

## HUMAN RIGHTS DAY

# State, Intellectuals and Dwindling Civic Space

*The state of freedom of expression and academic freedom in Bangladesh*



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ECEMBER is a month of celebration. Early in this month in 1971, the final assault on the barbarous Pakistani army

was launched by the gallant freedom fighters. By mid-month, the triumphant fighters stomped the streets of the capital as the city-dwellers, breathing the fresh air of independence, welcomed them by unremittingly showering petals on the open jeeps that carried their brave sons and daughters.

The unadulterated festivity and mirth soon tapered off as the news of the killing of intellectuals began to emerge. Even in the throes of being routed, the retreating enemy and its local cohorts dealt a severe blow to the nation. They brutally killed a host of eminent intellectuals—doctors, engineers, professors, journalists, and the like.

Despite their differences in age, vocation and gender, the underpinning commonality of the martyred intellectuals was their free spirit. They were guided by their conscience and professed what they stood for. Theirs were unfettered souls that longed for freedom, not only for their own selves but for the people as a whole. They acted as the nation's beacon in those difficult but vibrant times of long democratic struggle and occupation. It is precisely because of this non-violent act of nurturing the aspiration of the nation that they had to pay the ultimate price. In their pursuit of chasing their dream for an egalitarian society that would ensure justice, democracy, fundamental freedoms and the rule of law, their eventual loyalty was to the people. As individuals, they might have had political preferences, but it was their conscience that guided them.

Unfortunately, almost 50 years after independence, the role of public intellectuals appears to have suffered a major reversal. Instead of being led by the reason of right or wrong, in most instances, intellectuals of the day are steered by partisan fidelity. It is not the principles that shape their actions—rather a blind trust in the party, its nebulous ideology, and the leader, as well as aspirations for posts, positions, perks and pecuniary gains often become their motivating factors. All these have resulted in the gradual erosion of the civil society in Bangladesh. It will not be incorrect to claim that by now, the civil society

has largely been split along party lines. Principles and ideology that underlined any robust civil society gradually gave way to conformism, self-seeking and kowtowing. All these have contributed to the emergence of an all-powerful state.

The civic institutions that played a formidable role in resisting the military dictatorship of the Pakistani period—such as the bar, journalists' unions and teachers' associations—have, by now, for all practical purposes, become appendages of the ruling establishment. Instead of mounting a challenge to the status quo, those have become bastions for defending state action, often rationalising patent onslaught on citizens' rights and entitlements.

The absence of effective people's resistance has enabled the state under successive regimes to frame laws and regulations curbing their

exacerbated as election, as a method to change government, was effectively weakened. This, in turn, has resulted in beefing up coercive apparatuses of the state. The securitisation process adversely impacted on the people as their fundamental rights, including those of freedom of expression, press and assembly as well as academic freedom, were substantially curtailed. All those are critical elements for the sustenance of a democratic polity.

The outbreak of Covid-19 has thrown further challenges to the enjoyment of human rights. This new reality has put inordinate pressure on the state institutions, particularly in the health sector. The government's management of the crisis triggered a range of responses from different quarters, including researchers, health professionals and academics. What's striking is the state's responses to such



rights. Included among those were the Special Powers Act, Printing Presses and Publications Act, sedition law, blasphemy law, defamation law and the like. The rise of the phenomena of violent extremism and terrorism has provided a fresh opportunity to the state to flex its muscles, further encroaching on people's rights. A plethora of laws legalising wiretapping and regulating internet, NGOs and the media, including the draconian Digital Security Act, were enacted.

Over time, the executive branch became disproportionately powerful, and the structures and institutions that helped uphold pluralism, rule of law, separation of power, transparency and accountability augmenting the democratic dispensation began to lose efficacy. The alienation of the ruling elite from the masses was further

observations, which led to further shrinking of rights to freedom of expression and academic freedom.

From the beginning of the pandemic, the government imposed restrictions on the free flow of news about the impact of Covid-19 and its handling of it. The purported aim of the effort was to shield state's weaknesses in managing the crisis, such as timely acquisition and distribution of personal protective equipment, setting up of testing centres, ensuring supply of testing equipment, giving priority to certain groups of people in testing and treatment and the like.

On March 25, the government issued a memo announcing the formation of a cell tasked to monitor if 30 private television channels spread misinformation and rumours. The following day, the remit of the

cell was expanded to monitor if such misinformation is propagated in the social media. Towards the end of May, the media and publicity wing of police headquarters informed that Bangladesh Telecommunication Regulatory Commission had announced the disbanding of 50 websites and launched an enquiry to check who are involved in the administering of 82 more social media accounts that spread rumours (Somoy TV, 01.02.2020).

