

LAW campaign



LAW opinion



## Waiting for autonomy of radio and television

BURHANUDDIN AHMED and SADRUL HASAN MAZUMDER

In any democracy access to media is one of the key measures of power and equality. Media can shape power and participation in society in negative ways, by obscuring the motives and interests behind political decisions, or in positive ways, by promoting the involvement of people in those decisions. In this respect the media and governance equation becomes important.

In a democratic society, therefore, the role of the media assumes seminal importance. Democracy implies participatory governance, and it is the media that informs people about various problems of society, which makes those wielding power on their behalf answerable to them. The actions of the government and the state, and the efforts of competing parties and interests to exercise political power should be underpinned and legitimized by critical scrutiny and informed debate facilitated by the institutions of the media is a normative assumption uniting the political spectrum.

### Politics of autonomy

The government exerts a great deal of control over public broadcasters, using them as a mouthpiece for government rather than as an independent source of information for the public. It is only when the independence of public broadcasters is guaranteed - in law and in practice - that they can truly operate for the public interest, providing high quality information from a variety of sources to the public. But the ill fate of the people of our country is that the last two democratic governments of Bangladesh attempted to devise mechanism to retain control over the electronic media directly or indirectly. During the autocratic rule, the electronic media was branded as a media devoted for the sole cause of the autocrat and their close associates. Until 1991 the issue of 'autonomy of radio-TV' did not come to the forefront of the societal discourse.

Granting autonomy to Betar and BTV was one of the main demands in the joint declaration of the three alliances announced after the fall of Ershad. After the first ever democratic election and with the restoration of parliamentary democracy in 1991, the issue of 'public broadcasting autonomy' gained momentum. But we have noticed with frustration that the BNP government did not uphold its commitment to grant autonomy to electronic media during its tenure (1991-1996). However the BNP government did form a commission to assess the matter, the recommendations of which were never published.

The Awami League government constituted a 16-member 'Commission for Framing Rules and Regulations for the Autonomy of Bangladesh Television (Radio-TV Autonomy Commission)' in September 1996, coming back to power after long two decades

### The report at a glance

The recommendations of the Commission included formation of a National Broadcasting Commission (NBC) completely independent of the government, accountable only to a Parliamentary Committee on Information. The NBC would administer both Bangladesh Betar and Bangladesh Television including approval of the budgets for both



Bangladesh Betar and Bangladesh Television, which would function and operate from their own income. A Code of Conduct would be signed between NBC and the private operators. A Standard Committee would be formed by NBC to monitor Satellite and terrestrial programs, and take action against violation of the guidelines. In the area of news coverage, protocol value would replace news value. The commission suggested that the President will appoint one chairman and six members of the National Broadcasting Commission.

### Implementation status of the act

Instead of formation of a National Broadcasting Commission as recommended by the commission, the Awami League government formed two separate authorities. Each authority would have a chairman with some members to assist in running the affairs of the two public broadcasting agencies. Under the two draft laws approved by the cabinet - Bangladesh Betar Authority Act, 2001 and Bangladesh Television Authority Act, 2001, the government can sack the chairman of both the authorities without giving any reason.

### The key points of the draft law are:

- ™ Separate authority for Radio and Bangladesh Television
- ™ A committee of the five members would be selected by the government

with a Chairman as its head  
 ™ Telecast of news and programmes in accordance with the National Broadcasting policy  
 ™ The Government has the power to dissolve the authority  
 The provision of empowering the government to appoint Chairmen and members for the two authorities, one for Radio and the other for Bangladesh Television were being criticised in the political arena as a departure from the Autonomy Commission's recommendation that President of the country would be the appointing authority.

### Initiative of the present government

The very interesting part is that the present government has already celebrated its first year of regime but has not yet taken any initiative on the issue of autonomy of Radio and Bangladesh Television. It has been observed that the present government of the 4-party alliances has already changed and in some cases cancelled various decisions and policies of the previous Awami League government on important national and local issues but has remained silence on this issue. The former Information Minister Barrister Nazmul Huda in a reply to a question why the BNP government took no steps in this regard said that they intended to give autonomy to the state run Radio and Bangladesh Television but time had run out before they could complete the process.

