

Public Figures, Criminal Defamation, and Free Speech: The Missing Public Figure Doctrine in Bangladesh Law

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Abstract: Defamation law balances free expression and the protection of individuals' reputations. But in Bangladesh, all defamation claims are treated alike and remain criminalised, with no distinction between public officials and private persons or higher proof standards for public figures. Provisions in the Penal Code 1860 and the Digital Security Act 2018 have been used against journalists and critics, chilling democratic debate to silence them. This article argues for reform through decriminalisation, a serious-harm requirement, and a public figure doctrine based on “actual malice.” Drawing inspiration from U.S., U.K., and Indian jurisprudence, it highlights constitutional and policy reasons for stronger protection of speech about public power and concludes with practical legislative and judicial recommendations.

1. Introduction

In tort law, defamation refers to the publication of a false statement that injures an individual's reputation and gives rise to legal remedies aimed at reputational protection. Therefore, it serves as the best practice to preserve the individual's dignity without limiting their speech unfairly. However, in democratic accountability, citizens, academics, and journalists have the right to criticise the leaders and institutions. To some extent, international human rights law also recognises that freedom of expression is an important part of democracy, but it sometimes limits the use of defamation laws to cases of strict necessity and fairness. Therefore, the government takes measures to ensure that defamation laws are not misused to suppress free speech or silence individuals.

Bangladesh inherited the defamation law from the very early colonial period. Sections 499 and 500 of the Bangladesh Penal Code 1860 state that a person found guilty of the crime of defamation may be punished with up to two years' imprisonment or a fine.¹ Although the Bangladeshi law, like

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¹ Priya Ahsan Chowdhury, ‘Can a new law balance cybersecurity and free expression?’ *The Daily Star* (Dhaka, 6 May 2025) <<https://www.thedailystar.net/opinion/views/news/can-new-law-balance-cybersecurity-and-free-expression-3887426>> accessed 12 September 2025.

criminal and civil laws, does not provide a separate definition of defamation, the complainant is entitled to both civil and criminal remedies for the wrongful publication. Normally, under Section 198 of the Criminal Procedure Code, a magistrate can take a complaint if it is brought by the person who is directly affected by the defamation. In practice, complaints are frequently initiated by political figures or their associates in response to criticism of public conduct.

Bangladesh's cyber laws primarily focus on the system and emphasise punishment. The Digital Security Act 2018 states that it is a crime to publish false material online that may hurt religious feelings or be deemed as insulting². Online defamatory material may be punished with a jail sentence or a fine under Sections 25, 29, and 30 under the Digital Security Act 2018.³ Many defamation cases have been filed under this Act from 2020 to 2021.⁴ This Act is so powerful that it enables the police to arrest someone without a legal warrant and seize the devices they use for publishing the material. Not only that, but sometimes many professionals, like journalists, political party opponents, academics, and teachers, have also been arrested and fined for posting something on Facebook or reporting to a news channel⁵. However, human rights advocates have claimed that the law aggressively harassed vulnerable individuals, silenced their voices, and instilled fear in them.⁶ In 2023, the Government of Bangladesh introduced a new law called the Cyber Security Act 2023. This act also identified defamation as a crime but provided different types of punishment. For example, whoever commits a crime will not be punished with imprisonment but with only a fine. However, if the perpetrator fails to

² Staff Correspondent, 'Digital Security Act 2018: Freedom of expression to get hurt' *The Daily Star* (Dhaka, 9 October 2018) <<https://www.thedailystar.net/frontpage/digital-security-act-2018-freedom-expression-get-hurt-1553488>> accessed 24 October 2025.

³ TBS Report, 'Journalists will be fined, not jailed, in defamation cases: Law Minister' *The Business Standard* (Dhaka, 1 August 2023) <<https://www.tbsnews.net/bangladesh/journalists-will-be-fined-not-jailed-defamation-cases-law-minister-678318>> accessed 3 November 2025.

⁴ Amnesty International, 'Bangladesh: New Cyber Security Bill Retains Repressive Features of the Digital Security Act' (Report ASA 13/6649/2023, Amnesty International 2023) <<https://www.amnesty.org/en/wp-content/uploads/2023/05/ASA1366492023ENGLISH.pdf>> accessed 19 September 2025.

⁵ TBS Report, 'ARTICLE 19's Global Expression Report categorises Bangladesh as a "Crisis Country"' *The Business Standard* (Dhaka, 11 June 2024) <<https://www.tbsnews.net/bangladesh/article-19s-global-expression-report-categorises-bangladesh-crisis-country-856741>> accessed 30 August 2025.

⁶ Tuhin Shubhra Adhikary, 'Bangladesh ICT Act: The trap of Section 57' *The Daily Star* (Dhaka, 7 July 2017) <<https://www.thedailystar.net/frontpage/bangladesh-ict-act-the-trap-section-of-57-1429336>> accessed 21 October 2025.

pay the fine, he will be imprisoned.⁷ In this context, the non-payment of the fine would be considered a crime.

If we look at some democratic countries, we find that they have special provisions on defamation involving public figures. In Bangladesh, there are no such provisions. The U.S. Supreme Court stated in the case *New York Times Co. v. Sullivan* that a public official can claim a remedy if he or she proves that a part of the statement is false, that there is gross negligence in truth, it is made falsely, and that actual malice occurs.⁸ Recently, the U.K. Parliament changed the strict liability principles by introducing new dimensions in the Defamation Act 2013. For example, if a statement related to a statutory public interest seriously harmed one's reputation, then there are many remedies available as strict liability principles under the statutory law of the country.⁹ In *R. Rajagopal v. State of Tamil Nadu*, the Indian Supreme Court applied the "Sullivan test" in civil actions against public officials, despite the existence of criminal defamation.¹⁰ Still, there are not many changes seen in Bangladeshi law. So, in this article, the question is whether public figures have to identify additional issues to win a defamation case, whether punishment for defamation should change, or be permanently removed. Research reveals that normally defamation cases are used to stop people from flagging the misuse of power and to discourage the media from expressing their independent views. So, the enactment of new laws would help by making the government more accountable and balanced, and protect public officials from unwanted attacks and reputational damage.

2. Conceptual Framework: Public vs. Private Figures

2.1 Defamation and its elements

In tort, defamation is an offense involving the publication of a false statement; it harms a person's reputation. In tort, defamation can be classified as libel and slander. Libel and slander are distinct from one another in terms of identification, publications, and defamatory meanings. But there are also some defenses in defamation, such as truth, privileges, and fair comment in certain contexts. Section 499 of the Penal Code of Bangladesh, Defamation, means making or publishing anything that will

⁷ TBS Report, 'Digital Security Act to be scrapped, replaced by new cyber law' *The Business Standard* (Dhaka, 1 August 2023) <<https://www.tbsnews.net/bangladesh/digital-security-act-be-scrapped-replaced-new-cyber-law-678282>> accessed 15 September 2025.