In a bizarre development, an institutional investigation was launched against a researcher of Brac University for conducting unauthorised research along with a researcher of North South University on the likelihood of the spread of the virus that may affect 500,000 people in the absence of effective measures by the government. The researchers based their study on the model developed by a renowned epidemiologist of the prestigious Imperial College of London. Disseminating findings of a scientific study concerning a public health emergency surely falls within the ambit of academic freedom.

On May 13, in a circular issued by the authorities, the teachers of Khulna University of Engineering and Technology were asked to adhere to the said Order of the department of public administration. Likewise, on May 2, the doctors, teachers and nurses of Bangabandhu Sheikh Mujib Medical University were asked to refrain from engaging with the media without prior permission of the authorities.

For expressing their reaction to the death of a former minister, two university teachers were charged with defamation. Kazi Zahidur Rahman of Rajshahi University commented on the alleged corruption in the health sector during the tenure of the minister, albeit without naming him. Likewise, Sirajum Munira of Begum Rokeya University was also accused of insulting the deceased minister. Following an outcry of the ruling party, the university authorities filed a complaint with the police despite the fact that Munira had apologised and deleted the comments. Munira was put in custody for days, and unable to take the pressure, her father passed away, a day before she secured bail.

Intolerance of diversity of opinion also triggered violence on different groups. On November 4, 2019, students belonging to the student wing of the ruling party, Bangladesh Chhatra League (BCL), swooped on the students of Jahangirnagar University demanding an investigation into allegations of corruption against the Vice Chancellor. In another infamous case, now-suspected members of BCL brutally killed Abrar Fahad of BUET for

his alleged Facebook comments critical of a deal signed between Bangladesh and India.

A number of students, many in their teens, were detained for days and improperly treated in custody for their involvement in the quota reform movement (July 2018) and road safety movement (August 2018). On August 4, 2018, the police reportedly fired rubber bullets and tear gas on high school students demanding improved road safety. The students were exercising their constitutional right to express views on those issues. Faculty members expressing solidarity with the quota reform movement were not spared either.

On September 19, 2019, a student of Cox's Bazar International University was suspended after a video featuring Rahima Akter went viral, in which she revealed her Rohingya identity and expressed her desire to pursue education in human rights. The university authorities took the action after a campaign gained traction calling for Akter to be sent back to Myanmar. The action was in breach of fundamental human rights to education and academic freedom.

In another worrisome development in September 2020, a Dhaka University professor, Hasan Morshed Khan, faced trumped-up sedition charges, had his position terminated and was denied access to his residence on campus, all for publishing an opinion piece in a national daily.

The contempt for academic freedom was brazenly demonstrated when the launching of Professor Ali Riaz's book "Voting in a Hybrid Regime" at Heidelberg University, Germany was disrupted by Bangladeshi government loyalists on December 7, 2019. The representative of the Bangladesh mission present at the meeting noted that "some leaders and activists of Bangladesh Awami League came from Frankfurt and some other places... They might not have liked the discussion he wrote in his book."

The above narrative clearly demonstrates that the civic space allowing freedom of expression and academic freedom is under threat in Bangladesh. This deters critical thinking and intellectual debate. Restraints, censorship, sanction and retaliation by the state, other institutions and special interest groups are fast eroding the much-celebrated Muktijuddher Chetona (spirit of the war of liberation) which the martyred intellectuals stood for. It's time we, the citizens, stood in unison to protect our rights.

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## Intolerance and a repressive legal regime: A twin threat to freedom of expression

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**O**n October 6, Robiul Islam Khandokar, 35, a district correspondent of the national daily Sangbad in Rajbari, wrote a Facebook status appealing to the prime minister: "Honourable Prime Minister[,] an utterly deranged person is trying to cause unrest in the peaceful Rajbari." (My translation)

Robiul was apparently trying to alert the prime minister to the unlawful activities of someone in the district. He, however, forgot to place a comma after the title of the country's leader. Little did he know that this oversight would be construed as an attack on the prime minister herself. As soon as he was alerted to the typographical error, Robiul corrected his Facebook post. But it was too late. On October 9, a member of the student wing of the ruling Awami League filed a defamation case against Robiul under the draconian Digital Security Act (DSA), accusing him of "defaming the prime minister". He was arrested the next day. This Kafkaesque sequence of events has become depressingly familiar in Bangladesh where even the perception of a slight is enough to invite official retribution.

Like Robiul, hundreds of people—journalists, academics, activists—have been charged and detained under the Digital Security Act simply for exercising their right to freedom of expression online. Many of these cases have been filed by members of the ruling party, or people acting on their behalf. According to the government's own Cyber Crime Tribunal data, more than 800 cases were filed under the DSA between January and October in 2020. Nearly 1,000 people were charged. More than 350 people were

detained.

The DSA is not the only tool used to silence critical voices. It is often accompanied by others in an arsenal of repression that includes threats, harassment, intimidation, physical attacks and even enforced disappearances. According to Ain o Salish Kendra, a local human rights group, at least 219 journalists have been targeted this year by state agencies or individuals acting on behalf of the government.

