

## **Media, Politics and the Emergence of Democracy in Bangladesh**

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### **ABSTRACT**

The focus of this paper is on the nature and operation of laws and regulations in Bangladesh that have been used to limit press freedom from 1972 through 2003. The majority of the regulations have their origins during British colonial period 1857-1947. Through a legal and political analysis of the evolution and use of these laws and regulations by successive governments in Bangladesh, the study provides an important perspective on the struggle for democracy in that country.

It is evident from the findings that political institutions in Bangladesh are fragile in absence of democratic political culture. The research reveals that the government is aware of the shortcomings in the regulations and laws relating to the press, but is not willing to offer genuine and comprehensive reforms.

### **KEYWORDS**

Colonial; Press Freedom; Laws and Regulations; Democracy; Political Culture; Reform.

### **Introduction**

South Asian countries have had a variable democratic history since their emergence from British colonial rule in the late 1940s. The region's political diversity is exemplified by monarchical rule in Nepal, long-running instability in Sri Lanka, alternating military and civilian regimes in Bangladesh and Pakistan, and India's established democratic system (Haynes, 2001: 107). The wave of democratization that swept across South Asia in the late 1980s and early 1990s heralded a resurgence of the

debate on press freedom. As Bangladesh started its democratization process through the transition from military rule to civilian rule in late 1990s, the fundamental relationship between freedom of the press and emerging democracy was recognized and integrated in the debates about the extent that an independent press depends upon democratic institutions. Because the press can pursue democratic goals and objectives only in the ways that are permitted by the environment in which they operate, Davis (1991) asserts that 'restrictions on the press which hamper the press's functioning are believed also to hamper the functioning of the democratic system itself' (p.118).

This paper provides an analysis of the nature and operation of press regulations and how regulations have been used to limit press freedom in Bangladesh from 1972 through 2003. The majority of the regulations used to limit press freedom in Bangladesh have their origins during the colonial period from 1857-1947. During the process of decolonization, the major governing instruments were retained and are still available to the Bangladesh government for control of the press. Fletcher (1971) contends that 'the colonial experience remains the major influence on post-colonial bureaucracies long after independence. A number of aspects of the colonial heritage have created difficulties for administrative reforms aimed at enhancing capacity for development administration' (p.81). Bangladesh still maintains the continuity of colonial heritage in its post-independence administrative and political systems, where reforms are have been slight.

This paper is historical and archival in nature and seeks to investigate how these regulations and associated practices limit media freedom and impinge on the media's roles in advancing the interests of democracy. In this regard, this paper examines only

key regulations and their relationship to democracy and structures of power in Bangladesh.

### **Rationale of the Study**

Much has been said about press freedom, media policy and regulations in Bangladesh; regional writers, however, have written little, on the subject. There are a number of constraints inhibiting freedom of the press in Bangladesh; the particular focus of this paper is on press regulations. The debate on press regulations and their effects on press freedom became central following the resignation of the military government in December 1990. Press practitioners called for a review of all legal obstacles to freedom of the press. Progress on the debate became apparent when the Interim government, in power for only for three months to run the National Parliamentary elections, accepted some changes to the press regulations. Later, the elected government formed a Law Commission, but in the end, little was done to enhance press freedom. The chilling reality is that the successive governments still use the colonial laws and regulations to control the press.

By investigating the press regulations, this study contributes original research on press regulations, press freedom and its constraints, and the emergence of democracy. The study aims at providing an account of these issues with a focus on the relevant press regulations from a political communication rather than a legal perspective and to propose approaches to reform that may be feasible in the political context in Bangladesh.

### **Research Problem**

Historically, successive governments have attempted to maintain some sort of control over the press. Despite pressures for reform, they have kept various regulations in

order to perpetuate their vested political interests. This research project investigates the following key regulations:

**Table 1: Press Laws & Regulations in Bangladesh since 1972**

Period	Traits	Nature of Press Laws and Regulations
1972-2003	1. The successive ruling parties made election pledges or joint political commitments to repeal or amend the regulations that infringe on press freedom. But they did not do that. Rather they consolidated their authoritarian rule over the press, keeping the colonial and post-independence press laws and regulations.	I. Official Secrets Act 1923 II. Printing Presses and Publications Act 1973 III. Special Powers Act 1974 IV. The Newspapers (Annulment of Declaration) Ordinance 1975 V. The Code of Criminal Procedure 1898 VI. The Penal Code 1860 VII. Press Council Act 1974 VIII. Bangladesh Government Servants (Conduct) Rules 1979 IX. Oath of Secrecy & Article 39 in Bangladesh Constitution X. Emergency Powers Ordinance 1974 XI. Law of Defamation XII. Advertisement Distribution Policy 1976 & 1987 XIII. Martial Law Ordinance, Orders and Regulations, September 26, 1975 -1990

