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### Digital Security Act and Investigative Journalism in Bangladesh: A Critical Analysis

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#### Abstract:

The Digital Security Act 2018 has created some barriers for citizens' accessing information and freedom of expression, particularly for the media professionals including journalists in Bangladesh. Thus, investigative journalism is now in a state of fear for distinction. In this context, the purpose of the study is to explore various effects of this Act, as well as to focus on different directions of protection while facing fears associated with the law. Showing the necessities for investigative journalism, this article also presented different fields of such an effective journalism. Methodologically, this article has followed the qualitative approach and collected information from both the primary and secondary sources. The findings from this study have shown that the fear of negative impacts from the Digital Security Act is dominant although the aim of the law, as described, is to provide security for information and communication. From the analysis of opinions of experts, it is easily predictable that some articles of the law have created dangerous threats on the way of investigative journalism, considering its applicable effects. Most of the experts expressed concerns about the negative impacts the law does have, as shown in the findings. It is also reflected that these harmful effects would fall ultimately on the shoulder of the state creating such a bad situation where the government is feared to have lagged in terms of taking the right decisions at the right time.

#### Key Words:

*Investigative Journalism, Digital Security, Freedom of Expression, Freedom of Speech, Cyber Security, Cyber Crime, Cyber Terrorism.*

## **1. Introduction**

Investigative journalism is a process of digging out in-depth information. Here a relentless effort is made to open the doors of information uncovering those stories some people want to keep secret (Rahman, A, 2018). It is such a public interest-based reporting which helps uncover corruption and increase awareness among the citizens. This process involves the preparation and publication of reports that are based on authentic data that can promote public welfare. To uncover the factual stories kept secret from the public intentionally and to report for the betterment of the common people is investigative journalism. We can perceive what roles the investigative reporting can play to root out the corruption from the incident famously known as 'Watergate Scandal'. Carl Bernstein and Bob Woodward, two young reporters from the Washington Post made a concrete example of the strength of such reporting does have. They uncovered the major federal political scandal in the United States involving the administration of President Richard Nixon (Mannan, K A, 1994). The journalists sometimes are bound to adopt new strategies to become successful in investigative reporting. As part of those strategies, they cannot collect information publicly. In doing so, they often fall prey to various kinds of risk and insecurity. For example, digital devices are used to collect documents, sometimes considered 'info-theft'. Against this backdrop, the government enacted the Digital Security Law to ensure national digital security and to detect, redress, abate, prevent, investigate and try the offences related to the digital medium. The Law calls for to ensure the protection of the public while they use digital devices for communication and information exchange. It is also supposed to favor the internet-based info exchanges and protect the process from the offenders. However, journalists, human rights activists and members of civil societies are criticizing the law given the negative impacts some provisions of the law do have (Mannan, M A: 2018). Data analysis showed that there is a logical ground to fear that this law initiates a hindrance to the way of independent journalism. Especially, investigative journalism is bound to have enormous barriers as the main strategy of such reporting is to search out alternative ways of information collection to uncover wrong doings that can affect public interests. But the Digital Security Act 2018 considers collecting information secretly an offence resulting in huge barriers to the way of investigative reporting (Zaman, M, 2018).

## **2. Literature Review**

The digital Security Act and its impact on investigative journalism, is a newer concept resulting in a dearth in the availability of related research articles or books. However, discussions and criticisms are rampant in the newspapers, it is noticed. Moreover, there is an apparent effort by

some forums to raise concerns and fears about various practical sides of the law. For example, the Dhaka University Mass Communication and Journalism Alumni Association conducted a seminar titled 'Media of Bangladesh and Digital Security Act, Fears and Ways to Recover'. Arranged on World Press Freedom Day 2018, the keynote speaker of the seminar focused on the practical aspects of the Digital Security Act along with an analysis of the background of the country's mediascape, and effects of new media and information-communication technology. Presenting opinions of professionals related to journalism, the keynote speaker presented his observation-oriented forecast about the negative impacts the law can have on practical journalism.

The society of the journalists wants to say that the law, if implemented without any protective measure, will make tremendous pressure on the journalism in Bangladesh, especially on the investigative reporting (Salam, S A, 2018).

To mention, the cabinet division of the Peoples' Republic of Bangladesh in a meeting on 28 January 2018 approved the draft of Digital Security Bill, where different aspects of collecting information through investigation were discussed thoroughly. Most of the news analysts interviewed for this article opined that this law is going to be a major barrier on the way of investigative journalism. According to Mannan (M A, 2018), Digital Security Act will surely squeeze the spaces of independent journalism. So, a deep concern and dissatisfaction have prevailed among all including journalists, lawyers, human rights defenders and representatives of civil societies. Based on data from statistics, the ICT Act, since its inception in 2006 till June 2017, saw 1,417 litigations, 65 percent of which were sued under section 57. The Digital Security Act inherited all the main aspects of that section of ICT Act resulting in apparent barriers to the way of independent journalism (Inqilab, 2018).