⁸ *New York Times Co v Sullivan* (1964) 376 US 254 <<https://supreme.justia.com/cases/federal/us/376/254/>> accessed 6 November 2025.

⁹ *ibid.*

¹⁰ *R Rajagopal v State of Tamil Nadu* [1995] AIR 264.

directly impact a person's reputation.¹¹ There are ten exceptions in this provision, including aspersion of truth for the public good, any act done by a public servant for public conduct, and any report that is fair in any judicial proceeding. Section 500 of the Bangladesh Penal Code of 1860 deals with the punishment, which is up to two years of imprisonment and a fine.¹² This punishment applies equally to all targets, whether they are printed or online publications.

In terms of constitutional law and constitutional democracy, defamation law should be more balanced with freedom of expression. European human rights state that some restrictions are valid in times of extreme necessity in a democratic society, and a balance between the aim pursued. But in the case of public officials and public figures, they have to tolerate a vast amount of criticism because comparative jurisprudence recognizes that open debate is essential in terms of public affairs. Two key principles should be adopted to protect the right to free speech: first, a standard criterion for proving "actual malice," and second, "serious harm."

2.2 The public figure doctrine and actual malice

First of all, the doctrine was first articulated in the United States. The Supreme Court, in the case of *New York Times Co. v. Sullivan*, clearly stated some practical issues, such as if a public official sues another person for defamation, he or she has to prove that there is clearly a sign of "actual malice," which is directed at the statement given by the defendant being fully false, or he avoids knowing the depth of the statement, whether it is true or false.¹³ The court thereafter elaborated that having an open discussion on any public matter can sometimes lead to mistakes. This reality will make people afraid to openly discuss or criticise the government out of fear of legal action. After that, the court added that people who hold influential roles in society and get involved in any society-related public debate, also called "public figures," are also subject to the rule.¹⁴ So the above discussion clearly states that public figures and public officials can get remedies in any case if they actually prove the "actual malice."¹⁵ But

¹¹ Penal Code, 1860 (PC 1860), s 499 (Bangladesh).

¹² *ibid* s 500.

¹³ Stephen Wermiel, 'New York Times Co. v. Sullivan (1964)' (Free Speech Centre at Middle Tennessee State University, 6 August 2023) <<https://firstamendment.mtsu.edu/article/new-york-times-co-v-sullivan/>> accessed 11 October 2025.

¹⁴ *Grant v Torstar Corp* [2014] SCC 31 <<https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/7837/index.do>> accessed 4 November 2025.

¹⁵ Stephen Wermiel, 'Actual Malice' (Free Speech Centre at Middle Tennessee State University, 1 July 2021) <<https://firstamendment.mtsu.edu/article/actual-malice/>> accessed 18 September 2025.

there are different cases involving private individuals; in such cases, the plaintiff has to prove only negligence to win and seek remedies. But if they seek punitive damages, they must prove actual malice.¹⁶ In short, the Sullivan rule sets different levels of proof depending on whether the person harmed is a public figure or a private individual, balancing this with the need for free and open public discussion.

Sometimes, public figures have some justification on different grounds, so they can easily save themselves as (1) Voluntary risk of management: In this case, public figures easily protect themselves against any irrelevant false news by speaking in front of the public. (2) Acceptance: Though they are public figures, people have the right to criticise them publicly. (3) Sovereignty: people have the right to point out the faults of the public officials. (4) Chilling effect: If a system of law is strict on the media, the media person will be afraid to publish something correctly. Some experts argue that there are disadvantages, such as the risk of dangerous lies going unnoticed and unpunished, and that it is often difficult to distinguish between public figures and private individuals. Still a much more democratic country, believing in the point that the people who are in a public position should get higher remedies in case of defamation.¹⁷

2.3 Serious harm and public interest tests

In the early history of England, libel was regarded as a criminal offense. Subsequently, under the Defamation Act 2013, libel is a crime if it destroys someone's reputation in written form.¹⁸ There are different rules on business policy; in business, someone can only prove "serious harm" if they can prove actual financial loss. Under Section 4 of the Defamation Act 2013, they changed the old rule of "Reynolds defense" by saying that, in case of public interest, the publishing of something honest.¹⁹ By improving the law, it helps reduce irrelevant and petty cases and also protects journalists' freedom of speech. In case of fairness, before a defamation case

¹⁶ S Barbas, 'New York Times v. Sullivan: A Civil Rights Story' (2024) 12(1) Texas A&M Law Review
<<https://scholarship.law.tamu.edu/cgi/viewcontent.cgi?article=1345&context=lawreview>> accessed 27 August 2025.

¹⁷ Vicki Mullen, 'Defamation of Public Officials and Public Figures: Special Rules and Free Speech in the United States and Australia' (Occasional Paper 2/1995, New South Wales Parliamentary Library Research Service 1995)
<<https://www.parliament.nsw.gov.au/researchpapers/Documents/defamation-of-public-officials-and-public-figure/Defamation%20of%20public%20officials.pdf>> accessed 14 October 2025.

¹⁸ Defamation Act 2013, (c 26) (UK)
<<https://www.legislation.gov.uk/ukpga/2013/26#:~:text=Changes%20to%20legislation,two%20or%20more%20distinct%20imputations>> accessed 8 June 2025.

¹⁹ *ibid* s 4.

is filed, the plaintiff has to prove that his reputation has been seriously harmed and that it has caused suffering to him or her. If this rule applies, many irrelevant and false cases will not go to court. This approach permits the media to report the necessary issues without fear of being summoned in any case in defense of public interest. These developments aligned the defamation law with human rights standards and helped people avoid unnecessary trouble by safeguarding their reputation and right to freedom of speech.

2.4 Developments in Indian law

Defamation cases continue to be filed under Section 499 and Section 500 of the Indian Penal Code. However, India has adopted the doctrine of public service only in certain civil cases. In this case, *R. Rajagopal v. State of Tamil Nadu* (1994), the Indian Supreme Court clearly states that individuals on official duty cannot claim any remedies for reports related to their official work; however, if they can prove it to be a false publication made with bad intention, they may seek a remedy.²⁰ The Supreme Court of India at that time accepted the law of the U.S. and explained that public officials must take into account public criticism. In the case of publishing a prisoner's biography, the writer proved the corruption of the official with a bona fide intention, and later the accused could not prove it wrong.²¹ Even though commentators believe that to give safeguards to the rights of free speech, the adoption in civil cases is marked as a commitment to this "Sullivan test."²²

In the past, there was so much development, but the existence of criminal defamation laws and courts did not invalidate it. In the case of India called *Subramanian Swamy v. Union of India*, the Supreme Court mentions that if someone files a case of criminal defamation, it does not impact the fundamental right of free speech. Even though the court also thinks that under Article 21, giving safeguards to a person's reputation is also comparable to the right to life, and there are also some provisions stated by the court that defamation can be linked to a public offense, the government must take serious steps to stop it.²³ Here comes the provision related to articles 499 and 500 of the Indian Penal Code, attempting to limit free

²⁰ *R Rajagopal v State of Tamil Nadu* (n 10).

