FREEDOM OF THE PRESS IN BANGLADESH

1Tahsin Khan & 2Sabah Eqbal Kaarisma
1Lecturer, Department of Law & Justice, Southeast University, Dhaka.
2Law Student at Southeast University, Dhaka.
Email: 1tkhan_06@yahoo.com, 2saba.karishma@gmail.com

Abstract

This article examines the freedom of the press in Bangladesh. This article at first provides a bird’s-eye view of the brief history of the medial laws and regulations. Then it highlights the constitutional provisions relating to freedom of the press and the Printing Presses and Publications Act, 1973 which provides for the operation of printing presses. Also it points out the application of the said Act as well as the mechanism for enforcing it. The article further looks into the interaction among press, government and others. Finally it strives to lay down some guidelines for enhancing the freedom of the press in Bangladesh.

Keywords: Freedom of the Press, Fundamental Rights, Trade Licence, Printing Press.

1. Introduction

George Sutherland, an English-born U.S. jurist and political figure once quoted -

“A free press stands as one of the great interpreters between the government and the people. To allow it to be fettered is to fetter ourselves.”

The most important constituent of democracy is the existence of free and fearless press. In a democracy, the press must enjoy complete freedom and not be barred to any restriction. The voice of the press is the voice of the people. Censoring the press means the suppression of people’s voice. Therefore, the very survival of democracy inevitably depends upon the freedom of the press. Nevertheless, at the same time, the press must not fail to follow its code of conduct and abuse the freedom.

The press plays a very positive and constructive role in a democracy only if they try to stay positive in their activities. It is the medium, which keeps the citizens informed of the national and international activities. It is the press, which brings programs, policies and activities of the government to the notice of the people. Similarly, it keeps the Government aware of the people’s problems, difficulties, hopes and aspirations. Thus, the press plays a dual role. It serves as a bridge between the Government on one hand and the people on the other.

A free press is the symbol of free people. Nowadays it is difficult for the press to be free. Either some financial magnates control a newspaper entirely and have to voice their views or it is the mouthpiece of a party, and it must think as the party might direct; or it is under the thumb of the government and in such case, its usefulness is condense and independence compromised. The freedom of press at every point is hampered and is dominated.

In America, the great newspapers are in the hands of powerful financial syndicates; in England, they are in the hands of capitalists; in Russia, the government mostly controls them. However, freedom of the press in each case
depends on the way it reflects the will, the purpose of the people as a whole, in preference to that of any class or community or individual.

2. History of Printing Press in Bangladesh

It has been difficult to trace back the existence of the first printing press in the territory of Bangladesh. However, it can only be speculated that the first printing press in the territory of Bangladesh was in Rangpur during 1847, which is about 335 km away from Dhaka. The first printed piece from this printing press was a weekly newspaper named *Rangapur Bartabaha* in August 1847. In addition, the first two Bengali weekly newspapers were from Rangpur. Printing machine took more than sixty years to reach East Bengal or Dhaka from Kolkata. The first English weekly newspaper, *The Dacca News* was printed and published from Dhaka in 1856. Therefore, it is assumed that after nine years of Rangpur press, the first printing machine of Dhaka was established and the press was named 'Dacca Press'.

In the beginning, the Dacca News was a one-page edition costing two annas per copy. It was initially a weekly paper coming out only on every Saturday. Later, with the 13th version, the pages were increased to four and it also had a 'supplement' paper but then the current market price became a cause of concern. When the second volume was published, the pages were increased to eight. There were five owners of Dacca Press who were also the owners of the newspaper; they were A.M Cameron, N.P Pogose, J.A Greg, J.P Wise, and K. A. Gani. It was a turbulent period when the riot between English indigo planters and Bengali peasants was at its peak. Most of the owners were zamindars and they published newspapers to secure their own interests. Alexander Forbes, the editor of *The Dacca News* wrote in one of the edition of *The Dacca News* about their struggle in setting up the press and planning about the members and how their press worked. Sreenath Dutta, a Bengali, was the printer of the newspaper until the 13th edition. Probably, Forbes had trained him. It was during the time, that the printing press faced severe adversity, though Dhaka had been once the capital of Bengal and one of the major cities of the East Bengal at that time.