Furthermore, Editors' Council of Bangladesh in a statement raised concern showing various loopholes of the law. Expressing reservation on sections 8, 21, 25, 28, 29, 31, 32, 43, and 53, the Council said this law not only creates a crisis for independent journalism and media institutions, but also hampers freedom of speech. They demanded these sections be amended appropriately to safeguard the freedom of media and freedom of speech (Dhaka Tribune, 2018). According to Professor of Law Mahabubur Rahman (Rahman, M, 2018), section 32 of Digital Security Act goes against fundamental rights because it does not allow the offender to know what offence he or she has committed, and the law does not include a procedure to ask the authority to verify the allegations. However, Malik (Malik S, 2018) in his interview expressed concern saying, 'Section 32 of the law is a less dangerous one. There are several other horrific sections from which the focus has been diverted by them [journalists]. Many things happen that

we overlook. Such things also happened here in the Digital Security Bill....It's like an earthquake. Freedom of speech will no longer exist if it is executed' (The Daily Star, 2018). Nevertheless, Salam, S A. (2018) in one of his articles mentioned that the Digital Security Act will reduce harassment of the people while using digital devices and their essential data will be secured duly. According to him, it is true that there are some controversies regarding some sections of the law. But there are some protections too for some situations. The law has provisions to ensure appropriate punishment for the offenders involved in propagating negative things about Bangabandhu Sheikh Muzibur Rahman, the founder father of the nation. Moreover, disseminating something using digital devices that hurt anyone's' religious sentiment is a punishable crime under this law. So, the religious practices and events have got legal protection promoting an environment where everyone can practice his/her own religion without any fear (Prothom Alo, 2018).

The literature review above shows that it was necessary to formulate a law that can ensure protection for internet users given the rapid expansion of its use in the country due to the faster advances of technology-based communication. However, the fear of a negative impact on investigative journalism is massive due to the Digital Security Act. There is still no research-oriented direction as the law is a new experience for us. So, a wide range of research is the demand of time to know whether the information and communication system including the mass media is really getting protection due to the Digital Security Act or it is rather risking their freedom. Realizing the fact, this research article tried to meet up research-shortfalls to some extent by analyzing and presenting data available so far on the effect, fear and protection the Digital Security Act does have on investigative journalism.

### **3. Research Methodology**

Qualitative research method is followed for this article. To collect data both primary and secondary sources are used. Keeping consistency with the principle aim of the research, a total of five Key Informant Interviews (KII) were conducted. Three experienced journalists and two experts on journalism and law disciplines took part in the KII and data and opinions got from these primary sources analyzed and presented in the article duly. Moreover, data was collected from different kinds of secondary sources including newspapers, books, seminar papers, websites, electronic media and relevant laws.

## **4. Conceptual Framework**

### **4.1. Investigative Journalism**

Journalism is the process of preparing reports about the events, concepts and subjects that have influences on the society and conveying the report to the general people (Deuze, 2005). It is necessary to search the self of investigative journalism in order to analyze its correlation with both the Right to Information (RTI) and Digital Security Act. Investigative journalism is the process of uncovering in-depth information, where the goal is to dig out the factual information. Here, a relentless effort is made to break-open the closed doors of the information and to open-wide the mouths kept mum. The main characteristic of investigative journalism is to bring the factual truth to the daylight that is of public interest but kept secret from them intentionally (Rahman, A, 2018, P. 153).

Then, investigative journalism means searching for news based on new, exceptional and objective information over a long period of investigation. It may take some years for a journalist to collect specific information for an investigative report. The opportunity to investigate a report paves the way for bringing out specific information that can demonstrate the shortcomings presented in other media reports (Burgh, 2008). The key tool journalism uses to discover the truth is mainly investigative reporting where a reporter even bets his life to collect impartial information for unmasking the truth. A long period of investigation to uncover the truth about any influential person or political figure or about terrorism is called investigative journalism (Chepesiuk, 1997). This article has defined investigative journalism as the process of digging out information freely, publishing reports based on the findings without any hindrance and getting all possible legal help where needed.

### **4.2. Digital Security**

A moment without the internet is unimaginable in this era of breathtaking success related to information and communication technology. The use of digital devices expanded in all spheres of life fomenting mass discussions on digital security issues. Digital Security, in general, stands for the protection of different types of digital devices like computers, mobile phones from internet-based hacking and other forms of attacks (Schneier, 2011). Nowadays, the whole world is encompassed by a network where the free flow of information is facilitated by the internet without which everyday activities are almost impossible. In Schneier's (2011) article, Digital Security is meant for Cyber Security. He stressed on the need for using the smart devices to ensure cyber security where protecting information from theft, keeping a safe distance from different types of malwares and adwares and preventing the hacking is meant for digital

security. In this article, the Digital Security stands for becoming safe from all types of illegal activities occurred using the digital medium and regarded crime under the Digital Security Act 2018 enacted by the Peoples' Republic of Bangladesh to keep information safe in the digital medium.