²¹ *ibid.*

²² *New York Times Co v Sullivan* (n 8).

²³ Thomson Reuters Foundation, 'Understanding Defamation Laws in India' (Thomson Reuters Foundation September 2024) <https://www.trust.org/wp-content/uploads/2024/09/downloaded_file-5.pdf> accessed 21 July 2025.

speech, but it does not contradict Article 19(2).²⁴ But later on, the scholars point out the lack of judgment about not clarifying the distinction between civil and criminal defamation cases and failing to set the rule of actual malice in lots of criminal cases.²⁵ So, with the conclusion, we can find that the officials of governance of India can still sue for a criminal defamation suit without justifying the criminal motive, but in the case of a civil defamation case, they have to prove a lot more. By imposing criminal punishment in law, it is not enough to safeguard free speech in the case of rules regarding public figures in civil law.

2.5 Categories of public figures

The jurisprudence categorises the public figures in different roles to decide the level of protection they receive from the government. Firstly, there is a type called a general or public figure for all purposes, who are mostly known as top business leaders, top politicians, and top celebrities. Those who have a vast influence on the public and people have easy access to their lives and can publish anything about them. They can easily sue for a defamation case if they prove a false statement with actual malice.²⁶

A limited-purpose public figure gets involved in a public topic with the intention of influencing people. This type of situation gives them special status. In that case, if they want to sue someone, they have to prove actual malice if it is related to that statement.²⁷ If the issue is over by the time they actually call again, a private individual, in terms of a defamation case, if the statement was not related to a public issue.

Sometimes people get the attention of the general public, and people make them famous without wanting it. This type of public attention is called involuntary public figures. For example, in some mostly highlighted cases, victims can get attention from the general public. But the court did not treat

²⁴ *Rahul Gandhi v Union of India* (Written Submission of P P Rao on behalf of the petitioner) (WP (CrI) No 67 of 2015, Supreme Court Observer October 2021) <<https://www.scobserver.in/wp-content/uploads/2021/10/WS-Mr-PP-Rao-Rahul-Gandhi-v-UOI.pdf>> accessed 4 July 2025.

²⁵ Law Reform Commission of Ireland, *Report on the Civil Law of Defamation* (LRC 41-1991, 1991) <https://www.lawreform.ie/_fileupload/Reports/rDefamation.htm> accessed 17 August 2025.

²⁶ David L Hudson Jr, 'Constitutional Free Speech: Protection of Lies in Political Campaigns' (*American Bar Association – Voice of Experience*, September 2024) <https://www.americanbar.org/groups/senior_lawyers/resources/voice-of-experience/2024-september/constitutional-free-speech-protection-of-lies-in-political-campaigns/> accessed 21 July 2025.

²⁷ Practical Law Glossary, 'Constitutional Malice' (Thomson Reuters) <<https://uk.practicallaw.thomsonreuters.com/Glossary/PracticalLaw/Ic16d6f03728311ee8921fbef1a541940>> accessed 8 June 2025.

them as public figures because of their position, and they can tolerate more legal impact on their lives because of this situation.

Nowadays, some people become influencers on Facebook, and people follow their content, which makes them famous. They can make more money from that publicity. This new type of public figure is called a social media influencer.²⁸

In a defamation case, the mental state of a person at different stages and the classification are taken into consideration when suing for this type of case. In both cases, a general public figure or limited-purpose public figure must prove in a defamation case that the defendant published the statement without knowing the truth of it or that the statement is fully false. In the case of a private individual suit for defamation, they have to prove that the defendant has actual malice and negligence for the charge of extra damages.²⁹ So here in Bangladesh, the classification of public figures is very helpful for the courts to solve defamation cases more fairly. Even high-standard, powerful, or famous people cannot misuse the law to stop the media and normal people from criticizing them. But in the case of a real victim, justice will still be achieved with the help of the law.

3. Bangladesh Context

3.1 Statutory framework

Chapter 20 of the Bangladeshi Penal Code states the grounds of defamation according to Sections 499 and 500 of the law. If we go through section 499, it mentions that if any person voluntarily harms another person's reputation by a written statement or verbal words, which is literally false. It is called defamation.³⁰ But in cases of bona fide intention, thinking about public well-being, relating to the attitude of public officials towards the general people, and fair opinion about public officials, these cases, like the ten exceptions to the defamation cases, are counted as true statements. Though this type of exception sometimes permits general people or the media to participate in an open discussion, then again, it does not give liberty to change the rules of proving something. Meanwhile, under section 500 of the penal code of 1860, there are still punishments that exist in defamation

²⁸ A Alsharif, 'Influencer Marketing with Social Platforms: Increasing Brand Awareness and User Engagement' (2023) 19 *Journal of Education and Social Media* 228–234.

²⁹ 'Damages Awards in Defamation Claims' (*Carruthers Law*, 2024) <<https://www.carruthers-law.co.uk/our-services/defamation/damages-awards-in-defamation-claims/>> accessed 29 August 2025.

³⁰ PC 1860 (n 11).

cases, which are imprisonment for up to two years (simple jail) or a fine, or both punishments can be given.³¹

In the present day, according to section 198 of the Criminal Procedure Code, only the aggrieved party can make a complaint against a person who voluntarily defamed the plaintiff. But in reality, there are lots of politicians, and their people take advantage of their criticism. There is a loophole in that this law has not clearly mentioned the distinction between private individuals and public figures, apparently. According to section 499 of the Penal Code of 1860, there are certain exceptions regarding defamation cases where it is justified that if people have honest reactions about public issues and make any statement, then it cannot be treated as a crime. Even though the law does not provide any requirement for proving actual malice, it is easy for the plaintiff to prove that, without proving the defendant's knowledge about the statement being false, he simply stays out of the truth.³²

3.2 Digital Security Act 2018 and Cyber Security Act 2023

At present, people are very anxious about the social media platform. The Digital Security Act 2018 passed a rule stating that if someone publishes anything false or defamatory online, it will be treated as a crime. According to section 25 of this act, no one has the right to publish anything vulgar, untrue, or that hurts anyone's reputation, the country's image, or any religious feelings.³³ According to section 29 of the Digital Security Act, a false or harmful statement about anyone published online is also punishable as a crime. According to section 31, it is clear that if a statement influences people to spread hatred, divisiveness, or conflict towards themselves, it is also treated as a crime, and punishment of at least three years in jail, a fine, or both can be given.³⁴ Police officers can now easily, without a warrant, arrest people and seize those electronic devices that have been used for committing a crime. From the year 2020 to October 2021, there were around 750 cases where people were arrested and went to jail or were punished with a fine for making any statement that is against the government.³⁵ For example, blogger Asif Mahmood and photojournalist

³¹ *ibid* s 500.

³² *ibid* s 499.

³³ The Digital Security Act, 2018 (DSA 2018), s 25.