Muntasir Mamun, a Bangladeshi writer and historian in his book *Unish Shatak Dhakar Mudran o Prakashana* has mentioned about 'The First Report of the East Bengal Missionary Society.' It was in octavo form containing forty pages. 'Dacca: Printed at the Kattra Press, 1849' was written on its title page. It suggested that printing press existed in Dhaka before 1856. Thus, it can be said that the printing press first starts working in the year of 1848-49 in Kattra. Therefore, this report published in 1849 by Baptist Missionaries is the first printed piece. Two more Bengali books named Prahelika and Prarthana Anukram were from Kattra. The Kattra Press survived around four years. It is not known whether more were printed except the report and two books from there. When Dacca News stopped printing, another English newspaper 'The Bengal Times' was published from Dacca press and existed until the twentieth century.

Later, in 1957, two more machines were brought to Dhaka but that did not make much impact on the slack business of printing and publishing. In 1960, *Bangala Jantra* was established, which a watershed was in the printing history of Dhaka. Since its proprietor was a Bengali, Bangla books and newspapers were being published at a frequent rate. Following this, more machines were brought to Dhaka. The Printing Press became an important tool of exchanging thoughts or opinions. The Brahmo Movement in Bengal played a vital role in the printing history. The Brahmos published *Dacca Prakash* while the orthodox Hindus published *Hindu Hitaishini* from Sulov Jantra in response to the former paper.

In 1862, another machine named 'Nutan Jantra' was brought to Dhaka but the name of the owner is still unknown. The monthly *Abakash Ranjika* and *Chittaranjika* in 1862, were printed by this machine and very few facts are known.
about the expenses incurred due to printing and publishing of a single piece from Dacca. In 1863, an account of the expenses was found in an advertisement in *Dacca Prakash*. The advertisement stated the price of per form of Bengali printing was six taka and per forme of English was five taka. In the beginning, the compositors got comparatively higher salary than the editors did because skilled compositors were hard to find. For example, the head compositor of *Dacca Prakash* received more salary than the editor - the poet Krishna Chandra Mazumdar. From the twentieth century, the salary of a compositor started declining because of the competitive and expansive printing market.

3. **Brief history of the Media Laws and Regulations**

Mass media in the sub-continent have a long history and are deeply rooted in the country’s colonial experience under British rule. The earliest regulatory measures can be traced back to 1799 when Lord Wellesley promulgated the Press Regulations, which had the effect of imposing pre-censorship on an infant newspaper publishing industry. The onset of 1835 saw the promulgation of the Press Act, which undid most of the repressive features of earlier legislations on the subject.

Thereafter on June 18, 1857, the government passed the *Gagging Act* which among various other things, introduced compulsory licensing for the owning or running of printing presses; empowered the government to prohibit the publication or circulation of any newspaper, book or other printed material and banned the publication or dissemination of statements or news stories which had a tendency to cause a furor against the government, thereby weakening its authority.

Then followed the *Press and Registration of Books Act* in 1867 and which continues to remain in force until date. Governor General Lord Lytton promulgated the Vermicular Press Act of 1878 allowing the government to clamp down on the publication of writings deemed seditious and to impose punitive sanctions on printers and publishers who failed to fall in line. In 1908, Lord Minto promulgated the Newspaper (Incitement to Offences) Court, 1908, which authorized local authorities to take action against the editor of any newspaper that published matter, deemed to constitute an incitement to rebellion.

However, the media laws in Bangladesh are more or less similar to that of India. The media of Bangladesh got their freedom from the Supreme law of the land, namely, the Constitution of Bangladesh. Article 39 of the Bangladesh Constitution, which deals with freedom of thought, conscience and of speech. Prior to independence, Bangladeshi media history began under the authority of external governments. In 1931, the India Press (Emergency Power) Act was passed giving the local Government authority to forfeit the press. Another landmark measure took effect in 1965 under the Pakistani Government, the Defiance of Pakistan Ordinance, which restricted the freedom of the press altogether. The Daily Ittefaq and the New Nation Press were penalized for criticizing the Government. Just before independence in 1972, four daily newspapers and a periodical were found abandoned and their ownership was vested with the government. In 1972, the constitution of the People’s Republic of Bangladesh was formally endorsed. In this new constitution, the right of every citizen of freedom of speech and expression, and freedom of the press was guaranteed. In 1973, The Printing Presses and Publication (Declaration and Registration) Act was introduced. In 2001, the Dramatic Performance Act of 1876 was repealed and the copyright ordinance of 1962 was revised and became law in 2000. On September 16, the Information Minister said that future legislation would include an act titled ‘Television Network (Management and Control) Act 2002. The law may provide the commercial activities of Cable operators and distributors.

