

Internet Governance: Present Situation of Bangladesh and Malaysia

Md. Zahidul Islam, Rabeya Anzum

Abstract: Internet is a very well-known word in this world since it has a revolutionary impact on our society. Nowadays we cannot think about our daily life without using internet and specially social media is solely connected to it. Mass media has become more powerful in terms of spreading any news throughout the globe. With the help of social media we can attain almost every information about the happenings of the world. At the same time, it has become very easy to create confusion among people by manipulating information and spreading it among people. Authorities have come forward to suppress this kind of adverse practice of social media and imposed some regulations locally as well as internationally. The aim of this paper is to focus on legal aspects of internet governance and the ongoing situation in terms of accessing social media in Bangladesh and Malaysia. It is qualitative research work. The information entitled in this paper has been extracted from various newspapers, articles, books and statutes. The Government of Malaysia and Bangladesh has adopted some Acts, Rules, and Regulations to avoid the malpractice of misusing Internet.

Keywords: Internet, Governance, Malaysia, Bangladesh.

I. INTRODUCTION

Internet has come into existence in Bangladesh in 1960s. In the beginning it was reachable to academics and military personals only. The increasing use of internet is noticed right after developing World Wide Web (WWW.). The commercial use of internet introduced by the year of 1993 (Azam, 2007). After four years on June 6, 1996 VSAT base data circuit was projected (Azad, 1997) for the first time in the country. On the same year the two first internet service providers namely Information Services Network (ISN) and GrameenCybernet got permission from Bangladesh Telegraph and Telephone Board (BTTB) to install VSAT (Very Small Aperture Terminal, a satellite communications system) data circuits (Azam, 2007) from. Afterwards in associating with 16 countries and following the SEA-ME-WE-4 project Bangladesh has been connected with information super highway through submarine optic fiber networks. The beginning of Internet in Malaysia was in the year of 1995 and the very next year Cari Internet was founded which was country's first search engine and web portal company.

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Since then very few users (one out of every thousand Malaysians) had access to the Internet by MIMOS and Beta Interactive Services. After the evaluation of internet in Malaysia, in the year of 1996 the number of Internet hosts in Malaysia began to grow. The number of users grew to 2.6% of the population in 1998 and after 2000 it is increasing outstandingly.

A. Internet Regulatory Bodies

The Bangladesh Telecommunication Regulatory Commission (BTRC) was established under the Bangladesh Telecommunications Act of 2001 (amended 2010). One of the main objectives of Bangladesh Telecommunication Regulatory Commission (BTRC) is to regulate telecommunication and Information and Communication Technology (ICT) related issues in Bangladesh. Similarly, Malaysia has also its own internet regulatory commission i.e. Malaysian Communications and Multimedia Commission (MCMC). The scope of MCMC is to monitor the communications and multimedia industry empowered by the Malaysian Communications and Multimedia Commission Act (1998) and the Communications and Multimedia Act (1998).

B. Availability of Access

According to the survey of Bangladesh Telecommunication Regulatory Commission (BTRC) it was reported that in 2014 internet penetration in Bangladesh was 9.6 percent whereas in 2013 it was estimated 6.6 percent. Around the globe in comparison with other countries where ICT usage is increasing frenetically, Bangladesh is still lagging behind. Bangladesh ranked 114 out of 144 countries worldwide extracted from the World Economic Forum's 2013 global IT report. Despite of poor infrastructure and regulatory environment, communication service was quite affordable in Bangladesh in comparison with other countries that symbolizes a factor for the growing use of internet. However the government decreased the price of bandwidth significantly over the last decade but still private internet service is costly. With the availability of internet people are accessing social media like Facebook, Twitter etc and internet base crime has also been increased consequentially. The concentration of using internet is higher in big cities than the rural areas. The government took step to facilitate every sectors of Bangladesh and in 2009 "Digital Bangladesh by 2021" program was launched. The motto of this program was to integrate internet access in national priority areas, such as education, healthcare, and agriculture.

By 2011, the government had established 4,501 centers countrywide to provide low-cost internet access and related e-services in poorer communities. The total number of internet subscribers has reached 61,288 million at the end of March 2016 according to BTRC.

In 1995 the first Malaysian Internet survey was conducted by MIMOS and Beta Interactive Services. The findings of it indicates that one out of every thousand Malaysians had access to the Internet (20,000 Internet users out of a population of 20 million). In 1998, this number grew to 2.6% of the total population. After the year of 2000 the number of users was increasing rapidly. By the year of 2006 the National Public Policy Workshop (NPPW) proposed a strategy to increase the uses of Information and communications technology (ICT) and the Internet. In line with this in 2010 the High Speed Broadband initiative was launched by NPPW. Until July 2012 Internet users in Malaysia reached 25.3 million and with a continuous growth in 2016, 21.93 million people were accessing internet. From the survey of Q1 2017, Malaysia's average internet speed is 8.9 megabits per second (Mbit/s). According to the Akamai State of the Internet Report 2017 Malaysia is ranked 62nd place worldwide. The country's internet is still relatively slow and expensive in comparison with other countries in the globe. Among all types of internet activities, Malaysians are more prone to engaging themselves in leisure activities including OTT messaging, Facebook and participation in informal forums. These platforms have become primary source of information for a majority (86.9%) of Internet users whereas only 65.5% of user rely on news portal. A small portion of internet user is adopting banking, shopping or trading via online.

