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Muzzle me not.

Still waiting for a free press

SHAMSUDDOZA SAJEN

IN March 1923, acting Governor General of India John Adam promulgated an ordinance requiring compulsory licensing for all newspapers and periodicals. Six eminent natives including Rammohan Roy and Rabindranath Tagore's grandfather Dwarkanath Tagore filed a petition in the Supreme Court to block this gag attempt. But the court rejected their appeal saying: "India is not an independent country, so the laws and rules consistent with an independent state cannot be applicable in India". 92 years on, colonial East Bengal is now independent People's Republic of Bangladesh, but the spectre of Adam's Gag law seems to still haunt the media scene of the country. Restrictive regulations and associated practices have been retained and used by successive governments for limiting press freedom which ultimately impinges on media's roles as public watchdog and the torchbearer of democracy.

At the dawn of independence, the country's press enjoyed considerable freedom. But the buoyant mood started to fade with growing state control over press. In 1975, all newspapers, except four owned and managed by the state, were banned. Unfortunately, the brief stint of the BAKSAL regime and the subsequent military rule for more than one and half decades diminished the growth of free press. During the Martial Law regimes, "word, either spoken or written or by signs of visible representation or otherwise criticism" against Martial Law were treated as extreme offences.

The wave of democratisation following the resignation of the military government in 1990 heralded a resurgence of press freedom. During the anti- Ershad

movement there had been continuous pressure from the mainstream political parties to reform laws and regulations to ensure press freedom. It was reflected in the Three-Alliance Framework, jointly declared by three major political alliances. Press activists and the civil society were also very active in their demand for such reviews. Immediately after the fall of Ershad, the interim government headed by Justice Shahabuddin Ahmed scrapped the controversial provision of the Printing Presses and Publication Act, 1973, popularly known as the "black law". Later, the succeeding elected government formed a Law Commission to review restrictive media regulations. But it got little freedom to make any substantial change.

Subsequent history does not present a very encouraging picture, as succeeding governments have been using various media regulations to limit the capacity of press to scrutinise government actions and thereby constraining the growth of a democratic institution like a free press.

Following is a list of media regulations in Bangladesh that need to be reviewed in order to create a free media environment in the country. Considering unique nature of online and new media, here we will limit our discussions to print and electronic media only.

Printing Presses and Publications Act 1973

After independence, the first AL government scrapped Ayub Khan's press ordinance and promulgated the Printing Presses and Publications (Declarations and Registration) Act, 1973. But the Act retained licensing system of the earlier law which required newspapers or periodicals compulsory registration, declaration and permission from the government. This Act tends to limit publication of newspapers and periodicals

because the licensing decisions are often made on political considerations as opposed to professional ability.

In 1991, the provision of shutting down newspapers was scrapped from the Act. But recently there has been an attempt from the government to restore it which would authorise district magistrates to cancel declarations of newspapers for publishing anti-state news or news hurting religious sentiments. We apprehend that if this "black law" is reinstated, it could be seriously misused to gag media as it was done during the military regimes.

Despite such negative attributes, the Act gives journalists some legal basis for their profession. But it needs two major reforms. Ambiguous terminologies in Section 20 A of the Act that gives power to declare certain publications forfeited and to issue search warrants for the same needs to be removed, and the provision of imprisonment and newspaper closure should be revoked.

On a different note, recently the government called for separate registration of print media's online editions. Newspaper Owners' Association of Bangladesh (NOAB) has termed this move "irrelevant" and "unjustified" as long as print media are following the Press and Publication Act 1973 and other related media regulations.

Special Powers Act (SPA) 1974

To prohibit prejudicial acts, the SPA makes it a punishable offence for journalists and media houses to publish any prejudicial report. And such "offences" are non-bailable. The ever-widening and fluid definition of "prejudicial acts" allows considerable scope for abuse. It can prohibit publication of any newspaper containing prejudicial reports, and impose pre-censorship on any publication. Even any true report that offends the ruling authorities might be subjected to

the SPA. This Act grants the State extraordinary broad powers of arrest and detention without trial.

In a report submitted to the UN Human Rights Council in 2013, the government stated that "[t]he provisions of Special Powers Act, 1974 relating to the control of media have been withdrawn to make the media free from any form of control". But frequent harassment of journalists by using this law belies the government's claim.

On March 17 of this year, Mizanur Rahman, the Boufal correspondent of Prothom Alo, was arrested and brutally tortured in detention by the police. According to Prothom Alo and other media outlets, Rahman was targeted in retaliation for his reports alleging corruption and abuse of power by local officials. Earlier he had also reported on the mindless comments allegedly made by AL lawmaker ASM Feroz at an event, a report that appeared to have irked the local authorities. In the report, the parliamentarian was quoted as saying, "If anyone wants to present men with any gift, then do not bring any crest. I want cash, only cash. Don't you understand taka? A huge amount is spent for the election." Now the burden of proof passes on the government.

Penal Code

The Penal Code 1860 prescribes punishment for offences that endanger national security and public peace. Journalists often face harassment by way of defamation charges under Sections 500, 501 and 502 of this Code. Considering that ruling party defines national security in light of perpetuating its control over state power, this regulation is often misused to protect their interests. Defamation cases are mostly politically motivated, and are used to impede investigation of corruption and irregularities.

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