



Human Rights Impact of Cyber Laws: A Comparative Study between Bangladesh and India

Kazi Miftahul Jannath*

Lecturer, Department of Law and Human Rights, University of Development Alternative, Dhaka, Bangladesh.

***Corresponding Author**

Kazi Miftahul Jannath

Lecturer, Department of Law and Human Rights, University of Development Alternative, Dhaka, Bangladesh.

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Abstract: Human Rights is one of the most important factors in every country. This dissertation will discuss the human Rights how enforced through the Cyber laws of Bangladesh. There are so many provisions of cyber laws in Bangladesh which protect human rights and also have some provisions that violate human rights as well. Not only the cyber laws but also the Constitution of Bangladesh also promises to uphold human rights of its citizens. Moreover, this dissertation aims to compare the cyber laws of India with Bangladesh so that it can be shown how far Bangladesh should improve its cyber laws in improving human rights. This dissertation also introduces how India ensures their human rights through the verdict of the Supreme Court of India. The findings of this dissertation shows that Bangladesh should take necessary steps to ensure human rights of its citizens.

Keywords: Cyber Law; Human Rights; Fundamental Rights; Implementation of Cyber Law; Cyber Law in India and Bangladesh.

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1. Introduction

Cyber law is one of the most important legislation of a country. In this century the fast and speedy internet network connected the whole world like a small village where everyone can easily be connected to each other through using electronic devices with an internet connection. Using the blessings of internet people facing more complicated crimes committed through this internet and electronic medium. It is cyber law that makes rules and imposes punishments to the criminals who have committed an offence using the internet. But making these cyber laws the government sometimes curtailed human rights through the provisions of cyber laws. Human Rights are those rights which are globally introduced by the Universal Declaration of Human Rights adopted by the United Nations in 1948. These rights should be protected by every government of the world.

This research will analyse how cyber law of Bangladesh and India protected human rights and as well as how both countries violated the inalienable rights of every human known as Human Rights. One of the important human rights is the 'right to freedom of expression'. This right is violated by the cyber law of Bangladesh. Though the cyber laws were made to protect the rights of citizens, it mostly violated our freedom of expression. There are so many controversies of ICT Act 2006 and afterwards Digital Security Act 2018 of Bangladesh and later on Cyber Security Act 2023. These cyber laws

have some provisions which protect our rights and protect citizens from cybercrimes as well. But on the other hand, it curtailed our right to expression. People of Bangladesh have faced so many problems because of these provisions. There are so many incidents happening in Bangladesh that people got arrested only because they express their opinion through Facebook or through any other social media.

Moreover, by using such laws the government curtailed the right to media and press. Journalists are also included under such cyber laws by which their right to expose the government shall be curtailed. Thus the government uses such cyber laws as a tool against their protection and misuse their power. It is a matter of great regret that the government of Bangladesh did not take any initiatives against such cyber laws which violated our right to expression. Though the government of Bangladesh repealed the controversial provision of ICT Act, 2006 which violated our right to expression but enacted another cyber law named Digital Securities Act, 2018 which also contained various provisions and more worst provisions than the repealed one. Further, the government repealed the Digital Security Act and enacted another cyber law related act named CyberSecurity Act 2023, which contains the same controversial provisions as it was contained in the Digital Security Act, 2018. Thus, violations of freedom of expression are not solved in Bangladesh.

On the other hand, if we compared the situation of Bangladesh to India, we found that India also had the provision which violated



freedom of expression in their cyber laws named IT Act 2000. But they amended it in 2008 because of so many controversies and took into consideration their expert opinion regarding this matter. The Supreme Court of India held that controversial section of IT Act 2000 unconstitutional as it violated their freedom of expression in the case of *Shreya Singhal v Union of India case (2015)* [1].

But it is a matter of great regret that Bangladesh did not take any step regarding its provisions of cyber laws and till now Bangladesh is facing a fear while speaking out against the government. Because while speaking against the government, citizens of Bangladesh will have faced criminal trials against them using the provisions of cyber laws.

The research will also discuss a comparative analysis that in what way cyber laws of Bangladesh and India make its impact on human rights both in a positive and negative way. Moreover, the author will also find out how cyber laws of Bangladesh are in a backward position from Indian Cyber laws. Further, this research will try to find out in what way the government of Bangladesh can resolve the cyber law's issues which curtailing human rights of its citizens.

This study primarily aims to discuss the cyber laws of Bangladesh that it uses as a shield to protect their interest and thus it hampers the basic human rights. In this thesis, it is also discussed how the government of India took steps and changed their laws which violate human rights. Moreover, it focuses on how Bangladesh holds a backward position from India in regard to safeguards human rights of its citizens. The main object of this thesis is what steps should the government of Bangladesh take to ensure human rights. Again, it also discusses making or amending cyber laws which instead of curtailing human rights protects it.

1.1 Literature Review

Tahmidur Rahman in his article discussed the concept of internet law or cyber law in Bangladesh [2]. discussed the previous time of laws when ICT Act 2006 didn't come into force. Before the enactment of the ICT Act 2006, all these crimes are penalized under the Penal Code, 1860 which is not up to date to punish the cybercrimes as all these crimes were not present at the time of 1860 when the Penal Code enacted by the British colonial in the sub-continent.

Further, he also gave a criticism of this Act. He also gave light on the positive side of this ICT Act, 2006. He mentioned that this Act introduced Hacking, publishing or distributing any obscene content, fraud committed via electronic medium and also introduced violation of right to privacy as a cybercrime and made penalties for these crimes.

But in my thesis, I take the idea of the cyber law from this article and will also discuss the concept and emergence of ICT Act 2006 in Bangladesh from this above mentioned article and also take the idea of the previous condition of cyber crimes laws before emergence of ICT Act, 2006 in Bangladesh. But the whole article of Tahmidur Rahman is broadly discussing the whole positive and negative side of the ICT Act 2006 of Bangladesh which is different from my part mentioned in my thesis.

Emmaline Soken-Huberty, in his article discusses the origins of human rights [3]. In ancient times, Cyrus the great Persian King first introduced human rights. He sets some basic rights for every citizen of his kingdom. Afterwards, he introduced human rights in the current era in his article, where he mentioned that after world war II

in 1945, the United Nations first made the Universal Declaration of Human Rights. Moreover, there are some other documents which also introduced human rights: International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Covenant on the Elimination of All Form of Racial Discrimination and Covenant on the Rights of the Child etc.

The author also introduced rights which are protected by these above mentioned Covenant. Those human rights are: Economic, Social and Cultural rights introduced, right to fare wage, right to decent living, right to safe and healthy work conditions, right to take part in cultural rights, right to free preliminary education etc.

In my article, I will discuss the concept and origin of human rights from these above-mentioned articles. I introduced what are human rights and how it is codified in our modern era from ancient era. Moreover, I also took the idea about who is in the liability of protecting human rights in our modern era from this whole article. If we look into the article of Emmaline Soken-Huberty, we found that it broadly discusses the whole concept of human rights but in my thesis, I only took the idea and core information from his writing and enshrined my paper with a little discussion of the concept of human rights. In short, there is no gap between my thesis and this article, rather it is mostly the same and descriptive information on human rights.

In an article published by Astitva Kumar, discussed the Universal Declaration of Human Rights [4]. He discussed in his article that UDHR sets out some rights which are recognized in the whole world as human rights and its goal is to ensure those rights universally. Moreover, in his article he classified these human rights of UDHR into two categories, one is Civil and Political rights and another is Economic, Social and Cultural rights.

This article gives us clear information regarding the adoption of UDHR and the road map of human rights globally. In my thesis, I have written this descriptive information of UDHR. I wrote about how the UDHR document was introduced to the world and by which organization UDHR established 30 human rights as inalienable rights. I took information from this article but there is no gap between my thesis and the article as I only took the information of UDHR from this article and wrote in my own way of writing.

