded as an offence.

These provisions of the original ICT Act, particularly section 57, are incompatible with Bangladesh's obligations under Article 19 of the ICCPR: the offences prescribed are vague and overbroad; the restrictions imposed on freedom of opinion and expression go beyond what is permissible under Article 19(3) of the ICCPR; and the restrictions are not necessary and proportional to achieve a legitimate purpose.

The ICT (amendment) Act 2013 makes the law even less compliant to Bangladesh's human rights obligations.

Under the original Act, the police had to get permission from the Home Ministry before registering a case under the law. The amended Act has made offences under sections 54, 56, 57 and 61 cognizable, allowing the police to make arrests without a judicial warrant.

In addition, under the amended Act, offences prescribed by sections 54, 56, 57 and 61 have been made non-bailable, which means that bail cannot be sought as a matter of right but is at the discretion of the court.

Lastly, the amended Act has also increased the maximum sentence for offences under sections 54, 56 and 57 of the Act from 10 to 14 years and prescribed a minimum sentence of seven years. The amended law has also retained the optional fine of ten million taka (\$130,000).

The ICJ is concerned that the amendments will have a chilling effect on the legitimate exercise of public expression by journalists, human rights defenders and others, including expression which may be critical of the Government.

The ICJ calls on the Bangladeshi Parliament to: Repeal the Information and Communication Technology Act (2006), as amended in 2013, or to modify the ICT Act to bring it in line with international law and standards, including Bangladesh's legal obligations under the ICCPR. At a minimum, this would require that it

- Amend section 57 of the ICT Act so as ensure any contemplated restrictions on freedom of opinion and expression are consistent with international law and standards.
- Amend section 57 of the ICT Act to ensure prohibited expression is clearly defined.
- Amend the ICT Act to ensure that any restriction to freedom of expression and information, including any sanction provided for is necessary to a legitimate objective and proportionate to the harm caused by the expression.

ICT Calls on the Bangladeshi Government to:

- Take steps to ensure that provisions of the ICT Act are not used to violate the right to freedom of expression, including to limit the legitimate exercise of comment on public matters which might contain criticism of the Government.
- Immediately end the continuing arbitrary detention of Odhikar's Director Nasiruddin Elan,³ and take immediate steps to withdraw the charges and ensure the termination of criminal proceedings against Elan and Odhikar's Secretary, Adilur Rahman Khan⁴ (charges have been filed against them under the Act).
- Drop charges and immediately end the arbitrary detention of Mahmudur Rahman, acting editor of Bengali newspaper, Amar Desh.

³ See *International Commission of Jurists*, 'Bangladesh: immediately release human rights defender Nasiruddin Elan', 6 November 2013, accessed at: <http://www.icj.org/bangladesh-immediately-release-human-rights-defender-nasiruddin-elan/>

⁴ See *International Commission of Jurists*, 'Bangladesh: authorities should immediately drop their opposition to Adilur Rahman Khan's bail application', 11 September 2013, accessed at: <http://www.icj.org/bangladesh-authorities-should-immediately-drop-their-opposition-to-adilur-rahman-khans-bail-application/>

- Drop charges against bloggers for the legitimate exercise of their freedom of expression.
- Direct Government agencies to desist from filing politically motivated cases unlawfully restricting the exercise of expression, as well as and seeking penalties which are disproportionate to the gravity of the alleged offence.

2. Background

The ICT Act was first passed by the Bangladeshi Parliament under the Bangladesh Nationalist Party (BNP) and Jamaat-i-Islami (JI) Government on 8 October 2006.

The Government used sections 46 and 57 of the ICT Act to ban the social networking site Facebook in May 2010. After the ban was imposed, sections 46 and 57 of the ICT Act were challenged in the Bangladesh High Court by Barrister Arafat Husen Khan, Kazi Ataul-Al-Osman, and Rokeya Chowdhury.⁵ In July, the High Court asked the Government to show why the sections of the ICT Act should not be held unconstitutional for violating the right to freedom of expression.

Instead of amending the ICT Act to ensure compliance with the Bangladeshi Constitution and Bangladesh's international law obligations, the Government revised the ICT Act through an Ordinance on 20 August 2013 so as to make the law even less human rights compliant. On 6 October 2013, the Bangladeshi Parliament passed the Information and Communication Technology (amendment) Act 2013, incorporating the provisions of the Ordinance into the ICT Act.⁶

The Government promulgated the ICT Ordinance at a time when the use of online platforms was becoming increasingly important for journalists and human rights defenders, especially in light of the Government's violent response to widespread protests following verdicts of the International Crimes Tribunal.