C. Overview on Web Filtering and Website Blocking

With the advancement of widespread technology and internet access it has become very easy to access any website and mass people has become familiar with various form of social media. Nowadays people are less depended on newspapers and tv news rather they follow some online news portals and share those news in their own social media like Facebook, Twitter etc without any verification. The uncontrollable flow of misleading informations are creating chaos among people and ends up with various criminal activities. The government has come forward concerning with these issues and using web filtering to suppress the enormous flow of news. The term web filtering simply means restricting access, blocking or taking down Web sites. There are several ways in which content could be "filtered." The government has the authority of using purposely built filtering technology, censoring Web sites, filtering search results with the assistance of multinational corporations related to internet service providers of the country. Online applications like Facebook, YouTube or Voice Over IPs that enable social networking can be blocked in this way. All over the world web filtering is prevalent and some countries are restricting web content for varying reasons. Ian Brown, research fellow at the Oxford Internet Institute mentioned that the Internet in some European countries, including the United Kingdom, was also filtered. However, this was mostly to block child pornography and content that incited or glorified terrorism.

Likewise other countries Malaysia and Bangladesh also faced blocking and filtering websites issues. In Bangladesh some of the domestic websites including the most popular news sites, ProthomAlo, BDNews24, and Banglanews24, are yet to face targeted blocking. The most frequent and regular victims of internet censorship are the International social media and communication apps. In early 2015, several social network applications were blocked or severely disrupted for four days. Mobile service providers were ordered to block Viber, WhatsApp, LINE, Tango, and Mypeople, supposedly on grounds that terrorists were using the platforms, which are also used by opposition activists and other internet users. In 2012 and 2013, citizens in Bangladesh also experienced blocks on YouTube and Facebook. During these earlier instances, the blocks appeared to be implemented on a more ad hoc basis. On January 19, 2015, mobile operators reported receiving official, written directives from the BTRC to block access to the applications until January 21, when the services became accessible again. No appeals have been documented in response to censorship directives. Such impervious content regulation has resulted in self-censorship by social media users, bloggers, and online news media.

Similarly, in Malaysia, at least three international websites remain blocked in relation to corruption reporting. In July 2015, the Malaysian Communication and Multimedia Commission (MCMC) ordered service providers to block access to the UK-based whistleblower site Sarawak Report over articles on the misallocation of resources from the 1Malaysia Development Berhad (1MDB) state investment fund. The government claimed the articles were detrimental to national security. The blog-publishing platform Medium was blocked in January 2016, after it refused to take down Sarawak Report articles. The Hong Kong-based commentary site Asia Sentinel was also blocked in January for "violating national laws" after it published an article about Prime Minister Najib Tun Razak. All three remained inaccessible in early 2017.

Local content was targeted for the same reason. Two local news portals, Malaysia Chronicle and the now-defunct website The Malaysian Insider, were blocked in October 2015 and February 2016 respectively, both for publishing articles about 1MDB deemed to be critical of the government and the prime minister. Officials described the content as "obscene, indecent, false, menacing or offensive," and a threat to national security. The government also blocked a handful of prominent blogs which were critical of the government, such as Din Turtle, which publishes socio-political commentary, and Syed Outsider The Box, a blog that had reposted content from Sarawak Report. Those blocks remained in place too, though websites supporting the Bersih rally were accessible again after a temporary block.

II. LEGAL STATUS OF BLOCKING AND FILTERING OF INTERNET

The internet is one of the most important sources of freedom of speech and expression through facebook, whatsapp, youtube etc. But freedom of speech and expression is restricted by the constitution of Bangladesh and Malaysia. It is not only restricted by Bangladesh and Malaysian constitution but only restricted by International laws. According to clause 1 and 2 of article 19 of the International Covenant on Civil and Political Rights (ICCPR), freedom of speech and expression is absolute, but if we read clause 3 we can see it has some limitations in order to the protection of national security, public order, public health or morality and in order to respect the rights or reputations of others. Article 10 of the European Convention of Human Rights, article 13 of the American Convention on Human Rights and article 9 of the African charter on Human and People's Rights also discuss freedom of speech and expression but they also have some restrictions.

