

Bangladesh

Introduction

Bangladesh is a pre-dominantly Muslim country in Southeast Asia. It gained independence on December 16th, 1971 after a long and bitter liberation war waged against Pakistan. Shortly thereafter, a democratic government and a liberal constitution were adopted and a general election was held the following year. However, democratic progress was quickly curtailed when a trend towards authoritarianism began with one-party rule in 1975 and endured for 16 years. Eventually this regime was toppled in 1991, but the road to democracy and media freedom has been long and hard fought.

The 1990's marked a new era of media freedom as granted in the Constitution. Despite these freedoms, the media face many challenges in performing their functions. Thus, while the media are a large sector and free in Bangladesh, members of the press and media routinely face violence or restrictions making it difficult to practice journalism or carry out media activities in a free manner. However, trends towards privatization of broadcasting and advertising have given the media greater independence than ever before.

Brief History of the Media Laws and Regulations

Prior to independence, Bangladeshi media history began under the authority of external governments. In 1931, the India Press (Emergency Power) Act was passed giving the local Government authority to forfeit the press. Another landmark measure took effect in 1965 under the Pakistani Government, the Defiance of Pakistan Ordinance, which restricted the freedom of the press altogether. The Daily *Ittefaq* and the *New Nation* Press were penalized for criticizing the Government. Just before independence in 1972, four daily newspapers and a periodical were found abandoned and their ownership was vested with the government.

In 1972, the constitution of the People's Republic of Bangladesh was formally endorsed. In this new constitution, the right of every citizen of freedom of speech and expression, and freedom of the press was guaranteed. In 1973, The Printing Presses and

Publication (Declaration and Registration) Act was introduced. In 2001, the Dramatic Performance Act of 1876 was repealed and the copyright ordinance of 1962 was revised and became law in 2000. On September 16th, the Information Minister said that future legislation will include an act titled 'Television Network (Management and Control) Act 2002. The law may provide the commercial activities of Cable operators and distributors

Constitution

Freedom of the press is a fundamental right of all citizens as guaranteed in the Constitution of the People's Republic of Bangladesh. Article 39 of the Constitution is the most important Article for this study as it provides provision for press freedoms:

- 39 (1) Freedom of thought and conscience is guaranteed.
- (2) Subject to any reasonable restrictions imposed by law in the interest of the society of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence-
- (a) The right of every citizen to freedom of speech and expression; and
 - (b) Freedom of the press is guaranteed.

Article 39 clearly states that freedom of thought and conscience is unlimited, but other freedoms such as speech and expression and freedom of the press are not without restrictions. The restrictions referred to in Article 39 assume action only by law. Without legislative authority, the executive cannot place any restriction or limitations on these freedoms. To impose a restriction, the legislature must make a law only for that purpose. While a citizen may exercise such rights in normal situations, extenuating circumstances may create compelling reasons to depart from the normal functions of the state.

While Article 39 addresses freedom of the press, Article 43 provides protection of privacy to the citizen.

Every citizen shall have the right, subject to any reasonable restrictions imposed by law in the interests of the security of the State, public order, public morality or public health-

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

As interpreted, this provision limits the right of the press to invade private homes to obtain confidential information, interfere in a citizen's secrets, or record private political discussions.

Part IXA of the Constitution deals with abnormal or emergency situations. If the President believes that a grave situation threatens the security or economic life of the country, be it war, external aggression or internal disturbances, he may proclaim an emergency. When an emergency is issued, the rights granted in articles 36-40 and 42 are suspended so that the State has no restrictions on its ability to make any new laws or take any executive actions. Article 141A speaks of issuance, period and revocation of the emergency; Article 141B discusses the suspension of fundamental rights and Article 141C deals with the suspension of enforcement of fundamental rights during emergency. During emergency, the executives become all powerful. They can take any executive action regardless of fundamental rights since the operation of fundamental rights remain suspended during an emergency.

Besides the proclamation of emergency, other restrictions relating to the security of the state can be found in Article 39(2). It states the right of every citizen to freedom of speech and expression and freedom of the press, but renders such freedoms subject to the security of the state, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation or incitement to an offence. The Penal Code, Special Powers Act and the Contempt of Courts Act prescribe the punishment for violations that offend these press limits.