⁵ *Arafat Hosen Khan and others v. Bangladesh and others* (Writ Petition No 4719 of 2010).

⁶ Article 19 of the Bangladeshi Constitution, 1972, provides that an Ordinance promulgated by the President shall be laid before Parliament at its first meeting following the promulgation and 'shall, unless it is earlier repealed, cease to have effect at the expiration of thirty days after it is so laid or, if a resolution disapproving of the Ordinance is passed by Parliament before such expiration, upon the passing of the resolution.'

Soon after the Act was amended, it was used as basis for the arbitrary detention of prominent human rights defenders Adilur Rahman Khan, the Secretary of the human rights organization Odhikar, and Nasiruddin Elan, Director of Odhikar.

3. Section 57 contravenes Freedom of Opinion and Expression

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of opinion and expression, including the right to receive and impart information and ideas of all kinds, regardless of frontiers. It includes ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse.’⁷

The UN Human Rights Committee, the treaty-monitoring body of the ICCPR, has affirmed that these rights ‘constitute the foundation stone for every free and democratic society’⁸ as they promote accountability, transparency, and the promotion and protection of other human rights. Under international law, the right to freedom of expression applies to all forms of communication, including the Internet.⁹

Article 19(3) of the ICCPR stipulates specific conditions for any restriction on freedom of opinion and expression. The restrictions must be ‘provided by law’; they may only be imposed for one of the grounds set out in the Article; and they must meet the tests of necessity and proportionality. Limitations not specified in Article 19(3) are prohibited under the ICCPR.

Section 57 of the ICT Act contravenes Bangladesh’s obligations under Article 19 of the ICCPR: the offences prescribed are vague and overbroad; the restrictions imposed on freedom of opinion and expression go beyond what is permissible under Article 19(3) of the ICCPR; and the restrictions are not necessary and proportional to achieve a legitimate purpose.

(a) Any restriction on freedom of expression must be prescribed by law

⁷ UN Human Rights Committee, *General Comment 34*, UN Doc. no. CCPR/C/GC/34 (UNHRC General Comment 34), accessed at <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>, para 11.

⁸ *Ibid.*, para 2.

⁹ *Ibid.*, para 12.

Under international law and the general principle of legality, criminal offences must be prescribed by law, which means that they must be formulated clearly and precisely so that individuals can regulate their conduct accordingly. States must refrain from restricting freedom of expression through vague, imprecise, and overly broad regulatory language.

The UN Human Rights Committee has emphasized that laws must not confer unfettered discretion for the restriction of freedom of expression to those responsible for their execution and must provide sufficient guidance to enable law enforcers and the general public to determine what kinds of expression are restricted.¹⁰

The ICJ is concerned that offences enumerated in section 57 of the ICT Act are formulated in overly broad and vague terms and do not prohibit specific conduct. For example, there are no guidelines to determine what constitutes prejudicing the 'image of the State' or what would be considered 'obscene'. Similarly, 'causes to deteriorate or creates a possibility to deteriorate law and order' is an imprecise and ambiguous formulation of the offence, making it impossible for the public to ascertain what conduct is criminalized. The notion of 'deteriorating law and order' also appears to be a wholly subjective and impressionistic concept.

(b) Permissible restrictions under the Article 19 of the ICCPR

Article 19(3) specifies only a limited number of grounds when freedom of opinion and expression can be restricted: when such restrictions are necessary (1) for the respect of the rights or reputations of others; and (2) for the protection of national security or of public order or of public health or morals.

It is not clear as to whether the Government has sought to limit the protections of Article 19 for on the basis of any of the permissible restrictive purposes. However, the limitations contemplated under section 57 of the ICT Act, expressed as they are, *prima facie* go beyond the permitted restrictions on the freedom of opinion and expression provided by Article 19(3) of the ICCPR.

For example, the provision of section 57 of the ICT Act that criminalizes expression that 'causes to hurt or may hurt religious belief' is incompatible with Article 19(3) of the ICCPR. The UN Human Rights

¹⁰ *Ibid.* para 25.

Committee has stressed that 'prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant.'¹¹ The UN Human Rights Committee has affirmed it is impermissible for any law to discriminate in favor of or against a particular religion or belief system, or religious believers over non-believers. Furthermore, the Committee has expressly stated that it is not permissible for prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith.