Rumana Islam in her Article, discussed that After World War II, the whole world realized that certain human rights must be ensured in the name of human rights [5]. Then, the UDHR (1948), ICCPR (1966), ICESCR (1966) was adopted through the United Nations and introduced human rights to the world. She also discussed in her article that the Constitution of Bangladesh contains two sets of human rights. One is the Fundamental principle of state policy which is discussed from Article 8-25, part-II. These are not judicially enforceable rights but shall be followed by the government to ensure such rights as to development of the citizens. Another set of rights is fundamental rights which contains under Article-26 to 47, part-III of the Constitution of Bangladesh which is judicially enforceable rights under Article-44 of the Constitution. Moreover, after the independence of Bangladesh the preamble of the Constitution of Bangladesh pledged that it also ensured human rights for its citizens and also pledged that it would ensure a society free from exploitation and shall ensure rule of law, equality of justice for its citizens.

Again, in her article she discussed that after gaining the membership from the United Nations Bangladesh adopted various human rights

instruments, such as ICCPR, ICESCR etc. Moreover, it was also discussed that for more than five decades Bangladesh Judiciary has played an important role in protecting human rights in our country. Judiciary made an active role to uphold the fundamental human rights either by the Public Interest Litigation or by the *suo moto* power of its. Along with the judiciary there are some institutional mechanisms that give safeguard to the human rights of Bangladesh those are: National Human Rights Commission of Bangladesh, Bangladesh Law Commission, Anti-Corruption Commission, and Information Commission. These institutions have operated to ensure human rights of the citizens of Bangladesh.

In my article, I discussed that the Constitution of Bangladesh has provisions of human rights and moreover, our preamble of the constitution also has upholding the protection of human rights. The gap between this article and my thesis is that this article only discussed that Bangladesh is a country which gives promises to ensure human rights in its Constitution but in my thesis I first discussed about the same information of the Constitution of Bangladesh and human rights as per this article but I also compare it with the Indian Constitution and moreover, I discussed about the cyber laws of Bangladesh which are conflicting of the promises of constitution given by our government. In other words, I not only discussed the positive side of our constitution which ensures human rights but also I will discuss the cyber laws of Bangladesh which are conflicting with the provisions of human rights mentioned in our Constitution.

Prasoon Shekhar, in his article discussed the Human Rights adopted by the Constitution of India [6]. In the very beginning of his article he mentioned the rights which can be called human rights. Moreover, he also discussed the development of human rights in India. He stated that from very ancient time, in the text of *Vedas, Gitas, Arthastra, Dharmasastra* and in the other religions such as Buddhism, Islam has recognized human rights in their time. There are some Muslim rulers like Akbar and Jahangir are also appreciated rights and justice in their time. But in this modern time, after the second WW, UDHR adopted some rights called human rights and introduced them globally. Though it does not have any binding force thus it created two covenants, those are ICCPR and ICESCR.

Moreover, in his article he discussed that the Constitution of India adopted the provisions of ICCPR. Those provisions are: Right to life and liberty, Freedom of movement, right to equality, Freedom of speech and expression, right to assembly peacefully, Equality in opportunity of public service, Equality and equal protection before law and non-discrimination on the basis of any ground such as race, color, sex, language, religion etc. These rights of ICCPR are adopted by the Indian Constitution as fundamental rights under III. Further there are some rights which were adopted from ICESCR. Those are: Right to work, Equal Pay for equal work, right to living wage and decent standard for life, Compulsory education for children and Improving public health. These are the rights of ICESCR that are adopted under part IV of the Indian Constitution as Directive Principle of State Policy. He also stated that the Indian Constitution has almost covered all the two sets of human rights of ICCPR and ICESCR and the state has the responsibility to protect those rights. Moreover, the Indian judiciary has also taken appropriate steps to safeguard the fundamental rights and as well as the directive principles of state policy.

I will discuss in my article that the Indian Constitution has taken the provisions of fundamental rights and directive principles to protect

the human rights of their citizens like Bangladesh. Most of the human rights have the similarities in both of the constitutions. I will discuss the similarities of the both Constitution and also discuss how the government of Bangladesh and India adopted the human rights in their both Constitution. By this discussion in my paper I wanted to analyze that both countries have adopted human rights but Bangladesh holds a backward position than India to keep its promises of ensuring human rights as mentioned in its constitution.

Mohammad Badruzzaman, In his journal article has discussed the controversial section-57 of the ICT Act, 2006 [7]. In his journal, he stated first about freedom of expression in international instruments. Article-18 of the UDHR has stated that everyone has the right to freedom of thought, conscience and religion. Moreover, Article-19 of the ICCPR guarantees the right to freedom of thoughts, conscience and religion. Again, Article-9 of the European Convention on Human Rights (ECHR) also protects the right to freedom of expression. Afterwards, he discussed the constitution of Bangladesh under Article-39, part-III also gives protection to the freedom of thoughts, conscience and speech to its citizens. Thereafter, he discussed about section-57 of the ICT Act, 2006 which stated that if anyone publishes or transmits any information through any electronic media which is fake or obscene and its effect is if any person by reading and seeing it felt hurt in his or her religious belief or instigate that person against any person or organization, then this activity will be considered as offence under this section and shall be punishable with imprisonment for a term which may extend to ten years and with fine which may extend to ten crore.

He stated that even any innocent post can be considered as offence in line with the text of section-57 of the ICT Act, 2006. He stated that this as per this section 57, crimes cannot be considered as crimes depending upon illicit nature and motive of the crimes rather it considered as crimes depending upon the reader's personal opinion and belief and attitude. Moreover, he stated in his journal that section-57 of the ICT Act, 2006 is synonymous with ambiguity and creates threat to the freedom of expression of the people of Bangladesh. Moreover, this ambiguous section gives so much power to the authority or the government to misuse any true news published by the press or by any person through the social media. By using this section, the authority of the state can easily arrest anyone in any time which gives an excessive power to any state authority and shall have high possibilities to misuse this section.

In my article, I will take the information of section-57 of the ICT Act, 2006. The whole article discussed the Constitutional provisions of freedom of expression in Bangladesh and international instruments which protects the right to freedom of expression and afterwards discussed about the controversial section-57 of the ICT Act, 2006 and ambiguity of this section. But I only discussed the misuse and ambiguity of section-57 from this journal article.

Shohel Mamun, in his article discussed that section-57 has morphed into the Digital Security Act, 2018 [8]. He added that though the ICT Act 2006 was enacted in the time of the BNP government, its massive misuse is happening now. Despite the criticism of the sec-57 of the ICT Act, 2006, the government had to repeal the section and enacted a new law named the Digital Security Act, 2018. In this new law which is made only just to eyewash the citizens of Bangladesh. Moreover, he also discussed that if we look into the section-57 of the ICT Act, 2006 we can found that if anyone publishes or transmits any information through any electronic media

which is fake or obscene and its effect is if any person by reading and seeing it felt hurt in his or her religious belief or instigate that person against any person or organization, then this activity will be considered as offence under this section and shall be punishable with imprisonment for a term which may extend to ten years and with fine which may extend to ten crore.

The new Digital Security Act has been enacted to deal with defamation, hurting religious sentiment, instigating any person against any organization. All of these are the terms which were used in the previously repealed section- 57 of the ICT Act, 2006. He discussed that if we look into section-17 of the Digital Security Act, 2018 we can find that if any one uses social media to intimidate any person then that shall be considered an offence under this Act. Moreover, section-28 of this Act, also stated that if anyone hurt one's religious sentiment through digital media shall be considered an offence under this Act. Moreover, he also discussed that, in section-29 of this new Act stated that if any information published through the digital media by anyone with intent to defame someone then that is also considered an offence under this section. He added that, from these new provisions we can understand that the section-57 is not repealed rather it comes in a different and broader way into the Digital Security Act, 2018.

