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FREEDOM OF EXPRESSION OF THE VLOGGERS UNDER THE LEGAL
FRAMEWORK OF BANGLADESH

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The dissertation titled “FREEDOM OF EXPRESSION OF THE VLOGGERS UNDER THE LEGAL FRAMEWORK OF BANGLADESH” in perspective of Bangladesh prepared by Tanvir Ahamad , Id- 2018-2-66-028 , submitted to Sayeed Hossain Sarwar, Senior Lecturer, Department of Law, East West University for the fulfillment of the requirement of course law-406 (Supervised Dissertation) for the LL.B (Hons) degree offered by the Department of Law, East West University is approved for submission.

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DECLARATION

I, myself, Tanvir Ahamad, hereby declare that this research paper titled FREEDOM OF EXPRESSION OF THE VLOGGERS UNDER THE LEGAL FRAMEWORK OF BANGLADESH in Bangladeshi Perspective an analytical overview is original work of mine and had never been submitted to any publication or journal before. This research aims to finish my Undergraduate Degree as a course. A list of references had been inserted.

FREEDOM OF EXPRESSION OF THE VLOGGERS UNDER THE LEGAL
FRAMEWORK OF BANGLADESH

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Abstract

Freedom of speech is our constitutional rights which is guaranteed under the Article-39 of the Peoples Republic of Bangladesh. Because of some provision of the law, vloggers do not exercise this right due to the restriction. Due to the provision of some statutory law vloggers are not protected whenever they express their opinion into the social media platform. Many laws of Bangladesh are make restriction to expressing any thought or opinion. Penal code, cyber security Act, Code of Criminal Procedure also imposed restriction regarding the freedom of expression of the vloggers. The main objective of this research is to determine that how the law make hindrance to the speakers whenever they speak before the social media. Constitutional guidelines are completely violated by these provision of the law. The main aim of this research to find out that how the law restricts the people to speak freely and violating the constitutional rights. The main focus of this research to find out the restrictions that violates the right to freedom of expression and for this reason vloggers do not exercise this rights freely. This paper will suggest recommendation that how this restriction or guidelines of the law can be reduce.

CHAPTER-01

1.1 Introduction

At the present time peoples are now connected with each other by digital device. Internet makes the world as a small village, through the internet people can share anything in a single moment by their smart devices. Vlogging is a medium to make communication with a vast community by the social media account. Whoever making or producing any short videos for the purpose of sharing with the viewers or followers is called vlogging. Whoever make this video is called vlogger, who generally share any ideas, thoughts or opinion. Constitution of the people's republic of Bangladesh established the right of freedom of expression and opinion¹ (Hasan, 2020). On the other hand this said constitution also imposed restriction into the freedom of expression whenever it is against the national security and individual rights² (Hasan, 2020).

1.2 Literature Review

Vlogging is a new concept in respect of Bangladesh. Nowadays it becomes more popular rather than television program. Peoples are accepting this types of communication because of the entertainment and informative. Many works has been done by the prominent writer about the vlogging or social activities. Prominent writer Nicholas Gallo published a book named Become a

¹ Constitution Of The Peoples Republic Of Bangladesh[Article-39]

² Constitution Of The Peoples Republic Of Bangladesh[Article-39(2)]

YouTube Influencer in 365 days³ (Gallo, 2020). Where he make his guidelines about to making videos for the viewers in respect of social media purpose. Making YouTube Videos published by **Nick Willoughby** for the kids to learn how to make videos or you tube channels. **Erin Staley** gave his idea and thought about Vloggers and Vlogging. In his study he generally emphasize the entertainment and idea about the vlogging. on the other hand in case of freedom of expression I have studies the book “ The Basic Structures Of The Constitution Of Bangladesh” by **professor Dr. Mahmudul Hasan** to understanding the principle of freedom of expression and constitutional rights among it. I have studies the book “ The Constitutional Law Of Bangladesh” edited by **M Rafiqul Islam** and **Dr. Muhammad Ekramul Haque** to knowing the constitutional guidelines about the freedom of expression or thought. So the main purpose of this research to highlight the unlawful restriction about vlogging which is contrary with the guidelines of the Constitution of Bangladesh. I have take ideas by the authors book mentioned in the above to establishing my opinion regarding the Vlogging and Freedom Of Expression.

