

Sonargaon University
Research Monograph on

" Digital Security Act -2018 of Bangladesh;a Study on the Situation of Press Freedom and Journalistic Investigation "

This research paper is submitted in partial fulfillment of the requirements
of the degree of LLM (1 year) under Sonargaon University.

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Firstly,I am grateful to the benevolent almighty, who has given me enough ability to let me complete the Research Monograph successfully.

I would like to express my sincere gratitude to my respected Supervisor Sharmin Jahan Runa,, Assistant Professor & Head,(Acting), Department of Law, Sonargaon University for his invaluable supervision, comments, constructive feedback, patience ,and suggestions, which have facilitated in developing my knowledge and guiding me throughout all the stages of my thesis.Her valuable feedback helped me in the continuous improvement of my thesis and directed me in the right direction. Without his thoughtful encouragement,instructions and guidance,I would not be able to complete the research on time.

During the completion of this Research Monograph ,I have taken help from some books,journals,articles and newspapers.Thanks to all authors of that books, journals and articles .

Finally,I want to express my deep gratitude to my parents and all well wishes whose enormous helps assist me to complete this report.

……..

Signature
Salma Jahan

CERTIFICATION BY THE RESEARCH SUPERVISOR

This is to certify that the Research Monograph titled **"Digital Security Act -2018 of Bangladesh;a study on the Situation of Press Freedom and Journalistic Investigation".**
Submitted By Salma Jahan (I'd No.LLM 2301028007).

In fulfillment of the requirements for the award of the Graduate Degree in Law from Sonargaon University,under my supervision and guidance.It is also to be certified that no part of this Research Monograph has been submitted anywhere earlier.

……

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DECLARATION

This is **Salma Jahan,**a student of LLM program of Department of Law of Sonargaon University, holding **I'd No:LLM 2301028007**; do hereby declare the Research Monograph titled:

"Digital Security Act -2018 of Bangladesh;a Study on the Situation of Press Freedom and Journalistic Investigation "

The assigned work has done by me for partial requirement of my **LLM** degree , as a part academic curriculum.I certify that this doesn't incorporate without acknowledgement any material previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief it doesn't contain any material previously published or written by another person except where due reference is made in the text.

I also declare that the presented work doesn't breach any existing copyright and no portion of this Research Monograph has been copied entirely from any work done earlier for a decree or otherwise.

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Signature
Salma Jahan

LETTER OF TRANSMITTAL

To
Sharmin Jahan Runa
Assistant Professor & Head(Acting)
Department of Law
Sonargaon University (SU).
Subject: Submission of Research Monograph on**"Digital Security Act -2018 of Bangladesh;a Study on the Situation of Press Freedom and Journalistic Investigation".**
Dear Madam,
It is a great pleasure for me that I have the opportunity to submit the research paper on,**"Digital Security Act -2018 of Bangladesh;a Study on the Situation of Press Freedom and Journalistic Investigation".**. According to your guidelines I have been able to effectively and enthusiastically accomplish the report. This report attempts to describe my observations, learning and recommendation based on general reasoning and empirical evidence.I made sincere efforts to conduct this study in reviewing related rules, documents , interviews and examining relevant records for preparation of this report.

During the research period,it is customary to work in this field to gather a better understanding of this arena.

I have tried my level best to put meticulous effort for the preparation of this report.Any shortcomings or faults may arise as my unintentional or clerical mistakes . I will heartedly welcome any clarification and suggestions for any review and conception disseminated through this report.

Your active supervision and crafted guidance made it possible for me to prepare this report successfully.I remain available at your convenience to clarify any quarries if necessary.

Thanking you
Salma Jahan
I'd No: LLM 2301028007

ABSTRACT

Digital tools became a blessing for both general mass and the journalists in Bangladesh but it also came up with different scopes of misapplication. To minimize the offenses, the government approved Digital Security Act (DSA) 2018. However, the journalists, right workers and activists became vocal against some sections of the law claiming those would hinder press freedom and freedom of journalistic investigation . The study researched the "little" situation of press freedom and Journalistic Investigation in this context. The key question was- "Is the DSA-2018 creating barrier in Press Freedom and Journalistic Investigation?"Obtaining Discourse Analysis and In-Depth Interviewing methods, the relevant sections of the DSA - 2018 and the opinion and evaluation of different stakeholders (investigative, journalists,leaders, legal experts and government authorities)examined. The collected data was evaluated through the theoretical framework of Freedom of Expression from a sense of fear; eventually they were censoring their contents which actually went against the standard of freedom of expression.

The world is converging as a result of technological evolution and integration. The new digital era is emphatically influencing and transforming human lives. The staggering growth in technology has many implications; on one side it brings blessings for the general mass while on the other it makes individuals' life a hex due to its misappropriation. To safeguard individuals from the realm of digital transgression and to ensure individuals' right to privacy, the government of Bangladesh enacted the Digital Security Act in 2018. The act has both affirmative and antithetical connotations by supporting penalisation for digital offenses conversely barring investigative journalists and freedom of speech. The present paper is the reflection of the findings congregated from the systematic assessment of the secondary sources. It focuses on the limitations and challenges of the Digital Security Act 2018 by particularly seeing from the lens of investigative journalism and freedom of expression. Moreover, it also tries tshedlight on whether the act has aberrated from its sole purpose that is to ensure security of individual presence in the digital platform. Also, the article manifests the need for an incontrovertible digital security law for the welfare of the citizens.

Key Words: Digital Security, Cyber Security, Investigative Journalism, Freedom of Speech and Expression,Self-censorship.

TABLE OF CONTENTS

Acknowledgement ……02
Certification By The Research Supervisor……03
Declaration……04
Letter of Transmittal……05
Abstract……..06
Table of Cases……..09
Chapter -One

Introductory
Introduction……10
Importance of the matter……11
The Research Context and Research Questions……12
Research Objective……13
Research Methodology……13
Limitation of The Research……13

Chapter- Two

Definition and Discussion
Introduction……14
Digital Security vs CyberSecurity ……15-16
Reviewing the Literature and Research Gap Identification……17
The Concept of Freedom of Expression as Theoretical Framework…18
Methodology and Sampling……19

Chapter-Three
Provisions of The Digital Security Act-2018
Digital Security Act:Pros and Cons……20-23

Chapter-Four
Digital Security Act and Freedom of Speech……24-25
Digital Security Act and Investigative Journalism……26-28

Chapter-Five

Data Analysis
Analysis of the troublesome parts section by section……29-33
The Analysis of Interviewees' Responses ……34-35

Chapter -Six

Conclusion
Recommendations……36
Findings……37
Conclusion ……38

Bibliography……39-41

TABLE OF CASES

- **Douglas VS Jeanette 319 VS 157.**
- **Schacht VS US 398 US 58.**
- **State of Bihar VS Sailabala AIR(1952).**
- **Hector VS AG of Antigua and Barbuda (1990).**
- **Ramu Violence Case -(2012).**
- **Dipti Rani Das Case -(2018).**
- **Baul Singer Rita Dewan Case-(2020).**
- **Shafiqul Islam Kajol Case -(8th November,2021).**
- **Mushtaq Ahmed and Ahmed Kabir Kishore Case -(2021).**
- **Daily Shahnama and Barisal Khabar Case -(2022).**
- **A Case of a female student of Jagannath University (2022).**

Chapter-One
Introductory

Introduction:

One fine evening, when one of the researchers went to take the interview of an editor of a media house and vice -president of a journalists association , he agreed to talk with the condition of not disclosing his name. Showing the vulnerability he said, "You know the situation of the country. If I openly tell anything regarding the negative sides of the law, I would have to face embarrassing comments from higher authorities ``. Having promised,he came up with lots of alarming situations of press freedom and freedom of expression such as the ownership pattern of the media, politicization of journalists and owners, threats and pressures from higher authorities and the legal situation as well. His expression of helplessness denotes the present situation of freedom of expression in the country. An editor of a house who is also a leader of the journalists community is at risk and pressured to speak out on the regular problem the journalists are facing.

