

Martyrs, conformists ...

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Within a short period the factions of the ruling class, during their tenures in office, through a number of executive orders, legislative decisions and administrative procedures, began to dismantle that lofty structure. In this process of dismantling the intellectuals and those who championed freedom of expression, organisation and assembly, including that of the press, became targets of a policy of suppression and co-optation.

Instead of appreciating the role that public intellectuals and a free press play in guaranteeing equality of treatment of all citizens, in the dispensation of justice, in ensuring dignity of all, and through these processes, in consolidating a democratic order and the rule of law, the ruling class began to limit and curtail even those rights that were affirmed in the Constitution. Instead of being hegemonic (that entailed the rulers to secure the consent of the ruled), during their respective tenures in office various factions of the ruling class, guided by their own petty agenda, gradually wrested their control of the state. In accomplishing that mission they had little hesitation in jettisoning the long cherished aspirations of the people, often by framing anti-people laws and by beefing up and taking recourse to the coercive apparatuses of the state.

This erosion set in even during the tenure of the first Awami League government. The change in the legal framework that controlled the media during the Pakistani period fell far short of expectation. The Printing Presses and Publications (Declarations and Registrations) Act, 1973 did little to amend the restrictive licensing system of the Pakistan period. The 1973 law stipulated that all newspapers and periodicals to duly register, secure declaration and permission from the authorities. In the absence of a clearly established transparent guideline such issuance of registration, declaration and permission is often guided by political and other considerations. Also the provisions of the Act that empower the government to declare certain publications forfeited and grant search warrants as well as those of imprisonment and closure of publications hang as Damocles' sword over the critical media. The recent move for separate registration of print media's online version has added a fresh item to the list of concern.

Perhaps the handiest tool of successive governments has been the Special Powers Act (SPA) enacted in 1974. Journalists and publishing houses are liable to be punished for the publication of a 'prejudicial' report. The 'ever-widening and fluid definition' of what constitutes 'prejudicial acts' has created ample scope for its abuse. Offences committed under the act are non-bailable and the Act gives a sweep of powers to arrest and detain without trial.

The Fourth Amendment to the Constitution, 1975, fundamentally altered the structure of the Bangladesh polity. It replaced parliamentary form of government with presidential form, multiparty system with a single-party rule, the powers of the legislature and the judiciary were curtailed and the Supreme Court was deprived of its jurisdiction over the protection and enforcement of fundamental rights (Banglapedia, 2015). No less important was the fact that all newspapers,

except four state-owned and managed, were banned. Along with intellectuals and other professionals, journalists were exhorted to join the newly created single party Bangladesh Krishak Sramik Awami League.

A number of provisions of the country's Penal Code, 1860, Code of Criminal Procedure, 1898 and the Official Secrets Act (OSA), 1913, inherited from the colonial times, have been used against political opposition and dissident intellectuals. Included among those are defamation, sedition and contempt of court. As against the global trend of restrictive interpretation and decriminalisation of defamation and contempt of court as offences, in Bangladesh these offences have become crude tools to silence critical voices. In the recent past there have been quite a few high profile cases involving editors and eminent members of the civil society being slapped with whopping number of cases on a single charge by the members of the ruling party and its affiliate organisations. Likewise, the vaguely worded offence of sedition, can be labeled against journalists and others to thwart any criticism of the authority. In the same vein the possible use of the OSA is a major stumbling block on free flow of information.

Filing of such politically motivated cases have serious repercussions on freedom of expression. In many instances, though the accused may eventually be found innocent of the charges of defamation and sedition labeled against him/her, the long process of detention, remand, bail and eventual release are time and resource consuming, taking immense toll on the physical and psychological well-being of the victim and his/her family. Thus the very intent of those who press charges may not necessarily be to seek redress, but to make their targets endure the hardships with the purported aim of restraining them.

The Digital Security Act, 2018 (2018) has been latest legislative weapon in the armoury of the state. Human rights activists and journalists have voiced their deep concern over several provisions of the DSA, labeled as the freedom of expression curtailing law. Sections 21, 25 and 28 stipulate severe punishments associated with the offenses mentioned. They include jail terms as long as 14 years and massive amount of fines. In contrast to the basic precepts of precision and clarity, the definitions of the offences under the law are vague. This has created scope for wide abuse.

Despite several ministerial commitments to rescind the infamous Section 57 of the Information and Communication Technology Act (ICT Act) in effect the proposed Act incorporates most of the controversial sections, albeit in different forms. Dozens of journalists have been sued under section 57 and hundreds of cases filed are pending, despite the law now standing quashed. Thus there is little reason to trust the commitments made by high-ups in the administration that DSA will not encroach on freedom of the media and expression.