1.3 Hypothesis

Vloggers of Bangladesh do not exercise the right freedom of expression freely due to the restrictions of the law. A particular legal provision need to enact to ensure the vloggers to vlogging without any hindrance.

1.4 Research Questions

The main research question of the research is

Whether the freedom of expression of the vloggers is ensured by the legal framework of Bangladesh.

1.5 Research Methodology

This research mainly focused on vlogging and how the vloggers not exercise this right properly due to the restriction of the law in Bangladesh. It describes the laws of Bangladesh and international aspect connected with vlogging and freedom of expression. To completing this

³ Nicholas Gallo ,June 29 2020, <https://www.amazon.com/dp/B08C3W94W3?tag=uid10-20>

research many articles and journals has been followed by the researcher. Internal and international provision of the law has been followed by the researcher to completing this research.

1.6 Scope And Limitations Of The Research

This research is basically about the violation of the freedom of expression. As it is the digital era, most of the people are now connected with the digital device and can gather positivity by the social influencer, mainly the vlogger. The main aim of this research to find out the main reason of violation of the freedom of expression. It has also some limitation because the term vlogging is not commonly used in Bangladesh. It is a new discovery of this generation and for this reason there is no any available information about vlogging. After researching about this term I have found some articles, Journals and news report to knowing about the actual meaning of vlogging. Help will be take from this shorts of resources to completing the research.

1.7 Conclusion

Vlogging by the vloggers is a new concept for the Bangladesh. Availability of the technology , people can take advantage from the features of the device. Making short videos and share it into the social media is also happened because of the availability of the internet and features of the digital device. Legal provision need to be settle down to regulate them in a proper way. Discussion of this research will be moving on to the next chapter which is about perception about the vlogging.

Chapter-02:

Perception About Vlogging.

2.1 Introduction

The term vlogging is a method where the content creators producing their content videos from many aspects. Nowadays it has been very popular medium to communicate with the general people. Vlogging is a method where a person making short videos for their social media account and share with the community. At the present time it is very common to the social media users that vloggers share their experiences and expression before the audience into the social media platform.

2.2 Definition Of Vlogging

Vlogging means making videos and share with the followers or general people of the society. A vlog or video blog is a digital record of ideas thoughts published and shared in video format⁴. So in a simple way we can say that vlogging means to produce short videos about the wishes of the maker. Here the vlogger share his experiences and ideas among the followers or viewers. Who generally makes the video for online vlogging is called content creators. For the purpose of online vlogging , content creators produce their videos and uploaded into the social media⁵. Many kind of vlogging has been make by the authors of such videos. Namely;

Daily Vlog is a method where the content creators share his experiences and daily work into the social media⁶ (zhayvorno, 2023). Producer generally making the videos into a interesting way for the attraction of the viewer. Lots of people around the word making short daily vlog videos and upload it into the social media like Facebook, Youtube, Instagram.

⁴ <https://www.socialpilot.co/social-media-terms/vlog>

⁵ [ater.com/social-media-glossary/vlog-vlogging-](https://www.ater.com/social-media-glossary/vlog-vlogging-)

⁶ Roman Zhayvorno, November 22, 2023, <https://www.movavi.com/learning-portal/vlog-ideas-for-beginners.html>

Technological Vlog generally making for the audience to give information about the technological ideas and thinking⁷. Comparative analysis about the technologies is the main aim to this vlogg.

Travel Vlog is one of the most popular vlogging media into the world. Vloggers generally rooming the country to country and capture the historical place into their device⁸ (hossain, 2022). Later on they upload the video format of the vlog into their social media account.

Educational Vlog is the most accepted vlogging media over the world. So many scholars of the world captured their lecture and share with the people to learning in a wider sense. Ayman Sadik, one of the most prominent Vlogger who has been working in the ground of educational vlog in his institution 10 Minute School. Learning and increasing knowledge is the main purpose of the educational vlogg⁹ (Yap, 2020, p. 22).