In the study, the situation of press freedom and journalistic investigation is studied where the The aftermath of passing the Digital Security Act (DSA) - 2018 was the main focus.

Although the government and ministers are crying freedom of press is safeguarded by the governments and the new law, DSA-2018, is a new accumulation to enrich it, but strong protests and criticism are coming from the journalists, freethinkers and right workers. This situation motivated me to study whether the law is creating any barrier for investigative journalists or not. Taking freedom of expression concept as the theoretical framework, the researchers analyzed the debated sections of the law as well as took in-depth interviews with stakeholders to understand it.

The study revealed that journalists basically investigative journalists are continuing their profession with the sense of fear and anxiety after passing the law which is ultimately resulting self-censorship and in the broader perspective it is contributing to curb the freedom of journalistic investigation as well as demining the standard of freedom of expression.

Importance of the matter:

This paper is predominantly based on content analysis and primarily focuses on drawing inferences from in-depth analysis of secondary sources such as journals, articles and newspaper articles. This paper does not intend to create new knowledge but to provide an explicit insight on Digital Security Act 2018.

The information generated from secondary sources of data will not only provide comprehensive understanding of the act but will also demonstrate its limitations in the way of practicing investigative journalism and freedom of expression.

The Research Context and Research Questions:

According to the definition of the Universal Declaration of Human Rights- 1948, the right to express any opinion without any interference, exchange views, information and ideas through any media are acknowledged as freedom of expression. (Universal Declaration of Human Rights ([1948] 2015) .

As a cosigner country, Bangladesh acknowledged the freedom of thoughts and expression as fundamental rights in the Article 39 of the Constitution of Bangladesh. (The Constitution of Bangladesh, 2019) .

In 1971 when the country got independence from the control of then Pakistan, it absorbed all the laws made in Pakistan period which were previously engrossed from British colonial laws.There were many debates about the spirit of laws which were mainly come from tyrannical colonial era.

In recent years when the Information and Communication Technology Act (ICT Act)-2006 passed,journalists, freethinkers, social media activists, bloggers raised their voices against Section 57 of it saying it was against free expression and more repressive than the previously formatted existing colonial laws. The act was amended in 2013 but this time the criticized sections made l stronger with higher degree of punishment. Under the Section 57, deliberately publishing fabricated, provoking, offensive or penetrating material on web or any digital platform which are defamatory and have the potential to create turbulence in law and order situation of the country or hurt religious sentiments were criminalized. If anyone commit any offense under the section would get a maximum 14 years of jail and/or a Taka 1 crore fine. (Shaon, 2018).

[1]

According to the finding of Habiba, Kundu, Rahaman & Rhaman (2017), while the section was prevailing in the country, many online activists, bloggers, social media users were censoring them as the section leaves room for subjective interpretation which eventually become a tool to harass people legally. (P-137-148)

Using the ICT Act at least 1,417 cases were filed between 2012 to June 2017. (Accessnow, 2018) Cyber Tribunal special public prosecutor Md Nazrul Islam Shamim said to the New Age, In September 2017, 65-70 percent cases under Section 57 could not be evidenced. On the other hand, many cases were totally false and filed to harass people. (Rashid, 2019) .
Faced with gross criticism, government formulated the new law earlier in 2018 titled 'Digital Security Act (DSA)-2018'.The bill with the signature of the president of Bangladesh turned into act on October 9, 2019 but before and after passing the law, several provisions of it were criticized home and abroad. (Daily Star (i), 2019) .

After passing, within four months at least 63 people, including journalists, were arrested under it is mostly for defaming the prime minister, father of the nation and government. A journalist of a the national daily was also arrested in accusation of "false" reporting about the irregularities of the 2018 national election. Having the similar kind of faulty vagueness and unclear terms in the newly made DSA -2018 , journalists and right bodies are considering it as "black law"which may create hindrances in free speech and independent journalism. The Editors Council (The Sampadak Parishad), an association of editors of different media, issued a statement titled "why Sampadak Parishad opposes the Digital Security Act" was published in national dailies, where they, analyzing the law section by section, said the law is against the spirit of freedom of expression and they asked to review it.(The Editors Council,2019).

On the other hand, the cabinet secretary Shafiul Alam said in a press meet on January 29, the day when the cabinet approved the draft of DSA-2018, the law was made to ensure cybersecurity not to target journalists. (Dhaka Tribune (i), 2019) .
Given the both situation of the journalists and the government, the study intended to examine whether the law is really creating a harsh situation for journalists or not. The prime research The question was-" Is the DSA- 2018 creating a barrier in press freedom and journalistic investigation?

"To find out the situation some other sub questions were explored.They are:
1)How was the law framed the discourses, 2) Is the discourses of law have any room to misinterpret and misuse, 3) How are the stakeholders of the law evaluating the situation, 4) Is the law compromising with the spirit of freedom of expression granted in Bangladesh constitution, 5) Is it anyhow creating barrier in journalistic freedom.

[2]

[1] BGD e-Gov CIRT.(2021). Report on Cyber Attacks Incidences,retrieved from: https//www.cirt.gov.bd/.
[2] Center for Governance Studies Report.(2021). DSA Tracker ,Retrieved from: https//freedom info net.

Research Objective:

The main objectives of the research are-
1) To trace out the historical background of the issue.
2) To define the term **"Digital Security".**
3) To find out the relation among **Digital Security , Press Freedom and Journalistic Investigation.**
4) To find out the importance of the **"Digital Security Act -2018".**
5) To find out the limitations of this **Act.**
6) To find out the implied limitation of the **"Digital Security Act"**
7) To find out the problem of Press Freedom and Journalistic Investigation .

Research Methodology:

At the beginning of preparing this research paper I have follow the instruction of my honorable teacher Sharmin Jahan Runa ,Assistant professor &Head of Department of Law, (Acting)Sonargaon university. Then I inquired the library of our university and asked for some reference books relating to the given topic amendment of Bangladesh Constitution and basic structure doctrine but no such books were available. Then I have gone to some books shops to purchase Books relating to the given topics. However, the information is not sufficient. Then I have started searching the World Wide Web and internet through Google search engines to find out relevant materials about the topic. I have also found some other study materials from some important books. After studying the all document, I prepared the research paper on this topic.

Limitation of the Research:

The core problem in doing the research is the time factor. I was within limited period to complete the research works. Which really hinders the job to be perfect. I could not gather much information to make the topics more clear though I got a lot of articles, papers, books, journals and others. I have failed to collect all required information from these in this short period of time. As I am doing such a difficult job for the first time and with an immature mind. My incapability of understanding the matter deeply and analyzing it in the proper way has also been a limitation of the research paper.

[3]

Chapter -Two
Definition and Discussion

Introduction:

The augmentation of information and technology has not only created unprecedented technological growth and exposure but also has created unparalleled problems in the digital platform. Digitization has two contrasting facets just like a coin has two sides. That is, the more the country will be digitized exponentially the higher will be the risk of cyberspace menaces and assaults.

Digital bridge of security has become an imperative issue due to infringement of personal information, data and identity in cyberspace. Cyberspace has now become an avenue of antagonism, intimidation, and intrusion thus igniting the vulnerability of the online users. Organizations and individuals irrespective of their status and prominence are becoming the victims of cyber-attacks and online bullying thus fabricating a culture of aversion and ignominy.

