



EAST WEST UNIVERSITY

DISSERTATION

ON

**Artificial Intelligence vis-à-vis Right to Privacy in the Light of The
International Human Rights Law**

Course Title: Supervised Dissertation

Course Code: LAW 406

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Date of Submission:

19 May, 2022

Acknowledgment

Starting by the name of Allah. With the completion of this research study, here I express my inner thought and try to give an idea that this effort may go ahead to serve as one of the many grounds and protection for the personal data privacy as a Human Rights.

First of all First of all, I would like to thank my almighty for giving me the strength and patience to finish this research without any difficulties and trouble. After that I solely express my thankfulness to Dr. Md. Mehedi Hasan, Chairperson & Assistant Professor Department of Law for allowing me to take of this research work. Then I would like to express my sincere gratitude to my honorable Supervisor Ms. Shamshad Bashir Ma'am, Lecturer, Department of Law for her helps, motivation, suggestion, patience, cooperation and lastly for sharing knowledge. This research wouldn't have been possible without the efforts, supervision and contribution of my honorable Supervisor Ms. Shamshad Bashir Ma'am, Lecturer, Department of Law, East West University.

I also appreciate the necessary supports provided to me by East West University's Department of Law, which organized some outstanding online sessions on how to accomplish this dissertation course. I especially thanks to all of my classmates and friends for their unconditional support and Finally, I want to express my gratitude to my parents for their constant support and assistance throughout my life.

Declaration

I, Shahriar Sadi, ID: 2017-3-66-004 solemnly declare and affirm that this research paper is original and my own work, and that it has not been plagiarized from anyplace. As this is a course, the objective of this research is to finish my undergraduate degree. To keep the citation materials organized, a list of references is included.

.....SHAHRIAR SADI.....

(Shahriar Sadi)

Date: 2022-05-19

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Abstract

We live in digital world now with growing dependency on technologies each passing day. Access to the information through internet is like one kind of fundamental right nowadays though not universally accepted. The light of internet has turned the whole world into a global village, where we are all connected in one way or another. As always the emerging issue from the rapid growth of AI has somewhat taken a form of that threatens privacy rights which is an established and well recognized human right. This research work mainly deals with the risk factors associated with growing development of Artificial Intelligence (AI) in the context of the International Human Rights Law related to the point of right to privacy. While critically analyzing the usage and role of modern technologies related to Artificial Intelligence, the paper discusses the necessity of updated legal rules and regulations for its control. This research has also explored the Bangladesh perspective regarding AI and privacy rights as it is still in very initial stage right now but will be a big issue in the days not far away.

KEYWORDS: Artificial Intelligence, Human Rights, Privacy, Constitution, Ethical Law

List of Abbreviations

| | |
|--|---------------|
| Artificial Intelligence | AI |
| American Declaration of the Rights and Duties of Man | ADRDM |
| Arab Charter on Human Rights | ACHR |
| African Charter on the Rights and Welfare of the Child | ACRWC |
| Asia-Pacific Economic Cooperation | APEC |
| Border Security Forces | BSF |
| Centre for Governance Studies | CGS |
| Corporate Social Responsibility | CSR |
| Digital Security Act | DSA |
| Deoxyribonucleic Acid | DNA |
| European Union’s General Data Protection Regulation | GDPR |
| Fundamental Human Right | FHR |
| Human Rights Watch | HRW |
| Information and Communications Technology | ICT |
| Internet of Things | IOT |
| International Covenant on Civil and Political Rights | ICCPR |
| International Covenant on Economic, Social and Cultural Rights | ICESCR |
| International Crimes Tribunal | ICT |
| Machine Learning | ML |
| Non-Governmental Organization | NGO |
| Organization for Economic Co-operation and Development | OECD |
| The Association of Southeast Asian Nations | ASEAN |
| Universal Declaration of Human Rights | UDHR |
| United Nations | UN |
| United Nations Convention on Migrant Workers | UNCMW |

CHAPTER: 1

INTRODUCTION

This chapter describes the primary concept of right to privacy connected with digital world under national and international perspectives and also the main objects & background, method, scopes and limitations of this research paper.

1.1 Background of the Study:

Being human we all have some equal rights and those rights should be protected widely over the world. Those rights called as fundamental rights and those rights are neither newly added nor can be deny by any state rolling party. Here on some special situation those fundamental rights are violated on demand. Human rights are world widely accepted and also recognized by some international convention and treaties.

We live in an era of modern technology with bless of artificial intelligence & machine learning and every portion of our life is connected with technology. Here for this concern a lot of data and information are here and there by using those modern technology. So here a question come that the protection of those data and information by that is individual's right to privacy. Today it is one of most common and significance question. Right to privacy one of the highlighted and importance human rights in the context of present time.

According to the Universal Declaration of Human Rights (UDHR) **Article 12**¹ that no one shall be subjected to arbitrary interference with his privacy and everyone has the right to the protection of the law against such interference or attacks. Added that **Article 8**² of European Convention on Human Rights that everyone has the right to respect for his private and family life, his home and his correspondence.

In our country context here our constitution gives the security towards the fundamental rights at its part III. If we look eye on our concerning issue of right to personal privacy here one point noted that in our constitution there was no specific article on it but it can be connected with several provisions. Looks likely that **Article 32**³ provides us that No person shall be deprived of life or personal liberty save in accordance with law. Later on **Article 42**⁴ shows us the right to property.

¹ "Universal Declaration of Human Rights" (*United Nations*) <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> accessed April 01, 2022

² United nation, 'Article 8: Respect for your private and family life' (*Equality and Human Rights Commission*, 24 Jun 2021) <<https://www.equalityhumanrights.com/en/human-rights-act/article-8-respect-your-private-and-family-life>> accessed 01 April 2022

³ The Constitution of the People's Republic of Bangladesh <<https://bdlaws.minlaw.gov.bd/act-367/section-24580.html> access April 2,2022>

"Protection of right to life and personal liberty"

⁴ *ibid.* Article 42. "Rights to property"

42. (1) Subject to any restrictions imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and no property shall be compulsorily acquired, nationalized or requisitioned save by authority of law.

