



## BANGLADESHI NEWSPAPER EDITOR SHOULD BE RELEASED FROM PRE-TRIAL DETENTION ON SPEECH CHARGES

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### CHARGES

“Publishing, sending of offensive, false or fear inducing data-information”; publication of defamatory information; and other speech offenses

### MAXIMUM SENTENCE

13 years

(7 years imprisonment in first case; 3 years imprisonment in second case; and 3 years imprisonment in third case)

### STATUS

Bail hearing before the High Court on October 18, 2020

October 17, 2020

TrialWatch, an initiative of the Clooney Foundation for Justice, intends to monitor criminal proceedings against Shafiqul Islam Kajol in Bangladesh. Mr. Islam, a photojournalist and newspaper editor, has been charged with criminal defamation and other crimes under the *Digital Security Act 2018* (DSA) in three separate cases. Each case relates to a newspaper article that Mr. Islam shared on social media. The article was published by the *Daily Manob Zamin*, a Bangladeshi newspaper, and reported on an alleged sex scandal involving Bangladeshi politicians affiliated with the ruling party. After a 53-day disappearance, under suspicious circumstances, Mr. Islam has been held in pre-trial detention for nearly 170 days, with no trial dates set in any of the three cases.

Mr. Islam’s prosecution comes amidst a crackdown on journalists in Bangladesh, with the DSA often invoked to bring charges against those critical of the government. Free-speech organization Article 19 has reported that over 200 people, including 53 journalists, have had cases initiated against them under the DSA in the first half of this year alone, with many of them [“still awaiting bail.”](#) The Committee to Protect Journalists has also [previously reported on the disappearance of journalists.](#)

UN standards make clear pre-trial detention should be the exception, and not the rule, and that it should not be ordered if [“disproportionate in relation to the alleged offence and the expected sentence.”](#) The UN Human Rights Committee has further stated that excessive pre-trial detention may violate the presumption of innocence. Mr. Islam is being detained on charges of defamation for which the UN Human Rights Committee has previously explained that [“imprisonment is never an appropriate penalty.”](#) Thus, Mr. Islam’s pre-trial detention is disproportionate and raises concern regarding respect for the presumption of innocence. **CFJ therefore calls on the High Court to order Mr. Islam’s release pending trial and to ensure that any trial hearings, whether virtual or live, will be open to the public.**

## BACKGROUND

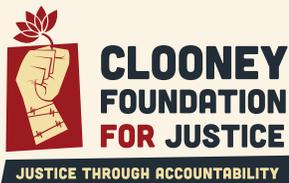
Shafiqul Islam Kajol is a photographer and the founder and editor of *Pokkhokal*, a daily Bangladeshi newspaper. On March 9, 2020, Saifuzzaman Shikhor, a Member of Parliament, filed a complaint under the DSA against Mr. Islam after Mr. Islam had commented on and shared a story on his Facebook page alleging a sex scandal involving several high-ranking politicians from the Awami League Party, which has been in power in Bangladesh since 2009 and which, according to Human Rights Watch, has [become increasingly intolerant of dissent](#). Once an individual complaint is filed, the DSA provides the authorities broad powers to investigate, arrest, and charge anyone who is suspected of committing a crime in violation of the DSA.

The next day, Mr. Islam disappeared. During his 53-day disappearance two additional DSA complaints were filed against him by individuals affiliated with the Awami Party. On May 3, 2020, Mr. Islam was ‘found’ by the Border Guard in Jashore, a town near the Indian border, 150 miles from where he had last been seen. Mr. Islam was then arrested for allegedly entering Bangladesh illegally. He was swiftly granted bail on this charge—although it remains pending against him—but was then immediately re-arrested on the ground that he was the subject of criminal investigation under the DSA. While he again sought bail, it was repeatedly denied despite the fact that his detention exceeded the 15 days allowable by law for investigation. Ultimately, he was indicted and ordered arrested in the DSA cases. Again, he sought bail and again it was denied. Further appeals were also denied.

Mr. Islam’s Facebook post is protected by the right to freedom of expression and should not be the subject of criminal prosecution. But even if it were appropriate to prosecute him for criminal defamation, the UN Human Rights Committee has stated clearly that [“\[i\]t is impermissible for a State party to indict a person for criminal defamation but then not to proceed to trial expeditiously – such a practice has a chilling effect that may unduly restrict the exercise of freedom of expression of the person concerned.”](#) Despite this, Mr. Islam, who [“is suffering from a variety of physical ailments”](#) continues to be held in pre-trial detention, with COVID-19 also spreading in detention centers.

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### ABOUT THE CLOONEY FOUNDATION FOR JUSTICE’S TRIALWATCH INITIATIVE



*The Clooney Foundation for Justice’s [TrialWatch](#) initiative monitors and grades the fairness of trials of vulnerable people around the world, including journalists, women and girls, religious minorities, LGBTQ persons and human rights defenders. Using this data, TrialWatch advocates for victims and is developing a Global Justice Ranking measuring national courts’ compliance with international human rights standards.*