This article mentioned how the government of Bangladesh repealed section-57 of the ICT Act, 2006 and inscribed it to the new law known as Digital Security Act, 2018. The author gives us a clear view about the intention of the Bangladesh government that they just made an eyewash of its citizens by repealing the section-57 but on the other hand enacted a new law which contained so many provisions that reflects the section-57 in a broader or specific way. Thus, the new law also violates the right to freedom of expression of the citizens of Bangladesh. In my research I not only give the view of the author of this article but also I compared it with the Indian Information and Technology Act, which was also contained such provision curtailing freedom of speech but the government of India repealed that section and did not enact any other law as like the repealed one.

I agree with the author of this article as he clearly observed that section-57 is not repealed rather it came into the Digital Security Act in a broader way. I strongly agree with the author that the new law which was enacted to serve the citizens' protection is just curtailing the right to freedom of expression of the citizens of Bangladesh. The purpose of repeal the previous section-57 of the ICT Act, 2006 failed as it is inscribed in another way to the new law named the Digital Security Act, 2018. I also believed that the new law made only and only for the purpose of curtailing human rights of the citizens and the repeal of section-57 is just an eyewash of the citizens of Bangladesh.

In 2006, the very first cyber law known as ICT Act 2006 was introduced to its citizens for prohibiting cybercrimes. There are some cybercrimes provisions which sometimes in shield of protecting our rights, violate some human rights as well.

In this article, I wanted to analyze that the government of Bangladesh used its cyber laws against the human rights of its citizens. I will also discuss that it is the duty of the government to play its role for the benefit of its citizens, not for the benefit of their own power. Moreover, I will also discuss how the government of Bangladesh has failed to play its role and instead of protecting the rights of the citizens they used their own cyber laws against the citizens. I will compare the role of the government of Bangladesh

with India and discuss how India has taken effective steps for protecting the human rights of their citizens but Bangladesh fails.

2. Concept of Human Rights and Cyber Laws of Bangladesh and India

Bangladesh has been an independent nation since 1971. After the liberation war Bangladesh had faced so many difficulties to improve its infrastructure and its law & order. By the time Bangladesh improved its law and regulations which regulated its citizens. Cyber law is a new law and concept that became one of the most important laws in this modern era. This law is enforced for preventing cyber crimes but there are some positive and negative sides of this law and sometimes it violates human rights as well. This chapter will discuss the concept of human rights and the concept of cyber laws of Bangladesh and India as well. Moreover, this chapter dealt with the other international instrument of human right which gives us protection of our rights.

2.1 Concept of Human Rights

Human rights are those intrinsic rights of human beings which as a human one can enjoy right after his birth until his death. It is an inalienable right of every human being protected by the government universally regardless of one's nationality, sex, religion, ethnicity and any other class. In ancient time, Cyrus the great Persian King first introduced human rights. He sets some basic rights for every citizen of his kingdom. Moreover, modern human rights are well known to the universe after the document named Magna Carta and Bill of Rights were introduced to the whole world. After World War II in 1948 the Universal Declaration of Human Rights was adopted by the United Nations which was the first declaration that gave recognition of "Human Rights" globally. There are five types of human rights in the concept of the United Nations and those rights were divided into two Covenants: One is International Covenant on Civil and Political Right and another is International Covenant on Economic, Social and Cultural Rights [9]. Moreover, there are some other documents which comprise some other human rights and aims to protect the human rights such as: International Covenant on the Elimination of All Forms of Racial Discrimination and Convention on the Rights of the Child etc. All the governments of the state party are primarily responsible for ensuring human rights among their citizens. After entering into a human right treaty, the duty is obliged for every state to respect, promote and protect human rights [10]. Moreover, it shall be ensured by the state party that no derogation of human rights can take place in its territory [11].

2.2 Universal Declaration of Human Rights

Universal Declaration of Human Rights is a landmark document with global acceptance which has been created for protecting inalienable human rights of every living person of every nationality. UDHR sets out some rights which are recognized in the whole world as human rights and its goal is to ensure those rights universally. Moreover, human rights of UDHR are classified into two categories, one is Civil and Political rights and another is Economic, social and cultural rights. After the post war era of World War II, the UDHR has been adopted by the United Nations and consists of 30 human rights which are known as inalienable rights of every human in the world. UDHR along with Covenant of Civil and political rights and Covenant of Economic, Social and Cultural Rights are known to be International Bill of Human Rights [12]. World Human rights day is celebrated on 10 December as it is the day of adoption of UDHR. Thus, UDHR has its mission and vision for its Nobel work of

protecting human rights. All the nations accepted these documents and all the 30 rights which was mentioned in this document for their nationals regardless of their class, sex, religion and any other class. Among those 30 rights of UDHR some of the rights are: right to freedom of expression, right to asylum, right to free from torture, right to education etc. [13].

It can be considered that adoption of UDHR creates a roadmap for protecting human rights. With the protection of UDHR, the world makes its view on the point that human rights must be protected by all the nations for its own citizens [14].

2.3 International Covenant on Civil and Political Rights

This Covenant was adopted by the United Nations on 16th December 1966. It is divided into VI parts with 53 Articles and codified rights relating to civil and political human rights. Some of the rights are: right to life, right to privacy, right to equality before the law, right to fair trials, right to freedom of thoughts, religion and expression, right to peaceful assembly, right to privacy etc. [15]. Recognition of human rights is one of the most inalienable rights of all humans as it ensures justice, freedom and peace in the world. Article-1 of the ICCPR deals with self-discrimination which gives the right to a person to choose a political status of his own will. Article-2 deals with non-discrimination of the individuals of one country's territory on the basis of religion, sex, nation, origin, status and political opinion etc. Article-3 discussed the equal rights of the men and women. Afterwards, article-4 of the ICCPR stated that this covenant gives the right to its parties to derogate the provisions and obligations of the ICCPR only in the situation of public emergency. Though article-5 also ensures that on the point of human rights there shall be no derogation. Article-7 deals with the restrictions on cruel and inhuman treatment. Article-8 is against of slavery, on the other hand article-9 gives protection against arbitrary arrest and detention. Article-12 gives the human right to choose his own residence with his own liberty. Article-14 stated about all person's equal treatment before the court. ICCPR applies to every government who are contracting parties of this covenant. All the government officials are bound to follow the obligations under ICCPR. There is a committee named Human Rights Committee which works to monitor the implementation of ICCPR. It is their duty to ensure all the countries or state parties have maintained the obligation of ICCPR or not. After the four year term the committee members were elected and their committee was divided into 18 independent experts who has capabilities to deal with the issues of human rights. This committee has met three times within a year with four to five countries and dealt with the monitoring of human rights and their session was open for the public as it is live streamed [16].

There are so many NGO's takes part in these session of the Human Rights Committee with their own observation of their countries report and the country has submitted their counter information and suggestions regarding their compliance of duties. Thus, the ICCPR ensures human rights among the its state parties and plays important role to ensure human rights globally.

2.4 International Covenant on Economic, Social and Cultural Rights

This Covenant was also adopted with ICESCR on 16th December 1966. It is divided into V parts and 31 Articles and codified rights relating to economic, social and cultural human rights. Some of those rights are: right to fair wages and equal right to work, right to safe and healthy working environment, right to decent living, right

to take part in cultural life, right to benefit from scientific progress, right to free primary education, right to accessible higher education and right to higher attainable standard of physical and mental health etc. [17].

The Covenant entered into force in 1976 and was ratified by 160 countries. Article-1 deals with the right of self-determination, article-3 deals with the equal rights of men and women, article-4 discusses that only for the purpose of the welfare of democratic society there may be some limitations that take place while compliance with the obligation of this covenant. Moreover, article-5 has stated that no one has the right to destroy the rights mentioned under this covenant. Again, article- 6 deals with the right to work, article-7 deals with fair wage, just condition of work and ensuring decent living standard for family, safe and healthy work conditions etc., article-8 deals with forming trade or union, article-9 ensures social security. Article-10 also gives right to free consent to marry each other, article-12 ensures the highest attainable standard of physical and mental health, article-13 gives us the right to free and compulsory education and article- 15 gives us the right to take part in cultural life and enjoy the benefits of scientific progress [18].