This article provision can be interpreted as the intellectual property rights. Lastly **Article 43**⁵ guarantees the privacy of home and correspondence and in communications. Here by interpretation we can figure that right to privacy is existing in our constitution also.

Here another concerning issue of modern technology is that artificial intelligence. In recent flow of times Artificial Intelligence (AI) is very use to and common topic. But problem is that the majority of us don't want to go that much inside of it and its good or bad impact in future. This is not only our problem rather full world is in dilemma. Here the time is come to comply law and technology for the better future world.

1.2 Research Question:

In this point when it comes to the right to privacy in the Human Rights Law context then there are a lot of varieties of questions that can be framed regarding this topic. Rely on this study, however, has been limited to the following questions to accomplish the research objective; the following questions will be addressed:

- Whether the Right to privacy as a human right is recognized and ensured by the States in this digital world?

Here connected with the main research question some sub questions come forwarded likely,

- Which one is a more vital question to be addressed; regarding the progress of modern science like Artificial Intelligence that pose threat to privacy rights
Or the growing concern regarding the overall privacy rights which is connected to Human Rights?

1.3 Methodology:

This research work can be mainly classified as fundamental research that relies on content analysis and try to focus on the existing laws regarding the right to privacy in human rights context. Here external empirical research methodologies will be followed to cover up the whole scenarios of today's world. In this paper I have tried to elaborately explain existing situations and also figure out a new idea to update the legal provisions to protect the right to privacy according to the spirits

[(2) A law made under clause (1) of this article shall provide for the acquisition, nationalization or requisition with compensation and shall fix the amount of compensation or specify the principles on which, and the manner in which, the compensation is to be assessed and paid; but no such law shall be called in question in any court on the ground that any provision of the law in respect of such compensation is not adequate.]”

⁵ Ibid. Article 43.” Protection of home and correspondence⁴³. 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 –

(a) to be secured in his home against entry, search and seizure; and
(b) to the privacy of his correspondence and other means of communication.”

of the age. For this study descriptive method is utilized to analyze the current situation and concerning issues of modern technologies. In this study mainly secondary sources have been used. Though this paper is based on secondary data but here a mix of primary data will be present such as national statutes, case law, rules, and regulations. And lastly for secondary sources such as websites, highlighted blogs, online journals, various books, newspaper articles, and journal articles etc. are used.

1.4 Limitation:

First of that in this present situation due to pandemic of Covid 19 and also the mixed curriculum of studying online offline platform rely on this the research works has some limitation. In this undergrad level it is difficult to complete a research with high standard. Due to lack of availability of material like internal journals or blogs was not able to access full story behind it. Apart from this the issue of right to privacy in information data technology is new growing issue for this reason there are lack of case laws. Above all that I try to my level best to do a quality research work.

CHAPTER: 2

RIGHT TO PRIVACY, ARTIFICIAL INTELLIGENCE (AI) & INTERNATIONAL HUMAN RIGHTS

This chapter primarily focuses on the historical background and the clear concept of privacy. Here highlighted part that the impact of recognition of right to privacy as a human right listed with the broader aspects.

2.1 Introduction:

Right to privacy is not a new demand but from the very ancient period of time it has been most significant right as a human being. Here it can be taken as a fundamental human right. First thing that we all need to know about what is human right and what is fundamental rights? In this century revolution of information technologies and different types machine learning ideas threat to our privacy and personal space as well as. The present age is the digital age and here information is power. Nowadays technology has reached the hands of all people. The common man is benefiting in many ways by using technology. At present the use of information and communication technology in the whole world is increasing in various fields as well as in our country. Internet and others types of digital technologies are advancing the communication system day by day. With the contribution of information technology, the whole world has started falling into a village community. It seems that here everything is easy to access for this reason there are some loop holes and it can be very dangerous for every users of this community.

In light of the current situation, there is no doubt that in the near future the whole human civilization will be governed by artificial intelligence (AI) and machine learning (ML) technologies and that day will not be so far away, maybe a few years from the next 10 years likely year 2030 onwards. Virtual sovereignty will soon become more important than the integrity and actual or external sovereignty of any personal point of view as well as for a country. If we are not aware of this issue now then it is too late, the main control of our personal information with thinking will be lost in the hands of various third party vendors like multinational companies including Facebook, Google and many more. That will be hamper our personal life that's mean violation of right to privacy.

2.2 Right to privacy to its broader aspect:

One of the main and basic need of privacy at a personal level and for society as a whole also the expression of our expectation that our rolling authorities that mean governments will give security and protection of our privacy from unwanted access. In order to test the threat and identify the reason behind breach of the right to privacy and what level of protection is offered to safeguard. Now it is time to explain that the meaning of privacy and to what extent it can be used, general difference between the idea of privacy and right to privacy in reality.

The idea of privacy mean that “Privacy enables us to create barriers and manage boundaries to protect ourselves from unwarranted interference in our lives, which allows us to negotiate who we are and how we want to interact with the world around us. Privacy helps us establish boundaries to limit who has access to our bodies, places and things, as well as our communications and our information”⁶. On the other hand the right to privacy express to the legal recognition that privacy should be legally protected by law. Now it is clearly noticed that the idea of privacy and the right to privacy are interconnected. The worth of security in a specific setting relies on the social significance of the exercises that it works with. Experiencing the same thing that we ought to investigate how protection affects people by checking out at genuine security issues. A realistic way to deal with conceptualizing protection, by seeing how works on including security have changed over the entire course of time and by supporting a context oriented examination of security. The right to privacy is connected with the right to liberty, to restricting the information on others around oneself. Accordingly, the right to privacy could be depicted as the option to get a circle of our lives far from government interruption, and away from the interruption of others with whom we would rather not share specific parts of our lives. In that sense, the right to privacy mean a connection of various things, for example, control over private data, independence from observation, assurance from intrusions into one's home, individual independence, command over one's body and a progression of different things. Privacy has been defined in the context of personal autonomy or control over the intimacies of personal identity⁷.