In mid-October 2018 the Cabinet approved a new law to regulate broadcasting media and news portals with provisions for rigorous punishments like cancellation of license and jail terms of up to

seven years. Under the proposed Broadcast Act-2018, if anyone broadcasts false or confusing information in a discussion programme or anything against the spirit and principles of the Liberation War or against the state policy, he or she will face a maximum jail term of three years or a fine Tk 5 crore or both. Twenty four violations have been defined as crimes under the proposed law. The licence of a broadcasting media house and registration of an online media outlet would be cancelled for seven specific violations of the proposed law. The news portals also need to be registered with the commission.

Observers have noted that the law has been ostensibly framed to stifle the critical voices that may surface from time to time on television talk shows. In all likelihood the stringent punishment for providing on what may be perceived by those in the establishment as "false or confusing information" or for speaking "against the spirit and principles of the Liberation War" in all likelihood will severely undermine freedom of expression and quell dissenting views.

Thus one finds that soon after the attainment of their statehood the people of Bangladesh, particularly its active citizens, have been subjected to a wide array of freedom curtailing laws that are anathema to their cherished goals. Added to this has been informal 'press advises' and other not-so-subtle forms of media control by powerful offices, including that of the Chief Martial Law Administrator.

The above narrative illustrates how under successive governments, both civil and military, the democratic space, particularly that of freedom of expression, has shrunk. Needless to say such process had a debilitating effect on the country's intellectuals. A small band of conscientious and committed public intellectuals largely remain undaunted despite the odds they face. They remain resolute in upholding the banner of freedom of expression, association and assembly. Most are involved in civic moments of various sorts, championing academic freedom, promoting human rights, protecting national commons (ports, natural gas, mangrove forest, water bodies) and the like. They serve as beacons of hope for the young generation who desire, hope and work for systemic change.

In contrast most other intellectuals may find the environment daunting, thus opt to conform to it and sail with the wind. They refrain from questioning the system as it may be too risky a task. These intellectuals may not approve of what goes around in their professional arena (academia, courts or in the media establishments); but unlike the martyrs of 1971 they cannot muster the courage or the tenacity to confront the wrongdoings.

Along with throwing daunting challenges to the intellectuals, those in command of the state apparatus also create opportunities for the former to participate in what is essentially the latter's own ideological project of nation building. This creates a convenient opportunity to the intellectuals to enjoy various perks and privileges including securing high positions as vice chancellorship of universities, chair and membership of statutory commissions (the Public Service Commission, Information Commission, and the

University Grants Commission) and chair and directorship of financial and other institutions and corporations. For others, brazenly pushing the barrel of the establishment acts as pathway to secure awards, accolades and decorations; licences of newspapers and TV channels; plots of Rajuk land in this prohibitively-expensive-land-scarce city; and for the lucky few, tickets to contest parliamentary elections.

Being beneficiaries of the regime they find it incumbent to internalise and peddle the official storyline, sing the song of the establishment, and publicly defend all its actions, right or wrong. In the process they relinquish the role that the society assigns them, the purveyors of the knowledge and agents for change. All too often the gifted ones in their pursuit of power and privilege effectively abandon their sites of their vocation. This creates a situation in which instead of searching for the truth and providing objective analysis of current affairs journalists become apologists of the establishment, instead of upholding the principles of law and justice lawyers justify freedom curtailing orders and legislations, and instead of nurturing free thought and providing critical perspectives on social and political issues academics advocate and rationalise the official narrative.

It is no wonder that a series of assaults and grievous injury of university students demanding reform of the quota system in public service appointments and safe roads, and in one specific case, attack on students demonstrating peacefully by helmeted armed goons while the police looked the other way, do not elicit public condemnation of the Bangladeshi intellectuals, including the association of university teachers. Likewise framing of laws that effectively proscribe engaging in objective research in history and independent scholarship do not trigger any reaction of the association of historians or the august body such as the Asiatic Society. There is little to be surprised that in such state of affairs an offensive comment on the character of a female journalist triggers a raft of protests and condemnation of intellectuals, including of the Council of Editors, and consumes scores of hours of TV airtime, while the discovery of four corpses with bullet wounds of lesser mortals allegedly after being involuntarily disappeared, around the same time, hardly raise any concern among the intellectual elite of the country and secure even an hour of airtime.

The consequences for such a state of affairs are likely to be colossal. It leads to development of cynicism among the common people about these institutions. It also leads to situations in which the universities, sites of critical thinking lose their protected status; junior scholars miss out from the mentoring of their seniors. Judiciary, the site of justice, and the press, source of unbiased information, lose their moral authority, and thus the people's trust. All these create conditions that deprive the subsequent generations in their search for the truth, a balanced and rational perspective of national history and their role in this tryst. Surely time has come for the Bangladeshi intellectuals to retrieve the role of those martyred in 1971.

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