2.5 Adoption of Human Rights in the Constitution of Bangladesh

The Constitution of Bangladesh was adopted on 4th November 1972 and it contains both 'Civil and Political Rights' and 'Economic, Social and Cultural Rights'. The Constitution of Bangladesh contains two sets of human rights. One is the Fundamental principle of state policy which is discussed from Article 8-25, part-II. These are not judicially enforceable rights but shall be followed by the government to ensure such rights as to development of the citizens. Another set of rights is fundamental rights which contains under Article-26 to 47, part-III of the Constitution of Bangladesh which is judicially enforceable rights under Article-44 of the Constitution. Moreover, after the independence of Bangladesh the preamble of the Constitution of Bangladesh pledged that it also ensured human rights for its citizens and also pledged that it would ensure a society free from exploitation and shall ensure rule of law, equality of justice for its citizens. Furthermore, along with the Constitution of Bangladesh, after gaining the membership from the United Nations Bangladesh adopted various human rights instruments, such as ICCPR, ICESCR etc. Moreover, for more than five decades Bangladesh Judiciary has played an important role to protect human rights in our country. Judiciary made an active role to uphold the fundamental human rights either by the Public Interest Litigation or by the *suo moto* power of its [19].

Along with the judiciary there are some institutional mechanisms that give safeguard to the human rights of Bangladesh those are: National Human Rights Commission of Bangladesh, Bangladesh Law Commission, Anti-Corruption Commission, and Information Commission. These institutions has operated to ensure human rights of the citizens of Bangladesh [20].

2.6 Concept of Cyber Law

Cyber law is one of the parts of a legal system relating to the internet and telecommunication technology and it governs the procedure on how one can use the internet and protects the crimes relating to the internet and technology. That is why another term of cyber law is known as "internet law". In a broader way, cyber law deals with intellectual property, freedom of speech, right to privacy, right to use the internet, contract jurisdiction and also deals with the crimes

committed through using the cyber technologies. It plays a very important role while ensuring cyber security in this digital era [21].

The Internet is a blessing for our world as we could think about a single day without the internet now-a-days. But it is a matter of fact that we all know about Newton's 3rd law which is that every action has an opposite reaction. In the case of the internet we also find the same opposite reaction. With the blessings of the internet, we called upon a curse into our life. While, we are using internet and cyber technology in our day to day life to improve or progress our life and also using cyber technologies to develop our country as well, as every government uses internet and cyber technologies to do their various activities. On the other hand, there are some people, those using this technology in a negative way. Many people use this internet to do various crimes such as: hacking, phishing, violating privacy, cyberstalking, identity theft etc. It is a matter of regret that not only criminals, Cyber law helps us to protect ourselves from those curses so that we can enjoy the blessings of the internet and other telecommunication technologies in full fledged. But it is very regrettable that the government is using cyber law as a shield to protect their benefits and thus violating human rights.

2.7 Cyber laws of Bangladesh

Bangladesh introduced some cyber laws to prevent cybercrimes. Day by day people of Bangladesh have increased the use of the internet and now-a-days every citizen moreover every teenager has access to the internet in our country. All the telecommunication companies gave easier and cheaper methods to use the internet network system and that is why internet use is very simple for every single person throughout the country. As internet users are increasing daily so the crime related to the internet which is called "cybercrimes" are also rising constantly. To prevent this, the Government of Bangladesh made several cyber laws. The cyber laws of the Bangladesh are as follows:

2.7.1 The Information and Communication Technology Act, 2006

It is the first enacted cyber laws of Bangladesh. Before the enactment of the ICT Act 2006, all these crimes are penalized under the Penal Code, 1860 which is not up to date to punish the cybercrimes as all these crimes were not present at the time of 1860 when the Penal Code enacted by the British colonial in the sub-continent. This Act introduced Hacking, publishing or distributing any obscene content, fraud committed via electronic medium and also introduced violation of right to privacy as a cybercrime and made penalties for these crimes [22].

To settle this issue, the Bangladesh government first enacted the first cyber law named The Information and Communication Technology Act 2006 to regulate e-commerce and to prevent cybercrimes, afterwards this law was amended in 2013. But this law faced so many controversies about its one of the provisions, section-57 of the ICT Act, 2006. This provision violates the freedom of expression of the citizens of Bangladesh. Afterwards, facing so many controversies from the various intellectuals, the government repealed section-57 of the ICT Act, 2006 and enforced a new law named Digital Security Act, 2018.

2.7.2 The Digital Security Act, 2018

Digital Security Act, 2018 was enacted by the Government of Bangladesh on 9th April 2018. For ensuring digital security, identification and preventing the crimes relating to digital device is

the main motto of the government of Bangladesh [23]. Though there are many controversies regarding this Act as there are some provisions which have violated the freedom of expression which is one of the most important human rights. Government of Bangladesh used these provisions against their own citizens. The citizens of Bangladesh do not have freedom of expression as they did not able to raise their voice using the internet. After facing tremendous criticism against the Digital Security Act, 2018, the government was forced to repeal this law and enforce a new cyber law named The Cyber Security Act, 2023.

2.7.3 The Cyber Security Act, 2023

The Cyber Security Act, 2023 enacted by the government of Bangladesh on 18th September 2023 after cancellation of the Digital Security Act, 2018. It is the most recent cyber law of Bangladesh. This law has been made for the purpose of ensuring cyber security in our country and preventing cybercrimes through digital and electronic devices. But it has been created in a new way with the same controversial provisions of the Digital Security Act, 2018.

Though, all the time the motto of the government of Bangladesh was to set out cyber laws for protecting cybercrimes and uphold human rights but it is a great regret that every time our government failed to ensure human rights through the cyber laws. We found that every cyber law, which is enacted, is used for the benefits of the government and curtailing freedom of speech of the citizens of Bangladesh. Thus, it shows that our government did not want a change in our cyber law; rather they replaced and repealed cyber laws as an eyewash of its citizens and used these cyber laws as a shield of protecting their own benefits against their citizens. This new law also curtails our freedom of speech as like the repealed law of Digital Security Act, 2018 and consequently, the motto of protecting freedom of speech of the citizen has also been violated by this newly enacted Cyber Security Act of 2023.

2.8 Indian Information Technology Act, 2000

Information Technology Act, 2000 plays an important role in the field of cyber laws of India. This law has introduced so many provisions which help to protect cyber crimes in India. These are: Section-43 of the IT Act, 2000 stated that if any person who accesses a computer without informing the owner of a computer and destroying, deleting data with intent to do any malicious act shall have committed offence under this Act [24]. Moreover, section-66 deals with hacking any computer system with a malicious intention shall be punished with 3 years of imprisonment or the fine of Rs.5,00,000 or both [25]. Furthermore, section-67 stated that publishing any obscene information or pornography with the use of computer and internet in public shall be punishable with imprisonment up to 5 years or fine of Rs. 10,00,000 or both [26].

Though there was controversy that section-66A had violated the freedom of expression of Indian citizens, that section was repealed by their government through the Supreme Court's judgment in the case of *Shreya Singhal v Union of India case (2015)* [27]. Thus, Indian Information Technology Act 2000 is the cyber law of India and this one law is able to protect their cybercrimes and also ensures human rights as per the international instrument and holding their constitutional obligations as well. On the other hand, Bangladesh time to time modified, repealed provisions of its cyber laws and also repealed cyber laws again and again but was not able to improve its cyber law's provisions which ensures our human rights.

This chapter informed us about the concept of human rights and the international obligations of protecting human rights through international treaties and covenants. It also focuses on the concept of cyber law and gives a reflection on the existence of cyber laws in Bangladesh which ensure human rights as well as cybercrimes. This chapter also focused on the constitutional obligation of Bangladesh to uphold human rights in our country.