#### **4.3. Digital Security Act 2018**

The Digital Security Act 2018 is a law whose basis is mainly the previous ICT Act. Some sections of the ICT Act are amended and passed as the Digital Security Act (Malik, S, 2018). This newly launched law has different provisions to ensure the protection of people from offences while using digital medium or internet and to punish the offenders involved in crimes related to such medium. The initiative to enact such type of law was taken mainly to ensure national digital security and to detect, redress, abate, prevent, investigate and try the offences related to digital medium (Draft Digital Security Act 2016). Although the initiative was taken in 2016, the law saw the formal approval from the cabinet division in 2018 after much discussions and reviews at different times and stages. The Digital Security Act 2018 was approved as a new law to redress the controversies arisen surrounding the ICT Act 2006 and its amended version (2013). The law has 45 sections that discuss in detail the various types of arrangements of information and communication system (Prothom Alo, 2018).

#### **5. Why Investigative Journalism**

The principal aim of investigative journalism is to uncover the truths and make them public. An investigative reporter works for months, even for years to investigate and research any specific issue deeply in order to make an investigative report that is of public interest. Whenever or wherever corruptions, conflicts and administrative irregularities are rampant, the necessity of investigative reporting is then a reality (Hossain, M, 2020).

The necessity of investigative journalism is enormous in terms of uncovering the objective information. There is no alternative to the investigative reporting when the question is to unmask a profound mystery related to a story by searching in-depth information and publishing report based on that. It is the common practice of all including government, corporate company, agency and even individual person to hide some decisions where hurting interests of others are related. If any person or agency wants to hide such information and any journalist presents it to the public as a report after a long investigation with an inquisitive mind, this can be regarded as investigative journalism (Zaman, M, 2018).

It is the common tendency of the people to know the up-to-the-minute information about their social structure, social system and surrounding life-reality. To know and to get information is equivalent to the fundamental right of people (Ferdous, R and Rahman, A, 2008). Every person has the right to know all the decisions and information that may have effects on their lives. On the other hand, the ruling people want to keep such information secret as they may have a mixed fear about the mixed reaction from the people. In this scenario, the journalists start a relentless effort to search for news with their inquisitive minds aiming to uncover the real truth. In this way, the necessity of reports based on investigation becomes apparent to satisfy the hunger of people to know.

Abusing the power, be it political or financial, has become a common tendency for the people. In most of the cases, it is the powerful persons who involve in illegal activities including theft, killing, looting and hooliganism. Against this backdrop, removing all forms of irregularities, corruptions and arbitrariness with the ultimate goals of establishing transparency in governance is possible only if investigative journalism on right track. Such type of journalism is also essential to reduce the cases of human rights abuse and to hold the state responsible for different types of power abuse (Hossain, A, 2020).

On the other hand, one of the main duties of the journalism professionals is to report to the public about the various sides of power abuse of powerful people for the public interests. Besides this, the journalists create mass awareness among the society by reporting on the corruption in the activities of different offices. It is also the duty of the journalists to report on whether the politicians work according to their election manifestoes made while on election campaigns (Ferdous, R, 2018). All these present the immense necessities of investigative journalism.

Overall, the journalists have lots of scopes to make investigative reports if they keep a keen eye on their surroundings. For example, you can see the recent corona virus issue. The main cause of spreading the virus in our country was negligence and favoritisms of some immoral persons of the airport who released expatriates taking bribes. This kind of news has come in the media very little. Here, there was scope to make investigative reports on how they passed the airport without corona virus screening. Moreover, a boy from Narayanganj or Gazipur the first corona red spot of the country went Barguna by riding a bicycle. The media cannot make an investigative report talking with the man how he could come out Dhaka and passed a long path avoiding a lot of checkpoints of law enforces team (Siddiqui, A, 2020).

Besides, in normal times, the journalists have a lot of fields to make investigate reports like-the governments have many beneficiaries and social security programs/schemes for the poor,

vulnerable, disable and other people of the society. There are various irregularities in implementing these schemes. Though, a few reports to come in the media to mention. The land issue is another big area for investigative journalism. There are many Khas land and landless people. But, there are irregularities in allocating the Khas land. If the journalists bring investigative report on these issues regularly, good governance will be established ensuring transparency and accountability of the public administration. In this regard, a democratic environment or atmosphere is needed urgently (Siddiqui, A, 2020).

## **6. Impact of Digital Security Act in Bangladesh: Fears and Protections**

### **6.1. Investigative Reporting on Government and Its Activities**

An investigative journalist prepares reports based on findings of long efforts that dig out A-to-Zs of criminal activities at field level. The government offices stand top on the journalist's list of such investigations. The importance of the investigative report is immense in terms of determining transparency in activities of government offices from top to bottom levels. The politicians and government servants are sometimes convicted in various types of corruption allegations. Sometimes they took some decisions to favor the interests of different foreign donor organizations affecting the local citizens negatively. Most of the time, such decisions are kept secret. Again, some divisions of the policymakers may create a disaster for the environment. Moreover, politicians and government officials do not pay heed to the peoples' right to know information while taking decisions secretly. Nevertheless, the right to information for all is ensured by the legal framework (RTI Act, 2009). So, activities related to investigative journalism is conducted with the aim of making public all the decisions taken by the government.