Political Vlog is a another form of vlogging where the political influencer express their thoughts and opinion and upload it into the online platforms to express his opinion regarding the political situation¹⁰ (Prioletta, 2017).

So there are many vloggers into the world who has been working to produce many types of vlogg videos to share with a broad community over the world.

2.3 Effect Of Vlogging Into The Society (Bangladeshi Perspective)

Vlogging is a media to communicate with the huge number of people in a short video. It has many good effects into the society as well as the bad. First of all, it is a media to express anyone idea, thoughts, and experiences. It's a method to share any opinion towards the society. From the vlogging, viewers get new idea and experiences to improve their knowledge as well as storage.

⁷ Updated 1 october, 2023 <https://uk.indeed.com/career-advice/career-development/what-is-a-vlog>

⁸ Md Mobarak Karim, February 2022

https://www.researchgate.net/publication/358346049_Travel_Vloggers_As_A_Source_Of_Information_About_Tourist_Destination_A_Study_In_Bangladesh

⁹Roseline Wai Kuan Yap (Taylor's University, Malaysia),page-20,2020

<https://www.igi-global.com/dictionary/developing-educational-videos/80140>

¹⁰ Jessika Prioletta , University of Toronto , October 2017

https://www.researchgate.net/publication/320660679_Vlogging_on_YouTube_the_online_political_engagement_of_young_Canadians_advocating_for_social_change

From the Daily vlogg videos people can get the update about the daily activities of a society, condition of the general people and so many thing. Into the technological vlogg a person can gather experiences about the technology and update version of technological ideas and thoughts. Travel vlogg is guide to the traveler who wants to travel within the country or abroad. It's a guideline for the viewers to know the system or method how to going any tourist spot or place. Educational vlogg plays a vital role into the country like Bangladesh. Students can easily learning without going to school or any institution. It is a great opportunity for the students who are not able to go any educational institution every day. An articles was published into the renowned News Paper of the country “ The Daily Star” by Tamjidul Hoque on 23 August 2022 provide that travelling vlogg is a medium to encourage people to travel another countries of the world. On his Articles he also acknowledged that vloggers who came to Bangladesh praised the hospitality of the states and the concern authority of the states¹¹ (Haider, 2023).

On the other hand vlogging has also bad effect into the society. By means of vlogging some vloggers spreading out rumor and sexuality into the society. Bad effect has been made due to this illegal method of vlogging. In respect of vlogging some vloggers violates the privacy of the general people.

2.4 Validity Of The Vlogging

By means of vlogging a person can share his expression or opinion. It helps to the people to share the thought, ideas or personal experiences. Constitution of The Peoples Republic Of Bangladesh established the right to speech or opinion. Article 39 of the said constitution ensured the freedom of speech and opinion of its citizen¹² (hasan). So express opinion or ideas by means of vlogging is legal under the constitution of Bangladesh. On the other hand this constitution also imposed restriction into the freedom of expression when it is against the national security or the individual rights. According to Article 19 of the International Covenant On Civil And Political Rights,1966 provides that everyone shall have the right to freedom of expression without

¹¹ M H Haider, September 2023 , The Bangladesh Experience <https://www.thedailystar.net/life-living/travel/news/the-bangladesh-experience-3-global-travel-vloggers-reveal-their-stories-3426806>

¹²Mahmudul Islam, Constitutional law of Bangladesh, third edition Constitution Of The Peoples Republic Of Bangladesh[Article-39]

interference of the public authority¹³ (ICCPR). So according to the international law and statutory law vlogging is legal if it is not against the national security and individual rights.

2.5 Conclusion

Vlogging is a new method of sharing experiences at the present time. Way of vlogging a person can exercise the right to freedom of expression and opinion. Vlogging is lawful under the constitution of Bangladesh and International covenant on civil and political rights. It has some good and bad effect into the society simultaneously. People can know the various knowledge from the vloggers and also get bad ideas or unlawful activities from the vlogger. If we interpret the Article 39 of the constitution of Bangladesh and ICCPR , Vlogging is lawful to sharing experiences, thoughts, and ideas but by the name of vlogging no one can express anything which is against the national security or individual rights.

