



RESEARCH MONOGRAPH

ON

“AN ANALYSIS ON DATA PROTECTRION AND PRIVACY LAW IN
BANGLADESH”

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TITLE PAGE



RESEARCH ON

“AN ANALYSIS ON DATA PROTECTION AND PRIVACY LAW IN
BANGLADESH”

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Dear Sir,

It's a great pleasure for me to submit "An Analysis on Data Protection and Privacy Law in Bangladesh". While preparing this research Monograph Paper I have attempted my dimension best to keep up the required Standard. I trust that this research monograph will satisfy your desire.

I hereby do solemnly declare that the work presented in dissertation has been carried out by me and has not been previously submitted to any other institution. The work I have presented does not breach any copyright.

I, along these lines, supplicate and Hope that you would be sufficiently benevolent to this exploration paper for advancement.



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DECLARATION

I hereby declare that the research paper entitled “AN ANALYSIS ON DATA PROTECTION AND PRIVACY LAW IN BANGLADESH” has been done by Abid Hasan (Id: 221-38-027) in partial fulfillment of the requirement for the degree of LLM program from Daffodil International University. This research monograph has been carried out successfully under my supervision.



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LIST OF ABBREVIATIONS

| | |
|-------------|---|
| BRTC | Bangladesh Telecommunication Regulatory Commission |
|-------------|---|

| | |
|------------|----------------------|
| DSA | Digital Security Act |
|------------|----------------------|

| | |
|------------|--|
| ICT | Information and Communication Technology Act |
|------------|--|

| | |
|------------|--------------------------|
| USA | United States of America |
|------------|--------------------------|

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“AN ANALYSIS ON PROTECTION AND PRIVACY LAW IN BANGLADESH”

Abid Hasan

Abstract

In the modern age data protection is a big issue. This paper contains with the idea of the right to privacy and data protection law in Bangladesh. It focuses on the current status of data privacy in Bangladesh and entails with the recommendation of necessity to further develop data protection. In respect of personal data privacy the reflection have also been made on the laws prevailing in Bangladesh and actually how inefficient they are compared to the reality prevailing in the country. Moreover, the paper goes to elaborate about personal data protection laws falling within the range of right to privacy in the context of the Constitution of The People’s Republic of Bangladesh. It focuses that Bangladesh need to enact personal data protection laws. This paper aims to critically access to the current framework and the practices of other state should be reflected and tends to prescribe a fresh privacy law keeping in mind the recent developments global.

CHAPTER I

INROUCRORY CHAPTER

1.1 Background of the Study (Literature review)

At first German State of Hesse was pioneer in passing the main Data Protection Act in the year 1970. In the year 1973, Sweden passed the primary Data Protection Statute in the national level. In 1981 the Council of European Convention set up norms among part nations, to guarantee free progression of data among them without infringing the personal privacy. In 1998 changed the Data Protection Act, which was based on an EC order of 1995 and was presented with the express point of protecting right to privacy and data.¹ [1]. The Data Protection Act, 2018 of UK controls the manner in which one's very own data is utilized by others. The said Act is the UK's usage of the General Data Protection Regulation (GDPR) which replaces the Data Protection Act, 1998². [2]. In South Asia, India has an enactment to protect privacy and data while Pakistan drafted the enactment. According to The Supreme Court of India, privacy is a fundamental right which prompted the definition of an exhaustive Personal Data Protection Bill 2019. It decides to adjust India's data protection system with the EU's General Data Protection Regulation, by securing citizens' data³

Universal Declaration of Human Rights in article 12, everyone has the right to protection of the law against any interference with his privacy⁴.

¹“DATA PRIVACYACT: A BRIEF HISTORY OF MODERN DATA PRIVACY LAWS”, Eperi April 2018. [Online] Available:<https://blog.eperi.com/en/data-privacy-act-a-brief-history-of-modern-data-privacy-laws?fbclid=IwAR3QeTi72gig6H8FN9geeVBWg_ddjUFSSlwGR-YZ9WTnnCZ7mONQIIWJS_>

²International network of Privacy Law Professional “A BRIEF HISTORY OF DATA PROTECTION: HOW DID IT ALLSTART? “ 2018. [Online] Available: <<https://inplp.com/latest-news/article/a-brief-history-of-data-protection-how-did-it-all-start/?fbclid=IwAR3o3y5iLctbJUJCO2f-ZiUwgUNV3TP6dDrxiIEu4A1rHI8DyJwGhifoK>:>

³Mathur, A “Will India's new data protection law serve as a government surveillance tool?” July2020. [Online] Available:<https://m.globallegalpost.com/big-stories/will-indias-new-data-protection-law-serve-as-a-government-surveillance-tool-4261027/?fbclid=IwAR0Hlm1aPCfgoDf6cGJ4--dIPk4Uj_OrQ31pURS_kC5-jXoHp6iP4eBRBs >

⁴Islam,M “In the information technology age, we need a law to protect our personal data” February,2020.<<https://tbsnews.net/opinion/information-technology-age-we-need-law-protect-our-personal-data-44259?fbclid=IwAR2VV9h9kjbVvYk3YDYoljNXARxC-9ueyPuyZDfKGYzQ7dlh5YYxSplj>

According to South Asia Area of Regional Cooperation, in Bangladesh there are no significant developments on data privacy law. Under the Bangladesh Digital Security Act the issue of data protection has been managed in a restricted way ⁵.

The United Nations Conference on Trade and Development (UNCTD) in a report stated that around 34.0 percent countries, including Bangladesh, over the world are yet to safeguard citizens' data and privacy. Bangladesh has enactments on electronic exchange, consumer protection and cybercrime yet there is no legislation on privacy and data protection up until now. Just 66% of the countries of the world safeguard individuals' data and privacy, regardless of 11% increment in the appropriation of data protection and privacy enactment in the period 2015-2020. And also state that another 10% of nations have draft enactments on data protection and privacy that are required to become laws in 2020⁶.

Honorable Minister for the Ministry of Posts and Telecommunications, Mr. Mustafa Jabbar; said in an event right now Bangladesh has a digital security act yet none is identified with data protection. “Bangladesh needs to plan personal data protection act and data security law⁷.”