Besides, the digital platforms or electronic media have navigated different offenses like hacking, defamation, illegal access, defilement, phishing, propaganda, forgery, terrorism and sedition. Digital security is thereby important with the intent that cyberspace remain implacable and secured from the fist of a nefarious third party.

In Bangladesh cyber laws have been enacted to provide legal protection to the online users and to litigate cyber-crimes such as Cyber Tribunal Act, 2006, Information and Communications Technology (ICT) Act, 2006 and Digital Security Act 2018 (DSA).

Expressly, Digital Security Act 2018 covers most of these offenses. It works for the identification, prevention, and suppression of these offenses in online media (Digital Security Act, 2018)Thus, Digital Security Act 2018 an antecedence of ICT act 2006 has been validated as a tool to fight felonious acts in the digital platform.

The focal point of the paper is to provide an outline of the basic difference between cybersecurity and digital security. The paper also highlights the major gaps in the digital security act. Besides, it also exhibits the threats the digital security act posed on investigative journalism and freedom of expression. It also provides few propositions to make the digital security act widely accepted.

[3] Islam Z.& Bappi ,E.S (2022).DSA:Sued at 17,JnU student in jail,The Daily Star Dhaka,Dhaka.

[4]

Digital Security vs Cyber Security

Some scholars argue that cybersecurity and digital security can be used interchangeably as the usage of the terms are more context specific. However, contradiction of opinions in the application of the two terms have been observed in many literatures.

Cyber security is a holistic approach to protect the complete infrastructure including networks, systems along with digital modules and data from any unauthorized ingression. According to Cybersecurity and Infrastructure Security Agency (CISA) (2019), “Cybersecurity is the art of protecting networks, devices, and data from unauthorized access or criminal use and the practice of ensuring confidentiality, integrity, and availability of information”.

Cyber-security has become a global issue due to penetration and diffusion of new, advanced and complex technologies and these new technologies thus create ambiguous repercussions by ushering unprecedented risks in the system.

According to the report of Bangladesh e-government Computer Incident Response Team (BGD e-GOV CIRT) (2021), Bangladesh ranked 29th in the list of cyber threats vulnerability as the country is more exposed to spam (unsolicited email), ransomware (hacking) and phishing(scams) menaces.

In cyberspace, digital information can easily be infiltrated, filched and altered thus causing personal injury (Mitra, 2010). Digital security is not cyber security but a subset of cyber security with a purpose to safeguard the personal information or assets. In short, the scope of Cyber Security is broader than Digital security as it encompasses all kinds of digital security however both fall under the ambit of information security (OECD, 2015).

<u>Chart-1:</u> Checklist for Cyber Security and Digital Security

Cyber Security:

- **Ensures security of various digital components or devices.**
- **Help to secure various information or data.**
- **Help to secure networks and servers**
- **Help to secure computer and electronic systems.**

Digital Security:

- **Ensures security of various digital components or devices.**
- **Help to secure various information or data.**
- **Not help to secure networks and servers.**

[4] Mitra ,A.(2010), Digital Security:Cyber Terror and Cyber Security,Infobase Publishing.Newyprk.

- **Not help to secure computer and electronic systems.**

So, from the above table it is clear that theoretically cyber security covers more domains in comparison to digital security. Digital Security does not purely cover all the technical aspects as does cyber security. Cyber security provides safeguard to overall infrastructure, information, system and networks whereas digital security predominantly provides security of information infrastructure from any unauthorized access through the means of digital system. However, with the passage of time the distinction between cyber security and digital security has become obscure as the term digital security most frequently used in lieu of cyber security in political agendas and campaigns. Many are of the views that cyber security and digital security are the different prefixes bearing the same connotation. Nevertheless, for a sound digital infrastructure cyber security is a precondition.

According to the Digital Bangladesh Report (2022), the number of internet users and social media users in Bangladesh soared by 5.5 million and 4.6 million respectively between the year 2021-2022..

Figure:1-Number of Internet and Social Media Users from 2021-2022:
[Source: The Digital Bangladesh Report (2022), Retrieved from: https://datareportal.com/reports/digital-2022-bangladesh]

Numbers of Users in Digital Platform:

- **Internet Users 52.58 million.**
- **Social Media Users 49.55 million.**
- **Facebook Users 44.70 million.**
- **LinkedIn 4.60 million.**
- **YouTube Users 34.50 million.**
- **Instagram Users 4.45 million**
- **Twitter 756.6 thousand.**

The colossal number of internet and social media users have bolstered the horizon of accessibility into one's personal domain so data privacy has become imperative now-a-days.

Besides, the electronic mediums are exposed to a number of susceptibilities and threats which need counter measures like digital security (Tabassum et al., 2019). Fundamentally, digital security has become a prerequisite to regulate information explosion and contents in the digital platform.

[5]

[5] Riaz,A.(2022).The unending nightmare: Impacts of Bangladeshs DSA,2018,a Center for Governance Studies, Bangladesh.

Reviewing the Literature and Research Gap Identification

Free press is one of the most important constituents of democracy as it assists to keep balance between government and mass. Bangladesh, a third world democratic country, ensured the freedom of expression in Article 39 of its constitution. But according to the World Press Freedom Index, 2019 by the Reporters Without Borders, the country is now 150th which arose doubt about the situation of freedom in the country. Besides, after the emerge of DSA-2018, the journalists, right bodies, civil society members from home and abroad are vocal saying the new law will curb journalistic freedom.

The conflict of journalistic freedom and legal regulations are being researched for many years in the country. More or less many of them found the principles of laws not always play positive role in safeguarding free press moreover develop barriers.

Analyzing the legal situation regarding press and journalism, Khan and Karisma (2014) found, the tradition of long colonial legacy in law formation, laws were made to curb press freedom in the British era so that their corruption would not be revealed. They also argued the passing of Right to Information Act- 2009 was a positive symptom of democratizing the information and increase the accountability in information flow. The democratizing is ensuring better access to information but still state plays a large role in manipulation of the media and information flow.

From 2006 to 2018, the Information and Communication Technology Act (ICT Act) -2013 was used against citizen journalists, bloggers, journalists and social media users. The Reporters .Without Borders reported on 2018 that the impact of ICT Act- 2013 resulting self-censorship in media outlets. (Arman, 2018)

Habiba & et. al. (2017) found bloggers of Bangladesh, after the starting of the use of ICT Act-2013 to detain online activists, started censoring their online contents, got self-censored. Many bloggers were harassed by the law as well.

Afterwards, the DSA-2018 passed but criticized blaming that the new DSA-2018 not only infected by the negative elements of the ICT Act-2013 but brought more danger for investigative journalists through Section 32. (The Editors Council,2018).

The Centre for Law and Democracy assessed the bill (before it was passed) in 2018, which found the bill contained some sections which were inconsistent with the international standard of freedom of expression. The analysis recommended making the law clearer and compactly self-explanatory so that the scopes of misuse can be stopped.

So, from legal, social and security perspectives a number of researches have been done, still the DSA-2018 and its relevance with investigative journalism and press freedom yet to be studied. In this context the research was conducted with the objective of exploring some new contexts and dimensions to fill the gap.

The Concept of Freedom of Expression as Theoretical Framework

The General Assembly of United Nations (UN) accepted the Universal Declaration of Human Rights in 1948 which ensured Freedom of Expression as a fundamental right in its Article 19. It said, regardless of frontiers, the right of opinion and expression has ensured through any kind of the media without interference. (Universal Declaration of Human Rights, 1948) .

This declaration is the recognition of political, social, economic and cultural rights of human beings though it has no legal bindings. But all country who have signed in the declaration are morally warranted to protect these rights. (Australian Human Rights Commission, 2019) .

The First Amendment to the United States Constitution ensures that congress would not pass any kind of law which would curtail the right of freedom of expression or of the press. Though the freedom is not absolute as in some extreme cases such as child pornography, state security and obscenity the court and government agencies can interfere. (Ruane, 2014) .