Reference should also be drawn to Article 33, which empowers the Government to detain anyone, including journalists, in prison, without trial for six months initially. This Article provides immunity to the Government against illegal confinement of a citizen. Under the Special Powers Act of 1974, the Government may detain any journalist for six months without trial in prison.

Article 78 also deserves reference because it describes the privileges and immunities of parliament and its members. For example, members of the press may enter parliament, but only with permission. The Speaker alone has the power to authorize the publication of papers, documents and reports placed or submitted in Parliament. No member of the press has a right to take any document out of Parliament without the

permission of the Speaker. Contempt of Parliament is a punishable offence. In fact, members of the press are not allowed to attend any parliamentary committee meetings.

Press Legislation

The Printing Presses and Publication Act (PPPA) 1973

The Act outlines the system for the operation of printing presses and the printing and publication of newspapers and registration of books. To become a newspaper or magazine owner or publisher, permission, declaration and registration from the government is required. A proper trade license from Municipal Corporation is a further requirement. The district magistrate may authenticate or withhold authentication of declaration on the basis of the certificate.

The Penal Code, 1860 (Modified up to the December 31, 1983)

It provides that words or writing that incites hatred, contempt, or provokes disaffection towards the government is a punishable offense. Public disapproval of government policies with an aim towards reform through lawful means without creating disaffection is not an offense.

In this law, Sections 153-A and B provide punishment for promoting or attempting to promote feelings of enmity or hatred between different classes. Sections 292 and 293 provide punishment for obscene publication.

Section 295-A provides: whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of Bangladesh by words, either spoken or written, or visible representations insults, or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 499 says that defamation is a punishable offense under civil law as a tort and a criminal liability under section 499 of the penal code.

The Code of Criminal Procedure, 1898

Section 99-A of the Code of Criminal Procedure empowers the government to close or suspend newspapers containing seditious matters that promote feelings of hatred between classes or outrage the religious feelings of hatred between classes or outrage the

religious feelings of the citizens, and to issue search warrants for seizing them. The offences for these measures are provided for in the penal code.

Official Secrets Act, 1923

According to the Act, a citizen must prove why he or she needs information before the Government will provide it. By placing the burden of proof on the citizen, the Official Secrets Act protects corrupt government officials from public scrutiny, hindering transparency and accountability of government at all levels.

Section 3 of the Official Secrets Act, 1923 makes it an offence if any person acts against the safety or interest of the state. As applied to the media, no information can be imparted to a state enemy through reporting, publications, research or other means of imparting information that would affect the integrity and sovereignty of the state and its allies.

The Special Powers Act of 1974

Over the past 25 years, successive governments have used the Act to control freedom of expression and to suppress political opposition. Safeguards in the Act have allowed District Administrators to use it as a tool of intimidation against suspected political opponents. The Act provides for the detention of individuals who might commit "prejudicial acts" against the State. Section 2 of the Act defines prejudicial report as any report, true or false, which is an incitement to the commission of a prejudicial act which is intended or likely to prejudice the security of Bangladesh or endanger public order; or interfere in the administration of law or maintenance of supplies or service; or to cause fear or alarm; or to prejudice the financial interest of the state. This act allows detention for 120 days without specific charges.

The Newsprint Control Order of 1974

The Act was invoked by the Ministry of Information to exercise control over the production and consumption of newsprint. In 1975, the government closed down all the newspapers other than two Bengali and two English dailies. The journalist community with the exception of a few had to pledge their loyalty to the ruling party. The majority of the suspended newspapers were subsequently allowed to publish, but many restrictive laws continued even after changes following the recent democratic movement.

Official Directives

From time to time, government agencies send official directives to press organizations informing them of new restrictions on writing. Often times, these restrictions already exist in the PPPA, but are clearly redefined to emphasize the importance of abiding by these rules. One example is the frequent 'press advice' given to press organizations and international correspondents stating that reporting of certain opposition activities is prohibited. Occasionally the 'press advice' requests special treatment of government news. In the 1980's, President Ershad requested priority treatment in ensuring front page newspaper coverage of his poetry per 'press advice'. At the same time, in 1985 renowned Bangladesh poet Begun Sufia Kamal spoke before an important gathering at a press club to protest repression against women. The protest was reported on and sent to the newspapers by BSS, the government news agency, but the PID (Press Information Department) press advice ordered the poet's speech unpublishable.