⁵Greenleaf, g “*Advances in South Asian Data Privacy Laws: Sri Lanka, Pakistan and Nepal*” December,

2019.[online]<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3549055&fbclid=IwAR3Ln-a6C61S13E8ni9YJyh-199BMMFtyoj1288dmp879MiBZxfdSlzSQ>

⁶*Data, privacy unprotected in one-third countries including BD: UNCTAD*” FE Online Report, May 2020. <https://thefinancialexpress.com.bd/national/data-privacy-unprotected-in-one-third-countries-including-bd-> unctad-

1588243811?fbclid=IwAR3Brb3KnV7_UA8lQBeFqbU4WMHxiCbNsZaex3xJY9uwwv4BM3N-OeQTNo>

⁷“Data protection act soon: Jabbar”, Star Business Repot; The Daily Star, November 2019. [Online]. Available:

<https://www.thedailystar.net/business/data-protection-act-in-bangladesh-soon-183232>>

1.2 Research Questions:

In this research has been limited to following question. To fulfill the purpose of the research following question will be addressed:

1. What are the present situation of the data protection and privacy law in Bangladesh?
2. How Data protection law ensure privacy?
3. How can Bangladesh adopt best practices of data protection law implemented in foreign law?

1.3 Research Objectives :

- To analyze the existing data protection system implementation in Bangladesh.
- To analyze the position of the data protection law in present world.
- To find out the practices and development of data protection law took place in othercountries.
- To find out the loopholes in present situation regarding data protection in Bangladesh.

1.4 Scope of the Study:

The scope of the research has been kept within specific issues:

❖ Inclusion

This research work is based on the legal analysis of privacy under data protection law in Bangladesh. Moreover, this research intends to determine the privacy which braches for the lacking of data protection law. Here in this research intends to analyze the existing law whichprovide privacy by data protection.

❖ Exclusion

In every sector we relate with privacy in different aspect. Privacy can breach in sector in different way. Privacy has a broad area but here only we bring the data protection related privacy issue.

1.5 Limitation of the Study:

This study is primarily constrained by time limitation. The results of this research

work must be interpreted in light of some significant limitations. This research work is based on a small number of studies. Restricted and limited access to enriched websites, journals, and articles resources have come as a hindrance to this research work. Therefore, I have to rely on the limited number of existing pieces of literature, articles, journals, and websites as a source of relevant information on this concerned matter. There are lacking of specific data protection and privacy laws in Bangladesh and resources for research is not enough. For the current pandemic situation I cannot complete my research with survey and practical review. Hence this study is also limited by the availability of contents.

1.6 Rationale of the Study:

In the age of the fourth industrial revolution, data is considered as the new currency. The jurisprudence of data protection stems from the right to privacy. In Bangladesh there is no particular law relating to data protection and privacy. In the Constitution does not expressly grant the fundamental right to privacy. The ICT Act, 2006 of Bangladesh was intended to provide the legal framework and recognition to digital signature, electronic records and controller of certifying authorities. It was not intended to deal with data privacy or data protection. However, the government of Bangladesh has enacted the Digital Security Act, 2018, aims to promote confidentiality, integrity, and availability of public and private information systems and networks with the goal to protect individuals' rights and privacy, economic interests and security in the cyberspace. Through this research will analyze the legal position of Bangladesh on data protection and privacy. The research will raise awareness regarding data protection and privacy and make analyzation to enact a new law which only focused on data privacy.

1.7 Methodology of the Study:

This research is qualitative research. In this research, a few numbers of primary and secondary sources like books, article, newspaper articles, case laws, reports have been used for the data and information moreover to match the essential information. In accomplishing this research, the available materials and literature on data

protection and privacy in the country have been reviewed. Besides that, for the analysis of the relevant issues, a limited number of documents and literature concerning data protection in foreign countries, especially neighboring country India, have been taken into consideration. So, as this research evaluates the existing works in this field and sheds light on some of the issues that have not been raised by the literature reviewed, it can be classified as qualitative research.

1.8 Structure of the Study:

This research titled “*An Analysis on Data Protection and Privacy Law in Bangladesh*” discuss the existing data protection law in Bangladesh. This study consists of five chapters. The first chapter will be the *Introductory Chapter*. In that chapter, the light will shed upon the research question, relation of the study, scope and limitations of the study along with the objectives of the study, the methodology, and other different concepts that needed to clarify for avoiding confusion about the research on the part of the audience. The Second chapter will be the *Basic Framework of the data protection and privacy law in Bangladesh*. In this chapter, the basic framework of the data protection and privacy will be discussed. The third chapter, *Data Protection and Privacy in Different Perspective in Bangladesh* will discuss the different perspective of data protection and privacy in Bangladesh. The four chapter will give an overview of practices and development that took place in , USA, India along with their plans to ensure data protection and privacy that took place in The Practices in different countries regarding Data Protection and Privacy. The sixth and final chapter, *Concluding Chapter* will provide the findings of this study; recommendations regarding the problems discussed throughout the study and conclude the whole research.

CHAPTER II

BASIC FREAMWORK ON DATA PROTECTION AND PRIVACY LAW IN BANGLADESH

2.1 RIGHT TO PRIVACY IN BANGLADESH

The black law dictionary define privacy as the right determines the non-intervention of secret surveillance and the protection of an individual's information.

In the present world Bangladesh has one of the fastest growing internet users. The number of internet users increased in our country in all the factors have facilitated towards. A study shows that in Bangladesh internet subscribers till December 2018 are almost 91 million people. Among them, mobile internet users are about 86 million⁸ . A huge amount of data and people are constantly using a lot of services like photo sharing, social networking, file sharing, Mobile banking. The consumer can enjoy online banking services over the internet. People are using ride-sharing application, online shopping and all other types of activities. The usage of online activities is producing events and logs. These events are producing data. The online activity is making user's identity and signature open to the internet.

In Bangladesh there is no explicit data privacy and protection law. Unlike USA and India Constitution, the Constitution of Bangladesh contains an explicit recognition of privacy where it has been provided that,

“Every citizen shall have the right, subject to any reasonable restrictions imposed by law in the interests of the security of the state, public order, public morality or public health- ... to the privacy of his correspondence and other means of communication.”

Without legitimate governmental concern in the interest of matters specified in article 43 there is no law can be enacted impinging on privacy of communications and correspondence⁹ .

⁸Internet Subscribers in Bangladesh December, 2018. | BTRC.” [Online]. Available: <<http://www.btrc.gov.bd/content/internet-subscriber-bangladesh-december-2018>>

⁹ Islam M, *Constitutional Law of Bangladesh*, 2012. Mullick Brothers

Under this article, through its laws the right to privacy of home and correspondence is subject to few exceptions like security of the state, public order, public morality and public health where the government can impose reasonable restrictions¹⁰ [10]. Without being authorized by the related laws, no law enforcing agents or other public officials are allowed to enter into the house of any citizen and conduct any search or seizure. But under any of the exceptions of the article that particular restriction needs to be justified. Otherwise any restriction will be declared invalid without any close proximity or nexus with those interests¹¹. Moreover, if the object can be achieved by any less rigorous means, or if the law does not provide a way of checking arbitrary or illegal exercise of the power of search or seizure, will be tantamount to be invalid. In spite of the fact that this arrangement can be marked as antiquated and inadequate, it has left the courts with chances to complex understandings. According to Article- 43(b),the chapter of fundamental rights included under this provision so that the state is bound to implement the privacy of citizen, otherwise in accordance with clause (1) of article 102 [Article-44] the victim may has the right to move the High Court Division.¹² India needed to take the refuge of 'right to personal liberty' to include the privilege to protection as a key right, where Bangladesh Judiciary can decipher its apparently 'simple' security article all the more easily to contextualize with the ever advancing new difficulties this computerized age¹³.