Freedom of the press is a fundamental right of all citizens as guaranteed in the Constitution of the People’s Republic of Bangladesh. Article 39 of the Constitution is the most important Article for this study as it provides provision for press freedoms:

In article 39 (1) Freedom of thought and conscience is guaranteed. Also article 39(2) reads as follows:-

“Subject to any reasonable restrictions imposed by law in the interest of the society of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence-
(a) The right of every citizen to freedom of speech and expression; and
(b) Freedom of the press is guaranteed.”

Article 39 clearly states that freedom of thought and conscience is unlimited, but other freedoms such as speech and expression and freedom of the press are not without restrictions. The restrictions referred to in Article 39 assume action only by law. Without legislative authority, the executive cannot place any restriction or limitations on these freedoms. To impose a restriction, the legislature must make a law only for that purpose. While a citizen may exercise such rights in normal situations, extenuating circumstances may create compelling reasons to depart from the normal functions of the state. While Article 39 addresses freedom of the press, Article 43 provides protection of privacy to the citizen.

Every citizen shall have the right, subject to any reasonable restrictions imposed by law in the interests of the security of the State, public order, public morality or public health-
(a) to be secured in his home against entry, search and seizure; and
(b) to the privacy of his correspondence and other means of communication.

As interpreted, this provision limits the right of the press to invade private homes to obtain confidential information, interfere in a citizen’s secrets, or record private political discussions. Part IXA of the Constitution deals with abnormal or emergency situations. If the President believes that a grave situation threatens the security or economic life of the country, be it war, external aggression or internal disturbances, he may proclaim an emergency. When an emergency is issued, the rights granted in articles 36-40 and 42 are suspended so that the State has no restrictions on its ability to make any new laws or take any executive actions. Article 141A speaks of issuance, period and revocation of the emergency; Article 141B discusses the suspension of fundamental rights and Article 141C deals with the suspension of enforcement of fundamental rights during emergency. During emergency, the executives become all powerful. They can take any executive action regardless of fundamental rights since the operation of fundamental rights remain suspended during an emergency.

Besides the proclamation of emergency, other restrictions, relating to the security of the state can be found in Article 39(2). It states the right of every citizen to freedom of speech and expression and freedom of the press, but renders such freedoms subject to the security of the state, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation or incitement to an offence. The Penal Code, Special Powers Act and the Contempt of Courts Act prescribe the punishment for violations that offend these press limits.

Reference should also be drawn to Article 33, which empowers the Government to detain anyone, including journalists, in prison, without trial for six months initially. This Article provides immunity to the Government against illegal confinement of a citizen. Under the Special Powers Act of 1974, the Government may detain any journalist for six months without trial in prison.

Article 78 also deserves reference because it describes the privileges and immunities of parliament and its members. For example, members of the press may enter parliament, but only with permission. The Speaker alone has the power to authorize the publication of papers,
documents and reports placed or submitted in Parliament. No member of the press has a right to take any document out of Parliament without the permission of the Speaker. Contempt of Parliament is a punishable offence. In fact, members of the press are not allowed to attend any parliamentary committee meetings.


The Act outlines the system for the operation of printing presses and the printing and publication of newspapers and registration of books. To become a newspaper or magazine owner or publisher, permission, declaration and registration from the government is required. A proper trade license from Municipal Corporation is a further requirement. The district magistrate may authenticate or withhold authentication of declaration on the basis of the certificate.

According to Printing Presses and Publication Act 1973, publication of any newspaper requires prior written approval of the Deputy Commissioner. The Act also bars printing and publishing anything that affects interest of State and the Government of Bangladesh. During the tenure of Awami League Government (1996-2001), the provision of oath or affirmation was inserted in the law forcing publisher/printer to an undertaking that he/she will not publish/print anything against the interest of the Government. This was undemocratic behavior of a democratically elected Government.

5.1. **Application of the Printing Presses and Publication Act, 1973**

The application of media legislation is the implementation of the Printing Presses and Publication Act, 1973 by the Ministry of Information, which is the government agency accountable for communicating with the press and implementing the Printing Presses and Publication Act, 1973. Other government organizations are also involved in the implementation process as well.

5.2. **Mechanisms for Enforcing the Printing Presses and Publication Act, 1973**

The Ministry of Information has been enforcing the Printing Presses and Publication Act, 1973 in many ways. First, it uses the Printing Presses and Publication Act, 1973 as a means to receive and appraise all new newspaper applications. The Ministry of Information uses it as the basis to punish any newspaper or journalist for writing articles that do not conform to legal guidelines. Its purported function is to guarantee the right of expression to national publications. However, the Printing Presses and Publication Act, 1973’s influence is mixed. On one hand, it supposedly guarantees freedom of the press, but in practice it restricts such freedoms.