On March 10, the editor of the daily Pokkhokal, Shafiqul Islam Kajol, was forcibly disappeared from the capital Dhaka, a day after a ruling party lawmaker filed a case against him under the DSA for his Facebook post. Kajol was later "found" by police under mysterious circumstances along the Bangladesh-India border—53 days after he was last seen in Dhaka—only to face an unlawful detention since then. In April, the acting editor of jagone24.com, Mohiuddin Sarker, and editor-in-chief of bdnews24.com, Toufique Imrose Khalidi, were charged under the DSA for publishing reports on alleged embezzlement of relief materials meant for poor people affected by the Covid-19 lockdown. In May, a news editor of daily Grameen Darpan, Ramzan Ali Pramanik, staff reporter Shanta Banik, and publisher and editor of the online news portal Narsingdi Pratidin, Khandaker Shahin, were arrested for reporting on a custodial death at the Ghorashal police station. In June, the editor of the Bangla national newspaper Inqilab, AMM Bahauddin, was charged for publishing a story about an advisor to the prime minister.

Even children have not been spared. On June 19, a 14-year-old boy from Mymensingh district, who is in his

ninth grade at school, criticised the government's decision of increasing Value Added Tax on mobile phone calls alleging that the extra revenue earned would fill the prime minister's coffers. The next day, he was detained under a DSA charge by police for "defaming the prime minister" in his Facebook post.

Bangladesh's academy was once regarded as a relatively safe space for airing of critical views. But this year, several academics have also been targeted and prosecuted for exercising their right to freedom of expression. In June, two professors at Rajshahi University and Begum Rokeya University were sacked for their Facebook posts about a deceased ruling party MP. In September, the Dhaka University authorities terminated BNP-linked professor Hasan Morshed Khan for publishing an opinion piece in a national newspaper allegedly distorting history. In the same month, the National University authorities suspended AKM Wahiduzzaman, an assistant professor, for posting on Facebook "offensive" and "indecent" remarks about the prime minister.

The DSA is a successor to the Information and Communication Technology (ICT) Act, widely criticised by human rights groups for its draconian Section 57, which was abused to file more than 1,271 charges between 2013 and 2018. But instead of remedying the repressive elements of the ICT Act, the DSA is arguably more abusive in character. The law was passed in 2018 in the face of strong opposition from journalists, civil society organisations, and human rights defenders. At the time, there were serious warnings of how an already restricted space for dissent online could be further squeezed to

the point of near-suffocation. These warnings seem prescient now.

Some sections of the law that raised serious concerns were too vague and too broad to be able to define a crime, and also provided for disproportionately harsh punishments. For instance, Section 17 of the DSA can punish anyone for 10 years' imprisonment for "making any kind of propaganda or campaign against liberation war, spirit of liberation war, father of the nation, national anthem or national flag." The actions that would specifically constitute a violation under this provision were not at all defined. Besides, the terms are dangerously vague and overly broad, and the suggested punishments are not only disproportionate, but they also punish acts that shouldn't be considered a crime in the first place.

Provisions such as this create a situation where any political position deemed to be contrary to the regime narrative could land an individual in prison for 10 years. Similarly, Sections 25(b) (publications "damaging the image or reputation of the country"), 28 (publications "hurting religious values and sentiments"), 29 ("publications of defamatory information"), 31 ("publications deteriorating law and order"), and 32 ("breaching the secrecy of the government")—all criminalise legitimate forms of expression and suffer from the same vague and broad definitional issues, giving law enforcement authorities too much leverage to determine what act(s) would constitute a crime.

What the country has now is a legal regime under which the government's intolerance for criticism means that anyone even publishing the faintest whispers of dissent can be severely

punished. Instead of a system where people can express themselves to promote the accountability of those in power, the reverse applies. A climate of fear now pervades society, with people filled with a sense of foreboding for what may happen if they dare to speak out, or even forget to place a comma correctly.

The right to freedom of expression is essential to all societies, and crucial to advance human rights. It is how people can claim their other human rights, speaking up for their rights and that of others—whether that's education, food, or healthcare. It is also the right on the basis of which societies thrive, testing old ideas and generating new ones. Without the right to freedom of expression, which is protected in Bangladesh's constitution and in its international commitments under the International Covenant on Civil and Political Rights, Bangladesh stands to lose in a global knowledge-based economy.

We must remember that when people fear to express themselves freely, when journalists are afraid to write or report on what they see, without fear of reprisals, it only corrodes and undermines the accountability and transparency pillars of the state. Such an outcome may prove ultimately self-defeating for any government that wants to serve the public good. Only an open, deliberative, and discursive political culture resting on the respect of the right to freedom of expression can arrest such a drift. As the noted American Justice Louis Brandeis once said, "Sunshine is the best disinfectant."

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