³⁴ *ibid* s 29,

³⁵ US Department of State, '2021 Country Reports on Human Rights Practices: Bangladesh' (US Department of State 12 April 2022) <<https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/bangladesh>> accessed 9 November 2025.

Shafiqul Islam Kajol were arrested for posting a statement against the government of Bangladesh.³⁶

Many human rights groups, NGOs, and media organisations stood against the Digital Security Act because of its domination over the right to free speech. The daily newspaper, *The Daily Star*, published news about the negative impact of Section 57 of the ICT Act. With the help of this article, the government only targets innocent media users, and journalists only criticise them. At that time, more than 700 cases were filed, but they were proven innocent.³⁷ With the fear of punishment, people, as a result, stop talking about issues that are sensitive matters, and editors unpublish their own work. This situation clearly shows the limitation of freedom of speech, which is guaranteed by the constitution, and democracy is falling weak.

After receiving much criticism at the national and international levels, the government codified and passed a new law called the Cyber Security Act 2023. In 2023, new rules of this law were added in cases of defamation. In these rules, the criminal only has to pay a fine instead of going to jail, said Law Minister Anisul Huq. But if he fails to pay the fine, he will end up in jail for three to six months.³⁸ Though this change will allow people to be free from imprisonment, there are still chances of criminal cases and going to jail. So, the critics state that it is quite similar to DSA for its ambiguous rules, and still, the police have the right to arrest anyone without a warrant.³⁹ Sometimes the fine charges are too high to bear for the activists or journalists who are not eligible to pay the fines. So, the law fails to solve the deeper problem, and one is that it still cannot make any difference between private individuals and public figures.

3.3 Use of criminal defamation against journalists and critics

Important researchers have discovered that powerful individuals often use defamation cases as a tactic to silence critics. To show the actual scenario,

³⁶ US Department of State, 'Custom Report Excerpt – Bangladesh' (US Department of State 2021) <<https://www.state.gov/report/custom/84b4facc0>> accessed 9 November 2025.

³⁷ Tuhin Shubhra Adhikary, 'The Trap: Section 57 of Bangladesh's ICT Act' *The Daily Star* (Dhaka, 5 July 2017) <<https://www.thedailystar.net/frontpage/bangladesh-ict-act-the-trap-section-of-57-1429336>> accessed 9 November 2025.

³⁸ United Nations High Commissioner for Refugees (UNHCR), 'Cyber Security Act 2023 (Bangladesh) [English Translation]' (Refworld, July 2024) <<https://www.refworld.org/sites/default/files/2024-07/EN%20Cyber%20Security%20Act%202023.pdf>> accessed 5 November 2025.

³⁹ Amnesty International, 'Bangladesh: Repressive Cyber Security Act – A Threat to Freedom of Expression' (Amnesty International 2024) <<https://www.amnesty.org/en/wp-content/uploads/2024/08/ASA1383322024ENGLISH.pdf>> accessed 3 November 2025.

one committee that was working to disclose the truth found that around 21 journalists were faced with cases of defamation under Article 57 of the ICT Act. The most shocking news was that at one time, a journalist was arrested under this section because of posting a satirical social media post.⁴⁰ Even the fines are too heavy, as they can be punished with 14 years' imprisonment and a fine.⁴¹ Most of the cases were false and unnecessary. One of the prosecutors of Bangladesh claimed that around 65 to 70% of cases are unnecessary, which are filed under the ICT Act, and there was no proof of guilt.⁴² The fear of arrest and involvement in long legal cases is stopping people from talking and reporting in a critical way. The Business Standard published a report that around 750 cases were filed under the Digital Security Act. The ambiguous rules relating to this act often punish people for posting against the government.⁴³

The independent newspaper states that Bangladeshi law still does not separate criminal offenses and civil wrongs. Even if a person wants to file a case, he can file both, as, like in other countries, there are no specific requirements for filing cases by public figures.⁴⁴ One of the articles in the Daily Star mentions that the cases target public figures. It says that there are special rules in the U.S., which state that a person has to show the actual malice as if it is false and hiding the truth willingly.⁴⁵ But in Bangladesh, this type of rule has not been introduced. Instead of that, the journalists are suffering for criticizing the government leaders and their policies. For example, in 2016, a journalist and a teacher were victims of Section 57 of the ICT Act just because they criticised the government. For that reason,

⁴⁰ International Federation of Journalists (IFJ), 'Bangladeshi Journalist Detained for Reporting on Dead Goat' (IFJ 2020) <<https://www.ifj.org/media-centre/news/detail/article/bangladeshi-journalist-detained-for-reporting-on-dead-goat>> accessed 9 November 2025.

⁴¹ Tahmidur Rahman, 'Cyber Law of Bangladesh: Internet Law, Web ICT Act, Rules, Regulations, Punishment and Rights in Bangladesh' (TRW Law 2023) <<https://trwlaw.co.uk/cyber-law-of-bangladesh-internet-law-web-ict-act-rules-regulations-punishment-and-rights-in-bangladesh>> accessed 9 November 2025.

⁴² Human Rights Watch (HRW), 'No Place for Criticism: Bangladesh's Crackdown on Social Media Commentary' (HRW 2018) <<https://www.hrw.org/report/2018/05/10/no-place-criticism-bangladesh-crackdown-social-media-commentary>> accessed 9 November 2025.

⁴³ UNB, 'Over 7,000 Cases Filed under DSA Law: Minister' *The Business Standard* (Dhaka, 19 June 2023) <<https://www.tbsnews.net/bangladesh/over-7000-cases-filed-under-dsa-law-minister-644486>> accessed 2 November 2025.

⁴⁴ Bangladesh Law Partners (BDLP), 'Withdrawal of Civil and Criminal Suits in Bangladesh' (BDLP 2022) <<https://bdplaw.com/withdrawal-of-civil-criminal-suits-in-bangladesh>> accessed 2 November 2025.

⁴⁵ Jahangir Alam Sarker Sagar, 'Defamation is a punishable offence' *The Daily Star* (Dhaka, 31 October 2009) <<https://archive.thedailystar.net/law/2009/10/05/life.htm>> accessed 2 November 2025.

they did not get bail and have to go to serious legal cases.⁴⁶ Previously, the government used these defamation cases to harass the opposite party as well. For example, in the year 2023, the government blamed the opposition party leader, Khaleda Zia, and some of the party's activists for making comments against the government. It shows that these defamation cases are also used for political purposes.⁴⁷

3.4 Lack of public figure doctrine in Bangladeshi jurisprudence

Bangladeshi courts have still not granted any public figure doctrine as India and the U.S. have adopted; that is, in a defamation case, a public servant must prove actual malice, which is that the statement was fully made with malafide intention and it was not true. In Bangladesh, section 499 of the penal code grants some privilege for criticism of public figures in public issues, but still, it's not conclusive evidence to file a genuine case.⁴⁸ In criticism of a public official, one must prove the fact of the statement made with honesty and for the public good. But in Bangladesh, the public figure gets a benefit in a defamation case, as he or she does not have to prove the malafide intention of the critics. Despite it being totally related to public matters, a public official can file a criminal case against him or her. Many scholars and experts have the opinion that this matter stops people from doing more investigation, more publication, and more reporting. It clearly shows the weak point of democracy.⁴⁹

In Bangladesh, we can find rare cases where people criticise public officials, and it is taken for granted. Very few exceptions are visible in Bangladesh. In a small number of cases, the court supports the general people for speaking the truth with bona fide intention. For example, it is shown in a case called *Abdur Noor v. State*, where the court declares that if a person makes a complaint against any judge for his misconduct, which is truly in good faith to the chief justice, it will not amount to defamation.⁵⁰ But still, this decision goes up against the rule like the actual malice standard. The fact that the law only clarifies criminal punishment with some ambiguous words, has no special regulations for public officials, and

⁴⁶ HRW, 'No Place for Criticism' (n 42).