⁶ “What Is Privacy?” (*Privacy International*) <<https://privacyinternational.org/explainer/56/what-privacy#:~:text=Privacy%20enables%20us,and%20our%20information>> accessed March 25, 2022

⁷ Gerety, T., “Redefining Privacy”, *Harvard Civil Rights-Civil Liberties Law Review*, vol. 12, ed. 2, 1977, 236.

2.3 Recognition of right to privacy as a human right:

In this modern era almost every country has concern on this right to privacy issue and almost in every statute, legislation; treaties have the part to ensuring the right to privacy. Adopting the new model of it that the concept of individual privacy has been upheld since the rise of digital century. Here some ancient and holy books can be referred on the following concept of privacy.

In our holy text Qur'an has several provisions on it⁸. Basically we (Muslims) are practicing right to privacy from the beginning. The right to privacy is recognized in the Holy Qur'an. 17 In the same time, it is also recognized by the Hadith of Prophet Muhammad (SM).¹⁸ In Surah An Nur ayat 27-28 laid down that- "O you who believe! Do not enter houses other than your own houses until you have asked permission and saluted their inmates; this is better for you, that you may be mindful. But if you do not find any one therein, then do not enter them until permission is given to you; and if it is said to you: Go back, then go back; this is purer for you; and Allah is Cognizant of what you do."⁹By interpretation this Qur'anic verses Quran suggest that without taking any permission no one can interfere on someone's personal spaces. Added that the ritual also present in classical Greece and ancient China. The requirement for privacy isn't restricted to specific societies, and most social orders respect a few areas of human action as being unsatisfactory for general perception and information. The Cairo Declaration on Human Rights in Islam signed by major Muslim countries in 1990 confirms this principle in article 4 which says, "Every human being is entitled to inviolability and the protection of his good name and honor during his life and after his death." In **Article 18 (b)**, the Declaration states that Islam recognizes that, "Everyone shall have the right to privacy in the conduct of his private affairs, in his home, among family, with regard to his property and his relationships. It is not permitted to spy on him, to place him under surveillance or to besmirch his good name."¹⁰ More ancient text also has privacy recognition that is mentioned in the Code of Hammurabi. Lastly but not in the list the right got some attraction on its grounds when it got recognition internationally as one of the human rights under **Article 12** of the Universal Declaration of Human Rights (UDHR)¹¹.

⁸ Sahih Bukhari, Volume 1, Book 10, Number 509; Sahih Muslim, Book 020, Number 4727; Sunan Abu Dawud, Book 31, Number 4003.

⁹ M.H Shakir's translation of the Holy Qur'an, as published by Tahrike Tarsile Qur'an, Inc.

¹⁰ Sonny Zulhuda, n.4 at 456

¹¹ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), <http://www.refworld.org/docid/3ae6b3712c.html> access on 26 March 2022

2.4 Conclusion:

The information privacy has widely recognition and it has also specific day recognition for educational initiative focuses primarily on raising awareness among businesses as well as users online about the importance of protecting the privacy of their personal information. “On 26 April 2006 the Council of Europe decided to launch a Data Protection Day to be celebrated each year on 28 January”¹² Most people in today's world spend a lot of time online. Most of the work is also done online and this online world is all about data. Numerous pieces of information are being exchanged online every day. Keeping your data secure online is also a big challenge. Not many people are aware of how customer personal information is being used, stored or shared. So here the main purpose to concern about my right and how it can be protected. Lastly, the most vital point or issue of the right to privacy is the right to protection of personal information.

¹² Council of Europe, “28 January - Data Protection Day” (*The Council of Europe: guardian of Human Rights, Democracy and the Rule of Law for 700 million citizens* March 17, 2022) <<https://www.coe.int/en/web/portal/28-january-data-protection-day#:~:text=On%2026%20April%202006%20the%20Council%20of%20Europe%20decided%20to%20launch%20a%20Data%20Protection%20Day%20to%20be%20celebrated%20each%20year%20on%2028%20January>> accessed April 20, 2022

CHAPTER: 3

THE IMPORTANCE OF RIGHT TO PRIVACY AS HUMAN RIGHT

In the previous chapters, generally it discussed about some basic issues and backgrounds information on the title. In this chapter the focus will be on the practical implications of these rights by supporting international and national laws with relevant situation. Here the total concern issue of this matter will be take place in a hot question by connecting domestic and international laws.

3.1 Introduction:

The use of modern technology has brought speed to people's lives. At the same time, privacy and security risks have increased. However, there are laws and authorities in the country to eliminate these risks. Appropriate role is expected from them in this regard. In this present time literally we can say that in this digital market data is like raw materials and here coming the question of big data of information's. In this way, we can aptly describe "AI as a constellation of different processes and technologies"¹³

Every citizen of the country has the right to privacy. It is a crime to leak someone's personal information's or phone conversations. In today's digital age, for various reasons, we have been providing various information, including biometric data, to many government and non-government organizations, but there is considerable doubt as to how securely that information is stored with them. We have already seen that our national identity card information has been misused at different times. Constitutionally, the state has a responsibility to protect the personal information of each of its citizens. However, the state is no longer able to perform that task properly, so it is coming to the locals through various means. So that a person's dignity is being tarnished. The state should strictly protect the personal information of every citizen. Therefore, if the privacy of a citizen's personal information is leaked, those responsible should be punished and try to remodel the existing laws with the demand of time.

¹³ David Kaye, 'Mandate of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression', Open Letter to Office of the High Commissioner for Human Rights (1 June 2017), <https://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL-DEU-1-2017.pdf> (accessed 18 April 2022). Josh Cowsls et al, 'Designing AI for Social Good: Seven Essential Factors' (15 May 2019), <https://dx.doi.org/10.2139/ssrn.3388669> (accessed 18 April 2012)

3.2 International Human Rights with other Convention:

Human rights include civil and political rights, the right to life and liberty, freedom of thought and expression, equality before the law, social, cultural and economic rights, all basic human rights and freedoms, including food, the right to work and education. In a nutshell, human rights are the freedoms established by custom or international treaties that protect the interests of the people and the conduct of government within each nation. Human rights are distinct from the civil, which is established by the law of a particular state and the jurisdiction which is exercised by that state. Human rights law is defined by the treaty, and by the organization, especially by the United Nations, international rules. These laws prohibit practices such as torture, slavery, the death penalty without trial, and arbitrary detention or deportation. Many human rights are protected by agreements between governments and those who govern them.

