

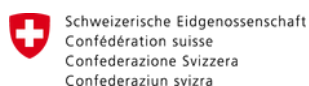
CONFERENCE PROCEEDINGS

7TH INTERNATIONAL CONFERENCE

FREEDOM OF EXPRESSION IN ASIA

24-26 AUGUST 2022

BANGKOK, THAILAND



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7th International Conference

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INTRODUCTION

On the back of rising autocracy throughout Asia and the globe, academic, press and internet freedoms have been severely curtailed. The diminishing of freedoms and civic space accelerated with the onset of the COVID-19 pandemic, as governments securitised health responses, introduced fake news legislation and enacted emergency laws to manage information flow, justifying these measures as necessary to manage the pandemic.

To evaluate the impact of these measures and to explore practical solutions that can contribute to freedom of expression in Asia, Asia Centre's **7th International Conference: Freedom of Expression in Asia**, 24–26 August 2022, Bangkok, Thailand was convened with the following partners: Taiwan Foundation for Democracy; Friedrich Naumann Foundation for Freedom Thailand; Embassy of Switzerland in Thailand; Google Asia Pacific; International Development Research Centre; Eugene Thuraisingam LLP; International Republican Institute; Destination Justice; Raoul Wallenberg Institute of Human Rights and Humanitarian Law; Council of Asian Liberals and Democrats; Graduate School of Humanities Osaka University; University of Liberal Arts Bangladesh; Tony Blair Institute for Global Change; Expertise Agency of The Indonesian House of Representatives; Japan NGO Center for International Cooperation; and Kyushu University.

Throughout the three days, a total of 16 panels were convened with 63 speakers. Due to the ongoing travel and health advisories, the event was convened in a hybrid offline-online format. There were 90 people joining the conference on-site and 20 online, bringing the total number of people at the Conference to 110.

The following major themes emerged in the panels and side discussions: impact of laws that interfere with freedom of expression; commonalities that Asian governments share in suppressing political discontent; personal experience and the ordeal of human rights defenders from different countries; and the balance between freedom of expression and content regulation in cyberspace. There were also six country panels covering Thailand, Indonesia, Bangladesh, Cambodia, Japan and Korea.

Selected panels and presentations – those which the discussants approved for public viewing – can be accessed via Asia Centre's [YouTube channel](#).

In addition to the presentations, some panellists took the opportunity to submit conference papers forming or as part of their presentations. These submissions have been reviewed by two readers, who provided feedback for revisions. Thereafter, the papers were laid out for consistency and were compiled in this Conference Proceedings.

The authors are responsible for the accuracy of facts, quotations, data, statements and quality of language. The papers are organised in the order they appeared in the conference program and published here as received from the authors.

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Stakeholders' Discourses on OTT Regulation in Bangladesh: Principal Concerns, Emerging Consensus

Jude William Genilo

Abstract

In 2021, Bangladesh Telecommunication Regulatory Commission (BTRC) drafted a regulation for digital, social media and OTT platforms. The draft regulation caused concern among certain quarters given its hard stance – rules regarding content relating to obscenity, defamation, religion, social harmony, foreign relations and national security as well as the requirements to address complaints against content hosted in the said platforms. In addition, many have expressed fears that a heavy-handed regulation may affect the growth of the sector. As of January 2022, Hootsuite reported that internet users in the country reached 31.5 percent of the population (52.58 million) and that social media users stood at 29.7 percent (49.55 million). Several local OTT platforms have emerged such as Binge, Bioscope, Chorki and Hoichoi. There were an estimated 200,000 to 300,000 Bangladeshi subscribers to Netflix. In February 2022, the Business Post estimated the market size of video streaming platforms in the country to be BDT 300 billion per year with an annual growth of 20 percent. In this light, the study presented the discourses of various stakeholders – journalists, content creators, telecommunication operators, business analysts, lawyers, academics and services providers – regarding the draft OTT regulations. It also explored the emerging consensus of the said stakeholders regarding their preferred OTT regulatory approach.

Keywords: Bangladesh, OTT Platforms, State Control, Content Standards, Government Regulation

1. Introduction

In 2021, Bangladesh Telecommunication Regulatory Commission (BTRC) drafted a directive for social media platforms and tech companies – The BTRC Regulation for Digital, Social Media and OTT Platforms 2021. The draft regulation caused concern among certain quarters given its hard stance. In a January 14, 2022, the Dhaka Tribune reported that the government claimed that the instruction was aimed at tackling content that harm individual users or threatens national security, promotes discrimination, depicts illegal/harmful substances, imitable behaviour, nudity, language, sex, violence, fear, threat, horror and other such concerns.

In an opinion piece, published at the Dhaka Tribune on July 16, 2022, Supreme Court Advocate Eshita Tasmin narrated that on September 29, 2012, some rumours spread and then escalated through Facebook. A group of religious fanatics conducted a series of attacks in

Ramu, Cox's Bazar, which led to the destruction of 12 pagodas and 50 houses. To curb the many ills of social media, the Digital Security Act 2018 was passed. The Supreme Court directed a BTRC committee to draft a guideline, which should focus on creating a system for digital platform users to register a complaint, get it redressed within a defined timeline.

The Dhaka Tribune likewise cited several provisions that endeavour to address complaints against online content. The underlying principle herein is to make social media platforms and tech companies responsible for the online activities of their users. For example, they must not host any content that is unlawful. If they unknowingly do so and receive BTRC or court orders, they must remove the said content within 72 hours. They must share information on the identity of social media users for the purpose of prevention, detection, investigation and prosecution under the law. They must likewise identify the original source of the information being complained about. If the source is from outside the country, anyone who shares the said information from within Bangladesh will be identified as the source.

Aside from these, the social media platforms and tech companies need to appoint a resident complaint officer and compliance officer as well as a physical contact address in the country. They also need to appoint an agent who will coordinate with law enforcers and BTRC round-the-clock. They must follow an ethical code to release content online which is still to be written by BTRC. In case of emergency, the BTRC can block information and submit a specific recommendation in writing to the Director General of the Digital Security Agency. Also, a Home Ministry security clearance must be obtained by both local and foreign OTT companies.

In a webinar organized by Moulik Odhikar Surokkha Committee on April 16, 2022, human rights activists voiced their opposition to the draft OTT platform regulation. Supreme Court Barrister Sara Hossain stated that the guideline will muzzle the voices of journalists, media professionals, citizen journalists and political commentators. She added that the law (if passed) will reverse progress made on human rights, sustainable development goals and freedom of expression. It will likewise violate the rights of people who are dissenting voices within as religion as well as those belonging to religious minorities. Dhaka University Law Assistant Professor Quazi Mahfuzul Hoque Supan warned that the draft allows BTRC to block any content without a court order, which is a direct blow against freedom of expression. Independent University of Bangladesh Law Faculty Nuran Chowdhury stated that the draft

law fails to distinguish between companies of different sizes. As a consequence, it can affect the growth and progress of the OTT Platforms in the country.

2. OTT Platforms in Bangladesh

Lee (2020) commented that since the 1990s, the internet has caused revolutionary changes in every aspect of human society. One of the most remarkable change was in the field of visual mass communication, particularly television and film. With massive investments in networks, availability of wireless broadband and increased smartphone usage, traditional media (such as terrestrial, cable and satellite networks) are being overtaken by online, digitalized, smart and mobile media. Various OTT services have been made available to consumers. For example, LINE and Skype offer voice and video calls. Netflix and Hulu deliver on-demand choices to televisions, tablets and smartphone.

These OTT services compete with similar providers using older technologies such as voice telephony and free-to-air commercial television. These services can be grouped into: (1) Voice over IP (VoIP) for voice calling and video chatting services; (2) Instant Messaging Services for chat applications; and (3) Video and Audio Streaming services. In a June 2022 webinar, Asia Video Industry Association (AVIA) Policy and Research Director Claire Bloomfield enumerated the different types of OTT services – communication, social media/user generated content, sharing economy, online curated content (OCC) and pirate/illegal services. (<https://epaper.dhakatribune.com/epaper/details/31709>)

Minehane (2018) asserted that OTT services (which has also been referred to as “the app economy” and “big tech”) began with two major events. The first event was the August 1995 Netscape Initial Public Offering, which triggered for the dot-com boom and the beginning of the mass market embrace of the World Wide Web and Internet. The second event was the launch of the iPhone by Steve Jobs in 2007. At that time, Apple was the only company in the top 10 publicly-traded companies. In 2018, seven tech companies were on the top ten list. Minehane (2018) continued that OTT providers’ main strategy of OTT is “to reach as many users as possible, offering them a compelling free service, locking them into it to the extent possible and then trying to monetise it through five main approaches:” (1) advertising; (2) connectivity to PSTN (Public Switched Telephone Network); (3) value-added services; (4) initial public offering (IPO); and (5) cashing out upon acquisition.

In Bangladesh, Hootsuite reported in January 2022 that internet users in the country reached 31.5 percent of the population (52.58 million) and that social media users stood at 29.7 percent (49.55 million). NapoleonCat reported that Bangladesh had 58.94 million (33.8 percent of the population) Facebook users in July 2022. Of the total number, 66.7 percent were men and 33.3 percent were women. In terms of age, the biggest user group was from ages 18 to 24 years old. Moreover, there were 54.4 million Facebook Messenger users during the same period – representing 32.9 percent of the population. STATCOUNTER indicated that social media traffic in Bangladesh from July 2021 to July 2022 consisted of Facebook (93.39 percent), YouTube (3.99 percent), LinkedIn (1.05 percent), Twitter (0.58 percent), Pinterest (0.4 percent) and Instagram (0.3 percent).

In February 2022, the Business Post predicted that OTT media services are expected to grow further given the penetration of the internet and smartphones in the country. OTT entrepreneurs estimated the market size of video streaming platforms to be BDT 3 billion per year. With an annual growth of 20 percent, in the next 10 years, the market size will reach BDT 10 billion. The age bracket 18 to 24-year-old constitute 50 percent of consumers and 74 percent of them will watch content on their smartphones. Several local OTT platforms have emerged such as Binge, Bioscope, Bongo, Chorki and Hoichoi. Aside from these, there were an estimated 200,000 to 300,000 Bangladeshi subscribers to Netflix.

3. Regulatory Frameworks on OTT Platforms

Given the expansion of the Information and Communication Technology (ICT) sector, regulatory tools and oversights need to follow suit. However, in order to do so, there is a need to have a consensus regarding the definition of OTT and an understanding of the internet value chain. According to Stork, Nwana, Esselaar and Koyabe (2020), “OTTs mean different things to different stakeholders. The confusion surrounding how to regulate OTTs is partly due to the lack of a common definition.” There have been attempts, however, to define OTTs as shown in Table 1.

Table 1 OTT Definitions

Source	Date	Definition
Office of Communication (Ofcom), United Kingdom	2015	A range of services, including messaging services, voice services (VoIP) and TV content services.
Body of European Regulators for Electronic Communications (BEREC)	2016	Content, a service or an application that is provided to the end-users over the public internet.
International Telecommunication Union (ITU)	2019	An application accessed and delivered over the public internet that may be a direct technical/functional substitute for traditional international telecommunication services.
Stork, Nwana, Esselaar and Koyabe	2020	A content, a service or an application that is provided to the end-user over the public internet, whether electronic communication services (OTT-ECS), those that potentially compete with electronic communication services (OTT-Com), those that potentially compete with broadcasting services (OTT-Content) and those the neither compete with electronic communication services nor broadcasting services (OTT-Other).

Source: Esselaar and Stork (2019), Stork, Nwana, Esselaar and Koyabe (2020)

Esselaar and Stork (2019) commented on the various OTT definitions. For them, the Ofcom definition may be correct but it is too general to be of any practical value. The BEREC definition is an improvement but is very telecommunications focused. The ITU definition, on the other hand, was a result of intensive consultations but is lacking technical and commercial understanding of OTT. Given this, they (together with Nwana and Koyabe) proposed a definition taking into consideration the technicalities of various OTT applications. They emphasised that various OTT applications already have laws and guidelines covering them; implemented by different institutions. Table 2 presented the market size, institutions and laws shaping the ICT value chain.

Table 2 Market Size, Institutions and Laws Shaping the Internet Value Chain

Internet Value Chain	Market Size USD (2015)	Institutions	Laws
Content Rights (premium rights, professional contents, user-generated content)	64 Billion (2 percent)	Broadcasting Regulator, Film and Publication Board, Copyright Registration, Courts, Competition Commission.	Broadcasting Code, Patent/ Copyright/ Trademark Laws
Online Services (e-retail, streaming, gaming, social)	1,637 Billion (47 percent)	Courts, Competition Commission,	Consumer Protection Laws, Data Protection

Internet Value Chain	Market Size USD (2015)	Institutions	Laws
media, search services, cloud services)		Consumer Protection Agencies, Data Protection Agencies.	Laws, Hate Speech Laws, Privacy Laws, Cyber Security Laws, Patent/ Copyright/ Trademark Laws, Gambling Laws
Enabling Technologies and Services (web design and hosting, payment platforms, advertising, managed bandwidth and content delivery)	373 Billion (11 percent)	Courts, Competition Commission	Privacy Laws, Cyber security Laws, Financial Sector Regulation and Laws.
Connectivity (mobile access, fixed access and satellite access)	577 Billion (17 percent)	Telecommunication Regulator, Communication, Science and Technology Agencies, Courts, Competition Commission, Local Authorities	Communication Laws, Competition Laws and Local Authority Laws
User Interface (access devices such as smartphones, operating systems and software apps)	813 Billion (23 percent)	Telecommunication Regulator and Consumer Protection Agencies.	Consumer Protection Laws and Type Approval from Telecom Regulation.

Source: Esselaar and Stork (2019)

As may be gleaned from the table, there has been no one-size-fits-all regulation for OTT services. Given unique characteristics, the laws, regulations and guidelines governing each OTT type differed. For example, for Content Rights, laws on the broadcasting, patents, copyrights and trademarks may apply. But, the same cannot cover Enabling Technologies and Services and Connectivity. By a similar token, hate speech laws only affect Online Services and local authority laws touch on connectivity alone. Moreover, the regulators governing each OTT type may not be the identical. For example, the courts and competition commissions cover Content Rights, Online Services, Enabling Technologies and Services and Connectivity but not User Interface. Telecommunication regulators have no jurisdiction over Content Rights, Enabling Technologies and Services, and Online Services.

Nevertheless, although there may be differing regulations and regulatory bodies for each OTT type, regulatory principles can remain constant. For example, the UK's Office of Communication (Ofcom) since 2005-06 has followed the regulatory principles listed on Table 3.

Table 3 Ofcom Regulatory Principles

When we regulate	<ul style="list-style-type: none">● Ofcom will operate with a bias against intervention, but with a willingness to intervene firmly, promptly and effectively where required.● Ofcom will intervene where there is a specific statutory duty to work towards a public policy goal markets alone cannot achieve.
How we regulate	<ul style="list-style-type: none">● Ofcom will always seek the least intrusive regulatory mechanisms to achieve its policy objectives.● Ofcom will strive to ensure its interventions will be evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome.● Ofcom will regulate with a clearly articulated and publicly reviewed annual plan, with stated policy objectives.
How we support regulation	<ul style="list-style-type: none">● Ofcom will research markets constantly and will aim to remain at the forefront of technological understanding; and● Ofcom will consult widely with all relevant stakeholders and assess the impact of regulatory action before imposing regulation on a market.

Source: Office of Communication, United Kingdom

From the table, it is apparent that Ofcom (given its bias against intervention) would always seek the least intrusive regulatory mechanisms to achieve its policy objectives. After all, its principle duty is to further the interests of citizens and consumers. There are six main areas that Ofcom has been tasked to undertake:

- Ensure the optimal use for the electro-magnetic spectrum;
- Ensure that a wide range of electronic communications services – including high speed data services – is available throughout the UK;
- Ensure a wide range of TV and radio services of high quality and wide appeal, throughout the UK;
- Maintain plurality in the provision of broadcasting;
- Provide audiences with adequate protection against offensive and harmful material; and
- Provide audiences with adequate protection against unfairness or unwarranted infringements of privacy.

In many ways, the Ofcom regulatory principles dictate a light touch policy orientation for OTT directives in the UK. Stork, Nwana, Esselaar and Koyabe (2020) considered such orientation a best practice since any intervention can adversely affect consumers, citizens operators and investors. Regulatory processes should be transparent, accountable and

predictable with clearly communicated desired outcomes. However, not all countries, believe in a light touch orientation. After reviewing the OTT regulations, the Asia Video Industry Association (AVIA) has identified a spectrum of regulatory frameworks in the Asia Pacific region as follows:

Table 4 Spectrum of OTT Regulations in the Asia Pacific Region

Policy Orientation	Description
Light Touch Policy Orientation	It seeks industry cooperation via a self-regulatory framework in meeting basic content and decency standards. Examples are Hong Kong, Japan and New Zealand.
Light Touch by Default	Given that broadband development is far behind, policymakers do not see the need to grapple with OTT policy yet. Examples are Cambodia, Myanmar and Sri Lanka.
Traditional Broadcasting Orientation	OTT services should be regulated by the same rules in place for traditional broadcasting. Examples are India and the Philippines.
State Control Orientation	Prioritizes state control over all other goals. It cuts citizens off from international interactions. Example is China.

Source: OTT TV Policies in Asia. Asia Video Industry Association (AVIA). 2018.

Minehane (2018) enumerated a number of key regulatory issues concerning OTT services are as follows: (1) licensing; (2) taxation; (3) troubling content; (4) social media as a news source; and (5) spectrum availability. Of these, AVIA (2018) found that Asian governments focused on three major areas: (1) content standards (local standards relating to morality, nudity, politics, social harmony, etc.; (2) taxation (pay fair share of taxes); and (3) control (attempt to control mass media). In Bangladesh, as discussed in the first part of the paper, the government has a traditional broadcasting orientation; having been accustomed to regulatory frameworks flowing from terrestrial broadcasting. It has emphasised on content standards; comparing with local market standards and keeping an eye for troubling content. As a result, some tension exists between the emphasis over controlling content and maintaining consumers' access to the benefits of international internet. In light of all these, the paper looked into the discourses of various stakeholders in Bangladesh regarding OTT platform regulation.

4. Study Objectives

The objectives of the study were two-fold:

- To discuss the discourses relating to the draft OTT Platform Regulation in Bangladesh raised by various stakeholders; and
- To understand the emerging consensus regarding the type of regulation appropriate for Bangladesh from light regulation to tight state control.

5. Method and Design

The study was qualitative, exploratory and descriptive. It analyses the discourses of OTT platform regulation stakeholders in the country. The main research methods were document examination and online interviews. The documents reviewed included the draft 2021 BTRC Regulation for Digital, Social Media and OTT Platforms, Asia Internet Coalition (AIC) comments on the draft regulation, and reports from various newspapers in Bangladesh. The online interviews were taken from a webinar entitled: “OTT Guideline: Best International Practices” organized by Dhaka Tribune and BowerGroup Asia on May 31, 2022. The webinar lasted for one hour and a half; and it was broadcasted over Facebook, which may be accessed through the following link: <https://www.facebook.com/DhakaTribune/videos/488048096431186>.

A total of 22 stakeholders were interviewed during the webinar. Among these, seven were from entertainment companies/content distributors; four were content creators; three from telecommunication companies; three were from business/industry think tanks; two from media organization; two were from law offices; and one from academe. The author of this paper was among those interviewed. The interview questions revolved around the growth potential of OTT platforms in the country, the role of digital content in the economy and regulatory guidelines to facilitate the growth of the industry. Aside from these, there were questions regarding the best regulatory practices worldwide, distinguishing regulations between traditional media and online platforms and differentiating between curated content and user generated content.

The webinar was then reported on in Dhaka Tribune’s e-paper under the link: <https://epaper.dhakatribune.com/?date=2022-06-11&edition=2&page=5>. It was also featured

in a supplement under the link: <https://www.dhakatribune.com/webinar-and-interviews/2022/05/31/webinar-on-ott-guideline-international-best-practices>. News coverage of the webinar may also be found under the link: <https://www.dhakatribune.com/media/2022/05/31/webinar-ott-industry-can-thrive-with-less-regulation-more-facilitation>.

The interviews were analysed using the basic tenets of qualitative data analysis. The discourses raised were categorized into the following:

- Content Consumption/Production Patterns;
- OTT Platform Definitions;
- Consultation Process Needed;
- Censorship; and
- Regulation Type Preferred.

Under each category, the key phrase of each discourse and its description were presented.

6. Study Findings

The study findings were divided into the following: (1) Discourses on OTT Platform Consumption/Production Patterns; (2) Discourses on OTT Platform Definitions; (3) Discourses on Consultative Processes; (4) Discourses on Censorship; and (5) Inclination regarding Government Regulation Type Preferred.

6.1 Discourses on OTT Platform Consumption/Production Patterns

There were four main discourses regarding the economics of OTT platforms – the importance of digital connectivity, changing viewing consumption patterns, content changing production patterns and huge income potential in the platform. Stakeholders, during the webinar, spoke about the significance of sustained and increased access to digital services for the economic well-being of the country. They commended the government for its commitment towards Digital Bangladesh, which was part of the Awami League's election manifesto for the 9th Parliamentary Election held December 29, 2008. In the manifesto, Digital Bangladesh implied the broad use of computers and technologies for the purpose of education, health, employment and poverty reduction (Genilo, Islam and Akhter, 2013). The Digital Bangladesh

journey should be sustained at all cost; new regulations should not impede citizen's digital access.

Matrix 1 Discourses on OTT Platform Consumption/Production Patterns

Key Phrase	Description
Digital Connectivity	Bangladesh, as a country, has benefited from sustained and increased access to digital and global services. Any regulation should not hinder the country's journey towards greater digital connectivity.
Changing Consumption Patterns	Consumer behaviour in the country is changing. Consumers are moving from traditional media to OTT Platforms. This trend will continue into the future with more internet infrastructure development and access to smartphones and other digital devices.
Changing Production Patterns	More entertainment programs are being produced and distributed in OTT platforms. Through OTT platforms, producers seek to reach as many consumers as possible. This should not be hampered by regulation.
High Income Potential	There is high income potential for content creators using OTT platforms. The amount of earning the artists are getting from it as opposed to working in a play, TV serial or on stage which pays nothing.

In this sense, the stakeholders felt that the government should, as a guiding principle, seek policies that foster innovation and technological advancement. This principle is more important than ever given changing audio-visual viewing consumption and production patterns. Stakeholders pointed to statistics showing greater numbers of citizens having smartphones and access to the internet. As a result, citizens have started moving from traditional media to OTT platforms. Bangladeshis have more viewing choices at lower cost. One stakeholder stated: "Consumer behaviours are changing and they are going more into the OTT platforms. I have experience in the film festival and even they are going to the OTT platforms during this pandemic to screen their films . . ."

The digital transformation poses opportunities for companies as well. Local businesses and content creators have the opportunity to cater to a global customer base. They can also satisfy the local audience's appetite for original local content and skirt the payment barrier to access foreign services. For these reasons, the country has witnessed the growth of home-grown platforms such as Bongo, Bioscope, Chorki and Binge. Domestic players have also started operating in other areas of the ICT value chain.

Stakeholders have also mentioned the huge income potential in OTT platforms for content creators. The estimated earnings will be a lot more as compared to that from traditional

media. One stakeholder predicted: “I can see the joy of working on OTT platforms and the scope they give to the actor. The amount of earning the artists are getting from it as opposed to working in a play, TV serial or on stage which pays nothing. So, this is one very inspirational space for them in Bangladesh.”

6.2 Discourses on OTT Platform Definitions

There were three main discourses regarding the definitions of OTT platforms – the lack of agreed upon definition, wrong perceptions about it and the unclear role of the platform. The draft regulation utilized BEREC’s OTT definition, which was “content, a service or an application that is provided to the end-user over the public internet.” As mentioned in the earlier section, Esselaar and Stork (2019) found the definition as being too broad and telecommunication-focused. It did not consider the platform’s technicalities as well as the ICT value chain. As a result, stakeholders did not find this OTT definition satisfactory.

In the words of one stakeholder: “It is very important for all of use to understand how different online curated content is from any other form of entertainment. It’s different from user generated content. It’s different from content that is screened in theatres and it’s very different from TV content or broadcast content.” Another stakeholder quipped: “When the world says replace, people might think of replacing the conventional media. OTT is not here to replace anything. I believe it is a different platform.”

Matrix 2 Discourses on OTT Platform Definitions

Key Phrase	Description
Lack of Definition of OTT	OTT definition is not clear to everyone. Online curated content, user generated content, broadcast content, cinema content, etc. are all different. They should not be treated in the same way.
Wrong Perception of OTT	OTT is not a transmission network. OTT is not here to replace anything. It is not going to replace traditional broadcast media such as terrestrial, cable and satellite television. It is a totally different platform.
Unclear Role of OTT	OTT service provider is distinct from the operator of the network. These differences should be clarified in the regulation.

By using the BEREC definition, BTRC included a wide range of online services, not just OTT platforms. It did not differentiate the various parts of the ICT value chain; lumping OTT platforms with transmission networks and network operators. It did not distinguish the

different market models, infrastructures and business impact. In many ways, the regulation adopted a one-size-fits-all approach to regulating multiple services that are functionally, technically and operationally different; making it problematic for the industry as a whole. It would be different for a collection of business (entertainment, media communication, telework, cloud computing, social media, financial services, e-commerce, among others) to be treated in the same manner.

Aside from those mentioned by stakeholders, there were other unclear or missing terminologies in the regulation. The Asia Internet Coalition or AIC (2022) mentioned that the regulation did not have definitions for the terms “social media,” “social media intermediary,” “service,” and “application.” Such being the case, the draft can potentially encompass any service or application provided by an internet-based service provider. AIC (2022) likewise found that the draft described the terms “computer” and “data” in a way consistent with the 2006 Information and Communication Technology (ICT) Act. These inconsistencies may cause problems in the future.