⁴⁷ CIVICUS Monitor, 'Bangladesh: Government Ramps Up Persecution, Smear Campaign against Activists While Attacks on the Opposition Persist' (CIVICUS 2023) <<https://monitor.civicus.org/explore/bangladesh-government-ramps-up-persecution-smear-campaign-against-activists-while-attacks-on-the-opposition-persist>> accessed 7 November 2025.

⁴⁸ PC 1860 (n 11).

⁴⁹ Council of Europe (CoE), 'Corruption Undermines Human Rights and the Rule of Law' (CoE, 3 March 2019) <<https://www.coe.int/en/web/commissioner/-/corruption-undermines-human-rights-and-the-rule-of-law>> accessed 3 November 2025.

⁵⁰ Jahangir Alam Sarker Sagar, 'Defamation is a punishable offence' (n 45).

has the disadvantage of instilling fear among people to speak freely or report true news.

4. Theoretical and Practical Gaps in Bangladesh Law

4.1 Criminalisation and chilling effect

In Bangladesh, cases of criminal defamation often discourage people from coming forward, raising their voices, and speaking freely. But the conviction rate is rare. In defamation cases, people are convicted of serious punishment, such as imprisonment. Direct imprisonment without trial and having a criminal record often stops general people, critics, journalists, and whistle-blowers from expressing honest opinions and constructive criticism. Only giving a like or share, even commenting on a post on Facebook, individuals were subjected to prolonged pre-trial detention in jail for months under Section 57 of the ICT Act.⁵¹ These cases are often used against someone who was found guilty, and then the cases ended. But it scares people very much about the procedure and punishment. Even though the unclear language of sections 25 to 29 of the Digital Security Act gives police the right to decide whether the statement is false, true, or defamatory.⁵² There is no specific standard for justifying a statement that could lead to a criminal case. Though the previous cybersecurity act implies less jail time, it charges heavy fines for any media organization, which can lead to destruction.

The chilling effect poses a burden on democracy and represents its weakest aspect. For example, media organisations ignore news on corruption and the misuse of people's money. The academician avoids talking about corruption and politics. The activists stop raising their voice against crime. So, because of this situation, people are not getting exact information for publishing news. There is often a harsh scenario found where defamation law, instead of being used as a weapon to protect someone's reputation, is used to stop criticism. It is clearly shown in the large number of cases—more than 750—charged under Section 57 of the Digital Security Act, which is clearly a misuse of law.⁵³ Most cases are filled by people with political backgrounds who are criticized by the general public for their misuse of power. In this path, powerful people hold a strong position to stay in control and stop others from criticising them.

⁵¹ Information and Communication Technology Act, 2006, s 57 (as amended by the Information and Communication Technology (Amendment) Act, 2013) (Bangladesh).

⁵² DSA 2018 (n 33) ss 25–29.

⁵³ *ibid* s 57.

4.2 Absence of differentiated standards

The matter of fact is that this law fails to separate the distinctive position of public figures and the general people. In this country, the public figures, for example, government officials, political parties, and business tycoons, have easy access to media and communication. They can easily arrange public gatherings or media coverage to defend their innocence through an official announcement. That is why some false news often harms them less than the private citizen. Because private citizens have fewer opportunities to prove themselves innocent. In most countries, courts presumed that the public figure liked to stay in the public eye, and by proving actual malice in defamation cases, they could win the case.⁵⁴ But in Bangladesh, these types of rules are not followed. Just criticise any statement or any policies of a public figure; it is the reason a public figure can easily win a defamation case against anyone without proving the actual intention or suffering. On the other hand, the accused has to show the ground of privilege that his statement is true. This imbalance discourages the exercise of free expression, and the fairness of justice has been removed.

4.3 Overbroad digital provisions and lack of judicial guidance

Occasionally, the provision of the Digital Security Act makes a normal online post a false and defamatory statement. The punishment for defamation should be stronger because the damage is bigger in sense, and it spreads quickly over the internet and goes beyond imagination and reaches everyone too quickly. But sometimes the law fails to decide the depth of this matter, like whether it is true or not, harmful or not, or even public interest-related or not. But still, the police and even the prosecutor have the right to find out the true essence of a defamatory statement in a defamation case.⁵⁵ The unclear rules of defamation law sometimes gave public officials the power to sue anyone without proving the actual malice or malafide intention. In our country, it gives privileges to public servants because they don't have to prove the original damage.

In our country, the law does not give a clear explanation about how to use and apply Section 499 and its exception in a proper way, even though Section 25 has been added to this ground.⁵⁶ Even the cases related to public officials are not being properly guided by the High Court of Bangladesh. There are no specific rules to be found. So, for that very purpose, the courts

⁵⁴ Protect Democracy, 'The "Actual Malice" Standard Explained' (*Protect Democracy*, 12 January 2022) <<https://protectdemocracy.org/work/the-actual-malice-standard-explained/>> accessed 4 November 2025.

⁵⁵ Civil Litigation Lawyers, 'Proving Defamation' (*Civil Litigation Lawyers*, 2024) <<https://civillitigationlawyers.co.uk/proving-defamation/>> accessed 8 November 2025.

⁵⁶ PC 1860 (n 11).

do not have proper rules and regulations to follow. The scholars, Journalists and even activists are confused about the term of what report will be treated as a crime. So, in this format of law, which clearly goes against the human rights law and constitution, because it is vague and ambiguous. This also declines the rule of law because it is not clear to everybody. Often, without giving protection, the defamation law is used as a weapon in Bangladesh.

