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Heritage of British Colonial Press Laws and Regulations: A critical overview

Dr. Abul Mansur Ahmed*

Introduction

The British colonial model permitted a degree of local autonomy as long as the stability of its rule was not threatened. To maintain control, British colonial regimes enacted a series of laws and regulations to limit the capacity of opposition to the colonial government to mobilize public support. These governing instruments have survived decolonization, in Pakistan and later in Bangladesh, as a result of their continuing utility for those in power. A review of their history is helpful in understanding the contemporary use of these instruments. This article explores the history of the relationship between government and the press during the long period of British colonial rule and the quarter century when Bangladesh was part of Pakistan.

Pre-Independence History of Press Laws & Regulations

The history of media laws and regulations in the Indian Sub-continent that now comprises Bangladesh, India and Pakistan, starts with the Englishmen in the days of the East India Company. It was in the second half of the eighteenth century that the Anglo-Indians and Europeans started their journals. The object of those journals was two-fold: information and amusement. These journals of those days' contained lengthy extracts from newspapers and journals published in England or Europe.

The Bengal Gazette, mentioned earlier, started as a weekly in 1780 by James Augustus Hicky who used to introduce himself as "the Printer to the Honorable Company", i.e. the East India Company. From the very outset, the management of the journal came into conflict with Warren Hastings who was the Governor General of Bengal at that time. The journal criticized Hastings and his general policy. As a result, Hicky was the subject of several libel suits. The first deprived him of the privilege of circulating his newspaper through the General Post Office. Secondly, Hicky was involved in serious litigations, in a number of libel cases. The East India Company also subjected him to oppression. He was a great upholder of the liberty of the press. As Ahuja (1988) notes;

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Mr. Hicky considers the liberty of the press to be essential to the very existence of an Englishmen and a free Government. The subjects should have liberty to declare their principles and opinions, and every act that tends to coerce that principle is tyrannical and injurious to the community.

After Hicky, a few other newspapers appeared evidently because all of them assured the Governor-General that they would abide by the regulations made by his Government. The Military Secretary imposed pre-censorship on *the Madras Gazette* and free postage facilities were later withdrawn when it protested against pre-censorship (Natarjan, 1997: 8). The protests against pre-censorship put the press in a difficult situation. This indicates some resistance against colonial control over the press. The colonial power enacted a series of laws and regulations to consolidate its control over the press. These laws and regulations are discussed below.

Table 1: British colonial rule: Press Laws and Regulations (1799-1947)

Period	Traits	Nature of Press Laws and Regulations
1799-1947	Incorporation of British laws: anti-freedom And suppressive.	1. First Censorship Law (1799) 2. Censorship Law Modifications (1813) 3. Regulations for Registration (1823) 4. Metcalfe's Act of 1835 (Registration of the Press Act) 5. New Regulations on Printing Presses (1857) 6. Indian Penal Code (1860) 7. Press and Registration Act (1867) 8. Vernacular Press Act (1878) 9. Criminal Procedure Code (1898) 10. Newspapers (Incitement to Offences) Act (1908) 11. Indian Press Act (1910) 12. Official Secrets Act (1923) 13. Indian Press (Emergency Power) (1931)

First Censorship Law

The first regulations were passed in 1799 by the East India Company Government requiring newspapers to print the names of the printer, publisher and editor and to

submit all materials to the government. Any breach of the regulations was made punishable with the maximum sentence of deportation from India (Sarkar 1984: 18). In spite of the rigid restrictions, there was a spate of pamphlets, some of them emanating from the Missionaries of Serampore attacking Hindu and Muslim beliefs. Pre-censorship was introduced for irresponsible criticism in the newspapers of subjects related to military topics, and attacking of Hindu and Muslim beliefs.

This regulation was, therefore, repealed during the time of Warren Hastings. Pre-censorship having been abolished, James Silk Buckingham and Raja Ram Mohun Roy played an important part in establishing freedom of the press. Raja Ram Mohun Roy's three papers strongly advocated religious and social reforms that were viewed with apprehension in social circles.

Censorship Law Modifications

Lord Hastings, the Governor, slightly modified the regulations regarding censorship in 1813. Pre-censorship came to an end when Heatly, the Editor of *the Morning Post*, could not be touched for refusing to remove certain portions from his newspaper, because he was an Indian by birth. Lord Hastings abolished the pre-censorship in 1818 and made the editor responsible for publishing anything affecting the authority of the government or anything injurious to the public interest. However, Lord Hastings was of the view that the most effective safeguard for the government was to permit full freedom of discussion by the press as this would help in detecting the weaknesses of the administration and then officials could strengthen it.