6.3 Discourses on Consultative Processes

There were three main discourses regarding the consultative process – the need to consult multiple sectors, dialogues resulting to mutual understanding and resulting to mutual benefit. One stakeholder emphasised that “there needs to be dialogue and open conversation between stakeholders, the regulatory framework, the government, the OTT platforms and the content creators.” Another stakeholder went further stating the stakeholders (including thinkers and academicians) should “work collectively in coming up with the governance framework, which is very specific to the demands and nuances of this particular sector.”

Matrix 3 Discourses on Consultative Processes

Key Phrase	Description
Consulting Multiple Sectors	There should be a robust public and private sector consultation. The private sector is a partner of government. Governments, content creators, academicians and thinkers should give productive and constructive feedback to them – coming up with an acceptable regulatory framework.
Mutual Understanding	In the process of consultation, we build our own understanding about those two government organs – Ministry of Information and BTRC. We enter into a dialogue to discuss issues surrounding story, concept and entertainment.

Mutual Benefit	The law and guidelines should encourage investments and make life easy for the local players. That is the objective from this whole exercise. There has to be some level of flexibility. There must be some level of adaptiveness.
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In other words, BTRC’s concerns may be better managed by bringing together various stakeholders. In this manner, more minds can help in identifying solutions (such as digital literacy and fact checking) to observed problems, which may include unlawful content, piracy or illegal services, hateful speech and misinformation/disinformation. As one stakeholder expressed: “I think the government should allow us to have some kind of dialogue about story, concept and entertainment. We need to start a conversation with the government.”

However, since the draft did not consult industry players, stakeholders deemed some provisions to be unnecessary and restrictive. These included the provisions requiring physical contact address, local representatives and registration with BTRC. For stakeholders, the global internet should be in principle supportive of cross-border flows and the ability to service global consumers without discrimination. Provisions on local presence may stifle innovation, restrict growth of small and medium-scale enterprises (SMEs) and inhibit foreign companies from direct investment into Bangladesh. Instead of local presence, it may better to have well-established processes and product-specific policies. One stakeholder complained that: “The law and guidelines should encourage investments and make life easy for the local players. That is the objective from this whole exercise.”

6.4 Discourses on Censorship

There were four main discourses regarding censorship – the government’s practice of censorship, extension of past laws, restricting creativity and self-censorship. Stakeholders mentioned the country’s constitutional guarantees, particularly Article 39 on freedom of thought, conscience, speech and press. Also, they cited the Universal Declaration of Human Rights, specifically Article 19, providing for the freedom of opinion and expression. This right includes the freedom to hold opinions, and seek, receive and impart information and idea through any media. However, several provisions in the regulation may result in the violation of such freedoms. One example was the traceability requirement where OTT platforms need to store information in order to ascertain content of users’ messages. Such a

provision compromises the guarantees of privacy and encryption, infringing upon privacy in private communications.

One stakeholder explained: “If we look into the characteristics of the regulation, we see the hidden agenda behind framing all these rules and regulations. What are the reasons? What are we seeing? We already have a serious authoritarian law which is called the Digital Security Act. And because of the application of the Digital Security Act, our freedom of expression and freedom of the press was at stake for the last couple of years.” The stakeholder continued by stating that the regulation is simply an extension of the DSA. Another stakeholder agreed articulating that the “government is accustomed to imposing a kind of censorship on our movies and dramas all the time. I think with the new law, they will want to control digital movies or content.”

Stakeholders referred to the National Broadcast Policy 2014 as another law that jeopardizes freedom of expression. Under the policy, broadcasting companies are prohibited from distributing news, photos or videos that could obstruct national security, conflict the government, be contrary to public interest, cause discord among the public, and/or taint the image of law enforcement agencies and armed forces. It requires media to telecast programs of national importance, including speeches by the heads of state and government. As a result, stakeholders found the draft restrictive of their creativity and business as it might muzzle freedom and creativity of content creators.

Matrix 4 Discourses on Censorship

Key Phrase	Description
Censorship Practice of Government	Government is accustomed to imposing a kind of censorship on our movies and dramas. With the new law, they want to control digital movies and content.
Extension of Past Laws	Bangladesh already has a serious authoritarian law which is called the Digital Security Act (DSA). Due to the DSA, the freedom of expression and the freedom of press has been at stake. The draft regulation is a new chapter of the restrictive measure.
Restricting Creativity	These regulations are restricting our creativity and our business. The proposed regulation might muzzle the freedom and creativity of content creators. Creators might be afraid to produce because it might be construed as going against the emotions or beliefs of certain groups of people.
Self-censorship	We self-censor the content. We are afraid that even a single word or dialogue can affect the whole platform.

Another inimical provision in the draft regulation was the lack of provision on safe harbour – a stipulation granting protection from liability or penalty if certain conditions are met in order to give peace of mind to good faith actors who may violate laws based on conditions beyond their control (Cornell Law School, accessed 14 August 2022). Unlawful user generated content is hosted and transmitted through an OTT intermediaries’ networks without their knowledge. These intermediaries should not be punished for content generated by third parties whereas they were not aware of the illegality in the first place. Without a safe harbour provision, intermediaries might exercise self-censorship.

Self-censorship would also extend to content creators. One stakeholder exclaimed that “every week, we are releasing new Bangladeshi content and every week, we self-censor the content and every week, we feel pressured to screen something that may affect the whole platform because of a single dialogue or single word.” The stakeholder yearned for the government to adopt a balanced and practical approach – incorporating safeguards around due process and friendly to businesses and content creators.

Inclination regarding Government Regulation Type Preferred. There were three main discourses regarding the government regulation preferred – less restrictive regulation, self-regulation and light touch approach. As a business analyst, one stakeholder elaborated on the regulation practices of other countries: “The market was starting to evolve as it did quite rapidly back in 2020. In Japan, no licenses are required for the platforms. But, they have put specific measures in place from a self-regulation perspective to specifically protect young people from online harm. No license is required in Australia as well, and it’s a self-regulation system.” The stakeholder mentioned that these countries do not put red tape upfront for this move stops the market from developing. Instead, they have industry codes with basic guidelines and classifications.

Matrix 5 Inclination regarding Government Regulation Type Preferred

Key Phrase	Description
Less Restrictive Regulation	The government should look for ways to help the industry grow instead of focusing on restrictions. We need a little less regulation and more facilitation from the state.
Self-regulation	The country needs to put specific measures in place from a self-regulation perspective. The industry can act to protect young people from online harm.

Light Touch Regulation	Light touch regulation is the way forward, where a broad framework can be outlined by the regulators within which the OTT platforms can exercise self-regulation.
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In many ways, the stakeholders advocated for smart (not heavy-handed) regulation. Also, they mentioned that a combination of hard and soft instruments may be more effective in addressing BTRC's concerns – hard instruments for clearly illegal content and self-regulatory for disputed content that are legal but potentially harmful. Moreover, the self-regulatory approach offers certain advantages. For one, it would be cheaper for the government because the regulated bear the costs of regulating. For another, since they were are of the process in creating rules, the regulated will embrace (not just adhere to) the regulations. One stakeholder clarified: “When I say self-regulation, I mean an amicable understanding between the regulator and the OTT platforms. Light touch regulation is the way forward, where a broad framework can be outlined by the regulators within which the OTT platforms can exercise self-regulation.”

7. Summary, Conclusion and Recommendations

The paper analysed the main discourses of stakeholders interviewed in the webinar. The main discourses were categorized into the following: (1) Discourses on OTT Platform Consumption/Production Patterns; (2) Discourses on OTT Platform Definitions; (3) Discourses on Consultative Processes; (4) Discourses on Censorship; and (5) Inclination regarding Government Regulation Type Preferred. There were four main discourses regarding the economics of OTT platforms – the importance of digital connectivity, changing viewing consumption patterns, content changing production patterns and huge income potential in the platform. There were three main discourses regarding the definitions of OTT platforms – the lack of agreed upon definition, wrong perceptions about it and the unclear role of the platform. There were three main discourses regarding the consultative process – the need to consult multiple sectors, dialogues resulting to mutual understanding and resulting to mutual benefit. There were four main discourses regarding censorship – the government's practice of censorship, extension of past laws, restricting creativity and self-censorship.

Regarding the emerging consensus regarding the type of regulation appropriate for Bangladesh, there were three main discourses regarding the government regulation preferred

– less restrictive regulation, self-regulation and light touch approach. As the government has asked stakeholders to comment on the draft regulation, it has provided a window to listen to the public. From this research, stakeholders interviewed were inclined towards a self-regulatory approach.

With this, the paper recommended the following measures to the government, specifically to the BTRC:

- Hold serious consultations and dialogues with multiple stakeholders – businesses in the entire ICT value chain, content creators, academicians, civil society groups, and platform users around the country;
- Consider the discourses, concerns and suggestions raised by the said multiple stakeholders (similar to what transpired in formulating the 2006 ICT Act);
- Study the practices in other countries (such as the European Union, Australia, New Zealand and Japan) vis-à-vis OTT regulations;
- Investigate local industry trends – internet access, smartphone penetration, changes in consumption patterns, changes in production patterns and overall health of the economy;
- Review various laws and regulations dealing with the freedom of speech and expression in the country;
- Examine other regulatory concerns (not just on content) regarding OTT platforms such as licensing, taxation, social media as news source and spectrum availability; and
- Formulate regulatory principles when it comes to freedom of speech and expression applicable for a variety of platforms.

After undertaking these steps, BTRC should revise its draft policy to reflect the will of the stakeholders, the mandate of the government and the protection of basic freedoms of the citizens.

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Examining the Impact of the Digital Security Act 2018 on Self-censorship Practices Among Journalists in Bangladesh

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Abstract

The government of Bangladesh enacted a law titled the Digital Security Act (DSA) in 2018 to deal with legal issues in cyberspace in the country. Immediately, journalists, rights bodies, and activists argued that the law would allow the government to use the state machinery to restrict media practices, public voices, and freedom of expression and suppress dissent through digital surveillance to ensure safety and security, and public order. According to the Centre for Governance Studies (CGS), an organisation that documents cases under the DSA 2018, a total number of 2244 cases were filed under the different sections of the law between January 1, 2020, and June 26, 2022. 9.25 per cent were journalists; however, the number has increased alarmingly within the past few years. Against this backdrop, this paper aims to investigate journalists' perceptions of the DSA 2018, and its possible impact on their professional practices such as news selection, information gathering, and content publication content. It also tried to understand whether the law has pushed them towards self-censorship. Data were collected through in-depth interviews among professional journalists working at print, online and television news media organisations in the country. Results indicate that the law has created a culture of fear among Bangladeshi journalists that often results in self-censorship in news selection, information gathering, and publication of news content.

Keywords: Journalism, Self-censorship, Freedom of the Press, DSA, Bangladesh

1. Background

In 2018, the government of Bangladesh enacted the Digital Security Act (DSA). Immediately, journalists, rights bodies, and activists argued that the law would allow the government to use the state machinery to restrict media practices, public voices, and freedom of expression and suppress dissent through digital surveillance to ensure safety and security, and public order. According to the Centre for Governance Studies (CGS), an organisation that documents cases under the DSA 2018, a total of 2244 cases were filed under the different sections of the law between January 1, 2020, and June 26, 2022. Journalists were the accused in 9.25 % of the cases.

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Many experts believe this law is an updated version of the ‘Information and Communication Technology Act 2006’ (ICT Act) because, considering the rapid growth of cybercrime, the Penal Code of 1860 and the Evidence Act of 1872 became insufficient. As per the law, if any person intentionally or unintentionally misuses or changes any government, semi-government, or autonomous institution’s information as well as personal data, then immediate actions, such as imprisonment and or fine, will be taken against that person (Runa, 2019). Although the law was introduced as a strict approach to control and reduce the autonomous use of cyberspace, it has created much debate among experts regarding its restrictive approach toward freedom of speech (Sabera, 2021). This rise of doubt has been there even before the law was implemented, as the experts considered the move to be a tactic to take away the freedom of expression of the critics, especially from cyberspace (Riaz, 2021). Since the law had similar vagueness in its wording and unclear terminologies similar to the ICT act, many journalists, civil society members, legal rights campaigners and rights bodies have been considering it as a ‘black law’ which is created to interrupt free speech and independent journalism in the name of ensuring cyber security (Rashid, 2019).

The role of journalism is to investigate and uncover the hidden truth, talk about the irregularities and mismanagement, as well as secret unethical practices conducted by the government, semi-government, autonomous institutions, non-government organisations and anyone associated with these organisations. According to the American Press Institute (n.d.), it is said that the main purpose of journalism is to provide citizens with accurate and reliable information. Freedom of expression acts as the basis of independent journalism when it comes to investigating and uncovering the truth by providing accurate and reliable information, as journalism practices don’t involve biases, fear of being censored or being charged for revealing the truth. However, because of the imposed DSA, self-censorship is also imposed on both the media and journalists because if a journalist or any media house publishes anything against the government or the government associates, they will face legal consequences under the DSA. Self-censorship acts as a barrier to freedom of expression. If a journalist fails to follow this newly imposed practice of self-censorship, then they face legal barriers, government interference and sometimes imprisonment (Ahmed, 2020). Therefore, because of the DSA 2018, the journalism practice is hampered by imposing self-censorship and thus, the freedom of expression is taken away. The term ‘Freedom of expression,’ means to express one’s views publicly. Usually, when someone expresses their thoughts, ideas, beliefs, and emotions about different social or political issues without the fear of being

charged or censored by the legislative or government, then it is considered to be freedom of expression (Freedom Forum Institute, 2022). This freedom can be expressed in many forms. Being able to express oneself is not only a need but also a basic human right because it is a way of communication. Therefore, the freedom of speech and expression has been granted as a fundamental right. However, as per Article 39 of the Constitution of Bangladesh, it can be understood that certain restrictions prevail when it comes to freedom of speech, freedom of expression and freedom of the press (Runa, 2019). These restrictions have been mentioned in the DSA 2018.

After analysing each section of the law, The Editors' Council (The Sampadak Parishad), had published a statement, which was titled "Why Sampadak Parishad opposes the Digital Security Act". Editors of different media came together and issued that statement, which said to review the DSA as it is against the spirit of freedom of expression (The Editors' Council, 2018). Furthermore, the Committee to Protect Journalists (CPJ) requested the President return the bill to the parliament (CPJ, 2018). However, on the day when the cabinet approved the draft of the DSA-2018, cabinet secretary Shafiul Alam assured us that the law was not made to target journalists or to interrupt independent journalism. Rather it was made to ensure cyber security for the public (Dhaka Tribune, 2018). In this regard, Amnesty International said, "the vague and overly broad provisions" of the new law can be implied to "intimidate and imprison journalists and social media users, silence dissent and carry out invasive forms of surveillance" (Amnesty International, 2018). International watchdogs such as Human Rights Watch (HRW) also considered the DSA a 'Ripe for Abuse' (HRW, 2018). Furthermore, CPJ (2018), in their letter to the president, expressed that they believe the inclusion of the colonial-era Official Secrets Act into the DSA 2018 contradicts the Right to Information provisions mentioned in the legislation. As a result of this inclusion, journalists who are exposed to government corruption have to face immense hazards.

Sections 8, 21, 25, 28, 29, 31, 32, 43 and 53 of the DSA 2018 impose restrictions against publishing anything against the government, both government and semi-government associates, as well as any false information or propaganda against the father of the nation and the liberation war. Moreover, these sections have included content-based restrictions besides ensuring no misuse of personal or government information. If a person intentionally or unintentionally does any such act, it would be considered cognizable and non-bailable (Sabera, 2021; The Editors' Council, 2018). In an article, Iftekharuzzaman, the Executive

Director of Transparency International Bangladesh, argued that the law would discourage investigative journalism, and would be misused to protect against corruption and irregularities" (Dhaka Tribune, 2018).

As per Article 19, a London-based human rights watchdog recorded that around 208 people, including 53 journalists, were prosecuted in the year 2020 under the DSA 2018 (New Age, 2021). Out of the total number of accused, 144 were arrested immediately (ARTICLE 19, 2020). As per the report published by the Centre for Governance Studies (CGS), which is an organisation that records the cases filed under the DSA-2018, between January 2020 and February 2022, around 2244 cases were filed under various sections of the law (Riaz, 2022). Of the total accused, 9.25 per cent were journalists. However, the number has increased alarmingly within the past few years (Daily Star, 2022). Within the first two years of the implementation of the law, the number of accused journalists had risen to more than 200 under different sections of the law. Therefore, in May 2020, the Editors' Council, in a statement, said that "our fear is now a nightmare reality for the mass media" (The Daily Star, 2020). To keep objectivity and fairness in journalism, the law has termed information gathering, taking photos and recording videos as "unlawful". This made it very difficult for the media and journalists to practice investigative journalism as it will be considered a criminal offence under the DSA 2018. Not only journalists but also commoners are scared to use their digital devices and interact in cyberspace (Rahman & Rashid, 2020).

Hoque & Kundu (2019) showed that investigative journalists and other media professionals suffered from a sense of fear which led them to self-censorship. Ahmed (2020) explained similar findings and illustrated the complex situation of freedom of expression and free media through content analysis.

The previous studies show that much research has been done so far which was mostly connected to the impact of DSA 2018 on investigative journalism and press freedom. However, little has been explored on the DSA 2018 in the context of journalistic approaches in terms of news selection, information gathering and publication of the content. And is also relevant to understand how this law creates a culture of fear among professional journalists that often leads to the practice of self-censorship. So, an in-depth analysis of the DSA 2018 from the journalists' perspectives would help us to state the current impact of the law on journalism practices, self-censorship and the free flow of information. With this view in

mind, this study tries to fill up the research gaps by exploring the existing literature and in-depth interviews of journalists to investigate journalists' perceptions about the DSA 2018, particularly on its possible impact on their professional practices such as news selection, information gathering, and publication of the newsworthy content. It also tries to understand whether the law has pushed journalists towards self-censorship.

2. Literature Review

2.1. Media Landscape and Ownership in Bangladesh

The Media Landscape in Bangladesh has been conducted and controlled by many large conglomerates since the independence of Bangladesh, who have been spanning their media empires into different mediums such as print, television, radio and online mediums in the media industry of the country, alongside the state-run media outlets. Currently, there are 1,277 daily newspapers published in Bangladesh. Among them, 218 are national Bangla dailies, 293 are regional Bangla dailies, and 40 English dailies (Dhaka Tribune, 2020). Meanwhile, according to recent research on ownership in the media sector, licensed media entities in Bangladesh include 45 private TV channels, 28 FM radio stations, 32 community radio stations, 1,248 daily newspapers, and more than 100 online news portals (USAID, 2022). Azad, M.A.K (2022) mentions that Bangladesh has two major news agencies, one is official, mainly serving the government, and the other is private and maintains a neutral approach. Both Bengali and English newspapers subscribe to the services of the agencies.

According to Rahman, M. G., between 1982 and 1989, the newspapers were kept under strict control, and around 50 newspapers and periodicals were closed down for having published materials critical of the government. During these years, there were instructions on what should or should not be published. A huge number of newspapers and periodicals representing different opinions and policies were published during the 1990s, and all the major ones were from the capital Dhaka. After 1990, the trends changed significantly; all the major media outlets, both print and broadcast, were under corporate ownership, wherein business, political interest, and, in some cases, social activism were the main driving forces.

2.2 Understanding Self-censorship and Journalism Practice

A self-explanatory term by itself, the act of 'Self-censorship' has now become a common phenomenon in the overall media landscape of Bangladesh. Self-censorship is the act of censoring or classifying one's discourse, done out of fear of, or deference to, the sensibilities or preferences of others and without overt pressure from any specific people, group of people, party, social institution and/or any socio-political authority (Ahmed, 2020).

Self-censorship in journalism and mass media has been a topic of interest for researchers for many years. According to Hanitzsch and Berganza (2016), self-censorship is a common practice among journalists, especially in authoritarian regimes where media freedom is limited. In such cases, journalists often have to compromise their principles to avoid censorship, imprisonment, or even physical harm.

Dale (2005) suggested that self-censorship is inherently neither good nor bad. Certainly, some acts of self-censorship reflect a failure of will, but others reflect the presence of will power and bespeak courage rather than the weakness. For people to successfully negotiate their social world, they must have the ability to suppress their private feelings and thoughts, and equally important, to disguise the fact that they are doing so. Self-censorship is also essential to the smooth functioning of society. Civilized life would not be possible were people not able and willing to censor their strongest antisocial feelings.

Skjerdal (2010) proposed that self-censorship can be assessed as something "good" or "bad" depending on the approach. According to Skjerdal, self-censorship can be seen as an everyday practice for any journalist anywhere in the world, caused by the inevitable selection and de-selection processes while reporting and editing.

Joubert (2013) argued that often the worst form of censorship is self-censorship. Bernard Joubert, the author of the "Dictionary of banned books and newspapers," stated that self-censorship reflects a failure of will and compromises one's principles.

Shkullaku (2015) discussed the relations between journalists and managers in Albania and Kosovo. According to Shkullaku, there are no professional debates for ideas, topics, or

investigations, but there is simply professional editorial control that turns out to be a control for satisfying the owners.

Lesson and Coyne (2011) identified several forms of censorship, including direct control via state-owned media outlets, indirect control via state-owned media infrastructure, indirect control via financial pressure, and indirect control via political pressure.

In their article "Self-Censorship in Bangladesh: A Study of Journalists' Attitudes," Ferdous and Kabir (2016) conducted a survey of journalists and found that self-censorship was prevalent in the media industry due to fear of government backlash, economic pressure, and social norms. The authors recommend that media organizations should work to create a culture of press freedom and provide support for journalists to report without fear of censorship. Kabir A. (2018) mentions that as the media in Bangladesh wades through a quagmire of overt and covert censorship, journalists are often 'accused' of practising self-censorship. It is with censure that they are said to 'play safe' and censor their work. Many journalists themselves 'admit' to self-censorship or, to put it bluntly, 'saving their skins'.

The editorial "Self-Censorship and the Media in Bangladesh" published in The Daily Star (2019) highlights the dangers of self-censorship and how it undermines the principles of free speech and democracy. The editorial calls on journalists to resist self-censorship and report on sensitive issues without fear of reprisal.

Islam and Islam (2019) conducted a content analysis of the Bangladeshi media and found that self-censorship was evident in reporting on issues related to religious extremism, corruption, and government policies. The authors suggest that media organizations should provide training to journalists on how to report on sensitive issues while ensuring their safety.

Azad, M.A.K. (2022) says the road traversed by the media has not been easy, even in independent Bangladesh. He mentions that in June 1975, the then-regime shut down all publications except four through an executive order, dealing the first blow to press freedom. After it, the nation was ruled by a series of military coups that destroyed democracy and free press over the ensuing 15 years. After democracy was restored in 1991, the media industry started to flourish. However, the authoritarian stance of succeeding governments and media

gagging slowly closed the door to the media's freedom of expression of news and opinion. Azad, M.A.K (2022) further states that journalists are becoming more and more concerned by the government's attempts to control various media outlets. Owners and editors, especially those of television stations, are now complaining about calls from the government urging them "not to telecast certain subjects" that would damage the government's reputation or aid its political adversaries. The country's constitution's provision for press freedom is in jeopardy, and the environment for journalists has become more hostile, resulting in self-censorship.

2.3 Bangladesh's Digital Security Act 2018

According to ARTICLE 19 (2019)'s analysis, the scenario in Bangladesh shows that not only does the 2018 Act expand existing restrictive provisions, it includes several provisions that are in breach of international human rights law. In particular, several definitions in the 2018 Act are too vague and overbroad. The Act vests sweeping blocking powers in a government agency. It also contains several speech offences, including criminal defamation, defamation of religion, or the sending of 'offensive' information that would criminalise a wide range of legitimate expressions. Finally, the Act grants carte blanche to the government to make rules in areas such as the collection, preservation or decryption of evidence or data, rules that ought to be decided by the Bangladesh Parliament to protect the rights to freedom of expression, privacy and due process.

3. Methodology

The study was conducted from July 20 to August 20, 2022, and followed a qualitative research approach. The authors' used both primary and secondary data to understand the influence of DSA among professional journalists. Primary data were collected through in-depth interviews (IDI) among professional journalists and editors working at daily newspapers, television channels, online news portals and news agency in the country. In-depth interviews among seven journalists were conducted. Among the participants, five were experienced reporters, one was desk editor and one executive editor. To analyse the qualitative data, thematic analysis method was used, where the researchers closely examined the data to identify broad themes and their patterns. On the other hand, secondary data were collected from various types of sources, including online news portals, government and NGO

reports, newspapers, books, and electronic media. The sample was selected following a purposive sampling technique. Informed consent was taken before the interview. In the results sections R1, R2...R7 indicate Respondent 1, Respondent 2.... Respondent 7.

4. Data Analysis

We tried to understand journalists' perceptions about the impact of the DSA on their professional work. The interviews indicate that the law influences journalists' selection of newsworthy issues or topics, gathering relevant information and publishing the content in many ways—directly or indirectly—that often lead them toward self-censorship. Data in *Table 1* indicate that Section 8 of the law plays a deterring role in publishing content. On the other hand, the vague and overly broad definitions in Section 21 and section 43 influence journalists' selection of issues or topics to write or produce content. Most of the interviewees emphasized that they become highly careful in selecting news stories and publishing those on their platform due to the two sections. There are political dimensions in Sections 28, 29 and 31 for journalists. Section 29 affects the publication of news on irregularities of politically influential persons or groups, or individuals who are in public office. On the other hand, the provision for strict punishment and the scope for misinterpretation in section 53 has created a culture of fear among journalists as the authorities used the section in most of the recent cases filed and arrests made under the DSA. The participants of the research believed that the section of law mainly targeted instilling fear, silencing detractors, and prohibiting the expression of critical views, thoughts and ideas. The Details are shown in *Table 1*.