Application of Press Legislation

The application of media legislation is basically the implementation of the PPPA by the Ministry of Information, which is the government agency accountable for communicating with the press and implementing the PPPA. Other government organizations are also involved in the implementation process as well. The Ministry of Home Affairs is one such body that becomes involved in the process when the issue in question deals with activities related to unrest. The Department of Film and Publication (DFP), a directorate under the Ministry of Information monitors the activities of newspapers and their overall progress. DFP also distributes government advertisements to the media

In 1993, the Bangladesh Press Council, a government appointed press council, declared a code of conduct for Newspapers, News Agencies and Journalists. While many codes deal with ensuring accuracy and integrity of the news and members of the press, a few of these articles are potentially troublesome for the press. They are as follows:

- The war of Liberation and its spirit and ideals must be sustained and upheld, and anything repugnant to the war of Liberation and its spirit and ideals must not be printed, published or disseminated in any manner in the press.

- Reports based on rumors and not supported by facts shall be verified before publication and if these are considered not suitable for publication, one should refrain from publication of such news.
- Sensational and pulpy news shall not be published to augment the circulation of a paper if such news is deemed vulgar, improper and against public interest.
- The publication of malicious news is far more immoral than that of wrong news without malicious intent.

In November 2002, the Bangladesh Press Council amended the code of conduct. The approved amendments state that any news item or commentary contrary to national interest, the country's independence and sovereignty, integrity of the state and constitution should not be published. Chairman, Justice Muhammad Mozammel Haque MP, said, in a press release, “[that] journalists will uphold the ethos of the liberation war, its ideals and achievements, and refrain from carrying out any campaign that goes against its spirit. It is a duty of a newsman to keep the people informed on matters that attract and influence them and write and publish news and news articles showing full respect to personal rights and sensitivity of the newspaper readers, according to the code of conduct.” Local journalists fear that the new amendments may endanger their ability to report freely.

The Press Code has been largely ineffective in keeping members of the press in check. In fact, few members of the press even abide by the code. It is seen by many as a vehicle of censorship and control by the state.

Mechanisms for Enforcing the Legislation

The Ministry of Information has been enforcing the PPPA in many ways. First of all, it uses the PPPA as a means to receive and appraise all new newspaper applications. The Ministry of Information uses it as the basis to punish any newspaper or journalist for writing articles that do not conform to legal guidelines. Its purported function is to guarantee the right of expression to national publications. However, the PPPA’s influence is mixed. On one hand, it supposedly guarantees freedom of the press, but in practice it restricts such freedoms.

Mass media laws in Bangladesh tend to curtail press freedom, particularly so as far as the continued use of the Special Powers Act is concerned. The PPPA also shows a

trend in the government's limiting the publication of newspapers and periodicals. For example, in item (a), section (9), the PPPA says if a newspaper is not published within three months of the date on which such declaration is authenticated or deemed authenticated, the declaration will become null and void. Item (3) of same Section says that when an established daily newspaper is not published for three months and for other newspapers six months, the publishing rights become null and void, requiring a new declaration. These sorts of restrictions and limitations make it difficult for the press to perform their jobs effectively.

Despite the many negative attributes of the PPPA, there are some positive aspects to it. Journalists often use it to defend their rights to report freely. For better or worse, it serves the journalist community as a basis for freedom of expression. It is the wall that journalists lean against and depend on when they criticize government bodies and officers and defend themselves against various allegations.

Issuing Licenses

Broadcast Media

The Ministry of Information issued licenses to three electronic media enterprises: Channel Eye (Channel-I) and Asian Television Network (ATN) for satellite broadcasting and Ekushe TV (ETV) received a terrestrial channel. This last channel, as indicated, was withdrawn as a result of judicial action. The ruling Bangladesh Nationalist Party and its Islamist allies complained that ETV was biased against them in its programming. ETV gained a large audience though its large variety in broadcasting. It became the country's leading private news channel.

