

THE MEDIA ENVIRONMENT IN BANGLADESH

From 27 November to 2 December 2008, the International Press Institute (IPI) conducted a high-level mission to Dhaka, Bangladesh to assess the country's media environment as it prepared for national elections, which took place on 29 December.

A preliminary report, issued by IPI on 17 December 2008, summarized the discussions carried out by the delegation with editors, journalists and government representatives. It highlighted both the commitment given by political party representatives to support the right of journalists to report on the elections without harassment or interference, and on the difficulties journalists encounter when practicing their profession.

The following report elaborates on the main findings of the IPI mission regarding four specific areas of concern to IPI: 1) laws affecting media freedom; 2) journalist safety and impunity in crimes against journalists; 3) professional journalism and media accountability; and 4) journalism in rural areas.

I. The Legal Framework

Various laws in Bangladesh restrict journalists' ability to disseminate ideas and information, and proceedings have been initiated against them pursuant to several statutes.

The new government elected in December 2008 has created the "Political Cases Review Committee" (the Committee) to review and annul those judicial proceedings deemed to have been politically motivated. According to Barrister Shafiq Ahmed, Law Minister and also the Committee's chairman, four-member district-level scrutiny panels have been formed. These are led by district magistrates, and include superintendents of police, additional district magistrates and public prosecutors. "After examining the cases, the scrutiny panels will send reports with recommendations in this regard to a central committee within 45 days for taking further steps," Shafiq Ahmed stated.

The Bangladeshi media has generally reacted cynically to this development, stating that, for many years, new governments in Bangladesh have withdrawn cases filed by previous governments, accomplishing little in terms of strengthening judicial independence.

a. Criminal Defamation

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. "Criminal defamation is a black law that must be done away with," Mahfuz Anam, editor of *The Daily Star* and publisher of *Prothom Alo*, told the IPI mission.

On 8 March 2007, Mahfuz Anam and Matiur Rahman and Hamrul Hasan, also of *Prothom Alo*, were summoned by a court in Rajshahi, near Dhaka, on defamation charges filed by a local official, Reporters Without Borders (RSF) reported. As of early 2009, the charges against Mahfuz Anam and Matiur Rahman, free on bail, are still pending.

Editors and journalists from the dailies *Inqilab*, *Amader Shomoy*, *Jugantor*, *Daily Star* and *Shamokal* have also faced criminal defamation charges in the past two years.

Mahfuz Anam was involved in another defamation case filed in February 2006 by Public Works Minister Mirza Abbas., alleging that an article published by Anam about a supposed disagreement between the minister and police tarnished his image and status.

In September 2005, MP Shahidul Islam Master filed defamation cases against 17 editors, publishers and reporters of dailies *Janakantha*, *Inqilab*, *Manab Zamin*, *Amar Desh* and *Gramer Kagoj* for publishing reports he claimed insulted him and undermined his political image.

In June 2003, Anam and Matiur Rahman were arrested on defamation charges following the newspaper's publication of a letter written by Abdul Jalil, Secretary General of the Awami League, then the opposition party. In the letter, Jalil expressed critical opinions about a nominee for an executive position in an international organisation.

b. The Emergency Powers Rules of 2007 and the Anti-Corruption Campaign

In January 2007, widespread protests in the run-up to elections prompted the caretaker administration to declare a nationwide state of emergency. It also introduced the Emergency Power Rules 2007 (EPR), giving the government sweeping powers to arrest anyone without charge or a warrant.

Following the launch of an anti-corruption campaign, the caretaker administration amended the EPR, effective as of 13 February 2007, introducing stringent legal provisions to deal with corruption.

This allowed for the 7 March 2007 arrest without warrant of Mohammad Atiqullah Khan Masud, editor and publisher of the national Bengali-language daily *Janakantha* ("The People's Voice"). Following his arrest, Atiqullah Khan faced a litany of charges and was sentenced to a total of 48 years of imprisonment in six separate cases, all based on similar charges of fraud. Only following strong pressure both by Bangladeshi editors as well as IPI's Justice Denied Campaign was Atiqullah Khan released on bail in January 2009, after almost 22 months in prison.