Table 1 Journalists' Perceptions of
the Impact of Different Sections on Their Professional Practices

Sections of DSA, 2018	Key Themes Emerging
Section 8	Prevention of publishing information, BTRC regulates freedom of expression
Section 21	Vague and overly broad definition
Section 25	Effect on the expressions of matters of public concern
Section 28	Restrictions based on ideological contents
Section 29	Affects the publication of news against irregularities by influential persons or groups.
Section 31	Misuse the section
Section 32	Violation of the Constitution, the reflection of the weakness of the legal constitution

Section 43	Leading journalists to self-censor to avoid retribution
Section 53	Extensively used the DSA to silence detractors DSA has created a culture of fear among journos

4.1 Impact on News Selection

We tried to understand the impact of DSA on news selection to further contextualise our results. The participants said the law has spread a climate of fear while journalists are performing their professional duties. According to respondents, it's now a norm in the newsrooms to think twice when they are planning to write news stories on religious, liberation war issues or any other sensitive topics.

“In selecting an issue or topic for writing a news story, I sincerely keep in mind that I personally and the organisation will not face any legal issues or be harassed by authorities and law enforcement agencies of the country. As a professional journalist, I always remain scared that any of the work may come under the preview of the DSA. So, what will happen to me and my family in case I face any lawsuit under Section 53 for my professional work? Because it does not grant bail.” R6

“Although I feel there are so many issues I can write about religious affairs. I strongly believe that thousands of interpretative stories can be written from thousands of angels. Keeping in Section 28 of the DSA act, I can't write anything about religions. The law has limited the space for writing analysis issues related to religion”. R5

4.2 Impact on Information Gathering

A journalist needs a bunch of information if he or she wants to declassify the corruption of the government or abuse of human rights. But the different sections of DSA would create a barrier and make it quite impossible to prepare such journalistic pieces. According to the respondents, journalists would be penalised if they collect documents, and information, or capture photos from government offices without duly official consent.

“I think Section 32 of the law is a big barrier to making investigative stories. Because under the section, a journalist may face 14 years in prison or a fine of Taka 25 lakh. Keeping it in mind, we never try to go deeper into any government issues like corruption.” R5.

“I wanted to make some analytical pieces on issues related to religion. My senior at the office did not encourage me. Moreover, I contacted some experts. They also denied making comments on the issues I wanted to write about. I could not gather enough information for the story. Then, I stopped it only because Section 28 of the law deals with religious issues. R2.

4.3 Impact on News Publication

Most of the interviewees marked several sections of DSA as the most restrictive approach towards journalism with its vague and overly broad wordings. They said, the published news can be interpreted differently by law enforcement agencies and can block the news content from the website. According to respondents, this can limit the expressions on matters of public concern.

“It is very difficult for journalists to choose news stories, gather information and publish news as Section 8 of the law allows the Director General of Bangladesh Telecommunication Regulatory Commission (BTRC) to remove any content that may appear against the law.” R6.

“I think the DSA is a big threat to my news publishing process. Laws must be equal for all. So, journalists should not be under the impression of being confined or castigated for gathering information and publishing content. The law creates an invisible barrier to news publishing. Of course, the government and authorities concerned must not control journalistic expression. In my opinion, the DSA 2018 can hold me accountable and punish me for writing about public views, no matter how neutral I remain in my news.” R2.

“Section 31 prohibits the publication of any news that may create enmity, hatred or resentment between different classes or communities, or disturbs communal harmony, or creates unrest or disorder or deterioration of law and order. But the terms are not clearly defined.” R6.

“As a journalist, I must keep in mind that I cannot share anything on digital media platforms which may mislead people. Because section 31 of the law put restrictions on it.” R5.

4.4 Self-censorship Practices

While talking about the self-censorship practices by Bangladeshi journalists, almost every respondent said, they became more cautious in terms of news writing and publishing after the arrival of DSA 2018. The Act gave arbitrary powers to the security forces and can arrest anyone without a warrant. This extensive interference with the professional works of journalists has encouraged reporters and editors to

practice self-censorship. Thus, the law has created a culture of fear among professional journalists in Bangladesh.

“If a law is enacted with the provision of life imprisonment, journalists will think twice before publishing news on any issues. In selecting an issue, I always keep in mind that I will not be facing any legal issues for my professional work.” R1.

“In Bangladesh, there are more than hundreds of laws regulating the media. But, in my opinion, if my work is legal under the state constitution, all laws can be overlooked. These laws have no significant impact on the day-to-day operations of the newsroom. You will never be able to work if you are constantly thinking about the law.” R7.

“I read twice, thrice, and sometimes more, I read my news stories. I try to bring corrections if there is any indication that may go against the law. I re-read my reports and rectify my mistakes before paraphrasing or removing them, practising my self-censorship before publishing.” R2.

“Section 32 of the law is directly related to the Official Secrets Act 1923. It was a highly restrictive colonial law enacted to protect the British administration from all forms of accountability. Anything that the government does not disclose can be considered a government secret. We have published dozens of reports on irregularities in the banking sector based on information found in Bangladesh Bank investigations. All such reports may be said to have violated the Official Secrets Act.” R5.

Section 43 allows law enforcement agencies to arrest without serving a warrant from the court. There is no doubt that this threat creates obstacles to my professional work, it is a big threat to freedom of the press, freedom of the media and freedom of expression.” R7.

5. Discussion

The DSA Act has generated a sense of fear among media professional in the country. Journalists are now more cautious when selecting a topic, writing news story and producing a content. However, caution is motivated by fear and suppression rather than an improvement in journalism. The DSA Act has created a culture of fear among the journalist community. Law is required for any profession, including journalism. However, the majority of people are being harassed in the name of legal protection. Looking at who is filing these charges. Typically, these charges are brought by the police administration or high-ranking members of society, ministers or their staff, members of the parliament or their staff, and government officials. This is precisely where the possibilities for DSA Act misuse arise. But laws are required. The use of the law cannot be intentional.

The interviews with the respondents highlighted that after enacted the DSA in Bangladesh the freedom of media was significantly cracked down and increased authoritarian rule. The respondents were deeply concerned about the recent experiences with the journalists' community as journalists in the country are increasingly enduring arrest and imprisonment which eventually led them to stop writing freely as once upon a time they did. This is connected with the statement made by Mahfuz Anam (Reuters, 2018), the editor of the Daily Star newspaper. He said, "I used to write a column regularly and fearlessly. Now, I seldom do".

Considering the respondents' answers and their motivations towards their profession, it has been clear that journalists in the country are now working with fear and self-censorship. Realising the potential risks after publishing any report, many editors nowadays kill a report that was made with lots of effort. Hoque and Kundu (2019) note that rising feelings of fear while performing the professional duties of journalists have forced them to practice self-censorship and occasionally restricted them to cover issues mentioned in the law.

According to Section 8 of this Act, if the administration discovers any information that is damaging to the country's image, it may file an appeal with the BTRC. In that case, BTRC deletes the content. We need to keep in mind that the BTRC is not a court of law. Content can be hidden temporarily during a legal proceeding or investigation, but deletion is not acceptable. Since there is no clear explanation or definition in most of the sections of this Act, BTRC can remove any news or information from any website under the power of Section 8. This is where the issue of misuse becomes conspicuous. It is against freedom of speech, and creativity. Meanwhile, former BBC correspondent and columnist of the daily Prothom Alo newspaper Kamal Ahmed (2019) stated that government agencies shut down online publications, news portals and newspapers whenever they like. He also said, "informal and undeclared censorship" from the government ends is one of the major threats to media freedom in Bangladesh.

Bangladesh currently has over a hundred laws regulating the media, but in our opinion, if journalists' work is legal under the state constitution, all laws can be overlooked. Propaganda that is opposed to the liberation war, the national flag, or the state is unquestionably a criminal act. There is no clear definition of what to discuss and what not to discuss in section

21, either. Liberation wars should be studied and discussed more frequently. This section exists primarily to maintain authority. Under section 25 the issues of defamation, embarrassment, and humiliation are not clearly defined. There is another thing to note in this law, defamation is subjective. What is defamatory to one individual, may not be defamatory. This law is primarily intended to prevent the media from revealing a specific group of people who are harmful to society. After the implication of DSA, we have seen that most journalists became the victims of harassment. Even journalists were implicated in DSA cases while some of them covered the association of the corruption of the local leaders and the aftermath of the public movement carried out by those needy people deprived of government relief amid the COVID-19 lockdown. This type of issue may decline the newsrooms' interest to cover such stories which ultimately would reject the government to know the real scenario from the grassroots causing barriers to the overall flourishing of democracy. These observations were confirmed and expanded by Rahman and Rashid (2020).

Section 28 describes religious values or contempt for religion. There is no specific definition here either. That's why there are so many religious conflicts in Bangladesh. Majorities rule over minorities. Law is not objective here. On the other hand, section 31 deals with issues about communal harmony. There is no definite definition of this issue. People act according to the culture of the country. The reason for keeping the sections of this law is mainly to prevent harassing some specific people on purpose. Section 32 deals with official secrecy. The Official Secrets Act was enacted in 1923. When the Right to Information Act was passed, it explicitly stated that all previous laws would be declared void and null. A law of 1923 which is from the British period, after which the country was divided twice, then we reinstated that law. This law is a reflection of the weakness of the legal system of Bangladesh. Section 43 gives immense power to law enforcement agencies. This section is being exploited for personal benefit. This section completely violates the human rights of any person. The purpose of this law is to suppress journalists who are looking for the truth because no one would take the risk of going to jail without a warrant.

6. Conclusion

The DSA Act has generated a frightening environment in the media and journalists, which may be defined as a culture of fear. Journalists are now more cautious when reporting on sensitive topics. However, caution is motivated by fear and suppression rather than an improvement in journalism. DSA made journalism obsequious rather than making it responsible. Due to these kinds of Acts quality journalists are not able to practise quality journalism. The primary goal of this law is to obstruct the flow of information. The law is not only designed to provide cyber security but also to restrict freedom of expression. Since the government has set boundaries for journalist, it can be said that a kind of self-censorship has been imposed on both the media and the journalist to avoid any legal prosecutions while practising journalism. To make the situation viable for both the government and the media, authorities should come together and find ways through which freedom of speech can be practised without any fear. Unconditionally, this law has created a culture of fear among journalists that often results in self-censorship in news selection, information gathering, and publication of the content.

This study recommends bringing major changes in the controversial clauses of the DSA creating a fearless environment for reporters, editors and other media professionals. A further study will be conducted in future with different stakeholders to understand the impact of DSA from broader journalistic perspectives.

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Colonial Laws and Journalistic Expressions in Bangladesh: The Case of Rozina Islam

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Abstract

The British left the Indian Sub-continent, dividing it into two countries India and Pakistan, 75 years ago. Bangladesh came into existence as a sovereign nation 51 years ago after fighting 24 years of suppression as East Pakistan by the west wing of Pakistan, but many of the “draconian” laws from the colonial era, e. g. the Official Secrets Act 1923, remained in action despite the constitution of the country proclaiming the freedom of expression as one of the basic human rights. The country’s continuous decline in the World Press Freedom Index (from 112 in 2011 to 162 in 2022) by Reporters sans Frontières speaks silently about the situation about journalistic expression in the country. The May 2021 incident of the arrest and harassment of a prominent investigative journalist Rozina Islam, that attracted huge outcries at home and abroad, is one such case that puts once again the freedom of expression and journalistic endeavours under question. The present study looks at the particularities of the case, especially the colonial laws that facilitated her arrest and continuing harassment. It also provides insights into how Rozina handles such impingement on her freedom of expression. Alongside the study tries to explain the significance of such cases considered as “threat to independent journalism,” in a democracy, especially to Bangladesh.

Keywords: Press Freedom, Journalistic Expressions, Colonial Laws, Official Secrets Act, Media Regulations

1. Introduction

Mark Twain once said, ‘There are only two forces that can carry light to all the corners of the globe — only two — the sun in the heavens and the Associated Press down here’ (Curl, 2021) which simultaneously tells about the “power” and importance of the media or the press. Media’s role in society, to be more precise- in a democratic system, is so important that the media is called the “fourth estate”. The term was first described by Thomas Carlyle in his book ‘On Heroes and Hero Worship’ wherein he attributed the origin of the term to Edmund Burke who served as a member of the British Parliament between 1766 and 1794. Carlyle wrote, ‘Burke said there were Three Estates in Parliament; but, in the Reporters’ Gallery yonder, there sat a Fourth Estate more important far than they all’ (Carlyle, 1908). The author later explained to further emphasize on the importance of press in a democracy:

Printing, which comes necessarily out of Writing, I say often, is equivalent to Democracy: invent Writing, Democracy is inevitable. Writing brings Printing; brings

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universal every-day extempore Printing, as we see at present. Whoever can speak, speaking now to the whole nation, becomes a power, a branch of government, with inalienable weight in law-making, in all acts of authority. It matters not what rank he has, what revenues or garnitures: the requisite thing is, that he has a tongue which others will listen to; this and nothing more is requisite. The nation is governed by all that has tongue in the nation: Democracy is virtually there (Carlyle, 1908).

In short, media is the bridge that connects the citizens and the state (government). Media's role is not limited to only disseminating information and educating people but also works as citizens' voice, acts like a "watchdog", and execute its responsibilities through exposing corruptions, thus, act as the "fourth pillar" or the "fourth estate" alongside the legislature, executive and Judiciary – the three essential pillars of democracy. As such, media's role in processing democratic development and shaping a healthy democracy is crucial. Mahatma Gandhi rightly says, 'one of the objects of a newspaper is to understand the popular feeling and give expression to it, another is to arouse among the people certain desirable sentiments, and the third is the fearlessness to expose popular defects' (Gandhi, 1948). Hence, providing "journalistic expressions" – as mentioned by Gandhi (1948) – which may be understood as the act of contextualizing and explaining incidents and information related to public interests and the way(s) they may affect the people and the society remains one of the major roles of the members of the press. For example, when the government of a country signs a memorandum of understanding/treaty with its counterpart from another country, or adopts new policies/enacts new law(s) in the country, the members of the press need to explain to the people different aspects of the memorandum/treaty, especially how it will affect the people and the society.

The state and the press or media are intertwined regardless of time and space. Media are often understood to be simply an extension of state power in nondemocratic, non-western countries (Hammond, 2017). Media are often heavily manipulated by the government in such cases and used as "propaganda machines." On the other hand, media are considered as independent in western democracies – 'able to act as a watchdog on the powerful rather than simply being an arm of official authority' (Hammond, 2017). However, citing Bennett (1990), Hallin (1989) and Herman and Chomsky (2002), Hammond (2017) also reflected that the western "independent media" are not immune of being controlled in one or the other.

Media may function independently in a society or be forced to function; whichever way, the power of the media remains the same. For this, politicians in nondemocratic systems often cannot appreciate the way media functions and consider the media as a threat to their power, hence try to regulate the media – sometimes using laws and regulations and sometimes by force. All the suppressive laws and regulations related to the media are the result of such perception. If we delve the history, we will see that two factors played a major role behind the presence of many suppressive media laws- colonial legacy and absence of sustained democracy.

2. Press Laws in Bangladesh

Bangladesh, a country almost surrounded by India, is home to about 170 million people. Once attributed as “bottomless basket” and appeared in the global media only for its poverty and natural calamities, Bangladesh has changed its image to “New Asian Tiger” with its economic growth in the last decade. Riding on the consistent economic growth in the recent years and improvements in education and health related indicators, Bangladesh has met for the second time all the three eligibility criteria for graduating from the Least Developed Countries (LDC) involving per capita income, human assets index (HAI), and economic and environmental vulnerability index (EVI) in 2021. The country is now scheduled to officially become a developing country in 2026 (Bangladesh finally gets nod to graduate from LDC, 2021).

Bangladesh has a long history of colonial oppression. The country was ruled for almost two centuries by the British (1757 to 1947) as a part of the Bengal province in the undivided Indian sub-continent. British rule ended in the Indian sub-continent in 1947. They left dividing the territory into two religion-based nations – India and Pakistan. Division of the Indian sub-continent based on religion sliced the Bengal Province in two pieces too. It's Hindu-majority part West Bengal was included as a state in India while the Muslim-majority East Bengal became a province in Pakistan though it was separated by 2,000 kilometres of Indian land from the other parts of Pakistan. East Bengal was formally renamed as East Pakistan in 1951 (Shoesmith & Mahmud, 2013). The ‘artificial bond’ of religion between the two parts of Pakistan lasted 24 years; Bangladesh emerged as a sovereign country through a brutal war started with a genocide on March 25, 1971, by Pakistan army. India played a

significant role in the war by helping Bangladeshi freedom fighters and providing shelter to the Bangladeshi war refugees.

The history of the press in the territory now known as Bangladesh dates to mid-nineteenth century. The first newspaper of this territory, “Rangpur Bartaboho” was first published from Rangpur, a district in northern Bangladesh, in 1847 (Banglapedia.org, n.d.). However, if undivided Bengal province in British-India taken into consideration, press history in the region stretches further back to the year 1780. Hicky’s Bengal Gazette or the Calcutta General Advertiser, the first newspaper in not only Bengal but in the Indian sub-continent (first printed newspaper in Asia), started its journey on January 29 that year. The two-pager English-language weekly used to be published on Saturdays from Kolkata (former Calcutta), the then capital of Company-ruled India, by James Augustus Hicky (Otis, 2018).

History of regulating (or attacking) press in Bangladesh evolved parallelly with the history of press. Hicky’s Bengal Gazette, the first newspaper published in Bengal territory (in British India) was also the first newspaper to face adversity. At the beginning, Hicky used to maintain a neutral editorial policy with the slogan “Open to all parties but influenced by none.” However, he soon became critic to the government and made the rulers, especially the Governor Warren Hastings and his wife, hostile. As a result, being accused by Hastings for libel, Hicky first lost the right to distribute his newspaper through the general post office, went to jail, and finally his newspaper ceased publication when his types were seized by a Supreme Court order on March 30, 1782 (Otis, 2018).

When Hickey’s Bengal Gazette was published and later ceased publication, there was no law directly regulating media. However, by colonial administration understood very well the power of information, hence exercised its power to consolidate control over the press, in other words- over the flow of information, by enacting a bunch of laws and regulations. The first such law was enacted in 1799 during the rule of Governor General Lord Wellesley that made it mandatory for the newspapers to bear the names of the owner of the printing press, the publisher, and the editor. Soon other regulations started coming in existence among which the Regulations for Registration (1823), Indian Penal Code (1860), Press and Registration Act 1867, Vernacular Press Act (1878), Codes of Criminal Procedure (1898), Newspapers (Incitement to Offences) Act (1908), Indian Press Act (1910), Official Secrets Act (1923) and Indian Press (Emergency Power) Act (1931) are notable. The legacy continued in Pakistan

era when few more regulations were newly enacted while some others were amended. The list include (1) the Security of Pakistan Act 1952; (2) Martial Law promulgation 1958 (October 7); (3) Presses and Publications Ordinance (1960) [a combined form of Press and Registration Act 1867 & Indian Press (Emergency Power) Act 1931] (4) Presses and Publications (Amendment) Ordinance 1963; (5) National Press Trust 1964; (6) Defense of Pakistan Rules 1965; (7) Martial Law promulgation 1969 (March 25); (8) Promulgation of ML Rules 6, 17 & 19 in 1969 (March 26); (9) Promulgation of Martial Law rules 110 in 1971 (March 1); (10) Official Secrets Act (1923).

Bangladesh was born with a promise to the freedom of expression and freedom of the press as the country's constitution guarantees freedom of speech and expression but, that did not happen in reality (Mishbah, 2013). Instead, several new laws including Printing Press and Publication Act 1974, Special Powers Act 1974, National Broadcast Policy 2014, Digital Security Act 2018 etc. were enacted to regulate press while some colonial era laws, including Official Secrets Act 1923, Code of Criminal Procedures 1898 etc., were adopted. The Official Secrets Act 1923 is one of the most prohibitory laws in Bangladesh. The law prohibits unauthorised collection and disclosure of secret government information, even it voluntarily received, and sees such acts as punishable offence. Also, the law allows public servants to refuse giving information to media. It was enacted in 1923, during the 'British Raj', to keep official information a secret to prevent colonial citizens from empowering through access to information. The law was later adopted in independent India and Pakistan, and in Bangladesh afterwards. According to the lawmen, the law is supposed to deal with espionage, not journalistic expressions ('Official Secrets Act does not provide for punishment of journalists', 2021).

In 2009, Bangladesh enacted the Right to Information (RTI) Act which recognizes right to information as an integral part of the freedom of thought and conscience, and of speech – a fundamental right of the Bangladesh citizens as enshrined in the Article 39 of the Constitution of Bangladesh. The RTI Act 2009 also recognizes that such rights ensure transparency and accountability, decreased corruption, and establishment of good governance. According to the Section 3 of the RTI Act 2009, all other laws related to access to information shall be superseded or overridden by the RTI Act. Therefore, some existing laws which uphold state secrets, for example: the Official Secrets Act 1923, shall be overridden or narrowly applied in order to protect the right to information. Thus, upon the

enactment of RTI 2009, Official Secrets Act 1923 loses its relevance and becomes outdated (Siddiqui, 2021). Yet, the Official Secretes Act 1923 remains quite in action.

It is not astonishing that a survey by the International Press Institute (IPI) found that Bangladesh journalists feel the country's politician are unable to understand the importance of investigative and independent journalism, and that one of the fundamental roles of journalism is to hold the government accountable (IPI, 2008 cited in: Mishbah, 2013). According to different academics, independent critics, local and international organizations related to human rights and press freedom, there are several examples of silencing individuals and press by using (and abusing) the above-mentioned laws. Such examples can be found when military dictators ruled the country as well as after restoration of democracy in 1991. Rozina Islam's case is the latest addition to this.

3. The Rozina Islam Case

Rozina Islam is a Bangladeshi investigative journalist, currently head of "Crime Reporting" at "Prothom Alo" – the country's most influential Bangla-language daily. Ms. Islam is famous for her brave role in digging out corruptions in the health sector, especially during the COVID 19 pandemic. According to a report published by Dhaka Tribune (Prothom Alo journo Rozina Islam arrested in Official Secrets Act case, 2021), one of the Bangladesh's top English dailies, Police arrested Rozina Islam, a senior investigative reporter known more for her works during the COVID 19 pandemic, was arrested on Monday – 17 May, 2021 in a case lodged by the country's Ministry of Health under the "Official Secrets Act 1923," a colonial-era law dealing with unlawful collection and disclosure of secret information, especially acts of espionage. Citing Mr. Harunur Rashid, an additional deputy commissioner of the Ramna Division of Dhaka Metropolitan Police, the report says that the case was lodged on that night by Mr. Sibbir Ahmed Osmani, a Deputy Secretary at the Ministry of Health. In the case, Ms. Rozina Islam was charged under two sections of the Penal Code – section 379 (theft) and section 411 (dishonestly receiving stolen property) and two sections of the colonial era law Official Secrets Act 1923 – section 3 (spying) and 5 (unauthorized collection of photographs, sketches, etc., of prohibited and notified areas). It is worth mentioning here that, if convicted, Ms. Rozina Islam may face 14 years' prison and/or death penalty.

According to the complaint, a member of the police on-duty at the secretariat identified Ms. Rozina Islam in the health secretary's PS (Personal Secretary) Mr. Saiful Islam's office around 2:55pm. Later, Additional Secretary Kazi Jebunnesa Begum and Mr. Saiful Islam (the health secretary's PS) came and interrogated Ms. Rozina regarding her motive. At one point, the additional secretary recovered some files by frisking her body and found on her mobile phone photos of documents. Afterwards, a team of Shahbagh Thana (a police station under Dhaka Metropolitan Police) police led by an additional police commissioner posted at the Secretariat, arrested Ms. Rozina and took her in custody. (Prothom Alo journo Rozina Islam arrested in Official Secrets Act case, 2021).

However, Ms. Rozina Islam strictly refused the allegation claiming she had not committed any such offence as stealing government documents. She said that she was there to meet the secretary of the Health Services Division. She also mentioned the PS of the secretary Mr. Saiful Islam misbehaved with her at that time.

The Dhaka Tribune report (Prothom Alo journo Rozina Islam arrested in Official Secrets Act case, 2021) also mentioned that Ms. Rozina was held in confinement at the secretariate for five hours before turning her over to the police. Ms. Rozina Islam was not fully in health, especially because of taking COVID 19 jab the same day, and she fainted during her confinement there.

The next day, Ms. Islam was presented to a court where her release on bail was denied until the next hearing that was scheduled for May 23, 2021. After spending seven days in jail, Rozina was released on a conditional bail of 5,000 takas, the withholding of her passport, and two guarantors ensuring she complies with bail conditions.

Rozina's husband, Monirul Islam Mithu said to Deutsche Welle that he went to the secretariate after getting information about Rozina's detention in the PS's room of the secretary of the health care department. He complained, 'There was no incident of taking photos of any document on the mobile phone or stealing any document. The whole thing was "staged." As she reported various corruptions in the health department, she was slyly called in and falsely accused. They checked the mobile phone and bag in front of me and got nothing' (Swapan, 2021).

In an interview with Deutsche Welle (Swapan, 2021), Prashanta Kumar Halder said that the sections of the two laws used for charging Rozina Islam are conflicting which proves that the case is based on falsehood. Also, there was no seizure list or seized item was presented to the court. Mr. Halder also informed that in such cases (stealing information or document) the aggrieved organization should lodge a complaint to the Press Council under the Press Council Act, and they will investigate. Also, the accused will be given an opportunity for self-defence.

