

THE DIGITAL SECURITY ACT 2018 AND THE OBSTACLES TO FREEDOM OF SPEECH AND FREEDOM OF MEDIA IN BANGLADESH¹

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ABSTRACT

The Bangladesh government passed a controversial Digital Security Act 2018 aimed toward combating cybercrimes. But the act could work as an obstacle to the freedom of speech and freedom of the media in Bangladesh. Although Bangladesh Constitution (Article 39) approves the freedom of speech and freedom of the media as basic rights, this current law is not suitable and effective to apply in this digital age to support the free flow of information. There are many allegations against the government of the country that the law is continuously misused by them for their own and political interests. This article shows that the act includes a number of widely defined crimes with severe penalties that may have dangerous deterrent effects on Bangladesh's freedom of speech, freedom of expression, freedom of the media and on right to the information. This enacted law restricts the freedom of speech and freedom of the media in various ways. This creates the threat of severe punishment, especially because it only expresses some belief or some opinion. This may provide the chance to abuse the citizen by misinterpretation of the law without court's permission. This study aims to explain and illustrate through content analysis method, how free speech and free media are in complex situation under the current digital security law and how citizens and journalists are facing difficult situations by the misusing of the law. Also, international documents related to the freedom of speech are analyzed to show the international standard for protecting the freedom of speech and freedom of the media in democratic country. The study finds that the digital security act is against to the constitution of Bangladesh, international standards and also against to the value of the democracy. As the law prevents the free practice of the freedom of speech and independent journalism. To ensure the right to the freedom of speech and the freedom of the media the act should be amended.

Keywords: Digital Security Act 2018, The Freedom of Speech, Freedom of The Media, Serious Penalties, Obstacles to Free Speech

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Araştırma Makalesi

DİJİTAL GÜVENLİK YASASI 2018 VE BANGLADEŞ'TE İFADE VE MEDYA ÖZGÜRLÜĞÜNÜN ÖNÜNDEKİ ENGELLER

ÖZ

Bangladeş hükümeti, siber suçlarla mücadelede yönelik tartışmalı bir Dijital Güvenlik Yasası 2018'i onayladı. Ancak yasa, Bangladeş'te ifade özgürlüğü ve medya özgürlüğüne engel olabilir. Bangladeş Anayasası (Madde 39), ifade özgürlüğünü ve medya özgürlüğünü temel haklar olarak kabul etse de, bu mevcut yasa, serbest bilgi akışını desteklemek için bu dijital çağda uygulanmaya uygun ve etkili değildir. Ülkenin hükümetine karşı, yasanın kendi çıkarları ve siyasi çıkarları için sürekli olarak kötüye kullanıldığına dair birçok iddia var. Bu makale, yasanın Bangladeş'in konuşma özgürlüğü, ifade özgürlüğü, medya özgürlüğü ve bilgi edinme hakkı üzerinde tehlikeli caydırıcı etkileri olabilecek, geniş çapta tanımlanmış, ağır cezaları olan bir dizi suç içerdiğini göstermektedir. Çıkarılan bu yasa, ifade özgürlüğünü ve basın özgürlüğünü çeşitli şekillerde kısıtlamaktadır. Bu, özellikle yalnızca bir inancı veya bir görüşü ifade ettiğinden, şiddetli ceza tehdidi yaratır. Bu da mahkemeden izin almaksızın kanunu yanlış yorumlayarak vatandaşa suiistimal etme şansı verebilir. Bu çalışma, mevcut dijital güvenlik yasası kapsamında ifade özgürlüğü ve özgür medyanın nasıl karmaşık bir durumda olduğunu ve yasanın kötüye kullanılmasıyla vatandaşların ve gazetecilerin nasıl zor durumlarla karşı karşıya kaldıklarını içerik analizi yöntemiyle açıklamayı ve örneklendirmeyi amaçlamaktadır. Ayrıca, ifade özgürlüğü ile ilgili uluslararası belgeler, demokratik bir ülkede ifade özgürlüğü ve medya özgürlüğünün korunmasına yönelik uluslararası standartları göstermek için analiz edilmektedir. Çalışma, dijital güvenlik yasasının Bangladeş anayasasına, uluslararası standartlara ve ayrıca demokrasinin değerine aykırı olduğunu ortaya koyuyor çünkü bu yasa ifade özgürlüğünün ve bağımsız gazeteciliğin özgürce uygulanmasını engelliyor. İfade özgürlüğü hakkını ve medya özgürlüğünü sağlamak için bu yasa değiştirilmelidir.

Anahtar Kelimeler: Dijital Güvenlik Yasası 2018, İfade Özgürlüğü, Medya Özgürlüğü, Ciddi Cezalar, İfade Özgürlüğünün Önündeki Engeller

INTRODUCTION

Freedom of speech is one of the milestones in consolidating democracy. In order to exercise democratic rights freely, it is very essential to assure the right of all citizens to express their views. This right to freedom of expression needs to be cherished as an important right- because it not only consolidates and institutionalizes democracy, but also facilitates the expression of opinions in the political arena of the people. As a basic right, the freedom of speech and the freedom media is guaranteed by the Bangladesh Constitution.² Article 39 of the Bangladesh Constitution says, "Opportunity of thinking and conviction is assured. Every citizen's right of the freedom of speech, the freedom of expression and freedom of the media, are assured." Here Bangladesh Constitution ensures the opportunity of the freedom of speech and freedom of the media. Yet, there are a few limitations given by the constitution, as it says, "Any perceived limitation imposed by law on the grounds of legitimate concern for the protection of the state, illusory relations with foreign states, public order, conventional or moral standards, or condemnation by a court of law, slander or incitement to commit a crime" (The Constitution of the People's Republic of Bangladesh, 1972).

² The Bangladesh Constitution is the highest law of the country. This constitution was adopted on 4 November 1972 and enacted on 16 December 1972.

If people cannot express their thoughts, ideas and opinions freely they will be out of participation within the society. The effective participation of the citizens is very important for a democratic society. In a democratic country right of the freedom of expression and freedom of speech with no obstacle is one of the basic rights. Freedom of speech expands to the varied media and includes verbal and print medium, publishing, broadcasting, podcasting, artworks, advertising and also protest of the public. However, the main thing is the free expression in any way. Freedom of speech also brings some responsibilities and could be limited for some logical reasons. Examples of these types of limitations include limited access to certain online sites, promoting violence within the context of national security, willful violence against anyone or group, or the other work of art like holding rights like copyright and trademark etc. (Runa, 2019: 75-76).

The Bangladesh government adopted the Digital Security Act 2018 On 8th October, 2018 and immediately came into force. Law and media experts indicate that the law of the Information and Communication Technology Act (ICT) 2006 is replaced with the new Digital Security Act (DSA) 2018. The law treats espionage as the original record of any information from government, semi-government or autonomous organizations. Huge number of journalists, right activists and activists in online platforms are afraid to comply with the law, which is often seen as espionage, exposing the political corruption of the state officials for illegal earnings through secret recordings are considered as espionage activity by the government.