¹⁰ "Digital Security Act" Act No 46 of the Year 2018, Govt. of People republic of Bangladesh. Available:<https://www.cirt.gov.bd/wp-content/uploads/2018/12/Digital-Security-Act-2018-English-?fbclid=IwAR3GmYxcmzRS3xoUU1UUmUNMn7-cAF3y4uQej8TJx-Fm80dP10dqZ74uR8>

¹¹ *Bangladesh v H.M. Ershad* (2000) 52 DLR (AD) 162

¹² Advocate Md. Shahabuddin Molla and Sumiya Nahar. "Need of Personal Data Protection Laws in Bangladesh: A legal Appraisal" IOSR Journal of Humanities and Social Science (IOSR-JHSS), Volume 20, Issue 8, Ver. II (Aug. 2015), PP: 34-43. Available:<<https://www.hg.org/legal-articles/need-of-personal-data-protection-laws-in-bangladesh-a-legal-appraisal-4845>>

¹³ *Kharak Singh v State of U.P.*, 1963 AIR 1295

2.2 Statutory Provision Related to Data Protection and Privacy Law in Bangladesh:

In absence of a separate data protection and privacy law, Bangladesh has a scattered set of provisions regarding protection of privacy. Although there is no statute namely or more particularly Privacy or Data Protection in Bangladesh, but there are some enactment which may be applied to safeguard the personal data. In this part, we will be describing the privacy related legislations of Bangladesh to assess how far they are in tune with the international standards and global best practices.

2.2.1 Information and communication Technology Act, 2006

The Act is set up to provide lawful recognition and security of information and communication technology and rules of relevant subjects as it is conceivable and necessary to provide lawful recognition and security of information & communication technology and prepare rules of significant subjects. Under this Act, the government is given a power to make necessary rules for controlling the processes and procedures to ensure adequate integrity, security and confidentiality of electronic records and payments while using digital signature.¹⁴ Under the ICT Act, the Certifying Authorities of electronic signatures are supposed to adhere to security procedures to ensure that the secrecy and privacy of digital signatures are assured.¹⁵ Even additionally, the Controller, who is appointed for exercising supervision over the exercises of the Certifying Authorities of electronic signatures will guarantee that the secrecy and security of the computerized signature. In doing as such, he is supposed to make use of software, hardware and procedures that are secure from interruption and abuse by following vital standards.¹⁶ The ICT Act has made a number of privacy violations punishable. In section 55, it peruses, whoever, without anyone else or other individual, intentionally or knowingly alters, devastates and conceals any computer source code used for any system or program or system network shall be punished.¹⁷ For the purpose of this section listing of computer commands, programs, design and layout and program analysis of computer resources in any form will be viewed as computer source code.

¹⁴ Shikder, N. 'Right to Privacy and Modern Media' The Daily Star (Dhaka, 05 November 2015) <https://www.thedailystar.net/news/right-to-privacy-and-modern-medi>>

¹⁵ The Information and Communication Technology Act 2006, s 12(d)

¹⁶ The Information and Communication Technology Act 2006 s 21 (b)

¹⁷ The Information and Communication Technology Act 2006 Explanation to s 55

Under section 56 of the said Act, hacking has been named as an offense. When any person, inter alia, harms through illegal access to any such computer, computer network or any other electronic system which don't have a place with him,¹⁸ such action goes under the domain of hacking and punishable with an imprisonment of not exceeding 10 years with an amount of fine which may extend to 1 crore taka or with both.¹⁹ If any individual will in general secure access or attempts to secure access to any protected system in infringing section 47 of the same act, it will be viewed as an offense since it might cause privacy violations.²⁰ Despite the fact that the other provisions impliedly champion the right to privacy, section 63 expressly mentions about disclosing of confidentiality and privacy where it has completely been referenced that whoever accesses to any kind of electronic record, correspondence, book, register, information, document or any kind of other material to disclose any type of information without consent shall commit an offence.²¹ For such an offence, an imprisonment not exceeding two years or additionally greatest two lac fine or both will be given as punishment. If any offence herein before mentioned has been done by any company, the director, secretary, manager, partner, officer, staff of the company who has directly involvement in committing the said offence shall be guilty of the offence.²² Despite the fact that the ICT demonstration will in general be extremely cautious against interruption and unapproved admittance to various computerized gadgets, it is very powerless in handling mysterious tasks. Apparently it is very quiet in guaranteeing a pre-breach level preventive structure where it is truly necessary in handling pre-break level infringement by any individual or even by a major undertaking.²³

2.2.2 Digital Security ACT of 2018

The Digital Security Act was enacted to ensure national data security and develop laws regarding data crime identification, prevention, suppression, trial, and other related matters.

For a better understanding of personal and private data the Digital Security Act of 2018 has come up.²⁴ Although different sections of this very draft are bones of various contentions, the overall attitude towards privacy in the digital world has happened to be better than other under section 2(26). It included any information either physical or biological or other information which identifies an individual or framework and the name, address, photo, date of birth and other personal details. Aside from age old details, this definition included username, fingerprint, voice print, digital signature, iris image,

¹⁸The Information and Communication Technology Act 2006 s 56(2)

¹⁹ The Information and Communication Technology Act 2006 s 56 1(b)

²⁰ The Information and Communication Technology Act 2006 s 61

²¹ The Information and Communication Technology Act 2006 s 63(2)

²² The Information and Communication Technology Act 2006 s 67

²³ Dipon,S." Necessity of data protection laws" The Daily Star, 01 December 2015

<<https://www.thedailystar.net/law-our-rights/necessity-data-protection-laws-18037>>

²⁴ The Digital Security Act, 2018

retina image, security question or other identities available for the efficiency of technology.

A new office proposed which called ‘a director general along with other directors will lead Digital Security Agency to manage and control the activities of the proposed under part 2 of the Act. Among other necessary works, this agency will be responsible for providing digital security of all computers and digital system among other necessary works which is a precondition of maintaining privacy online²⁵.

