



VISUAL: TEENI AND TUNI

# CSA vs cybersecurity laws in other countries



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Cybersecurity laws include rules and frameworks designed to safeguard digital systems, networks, data, and information from online threats. Countries like the US, UK, and those in the EU adopted these laws early and are continuously improving them. Meanwhile, in Bangladesh, the forthcoming Cyber Security Act (CSA) is poised to become the primary legislation concerning cybercrime. Comparing this law with those in other countries can help us determine how well the proposed CSA aligns with international standards.

As cyber threats have evolved, numerous laws and rules emerged focusing on three key aspects: 1) Protecting private, sensitive, and financial data; 2) Preventing computer-based fraud and unauthorised access; and 3) Creating guidelines to ensure strong security measures for data, computer systems, and networks across different institutions and infrastructures.

In the US, several laws are in place to safeguard specific types of data. For health data, there's the Health Insurance Portability and Accountability Act (HIPAA). For children's data, there's the Children's Online Privacy Protection Act, while the Gramm-Leach-Bliley Act deals with financial information. In Europe and in the UK, similar purposes are served by the General Data Protection Regulation (GDPR) and the Data Protection Act, respectively. In the US, computer-related frauds are addressed by the Computer Fraud and Abuse Act, while in the UK, the Computer Misuse Act criminalises unauthorised access, computer-related frauds, and similar cyber offences.

Much like its predecessor, the Digital Security Act (DSA), 2018, the proposed Cyber Security Act (CSA) also contains sections aimed at safeguarding computer systems, networks, and data. It establishes penalties for activities such as unauthorised access, disruptions, and the improper utilisation of IT systems. It also has penalties for actions like unauthorised access, disruptions, and the misuse of IT systems.

However, in contrast to similar laws in other parts of the world, the CSA includes clauses that do not directly relate to cybersecurity. These provisions include prosecuting defamation, limiting

freedom of speech, and levying charges against the promotion of religious intolerance and offences related to the Official Secrets Act (OSA), 1923. The DSA gained infamy for its tendency to suppress opposing viewpoints rather than effectively addressing cyber threats, and there is no noticeable shift in this aspect within the newly suggested legislation.

To meet accepted standards, a law must have unambiguous provisions. Section 25 of the DSA has faced criticism due to lacking specificity and clarity, which could result in varying interpretations and possibly

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the unjust criminalisation of legitimate criticism and opinions. Such a vague clause raises questions about whether the DSA's objective was to safeguard against cyberattacks or if it was to curtail freedom of speech. To prevent misconceptions, any new cybersecurity legislation must have comprehensive and transparent descriptions of offences, aiming to eliminate uncertainties. Regrettably, the proposed CSA does not meet this standard.

In the US, the Federal Information Security Modernization Act (FISMA) guides federal agencies on securing their computer systems. In the EU, the newest version of the Network and Information Security (NIS2) Directive mandates essential service providers (such as from energy, transportation, banking, and healthcare sectors) to employ proper security measures. Despite Bangladesh's DSA incorporating regulations for protecting critical information infrastructure (under

Section 16), recent incidents like the NID data breach and, in the past, cyber theft from Bangladesh Bank's account, reveal the ineffectiveness of DSA and its predecessor. The new CSA could have effectively addressed this concern by incorporating stricter provisions akin to those in FISMA. Regrettably, no such additions have been made, leaving room for unsavoury events to recur in the future.

Section 43 of the DSA, for instance, lets police arrest people without a warrant. In the US, the Computer Fraud and Abuse Act (CFAA) also allows warrantless arrests in specific cases. But it's important to note that the Fourth Amendment to the US Constitution imposes strict conditions on such actions by law enforcement. In Bangladesh, the absence of similar safeguards has led to the widespread misuse of Section 43 of the DSA, creating an environment of panic. It was prudent to either altogether remove the provision that allows warrantless arrests and searches by junior police officers or, if kept, to add more checks and balances (such as involving an executive magistrate during search and seizure operations). But the CSA has not been changed to that effect.

The UN Office of the High Commissioner for Human Rights has suggested removing two Sections (21 and 28) from the DSA and changing eight others. Many of these sections primarily relate to freedom of expression and journalism, deviating from the principles outlined in the International Covenant on Civil and Political Rights. But Sections 21 and 28 remain largely untouched in the proposed law. The OSA, which mostly deals with unauthorised entry to prohibited places, stealing information from there and spying (that is, offences not directly related to cybercrime) has been retained in the proposed CSA. Adding these offences to the CSA makes it more draconian than the original OSA, wherein a junior police officer could not carry out an arrest without a warrant.

The extent of the DSA's abuse can be gauged from the fact that, in the last five years, there have been at least 7,000 cases filed under this law, but only a few saw the accused being convicted. In the proposed CSA, it was necessary to eliminate the provision of allowing multiple cases to be filed against an individual for a single offence across various jurisdictions, and to also introduce rules that would severely penalise anyone, including law enforcement members, for intentionally making false allegations against innocent people. Regrettably, we see no such amendments in the proposed CSA.

# When public servants get punished for doing their job



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After an official report exposing major weaknesses in the power sector drew much attention, the government suspended former director general of the Implementation Monitoring and Evaluation Division (IMED) SM Hamidul Haque, who was an adviser to the report, and former IMED director Mohammad Mahidur Rahman last month for "misconduct." Hamidul and Mahidur were made officers on special duty through separate orders on July 16 and 17, respectively. The following day, Mahidur was suspended, and Hamidul was suspended two days later on July 20.