Atiqullah Khan was one of several journalists and editors who, in January 2007, urged the newly-appointed interim government to take a clear stand in favour of press freedom and against censorship. *Janakantha*, one of Bangladesh's leading newspapers, is known for its uncompromising stance on press freedom and has always tried to expose press freedom violations. During the past years, multiple physical attacks and other forms of harassment have been carried out against its journalists.

The EPR were also used in late 2007 against Jahangir Alam Akash, the head of two human rights NGOs and the Rajshahi office of independent TV station CBS News. Akash is known for his investigative reports as well as for exposing human rights violations. Defendants to whose cases the EPR provisions are applied are not permitted bail. According to Amnesty International, the application of the EPR nullified the bail previously granted to Akash by the High Court. Akash, who was arrested in October 2007 on charges of extortion, was reportedly tortured in detention.

The EPR were eventually lifted on 17 December 2008, ahead of national elections.

c. The Special Powers Act of 1974

The Special Powers Act of 1974, which allows detentions of up to 120 days without trial, was used at least once to imprison a journalist. It provides for special measures for the prevention of prejudicial activities, broadly defined as including "any deed which is intended or likely to (i) prejudice the sovereignty or defence of Bangladesh; (ii) prejudice the maintenance of friendly relations of Bangladesh with foreign states; (iii) prejudice the security of Bangladesh or to endanger public safety or maintenance of public order; (iv) create or excite feelings of enmity or

hatred between different communities, classes or sections of people; (v) interfere with or encourage or incite interference with the administration of law or the maintenance of law and order; (vi) prejudice the maintenance of supplies and services essential to the community; (vii) cause fear or alarm to the public or any section of the public; and (viii) prejudice the economic or financial interests of the state.“

Journalist Abdul Mahbud Mahu, of the local daily *Ajker Desh Bidesh* in Cox's Bazaar district was arrested without warrant on 14 February 2004. Mahu was allegedly arrested following pressure from a local political leader who objected to critical articles written by Mahu.

d. The Contempt of Court Ordinance

On 2 March 2008, a new Contempt of Court Ordinance was approved to replace the Contempt of Court Act of 1926. The 1926 Act limited press freedom by enabling the charging of publications with contempt of court if they were perceived as excessively critical of a judgement or attempting to destroy trust in the judicial system.

According to news reports, the new Ordinance allowed the press to comment and publish on “normal” court proceedings and functions, and to seek disciplinary proceedings against judges, as long as done in “good faith” and with “restrained language”. Furthermore, it permitted reporting on judges’ alleged corruption or incompetence, as well as their extra-judicial activities.

However, a writ petition challenged the Ordinance’s legality, and on 24 July 2008, the High Court declared it void, finding that the caretaker administration was not allowed to promulgate ordinances not related to elections and not urgent during the caretaker government’s tenure. The new parliament will have to determine the future of this Ordinance.

e. The Right to Information Ordinance

The Right to Information Ordinance, gazetted in October 2008, is the first act acknowledging the people’s right to information. It is an important development in a country where many laws have been passed that actually hinder access to information, such as the Official Secrets Act of 1923, the Evidence Act of 1872, the Rules of Business of 1996, and the Government Servants (Conduct) Rules of 1979.

The much-welcome Right to Information Ordinance overrides this outdated secrecy legislation. However, observers have highlighted various shortcomings and loopholes. In particular, the list of exceptions remains too broad and the scope of information too limited. In its analysis, ARTICLE 19 pointed out that “eight security and intelligence agencies are exempt [...], and rules allowing provision of information in the public interest have actually been removed.” Furthermore, “the law also does not provide protection for whistleblowers.“

Talking to IPI about the need to promote investigative journalism and laws supporting it, the editor of one of the biggest dailies noted that “the right to information law is a milestone in the country’s history, but there are only four reasons for providing information, while there are 20 reasons for blocking information”.

f. The Draft Broadcasting Act, 2003

Radio and television remain the most popular source of information, rendering particularly urgent the enactment of the draft Broadcasting Act of 2003.