Specifically, this agency will be working for ensuring digital security of the computer network, mobile or digital communication network of both voice and data. Since they are under an obligation of patrol on privacy violation incidences and also are under the responsibility of preventing cyber-crimes and other criminal activities too.²⁶ Also an emergency response team sets up named as Bangladesh Cyber Emergency or Incident Response Team (Bangladesh-CERT) for taking emergency remedies.²⁷ This team can work for privacy violation cases online. Moreover, for maintaining infrastructure security, this draft act has detailed protection strategy also.²⁸

Through digital tools dealing the cyber terrorist activities , this Act punishes illegal access to any computer system or computer network or device, social media or digital network of others. Also, if anyone attempts or abets or instigates others to do so or works under any conspiracy will be punished accordingly.²⁹ Since, illegal access to any system poses a great risk of privacy and data protection such provision will pave the way of better digital security regime.

In this act Section 14 has reserved punishment for violation. If any person takes the photograph of others willingly or deliberately but if it publish or send or distort the same with an ulterior motive, such act will be considered as the violation of the personal confidentiality.³⁰

²⁵ The Digital Security Act 2018 (27) s 5

²⁶ The Digital Security Act 2018 (27) s 5 (12)

²⁷ The Digital Security Act 2018 (27) s (13) (n28)

²⁸ The Digital Security Act 2018 (27) s 7

²⁹ The Digital Security Act 2018 (27) s 13(ii)

³⁰ The Digital Security Act 2018 (27) s 14(2)

Under section 16(2), the law even went past private or personal information and punishes any publishing and broadcasting of any content in any website or electronic gadget which can pervert or pollute human mind and even can defame or disparages any individual. In this digital age we have seen numerous occurrences where photographs, recordings are being distributed from outsiders gambling security of individuals. The ongoing TSC photograph of a couple became a web sensation is a case of such movement.

The very law has made a special case for the internet service providers to protect them from any kind of punishment in event they provide and reveal any data in any stage of investigation and inquiry by the law enforcing agencies.³¹ To protect the confidentiality of such information those are being used for such an investigation the service providers are required for it.³²

For fulfilling the purpose of the act, Section 35 delegates powers to the government to make necessary rules while doing so. At the same time, the legislature should take measures in keeping up weak data foundation security and the developing concerns like distributed computing and Big Data.

2.2.3 Bangladesh Telecommunication Act, 2001

Under Bangladesh Telecommunication Regulatory Act, 2001, Bangladesh Telecommunication Regulatory commission is liable for guaranteeing assurance of the security of telecommunication.³³ Under this act if any carrier fails to comply with its directions the BTRC has the authority to fine up to 300 crore Taka. Since BTRC has coordinated all specialists and substances worried to secure the classified data, infringement of such heading will draw in the very arrangement.³⁴

³¹ The Digital Security Act 2018 (27) s 25

³² The Digital Security Act 2018 (27) s 25(2)

³³ The Bangladesh Telecommunication Regulation Act, s 30(f)

³⁴ The Bangladesh Telecommunication Regulation Act, s 66A and (3)

has The BTRC made it clear that fingerprints of the users cannot be preserved in any form and should be kept with the highest alert.³⁵ But Bangladesh Telecommunication Regulatory (Amendment) Act, 2006 has been passed to broaden the scope of the 2001 Act if infringe right to privacy in larger scale where it has been stated that in protecting public order, the Government can empower its own agencies and departments to record, prevent and collect information regarding any telephone communication.³⁶ Under this amendment, the government is bound to assist any service provider. Moreover, such gathered data will be viewed as allowable as a bit of evidence.³⁷

Consequently the Government can record or tap any call without earlier warrant or request of any court. However, incidentally, phone tapping and gathering data from the conversation of two individuals is an infringement of fundamental rights.³⁸

2.3 Other Statutory Provision

Right to Information Act, 2009 has laid a security system which perceives the protection identifying with right to data. It says that no specialists, who are under the domain of the demonstration, will be obliged to uncover any data which can hurt security of individual existence of an individual.³⁹

Notwithstanding these lawful structures, Bangladesh Bank has additionally made ICT security rules where the protection in the financial sector part has been emphasized. Ironically, despite the fact that Bangladesh has gathered biometric information of its residents, it doesn't have any required strategy or guideline by Bangladesh Telecommunication Regulatory Commission (BTRC) risking the privacy of majority people of the country.⁴⁰

³⁵ Staff Correspondent, "HC clears biometric registration" The Daily Star (Dhaka, April 13 2016) <<https://www.thedailystar.net/frontpage/h-clears-biometric-registration-1208275>>

³⁶ *The Bangladesh Communication Regulatory*, s 97A

³⁷ *The Bangladesh Communication Regulatory*, S 97B

³⁸ Amin, A. "Bangladesh Telecommunication (amendment) Ordinance, 2005: National Security or Infringement on Civil Right? <<http://odhikar.org/wp-content/uploads/2012/09/Bangladesh-telecommunication-ordinanceArticle-2006.pdf>>

³⁹ *The Right to Information Act 2009*, s 7(8)

⁴⁰ *Information and Communication Policy*, 2018, art 32

2.4 Rules and Regulation on Right to Privacy

Under the power conferred in the ICT Act, the government is working on an Information and Communication Policy, 2018 which is now open for any comments and suggestions, this power conferred under the ICT Act. In the draft ICT strategy, the drafters have created a separate provision for digital security⁴¹ where the sub-rule 3.2.3 completely underscores the significance of assurance of protection of privacy as a precondition to guarantee digital security.⁴²

Information Collection and Management Rules, 2010 has made a pressing issues in the current privacy jurisprudence which emphasizes on maintaining quality and standard of data storage. General provision for the organizations who do not have any separate rules on this purpose. To protect and conserve data and information while Rule 5 prescribes the way of collecting information cannot violate privacy and personal liberty under Rule 4(f) underscored the importance of undertaking special measures taking special measures. Consent has to be given both collecting and transferring information to third party. To prevent misuse, accident and damage have to be taken appropriate mechanism or steps. Information ought to be utilized for the reason it was gathered and must be rectified and affirmed by the wellspring of such data. If law permits after then data can be disclosed to other organization. Rule 10 requires maintaining a register of information due for destruction for ensuring that the data is not stored for a period of time more than necessary. In each January this register should be updated. Under rule 14 every authority should use information and communication technology to manage data and information. In doing as such, using of customized software has been suggested.

Hence, it is evident from the above conversation that in dispersed laws, rules, and the thought of policy guidelines advanced security and protection has been talked about with no specific prioritization. The Information Collection and Management Rules, 2010 tends to reflect a number of international standards of data protection has been found that only after a careful perusal of these laws and rules. The scope of Right to Information Act, 2009 are confined rules the very limited. When innovations like big data, biometric data, target surveillance, target advertising are rising the picking up energy, Bangladesh is as yet lingering behind.