Now on focusing question item that is privacy, in the digital time it is a qualified as a fundamental human right. Here the right to privacy is in sided and highlighted in almost all of the noticeable international and national human rights conventions. The European Union's General Data Protection Regulation (GDPR)¹⁴ model gave us a standard or taking as worldwide standard for the protection of data privacy. But there is always a dilemma present whether it is worst or best to finding the current index of present international law may be remain in the veil in the question of the privacy.

Presenting the most highlighted laws on the our questing point following, If we look eye on the United Nations Declaration of Human Rights (UDHR) 1948, **Article 12** "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."¹⁵

Added that the International Covenant on Civil and Political Rights (ICCPR) 1966, **Article 17**: "1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or

¹⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation), 2016 O.J. (L 119) 1 [hereinafter "GDPR"].

¹⁵ "Claiming Human Rights" (*Article 12*) <http://www.claiminghumanrights.org/udhr_article_12.html#at13> accessed April 19, 2022

correspondence, nor to unlawful attacks on his honour or reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.”¹⁶

And also there are many conventions where briefly talks and give impactful protection the privacy they are as follows,

- “**Article 11** of the American Convention on Human Rights;
- **Article 5** of the American Declaration of the Rights and Duties of Man,
- **Articles 16** and **21** of the Arab Charter on Human Rights;
- **Article 21** of the ASEAN Human Rights Declaration; and
- **Article 8** of the European Convention on Human Rights.
- **Article 14** of the United Nations Convention on Migrant Workers;
- **Article 16** of the UN Convention on the Rights of the Child;
- **Article 10** of the African Charter on the Rights and Welfare of the Child;
- **Article 4** of the African Union Principles on Freedom of Expression (the right of access to information);”

According a statistics and survey from a journal study that express that “over130 countries have constitutional statements regarding the protection of privacy, in every region of the world”¹⁷

¹⁶ <[¹⁷ “The Right to Privacy and Why It Matters” \(*Each Other* March 16, 2020\) <\[---

12 | Page\]\(https://eachother.org.uk/the-right-to-privacy-and-why-it-matters/#:~:text=The%20right%20to%20privacy%20is,violated%20by%20states%20and%20companies.> accessed April 19, 2022</p></div><div data-bbox=\)](https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights#:~:text=Article%2017,interference%20or%20attacks.> accessed April 19, 2022</p></div><div data-bbox=)

3.3 International Covenant on Civil and Political Rights:

Starting by quoting two Articles as; **Article 14** “All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”¹⁸ and **Article 17**¹⁹ of the International Covenant on Civil and Political Rights. By accepting that try to mixed up with the Universal Declaration of Human Rights the general concept mankind as being free taking civil and political freedom as a their inherent rights. Here States have some obligation which sated under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms.

If we try to elaborate the meaning of the **Article 17** of ICCPR it states that the data must be kept secure and encrypted. As an example if data takes from us by the state then there should be a safeguard like personal call record, medical information’s, DNA data records. Everyone has a right over his or her data that is personal data and there will be one hundred percent transparency with no bias activities.

3.4 Connection between domestic and international laws:

In the time digital technology revolution no border are present everyone are connected though internet called global villagers. From the earlier chapter and the subheading we look that the regulatory and the arbitrary convention treaties are present for human being as recognizing charters. After the Second World War the world basically try to adopt the new era of technology like my title keyword the artificial intelligence. By end of the worst period of time the whole world would try to rebuild the interconnectivity and focus on the industrial revolution. Now in this 21 century everyone are interconnected for own benefit almost fourth industrial ongoing. For that a lot of data shared every second and there is strong possibility for misusing of this valuable information. The whole world are interconnected but divided by region, class and many more phases causing that everyone have own jurisprudence and also different legal impact for their own stake. From my own point of view that if it is possible that try to connect a bridge protocol for the

¹⁸ <[¹⁹ Ibid. A 17](https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights#:~:text=the%20competent%20authority,-.Article%2014,impartial%20tribunal%20established%20by%20law.> accessed April 19, 2022</p></div><div data-bbox=)

data transmission over the connected county and try to establish strong beneficial effective firewall for all that runs with zero tolerance. Here some regional model are presented but not as perfect as the demand of time. On the situation when the most questioned right to data privacy can be generated from the core concept of the right to privacy here some international and local laws can be take effective measures to specify the right to protection of own sensitive information it can be added broader perspective also, linked with

- the OECD's Guidelines on the Protection of Privacy and Trans border Flows of Personal Data²⁰
- the Asia-Pacific Economic Cooperation (APEC) Privacy Framework 2004
- the Council of Europe Convention 108²¹ for the Protection of Individuals with Regard to the Automatic Processing of Personal Data, last but not the least
- the Economic Community of West African States has a Supplementary Act on data protection from 2010²².

3.5 Conclusion:

The States can play an important role to model the individual protection likely new model for privacy can be introduced. Individual and the state both have duties over the community to protect their privacy, then those prescribed convention can be effective. The collaboration of individual and the other party for shake of our security can expect a good expectation from government that our privacy will be protected from unwanted data business markets.

²⁰ “OECD Guidelines on the Protection of Privacy and Trans border Flows of Personal Data” (*OECD*) <<https://www.oecd.org/sti/ieconomy/oecdguidelinesontheprivacyandtransborderflowsofpersonaldata.htm>> accessed April 19, 2022

²¹ “Convention 108 and Protocols” (*Data Protection*) <<https://www.coe.int/en/web/data-protection/convention108-and-protocol#:~:text=The%20Convention%20for%20the%20Protection,in%20the%20data%20protection%20field.>>> accessed April 20, 2022

²² “Economic Community of West African States” (*CCDCOE*) <<https://ccdcoe.org/organisations/ecowas/>> accessed April 20, 2022

CHAPTER: 4

RIGHT TO PRIVACY AS HUMAN RIGHT & AI: INTERNATIONAL AND REGIONAL SCENARIO

In this chapter I have tried to touch upon the present scenario of internet diversity and the possible good or bad impact of the machine learning, deep learning high algorithm technologies with its significance in our personal life around the whole world. On regional part here Bangladesh and the law agency's some highlighted activities will be covered up.