Currently, the only terrestrial television broadcaster, Bangladesh Television (BTV), is state-owned. A number of satellite and cable channels, as well as foreign broadcasters (particularly from India), have large audiences in Bangladesh, but mostly amongst the urban population. The costs of

satellite dishes and cable access fees remain too high for a great part of the population, in particular in rural areas, where BTV remains the most important source of information.

Presently, all licensing decisions are made by the Ministry of Information rather than by an independent body. Observers have pointed out that license allocations have been political. *Prothom Alo's* editor, Matiur Rahman, noted at a television talk show in December 2008 that the BNP-led four party alliance that ruled Bangladesh right before the caretaker administration took over in January 2007, issued about eight licenses for private television stations to their ministers and political partners, taking advantage of the absence of law in this field.

The Broadcasting Act would provide for the establishment of an independent Broadcasting Authority to oversee the regulation of terrestrial, satellite and cable broadcasting, with a view to promoting independent, pluralistic broadcasts. The Broadcasting Authority would oversee the issuance of licenses.

The enactment of the Broadcasting Act would allow non-profit entities to set up community radio and television stations, an important step to promote the free flow of information in rural areas. A community radio or television station is described in the act as a "broadcaster which is controlled by a non-profit entity and operates on a non-profit basis, carries programming serving a particular community including by reflecting the special interests and needs of that community, and is managed and operated primarily by members of that community".

II. Safety and Impunity

Sixteen journalists have been killed in Bangladesh since 1998, making the country one of the most dangerous for journalists (the individual names are listed below). Some were killed for investigating or exposing illegal activities, while others died at the hands of the security apparatus, in particular the infamous Rapid Action Battalion (RAB).

IPI is not aware of any journalists killed in connection with their profession in 2007 or 2008, when Bangladesh was under the Emergency Law, although the 6 March 2007 death of Jamal Uddin, a correspondent for the *Dainik Gori Darpan* daily and the ABAS news agency, has reportedly not been thoroughly investigated. Police stated that Uddin committed suicide. They claimed they found a tape recording in his pocket, containing a statement by Uddin himself, indicating that he was going to take his life. But the police did not allow Uddin's friend and family members to listen to the recording.

Impunity with respect to murders of journalists is one of the greatest problems in Bangladesh. Journalists remain under the impression that the government has not taken these murders seriously and has not done enough to discourage or stop attacks against journalists.

"Politicians don't want to solve the problem. They want to escape the problem," a journalist who has faced persecution by the RAB, most likely in connection with his investigative reports, told IPI. He added that the RAB uses the expression "caught in the crossfire" to refer to the deaths of some journalists at the hands of RAB representatives.

Impunity eventually encourages further attacks against journalists. "If perpetrators of crimes against journalists had been prosecuted, the other journalists would not have been killed," *The Daily Star* editor Mafuj Anam told IPI.

In a meeting with Awami League president Sheikh Hasina, who became Bangladesh's prime minister for the second time in January 2009, the IPI delegation expressed concern about impunity and attacks against journalists at the hands of the RAB. Sheikh Hasina told IPI that, while she

believed journalists in Bangladesh enjoy full freedom of expression, the murder of journalists remained a problem that affects the whole society. She said that the Awami League has in the past passed resolutions about the murder of journalists, and was prepared to review the cases of murdered journalists. Hasina also agreed that the expression “caught in the crossfire” has been occasionally improperly used by members of the army to explain the death of journalists under their supervision.

BNP representatives who met with the IPI delegation expressed similar concerns about the torture of some individuals at the hands of the army during interrogations. They also said they wanted to put an end to impunity not only with respect to the murder of journalists, but that “all murders” should be “properly investigated”.

During a meeting with Major General Golam Kader, Director General of the Directorate General of Forces Intelligence, IPI mentioned allegations of attacks against journalists at the hands of the RAB and the army. Major General Golam Kader responded that he could not vouch for the entire army, but stated that, where cases of journalists tortured by the army have “surfaced”, the responsible individuals have been punished. He also stated that he believed attacks on journalists were largely perpetrated in the past by criminal gangs, which used to be stronger than today, and that the RAB was established to counter such attacks.

Attorney General Salahuddin Ahmad told IPI that Bangladesh has shown signs of weakness with respect to the rule of law.