⁴¹ Information and Communication Policy, 2018, art 32 (n 43)

⁴² Staff Correspondent (n 38)

2.5 Chapter Summary

Privacy in the digital age is a global concern, the legal and constitutional set up of Bangladesh is yet to address the variety of emerging challenges related to privacy violations. Currently, Information and Communication Technology Act 2006, Right to Information Act, 2009 and the Digital Security Act, 2018 along with a few other acts, rules and regulations have expressed provisions on the right to privacy.

CHAPTER III

DATA PROTECTION AND PRIVACY IN DIFFERENT ASPECT IN BANGLADESH

3.1 The Government Stake to Protect Data

At present, one of the best significance for advancements is data. These days, individual information is considered as the most significant ware on the planet.⁴³ The commodification of individual information gathered by multinational corporations (for example: Alphabet, Apple, Microsoft, and Facebook), hazard dangers of breach of privacy and abuse or misuse of private data having a place with ordinary citizens.⁴⁴

To counter these dangers, Countries over the world have enacted legislation or implemented policies to ensure their residents to counter these dangers. The Bangladesh government's vision of a "Digital Bangladesh" has been started with the national digital revolution. The development of cellular subscriptions, digitization of state-related exercises (such as e- TIN registration, registration for examinations, application for passport, publication of results and notices, access to public information, etc.) are two of the features of this vision. In order to develop the ICT sector the project of Bangladesh government also includes implementation of various projects and programs.⁴⁵ Keeping that in mind, the government has enacted legislations and drafted policies as a safeguard against abuse. The Information and Communication Technology (ICT) Act, 2006 has already been enacted by the government and also in an action. In order Bangladesh government has proposed Digital Security Act in 2016 to ensure cyber-security and prevent cyber-crime, but it is quite unfortunate that the government has not yet formulated any formal legislation or policy on data protection specifically.

⁴³ Ahmed, U.F. "Protecting data in Digital Bangladesh" The Daily Star, 07 May 2017
<<https://www.thedailystar.net/opinion/human-rights/protecting-data-digital-bangladesh-140159>>

⁴⁴ Ahmed, F (n 49)3

⁴⁵ The Information and Communication Act, 2006

3.2 Data Protection in Different Sector:

3.2.1 Financial Sector

Bangladesh has no specific data protection law in the financial sector. However, above all generic laws, the Central Bank is the relevant regulator and enacted a Guideline on ICT Security for Scheduled Banks and Financial Institutions, which known as the ICT Guideline. The ICT Guideline is obligatory for local banks and financial institutions. For relevant encryption of electronic data used/transmitted in the electronic transfer of funds and to avoid the wrongful loss or wrongful gain for the users ensures that banks and financial institutions possessing, dealing or handling any sensitive personal data or information for consumers, maintain reasonable security practices it provides.

In Bangladesh also there has no separate data protection regulator for the financial sector and the regulators have jurisdiction over the financial sector on equal terms as applicable to all other sectors under the Technology Act and the Digital Security Act The Central Bank acts as the general sectoral regulator for financial institutions in Bangladesh.

3.2.2 Consumer Sector

The Digital Security Act, 2018 is governing the protection of personal information or data in Bangladesh under Section 26 .Bangladesh does not currently have a specific law to govern protection of personal information or data. There can have a huge impact of Section 26 in Bangladesh's digital economy, especially the telecommunication, e-commerce, banking and fintech industries. In these industries, everyday Companies handle a huge amount of customer data in electronic or digital form. Moreover, there are entities that gather customer information/data. This information/data is client generally names, their cell phone numbers and email addresses that are regularly shared with various entities for sending bulk SMSs, phone calls and emails for marketing purposes.⁴⁶ Post-establishment of the Digital Security Act, 2018, in order to comply with Section 26, telecommunication, e-commerce, and fintech companies, banks, third parties and different entities now should get authorization or consent, from the individuals (principal) whose identity information/data they are handling, or are required to revalidate their separate privacy terms and conditions. Breach could be result from absence of consent or for breach of any conditions of such consent it a non-compliance of Section 26 for which can trigger potential criminal liabilities against such entities. To ensure that an individual's identity information is

⁴⁶The Digital Security Act, 2018 s 26

used lawfully, and for the purpose it was collected for in accordance to Section 26(1), any pre-executed privacy policies or privacy terms and conditions must now be construed.⁴⁷

3.2.3 Telecommunication Sector

The Telecommunication Act, 2001 is the only law which regulates the telecommunication sector as far as data protection is concerned. Government power to intercept:

Under Section 97 of the Telecommunication Act, on the grounds of national security and public order, the Government may empower certain government authorities (intelligence agencies, national security agencies, investigation agencies, or any officer of any law enforcement agency) to suspend or prohibit the transmission of any data or any voice call, and record or collect user information relating to any subscriber to a telecommunications service. This widely drafted provision encompasses interception capabilities. The relevant telecoms operator must provide full support to the empowered authority to use such powers. The Telecommunication Act does not provide for any time limits on these powers. As a result, an interception may last for as long as the agency implementing the interception decides.

Government power to take possession of a telecom platform, on the grounds of national security and public order, the Government may require a telecommunications operator to keep records relating to the communications of a specific user under the broad powers granted in Section 97 of the Telecommunication Act.

The Government may necessary to operate on the grounds of public interest, take possession of any telecommunication system, and all arrangements under Section 96 of the Telecommunication Act.

The misuse of subscriber data are considered as offences if conducted by an official of a licensee as per Section 68 of the Telecommunication Act if in course of their duty, they:

The BTRC is the regulator of the telecommunication sector and it has full control over the telecom sector including granting licenses, monitoring license conditions, inspecting and cancelling licenses, and the import, use and manufacture of radio apparatus also certain intervention and interception powers

⁴⁷ Department of Information and Communication Technology, 2018 [online]
https://ictd.gov.bd/?fbclid=IwAR2tm_IY3V1ftv8PbuQStlTbQBpCLOM6r9Gz7egjvSJxGP7RgzRpb-OUod.

For interception purposes, 'government' means the Ministry of Home Affairs ('MOHA'), and for using the powers is given by the Home Minister or any minister appointed with the duty with the duty of the MOHA. There are no specific provisions imposing limitations on data transfers. The general regime under the Technology Act and the Digital Security Act applies. However, there is a provision in the licenses that the data aggregators, such as controllers and gateways, cannot be established outside of the country.

As there are no specific data privacy provisions for the telecom sector, no specific sanctions and penalties apply. However, for other matters there are sanctions, as described below. Failure to act as per Government intervention or interception orders.