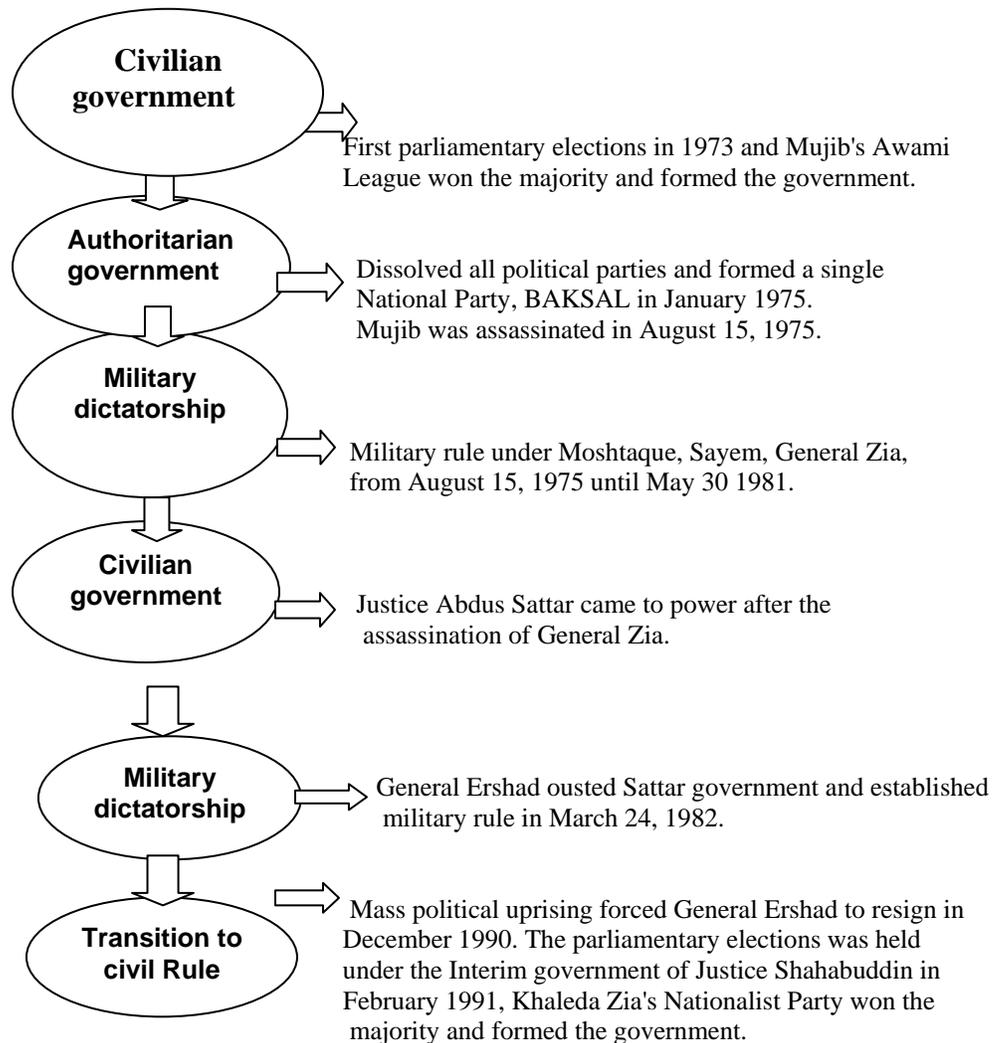
### **The Growth of Public Sphere**

The independence movement, under Gandhi, Nehru and Jinnah, in Indian Sub-continent created an active public sphere within the colonial structure. This active public sphere expanded and flourished in India with the leadership of Nehru. In the case of Pakistan, Muhammad Ali Jinnah continued to support an active public sphere, but his death in 1948, one year after the independence, slowed down its growth. Leadership

crises, strong authoritarianism and military dictatorship suppressed the public sphere. Freedom of the press was among the victims.