3. Positive Impact of Cyber Laws of Bangladesh and India

The cyber laws of Bangladesh and India have a positive impact on its citizens. This chapter deals with cyber laws of Bangladesh and India. Bangladesh's most important cyber law is the Information and Communication Technology Act, 2006 and it deals with some provisions that protect cybercrimes and human rights as well. On the other hand, the Digital Security Act, 2018 was repealed but it had many provisions protecting human rights and cybercrimes. Afterwards, this chapter focuses on the Cyber Security Act, 2023, which has more or less the same provisions of the Digital Security Act, 2018. Moreover, this chapter also discussed the Pornography Control Act, 2012 and its positive impact and also focused on the Evidence Act, 1872 and its positive impact on Bangladeshi citizens.

On the other hand, this chapter also discussed the most important cyber law of India which is Information Technology Act, 2000 whose main motto is to protect cybercrimes. This chapter focused on how this section effectively protects cybercrimes and ensures human rights. Moreover, this chapter also shows how, Indian Constitution ensures and uploading human rights among its citizens.

3.1 The ICT Act, 2006 and its Positive Impact on Cyber Crimes

The Information and Communication Technology Act, 2006 gives us protection from cyber related offenses. There are many cybercrimes committed daily through using the internet and computer. Section-56 of the ICT Act, 2006 deals with hacking and its punishment. This section stated that any act damages, destroys and alters any information of a computer not belonging to that person is an offence of hacking under this section. If any person committed such offence shall be punishable with ten years of imprisonment and with 10 crores of fine under this section [28]. Moreover, section-62 of the ICT Act, 2006 stated that if anyone for the purpose of obtaining any license or digital signature makes any misrepresentation or suppresses any material fact from the Controller of Certifying authority shall be punished with two years of imprisonment and to lacs taka fine or with both under this section [29].

Furthermore, section-64 of the ICT Act, 2006 stated that if any person published any digital signature certificate shall be punished with two years of imprisonment and to lacs taka fine or with both under this section [30]. On the other hand, section- 65 stated that if anyone publishes any digital signature for fraudulent purpose he shall also be punished with two years of imprisonment and to lacs taka fine or with both under this section [31]. On the other hand, section-66 stated that if any one used a computer, email or computer network for committing offences under this Act shall be punished with the punishment selected for the core offences under this Act [32]. Moreover, section-67 has dealt with the companies whoever commits offences under this act shall be punishable under the ICT Act, 2006 [33].

Thus from the above discussion we can understand that ICT Act, 2006 has its positive impact to criminalize those persons and companies as well who committed cybercrimes, internet related crimes using computers shall be punished under this section. This Act has fulfilled its motto to prevent cyber crimes and other internet related crimes as well.

3.2 The ICT Act, 2006 and its Impact on Human Rights

The Information and Communication Technology Act, 2006, was created to safeguard our citizen protection from any cyber related crimes. One of the important right of the human being is 'right to privacy' which is a human right one can enjoy in his or her whole life and this right is mentioned in the Article-12 of the UDHR which includes that everyone shall have right to privacy including his family, home and any other corresponds which attacks upon one's honor and reputation [34]. Not only UDHR but also ICCPR has clearly mentioned about the 'right to privacy' in its Article-17 which ensures that no unlawful interference will be tolerated in one's privacy, family and home or other corresponding which may attack on one's honor and reputation [35].

Bangladesh as a party to the both UDHR and the ICCPR, it recognizes the 'right to privacy' on its Constitution under the Article-43(a) which ensures one's right to be secured in his home and no one shall take entry into one's home for search and seizure and Article-43(b) ensures right to privacy of one's corresponds and other means of communication. Though our Constitution did not mention the word 'right to privacy' directly, Article 43 includes the right to privacy of one's home and communication which is a fundamental right of every citizen of Bangladesh. Along with the Constitutional provisions our Government made cyber laws to ensure the right to privacy of electronic medium or internet networks.

Though ICT Act 2006 did not have any direct section regarding the 'right to privacy' but in section-54 which stated that if anyone access to any computer network without the permission of the owner of that computer and damage, download any data or introduce any virus to that computer system is considered to be an offence under this section [36]. This section protects the privacy of the person using the computer network. By this section we can understand that Bangladesh has ensured 'right to privacy' one of the fundamental human rights in our constitution as well as our cyber laws which proves that we showed respect to the international instruments which we are the signatory parties.

3.3 The Digital Security Act, 2018 and its Impact on Human Rights & Cyber Crimes

Digital Security Act, 2018 is adopted by the government of Bangladesh to ensure the right of our citizens regarding communication through electronic medium or internet network. This Law on of the most important and as well controversial laws of Bangladesh. It has some provisions which ensures our right to privacy regarding using computers and the internet. In Article-18 of the DSA, 2018 mentioned that if anyone makes any illegal access to the computer network or computer system with intent to commit any crime then such act is considered as an offence under this Act [37]. Article-26 of this Act is another provision which states that if any person possesses, collects, provides any identity information without any lawful authority shall be considered as an offence under this Act [38]. Moreover, there are other provisions which protect the right to privacy. Article-29 which ensures our honor and reputation.

This section criminalizes those persons who transmit one's private information to defame that shall be considered as an offence under this section [39].

Moreover, section-23 of the DSA, 2018 stated that if any person commits digital or electronic fraud through the computer shall be punished with 5 years of imprisonment or 5 lac taka fine or with both [40]. Furthermore, section-24 of the Digital Security Act, 2018 stated that intentionally holding the identity of any other person by using a computer shall be punishable under this section [41]. Again, section-34 also introduces hacking is a punishable offence under this Act [42]. Section-29 of the DSA, 2018 also punished with offences of publication of any defamatory information under section-499 of the Penal Code, 1860 [43]. Furthermore, section-33 of this Act shall consider offences of holding or transferring data information of government, semi-government or any organization without illegal access [44]. Again section-36 also stated that any offence under this act if done by any company that company shall also be punishable under this Act.

From these above-mentioned sections of the DSA, 2018, it can be understood that, our government shall be working to ensure human rights and trying to make a positive impact of our cyber laws on the human rights mentioned in the instruments of international human rights. This Act not only protects human rights but also protects cybercrimes committed by any person or company under this Act. Though this Act has so many good provisions which protect cybercrimes and human rights, this Digital Security Act is now repealed by the government of Bangladesh and enforced another new cyber law in place of Digital Security Act, 2018 that law is Cyber Security Act, 2023.

3.4 Cyber Security Act, 2023 and its Impact on Human Rights and Cybercrimes

This Cyber Security Act, 2023 has been enforced recently on the basis of the criticism of the Digital Security Act, 2018. But if we look into the penalties for the offences of this new Cyber Security Act of 2023 we will find that there shall be no change between the Digital Security Act, 2018 and Cyber Securities Act, 2023. All the provisions of punishments committed through computer and internet are same as it was in Digital Security Act, 2023. The main changes were made in the Security Councils of this new Act and Critical Information of Infrastructures. Thus it differentiates its provisions from the Digital Security Act. As the offences and punishments are same in this Act as to the Digital Security Act of 2018, thus, it can be said that Cyber Security Act, 2023 has the same positive impact on human rights and cybercrimes as it impacted before in the Digital Security Act, 2018.

In Article-18 of the Cyber Security Act, 2023 mentioned that if anyone makes any illegal access to the computer network or computer system with intent to commit any crime then such act is considered as an offence under this Act [45]. Article-26 of this Act is another provision which states that if any person possesses, collects, provides any identity information without any lawful authority shall be considered as an offence under this Act [46]. Moreover, there are other provisions which protect the right to privacy. Article-29 which ensures our honor and reputation. This section criminalizes those persons who transmit one's private information to defame that shall be considered as an offence under this section [47]. Furthermore, section-33 of this Act shall consider offences of holding or transferring data information of government, semi-government or any organization without illegal access [48].

Again section-36 also stated that any offence under this act if done by any company that company shall also be punishable under this Act. All of these sections- 18, 26, 29, 23, 24 34 and 36 of those mentioned in the Cyber Security Act, 2023 are as same as to the Digital Security Act [49].

