



# Still waiting ...

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In a recent incident, a former minister sued a reporter and a host of Jamuna TV for defaming him. The report titled "Jalabayu Tahobil Nay Chhay" (Misappropriation of Climate Fund), aired in a segment of the channel's show "Investigation 360 Degree", stated that the minister spent Tk 35 crore only on 200 caged birds under the "Sheikh Russel Aviary and Eco-park" project in Rangunia upazila of Chittagong. Whether this may or may not have been true, but this sort of legal restriction restrains journalists from probing into graft allegations.

Defamation needs to be decriminalised to the extent that it applies to journalists in the spirit of allowing media to act as a public watchdog. In South Asia, Sri Lanka scrapped criminal defamation from its books in 2002, and now India is actively

keeping in mind the current global context or needs to be completely discarded.

## Official Secrets Act

This notorious Act has its origin in the English Official Secrets Act 1911. Though it is meant to mainly protect defence and economic interests of the country in practice, it is unmindfully applied to restrict any information unfavourable to the ruling power, non-withstanding whether the information has any impact on national security or economic relations. Journalists are particularly barred from accessing any government information by this loosely defined secrecy Act. The Act also needs to be reformed in the spirit of promoting free flow of information.

Article 39 of the Constitution calls for press freedom but at the same time it endorses "reasonable restrictions" which

prejudices the image of the State or person or hurts religious beliefs, they will be punished with a maximum 14 years and a minimum 7 years of imprisonment. It also stated that the crime is non-bailable. Eminent constitutional expert Dr Shahdeen Malik expressed his concern about this clause, saying that "Section 57 of the ICT law will take the country towards the Medieval Ages". Recently, Probir Sikdar, Editor of online news portal Uttoradhikar 71 News, was sued and arrested under Section 57 of the ICT Act for what police termed "libel" against Minister Khandkar Mosharraf Hossain. Later, he was released on bail, but the case is still going on.

It also seem ridiculous that according to the ICT Act one has to face two years of imprisonment for a report published in hard copy, while for the online version of

policy. But according to media activists the commission has nominal independence and the Information Ministry still holds the authority to revoke licenses of any broadcast outlet.

With the existence of these restrictive laws governing media, it is difficult to support any contention that the press is free in Bangladesh. The threat of penalties hanging over journalists in connection to their professional duties leads to self-censorship and the loss of information that is important for the society. However, the little amount of freedom guaranteed by media policies is further curbed by repeated and intense pressure from various administrative bodies. Such interferences include unofficial directives on news contents, barring journalists' access to news location, squeezing ad revenue and controlling circulation and subscription of newspapers.

Apart from that, journalists continue to be threatened and attacked by organised crime groups, party activists and Islamist groups. Perpetrators often escape punishment for crimes against journalists because investigations of such crimes generally proceed slowly, if at all. The gruesome murder of journalist couple Sagar-Runi is a stark example in this regard. The case still remains unresolved even after repeated assurances from the government in the last three years.

Unfortunately, very little has been done by governments to protect journalists and media of the country. In 1974, the Bangladesh Press Council was formed. But in the last 41 years, the Council has not taken any bold steps against governmental interference. All of its members are elected by the government, and the government also controls its funding. In 1993, it issued a Code of Conduct (later amended in 2002) for journalists of print media which does not guarantee adequate freedom. Moreover, the Council does not cover broadcast media. Seeing little prospect of freeing the Council from government influence, there have been proposals from media activists to constitute an independent press council in Bangladesh.

The emergence of effective democratic institutions is dependent on the development of an independent media system. Its democratic role of "monitor" and "public informer" is certainly hampered by restrictive media laws. That's why our media laws should strike a balance between the legitimate demands of the state and society on the one hand, and the needs of press freedom and critical public spheres on the other.

In 1971, when the Pakistani Junta apprehended their doom, they targeted intellectuals who had been active in the freedom struggle during this time. They tried to cripple the future of the newborn country by killing these free minds. Now after 44 years of independence, when we see a voice in media being muffled or a person being murdered for using his freedom of and right to speech, our conscience condemns us for our collective failure. But we still hope against hopelessness. We share our martyrs' dream of freedom from all sorts of repression. We are still waiting for a free press.

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## Source

1. Abul Mansur Ahmed, "Freedom of the Press and its Constraints: A Study of Press Regulations in Bangladesh, *Communication and Culture*, York University.



A free press means a free people because you can't deal with things you don't know about.

thinking about reviewing its defamation laws to ensure that journalists do not face criminal proceedings as a result of their work.

**Code of Criminal Procedure (CrPC)**  
Section 99 A of this 117 year old Code empowers the government to forfeit newspapers and to issue search warrants for seizing them. The vaguely defined provision regarding 'seditious matter' is a double-edged sword which is mostly misused by the government to thwart any criticism of authority. The penalty for breaking this law is a maximum jail-term of two years or a fine or both. Journalists are common victims of the CrPC. Even if a journalist accused of sedition is ultimately proven not guilty, the process of going through the charge itself is very arduous for any person. The process actually becomes the punishment.

The sedition provision needs to be either updated with clear definition,

empowers government officials to control government information. This phrase needs to be clarified with proper details and implications.

The passage of the Right to Information Act in 2009 has made disclosure of information to citizens compulsory for public offices. But implementation of the Act moves at a snail's pace. Journalists are still not enthusiastic about the RTI because collecting information through this process is time consuming. The long list of exceptions in the Act also discourages them.

## Information and Communication Technology (ICT) Act

In 2013, the government promulgated the ICT (amendment) ordinance, making amendments to the Information and Communication Technology (ICT) Act-2006. According to Section 57 of the ordinance, if any person deliberately publishes any material in electronic form that causes deterioration of law and order,

the same report, they would be sentenced with 7-14 years of rigorous imprisonment.

## Draft National Broadcasting Policy

The Ministry of Information still retains full control over broadcast media in the country. Overwhelming bureaucratic regulation has turned the national TV channel, BTV, into government's mouthpiece. In the absence of a comprehensive broadcast policy Private TV channels remain in fear of breaching the vague broadcasting regulations. Lately, a draft broadcast policy was approved in the cabinet in August 2014 without holding an all-round consultation with media professionals and concerned stakeholders. It contains a range of potentially restrictive provisions, including a prohibition on programmes deemed excessively critical of state priorities or those that threaten to national security and sovereignty. Establishment of an independent regulatory commission was proposed to oversee implementation of the broadcast