

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**

[ISSN 2581-5369]

Volume 4 | Issue 2

2021

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The Downward Spiral of Freedom of Press in India

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ABSTRACT

Former Prime Minister Jawaharlal Nehru had once said: “I would rather have a completely free press with all the dangers involved in the wrong use of that freedom than a regulated or suppressed press”. It is said that the “state must be controlled by public opinion and not public opinion by the state” – this ideal can be an objective reality only when the press is free. India unfortunately does not have an explicit clause guaranteeing freedom of the press, although the Constituent Assembly and the Supreme Court have acknowledged that “it is implicitly part of Article 19(1)(a) of the Indian Constitution, which grants the right to freedom of speech and expression.” According to these institutions, this right is subject to fair limitations as under Article 19 (2) of the Indian Constitution, the relevant grounds for these being, “security of the state” and “public order”. However the ambiguity associated with the interpretation of these articles has led to third party influence of media in India to a large extent. With that being said, I argue that the freedom of press in India, over the past decade, has seen a constant decline, and is directly or indirectly influenced by the government and other vested interests.

I. INTRODUCTION

Former Prime Minister Jawaharlal Nehru had once said: “I would rather have a completely free press with all the dangers involved in the wrong use of that freedom than a regulated or suppressed press”.² It is said that the “state must be controlled by public opinion and not public opinion by the state”³ – this ideal can be an objective reality only when the press is free. With that being said, I argue that freedom of press in India has been deteriorating at a constant rate over the past decade and is directly or indirectly influenced by the government and other vested interests. In India, while there is no express provision guaranteeing the Freedom of Press, it was recognised by the Constituent Assembly as well as the Supreme Court as being implicitly part of Article 19 (1) (a) of the Indian Constitution which confers the right to freedom of speech

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² Amanollah Tamandehrou, 'Freedom of Press in A Democratic Society: The Case of India' (PhD, Aligarh Muslim University 2014) 39.

³ *Ibid.*

and expression. This right is subject to reasonable restrictions as under Article 19 (2) of the Indian Constitution, the relevant grounds for this essay are “security of the state” and “public order”.⁴ Anything that goes above and beyond these reasonable restrictions should in principle be called violations to the freedom of press.

The Wire’s editor, Siddharth Varadarajan, at a Reuters Memorial Lecture said: “most newspapers in India would be completely unprofitable were it not for government advertising and other kinds of rent that they are able to collect.”⁵ With these two ideas put together, it would be patently clear that the media should be inclined to toe the government’s line if they are to receive any government ad revenue and thereby stay afloat. This trend is observable in the fact that through 2014-19, the government spent Rs. 1609 crores on print media advertisements. Of this, Rs. 217 crore went to The Times of India, Rs. 100 crores (approx.) to Dainik Jagran, as opposed to a mere Rs. 40 crores to Deccan Chronicle and Rs. 33.6 crores to The Hindu.⁶ The significance of these figures is displayed when we consider what kind of news each agency runs.⁷ The Times of India runs largely unbiased news, but when they run reports against the government, as happened in June 2019, when TOI published an article critical of the centre in the Rafale deal, it immediately was made the victim of government freezes in advertisements.⁸ Similar instances took place even with The Hindu.⁹ Critics argue that government funding is based on objective criteria that are centred on readership and national spread, but the facts indicate that TOI has the largest English daily readership in India, which in turn registered a 17% rise in readership in 2019.¹⁰ With that fact established, there seems to be no other reason to freeze funds apart from governmental influence in the functioning of the media.

The freedom with which the press reports and can criticize the government has seen a constant

⁴ See *Romesh Thappar v. State of Madras* [18] AIR 1950 SC 124 for reasonable restrictions under Article 19(2) of the Constitution for the term ‘public safety’

⁵ Siddharth Varadarajan, 'In Dark Times for The Indian Media, the Audience Could Hold the Key' (The Wire, 2019) <<https://thewire.in/media/india-big-media-paid-news>> accessed 5 October 2020.

⁶ *Supra* note 4

⁷ “(Dainik) Jagran had from its inception been associated with the right-wing, pro-Hindutva ideology” Sevanti Nina, *Headlines From The Heartland* (Sage 2007) 17.

⁸ Amrita Dutta, 'How The Times Of India, The Hindu & The Telegraph Were ‘Banned’ From Receiving Govt Ads' (ThePrint, 2019) <<https://theprint.in/india/how-the-times-of-india-the-hindu-the-telegraph-were-banned-from-receiving-govt-ads/255412/>> accessed 5 October 2020. See also Devjyot Ghoshal, 'Modi Government Freezes Ads Placed In Three Indian Newspaper Groups' (IN, 2020) <<https://in.reuters.com/article/india-media/modi-government-freezes-ads-placed-in-three-indian-newspaper-groups-idINKCN1TT1R6>> accessed 6 October 2020.