Since the independence of Bangladesh in 1971, the public sphere developed slowly in this war-torn country under the leadership of Sheikh Mujibur Rahman. Mujib's authoritarian single-party rule from January 1975, his assassination in August 1975 and then military rule diminished the growth of public sphere until the fall of military dictatorship in 1990. It is worthwhile to note that there are some signs that pressure for an effective public sphere keeps cropping up in Bangladesh following the democratic transition in 1991. The mainstream political parties made their joint declaration in 1990 and election pledges to reform press laws and regulations to ensure freedom of the press. It has been a growing realization among civil society and external pressure groups, such as donor agencies, that the existence of a strong civil society could make the public sphere more effective. Media practitioners claim that the civil society and donor agencies played an important role in pressurizing the government to form the Law Commission to examine the existing laws and regulations.

**Table 2: Governments - A Dichotomy of authoritarian civil government and military autocracy**



### **Principal Research Question**

The principal research question examined in this study relate to the use of press regulations as a governing instrument for successive governments in Bangladesh and the prospects for reform. The regulations permit government to limit the capacity of the press to scrutinize government actions, thereby constraining the growth of democratic institutions and, in particular, the development of a democratic political culture, deemed

by many to be essential for the protection of civil liberties and the rule of law (Overholser and Jamieson, 2005; Meyer 2002). The research question that guides this study is:

*To what extent have press regulations, split partisan press, and political culture constrained the emergence of effective democratic institutions in Bangladesh?*

### **Theoretical Underpinning of the Study**

One of the theoretical perspectives that guide this study is neo-institutionalism (Scalapino *et al* 1986; Peters 1999; DiMaggio & Powell 1991); neo-institutionalism is the analysis of governing instruments in the context of political power relations. It reflects the theoretical perspective that the emergence of effective democratic institutions is dependent upon the emergence of an independent media system.

This study also applies the theory of public sphere (Habermas 1991; Dahlgren and Sparks 1991; Dahlgren 1995; Calhoun 1993; Edwards 2004 and Robbins 1993) to analyze the growth of public sphere in colonial structures as well as post-independence perspective. The study also looks at ‘public deliberation on the common good and autonomous public sphere’ (Bohman and Rehg 1997), ‘the public sphere as rational critical discourse’ (Calhoun 1993) and ‘Habermas’s communicative rationality toward mutual understanding and rational consensus’ (Braaten 1991).

This study takes a *political approach* to the study of press regulations in Bangladesh. The political approach comes from the liberal concepts of democracy (Lichtenberg 1990; Keane 1991; Curran 1991; Gleason 1990; Held 1996) where the media play a watchdog role to make the government accountable to the citizens. This political approach takes into account political issues related to press freedom, such as the modes of rule and citizenship. It views press-government relations in terms of the

distribution of power.

In the American perspective, for example, the media are a “*Fourth Estate*” playing an adversarial role against government and serving as public watchdogs. So, this study applies the theories of press in emerging democracies in the non-Western countries. This study reveals how the Western liberal models and theories about press have been accepted as an ideal in many non-Western countries (Austin 1995; Handelman 2004; Park, Kim and Sohn 2000; Hackett and Zhao 1997; Haynes 2001). That few people have applied these theories to the South Asian context, particularly in Bangladesh. As Bangladesh continues on the path towards democracy, the fundamental argument is that an independent press is an essential component for democratic development. It has been realized that the growth of an independent press system relies on the development of effective democratic institutions. Picard (1985), McQuail (1992, 2000), Street (2001), and their contemporaries, which focus on the role, responsibilities and relationship between of the press and emerging democracy in a non-Western context.

This study also emphasizes that both libertarian and social responsibility rationales are very important for current liberal ideas, which are benchmarks for press freedom debates. The normative theories hence provide a useful theoretical point of discussion of press roles and legal constraints (Siebert *et al* 1956; McQuail 1994; Humphreys 1996). Therefore, this study illustrates how the press regulations affect the libertarian stress on the press role in establishing truth and checking the government and the social responsibility rational for informed public debate. This also incorporates the concept of ‘political parallelism’ (Hallin & Mancini 2004) to understand the party leaning of the journalists or the news media outlets and how these affiliations hinder press

freedom. This concept argues that journalistic professionalism and political parallelism cannot coexist.

Following the above theoretical discussion, this paper strongly supports the argument that an independent press is a prerequisite for the development of democratic institutions. The political approach to this subject requires the analyst to examine not only the ideal of press freedom, but also the practice in the political context during this period in the history of Bangladesh.

