



HUMAN RIGHTS monitor

Bangladesh Press: Perpetrators' impunity and immunity

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WITH the restoration of democracy in the 90's, the media, particularly the print media, increasingly investigated into the democratic accountability of the persons elected to public offices. The exposure in the press severely jeopardised their credibility and integrity of their capability of being the right persons in public offices. In this paper, the misdeeds of the perpetrators who have been elected to public office - from lawmakers to municipal commissioners and their henchmen - have been discussed through case studies.

Attack on the press: Pertinent cases

Feni

On 25 January, masked men abducted and beat up **Tipu Sultan**, correspondent with a private United News of Bangladesh (UNB) at Feni. The henchmen of **Joynal Hazari**, a ruling Awami League lawmaker in Feni severely beat with lethal weapons and presumed him dead. They abandoned him. Tipu Sultan was discovered unconscious a few hours later by policemen. He was taken to hospital where doctors recommended him to be transferred to Dhaka to avoid amputation of his four limbs; both of Sultan's arms and legs received multiple fractures.

Sultan filed a complaint on 28 January in Dhaka where he was hospitalised. He accused Joynal Hazari and some of his sympathisers in his deposition. However, the complaint was not registered at Feni police station because a Feni Press Club executive, close to the MP, filed another complaint accusing the opposition (Bangladesh Nationalists Party) for the attack.

This manoeuvre by Hazari's people blocked the investigation for several months. In addition, several sources said that the police officer of the investigation had links to Hazari as well. Police officers even accompanied Hazari's henchmen when they went to the homes of Tipu Sultan's supporters to threaten them with reprisals. The MP is known for his aggressive attitude toward the independent press.

In late April, the Home Minister Mohammad Nasim visited the journalist in hospital. After giving financial support to Tipu Sultan, the minister promised to take into consideration the journalist's requests to ensure the security of his family and to finally accept his complaint. American and German diplomats went to Sultan's bedside.

The mobilisation in favour of Tipu Sultan reached its peak when the Daily Star and Prothom Alo newspapers raised funds for him so he could be hospitalised in Bangkok and have several operations to be able to use his hands again. In August, the police and the army, under orders from the interim government, searched the home of Joynal Hazari in Feni. Several of his close associates were arrested, but he escaped and went underground. Faroque Hossain Mridha, an advisor of Joynal Hazari and executive editor of the weekly Hazarika, was arrested and accused specifically in Tipu Sultan's deposition. As of now, Joynal Hazari, predator of press freedom, is still on the run, probably in India. Tipu Sultan can still not go to Feni, out of fear of being attacked again. Some of Tipu Sultan's assailants have changed jersey and turned pro-ruling party activists which has forced the journalist to stay away from Feni. He lost his stringership with UNB for obvious reasons.

Satkhira

On 27 October 2000, **Anisur Rahim**, editor of **Dainik Satkhira Chitra** was assaulted by goons and hospitalised with critical injuries. Hoodlums armed with baton and firearms raided the Satkhira Press Club in the evening and looked for the editor. The hoodlums led by a ruling party leader and also Union Parishad chairman **Asadul Haque** and his son later attacked the newspaper office in the town. The goons intended to shoot him. Instead smashed the chair on which Rahim was sitting on his head causing grievous injuries. He was hospitalised. His newspaper office was vandalised. Police after several weeks arrested **Asadul Haque**.

This incident occurred after 36 hours of the announcement of State Minister for Social Welfare **Mozammel Hossain**, MP delivers "hate-speech" against journalists for reporting on corruption and pilferage of relief distribu-

tion during the worst ever flood disaster which struck Satkhira (in south-west Bangladesh). At a relief and rehabilitation coordination meeting on 25 October he issued directives to his ruling Awami League leaders to "break the bones of legs and hands" of the journalists. The Minister asked the district administration and police chief not to register any complaints against his party members for taking actions against journalists.

Following the minister's comment, about ten journalists from Satkhira decided to go into hiding. The president of the press club faxed a petition to Prime Minister Sheikh Hasina. The petition urged her urgent intervention. They sought immediate security of the journalists, and strongly protested the remarks of the Social Welfare Minister. They also sought punitive actions against local ruling party leaders for expressing their vengeance against journalists.