The provisions of section 57 of the ICT Act that criminalize expression that 'prejudices the image of the State' are also incompatible with the requirements of Article 19(3) of the ICCPR. The UN Human Rights Committee has affirmed that restrictions on freedom of expression cannot be used to withhold information of legitimate public interest that does not harm national security, or to prosecute journalists or human rights defenders for disseminating such information.¹² Furthermore, the UN Human Rights Committee has held that the penalization of publishers or journalists for being critical of the government can never be considered to be a necessary restriction of freedom of expression.¹³

In light of the above, the ICJ considers restrictions imposed by section 57 of the ICT Act in violation of Bangladesh's obligations under Article 19 of the ICCPR.

(c) Necessary and Proportionate

States parties to the ICCPR are obligated to ensure that legitimate restrictions on the right to freedom of expression are necessary and proportionate.

The UN Human Rights Committee has said that even when a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.¹⁴

¹¹*Ibid.*, para 48.

¹²*Ibid.*, para 30.

¹³*Ibid.*, para 43.

¹⁴*Ibid.*, para 35.

Even if a restriction may be undertaken pursuant to legitimate purpose, such as protection of national security, to be lawful such restriction must be necessary, i.e. they must be 'the least intrusive instrument amongst those which might achieve their protective function'¹⁵ and therefore may only be applied when there is no less restrictive means to that end. The UN Human Rights Committee has stated that overbroad restrictions on freedom of expression do not conform with the principle of proportionality.¹⁶

The UN Human Rights Council's Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, has urged States to ensure that the principle of proportionality is observed when charges are brought against media professionals and others 'in order not to undermine the exercise of the right to freedom of opinion and expression and make it an empty shell.'¹⁷

As discussed earlier, provisions of the section 57 may be applied to almost any expression the Government takes issue with instead of specifically defined conduct to protect a legitimate public interest. The Government has failed to show, as required by its obligations under Article 19, 'in specific and individualized fashion the precise nature of the [purported] threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.'¹⁸

The Government's harassment of Odhikar illustrates how section 57 of the ICT Act, and the Government's implementation of the law, violates the obligation to ensure limitations to free speech are necessary and proportionate.

In June 2013, Odhikar reported that the law enforcement agencies, including the police and Rapid Action Battalion (RAB), unlawfully killed 61 people in the Government crackdown on a rally by Hefazat-e-Islam, an Islamist political organization. The Government disputed the figures of casualties, but instead of investigating Odhikar's claim, responded by charging Odhikar's Secretary, Adilur Rahman Khan and Director,

¹⁵ *Ibid.*, para 34.

¹⁶ *Ibid.*, para 34.

¹⁷ UN Human Rights Council, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue: addendum: mission to the Republic of Maldives, 25 May 2009*, A/HRC/11/4/Add.3, accessed at:

<http://www.refworld.org/docid/4a3f702f2.html>

¹⁸ UNHRC General Comment 34, *supra* fn. 7, para 35.

Nasiruddin Elan, for distorting information, presenting false evidence and manipulating photographs, and subjecting them to arbitrary detention in jail. If convicted, they both face up to fourteen years imprisonment, for exercising their protected rights and professional functions as human rights defenders. There is no indicia that the Government action has been taken for any legitimate purpose, such as national security or the protection of the rights of others, much less that criminal process was a necessary and proportionate means towards any such purpose.

Therefore, offences set out in section 57 of the ICT Act do not meet the standards of necessary and proportionate restrictions to freedom of expression.

4. Section 76 does not comply with the right to liberty

(a) Pretrial Detention

The ICJ is concerned that section 76 of the amended ICT Act, which makes some offences under the Act non-bailable, violates the right to liberty and may also undermine the presumption of innocence which must be accorded to the accused under international law.¹⁹

Article 9 of the ICCPR protects the right to liberty and security of the person and provides that 'it shall not be the general rule that persons awaiting trial shall be detained in custody.'

Under international law and standards, States may only detain individuals pending trial where it is absolutely necessary to ensure his or her presence at trial or preservation of evidence. The ICCPR provides under Article 9(3) the limited circumstances under which pretrial detention is permissible. According to the UN Human Rights Committee, Article 9(3) requires that

*pre-trial detention should be the exception and...bail should be granted, except in situations where the likelihood exists that the accused would abscond or destroy evidence, influence witnesses or flee the jurisdiction of the state party.*²⁰

¹⁹ Article 14(2) of ICCPR: Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

²⁰ Communication No. 526/1993, *M. and B. Hill v. Spain*, (views adopted on 2nd April 1997) see UN doc. GAOR, A/52/40 (vol. II) p. 17.