The following sanctions may be applicable:

for first-time failures, imprisonment for up to three months and a fine of between BDT 500,000 and BDT 1 million with an additional one-month imprisonment if the fine is not paid or both.

for second time failures, imprisonment up to one year and a fine of between BDT 1 million and BDT 2 million with an additional six-month imprisonment if fine is not paid or both; and

for the third time and any additional instances, imprisonment for up to three years and a fine of between BDT 2.5 million and BDT 5 million with an additional one-year imprisonment if fine is not paid or both, and with possible cancellation of a license.

If anyone tapping of telecommunication such offence is punishable with imprisonment for up to two years and a fine of up to BDT 50 million or with both.

If anyone misuse of subscriber data such offence is punishable with imprisonment for up to five years and a fine of up to BDT 10 million or with both.

3.2.4 Health Sector

In the health and pharmaceutical sector there is no specific law or regulation but the medical ethics of the Bangladesh Medical Association ('BMA'), which apply to the confidentiality and security of data pertaining to a patient, state that 'a doctor shall preserve absolute secrecy on all he/she knows about his/her patient because of the confidence entrusted to doctors.

The regulator for the healthcare sector is The Director-General of Health Services. It has the power to grant a healthcare license, monitor license conditions, and inspect and cancel licenses.

3.3 Case Law

Personal data protection laws all within the area of right to privacy. Unlawful use of personal data also considered as violation of the person's privacy. However with respect to right to privacy, even the developed country United States does not contain explicitly the right to privacy.⁴⁸

The Constitution of the People's Republic of Bangladesh, in PART III provides that "no person shall be deprived of life or personal liberty except according to procedure established by law". In the Bangladesh legal system Judicial intervention is very much possible and so despite the fact that privacy issues does not include the matter of data protection explicitly, yet case principles may be taken into consideration.⁴⁹

Since data protection is a new area under legislative enactment, there has been no significant case law or points of reference in this regard. . However, there are a few cases from Indian courts, under a similar constitutional arrangement, which are used as precedent in Bangladesh courts:

In the case of *Kharak Singh v The State of U.P.* the Supreme Court of India mentioned that the Article 32 of the Constitution includes "right to privacy" as a part of the right to "protection of life and personal liberty". The Court took after „personal liberty“ with“ privacy“, and referenced that the concept of liberty in the Constitution was wide-ranging enough for the consideration of privacy in it. Moreover in *District Registrar and Collector v. Canara Bank*, the Supreme Court of India referenced that an individual's right to security exists and any ill-conceived attack of protection would make the individual submitting an offense answerable for the results concerning the law and that there is additionally established acknowledgment given to one side of ensuring individual security against unlawful legislative invasion.⁵⁰

In the case of *R. Rajagopal v State of Tamil Nadu*, it was held that the candidates reserve a privilege to distribute what they claim to be the biography/auto-biography of Auto Shankar to the extent that it shows up from the public records, even without his assent or approval. Yet, on the off chance that they go past that and distribute his biography, they might be attacking his entitlement to security, and afterward they will be subject for the outcomes as per law.⁵¹

⁴⁸ Browne, H. 2003“*Does the Constitution Contain a Right to Privacy?*”

<<http://harrybrowne.org/articles/PrivacyRight.htm?fbclid=IwAR3zPgMi51uDrpNr4E6UOxXlFfx1DgXXfBrEr-9LNqmg8dBePSd5o2Fu9e>>

⁴⁹ The Constitution of India 1949 (India) art 32

⁵⁰ *District Register and Collector v. Canara Bank* [2005] 1 SSC 496

⁵¹ *R. Rajgopal V State of Tamil Nadu* [1995] AIR 264 (SC)

A resident has an option to defend the protection of his own, his family, marriage, multiplication, parenthood, youngster bearing and training among different issues. Nobody has the privileges to distribute anything concerning the above issues without the person's assent, notwithstanding the data being valid or bogus and regardless of whether complimentary or basic. If somebody does as such, the person in question would disregard the privilege to protection of the individual concerned and would be obligated for an activity for damages.⁵² One other situation where right to security is expressed is People's Union for Civil Liberties (PUCL) v Union of India which held that the phone tapping by Government adds up to infringement of individual freedom of the Constitution of India. Right to protection is an aspect of the privilege to "life" and "personal liberty" revered under the Constitution. The said right can't be diminished "aside from as indicated by technique set up by law". As referenced as of now, the above are simply some case principles adding to the fundamentals of detailing a law with respect to right to privacy.⁵³ To implement and maintain reasonable security practices in order to avoid wrongful loss or wrongful gain to the owner of such data, these provisions impose responsibility over the person or body corporate that is possessing, dealing or handling any sensitive personal data or information for the consumer.

Whoever, in violation of any prohibition under any law for the time being in force, does any act which is detrimental to a service receiver's life or security, shall be punishable to imprisonment for a period not exceeding three years and/or a fine not exceeding BDT 200,000 under Section 52 of the Consumers' Rights Protection Act, 2009.⁵⁴ Under Section 53, any service provider shall be punishable to imprisonment for a period not exceeding three years and/or a fine not exceeding BDT 200,000 who by its negligence, irresponsibility, or carelessness damages the service receiver's finances or health, or causes death. In addition, the consumer may be entitled to claim damages.⁵⁵

3.4 Chapter Summary

Bangladesh should rework on its existing divided privacy policy and develop a comprehensive national privacy strategy which will reflect coordinated approach between various governmental authorities. We can surmise that by utilization of current concern of different existing legislations is 'digital security' but it will be meaningless if we cannot ensure the data protection and other privacy issues.

⁵² *R. Rajgopal V State of Tamil Nadu* [1995] AIR 264 (SC)

⁵³ *Peoples Union for Civil Liberties (PUCL) v Union of India* [1997] 1 SSC 301.

⁵⁴ The Consumers' Rights Protection Act, 2009 S 52

⁵⁵ The Consumers' Rights Protection Act, 2009 S 53

THE PRACTICES IN DIFFERENT COUNTRIES REGARDING DATA PROTECTION AND PRIVACY

4.1 United States of America

Through its fourth amendment of Constitution USA has recognized the right to privacy of its citizens through which provides that people have the right to be secured in their houses, persons, Papers and people is entitled to protection against the unreasonable search and seizures. To protect people's right to privacy and freedom is the aim of this provision from unreasonable meddling made by the government. In any case, this alteration doesn't ensure safeguard from a wide range of searches and seizures, but it secured just those done by the government and happened to be unreasonable under the law.⁵⁶

A patchwork system of federal and state laws and regulations is found which may sometimes overlap, coincide and contradict one another basically, in protecting the right to privacy of USA citizens. Moreover, a few self-regulatory guidelines have been created by governmental agencies and industry bunches which don't have the status of law..