Lakhipur

In early October 2000, **Abu Taher**, Chairman of Lakhipur Municipality (in south Bangladesh) and local leader of the Awami League, threatened to "break the limbs" of journalists who investigated his involvement in the disappearance of Nurul Islam, a local BNP politician and lawyer. He told them to "leave town or face the worst consequences". The next day, seven journalists filed complaints against Abu Taher, and instead prompted him to be more enraged. Sales and distribution of major dailies from Dhaka were prohibited in his town, Lakhipur. Journalists were warned not to send any fax to newspaper offices in Dhaka or elsewhere.

On 4 October, **Sheikh Mamunur Rashid**, a reporter from Dainik Manav Zamin, received death threats when he was in Lakhipur trying to find out about the kidnapping of Nurul Islam. Policemen, accompanied by municipal officials, searched the hotel where Sheikh Mamunur Rashid was staying, handled him roughly and threatened him with "reprisals". On 6 October **Ekramul Haq Bulbul**, a journalist with Prothom Alo, was forced to flee the town after being attacked by armed men. He was taken to hospital and treated for severe bruising. He had been investigating the mayor's involvement in the disappearance of the BNP politician.

Chittagong

On the night of 19 April 2001, **Iskandar Ali Chowdhury** and **Jalal Uddin Chowdhury**, newsdesk editors of **Dainik Purbakone** a daily in Chittagong (south Bangladesh), were threatened with a gun during an attack of the newspaper's offices by **Mamunur Rashid Mamun**, a local municipal commissioner and leader of Awami League. Mamun, who was furious about an article that mentioned him, yelled threats at the journalists, vandalised the offices. Iskandar Ali Chowdhury was dragged in the street and beaten by activists. The managing editor of **Purbakone** filed a complaint with the Panchlaish police station, demanding that the guilty party be arrested within 24 hours.

The local Journalists' Union and Chittagong Press Club called for a week of demonstrations to obtain the arrest of **Mamunur Rashid Mamun**, an elected representative in the Chittagong City Corporation. According to journalists, this Awami League is at the origin of many attacks against opponents and reporters in Chittagong.

On 29 April, more than 300 Chittagong journalists went on strike and



Journalist Tipu Sultan of Feni

formed a human chain across the port city to demand his arrest. After this demonstration, the Minister of the Home Affairs called for Mamun's arrest, but the police said he was absconding. Surprisingly he gave interviews to journalists in Dhaka from his mobile phone. A few days later, Mamun turned himself in and was placed in detention. He was arrested under Public Safety Act, 2000, which incidentally the incumbent government has scraped causing speculation regarding perpetrators release on bail. The fear of journalists' leaders was over, after he was re-arrested under another notorious law.

Naogaon

On 18 November 2001, henchmen of ruling Bangladesh Nationalists Party lawmaker **Abdul Momen Talukder** raided the house of **Rafiqul Islam Montu**, correspondent with **Dainik Karotua** at Shantahar, Naogaon (in north Bangladesh). They manhandled him and forcibly took him to Talukder's home. The MP rebuked the journalist and criticised the news item for not referring him (Talukder) as "Mananiya (Honourable)" or "Jabab (Mister)". The correspondent was insulted before being allowed to leave. The Shantahar Press Club immediately decided to boycott the MP.

Sirajganj

Aminul Islam Chowdhury, a correspondent with **Dainik Ittefaq** in Sirajganj, was arrested by the police on January 30, 2002 at his home. Police burst into his home in the middle of the night with an arrest warrant, accusing the journalist of not having paid his electricity bill. The government leased a house in 1972 and paid his electric and other utility bills regularly. Although he protested and showed the receipts for his payments to the police, Aminul Islam Chowdhury was taken to the police station at Sirajganj, where he remained in detention overnight. On the following day, the journalist appeared before the court at Pabna, and his lawyers requested his release on bail. However, he was released after few days.

Last September, during the election campaign, the daily Ittefaq published articles that displeased **Iqbal Hassan Mahmud**, the BNP candidate for the Sirajganj constituency. After becoming State Minister for Energy he with an intention to harass him, found an excuse. Chowdhury is a war-veteran of the 1971 liberation war, and the local head of the Committee for the Removal of Collaborators and War Criminals, of which journalist Shahriar Kabir is Chairman. "The behaviour of the State Minister for Energy, who apparently intervened to have the journalist arrested, is not worthy of a democratic government", stated Robert Menard, Secretary-General of RSF.