4.1 Introduction:

In this fast moving world human being almost connected with the technology that can beat him anytime. A lot of human behaviors are inserted in some microchips and those chips full of personal information's data process algorithm namely the IOT (Internet of things) devices. Those devices every single moment keep eye on human being and try to collect data for data markets. Now a day's data business is one of the top notch beneficial profit gain field in this digital arena. We all accept that smart technologies are blessing for us but every good thing has its own hindsight and smart technologies are no different. At present time already said that now it the time of competition between man and machine invention. Here the concept of right to privacy takes to different perspective by adopting individual social learning or behaviors. Here if I mention the statement from Jeffrey Reiman on the privacy system "as a means of protecting freedom, moral personality, and a rich and critical inner life."²³

In short lifetime human beings are always concerned by different obligation and gather a lot of data which may be very personal and very significance to his or her family. After death of a human being he or she just lost his her soul body entity but the data he has left being alive by attachment of technology. Sometimes it can be very dangerous to his family and so on. Here the impact and implication of data is very vital for everyone, for this reason its protection level should be topnotch.

It can be said like Edward Bloustein's own word wrote that "privacy is an interest of human personality, and to protect an individual's privacy is to protect the individual's personality,

²³ Reiman, J., "Driving to the Panopticon: A Philosophical Exploration of the Risks to Privacy Posed by the Highway Technology of the Future", Santa Clara High Tech. Law Journal, vol. 11, ed. 1, 1995, 27-44.

independence, dignity and integrity.”²⁴ Here privacy can be look upon as an individual value as well as the linked value to society.

4.2 The Statute and the question mark on personal space:

Being a state citizen every human being are in a control panel by a legal structure provided by the state. For this reason law made for men and the breakdown will be also there. It's like a vice versa system and here last impact will be huge for both the men and society also. There is a very common philosophy that law are made for breaking it and the breakdown of law shows the real picture of a province. One significant point is that present time whole world is almost connected one to another and the state policy almost the same for the development of internet connectivity and this is bigger headache for all country also. Every new updated technology have different tech tricks for that the statute regulations also needed to be updated but it is very difficult in practical life. Some tech experts said that in present time we use internet version 2.0 here the transparency rate of data processing is very low and bias present there. They are hopeful that in the next decade the internet 3.0²⁵ will be come and it will be more transparent, give total control over its users. There must be question or dilemma come forwarded whether comes from the victim party or from the regulatory authorities. Because digital data touches almost every business, from agriculture to the internet, a too wide grant of jurisdiction might result in a massive extension of the administrative state and the development of a severely regulated regime by an agency rather than by a legislative. Clearly, these aren't the only worries or questions that policymakers should think about, but they should prompt a thorough analysis of the issues. Data privacy decisions will undoubtedly influence the future of many industries, and they should not be made under pressure.²⁶

²⁴ Bloustein, E., “Privacy as an Aspect of Human Dignity: An Answer to Dean Prosser”, New York University Law Review, vol. 39, 1964, 962–1007, 971.

²⁵ Kerner SM, “Web 2.0 vs. Web 3.0: What's the Difference?” (*WhatIs.com* April 06, 2022) <<https://www.techtarget.com/whatis/feature/Web-20-vs-Web-30-Whats-the-difference>> accessed April 21, 2022

²⁶ Huddleston J, “Four Questions to Consider When Debating Potential Data Privacy Policy” *The Bridge* <In any case, if Congress chooses to delegate data privacy issues to an agency, it should be specific in how it does so. Since digital data affects practically every industry from agriculture to the internet, an overly broad grant of authority could turn into a gigantic expansion of the administrative state and merely result in the creation of a heavily regulatory scheme by an agency rather than a legislature. Clearly, these are not the only questions or concerns that policymakers should consider, but hopefully they will encourage a thoughtful examination of the issues. The decisions made about data privacy will likely shape the future of many industries and should not be rushed into under duress.> accessed April 22, 2022

4.2. A: Bangladeshi existing law and statues on it:

Earlier chapter of my paper slightly figure out that the Constitution of Bangladesh does not directly recognize the protection of personal information as a fundamental right. According to **Article 43**²⁷ of the Constitution of the country, the right to privacy of letters and other means of communication according to the Constitution the word 'protection of privacy' is recognized as a fundamental right. That is, the state is committed to protecting privacy. Although 'personal information' and 'right to privacy' may seem like the same thing, they are not one in the same. Not all personal information is subject to the right to privacy. Even the right to privacy may not be enforceable in certain areas due to the country's security, public order, publicity and public health.

Most recent act namely the Digital Security Act-2018²⁸ linked with other act likely Bangladesh Telecommunication Regulation Act-2001²⁹, some sections of the Pornography Control Act-2012³⁰ have added some protective provisions, which may be related to the protection of personal information. However, no law has been enacted in Bangladesh to protect and control personal information. As a result, there is no definition of personal information in the law and this arena. According to **Article 43** of the Constitution of Bangladesh, the right to privacy is considered a fundamental human right. In case of violation of **Article 43** of the Constitution, the aggrieved person can seek constitutional redressed from the High Court Division of the Supreme Court. There are provisions in various laws, including the Digital Security Act and the Bangladesh Telecommunications Regulatory Act, for criminal penalties for violating the right to privacy. For example, the Digital Security Act provides penalties for hacking and illegal entry. Again, the Bangladesh Telecommunications Regulation Act provides for punishment for intentional interference in telephone conversations. However, these laws have some limitations. Attempts

²⁷“ Protection of home and correspondence: 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 – (a) to be secured in his home against entry, search and seizure; and (b) to the privacy of his correspondence and other means of communication.”