Mentioning the detention of Rozina Islam at the secretariate on May 17, 2021 and presenting her to the court the next day as “disgraceful,” Dr Shahdeen Malik, an eminent Supreme Court Lawyer said, “If their allegations are considered true, she was arrested red-handed. So, if it is, then the law is to hand her over to the police immediately. There are police in the secretariate. But instead of doing that, Rozina was detained for five hours. This is the evidence that false allegations were made against her at that time. No one except the police has the power to detain anyone” (Swapan, 2021).

Dr Malik feels that what was done to Rozina was done out of rage. Because Rozina had been reporting on the irregularities, corruption, and mismanagement of Health Ministry over past few months. Many others feel the same way.

While Rozina was at the police station on May 17, 2021, many journalists demonstrated at the Shahbag police station where Ms. Rozina was held protesting her harassment, demanding Ms. Rozina Islam’s immediate release and dropping of the charges. The demonstration continued in the following days; more people joined the demonstration as well as organizations advocating freedom of expression around the globe. They urged to end the reprisal against Rozina Islam. In February 2022, fifteen such organisations from across the world who advocate freedom of press, urged Bangladesh government to respect Ms. Rozina’s rights to fair trial (Respect journalist Rozina's right to a fair trial: 15 organisations to govt, 2022). The organizations included FUP (Free Press Unlimited), RSF (Reporters Sans Frontières), CFWIJ (Coalition For Women In Journalism), ARTICLE 19, Center for Communication Action, AWJP (The Africa Women Journalism Project), RDYR (Rural Digital Youth Resiliency Project), Ms. Magazine, PEN America, IPI (International Press Institute), MFWA (Media Foundation for West Africa), Media Guard Association, The Stage Media-Liberia, PRANTO- A House of Consultants and Amnesty International.

Despite the demonstrations and urge from press freedom advocates, Rozina's charges were not dropped, nor the investigation came to an end as of August 2022 – in fifteen months since Rozina's arrest.

4. How Rozina Dealing with the “Pressure”

Rozina has been bravely dealing the pressure; she remained positive. In her speech to the students of Media Studies and Journalism Department, University of Liberal Arts Bangladesh on February 11, 2022, Rozina Islam described her days in the jail as a “learning opportunity.” Mentioning journalists, especially women journalists in the country, always face struggles, Ms. Islam (2022) said

When I was at police station, I was trying to figure out what's happening but the next day I put myself together and thought this is a learning opportunity for me; I'll see and learn about the places they'd take me to. I did many stories about the jail, but I have never been to the jail. So, I took this as an assignment. Interestingly, I learned that the prisoners need to use an open toilet inside the cell at the police station; I never knew that their human rights are violated in such a way. When I was taken to the jail by a prison van, I told myself that this is a field visit for me – an opportunity to explore the prison from inside. I was there for five days; I didn't sleep at all, and I kept talking with people in there. I know the people outside, my family, were worried about what's going on inside. But I tried to know from people as much as possible.

Ms. Rozina told the students that journalism is not a job where you'll return home and rest. If you take it that way, you should not pursue journalism. You must be active all the time, you must keep communicating with your sources. If you want to be a good-successful journalist, you must study a lot and work hard. Mentioning Maria Ressa receives about 80 hate messages every day, Ms. Islam said, “you may face struggles, but remember, at the end of the day hard work pays off, good journalism wins.” Rozina Islam herself can be a “brand ambassador” for her statement; she received the Free Press Award 2021 in the Most Resilient Journalist category. Among the other awards she received in recognition to her “fearlessness to expose popular defects” are NESCO Prize (2011), Canadian awards for excellence in Bangladeshi Journalism (2011), Mass Media Award Bangladesh to Prevent Corruption

(2014), Deutsche Welle International Prize for Exposing Corruption (2015), TIB Investigative Journalism Award (2015) etc.

In her speech during the Free Press Award 2021 ceremony, mentioning the award as “global support to the journalists in Bangladesh,” Rozina Islam mentioned that the award does not only recognize her work or resilience, rather demonstrates support to the people who are fighting for seeking the truth (Islam, 2021). Rozina firmly believes that the situation will be changed, and she will be waiting for that day and her struggle for journalism and truth will continue.

5. Significance of the ‘Rozina Case’

The case has been a significant one from multiple perspectives. According to the law and constitution experts, the case was not supposed to be dealt with Official Secrets Act 1923. It doesn't have the basis for being treated under the law. According to Bangladesh Supreme Court lawyer Manzil Morshed, “A separate press council has been formed [as well]. So, there is no scope for using the Official Secrets Act against journalists. It is antithetical to journalism” (‘Official Secrets Act does not provide for punishment of journalists’, 2021). The same was mentioned by Rozina's Lawyer Mr. Prashanta Kumar Halder that the incident should have been handled by the Press Council of Bangladesh – PIB (Swapan, 2021). Also, as discussed earlier, the enactment of RTI supersedes the Official Secrets Act 1923.

It is difficult to say the exact number of cases against journalists under the Official Secrets Act 1923 as there is no such databases. However, in the experience, observation, and Internet search by the researchers it was found to be barely used in such cases in the recent past. According to Eminent jurist Shahdeen Malik, the law might have been used once or twice before against journalism (Sarkar, 2021). This also makes the case a “special one”.

When such a colonial era law which, according to the experts, is not to deal with press related issues and had been barely used in such purposes is suddenly used in a case, that certainly makes the case significant. It is probably a reflection of the state's discomfort and desperation regarding the issue. On the other hand, the way the case was dealt might be seen as an effort to create an “spectacle” which is clearly reflected in the photograph below:



Figure 1. Rozina Islam escorted by Police to the Court

(Image: Harun-Or-Rashid/ZUMA Wire/picture alliance:

<https://www.dw.com/en/bangladesh-journalist-could-face-death-penalty-for-covid-reporting/a-57571650>)

The photograph was taken while Rozina Islam was escorted by the police to the court on May 18, 2021. The number of police deployed for escorting a middle-aged sickly woman (Rozina received Covid 19 Zab the day before) seems astonishing and quite self-explanatory on the state's intention.

According to Bangladesh Supreme Court lawyer Jyotirmoy Barua, the Rozina Islam case brought embarrassment for the country's judicial system as he said to the Daily Star, "The arrest of journalist Rozina Islam under the Official Secrets Act is a blow to the profession of journalism and has made the judicial system ridiculous" (Sarkar, 2021).

Eminent citizens of Bangladesh seen the Rozina case as a "threat to independent journalism" (Case Against Rozina: 'A threat to independent journalism', 2023) as did the national and international organizations advocating freedom of expressions and freedom of the press. Such acts also puts under question the government in the international communities too as United States National Press Club and the National Press Club Journalism Institute President Lisa Nicole Matthews and NPC Journalism Institute President Angela Greiling Keane expressed, "The fact that government officials in Bangladesh are trying to silence a journalist only causes the world to wonder what they are trying to hide" (UN concerned over arrest of Rozina Islam, 2021).

The consequences of such cases are quite understandable – aggravation of a culture of fear where the members of the press will react by more self-censorship. As a result the press will not be able to function as the "fourth estate," people will lose their voice, transparency and

accountability will decrease, corruption will increase, good governance will be compromised – in a nutshell, democracy will be weakened.

6. Concluding Remarks

This is a work in progress. Also, Rozina Islam's case is still open. Hence, it is difficult to draw a conclusion at this point. However, Rozina Islam's case reminds once again that when journalism challenges the status-quo and power, it must be ready to face adversities. In Rozina Islam case, a colonial era "draconian law" Official Secrets Act was used, and the law has never been used against the journalists. The sections she was charged under deal with spying and espionage (Section 3) and unauthorised disclosure of secret information of the government including any secret official code, password, sketch, plan, model, article, note and document etc. (Section 5) (Talukder, 2021). Although no specific Bangladeshi law safeguards journalistic freedom, Public Interest Information Disclosure (Provide Protection) Act (popularly referred as the Whistleblower Protection Act) "enables anybody to disclose public interest related information and provides statutory safeguards from all types of civil and criminal cases or departmental proceedings or any kind of action, punishment, discrimination etc." (Sourav, 2021). The Constitution of Bangladesh guarantees Freedom of Press and Bangladesh is a signatory to the ICCPR – International Covenant on Civil and Political Rights which also supports journalistic freedom as it clearly mentions about freedom to seek, receive, and impart information. Still, such harassment to journalists sends a negative message to journalistic community, to the people and to the international community which was reflected in the World Press Freedom Index published by Reporters Sans Frontières (Reporters Without Borders); Bangladesh dropped to 162nd place in 2022 from 112nd in 2011, the country slid 10 steps in 2022 alone (rsf.org, 2022).

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The Urgency to Legislate on Child Protection in the Digital Age: The Indonesian Case

Khopiatuziadah⁴

Abstract

Nowadays, everyone including children relies upon digital technologies. The digital environment is becoming increasingly important across most aspects of children's lives. It affords opportunities for the realization of children's rights but also potentially creates the risks of their violation for example no specific program on children, adult content, cyberbullying, and many more. Current situations require us to use information technology and digitalization for maximum benefit while protecting children from negative impacts is a must, considering the long-term risk. In addition to the role of parents, caregivers, and other adults among children, there is the responsibility of the state to ensure the protection of children in the online world. There is an absence of detailed provisions that regulate the protection of children in the digital environment since the existing regulations concerning child protection as a right of a child in several stipulated laws do not answer the ongoing problems regarding child abuse in the digital space. A child's right is part of the human rights that should be guaranteed, protected, and fulfilled by the parent, family, community, state, government, and local government. This paper uses the legislation approach, especially in child rights and information technology issues. This paper will examine the urgency of the legislation reform for child rights protection in digital platforms. The reform of existing legislation should fulfill children's rights related to their protection in the digital environment by making a new law using the omnibus law method. The law should be in line with the Child Right Convention, particularly for General Comment No. 25 (2021) on children's rights in relation to the digital environment.

Keywords: legislation, child rights, child protection, digital environment, digital space, digitalization

1. Introduction

The effects of the COVID-19 pandemic have changed the learning system and mechanism. The offline learning mechanism was not possible to do during the pandemic time. The online learning system called learning in the network was adopted for almost two years. Based on World Bank Report (2022), there are 1.6 billion students in 150 countries in the world who have to study online due to the Covid-19 pandemic. Learning in the network provides an opportunity for children to avoid exposure to Covid-19 and continue to carry out the learning process even though it is not as optimal as face-to-face learning.

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Nowadays the school is not fully using face-to-face learning methods yet, it sometimes uses a hybrid system with great attention to health protocols. Especially, since the number of Covid-19 cases is still quite high in Indonesia. On the other hand, the penetration of the internet and varied social media channels, are some of the things that have the potential to increase the number of digital space usage by children instead of educational reasons.

Based on the Survey of the Indonesian Child Protection Commission (KPAI) in 2021, most children are allowed to use gadgets other than for learning (79%), while 71.3% of children have their own gadgets and the majority of children do not have rules (79%) of using gadgets from their parents. The 2020 National Economic Survey (SUSENAS) by the Central Statistics Agency (BPS) shows the percentage of the population aged 5 years and over who have accessed the Internet in the last three months by age group as follows:

Table 1

Age Group	2018	2019	2020
5-12	5.69 %	7.93%	9.55%
13-15	8.72%	7.86%	7.42%
16-18	11.21%	9.66%	8.83%
19-24	20.23 %	18.72%	17.13%
25+	54.15%	55.84%	57.07%

Source: BPS, SUSENAS 2020

It means that 25,8% of the internet users in Indonesia are children. However, the level of child safety in the digital world is still relatively low based on the Child Online Safety Index report. Indonesia itself is in the 26th position out of 30 with a total score of 17.5 and is below the average score of 30 countries (Digital Quotient Institute, 2020).

According to Save the Children Indonesia (2022), the impact of access to the digital world on children is like two sides of a coin, one of which is opening up opportunities for children to learn, get information, and develop social relations and creativity. On the other hand, the development of online technology carries several risks including violence in the online world such as cyberbullying, online sexual harassment, and possible data security breaches that affect children's privacy. This can have an impact on the development of children not only now, but also in the future.

In responding to the Covid-19 pandemic and anticipating technological advances and a future that tends to be technology-based, The Indonesian government through the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek) has even initiated to encourage wider digitalization of education. The priority of the Ministry of Education as a leader in the G20 Education Working Group is to encourage the expansion of digital technology in the world of education. An initiative that we must support, but the protection of children must be the main concern and that is crucial.

How is the government's readiness to develop a system, curriculum, provision of facilities, and infrastructure so that children's rights to education are still fulfilled in the pandemic era? What about the safety and protection of children in the digital learning process which provides opportunities for negative exposure from the digitization process? Online learning opportunities also provide opportunities for children to access cyberspace more often and for longer. It results in children facing various risks when accessing the digital world.

Although there are negative impacts that can affect children's lives, the massive use of digital technology still cannot be separated from children's lives, especially during this COVID-19 pandemic. How does Indonesian legislation anticipate and protect children's rights to education and information on the one hand and protection from cyber pandemics on the other? How does Indonesian legislation fulfill children's rights related to their protection in the digital environment and digital space? The situation is a matter of concern. In fact, the absence of related specific regulations on this issue also needs an answer.

The lack of sufficient regulation stipulates specific norms for child protection in the digital environment and the fact that responsibility for such issue is a multi-institutional and multi-sectoral stakeholder, there is a need to have a comprehensive and specific law regarding the issues. The need for the law is also due to the character of the child as a distinctive human being differs from adults, while related existing regulations focus on digital protection for adults. In addition, the digital world also has distinctive and typical features rather than the conventional environment.

The article will first discuss how the inevitable developments of digitalization and the risks it poses to children, especially in case of the Indonesian children. Second, we will study the

existing legislation in Indonesia regarding the right of the child and information and technology. The study then shows that there is a lack of specific legislation concerning child protection in the digital environment. Third, there is an analysis of the need for the protection of the digital world for children. Fourth, we will see how the role of the state, either the Indonesian government or the legislative in terms of protecting children in the digital atmosphere, especially in making specific legislation concerning child protection in the digital environment.

2. Demands for Digitalization and Risks for Children

In refer to UN CRC General Comment No. 25 (2021) on children's rights in relation to the digital environment, the digital environment is constantly evolving and expanding, encompassing information and communications technologies, including digital networks, content, services and applications, connected devices and environments, virtual and augmented reality, artificial intelligence, robotics, automated systems, algorithms, and data analytics, biometrics and implant technology. Then the digital environment is becoming increasingly important across most aspects of children's lives, including during times of crisis, as societal functions, including education, government services, and commerce, progressively come to rely upon digital technologies. It affords new opportunities for the realization of children's rights but also poses the risks of their violation or abuse.

During the COVID-19 pandemic, recommendations to work or study from home have encouraged the use of technology more massively. Various groups, including children, can enjoy the role of technology. The current situation and conditions require them to use digital technology massively from an early age. The use of digital technology provides changes in children's lives. It encourages children to be more active in online activities, both for educational purposes and other interests.

The lives of our children can no longer be separated from the digital world, especially children who are in the digital native category. A digital native is an individual who was born after the widespread adoption of digital technology. The term digital native doesn't refer to a particular generation. Instead, it is a catch-all category for children who have grown up using technology like the Internet, computers, and mobile devices. This exposure to technology in the early years is believed to give digital natives a greater familiarity with and understanding

of technology than people who were born before it was widespread. There are many consequences. The excessive use of digital devices can reduce the joy and excitement children should get from quality interactions with people in their environment. Thus, the massive use of digital technology can be a line that encourages the estrangement of relations between children and their families, relatives, and friends.

In a report from the Digital Quotient Institute (2020), it is explained that children face various risks when accessing the digital world called cyber-pandemic. In general, 60 percent of children who access the digital world are exposed to various risks such as cyberbullying (45 percent), damage to their good name or reputation (39 percent), exposure to sexual content and violence (29 percent), cyber threats (28 percent), having unsafe interactions (17 percent), gaming distractions/disorder (13 percent), and social media distractions/disorder (7 percent).

ECPAT Indonesia (2022) divided 3 threats for children for being online: first, risks arising from the interaction of two minors such as cyberbullying, second, risks arising from the interaction between children and adults, such as cyber grooming, and third risks arising from data collection to privacy protection such as viruses or other malware. It might be categorized as content risks, contact risks, children targeted as consumers, economic risks, and online privacy risks.

Through social media, adults take advantage of children's vulnerability. They are promised pleasure. The seduction and persuasion did not knock on the door, did not pass through the parents, but were directly present in front of them in the private room via cell phone. Then, they were forced to engage in prostitution and had to pawn their future. The children were possibly manipulated and tricked by adults by using technology.

Several factors contribute to the threat risk as stated above. ECPAT International (2022), notes that several factors increase the risk including an increase in the use of internet-based crime, a lack of understanding of children about the dangers that exist in the internet world, lack of capacity and expertise to investigate internet-based crimes, and still the absence of regulations that protect children in the digital world. Unfortunately, based on a global study by Save the Children (2020), 40 percent of parents do nothing to protect their children while doing activities on the internet. Then the factor of lack of understanding of the use of the internet and its risks contributed to this. In line with this study, the KPAI survey (2021) found

that majority of the children who use the internet are having their own gadgets (71,3%), having no rules and supervision from parents (79%), and using their gadgets for other purposes other than learning (79%). Unfortunately, most parents do not have sufficient knowledge and skill regarding the development of the information technology and digital devices that their children use. There is a gap between the parent and children.

ECPAT Indonesia (2022) has conducted a study that found that the situation of children's vulnerability in the digital world is getting stronger. Using a quantitative method of 195 children in four down to zero work areas during the pandemic, the study then found that 3 out of 10 children experienced crimes in the form of online child sexual exploitation, ranging from pornographic images or videos sent to them and asked to take off their clothes or pose naked for the camera. Such circumstances are then exacerbated because around 64 percent of respondents are not accompanied by their parents when accessing the internet and this increases the risk of children experiencing sexual exploitation online.

ECPAT (2022) also refers to several data regarding the global situation that according to a 2017 UNICEF report, as many as five million child profiles in the digital world have been stolen. Interpol's database (2019) contains 2,7 million images of child victims while in 2017 Interpol identified 10,000 child sexual abuse victims. NCMEC reported that during the first six months of 2020, reports of child sexual abuse material surged 90 percent to more than 12 million. The production and distribution of criminal child pornography has an estimated value of between \$3 billion and \$ 20 billion.

To sum up, instead of the advantages, even online learning turns out to have another damaging side, if it is not handled systematically. Exposure to the digital realm that is open, without barriers, and directly in contact with children carries a significant risk for the development of children themselves mentally and psychologically, now and in the future. It will harm children and even the country in the long run.

The long-term risks should worry all parties including parents, the community, and the state. The impacts are also very detrimental at the individual, family, community, and even state levels. Several cases of suicide among children and adolescents are caused by bullying that occurs in cyberspace. Often parents do not know the things experienced by their children. Communication with parents is disrupted, because of addiction to the virtual world and

various things that are presented directly through the screens of children's smartphones. Parents often do not notice bullying in their children, because it happens in silence. All of a sudden the kids have done something out of the ordinary.

3. The Lack of Laws to Protect Children in the Online Sphere

Indonesia has several legislative instruments regarding the rights of children, namely the 1945 Constitution, the Human Rights Act, The Child Protection Act, and Ratified the Convention on the Rights of the Child. However, distinctive regulations as an answer and solution for the vulnerable position of children within the digital–open–world is lacking. While it is urgently needed as a guide for all stakeholders to keep them safe and protected.

There are several legislations and provisions regarding child protection as a part of child rights fulfillment. By analyzing the existing regulations we can find the loophole and proposes a solution whether amending the related law and making refinement of related provision or having a new law, stipulating specific issue concerning child protection in the digital environment. The legal instrument might be not in the form of a specific law, it might come in the form of government regulation as an implementing regulation.

The existing legislations that recognize the right of the child to protection are as follows:

a. The 1945 Constitution

The constitution reform from 1999 to 2002, amending the 1945 Constitution, to some extent is directed to uphold human rights values as a prerequisite of the democratic state. As a result, the amendment of the constitution recognizes the human rights provisions in a specific chapter.⁵ As the highest hierarchy of Indonesian legislation, it is initiated by recognizing the rights of the child in the Constitution. provisions in the Constitution's Bill of Rights (Chapter XA, Articles 28A to 28J) comprise rights outlined in the Convention on the Rights of the Child (CRC) and apply to all persons, including children, but Article 28B Paragraph 2 is the only provision specific to children. It states that every child is entitled to live, grow, and develop as well as entitled to be protected from violence and discrimination. Hence, the right

⁵ Chapter XA, Articles 28A – 28J of the 1945 Constitution of the Republic of Indonesia consists of 26 provisions regarding the recognition of human rights/ Bill of Rights.

of every child to live, grow, and develop, as well as the right to be protected from violence and discrimination is constitutionally guaranteed by the Constitution.

The provision covers some, but not all, of the fundamental rights outlined in the CRC, such as the right to life and development (Art.6 of the CRC); the right against discrimination (Art.3 of the CRC); and the right to be protected from violence (Art.19 of the CRC). Since then, all related-child laws are directed to be in line with the constitution as well as the CRC, due to no constitutional barrier to implementing the CRC.

b. The Convention on the Rights of the Child

The belief that children have the same rights as adults-civil and political, social, cultural, and economic- was expressed in the CRC. Being ratified by most states across regions after its adoption by the United Nations General Assembly and entering into international law on 02 September 1990, the CRC is the first binding international human rights instrument incorporating in the same text social, cultural, economic civil, and political rights.

Due to the specific characteristic compared with human rights (of adults) in general, children's rights become very significant. Nowadays, Ninety-six percent of the world's children live in states including Indonesia that have ratified the CRC and are thus legally obligated to protect children's rights. In fact, those states have different political, economic, and social contexts.

The ratification of the CRC reflects a global commitment toward the principle of the rights of the child. On 5 September 1990, Indonesia ratified the CRC through Presidential Decree No. 36/1990 (Keppres 36/1990). Consequently, it has a domestic legal authority equivalent to a Presidential Decree. Though the CRC is legally ratified only by a presidential decree, the spirit, principles, and several provisions of the CRC are covered, in several related acts. Those legislations construct a framework for enacting or amending other laws and regulations. They are also directly applicable to any other laws. Hence, without any legal or official withdrawal, those reserved articles of the CRC have been applied in Indonesian legislation.

However, there is still a loophole in terms of child's rights in the digital environment. The United Nations Committee on the Rights of the Child issued General Comment No. 25 of 2021 concerning children's rights in the digital environment. It clearly states that child protection in digital space must be integrated into national policies related to national child protection.

In this general comment, the Committee explains how states parties should implement the convention in relation to the digital environment and provides guidance on relevant legislative, policy, and other measures to ensure full compliance with their obligations under the convention and the optional protocols thereto in the light of the opportunities, risks, and challenges in promoting, respecting, protecting and fulfilling all children's rights in the digital environment.

Moreover, state parties should review, adopt, and update national legislation in line with international human rights standards, to ensure that the digital environment is compatible with the rights set out in the convention and the optional protocols thereto. Legislation should remain relevant, in the context of technological advances and emerging practices. They should mandate the use of child rights impact assessments to embed children's rights into legislation, budgetary allocations, and other administrative decisions relating to the digital environment and promote their use among public bodies and businesses relating to the digital environment.

States should implement measures to protect children from risk, including online sexual exploitation of children facilitated by the abuse of digital technology, ensuring cybercrime investigations, and providing redress and support for child victims. In addition, the state is also expected to have data that is updated regularly to understand the implications of the digital environment for children's lives, evaluate its impact on their rights and assess the effectiveness of state intervention programs and policies.

The follow-up to this general comment has not been carried out by the Indonesian government. Specific and detailed regulations related to child protection in the digital space have not been carried out within the framework of Indonesian legislation. There are several policies enacted by several related institutions. However, it was partial and only focus on the issue related to each institution's authority. Besides, it had limited binding power.

Considering coordination is still a luxury issue for state organs, especially in Indonesia. By this, the CRC general comment also highlights the coordination to encompass the cross-cutting consequences of the digital environment for children's rights. State parties should identify a government body that is mandated to coordinate policies, guidelines, and programs relating to children's rights among central government ministries/bodies and the various levels of government.

Such a national coordination mechanism should engage with schools and the information and communications technology sector and cooperate with businesses, civil society, academia, and organizations to realize children's rights in relation to the digital environment at the cross-sectoral, national, regional, and local levels. It should draw on technological and other relevant expertise within and beyond government, as needed, and be independently evaluated for its effectiveness in meeting its obligations.

For implementing the rights under the convention, the following four principles provide a guide for determining the measures needed to guarantee the realization of children's rights in relation to the digital environment: non-discrimination; best interest of the child; right to life, survival, and development; and respect for the views of the child.

In addition to the CRC General Comment No. 25 (2021), The United Nations has also paid special attention to guarantee child protection, including by establishing the Child Rights Business Principal (CRBP) which consists of 10 principles as a guide for the business sector in supporting the protection of children's rights in the workplace, marketplace, community, and environment – and in conjunction with the government's duty to protect human and children's rights.