Mass media laws in Bangladesh tend to curtail press freedom, particularly so as far as the continued use of the Special Powers Act is concerned. The Printing Presses and Publication Act, 1973 also shows a trend in the government is limiting the publication of newspapers and periodicals. For example, in section 9 the Printing Presses and Publication Act, 1973 says if a newspaper is not published within three months of the date on which such declaration is authenticated or deemed authenticated, the declaration will become null and void. In the same Section says that when an established daily newspaper is not published for three months and for other newspapers six months, the publishing rights become null and void, requiring a new declaration. These sorts of restrictions and limitations make it difficult for the press to perform their jobs effectively.

Despite the many negative attributes of the Printing Presses and Publication Act, 1973, there are some positive aspects to it. Journalists often use it to defend their rights to report freely. For better or worse, it serves the journalist community as a basis for freedom of expression.
5.3. Issuing licenses under the Printing Presses and Publication Act, 1973

The licensing process can be summarized in the following way:
An application form must be submitted to the District Magistrate (DM), who then forwards the application to the DFP for name clearance of the publication. After that, the application is sent to the Special Branch of Police for an inquiry about the applicant.

Then the DM can get the declaration of a Press, Newspaper or magazine, but he cannot authenticate the declaration unless the proprietor, printer and publisher are citizens of Bangladesh; the printer or the publisher was not convicted of an offence for five years; the printer or the publisher has financial resources; and the editor possesses educational qualifications or adequate training or experience in journalism. If these fields are not met, the DM can cancel the authentication.

6. Analysis of the Printing Presses and Publication Act, 1973

The introduction of licensing system for the newspapers in the subcontinent dates back to British colonial rule as do most other acts dealing with various aspects of freedom and democracy or lack thereof. It was John Adam; the acting governor general of India who introduced the system in March 1823. Adam intended no one should publish a newspaper or a periodical without having obtained a license from the Governor-General-in-Council, signed by the Chief Secretary. vi Six Indians, including Dwarka Nath Thakur and Rammohan Roy, filed a petition in the Supreme Court in an attempt to block Adam’s initiative. The court rejected the appeal in April 1823, saying: “India was not an independent country, so the laws and rules consistent with an independent state cannot be applicable in India.” vii As a result, the Adam’s regulation, known in the history of sub-continental journalism as Adam’s Gag, became law.

Moving into more modern times, we see that the Printing Presses and Publications (Declaration and Registration) Act, 1973 (Act No. XXIII of 1973) was passed to provide for the legality of keeping of printing presses, and the printing and publication of newspapers and for registration of books. viii The 1973 law has vested the authority of issuing the license, or if need be the canceling the license as well. The legislation empowers the District Magistrates in Section 20 of the Act to cancel the authentication of the declaration and under Section 20A the Government may declare certain publications forfeited and to issue search warrants to enforce such activity.

This Act was a crude imitation of an ordinance promulgated by the head of the erstwhile military ruler of Pakistan, General Ayub Khan. The government of Sheikh Mujibur Rahman scrapped Ayub’s law but retained the old licensing system for printers, publishers and editors of any book, newspaper or irregular sheets as stipulated in Ayub’s ordinance against which Bengalis fought for about a decade. viii Ullah recorded that parliament debated the Printing Presses and Publications Bill on 19 September 1973 and passed the bill on the same day on a voice vote acceptance of a minor amendment from the Treasury Bench and rejecting Opposition demands to solicit public opinion. Although the ruling party the Awami League was committed to scrapping the old press law the new one was in essence, a duplication of the old and it had Ayub Khan’s imprint all over it. ix

Using the provisions of the Presses and Publications Ordinance 1973, the government closed down the weeklies Mukhapatra, Spokesman, Lalpataka, Haq Katha, Charampatra, and Desh bangle, Swadhikar, Swadhinata and Nayajug. x Distressed by this action, an independent Member of Parliament, Abdullah Sarker said:

“It is nothing but another black law. The journalists will not be able to express their independent opinion. There will be only a blue print filled in with the praises for the government. The aim of the present Presses and Publications Bill will be to
publish news directly by the Government. xi

7. Critique of the Printing Presses and Publication Act, 1973

There have been some deviations in the application of the Printing Presses and Publications (Declaration and Registration) Act, 1973. These deviations are customarily made, generally to serve the purpose of the executive branch of government and others who may be exercising administrative powers. It should be noted here that under Section 12 of the Act, the District Magistrate holds power to authenticate any declaration and he is the sole and final authority in this respect. Now in Bangladesh in practice, any application is sent to the Ministry of Home Affairs which decides after police enquiry whether a declaration shall be authenticated and the newspaper be permitted to be published. Undoubtedly, this is a gross deviation from the provisions of existing laws. It can be argued with some credibility that decisions are made on political as opposed to professional considerations. In other words, a friendly attitude to the person or persons signing a declaration is a good thing to have. In the final analysis, this kind of activity clearly supports the trend of limiting the publication of newspapers and periodicals by the government.