### **Research Methods**

In this study qualitative interviews are conducted with elite individuals representing different elements in the press-government relationship to gain expert insight into the phenomenon of press freedom, regulation and policy. Elite individuals are those considered to be influential, prominent, and/or well-informed people in an organization or community (Dexter 1970; Marshall & Rossman 1999).

This study is based on document analysis in broader perspective. It applies archival research using both primary and secondary sources, in order to examine documents such as some ordinances, executive orders, acts, specific amendments or enactments, press or legal reviews concerning press regulations and so on. Textual analysis is applied to written source materials, which are regarded as objects of analysis. The content of the text must be conceived as a meaningful whole and that analysis involves an act of interpretation. In this regard, the technique involves hermeneutical interpretation in analyzing legal documents, which does not need prior knowledge of the subject. Kvale (1996) states that hermeneutics is the study of the interpretation of texts (p.46).

## **Media Organizations**

The Bangladesh Federal Union of Journalists (BFUJ) and Dhaka Union of Journalists (DUJ) have been looking at the working relations of practicing journalists and their employers. The primary objective of these bodies is to improve the working conditions of journalists and to fight for the removal of barriers in the execution of their duties. These barriers include the laws that relate to the gathering and dissemination of information in and around Bangladesh. The Press Institute of Bangladesh, popularly known as PIB, is an institute set up by the government to provide training to working journalists developing professionalism. The National Institute of Mass Communication (NIMCO) is another institute set up by the government for training journalists, but it concentrates on television and radio (Ahmed, 1999: 15). The Bangladesh Centre for Development Journalism and Communication (BCDJC) is a non-government organization, which works with media research and journalism training. Mass-line Media Centre (MMC) is another non-government organization that works on the issues of human rights, good governance and local press in the coastal districts. These organizations provide civil society support for the development of a free and independent press.

## **Discussion of the Findings**

This study has shown that, the majority of the laws and regulations that pertain to the media tend to inhibit press freedom in Bangladesh. Most of the acts and regulations discussed in this study are not compatible with the changed environment in Bangladesh. The research points to a number of factors that affect the relationship between the media and democracy and form the contest of on-going debates on the role of the media in the

democratization process.

The study found that most of the informed sources interviewed believe in the importance of freedom of the press for the promotion of democracy. They assert that a free and vigorous press is an important part of the process of democratization in Bangladesh. They also argue that the media should be an agency of representation, by enabling various social groups to express alternative viewpoints. But the media encounter several problems in their attempt to fulfill the democratic goals. Many perceive that restrictive media legislation that affects media attempts to gather and disseminate information inhibits democratization.

The study demonstrates the use of press regulations as a governing instrument for successive governments in Bangladesh and assesses the prospects for reform. The existing laws and regulations permit government to limit the capacity of the press to scrutinize government actions, thereby constraining the growth of democratic institutions. Most respondents agreed that the development of a democratic political culture is essential for the protection of civil liberties and the rule of law. In fact, most of the provisions of the Acts cited above are violations of the Universal Declaration of Human Rights and arguably violate the Constitution of Bangladesh. It is clear that some provisions of these Acts are incompatible with democratic values and those provisions in various degrees impinge upon press freedom.

The study also demonstrates that the oath of secrecy in the Bangladesh Constitution prevents ministers from providing or disclosing any public information, document or information to the press. Legal experts and media scholars are very critical of the constitutional provision concerning the freedom of the press. They feel that the

'reasonable restrictions' are conditional in terms of press freedom and they require more clarification. As a result, the Constitution does not provide effective protection for press freedom. Most of the respondents agree that the acts and regulations restrict the amount of information on government that circulates amongst the citizens. The media cannot fulfill their role in democracy because of the obstacles the legislations present. The normative position of this study is that freedom of the press is an indispensable element in the operation of a liberal representative democratic government. Press freedom is valued in democracy because of the inherent value it has in safeguarding democracy. Bentham and Mill's ideas laid the foundation for modern democracy. They expounded the theory of liberal democracy based on a political system that would ensure accountability of the governors to the governed. Locke's writings also point to issues central to modern democracy--the issues such as rights of individuals, majority rule, a division of powers within the State, and a representative system of parliamentary government (Locke 1986). Mill argued that central power could be watched and controlled through a mechanism provided for in a representative system. The mechanism included freedom of speech, freedom of the press and freedom of assembly. In his view, a system of representative democracy is essential for the protection and enhancement of both liberty and reason (Mill 1986; Ndlela, 1997). The system ensures that the government is accountable to the citizenry. Through the analysis, it has been discovered that media laws in Bangladesh is incompatible with democracy. The legislative regime puts undue restrictions on the gathering, processing, storage and dissemination of information. This media laws should strike a balance between the legitimate demands of the state and society on one hand and, on the other, the needs of press freedom and critical public spheres.