²⁸ Tashmia Sabera, 'All that is wrong with the Digital Security Act' (*The Daily Star*, Tue Mar 9, 2021 12:00 AM Last update on: Mon Jan 10, 2022 01:04 PM) <<https://www.thedailystar.net/law-our-rights/news/all-wrong-the-digital-security-act-2057321>> accessed 22 April 2022

²⁹ (*Bangladesh Telecommunications Act, 2001 - the lawyers and jurists*) <https://www.lawyersjurists.com/lawyer_ci/digest/bangladesh-telecommunications-act-2001> accessed April 22, 2022

³⁰ Shupto NA, “The Pornography Control Act, 2012” *New Age Youth* <<https://www.newagebd.net/article/76196/the-pornography-control-act-2012>> accessed April 22, 2022

have been made to protect personal information with the provision of criminal penalties. There is no provision for compensation for the victim. Again, there is no measure of resistance. You can only go to court if you are in danger, the law does not say to take any action to avoid danger. Interconnected with **Article 43** of our constitution here we can look upon the following case namely *Bangladesh v. H.M. Ershad*³¹. Another featured facts in 2011 that a women went to beauty parlor for her facial treatment and after staying there she found a hidden cc tv camera on that ladies compartment. After that incident a writ petition has been filed by the Bangladesh Human Rights Foundation. On this writ petition, The High Court ordered the government to take out all close-circuit TV cameras from beauty parlors.³²

4.2. B: International Statues and its implication to protect on privacy:

Day by day the technology updated and the negative impacts of those modern technologies also catch up our personal life. There are always risk factors while working in the digital world, here everybody can be caught, traced down and lost his or her valuable data in a second. First world counties to third world countries everyone in threat and the dangerous fact is that the game can be changed anytime. Developing county like Bangladesh is also in great dilemmas about how they accept or be familiar with those high technologies and how we adopt.

If we look eye on our neighbor country India the statute and others laws are very much similar to us on the context of right to privacy. Looking at the **Article 21**³³ of the Constitution of India, a case can be referred “*Kharak Singh v State of Uttar Pradesh*”³⁴. Linked case on this topic is “*R Rajagopal v State of Tamil Nadu*”³⁵ here same issue of personal privacy follow up and it can be

³¹ Bangladesh v H. M Ershad, 52 DLR (AD) 162.” it was held that neither police officer, nor any other public functionary can enter into the house of any citizen and conduct any search or seize anything unless he is duly authorized under any law. If the restriction imposed has no nexus with the specified matters or is in excess of the requirement for which it is imposed, or 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 and seizure, it will be found invalid”

³² “PERSONA CCTV Probe Time Extended” *bdnews24.com* (October 13, 2011) <<https://bdnews24.com/bangladesh/2011/10/13/persona-cctv-probe-time-extended>> accessed April 24, 2022

³³ “Article 21 in the Constitution of India 1949 - Indian Kanoon” <<https://indiankanoon.org/doc/1199182/>> accessed April 24, 2022 “Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law”

³⁴ 1963 AIR SC 1295 “the Supreme Court of India first recognized that there is a right to privacy under Article 21 of the Indian Constitution”

³⁵ 1995 AIR SC 264

extended to the next generations with the protection of victim's family members. In the last decade of 19s in the 1998 *PUCL v. India*³⁶ case landmark judgment of Justices Kuldeep Singh and S. Sagir Ahmed states that "the number of copies of a record, the number of transcripts and who will see it must be specified in the preliminary permission order".

Now if we look the others regional case study on the privacy issue, a lot of incidents happened for that there are a lot of cases. Some key and factual ideologist cases are being showed here. On *Lane v. Facebook, Inc.*³⁷ here without users consent Facebook beacon program save users personal data and use them advertisement markets. Court here found the break of right to privacy and its hamper to personal liberty also. Relevant case here is *Romano v Steelcase, Inc.*³⁸. On personal data and its territorial impacts with proper implication can be measure by the different convention or treaties over the counties. Relevant case here is *Google Spain SL and Google Inc. v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González*³⁹. Some years ago on October 2, 2021, a state-of-the-art nuclear-powered U.S. submarine collided with an unknown object in the South China Sea⁴⁰.

Mixing or adopting the proper guidance's and the proper implication maximum scholars or researchers sometime say that the European Union is at the forefront of protecting personal information.

4.3 The concept of AI/ML on IOT and recent controversies:

Revolution of modern technology AI and ML are the core path players of today's digital world. Coding, machine program languages are the core feed of those technologies. Sometimes machine technologies bets human brains, AI inbuilt robot can be much efficient than human brain. In

³⁶ (*People's Union for Civil Liberties vs. Union of India & Ors.*) <<https://privacylibrary.ccgnlud.org/case/pucl-vs-union-of-india>> accessed April 24, 2022

³⁷ *LANE v FACEBOOK INC* [(2012)] F.3d 811 Court of Appeals 696 (United States District Court for the Northern District of California) (Richard G Seeborg)

³⁸ "Romano v Steelcase Inc.." (*Justia Law*) <<https://law.justia.com/cases/new-york/other-courts/2010/2010-20388.html>> accessed April 24, 2022

³⁹ "Document 62012CJ0131" (*EUR*) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62012CJ0131>> accessed April 24, 2022

⁴⁰ "South China Sea: US Submarine Collides with Unknown Object" *BBC NEWS* (October 8, 2021) <<https://www.bbc.com/news/world-us-canada-58838332>> accessed May 01, 2022

present time we see the use of killing robots, drones and others lethal autonomous weapon which can be dangerous for mankind. Some tech guys said that future will be based on AI technologies and there will be a lot of IOT devices in next decade. AI is mainly the machine program which have own efficacy to take decision and implication of it by analyzing the data that he machine took from the program. “Machine learning and deep learning are commonly employed in conjunction with artificial intelligence. Algorithms are primarily trained in machine learning to find relationships, construct predictive models, and make judgments. The algorithm improves with better training data. Image classification is one example. Machine learning is used to identify items by manually choosing relevant elements of a picture, such as the edges and corners of objects, and then utilizing that knowledge to develop a model to identify those objects. Users of websites, social networking platforms, and other platforms can sometimes train algorithms by interacting online, purchasing products, reading content, and posting and liking stuff”⁴¹

Now if we look upon the misuse of technologies in recent time firstly Cambridge Analytica and Facebook⁴² scandal will be come out. For the election manipulation here the AI based concept called social learning⁴³ which worked for the Trump campaign. After that documentary film “The Great Hacks”⁴⁴ shows us how the incident took place. There are a lot of same kinds of incidents present, now almost in every big concerning issues there will be present of the smart technologies.