8. Can the publisher or company really be sued under this Act?

On June 2, 2010, the government cancelled the declaration of the Bangla daily Amar Desh citing that it has no authorized publisher. Acting editor of the daily Mahmudur Rahman was arrested at its office in the same day. Deputy Commissioner of Dhaka Mohibul Haque told The Daily Star, "Declaration of the newspaper has been cancelled as it has no publisher." xiii

The District Court has cancelled the declaration according to Article-5 and Article-7 of Part-III of the Printing Presses and Publications (Declaration and Registration) Act, 1973. Article-5 of the act is regarding publication of newspapers. It says, "No newspaper shall be printed or published except in conformity with the provisions of this part and unless there subsists an authenticated declaration in respect thereof." xiii Article-7 of the Act is regarding Declaration of the printer and publisher. It says, "The printer and the publisher of every newspaper shall appear, in person or by agent authorized in this behalf in accordance with the rules, before the District Magistrate within whose local jurisdiction such newspaper shall be printed or published and shall make and subscribe, in duplicate originals, a declaration in Form B." xiii

9. Desired Press Reforms and Reformation in the Media Sector

The New York based Committee to Protect Journalists (CPJ) published a report on March 2014, stating that the dividing line between politics and journalism is “more blurred than ever” in Bangladesh. Bangladesh, out of the nine countries, was experiencing a decline in press freedoms. It was also noted that journalists in Bangladesh were “attacked from all sides” and have very low life security. xiv There have been and still they are given threats to press freedom in Bangladesh. Inqilab, one of the nation’s oldest Bengali language newspapers was closed ‘temporarily’ on January 16, 2014 after the daily reported that Indian troop had taken part in a crackdown in Sathkhira. The newspaper continues to be published online but four journalists, including Ahmed Atiq, lead reporter of the story, were arrested at the Inqilab office. Journalists in Bangladesh believe that Inqilab is likely to face the same outcome as Amer Desh, another pro-opposition daily whose printing press was raided and sealed by police in April 2013 after arrest of its editor Mahmudur Rahman.

The major proposals for reform concentrate on removing ambiguous terminology in section 2 of the Printing Presses and Publication Act, 1973 and revoking the imprisonment and newspaper closure
punishments in the law. The Printing Presses and Publication Act, 1973 and the Special Powers Act, 1974 have been partially repealed. The recent move by the Bangladesh Press Council to frame a code of conduct for journalists and lay down professional qualification for editors has created some resentment and misgivings among journalists.

Many of the current laws are affecting the media which need to be revised in order to respond to the needs of the 21st century and so that they are in line with international standards in this field. There is an urgent need for a broadcasting policy to regulate the ongoing expansion of the broadcasting sector and ensure, among other issues, that the allocation of frequencies is carried out in a fair and inclusive manner.

Numerous television and radio channels, community radios and internet portals have been set up in recent years and deregulation in this field may lead to concentration of media ownership, cross ownership and politicization of the broadcasting sector, which would be damaging to the development of independent media institutions representative of the multiplicity of ideas and opinions within Bangladesh society.

The authorities must ensure that the representatives of the media and other independent experts have sufficient input in the drafting of the new broadcasting policy through a clearly defined system of public consultation. The IPI Bangladesh National Committee and the IPI Secretariat in Vienna shall seek to ensure that any policy developed to regulate the broadcasting sector fully respects the principle of press freedom and reflects international democratic standards.

Contempt of court charges, which have been handed down to journalists for criticizing court decisions or publishing information deemed likely to jeopardize a fair trial, have led to self-censorship, in particular with regard to politically sensitive issues.

The limited protection that current laws offer to press freedom has led to violations of this fundamental right, in particular during times of political change. In addition, investigative journalism is rare in Bangladesh. The causes for this deficit lie mostly in the lack of training and resources, the fear of repercussions in a judicial system that has yet to prove its commitment to the cause of press freedom, and the limited independence of media outlets because of their ownership structures.

Further, to call for legal reforms and a stronger commitment to press freedom, participants at the IPI (International Press Institute) consultative meeting also stressed the need for media companies to develop internal governance structures that ensure editorial independence and strengthen press freedom.