The study shows that the press regulations, a partisan press and the political culture have constrained the emergence of effective democratic institutions in Bangladesh. All governments, military and civilian, have applied press laws and regulations to curb the freedom of the press as well as to consolidate their own power. The politicization of the press and the hostile political culture are reflected in the political use of press regulations. As Hallin and Mancini (2004) argue, political instrumentalization is control of the media by outside actors-parties, politicians, social groups or movements, or economic actors seeking political influence. Once the media organizations are instrumentalized, professionalization will be low. Journalists will lack autonomy. The bottom line is that the professionalism is threatened by political instrumentalization (p.37).

Most of respondents agree that an effective process of party building and institutionalization of the polity has not emerged. They also say that the institutions are not functioning properly as the democratic practice has been disrupted due to the existing intolerant political culture. They point out that the criminalization of politics has rooted deeply, and leaders who are influential in the mainstream political parties are involved with this criminalization. This criminalization denotes political bribery, political violence, inciting hatred against a rival party, sponsoring thugs, and so forth. Those political leaders want to control the press and the free flow of information to perpetuate their power. The development of a democratic press is also inhibited by the division of journalists into two hostile groups. Each journalist union is connected with one of the two primary political parties in the country. For instance, the Dhaka Union of Journalists (DUJ) has two groups, one is called pro-Awami League and another one is called pro-

Bangladesh Nationalist Party. The Bangladesh Federal Union of Journalists (BFUJ) has the same groups too. These groups are hostile to one another and rarely cooperate. This split has weakened the capacity of the unions to advocate effectively for journalistic professionalism and constitutional and legal protection for journalists.

The lack of professionalism among journalists has impaired the newspapers' viability. The newspapers incurred numerous defamation charges, some of which were settled out-of-court, primarily because of failure by its editors and journalists to crosscheck their stories. The willful and indiscriminate publication of news may hinder the growth of democracy. So, it is the responsibility of the journalists, editors, and reporters to maintain a very high standard to be very broad and liberal in their outlook. The question of professionalism can be redressed by improving the training of journalists in the country and by conducting training workshops to cater for those already in the profession. The majority of journalists interviewed had very sketchy knowledge of media laws or regulations. Attempts to intimidate journalists include not only prosecution and physical threats, but also defamation suits. A higher level of professionalism and effective Press Council could be expected to reduce the frequency of such suits.

### **Conclusion**

Post-independence regimes at each stage of the political evolution of Bangladesh, kept most of the press regulations, including British colonial legislations for controlling the press, to serve their vested interests. The historical review presented here strongly supports my argument that an independent press is a prerequisite for the development of democratic institutions. However, it is arguable that an independent press is difficult to achieve in an atmosphere of strong ideological disagreement.

This study has made an attempt to examine the intolerant political culture and partisan role of the press to understand the press-government relationship in Bangladesh. Specifically, an attempt has been made to assess the successes and failures of the governments, in terms of political pledges to reform, repeal or amend the regulations that limit the freedom of the press, including journalists' access to government information. The objective has been to promote reform in existing press regulations and emphasis has also been placed on the political commitment and consensus among political actors to get the reform process done. It was argued that an independent press depended on the emergence of effective democratic institutions.

It is evident from the findings that political institutions in Bangladesh are fragile in the absence of democratic political culture. Respondents showed considerable skepticism about significant changes without having political consensus. The lack of any consensual model of democracy and the political intolerance reinforce this fragility. Freedom of the press is being affected by the presence of hostile politics, press regulations and laws. Since partisan conflict is intense, so it is difficult to create an effective public sphere by partisan press. Therefore, freedom of the press and democracy both need a supportive and tolerant political culture in Bangladesh. The study also shows that the government is aware of the shortcomings in the regulations and laws relating to the press, but is not willing to offer genuine and comprehensive reforms.

This case leads me to accept the liberal notion political approach in combination with new-institutionalism and the liberal model of a free press, which is particularly applicable to the study of colonial and post-colonial press regulations. This case study asserts that liberal democracy would be the most practical choice for Bangladesh at this

time. Because Bangladesh has gone some way to establishing the rule of law, it is possible to work under liberal democracy to get rid of military dictatorship and political chaos. This study stresses the necessity of consensus around political game to put the tenets of liberal democracy on track.

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