¹³ ICCPR[Article-19]

Chapter-3

Perception About Freedom Of Expression

3.1 Introduction

Freedom of expression is a legal term that means to express any opinion without interference of any authority or any body¹⁴. Right to speak, right to be heard and participated in political, artistic, social life and share information is also considered as the right to freedom of expression. . Article 39 of the Constitution of the Peoples Republic of Bangladesh provide that every citizen is entitled to thought and conscience. Article 39(2a) of this said constitution emphasized and guaranteed about the freedom of speech and expression¹⁵. Article 19 of the International Covenant On Civil And Political rights,1966 also established the right to freedom of expression without interference of any authority. Freedom of expression is the key to achieving democracy, without establishment of the right to freedom of expression democracy will not be lightened in any country¹⁶ (Ummey Habiba).

3.2 Definition Of the Freedom of Expression

The term freedom of expression means to share any opinion or speech without interference of the public authority¹⁷. This includes the right about political speech, speech about religion and any speech which is not offensive¹⁸. The right to freedom of expression and opinion is established under the Article 19 of the International Covenant On Civil and Political Rights (ICCPR)¹⁹. Here this means a person is entitle to express his opinion or express anything which is not against the law. Article 10 of the European Convention for the protection Of Human Rights And

¹⁴ <https://www.amnesty.org/en/what-we-do/freedom-of-expression/>

¹⁵ Constitution Of the Peoples Republic Of Bangladesh[Article-39]

¹⁶Ummay Habiba, Priyanka Kundu, Md. Golam Rahman & Mofizur Rhaman, Freedom of Expression in Bangladesh in the Context of Bloggers' Killings,Chapter-10
file:///C:/Users/modhupur%20laptop%20hous/Downloads/FreedomofexpressioninBangladesh.pdf

¹⁷ <https://www.un.org/en/observances/end-impunity-crimes-against->

¹⁸ <https://www.coe.int/en/web/freedom-expression/freedom-of-expression-and-information>

¹⁹ https://www.ohchr.org/sites/default/files/Documents/Issues/Expression/Factsheet_1.pdf

Fundamental Freedoms provide that “ every one has the right to freedom of expression. This right include freedom to hold opinions and to receive and impart information and ideas without interference by public authority regardless of frontiers”²⁰. So from the above discussion it is clear before us that freedom of expression is a right which a person entitled from the time of born and over in the time of death. It is a political right and every democratic states is under liability to established the right to freedom of expression due the provision of the international organization.

3.3 Freedom of Expression In The Perspective Of Bangladesh

Freedom of expression is a very common term in Bangladesh. According to Article 39(1) of the Constitution of the peoples Republic of Bangladesh provide that freedom of thought and conscience is guaranteed²¹ (Bangladesh). Constitution is the supreme law of Bangladesh. This law ensured the right and established this right among the citizen of our country. Everyone is entitled to express his opinion or speech without the interference of any body or public authority. If the right freedom of expression being violated by any authority or public body is completely the violation of the supreme law. Article 39(2) of this said constitution also provide that state has the right to imposed any reasonable restrictions to the freedom of expression whenever it is against the national security, friendly relation with foreign state, public order, morality, contempt of the court, defamation or incitement to an offence²². This right is assured by the constitution and no one has the authority to make any hindrance to establish or exercise this right. Government is under liability to established this right²³.