The new law Digital Security Act 2018 was created to fight against the increasing number of cyber-crimes using digital media that are affecting people and organizations. The move came after journalists and rights activists demanded the amendment of Article 57 of the (ICT) Act 2006 owing to the widespread abuse of ICT law. The enacted law provides space for silencing the human voice. In 21st century society has entered the digital age at the same time the definition of media and the definition of journalist have been expanded. Media is now in hands of every citizen by the help of social media what is called citizen journalism. Freedom of media can now be displayed very broadly in internet world. Historically, however, media has always been directly inspected by the various governments of the country. Now the laws can be applied to control the activists of social media acting as citizen journalists. This is the significant complication on the free media in this modern age.

1. THEORETICAL BACKGROUND

1.1. The Thought of ‘Freedom of Speech’

The word “freedom” illustrates anyone has the right of doing or saying whatever they want with no obstacles and interferences. On the other hand, the word “speech” means what people say and write to express themselves including ideas, opinions, thoughts and feelings. Freedom of speech means whatever people say, write, publish or convey to others. According to this explanation, we can say, the freedom of speech indicates the right of asking, saying and writing something or doing something for showing emotion without any obstacles. Speech includes opinions, ideas, speak out loudly, publishing writings or books and brochures, broadcasting television and radio, production of artworks, communicating through the Internet, some types of corporate information, and so on. This

is because freedom of speech means talking about ideas, opinions and thoughts without any hindrance and communicating with others verbally or in writing or through any means of communication.

The right to speak freely or discourse is an essential opportunity that maintains the chance of expressing their speculations and musings unafraid of backlash, oversight, or legal consent. The term opportunity of articulation is regularly used proportionally simultaneously, in real sense, consolidates any development of searching, getting, and giving information or musings, paying little regard to the medium used. In a word, the ability to speak freely is the force or right to state one's viewpoints without oversight, limitation, or lawful punishment.

According to the Amnesty International UK, “The right to the freedom of speech is the option to say whatever people like, whenever people like, wrong or right. The right to freedom of speech is the option to look for, get and bestow data and all types of thoughts, using any or all medium. The right to freedom of speech and expression indicates to the all types of thoughts including those that might be profoundly hostile. However, it accompanies duties and we trust it very well that it could be legally limited” (Amnesty International UK, 2020).

The concept of “freedom of speech” explains two approaches, equality of human and interest in political freedom. Ultimate freedom is whatever people want and they need. Everybody desires to enjoy complete right of speech as they want to express. Thus, free speech is recognized as an important basic right of human being (Kathleen & Gerald, 2011 cited Runa, 2019).

Though right to the freedom of speech, freedom of thought and freedom of conscience is boundless in Bangladesh Constitution, it is clear that the free speech and the free media are subject to few restrictions as understood from the explanation of the Article 39. Even though Article 39 limits the freedom of the media and Article 43 protects the home and correspondence of citizens. In Bangladesh context, the concepts, thoughts, expressions, meanings and uses of words like free speech, free expression, right to the information and communication are synonymous and interrelated to each other (Abu, 1992 cited Runa, 2019).

1.2. The Historical Background of Freedom of Speech and Freedom of Media

Within the current Bangladesh context, media keep going to play a vital role in expressing dissent. Whether media is free or not to express a safe opinion requires an analysis of the historical context in which the media was established. Before the twenties, freedom of expression was a matter of 'recognition' as a movement or a right. Because structurally the state was dictatorial and the main thing then was to express one's opinion in public. The English poet Milton fought with the British monarch in the seventeenth century to establish freedom of conscience, autonomy of thought. His accent in Areopagitica was as follows; “Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.” It is noteworthy that we have not been able to achieve the right to unconditional freedom of speech even today. Note that Milton wanted independence from the church and the state because the distribution of power was then done by these two institutions. The press played an important role in the freedom of expression at the end of the eighteenth century. At that time newspapers became a medium

for political, economic, religious or ideological debates. Media theorist Jurgen Habermas first gave the example of free speech in the public sphere of the eighteenth century, which was completely free from church and state control. In the eighteenth century, newspapers and magazines became an integral part of the public sphere. Habermas later complained that newspapers and magazines fell prey to advertising and merchandise trade; As a result of which mass consumption and mass distribution system is created, as a result of which issues of interest fail to be the topic of discussion. The purpose of the newspaper was to cut. As a result, the media gradually leaned on businessmen and advertisers (Halim, 2015).

Although Habermas mentions the process of commercialization of the media, in Europe then issues such as society, the state and even information and education go to the private sector. With the development of capitalism, the character of the state, trade relations, the nature of commodity economy and social values began to change and the issue of freedom of the press began to be affected. Capitalism is accompanied by industrialization, urbanization and the free market economy. The media in Bangladesh is not free from the negative effects of capitalism. Media has to work for the interest of the ruling party and for the owner class of the media. The owner class and the ruling party both are interrelated and work for one another. It is noteworthy that at present most of the ownership of electronic and print media in Bangladesh is in the hands of businessmen and the editor's work in the newspapers as the owners. Although many editors and executives claim that they are serving objective news in the media above the interests of the owner, in reality it is not always reflected. The media, like other sectors, is divided into political ideologies. In addition, journalists are sometimes creating confusion in the national life by serving untrue information as salaried officers and owners for their own gain. The media is being used for personal gain as opposed to collective interest. According to the theoretical viewpoint, the media can work in two ways. Radical Approach which does not determine the media by status or law. The practice of this style in the media is abused in many cases. Technocratic Control argument on the other hand which questions the impartiality of the media. So, the media has to be managed through the prescribed section and legal process. What is needed is to ensure the safe expression of the media within logical limits (Halim, 2015).

2. METHODOLOGY

2.1. Aim And Purpose of The Study

The aim of the study is to find out that is this act creates obstacles to freedom of speech and freedom of media. The purpose of the study to examine Digital Security Act 2018 and find out how this act challenges the freedom of speech and freedom of media in Bangladesh. Also, the study compares the Act with the Constitution of Bangladesh. How the Act hinders the freedom of speech and the freedom of the media provided by the Bangladesh constitution. How the Digital Security Act could be misused by the government to stop the voice of free speech and the voice of media. Regarding to this some examples are provided and discussed.

2.2. Rationale of The Study

This study is rationale and very much important to understand the how the act play role against the right of freedom speech provided by the constitution of Bangladesh. By this study readers can realize how the act creates obstacles against free speech and free media.

The research question is, does Digital Security Act 2018 create obstacles to freedom of speech and freedom of media. If creates obstacles then how?

2.3. Theoretical Background

This study is anchored in authoritarian theory of media. Authoritarian theory describe that all forms of communications are under the control of the governing elite or authorities or influential bureaucrats. Authoritarians are necessary to control the media to protect and prevent the people from the national threats through any form communication.

2.4. Research Method

Considering the suitability of the research problem, it had been observed that content analysis method comes to the fore. Content analysis method was followed for this study. We analyzed the challenges of the Act and compared to the constitution. By this way this study shows how Digital Security Act complicates the freedom of speech and the freedom of media.