### **6.2. Investigative Journalism in Corporate Sectors**

The role of corporate sectors to the state economy is increasing remarkably. The level of corruptions in different segments of the companies is reaching to the unbearable stages too. Some of the big examples include Hallmark Scandal and Bank Forgery (Prothom Alo, 2017). In this scenario, the companies also want to keep their information secret. To cope with the competitive market, sometimes they take some decisions that go against the public interests. Moreover, some decisions are taken to serve personal benefits that go against the interests of the common people or the state itself. To mention, as the corporate sectors are a part of the state, it is the common people who are supplying the core capital for their businesses. So, the



people do have right to know the decisions taken by the companies. To apply this right, it is necessary to conduct investigative journalism in corporate activities.

### **6.3. The Impacts and Fear of Digital Security Act on Investigative Journalism**

The impact of the Digital Security Act 2018 on Investigative Journalism is extremely negative, as feared by many. The law has seven chapters containing a total of 45 sections. Some of the sections are surely making dangerous threats to the practices of investigative journalism. However, a few of them are acting as a safeguard for our digital devices and medium based communication systems. Overall, the fear regarding some clauses of the law is much more severe than the advantages some other provisions promise to give (Zaman, M, 2018). The preamble of the Act says that The Act is enacted to ensure National Digital Security and enact laws regarding Digital Crime Identification, Prevention, Suppression, Trial and other related matters whereas it is expedient and necessary to formulate an Act for ensuring National Digital Security and enact laws regarding Digital Crime Identification, Prevention, Suppression, Trial and other related matters. But the data analysis shows that the experts see the negative impacts of the law are much more evident.

The Right to Information (RTI) Act is destined to play an important role in investigative journalism. However, the new law, the government passed in the name of digital security, has included some notorious provisions that harmed the goodwill of the previous RTI Act. In fact, the Digital Security Act clashed not only with the spirit of the RTI but also with the basic civil rights and freedom of expression of the common people (Hossain, M, 2020).

The Digital Security Act will squeeze the freedom of the press as some of the sections are nothing but the alternative forms of section 57 of the previous ICT Act 2006 that invoked much controversy. As for instance, section 32 of the Digital Security Act says: *“(1) If any person commits or aids and abets in committing an offence under Official Secrets Act, 1923 (Act No XIX of 1923) through computer, digital device, computer network, digital network or through any other digital medium then he will be punished to a term of imprisonment not exceeding 14(fourteen) years or with fine not exceeding Tk.25 (Twenty Five) Lac or with both. (2) If any person commits the offence mentioned in sub-section (1) for the second time or recurrently commits it, he will be punished with life imprisonment or with fine not exceeding Tk.1(one) crore or with both”*.

This provision has narrowed the way of collecting information for reporting. Generally, journalists use various ways to collect information that matters to the public. On the other hand,

criminals and corrupts try to hide that information. In an outmost hostile situation, the task of bringing out the objective and fact-based news is not only a very challenging but also a risky job (Ferdous, R, 2018).

In that scenario, the life of a journalist can be threatened. Sometimes, journalists seek helps from digital devices to collect information secretly. But this law has regarded the events of collecting information from any source using digital devices as 'Breaching Government Secret'. It was described directly as an act of 'espionage' in the earlier version of the law. That term was altered in the face of criticism from different sections of people, however, the spirit of espionage as described in the now-defunct Official Secrecy Act 1923 remained intact. Moreover, it has paved the way for abusing power by law enforcement agencies as it allowed them enormous jurisdiction for search raids. Against this backdrop, not only journalists but also common people are in a condition of fear while using computer and some other digital devices. (Hossain, A, 2020). Overall, the Digital Security Act has made the way harder for both the media and journalists who aspire to practice investigative journalism. This law has termed the 'unlawful' access to collect data, take snaps and videos as criminal offences. Here the word 'unlawful' is used mainly to stop investigative journalists to collect data, take snaps and videos for investigative reporting purposes. The more worrying scenario is that such types of works by journalists are considered same as the crime of espionage in the law. This has made the process of collecting data very tough which is an extreme threat to the whole spirit of the free press (Hossain, M, 2020).