4.4 Cyber Crimes, Ethics and Legal Framework in Bangladesh:

Bangladesh, regardless of being an underdeveloped nation, has seen an innovative upset. A Bangladeshi young person has simple access to PCs and different gadgets. Thus, they get enough chance to take part in hacking. Hacking has just turned into a noteworthy issue in Bangladesh.

⁴¹ Hoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Human Power* (New York: Public Affairs, 2019).

⁴² Confessore N, “Cambridge Analytica and Facebook: The Scandal and the Fallout So Far” *The New York Times* (April 04, 2018) <<https://www.nytimes.com/2018/04/04/us/politics/cambridge-analytica-scandal-fallout.html>> accessed April 24, 2022

⁴³ “What Is Social Engineering: Attack Techniques & Prevention Methods: Imperva” (*Learning Center* December 29, 2019) <<https://www.imperva.com/learn/application-security/social-engineering-attack/#:~:text=Social%20engineering%20is%20the%20term,in%20one%20or%20more%20steps.>>> accessed April 24, 2022

⁴⁴ Carole Cadwalladr, 'The Great Hack: the film that goes behind the scenes of the Facebook data scandal' (*The Guardian*, 20 July 2019) <<https://www.theguardian.com/uk-news/2019/jul/20/the-great-hack-cambridge-analytica-scandal-facebook-netflix>> accessed 24 April 2022 “Exploring how a data company named Cambridge Analytica came to symbolise the dark side of social media in the wake of the 2016 U.S. presidential election, as uncovered by journalist Carole Cadwalladr”

Youngsters are getting increasingly keener on hacking for the rush in it. Not simply youngsters, even the predominant press is so regularly occupied with the hacking and uncovering private data. The Mahmudur Rahman case is one of the leading cases in terms of cybercrimes in Bangladesh and may be referred as the first cybercrime case in Bangladesh. Mahmudur Rahman, the founder of a Bangladeshi newspaper named Amar Desh was sued in line with a High Court directive for publishing reports on Skype conversation between former International Crimes Tribunal (ICT) chairman Justice Md Nijamul Huq and an expatriate legal expert in December, 2012. He was sued along with the Amar Desh publisher Hashmat Ali on December 13, 2012.² On 15/02/2012 a group of alleged Bangladeshi hackers named 'Black Hat Hackers' hacked more than 25000 Indian websites which included important sites such as the website of the Border Security Forces (BSF)⁴⁵. On the point of the ethical view there is always present of dilemma. In the point of personal space or privacy this kinds of ethics vary person to person. Where the Constitution of Bangladesh gives their citizen protection over the right to privacy, there should be the presence of moral ethics to get better benefit in this fast moving world.

4.5 Conclusion:

In every sector of life there will be present of visible invisible risk factors, here same as for the digital technologies. In the fast forwarding data transmission world all data are not being protected though it is not possible but some data must be separate on the point of personal space. International communities are trying to build some rules and regulation by talking experience from the earlier laws. It was the right time to make a module of personal privacy and how it can be beneficial to the citizen of this digital world.

⁴⁵ "Cyber Crimes and Cyber Laws in Bangladesh" (*Bangladesh Law Digest* August 12, 2015) <<https://bdlawdigest.org/cyber-crimes-and-cyber-laws-in-bangladesh.html>> accessed April 24, 2022

CHAPTER: 5

CONCLUSION

On this last chapter of my paper I am going to try build up some suggestive model that can be effective to protect our privacy in this digital fast growing world. In this long term period debate ongoing about this concerning issues. The main object is the control mechanism of the technology for a better mankind. Here I will focus on the laws and their progress as the time demands.

Recommendation:

Covering up this vast topic on my first chapter I mentioned that in this research paper has some sorts of limitation though I try to figure out some module that can be effective. A lot of papers publication was published on this topic because nowadays AI and right to privacy is a serious question also treated to mankind effectiveness. Here some factual recommendation will be showed. On my point of view the soul objective of the protection of personal privacy should be protection of individual protection of rights from the individual perspective of concerning threat. Here it can be divided into two objective view first one the area based module on demand of society value and the second module can be adopt for the whole community users in general scene.

However, Digital Security Act-2018⁴⁶ have some controversies and the expert opinion has some deferent values. In a web seminar organized by the CGS⁴⁷ there were present of famous social activist and expert express their own thought on this issues. Proper implementation of several provisions of the Pornography Regulation Act 2012⁴⁸ and added that the flow of open accessibility must be restricted. In recent times a survey conducted by an NGO⁴⁹ that showed the real picture of our teenage internet users activities. Bangladesh Telecommunication Regulation Act-2001⁵⁰ can

⁴⁶ “The Digital Security Act 2018: Who Are the Real Victims?” *Centre for Governance Studies: CGS* (February 22, 2022) <<https://cgs-bd.com/article/6953/The-Digital-Security-Act-2018--Who-are-the-Real-Victims>> accessed May 01, 2022 “In conclusion, the discussants agreed on the necessity of a law to protect mass citizens from cybercrime. The law has to safeguard the citizens and ensure the security of everyone not only a particular group of people”

⁴⁷ Ibid.