Through CRBP, companies including digital companies are expected to seek comprehensive measures for their businesses to respect and support children's rights. This includes ensuring the protection and safety of children in all business activities and various business facilities, as well as ensuring that products and services are safe for children and seeking to support children's rights through various products and services.

c. The Human Rights Act

The 1999 Human Rights Act develops the concept of child's rights in Indonesian legislation. Comprising specific 15 articles of child rights in Chapter X, the act recognizes the rights of the child are fundamental human rights under the law, protecting such rights from the child in the conception.⁶ The child has a right to be protected by the parents, the community, and the State.⁷ Further, it expresses related provisions regarding child protection namely every child has rights to live, grow, develop, and to have a name and citizenship⁸, rights to education and health services, to receive information, to express one's self, to play and recreate, and to exercise one's religion.⁹

In terms of parental responsibility, several articles state the rights of the child to know the parents and not to be separated from them, unless for the child's best interest.¹⁰ Moreover, in cases of child abuse, mistreatment, and violence (physically, mentally, or sexually), the parent's or guardian's custody shall be removed and they should be punished by 'double'.¹¹

Separate articles also address the rights of protection from violence and exploitation such as not to be involved in the armed conflict; from economic exploitation endangering child's health, from sexual exploitation including trafficking, harassment, and drug addiction; torture and inhuman treatment.¹² While the last article of the chapter articulates the juvenile justice system which is sensitive to the child. A child's rights should be respected though he/she is in conflict with the law, particularly criminal law. In addition, capital punishment should not be imposed, even on the child convicted of severe crimes.¹³

The recognition of children's rights in this law is generally in concord with the spirit of the CRC. The specific articles for children and several articles on basic rights for everyone (including the child) cover several rights set forth in the CRC such as Articles 8, 13, 14, 15, 17, and 37. However, the Committee addresses several notes. First, the Committee indicates, that there is a limitation and restriction on freedom of expression, identified in Articles 70, 73, and 74 of the Human Rights Act. This limitation is basically intended to avoid the real

⁶ Article 52 (2) of Law No.39/1999 on Human Rights

⁷ Article 52 (1) of Law No.39/1999 on Human Rights

⁸ Article 53 of Law No.39/1999 on Human Rights

⁹ Articles 54-55, 60-62 and Article 52 (1) of Law No.39/1999 on Human Rights

¹⁰ Articles 56-57, and 59 of Law No.39/1999 on Human Rights

¹¹ Article 58 of Law No.39/1999 on Human Rights

¹² Articles 63-65 of Law No.39/1999 on Human Rights

¹³ Article 66 (1)-(7) of Law No.39/1999 on Human Rights

harm in society regarding the preservation of specific values, for example, considering the diversity of culture, religion, and ethnicity. The importance of harmony is more favoured than freedom. However, limitations should be under justifiable consideration.

Second, with regard to children, the Committee recommends that freedom to associate (Art.15 of the CRC) could be enjoyed by children as well. In terms of freedom of thought, conscience and religion (Art.14 of the CRC), the Law does not explicitly recognize the rights of children from indigenous groups and the impossibility of legal recognition for non-believers. In addition, the lack of specific recognition to protection of privacy for children is another concern.¹⁴

The Committee suggests undertaking special study and analysis concerning this issue. Regarding limitation of the right to access to appropriate information (Art.17 of the CRC), that it should be in accordance with moral and ethical values; the Committee believed that a comparative study of the situation in other countries is thought to be necessary for a comprehensive review.¹⁵

d. The Child Protection Act

Law No.23/2002 on Child Protection which has been amended for the second time by Law No.17/2016 is considered a step forward for child's rights in Indonesia. This is partly, because, in judicial practice in Indonesia, provisions in international conventions are normally not directly applied, therefore the CRC provisions might be applied first by "integrating or translating" the provisions into relevant national legislation.

The low level of hierarchy of a presidential decree as an instrument of ratification among other national legislations encouraged the government to have a more comprehensive legal instrument for children's rights recognition. This law basically is intended to be an adequate foundation.

¹⁴ Committee on the Rights of the Child, 'Consideration of Reports Submitted by States Parties under Article 44 of the Convention: Indonesia' Second Periodic Report, (7 July 2003), CRC/C/65/Add.25.

¹⁵ Ibid, 26

The law acknowledges the rights of the child as human rights stipulated in the constitution as well as in the CRC. Philosophically, the Law emphasizes the responsibility of all parties: parents, family, community, the government, and the state to fulfil the protection of the rights of the child.¹⁶ In addition the provisions in the CRC are predominantly adopted in this Law.

The act comprises five main sections: a. bill of rights for children;¹⁷ b. the obligations of the state, the community and parents in protecting children, and the implementation of the protection;¹⁸ c. chapters concerning the status of children, guardianship, custody, and adoption;¹⁹ d. establishment of a commission for the protection of Indonesian children;²⁰ and e. criminal provisions section for offenses against children.²¹

The bill of rights introduces many of the CRC's principles into domestic law and considerably expands the number of recognized rights and principles for children. Most importantly, provisions in the bill of rights recognize a child's right to express his/her views, the right to a name and identity, the right to know one's parents, the right to education, and the right to be protected from violence and abuse²². Separate chapters provide more detailed provisions on identity and birth registration, parental rights, guardianship, adoption, religion, health, education, social development, and special protection.

Special protection is provided for children that are: in an emergency, in conflict with the law, belong to minority and isolated groups, victims of economic and/or sexual exploitation, and trafficking, narcotics, and other illicit drugs users, physically and psychologically abused, with a disability, and mistreated or abandoned. This Act, therefore, mandates certain measures, such as dissemination of relevant laws, monitoring, sanctions, prevention, care, and rehabilitation.²³

¹⁶ The general explanatory of Law No.23/2002 on Child Protection

¹⁷ Chapter III Articles 4-19 of Law No.23/2002 on Child Protection

¹⁸ Chapter IV Articles 20-26, Chapter IX Articles 42-71, and Chapter X Article 72 of Law No.23/2002 on Child Protection

¹⁹ Chapter V, VI, VII, and VIII, Articles 27-41 of Law No.23/2002 on Child Protection

²⁰ Chapter XI Articles 74-76 of Law No.23/2002 on Child Protection

²¹ including discrimination and neglect; violence and torture; economic and sexual exploitation; indecent behaviour; trade in children; sale of organs, and the involvement of children in armed conflicts and drug trafficking, Chapter XII Articles 77-90 of Law No.23/2002 on Child Protection

²² Chapter III, Articles 4 -19 of Law No.23/2002 on Child Protection

²³ Chapter IX Articles 59-71 of Law No.23/2002 on Child Protection

More advance than the Juvenile Court Act and the Criminal Code, the Child Protection Act contains several principles consistent with international standards for the special protection of children in conflict with the law.²⁴ Most importantly, children should receive humane treatment in accordance with their dignity and rights, and any sanction imposed must be in their best interests. Any kind of criminal prosecution such as the detention of a child shall only be used as a last recourse.

Further, to prevent stigmatization, the identity of a child shall not be released to the media. This is also applied to the child of a sexual abuse victim. Moreover, children involved in criminal judicial proceedings, are entitled to legal and other assistance, including counseling. Authorities must provide special infrastructure and facilities for children. Child detainees, deprived of their liberty, must be separated from adults. In addition, authorities must continuously monitor and record the development of all children who are in conflict with the law while children shall have access to information regarding the development of their criminal case.

To enhance the efficacy of the implementation of child protection, the government established the Indonesian Commission for Child Protection.²⁵ The task of this independent institution, is ranging from disseminating all provisions in child protection-related legislation, collecting data and information, accommodating people's complaints, conducting research and study, monitoring and evaluating the realization of child protection, to submitting a report, input, and consideration to the president regarding programs for protecting child.²⁶

In addition to these legislations concerning the right of the child, Indonesia also has Law No.11/2008 on Electronic Information and Transaction (The ITE). The law regulates all aspects related to the utilization of information technology and communications. It was intended to respond to rapid developments in information technology, and fill legal gaps around issues such as electronic transactions and the position of digital information and signatures under Indonesian law. The law stipulates how should every person pay attention while using information technology and communications.

²⁴ Articles 17-18 and 64 of Law No.32/2002 on Child Protection

²⁵ Articles 17-18 and 64 of Law No.32/2002 on Child Protection

²⁶ Article 76 of Law No.23/2002 on Child Protection

There is a specific chapter regarding prohibited deeds that fence off everyone in activities that use information technology. however, in this chapter, there is no guidance for users of information technology in terms of involving children or indirectly being exposed to children in their digital activities.

The ITE law has been listed in The National Legislation Program 2019-2024 for amendment. It might be one of the alternative solutions to revise and complement of the provisions regarding guidance for the information and technology user in terms of child protection in the digital environment.

4. The Need for Protection of the Digital World For Children

Although there are negative impacts that can affect children's lives, the massive use of digital technology still cannot be separated from children's lives, especially during this COVID-19 pandemic. As mentioned earlier, the massive use of digital technology can also harm children's psychological and mental health. Therefore, child protection in the digital era plays an important role in the development of children's lives. Through the maximum roles of parents, caregivers, and other adults in children's lives. People should aware that child protection in the digital era is a form of love for the next generation. Crime and crime models have moved to cyberspace. The state must be present to protect these children. Then all stakeholders have the responsibility to create a safe digital space for children.

Protection of children from violence, exploitation, and other mistreatment is one of the rights of children that must be fulfilled by the state, including in the online realm. Therefore, all stakeholders need to see the fulfillment of children's rights including protection in the digital world as an important agenda to prioritize in the development of policies and digital products in Indonesia.

With the fact that cases of child violence in the digital realm are getting higher, it should be momentum to raise awareness of all parties. The position of children is very vulnerable to becoming victims of violence in the digital world and therefore we need to overcome these problems. It should also be underlined that one reason for the vulnerability of children to various digital threats is due to the inability of parents to keep up with current technological

developments. So, increasing digital literacy for the whole community, especially parents, is something that needs to be prioritized.

What role might be played by parents, caregivers, and other adults that need to be maximized for the child's safety? Here are some:

- a. Giving children a sense of security. It is very important to have a closer relationship with the child to build trust.
- b. Developing the child's analytical competence. Parents can help develop children's analytical skills to encourage children's ability to sort out information that is appropriate for them to read and share with the public.
- c. Helping children's time management in using digital technology according to their needs and encouraging them to be wiser in using digital technology.
- d. Setting the digital access that children want to use. The role of parents, caregivers, and other adults can also help to read the privacy policy listed on the digital access that the child wants to use. These adults can collect and sort out which information is appropriate for public viewing and which information should be kept private.
- e. Building two-way communication with children more intensely, inviting children to talk, and encouraging children not to feel lonely due to the lack of direct interaction, as a result of the massive use of digital technology.

Thus, children need to obtain protection from the negative impacts caused by the digital world. There is role of supervision and mentoring from adults, such as parents, caregivers, and other adults. Proper parenting will encourage children to be able to use digital technology intelligently and wisely according to their needs. The protection is crucial to ensure maximum benefits for children, contribute to nation-building, and minimize or even eliminate the risk of threats to children.

5. The Role of the State

One reason for the vulnerability of the child's position while surfing in the online world is the inability of parents to keep up with current technological developments. Therefore, Increasing digital literacy for the whole community, especially parents, is something that needs to be highlighted. The state has an obligation to provide and ensure safe environments for children. What the state can do to ensure the safeguarding and protection of children when

accessing the internet? The state should have policy instruments to engage all parties and stakeholders to actively participate and be a guardian for all children in the digital world. The policy should prioritize children's needs and safety, as well as provide guidance for the stakeholders in performing proper protection.

Considering all stakeholders have responsibilities to create a safe digital environment for children, article 2 paragraph 2 of the Child's Rights Conventions stipulates that states parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members. The Indonesian government must ensure the safeguarding and protection of children when accessing various knowledge online to enrich their capacity to meet future challenges. What can the Indonesian government do?

Governments must increase supervision of internet use by involving providers to ensure that inappropriate material is prevented from entering children's private spaces. Government should increase awareness of the potential and variety of crimes on the internet which must be pursued systematically and sustainably by involving the entire ecosystem of education and child protection, starting from the smallest unit, namely parents, families, and school teachers, to the community.

To deal with this reality, the Ministry of Women's Empowerment and Child Protection (KemenPPPA) assesses the importance of voicing digital literacy to the community, especially parents to protect the safety of their sons and daughters in the realm of courage. In commemoration of National Children's Day 2022, KemenPPPA collaborates with the Ministry of Communication and Informatics (Kominfo), ECPAT Indonesia, Meta, and the National Movement for Digital Literacy SiberKreasi to fight for child protection in Indonesia in terms of the digital platform safety.

On the law enforcement side, the government's investigative capacity and expertise need to be improved. The government must regulate the protection of children's security and safety in using the internet, including the protection of privacy and personal data. Such regulation is currently still absent. The increasing child-focused budget allocation also should also be a priority.

In practice in Indonesia, related to child protection, especially in the digital space, is not the responsibility or authority of one ministry or agency alone. This authority is a cross-sector responsibility of several relevant ministries/institutions comprising KemenPPPA, Kominfo, KPAI, Kemenristekdikti, the Ministry of Education and Culture, and even the Ministry of Social Affair (Kemensos). Still, there is a lack of coordination among the cross-sectoral institutions. So the state also has to build a coordination mechanism to have an integrated national child protection program.

Likewise, there are several related laws governing children's rights to protection on the one hand and issues related to the digital realm on the other. While for law enforcement, the authority is the Indonesian National Police (POLRI). It should be the effort of all parties to eliminate the risk of the threat of using the internet. Guaranteed protection for children everywhere should be a priority for all government institutions.

Based on the earlier discussion, it seems that the issue of child security and protection in the digital space is the responsibility of multi-institutional, multi-sectoral, and partial regulations that have not been able to answer the existing problems. Besides, several existing legislations regulating the child's rights did not mention specific norms for protecting children in the digital space. The answer could be by having comprehensive regulations for protecting children within the digital environment. The need for specific law stipulates regarding the issue of child protection in the digital environment is since the characteristic of the child as a distinctive human being differs from adults. In addition, the digital realm also has distinctive and typical features rather than the conventional environment.

6. Recommendation

The recognition of the rights of the child in Indonesia is a continuing struggle, especially for new issues concerning protection in the digital environment. It is an enormous work for parents, families, society, the government, the state, NGOs, and even international communities. Generally speaking, the efficacy of the implementation of the provisions of child rights is dependent on the awareness of all parties. There is a role of supervision, mentoring, and assistance from adults, such as parents, caregivers, and other adults. Having appropriate parenting will encourage children to be able to use digital technology wisely.

The state should have policy instruments to engage all parties and stakeholders to actively participate and be a guardian for all children in the digital world. The policy should prioritize children's needs and safety, as well as provide guidance for the stakeholders in performing proper protection. It also should promote the use of child rights impact assessments to embed children's rights into legislation, budgetary allocations, and other administrative decisions relating to the digital environment and promote their use among public bodies and businesses relating to the digital environment.

The fact that lack of detailed provisions that regulate the protection of children in the digital environment and the existing regulation on child protection as a basic right of children in several stipulated regulations do not answer the ongoing problems regarding child abuse in the digital space, the state comprising the executive and legislative must deliberate and make legislation.

The legislation might be in the form of amending and complementing the existing related laws, since there are many related laws, the new law might use the omnibus law method. The law should be in line with the CRC, especially for General comment No. 25 (2021) on children's rights in relation to the digital environment. In case, making new law is considered a hard option to do in a short time, another alternative solution is ruling child protection within the digital environment as discussed earlier through government regulation or presidential decree for implementing regulation of the existing related laws.

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Digital Literacy Program and Review of the Role of Commission I DPR RI

Achmad Yugo Pidhegso

Abstract

World internet users are growing rapidly, especially in Covid-19 Pandemic, in the 2022, the world internet users have reached 5,38 billion, and 212 million of them are Indonesian. Internet users are facing digital threats from the internet such as hoaxes, disinformation, and hackers. In 2018 – 2020, Indonesia were facing 5.156 hoax cases, and in 2020, Indonesia's Digital Civility Index is the lowest in Asia. Therefore, to improve Indonesia's Digital Literacy, the government conducts a program called Digital Literacy Program. This research is quantitative descriptive research that describes data and solutions to improve the Digital Literacy Program in Indonesia that focuses on the Planning, Implementation, legislation and budgeting support of the program. Data shows that there is a lack of accuracy in the program's target recipient's data, the program's target *Key Performance Indicators* are not achieved, and there is no Personal Data Protection Bill in Indonesia. In order to improve Digital Literacy in Indonesia, Government should collaborate with the Commission I Indonesia House of Representatives to draft a detailed and comprehensive guideline for the Digital Literacy Program, accelerate the discussion of the Personal Data Protection Bill, and increase the budget for a vital program regarding cybersecurity as the practice of legislative, budgeting, and supervisory of the Parliament.

Keywords: Internet, Digital Literacy, Role of the Parliament, Cybersecurity

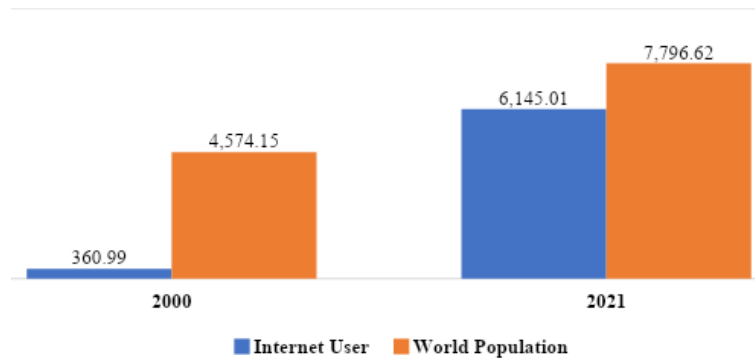
1. Introduction

Since World Wide Web (www) which we normally refer to as the Web invented by Sir Tim Berners-Lee in 1989, the way humans communicate changed rapidly. In the present time, we can do almost everything using the internet such as grocery shopping, everyday communication, formal meetings, ordering food, sharing moments, sending documents, sending pictures, buying a house, watching movies, and even escaping reality by playing games. Before the internet existed in our life, we had to walk to the newsstand to buy a local newspaper to keep up with the news, we also have to be physically present in every meeting we desired to attend. The Internet seems to simplify our day-to-day life, especially in communication, it removes the geographical boundaries of communication that required us to present to a specific place to communicate.

The ease in every aspect of our day-to-day lives caused by the internet attracts everyone to use the internet in their daily lives. Data shows that around 360 million people were using the

internet at the end of the year 2000, then in 2021, the internet users reached around 4,5 billion people. It is whopping 1.267% growth from the year 2000 to the year 2021. We can see the internet user growth in the graph below:

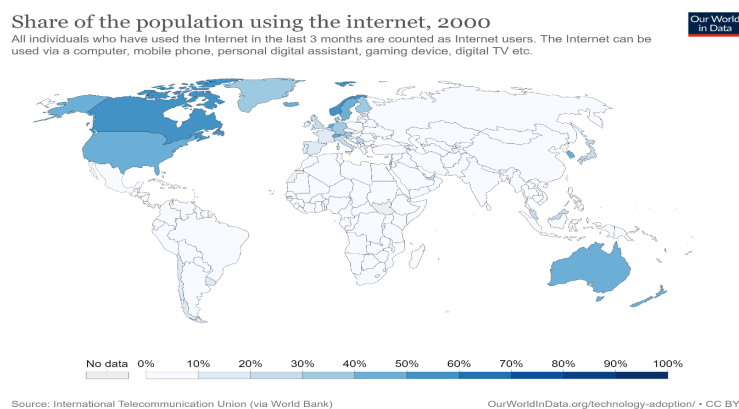
Figure 1 Internet User year 2000 – year 2021 (in million people)



Source: [internetworldstats.com](https://www.internetworldstats.com), 2022

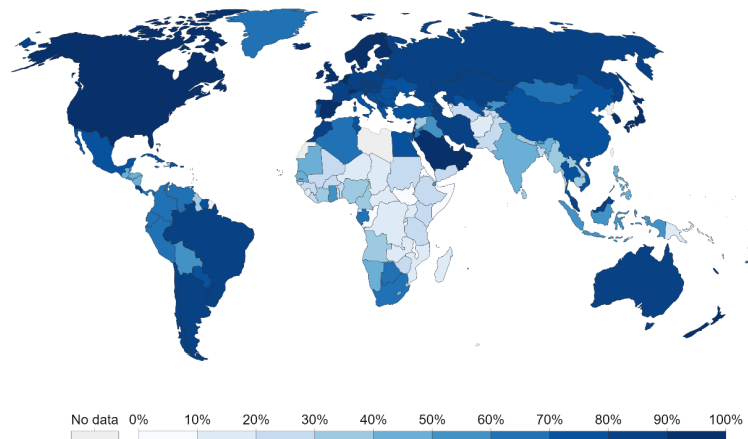
The graph shows that the internet penetration rate also increased at a rapid speed, in the year 2000, only 7,89% of the whole human population were using the internet, then 21 years later in the year 2021, the majority of people on this earth are using the internet, it is 78,82% internet penetration rate. This rapid growth of internet users is a result of rampant projects of internet provider infrastructure therefore the internet is getting more reachable and also the internet is getting more affordable. Here is the comparison of the share of the world's population using the internet in the year 2000 and the year 2020:

Figure 2 Share of Population Using the Internet in 2000



Source: ourworldindata.org, 2022

Figure 3 *Share of Population Using the Internet in 2020*



Source: ourworldindata.org, 2022

Figure 2 and 3 show us that in 20 years, the internet has reached almost every country around the globe. We can observe that some country has a rapid internet user penetration rate growth and some countries are rather slow in the internet penetration rate growth such as countries in the African Region. The widespread of the internet around the globe has created a global virtual world that connects all internet users in the world and makes us become “digital citizens” (Spire et al, 2018).

The widespread and the speed of the internet nowadays makes communication seems borderless. People can share information, talk to each other, read news, etc in real-time using the high-speed internet. However, this ease of communication comes with challenges, there are 2 basic challenges related to the ease of communication and information spread using the internet which are (1) Information spreads too fast, which means people are required to understand and analyze which information to believe and which information not to believe, and (2) The existence of Negative Content, which means people required to have the skill to be able to sort the content, which content is useful and which content is not (Rintaningrum, 2021). Pornographic content, hoaxes, disinformation, defamation of religion, and defamation of race are examples of negative content.

In a diverse country like Indonesia, Negative content and false information can be harmful to Indonesia’s unity. Internet users are required to have some sort of intellectual skill to be able to harmlessly interact with each other using the internet. The skill to find and evaluating information within digital environments is called digital literacy and fluency (Fieldhouse and

Nicholas, 2008). The rapid increase in internet users means more people are required to have adequate digital literacy.

To answer the need of having a global Digital Literacy Framework, United Nations Educational, Scientific and Cultural Organization (UNESCO) formulate a global framework of reference for digital literacy skills in 2018. UNESCO stated that the Digital Literacy Global Framework (DLGF) is intended to serve for monitoring, assessing, and further development of digital literacy. According to UNESCO, the definition of digital literacy is:

“the ability to access, manage, understand, integrate, communicate, evaluate and create information safely and appropriately through digital technologies for employment, decent jobs, and entrepreneurship. It includes competencies that are variously referred to as computer literacy, ICT literacy, information literacy, and media literacy”

UNESCO formulated 5 competence areas that need to take into consideration to increase a country’s digital literacy, as follows:

Table 1 Digital Competence Area based on UNESCO

No.	Competence Area	Example of Competences
1	Information and data literacy	1. Browsing, searching and filtering data, information, and digital content
		2. Evaluating data, information, and digital content
		3. Managing data, information, and digital content
2	Communication and Collaboration	1. Interacting through digital technologies
		2. Sharing through digital technologies
		3. Engaging in citizenship through digital technologies
		4. Collaborating through digital technologies
		5. Netiquette
		6. Managing digital identity
3	Digital Content Creation	1. Developing digital content
		2. Integrating and re-elaborating digital content
		3. Copyright and licenses
		4. Programming
4	Safety	1. Protecting devices

		2. Protecting personal data and privacy
		3. Protecting health and well-being
		4. Protecting the environment
5	Problem Solving	1. Solving technical problems
		2. Identifying needs and technological responses
		3. Creatively using digital technologies
		4. Identifying digital competence gaps

Source: A Global Framework of Reference on Digital Literacy Skills for Indicator 4.4.2, UNESCO 2018

Those competencies need to be possessed by all internet users to make in order to develop the internet a healthy space for people. Based on a research conducted by Mozilla Company in 2018, there are several aspects which contribute to an unhealthy internet, such as online harassment on social media, low personal data safety, and fake news. Therefore, healthy internet space relies heavily on the human factor. Then a question popped up, which country should worry about their people's digital literacy? All countries with internet users should take digital literacy into account because all countries should join the effort of creating the internet as a healthy space. However, more internet users in a country, means that specific country has a bigger impact on creating the internet a healthy space by strengthening its people's digital literacy. Here are 5 countries with the highest number of internet users in 2021:

Table 2 Countries with The Highest Number of Internet Users in 2021

No.	Country	2000	2021	Growth	Population	Internet Penetration Rate
1	China	22,500,000	989,080,566	4.296%	1,444,216,107	68.49%
2	India	5,000,000	755,820,000	15.016%	1,393,409,038	54.24%
3	United States	95,354,000	313,322,868	229%	331,002,651	94.66%
4	Indonesia	2,000,000	212,354,070	10.518%	276,361,783	76.84%
5	Brazil	5,000,000	149,057,635	2.881%	212,392,717	70.18%

Source: internetworldstats.com

Table 2 shows that 3 out of 5 countries with the highest number of internet users in 2021 come from Asia Region. Based on data in 2022, around 53,6% of internet users in the world come from Asia Region followed by Europe with 13,7% then Africa with 11,9%.

As we can see from the table that Indonesia has the fourth highest number of internet users. Among the top five countries with the highest number of internet users, Indonesia is the second fastest growing internet user. The Internet penetration rate in Indonesia is fairly average compared to the other top five countries. Therefore, Indonesia needs to have internet users that knows how to act and to use internet or any digital devices properly and wisely. International Institute for Management Development (IMD) formulate an index that measures the capacity and readiness to adopt and explore digital technologies called Digital Competitiveness Index in 63 countries including Indonesia.