3.4 Purpose Of the Freedom Of Expression

²⁰ European convention for the protection of human rights and fundamental freedoms[Article-10]

²¹ Constitution Of the Peoples Republic Of Bangladesh[Article-39]

²² Constitution Of the Peoples Republic Of Bangladesh[Article-39(2)]

²³ Constitution Of the Peoples Republic Of Bangladesh[Article-39(2)]

Freedom of expression is the lifeblood of democracy. As a democratic state authority should have the access to their citizens. There can be no doubt that the freedom of expression, coupled with the corollary right to receive and impart information, is a core value of any democratic society deserving of the utmost legal protection. As such, it is prominently recognised and entrenched in virtually every international and regional human rights instrument²⁴ (General). Freedom of expression is the medium to communicate with the citizen of the state. So main purpose of freedom of expression is to increase good relation between the citizen and the government²⁵. Without the good relation among the citizen and the government no country will progress anymore. Reaching out the news which is against the public welfare, freedom of speech and expression can be the best medium to communicate with the authority. In the mean time it is also very effective to the community to knowing about their problems, ideas and opinion²⁶. By using this fundamental rights a person can share or express his opinion to reveal the actual fact of the sate and authority can take measures from this expression. Purpose of the freedom of expression to determined demand of the peoples of a country and giving them the freedom to say or express anything without the interference of the public authority like the government. As a result , freedom of expression is the media to held the government accountable²⁷. Transparency of the government is maintainable to established the right freedom of expression and opinion. When the public have the right to express their any demand or claim by the terms of the freedom of expression, government will be accountable and transparent.

3.5 Conclusion

Freedom of expression is a right which a person entitled during the birth and till the death. This rights is basically a political right for a person all over the world. Every democratic states are under liability to established the right freedom of expression among its citizen. Without established this right a nation can not be pretend as a democratic country. In respect of democratic country , people are main sources of power and they elected their representative. So

²⁴ The Importance of Freedom of Expression, Madanhire and another v Attorney General, <https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/Chapter-2.pdf>

²⁵ <https://www.amnesty.org/en/what-we-do/freedom-of-expression/>

²⁶ Constitution Of the Peoples Republic Of Bangladesh[Article-39(2)]

²⁷ https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/utflr67§ion=9

it is very important for the citizens of any democratic country to exercise the right freedom of expression otherwise value of the democracy will not effective for any state. Discussion of this research will be moving on the next chapter which is about Violation of freedom of expression by the law of Bangladesh.

Restriction About Freedom Of Expression And Vlogging In Respect Of Bangladesh.

Chapter-4

4.1 Introduction

As it is established that freedom of expression is a right which recognized by the constitution of Bangladesh. Explicit direction have been made by the constitution that right to expression and opinion should be established into the country. It is a fundamental rights for its citizen and this right shall not be changeable by means of amendment of the constitution²⁸. After all that, we have some laws that restrict the freedom of expression and vloggers face difficulties during online vlogging.

Restrictions About Freedom Of Expression In The Penal Code,1860.

Freedom of expression is a fundamental rights which constitute into the constitution of Bangladesh. Article 39(2) of the said constitution provide that state will ensure the freedom of speech, expression and press subject to the reasonable restriction. Government has the authority imposed restriction whenever it is against the friendly relation with foreign state, public order, decency or morality, in relation to contempt of court , defamation or incitement to an offence²⁹. Constitution declares that in case of such ground , government has the authority to imposed reasonable restrictions. Section 171G of The penal code provides that whoever with intent to affects the result of an election makes or publishes any statement which is false and which he either knows or believes to be , or does not believe to be true in respect of any candidates personal character of the election shall be punished with fine³⁰. This section is basically protected the rights of the morality of any candidates of any election. Candidates are under liability by this section whenever they publish or made any statements. This section do not provide the guidelines about false statement and publication. Opposite party may take advantage

²⁸ Constitution of the peoples Republic of Bangladesh [Article-7(c)]

²⁹ Constitution of the peoples Republic of Bangladesh [Article-39(2)]

³⁰ Penal Code,1860 [section-171G]

with this section in relation to the election. For example, whenever any candidates have the knowledge about the character of the opposite party and which is true and he exposed it before the public, it shall not be crime within this section of law. But the fact is opposite party may take the advantage of this section and pretend before the court that he is innocent and the statement provide by the another party is false and fabricated. He may file a case against that person within the provision of this section. So the right to freedom of expression is curtailed in this section which is against the fundamental rights of any citizen of the country.