The Federal Trade Commission Act is a consumer protection law that denies unjustifiable or precarious practices like unapproved divulgence of information and not consenting to protection arrangements. Prior to utilizing delicate information (for example financial data, health information and data about children, geographic information and social security) agree must be gathered from information subjects. The Health Insurance portability and Accountability Act, 1996 deals with medical information. It applies extensively to medical care suppliers, data processors, drug stores and different elements that approach clinical information.⁵⁷ This Act recommends least openness of data should be made to complete an exchange. Along these lines rules have been made to electronically set guideline for assortment and usage of gotten wellbeing data in sending.

⁵⁶ Fourth Amendment: An Overview' (Legal Information Institute, Cornell LaSchool)<https://www.law.cornell.edu/wex/fourth_amendment?fbclid=IwAR0xGogggYDsFA4Dh8bZBaglRfO3P0ZxXTSvKW7RU45ziRs6wOYc-vYloZ>

⁵⁷U.S. Department of Health and Human Services, 'Summary of the HIPAA PrivacyRule'<<https://www.hhs.gov/hipaa/for-professionals/privacy/index.html#:~:text=The%20HIPAA%20Privacy%20Rule%20establishes,certain%20health%20care%20transactions%20electronically>>

4.2 India

India does not have any specific legislation on data protection. Article 21 privacy implicitly has perceived as a fundamental right of its Constitution since protection of life and personal liberty visualizes maintaining privacy and secrecy about personal information, personal details and identification.⁵⁸ The Information Technology act has amended. The revised Demonstration is on the way into compel, it has presented two significant arrangements that have areas of strength for an on the lawful system for information insurance. These article 43A and 72A, embedded into the IT Act by the revision Act, which give a right to remuneration for ill-advised exposure of individual information.¹⁰³Section 43A and article 72A of the IT Act came into force on 27 October 2009. Under article 43A of the IT Act, the Indian government hence gave the data technology rules, 2011. It is a Sensible Security Practices and Methodology and Delicate Individual Information or Data. On 24 August 2011 an explanation was given to the above Rules. To the assortment and exposure of delicate individual information or data which have a few likenesses with the GDPR, the Standards have forced extra prerequisites on business and business elements India relating.

In Justice K. S. Puttaswamy (Retd.) and Anr. v Union Of India And Ors,⁵⁸ the Supreme Court of India has recognized the right to privacy as a fundamental right under article 21 of the Constitution as a piece of the right to "life" and "individual liberty". "Information security" has been seen like a part of the right to protection and the court held that data about an individual and the option to get to that data additionally should be given the protection. the court say that every individual ought to reserve the privilege to control business utilization of their character and that the "right of people to solely financially take advantage of their character and individual data, to control the data that is accessible about them on the web and to scatter specific individual data confined purposes alone" exudes from this right. This is whenever that the supreme Court first has explicitly perceived the right of people over their own information. Fundamental rights are enforceable just against the state and instrumentalities of the state and the High Court in a similar judgment saw that implementing the right to protection against private elements might require regulative mediation. The Public authority of India thusly contained a board to propose a draft resolution on information protection.

⁵⁸ The Information Technology Act, 2000, s 43A, S 73A

⁵⁹ *Kharak Singh v State of U.P.*, 1963 AIR 1295

4.3 Other country

Like USA and India, lots of states have taken on security assurance in their constitutions yet a considerable lot of them don't have separate information security regulation. The GDPR in 2018 was presentation first time, for example, broad lawful arrangements had been set up encompassing the security of individual information. The GDPR infers that 28 European countries currently have severe regulations and can force weighty fines assuming anybody breaks information security. As per the BSA Worldwide Distributed computing Scorecard 2018, security regulations are as yet deficient or missing in a few nations however a lot of nations have information insurance structures set up. Be that as it may, in 2020 information security regulations is set all over the planet, with the execution of the California Customer Protection Act (CCPA) liable to get titles and established the vibe for additional US regulation at state and government level. New information security regulation will likewise come into force in Brazil and Thailand as nations, for example, India and South Korea join the worldwide development for stricter information security laws.¹¹³In 2020, South Korea might make further changes, with three information security bills with the Individual Data Security Act (PIPA) that would overhaul the current Confidential Data Advancement Commission, a warning body, to a free requirement authority, successfully laying out a brought together implementation organization to deal with all protection issues.¹¹⁴ In the numerous nations, security isn't straightforwardly referenced in there constitution yet in numerous nations the court have perceived implied sacred right to protection like Canada, France Germany and Japan.

In Bahrain's Data Protection Law came into force in August 2019. In the Middle East Bahrain is the first country who introduce such a law. This regulation provides individuals rights how their data is collected, processed, and stored.⁶⁰

4.4 Chapter Summary

The subsequent discussion is on different national practices which show us how the issue of protection of privacy was conceived and maintained in different parts of the world. This discussion help to perceive the discussion on current privacy legislation of Bangladesh and will enlighten us with few best practices around those can be followed to formulate laws in Bangladesh.

⁶⁰ Natasha G. Kohne , MazenBaddar and Diana Schaffne “Bahrain: Bahrain's New Data Protection Law Now InForce” Akin Gump Strauss Hauer& Feld LLP, mondaq connecting knowledge and people, <https://www.mondaq.com/privacy-protection/83932/bahrain39s-new-data-protection-law-now-in-force>

5.1 FINDING

- Firstly, there has no proper law for data protection in Bangladesh. There is an absence of specific separate law to protect data and privacy. The right to privacy does not expressly grant in our constitution. But Bangladesh passed the Digital Security Act 2018 to ensure National Digital Security but it seems misplaced.
- The provisions for personal data protection inserting in a limited scope but with the developing digital reliance and most commercial services going online, the present protection is not enough and is destined for failure. Even also there are no specific provision to impose limitation on data transfer, but the general regime applies as like the Technology Act and the.
- Digital Security Act there is no specific data retention requirement in Bangladesh. The Digital Security Agency managed and control only online related privacy issue. Also in the telecommunication sector personal data of the customers does not store in our country. Customer's data store to another country, which is also violation of data protection.
- People are not aware about data protection. They even don't have any idea how their data is being misused. The misuse of data become the part of vulnerabilities. Bangladesh doesn't have any National Commission devoted to observe the protection and privacy issue. Who can supervise the whole privacy sector and also can establish strong enforcement mechanism.
- Nowadays children have easy access to devices. Bangladesh don't have complementary measures including education and awareness training and skills development for equipped knowledge and skills to stay safe online.