4.4 International human rights norms and decriminalisation

International human rights law adopts a critical stance toward criminal defamation. This law is considered to be problematic. The International Covenant on Civil and Political Rights (ICCPR), in its article 19, states that every person has the right to speak freely and express their opinion.⁵⁷ The limitation of this right can be granted by law if it is implemented for the protection of individual reputations, the protection and safeguarding of national security, and public health safety. Article 17 of the same act gives safeguards to the people whose honor and reputation have been harmed by illegal and unfair acts.⁵⁸ The United Nations Human Rights Committee states a very important ground in their general comment no. 34: defamation law should not be used for stopping someone from giving an opinion, and punishing someone by imprisonment is not a proper remedy for defamation.⁵⁹ The committee has expressed an opinion on changing the punishment for defamation. They said that criminal punishments are not appropriate for defamation cases; rather, civil punishments seem fairer for defamation cases.⁶⁰

There are several groups, such as Amnesty International and other human rights groups, that raise their voices against this criminal punishment for defamation. They stated that the government should come forward and repeal the law, which is being used to harass people, take them to jail, and impose heavy charges or fines upon people whose statements seem untrue. Amnesty International also states that the defamation case recognises a different crime where the punishment is very serious, which is up to three years' imprisonment. Even the new cybersecurity act also charges high fines and long jail times for the same offense.⁶¹ Amnesty International also raised its voice against arrest without a warrant and seizure of the digital devices. This situation and warrant were not even properly checked by the proper court, and the case resulted in a serious injury to freedom of

⁵⁷ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 19.

⁵⁸ *ibid* art 17.

⁵⁹ *Ibid* art 34.

⁶⁰ PC 1860 (n 11) ch 15, s 292.

⁶¹ Cyber Security Act, 2023 (Bangladesh).

speech.⁶² Human rights groups took the side of civil punishment for those defamation cases where people's reputations are attacked.

The High Commissioner of Human Rights and the UN expert also interrogated the Bangladesh government and asked them to cancel or stop the Digital Security Act's provision, as it was misused a lot. They also urged that the new format of law must follow the international standard of human rights law.⁶³ They highlighted the vast number of cases filed under this act, which is around 1436 cases between October 2018 and January 2023 on defamation, and the most shocking thing is that only around 113 cases were lodged against the media and journalists.⁶⁴ This result shows the implications of misuse of criminal defamation against the media for pointing out the different observations. Under ICCPR, it should remove criminal punishment, and only punishment will be in civil nature, which is a better option in defamation cases. And the protection of freedom of speech in the Constitution will be maintained.

4.5 Statistics and case studies

Different research papers show that the variation of defamation cases is that they are often used to punish people without reasonable cause or excuse. The Centre for Governance Studies specifically finds out the exact number of victims. Their research shows that around 451 media journalists have been involved in cases of the Digital Security Act since it started. Only publish news or report something, 255 journalists are sued for defamation.⁶⁵ In total, there are a huge number of cases filed, which are 1436 cases, and 4520 people were added to those cases because of any critical comment or posting against any government activity or politics on a digital platform.⁶⁶ Even the outsiders who are not directly involved in the defamation case—maybe their reputation is not harmed by anyone—but

⁶² Amnesty International, 'Bangladesh: Repressive Cyber Security Act' (n 39).

⁶³ Office of the United Nations High Commissioner for Human Rights (OHCHR), 'Bangladesh: Türk Urges Immediate Suspension of Digital Security Act to Protect Media Freedom' (OHCHR, 6 March 2023) <<https://www.ohchr.org/en/press-releases/2023/03/bangladesh-turk-urges-immediate-suspension-digital-security-act-media>> accessed 8 November 2025.

⁶⁴ Star Digital Report, '255 Journalists Sued under DSA for Their Work: CGS' *The Daily Star* (Dhaka, 26 March 2024) <<https://www.thedailystar.net/news/bangladesh/rights/news/255-journalists-sued-under-dsa-their-work-cgs-3599131>> accessed 4 November 2025.

⁶⁵ *ibid.*

⁶⁶ *ibid.*

they filed a case on behalf of any public officials or private companies.⁶⁷ In many cases, we can easily find out the ill will of using defamation cases just to attack the critics, activists or journalists without safeguarding any public figure's reputation.

The committee has shown the actual picture of the misuse of the defamation case against the journalist. They found that in the year 2022, two journalists posted news about a local company that avoided paying taxes on an online Facebook page. After that, they are accused of defamation, and their punishment can be implemented around three years' imprisonment, which can be extended up to seven years in jail for reporting any news that is false, defamatory, dangerous, or threatening.⁶⁸ This type of cases are referred to as the case of the photojournalist Fazle Elahi, where he was arrested because of sharing something online.⁶⁹ These cases proved that even big companies can misuse this law for their benefit and stop people from spreading true news.

A vast number of cases were logged under the ICT Act and DSA in previous years. Around 700 were marked against social media posts or sharing something against the government under Section 57 of the ICT Act between 2013 and 2017.⁷⁰ In a report, Human Rights Watch assumed that only for posting or liking something on social media were people arrested at that time. These patterns demonstrate systemic pressure on press freedom. So, we concluded that in a defamation case, criminal punishment is not needed; only civil punishment will be suitable for safeguarding reputation and ensuring constitutional democracy.

5. Comparative Insights

5.1 United States: actual malice and abolition of criminal defamation

It is well established that in the United States, the public figure doctrine has a special provision in the case *New York Times Co. v. Sullivan* that, in a

⁶⁷ Lawyers & Jurists, 'The Rules of Defamation' (*Lawyers & Jurists*, 2023) <<https://www.lawyersnjurists.com/article/the-rules-of-defamation/>> accessed 3 November 2025.

⁶⁸ Faisal Mahmud, 'Bangladesh Journalist Arrested after Report on High Food Prices' *Al Jazeera* (Doha, 29 March 2023) <<https://www.aljazeera.com/news/2023/3/29/bangladesh-journalist-arrested-after-report-on-high-food-prices>> accessed 7 November 2025.

⁶⁹ Committee to Protect Journalists (CPJ), 'Bangladesh Journalist Arrested, 2 Charged under Digital Security Act' (*CPJ*, 2 June 2022) <<https://cpj.org/2022/06/bangladesh-journalist-arrested-2-charged-under-digital-security-act/>> accessed 1 November 2025.

⁷⁰ Zakir Hossain, 'Bangladesh's ICT Act Paved the Way for 700 Lawsuits over Online Comments' (*Global Voices*, 17 July 2017) <<https://globalvoices.org/2017/07/17/bangladeshs-ict-act-paved-the-way-for-700-lawsuits-over-online-comments/>> accessed 6 November 2025.

debate, there is much scope for mistakes. The court thinks it is natural.⁷¹ The actual malice can be proved in cases of defamation if a public official wants to get compensated. The rules of the public figure doctrine also applied to the cases named *Curtis Publishing Co. v. Butts* and *Gertz v. Robert Welch, Inc.* The special provision established in these cases is that the defendant has acknowledged that the statement is not true, and he willingly ignores the fact. But for a private individual, the case is different if he wants different; only compensation, he has to go through proving negligence on the other hand. For granting punitive damages to the private individual, the court has to find actual malice in that case.⁷²

In the U.S., criminal defamation cases are scrutinized by the courts. They examine it clearly. In the case of *Garrison v. Louisiana* (1964), the Supreme Court upheld a provision related to criminal defamation. It stated that criminal defamation and its remedy accrued in very limited circumstances; it is only possible if the defendant willfully spreads a false statement without clarifying its truth.⁷³ Supreme Courts only accept criminal punishment in case of defamation when it not only damages the person's reputation but also disrupts the public good and peace. In the *Ashton v. Kentucky* (1966) case, the court called off the criminal libel because it was too ambiguous, which led to stopping the offense. This judgement helped most U.S states to change and stop using defamation cases without proper grounds.⁷⁴ This change makes people realize that in defamation cases, only compensation is the most proper punishment. If criminal punishment is applied in a defamation case, most people will not talk freely and express their opinions. So, cancelling the criminal punishment and approving civil punishment with a focus on actual malice will be a great pathway for the right to free speech and safeguarding reputation.