RTI act was able to create an atmosphere where the journalists have been making investigative reports, but digital security act has created one kind of fear; which is an absolute contradiction to the RTI law. Besides, it is a complete violation of freedom of expression incorporated into our constitution. In this regard, we can cite the example of Kurigram journalist. Ultimately, the journalists must work in a feared atmosphere. So, it can be said that one kind of self-censorship has been imposed in the press. RTI act opened the way of doing investigative journalism which created much encouragement and hope among the journalists. On the other hand, Digital Security Act has curbed that opportunity. Because, being enacted the law a dreadful atmosphere has been created among the journalists for doing investigative journalism (Siddiqui, A, 2020). The controversial section 57 of the ICT Act has taken a reformed shape to the new Digital Security Act scattering in its different sections. One of the big allegations regarding the section is that it is too ambiguous and unspecified leaving so many options to misuse. A newspaper analysis showed that this section was misused in most cases so far indicted under that law (Inqilab, 2018). The intensity of abusing this section was increasing due to the excessive power

the law enforcement agencies enjoy. Moreover, section 57 invoked controversies as its terms were not defined duly. The ambiguity of the section stood against the rule of law. As a continuation, the Digital Security Act shows the replication of the old ICT Act (Inqilab, 2018). Chief executive of TIB, Iftekharuzzaman (Iftekharuzzaman, 2108) said that the same provision of punishment for the espionage as defined in the Official Secrecy Act of the British Period is revitalized in various sections of the Digital Security Act. The opinions of the investigation officers are given priority meaning there are lots of options to squeeze the press freedom and peoples' freedom of speech in the name of espionage. So, the fear for intentional use of this law has been intensified. Moreover, any misuse of section 32 will block the right to know information guaranteed by the RTI Act 2009 resulting in rampant crimes (Inqilab, 2018).

There is a difference in the motives of the two laws namely the Official Secrecy Act and Digital Security Act. The Official Secrecy Act was for the government official to protect leaking government information on the other hand Digital Security Act has enacted for the people to publish government information or spreading propaganda against government or persons digitally (Siddiqui, A, 2020).

The provision for punishment mentioned in the Digital Security Act has initiated a dangerous threat to the investigative journalism. Chapter 6 of the law describes about the digital crimes and relevant penalties. This chapter contains a total of 22 sections (from 17 to 38) referring to different types of crimes and penalties as per the level of the crimes. For example, section 17 says: *“(1) If any person intentionally or knowingly in any Critical information infrastructure- a. illegally enters, or b. by means of illegal entrance, harms or destroys or renders inactive the infrastructure or tries to do so, Then the above activity of that person will be an offence under the Act. (2) If any person of Sub Section (1)- a. Commits any offense within the Clause (a) then, the person will be penalized by imprisonment for a term not exceeding 7(seven) years or by fine not exceeding 25 (twenty five) lacs taka or with both. b. Commits any offense within Clause (b) then, the person will be penalized by imprisonment for a term not exceeding 14 (fourteen) years or with fine not exceeding 1 (one) crore taka or with both.”* But there is no clear definition of the term ‘critical information’. As this term is a relative matter depending on space, time and person, the absence of any definition can be regarded as the ambiguity of the law. This ambiguity makes the powerful people more empowered as they will easily initiate litigation against those revealing information on their criminal activities falsely defining the ‘critical information’. Such a scenario discourages investigative journalists from doing their professional duties (Zaman, M, 2018).

Some sections of the law are contradictory to the constitution. Clause 1 of the article 39 in the Bangladesh constitution guarantees the freedom of thoughts and consciences for every citizen (Bangladesh Constitution, Article 39). So it is vivid that section 32 of the Digital Security Act raises conflicts with the spirit of the article 39 of the constitution, squeezing the paths of press freedom and freedom of speech. It is noteworthy that prominent journalist Prabir Sikdar was arrested under the section 57 of the ICT Act. As the incident invoked much criticism, the Law Minister assured everyone to amend or revoke the section. The assurance appeared nothing but empty words when the section 57 of the ICT Act was accommodated in section 25, 28, 29 and 31 of the new Digital Security Act (Inqilab, 2018).

The implementation of the controversial law jeopardizes human rights to the media workers including journalists. As the section 32 of the Digital Security Act in place, it is dangerous for everyone except the bureaucrats and ruling people to carry Camera, Mobile Phone or other digital devices while they visit any office of government, autonomous or statutory body. As such, the information and technology-based communication is supposed to face barriers in most cases risking a favorable environment for the corrupted people where they feel protected for their wrongdoings. The tasks of collecting information to prove the allegations about their corruptions will be impossible for the journalists (Inqilab, 2018). It is mention-worthy that journalism in no way can be regarded as an espionage. Rather, journalists are sometimes bound to keep secrecy while collecting information that can reveal the truth. Nevertheless, this law has prepared a ground to convict the journalists as they try to record some information secretly. This legal framework is feared to endanger the fundamental spirit of the journalism and the freedom of speech. Especially there is a logical ground to fear that the Digital Security Act has all the components to block path of the investigative reporting by bonding tightly the hands of the independent journalism (Prothom Alo, 2018).