Swords of damocles

THE Bangladesh Constitution does not provide enough leverage of freedom of expression. The Constitution guarantees freedom of expression, but the clause is not absolute freedom of press. Article 39 (1) of the constitution provides that "the freedom of press is guaranteed" subject to "any reasonable restriction imposed by law" of national security, friendly relations with foreign states, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

Indeed ratification of the "The International Covenant on Civil and Political Rights" in 2000 was a step forward to ensure freedom of expression.

However, Bangladesh is yet to ratify the Covenant, as well as Article 19 of Universal Declaration of Human Rights, both guarantees absolute freedom of expression.

Hindrances to achieve freedom of press have largely been attributed to scores of restrictive laws governing the media, like the "swords of Damocles". The restrictive media laws often gives advantage to government and others to use it as a tool for repression to "punish" their rivals. The demonstration of anger and vengeance results from political intolerance and lack of initiative for a democratic culture.

The Bangladesh press is governed by at least 25 restrictive laws, deliberately restraining freedom of expression. Media includes print press, wire service, radio, television, theatre, audio, video, cinema, advertising, photocopying, traditional folk theatre (*jetra*), telecommunication, which covers faxing and e-mail. The restrictive law date's from 1923 to 2000. Though some of the laws relating to media are not enforced or exercised, but the restrictive laws exist.

Bangladesh government still yields indirect influence over the press by way of retaining control over "favourable lists" of newspaper for state-owned enterprises advertisements and newsprint quota. Provision for issuance of arrest warrants against journalists in defamation and libel suits under the Penal Code still remains. However, the caretaker government in 2001 strongly advocated for amendment the CrPC (Criminal Procedure Code) to waive arrests of journalists. Often use of draconian laws like Special Powers Act of 1974, Official Secrecy Act of 1980, Women and Children Repression Act of 1993, and Public Safety Act of 2000 (scraped) have jeopardised the life of journalists.

Most of the incidents of intimidation, harassment and coercion have been attributed to elected representatives in public offices. In all the cases, the perpetrators have impunity and immunity for being elected to public office. A lawmaker also brought a private bill to censor publishing parliament process and "ill-advised" to grant immunity on criminal charges. For obvious reasons newspapers take firm political stand, which helps to explain the violence against the press. The parameters and indicators for achieving freedom of press have not improved. This has largely been attributed to scores of restrictive laws governing the media. These laws give leverage to the government and others to use them against their rivals as a 'punitive' measure.

Impunity of the perpetrators, delay of holding trials of those journalists either murdered or maimed, and dilly-dally in completion of the police investigations have directly contributed to spiral upwards. Despite government's initiative to reinvestigate and expedite the legal formalities, the court has not heard a single case since the first journalist killed or maimed.

Free press can obviously guarantee social justice and democratic accountability. With the existence of restrictive laws governing media and non-ratification of International Covenant on Civil and Political Rights, it is difficult to state that the press is free, and freedom of expression is a right. Despite electoral promises by mainstream political parties, they have not taken sincere efforts to review the restrictive laws, which is a hindrance of growth of independent press.

The Bangladesh Press Council has introduced a twenty-two-clause revised "code of conduct" for journalists, newspapers and news agencies and recently prohibiting any campaign against the liberation war or communal harmony. Thus Press Council, the only venue to seek redress of injustices is a "paper tiger" and remains a far cry.

Analysing the attitude of the democratic governments, it could be concluded that government and the press have developed a "love and hate" relationship. The pattern of "client-patron" relationship practices that began during the military regimes of General Ziaur Rahman and General Hussein Muhammed Ershad still exists with the democratic governments. There is urgency for the media watchdog and media practitioners to engage in interactive dialogue with the decision-makers, lawmakers and society managers to embark in public policy advocacy. It is important for the stakeholders for demystify their roles, to enable and ensure free press, right to information and guaranteed freedom of expression.

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RIGHTS corner

"We have no orders to save you"

State participation and complicity in communal violence in Gujarat-II

HUMAN RIGHTS WATCH

THE state government initially charged those arrested in relation to the attack on the Godhra train under the controversial and draconian Prevention of Terrorism Ordinance (POTO, now the Prevention of Terrorism Act), but filed ordinary criminal charges against those accused of attacks on Muslims. Bowing to criticism from political leaders and civil society across the country, the chief minister dropped the POTO charges but stated that the terms of POTO may be applied at a later date.