The Constitution of India also protected freedom of expression as basic human rights in its Article -19(1) saying "**All citizens shall have the right to freedom of speech and expression".**
(The Constitution of India, [1949] 2016)).

In the case of Bangladesh, Article 39 (2) of its constitutions guaranteed freedom of expression and press with reasonable restrictions imposed by the law of the country. (The Constitution of Bangladesh, 2018) .

So freedom of expression is a fundamental right where a human being regardless of class and creed can hold, share, and exchange their thoughts, opinions and beliefs through any kind of media. Sean MacBridge (1980) argued that the standard of freedom of expression has no exception and it is applicable for all people by the virtue of their human dignity. (MacBridge,1980).

But the right is not always absolute as it is regulated with some restrictions as well though in many case the restrictions ended up with the mutation of people's freedom of expression.

[6]

[6] Salekin,S .(2022).'a story of chilled accused under DSA,Retrieved from https//www.newagebd.net//.

Methodology and Sampling

In this study, discourse analysis and in-depth interviewing methods are used to collect data and to conduct analysis. Mainly discourse analysis implemented to analysis the DSA-2018 where the language and its context were examined.

Discourse analysis is mainly the study of language in a particular social context (Gale, 2010). here the discourses cannot be seen only through the meaning of its language but from meaning created by the users in a particular social context as well. (Shanthi & et al, 2015) .

The method is used in critical research where 'language' and the 'subject' are understood by investigating power relations in a society. Foucault contributed to state the starting point of discourse analysis for understanding the subject. According to him, discourse (language havingSocial context) becomes important when it is spoken out through a person (subject). (Jorgensen & Phillips, 2002) .

So, through the method the texts of the law were analyzed aiming to identify the underlying power relation between the discourses and the social context of the user and maker of the law. In the research, the discourses of some selective sections of the law were analyzed. The sections were identified depending on the statement made by the Editors Council published in national dailies. As the research is about the situation of investigative journalism and press freedom in current Bangladesh in the context of the passing of DSA-2018, their statement was very relevant with the study as they analyzed the law section by section and placed their argument and objection regarding it. Their statement could establish that the sections were problematic for free journalism that is why the sections were taken as the sample of study.

Another method, in-depth interview, was applied to collecting data. It is a qualitative research method that involves intensive individual interviews where the researcher tries to explore their ideas and evaluation of a particular subject. Here the number of respondents usually remains small.(Boyce & Neal, 2006) .

In this research, in-depth interviews of five personals from four categories were conducted.
The samples were:

- **One senior investigative journalist.**
- **Two editors and journalists.**
- **Forum leaders.**
- **One legal expert .**
- **One person from government authority .**

The population was selected through a purposive sampling method.

Chapter-Three

Provisions of" Digital Security Act -2018"

Digital Security Act -2018 :Pros and Cons:

The perennial rise in cyber -crimes creates an urge for the enactment of the Digital Security Act in Bangladesh. As such, the Digital Security Act was enacted in 2018 as an instrument to guarantee cyber security and to regulate and curb cybercrimes which may frustrate national order and sentiments on digital space.
However, many obscure provisions in the act have created a massive outrage among the general mass. The draconian section 57 of ICT Act 2006 which was scrapped earlier has been accommodated in Digital Security Act 2018 by keeping the earliest provision of the section unimpaired. The act consists of a plethora of chapters and sections.

It has 9 chapters and 62 sectios.. The most contentious provisions of the act are 8, 21, 25, 28, 29, 31, 32, 43 and 53 as these provisions received the highest criticisms by the human rights bodies, social media activists, journalists' associations, media personalities, opposition parties and international organizations. These provisions of the act are the death knell for freedom of expression and have the scope for being exploited on many grounds. The following provides the elaborate discussion on the aforementioned sections of the act and by analyzing the various media and research reports it has been found that these sections are the most used sections of the act as the highest number of accused were indicted under these sections.

Section:8 Grant power to the Director General with the assistance of BTRC to block and remove information and data published or circulated in digital platforms which has the potency to induce communal animosity, mar religious beliefs, restrain concord, rattle economic activities and security and turmoil law and order situation. The ambiguous and irrelevant terms mentioned in this section are not distinctly defined which create scope for blocking or removing any content thus stymieing freedom of media and expression.

Section:21 Covers illicit propaganda or campaign against the Liberation War of Bangladesh, hurting the spirit of the war, Father of the Nation, National Anthem and National Flag (Digital Security Act, 2018). This provision is very vague and imposes content-based restrictions. Thereby, such vagueness creates leverage for the government to apprehend individuals for vilifying the spirit of the Liberation War. However, this provision acknowledges the true spirit of liberation war and upholds the basic structure, fundamental values and philosophy ofBangladesh Constitution.

Section:25 Addresses offenses like defaming, mortifying or maligning a person's reputation, tarnishing the image of the state or country by transmitting, publishing or propagating offensive or falsified information. The terminology used in this section are not broadly defined thus encouraging law enforcing agencies to misapprehend it. Besides, it puts bar on investigative journalism which seek to discern cases of corruption and malpractices of national level government or influential individuals who may feel defamed or mortified by such a report. According to the report of Centre for Governance Studies (2022) a total of 890 cases were filed between the year 2020 and 2022. Of them 98 were filed for defaming the prime minister, 51 for defaming ministers and 75 for defaming political leaders of the ruling party. In November, 2022 the secretary of the Jatiyatabadi Mohila Dal was arrested for making libelous comments about the Prime Minister on Facebook (Financial Express, 2022). In the year 2022, Pinaki Bhattacharya an expatriate writer and social media activist was sued for posting and spreading misleading information and photos of Bangladesh Police, Father of the Nation and Prime Minister on Facebook thus instigating cynicism against the state (Prothom Alo, 2022).

Section:28 Consider broadcasting and publishing information in electronic media to hurt religious sentiments as a punishable offense. This is a very sensitive provision in a country where religious bigotry still persists. It prohibits criticisms and investigations of illegal fatwa by local religious leaders by claiming that notions have ‘injured the religious sentiments’. However, this section has a positive overtone as it can be a tool to stop Islamophobic campaigns, blasphemy and making derogatory remarks and bashing other religions on social media. In the year 2020, Baul singer Rita Dewan along with the owners of a YouTube channel were sued under this section for hurting the religious sentiments of Muslim community by making derogatory remarks about Almighty Allah while performing at a ‘pala song’ event and circulating the video of the event through the YouTube channel (The Daily Star, 2020a).

Section:29 Consider publication, transmission, etc. of defamatory information on a digital platform as a criminal offense. This provision also creates obstruction on free spirited writings and press freedom. However, it provides a legal remedy against illegal defamation. Nonetheless, this section contravenes with the content mentioned in section 25. In 2022, a 17-year-old student of Jagannath University was arrested for violating sections 25, 29, 31 and 35 by hosting a webinar on Facebook where a retired major army officer invited as guest speaker made antagonistic opinion about the government and soon the video become viral and circulated via Facebook and YouTube (Islam & Bappi, 2022).

[7]

Section :31 Expresses penalty for publishing or transmitting anything in digital platform which results in degradation of law-and-order situation and communal harmony and generates communal hatred or enmity (Digital Security Act, 2018). It is to be said that communal hatred is not always a by-product of social media content or hate speech or communally offensive posts in social media rather it is a deep-rooted social issue.