Media experts, especially broadcast industry insiders, are concerned about the draft national broadcasting policy. The proposal takes into account guidelines for broadcasting licensing along with advertisements and a section on the nature of programming.

With 40 Rules and Regulations, covering 46 approved government and private television channels, the policy includes several clauses that demarcates boundaries that programming must not cross. It also strengthens the hand of the Information Ministry in decision making, including the issuing of broadcasting licenses. Clearly, the challenges for Bangladeshi media will continue.

Media and journalists have been striving for ages for their independence, tolerance and understanding in their profession, which, lege artis, only naturally results from honestly, adequately and responsibly performed work, conventions and customs of professional ethics. It is only by firmly upholding the profession that media can promote and protect human rights and come out with clean hands from the process favoritism.
It is a generally accepted opinion that journalists are not those who start conflicts, but it is when political leaders and corporate magnates manipulates the media only then severe conflicts arises. This is not an easy and simple task since words are a specific type of unconventional weapon whose lethality is difficult to measure by legal norms. Yet, this is the only way to rebuild the trust of readers, listeners and viewers and restore the role that the media should play in a free democratic society – the role of a watchful and uncompromising guardian of democratic values and defender of public interest.

The media, however, cannot think itself to be omnipotent, and still proclaim itself a catalyst of a liberal democratic system functioning in the country. The politician, because of the inherent attribute of leadership that comes with his/her vocation, will have to lead by example in developing the mindset for the democratic spirit. The media professionals will have to do the same in order to be able to spread the democratic spirit through their writings and commentaries. The society should become tolerant of opposing viewpoints with the practice of democracy for a long time. Therefore, a movement to perpetuate democratic practices in our society should make the principal effort to ensure press freedom in the country.

The correct and just use of the Right to Information Act (RTI) is necessary. It aims to improve transparency. It applies to all information held by public bodies, simplifies the fees required to access information, overrides existing secrecy legislation, and grants greater independence to the Information Commission tasked with overseeing and promoting the law. The law extended to cover private corporations would bring even more transparency in every sphere of the society.

Capacity building of media houses, specially publishing from outside Dhaka can make a big difference in making grassroots journalists knowledgeable of the importance of press freedom. Skill development for the journalists and photojournalists, working from remote areas and promoting sensible journalism and accuracy of information can also create a big makeshift towards ensuring press freedom.

Positive program for journalists, reporters and sub-editors/newsroom editors on social crucial issues (like: poverty, food security, adaptation of climate change, livelihood, health and nutrition, gender equality, governance etc) can make the journalist community aware of the importance of press freedom.

Training of the journalists’ Trainers (ToT) and support program (legal aid, treatment and rehabilitation) for the journalists, who are victims of violence can make a difference to encourage journalists to act more professionally. Interaction program (with members of civil society and other related stake holders) for understanding benefits of Freedom of Press and Freedom of Expression will also create a consensus and thus ensure effectiveness of governments when and where it fails to respect individual freedom thus freedom of the press.

10. True Picture of Freedom of the Press in Bangladesh:

Bangladesh is a predominantly Muslim country in Southeast Asia. It gained independence on 16 December 1971 after a long and bitter liberation war waged against Pakistan. Shortly thereafter, a democratic government and a liberal constitution were adopted and a general election was held the following year. However, democratic progress was quickly curtailed when a trend towards authoritarianism began with one-party rule in 1975 and endured for sixteen years. Eventually, this regime was toppled in 1991, but the road to democracy and media freedom has been a long and hard fought.

The 1990s has marked a new era of media freedom as granted in the Constitution. Despite these freedoms, the media face many challenges in performing their functions. While the media is a large sector and free in Bangladesh, members of the press and media routinely face violence or restrictions making it
difficult to practice journalism or carry out media activities in a free manner.

Richard Davis, a journalist and writer of fiction and drama, known foremost as the first American war correspondent to cover the Spanish-American War, the Second Boer War, and the First World War, asserts that ‘restrictions on the press which hamper the press’s functioning are believed also to hamper the functioning of the democratic system itself’.xvi However, trends towards privatization of broadcasting and advertising have given the media greater independence than ever before.

Press freedom is valued in democracy because of the inherent value it has in safeguarding democracy. There is an intricate link between democracy and press freedom. Legal constraints are presently a tropical issue to the nature and composition of the media fraternity in Bangladesh. Successive governments in the country have moved to consolidate power and to promote policies, which were retaining from the colonial period in a number of statutes.xvii In Bangladesh, the majority of the regulations used to limit press freedom, which had their origins in the colonial period. During the process of decolonization, the major governing instruments were retain and are available to the Bangladesh government for control of the press. It is true there is a complex link between democracy and press freedom.