3.5 Indian Information Technology Act, 2000 and its impact on Human Rights & Cyber Crimes

The most important cyber law of India is the Information Technology Act, 2000 that deals with cybercrimes and E-commerce. It is the law that is also known as IT law and it was made based on the UNCITRAL Model Law of 1966. The main motto of this Act is to prevent cybercrimes. Section-43 of the IT Act, 2000 stated that if any person who accesses a computer without informing the owner of a computer and destroying, deleting data with intent to do any malicious act shall have committed offence under this Act. Moreover, section-66 deals with hacking any computer system with a malicious intention shall be punished with 3 years of imprisonment or the fine of Rs.5,00,000 or both. Furthermore, section-67 stated that publishing any obscene information or pornography with the use of computer and internet in public shall be punishable with imprisonment up to 5 years or fine of Rs. 10,00,000 or both [50].

Thus, it can be understanding that Indian Information Technology Act, 2000 has its positive impact of preventing cyber crimes as hacking and destroying information through computer and as well as it protecting right to privacy which is one of the most important human right of every human being. The Constitution of India also upholds the importance of human rights. Consequently, the constitution of India and the ICT Act both are ensuring and upholding human rights and make a positive impact on the society.

The Constitution of India adopted the provisions of ICCPR. Those provisions are: Right to life and liberty, Freedom of movement, right to equality, Freedom of speech and expression, right to assembly peacefully, Equality in opportunity of public service, Equality and equal protection before law and non-discrimination on the basis of any ground such as race, color, sex, language, religion etc. These rights of ICCPR are adopted by the Indian Constitution as fundamental rights under III. Further there are some rights which were adopted from IESCR. Those are: Right to work, Equal Pay for equal work, right to living wage and decent standard for life, Compulsory education for children and Improving public health. These are the rights of IESCR that are adopted under part IV of the Indian Constitution as Directive Principle of State Policy. The Indian Constitution has almost covered all the two sets of human rights of ICCPR and IESCR and has the responsibility to protect those rights. Moreover, the Indian judiciary has also taken appropriate steps to safeguard the fundamental rights and as well as the directive principles of state policy.

3.6 Role of Implementation of Cyber laws and Constitution of Bangladesh and India:

The Government of Bangladesh and India both are the parties of the International Instruments such as: UDHR, ICCPR and IESCR. All these instruments dealt with human rights and protecting human rights. Both Bangladesh and India has made provisions of human rights in their cyber laws with respect to international instruments. As we found in this chapter, the right to privacy is one of the human rights mentioned by the UDHR and also in the ICCPR. This right is ensured in section-54 of the ICT Act, 2006 [51]. Moreover, both countries' constitutions deal with human rights. Moreover, there are

many provisions in the Digital Security Act, 2018 which also protect human rights in Bangladesh. Furthermore, the Indian IT Act, 2000 has also protected human rights under section-43 of the IT Act, 2000 [52].

The Constitution of India adopted the provisions of ICCPR. Those provisions are: Right to life and liberty, Freedom of movement, right to equality, Freedom of speech and expression, right to assembly peacefully, Equality in opportunity of public service, Equality and equal protection before law and non-discrimination on the basis of any ground such as race, color, sex, language, religion etc. These rights of ICCPR are adopted by the Indian Constitution as fundamental rights under III. Further there are some rights which were adopted from IESCR. Those are: Right to work, Equal Pay for equal work, right to living wage and decent standard for life, Compulsory education for children and Improving public health. These are the rights of IESCR that are adopted under part IV of the Indian Constitution as Directive Principle of State Policy. The Indian Constitution has almost covered all the two sets of human rights of ICCPR and IESCR and has the responsibility to protect those rights.

On the other hand, the Constitution of Bangladesh has also ensured human rights. The Constitution of Bangladesh contains two sets of human rights. One is the Fundamental principle of state policy which is discussed from Article 8-25, part-II. These are not judicially enforceable rights but shall be followed by the government to ensure such rights as to development of the citizens. Another set of rights is fundamental rights which contains under Article-26 to 47, part-III of the Constitution of Bangladesh which is judicially enforceable rights under Article-44 of the Constitution [53]. Bangladesh is a country that by the principle of the Constitution believes in the equality of all citizens in the matter of protection of law [54].

But it is a matter of regret that there are many provisions that violating human rights through cyber laws. Government of Bangladesh while protecting human rights by their cyber laws and other laws, on the other hand it curtails human rights using these cyber law as a shield. Thus, the role of implanting cyber laws in Bangladesh is sometimes effective and sometimes violating human rights as well.

This chapter gives us information regarding the positive impact of the cyber laws of Bangladesh. Bangladesh, which is a developing country, is enforcing various cyber laws and cyber law related provisions in its laws and trying to ensure human rights as it is obliged through international instruments. Moreover, the Indian constitution also upholds human rights and it has its IT Act 2000, which ensures human rights as per constitutional obligations and other international obligations and also protects cybercrimes.

4. Negative Impact of Cyber Laws of Bangladesh and India

Cyber laws of Bangladesh have so many provisions which are violating our freedom of expression. This chapter will discuss the negative impact of the cyber laws of Bangladesh over human rights. Moreover, this chapter also introduced the Indian cases of the Supreme Court which upheld human rights in its country. Moreover, this chapter will also discuss the Government of Bangladesh who has failed to uphold the human rights of its citizens which are obliged over them by the constitutional provisions. Moreover, the Supreme Court of Bangladesh is in a silent position in regards to ensuring the right to freedom of expression. This chapter also

discusses how the government of Bangladesh are in a backward position from India while protecting human rights.

4.1 The ICT Act, 2006 and its Negative Impact on Human Rights

The Information and Communication Technology Act, 2006 was the first and foremost Act adopted by Bangladesh to set the rules for protecting cyber crimes in our country. Though it has positive impact on human rights but from its inception it faced many controversies as it has incorporated section-57 where it has been clearly stated that if any one transmitted any false material in an electronic medium which instigate its readers to deteriorate the law or which may hurt any religious belief is considered to be an offence [55].

From this above-mentioned article we can understand that by this article the government tried to impose restrictions over freedom of speech of its citizens. If we note that in the section-57 there was mentioned a word false materials but there was no definition of false in the Act. Moreover, we can also find out if any person who is crime-prone and is searching for chances to deteriorate the laws if he sees any true information online and violates any law. Then only for the reader's reaction the transmitted person cannot be considered as an offender. It sounds that the right to freedom of expression is violated by section-57 of the ICT Act 2006.

Moreover, even any innocent post can be considered an offence in line with the text of section-57 of the ICT Act, 2006. As per this section 57, crimes cannot be considered as crimes depending upon illicit nature and motive of the crimes rather it considered as crimes depending upon the reader's personal opinion and belief and attitude. Furthermore, this section-57 of the ICT Act, 2006 is synonymous with ambiguity and creates threat to the freedom of expression of the people of Bangladesh. Moreover, this ambiguous section gives so much power to the authority or the government to misuse any true news published by the press or by any person through social media. By using this section, the authority of the state can easily arrest anyone at any time which gives excessive power to any state authority and shall have high possibilities to misuse this section [56].

Though, in 2018 after so much controversy this section was repealed but there was another section remained in this Act which is section-46. Section-46 of the ICT Act gave power to the authorities to prevent broadcast any information by any computer which threatened the safety, security of Bangladesh and its friendly relation to the other states [57]. If we note this section, we can find that the government may use this power not to transmit any true fact against the government and can violate the freedom of speech of its citizens. This imminence of power on the hand of the government violated human rights.

Bangladesh is one of the parties of ICCPR and Article-19(2) of the ICCPR stated that everyone shall have the right to freedom of expression and one shall express his opinion through orally or in writing or in print or any manner of his own choice [58]. Not only ICCPR but also Bangladesh has an obligation to ensure the right to freedom of expression mentioned in the UDHR, as one of the signatory parties of the UDHR. Article- 19 of the UDHR expressly stated that every person has the right to freedom of expression through any medium [59]. Again, Article-9 of the European Convention on Human Rights (ECHR) also protects the right to freedom of expression [60]. Moreover, freedom of speech and

expression is guaranteed under Article-39(2)(a) of the Constitution of Bangladesh [61]. Not only this it has mentioned reasonable restrictions over the fundamental right to freedom of expression which at some extent curtailed our human right which our government and as well as our preamble of the Constitution promised to be ensured.