3. DISCUSSION

3.1. Freedom of Speech and Freedom of Media under the Law of Bangladesh

No newspaper can be free from the search warrant authorities or to search evidence of an offence. In one hand, newspapers in Bangladesh do not have the basic to receive government advertisements. On the other hand, the government is also not obliged to issue their advertisements in any newspapers. Whether the government plays role indiscriminately or discriminates against any newspaper, this activity will be illegal from the perspective of article 27 and article 39 (Gulam v. State, 1990 cited Runa 1992).

Freedom of the media in Bangladesh is the subject to many restrictions like freedom of speech. There are some imposed additional import charges that increases the price of newspapers, that affect the circulation and these charges might be the illogical limitations on the free speech. If government removes a statement in the law of the press without providing the victim a chance to be heard, or if the legal authority refuses to verify a newspaper statement because of the police's opinion of the person's depending on political background, the provision of Article 39 will be violated (Fazlul Karim V. Bangladesh, 1981 cited Runa 2019).

The notion of freedom of the media, including the print and the electronic media, particularly the printed documents, must be treated as a basic right of practicing freely. This national freedom means the declining of intervention from the overcharging state; protection can be guaranteed by constitutionally or legally.

The Constitution of Bangladesh ensures the freedom of speech and the freedom of expression. However, in fact, the media and press of the country can never enjoy the freedom promised in the constitution; instead it has always been conducted within a

strictly regulated structure. In many cases, the government has been unable to appreciate the legal efforts of the media to criticize the decisions of the government and their activities, which puts pressure on the relationship between the government and the media. Government can take any decisions against the media like closing, canceling the license etc. A survey was conducted by the International Press Institute (IPI); According to that survey, journalists in Bangladesh always realize that the politicians of the country are failed in encouraging the significance of the independent journalism and investigative journalism. The politicians do not realize that one of the key issues to hold the government responsible and accountable is the role of the journalism. The media in Bangladesh is always under pressure and under the strict control of the ruling government that gives opportunity to use power of the media publishing and broadcasting as a means of propagating their political wishes and ideas (Runa, 2019).

Now we live in the world of new digital communication technology. 21st century civilization relies heavily on technologies. The use of the technology is increasing day by day and it will more efficient in next future. Technology is being used more and it seems to be a blessing for all the countries of the world including Bangladesh. Related to this case, there is lack of detailed analysis on freedom of speech within the ICT Act 2006 and therefore the DSA 2018. These laws provide comprehensive coverage of the character of cybercrime and declare huge penalties for the crimes.

3.2. The Standards of Freedom of Speech in International Documents

The United Nations (UN) Human Rights Committee is an organization established under the ICCPR for protecting human rights aiming is to separate freedom of thinking, discretion, freedom of religion and belief. The committee of ICCPR declared that freedom is free from any precondition. It imposes no restriction on the freedom of thinking, have a belief or have a religion based on someone's own preferences and faith.

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) says, "Everybody will have the right to the freedom of opinion and the freedom expression with no obstacle. This right includes freedom to search, retrieve and receive all types of information, heedless of borders, in print or writing, within the type of industry or via any other media of its choice" (Universal Declaration on Human Rights, 1948).

Article 19 (3) provides for specific responsibilities and obligations and subject to specific limitations to preserve the reputation or rights of others and to preserve national safety, public order, public health and morality. Thus, reasonable restrictions may be imposed on freedom of speech to protect national safety and public order but not to deprive peoples' right to their freedom of thought, expression and conscience (Universal Declaration Human on Rights, 1948).

Freedom of speech was formally defined perfectly in Universal Declaration of Human Rights (UDHR) 1948 under Article 19. The main objective of the declaration was to express people's social, economic, and civil rights including religion and the freedom of speech, among all members of the states. It states that "everybody has the right to the freedom of expression and freedom of opinion; this right also includes the freedom to have opinion without any obstacle, seeking, receiving neutral information and thought through any medium and without any borders" (Universal Declaration on Human Rights, 1948).

European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) Article 10 states, “Everyone has the option and chance to free speech. This right includes the freedom to have conclusions and to receive and give any information and thinking with no obstacle by the authority of the public heedless of borders. The article will give the opportunity to states in requiring the authorizing of broadcasting, film or Television endeavor” (European Convention on Human Rights, 2010).

The American Convention on Human Rights (ACHR) universally perceived report pointed towards securing common freedoms. It was endorsed by many nations on 22nd November, 1969. Article 13 of the ACHR expresses, everybody has option and chance to freedom of ideas and speech. This incorporates the opportunity to look, get and acknowledge a wide range of information and thoughts, orally or recorded as a hard copy. On account of legitimate practice, it's anything but dependent upon any earlier restriction, however subject to resulting obligation it can be unmistakably characterized by law as far as guaranteeing public safety. The public authority cannot mishandle its power by forcing limitations or exceptional controls on papers, radio and TV broadcasting or on data dispersal gear. The right to the freedom of speech might not be confined by backhanded techniques or ways, like maltreatment of government and corporate powers over newspaper, radio telecom frequencies or gear utilized in the spread of data, or through some other methods having a tendency to block the correspondence and course of thoughts and assessments (American Convention on Human Rights, 1969).

The African Charter of Human and Peoples' Rights (ACHPR) is a world archive pointed towards advancing basic liberties and guaranteeing opportunity to the countries in African continent. African Commission for Human and Peoples' Rights was established in 1987 in Banjul, Gambia. This is additionally called Banjul Charter. A convention was subsequently embraced into the Charter in 1988. The ACHPR ensures opportunity of thinking, ideas, calling and practice of religion freely. This freedom should be limited by no provisions. Article 9 of The ACHPR explains the right to the freedom of speech. This article just expresses that, “Each person will reserve privilege to get information; Every person will reserve the option for speaking and spreading his viewpoints inside the law.” This article also includes the right to opportunity of speech, advancement of the variety inside opportunity of speech, opportunity of information, the position of private and public telecom, administrative body, print media, different securities for media experts, notorieties, and editorial sources (The African Charter on Human and Peoples Rights, 1981).

The Arab Charter of Human Rights was received in 2004 by the Arab League and enacted in 2008. It was issued with the standards of the UDHR, ICCPR, and the Cairo Declaration on the Human Rights of Islam. Article 32 of the charter ensures the right to the free speech, states:

- * This Charter ensures the right to the information and to the opportunity of assessment and speech, option to look for, get and confer data and thoughts through any media, paying little heed to topographical limits.
- * The rights and opportunities will be practiced in congruity with major upsides of the society and will be subject just to the such limits as those are needed to guarantee regard for the rights or notoriety of the others or the assurance of public

safety, public request and general wellbeing or ethics (League of Arab States, Arab Charter on Human Rights, 2004).

There is no settled local basic freedoms body for Asia. In any case, the ten nations of the Association of Southeast Asian Nations (ASEAN) officially settled the ASEAN Intergovernmental Commission on Human Rights (AICHR) on 23rd October 2009, in the fifteenth ASEAN Summit. That gathering additionally received a Declaration on Human Rights, that ensures opportunity of speech as it says, "Each individual will have the option to opportunity of assessment and speech, it also includes the opportunity to have sentiments with not obstruction and to look for, get and give data, regardless of whether orally, recorded as a printed copy or through some other medium of that individual's decision" (ASEAN Human Rights Declaration, 2012).

