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Media regulations in India: A study of journalistic freedom and ownership patterns

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Abstract

Democracy runs on the policy of - "Of the people, by the people, for the people". To exercise such a franchise, people need to have the freedom to express their thoughts and opinions, and this has been made possible under article 19(1) (a). Even though media is considered the fourth pillar of democracy the government can impose reasonable restrictions under Article 19(2) in the interest of the public good. The present study will highlight the symbiotic relationship between media and democracy under the constitutional framework. The broad objective of this study is to see media freedom with a special focus on journalistic freedom and ownership pattern. In this background, the present study analyses various constitutional regulations of media to find out the journalists who have been penalized for their journalistic work and seek to know the shifts in ownership of various tv channels and newspapers. To carry out this study, the report on the safety of journalists by UNESCO, the world press freedom index report, articles on press regulations, and media conglomerates' ownership patterns in India will be studied based on documents available at the registration end and respective media sources. This qualitative study is based on secondary data from official reports and various media sources, while document analysis has been used as a research tool. The social responsibility theory gives importance to the free press; at the same time, it places greater emphasis on media accountability. Thus, the proposed study also explores the significance of media regulations for the public good and a better society. The study would contribute to a deeper understanding of journalistic freedom and the work culture of journalists under constitutional regulations. Further, it would guide us to understand how the ownership pattern shifts from time to time to accommodate the government ideology.

Keywords: Media regulations, democracy, media accountability, transparency, journalistic freedom, ownership patterns

1. Introduction

Freedom of speech and expression is a fundamental and universal human right. It is neither a privilege enjoyed by a particular class or individual nor the privilege of the journalist. It is a fundamental right enshrined in the constitution of India. Since journalists and media institutions use this right in their day-to-day work, they simply exercise every citizen's right to free speech. A free press is essential in a democratic society because it serves as a watchdog on government activity and ensures that those in positions of power are held accountable.

Every individual has the right to freedom of speech and expression; according to article 19 of the United Nations Charter of Human Rights, everyone has the right to freedom of opinion and expression. "This right includes the freedom to hold opinions without interference and the freedom to seek, receive, and impart information and ideas through any media regardless of frontiers." Journalists have the same rights under its jurisdiction. In India, the Press Council was established in 1966 to preserve the freedom of the press and to maintain and improve the standards of newspapers and news agencies. In line with high professional standards, the council has also suggested a Code of Conduct for newspapers, news agencies, and journalists. The MacBride Report states that all journalists have responsibilities to their convictions, but equally important are their responsibilities to the public (International Commission for the Study of Communication Problems, 1980, p.216) [6].

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These ethical codes and social responsibilities will provide a progressive environment for Journalism.

For a long time, media in India has been regulated by different governments, media conglomerates, institutions, and various constitutional laws which further curtail press freedom and the right of the citizen to information, as well as the right to freedom of speech and expression. They are all in force in the interest of public order and the sovereignty and security of the state. They are (1) The Indian Telegraph Act. 1885. (2) Indian Post Office Act. 1898. (3) The Police (Incitement to Disaffection) Act. 1922. (4) Official Secrets Act, 1923. (5) The Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954. (6) The Young Persons (Harmful Publications) Act, 1956. (7) The Copyright Act, 1957. (8) The Unlawful Activities (Prevention) Act, 1967. (9) Contempt of Courts Act, 1971. (10) The Criminal Procedure Code, 1973. (11) The National Security Act, 1980. (12) The Indecent Representation of Women (Prohibition) Act, 1986. Some of the current regulations date back over a century and continue to regulate some parts of the media to this day.

Indian journalism witnessed the dark phase when the then prime minister Indira Gandhi advised the president to declare a state of internal emergency without warning on the midnight of 25th June 1975. The whole country woke up to the death of democracy. During the emergency, civil liberties were severely restrained. The freedom of the press was strictly curtailed. Since then, Indian media has seen many ups and downs. The International Press Institute said democracy can only thrive if media pluralism is allowed to flourish. The International Press Institute issued a statement expressing "grave concern" over the alleged misuse of the law by authorities to "intimidate journalists and curtail press freedom". India is one of the biggest media markets in the world. The concentration of media ownership on the other hand indicates that only a few individuals own and dominate Indian media. India's size also relates to its media landscape.

According to the most recent data provided by RNI as of 31st March 2020, the total number of registered publications was 1,43,423. As of June 2019, there are 381 operational private FM radio stations in more than 101 cities and towns across India. AIR's home service comprises 483 broadcasting centres located across the country, covering nearly 92% of the country's area and 99.20% of the total population. Terrestrially, AIR originates programming in 23 languages and 179 dialects. According to the Ministry of Information & Broadcasting, over 880 satellite TV channels, including over 380 which, claim to be television channels broadcasting "news and current affairs". The sheer quantity of news websites functioning in India is mind-boggling. (Reporters Without Borders, 2019) [10].

2. Literature review

In 2018-2019, UNESCO documented a total of 156 killings of journalists worldwide, down 14% from the previous two-year period, when it recorded 182 killings. A closer examination of these figures reveals some concerning trends. Within this overall decrease, 89 of the killings recorded in 2018-2019 occurred in non-conflict countries, compared to 67 in conflict-ridden countries. In non-conflict countries, where journalists continue to be killed while reporting on corruption, human rights violations, environmental crimes, human trafficking, and political

malfeasance. In terms of absolute numbers, 2018 witnessed the largest number of journalists killed in non-conflict nations in the previous four years (UNESCO, 2020) [16].