Use of satellite dishes are also permitted in the country. 'Radio Metrowave', a private radio channel has operated since 1999 with the permission of Bangladesh Betar and National Broadcasting Authority.

Print Media

The licensing process can be summarized in the following way:

An application form must be submitted to the District Magistrate (DM), who then forwards the application to the DFP for name clearance of the publication. After that, the application is sent to the Special Branch of Police for an inquiry about the applicant.

Then the DM can get the declaration of a Press, Newspaper or magazine, but he cannot authenticate the declaration unless the proprietor, printer and publisher are citizens of Bangladesh; the printer or the publisher was not convicted of an offence for five years; the printer or the publisher is sane, the publisher has financial resources; and the editor possesses educational qualifications or adequate training or experience in journalism. If these fields are not met, the DM can cancel the authentication.

Present Status of Mass Media

Newspapers

Approximately 1566 newspapers and periodicals are published from Bangladesh in Bengali and English. The majority of newspapers and periodicals are published in Bengali. Since the 1990's, the number of newspapers increased rapidly. Of the total newspapers, 346 are daily, 5 bi-weekly, 615 weekly, 171 fortnightly, 346 monthly, 7 bi-monthly, 65 quarterly, 3 bi-annual and 8 annual. In fact, only 20-22 daily newspapers and 10-12 magazines are being published regularly. Of them, only 6-8 newspapers and magazines pay salary and wages to their journalists and workers regularly. The remaining newspapers and magazines do not pay journalists and workers according to wage board. Many old and influential newspapers are facing financial constraint due to an underdeveloped advertising market. However, in the last decade, the privatized advertising market has grown which has assisted in minimizing government interference in the print media.

Radio

The Bangladesh Betar (Radio Bangladesh), the longest running radio network and for a long time, the only radio network, is controlled by the Government. The Bangladesh Betar broadcasts its programs through its 11 stations including three situated in Dhaka, and one each in Chittagong, Rajshahi, Sylhet, Khulna, Rangpur, Rangamati, Comilla and Thakurgaon and 4 relay stations in Bogra, Jessore, Barisal and Cox's Bazar. Presently, Radio Bangladesh broadcasts 92 hours of programs daily. Seven hours out of 92 are covered by external services.

In 1999, Radio Metrowave, a private radio channel also started broadcasting with the permission of Bangladesh Betar and the National Broadcasting Authority (NBA).

Radio Metrowave was one of the bidders involved in creating an FM radio station in 1998.

There is no community radio channel in the country yet, but in 1998, the government made a call for the establishment of an FM radio station. Mass-line Media Centre (MMC), a non-government organisation, sought permission to establish a community radio for the southern coastal belt dwellers of the country.

In Bangladesh 41 percent of households own a radio. There is a licensing requirement for possessing a radio for the purpose of collecting a user fee. The country has 234,000 licensed radios, but once unlicensed radios are including in the estimate, the figure is closer to 1 million. The annual licensing fee for a domestic radio is 15.00 taka (.25 USD) and 50.00 taka (.86 USD) for commercial annual use.

Television

Bangladesh Television (BTV), a state run channel, is now the only terrestrial channel in the country. BTV telecasts its programmes all over the country through 2 stations in Dhaka and Chittagong and 12 relay stations, which are located in Sylhet, Khulna, Natore, Mymensingh, Rangpur, Noakhali, Satkhira, Cox's Bazar, Brahmanbaria, Thakurgaon, Rajshahi and Rangamati. Even though the television channel is state owned, stations are allowed to be run privately. There are approximately 572,000 licensed TV sets in the country.

In August, the Supreme Court passed an order to close down Ekushey Television (ETV), the nation's first and only private terrestrial station after just two years of operation. According to court verdict, the license issued to ETV had no legal basis since permission was granted under the previous Awami League government. Immediately after Prime Minister Khaleda Zia came to power, the station was at risk.

Besides the newly defunct ETV, two private cable channels, ATN Bangla and Channel I, are in operation. These are exceptions in terms of allowing the private sector to own electronic media. Private use of satellite dishes are also permitted in the country.