The above arrangements included essential and all-around applicable components of the right to right of speech. Common freedoms, communicated in worldwide shows, guarantee validity just through the progression of data that rises above the limits of the countries of the world. It is key that none of the natural opportunities and different instruments contained inside the UDHR is delighted in without acknowledgment by the states concerned or without the help of the perspective for its acknowledgment by the states.

Public morality is an idea that is not possible to explain with a single word. The meaning of public morality is not found in any general norm. Morality of the public that depicts pornography must be limited to the adults and minors. That could become an instance of limitations. However, the right of ideas and the right of speech must not be limited. At one hand, in the ICCPR Article 18 announces the right to the opportunity of ideas, speech and religion. On the other hand, Article 21 sets up the opportunity to serene get together. The ICCPR Article 22 recognizes the right of the freedom of speech.

Freedom of thinking, freedom of speech, and freedom of media should be secured. Opportunity of speech and thought does not mean the option to decline all commitments forced by the law. No limitations will be set on the right of stating viewpoints about an individual's inclination. As per the International Covenant on Civil and Political Rights (ICCPR) and furthermore the American Convention on Human Rights (ACHR), the opportunity of thought, expression and religion can never be suspended by any conditions. The opportunity of thought and the opportunity of speech is the mainstay of a democratic country and general public that regards common human rights. Freedom of speech is ensured by Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR). Bangladesh should give up the mentality to control internet, social media and electronic assortments that are used for practicing the right to free speech with Article 19 of the ICCPR and to go with other international instruments related to the freedom of speech.

3.3. Contextual Analyses on Freedom of Expression and Media Freedom under the Information Communication Technology and Digital Security Act 2018

As a democratic country, Bangladesh should do more to guarantee opportunity of the media. Media plays very important role in the world for democracy. The role of media and its effect on the general public has gone to the front since the reclamation of democratic government after the 90s. However, the media's excursion is not generally smoothly in Bangladesh. The organization goes ahead confronting various difficulties consistently.

These encounters have contributed Bangladeshi media to accomplish soul, ability and strength by chipping away at different political and social elements. This is constantly awaited; media have a climate that permits them to play an important role for society and culture and allow working freely for interest of the people and country. As a momentary society, there are many vested parties in Bangladesh that must continually stifle the voice of the media. It is nothing more than a constant curiosity for the Bangladeshi media. As in previous days, the media now face many hurdles to make the most of their opportunities.

The media in Bangladesh have been allegedly following a self-restriction because of a dubious demonstration that is Information and Communication Technology (ICT) Act. Under ICT law 25 journalists, a few hundred of bloggers and Facebook clients were apparently detained in 2017. Bangladesh ineffectively ranked at 152nd out of 180 recorded nations in the Press Freedom Index 2020 delivered by the Reporters Without Borders (RWB). In 2020, the Covid emergency and going with lockdown brought about a disturbing expansion in police and regular citizen savagery against journalists. A number of journalists, bloggers and cartoonists were likewise captured and indicted for their giving an account of the pandemic and its effect on society. To this end, the government customized legal weapon for hushing problematic journalists and writers by the digital security act 2018, under “negative promulgation” that deserves of the highest 14 years in prison. Therefore, self-restriction arrived at uncommon level while editors are reasonably doubtful to chance detainment or their news source's conclusion. Since their re-appointment in 2019, the decision of Awami League and its chief, Sheik Hasina, the nation's executive since 2009, have taken a particularly harder line with the media. Writers host been exposed to savagery by get-together activists, they have been captured self-assertively, and news destinations have been obstructed. Representing the new environment of doubt, correspondents for the two driving dailies 'Prothom Alo' and the English-language 'The Daily Star', were not permitted to go for government interviews. Journalists who research debasement or neighborhood groups of thugs are at risk to be exposed to amazingly uncouth brutality that reaches from torment to death (Tougher politics, more press freedom violations, 2020).

3.4. Examples of the Victim Journalists under Digital Security Act 2018

Mushtaq Ahmed³ had been lodged in prison since May 2020 for purportedly spreading hostile to government content via web-based media, died in February 2021 inside a high-security prison. Mushtaq was imprisoned along with political cartoonist Kabir Kishore and two others for supposedly disregarding Bangladesh's Digital Security Act by spread paranoid notions and tales against government and their reaction to the Covid-19 pandemic. Seven others were additionally denounced on same charges yet were not captured. Mushtaq was a functioning author via online media on different issues. Mushtaq likewise wrote a book named '(Diary of crocodile cultivation)', which was distributed in 2018. He was dealing with his next book (Bangladeshi writer Mushtaq Ahmed, arrested 9 months ago for ‘anti-govt. content’, dies in jail, 2021).

Although two people were released on bail for the same case, the bail applications of Mushtaq and Kishore were refused multiple times. According to Kishore, he was

³ Mushtaq Ahmed was famous as a crocodile ranch proprietor, he was also a writer and columnist.

additionally exposed to serious actual torment while in police custody, and he sustained a critical leg injury and ear wounds that prompted contaminations.

Mushtaq had published an editorial publication article scrutinizing the lack of individual defensive gear for specialists' doctors, while Kishore had posted a number of cartoons on a Facebook page. The cartoons named 'Life in the Time of Corona' that contained basic parody of decision gathering and claims of defilement in Covid-19 reaction of the government. 11 persons were arrested under the Digital Security Act 2018 sections 21, 25, 31 and 35. Section 21 condemns campaign and promulgation against the war of freedom, Sheikh Mujibur Rahman the father of the Bangladeshi nation, the national song, and the national flag, conveys a discipline of up to life in jail. Section 25 condemns distributing any "hostile and dread initiating" content or substance 'spoiling the good image of the country,' conveying a discipline of as long as 5 years in jail, while Section 31 condemns spreading some contents that upsets 'unity of the community' or 'takes steps to decay the rule of law', conveying a punishment of as long as 10 years.

Shahidul Alam⁴ was captured on August 5, 2018 and charged under Section 57 of the ICT Act. Shahidul was charged for "online speech for hurting the image of the state". A huge public protest took place in Bangladesh supporting for the improvement of the road security from 29 July to 8 August 2018. The protest was started with the passing of two secondary school students in the capital Dhaka struck by a bus and the bus driver had no driving license he was dashing to gather passengers. The occurrence incited students to request more secure roads and more stricter traffic regulations, and the shows quickly spreaded all through the country. During covering student protest for road safety, he took photos and gave his speech on Facebook live. At the same day, he also took part in an interview with international television channel Al Jazeera. On November 15, after over 90 days in jail, he was allowed bail by the High Court and got released from jail five days later. On March 4, 2019 Shahidul recorded an appeal in the High Court to challenge the legitimacy of the body of evidence against him, guaranteeing that it had disregarded his fundamental rights just as containing lawful blunders. The High Court suspended the examination of his case for 90 days on March 14, 2019 and gave a decision asking the public authority to clarify for what reason the continuation of looking at the case ought not be broadcasted as unlawful. On August 19, the Bangladesh Supreme Court maintained the High Court's choice. Notwithstanding, the charges against Shahidul have not yet been excused (Shahidul Alam shown arrested, 10-day remand sought, 2018).