The fuzziness of the provision can instigate illegal or whimsical detention of individuals for their pragmatic protest on social media platforms by citing it as a breach of communal harmony. This certainly blocks freedom of expression and gag media reporting. However, on a positive note it can aid communal riots or genocide on minorities propagated through social media. The misuse of this section has been observed in a recent controversial case filed against a 14-year-old Hindu student in Faridpur by a local journalist. The case received a wide range of media coverage as the student was accused under 28 and 31 sections of the act for hurting religious sentiments and propagating communal hatred. He was accused for creating visually disturbing content and connotations and for circulating prejudicial post on Eid-ul-Azha through Facebook. However, later inconsistencies were found in filing the case and the case seems to be self-perpetuated, intentional and systematic driven communal hatred to victimized a certain community (Salekin,2022).

Section:32 Asserts punishment for breaching secrecy of Government by digital means. It is a controversial provision as the government can put a bar on the right to information about government affairs on the pretext of terming it as secret which limits transparency and accountability. Moreover, it makes investigative journalism non-viable as it debars journalist from accessing
official information and records without official authorisation (Aziz, 2021). The investigation of corruption can face impediment if the government places restrictions on accessibility of public documents under this section by labeling it as ‘Encroaching Government Secret”. Ain O Salish Kendra and Editors’ Council expressed their concern over section 32 as it will encourage self censorship and will weaken open journalism (Prothom Alo, 2018; The Financial Express,2018).

[7] From Digital Security Act -2018.

Section:43 has granted inexhaustible power to law enforcing agencies to search and arrest anybody, to search and enter any place, and to confiscate computers, devices, data or other materials without warrant.

This is one of the darkest provisions of the act as it encourages arbitrary detention and violates basic fundamental rights of the accused guaranteed by Article 33 of Bangladesh Constitution. Subsequently, the provision creates a sense of insecurity and fear not only for the reporters, bloggers but also for the whole online media activists. Moreover, it permits law enforcement agencies to intrude personal information and space thus breaching the right to privacy. The provision is also contradictory with section 17 of the International Covenant on Civil and Political Right (ICCPR) which guaranteed right to privacy (ICCPR, 1966). As Bangladesh is one of the state members of the covenant the insertion of such provision has to be in accordance with the provision of the treaty. Amnesty International expressed that Digital Security violates the treaty of International Covenant on Civil and Political Right (ICCPR) (Amnesty International, 2020).

Section:53 is related to the offenses that are cognizable and non-bailable. About 14 offenses have been marked as non-bailable and cognizable, which is an infringement of human rights as it violates Article 28(1) of the constitution which guarantees equality before law and equal protection of law. The punishment defined in this section are extensive compared to the intensity of the offenses. Besides, the provision is repressive and detrimental for investigative journalism and freedom of expression.

From the above discussion it can be said that there are certain sections of the Act which is creating a bar on free speech and investigative journalism.

[8]

[8] From Digital Security Act -2018.

Chapter-Four

Digital Security Act and Freedom of Speech:

Now-a-days digital platforms have become a dominant power hub to aid or contradict the activities of the government. In recent times digital platforms acted as a catalyst behind the formation of organized network group who are culpable to spur vehement demonstrations, for instance, Shahbagh movement for trial and retribution of war-criminals is a glaring example behind the growth of online activism (The Daily Star, 2015).

Besides, online platforms have been severely misused for the deliberate spread of religious propaganda. The incident to be mentioned here is the Ramu violence which took place in the year 2012 perpetuated through Facebook. Thus, Digital Security has become imperative to ensure licit safeguard against cyber-crimes. Notwithstanding, the Digital security Act 2018 is under relentless scrutiny and severe backlash as it unduly represses freedom of expression and media freedom in the name of averting offenses and revoking rumors. The freedom of speech and expression and the freedom of press is one of the fundamental human rights guarantees by Article 39(2) of Bangladesh Constitution.

In the opinion of MacBride (1980), there is no alternative to freedom of expression though existence of such freedom doesn't guarantee citizen's right of freedom if freedom of association, freedom to assemble, and freedom to join trade unions remain non-existence. Subsequently, in the transitional society the media has widened its scope irrespective of print media the online media has taken a predominant place where users can frequently access information and express propositions. The freedom of expression is an apparatus to achieve democracy and mass media or social media is the means to achieve this freedom (Habiba et al., 2017).

According to **Article :19 of Universal Declaration of Human Rights (1948)**), 'freedom of expression is the right of individuals to hold opinion with conviction and without intercession and to request, convey and acquire information and data through social media regardless of boundary'.

However, the right of expression and speech is not fully operational in Bangladesh due to the courtesy of Digital Security Act 2018. The people now-a-days are terrified of persecution and are under compulsion not to experience the restrictive nature of the law (Habiba et al., 2017).

Many legal experts termed this law as a law to end free will and to mute public voice. The act also creates a bar on constructive criticisms of the government on digital platforms. Amnesty International (2018), termed this act as draconian as it strikes on freedom of expression. The act has the ability to muzzle dissident and to provide arbitrary and unconstrained power to the executives and concerned authorities.

Recent incidents like the arrest and suspension of a Rajshahi University teacher arrested under sections 25, 29 and 31 of the Act for his Facebook post where he criticizes the former health minister and presidium member of ruling party received wide media coverage and protest (The Daily Star, 2020b).

Besides, the custodial death of social media activist Mushtaq Ahmed and persecution of cartoonist Ahmed Kabir Kishore sparks severe condemnation of the act not just nationally but internationally.

They were arrested under:
Sections :21,25 and 31 of the Digital Security Act 2018 (The Daily Star, 2021). Mushtaq Ahmed was arrested for damaging the state image and for disseminating fallacious content against the government's coronavirus relief programmes on social media. Ahmed Kabir Kishore was detained for posting sardonic cartoon on Facebook and criticizing the action of the Government in handling the Covid-19 crisis.

Amnesty International l**(2021)**condemn both of the arrests and expressed that it is against the peaceful expression of freedom of speech which is one of the basic fundamental rights of the citizens.

[9]

[9] The Daily Star.(2020a) . Digital Security Act: Arrest warrant issued against Baul Rita Dewan,The Daily Star ,Dhaka

Digital Security Act and Investigative Journalism :

Earlier in the 19th and 20th centuries the freedom of press was inconspicuous as media played a more restrictive and elitist role as it unequivocally used to propagate the notion of the authoritarian rulers. Thus, freedom was a pseudo freedom as it was only meant to publicize their unorthodox political ideas and opinions.

Gradually the media began making important contributions to popularize the movement for national liberation and right for democracy. It can be aforesaid from the past that the freedom of media was trampled for political propaganda. However, with the motion of development the voice for press freedom got momentum.

Verily, in the 21st century it is very apparent that in many parts of the world the freedom of press and media is confined and Bangladesh is not an exception in this regard. In Bangladesh after the 4th amendment of the constitution newspapers were banned from circulation and power of the media was curtailed. Today freedom is injured as a result of censorship and subjugation. Bangladesh ranked 162 out of 180 countries in the World Press Freedom Index 2022 indicating the disarray picture of press freedom (RSF, 2022).

Investigative journalism means disclosure of affairs that are either kept concealed intentionally or unwittingly by the influential individuals or government in power. It plays a crucial part in maturing the media and freedom of expression.

In the digital era investigative journalism promotes public welfare and healthy democracy by keeping power of government in scrutiny and by digging and publishing reports of economic and political wrongdoings (Waisbord, 2002; Rahman, 2020). That is, investigative journalism acts as a watchdog on government activities. If the freedom of media is curtailed true stories will remain untold thus democracy will be in disarray. Investigative journalism can provide a concrete,factual and comprehensive picture of terrorism, corruption and administrative inconsistencies within a country.

There is no substitution of investigative journalism when the question is to probe and expose an intense secret (Rahman, 2020). The investigation report is crucial for the citizens to make them aware about the political and administrative reality of a country.
Investigative journalism is a means to uncover different scandals of public interest. In the opinion of Burgh et al., (2008), investigative journalism is an indispensable means of transparency and accountability.