Three weeks after the attacks began, Human Rights Watch visited the city of Ahmedabad, a site of large-scale destruction, murder, and several massacres, and spoke to both Hindu and Muslim survivors of the attacks. The details of the massacres of Muslims in the neighborhoods of Naroda Patia and Gulmarg Society and of retaliatory attacks against Hindus in Jamaliupur are included in this report. Human Rights Watch was able to document patterns in Ahmedabad that echo those of previous episodes of anti-Muslim violence throughout the state and of anti-minority violence over the years in many parts of the country-most notably the Bombay riots in 1992 and 1993, and the anti-Sikh riots in Delhi in 1984.2 These include the role of sangh parivar organizations, political parties, and the local media in promoting anti-minority propaganda, the exploitation of communal differences to mask political and economic motives underlying the attacks, local and state government complicity in the attacks, and the failure of the government to meet its constitutional and international obligations to protect minorities.

Between February 28 and March 2 the attackers descended with military precision on Ahmedabad by the thousands, arriving in trucks and clad in saffron scarves and khaki shorts, the signature uniform of Hindu nationalist Hindutva-groups.3 Chanting slogans of incitement to kill, they came armed with swords, trishul (three-pronged spears associated with Hindu mythology), sophisticated explosives, and gas cylinders. They were guided by computer printouts listing the addresses of Muslim families and their properties, information obtained from the Ahmedabad municipal corporation among other sources, and embarked on a murderous rampage confident that the police was with them. In many cases, the police led the charge, using gunfire to kill Muslims who got in the mobs' way. A key BJP state minister is reported to have taken over police control rooms in Ahmedabad on the first day of the carnage, issuing orders to disregard pleas for assistance from Muslims. Portions of the Gujarati language press meanwhile printed fabricated stories and statements openly calling on Hindus to avenge the Godhra attacks.

In almost all of the incidents documented by Human Rights Watch the police were directly implicated in the attacks. At best they were passive observers, and at worse they acted in concert with murderous mobs and participated directly in the burning and looting of Muslim shops and homes and the killing and mutilation of Muslims. In many cases, under the guise of offering assistance, the police led the victims directly into the hands of their killers. Many of the attacks on Muslim homes and places of business also took place in close proximity to police posts. Panicked phone calls made to the police, fire brigades, and even ambulance services generally proved futile. Many witnesses testified that their calls either went unanswered or that they were met with responses such as: "We don't have any orders to save you"; "We cannot help you, we have orders from above"; "If you wish to live in Hindustan, learn to protect yourself"; "How come you are alive? You should have died too"; "Whose house is on fire? Hindus' or Muslims'?" In some cases phone lines were eventually cut to make it impossible to call for help.

Surviving family members have faced the added trauma of having to fend for themselves in recovering and identifying the bodies of their loved ones. The bodies have been buried in mass gravesites throughout Ahmedabad. Gravediggers testified that most bodies that had arrived-many were still missing-were burned and butchered beyond recognition. Many were missing body parts-arms, legs, and even heads. The elderly and the handicapped were not spared. In some cases, pregnant women had their bellies cut open and their fetuses pulled out and hacked or burned before the women were killed. Muslims in Gujarat have been denied equal protection under the law. Even as attacks continue, the Gujarat state administration has been engaged in a massive cover-up of the state's role in the massacres

and that of the sangh parivar. Eyewitnesses filed numerous police First Information Reports (FIRs), the initial reports of a crime recorded by the police, that named local VHP, BJP, and Bajrang Dal leaders as instigators or participants in the attacks. Few if any of these leaders have been arrested as the police, reportedly under instructions from the state, face continuous pressure not to arrest them or to reduce the severity of the charges filed. In many instances, the police have also refused to include in FIRs the names of perpetrators identified by the victims. Police have, however, filed false charges against Muslim youth arbitrarily detained during combing operations in Muslim neighborhoods that have been largely destroyed. The state government has entrusted a criminal probe into the deadliest of attacks in Ahmedabad, in the Naroda Patia and Gulmarg Society neighborhoods, to an officer handpicked by the VHP, the organization implicated in organizing and perpetrating these massacres.