One of the famous Bangladeshi investigative journalists, Rozina Islam⁵ is known for her definite purging and investigation of the public specialists' reaction to Covid-19. She was captured on 17 April 2021 and charged under British colonial law of Official Secrets Act 1923. Rozina Islam is a senior investigative journalist of Daily Prothom Alo. Rozina's family ensured that she faced physical attack and mental torture by the officials of the health ministry before bringing her to the police station. Rozina was detained for 5 hours in the office of the health ministry. She was charged under the Official Secrets Act 1923 for taking picture and theft of delicate state documents. As per the court, the records for which

⁴ Shahidul Alam is a famous photograph journalist, writer, and social activist, who won international award for his photography.

⁵ Rozina Islam is a famous journalist who won several international awards including UNESCO prize.

Islam was detained for it was related to the purchasing of vaccine of Covid-19 (Prothom Alo journalist Rozina Islam arrested in Official Secrets Act case, 2021).

Rozina's report was against the treatment of Bangladesh government in the pandemic which includes investigation on corruption and bribery of health ministry. The arrest of Rozina caused extensive anger in media workers and in the human rights community who wanted her quick release. The court granted after 7 days in prison. Court asked for two guarantors; one ought to be a lawyer and the other a legitimate guardian. Court also asked to submit her passport.

By these ways, the government of Bangladesh tries to silent the voice of free speech and the voice of the media. That situation is very much dangerous and growing concern everyday among the journalists and online activists.

3.5. Cases Analysis under the Digital Security Act 2018

According to a report of Daily Prothom Alo, sum of 1135 individuals were captured in 732 cases recorded under the Digital Security Act all over Bangladesh in 2020. The information was provided by the police headquarters. By the very first two months of 2020, 339 additional persons were captured in 165 cases recorded under the same Act. Within the 2 years of passing the digital security (DSA) law, amount of the cases recorded under the law surpassed 1000 which the media and rights groups have called abusive and oppressive. Out of these cases, 734 cases were recorded in the cyber tribunal of Dhaka and more than 330 additional cases were recorded in the court. A large portion of the cases were recorded under the 25th section and 29th section of the Act for supposedly spoiling the image of the country or any individual. A similar charge was recorded under the disputable Section 57 of the Information and Communication Technology Act (ICT) before the development of the Digital Security Act (DSA). In 2020, 50 cases were recorded against journalists and 37 them were captured (Digital Security Act: Over 1000 cases filed in two years, 2021).

Indeed, even under the steady gaze of the law was passed, human rights organizations, civic society media communities have been worrying and protesting against the law. The Council of Editors and numerous different associations have been calling for changes to these articles, recognizing the nine articles of the law as dangers to the right to freedom of speech, free media and democracy (Digital Security Act: Over 1000 cases filed in two years, 2021).

3.6. The Greater Part of The Claims is not Proved

According to the 'Daily Prothom Alo', the preliminary of the cases recorded under ICT Act 2006 and new Digital Security Act 2018. Until report time, 2682 cases were brought for trial. Most of the cases were recorded under the Section 57 of the ICT Act. At present, 1692 cases are now at the council for trial. Preliminaries of 12 of cases have been running for five years even more. According to the sources, the greater part of the cases in short of reliability. Near about 990 cases were settled at Dhaka cyber court over the most recent seven years. Among these cases more than 450 cases were settled just by enduring the last report. Likewise, accused get released for absence of proof. The state can demonstrate the claims simply in 25 cases, the record of the court uncovers. Among these cases 24 cases were documented under the ICT Act, while one of them was documented under the DSA.

Public Prosecutor of the Cyber Tribunal Nazrul Islam said, "The quantity of the cases recorded under the DSA expanded altogether. Many people come to file case without any proof. Many people basically file the cases for nothing. Sometimes an individual sues without providing the links of the websites. Often alleged person removes the links. "We are unable to get data from Facebook," he said. In some situations, even there is no proof, but the final report will be given. Sometimes, people solve the problem locally."

3 cases were alluded to the cyber court in 2013. It was 33 in 2014, it was 152 In 2015 and it was 233 in 2016. The number dramatically increased to 568 In 2017. In 2018, the number was 676, in 2019, it was 721. And until September 9, 2020 referenced in the 296 cases were referred to cyber court. A sum of 2682 cases were filed under ICT Act and DSA to cyber court of Dhaka within last 7 years for trial (Digital Security Act: Over 1000 cases filed in two years, 2021).

3.7. A Large Number of the Cases Filed under 25 and 29 Sections

In 2013, the preliminary under cyber court started. Every 1 case of the 3 cases recorded in the following year were under ICT Act's section 57. Total 25 cases were documented under the Section 57 in the following year out of the 33 cases. Yet, the government passed the Digital Security Act rejecting Section 57 in 2018. Since then, the majority of the suits are being documented under sections 25 and 29. Out of the 330 suits forwarded to the cyber court all over the country. over, more than 200 cases were recorded under those two sections of the DSA years (Digital Security Act: Over 1000 cases filed in two years, 2021).

As indicated in Section 25 of the DSA law, it is a crime that sending hostile and threatening data or propagating and spreading bogus information to disturb, affront, embarrass and stigmatize an individual or spreading and propagating or help with distributing and engendering any data to sully the good image of the country or spreading disarray. Also, as per Section 29 of the law, publishing and broadcasting of any slanderous data on any internet site or on some other electronical form will be an offence. As indicated by Section 57, ICT Act, "if anyone intentionally spreads and sends or becomes reason to be transmitted or published in the internet site or in some other electronical form any other devices that is bogus and foul and in the event that anybody hears, reads and sees or peruses it having respect to every single pertinent condition, its impact is like an impact on the reader to get deceptive or degenerate, or causes to crumble or makes probability to decay peace and lawfulness, bias the good image of the country or people and becomes reason to harm or may harm strict conviction or affect against any people or association, at that time this movement will be viewed as a crime." The five sections of ICT Act including 57 were removed after enormous criticism. Then the government authorized the DSA 2018. Many associations related to media including the editor's council raised their voice for revising 9 articles including 25 and 29 of the DSA Act in order to secure the freedom of speech (Digital Security Act: Over 1000 cases filed in two years, 2021).

One of the famous lawyers of the Supreme Court Jyotirmoy Barua deals cases for the individuals those who are charged under the DSA 2018 and ICT Act's section 57. According to him, the DSA is incredibly denunciative against the freedom of speech. Although in some cases there is no basement, police files the cases and captures the people. Many cases are being filed just to harass the people" (Digital Security Act: Over 1000 cases filed in two years, 2021).