5.2 Recommendations

From analyzing the arguments, the study has concluded to recommendation the following:

- Firstly, Bangladesh should reconstruct its existing fragmented privacy structure and need to develop a comprehensive national privacy strategy. As soon as possible Bangladesh need to enact a separate law for personal data protection only. The law to be enacted should mention appropriate definition of personal data, limitations for the usage of data, what penalty should be imposed for the non-compliance and remedies to be specified, considering misuse of data and keeping the data safe for the best interest of the citizens of the country at large.

- For the biometric data we should formulated a proper guideline which is under great risk.
- Government should form a National Commission devoted to observe the privacy issue as a central body which can establish enforcement mechanism. Government also should take proper step to make people aware about their rights which related with the data. Therefore, Bangladesh should also enact a comprehensive plan as to how citizens will get notification if their information is breached.

5.3 Conclusion

In this digital age the privacy of personal information is considered to be very important issue. Bangladesh has no specific laws for the protection of personal data, the information collected by different organizations. Data and information are often abused or misused, eventually its leading to the suffering of individuals. For instance, personal information of an individual collected for a particular purpose is commonly misused for other purposes, like direct marketing without the consent of the individual. Some internal confidentiality standard within the system is required so that personal information of an individual does not get transferred to others easily. Therefore Bangladesh need to enact a proper law which should be detailed enough to meet the international standards for protection of data and ensure that personal data of an individual collected for a particular purpose should be used for that particular purpose and it would not be revealed or disclosed without consent to others for commercial or any other purposes.

Bibliography

National Law

1. The Constitution of the People's Republic of Bangladesh.
2. Information and Communication Technology Act, 2006
3. Digital Security Act, 2018
4. Bangladesh Telecommunication Regulatory Commission (BRTC)
5. Information Collection and Management Rules, 2010
6. Bangladesh Communication Regulatory
7. Information and Communication Policy, 2018
8. The Consumers' Rights Protection Act, 2009
9. Right Information Act, 2009.

Case:

1. Bangladesh vs. H.M. Ershad (2000) 52 DLR (AD) 162
2. Kharak Sing v State of U.P 1963 AIR
3. R. Rajgopal V State of Tamil Nadu (1995) AIR 264 (SC)

Books

1. Talat Fatima , Cyber Crimes (2016, Eastern Book Company)
2. Mahmudul Islam, Constitution Law of Bangladesh (2012, Mullick Brothers)

Journal Articles

1. Graham Greenleaf, ‘Five Years of APEC Privacy Framework: Failure or Promise?’(2009) 25(1) Computer Law and Security Review 28,31
2. APEC, APEC Privacy Framework 2015 (APEC Secretariat)

Online Sources

1. Islam,M “In the information technology age, we need a law to protect our personal data” February,2020.<<https://tbsnews.net/opinion/information-technology-age-we-need-law-protect-our-personal-data-44259?fbclid=IwAR2VV9h9kjbVyK3YDYoljNXARxC-9ueyPuyZDfKGyZQ7dlh5YyXSpIj>>
2. International network of Privacy Law Professional “A BRIEF HISTORY OF DATA PROTECTION: HOW DID IT ALLSTART? “ 2018. [Online] Available: <<https://inplp.com/latest-news/article/a-brief-history-of-data-protection-how-did-it-all-start/?fbclid=IwAR3o3y5iLctbJUJCO2f-ZiUwgUNV3TP6dDrxilEu4A1rHI8DyJwGhifoK>>:
3. DATA PRIVACYACT: A BRIEF HISTORY OF MODERN DATA PRIVACY LAWS”, Eperi April 2018. [Online] Available:<https://blog.eperi.com/en/data-privacy-act-a-brief-history-of-modern-data-privacy-laws?fbclid=IwAR3QeTi72gig6H8FN9geeVBWg_ddjUFSSlwGR-YZ9WTnnCZ7mONQIIWjS_>
4. *Data, privacy unprotected in one-third countries including BD: UNCTAD*” FE Online Report, May 2020. https://thefinancialexpress.com.bd/national/data-privacy-unprotected-in-one-third-countries-including-bd-1588243811?fbclid=IwAR3Brb3KnV7_UA8lQBeFqbU4WMHxiCbNsZaex3xJY9uwww4BM3N-OeQTNo unctad-
5. “Data protection act soon: Jabbar”, Star Business Repot; The Daily Star, November 2019. [Online]. Available: <https://www.thedailystar.net/business/data-protection-act-in-bangladesh-soon-183232>
6. Internet Subscribers in Bangladesh December, 2018. | BTRC.” [Online]. Available: <<http://www.btrc.gov.bd/content/internet-subscriber-bangladesh-december-2018>>
7. Shikder, N. ‘*Right to Privacy and Modern Media*’ The Daily Star (Dhaka, 05 November 2015) <https://www.thedailystar.net/news/right-to-privacy-and-modern-medi>>
8. Staff Correspondent, “HC clears biometric registration” The Daily Star (Dhaka, April 13 2016) <<https://www.thedailystar.net/frontpage/h-clears-biometric-registration-1208275>>
9. Amin, A. “Bangladesh Telecommunication (amendment) Ordinance, 2005: National Security or Infringement on Civil Right? <<http://odhikar.org/wp-content/uploads/2012/09/Bangladesh-telecommunication-ordinanceArticle-2006.pdf>>
10. Ahmed, U,F. “Protecting data in Digital Bangladesh” The Daily Star, 07 May 2017 <<https://www.thedailystar.net/opinion/human-rights/protecting-data-digital-bangladesh->

140159>

11. Browne, H. 2003 *“Does the Constitution Contain a Right to Privacy?”*
<<http://harrybrowne.org/articles/PrivacyRight.htm?fbclid=IwAR3zPgMi51uDrpNr4E6UOxXlaFx1DgXXfBrEr-9LNqmg8dBePSd5o2Fu9e>>
12. Fourth Amendment: An Overview’ (Legal Information Institute, Cornell LaSchool)<https://www.law.cornell.edu/wex/fourth_amendment?fbclid=IwAR0xGogqYDsFA4Dh8bZBaglRfO3P0ZxXTSvKW7RU45ziRs6wOYc-vYloZ>
13. U.S. Department of Health and Human Services, ‘Summary of the HIPPA PrivacyRule’<<https://www.professionals/privacy/index.html#:~:text=The%20HIPAA%20Privacy%20Rule%20establishes,certain%20health%20care%20transactions%20electronically>>
14. Natasha G. Kohne , MazenBaddar and Diana Schaffne “Bahrain: Bahrain's New Data Protection Law Now InForce” Akin Gump Strauss Hauer& Feld LLP, mondaq connecting knowledge and people, <https://www.mondaq.com/privacy-protection/83932/bahrain39s-new-data-protection-law-now-in-force>