Table 3 Global Competitiveness Index of Asia-Pacific Countries Year 2021

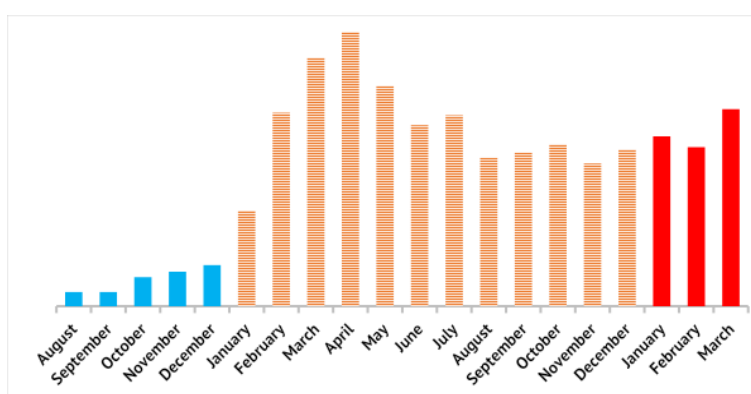
No.	Country	Score	Global Rank
1	Singapore	99.48	4
2	Korea Rep.	95.2	8
3	Hong Kong	94.36	9
4	Taiwan	94.11	11
5	Australia	87.89	14
6	China	86.42	17
7	New Zealand	77.44	27
8	Japan	76.84	29
9	Malaysia	76.42	31
10	Thailand	68.19	40
11	India	63.93	44
12	Indonesia	56.74	51
13	Philippines	52.81	56
14	Mongolia	45.25	62

Source: IMD World Digital Competitiveness Ranking 2022

Table 3 shows that Indonesia should be worry about the readiness of the Indonesian internet users in the digital world. Indonesia ranked 51 from 63 countries globally, ranked 12 from 14 Asia-Pacific countries, and ranked 4 from 5 South East Asian countries that are listed in IMD Digital Competitiveness Index.

The readiness to explore digital world for Indonesia is very important knowing the fact that Indonesia consists of 16.771 islands, 1.340 ethnic groups, 718 local languages, and 6 religions. One hoax related to ethnic groups or religions can trigger segregation in an already diverse society in Indonesia. Indonesia has several regulations that regulate defamation and hoaxes, but it seems like the regulation cannot stop defamation and hoaxes in Indonesia. Data shows that there are 5.156 hoaxes in Indonesia from August 2018 – March 2020, as follows:

Figure 4 Hoax Cases in Indonesia from August 2018 – March 2020



Source: Indonesia's Ministry of Communication and Information Technology, 2020

Data shows that there is even a growing trend of hoax cases in Indonesia from August 2018 until March 2020. Indonesia Internet Service Organizer Association (APJII) stated that the existence of hoaxes in Indonesia is a result of the lack of digital literacy in Indonesia. Most of the hoax cases in Indonesia are about politics, government, and health, here is the table of hoax category in Indonesia from August 2018 – March 2020:

Table 4 Hoax Category in Indonesia from August 2018 – March 2020

Category	Hoax Cases	Category	Hoax Cases
Politics	1,025	Fraud	265
Government	922	Religion	208
Health	853	Myth	182

Crime	390	Trade	34
Defamation	292	Education	33
International	283	Other	411
Natural Disaster	258		

Source: Indonesia's Ministry of Communication and Information Technology, 2020

Political and Government topics become the highest hoax category because Indonesia held Presidential Election in 2019. As usual, every Presidential Election in Indonesia is always graced with numerous hoaxes about each candidate. There are also hoaxes related to Health topics in the wake of the Covid-19 Pandemic in 2019 and 2020. The Indonesian government should also take into account hoaxes in religion and defamation topics because these topics can separate the diverse society of Indonesia.

Indonesia's Ministry of Communication and Information Technology and Katadata Insight Center (KIC) conducted a survey in 2022 all across Indonesia in 34 Provinces and 514 Regency and Cities regarding hoaxes spreading on the internet. The survey shows that in 2020, 11,2% of respondents said they have spread hoaxes before, then in 2021, the survey shows that 11,9% of respondents said they have spread hoaxes. The percentage increased between 2020 and 2021.

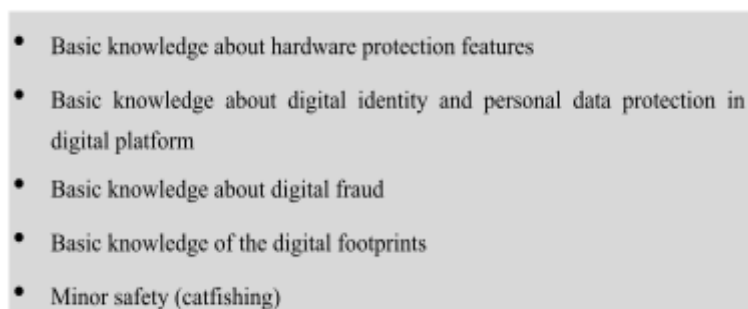
Indonesia's Ministry of Communication and Information Technology stated that there are three reasons why digital literacy is critically important, first as protection, people need to realize the safety of being an internet user such as personal data protection. The second is about human right, every people have the right to express themselves and the right to express people's opinion is protected by the Indonesian constitution. The third is empowerment, which explained further the importance of internet user empowerment to be able to produce productive creation and entrepreneurship using the internet with the information ethics principle.

Several campaigns and jargon were issued by the Indonesian Government such as "Turn Back Hoax" and "*Saring sebelum Sharing*" which means people have to filter the information before sharing information. Filtering requires an adequate amount of digital literacy. Those explanations above are the reason why Indonesia's Ministry of Communication and Information Technology cooperates with the National Movement of Digital Literacy

(Siberkreasi) and Activist Network of Digital Literacy (Japelidi) to create a program named Digital Literacy Program for Indonesia funded by the government of Indonesia worth of Rp607 Billions for the year 2021 only, it is roughly 7,5% of the Ministry of Communication and Information Technology budget.

The Digital Literacy Program in Indonesia started in 2020 and is aimed to be done in 2024. The program aimed to give knowledge about digital literacy to 50 million Indonesian people and aimed to achieve International Management Development (IMD) Digital Skill rank #20 by the end of the year 2024. In 2020, Indonesia ranked #44 in the IMD Digital Skill ranking. To achieve 50 million participants in 2024, Digital Literacy Program planned to start giving the socialization regarding digital literacy for 12,5 million people every year starting from 2021. The year 2020 is used as a planning year. These are four main areas of competence and indicators of the Digital Literacy Program in Indonesia.

Figure 5 Area of Competence in Digital Literacy Program Indonesia

- 
- Basic knowledge about hardware protection features
 - Basic knowledge about digital identity and personal data protection in digital platform
 - Basic knowledge about digital fraud
 - Basic knowledge of the digital footprints
 - Minor safety (catfishing)

Source: Ringkasan Eksekutif Seri Modul Literasi Digital Kominfo-Japelidi-Siberkreasi 2021-2024

The Digital Literacy Program shows that Indonesia Government is concerned about creating a healthy digital space in Indonesia and also ensuring that Indonesian Internet Users are not contributing to the toxic side of the internet. Regarding internet interaction, Microsoft conducted research to study the level of civility which later presented as Digital Civility Index (DCI). DCI measures internet users' exposure to online risks that are divided into four categories: Behavioral, Intrusive, Reputational, and Sexual. However, in 2021 Microsoft released DCI year 2020, the index placed Indonesia in rank 29th of 32 countries, which makes Indonesia placed last in the Asia Region as we can see from table 4 below:

Table 5 Asia Digital Civility Index 2020

Country	DCI	World Rank
Singapore	59	4
Taiwan	61	5
Australia	62	7
Malaysia	63	10
Philippines	66	13
India	68	18
Thailand	69	19
Vietnam	72	24
Indonesia	76	29

Source: Microsoft Digital Civility Index 2020

Low DCI Score means internet users in Indonesia tends to receive or conduct negative side of internet interaction such as hate speech, discrimination, online harassment, cyberbullying, unwanted sexting, damaging personal reputation, etc. After the DCI Report released by Microsoft, Indonesian internet users sent negative comments in Microsoft's Instagram account. The anger and negative comments to Microsoft's Instagram account regarding the DCI score of Indonesia only further confirm the result of the DCI is somehow correct, Indonesian internet user behavior only made it clearer that Indonesia desperately need digital literacy socialization. As we can see in the Picture 3 Digital Ethics is one of four competencies in the Digital Literacy Program in Indonesia. Proper Digital Ethic knowledge hoped to improve Indonesian internet users' ability to interact in the internet in a more civilize manner.

The Digital Literacy Program initiated by Indonesia's Ministry of Communication and Information Technology aimed to improve Indonesian internet users' digital ethics. The most important question is How does the program work so far? Who is the one responsible to supervise? The House of Representatives of the Republic of Indonesia (DPR RI) is the institution responsible to supervise the Digital Literacy Program in Indonesia.

2. The Role of Commission I DPR RI

DPR RI consists of several complementary organs which are Leadership, Steering Committee, Commissions, Legislation Committee, Budget Committee, Public Financial Accountability Committee, Household Committee, Committee for Inter-Parliamentary Cooperation, Ethics Committee, and Ad-Hoc Committee. Commissions in DPR RI are formed to implement 3 functions of DPR RI which are Legislation, Budget, and Supervisory. DPR RI has 11 commissions, each commission has its counterparts and its scope of duties, as follows:

- a. Commission I - Defense, Foreign and Information Affairs
- b. Commission II - Home Affairs, Regional Autonomy, Administrative Reforms and Agrarian Affairs
- c. Commission III - Law and Legislation, Human Rights, and Security Affairs
- d. Commission IV - Agricultural, Plantations, Forestry, Maritime, Fisheries, and Food Affairs
- e. Commission V - Communications, Telecommunications, Public Works, Public Housing Affairs, Acceleration of Development of Disadvantaged Regions
- f. Commission VI - Trade, Industrial, Investment, Cooperatives and Small and Medium Scale Enterprises, and State-Owned Enterprises Affairs
- g. Commission VII - Energy, Mineral Resources, Research and Technology, Environmental Affairs
- h. Commission VIII - Religious, Social, and Women's Empowerment Affairs
- i. Commission IX - Demography, Health, Manpower and Transmigration Affairs
- j. Commission X - Education, Youth, Sport, Tourism, Arts and Culture Affairs
- k. Commission XI - Finance, National Development Planning Board, Banking and Non-Bank Financial Institutions Affairs

Information affairs are Commission I DPR RI's scope of duty, therefore Ministry of Communication and Information Technology is the Commission I DPR RI's counterpart. Regarding the Digital Literacy Program conducted by therefore Ministry of Communication and Information Technology, Commission I DPR RI has the role to hold a hearing regarding the program's budget and also has the role to supervise the performance of the program.

Commission I DPR RI needs to be well aware of Digital Literacy Program's performance in the planning, execution, and evaluation process.

3. Analysis of Digital Literacy Program's Planning Process

Indonesia Supreme Audit Institution (BPK RI) conducted a Special Purpose Audit on Indonesia's Ministry of Communication and Information Technology spending, the audit focused on the compliance of the Ministry's spending. One of the spendings is for the Digital Literacy Program. Here are problems in Digital Literacy Program's planning process stated in the audit report:

- a. The decision to set the program's target participant for 50 million people in 4 years (2021 – 2024) did not result from an adequate analysis. 50 million target participants were calculated from 30% of the total 196 million Indonesian internet users. There is no further information on whether the internet users used in the calculation were active internet users or passive internet users.
- b. Digital Literacy Program in Indonesia conducted virtually using Zoom Meeting Application. As we know about the internet, it erases geographical boundaries. When the program is conducted using Zoom Meeting Application, the Minister does not need to worry about geographical boundaries. However, in the planning process, the program is still divided into 12 project packages based on the area, as follows:
 - 1) Package I - West Java I
 - 2) Package II - West Java II
 - 3) Package III - Central Java I
 - 4) Package IV - Central Java II & Special Region of Yogyakarta
 - 5) Package V - Special Capital District of Jakarta & Banten
 - 6) Package VI - East Java I
 - 7) Package VII - East Java II
 - 8) Package VIII - Bali, West Nusa Tenggara, East Nusa Tenggara, Papua, and Moluccas
 - 9) Package IX - Celebes
 - 10) Package X - Borneo
 - 11) Package XI - Sumatera I
 - 12) Package XII - Sumatera II

- c. Indonesia's Ministry of Communication and Information Technology set the Digital Literacy Program's target to cover 50 million Indonesian Internet Users in 2024. Explained further that 50 million participants should be unique participants, which means when a person joins one digital literacy program, that particular person will not be counted when that person joins another digital literacy program. However, Indonesia's Ministry of Communication and Information Technology never prepared a proper data entry method for participants that join the program, therefore it is impossible to determine whether the participant is truly a unique participant or not. Data entries that are required to join the program are name, email, cellphone number, job, sex, age, and address.
- d. Process of setting the number of studios needed for the program did not base on proper analysis. Package 1 until Package 7 set the studio needs based on the number of Cities and Regencies in those Provinces, but Package 8 until Package 12 only rent 10 studios for each Package without any consideration regarding the number of activities that need to be done. Furthermore, there is no detailed explanation regarding the location, the extent of the studio, and any information about the minimum standard of a studio that needs to be met for the program. Here is the table that explains the condition above:

Table 6 Studio Rent in Digital Literacy Program Indonesia

Digital Literacy Program Package	Cities & Regencies	Activities	Studio Rent	Studio to Activity Ratio
Package I- West Java I	13	1,537	13	118
Package II- West Java II	14	1,532	14	109
Package III- Central Java I	18	1,192	18	66
Package IV- Central Java II & Special Region of Yogyakarta	22	1,195	22	54
Package V- Special Capital District of Jakarta & Banten	14	1,387	14	99
Package VI- East Java I	14	1,251	14	89
Package VII- East Java II	24	1,250	24	52
Package VIII- Bali, West Nusa Tenggara, East Nusa Tenggara, Papua, and Moluccas	104	1,397	10	140

Digital Literacy Program Package	Cities & Regencies	Activities	Studio Rent	Studio to Activity Ratio
Package IX- Celebes	81	1,222	10	122
Package X- Borneo	56	1,023	10	102
Package XI- Sumatera I	77	1,763	10	176
Package XII- Sumatera II	77	1,763	10	176

*Source: Ministry of Communication and Information Technology's
January 2021 – October 2021 Spending Audit Report*

Table 5 shows that setting the studio needs to be based on the number of Cities and Regencies fairly saver than setting directly 10 studios without knowing the number of activities that will be done. The main thing is there is no primary guide to set the studio needs for each Package, therefore every package is free to use its own method.

- e. The Digital Literacy Program implementation needs several positions which are runner, administration staff, and liaison officer (LO). Examination found that the setting of manpower needs in the program was done without a primary guide, therefore each Package is free to use its own method, as follows:

Table 7 Manpower for Digital Literacy Program Indonesia

Digital Literacy Program Package	Cities & Regencies	Activities	Runner	Administration Staff	LO	Manpower to Activities Ratio
Package I- West Java I	13	1,537	26	13	26	24
Package II- West Java II	14	1,532	28	14	28	22
Package III- Central Java I	18	1,192	36	18	36	13
Package IV- Central Java II & Special Region of Yogyakarta	22	1,195	44	22	44	11
Package V- Special Capital District of Jakarta & Banten	14	1,387	28	14	28	20

Digital Literacy Program Package	Cities & Regencies	Activities	Runner	Administration Staff	LO	Manpower to Activities Ratio
Package VI-East Java I	14	1,251	28	14	28	18
Package VII-East Java II	24	1,250	24	24	48	13
Package VIII-Bali, West Nusa Tenggara, East Nusa Tenggara, Papua, and Moluccas	104	1,397	104	104	104	4
Package IX-Celebes	81	1,222	81	81	81	5
Package X-Borneo	56	1,023	56	56	112	5
Package XI-Sumatera I	77	1,763	77	77	154	6
Package XII-Sumatera II	77	1,763	77	77	154	6

*Source: Ministry of Communication and Information Technology's
January 2021 – October 2021 Spending Audit Report*

The average manpower to activities from this data is 12, therefore we can see that based on data shown in table 6, manpower in Packages I, II, III, V, VI, and VII had a workload more than the average. The main issue here is there is no primary guide in setting manpower needs for the Digital Literacy Program.

- f. The Digital Literacy Program is broadcasted from a studio, therefore the program needs a host and co-host to lead the program. The progress is broadcasted using Zoom Meeting, therefore every studio needs a Laptop. Ministry of Communication and Telecommunication Technology decided to rent the laptop instead of buying a new one. The laptop must meet the minimum specification set by the Ministry, which is Laptop with Core i7 Processor and 32GB RAM, this specification was later found that way too high for Zoom Meeting only, therefore we can say that this program wastes the state budget by renting overly qualified Laptops. Besides that, there is no primary guideline to determine the host, co-host, and laptop needs for each Package, therefore every Package is free to set their need, as follows:

Table 8 Host, Co-Host, and Laptop for Digital Literacy Program

Digital Literacy Program Package	Studio	Cities & Regencies	Activities	Host	Co-Host	Laptop
Package I- West Java I	13	13	1,537	26	13	26
Package II- West Java II	14	14	1,532	28	14	28
Package III- Central Java I	18	18	1,192	36	18	36
Package IV- Central Java II & Special Region of Yogyakarta	22	22	1,195	44	22	44
Package V- Special Capital District of Jakarta & Banten	14	14	1,387	28	14	28
Package VI- East Java I	14	14	1,251	28	14	28
Package VII- East Java II	24	24	1,250	24	24	48
Package VIII- Bali, West Nusa Tenggara, East Nusa Tenggara, Papua, and Moluccas	10	104	1,397	104	104	208
Package IX- Celebes	10	81	1,222	81	81	162
Package X- Borneo	10	56	1,023	56	56	112
Package XI- Sumatera I	10	77	1,763	77	77	154
Package XII- Sumatera II	10	77	1,763	77	77	154

*Source: Ministry of Communication and Informaion Technology's
January 2021 – October 2021 Spending Audit Report*

4. Problems in Digital Literacy Program's Execution Process

Digital Literacy Program in Indonesia has several Key Performance Indicators (KPI) to ensure the program is on the right track to achieving its goals. The target calculated for KPI is the number of participants who joined the program. KPI is set to achieve a minimum of 80% for each term. However, the target is not met for term I and term II, as follows:

Table 9 KPI Achievement of Digital Literacy Program

Digital Literacy Program Package	Term (%)							Accumulation (%)
	I	II	III	IV	V	VI	VII	
Package I- West Java I	33.2	82.7	122.3	199.1	80.1	88.5	96.9	100.4
Package II- West Java II	15.9	43.4	169.8	191.7	123.1	77.1	79.8	100.1
Package III- Central Java I	12.9	36.8	259.2	207.0	110.0	149.7	110.5	126.6

Digital Literacy Program Package	Term (%)							Accumulation (%)
	I	II	III	IV	V	VI	VII	
Package IV- Central Java II & Special Region of Yogyakarta	14.6	36.3	299.7	227.7	135.7	192.9	54.9	137.4
Package V- Special Capital District of Jakarta & Banten	13.7	45.8	232.9	216.7	167.6	139.7	68.4	126.4
Package VI- East Java I	24.6	63.1	190.8	177.4	139.8	139.6	111.8	121.0
Package VII- East Java II	40.7	132.9	146.4	131.4	154.0	172.0	150.2	132.5
Package VIII- Bali, West Nusa Tenggara, East Nusa Tenggara, Papua, and Moluccas	22.5	101.8	140.6	214.2	126.2	87.8	57.5	107.2
Package IX- Celebes	21.8	104.6	191.9	151.3	135.1	136.4	113.5	122.1
Package X- Borneo	2.8	43.0	212.1	246.7	123.0	144.0	54.2	118.0
Package XI- Sumatera I	24.0	88.4	196.7	256.0	169.1	88.4	47.4	124.3
Package XII- Sumatera II	1.6	20.7	160.7	237.0	120.4	122.0	112.8	110.8

*Source: Ministry of Communication and Information Technology's
January 2021 – October 2021 Spending Audit Report*

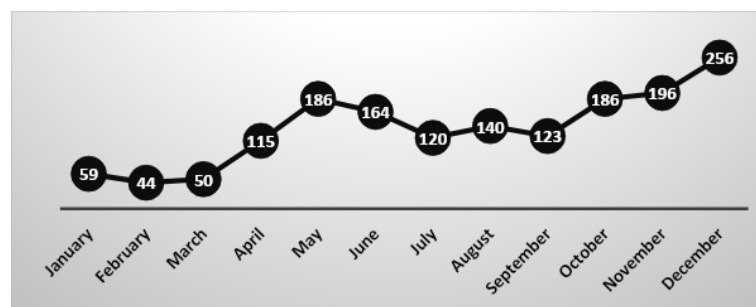
Table 9 shows that in Term I and Term II, the majority of the program did not meet the KPI target of a minimum of 80%, then the program increased the pace in the Term III until Term VI, then slow it down again in Term VII. Although in the end, the accumulation target achievement is more than 100%, we have to see why the target was set at a minimum of 80% of the targeted participant in the first place. Every broadcast of the Digital Literacy Program was limited to a maximum of 3 hours, therefore the more the participant, the less each participant has an opportunity to raise their hand and stimulate a discussion in the Zoom Meeting. We can say that every the KPI Achievement of less than 80% or more than 100% is not effective.

The Ministry of Communication and Information Technology should start to think about setting another set of KPI indicators, it is better to set a target for the quality of the program, and how much the participant has learned from the program. The ministry can start a questionnaire before the program and tell the participant to fill another questionnaire after the program the be able to determine whether the program increases their skills and knowledge about Digital Literacy.

5. Regulation and Budget Constrains in Supporting Digital Safety

Digital Safety of one of four competencies in the Digital Literacy Program in Indonesia. It is also one of five competencies in Digital Literacy described by UNESCO. Digital Safety is critically important in the vast development of the internet. Indonesia State Coding and Cyber Institute (BSSN) recorded there are 1,6 billion cyber anomaly traffic in Indonesia in 2021, as follows:

Figure 6 Indonesia Cyber Anomaly Traffic 2021 (in million cases)



Source: BSSN presentation at Commission I DPR RI hearing

Figure 6 shows that the trend of Indonesia having Cyber Threats is rising. 62% of the threats are malware infections, 10% are Trojan viruses, and 9% are information-gathering attempts. BSSN also recorded that 5.574 hacking cases occurred in 2021, of which 36% of them occurred on university sites, 25% occurred on private sites, and 18% occurred on local government sites. The high number of Malware infections and hacking cases in Indonesia shows that Indonesian internet users' personal dan financial data are in danger.

International Telecommunication Union (ITU) develop an index that measures a country's cybersecurity with Global Cybersecurity Index (GCI). The measurement is consisting of 5 dimensions which are Legal Measures, Technical Measures, Organizational Measures, Capacity Measures, and Cooperative Measures. In 2020, Indonesia's GCI was 94,88, Indonesia placed 24th out of 193 countries measured by ITU, and ranked 6 in Asia Pacific Region below South Korea and Singapore which shared first place, Malaysia, Japan, India, and Australia. Here is the detailed score of Indonesia's GCI:

Table 10 Indonesia GCI Score 2020

Indicator	Score
Legal Measures	18.48
Technical Measures	19.08
Organizational Measures	17.84
Capacity Development	19.48
Cooperative Measures	20.00

Source: International Telecommunication Union, Global Cybersecurity Index 2020

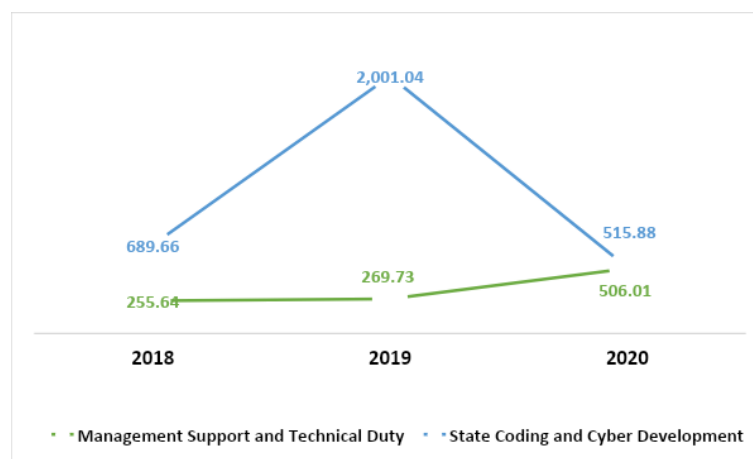
Table 10 shows that there is plenty of room for improvements in Legal Measures and Organizational Measures for Indonesia. In Legal Measures, Indonesia has a draft bill of personal data protection which is now being discussed between the Ministry of Communication and Information Technology and Commission I DPR RI. The Personal Data Protection Bill is in the discussion phase, not yet been legalized. This bill will be vital to protecting Indonesian internet users' personal data because this bill will regulate the rights and responsibilities of personal data owners and personal data managers. Each of these rights and responsibilities comes with legal consequences if a violation happened.

There are several cases of personal data leaks in Indonesia, but the leak in Healthcare and Social Security Agency (BPJS Kesehatan) arguably is one of the most shocking personal data leak cases in Indonesia. Indonesia Cyber Security Independent Resilience Team (CSRIT) stated that using calculation of Ponemon-IBM research institution, personal data leak in Indonesia Healthcare and Social Security Agency Personal Data Safety of Indonesian People is now being regulated in several bills separately, therefore the containing a possibility of material losses as big as Rp600 trillion. Therefore, it is critically important for Indonesia to have a specialized Bill regulating Personal Data Safety and a proper Digital Literacy focus on Digital Safety knowledge. People need to be aware of their digital safety, and people also need to ensure their personal data is safe in the digital space by having Personal Data Safety Bill.