3.8. No Rights Given for the Protection of the Victims

On the context of false case under Woman-Children Torture Control Act, victim individual has chance for taking legitimate protection. Unfortunately, victims of bogus cases under the DSA do not have opportunity like that. The president Bar Association of the Supreme Court Amin Uddin said, “while last reports are prepared, this is accepted that the case were recorded with no considerable proof. A revision must be brought here. A law should bring here for the protection of the false case victims. Otherwise, victims have to suffer” (Digital Security Act: Over 1000 cases filed in two years, 2021).

3.9. Complications of the Freedom of Speech and Freedom of the Media under the Act in Bangladesh

Bangladesh Constitution’s Article 39 supports right of the peoples’ free speech and discourse however without obstructing the national safety or disregarding relations with other countries or order of the public, or influence ethical morality or tolerability or lack of respect of court or the consolation of any crimes. It very well may be expressed that there are arrangements overall laws that endorse discipline for such demonstrations or violations; For example, the Criminal Code of 1860, the Official Secrets Act 1923, the Disdain of the Courts 1926, the Act of the Foreign Relations 1932, and so on. There are some limitations forced in Article 39 (2) of the Bangladesh Constitution:

- * For security and for interest of the country;
- * For the benefit of amicable relationship with other countries;
- * In light of a legitimate concern for public request analysis of the government that does not really upset public request should be a more thing than public burden, inconvenience and agitation;
- * Activities that disturb the safety of the public;
- * Making propaganda in the time of war;
- * For the benefit of the respectability and profound morality the Penal Code 1860’s section 292 conducts with profanity;
- * For the benefit of the disdain of the courts and slander: Publications that irritate respect of the courts and those are circled to bias the equity course will comprise scorn. Disdain of the courts comprises of any lead that in general brings the justice organization into slight or to deter or meddle with the proper way of justice. The disdain of courts comprises in any demonstration done or composing or distributed which is flowed:
 - * For bringing any courts or judges of the courts into disdain or lower their position,
 - * For impeding or meddling with proper method of justice and the legal cycle of courts, for example, remarking on a case forthcoming in court.
 - * Slander under Penal Code’s section 499;
 - * Encouragement to any crime;
 - * Indecency and obscenity.

The ICT Act’s section 57 (Revised in 2013), this law supported more captures and provocation of the protectors of political rights and journalists. There is probability of the misuse of the law to harass the people, right activists and the journalists by the name of preventing digital crimes. Actually, section 57 illustrates the obstacles to the free media. When somebody disregards the law of Section 57, the punishment is at least 7 years of jail

and a limit of not more than 14 years with maximum 10 million Bangladeshi Taka (118.000 Dollar) fine which is canceled by the harsher Digital Security Act 2108.

With the increasing concern, the prime minister of Bangladesh Sheikh Hasina and a few ministers had guaranteed the community of journalist should not be worried about the DSA 2018. Prime minister said, media activists no need to worry over DSA in the event that they do not publish bogus or counterfeit news or misdirect people. By responding to an inquiry, she asked, 'I comprehend those journalists are exceptionally stressed, however who will address our concern? or then again casualties? What's more, how might the journalists remunerate them? ' However, the incorporation of the Official Secrets Act of 1923 would confine opportunity of freedom of speech, yet in addition sabotage the motivations behind the right to information (Digital Security Act: Over 1000 cases filed in two years, 2021).

3.10. Logics of the Government behind Passing the Act

With the development of the modern internet technology Bangladesh is also becoming develop every day and the innovative information technologies are expanding at same time cybercrimes are expanding as well. The cybercrimes began through the junk e-mail and attack of Trojan. For the aim of security and lawfulness the information and communication technology (ICT) Act was passed on October 8, 2006 by the parliament. 12 years later new Act is passed by the parliament called 'Digital Security Act (DSA) 2018'. A lawyer of Bangladesh Supreme Court Jotirmoy Barua, who deals with human rights, said about the perspective of DSA 2018, "this is very much important that there will be a law to control the cyber-crimes. All Computerized digital medium should have right to the freedom of speech. This law ought to be utilized against cybercrimes and digital crimes but not for encroaching the right to the free speech" (Runa, 2019).

The Digital Security Act was enacted to guarantee the digital security of public and individuals' lives and to guarantee the assets and the lives of the individuals from cyber and digital crimes. However, the law was not enacted to stop the free voice of the media. Now we live in the digital age, cybercrimes and digital crimes are also spreading seriously in the internet world. With the improvement of the digital communication technologies, the number of the digital crimes is also increasing. Thus, laws ought to be created so that digital crimes in the in the online field can be controlled. The arrangement of Digital Security Act 2018 is favorable for the current 21st century society, if it is used in ideal way. However, Journalists and media workers are in dread of this law and requesting change for its impeded way of punishment. The Digital Security Act will be utilized to control slander, attacking on sentiments of the religion, causing disintegration of peace and lawfulness and impelling against association or individual through sending and publishing material on internet site or in any electronic forms. The law specifies sentence maximum 14 years prison or a fine up to 10 million Bangladeshi Taka or with both for publishing promulgation against freedom war and the father of the nation by utilizing digital platforms. The offences under the section 17, 19, 21, 22, 23, 24, 26, 27, 28, 30, 31, 32 and 34 are the offenses without bail. Therefore sections 54, 55, 56, 57 and 66 of the ICT Act 2006 were canceled altogether by DSA Act.

3.11. Reasons behind the Rejection of the Digital Security Act

The DSA Bill was issued by the government of Bangladesh with a couple of small amendments. DSA's section 3 of contains an arrangement of the Right to Information Act 2009, that appropriates to issue identifying with the right to information. In the section 21 of this law likewise contains a meaning of the 'war of liberation', that expresses, 'high beliefs of patriotism, communism, secularism and democracy, that enlivened the chivalrous individuals to forfeit them, and the valiant saints to devote their valuable lives in the war of liberation'. DSA's Section 21 expresses that any individual who spreads negative purposeful publicity against the war of liberation and the father of the nation utilizing any digital device or urges for in doing something like that can confront sentence until 10 years in prison or a fine of up to 10 million Bangladeshi Taka or with both sentence and money. If an individual carries out the crime twice or over and again then the person will be condemned with life detainment or with fine not surpassing 30 million Bangladeshi Taka or with both (Digital Security Act, 2018).

Section 25 of the Act states, if any individual purposefully or willingly sends any data that is hostile and dread instigating, or that notwithstanding knowing as bogus is published and sent or proliferated with goal for irritating, affronting , embarrassing or criticizing an individual or spreads or proliferates any data determined to spoil good image of country or publishes disarray and regardless of knowing as bogus in internet site or via digital medium, will face the sentence of detainment for a term or will face fine not surpassing 300.000 (three hundred thousand) Bangladeshi Taka or will face the both. An individual has to face as long as 5 years in prison or 1 million Bangladeshi Taka or both sentences for repeating the offense for twice.

DSA's section 28 states, if any individual or group purposefully or willingly determined to attack the sentiments of the religion or values or with the expectation to incite publish or broadcast anything through any internet site or any electronic devices which harms religious sentiments or values then such action is considered as an offense and the criminal will be condemned to a term of detainment not surpassing seven years or fine not surpassing 1 million Taka or with both. An individual will face as long as five years in prison or Taka 2 million or both for repeating the offense for the second time.