IPI is aware of the following journalists killed in Bangladesh since 1998, most likely in connection with their profession:

14 September 2006: Bellal Hossain Dafadar, 38, a correspondent for the Khulna-based daily newspaper *Janabani*, died in the hospital after being stabbed by five unknown assailants.

17 November 2005: Gautam Das, 28, Faridpur District bureau chief for the Dhaka-based daily *Samakal*, was found strangled to death in his office in Faridpur. It was not known whether he was killed because of his work, but colleagues said he had recently been reporting on the activities of militant Islamic groups.

30 May 2005: Golam Mahfuz, 39, editor of the daily *Comilla Muktakantha*, was stabbed to death in his house in Comilla, 88 km east of the capital, Dhaka. The motive for the killing was not immediately known.

11 February 2005: Sheikh Belaluddin Ahmed, 48, a correspondent for the Bengali-language daily *Sangram*, died from injuries sustained in a Feb. 5 bomb attack on the Khulna press club. Three other journalists were injured in the attack.

24 October 2004: Shahid Anwar, assistant editor of the English-language *Daily Asian Express*, was shot twice in the forehead by unidentified attackers who stormed his office in the capital, Dhaka. The motive for his killing was unclear.

2 October 2004: Dipankar Chakrabarty, 59, an editor for the Bangla-language daily *Durjoy Bangla*, was ambushed while on his way home, and decapitated by at least five assailants wielding knives and axes, in Sherpur, Rajshahi Division. Local journalists maintained he was killed because of his journalistic work.

22 August 2004: Kamal Hossain, 32, a reporter for the daily newspaper *Ajker Kagoj* and secretary general of the Manikchhari Press Club, was killed in the city of Manikchhari, Chittagong Division, after armed men broke into his house at night and took him away. His body was found

two kilometres from his home several hours later. Hossain had received death threats after investigating organised crime in the area.

27 June 2004: Humayun Kabir Balu, 57, editor of *Dainik Janmabhum* newspaper and president of the Khulna Press Club, was killed in a bomb attack in the southwestern city of Khulna. Unidentified attackers threw three bombs at Balu as he got out of his car in front of his office. He was immediately rushed to hospital, where he died. Leftist guerrillas operating in the region claimed responsibility for the killing.

15 January 2004: Manik Shaha, 45, correspondent for the daily *New Age* and a stringer for BBC's World Service, was decapitated when a bomb was thrown at him by unknown assailants, who stopped his rickshaw in Khulna, southwestern Bangladesh. He was known for reporting on illegal activities of criminal gangs and Maoist insurgents.

3 August 2002: Syed Farroque Ahmed, editor of a local Bengali-language publication *Pubali Barta*, was found dead in the south-eastern town of Srimangal, more than two months after he had disappeared. It was unclear if he was killed because of his work as a journalist.

2 March 2002: Haroonur Rashid, 45, a reporter for the daily *Purbanchal*, was shot and killed while riding his motorcycle to work in Khulna, 340 kilometres south of Dhaka. Police said they arrested three suspects. Rashid frequently reported on the operations of gangs and political extremists in the country's southern Khulna and Jessore region. Office, shop and factory workers in Khulna held a half-day strike on March 4 to protest the killing.

22 July 2001: Ahsan Ali, 40, a correspondent for the Dhaka-based daily *Jugantar*, was found dead in a canal in the Gandhapur area of Rupgonj Thana. His hands and feet had been tied with a rope and his face disfigured by acid. Ali, who went missing on July 20, had recently received death threats. Colleagues believed that his murder may have been linked to his investigative reporting.

21 April 2001: Nihar Ali, 36, a correspondent for the Bengali-language daily *Anirban*, died of injuries sustained on the night of April 18 when unidentified assailants kidnapped him from his home in Dumuria Upazila, near Khulna, south-western Bangladesh. According to the police, the journalist was found in a state of coma on the outskirts of his village and immediately hospitalized. The kidnappers had broken his hands and legs, and stabbed him several times. Police said his killers were probably left-wing extremists. Some sources said he may have been killed for his reporting on the activities of organized criminals.