5.2 United Kingdom: serious harm and public interest defence

Most expensive defamation cases in the UK are libel tourism (where outsiders of the UK filed cases), so the court changed some defamation laws to avoid such expensive cases, which would be a burden on the people. There are two rapid changes in the Defamation Act 2013. Firstly, in section 1, in the case of a defamatory statement, it has to cause injury to the

⁷¹ *New York Times Co v Sullivan* (n 8).

⁷² *Gertz v Robert Welch, Inc* (1974) 418 US 323 <<https://supreme.justia.com/cases/federal/us/418/323/>> accessed 2 November 2025.

⁷³ *Garrison v Louisiana* (1964) 379 US 64 <<https://supreme.justia.com/cases/federal/us/379/64/>> accessed 2 November 2025.

⁷⁴ *Ashton v Kentucky* (1966) 384 US 195 <<https://supreme.justia.com/cases/federal/us/384/195/>> accessed 6 November 2025.

plaintiff's reputation.⁷⁵ For companies, serious crime occurs when they lose large amounts of money and face financial crises.⁷⁶ In cases of defamation related to minor or insignificant cases, the plaintiff has to show the real harmful statement or true damage. Secondly, it creates a public statutory law defense where it replaces the common law Reynold defense. A statement can't be defamatory if it does not harm the public interest.⁷⁷ The court will look at little things more closely, like whether the publisher checked the ultimate fact, whether it is necessary to publish it or not, and whether it covers the claimant's side of the story or not.

In the year 2009, criminal libel was totally abolished in the U.K. Now, if any person sues another for defamation, they have to prove the serious harm caused by that statement. This rule really protects the responsible media person and journalist and their reports. In the *Banks v. Cadwalladr* (2023) case, the appeal court said that in each publication of a statement, the occurrence of serious harm should be proven so that it helps to avoid previous content from disrupting legal matters. These changes help to ensure the protection of speech without harming anyone's reputation.⁷⁸

5.3 India: partial adoption of actual malice and retention of criminal defamation

The colonial era is the root of degradation; the laws are so similar in India and Bangladesh. In Bangladesh's Penal Code of 1860, there are some sections that are related to defamation law. They are sections 499 to 502 of the Penal Code of 1860. But recently, India has changed some of its provisions to correspond to their modern constitutional rights. *R. Rajagopal v. State of Tamil Nadu*. In this case, the Indian Supreme Court held a verdict that a public official, during official purpose, cannot sue anyone under defamation unless the act or statement is harmful, intentionally ill-willed, and not true.⁷⁹ In reference to the Sullivan test, public officials should bear in mind that, in terms of ensuring democracy, free opinion and

⁷⁵ Brett Wilson LLP, 'Defamation Act 2013: A Summary and Overview Six Years On' (Brett Wilson LLP, 13 January 2020) <<https://www.brettwilson.co.uk/defamation-act-2013-a-summary-and-overview-six-years-on/>> accessed 5 November 2025.

⁷⁶ Guy Vassall-Adams QC, 'Corporate Claimants in Libel (Part 2): The Defamation Act 2013 and Its Impact' (*Matrix Chambers*, 15 March 2021) <https://www.matrixlaw.co.uk/resource/corporate-claimants-in-libel-part-2-the-defamation-act-2013-and-its-impact-by-guy-vassall-adams-qc/> accessed 8 November 2025.

⁷⁷ Defamation Act 2013, s 4 (Explanatory Notes) (UK) <<https://www.legislation.gov.uk/ukpga/2013/26/notes/division/5/4>> accessed 2 November 2025.

⁷⁸ Nelsons Law, '*Banks v Cadwalladr*' (Nelsons Law, 20 February 2024) <<https://www.nelsonslaw.co.uk/banks-v-cadwalladr/>> accessed 4 November 2025.

⁷⁹ *R Rajagopal v State of Tamil Nadu* (n 10).

publication will be granted. There was a case that was related to an autobiography of a prisoner's life in a magazine. Officials argue that it is a fully corrupted publication, but later the court pointed out that without proving bad intention, these types of publications are not defamatory or corrupted.⁸⁰

In *Subramanian Swamy v. Union of India*, the Supreme Court verdict was different in that case. The court stated that criminal defamation is valid when it pertains to a person's reputation, as it falls under the right to life provision, and can be claimed as a public offense.⁸¹

The critics and scholars of India proposed that some hard rules should be followed in defamation cases. An article from 2025 writes about some reforms for defamation law. They are: Criminal punishment should be removed fully from cases of defamation. Secondly, clear and convincing evidence should be needed in public official cases. Thirdly, high-profile people should be stopped from using defamation cases only to quell criticism. (SLAPPs).⁸² Overall, most Western countries apply actual malice confirmation in public official cases and prefer civil nature punishment and avoid criminal punishments. The other scholars pointed out some critical aspects of the Supreme Court's decision on defamation cases, which are of a criminal nature. They said it was an obvious total fault when criminal law reached a weak point of judgment by granting a lower standard of evidence than civil law, which goes against the principles of natural justice and legal principles.⁸³ This argument will help to match up the defamation law with the constitutional democracy and the right to speak freely, and constructive criticism will prevail by law towards public affairs.

⁸⁰ GKToday, 'Rajagopal v State of Tamil Nadu (1994)' (*GKToday*, 2024) <<https://www.gktoday.in/rajagopal-vs-state-of-tamil-nadu-1994/>> accessed 2 November 2025.

⁸¹ LiveLaw, 'Freedom of Speech and Expression vs Criminal Defamation: The Balancing Act under the Constitution of India' (*LiveLaw*, 12 April 2024) <<https://www.livelaw.in/law-firms/law-firm-articles-/freedom-of-speech-constitution-of-india-criminal-defamation-indian-penal-code-public-good-226396>> accessed 5 November 2025.

⁸² HC Deb 23 February 2024, vol 746, col 621 <<https://hansard.parliament.uk/commons/2024-02-23/debates/63C19F38-BAD2-499E-8DB7-006C497EF613/StrategicLitigationAgainstPublicParticipationBill>> accessed 4 November 2025.