⁹ *Ibid.*

¹⁰ 'World’s Biggest Gets Bigger, TOI Readership Soars 17%: IRS - Times Of India' (The Times of India, 2019) <<https://timesofindia.indiatimes.com/business/india-business/worlds-biggest-gets-bigger-toi-readership-soars-17-irs/articleshow/69066142.cms>> accessed 5 October 2020.

decline over the past decade, particularly with the onset of the Modi regime. News channels and papers are forced to adopt the trend of ‘self-censorship’ because of constant interference from the incumbent government. A perfect example of this is of this was when Bobby Ghosh, the editor of Hindustan Times quit in the September of 2017 shortly after Modi met with the owner of the newspaper.¹¹ Ghosh had fallen out of favour with the government after launching a webpage called the ‘Hate Tracker’, which contained a database of hate crimes related to religion, race, ethnicity, sexual orientation etc.¹² The database was taken down in the following October and the prime minister’s office and the newspaper declined any requests for commenting on the matter. A similar situation occurred with Journalist Punya Prasad Bajpai, who was a former ABP News Anchor and ran the show “Masterstroke”. Mr Bajpai was asked by his proprietors to refrain from using both, the name as well as images of Prime Minister Modi in reports that were critical of the government.¹³ The message in both these cases were sharp and clear to every news channel, “go against us (the government), and you will pay the price.”¹⁴ While in certain cases, media houses with immense funding can afford to ‘pay the price’ of going against the government, there have been certain instances in the recent past where overt and very direct measures have been taken by the government to curb reporting. To illustrate my point, consider the case of NDTV, a news channel where the news reported, and opinions propagated are by no means inclined towards the government’s side. It is thus not surprising that in 2016, in the aftermath of the Pathankot terrorist attacks, the government pounced upon NDTV and banned it for a day¹⁵ on January 4th under national security laws. While the news being reported did contain details of national security, which could have in turn been misused by terrorist handlers, it is clear that NDTV was singled out in this case even though all the other major media platforms were running the same news, which in fact was reported earlier. On January 3, The Indian Express carried an IANS report that revealed the presence of “MIG-21 fighter jets, MI-35 attack helicopters, missiles and other critical assets” at the airbase¹⁶, and a report published in The Times of India on January 3 mentioned

¹¹ Raju Gopalakrishnan, Indian journalists say they are intimidated, ostracised if they criticise Modi and the BJP (REUTERS, 2017), <https://in.reuters.com/article/india-politics-media-analysis/indian-journalists-say-they-are-intimidated-ostracised-if-they-criticise-modi-and-the-bjp-idINKBN1HY0AQ> (last visited Dec 5, 2020).

¹² Niha Masih, HT Hate Tracker: A national database on crimes in the name of religion, caste, race (Hindustan Times, 2017), <https://www.hindustantimes.com/india-news/ht-hate-tracker-a-national-database-on-crimes-in-the-name-of-religion-caste-race/story-xj2o03dKF9PsW4IYIEvdgI.html> (last visited Dec 5, 2020).

¹³ Punya Prasad Bajpai, 'Exclusive: Punya Prasad Bajpai Reveals The Story Behind His Exit From ABP News' (The Wire, 2018) <<https://thewire.in/media/punya-prasad-bajpai-abp-news-narendra-modi>>. (last visited Dec 5, 2020).

¹⁴ *Ibid.*

¹⁵ 'Why Was NDTV India Banned And What Does The Law Say?' (Hindustan Times, 2016) <<https://www.hindustantimes.com/india-news/why-was-ndtv-india-banned-and-what-does-the-law-say/story-Rp7oyyYZ0MFzbV6omyMnbO.html>> (last visited Dec 5, 2020).

¹⁶ Shoaib Daniyal, NDTV ban: Did the Modi government unfairly single the channel out? Scroll.in (2016),

surface-to-air missiles and surveillance radars.¹⁷ Again, whether or not the ban was justified, it is clear that NDTV was given selective treatment, even though other media houses ran reports with similar details. This apparent ‘singling out’ is a classic example of ‘selective justice’ being handed out. What this means is that while justice may be served, it must also be seen to be done in the interest of fairness and objectivity, and in this case, to all parties involved.

Since India imposed the nationwide lockdown to contain the coronavirus outbreak on March 25, at least 24 mediapersons have been impeded from doing their work. The impediment has been in the form of police interrogation, notices, detention, FIR, arrest, even assault. Kashmir has seen several journalists being booked under the Unlawful Activities Prevention Act, which allows the government to term individuals as ‘terrorists’ and imprison them up to a period of seven years. Majority of the journalists detained have been booked under the IPC Section 188, which criminalises disobeying a public servant’s order, and Section 505 (1)(b), which punishes causing fear and alarm to the public “whereby any person may be induced to commit an offence against the state.” Instances such as the ones above go to reflect the extent to which the government reacts to negative publicity. It is for this reason Siddharth Varadarajan, the editor in chief of ‘The Wire’ feels that “Government ministers have coined the word, ‘presstitute’, to describe journalists who are unfriendly to them or who don’t do their bidding,”¹⁸ and that anyone who asks questions in current day India, are labelled as ‘anti nationals’. This was very strongly objected to by the Reporters Without Borders (RSF) Organisation when in their 2017 Press Freedom Report they said about India “With Hindu nationalists trying to purge all manifestations of ‘anti-national’ thought from the national debate, self-censorship is growing in the mainstream media. Journalists are increasingly the targets of online smear campaigns by the most radical nationalists, who vilify them and even threaten physical reprisals.”¹⁹ Currently, the level of third-party interference in Indian media is so abundant that India as of 2020 ranks 142nd out of 180 countries in Reporters Without Borders (RSF) organisation’s Press Freedom Index.²⁰ All that critics have to say about such scathing reviews and abysmal rankings is that they were the same even under the UPA regime. While this may be true (India ranked 140th on the PFI in 2013), it misses the point that it does not matter which government started a