In Bangladesh the media has been under extreme surveillance. Many mainstream media have faced evisceration or being disbanded because of publishing censured reports. The Digital Security Act 2018, places a deliberate threat on investigative reporting and independent journalism (Rahman, 2020).

The journalists are forced to suppress the truth in fear of facing humiliation and retribution. The study on media professionals shows that Digital Security Act 2018 creates a sense of agitation resulting in self-censorship which adversely limits the freedom of expression (Kundu & Hoque, 2019).

The Digital Security Act 2018 can be considered as the last nail on the press freedom and investigative reporting. Many prominent journalists, educationists, politicians, media professionals and civil rights activists have shown their condemnation due to the current wave of arrest and disappearances under the Digital Security Act.

The arrest of photojournalist and editor Shafiqul Islam Kajol in a defamation case against a member of parliament under sections 25 and 31 of DSA received mass outrage (Human Rights Watch, 2020). Mamunar Rashid Nomani, chief editor and editor of a privately owned local newspaper and online newspaper Daily Shahnama and Barishal Khabar was detained for publishing a report on the failure of the mayor of Barisal City Corporation to address flood in the city. He was accused under sections 26 (unauthorized collection, selling, possession and usage of information) and 33 (preserve and transfer data or information illegally) of the act.

He was later held and tortured by the ruling party activists and a spurious case was filed against him for secretly recording video of Mayor and his wife and children (Committee toProtect Journalists, 2022).

The editor of the local Daily Parbotto Chattagram and Pahar.24.com Fazle Elahi was arrested under sections 23, 25, 26, 29, 31, 34, 35 and 37 of the Digital Security Act 2018 for tarnishing the image of former lawmaker by publishing a report on social media (The Daily Star, 2022a).

A notable poet and journalist Henry Swapon was arrested under sections 28, 29 and 31 for his post on Facebook where he criticizes a local catholic church for holding a cultural event the day after terrorist incursion in Sri Lanka on Easter Sunday (Dhaka Tribune, 2019).

[10]

[10] The Financial Express (2022).'Mohila Dal Leader Sultana Ahmed arrested in digital security case.

Chart-2:Cases Under from 2018-2021:

The following table shows the number of accused and arrested under the sections of Digital Security Act from the year January 2018 -March 2021.

- **In 2018; 925 cases were filled under this Act.**
- **In 2019;1189 cases were filled under this Act.**
- **In 2020-2021 ;1500 cases were filled under this Act.**

Source:Center for Governance Studies Report 2020-2021

Chart-3: Number of Accused and Arrested Under DSA from January 2020 - February 2022:

The following table shows the number of accused and arrested under the sections of Digital Security Act from the year January 2020 -February 2022.

- **207 Journalists were accused and arrested under Section:59.**
- **41 Educators were accused and arrested under Section:27.**
- **10 NGO Workers were accused and arrested under Section:6.**
- **254 Politicians were accused and arrested under Section:80.**
- **79 students were accused and arrested under Section:47.**
- **32 Government Employees were accused and arrested under Section:13.**
- **53 Private Employees were accused and arrested under Section:34.**
- **791 Business People were accused and arrested under Section:28.**
- **21 Legal Practitioners were accused and arrested under Section:3.**
- **8 Religious Leaders were accused and arrested under Section:6.**
- **36 Other Professions were accused and arrested under Section:12.**

Source:Riaz ,A(2022)The United Nightmare: Impacts of Bangladesh's Digital Security Act 2018, Center for Governance Studies, Bangladesh.

From the above table it is noticeable that journalists irrespective of electronic ,print and online media were indicted second highest by this Act.The study conducted by Centre for Governance Studies (2021) revealed that most of the charges of the accused were counterfeit and frivolous. The research report also explicitly expressed that many of such cases were not filed by the victims itself rather by the third party for the sake of purported defamation. Also, by analyzing different cases filed under the Act it can be concluded that most of the cases were against the person critical to the government .

Nevertheless, it can be asserted from different findings that the noticeable number of detention of journalists has created a cramped and unsecured environment for maverick journalism.

Chapter-Five
Data Analysis

Analysis of the troublesome parts section by section

After passing the Digital Security Bill-2018 in the Bangladesh Parliament on September 19, 2018, the Executive Director of the Transparency International Bangladesh Iftekharuzzaman said ,as a reaction given to a national daily Dhaka Tribune,"No investigative journalism can be done under this law.The law will work to protect corruption and irregularities."(Dhaka Tribune (1),2018).Not only he,but the journalists associations, right bodies, civil society members, legal right campaigners expressed their disappointment after the passing of law.

Some of them rejected it saying, 'it is against the spirit of freedom of expression and make to stop the public voice on digital platforms.

What are the alarming elements of the law; considering that voices from all areas are coming against it? Here the objected sections- Section 8, 21, 25, 28, 29, 31, 32, 43 & 53 were analyzed. The Editors Council issued a statement after the law was pass regarding their considerations of why the law to be anti-free press ni and anti-freedom of expression, where they addressed the above -mentioned sections as the matter of worry.(The Editors Council,2018).

The law is still in Bangla language and the English translation is yet to be published so for the research purpose, here the English Translation done by the Editors Council has been used.

The **Section:8 of** the law is one of the objected sections, where it is written:

Power to remove or block information and data: (1) If the Director General is satisfied that something that is published or disseminated in the digital platform falling within his domain may poses threat to digital security,

he may request Bangladesh Telecommunication Regulatory Commission (BTRC) to remove such information or data or, in specific cases block the platform. (2) If it is evident to the law enforcing agencies that something published and disseminated through any digital device or digital medium can create disunity in the country, disrupt economic activities and security, defense, hurt religious values, create communal hatred or bad feelings, create turbulence in law and order situation then the law enforcing agencies can request the BTRC to remove such content or block it. (3) On receipt of such requests, BTRC while informing the government will take immediate actions to remove or block the content. (The EditorsCouncil,2018).

According to the comment of the Editors Council,the given power of the Director General (DG)of forthcoming Digital Security Council and in addition the power of law agencies to block and remove the contents may curtail the freedom of media.(The Editors Council,2019).

The DG and police have given decisive power to take decision of content whether it can create disunity,"disruption of economic activities"etc.As the explanation of the offenses are not clear enough, the possibility remains for these two entities to use the section by their singular perception and scopes to abuse it against any person.

The international and regional standards recognized free press and freedom of expression as the core of guaranteeing human freedom and dignity. (Center for Law and Democracy, 2018) . Nonetheless, these terms may compromise with the well-established standards of free speech and push the journalists to censor their report.

Section:21 criminalized propaganda against the Liberation War of Bangladesh, hurting the spirit of the war, Father of the Nation, National Anthem and National Flag. (The Digital SecurityAct-2018 & The Editors Council,2019).

This section is also being blamed for its broadness, ambiguity and lack of proper explanation. The ideas "spirit of liberation war "'propaganda Father of the Nation, National Anthem and National Flag " are criminalized with the punishment up to life-term or/ and 30 million fine.

A law which is about crime and punishment should be clear and well-explained, there should not remain any overbroad and unnecessary regulatory. (Center for Law and Democracy, 2018) But here the terms are not elaborated enough so that the journalists as well as general mass may feel risky of getting harassed under the section as the country is very law abuse-prone.

The statement of the Editors Council said they are also in favor of protecting the history and great legacy but when laws are being framed it need to be very specific otherwise it will bar the freedom of journalists.(The Editors Council,2019).

In Section**:25** the offenses regarding defaming, humiliating and embarrassing a person, damaging the image and reputation of the state and so one are addressed as crime.