⁸³ Nelson Guest & Partners, 'Beyond Reasonable Doubt: Understanding the Burden of Proof in Criminal Law' (*Nelson Guest & Partners*, 2024) <<https://www.nelson-guest.co.uk/blog/beyond-reasonable-doubt-understanding-the-burden-of-proof-in/>> accessed 6 November 2025.

5.4 Lessons for Bangladesh

If we go through developed countries like the U.K. and the U.S.A., they already set rules for the distinction between public figures and private individuals for dealing with defamation law. They establish in public official cases that actually prove the proper element of the actual malice or serious injury. Even though they support ethical journalism and accountability reporting, they also changed the law of defamation by eradicating criminal punishment. Even in India, they set a principle of the Sullivan test in civil defamation cases and applied the common law for the purpose of adjusting their own rules for defamation cases. But unfortunately, in Bangladesh, there are still criminal punishments that exist in defamation law, and that rule is applicable to everyone. There are no special provisions for cases safeguarding or questioning matters related to public interest. So, under the current legal framework, any public official can use it for their own benefit and silence others from raising their voices and criticising them.

6. Policy and Legal Recommendations

6.1 Decriminalisation and civil remedies

The first step should be the decriminalisation of defamation. We can clearly find that criminal laws are more unnecessary, unbalanced, and contradictory to the international human rights perspective in a standard way. In civil remedies, where it is very flexible, the defendant can choose the easy way to dissolve the matter by compensation, rectification, or confession. This discrimination often helps to eradicate the misuse of power, such as being imprisoned, and the fear of arrest. The new cybersecurity act changes the imprisonment and fine; rather, it should eradicate criminal punishment and impose only civil punishment. Section 500 of the penal code should be altered by parliament to make it only civil in nature. Civil courts should allow defenses and consider only civil-nature punishment without imposing any criminal-nature punishment.

6.2 Adopt a public figure doctrine with an actual malice standard

Bangladesh should introduce a new rule that clearly distinguishes between public figures and private individuals. Legislation covers public figures such as officials who are elected, responsible holders of public office, corporate media personalities, famous religious speakers or leaders, and other people who influence people through their public speech and remain in the public eye. A public official who is a defendant must focus on the essential aspect of filing a lawsuit, where they must prove actual malice in the written or oral statement. This court will decide on a person, whether

he is a public figure or not, based on his media access and his promising personality.

6.3 Introduce a serious harm requirement and public interest defence

To avoid the small matters of defamation law, Bangladesh should adopt the format that is very popular in the U.K.'s Defamation Act 2013, which is called the serious harm threshold policy. With this policy, the plaintiff has to show the serious harm that has occurred to his reputation, which impacts his life more. As for company purposes, in a defamation case, a company must prove serious harm and financial loss to the company and its reputation. A defense that the statement is in the public interest should be properly codified, so that a defendant can prove that the matter in question is related to public interest and the public good. There are some points of view that the court has to analyse the condition, like the gravity of serious cases and allegations, the steps taken to confirm evidence and information, the top priority of the cases, and the views of the claimant. This defense will help responsible journalism and punish irresponsible publication.

6.4 Clarify and narrow digital provisions

The Digital Security Act and its new transformation of law should emphasise a clear explanation of defamation and false imprisonment. The power of arrest without a warrant in defamation cases should be removed. Online crime of defamation should be treated as a civil nature of crime, and punishment should also be civil in nature. The plaintiff, while filing a case on defamation, must prove the actual ill-will intention and serious act causing reputation. Even the new law should safeguard any statement, imitation, and satire about public matters. It should come with clear rules and regulations from a judge about seizing anyone's digital devices and time limitations for any type of investigation. Getting proper guidelines will help to remove the ultra-virus use of law and preserve the right to free speech.

6.5 Judicial training and jurisprudence development

The judge can further develop and apply defamation law more appropriately, as they play a vital role in this case. They have to look forward to the training season for more implementation of international cases for legal judgment, human rights violations, and the importance of freedom of the press. The high courts of Bangladesh apparently give the regulations regarding the specification of public figures, the criteria for setting standards for counting serious harm, and how the defense of public interest applies to the specific grounds. These consistent decisions will help the lower courts in applying more specific rules to their defamation cases.

Courts can impose higher fines on those who intentionally file unnecessary and false cases for using the wrong defamation law. So, if these strategies work fluently, then people can rely on the legal system, which helps people to secure their free speech and their reputation as well.

6.6 Promote media ethics and self-regulation

Lastly, legal reforms should go hand in hand with stronger media standards and self-control. Journalists should always follow principles of truthfulness, fairness, and respect for people's privacy, and most importantly, uphold stronger media ethics. Media organisations should set up systems like ombudsmen or complaint offices to solve problems promptly. Clear ethical rules can make the media more trustworthy and reduce the need for legal action, as well as false alarms. However, these rules of ethics should never be used to limit free speech; they must support freedom of expression, as practiced in the USA, as per its Constitution.

7. Conclusion

Bangladesh's defamation law sits between colonial statutes and modern digital realities. By criminalising defamation and applying uniform standards to all plaintiffs, the law has become a tool for powerful actors to silence criticism. The Digital Security Act has amplified this problem by enabling arrests for online posts and empowering police to seize digital devices without due process. The absence of a public figure doctrine, serious-harm threshold, or public interest defence leaves journalists and citizens vulnerable. My Comparative analysis reveals that other democracies have moved toward decriminalisation, higher standards for public figures, and protections for speech on matters of public interest through constitutional protection. The U.S. emphasises actual malice, while the U.K. requires serious harm and a public interest defence, and India has adopted the Sullivan test in civil cases, while its courts debate criminal defamation based on merit. But Bangladesh has yet to follow suit.

Reform is both constitutionally necessary and practically urgent. Decriminalisation would remove the threat of imprisonment, and adopting an actual malice standard would safeguard criticism of public officials; a serious-harm requirement and public interest defence would filter out frivolous claims and protect responsible journalism and other social media activity. Narrowing digital provisions and improving judicial guidance would enhance legal certainty. Combined with media ethics and self-regulation, these reforms would enable Bangladesh to protect reputations without sacrificing freedom of expression. In a democracy, public figures must accept scrutiny and debate to a certain extent, but

defamation law should shield individuals from malicious falsehoods, not shield officials from accountability.

Reform of defamation law will not only adjust legal doctrine but also contribute to the development of a more accountable political culture. The country is undergoing rapid digital transformation, with millions of people using social media to share news and opinions, which requires a multi-layer filter. In such an environment, the possibility of criminal prosecution for online posts fosters a culture of silence and discourages civic engagement. Journalists forced into self-censorship cannot perform their watchdog role; citizens who fear arrest for sharing articles cannot participate meaningfully in public debates, which ultimately blocks the exercise of freedom of speech and the media. International human rights bodies have warned consistently that such climates remove the trust in institutions and fuel misinformation. By contrast, a legal framework that protects robust discussion of matters of public interest strengthens democracy and promotes accountability and reduces errors in false persecution. Reform, therefore, requires not only legislative amendments but also a shift in institutional attitudes.