### Concluding remarks

There is a prevailing believe that just enacting law will not help these media to enjoy actual autonomy. There are many who argue that media is an elitist bourgeois construct, reflecting essentially bourgeois interests and values and conditions of existence, and can thus never serve the genuine interests of the common people. Despite its democratic façade, it is said that the media remains exclusive, and people as a whole do not have alternatives but radio or television for their necessary information.

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## Concern over quality of food

QUAZI FARUQUE

Food is the basic need for all. Right to food is one of the fundamental rights of every citizen. Today food security and safety is one of the concerned issues at least in the under developed countries. In this regard Consumers International (CI), the Federal Body of the Consumers Association across the world has attached top priority. And in the last year CI took a series of programmes in the different parts of the world. So far we know, Bangladesh is very keen to ensure food for all and govt. is planning to formulate some action plans for ensuring food security and safe food.

However, access to safe and secured food is a basic need for all of us. Food security is defined in its most basic form as accessibility of food to all people at all times as required for maintaining a healthy life. The population and demographic characteristics in Bangladesh have undergone dramatic changes over the past few decades. According to the latest population census of 2001, the population of Bangladesh is estimated at 129 million which, with an area of 1,47,000 sq. km, give a population density of about 755 per sq. km, one of the highest in the world. We are still far behind in achieving self-sufficiency in food production, though much progress has been made in production of cereal crops. Our dependence on import of essential food items is growing with the rise in population growth. One must admit that an increasingly important issue in development concern is the long-term sustainability of food security. The question is not about being food security in the present and the immediate future but whether access to food on a long-term basis is ensured its a vital question.

To our consideration in achieving food security in Bangladesh three major aspects need to be highlighted. The first in the availability of safe and nutritionally adequate supply of food at both national and household levels. Secondly, there has to be a reasonable stability in the supply of food specially and seasonally. Thirdly, each household should have physical and economic access to sufficient, safe and good quality food to satisfy its needs.

Of course there are some problems so far identified in respect of food security and food safety in Bangladesh. Those are:

- 1 Adequate food is not produced in the country. We are to depend on imports, which creates hardship for the nation to meet costs of import.
- 2 We get food from donors, which is meant for the poor & hungry people and also to address the natural disasters. This food however, does not reach the food insecure people due to faulty supply system.
- 3 Gradually, safe food is becoming scarce in the market due to food adulteration, use of pesticides in farm production and indiscriminate use of chemicals in processed food.
- 4 Population is growing, though at lesser rate than before. Availability of agricultural land is decreasing due to erosion and use of land for other purposes.
- 5 As a result, about 25% of the total population are suffering from food insecurity. And very large number of people is suffering from various diseases.

In that case efforts should be taken for Food Security and Safety. Side by side to the Govt. action plan, NGOs can come forward. Food issues have traditionally been major concern for consumer organisations all over the world. And proper steps in influencing both government policy level and consumer behaviour.

Quazi Faruque is General Secretary of Consumers Association of Bangladesh (CAB).

LAW news



RIGHTS corner



## DNA tests to determine the rapist

MARY BAIIDYA



Bangladesh is going to set up a DNA tests laboratory soon. It is especially good news because the proposed laboratory will be used to find those who resort to violence against women. DNA is deoxyribonucleic acid, a chemical substance that carries genetic information, which determines the form and function of all living things.

As Dr Mizanur Rahman, an Associate Professor at the Forensic Medicine Department of Dhaka Medical College puts it: "DNA is the basic genetic building block of all living things and governs the inheritance of eye and hair colour, bone density ... each cell contains a complete sample of DNA. DNA of one person will not match with that of another person."

The planned DNA laboratory in Bangladesh will be the country's first such facility to detect criminals. Says Dr. Rahman, "The laboratory will first deal with cases related to violence against women. It will gradually expand to deal with other crimes."

Says Dr Zahedul Karim; the DNA laboratory will be a milestone in pursuing criminals. It will be able to analyse samples such as blood, semen, nails, hair, tooth and even nail bites leading investigators to any criminal. A rapist has no way but to leave semen on the dress of his victim. Tests can lead to the rapist through his semen tests even two years after the crime has been committed. Samples or evidences relating to the criminal can be stored in the laboratory for many years. Thus a criminal can be traced even 10 years after the crime has been committed.