Moreover, the journalists will be forced to discard themselves from investigative reporting due to some sections of the Digital Security Act. If we notice with a conscious mind it will be vivid that it is the investigative journalism that uncovered some biggest stories of corruptions and militancy activities in the country in the last few years. Among them, Hallmark Scandal, Unipay-to, scandal related to Bangladesh Bank Reserve theft are most mentionable. Moreover, people would remain in dark about the stories of fake Freedom Fighter Certificates, crest scandal related to Freedom Fighter Awards (Inqilab, 2018). People also came to know the stories of various activities related to terrorism, corruption, illegal drug businesses, human trafficking of many influential persons only due to the investigative journalism. However, such

journalism will become riskier and even almost impossible for the Digital Security Act (Ferdous, R, 2018).

The other sections and sub-sections of this law including four sub-sections of 10, 11, 12, 13 and 16, two sub-sections of 17, two sub-sections of 18, two sub-sections of 19 and sections 20 too call for various types of penalties including imprisonment from 2 to 14 years and fine from 10 thousand to one crore taka. Some crimes have penalties of both imprisonment and fine. Apart from that, anyone convicted for cyber terrorism may be punished with the highest lifetime imprisonment or with fine not exceeding 5 (five) crore taka or with both under the section 27 (Digital Security Act 2018).

An analysis of the nature to investigative journalism shows that journalists have no option rather than using some secret medium to collect information relating to any corruption or terrorism. If they want to collect such information directly, it would not become possible to present that story to the readers righteously (Zaman, M, 2018).

Moreover, chapter seven (Sections 39-54) of the law is about the criminal investigation and relevant searches by the investigators. It appears that the opinions of the investigation officers are prioritized here. There are provisions to search and arrest suspected persons and confiscate items without any warrant or prior notice (Digital Security Act 2018). So, the fear for abusing the law by law enforcement agencies could take a serious turn. On top of that, crimes as defined by the sections 9, 15, 18 and 20 are considered cognizable non-bailable through the section 36 (Digital Security Act 2018). So, it is apparent that these articles have closed the door of independent journalism. The government usually uses the information uncovered in the investigative report to initiate anti-corruption drives. For example, people came to know the massive corruption of Hallmark Scandal only after it was brought to light by investigative reporting. Then, law enforcers took necessary initiatives to tackle it. However, the Digital Security Act has made the easy-to-open door of such types of reporting a tough one. This law has created a fearful environment among the media people discouraging them to walk on the way of investigation (Hossain, A, 2020)

In investigative reporting, journalists must work keeping their identities secret for uncovering the truth about the crimes/corruptions of influential people or institutions. Journalists may face several problems if they go to collect such information and tell that they are journalists. First of all, the intended information will not come out as expected. Secondly, it may pose a dangerous threat to the life of the journalist involved. Thirdly, they may experience the real danger of physical assault or even be killed. Apart from that, the journalist might be tempted in various ways and kept away from achieving the main information or the real truth behind the event. To

avoid such obstacles and dangers, journalists use some strategies like keeping identity secret, recording conversations secretly, hiding the real purpose when they collect such types of information. Apparently, it may look like such practices go wrong with the ethics and standards of journalism. But the basic principle of journalism is to work for uncovering the truth with wider national interests in mind. So sometimes it becomes essential for them to ignore the traditional ethics to collect information of wider interests. The ground here is that if we stick to the ethics then there is a risk to cause severe damage to the country, society and people. So, journalists use the secret ways to collect such information. However, it would become impossible for a journalist to unmask the truth as using these ways are prohibited and considered punishable crimes under the Digital Security Act. The harmful effects of these barriers would eventually fall on the shoulder of the state itself (Zaman, M, 2018).

The principal aim of journalism is to prepare and present news for the betterment of the society, state and people (Rahman, A, 2017). In doing so, a journalist can be humiliated in different ways. Taking this risk into account, the journalist must collect information without disclosing his identity with the aim of wider interest. It can be appeared as contradictory to the ethics of journalism. But considering the importance of the output, such initiatives will be considered as the big ethic. That is to say, journalists should have the freedom to use different strategies for collecting information that have wider benefits for the society (Zaman, M, 2018). But the punishments and penalties, this law does have, will demoralize the journalists to keep themselves away from collecting information vital for investigative report. For example, 14 sections, out of 20, are non-bailable. And the minimum and maximum jail terms under the law are one year and lifetime respectively while most of the offences carry imprisonment of 4-7 years which can be treated as a major punishment for a minor crime. The risky nature of the law for investigative journalism is also apparent from the protest by the Editor's Council who has put objection especially on the articles 8, 21, 25, 28, 29, 31, 32, 43 and 53 of this Digital Security Act (Hossain, A, 2020).

So, there is a concrete ground to think that the Digital Security Act has squeezed the freedom of expression in the media. It has 48 sections in total. Of them, 17 to 48 tell about the punishments of different acts defined crime under this law. The most dangerous section 32 has provisioned the data collection process by digital devices as espionage and the punishment for such acts ranges from the imprisonment of 14 years/ a fine of 20 lac taka or both. The reality is that technology has nowadays become a tool for changing the society by dint of free flow of information. At this moment, it is the right of the citizen to know the information that affects them, and the responsibility of the journalists is to make that information public. But sometimes

journalists cannot perform these professional duties due to some obstacles. Now the number one barrier is the Digital Security Act. In fact, we had forwarded our steps of independent journalism to some extent with the help of RTI Act. But this Digital Security Act has forced us to step backwards (Hossain, M, 2020).

