



Commentary on Contemporary Issues: Demystifying the Judicial Processes: Modern Approaches to Public's accessibility to the Courts, Publication of Judicial Proceedings etc, a Chief Justice's Engagement with the Media.

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The Judiciary is one of the organs of the state which exercises its judicial authority predominantly with its moral and ethical command. The core strength of the Judiciary lies in public confidence accomplished through its competence, integrity and impartiality. Judges are expected to command respect and faith of the communities they serve and this has to be manifested by diverse and effective community responses. As justice should not only be done but should be seen to be done, it is important that the Judiciary and its work be widely understood and followed by the community.

To promote public respect and confidence in the judiciary, there should be dispensation of justice in accordance with law and dissemination of accurate and objective information. The media has an important role to play in this regard and the Judiciary will have to provide necessary support and information about their works to the media. The Judiciary must ensure access to the courtroom of media professionals, transparency in the judicial proceedings, accountability of judges and court staff and, more importantly, dissemination of all courts and case-related information to the people. Besides judicial proceedings, adequate and flawless information must be made available to the media about the process of appointment and disciplining of judges. The timely release of full texts of judicial decisions and administrative report of the court can also play a significant role in enhancing people's confidence in the justice system. On the other hand, inadequate and biased media reports or sensational coverage on the basis of inaccurate information may generate misunderstanding, undermining public trust and confidence in the Judiciary and raising concerns about judicial independence, impartiality and integrity. Intrinsicly, it is necessary to have competent and professional media personnel duly qualified and guided by legal compliance which will pave the way to building trust between the judges and the journalists and providing the media access to the courtroom. Otherwise it may create an anarchic situation for the Judiciary, media and the public as well, where nobody gains anything and the outcome is only frustration for all.

Pursuant to Article 35(3) of the Constitution of the People's Republic of Bangladesh, every person accused of a criminal offence shall have the right to a speedy and public trial by an independent and impartial court or tribunal established by law. The principle

of a public hearing implies that the hearing will take place in an open court or tribunal where among others the media professionals be allowed an easy access. No court in Bangladesh is inaccessible to the general public and there are no proceedings which are barred from the public view if requirement of law is not otherwise. Starting from the highest court of the country, that is, the Appellate Division of the Supreme Court, to the Magistrate Court and even village court, any member of the public can simply walk in without requiring any prior permission or authorisation. Such is the openness of the Bangladesh Judiciary as of now. In *Nova Scotia (Attorney General) v. MacIntyre*, [1982] 1 S.C.R. 175 (Canada) Dickson J. for the 5-4 majority states at pg.185 and 186:

“Many times it has been urged that the ‘privacy’ of litigants requires that the public be excluded from court proceedings. It is now well established, however, that covertness is the exception and openness is the rule. Public confidence in the integrity of the court system and understanding of the administration of justice are thereby fostered. As a general rule the sensibilities of the individuals involved are not basis for exclusion of the public from judicial proceedings. In my view, curtailment of public accessibility can only be justified where there is present the need to protect social values of super ordinate importance.”

In all courts and tribunals, including the Supreme Court of Bangladesh, the media professionals have access to the courtroom. They are allowed to seat in the courtrooms beside the lawyers and to observe and take notes of the judicial proceedings. It is pertinent to mention here that in Bangladesh there is a big and ever increasing media industry with about 54 national dailies and 23 private television channels. Almost all reputable foreign media have also been working in Bangladesh without any interference from any corner. This projects the openness, liberty and freedom of expression of the media people in our society as a whole, though sometimes for incorrect or wrong reporting by a section of it creates mistrust and frustration which is detrimental to the public interest. It has been found that during the hearing of cases of public interest, about one-third of 225 seats of the Chief Justice’s courtroom are occupied by print and electronic media professionals from home and abroad.