Provisions of the ICT (amendment) Act 2013 that make offences under sections 54, 56, 57 and 61 non-bailable are incompatible with Article 9(3) of the ICCPR.

ICJ is also concerned that long periods of pretrial detention put accused persons at a risk of torture and other forms of ill-treatment. Human rights groups have documented that torture and other ill-treatment by the police is widespread in Bangladesh, especially in police remand.²¹ Mahmudur Rahman, acting editor of Bengali newspaper Amar Desh (see section 6 below) was reportedly subjected to torture by the police while he was detained in Kashmirpur Jail.²² Nasiruddin Elan, Odhikar's Director, also remains at risk of torture and ill-treatment while in detention.

5. Proportionate Punishment

Even if the restrictions contemplated under the ICT were substantially amended and narrowed to bring them into compliance with Article 19(3) of the ICCPR, prosecution under the ACT may still fall afoul of international legal obligations due to its deficient sanctioning regime.

The proportionality of punishment is a basic principle of international law. States must ensure that penalties imposed by law, especially where they involve the deprivation of liberty, are proportionate to the offence in question.

Principle 24 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information (the Johannesburg Principles),²³ for example, provides that 'a person, media outlet, political or other organization may not be subject to such sanctions, restraints or penalties for a security-related crime involving freedom of expression or information that are disproportionate to the seriousness of the actual crime.' Similarly, Article 46 of the Global Principles on National Security and the Rights to Information (the Tshwane

²¹ See Odhikar, State of Human Rights 2012, *Chapter V: Torture and other cruel, inhuman or degrading punishment*, January 2013, accessed at: <http://odhikar.org/wp-content/uploads/2013/01/report-Annual-Human-Rights-Report-2012-eng.pdf> and Amnesty International, Annual Report 2013, *Bangladesh*, accessed at: <http://www.amnesty.org/en/region/bangladesh/report-2013#section-13-4>

²² Frontline Defenders, *Bangladesh: Reported torture in detention of human rights defender Mahmudur Rahman*, 23 April 2013, accessed at: <http://www.frontlinedefenders.org/node/22442>

²³ *Johannesburg Principles on National Security, Freedom of Expression and Access to Information*, UN Doc. E/CN.4/1996/39 (1996).

Principles)²⁴ provides that criminal penalties for the unauthorized disclosure of information to the public should be proportionate to the harm caused.

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, has stated that 'criminal defamation laws may not be used to protect abstract or subjective notions or concepts, such as the State, national symbols, national identity, cultures, schools of thought, religions, ideologies or political doctrines.'²⁵

The UN Human Rights Committee has also held that imprisonment is never an appropriate penalty for defamation.²⁶

By criminalizing and prescribing a minimum sentence of seven years for expression that prejudices the image of the State, prejudices the image of a person, or hurts religious belief, section 57 of the ICT Act violates Bangladesh's international law obligations to ensure punishments are necessary and proportionate to the offence.

The amended ICT Act sets the minimum sentence for offences prescribed by the Act at seven years and increases the maximum sentence from ten to fourteen years. In addition, anyone found guilty of committing offences under the Act may also be fined up to ten million Taka (\$130,000). Imposition of such prolonged prison sentences along with heavy fines is disproportionate punishment, and may be used as a means and restricting freedom of expression, including by chilling the exercise of political expression.

The prescribed punishment for offences is also disproportionate when compared with offences under the Bangladeshi Penal Code. For example, under section 500 of the Penal Code, the prescribed penalty for defamation is maximum two years imprisonment. Under section 57 of the ICT Act, however, 'prejudicing the image' of a person is liable for a minimum seven years imprisonment. The Penal Code also sets

²⁴ *Global Principles on National Security and the Rights to Information* (the Tshwane Principles), 12 June 2013, accessed at: <http://icj.wpenGINE.netDNA-cdn.com/wp-content/uploads/2013/06/Global-Principles-on-National-Security-and-the-Right-to-Information-Tshwane-Principles-June-2013.pdf>

²⁵ UN Human Rights Council, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue: addendum: mission to the Republic of Maldives, 25 May 2009*, A/HRC/11/4/Add.3, accessed at: <http://www.refworld.org/docid/4a3f702f2.html>

²⁶ Human Rights Committee, General Comment 34, *supra* fn. 7, para 47.

smaller punishments for a number of more serious, even violent, crimes as compared to offences prescribed under section 57 of the ICT Act.²⁷

6. Indications of abuse of the ICT Act to silence political and public discourse

The ICJ is concerned that the vague and overbroad offences prescribed by section 57 of the ICT Act and the disproportionate penalties prescribed by the ICT (amendment) Act 2013 can give authorities a free hand to silence public discourse. Recent cases in which prominent human rights defenders and journalists have been charged under the ICT Act emphasize the gravity of this risk.