Though The Information and Communication Technology Act, 2006 was made to ensure our right to privacy in the social network, this Act has some sections which can be considered as bad laws that violate our freedom of speech, one of the human rights of every human being. Furthermore, though this Act was made to prevent cybercrimes but practically no one can take actions under this article. It is very upsetting that crimes that are committed through mobile phones are not addressed by this Act. But on the other hand he also gave light on the positive side of this ICT Act, 2006 [62].

4.2 The Digital Security Act, 2018 and its Impact on Human Rights

After facing many controversies regarding the Section-57 of the ICT Act 2006, the government repealed this section and made another Act titled “Digital Security Act, 2018” for the purpose of securing our life from the crimes committed through digital devices. Though the government repealed section-57 of the ICT Act, it again failed to fulfill its promise to given freedom of speech to its citizens. There are some provisions which also restrict the human rights of the citizens of Bangladesh than the previous one.

If we look into the section-57 of the ICT Act, 2006 we can found that if anyone publishes or transmits any information through any electronic media which is fake or obscene and its effect is if any person by reading and seeing it felt hurt in his or her religious belief or instigate that person against any person or organization, then this activity will be considered as offence under this section and shall be punishable with imprisonment for a term which may extend to ten years and with fine which may extend to ten crore. The new Digital Security Act has been enacted to deal with defamation, hurting religious sentiment, instigating any person against any organization. All of these are the terms which were used in the previous repealed section- 57 of the ICT Act, 2006. He discussed that if we look into section-17 of the Digital Security Act, 2018 we can find that if any one uses social media to intimidate any person then that shall be considered an offence under this Act [63].

Section-21 of the DSA, 2018 stated that if anyone makes any campaign or propaganda through digital media against the liberation war, father of nation, national anthem or national flag then such act shall be considered as offence [64]. This section made broad and vague content based restrictions over freedom of expression of its citizens [65].

Again, section-25 of the DSA, 2018 states that, if anyone transmits any false information which annoys or insults any person or which affects the image or reputation of the country shall be considered as an offence [66]. The restrictions imposed by this section are not connected with the reasonable restrictions that hampered the state security and its friendly relation to the other states and moreover, this section again uses the word ‘false’ which was used in the section-57 of the ICT Act, 2006. The word false does not have any definitions which define what can be considered as a false statement or how one can understand the information was false or not, it is a vague word which is used to control over the press and freedom of expression of the citizens of Bangladesh.

Moreover, section-28 of the DSA, 2018 states that, if anyone transmits any information through electronic format which hurts religious sentiment shall be considered as an offence. If we look into this section we can find that it is similar to the section-57 of the ICT Act, 2006 which was repealed and after DSA, 2018 came with some other provisions with a different wording and vaguer or broader sense than the previous repealed one. This section completely restricted its citizens from commenting or spreading their own religious information through digital or electronic media. Because if any true fact of a religion cannot be the same with the other opinion of the other religious person and any non-religious or other religious readers cannot always support the true information of any other religious person. It doesn't mean that the true facts or information cannot be spoken by anyone. It is directly curtailing one's freedom of expression, one of the human rights in the name of religious sentiment or value.

Moreover, section-29 of this new Act stated that if any information published through the digital media by anyone with intent to defame someone then that is also considered an offence under this section. From these new provisions we can understand that the section-57 is not repealed rather it comes in a different and broader way into the Digital Security Act, 2018 [67]. By making these above mentioned sections the government of Bangladesh not only curtailed the fundamental right of its citizen mentioned its Constitution but also violated the provision of the ICCPR, Article 19(2) and Article 19 of the UDHR which Bangladesh is the party and has an obligation to ensure the human rights for all the citizen of Bangladesh.

Afterwards, facing so many controversies regarding the sections of the Digital Security Act, 2018, the government of Bangladesh had to repeal this Act. As most of the sections of this Act curtailing human rights and violates our freedom of expression, thus the Digital Security Act, 2018 was repealed and another new law has been made named the Cyber Security Act, 2023.

4.3 Cyber Security Act, 2023 and its negative impact on Human Rights

Cyber Security Act, 2023 is one of the most recent cyber laws enforced by the government of Bangladesh. This Act was made after repealing the Digital Security Act, 2018. As there were so many sections in the Digital Security Act, 2018, the government would become bound to repeal this Act and enforce a new Cyber Law named Cyber Security Act,2023.

But This is a matter of great regret that though this new Act has been introduced for the purpose of fulfilling human rights but no change has ensured in this new Act rather this Act has the same provisions which had in the previous one. He discussed that if we look into section-17 of the Cyber Security Act 2023 we can find that if any one uses social media to intimidate any person then that shall be considered an offence under this Act [68]. Section-21 of the Cyber Security Act 2023 stated that if anyone makes any campaign or propaganda through digital media against the liberation war, father of nation, national anthem or national flag then such act shall be considered as an offence [69]. This section made broad and vague content based restrictions over freedom of expression of its citizens [70].

Again, section-25 of the Cyber Security Act 2023 states that, if anyone transmits any false information which annoys or insults any person or which affects the image or reputation of the country shall be considered as an offence [71]. Moreover, section-28 of the Cyber

Security Act 2023, states that, if anyone transmits any information through electronic format which hurts religious sentiment, it shall be considered an offence [72]. Moreover, section-29 of this new Act stated that if any information published through the digital media by anyone with intent to defame someone then that is also considered an offence under this section [73].

If we observe these above-mentioned offences and penalties mentioned in the Digital Security Act, 2018 are as same as the Cyber Security Act, 2023. The main changes were made in the Security Councils of this new Act and Critical Information of Infrastructures. Thus it does not differentiate its provisions from the Digital Security Act. As the offences and punishments are same in this Act as to the Digital Security Act of 2018, thus, it can be said that Cyber Security Act, 2023 has the same negative impact on human rights as it impacted before in the Digital Security Act, 2018. Consequently, the main motto of enforcing new cyber law in Bangladesh has failed another time and also curtailing freedom of speech of the citizens of Bangladesh. Thus, it can easily understandable that the government just promised us not to curtail our freedom of speech but it just made an eye wash of our citizens by repealing the previous Act and enacting a new Act.

4.4 Indian Information Technology Act, 2000 and its negative impact on Human Rights

The main cyber law of India is the Information Technology Act, 2000. There was a section-66A(a) of this Act which stated that if anyone sends any information of offensive and menacing character through a computer resource or communication device shall be considered an offender under this Act [74]. Moreover, Section-66A(b) had stated that any information which is known as false and that false information has been sent to others for the purpose of causing annoyance, inconvenience, danger through using such a computer are to be considered an offence under this section [75]. Furthermore, section-66A(c) has stated that information sent through any electronic mail or electronic mail messages for the purpose of causing annoyance or inconvenience or to deceive or to mislead messages are to be considered as an offence under this section [76].

If we look into this section-66A of the IT Act 2000, we can find that this section mentioned about any spreading of false information through the internet has been considered an offence, but this section does not have clarity about what constitutes false information. Any information which is spread by the press or any citizen of India, sometimes has truth in its news but the government used that information as false in their own view and considered such speeding news as an offence under this section. Furthermore, this section also includes offensive information not being allowed to spread through computers or any electronic device. But it is possible that any true fact or information can be considered for some group of people as offensive but some people cannot have considered the same information as offensive. Thus, it has become an issue for the citizens of India, to express their own point of view and opinion through using the internet, computer or any other electronic device. Afterwards, this above mentioned section had been repealed by the Supreme Court of India through a case named *Shreya Singhal v Union of India case (2015)* [77].