Section 499 of the Penal Code,1860 provides that whoever by words either spoken or intended to be read, or by sign or by visible representations makes or publish any imputation concerning any person intending to harm is called defamation³¹. Whenever it is against the reputation of any person and harm that person by such act would be consider as defamation. Section 500 of the penal code provides that whoever defames another shall be punished with simple imprisonment for a term which may extend to two years or with fine or with both³². So by means of this section a person can claim about defamation. This section do not provide any specific grounds that which are actually defamation and which are not. A person can not express his opinion about any person due the restriction of this section, because it is a punishable offence whenever it is false under defamation. The term defamation is not specific and clear in this law , peoples are facing difficulties whenever they want to express their opinion regarding any person.

Section 124/A of the penal code 1860 defines the offence of sedition. Whoever by spoken or written words or by signs or by visible representation otherwise brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards the lawful government can be accused of committing sedition. The punishment prescribed varies from imprisonment up to three years to life imprisonment with fine or without fine (1860).

4.2 Restrictions About Freedom of Expression In The Code Of Criminal Procedure,1898.

Code of criminal procedure Act generally a procedural law. It describes the procedure to file a case against any person or body. Section 198 of this Act partly provide that a person who is under eighteen years old, any women usually not appear before the public due to the customs ,

³¹ Penal Code,1860 [section-499]

³² Penal Code,1860 [section-500]

lunatic or due to the sickness can make file a case by their representative in respect of the offence provide into the chapter 21 of the Penal code,1860³³. Chapter 21 deals about the defamation and provides the punishment for the offence of defamation.

4.3 Cyber Security Act,2023

Section 29 of the Cyber Security Act,2023 provides that ff any person publishes or transmits any defamatory information as described in section 499 of the Penal Code (Act XLV of 1860) in website or in any other electronic format, he shall be punished with fine not exceeding Taka 25 (twenty five) lac³⁴. In case of defamation the punishment was settled into the Penal Code which is not exceeding two years or fine or both. The amount of the fine is not fixed in the Penal Code. Cyber security Act,2023 is clearly provides that fine of the defamation can be twenty five (25 lac) lac taka. Also this Act do not provides the guidelines about the defamatory statement.

4.4 Restriction About Online Vlogging.

Freedom of expression is a established right which constitute into the constitution of the Peoples Republic Of Bangladesh. Article 39 declared that freedom of thought and conscience is guaranteed. Government has the authority to imposed reasonable restriction regarding the freedom of expression which constitute into the Article 39 (2). Any person may express his opinion or thought into the social media or online platforms within the boundaries of the constitution. Without against the;

1. interest of the security.
2. Friendly relations with foreign state
3. Public Order.
4. Decency Or morality
5. Contempt of the court.
6. Defamation or Incitement;

³³ <http://bdlaws.minlaw.gov.bd/act-75/section-21027.html>

³⁴ Cyber Security Act[section-29]

A person can express his opinion without any restrictions or hindrance guidelines provides by the Article 39(2) of the said constitution. So far as the vloggers or the public speaker is not protected due the existence law of the Bangladesh. Penal code,1860 provides the punishment regarding the defamation but this Act do not give any guidelines about the extends of the defamation. Mere insulting words or gestures also can be a punishable offenc according to this Act, which is completely a hindrance for the vlogger or social influencer. Code of criminal procedure Act,1898 also provides the procedure how a person can appear before the court by representative. Cyber security Act,2023 provides a huge amount of money as a fine due to the defamation. All of this Act generally makes one sense and which is restrictions about the freedom of expression. Effect of this restrictions falls into the online vlogging. Vloggers can not share there experience, thought or opinion due to restriction of the law.

4.5 Conclusion

Limitation imposed into the freedom of expression can stop the people from speaking freely. Voice will be silence and this situation may harm the society day by day³⁵ (Ahmad, 2015). Public demand will not be raised due to lack of the speaker. Accountability will not be effective in any stage of the government³⁶ (Callamard). Discussion of this research will be moving into the next chapter which is about to findings the negative impact regarding the restrictions about freedom of expression and recommendation to overcome this situation and a brief conclusion of this topic.