⁴⁸ Pornography Control Act-2012- Bdcert

<https://www.bdcert.org/assets/documents/pornography_regulation_act_2012_-bangla.pdf> accessed May 01, 2022

⁴⁹ Bhuiyan E, “Legal Analysis on Pornography” *The Daily Star* (December 18, 2018) <<https://www.thedailystar.net/law-our-rights/news/legal-analysis-pornography-1674988>> accessed May 01, 2022

“A recent survey by an NGO 'Manusher Jonno Foundation' was placed before the Court during the hearing, showing 77% of school-going children addicted to porn”

⁵⁰ “Telecommunication Act 2001 (Bangla)” (BTRC) <<http://old.btrc.gov.bd/telecommunication-act-2001-bangla-0>> accessed May 01, 2022

ensure the right to protection and privacy of personal information, if not fully, to a large extent. Even then, I think the laws in place in Bangladesh are not at all sufficient to ensure the right to protection and privacy of personal information. For this a complete law needs to be formulated. I think there is a need for a comprehensive law to protect personal information, keeping in mind these limitations. The law gives the government rights over the use of wireless equipment or telecommunications in times of war, foreign wars against Bangladesh, internal insurgency or other urgent state needs. There is scope for misuse of these clauses. To prevent this from happening, protective provisions need to be added. Other urgent state needs specific explanations.

Some adopted module can be very effective likely the values of Responsible Stewardship for Trustworthy AI, which expand out the concept of "responsible stewardship for Trustworthy AI"⁵¹ that the recommendation seeks to achieve. A call for AI actors to promote and apply these principles in accordance with their roles is also necessary. The control mechanism should be preferred by the model of individual security by the proper policy implication on behalf on the stakeholders like Google, Facebook, Apple etc. Public awareness must be increased by CSR activities from those multinational tech giants.⁵² Another effective measurement can be taken for the processing the big data and how it can be stored or used by the sovereign party that mean the government, here a report methodology can be adopt from the Freedom house social report 2020⁵³. According to the report, it is possible to get a lot of information about a person's personal and professional life from the type of online use. Geo location data indicates whether he attended a peaceful gathering or not, and how often he traveled to religious institutions. Sensitive information

⁵¹ YEUNG KAREN, "INTRODUCTORY NOTE TO RECOMMENDATION OF THE COUNCIL ON ARTIFICIAL INTELLIGENCE (OECD)" (2019) 59 *The American Society of International Law* 28

"These principles are concerned with promoting and implementing: (1) inclusive growth, sustainable development and wellbeing through the responsible stewardship of trustworthy AI; (2) human-centered values and fairness (which is defined to include respect for the rule of law, human rights and democratic values) throughout the AI system lifecycle, including the implementation of safeguards; (3) transparency, explain ability, and responsible disclosure regarding AI systems (including an opportunity to contest AI-generated outcomes); (4) robustness, security, and safety, which includes a requirement of traceability and the application of a systematic risk management approach to AI systems; and (5) accountability for the proper functioning of AI systems"

⁵²KRIEBITZ A and LÜTGE C, "Artificial Intelligence and Human Rights: A Business Ethical Assessment" (2020) 5 *Business and Human Rights Journal* 84

⁵³ Shahbaz A, Funk A and Hackl A rep <<https://freedomhouse.org/report/special-report/2020/user-privacy-or-cyber-sovereignty>> accessed May 01, 2022

User Privacy or Cyber Sovereignty?

"Data localization requirements do not operate in a vacuum. Rather, a country's political context, international relations, and economic imperatives all have a role to play in shaping a government's approach to governing data flows."

can be found from a like in a social media post. With the acquisition of huge amounts of data, on the one hand, such incidents as insulting religion or insulting or threatening government officials in law, or deteriorating law and order can be detected, similarly, the democratic movement can be suppressed. After China and Russia, Brazil, India and Turkey have taken this path in the name of protecting personal information. Apart from that, all tech giants including Facebook, WhatsApp, Google, Twitter, and Amazon have to set up servers in Bangladesh. The purpose of this will be to keep the data of the citizens of Bangladesh inside Bangladesh and here government can take proper action against them on violation any rule of local laws. Make proper laws on it and Surveillance is not the purpose of that new proposed law. Government's one of the priorities should be protection of the information of the citizens. Facebook and Google are now becoming a digitalized version of somewhat the new colonial power. Information will be the most important weapon in the days ahead. People are handing over their personal information to them whether they understand it or not. There have also been incidents of information being leaked from them. The United Nations has not yet adopted any international convention or agreement on the protection of personal information. In its preliminary report on the International Charter on Civil and Political Rights, it has written about the right of Bangladesh to protect secrecy. The Human Rights Committee did not make any recommendations in its observation. In my view, the weakness of Bangladesh's legal framework in ensuring the protection of personal information and the right to privacy is undeniable.

Individual Privacy Must be Guaranteed:

At this last stage by elaborating all chapters here we can say that personal privacy, right to life and individual liberty are associated with the issue of freedom of thought and dignity. The law will protect the rights of the person whose information has been collected. At the same time, the law will bring all those who have data controllers, data collectors, data processors and others under the obligation to protect personal information. Awareness is much less than our excitement about social media or digital communication. In fact, we have no idea what should and should not be expressed on social media. Again, it is safe to say that we do not have a problem with what we are expressing on social media. When installing the app again, we do not even think about what kind of information the app will collect from our phone. Now is the time to be aware of these things.

Now, just as there is more trade or currency war than direct war, so one day the age of information war is expected to come. As a current citizen of Bangladesh there are provisions in various laws, including the Digital Security Act and the Bangladesh Telecommunications Regulatory Act, for criminal penalties for violating the right to privacy. For example, the Digital Security Act provides penalties for hacking and illegal entry. Again, the Bangladesh Telecommunications Regulation Act provides for punishment for intentional interference in telephone conversations. However, these laws have some limitations. Attempts have been made to protect personal information with the provision of criminal penalties. There is no provision for compensation for the victim. Again, there is no measure of resistance. You can only go to court if you are in danger, the law does not say to take any action to avoid danger.

Lastly, those have constitutional guarantee over the privacy rights they must be protected and they should be raised their voice on any violation of those rights. I think there is a need for a comprehensive law to protect personal information, keeping in mind these limitations.

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