In DSA, section 29 says and proclaims, if an individual carries out an offense of broadcasting or publishing disparaging data as depicted in the Penal Code of 1860's section 499 in internet site or in some electronical formats the person will face the punishment of detainment for 3 years and fine not surpassing 500.000 (five hundred thousand) Bangladeshi Taka or both and in the case of repeating the offence again, will face the sentence not surpassing 5 years of detainment or fine 1 million Bangladeshi Taka or will face both of the sentence.

Section 31 states, if any individual purposefully broadcasts or publishes any sort of records in internet sites or any digital formats that will make antagonism, disdain or misfortune among individuals or obliterate any communal unity or make or jumble or disintegrates or takes steps to decay the rule of peace and law that time this action of the individual will be counted as an offense. Any individual who commits the offense will face the punishment for 7 years in prison or fine not surpassing 500.000 (five hundred thousand) Bangladeshi Taka or will face the both of the punishment. An individual will face as long as 7 years in prison or 1 million Bangladeshi Taka or both for repeating the offense twice.

In DSA section 32 of states, when an individual carries out or helps in carrying out an offense under Official Secrets Act 1923 with help of computer or digital devices or through advanced network or through some other digital computerized media the person will face a sentence of detainment not surpassing 14 years or will face fine not surpassing 2.5 million Bangladeshi Taka or will face the both. In case of the committing the offense twice the person will face the punishment of life detainment or will face fine not surpassing 10 million Bangladeshi Taka or will face the both.

As per Section 43 of the Act, if an officer of the police has motivation to accept an offense under the Act is being or will be perpetrated in a spot or a chance of occurring or if there is a chance of looting the proof, annihilated, erased or modified or plausibility of being made panic in other alternate manner, at that point the police officer after recording the justification his or her conviction, can go into and look through the place and whenever intruded on, make an essential move as per the Criminal Procedure's Code. The official has the power to forfeit the information and data, the computer, computer network, computer system, or different items those were utilized in carrying out the offence or records which will help in demonstrating the offense those are found in that spot during searching. The police officer can search anyone's body who are present in the spot and furthermore can capture anyone those who are present in that spot whenever associated with submitting or having submitted a crime under this Act. In the wake of leading the inquiry, the police need to forward a search report to the court. Section 43 allows the opportunity to police to capture any person with no warrant. This power could be mishandled by the law enforcement authorities, unfortunately (Digital Security Act, 2018).

The DSA gives the police power to capture anybody with no warrant. The demonstration has characterized in any event 14 offenses as without bail.

The DSA law includes some main complications as below:

- * In attempting to issue a law to forestall cybercrimes using digital devices and platforms and give safety in the advanced circle, the show winds up policing the media activities, filtering and censoring the content of the media and controlling the freedom of speech and freedom of the media as ensured in the constitution.
- * This law provides limitless power to the law enforcement authority to enter houses, inquiry the workplaces, substantial searching people, hold onto computer, servers and networks the entire thing identified with the computer and digital forms. As per this law, police are able to capture anyone just on doubt with no warrant and do not need any endorsement from any authority.
- * This law experiences ambiguity and utilizations numerous words and terms those could be misjudged and utilized against media.
- * DSA will make an environment of dread and terrorizing that will make news-casting, investigation and particularly analytical news coverage practically incomprehensible.
- * This law will make alarm among all the media activists, clients of computers, and digital devices and networks etc.

Actually, the motivation behind issuing the DSA law was to guarantee computerized digital safety and forestall offences carried out on internet and digital platforms. However, the journalists are under stressed over the law. Because in many cases the DSA law influence the many regions of journalism and media. DSA law blocks the free practice of

the journalism, free news coverage and investigation that ensure the citizen's right to the freedom of speech and expression.

A startling part of the Digital Security Act is the gigantic subjective force provided to the police; they can capture a journalist simply with doubt on supposed crime that they think of happening or going to be happened later. Police are permitted to capture and that provision is without bail and no need of warrant. These functional terms are going to bring news coverage heavily influenced by police.

It is very much disturbing that, more than 20 provisions of the DSA law conduct with crimes and sentences, 14 of them are without bail. While 5 of them areailable and one them is be negotiable. Minimum sentence is 1 year in jail and maximum sentence is life-term. However, in the act the general punishment is 4 and 7 years. These punishments unavoidably create an environment of dread.

Another defect of the DSA is the degree of sentence distributed to "crimes". Comparing to other laws the punishments of the DSA law is very high. For instance, the Act of Road Safety that was issued at the same time of the DSA. The law gives a highest sentence of 5 years for murdering individual in the road accident while a journalist could be sentenced for life in prison for publishing any information under DSA 2018. Nowadays publishing information has become very popular because of the social media that is called citizen journalism.

3.12. Dangers of the Digital Security Act

The DSA 2018 law requires replacing the questionable ICT Act 2006 to prevent the cyber and digital crimes in the country. Therefore, in many cases ICT Act's section 57 has been misused against journalists and media workers. Police captured such countless individuals under this section with no warrant. With the modification made in this ICT Act, the questionable section was changed to the section that is non-bailable and the highest punishment was fourteen years detainment. Under this controversial section, many individuals were captured only for talking before the media or on Facebook. Minimum 25 of the famous journalists were badgered under the section in 2017 and surprisingly many blog writers and Facebook clients were captured under the law for publishing opinion on social media.

Bangladesh government took the decision to end the Information and Communication Technology Act 2006 and to enact the Digital Security Act 2018. The digital security is needed to prevent cybercrime, to guarantee the security and harmony among the general public. In any case, specialists call attention to that a significant number of the sections of ICT Act were recreated in various ways in the DSA law and yet there is sentence of maximum 14 years in jail.

Before enacting the DSA 2018, the most disputable eliminating of ICT Act was being talked about. The declared DSA contains a fundamentally the same as laws to the ICT Act. Many law experts, journalist, political parties and general public also have indicating and protesting for the changing of the DSA 2018. As it is the renewed old face of the ICT Act. Because most of the sections are similar to the ICT Act even the penalties are also same. The vague phrasing will permit to misuse the individuals who try to use the right freedom

of speech. Advantages will be given to the ruling parties to silent the voice of the oppositions.

The enacted DSA law will challenge the freedom of speech in many unexpected ways. The fluffy adaptation of the law especially worried about the danger of extreme punishments for expressing opinion and viewpoint on the Internet or in the media. Even there are some crimes those are non-bailable and another dangerous thing is that, police can arrest anyone in anytime without any warrant.

3.13. Recommendations for Modifying Digital Security Act

The Digital Security Act 2018 calls for corrections to specific Acts for the initial move towards joining the Internet into Bangladesh's legitimate system. There is as yet far way to go for Bangladesh overall set of laws to completely coordinate and acknowledge the Internet. A few provisions of this law should be modified. In the perspective of modern international world where digital control systems are significant, Bangladesh should embrace to push digital laws. Nowadays cybercrime is a quickly growing new class of offences for Bangladesh because of the boundless utilization of the web. This is vital to get the right initiative and make the right understanding in the controlling of cybercrimes.

