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Review of National Communication Policies and Legal Frameworks Affecting Broadcasting: Bangladesh Perspective

by

M I Chowdhury
Review of National Communication Policies
and Legal Frameworks Affecting Broadcasting

--- Bangladesh Perspective

By
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The advent of the communication satellite has begun to reassert the essential unity of mankind. Satellite television programmes, alongside short-wave radio broadcasts, are gradually materializing the concept of the 'global village'. In this age, each culture is exposed to interaction with other cultures and no society is any longer close-door. What was once derided as 'cultural invasion' is now being viewed as true internationalism. The intervening time prior to the inevitable transition could be a period of cultural shocks or cultural conflicts. But an eventual cultural reorientation globally is inevitable. The world is not going to remain the same following the great revolution in communication technology of our times.

The new environment will promote cultural give and take to enrich or redefine cultures. A homogenous new world may evolve rather peacefully if nations dominating the global communication systems endeavour to minimise cultural shocks or cultural conflicts in other nations in this process of transformation. Humanity should be imbued at this stage with real democratic values of tolerance and mutual respect to

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promote the unity of mankind without pains or provoking repercussions or protests. The old national communication policies and legal frameworks affecting broadcasting will gradually fade or may become even more rigid depending on the character of communication revolution, now in progress.

Bangladesh is integrated with global satellite broadcasting systems, like BBC and CNN. Bangladesh Television transmits BBC as well as CNN programmes daily for three and a half hours and four hours respectively other than fridays. BBC programmes are, however, put up by BTV for an hour also on friday. The use of Dish Antenna for reception of Star Television is allowed. Bangladesh also transmits its own Radio and TV programmes nationally. It puts up programmes on radio short-waves for different target areas outside its national frontiers. Bangladesh has a set of policies to regulate broadcasting. The cardinal principle is that the society should be advanced by promoting the tendencies which unite the people, rather than encouraging the tendencies that may divide them and cause unnecessary social problems and human sufferings. Some of the regulatory policies are embodied in the local laws. But those based on customs, traditions and on the need for change in different spheres of national life, are spelt out either in statutory rules and orders or executive decisions.

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Although the broadcast media in Bangladesh are state-owned, direct state-control on them are minimal. The present democratic Government has allowed the media to operate independently with responsibility. The laws, rules and orders, which define their degree of freedom, are designed to protect public interest. But there are some laws, framed during the colonial days, which are now considered to have become obsolete and are no longer applied. In fact, Article 39 of the Constitution of the People's Republic of Bangladesh guarantees the freedom of the press, which includes the electronic media of radio and television. This Constitutional article guarantees the freedom of the media subject to any reasonable restrictions imposed by law in the interest of security of the State, friendly relations with foreign states, public orders, decency or morality, or in relation to contempt of court, defamation or incitement to an offence. On the other hand, Article 43 of the Constitution provides that every citizen shall have the right to the privacy of his correspondence and other means of communication subject to any reasonable restriction imposed by law in the interest of the security of the State, public order, public morality and public health. The constitution has recognised that it is neither desirable to abridge the freedom of the media nor to encroach on the right to privacy of individuals. Another Constitutional provision, which has a bearing on the freedom of the media, is Article 108 of the Constitution. It empowers the Supreme Court to make an order for any contempt of itself. Section 228 of the Bangladesh Penal Code also provides

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punishment for causing insult to, and interference with, the proceeding of the court. The Contempt of Courts Act empowers the High Court Division of the Bangladesh Supreme Court to take action in respect of contempt of sub-ordinate courts. These laws limit the freedom of the media in reporting on pending litigations and judicial proceedings.

Besides, laws relating to sedition, maintenance of communal harmony, incitement to violence etc. also have a bearing on the freedom of the media. Section 153-A and 153-B of the Penal Code provide punishment for promoting or attempting to promote feeling of enmity or hatred between different classes of the citizen of Bangladesh, and inducing or attempting to induce any student, or any class of students, or any institution interested in or connected with students, to take part in any political activity which disturbs or undermines, or is likely to disturb or undermine the public order. Sections 292 and 293 of the Penal Code provide punishment for dissemination of obscene materials. 295-A of the Penal Code provides that whoever, with deliberate and malicious intention of outraging the religious feelings of any class of the citizens of Bangladesh by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or contd........... P/5.
with both. These Constitutional provisions and laws aside, Sections 499 - 502 of the Penal Code provide that whoever by words, either spoken or written, makes or publishes any imputation concerning any person intending to harm knowingly or having reason to believe that such imputation will harm the reputation of such person, except stating facts for public good, may be charged with defamation. Such an offence on being proved may entail imprisonment or fine, or both. The Official Secret Act imposes restriction on collection and dissemination of such state or friendly relations with foreign states. The law is apparently intended to deal with offences like spying and leakage of official secrets. The law serves the paramount need of national security and other vital interests of the state. Section-17 of the Children Act forbids disclosure of any particular of any case or proceeding in any court in which a child is involved and which may lead, directly or indirectly, to identification of such child. Provided that, for reasons to be recorded in writing, the court trying the case or holding the proceeding may permit disclosure of any such particular if in its opinion, such disclosure is in the interest of welfare of the child and is not likely to affect adversely the interest of the child concerned. Section 48 of the Act provides that contravention of the aforesaid provision is punishable with imprisonment or fine or both. The Indecent Advertisement Act imposes restrictions on propagation of any advertisement which is indecent. It restrains the media from using such advertisement and hence it has a bearing on the freedom of the media.

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Apart from the constitutional sanction for limiting freedom of expression in the interest of friendly relations with foreign states, there are two statutes which deal with different aspects of relations with foreign states. Section-2 of the Foreign Relations Act empowers the government to prosecute a person for defamation of a foreign ruler or his principal Minister. Section-6 of the Foreign Recruiting Act restrains the media from encouraging any citizen to take up any foreign employment which is not permitted by the government. The Copyright Ordinance forbids reproduction from any intellectual property whose right has been reserved by its author. These laws also have a bearing on the freedom of the media. Earlier, the Government of Bangladesh constituted a Commission to study the media related laws and to submit its report to the government with recommendations. The report of the Commission is now being studied by the government for final action.

Television films, which cover the largest chunk of TV broadcast time, also come within the purview of the Code for Censorship of Films in Bangladesh. Apart from the spirit of media related laws, the code embodies provisions for protection of our tradition and cultural values. Radio Bangladesh, which is built on a tradition of about five decades of broadcasting in our part of the world, follows the aforesaid principles in programme making. However, democracy, which derives its strength from and thrives on the freedom of expression, has induced a great degree of liberalism in the media. The media related laws, which exist in
paper, are hardly applied to regulate the media being mindful of the lofty democratic ideas which seek to create an informed public through an unrestricted flow of information. A mediaman is brought on the dock of a court once in a blue moon to face charges of defamation or whatever in independent Bangladesh. Our democracy is very tolerant to the almost absolute professional freedom which the mediamen in our part of the world enjoy at this point of time. Besides, the country being a republic, the authorities are mindful that the people are the best keepers of the national sovereignty and independence. The present democratic government promotes an environment under which the mediamen including the journalists could act freely with responsibility to advance the national goals. Hence, the media-related laws are very rarely and sparingly applied to help create such an environment.