During this period, two other persons also played an important part in the fight for the freedom of the press. One was James Silk Buckingham and the other was Raja Ram Mohan Roy. Raja Ram Mohan Roy's papers *the East India Gazette* and *the Brahman* carried on an incessant fight against the orthodox Hindu social and religious beliefs. He left no stone unturned in fighting the superstitions of the Hindu community. His tireless campaign convinced many eminent personalities, both in India and in England, that the newspaper by its disclosure of lapses in administration and its constructive criticism of government policies could perform a useful function for society (Hoque, 1992: 16). The British colonial administration repealed pre-censorship but they held the editors responsible for any writing that challenged the authority of the government.

Regulations for Press License

John Adam, who became Governor General of India after Lord Hastings, took a different view and issued an ordinance requiring that everything be printed under license from the governor general. The proprietor or editor was asked to file applications for the license, furnishing the name or names of the printer and publisher, their places of residence, location of the press and the name of the newspaper. If there were any changes, a new application was to be submitted. The governor general could revoke the license. Under the regulations, the magistrate had the power to attach and to dispose of unlicensed printing presses. Penalties were prescribed for non-compliance of the regulations. Parthasarathy (1995) argues that this ordinance made the restriction on the press more stringent (p. 156).

During the period of Lord Bentinck and Sir Charles Metcalfe, a more liberal attitude was shown to the press. Sir Metcalfe was an ardent advocate of the liberty of the press. Consequently, the Bengal Regulations of 1823 and Bombay Press Regulations of 1825 and 1827 were repealed. A new act was passed in 1835, which was made applicable to all the territories of the East India Company. Under the new act, the editor, printer and publisher were to give only a declaration on the place of the publication. Since the passing of the new act, the press in India, particularly in Bengal, Bombay and Madras, developed rapidly. It is said that Sir Charles Metcalfe liberated the press in India. Lord Ellenborough was faced with a problem and directed that official documents and papers were in no case to be made public or communicated to individuals without the previous consent of the government to which they belong (Hoque, 1992: 16). The revocation of the press license and penalties kept the press under tight control and pressure to comply with the ordinance from the governor general. Lord Ellenborough thus restrained the officials from disclosing the official secret, and the Official Secrets Act came into existence.

Metcalfe's Act (Registration of the Press Act)

Both Lord Bentinck and Sir Charles Metcalfe adopted a more liberal approach towards the press. A new legislation was passed in 1853, known as Metcalf's Act. It repealed the Bengal Regulations of 1823 and the Bombay Regulations of 1825 and 1827 (Sarkar, 1984: 20). It is argued that Metcalfe liberated the press in the Indian subcontinent and the native press developed rapidly in the three provinces of Bengal, Bombay and Madras. Metcalf and Bentinck had a liberal approach towards press but

Heritage of British Colonial Press Laws and Regulations

successive colonial officials perpetuated their power by introducing new regulations on printing presses.

New Regulations on Printing Presses

In 1857, Lord Canning introduced Act XV of 1857 to regulate the establishment of printing presses and to restrain the circulation of printed books and papers. Under the new Act, any observation or statement impugning the motives or designs of the British Government either in England or in India or anything that could bring the said government into hatred or contempt or excite disaffection were prohibited. Rahman (1985) argues that this Act reintroduced the main features of the Adam Licensing Regulations of 1823. An important feature of this Act was that it did not draw a line of demarcation between European and Indian publications (p. 6). This Act demonstrates tough regulations on the press designed to suppress any resistance to British colonial power. The press was sympathetic to publish news of the protests against British rule in India. So Lord Canning's administration introduced this Act to prevent the press from publishing any news considered hostile to British colonial government.

Indian Penal Code

British colonial rulers of India enforced a systematic British rule of law by promulgating the Indian Penal Code (IPC). Only a few Sections like 124A-Sedition, 153A-Promoting enmity between classes, 292 and 293-Sale of obscene books, 499, 501, and 502 - Defamation are related to press. Section 124A-Sedition was incorporated in the IPC in 1870, in view of the growing movement for independence. Provoking or attempting to provoke hatred or contempt or disaffection towards the government established by law in India, by spoken or written words or signs or visible representations, is a punishable offence under this Section (Manna 2003:56). The enactment of the Indian Penal Code provisions relating to press freedom underlines their attempt to control opposition to the colonial regime. The colonial rulers were seeking ways, under the color of law, to repress the independence movement. The amendments authorized officials to arrest journalists under the Sedition Clause and the so-called "strife" regulations. The fact the government sought to increase its legal power to control the press is strong evidence that the newspapers were effective in mobilizing support for the resistance.

Press and Registration Act

In 1867, this legislation was passed to regulate printing presses and newspapers under a system of registration and to preserve copies of newspapers and books printed in India. This law provided that no press could be started by any person unless he had declared himself as keeper of such a press before a magistrate, giving his address and other details. No newspaper could be published unless the publisher made a similar declaration. Parthasarathy (1995) argues that the object of this provision was to fix responsibility for the publication of a newspaper or book so that if the law was violated, the offender could be punished (p.157) while Basu (1986) argues that the object was, however, not to establish governmental control over the freedom of the press. It was a regulatory law which enabled government to regulate printing presses and newspapers by a system of registration and to preserve copies of books and other matter printed in India (p.256). This Act put the press under a system of registration making it easier to control. The need to be certified before a Magistrate was an added start-up cost for publishers.