The Digital Security Act is feared to hinder the way of flourishing democracy in the country as one of the most important elements for the democratic boom is press freedom (Zaman, M, 2018). Quoting prominent journalist North Cliff, he said that news is what somebody somewhere wants to suppress; all the rest is advertising. Searching out the news suppressed by others is the duty of the journalists. But in doing so, they are feeling a barrier due to the Digital Security Act. To mention, the main objective of journalism is to search out anyone's that information that were supposed to utter by him publicly but didn't. If such efforts are barricaded, then the investigative journalism will see its demise and "He said-She said Journalism" will be expanded (Zaman, M, 2018). Moreover, freedom of expressing the opinion and ensuring transparency and accountability are among the main conditions of democracy. Some sections of the Digital Security Act are in most cases contradictory to those conditions, hindering the democracy eventually (Ferdous, R, 2018).

To discover the truth, journalists must use some undisclosed medium in many cases (Zaman, M, 2018). Referring the Watergate Scandal, Zaman mentioned that it was not possible to make that scandal public without the use of such an option. The Watergate scandal of 1972 was a major federal political scandal in the United States involving the administration of President Richard Nixon. Washington Post reporters Bob Woodward and Carl Bernstein uncovered the scandal using devices that secretly recorded conversations. Eventually, Richard Nixon was forced to step down from the post of President. Regarding this event as a fruit of investigative journalism, Zaman opined that journalists will fail to uncover some news of public interests like that if they are barred from using the secret medium for collecting pieces of evidence due to the Digital Security Act.

#### **6.4. The Fields of Protection by the Digital Security Act**

Many countries of the world applying this kind of act for ensuring the security of transmitting personal and organizational information through digital devices and the internet. But the reality of our country is that the act has been applying for harassment of the public; especially the journalists have become victims of the act (Siddiqui, A, 2020).

The initiative to enact the Digital Security Act was taken mainly to ensure national digital security and to detect, redress, abate, prevent, investigate and try the offences related to digital

medium (Digital Security Act 2016). This law has provisions to punish the cybercriminals with different sentences based on the crime levels, which is formulated mainly to ensure personal data of people in digital medium (Ittefaq, 2018). Moreover, we have seen an incredible advance in technology-based communications forcing the decision-makers of the country to think about drafting such legislation. This is because the use of ICT nowadays has entered into almost every field triggering the doomsday for the old manual system of file keeping. So the government took initiatives to formulate the Digital Security Act with the aim of providing protections for the people as they enter into the new system of communication through digital medium (Salam, S A, 2018).

The government also took several other strategies to cope with the needs of time while ensuring the free flow and fair use of information, addressing the misuse, utilizing them for the wellbeing of people and putting the number of cyber risks down to the zero. The country has enacted several laws to address the needs of ICT users and to make awareness among the common people as well. The final approval of the 2016's drafted Digital Security Act in 2018 is nothing but a sequence to that policy with the real goal is to defuse the cyber-crimes (Salam, S A, 2018). Moreover, the news media is increasingly becoming ICT-dependent triggering a need to provide the media workers with legal protection to manage them and to act with responsibilities. For instance, Bangladesh saw a manifold use of websites and digital devices due to the rapid expansion of the internet in the country. Recently, the country connected itself to the superhighway of information through the Optical Fiber Network called South East Asia–Middle East–Western Europe 5 (SEA-ME-WE-5). On top of that, the number of internet users increased surprisingly as the country entered into the era of fourth generation mobile internet. Now over 8 crore citizens use the internet pushing the government-declared vision of Digital Bangladesh to the doorsteps of reality. Over one crore Bangladeshi citizens, now living as expatriate communities all over the world, read online-based Bengali newspapers. Given this enormous use of digital devices, it was essential to formulate some policies to address the security concerns relating to them and the Digital Security Act is the ultimate outcome from that concerns (Salam, S A, 2018).

Section 3 of the Digital Security Act says this law will get supremacy if any confrontational situation arises with other functioning laws. Apart from that, section 5 has called for forming a digital security council under the ICT division in order to ensure national digital security. Under this agency, there will be a specialized unit named Bangladesh Computer Emergency Response Team Bangladesh (CERT) to oversee all the cyber security concerns making coordinate efforts



with all other institutions. This unit will initiate prompt responses to redress any cyber-attack or such attempts (Digital Security Act 2018).

The aim of the Digital Security Council is to become a pathfinder in addressing all the problems relating to the technology-based communication and the use of digital devices. This council will act as the highest council body for cyber security and will provide advice and directions to the ICT division and its other subordinate institutions (Digital Security Act 2018).