The term defaming, humiliating and embarrassing for a person and damaging the image of state and it's reputation are failed to stipulate clear and strong intent requirements for being criminal offenses. So, the law enforcing agencies and the upcoming commission have power to interpret it in their own way.
The Editors Council claimed this section would directly hit the heart of investigative reporting. The investigation tries to find out irregularities, corruption and misdoing of people and after unearthing such information those people can feel defamed, embarrassed and humiliated as well if the story is about national level irregularities it also may be interpreted as damaging the image of the state as the terms are over and not clear.

So, given the situation of lack of clear definition of the terms, the law is legalizing the punishment of journalists and newspapers for making such reports.(The Editors Council,2019).

The **Section:28 criminalized** hurting "religious values".It said in 28(1),"if any person or group deliberately and knowingly and with the intention of hurting religious values or sentiments or with the intention to provoke such sentiment, publish or broadcast information then such actions will be considered a crime.(Digital Security Act -2018).

Here ,the idea,'religious sentiment' is open-ended. It is a very subjective matter. In a country, having religious dogmas and less tolerance, these terms of offenses should be explained more sophisticatedly. The Council argued that if anyone wants to write news on unlawful fatwa of the religious leaders,it can also perceived as hurting the religious sentiment '.As it has included here in an ambivalent way, nobody will feel comfortable to talk or report on the issues as well as do research on the religious issues, cultures and practices-malpractices.

In case of **Section:29 publishing** defamatory information mentioned in section 499 of the Penal Code (Act XLV of 1860) via website or/and electronic media will be penalized. But there remains an inconsistency in punishment. According to the Penal Code 500, the punishment for offenses under Penal Code 499 is two years of imprisonment which is bailable. On the other hand, for the same offenses in different mediums, will get three years of jail or Taka 5 lakh in fine or both which is non-bail-able.

As the Special International Joint Declaration on Freedom of Expression and the Administration of justice 2012,"Criminal defamation is not a justifiable restriction on freedom of expression; all criminal defamation laws should be abolished and replaced, where necessary, with appropriate civil defamation laws."(Joint Declaration,2013).

On the other hand, enhancing the punishment may discourage the citizens and journalists to use the digital media and exercise freedom of expression.

The **Section:31 deals** with offenses and prices for deterioration of law and order, etc. According to the subsection 31(1) it is written:
If a person deliberately publishes or broadcasts via a website or any digital platform anything that creates enmity, hatred or acrimony among different classes or communities, or upsets communal harmony, or creates unrest or chaos, or causes or begins to cause deterioration in law and order, then that activity of the said person will be considered a crime. (Digital Security Act-2018)

Here the objection is: the problems mentioned here is not necessarily can take place only for a digital media content, rather it depends on other social elements. Communal hatred, enmity are deeper social problem. Hence, the section is talking about a big social issue, which is positive.

But the argument from the Editors Council is that if news published about probable labor turbulence, forthcoming hartal or protest can be interpreted as a step of " creating unrest in law and order situation"and action can be taken under the section.So, to them the section has the potential to bar the freedom of reporting.(The Editors Council,2019).

The **Section 32 which** is about offenses and penalty for committing crime under the Official Secrets Act, 1923. It said if any person break official confidentiality which is under the act using a computer and/or digital device and/or network will get maximum 14 years of jail or/and Taka 25 lakh fine. If the person commits the crime for second time or repeatedly will get life sentence and/or a maximum fine Taka 1 crore. (Digital Security Act-2018) .

This section is highly criticized among the journalists community and legal right campaigners. Firstly, the section of the authority made the Official Secret Act (OSC)-1923 stronger. The OSC-1923 was formed under colonial British Government in the undivided Indian Subcontinent to protect the then corrupted British Administration out of accountability. In 2009, the Right to Information Act passed in the country, which gave the public 'right to know ' about the government activities for ensuring more transparency and good governance. Here the inclusion of the offenses of the OSC-1923 is making the spirit of Right to Information Act-2009 deemed.

The argument of the Council is if government did not make any information publicly accessible is called an official secret. They, bringing the example of the recent news reports of huge bank corruption in Bangladesh, said these kinds of information regarding irregularities are not publicly open, but for informing people and doing investigation journalists have to collect and report them. As the law has already been passed, if any journalist collects the information through electronic devices, for example, take a photo of any official government document, will be accused under the law which is a great threat for investigative journalism.(The EditorCouncil, 2019) .

The Myanmar Reuters journalists, Wa Lone and Kyaw Soe Oo, were detained and punished under the country's Secretary ActOfficial -1923, which was also formed by the British Colonial Government. The duo reported on the Rakhine Rohingya crisis on 2017. The two were known for
their hard-hitting stories on the Rakhine crisis. They were arrested for possessing confidential information relating to Rakhine state. (Center for Law and Democracy, 2018)

This is an example of using (misusing) law against journalists, though they were awarded prestigious Pulitzer Prize. The journalists communities of Bangladesh are also getting afraid of the uncertainty of the law and also this situation is creating a barrier of free investigation. According to the DSC-2018, if anyone does any offenses under this section, will have to face maximum seven years of jail and/or give Taka 25 lakh as fine. For those who commit the offense for the second time, will get life time imprisonment and have to pay taka 1 crore as fine. This section is highly getting resistance and criticism throughout national and international level for its nature.

In **Section:43 the** law enforcing agencies are given the power to search anyone, and any place, seize the devices, network, data etc. and arrest anyone if they feel that crime under this law has been or is being or will be committed.

Through this section the law enforcing agencies got the authority to enter any place, search electronic devices, any person, seize the devices and even arrest anybody on suspicion without any court warrant and where most of the offenses are non-bailable. As the police have the power to arrest anyone on suspicion,to the Council ,then the media freedom will be buried under this law'.

This section is not only threatening for the journalists but the whole media house as every media work in their own server, have their own online version. So, if the police suspect that the activity of the house has been or is being or will be committed any crime under the Digital Security Act-2018 even they can shut-down the whole station as well.

So here, the insecurity for journalists has grown because some sections here is very open ended and undefined coupled with the unlimited power of police. So, in a legally uncomfortable environment, journalists may not practice their works independently as well as media house may turn into just a public relation outfit.

Lastly, the s**ection:53 describe** about the segments of the law which are cognizable or not and bailable or not. According to it, 14 offenses are non-bailable and cognizable offenses out of 20 or so more provisions.

After the analysis of sampled sections of the DSA-2018, some common allegations are noticed such as: 1) unclear, vague and unnecessary terms, 2) high range of punishment, 3) huge power given to the law enforcement agencies, 4) room to misuse the law, 5) elements can be harmful for investigative journalism as well as overall freedom of expression and so one.

The high degree of punishments as well as the nature of non-bailable are creating a non cooperative environment for journalists especially for investigative journalists. The main objective of the law is to curb the rate of digital offenses and ensure cyber protection for the people, in large extent getting deemed for some unclear, vague and unnecessary terms. Some Freethinkers and civil society members came up with the idea that the elements of the ICT Act-2013's Section 57 has just been redistributed in the DSC-2018. (Dhaka Tribune (ii), 2018) .

Given the situation, there has another flaw that there has no provision to prevent the misuse of the law so that the authoritative ones would not think twice to abuse it against anyone.

[11]

[11] Universal Declaration of Human Rights (1948) United Nations, Retrieved from: https//www.un.org/en/.

The Analysis of Interviewees' Responses

In this context, as a method of data collection, in-depth interviews of five respondents from four categories of stakeholders,one investigative journalist, two editors and journalists, forum leaders , legal experts, and government authority (former information minister), were taken. Each of them were asked different dimensions regarding the law including the present situation of freedom of expression in the country, the situation after the law, the barriers or fear created by it, regarding the most criticized parts of it and the probable solutions to erase the worries and so on. For security reason the names of the respondents were not disclosed in the discussion.