16 July 2000 Shamsur Rahman, a correspondent with the daily *Janakantha* and a contributor to BBC's Bengali service, was shot dead in his office in the town of Jessore, south-west Bangladesh, on 16 July by two unidentified men, who fired two bullets into his heart and head. Rahman was an expert on smugglers along the Indian border and the extremist politics of the region. He had received death threats from the smugglers and from extreme leftists.

15 January 2000: Mir Illais Hossain, editor and publisher of the newspaper *Dainik Bir Darpan*, was shot and killed by unidentified assailants in Jhenaidah on 15 January. Hossain, who was also a leader of the leftist party Sramajibi Mukti Andolon, had been receiving death threats from Maoist underground armed movements leading up to his murder and had requested police protection, which was not provided.

30 August 1998: Saiful Alam Mukul, editor of the newspaper *Daily Runner*, was shot dead as he returned to his home in Jessore in the Southwest. The *Daily Runner* regularly exposed gang activity, political corruption and human rights abuses. The paper had been out of print for some weeks under protest of growing complacency towards crime and corruption but was re-scheduled to resume publication the day after Mukul was murdered.



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III. Professional Journalism and Media Accountability

a. The importance of professionalism

Bangladesh has a vast number of privately-owned newspapers, which enjoy broad freedom to carry diverse views. Political polarization, however, remains a problem.

Journalists and editors who met with the IPI Mission complained that the media tend to favour either one of the two main political parties – the Awami League and the BNP – with great disregard of their professional duty of fairness. Journalists pointed out that there is a need for activities that address this problem by aiming to heal the divide.

In discussions with IPI, editors recognised the importance of bridging this divide, and doing so by agreeing on best practices of journalism, instead of focusing on supporting particular political parties. The publisher and editor of the *Daily Star*, Mahfuj Anam, also stressed the importance of credibility for a newspaper's success, noting that "good journalism is good business".

b. Relationship between the government and the media

The need for professional training was also highlighted by Sheikh Hasina and BNP representatives. Major General Golam Kader pointed out problems connected with journalists' occasional lack of fairness, saying that they sometimes appeared to be guided by personal or political interests.

Journalists, in the meantime, felt that politicians fail to understand that holding government to account is one of the fundamental roles of journalism. This means that many politicians fail to appreciate the importance of investigative and independent journalism.

Also, the government is perceived as abusing its power to allocate advertisements by refusing to advertise in newspapers perceived as critical of its policies. This deprives newspapers of an important source of revenue, exercising undue pressure on editorial independence.

c. Media Accountability: the Press Council

Bangladesh's Press Council, statutorily constituted in 1974 through the adoption of the Bangladesh Press Council Act (Act no XXV, 1974), is the organ formally in charge of ensuring media accountability. It deals with complaints from members of the public about media content.

Editors told IPI that various elements limit the Press Council's effectiveness. First, its composition hinders independence. The Chairperson of the Press Council must be a former High Court judge. Other members of the Press Council include the Attorney General and representatives of the editors' association, the publishers' associations, the journalists' union, and civil society groups. All members of the Press Council are directly elected by the government.

Moreover, the Press Council covers only print media, with electronic media outlets outside of its jurisdiction. The Press Council Act also gives the Press Council excessive powers over the media, including the power to censor them. Finally, the Press Council suffers from a constant lack of funds, which should be provided by the state, preventing it from running effectively.

IV. Journalism in Rural Areas

The IPI Mission found that journalists working in rural areas in Bangladesh are often under even greater pressure than those working in the main urban centers. In a country where the rural

population accounts for approximately 80% of the entire population, promoting journalism and access to information in rural areas is vital for democratic development.

The two main challenges identified by the IPI Mission with regard to journalism in rural areas are the lack of professional training, and the perceived lack of independence of the judiciary.

a. Professional training

“Stringers and journalists at district level are often not academics, have second jobs and are unprofessional,” an editor told IPI, pointing out that low wages force journalists into situations where a potential conflict of interest could affect the accuracy of their reports.