On 11 April 2013, Mahmudur Rahman, acting editor of a Bengali newspaper Amar Desh, was arrested from his office and later charged under section 57 of the ICT Act for 'publishing fake, obscene or defaming information in electronic form'. In December 2012, Amar Desh had published transcripts of a Skype conversation between former International Crimes Tribunal (ICT) Chairman, Justice Muhammad Nizamul Huq, and a Bangladeshi legal expert, Ahmed Ziauddin. The records revealed information calling into the question the independence of the ICT. Mahmoodur Rahman continues to be arbitrarily detained.

In April 2013, four bloggers, Asif Mohiuddin, Subrata Adhikari Shuvo, Moshiur Rahman Biplob and Rasel Parvez, were arrested and detained for allegedly making derogatory comments about Islam before being released on bail. On 8 September 2013, they were charged under section 57 of the ICT Act for hurting religious sentiment. Their trial date is set for November. The Government is reportedly also cracking down on other alleged atheist bloggers and participants in religious discussion on online forums.

²⁷ For example, section 506 of the Penal Code says 'Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both'; section 147 of the Penal Code says 'Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both'; and Section 148 states 'Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.'

On 10 August 2013, Adilur Rahman Khan, Secretary of the human rights organization Odhikar, was arrested for allegedly distorting information about a police operation on a Hefazat-e Islam rally in May 2013. Odhikar had reported that 61 people had been killed in the police crackdown on the rally. The Government disputed the number of casualties. The police filed a charge-sheet against Adilur Rahman Khan and Odhikar's Director, Nasiruddin Elan on 4 September for distorting information, presenting false evidence and manipulating photographs under section 57 of the ICT Act.

Adilur Rahman Khan's bail application was rejected three times.²⁸ He was granted a six-month interim bail on 8 October 2013²⁹ and was finally released from jail on 11 October 2013.

On 6 November 2013, a Dhaka cyber crimes tribunal rejected Odhikar Director, Nasiruddin Elan's bail application and ordered his detention in Dhaka Central Jail.

7. Recommendations

In light of the above, the ICJ calls on the Bangladeshi Parliament to: Repeal the Information and Communication Technology Act (2006), as amended in 2013, or to modify the ICT Act to bring it in line with international law and standards, including Bangladesh's legal obligations under the ICCPR. At a minimum, this would require that it

- Amend section 57 of the ICT Act so as ensure any contemplated restrictions on freedom of opinion and expression are consistent with international law and standards.
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²⁸ See *International Commission of Jurists*, 'Bangladesh: authorities should immediately drop their opposition to Adilur Rahman Khan's bail application – Update', 25 September 2013, accessed at: <http://www.icj.org/bangladesh-authorities-should-immediately-drop-their-opposition-to-adilur-rahman-khans-bail-application-update/>

²⁹ See *International Commission of Jurists*, 'Bangladesh: process the bail order and release Adilur Rahman Khan immediately', 10 October 2013, accessed at: <http://www.icj.org/bangladesh-process-the-bail-order-and-release-adilur-rahman-khan-immediately/>

is necessary to a legitimate objective and proportionate to the harm caused by the expression.

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- Immediately end the continuing arbitrary detention of Odhikar's Director Nasiruddin Elan,³⁰ and take immediate steps to withdraw the charges and ensure the termination of criminal proceedings against Elan and Odhikar's Secretary, Adilur Rahman Khan³¹ (charges have been filed against them under the Act).
- Drop charges and immediately end the arbitrary detention of Mahmudur Rahman, acting editor of Bengali newspaper, Amar Desh.
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- Direct Government agencies to desist from filing politically motivated cases unlawfully restricting the exercise of expression, as well as and seeking penalties which are disproportionate to the gravity of the alleged offence.

³⁰ See *International Commission of Jurists*, 'Bangladesh: immediately release human rights defender Nasiruddin Elan', 6 November 2013, accessed at: <http://www.icj.org/bangladesh-immediately-release-human-rights-defender-nasiruddin-elan/>

³¹ See *International Commission of Jurists*, 'Bangladesh: authorities should immediately drop their opposition to Adilur Rahman Khan's bail application', 11 September 2013, accessed at: <http://www.icj.org/bangladesh-authorities-should-immediately-drop-their-opposition-to-adilur-rahman-khans-bail-application/>