³⁵ Fayazuddin Ahmad

Tue Oct 6, 2015 12:00 AM

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<https://www.thedailystar.net/law-our-rights/restrictions-freedom-expression-152341>

³⁶ Agnès Callamard

Social Research

Vol. 77, No. 4, *From Impunity to Accountability: Africa's Development in the 21st Century* (WINTER 2010), pp. 1211-1240 (30 pages)

Published By: The Johns Hopkins University Press

<https://www.jstor.org/stable/23347125>

Chapter-5

Conclusion

5.1 Introduction

All the laws which is inconsistent with the terms fundamental rights is void³⁷. Constitution has the direction over the fundamental rights and relief regarding the violation of the fundamental rights. Whoever being aggrieved by the violation of fundamental rights may file a writ petition according to Article 102 of the Constitution of Peoples Republic of Bangladesh³⁸. Restriction imposing over the freedom of speech and expression without necessary grounds is completely the deviation of the constitution.

5.2 Case Laws

In 2018, a case was filed against the photo journalist and human rights activist Dr. Shahidul Alam due to the allegation of publishing fake, obscene, or defaming information in electronic form according to the section 57 of the Digital Security Act,2018(repealed). Which was talk of the country on that period of time. The lower court held its decision to detained Dr. Shahidul Alam due the charge of the said section. Dr. Shahidul Alam later on filed a writ petition to the High Court Division to challenging the legality of the charges brought against him. High Court Division on 25 may 2019 issued a rule and order of stay and directed the police to explain why the investigation against Alam should not be held contrary with the constitution. Then the state preferred an appeal before the Supreme Court of Bangladsh³⁹. Decision of the Appellate division was;

The Supreme Court upheld the order passed by the High Court Division and extended the stay on the investigation against Dr. Alam, they also asked the

³⁷ Constitution of the peoples republic of Bangladesh [Article-26]
2 Constitution of the peoples republic of Bangladesh [Article-102]

³⁹Global Freedom of expression. Colombia University, <https://globalfreedomofexpression.columbia.edu/cases/the-case-of-shahidul-alam/>

High Court Bench led by justice Chowdhury to hear and dispose of the writ petition in a time bound manner by December 18,2021

Findings And Recommendation

Exercise of freedom of expression is the vital element for the terms democracy. In respect of democracy, peoples are the main sources of power. A state generates its power from the peoples of it. In case of Bangladesh it is established that a person can express his opinion or speech without any hindrance. As a result the term freedom of expression is slightly violated by the laws of Bangladesh. The penal code attributes the punishment for defamation but the term defamation is not clear and transparent. A person who has the guilty intention towards anyone or personal interest may file a case according to this section 499 and may claim that accused defame him by words and act. Whoever makes any comments regarding the states which can be appropriate for such person maybe fall under the section 124/A of the Penal Code,1860 . It is basically the restriction over the freedom of expression. Cyber security Act,2023 imposed a fine regarding the defamation which is maximum twenty five lac taka. Which imposed a massive bar to the speaker who generally speaks before the community. Vloggers face difficulties to express their opinion due to the bar of those provision of the law. From my point of view vlogger is the mirror of the countries daily activity. Many sorts of vlogger express their opinion by making videos and uploading it into the social media. But the true fact is that vloggers are not free from the restriction of the law which conflicting with the constitution.

Recommendation

To improve this situation we need to amend some provision of law and make sure the priority of the constitution. Recommendation about this conflicting situation is;

1. Established the guidelines of the Constitution.
2. Amend the some provision of Law.
3. Established a regulation regarding the online vlogging.

5.3Concluding Remarks

Nowadays peoples have a great attention over the online vloggers activity. It is very rare to find a person who have no any social media account at this recent time. Lately, Its been a medium to earning money as well as achieve fame to the new generation. Making videos is not only the option to reaching out before the public it has also some other grounds to produce. Restriction imposing over the vlogger by means of provision of law it will be conflicting with the constitution as well as the morality. Public speaker or vlogger, it may be any sorts of online vlogger , have been playing a great role over the society. Imposing restriction by making laws or amending the laws is completely against the doctrine of freedom of expression. Every individual have the right to speak or express his opinion otherwise it will be a injury to the personal liberty and freedom of choice.