Aside from the legislation point of view, there is also a Body in the Indonesian Government that is responsible to ensure cybersecurity for the Indonesian people which is Indonesia State

Coding and Cyber Institute (BSSN). BSSN has two major programs which are Management Support and Technical Duty Program and State Coding and Cyber Development Program. State Coding and Cyber Development Program is the program whose main goal is to ensure cyber security for the Indonesian People. However, data shows that the budget for this program is facing a downtrend whereas the budget for the Management Support and Technical Duty Program is facing an uptrend, as follows.

Figure 7 Program Budget in Indonesia State Coding and Cyber Institute



Source: Audit Result of BSSN Financial Statement year 2018 – 2020

The budgeting policy in BSSN seems more about improving its management support rather than improving the coding and cyber development of the country. This budgeting policy is not only BSSN's authority but also DPR RI's authority in the budgeting function of The House of Representatives. Therefore, these 2 institutions should have an agreement in the budgeting area to improve the quality of cybersecurity in Indonesia as a part of the Digital Safety competence in Digital Literacy Program.

6. Recommendations

Based on the explanation in the previous parts, we can say that Indonesia is heading in the right direction in terms of giving knowledge regarding digital literacy and how to be a good digital citizen and creating a healthy digital environment, by having the Digital Literacy Program run by the Ministry of Communication and Information Technology, having a specified Body that responsible for cybersecurity matters, and preparing a Bill specified to protect Indonesian Personal Data. However, there are still several problems with the Digital

Literacy Program such as the participant database is not reliable and most likely will not meet the target of 50 million unique participants, the planning of manpower, studio, and hardware support for the program are done without any primary guideline and in several cases there is a risk of wasting the state budget, the absence of Personal Data Protection Bill and the downtrend of vital program related to cybersecurity might be counterproductive to the effort of creating a well literate community in term of Digital Safety. Commission I DPR RI, in the practice of legislation, budgeting, and supervisory functions of The House of Representatives, suggested to do as follows:

- a. Commission I DPR RI in practicing its supervisory function, requests Indonesia Supreme Audit Institution to conduct a Performance Audit or Special Purpose Audit specified in Digital Literacy Program.
- b. Commission I DPR RI in practicing its supervisory function, hold a Hearing with the Ministry of Communication and Information Technology to discuss the improvement of the participant database; manpower, studio, and hardware planning, and encourage Ministry of Communication and Information to create a “before-after questionnaire” to measure the impact of Digital Literacy Program, and discuss about the constraint in meeting the KPI properly.
- c. Commission I in practicing its legislation function, hold a Hearing with the Ministry of Communication and Information Technology to accelerate the discussion about Personal Data Protection Bill.
- d. Commission I DPR RI in practicing its budgeting function, holds a Hearing with Indonesia State Coding and Cyber Institute and should seriously consider an additional budget for the Coding and Cyber Development Program.

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The Role of Government in Preventing the Spread Fake News in Indonesia

Bintang Wicaksono Ajie²⁷

Abstract

The development of the era and technology causes the spread of telecommunications and information flows in the world to become increasing massive and easy to access. However, this convenience also raises problems. Due to the fact that access to telecommunications and information is difficult to control anymore, information that is spread in the media, especially social media, needs to be revisited due to the emergence of irresponsible persons who systematically spread fake news / hoaxes for their own personal interests. In this regard, this task is the responsibility of the government to control access to information so that the spread of fake news or hoaxes can be reduced. Article 40 paragraph (2a) and (2b) of Law No. 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016 (ITE Law) has regulated the Government's authority to cut off access to information and/or electronic documents that have unlawful content in order to protect the public interest and aims to prevent misuse of information and/or electronic documents. Whereas the aims and objectives set out in Article 40 paragraphs (2a) and (2b) of the ITE Law are also in line with the Constitutional Court Decision Number 81/PUU-XVIII/2020 which in essence judges of the Constitutional Court considers that provisions regarding the Government's authority in deciding internet access are required, because the development of technology is very fast, extensive and massive. However, the provisions governing the Government's authority to cut off access need to be accompanied by an expansion of the types of information to accommodate technological developments. Especially when it comes to the Covid-19 Pandemic situation that is happening all over the world, where it cannot be denied that Covid-19 has, in freedom of expression in Indonesia. This paper recommends policy makers and stakeholders to take the measures for real to overcome the spread of fake news and hoaxes related to the pandemic by some measures, which one of them is better law enforcement in accordance with laws and regulations.

Keywords: Fake News, ITE Law, Law Enforcement

1. Introduction

The development of Age and Technology causes the spread of telecommunications and information flows in the world to become increasingly massive and easy to access. This makes it easier for people to get access to information wherever and whenever they are at this time. However, this convenience also raises problems. Due to the fact that access to

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telecommunications and information becomes difficult to control anymore, information that is spread in the media, especially social media, needs to be confirmed again. This is due to the emergence of irresponsible persons who systematically spread fake news / hoaxes for their own personal interests. This is of course the responsibility of the government to be able to control access to information so that the spread of fake news or / hoaxes can be overcome. As for the rise of fake news / hoaxes on social media has made the Government through Law Enforcement Officials carry out various law enforcement actions.

This case of spreading fake news is not the first time that has happened in Indonesia. Previously, fake news related to vaccines for children was and is still widely circulated in the community. There is a lot of news about face vaccines that contain ingredients that are both dangerous and illegal and have caused some people to be reluctant to vaccinate their children. However, the response from law enforcement is completely different from what is happening at this time.

In relation to the spread of fake news that causes trouble, the articles commonly used to ensnare suspects include Law Number 1 of 1946 / the Criminal Code, especially Articles 14 and 15 and Article 28 paragraph (1) of the ITE Law which reads as follows:

Article 14²⁸

- (1) Whoever, by broadcasting false news or notifications, intentionally causes trouble among the people, shall be punished by a maximum imprisonment of ten years.*
- (2) Whoever broadcasts a news or issues a notification, which can cause trouble among the people, while he should be able to think that the news or notification is a lie, is punished with a maximum imprisonment of three years.*

Article 15²⁹

Anyone who broadcasts news that is uncertain or news that is excessive or incomplete, while he understands, at least should be able to suspect that such news will or can easily cause trouble among the people, is punished with a maximum imprisonment of two years.

²⁸ Article 14 Indonesia Criminal Code (Kitab Undang-Undang Hukum Pidana)

²⁹ Article 15 Indonesia Criminal Code (Kitab Undang-Undang Hukum Pidana)

Article 28 Paragraph (1)³⁰

Everyone intentionally and without rights spreads false and misleading news that results in consumer losses in Electronic Transactions.

In imposing an offense related to the spread of false news, there are several elements that must be met before a person can be said to have committed a criminal act of spreading false news. First, the broadcasting of false news or notifications must intentionally or have the intention to cause trouble among the people. Second, the person must know that the news is fake news or the person must at least have a suspicion that the news is fake news.

The first element is the element which is the most crucial thing to prove in this act, which is trouble. The chaos referred to in the article has a measure that in society there is upheaval and panic, while in the period when the uploads of the nine people circulated, there was no "trouble" or "commotion" whatsoever that occurred which then caused upheaval in society. The size of the disturbance set forth in this article is very high, so that law enforcement cannot arbitrarily assign a person as a suspect if these elements are not met.

Another element that must be considered in this news is the element that states that people who spread false and exaggerated news must know that the news is indeed fake news or should suspect that the news is fake news. Most of the people who spread fake news, do not know the truth behind the news. This is something that must be carefully explored by law enforcement officers, because this element is then related to the evil intentions of the perpetrators of criminal acts, whether it is true that these intentions are in their actions.

Then, law enforcers should be careful in arresting and detaining someone and establishing someone as a suspect. Because, to declare someone has committed a crime, there is an element of crime that must be fulfilled, namely *actus reus* or actions, in this case spreading false news and secondly, *mens rea*, namely evil intentions, in this case the intention to cause trouble that appears. From the knowledge that the news that is being spread is a true lie or should be suspected of being a lie. Even though someone commits an act that is spreading false news, but his *mens rea* or evil intentions cannot be found in him, then the act cannot be called an act or a crime.

³⁰ Article 28 Paragraph (1) Indonesia Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016 (ITE Law)

Hence this paper in the following section describes the role and authority of the Indonesian government in an effort to prevent the spread of fake news/hoaxes circulating in the community so far, including fake news/hoaxes circulating during the COVID-19 pandemic.

2. Discussion

The enforcement of criminal law regarding the spread of fake news/hoax is regulated in Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016 (UU ITE). In the law it is stated that perpetrators of spreading hoaxes can be subject to the following sanctions: Article 28 paragraph (1), namely the content of false and misleading news, Article 28 paragraph (2), namely the content that causes hatred or hostility to individuals and/or groups. Certain communities based on ethnicity, religion, race, and inter-group. Article 28 paragraph (1) means that Electronic Transactions can be carried out in the public or private scope.

The actions that can be categorized as violating the provisions of Article 28 paragraph (2) of the ITE Law are: 1) there are parties who feel aggrieved by the actions of a person or group of people related to racist / discrimination elements, 2) The act contains pictures of people who are purified in a religion that is contrary to the original image, 3) Make writings that vilify the contents of the holy book of a religion that is different from the teachings of that religion or, 4) Disseminate personal things that are contrary to or violate norms decency and decency, 5) The actions carried out contain elements of racist / discrimination and are carried out on social media.

It can be seen that the Defendant can only be punished according to this article, if it turns out that the news broadcast is false news. What is seen as false news, not only tells an empty news, but also tells incorrectly about an incident. Raising or lowering the price of goods and so on, by broadcasting false news can only be punished, that the broadcasting of false news is carried out with the intention of benefiting oneself or others.³¹

³¹ Fransiskus Sebastian Situmorang, *Tinjauan Yuridis Terhadap Ketentuan Pasal 28 Ayat 2 UU Informasi dan Teknologi*, Jurnal Hukum Kertha Wicara, Volume 06, Nomor 05, Desember Tahun 2017, page 9.

Meanwhile, perpetrators of spreading hoaxes related to COVID-19 and others can be fined up to 1 billion. This is explained in Article 45A paragraph (1) of the ITE Law, it is stated that anyone who intentionally spreads false and misleading news that results in consumer losses in electronic transactions can be subject to a maximum imprisonment of six years and/or a maximum fine of Rp. 1 billion. It can be seen, that there are three categories of news spreaders about the corona virus (COVID-19) causing trouble that can be punished, namely:

- 1) Those who know the untruth of the news and deliberately spread it,
- 2) Those who should suspect that the news he spreads is fake news, and
- 3) Those who spread news that is uncertain, redundant, or incomplete.

In addition to these three categories, if the spread of news about the corona virus (COVID-19) containing defamation is carried out via electronic systems such as social media, then the act is suspected of violating Article 27 paragraph (3) of the ITE Law which explains³²:

“Every person intentionally, and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have insulting and/or defamatory contents”.

The explanation in Article 27 paragraph (3) refers to the provisions for defamation and/or slander as regulated in the Criminal Code. Violation of the provisions of Article 27 paragraph (3) of the ITE Law is threatened with a criminal act based on Article 45 paragraph (3) which states that³³:

“Every person who intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing insults and/or defamation as referred to in Article 27 paragraph (3) shall be punished with imprisonment a maximum of 4 (four) years and/or a maximum fine of Rp. 750,000,000.00 (seven hundred and fifty million rupiah).”

Based on the various provisions of the criminal law, any act of disseminating information about the corona virus (COVID-19) containing defamation or slander or hoaxes through an electronic system in the form of social media is punished under the provisions of the ITE Law

³² Article 27 Paragraph (3) Indonesia Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016 (ITE Law)

³³ Article 45 Paragraph (3) Indonesia Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016 (ITE Law)

and its amendments. This provision is a complaint offense. Those who feel that their reputation has been defamed or slandered for spreading news about the corona virus (COVID-19) can report the alleged crime to the police.

2.1 Termination of Access to Information and/or Electronic Documents

In addition to the threat of criminal law, Article 40 paragraphs (2a) and (2b) of the ITE Law have regulated the Government's authority to cut off access to information and/or electronic documents that have unlawful content in order to protect the public interest and aim to prevent misuse of information and/or documents. electronic. This provision was then continued with the issuance of Indonesia Government Regulation (PP) Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, which substantially regulates the limits, categories and classifications of information and/or electronic documents that regulate unlawful content. Whereas the aims and objectives set out in Article 40 paragraphs (2a) and (2b) of the ITE Law are also in line with the Constitutional Court Decision Number 81/PUU-XVIII/2020 which in essence the Constitutional Court judges consider that provisions regarding the Government's authority in deciding internet access are needed, see that the development of technology is very fast, broad and massive. In its implementation, the formulation of Article 40 paragraphs (2a) and (2b) of the ITE Law has given rise to multiple interpretations if it is implemented for broad interests because the types of information that can be cut off only include information and/or electronic documents which are no longer in accordance with current technological developments. Therefore, the provisions governing the Government's authority to cut off access need to be accompanied by an expansion of the types of information to accommodate technological developments

2.2 Constitutional Court Decision³⁴

Law Number 11 of 2008 concerning Electronic Information and Transactions has been amended by Law Number 19 of 2016 which provides several regulatory changes, one of which is to increase the role of the Government in preventing the dissemination and use of Electronic Information and/or Electronic Documents that have prohibited contents. in Article 40. This is because the virtuality characteristics of cyberspace allow illegal content such as

³⁴ Indonesia Constitutional Court Decision Number 81/PUU-XVIII/2020

Information and/or Electronic Documents that have content that violates decency, gambling, insults or defamation, extortion and/or threats, spreading false and misleading news resulting in losses. consumers in Electronic Transactions, as well as acts of spreading hatred or hostility based on ethnicity, religion, race, and class, and sending threats of violence or intimidation that are personally addressed can be accessed, distributed, transmitted, copied, stored for re-dissemination from anywhere and at any time.

The government as a state administrator, plays a role and acts as if it were a "night watchman" (nachtwakerstaat) for the safety and comfort of the citizens as a whole. As the police regulate traffic, to create order for the smooth running of the road as it should and avoid chaos, even damage.

It's the same as facing the rapid flow of information as it is today. The government also regulates or secures content that violates the law that passes by endangering the public. What will happen if the Government does not have the authority to quickly and accurately stop the wave of illegal content that is prohibited by law, such as pornography, fraud, gambling, and various hoaxes, false news containing provocations and "fights against each other"? Such content has the potential to have a huge impact, given the large number of them on social media.

2.3 The Dangers of Activities in Cyberspace

Communication activities in the cyber world have distinctive characteristics, namely: (1) the communicator can be anyone, and the communicator can very easily hide his identity; (2) the spread of the content is very fast and widespread, through the phenomenon of mass self-communication. That is communication carried out by self to self, person to person that can involve millions of people, anyone and anywhere, borderless and repetitive; (3) the content of cyber communication content can be destructive, containing material that violates the law and legislation such as pornography, fraud, gambling, to false news and deliberate provocations.

By understanding the cyber world and its character, development and use in various crimes, it is logical that a separate arrangement is needed that is different from activities in the physical

world.³⁵ Because using electronic media or the internet is extraordinary, it has unlimited forms of victimization.³⁶

Article a quo is an article on the consequences of granting authority to the Government because it is burdened with obligations by Article 40 paragraph (2a) of the ITE Law. The government as a state administrator by the ITE Law is required to take precautions "against the dissemination and use of Electronic Information and/or Electronic Documents that have prohibited contents in accordance with the provisions of laws and regulations". The origin of this provision can be traced when the article appears. It used to come from a parliamentary initiative, specifically related to pornographic content. The government is required to prevent the circulation of electronic information in the form of pornography. But then after being reviewed, it was expanded, because the content that is harmful to the people and the country is not only pornography.³⁷ There is fraud, gambling, racist/ discrimination provocation content and pitting using hoaxes or fake news are also very dangerous. So, the lawmakers made a new formula to be more precise in dismissing the harmful content. That's where Article 40 paragraph (2a) and Article 40 paragraph (2b) were formulated. Namely, the Government has the authority to take-action to cut off access, or to order electronic system operators to cut off access to illegal content that violates the law.

The decision in the form of action (beschikking) to cut off access must be done quickly and immediately, because the amount of illegal electronic information content on the internet is massive and very large. If it is too late, the damage has already been done. Because in the digital era, speed is the main issue in fighting crime that is spread over the internet. Losing quickly in handling means allowing the crime to run rampant.

2.4 Social media is treated as a battlefield.³⁸

Dangerous illegal electronic information is not only pornography, fraud, and gambling, but also electronic content in the form of hoaxes, false news that is incitement, and pitting against each other, or content that invites hatred and hostility towards fellow nation's children. Things like that have become a global phenomenon as written in the book "Like War, The

³⁵ Indonesia Constitutional Court Decision Number 81/PUU-XVIII/2020

³⁶ Ibid

³⁷ Ibid

³⁸ Indonesia Constitutional Court Decision Number 81/PUU-XVIII/2020

Weaponization of Social Media” (Singer & Brooking, 2019). In the current era, the internet or social media is used as a "communication war" to support and achieve certain political movements.³⁹

Social media according to Peter Singer's research has been used as a weapon to create disinformation to influence public opinion. For this purpose, an account is created for cyber troops, cyber army, or buzzers who act as "communication war" troops on the internet. The strategy is to maximize impact by garnering public support, through various means, including using hoaxes, provocative messages, and disinformation, to form false truths.⁴⁰

On social media, there are many cyber accounts that are deliberately created based on the interests of the perpetrators, to make noise, and spread messages to be considered as the truth. As a result, freedom on the internet and social media has become a paradox of democracy.⁴¹ Information that is created without regard to ethics and law actually undermines the democratic system, undermines democracy (Siva Vaidhyanathan, 2018).

Recent digital and social media era can create radical groups, terrorists and separatists to take advantage of the free space to express and spread their mission or ideology.⁴² They often take advantage of democracy and human rights to protect themselves from law enforcement. We must be aware of this global phenomenon that also occurs in other countries.

3. Conclusion

Enforcement of criminal law regarding the spread of COVID-19 hoax news which includes all acts of spreading information about the corona virus (COVID-19) containing defamation or slander or hoaxes through electronic systems in the form of social media shall be punished under the provisions of the ITE Law and its amendments including the Criminal Code and Criminal Procedure Code. Perpetrators of spreading false news (hoax) related to covid-19 and others with a fine of up to 1 billion. There are three categories of spreaders of news about the corona virus (covid-19) who cause trouble who can be punished, namely those who know the

³⁹ P. W. Singer and Emerson T. Brooking, *Like War, The Weaponization of Social Media*, 2019

⁴⁰ Ibid

⁴¹ Siva Vaidhyanathan, *Antisocial media: How Facebook disconnects us and undermines democracy*, Oxford University Press, 2018

⁴² Ibid

untruth of the news and deliberately spread it, who should suspect that the news that he spreads is fake news, and who spreads news that is uncertain, exaggerated, or incomplete

Whereas Article 40 paragraphs (2a) and (2b) of the ITE Law have regulated the Government's authority to cut off access to information and/or electronic documents that have unlawful content in order to protect the public interest and aim to prevent misuse of information and/or electronic documents. This provision was then continued with the issuance of Indonesia Government Regulation (PP) Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions which substantially regulates the limits, categories and classifications of information and/or electronic documents that regulate unlawful content. Whereas the aims and objectives set out in Article 40 paragraphs (2a) and (2b) are also in line with the Constitutional Court Decision Number 81/PUU-XVIII/2020 which in essence the judges of the Constitutional Court consider that the provisions regarding the Government's authority in deciding internet access are required to see that developments in very fast technology,

In its implementation, the Government once cut off access to the internet network in Papua in 2019. However, the Jakarta Administrative Court ruled that the action was a violation by a government agency and/or official and was not in accordance with Article 40 paragraph (2b) of the ITE Law in Decision Number 230/G. /TF/2019/PTUN-JKT.

That the Jakarta Administrative Court Decision shows that Article 40 paragraph (2a) and paragraph (2b) of the ITE Law have given rise to multiple interpretations, so it is necessary to emphasize that the Government's authority is only to cut off access to information and/or electronic documents that have unlawful content (content moderation).

It is understandable that in the digital era, speed is the main issue in fighting crime that is spread over the internet. Losing quickly in handling means allowing the crime to run rampant.

In today's digital and social media era, radical groups, terrorists and separatists take advantage of the free space to express and spread their mission or ideology. They often take advantage of democracy and human rights to protect themselves from law enforcement. We must be aware of this global phenomenon that also occurs in other countries. Due to

democratic reasons, law enforcement against radicalism, terrorism, and separatism is often lax.

4. Recommendation

The Indonesian government needs to update or revise the law that regulates all forms of spreading false news/hoaxes by adding an article that regulates criminal provisions for perpetrators of spreading fake news/hoaxes. However, the formulation of a crime in spreading fake news/hoaxes must be formulated strictly so as not to cause difficulties in its application later. In addition, the government needs to regulate the existence of additional penalties with the aim of reducing or limiting the circulation of fake news that has been declared violating the law by the court. In addition, the government needs to increase the effectiveness of law enforcement officers by providing training for law enforcement officers and improving existing facilities and infrastructure, and providing counseling in the form of appeals and information to the public to be careful in receiving all forms of information through social or digital media.

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The Appropriation of Space and Diminishing Freedom of Expression: Lennon Wall Campaign of Hong Kong

Steve Kwok-Leung CHAN and Charlie Ngai-Chui WONG

1. Introduction

The use of urban space is defined by the authority in modern cities. Urbanists negotiate the meanings and relations of these places in an extraordinary time, like a social movement. Lennon Wall in Hong Kong which borrowed the name of a similar campaign during the velvet revolution of Czech provided a space for sticking post-its messages by sympathizers and passer-by residents to express their support for the movements. The first Lennon Wall emerged at the occupied sites during the Umbrella Movement (UM) in 2014 and flourished in various residential districts in the city-state during the Anti-extradition Bill Movement (AEBM) in 2019.

Hong Kong had been a British colony until 1997 when the United Kingdom handed it over to China. The transfer of sovereignty and ruling was based on an agreement between the two countries which guarantee the autonomy of the city-state for fifty years. More importantly, the chief executive and legislature of Hong Kong will gradually and progressively achieve universal suffrage. But the reality was China subsequently step-up its control over Hong Kong, for example, the failed attempts to introduce an anti-treason law (under Article 23 of the Basic Law of Hong Kong) in 2003 and the aforementioned extradition law both triggered massive protests. China suddenly claimed the Sino-British Agreement on the Future of Hong Kong, 1984 (The “Joint Declaration”) became a “historical document” shortly before the introduction of the extradition law (Wu, 2017). It was to accelerate China’s dominance over Hong Kong. But the city’s autonomous rule was not fully deprived until the making of the National Security Law in mid-2020. It was a fundamental altering of Beijing’s “boiling frog” tactic on Hong Kong and annexation of Hong Kong into China completely.

In the midst of the AEBM, rallies and processions diffused from the central business districts to new towns and residential areas, together with the Lennon Walls proliferated citywide. As a response, various crackdowns on the protests directly by the police, or attacks by gangs connecting to the regime were attempted (Lo, Hung and Loo, 2020). By the end of 2019, the

pro-democracy parties and politicians won a landslide in District Council Election. Many elected councillors were activists turned political neophytes. The vast majority of the voters demonstrated strong support for the AEBM. With the outbreak of COVID-19 in China in early 2020 and spread subsequently to the rest of the world, public gathering was banned for a pandemic reason. There was no more protest in Hong Kong; Lennon Walls were clean-off. After the National Security Law had been unilaterally made by Beijing in mid-2020 and enforced in Hong Kong forcibly and immediately, some one hundred activists and pro-democratic politicians, as well as some journalists, were arrested and imprisoned massively.

Drawing on an ethnography from July to October 2019, with non-participatory observation and brief unstructured interviews at the scene of these Lennon, this paper examines the short-term rise and fall of the Lennon Wall Campaign in Hong Kong from a spatiality perspective. Activists and their sympathizers attempted to re-appropriate some urban spaces to be Lennon Walls, message boards for the public to write a message on a small sticky note putting onto them. As similar concepts of Lennon Wall diffused from 2014 to 2019, a comparison between them in the two periods of time is discussed briefly.

This paper seeks to extend our knowledge of freedom of expression through the lens of spatial sociology. The focus is on the struggle for power and space during a social movement. The social movement was taken place during the further deteriorating political freedom in the former British colony, where China resumed its sovereignty in Hong Kong based on the failed promises of autonomous governance and further democratization (Yahuda, 1993). The findings develop knowledge on power relationships and the negotiation process of social space for freedom of expression in the changing context of authoritarianism.

2. Graffiti, Lennon Walls & Public Space

The origin of the John Lennon Wall was found in Prague of Czechoslovakia under the dominance of the former Soviet Union. The protest was not allowed, and freedom of expression was highly restricted under the authoritarian rule of the communist. It was a wall in the town centre that dissidents used to draw graffiti and put-up posters filled with lyrics to commemorate John Lennon, the US rock singer's assassination in 1980. It was a way to utilize urban space to struggle for little by little, more and more freedom of expression in a

highly suppressed totalitarian state. So that the theme and content should remain or at least pretend to be apolitical. But the hidden theme behind the commemoration was the desire for western pop culture and the necessary freedom atmosphere for its nurture.