In Bangladesh the media professionals also have access to the daily cause lists of the courts which enable them to know beforehand about the Constitution and schedule of the court or the Bench. The Supreme Court of Bangladesh regularly publishes Annual Reports on its activities and also publishes a Digest on the decisions of the Appellate Division delivered in writ, civil, criminal, company and admiralty cases. In Bangladesh there are nine privately owned case law publishing houses which regularly publish important and law-settling decisions of the High Court Division and the Appellate Division of the Supreme Court of Bangladesh. Important decisions are also published in the official website of the Supreme Court of Bangladesh. Media professionals have access to all the above publications and reports as well.

In Bangladesh, television cameras are allowed to broadcast live many administrative and ceremonial programmes of the Supreme Court, such as the oath taking ceremony of the newly appointed Judges of the Supreme Court of Bangladesh, the proceedings of the Judicial Conference but not the court proceedings. The live broadcasts of judicial

proceedings is not at all necessary in apprising litigants and the masses of the works of the courts. Access of the peoples or media professionals to the courtroom is sufficient enough to apprise them about the works of the courts. In countries where the courts work in a language which is different from that of the masses, live broadcasts of court proceedings may, instead of doing any good, create confusion and misunderstanding. Moreover, the introduction of cameras into court may compromise a proper court environment; undermine the justice delivery system and lead to media trials; and traumatise the victims and witnesses since they will have to speak or stand in front of a large television audience. There is also a risk for the witnesses and judges to be identified and intimated and trials may become sensationalised. Taking into account all the above issues we shall have to come to a decision whether we should allow live broadcasts of judicial proceedings or not. As far as Bangladesh is concerned, we are not ready to do this right now but we are open to embrace any new idea which is beneficial to the justice seekers, enhancing public confidence in the Judiciary and ensuring social justice.

The court tour of school students is a step in the right direction. If school students are exposed to the court environment they will be aware of the court system which will diminish their phobia, enable them to act rationally and refrain from breaches of laws. In the future, they will also be able to contribute in dispensation of quality justice. Therefore, courts should create the necessary infrastructure and trained human resources for facilitating such learning tours for school students. The Education Department should encourage the schools to bring their students to courts as part of their extracurricular activities and also include the elementary concepts of rule of law and justice system in their curriculum. The Bangladesh Judiciary facilitates regularly court tours for adult learners from professional schools and senior civil and military officials but so far has not found any school student interested in having a tour of the courts. We hope to facilitate school students' tours to the courts in the near future.

The Chief Justice as the head of the Judiciary must have a welcoming tone for the media professionals and ensure that they are allowed to watch the proceedings of the courts. But with regard to personal interaction with the media a Chief Justice must exercise the highest level of caution and self-restraint. A judge speaks in the courtroom in presence of the learned counsels of both sides and writes his judgment but he cannot speak to the media about his judicial work in the court. The principle of judicial seclusion is still very relevant for judges in general and for a Chief justice in particular. A Chief Justice's spoken words represent the state and stand of the Judiciary and any wrong reporting or misinterpretation by the media of what he delivers can erode public confidence and trust in the Judiciary and also create misunderstanding with other organs of the state. Taking into account these concerns, as the Chief Justice, I would like to opine that generally a judge should not address the press which is inconsistent and inappropriate to his office but the Chief Justice, with all responsibility at his command may in an appropriate occasion, address the press about the policy decisions of the Judiciary.

Lastly, I would like to cite J. Mathewson, who in his book on the U.S. Supreme Court, "The Supreme Court and the Press: The Indispensable Conflict" (2011, Evanston, IL: Northwestern University Press), at pp.xv-xvi, wrote:

“When the Court speaks, who listens? Who transmits each new rule of law to the citizenry? Even in the Internet era when the Court posts its opinions promptly on its own Website, both justices and citizens still depend on journalists to get the word out to the broad public. It is still reporters who immediately read the often challenging legal language and make sense of it for lay understanding.”

The remark describes the true relationship between Judiciary and media. I hope that this cordial relationship will remain intact for the days to come for the betterment and benefit of the citizenry.