Since the independence in 1971 with a heavy bloodshed and nine-month struggle, there have been attempts to get freedom for the press and subsequent clampdowns by various regimes under various political bars in Bangladesh. The wave of democratization in the early 1990s heralded a rebirth of the debate on press freedom. As Bangladesh started its democratization process through the transition from military rule to civilian rule in early 1990s, the fundamental relationship between freedom of the press and emerging democracy was realized and integrated in the debates. It was a realization by different sections of the society that the growth of democratic institutions depends upon an independent press because it can pursue democratic goals and objectives.

The most important ingredient of democracy is the existence of free and fearless press. In a democracy, the press must enjoy complete freedom and should not be subjected to any restriction. The voice of the press is the voice of the people. Censoring the press means the suppression of people’s voice. Therefore, the very survival of democracy inevitably depends on the freedom of the press. However, at the same time, the press must not fail to follow its code of conduct and misuse the freedom.

Most of the current laws were passing during the British colonial regime. Most of the colonial press regulations for controlling the press to serve their own stakes. They argue that citizens / journalists in Bangladesh are for the most part free to express views with which the government disagrees. However, they must constantly live under the pressure of official crackdown/ threat or harassments. Some laws have a tendency to prevent disclosure of information embarrassing to the government, information that has nothing to do with state security or public order. The Official Secrets Act, the Special Powers Act, the Printing Presses and Publication Act, The Code of Criminal Procedure, Successive governments echoed promising words about exercising freedom of the press but often turned the other way when things were published that irritated the ruling classes and consequently they scolded the press. The restrictive regulations, which govern the press, still exist in Bangladesh. Idealistically in order to be free, the press has to be Independent of governmental, political or economic control or of control of materials essential for its production and dissemination, and Pluralistic through the absence of media monopolies and the existence of the greatest possible number of newspapers, magazines and periodicals reflecting the widest possible range of opinion within the society.

Hence, their intentions are not necessarily suitable for a society striving for democracy. Some laws have a tendency to
prevent disclosure of information embarrassing to the government, information that has nothing to do with state security or public order. In this regard, scholars should not ignore those laws, which can in effect perform the function of major press regulations such as the Printing Presses and Publication Act 1973, the Official Secrets Act, the Special Powers Act, the Code of Criminal Procedure, the Penal Code and so forth.

The Penal Code are few of many laws, which can in effect perform the function of major press regulations. The Constitution of Bangladesh guarantees freedom of the press under Article 39(1). But when information itself is restricted, then the significance of freedom of expression is weakened. The question of press freedom has now become one of the deciding factors of an individual’s rights against government perception of the public interest. The more freedom the press gets the better stability in every system in society will be achieved within which individuals operate. In Bangladesh, no concrete steps have been taken by any government to free the press, except for lifting of censorship imposed by the various stripes of military regimes.

Although the Constitution of Bangladesh provides for freedom of expression subject to “reasonable restrictions,” the press is constrained by national security legislation as well as sedition and criminal libel laws. Journalists can also still be charged with contempt of court or be arrested under the 1974 Special Powers Act—which allows detentions of up to 90 days without trial—for stories that are critical of government officials or policies.

The Official Secrets Act may be used to hide government information. Empowered by the Printing Presses and Publications Act, a district magistrate can revoke any publication license and shut down a publication. The Penal Code has provisions to punish anyone including journalists to protect national security, law and order and prevent moral decay. The Code of Criminal Procedure empowers the government to ban any publication which is treasonous and hurts people’s religious and social sentiments. International Press Institute (IPI) finds the following laws in Bangladesh as obstacles to media freedom: a) Criminal defamation b) The Special Powers Act of 1974. Assessing the country’s media environment (2008) IPI found judicial harassment of journalists by way of defamation charges, under sections 500, 501 and 502 of Bangladesh’s Penal Code of 1860 and under the Code of Criminal Procedure of 1898, has been common. Similarly, the Special Powers Act of 1974 allows detention of up to 120 days without charge and in the past this law was used to arrest journalists.

In December 2009, authorities reportedly drafted unofficial guidelines for media houses regarding television talk shows, noting that “provocative statements” could lead to the banning of a show. Military intelligence and public relations officials monitor media content, and while they no longer issued regular guidance to media outlets regarding content, they did occasionally caution specific journalists on coverage of particular stories or topics.