Article 39 (2)(a) of the Constitution of Bangladesh says that "The freedom of speech and expression right for every citizen is guaranteed." Under this section every citizen has the right to freedom of speech and expression. However, article 39 (2) imposes some more restrictions. According to this article, freedom of speech and expression will be restricted, if the law imposes any reasonable restriction to protect the security of the state, to establish friendly relations with foreign states execute public order, decency or morality, make any objection with the contempt of court and defamation. Online expression has been traditionally considered to fall within the scope of this provision. The judicial system of Bangladesh is independent from the executive and the legislative branches of government, but critics say it can be partisan. Police and regulators generally bypass the courts to implement censorship and surveillance without oversight. The Information and Communication Technology Act of 2006 is the primary legal reference for addressing issues related to internet usage, and defining as well as protecting freedom of expression online. It introduced punishments for citizens who violate others' rights to communicate electronically: Section 56 of the act defined hacking as a crime punishable by up to three years in prison, a fine of BDT 10,000,000 (US\$125,000), or both. However, under Section 57, different types of violations on social, political, and religious issues made electronically are punishable by a minimum of 7 and a maximum of 10 years imprisonment and fines up to BDT 10,000,000 (US\$125,000). Sections 68 and 82 respectively contain provisions for a Cyber Tribunal and Cyber Appellate Tribunal to expedite judicial work related to any cybercrime. The tribunal, to be established in consultation with Bangladesh's Supreme Court, will be led by a government-appointed judge. The Appellate Tribunal can dissolve the Cyber Tribunal's verdicts. On August 19, 2013, the ICT act was amended and subsequently approved by the cabinet. Far from strengthening the law to protect political speech on the internet, the amendment made prison terms considerably harsher, increasing the maximum prison term to 14 years. Before the amendment came into effect, police had to seek permission before making ICT-related arrests. Now no warrant is required, and offences under the

act are non-bailable, meaning suspects must apply for bail at a court. The harsher provisions in the ICT Act may reflect the government's insecurity regarding internet activism and security.

Similarly, article 10 (1) (a) of Federal Constitution of Malaysia says "Every citizen has the right to freedom of speech and expression. However, Article 10 (2) (a) stated that the government may impose restrictions regarding freedom of speech and expression to protect (a) the security of the Federation or any part it; (b) the friendly relations with other countries; (c) public order; (d) morality; (e) privilege of the parliament; (f) contempt of court; (g) defamation; (h) incitement of an offense. The government has also pursued prosecutions for online content based on the Communications and Multimedia Act 1998 (CMA). The Act's broadly worded Section 211 bans content deemed "indecent, obscene, false, threatening, or offensive;" Section 233 punishes the "improper use of network facilities or network service," when such content is shared via the internet. Amendments to the CMA and the related Communications and Multimedia Commission Act (CMCA) 1998 were expected to be presented in late 2016, including measures to curb the use of social media to inflame "religious and racial sensitivities," or support the "recruitment of terrorists." Critics say the intention is to restrict criticism of the government. A minister said the amendments were not designed to limit free speech, but to "create a mechanism to detect irresponsible individuals who cause false news and slanderous allegations."

III. PROSECUTION AND DETENTION OF ONLINE ACTIVIST

In Bangladesh, there are around 300 cases being investigated under the ICT Act and 21 cases pending with the Cyber Tribunal, mostly dealing with issues related to social media postings. This Act was adopted to prevent the crime relating to information and communication technology. This Act provides a legal recognition of electronic transactions, of digital signatures, of electronic contact, of e-commerce, and electronic forms, and of electronic publication of the official gazette. According to section 57 of the Information and Communication Technology Act, if any person commits any offence electronically on social, political and religious issues, it shall be punishable by a minimum of 7 years and a maximum of 10 years imprisonment and a fine up to BDT 10,000,000 (USD 125,000). Under this section Tonmoy Mollick has been punished with 7 years' imprisonment and a fine BDT 10,000 (USD 125). He made a parody song about former president of Bangladesh Sheikh Mujibur Rahman and his daughter present Prime Minister of Bangladesh Sheikh Hasina and it was played in a loud sound system at a public place. Md. Shamsuzzoha, a former army officer, was also arrested under ICT Act because he made a provocative statement on social media against the leading politicians including the Prime Minister.

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On August 12, 2015, outside the coverage period of this report, a court in Dhaka sentenced a public university teacher in absentia to three years of rigorous imprisonment, which includes hard labor, in a sedition case filed for making a derogatory comment about the prime minister on Facebook in 2011.