According to Karim, lack of strong evidences creates a big problem in punishing rapists or attackers of women. "The DNA test is the answer," he says. The existing facilities do not provide for preserving the evidences such as semen and blood. If the DNA tests are done the trial will need no witness. The DNA samples will tell the real story, he says. It will also help those who are innocents, but held on suspicion.

The DNA laboratory will be set up at a cost of nearly Tk. 60 million, most of the amount coming as aid from Denmark. The lab will have three departments: one will collect the samples, the second will store them and the third will analyse those. The DNA tests will be valid evidences in court, according to a decision by the Law, Justice and Parliamentary Affairs Ministry.

## Death penalty

# Is it violation of human rights?

MOHAMMAD TOWHIDUL ISLAM

THOUGH the modern world is very sympathetic to the concept of human rights issues, death penalty as a form of capital punishment has still been in practice in the world. During 2001, at least 3048 people were executed in 31 countries as well as at least 5265 people were sentenced to death in 68 countries. It is very interesting to see that some advanced countries, which are pioneer to the protection and promotion of human rights and also very vocal to the human rights situation in the developing world, do impose death penalty, even on children.

### Death penalty and human rights

The Universal Declaration of Human Rights 1948 has incorporated most of the human rights. It has specially enshrined the protection of the right to life in Article 3. However, Article 29 recognises that human rights and fundamental freedoms are subject to limits. Though it didn't specify clearly, it is presumed that by imposing death penalty, right to life may be curtailed in certain circumstances. The death penalty is the only exception that is mentioned in Article 6 of the International Covenant on Civil and Political Rights of 1976.

All rights of man stem from one right, his right to life. Man's right is the first cause of all other rights. It is not axiomatic (self-evident) but it's absolute. The right to life, thus rooted in natural and ethical principles and usually inscribed in a country's constitutional and legal framework. In Criminology the word punishment is used to denote compensation and the offenders have to suffer different punishments depending on the aggravating form of offences. Though right to life is ensured and protected by the way of giving punishment to the wrongdoers, the right to life is curtailed when someone's life is executed under death penalty.

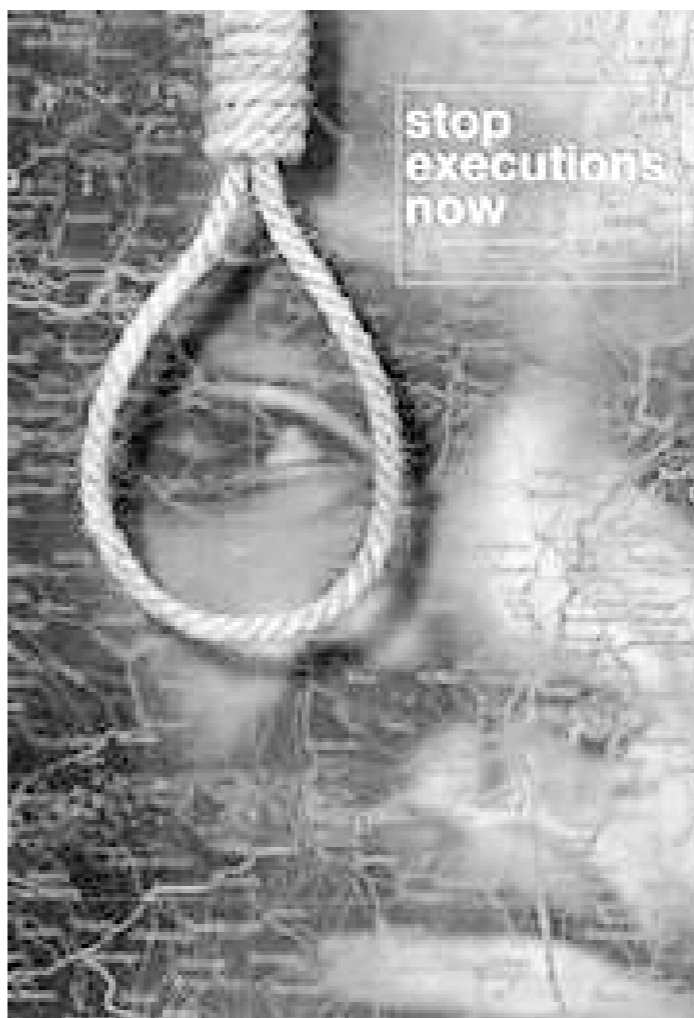
### Origin of death penalty

Death penalty as a form of punishment has been used throughout history by different societies. The first death penalty laws came as far as the Eighteenth Century BC's in the Code of King Hammurabi of Babylon, which codified the death penalty for 25 different crimes. The death penalty was also part of the Fourteenth Century BC's Hittite Code, the Seventh Century BC's Draconian Code of Athens, which made death penalty for all crimes, and the Fifth Century BC's Roman Law of the Twelve Tablets. Death sentences were carried out by such means as crucifixion, beating to death, burning alive and impalement.