The overall situation pushed the interviewed journalists to imply self-censorship which is driven not only for legal situation but for the absence of professional safety, politicization of the media ownership, absence of strong Journalists forum,not having proper environment of free speech, culture of impunity regarding Journalists harassment and some recent incidents of harassing right workers and journalists by police and administration.

The **Subject One**(Investigative Journalist) said in current Bangladesh a journalist has to think about the aftermath consequences before reporting. He said not the law is only responsible for the situation but the' context' is important.To him the context is " when I see for saying something about 'Safe Road Movement 'of Bangladesh, though which was apparently going against the government ,an eminent photographer of the country Shahidul Alam got arrested and harassed on August 05, 2018, as a journalist it made me afraid thinking if I tell anything on the issues I will also be in thick soup."He thoughtShahidul Alam might commit offense,but the way he was treated was frightening for the others.

According to the **Second Subject** (An Editor and Leader of Journalists forum),in Bangladesh the number of media, journalists and media workers were huge but the real journalism is very negligible and he made responsible the ownership pattern of the houses as most of the owners were politically connected .To him,the owners managed to create,"nexus" with the government authority and business persons which created a barrier to report irregularities, corruption and other issues, he alleged. Given the situation, the interviewee argued, the DSA-2018 has overburdened the journalists, more specifically investigative journalists, by lessening the courage and increasing scenes of fear. He also said, as the media could not come up with truth

and in-depth reports in recent times, the audience drops their confidence and trust in the media, they are getting dependent on personal online sources.

The **Third Subject** t (Another Editor and Journalists forum member) made the mass people's ignorance responsible as, to him, the Bangladeshi citizen did not have proper consciousness of freedom. The process of de-politicization through cultural, educational, and market economy people lost the command to practice freedom. He said, in this situation, the limited number of people those who have the courage to practice freedom of expression, are managed to make muted through this law.

Most of the interviewees viewed the law as matter of fear as there remains several parts which can be misused thanks to the unclearness and vagueness. They alleged that the law goes against the spirit of freedom of expression.

The **Fourth Subject** (Legal Expert) terming the law as suppressive"said the underlying intention of making this kind of law is nothing but to stop the public voice. He also said both journalist and mass people who want to speak out using digital media would be affected and currently they are suffering from self-censorship. The legal expert said if the people talk only about the flaws of the sections that denote people are, accepting it, criticizing the errors only. But, according to him , people should address the law makers' contextual purposes of forming these kinds of laws conflicting with basic human rights.

The **Fifth Subject** t (Former Information Minister) while informed about the worries of the journalists by the researchers, overruled the point saying there had no ground to be afraid of the law as it was formulated to govern and manage the digital world including economy, safety, privacy etc. not to punish any journalist. He said it was the demand of time to form a digital security law because it was impossible to address digital crimes without it.

The fifth interviewee also ensured that law is not any stagnant identity; it can be amended anytime as per the requirement. He asked the journalists to increase their engagement with authority and make the government aware about the issues which can be solved mutually.

[12]

[12] Prothom Alo .(2022).Pinaki Bhattacgarya sued on charges of 'tarnishing image of the country.

Chapter-Six
Conclusion

Recommendations:

The recommendations of the study are:

- The government should be more flexible to cognize the anxiety of the journalists and bring positive changes in the law as well as ensure the free environment to practice free journalism.

- On the other hand, the journalists should put more concentration on their unity, professional honesty and good will to work for the voiceless, so that they will get more public acceptance which will ultimately safeguard their freedom.

Findings:

The data collection and analysis of the law and interviews suggested some findings which will be discussed through the theoretical framework.

In the discourse analysis of the law, it was found that the discourses of the sections, both crime and punishment, were framed in a way which were essentially creating a sense of fear and anxiety among the stakeholders.

For example -'propaganda ,create disunity in the country,hurt religious values,create turbulence in law and order, propaganda against Liberation War,father of the nation, national anthem and flag, embarrassing person, damaging the image of state and it's reputation etc.were addressed as criminal offenses prescribing punishment from there years to life time imprisonment and high ranges of fine which may create discomfort among the journalists to speak about the issues.

On the other hand, the recent experiences of the respondents suggested that there remains room for misusing law against journalists and right workers. Analyzing the reactions of right bodies, civil society members, journalists associations published in mass and interviewers ,the researchers found the formation of the legal discourses as well as the recent experiences of Misusing the law managed to create apprehension among investigative journalists resulting in self censorship which in long run hampering the freedom of journalistic investigation and freedom of expression as well.

The respondents as well as the reactions of different journalists' forums are evaluating the situation of press freedom, freedom of journalistic investigation and overall freedom of expression as 'endangered'.

To them,the current country's situation is as problematic and not free enough to report any controversial issue freely because of the political economic pattern of media ownership as well as absence of strong Journalists organization which was over burdened with the DSC-2018 which goes against the spirit of freedom of expression granted in Bangladesh Constitution.

But on the other hand, the interviewee from government authority stated"the law is not to target the Journalists so nothing to worry about it".So whether the law is against the spirit of freedom of expression or not, it is the subject of in-depth research, yet still it could manage to develop a sense of anxiety among the journalists.

Given the situation of gross feeling of fear regarding the law and other situation,journalists started to impose Self-censorship which eventually curbed their courage to cover any issues mentioned in the law.

As a result it is creating barrier in journalistic freedom in broader Perspective thoug government yet to recognize the issue saying the law is formulated only to manage the digital world not to curb the freedom of journalists or anyone.

[13]

[13] The Financial Express (2018)."Editors want section 32 of Digital Security Act revoked ',The Financial Express Dhaka.

Conclusion

Laws are to protect the citizens not to feel them unprotected and agitated. The Digital security act which was supposed to make people secure and protected has become the reason for their insecurity due to its vagueness and misapplication. The Act is often abused and inappropriately used to silent the critics of the government.

Besides, many provisions of the act have been arbitrarily misused for personal interest and harassment. In order to restore the democratic values and human rights init is crucial that murky and misleading provisions of the law be revised for greater acceptance. Besides, the power of law enforcing agencies and the Director General should be curtailed. Moreover, the accused must be given an opportunity for self-defense.

Additionally, the most disputed sections of the act should be revoked to flourish freedom of expression and investigative journalism. The act is inconsistent with national and international laws which make it mandatory for immediate amelioration. It is also indispensable to strike a balance between individual liberty and individual security when applying the act.

The Government recently has assured that the cases filed under the DSA will be sent to the ICT cell established in 2006 for scrutiny and if no validity of information is found the case will be regarded as null and void. This is an affirmative step if executed then the number of fallacious cases and harassment will certainly reduce.

Undoubtedly, the Digital Security Act 2018 has given some legal protection against online harassment, defamation, hate speech, misinformation, spreading propaganda against Liberation War and ridiculing in the name of religion.

Expressly, Digital Security Act 2018 upholds the values of nationalisms and secularism. Digital Security Act is indeed a powerful weapon to regulate arbitrary use of social media by the users.

Article 15 of the Digital Security act stated about critical information infrastructure. The government in line with the provision of the act has recently listed 29 organizations as critical information infrastructure. The illegal access and breaching of critical information infrastructure will be deemed as criminal and punishable offense. This will certainly protect the PMO’s office, public institutions and corporations, central and government owned banks, stock exchanges and immigration departments from cyber-attacks which may affect a large number of critical information of public safety, national security and financial security (The daily star, 2022b).

The Digital Security Act can be a stepping stone to end illegal and immoral practices of the users in digital platforms if flaws of the act are eliminated and tangible protection are given to the users without any prejudice.

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