In July 2014, the police formally charged AKM Wahiduzzaman for making demeaning comments against the prime minister and her family online under the ICT Act. A political activist filed a defamation case against the National University geography lecturer in 2013 for allegedly insulting Prime Minister Sheikh Hasina and her family on Facebook; police filed another case against him under Section 57 of the ICT Act in March 2014. In mid-2015, he was in hiding to escape the charges. There were at least two instances where people were arrested for criticizing or making fun of the prime minister and the government. On August 2014 Major (Rtd.) Md. Shamsuzzoha, a former army officer, was arrested for making allegedly “provocative” statements on social media against leading politicians, including the prime minister. A case was filed against him under the ICT Act. On September 2014, Imran Hossain Arif was arrested by police for addressing the prime minister as his sister and her son as his nephew, which was interpreted as an insult. He also faced charges under the ICT Act. Four renowned bloggers, Asif Mohiuddin, Rasel Parvez, Mashur Rahman Biplob, and Subrata Ashikari Shuvo, were formally charged with harming religious sentiment under Section 57(2) of the ICT Act 2006 after conservative political forces branded them as anti-Islamic atheists. The cases have been repeatedly put on hold since then.

In Malaysia, Internet users are arrested and prosecuted for online speech. New cases in the review period involved a news video criticizing the Attorney-General and social media posts about Malay rulers or the prime minister. A Facebook user was sentenced to one year in prison in June 2016. The number of reported cases increased after 2015, when dozens of people were arrested under the Sedition Act during a crackdown on dissent. Charges under the CMA are also increasing, according to local activists. A total of 37 cases were reportedly filed in 2016 under Section 233 of the CMA (“improper use of network facilities or network service”), with 181 alleged social media abuses recorded during the same period. The MCMC separately said it was investigating 167 cases of “internet and social media abuse” in 2016 and early 2017, including CMA violations involving “false content and information spread through WhatsApp, Facebook, Twitter, and other platforms.” Cases involving online speech were filed under both the sedition law and the CMA in the past year. Targets included: A number of people for Facebook posts considered offensive towards the crown prince of the southern state of Johor (Sultans constitutionally rule nine of the country’s sixteen states and federal territories); a youth for allegedly insulting the Terengganu Sultan; seven individuals, including a student, for comments about a dead politician; two members of a civil society group who mentioned the Sultan of Johor while criticizing environmental issues in the area; and an opposition activist who mocked the prime minister and his wife. All cases were pending in mid-2017. While many such cases are dropped before going to trial, at least one person

was sentenced during the review period. In June 2016, 19-year-old laborer Muhammad Amirul Azwan Mohd Shakri was sentenced to one year in prison on fourteen counts of posting Facebook comments considered insulting to the Sultan of Johor. News reports said he was unrepresented in court. His family filed an appeal.

A news outlet was also prosecuted. The MCMC raided Malaysiakini offices on November 8, 2016 and seized two computers over a video uploaded on its subsidiary KiniTV in July 2016. The video showed an opposition leader criticizing the Attorney General at a press conference. KiniTV and its two directors were charged with improper network use under the CMA on November 18. In January 2017, a judge upheld the charges, and the case was pending in mid-2017. The charge carries a jail term up to one year or a fine up to MYR 50,000 (US\$12,000_ or both and a further fine of MYR 1,000 (US\$250) for every day that the video remains available after conviction. News websites have also been subject to defamation charges. In 2014, Prime Minister Najib and his party Umno sued Malaysiakini for defamation, followed by three additional news websites in 2015. Minister Abdul Rahman Dahlan filed a defamation suit against Malaysiakini in December 2015, saying he had failed to receive a satisfactory reply over its report he said had misquoted him. All suits were pending in mid-2017. In April, Prime Minister Najib also threatened to sue an opposition lawmaker for defaming him in a Facebook video. Several high profile criminal cases from previous review periods were ongoing in 2017. In one example from 2016, artist and activist Fahmi Reza was charged with improper use of network facilities for publishing a caricature of Prime Minister Najib Razak as a clown on Facebook, alongside a comment on the use of sedition charges to suppress free expression.

IV. CONCLUSION

The internet has blessed our social life with various useful information. At the same time, with the increasing number of internet users the accessibility of any form of news has driven up and in line with this it has become very easy to create confusion among people by manipulating information and spreading those among the people. To prevent this menace, web filtering is a very powerful tactic. In this regard the government of Malaysia and Bangladesh has adopted Acts, Rules and Regulations. Some websites and news portals are being blocked by the government of both countries. The frequent practice of blocking and filtering of web contains by the government is not inevitably beneficial. Opponent claims that freedom of speech and expression has been violated by imposing restrictions on the use of the internet. The government is also being criticized by the civil society, electronic media and press media for this issue. On the other hand, proponent claims that this restriction is needed otherwise harmful news may lead enemy propaganda not only among the country people but also with the neighbouring countries.

Moreover, for the overall betterment of the state and to maintain friendly relation with other states and to protect the security of the state internet governance is a necessary tool for the perspective of Bangladesh and Malaysia.

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