During the 10th Century AD, hanging became the usual method of execution in Britain. In the following century; William the Conqueror allowed hanging in times of war. This trend would not last, for in the Sixteenth Century, under the reign of Henry VIII, as many as 72,000 people are estimated to have been executed. Executions were held for such capital offences as marrying a Jew, not confessing to a crime, and treason. By the 1700s, 222 crimes were punishable by death in Britain, including stealing, cutting down a tree, and robbing a rabbit warren. Because of the severity of the punishment of death, many juries wouldn't convict defendants if the offence was not serious. This led to reforms of Britain's death penalty. From 1823 to 1837, the death penalty was eliminated for over 100 of the 222 crimes punishable by death.

Britain influenced America's use of the death penalty more than any other country did. The first recorded execution in the new colonies was that of Captain George Kendall in the Jamestown colony of Virginia in 1608.

Kendall was executed for being a spy for Spain. In 1612, Virginia Governor Sir Thomas Dale enacted the Divine, Moral and Martial Laws, which provided the death penalty for even minor offences such as stealing grapes, killing chickens, and trading with Indians.



### Social argument

It is thinks that death penalty prevents future murderers and the society has always used punishment to discourage future criminals from wrongdoing. As the society has the highest interest in preventing murder, it should impose the strongest punishment to deter murderers. If murderers are executed, potential murderers will rethink for own life before killing.

Even though statistical demonstrations are not conclusive, and perhaps cannot be, capital punishment is likely to deter more than other punishments because people fear death more than anything else does.

Some society requires the death penalty for the taking of a life. The balance of justice is disturbed on killing. Unless taking murderer's life to restores that balance, society succumbs to a rule of violence. Retributionists rooted in religious values, historically maintain that it is proper to take an 'eye for eye' and a 'life for a life'. Although the victim and the victim's family cannot be restored to the prior status, at least an execution brings closure to the murderer's (and closure to the ordeal for the victim's family) and ensures that the murderer will create no more victims.

### A necessary evil

Though for centuries, the argument for retaining or abolishing death penalty continues, the abolitionist movement has grown over the life of the human rights movement. Those who didn't support the death penalty found support in the writings of European theorists Montesquieu, Voltaire and Bentham, and English Quakers John Bellers, John Howard and Cesare Beccaria. In the essay, Beccaria theorised that there was no justification for the State's taking of a life. The abolitionists fuelled by him believe that the death penalty is not a proven deterrent to future murders. The conclusion from years of deterrence studies is, at best, no more of a deterrent than a sentence of life in prison. Criminologist like William Bowers of North-eastern University, maintain that the death penalty has the opposite effect: that is, society is brutalised by the use of the death penalty, and this increases the likelihood of more murder. The U.S., with death penalty, has a higher murder rate than the countries of Europe or Canada, which do not use the death penalty.

The risk of executing the innocent precludes the use of the death penalty. The death penalty alone imposes an irrevocable sentence. Once an inmate is executed, nothing can be done to make amends if a mistake has been done. Many of the innocent releases from death row came about as a result of factors outside of the justice system. In other cases, DNA testing has exonerated death row inmates. Here, too, the justice system had concluded that these defendants were guilty and deserving of the death penalty. So it can be said that society takes many risks in which innocent lives are lost.

### Concluding remarks

Though we are very far from achieving a worldwide ban on capital punishment, there are certain situations in which the death penalty should be looked upon as a violation of universally accepted international norms. Where the death sentence is imposed on minors, pregnant woman or persons with psychiatric disorder, at odds with internationally recognised norms, it constitutes a human rights violation. Even where a death sentence is carried out in circumstances that are not compatible with internationally accepted procedural norms constitutes a human rights violation. Again, the conditions of detention and the time spent awaiting execution; the death penalty may constitute a violation of human rights.

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