Hong Kong, has developed a well-established legal system and capitalist economy with clearly defined property rights. Crown land, government buildings and public facilities are public property, designated government departments are responsible to define the usage and management of the places. For example, the Food and Environmental Hygiene Department is responsible for the general cleansing of public walls and structures. It is an offence to put up posters in public areas according to the Public Health and Municipal Services Ordinance (Cap. 132, the Law of Hong Kong). The department has contractors in each district to clean up these mostly are commercials every period. Graffiti is rarely seen in Hong Kong because drawing on public walls and buildings is illegal and not tolerated. But political neutrality used to be the practice of the civil services before the British handover. As such, public cleansing contractors hesitated in removing posters with political messages.

On the contrary, graffiti are everywhere in western cities. These are painting and drawing on public and private walls, and bridges, without the permission of the property owner. It is generally regarded as defacement and illegal in many countries. Although these acts mostly are done with the consensus of the owner and in breach of property rights, they are minor offences and exert no harm to the buildings. In Hong Kong, graffiti were rare and created only by foreign street artists or graffitiists who occasionally stopped over or during their short stay in the city. The then self-proclaimed “King of Kowloon” Tsang Tsou Choi is an old man and garbage collector. He painted his calligraphy graffiti in many places in Hong Kong, such as lampposts, electric boxes, and building walls. The content, by and large, is about his claim on the ownership of the land of Kowloon and his family tree. He was degraded to be madness, and his graffiti soon be painted over by the city authority until a local artist held an exhibition for his graffiti and own style of Chinese calligraphy in 1997. The timing coincident with China taking over Hong Kong when Hong Kongers were eager to preserve their “localist” identity (Chan, 2017; Veg, 2017). Tsang’s graffiti was reframed as alternative street art and his disobedience in painting everywhere became a legend of grassroots resistance (Lu, 2015).

Graffiti are more and more visible in many Asian cities though still not popular. Vandalizing public facilities is illegal in South Korea and Japan and punished with imprisonment and fine terms. But the general public's mindset on graffiti is changing from "vandalism depreciating urban spaces" towards "artistic appreciation" (Chyung & Cho, 2022; McKirdy, 2020). Governments still prefer commissioning graffiti projects (as a means of tourism promotion) to tolerate taggers spraying everywhere in the cities. Similarly, spray-painting on walls is criminalized in Singapore unless in several designated venues, to name a few, Somerset Skatepark, Aliwal Arts Centre, and the like. The city authority uses a "top-down, culture-by-fiat approach" to regulate these undesired street arts (Kolesnikov-Jessop, 2010).

Cresswell (1992) distinguishes two contradicting judgements on graffiti, the establishment and rebellion, stemming from the fragmentation of society. His study of graffiti in New York City suggests one view from the "normative landscape of proper places" which determines the dos and don'ts in urbanists' behaviour. Graffiti is something or behaviour out of place which needs state intervention to bring back normalcy. The transgression view accepts graffiti and expects these acts to bring along social change.

Most often, graffiti is painted on walls. The meaning of a wall is that many are made of concrete; its reproducible strength implies security (Graffiti, 2022). Some walls are erected along country borders to block undocumented migrations. Graffiti on these walls is a material and symbolic tool against these state-built barriers (Lennon, 2022). The strength of the concrete wall also represents the magnitude of authoritarianism, the Berlin Wall once divided Germany into two states and separated East and West Europe. After the dissolution of the former Soviet Union, people could access to paint and write about it before its final collapse. The invisible "Iron Curtain" (of the former Soviet) and "Bamboo Curtain" (Communist states in East Asia) showed access denial in some forms which fenced off the former communist states and the free world, though no graffiti can be painted on them.

"This security was a fundamental part of communist architects' plans when rebuilding[...] Yugoslavia after World War II, as well as for the designs of the concrete buildings and structures erected throughout the Czech Republic[...] These communist countries wanted the massive unadorned concrete slabs to project the unbending, solid will of the state" (Lennon, 2022: 32)

Graffiti often carry critical sentiments, many are anti-government and status quo; some are sympathetic to resistance, while others favour anarchy. The dominant class are not passive

subjects, they may clean them off to restore the original appearance of the wall or public facilities. Alternatively, authoritarian states employ sticks and carrots to turn graffiti into pro-regime murals as in the Russian presidential election 2018 (Lerner, 2021).

The authors suggest the Lennon Walls of Hong Kong as a special type of graffiti. In the beginning, it emerged in form of sticky notes and gradually transformed into graffiti pieces later. They shared many characteristics of graffiti, but are protest-oriented which are cocreated with a social movement. A large volume of existing literature concerns the Umbrella Movement and AEBM of Hong Kong, but only a few covers Lennon Walls.

The AEBM and the reemergence of the Lennon Wall were an “a-parallel evolution” in Deleuze and Guattari’s (2003) term which is two heterogeneous beings’ becoming: “each de-territorialized other, only to reterritorialize the de-territorialized[...] the Lennon Walls and the movement evolved and spread” (Chan, Harris and Choi, 2022: p. 341). Lennon Walls took many appearances and set them up in different geographical locations as well as in mobile and digital forms. This diversity all responded to the social movement happening in the wider context (Chan, Harris and Choi, 2022).

Protests usually take place in public spaces. What is a public space? The notion in ancient Greek of public space had political, economic, social and recreational usages that its citizens were entitled to use:

“[It is] the place of citizenship, an open space where public affairs and legal disputes were conducted [...] it was also a marketplace, a place of pleasurable jostling, where citizens’ bodies, words, actions, and produce were all literally on mutual display” (Hartley, 1992: 29-30).

Besides, public space can be defined by its ownership, control, access and use (Mehta, 2014). Those not owned by a private entity belong to the public. But regardless of the ownership and control, the general public is entitled to or allowed to access are also known as public venues, such as a metro station owned by a private railway company, or a shopping mall opening for the access of the customers. Government-owned buildings for designated usage are not open to public access and should not be a public space. People utilize public space for daily routines, social gatherings and activities and other entertainment and enrichment usage. The social role of public space is 1) essential for public life to take place, 2) for people or groups to meet each other, 3) communication, and 4) the display of symbols and images (Thomas,

1991 c.f. Mehta, 2014). It should be noted that public space is not restricted to those able to accommodate humans and vehicles, for example, streets, bridges and tunnels, as well as open plazas and parks. To name a few, the exterior walls of a public building, pillars of a bridge, and the walls of pedestrian tunnels are public spaces in a vertical dimension, which some were used to put up Lennon Walls during the social movements in Hong Kong.

The context of the place itself, its location, ownership, management and the social structure and norms of the society at large determine the nature and guide the activities happening there. Those are the people and institutions within the place, their relations and interactions construct the space. The dynamic sense of space is what Fuller and Löw (2017: 470) pinpoint, “how territories and other spatial units have effects through being relationally produced and constituted”. Space is not fixed and unchanged but fluid and dynamic (Lefebvre, [1974] 1991). Lefebvre (1991) emphasizes the subjectivity of space in his spatial triad, including perceived, conceived and lived space. First, perceived space is the practice of how people make sense of the space in their social life. Secondly, a conceived space is the original design, planned usage, and arrangement of the order in it. It is a so-called ‘space of representation’ for it represents how the structure and power in the society dominate it (Patsiaousas, 2020). Finally, a lived space is a ‘representational space’ which is how the people use the space to do what in the reality, ‘appropriated in use’ (Mitchell, 1995: p. 115). The historical dominance of the state and capitalist economic system is expressed in the conceived space. Those intellectuals, technocrats, urban designers and businesses of existing social structure appropriate the norms and reality to construct the space upon acceptance by the general public becoming the lived space (Thompson, 2017). Lefebvre’s dialectic claims that conceived space and lived space conflict when the people become conscious and perceive the space as different from those represented existing social order. The two sets of perceptions contradict each other leading to the space being “re-appropriated” for “reconnecting people and place, the users and producers of space” (Lefebvre, [1968] 1995).

Existing literature rare address Lennon Wall in social movements of Hong Kong regardless of its wide media coverage. Whether the public is allowed to protest can be a spatial and legal issue. Matthews (2016) links space with the law in his research on the Umbrella Movement in 2014. A Lennon Wall existed during the Umbrella Movement, but Matthews’ study did not address the wall directly. The authors believe the wall and the occupying are two sides of a coin and the out-focus of original claims also happened in AEBM in 2019. He uses the

concept of nomosphere originated from Delaney (2010), which is a normative form with a distinct narrative, spatial and atmospheric orientation. The nomosphere of the Umbrella Movement was in a dynamic sense which change over time. It was initiated by ‘Occupy Central with Love and Peace’ (OCLP) an ad-hoc, one-issue social movement organization demanding ultimate democratization of the electoral system in Hong Kong towards universal suffrage. Upon being dispersed brutally by the police in the foreyard of the Central Government Offices, the occupation spread to business and shopping venues with wider participation of the outraged public and beyond the OCLP’s leadership. A corresponding shift from the OCLP’s “redemptive” request for radical political change, toward an “insular” disposition (Matthews, 2016). A “redemptive” act aims at changing the dominant normative arrangement but an “insular” attitude only “seeks to isolate a movement from a dominant normative order” (Cover, 1984 c.f. Matthews, 2016: p. 29).

“[T]he organizers of OCLP[...] had lost control of the movement,[...] not towards transforming the underlying legal conditions in the SAR but to[...] a more insular one allowed for experiments in living,[...] sharing of food, collective and consensual decision-making, the maintenance of and aesthetic engagement with the streetscape,[...] and the formation of a new nomospheric order” (Matthews, 2016: p. 36).

Choi (2020: 278) in a research note states her observation that the AEBM in 2019 ‘decentralised geographically’ to local neighbourhoods; and protesters became more use ‘conventional life spaces and cultural repertoires’ for their actions. Protests were no longer restricted to the central business district but became ‘daily events’ at their doorsteps, which turned the general public away from ‘distant spectators’ and political ‘neutrality’ (Choi, 2020: 280-281). For a long period of time before and after its handover to China in 1997, Hong Kongers avoided participating in politics so as not to confront authoritarian China (Lam-Knott, 2016). In fact, not only protests but also other actions, like the human chain and Lennon Wall during the AEBM in 2019 also took place in local neighbourhoods. The human chain was one of the many sub-movements of the AEBM which imitated a similar campaign of the three Baltic States for their separation from the former Soviet Union in 1989. These actions create spaces of publicness (Chan, Choi and Harris, 2021a). They were in many forms not limited to message boards. For example, A cemetery like Lennon Wall was set up at an exit of the Prince Edward MRT metro station to commemorate those suspected to be killed in a police raid on 31 August 2019 (Chan, Harris and Choi, 2021b). Sympathizers put down white flowers in front of the wall beside only left a message on a post-it. It was a

‘participatory project’ involving civil society to ‘co-create a site of protest’ everywhere (Chan, Harris and Choi, 2021b: 355).

3. Methodology

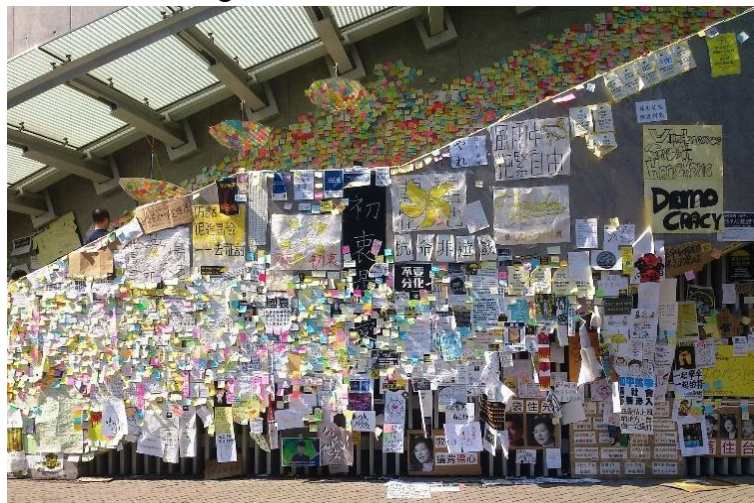
The authors employed the ethnographic method for this empirical research, predominantly non-participatory observation with brief unstructured interviews at the scene. About fifteen Lennon Walls were visited from July to October 2019, covering the inner-city areas in Hong Kong Island and Kowloon, as well as new towns in the New Territories. Those inside universities were briefly visited. The student movements are always an essential part of making up the entire democratic movement in Hong Kong. Since the rise of nativism in the millennium, youth have gradually taken over the leadership of social movements or localism (Chan, 2017; Veg, 2017). Observation and interviews were done intensively in late July 2019 at two sites of Lennon Wall 2019, namely Shatin District and Tai Po District. Both are new towns and residential areas away from the city core. A minor part is to compare the Lennon Wall in 2019 and its predecessor in 2016 during the Umbrella Movement. Ethnography is to record “the routine ways in which people make sense of the world every day” (Hammersley and Atkinson, 1995, p. 2). Protests are extraordinary moves when a group of people put their jobs and daily life aside to take part in some collective actions. However, Lennon Wall Campaign was to bring politics back to people’s typically act on a daily basis which took place in their neighbourhood (Choi, 2020).

4. Umbrella Movement 2014

The political opportunity emerged as the Hong Kong administration staged a public consultation on further political development in Hong Kong. Professor Benny Tai proposed an occupying movement to draw public concern and exert pressure on the government as well as its mastermind behind Beijing. A year-long collaboration was organized by the ad hoc social movement organization to various sectors of the society for their understanding, support and even participation. The original plan was to hold a sit-in at the foreyard of the Central Government Offices which were expected to make a minimum disturbance to the traffic and business in the central business district. But the police unprecedentedly disburse the rally by firing tear gas canisters at the protester. The rare suppression of a peaceful rally outraged many sympathizers not joining in the initial stage flock out the streets to occupy

Admiralty, the central business district as well as Mongkok and Causeway Bay, the shopping districts. But the occupation was very rare and an obstacle but itself did not draw many participants. A group of activists bring packs of post-its from their office inviting those passer-by office workers in admiralty to write down their comments and stick them on the wall of a staircase connecting to a footbridge (Valjakka, 2020). The figure below shows the first Lennon Wall set up at Admiralty in 2014. (Figure 1)

Figure 1 Lennon Wall at Admiralty, the CBD of Hong Kong
During the Umbrella Movement 2014



Source: Ceeseven (2014), (CC BY-SA 4.0)

Similar to the further development of movement, self-motivated and lack a concrete leader or the coordination of a social movement organization (SMO) for the occupation in these places. The post-it wall emerged owing to a flash of an idea, in an ad-hoc and self-help mode. The leaderless model became a repertoire (Tilly, 1978) in the next AELM and its corresponding Lennon Wall Campaign in 2019, though the format and locations were far different. Following the dispersal of the 79-day-long occupation by the police, the Lennon Wall at the protest site was clean-up.

5. Anti-extradition Movement 2019

Seems China never gave up tightening its control over Hong Kong regardless of its promise of the highly autonomous rule of the city administration. An extradition ordinance was proposed to legitimize the sending of fugitives from Hong Kong to China stirring up the fear of Hong Kongers. Recent political kidnapping happened for the cases of “Financial Coup”

afterwards and the Causeway Bay Bookstore incident. People took to the street *en masse* in June 2019 against the proposal. Police repressed brutally, initially with teargas, pepper spray and batons. Then some a hundred gangsters in white t-shirts attacked passengers returning home in a Yuen Long Train Station on July 21, 2019, and then the police themselves attacked indifferently the passengers in a Prince Edwards Metro station (Choi, 2020). Young activists were executed miserly and pretended to be committed suicide. Some transgressive protesters wearing a construction helmets and gasmask continued the protest; some later threw bricks and “Molotov Cocktail” (gasoline bombs) towards the police line during unauthorized assemblies.

Rallies were subsequently banned; any gathering immediately dispersed. ‘Unauthorized’ protests were still held but more located in residential districts and new towns away from the city core. Some moderate protesters retreated to shopping malls, singing protest songs along to express their contentions where there was unusual space for politics (Choi, 2021). Also, the remerging of the Lennon wall in 2019 not only in its original site in Admiralty District but spread to anywhere but the city centre. A digital map of the Lennon Walls’ locations was created on Google Map, and about 165 sites were recorded.⁴³ The basic format was a board or wall for the public to write down a message on an office post-it and stick on the Lennon Wall. But it had a diverse appearance for the campaign was initiated on social media and echoed around without a single social movement organization to design and manage them.

The diversity of Lennon Walls is expressed in its location, purpose, action, and format. Lennon Walls were set up everywhere in the city, to name a few: pedestrian tunnels and bridges, exterior walls of public and private buildings, universities and middle schools, and even inside shopping malls. As mentioned before, most of them were found in new towns and residential areas where protests rare happened. For the purposes and actions, most Lennon Walls acted as passive message boards, but a few others involve actions which could be confrontative. One example was the aforementioned at Prince Edward. Some Lennon Walls were set up at the shop window of pro-China shops if the glass was not smashed by angry protesters. Another incident was security at the New Town Plaza Shopping Mall called the police when a large group of protesters took refuge there during a local march in July 2019.

⁴³ For details, refer to ‘Hong Kong Lennon Wall Map’, retrieved from https://www.google.com/maps/d/u/0/viewer?mid=1uGQynlkWVRvvtVr-e1-7vOUbpqFvcDvP&hl=en_US&ll=22.6986688638029%2C114.93888160448203&z=8

Some protesters occupied the shopping mall' management office put up sticky labels inside as well as Lennon Walls on shop windows and sang along protest songs in the subsequent months (Hong Kong Free Press, 2019). For universities, they just turned their student union's "Wall of Democracy" into Lennon Walls. Some became a platform for local Hong Kong students and those from Mainland China to argue, sometimes conflict escalated between their Hong Konger & Chinese identities. The photos below were taken in a Lennon Wall in Shatin District (Figure 2) and a tunnel in Tai Po District (Figure 3).

Figure 2 Lennon Wall inside New Town Plaza of Shatin District



Source: A photo taken by the authors

Figure 3 Lennon Tunnel of Tai Po District



Source: A photo taken by the authors

6. Discussion

6.1 The evolution from UM 2014 to AEBM 2019

A social movement for structural change is a long-time struggle. The Lennon Wall campaign of Hong Kong emerged in 2014 during Umbrella Movement and reappeared five years later during the AEBM was more than a repertoire. Activists and their strategies evolve over time and echo with the wider social movement. The many neighbourhood Lennon Walls reappeared in 2019 was symbiosis with the marches and rallies held in these districts. It was the activists' strategy to keep away from the city core where the police heavily deployed. Expanding the scope of the movement to the whole territory of Hong Kong was another concern. It was rare to protest in new towns or residential areas for a general claim for democracy. The geographical extension helps to recruit neophytes to join the action, widen the supporting basis, and access new resources. The finding in this research on the diffusion of the entire movement conforms with Choi's (2020) brought politics to everyday life on the residents' doorsteps. The authors argue that the neighbourhood Lennon Walls proliferated in 2019 was an evolution of its predecessor five years ago. The latter was advanced from learnt and improved from the previous experience in the Umbrella Movement 2014. The table below summarized some characteristics of the two movements and Lennon Walls (Table 1).

Table 1 Comparing the Lennon Walls in 2014 & 2019

	Umbrella Movement 2014	AEBM 2019
The theme of the main protest	Democracy and elections by universal suffrage	Against the proposed Extradition (Amendment) Bill
The organizer of the main protest	Initiated by Occupy Central with Love & Peace, joined by student organizations, became leaderless after the police disperse on 28 Sept. 2014	Major mass processions organized Coalition of Human Rights, various actions by SMOs, labour unions, students and religious organizations and individual activists
Location(s) of protests	Foreyard of Central Government Offices then spread to Admiralty, Causeway Bay and Mongkok Districts	Initially in the CBD of Hong Kong Island, including Central Government Offices Then spread to the airport, universities, residential areas and new towns
Duration	79 days	About five months
Lennon Wall(s)	One Lennon Wall in Admiralty District near one of the occupation sites	Hundreds of Lennon Walls in different forms and locations
Management of the Lennon Walls	A social worker & a group of volunteers	Students, residents, pro-democracy district councillors, individual activists and ad-hoc groups
Outcomes	Arose the concern of middle-class, office workers in nearby offices; for supporters to express their opinion visiting the occupation site	Diversify the entire movement all over the city and in various forms of actions

Source: produced by the authors

6.2 De-appropriate Public Space

Public spaces like public buildings and facilities as well as shopping malls were ‘spaces of representation’ (Lefebvre, 1991) which are designed for the designated use. The property rights, norms and laws appropriate the space so that protests are never seen in a shopping mall (unless a labour strike or a consumer dispute). The activists shifted their locations from the city core to new towns and residential areas in July 2019 which coincidence with the proliferation of neighbourhood Lennon Walls throughout the city-state. The latter echoed the wider movement to help to arouse the awareness of apolitical communities by bringing politics to their neighbourhoods (Choi, 2020).

Residents, university and middle school students, district councillors and all walks of life self-mobilized to set up Lennon Walls, de-appropriate the conventional uses of these walls and facilitate, norms and rules guided behind. The state attempted to re-appropriate from the very beginning. The responsible government department failed to intervene as their cleansing subcontractors hesitate to confront the activists. There had been several times that unidentified cleansing workers were transported to the sites and rapidly clean-off the posters and sticky labels on the walls. But the activists reinstalled the Lennon walls the next day. Some pro-state supporters occasionally argue and fight with the activists surrounding the Lennon Walls. Lone wolves armed with cold weapons weaved in front of the Lennon Walls to threaten the public. The use of thugs and rule by fear is a common tactic in China but rarely happened in Hong Kong.⁴⁴ The authors argue that the de-appropriation process prolonged and strengthened the entire AEBM. The production of new space induced the participation of apolitical communities and their inhabitants. An externality was to facilitate the overwhelming winning of the district council election in November of the year.

6.3 Re-appropriation: Crackdown & Mass Arrest

The result of Hong Kong’s District Council election on November 24, 2019, shocked Beijing. A historical high turnout paved the way for the pro-democracy opposition to win a landslide: winning 388 out of 476 seats (81.5 percent of the elected seats), or an overwhelming majority in 17 of the entire 18 Councils. Initially, the district administration found excuses to

⁴⁴ Similar tactics were used by the state during Mongkok occupying sites in Umbrella Movement 2014. Thugs tried to quarrel with the protesters and then took out a knife ?? pointing at the people. Another occasion was the siege of Apple Daily during the Umbrella Movement as to block the publishing and delivery of the newspaper. It was the only one newspaper not owned by the state or its united front (members of China’s People Congress and Political Consultative Committee).

non-cooperate, or *de facto* boycott the councils. Then some elected councillors were arbitrarily disqualified, similar tactics to alter the election results were used before. Then the outbreak of COVID-19 in Wuhan City of China in February 2020 gave the year-long social movement a break. Public gatherings were a hotbed to spread the infectious disease. The city's government also took this chance to declare an order to ban all public gatherings of 4 persons or more. Lennon Walls everywhere were clean-up.

The People's Congress Standing Committee of China bypassed the legislature of Hong Kong to make a Public Security Law in June 2020 which was enforced immediately in Hong Kong. The law broadly criminalizes sedition in Hong Kong, and subversion against the Chinese Government, not following the Common Law practices of Hong Kong. In the meantime, a Public Security Police Unit was set up to enforce the law. A special court of eight designated judges for cases was established; no jury is formed that the desired verdict can be guaranteed. Some elected councillors were prosecuted for their participation in the primary election which is labelled as an act of secession. Others were detained and prosecuted. The only independent newspaper was shut down after its owners and senior management in the editorial were arrested for suspected breaching the National Security Law.

7. Conclusion

The Lennon Wall Campaign as a sub-movement of the entire AELM in 2019 successively brought politics to everyday life. Protests were no longer the act of activists. The places were not limited to the city centre where government offices and business headquarters are located. People's participation can be on different levels, ranging from taking an active role to organising an action, joining the processions or quietly reading and writing post-it messages on the walls. The walls further blurred the boundary between activists and participants, supporters and bystanders. This helped to extend the base of social movement, gaining more resources, hence power.

The post-it Lennon Wall became an icon of the resistance in Hong Kong. They were seen in some rallies supporting Hong Kong in various cities in some western countries. The authors visited a rally in Seoul and also saw a tiny "Lennon Wall" was set up temporarily by a group of Korean and Hong Kongers on a public wall in front of a subway exit. These acts are more

of a symbolic move showing the overseas protesters' sympathy for the movement of Hong Kong.

The Lennon Wall campaign of Hong Kong is a process of appropriation and reappropriation. The powerless protesters and their sympathizers struggle to de-appropriate public space from the state. It was a back-and-forth interaction with counteraction made by the police and the gangs that the authoritarian state acted behind the scenes. The resistance produced social space for public participation, recruitment of protest neophytes, and gaining support from the entire city-state. With the new space and people's part-take from below, the freedom of expression manifested in growing authoritarianism in Hong Kong under the control of Beijing.

The landside loss of pro-China parties on all district councils in the November 2019 local election shocked the dictators in Beijing. According to Professor Benny Tai's next plan known as the "35-plus" Scheme aimed at winning the majority in the legislature of Hong Kong, primaries were held to nominate pro-democracy candidates to stand for the election in 2020. Fear of the revolt of the business sector and further losing the majority of the legislature, even the Chief Executive seat to the pro-democracy opposition, China staged the 'judicial coup' to abolish the autonomous rule of Hong Kong. If the tear-up of the Sino-British Agreement on Hong Kong is the verbal declaration of the end of an autonomous Hong Kong, its freedom of expression, and independent legal jurisdiction. The mass arrest and enforcement of National Security Law in Hong Kong is a 'post- coup' appropriation of Hong Kong under China's direct authoritarian rule, which realized its claim, the "second time return" of Hong Kong to China, for the 'first time return' was done in 1997 from the hand of the British.

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