The decision came at lightning speed. Authorities formed a three-member probe body, and within a week, made the two OSDs before suspending them. The officials did not get an opportunity to defend themselves, which is a clear violation of labour rights.

The report, uploaded on the IMED website on May 25, called the practice of paying capacity charges to power plants a "model of robbery." After the "Research Report on Implementation Progress of Projects in Power Sector" was widely covered by the media, the Planning Division quietly revised it, altogether deleting the section critical of the power sector's business model.

Firstly, the Planning Division

and authority to work without fear of reprisal or punishment.

The original research findings stated that the power sector is draining Bangladesh's foreign currency reserves because it has been developed on a "model of looting." The report claimed that the financial crisis the sector faces will not go away unless inappropriate incentives to private power investors – such as capacity charges, tax-free imports, high power prices, easy bank loans, and cheap fuel supply – are cancelled. Furthermore, some corrupt managers, who lack experience and technical knowledge, have turned Bangladesh's power sector into a "rehabilitation centre" for ineligible suppliers, mainly from China and India, via wrong and unwise power purchase agreements or contracts. Expanding Bangladesh's power generation capacity without securing primary energy is another flaw. Some of these insights are not new at all and have already been published in national dailies.

The researchers' original report stated that the current model of capacity charges is not sustainable. Only two conditions are enough to attract investors: offering the facility of mandating the sale of electricity at a higher price of 25 to 50 percent, depending on the location; and the government guaranteeing

resolved unless the "budget draining" payment process is stopped.

Highlighting the sector's inefficiency, the report said that the energy efficiency of dozens of power plants is less than 30 percent. That is, they are producing very little electricity by burning too much fuel. Another problem is that thousands of captive power plants (expired and extremely energy inefficient plants imported from abroad under false declarations and forged certificates of origin) are now a big burden on the sector. As loadshedding increases in the country and more captive power plants run, more energy will go to waste.

The IMED report also identified the lack of coordination between power generation and transmission. Rampal and Payra power stations have been constructed in remote locations where installing transmission lines is very expensive. The Matarbari deep sea port will not be useful anytime soon. Rooppur is also far from the load centres. As a result, a lot of investment will go into transmission lines.

In the absence of proper planning, the return on huge investments in the power sector will remain negligible. It is necessary to implement a smart, future-oriented, and transparent plan.

A clear example of such weaknesses is the Rampal power plant. It shut down seven times in seven months. The centre was closed for almost half of July due to mechanical problems. There is also a coal crisis due to the dollar shortage. As such, none of the allegations of improper planning of primary fuel and of sub-standard equipment use are false. Due to these reasons, long-



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should not be a political office; rather, it should objectively analyse and assess the country's resources and development prospects, being free from any political narratives. It is through such analysis that the government can make informed decisions and formulate policies that best serve the interests of the nation and its people.

Punishing two officials for fulfilling their duty is deeply concerning. The report provided an accurate picture of the energy and electricity sector, which apparently goes against the views of the current regime. It is indicative of a lack of freedom in intellectual work within bureaucracy and raises questions about the environment in which public servants presently operate. Far from such actions, there should be a mechanism to safeguard the rights and responsibilities of public servants, allowing them the freedom

uninterrupted purchase of one-fourth or half of the electricity, together with provision of bank loans on easy terms. Instead of capacity charges, overhauling charges should be the standard capacity payment method in the power sector, a charge for the time the power plant cannot be in production for maintenance (up to 20 percent) so that the investment is protected. But paying capacity charges to power plants which are unable to produce anything for months is truly a "budget and dollar reserve draining malpractice."

Payment in dollars is a major problem, according to the initial report. Private power plants are domestic, so it is unreasonable to pay them in dollars. In this case, the report recommended paying private plants in Indian rupees. Apart from this, IMED researchers initially commented that the funding crisis of the power sector cannot be

term uncertainty has arisen in the power sector, which the government cannot deny. So, the question arises: why have the officials been punished for a factual report?

When a research-based article is published without any counter from the respective resource domain of the state, that article becomes public property. If there were any opposing arguments or differing viewpoints from the Bangladesh Power Development Board, a constructive dialogue would have been possible. Penalising the officials in this manner sets a worrying precedent for intellectual freedom and expression.

Safeguarding the integrity and independence of public servants is essential. The two fired officers' work, which was in line with their professional duties, should be restored as it is crucial to uphold the principles of freedom and protect workplace rights.

## CROSSWORD BY THOMAS JOSEPH

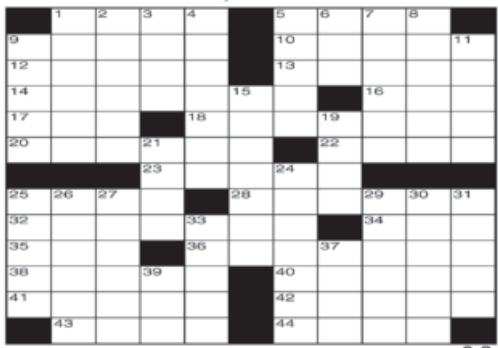
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