<https://scroll.in/article/820748/ndtv-ban-did-the-modi-government-unfairly-single-the-channel-out> (last visited Dec 5, 2020).

¹⁷ *Ibid.*

¹⁸ *Supra* note 4

¹⁹ Sam Jawed, ‘Indian Media’s Reluctant Coverage Of 2017 World Press Freedom Index Is A Reflection Of India’s Low Rank - Alt News’ (Alt News, 2017) <<https://www.altnews.in/indian-medias-reluctant-coverage-2017-world-press-freedom-index-reflection-indias-low-rank/>> (last visited Dec 5, 2020).

²⁰ ‘2020 World Press Freedom Index | Reporters Without Borders’ (RSF, 2020) <<https://rsf.org/en/ranking>> (last visited Dec 5, 2020).

particular phenomenon or a downward trend. Instead, what matters is the question of which government positively affects the situation, this part sadly, was not fulfilled either by the previous regime or by the incumbent regime.

Several politicians and third parties, in many instances have also used the press as a medium to improve their public image, increase favourable coverage and suppress unfavourable information. The widespread practise of ‘paid news’ in India has been severely criticized because it diverts attention and coverage to people having sufficient funding, and selectively presents information to favour them, instead of what is significant, complete and necessary to inform the public. According to Cobrapost²¹ in 2018, in its undercover operation, it approached the Times Group, India Today, Hindustan Times and the Zee group as a fictitious organisation going by the name Srimad Bhagavad Gita Prachaar Samiti. Cobrapost offered a payment of up to ₹500 crore to publish stories promoting Hindutva ideology, communal and political gains. All three of these media houses agreed to commence discussions on the offer, alleged Cobrapost, and Vineet Jain the Times Group owner and managing director, was actively a part of these discussions.²²The Cobrapost 2018 sting operation neither led to any real cash payments nor actual publication of any paid news by any media group, but it "revealed the clear intent of the majority to go along with the proposals of the undercover reporter" by numerous media groups in India.²³

Another recent example is that of India Today’s ground report on December 4th 2020 talked about how the controversial farm laws passed by the Modi Government had benefitted farmers “in favourable market conditions”.²⁴ As per the reports, several of the farmers they had interviewed stated that these new laws had given them a lot of autonomy and greater profit margins. However, on December 3rd (a day before the article was released), India Today received several documents from the office of Prakash Javadekar, (Ministry of Information and Broadcasting) which contained a list of farmers they had to interview, contained pointers on the “objectives” of the farm laws and its “benefits”.

²¹ Cobrapost is a non-profit Indian news website that was founded in 2005 by Aniruddha Bahal – the co-founder of Tehelka. It is particularly known for its undercover investigative journalism.

²² Cobrapost Sting: Big Media Houses Say Yes to Hindutva, Black Money, Paid News, The Wire (2018), <https://thewire.in/media/cobrapost-sting-big-media-houses-say-yes-to-hindutva-black-money-paid-news> (last visited Dec 5, 2020).

²³ T.K. Rajalakshmi, Under the scanner Frontline (2018), <https://frontline.thehindu.com/the-nation/under-the-scanner/article10108713.ece> (last visited Dec 5, 2020).

²⁴ Ayush Tiwari, Guess who was India Today’s source for ‘success stories’ of farm laws? Prakash Javadekar NEWSLAUNDRY (2020), <https://www.newslaundry.com/2020/12/10/guess-who-was-india-todays-source-for-success-stories-on-farm-laws-prakash-javadekar> (last visited Dec 13, 2020).

The freedom of the press is a sacred right in a democracy, while there may be reasonable restrictions to this right, these restrictions must not be applied unjustly. However, the examples illustrated through the entirety of this argument in no way support the former. The example of the extent of self-censorship shown by newspapers and media in sharing details of India's rank in the World Press Freedom Index report of 2017 is disturbing. By blocking out the story completely or sharing only selective aspects of it, they have shown how uncomfortable they are, and how influenced they are about reporting stories criticizing the growth of radical nationalism under the current government. A free and vibrant press is indeed essential for democracy, and the way the Indian media covered the story back in 2017 shows us why India ranked a low 136 out of 180, and currently sits in the 142nd position. If this is truly the state of the freedom of press as we know it, the only question left to ask is: If this trend continues, will India still be the democracy that it prides itself to be?

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