Therefore it is necessary to amend the provision of the Penal Code,1860 and Cyber Security Act,2023 regarding the terms defamation. It is true that defaming another one is offence but in which circumstance that would not be consider offensive and which extent a person can express his opinion should be specific into the law. It is the duty of the state to make sure the fundamental rights of its citizen. No law should be enact or amend which is against the principles of fundamental rights. It is the direction of the constitution that confliction with the fundamental rights shall be void⁴⁰. So that, Government may take a step to regulating a new law for the online vlogger. As it is very popular to this generation and peoples are positively accept the online vlogging , so that government may take measures to enacting a new regulation for the online vloggers. Which would be very effective to this generation and guidelines of the constitution will not be affected.

⁴⁰ Constitution of Peoples Republic of Bangladesh [Article-26]

Bibliography

Statutes :

1. Constitution of the Peoples Republic of Bangladesh
2. The Penal Code,1860
3. The Code of Criminal Procedure, 1898
4. Cyber Security Act, 2023
5. The Digital security Act.2018 (Repealed)

Books:

1. Constitutional law of Bangladesh by Professor Mahmudul Hasan.

Journal Articles And Websites Blogs :

- 1.Nicholas Gallo ,June 29 2020, <https://www.amazon.com/dp/B08C3W94W3?tag=uuid10-20>
- 2 Roman Zhayvorno, November 22, 2023, <https://www.movavi.com/learning-portal/vlog-ideas-for-beginners.html>
- 3 Md Mobarak Karim, February 2022
https://www.researchgate.net/publication/358346049_Travel_Vloggers_As_A_Source_Of_Information_About_Tourist_Destination_A_Study_In_Bangladesh
- 4 Roseline Wai Kuan Yap (Taylor's University, Malaysia),page-20,2020
<https://www.igi-global.com/dictionary/developing-educational-videos/80140>
- 5 Jessika Prioletta , University of Toronto , October 2017
https://www.researchgate.net/publication/320660679_Vlogging_on_YouTube_the_online_political_engagement_of_young_Canadians_advocating_for_social_change
- 6 M H Haider, September 2023 , The Bangladesh Experience <https://www.thedailystar.net/life-living/travel/news/the-bangladesh-experience-3-global-travel-vloggers-reveal-their-stories-3426806>

7 Ummay Habiba, Priyanka Kundu, Md. Golam Rahman & Mofizur Rhaman, Freedom of Expression in Bangladesh in the Context of Bloggers' Killings, Chapter-10

<file:///C:/Users/modhupur%20laptop%20hous/Downloads/FreedomofexpressioninBangladesh.pdf>

8 The Importance of Freedom of Expression, Madanhire and another v Attorney General,

<https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/Chapter-2.pdf>

9 Fayazuddin Ahmad, Tue Oct 6, 2015 12:00 AM

Last update on: Tue Oct 6, 2015 12:00 AM

<https://www.thedailystar.net/law-our-rights/restrictions-freedom-expression-152341>

10 Agnès Callamard

Social Research

Vol. 77, No. 4, From Impunity to Accountability: Africa's Development in the 21st Century (WINTER 2010),

pp. 1211-1240 (30 pages)

Published By: The Johns Hopkins University Press

<https://www.jstor.org/stable/23347125>

Case Law:

1. Dr. Shahidul Alam vs Government of Bangladesh

News Paper Articles:

1. Column by Mahfuz Anam: DSA to CSA, a sham of a reform, [Mahfuz Anam](#), Fri Sep 1, 2023 12:00 AM.

2. Navigating biases, power dynamics and media integrity, [Meer Ahsan Habib](#), Sun Sep 3, 2023 08:30 PM

3. Bangladesh still 'in crisis' on freedom of expression index, TBS Report, 05 July, 2023, 09:40 pm