Vernacular Press Act

The Vernacular Press Act was passed in 1878 to bring the publishing of newspapers in the local languages of the Sub-continent under "better control". The Vernacular Press Act however could not subdue the local language press (Hoque, 1992: 17). The newspapers opposed these measures that were designed to curtail the liberty of the press. Sarkar (1984) states that it empowered the government, for the first time, to issue search warrants and to enter premises of any press, even without orders from any court (p.22). The government used this act to punish and suppress what they regarded as seditious writing. The implementation of the Vernacular Press Act indicates that the indigenous language press was effective in challenging colonial rule and mobilizing support for independence.

Criminal Procedure Code

The Criminal Procedure Code, 1898 was a general law outlining the procedure in criminal matters. This legislation came to include matters of interest to the press. Section 108 particularly after the insertion of Sections 99A-99G in 1922, conferred certain procedural powers upon the government to search for and forfeit publications that offended against the provisions of Sections 124A, 152A or 295A of the Indian

Penal Code (Sarkar1984: 23). Riaz (1988) argues that British colonial rulers perpetuated their power for more control over the press by CrPC 1898 (p 62.). Search warrants and confiscation of publications were other tactics to punish the press and minimize seditious writing.

Newspapers (Incitement to Offences) Act

In 1908, the Newspapers (Incitement to Offences) Act was passed. This empowered a magistrate to seize a printing press if he was convinced that the newspapers printed any material therein which contained any incident relating to incitement to murder or to act of violence or to an offence under the Explosive Substance Act. The result of this Act was that several newspapers that were sympathetic to terrorist activities ceased publication (Hoque, 1992: 17). The Government was also authorized to annul the declaration of the printer or publisher of the newspaper under the Act of 1877 (Ahuja, 1988: 61). The purpose of this Act was to give officials power to harass or close down newspapers.

Indian Press Act

The Indian Press Act of 1910 was passed in that year. This Act required a deposit by every person having a printing press and provided for forfeiture of the deposit in all cases where the matter contained in the newspaper incited violence or sedition. This legislation was directed against offences involving violence as well as sedition. In addition, Basu (1986) states that the rigors of the Act of 1910 were enhanced by the Criminal Law Amendment Act 1913, and by the Defense of India Regulations which were promulgated on the outbreak of the First World War in 1914 (p.256). This Act had become a festering sore affecting the press. This Act was repealed in 1922, in pursuance of the recommendations of a Committee set up in 1921.

Official Secrets Act

This legislation was enacted in 1923, which is a general Act but has an impact on the press. This Act is modeled on the British Official Secrets Act. Section 2 of the British Act corresponds to Section 5 of the Indian Act (Chaturvedi & Chaturvedi, 1989: 126). It is aimed at maintaining the security of the State against leakage of secret information, sabotage and so on. Section 3 through 5 of the legislation states that 'if any person obtains, collects, records, publishes or communicates to any person any official code/password/sketch/plan/model or other document the disclosure of which is

likely to affect the sovereignty and integrity of India, the security of the State or friendly relation with foreign states, and willfully communicates/uses the information to unauthorized persons for benefit of any foreign power he shall be punishable with imprisonment upto 3 years and/or fine' (Manna 2003 p.67). It is clear that colonial officials were particularly concerned about press attention to the activities of the authorities. They were concerned not only about the dissemination of information about military or police related activities, but also about information about the government that would not be popular.

Indian Press (Emergency Power)

The Indian Press (Emergency Power) 1931 allowed the local government to forfeit the security deposit. And where no security deposit had been made, the government could declare the press to be forfeited. Basu (1986) asserts that this Act imposed on the press an obligation to furnish security at the call of the Executive. The Indian Act was, in fact, an antiquated revival of the trial by Star Chamber of Press offences and the Licensing System that English democracy had fought and suppressed (p.257). This legislation was passed to empower the local government to keep the press under stringent control.

Conclusion

The historical discussion of the press underscores how the colonial rulers used the laws and regulations as a governing tool to consolidate their power and suppress the resistance by restricting news coverage of anti-colonial activities and statements. This demonstrates that the press tried to focus the resistance of the people against British colonial rule, but draconian laws and regulations curtailed the freedom of the press until the independence of Indian sub-continent from British rule in 1947. The basic lesson is that history repeats itself in that post-independence Indian and Pakistani regimes incorporated some of the repressive colonial legislations to maintain their own power.

On 14 August 1947, Pakistan came into being but there was no change in the press laws. Bangladesh became independent from Pakistan in 1971 and since then the successive governments retained a structure of press laws and regulations similar to that of the colonial ruler and Pakistan regime. They kept those regulations to perpetuate their vested political interests. The majority of the regulations are used to limit press freedom in Bangladesh.