The DSA 2018 law completely complicates the freedom of speech and the freedom of media. This law likewise conveyed long time imprisonment and huge amount of fine. In any case of international documents like the ICCPR, UDHR, ACHR and ECHR guarantee the right to the freedom of conscience, freedom of speech and the freedom of expression.

It is sure that technological protection and defense is better solution to control digital crimes than enacting high punishable laws. Prevention by law is not sustainable as there is always chance to disappear. Individuals who are advanced in digital technology can break the firewall anytime whenever they want. However, legitimate and other relevant solutions are important to fight against these conditions. As well as with existing remedies, Bangladesh could start some new activities followed by the world's digital advanced hi-tech situations. Recommendations for the DSA Act 2018 are listed below:

In the DSA, section 21 proclaims a punishment for publicity hostile to the war of liberation and father of the nation. Therefore, the word propaganda was clarified nowhere in the Act. Everybody ought to comprehend that the religious and customs of others, which ought to be encouraged. In Article 2 (a) explains, the national religion of Bangladesh Constitution should be respected. Section 28 states about attacking sentiments of the religion and values willingly to incite if someone broadcasts or publishes something using internet sites or anything in electronic formats this activity is counted as crime. However, this section provides no idea about attacking to the sentiments of religion.

In Bangladesh Constitution, Article 39 (2) applies rational limitations by law for legitimate concernment for national security, public order, morality or decency should not be utilized so as a reason to annoy the interest of the government and as an apparatus of resistance suppression. Section 32 of the Act requests that it will be totally removed to guarantee freedom of speech and justice for all. As a democratic country, transparency should be kept up in every aspect of the government activity. But government can shroud any information under the Official Secrets Act 1923. Section 32 title ought to be changed to

"Offence and Punishment utilizing computerized spying" rather than "breaking secret of the government crime and penalty".

In Bangladesh Constitution, Article 70 controls applicant's right to cast a vote against the assigned party, that restricts the power of the Parliament Member. This provision is controversial and against the rules of democracy. Parliament ought to be a spot for more extensive democratic discussion thus Article 70 should be changed. As the lawmaking responsibility is on the members of the parliament, so they must have the right to criticize any laws those are against democracy, constitution and against the freedom of speech.

The Digital Security Act 2018 requires some explanation to clear and keep remove the vagueness in its definition of the provision. The explanation of the law is not explicit and numerous sections were supported by the abusive measures under a wide reason of public safety and security of the state. A perfect and strong act is necessary to protect digital data and information. The Bangladesh Penal Code 1860 was found inadequate to address the issues of new offences emerging from the Internet extension. Indeed, even few traditional crimes for instance fraud, conspiracy, securities, espionage, solicitation and so on are now being carrying out on internet. Thus, a new suitable law is required in order to prevent those digital crimes. Actually, ICT Act 2006 was passed to prevent and control cybercrimes in the country. Before enacting this Act, the Penal Code 1860 was the only law to deal with cybercrimes. At that there was no idea of cybercrime and computer technology.

Section 43 of the Act allows the police to take the search, arrest and even seize and capture anyone anytime without a warrant if the police just have an idea that a crime is committing under the act. There is huge chance of misusing of the law by the police. Also, this section requires some explanation and instructions to avoid misuse and to protect the victims. The non-bailable crimes sections of the Act for example 17, 19, 22, 23, 24, 26, 27, 28, 30, 31, 32, 33 and 34 are barriers to the freedom of speech and to the freedom of expression. Those sections must be removed ensure the right to the freedom of speech in Bangladesh. The jail sentence is very high and serious in this act as well. The Penal arrangements ought to be decreased in the gave advanced security Act. The imprisonment sentence should be decreased as the duration of the punishment is more serious than traditional crimes.

CONCLUSION

It is said that, newspaper is the fourth estate of a country and media is the mirror of the society. Media always need free environment in a democratic country to establish a transparent society. In the history of Bangladesh, the ruling parties always tried to stop the voice of the oppositions. Now in this 21st century what is called the age of modern digital technologies unfortunately we can see the same scene in country under DSA 2018 law. Pre-publication censorship is more dangerous and never goes with value of democracy and the right to free speech. In the context of Bangladesh both of the complications are available under the existing legal framework. Media face pre-publication or broadcasting censorship and post-publication or broadcasting complications like cases, canceling the license for the allegation of the contempt of courts or breaching the confidence. The old Information and Communication Technology Act was a serious violation to the freedom of speech and to the freedom of media but at least there was a chance to challenge in the

court. But unfortunately, in new Digital Security Act 2018 there is no chance remaining for the victims to challenge. The new law is more dangerous than then the old one in the perspective of free speech and free media.

In the current context of Bangladesh, if anyone tries to speak freely or tries to express own viewpoint freely gets captured, dead or untraced. The actual laws are restricted by Article 39 (2) of the Bangladesh Constitution on the right to the free speech. As Article 70 prohibits the parliament members to vote against their own party. ICT Act especially Article 57 was widely misused by the ruling parties to arrest and harass the oppositions, journalists and human rights activists to silent them. The new Digital Security Act is not satisfactory for the freedom of speech and for the freedom of media. As already a huge number of misused have been against journalists, political oppositions even against general public. Even the punishment of the law is severe. Some sections of the Act are totally opposite to the transparent government and against to the freedom of speech. The freedom of speech is a constitutional right for the citizens of the country. In this context, the Act is being misused by the name of preventing cybercrimes and threatens to the freedom of speech and freedom of media.

Freedom of speech is among one of the basic rights provided by the constitution. It is the right desired by the citizens to practice freedom of expression and conscience in a democratic society. When government pass a law that against the constitutional rights that conflicting law will be considered as void. All the provisions and rights ought to be authorized and enacted by the courts. The DSA law was formulated by the government in order to prevent cybercrimes that affects people, government and private organizations as well. However, the Digital Security Act 2018 has already been considered as unconstitutional law for its controversial role to prevent the right to freedom of speech and the freedom of media. No one is safe under the DSA 2018, any journalist, researcher, right activist, academic, online activist even general public can be accused of spying information or publishing any information that goes against the ruling party. This DSA 2018 will limit the wide field of journalism and research as it challenges the free flow of the information and the freedom of speech.

The Digital Security Act 2018 openly breaches the peoples' right to the freedom of speech, the freedom of expression and the freedom of media provided by the constitution, inside sensible limitations, ensured in supreme law Constitution. The law disregarded the soul of the War of Liberation and to the high beliefs of freedom for that freedom fighters sacrificed their lives. The DSA law is also against the basic values of the democracy, against the basic moral values and against the free, independent and investigative journalism as well. There are some logical inconsistencies in the Digital Security Act with the Right to Information Act and also with the constitution and democracy. So, the Digital Security Act must be amended by the government to protect the citizens' right to freedom speech and the freedom of media in Bangladesh.

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