News agencies

Bangladesh Sangbad Sangstha (BSS) is the official news agency of Bangladesh. United News of Bangladesh (UNB) is a news agency run in the private sector. Eastern News Agencies (ENA) and Associated Press of Bangladesh (APB) were two private

sector news agencies now defunct due to financial problems. Syndicated feature services and several foreign news agencies including Reuter, AFP, AP and Xinhua are active in Bangladesh. Correspondents of all major global newspapers and electronic media such as BBC and CNN are posted in Bangladesh. Press Information Department (PID) of the government is the official mechanism to disseminate government news handout and releases to the press. Department of Mass Communication and Department of Films (DFP) and Publication under the Ministry of Information also provide information to the press.

Telecommunications

The government authority provides 500,000 landline telephones. Private mobile telephone companies such as Grameenphone, AKtel, Citycell and Sheba telecom provide service to 283,000 mobile users. Grameen Phone (GP), an extension of the Grammen Bank of Bangladesh is one the most popular services and distinguished itself from other companies by introducing a news service to its subscribers. GP launched the News Update service both in Bangla and English in cooperation with the *Daily Star* and the *Protham Alo*, the two leading national dailies. GP subscribers dial a number to hear the latest headlines updated 5 times a day by the two newspapers.

In May 2001, the Awami League Government stopped GP from sending news bulletins to its subscribers. The ban was imposed 4 months after GP flashed news to its nearly 365,000 subscribers about the killing of four persons during an antigovernment protest. The company received warnings from the Ministry of Information soon after it sent out news flashes. In June, the Ministry sent a written order to stop the news service on the ground that the company had not obtained government approval to broadcast news. The government lifted the ban on September 1.

Internet

Internet service began in June 1996 by an ISP named Information Services Network Ltd (ISN). The Government organization Bangladesh Telephone and Telegraph Board (BTTB) now sells the facilities to about 10 districts with 154 digital telephone lines. Private organization like PROSHIKA, GONONET and others are also engaged in this service. While there is little formal data of internet users, business and individuals

use the internet regularly. According to data published by the World Bank in 2000, there are 100,000 internet users.

Autonomy of Electronic media

One important effort has been to make the electronic media, though operated by the state, more autonomous from direct government intervention. Substantial autonomy of electronic media has not yet been achieved, despite demands made during the mass movement of 1990 waged against the former government headed by Major General President HM Ershad. A commission was formed in 1996 to assess giving autonomy to radio and television stations. The committee presented a report to the government in 1997, but no public report was issued. However, the then government brought the issue to parliament in the form of a bill titled Bangladesh Television Authority Act and Bangladesh Radio Authority Act 2001. Parliament passed the bill in July 2001, but never implemented it. It appears that neither interim government took an interest in enacting the bill. The present administration also has not taken action regarding implementation.

Regulatory Agencies

The regulatory body of the state's broadcasting authority is the National Broadcasting Authority (NBA), which falls under the Ministry of Information. No national broadcasting policy has been formulated yet. However, the Radio and Television authority follows a 27-point guideline for broadcasting activities. The Department of Film and Publications (DFP) regulates print media as well as registration and advertising. The Film Censor Board reviews local and foreign films, and may censor or ban them on the grounds of state security, law and order, religious sentiment, obscenity, foreign relations, defamation, or plagiarism. Last year the Board did not ban any locally produced films, but the Board banned the screenings of several imported English-language movies for their pornographic content. Government efforts to enforce censorship on video rentals are irregular and ineffectual.

NGOs

The Mass-line Media Centre (MMC) is a media related non-government organization working to 'strengthen the local press for the promotion of human rights and democratic values in the coastal districts. The Bangladesh Centre for Development

Journalism and Communication (BCDJC) is another NGO that works with journalism training and research.

Interaction between Press, Government, and Others

The government directly influences coverage of the press by the limitations imposed in the PPPA. For example, if an event related to the military takes place, newspapers cannot report freely on the event because it is a prohibited subject that cannot be dealt with without prior approval of the Ministry of Defense. While the government does not directly force a newspaper to cover an event in a certain way, the government's influence is not only in its ability to impose, but in its ability to restrict based on justifications in the PPPA.

The government heavily influences the activities of the media and the press by dictating their actions. In cases where newspaper reporters go beyond their allowed guidelines, they face potential replacement. Often times, journalists practice self-censorship out of fear of the consequences of speaking out against the government. Violent attacks and intimidation by government leaders and political activists are not unusual consequences of news reporting.