IPI Member Bulbul Monjurul Ahsan, Head of News and Current Affairs at ATN Bangla, also highlighted the need for training, in particular with regard to the use of modern technology. Fellowships based on the quality of the assignments would motivate journalists in rural areas and bring visible results, Ahsan told IPI, and suggested that the IPI National Committee in Bangladesh “will need to develop a network of rural journalists around the country.”

b. Threats to journalism

Editors also highlighted the pressure exerted on journalists by local leaders or wings of the political parties.

“In the south of the country journalists face pressure from extremists. Many of those journalists face open threats,” an editor said.

c. Independence of the judiciary

An editor told IPI that the judiciary’s lack of independence is a direct consequence of the system of appointment of judges, which needs to be revised. A rural-based journalist, who experienced persecution at the hands of local authorities and the RAB, expressed concern that in the rural parts of the country, local courts are under the influence of the RAB.

d. Disseminating information, encouraging participation

Community media has proven a very valuable instrument for disseminating information amongst groups that have little access to other media. Radio has proven valuable as it is the only medium that can reach people living in areas without phones and electricity, or who have low literacy levels. Community media would also ensure community involvement in broadcasting, and so increase awareness about local issues and encourage political participation, a vital element of any democracy. The enactment of the draft Broadcasting Act of 2003 would strongly support this development.

Conclusions:

The legal framework

A number of laws need to be amended to reflect international standards on the protection of freedom of expression. The new government will need to review these laws, implement the Freedom of Information act, as envisaged by the caretaker administration, as well as the Broadcasting Act. It is also important that the government develops a mechanism to ensure consultation with the media and the public on draft laws.

Safety

The IPI Mission registered some improvement in the media environment in the last two years, with a decline in attacks against journalists. Despite this positive development, there are concerns that such attacks might intensify after the end of the interim government's rule and that journalists, traditionally polarized along political lines, may become victims of the rivalries between the two main political parties.

Impunity

IPI welcomed the commitment given by high-level representatives of the Awami League and the BNP to investigate the killing of journalists. Thorough investigations and prosecutions of the perpetrators are vital for purposes of limiting attacks. Such investigations would also help strengthen the independence of the judiciary and the rule of law.

The relationship between the government and the media

If tensions between journalists and public officials negatively influence journalists' ability to carry out their profession, dialogue between these two groups is vital. Through dialogue between representatives of the media and the authorities could look into ways of ensuring that the natural tension between the media and the government, given the media's role as monitor of government, does not result in restrictions on press freedom.

The Press Council

Media accountability should be promoted solely through self-regulatory measures. A statutory press council is unacceptable, as it allows for too much governmental interference. Authorities and governmental representatives should not have any say on media content and professional standards of journalism. Instead, self-regulatory media accountability systems, including professional codes of practice as well as a press council, should be empowered. This would permit the profession itself to handle complaints, including determining fines and remedies, such as publishing corrections and apologies.

Journalism in Rural Areas

There is a need to carry out specific research into the media situation in rural areas in order to identify problems and solutions. The information should be collected through a number of locally-organized missions to different rural areas. The final goal would be to set up a network of rural-based journalists.

RECOMMENDATIONS:

For the authorities:

1. The investigative authorities should openly and transparently investigate all attacks on journalists, and continue investigations into all cases of murdered journalists
2. The legal authorities should ensure that all Bangladeshi laws meet international standards on press freedom and are in line with the spirit and intent of Article 39 of the Bangladeshi Constitution
3. Politicians, government and other institutions in Bangladesh should allow the media to report free of all attempts to influence this reporting.

For the media:

1. All media should express solidarity and unity in condemning press freedom violations.
2. A Bangladesh Free Media Centre should work to:
 - Encourage dialogue among publishers, editors, journalists to limit the effects of political polarisation on media reports.
 - Encourage dialogue between representatives of the media and of governmental agencies and institutions to ensure understanding of the reciprocal roles, rights and duties.
 - Develop the first countrywide network of journalists to support the profession in rural areas of Bangladesh.
 - Provide expert knowledge and advice to support the media and sustain press freedom in Bangladesh
 - Monitor, through the network, media freedom violations and attacks against journalists in Bangladesh.
 - Offer common ground for journalists to develop independent and voluntary codes of conduct affirming fair, balanced and accurate journalism.
 - Focus on investigative journalism and the media's role in exposing corruption

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