The law provides assurance for the protection of private and institutional information. Under section 10 of the law, a maximum five years imprisonment can be sentenced for scams related to computer, mobile and other digital devices. This can secure the users of such digital devices from untoward situations. Moreover, appropriate punishment is ensured if any incidence of cheating or threatening occurs through digital medium (Digital Security Act 2018).

The Digital Security Act ensures harsh punishment for any person who runs any propaganda or assists in doing so against the liberation war of Bangladesh or recognition of the liberation war. The same penalty is applicable for persons propagating through online/digital medium against the Father of the Nation. So, this law initiates necessary measures to protect the country's liberation war and related other events from propaganda (Digital Security Act 2018).

This law is reducing the risk of using the free flow of information as a tool by an individual of a group to propagate their agenda. People will also become more careful while using digital devices and they will be discouraged to disseminate information or any pictures that may defame others (Hossain, A, 2020).

The law also does have measures to protect religious sentiments or values. Such as, section 28 says that publishing or broadcasting anything by means of any website or any electronic format which hurts religious sentiment or values will be considered a punishable offence (Section 28, Digital Security Act 2018). Digital Security Act 2018 also has a punishment mechanism for the offenders who intentionally publish or broadcast any kind of file in any website or digital format which creates hostility, hatred or adversity among people or destroy any communal harmony or create unrest or disorder or deteriorates or threatens to deteriorate the law and order. Such activities can be penalized with imprisonment for a term not exceeding 7 years or fine not exceeding Tk. 5 lacs or with both (Section 31, Digital Security Act). This can provide the country with a protection from different kinds of propaganda. Also, it will help spread the spirit of secularism and maintain religious coherence (Hossain, M, 2020).

Moreover, this law can provide protection for the network service providers. According to the law, the service providers cannot be convicted for the offences done by their users. So, they got a scope to work independently under the protective umbrella of Digital Security Act. Apart

from that, the private information of persons indicted under the law also gets privacy protection. As per the law, such information cannot be used for other purposes rather than in investigation activities (Digital Security Act). There are some people who hack other's digital devices with the ill-motives of gaining personal or group advantages. This law has come into effect with a harsh warning for such types of culprits. And the would-be victims will now use their electronics devices with a relief in their minds that there is a mechanism in place to get proper justice if hacked by criminals (Hossain, A, 2020).

The law has a framework to settle any legal process within a very limited time. So, the law is expected to reduce the burden of the long queue of litigation providing final judgments to the people within the timeframe of the highest 180 days from the date of the lawsuit. Overall, the Digital Security Act mainly protects cyber-bullying. The adolescent group falls in internet bullying. Besides, the law checks spreading unnecessary irritation in social media. It also checks to leak various important and security-related information of the state (Siddiqui, A, 2020).

## **7. Conclusion**

Although the perceptible aim of the Digital Security Act is to abate the crimes related to digital medium, it is vivid that the fear for using some sections of the law otherwise has logical grounds. Especially, the investigative journalism is feared to take shelter inside the cold storage being impacted negatively by the law.

The Digital Security Act 2018 is regarded by some people as a landmark initiative by the government in terms of providing protection to the information and communication sector. They believe that this law has ensured some provisions to identify, prevent, redress, investigate and try different offences involving digital devices and medium in order to maintain national digital security of the country. This law has asked for proper initiatives to protect the private information of people when they use the internet. The Digital Security Act is predicted to reduce the feuds involving religious matters as any person found involved in propagating about religions through internet or hurting religious sentiments through posting something is considered an offender and under the law and deserves exemplary punishments. Moreover, the law has included an important section that can protect the honor of Bangabandhu Sheikh Mujibur Rahman, the founding father of the nation. Any person involved in spreading misinformation against the founding father is a serious crime and will get appropriate punishment under the law.

However, the anxieties the Digital Security Act press on are far more apparent than the protections it can provide. The reality is that being enacted the RTI act, easy access to

information was created for the people, especially for the journalists. A segment of general people and journalists have been exercising the RTI Act to get information from the respective departments to make the department credible, transparent and accountable to the public. But, after enacting Digital Security Act those opportunity has been deemed obstacle. Though, among two parties in the RTI Act i.e. the given sides and receiver sides the given side is being awaked more than the receiver or demand side. Because, the given side has lots of training and demonstrations for giving demanded information by the receiver side.

Especially, the Digital Security Act in no way helpful for the investigative reporting rather it is a big barrier for such type of journalism. Some sections and sub-sections of the law is really a big challenge on the way to use some strategies journalists consider vital for collecting information. Journalists now will be discouraged to practice investigative journalism that can unmask wrongdoings of the influentials. Rather they will feel fearful environment considering the impact of Digital Security Act. In the long run, the state itself will be deprived of the benefits of investigative journalism, hampering the flourishing of democracy as well. So, it is advisable that the law should be amended duly to pave the way for a positive environment for both democracy and investigative journalism.

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