On April 3, India's National Human Rights Commission (NHRC) released the preliminary findings of its report on the violence, a strong indictment of the failure of the Gujarat government to contain the violence. As the commission awaited a response from the state government before releasing a comprehensive report, its very authority to intervene in the matter was being challenged in the state's High Court based on the fact that a state-appointed judicial commission of inquiry was already in place. Following the trial of other commissions of inquiry appointed by the state in the wake of communal riots in 1969 and 1985-whose recommendations have yet to be implemented-the current state commission inspires little hope of justice. One lawyer noted, "The state government is involved and is a party to what happened. How can a party appoint a judge? We cannot expect him to give justice." India's National Commission for Minorities (NCM) and National Commission for Women (NCW) have also been severely critical of the Gujarat government's response to the violence and its aftermath.

Government figures indicate that more than 98,000 people are residing in over one hundred newly created relief camps throughout the state, an overwhelming majority of them Muslim. They hold little hope for justice and remain largely unprotected by the police and local authorities. One relief camp resident asked: "The same people who shot at us are now supposed to protect us? There is no faith in the police." A lack of faith has also kept many camp residents from approaching the police to file complaints. Fearing for their lives, or fearing arrest, many have also been unable to leave the camps to return to what is left of their homes. The state government has failed to provide adequate and timely humanitarian assistance to internally displaced persons in Gujarat. Problems documented in this report include serious delays in government assistance reaching relief camps, inadequate state provision of medical and food supplies and sanitation facilities, and lack of access and protection for nongovernmental (NGO) relief workers seeking to assist victims of violence. Muslims have also been denied equal access to relief assistance. Government authorities are also reported to be absent from many Muslim camps. In sharp contrast to the international and Indian community's response following a massive earthquake in the state in January 2001-when millions of dollars in aid from the international community and civil society poured into the state-the onus for providing food, medical support, and other supplies for victims of violence rests largely on local NGOs and Muslim voluntary groups.

The relief camps visited by Human Rights Watch were desperately lacking in government and international assistance. One camp with 6,000 residents was located on the site of a Muslim graveyard. Residents were literally sleeping in the open, between the graves. One resident remarked: "Usually the dead sleep here, now the living are sleeping here."

The disbursement of financial compensation and the process of rehabilitation for victims of the violence has been painstakingly slow and has failed to include all of those affected. In the wake of the massive earthquake in January 2001 that, according to government reports, claimed close to 14,000 lives and left over one million homeless, the state of Gujarat also faces economic devastation. The economic impact is felt acutely by both Hindu and Muslim survivors of the attacks whose homes and personal belongings have been destroyed, and whose businesses have been burnt to the ground. Others reside in neighborhoods where curfews have yet to be lifted, limiting their mobility. Thousands are also unable to leave the relief camps to go to work for fear of

further attacks. Many Muslims do not have jobs to which to return-their employers have hired Hindus in their place. An economic boycott against Muslims in certain parts of the state has helped to ensure their continued and long-term impoverishment. Acute food shortages resulting in starvation have been reported in areas of Ahmedabad where Muslim communities are forced into isolation, afraid to leave their enclaves to get more supplies.

On April 4, Indian Prime Minister Atal Behari Vajpeyi visited Gujarat and announced a federal relief package for riot victims. Vajpeyi, who earlier described the burning alive of men, women, and children, as a "blot on the country's face," stated that the Godhra attack was "condemnable" but what followed was "madness." His comments stood in deep contrast to those of the state's chief minister, Narendra Modi, formerly a Rashtriya Swayamsevak Sangh volunteer and propagandist, who at the height of the carnage declared that, "The five crore [fifty million] people of Gujarat have shown remarkable restraint under grave provocation," referring to the Godhra attacks.

On April 12, the BJP proposed early elections in Gujarat soon after rejecting Chief Minister Narendra Modi's offer to resign. Early elections in the aftermath of the attacks may favor the Hindu nationalist vote in the state-a primary objective of the sangh parivar nationwide and Narendra Modi's continued tenure as chief minister. As this report was going to press, national political parties were pressing to remove Modi, leading the BJP to set aside the early election option. The upper and lower houses of the Indian parliament were preparing for parliamentary debates on the violence in Gujarat while opposition parties were pushing for a vote to censure the national government.

This report is by no means a comprehensive account of the violence that began on February 27. Ahmedabad was only one of many cities affected. Reports from other areas indicate that the violence was statewide, affecting at least twenty-one cities and sixty-eight provinces. Information from these areas also suggest a consistent pattern in the methods used, undermining government assertions that these were "spontaneous" "communal riots." As one activist noted,