By threatening to use the PPPA against any independent newspaper, the government can easily influence. One method of influence is enticing management with offers to use better facilities. In other words, the government may offer money, office space, and other facilities to newspapers with pro-government leanings that acts in defense of the government. Similarly, independent newspapers that do not praise the government are not given any privileges.

Press Syndicates and NGO's

The Bangladesh Federal Union of Journalists (BFUJ) is a press-related syndicate that carries influence with the press because it decides which journalists receive membership. In recent times, the union has become politically divided making professional decision-making more difficult and less effective. A new syndicate called Dhaka Reporter's Unity (DRU) enjoys a relatively positive reputation among the press community because of its role in supporting newspapers and journalists in their struggles when they confront injustices or are attacked. According to Reporters Without Borders, DRU rescued two television journalists working for the privately owned station Channel-

1, who were attacked and detained by officials at the education ministry building on October 27th.

The media's role in supporting human rights initiatives, environmental campaigns and other government reform has been instrumental to achieving success. The media and nongovernmental organizations have formed strong relationships that have helped strengthen reform efforts. For example, the media's coverage of violence against women combined with NGO public campaigns has been successful in generating awareness of gender issues. In fact, international human rights campaigns are often waged with information reported by the local press.

Informal Media

Islamic leaders are the most influential informal means of swaying public opinion as approximately 88 percent of the population is Muslim. Friday services are attended regularly by approximately 50 percent of the population. A few Islamic leaders have made public speeches against progressive cultural and political activities. The government has fought to reduce the influence of such leadership. Last January, the High Court ruled illegal all fatwas, or expert opinions on Islamic law. The Court aimed to eliminate extrajudicial enforcement of penalties by religious leaders. The ruling resulted in widespread public protest. No rehearing has been rescheduled.

To a smaller extent, temples, churches and pagodas are also used as informal media. Beside the culture of sermons and speeches, the folk tradition of Kavigan (rural poet's song) and Yatra (traditional drama) are also used as informal media.

Presence of International Media in Bangladesh

Satellite dish ownership is not restricted at all. In fact, due to the poor quality of local TV, many Bangladeshi families, even in rural areas, are using satellite dishes. Most households watch news stations such as *Durdarshan*, CNN, BBC, and ETV Bangla to learn about international news, but more often, Bangladesh news is received more accurately and faster than their own local TV channels or newspapers. The Bangladeshi people also enjoy Bengli or Hindi cinema on ZTV, ETV Bangla, Sony TV, GCinema etc.

Press Reforms in Bangladesh

The major proposals for reform concentrate on removing ambiguous terminology in section 103 of the PPPA. and revoking the imprisonment and newspaper closure punishments in the law.

The PPPA of 1973 and the Special Powers Act of 1974 have been partially repealed. The recent move by the Bangladesh Press Council to frame a code of conduct for journalists and lay down professional qualification for editors has created some resentment and misgivings among journalists.

A growing number of journalists are also calling for opening the way for electronic media freedom. Currently, are a number of intellectuals and businessmen await reform so that they can open private radio and TV channels.

The NGO community and a number of press organizations have been calling for reforms with particular emphasis on professional development in journalism. A lack of skilled journalists in the country have prompted the Press Institute of Bangladesh (PIB), National Institute for Mass Communication (NIMCO) and a few NGOs in initiating a number of training courses and workshops. The PIB started the Post-graduate Diploma in Journalism for professional journalists approved by the National University of Bangladesh.

Conclusion

More than ever, the people of Bangladesh are exposed to a wide array of information and it is impacting all strata of life in all regions of the country. The freer flow of information has not only empowered women and the underprivileged; it has also generated enthusiasm among all segments of the populace to take part in development activities. However, the democratization process resulting in greater access to information should not mask the fact that the state still plays a large role in manipulating the media. There are a number of obstacles standing in the way of effective media reforms such as the country's large illiteracy rate, 48 percent for men and 71 percent for women. However, democratization and the gradual deregulation of the media is bound to have mixed effects, such as less government interference, and with it less media accountability.