The most draconian of the laws against free flow of information in Bangladesh is the Official Secrets Act of 1923. It bars public servants to provide to anyone any secret government plan, document, note, sketch, model, signal, information etc. which are related to restricted places and which if made public could pose threat to the security of the State. Nevertheless, the Government keeps all its decisions, including very trivial ones out of public knowledge under the pretext of this law. This is abuse of law to curtail free flow of information and hence, undemocratic. The Governments Service Rules of 1979 also prohibits public servants to disclose official information to press or to non-official persons. However, despite presence of such stringent legal regime, media in Bangladesh is very bold in promoting people’s rights and is critical against government. A favors made by some ministers and government officials in providing information to the media-men tacitly has enabled media to play this role. However, here too,
sometimes professionalism of media-men suffers at the cost of information.

The press in a democratic Government must be free, frank and fearless. A free press always has a positive influence, whether be it on poverty, on government or on violence and conflict issues. It is believed that the weaker the constraints on the press, the more developed a country will be. By promoting freedom of the press, any country can provide itself with a powerful development tool. Development is a complex process in which the press can play a fundamental role by making individuals aware of their rights and of their freedoms, they should logically enjoy in a democratic society.

While the press should enjoy freedom to perform its role effectively, it should not treat such freedom as a license to defame anybody. It should not publish any views or support any movement that violates our Constitution or is against the territorial integrity and unity of the country.

11. Interaction between Press, Government and Others

Media serves as an intermediary between individuals and government, informing the latter of people’s needs and acting as a shield against crises and situations of extreme deprivation; it holds governments accountable and makes their actions more transparent; and, along with other indicators of good governance, it creates a business-enabling environment, a climate conducive to more effective public affairs management, and so forth.

The press plays a very positive and constructive role in a democracy. It keeps the people informed of the national and international news and happenings. It brings to the notice of people the programs, policies and activities of the Government. Similarly, it keeps the Government in the knowledge of the people’s problems, difficulties, hopes and aspirations. Thus, the press plays a dual role. It serves as a bridge between the Government on the one hand and the people on the other.

The government directly influences coverage of the press by the limitations imposed in the Printing Presses and Publication Act, 1973. For example, if an event related to the military takes place, newspapers cannot report freely on the event because it is a prohibited subject that cannot be dealt with without prior approval of the Ministry of Defense.

While the government does not directly force a newspaper to cover an event in a certain way, the government’s influence is not only in its ability to impose, but also in its ability to restrict based on justifications in the Printing Presses and Publication Act, 1973. The government heavily influences the activities of the media and the press by dictating their actions. In cases where newspaper reporters go beyond their allowed guidelines, they face potential replacement. Often times, journalists practice self-censorship out of fear of the consequences of speaking out against the government. Violent attacks and intimidation by government leaders and political activists are usual consequences of news reporting.

By threatening to use the Printing Presses and Publication Act, 1973 against any independent newspaper, the government can easily influence. One method of influence is enticing management with offers to use better facilities. In other words, the government may offer money, office space, and other facilities to newspapers with pro-government leanings that act in defense of the government. Similarly, independent newspapers that do not praise the government are not given any privileges.

12. Conclusion

More than ever, the people of Bangladesh are exposed to a wide array of information and it is affecting all strata of life in all regions of the country. The free flow of information has not only empowered women and the underprivileged; it has also generated enthusiasm among all segments of the populace to take part in development activities. However, the
democratization process resulting in greater access to information should not mask the fact that the state still plays a large role in manipulating the media. There are a number of obstacles standing in the way of effective media reforms such as the country’s large illiteracy rate. However, democratization and the gradual deregulation of the media are bound to have mixed effects, such as less government interference, and with it less media accountability. The Presses and Publication Act, 1973 is the wall that journalists lean against, depend on when they criticize government bodies and officers, and defend themselves against various allegations.

The recent developments in Bangladesh are like an old nightmare that is beginning again: arbitrary arrests, closure of news media, attacks on journalists by ruling party supporters, torture of detainees and intimidation. Bangladesh should and must get rid of the old demons of intolerance and violence against the journalists and every person behind making news.

References

1. The Dacca News File, 1856, quoted in Unish Shatake Dhakar Mudran O Prakashana.
2. From the “Proceedings of the Government of Bengal in the General Department, January, 1865, pp.4-5, from Unish Shatake Dhakar Mudran and Prakashana by Muntasir Mamun.
3. Published in Dacca Prakash, 1863, such details are also referred by Muntasir Mamun in Unish Shatake Dhakar Mudran O Prakashana.
4. From Muntasir Mamun’s Unish Shatake Dhakar Mudran O Prakashana, p.43.
8. Ibid.
14. Ibid.