4.5 Role of Indian Government in the case of *Shreya Singhal v Union of India case (2015)*

The Constitution of India guarantees the freedom of expression of every citizen under article-19(1) (a). This article shows an obligation over the government to ensure freedom of speech of its citizens. Not only the Constitution of India but also the international instruments such as: UDHR, ICCPR and European Conventions on Human Rights and Fundamental Freedom also created an obligation over the government of India to ensure freedom of expression. Thus, the Indian government has a duty to comply with the obligation of these international covenants and treaties and also has an obligation to uphold its constitutional obligation through making proper laws and regulation. *Shaheen Dhada and Rinu Shrinivasan* were arrested by the Mumbai Police for expressing their own views in Facebook against Bandh. This Bandh was declared by the government due to the death of Bal Thackrey in Mumbai. One of the girls was arrested for posting her own opinion in social media and another was arrested because she liked the post of the first girl. Both of the girls were arrested under section-66A of the Information and Technology Act, 2000. Police arrested both of them on the ground of the post share and liked by them had created hatred and annoyance in the minds of the public. After this arrest the whole Indian citizens became restless and showed their views that this section-66A of the IT Act, 2000 has violated the right to freedom of expression has mentioned in the Constitution of India under article-19(1)(a). Afterwards, around ten writ petitions were filed in the Supreme Court of India by the people from all over India challenging the constitutional validity of the section-66A of IT Act, 2000. All the ten writ petitions were clubbed by the Supreme Court of India and made a one single Public Interest Litigation. Consequently, the case was named *Shreya Singhal v. Union of India*. In this case, the petitions argued that section-66A of the IT Act, 2000 was unconstitutional as it provides that annoyance, inconvenience, danger, obstruction, insult these are the factors to arrest of a person but this section does not provide any definition of these terms. Moreover, this term cannot be considered as a reasonable restriction under article-19(2) of the Indian Constitution. In this case the Supreme Court declared the-section-66A as violating the freedom of expression guarantees under the Constitution of India under article-19(1) as it does not include reasonable restrictions under article-19(2) of the Indian Constitution [78].

There are so many cases where the honorable Supreme Court of India has upheld the right to freedom of expression, some of the landmark cases are: *Romesh Thappar v. State of Madras*, which held that freedom of expression is considered the foundation of democratic organization [79]. Another landmark case named *Bennet Coleman v. Union of India* held that freedom of expression and press is the ark of the covenant of democracy [80]. Thus, the Supreme Court of India has ensured freedom of expression, one of the human rights in their country through landmark case decisions.

Thus, we can understand after analyzing this aforementioned case that the government of India is ensuring human rights. As the Executive of India is separated from the Judiciary, thus the Supreme Court can issue such landmark judgments protecting human rights of India. Here, we can understand that the government of India is working on protecting human rights in their country which they promised to their citizens.

4.6 Role of the Government of Bangladesh in protecting Human Rights:

From the discussion of these chapters, we can clearly understand that the government of Bangladesh time by time enforcing new cyber laws by the promise of protecting human rights but all the time it fails to protect freedom of expression of its citizens. Though the Government had promised through its Constitution to ensure human rights but they never ensured rather they used cyber laws as a tool to protect their own benefits and power. Repeatedly, violating freedom of expression is now one of the nature of the Bangladeshi Government. It is high time to enforce new cyber laws or any verdict of the Supreme Court of Bangladesh which protects the freedom of expression of the citizens of Bangladesh. In this regard, Bangladesh is in a backwards position from India. The Government of Bangladesh should take any effective step to keep their promise of protecting human rights.

The cyber laws of Bangladesh were several times repealed but every time failed to protect the right to freedom of expression and freedom of press. But if we look into the Indian scenario and case studies, we can find that the Indian Supreme Court is more effective than the Bangladesh. As Supreme Court of India declared unconstitutional their controversial section-66A of the IT Act, 2000 but it is a great regret of Bangladesh that our Supreme Court is silent about the protection of freedom of expression and our government continuously washes eye of ours by repealing one cyber law and making another cyber law which every time curtails our freedom of expression and freedom of press.

5 Findings and Recommendation

5.1 Major Findings:

1. Bangladesh and its Constitution upheld and protect the human rights
2. Bangladesh have more than one cyber law which protecting human rights
3. Bangladesh also created some provisions in cyber law which curtailing our human rights.
4. Indian Supreme Court upholding human rights for their citizens.
5. Bangladesh fails to protect human rights in comparison to India.

5.2 Recommendation

1. It is to be recommended that Bangladesh must have to protect its human rights.
2. Bangladesh should have to create some laws which protect the human rights of its citizen's.
3. Bangladesh should have to be more responsible upon protection of its citizen's human rights.
4. Government of Bangladesh should have to be more cautious about their cyber laws which somehow curtailing human rights such as freedom of expression and freedom of press.
5. Government of Bangladesh have to abolish the sections of Cyber Security Act, 2023 which curtailing human rights like freedom of expression.

6. Conclusion

The research question of this thesis is How effective are the current cyber laws protecting the human rights of citizens in Bangladesh compared to India? By answering this question, this thesis will find out how Bangladesh is protecting human rights by their cyber laws in respect of India. Thus, brought in light on how the Indian Supreme Court upholding human rights for their citizens. It also brings out a solution that in what way Bangladesh can also uphold human rights through its cyber laws.

In Bangladesh there are more than one cyber laws. Most of the cyber law contains at least one provision which curtails our freedom of expression. It is a great regret that the government of Bangladesh promises to protect human rights but curtailing human rights using cyber law as a shield. Every time they break their promises. As if we look into the very first cyber law of Bangladesh which is ICT Act 2006, it had section-57 which violated the right to freedom of expression. Government of Bangladesh faced so many controversies regarding this section-57 of the ICT Act, 2006, then this section was repealed and a new law had been enforced named, The Digital Security Act, 2018.

This Digital Security Act, 2018 had contained more than one section which was curtailing human rights, such as, right to freedom of expression and right to privacy etc. Though this Act was made for protecting citizens from cybercrimes but used as a shield to the government by curtailing the freedom of expression of its citizens. Afterwards, this Act was also repealed and a new Act named Cyber Security Act, 2023 was made in the previous year. Here, there are some slight changes but no changes made in respect of those sections which curtailing our right to freedom of expression. Thus, the government of Bangladesh continuously curtailing human rights by using cyber law as a shield to protect the government.

On the other hand, if we look into our neighboring country India, we can find that they also faced this sort of issues where human rights were violated through cyber law of India and arrest of the citizens made in that regard. IT Act, 2000, had section-66A which violated freedom of expression of Indian citizens. But in the case of *Shreya Singhal v. Union of India* [81], the Supreme court of India held that declaring the-section-66A as violated the freedom of expression guarantees under the Constitution of India under article-19(1) as it does not include reasonable restrictions under article-19(2) of the Indian Constitution. Thus, we can see that India had taken step to abolish this section-66A of the IT Act, 2000 which curtailed human rights and upholding human rights by the verdict of this case.

But, it is a great regret, Bangladesh has fallen behind in this regard. Compared with India, we can find out that our government is one after another making and repealing new cyber laws but all the time it fails to protect human rights. Though our neighboring country had successfully solved the same issue only by one verdict of the *Shreya Singhal* case.

In this scenario, the government of Bangladesh must take a step regarding this issue. As this is one of the most important factors of democracy that the citizens have their freedom of speech against the government, thus this right must be ensured by any democratic country. Citizens of Bangladesh are now living in the country with a fear of arrest and shut their mouth. In this way, our country cannot be developed; rather, we are in a society where we aren't able to speak for our own rights. The Government of Bangladesh has to abolish the sections of Cyber Security Act, 2023 which curtailing

freedom of expression so that we can live and speak without any fear of arrest. Furthermore, this time the government of Bangladesh must enforce a complete cyber law which protects cybercrimes and also ensures human rights such as freedom of expression and right to privacy etc.

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