In the annual Reporters Without Borders study, India has fallen two places to 142nd out of 180 nations on a worldwide press freedom rating. According to the 'World Press Freedom Index 2020,' there were no killings of journalists in India in 2019, compared to six in 2018. On the surface, the security situation for the country's media appears to have improved. However, there have been ongoing violations of press freedom, including police assaults against journalists, political activist ambushes, and retaliation by criminal gangs or corrupt local politicians (RSF, 2020) [12].

The Uttar Pradesh Police have filed their first information report against Scroll.in. Executive Editor for a report on the effects of the country's lockdown to combat the coronavirus in Prime Minister's constituency of Varanasi was condemned as a heinous act by Reporters Sans Frontières, also known as Reporters Without Borders (Scroll. In, 2020). The UIDAI has filed a police case against a journalist who revealed a suspected security breach in India's huge biometric database, which contains the personal information of over 1 billion residents, sparking new fears about the country's dwindling press freedom. After publishing an article in the Tribune newspaper stating that reporters were abusing their positions, a complaint was filed against the journalist. Reporters were able to acquire access to a billion people's addresses, emails, and phone numbers for roughly \$8. Reporters paid an extra \$5 for software that allowed them to print unique identity cards that allow people to access various government benefits, including free school meals and gasoline subsidies (Doshi V., 2018).

In India, 48 journalists have been slain since 1992, with another 34 faced assassination attempts. According to the Committee to Protect Journalists database, 32 of the 34 murders were committed with "full impunity." According to NDTV reports, just one journalist's murder has been tried and the killers were jailed for 23 years, that of Midday's Jyotirmoy Dey. From 2007 to 2017, 13 journalists were slain with "total impunity" in India, according to the Global Impunity Index. The majority of the journalists were targeted because they covered crime, local corruption, and politics outside of major cities. Among the assassinations was Gauri Lankesh, a senior journalist and editor who was shot and killed by three men in Bangalore on September 5, 2017. Her assassination sparked a national uproar about journalist safety. Lankesh's Kannada-language weekly tabloid, Gauri Lankesh Patrike, was known for its condemnation of right-wing extremism and communal violence. According to the Committee to Protect Journalists. conditions in India have "deteriorated" in 2018. In 2018, Dainik Bhaskar's Navin Nischal, News World's Sandeep Sharma, and Rising Kashmir's Shujaat Bukhari were slain for their work. (Bansari Kamdar, 2018) [1].

According to the 2018 Global Impunity Index, India was rated 14th on the list, with 18 impunity-related deaths of journalists between 2008 and 2018. India has appeared on the Index eleven times. The CPJ releases the Impunity Index every year on November 2 to commemorate the International Day to End Impunity for Crimes Against Journalists. It looks at journalist assassinations in every country during a ten-year period as a percentage of the population. India has declined to join UNESCO's impunity

accountability process, which assesses a state's political will to combat impunity. The UNESCO mechanism has asked for updates on the status of the investigations into the assassination of the journalists (Bansari Kamdar, 2018) [1]. The India Freedom Report, January 2016-April 2017, published by The Hoot, reveals that a wide range of actors, including politicians, business people, members of rightwing organisations, the police and paramilitary forces, government agencies such as the film certification board, the Union Information and Broadcasting Ministry, various state governments, lawyers, and even the media, have taken steps to stifle freedom of expression (Sevanti Ninan, 2017) [14].

The cases of Jagendra Singh, Umesh Rajput, and Akshay Singh, who died between 2011 and 2015, show how small-town journalists face greater risk in their reporting than those from larger outlets, and how India's culture of impunity is leaving the country's press vulnerable to threats and attacks, said the report on Committee to Protect Journalists (Committee to Protect Journalists, 2016).

The Prime Minister warned a month after taking office in the summer of 2014 that India's "democracy will not survive if we cannot guarantee freedom of speech and expression." Many people believe that six years later, India's democracy has been weakened by what they see as ongoing attacks on press freedom. The current raid follows violence at a recent farmers' rally protesting several agricultural reform regulations. During the tussle, one protester was murdered, and around 500 police officers were injured. Police have now filed criminal charges against eight journalists who covered the Delhi protests, including sedition and making anti-national comments (Soutik Biswas, 2021) [15].

The relationship between power and the media has a long history. Controlling the media has been crucial in obtaining public consent and suppressing criticism. Controlling the information space can be accomplished in a variety of ways. Direct control through the imposition of severe restrictions and legislation that limit the breadth of what may be published, and indirect control by state money for advertising and marketing. The latter is a clever and unobtrusive means of restricting critical reporting and regulating the political conversation. Inviting media outlets to engage in self-censorship using a variety of pressure tactics is also a control tool. Clearly, media ownership has a considerable impact on the perspectives provided in reporting, and bias is unavoidable in such situations. Aside from outright ownership, advertising can provide another means of exerting influence over editorial content as more and more media become reliant on ad revenue. As a result, it is probably fair to conclude that today's Indian media is more profit-driven than conviction-driven. When media houses earn extra money by carrying advertisements, this dependency becomes extremely troublesome. Because of government media's financial reliance on advertisements, they must toe the line of delivering favourable coverage for the government (REPORTERS WITHOUT BORDERS & data LEADS, n.d.).

Media pluralism is a concept that encompasses a multitude of factors, including ownership diversity, variety in information sources, and the breadth of content available in different Member states. For many analysts and observers, media pluralism has almost exclusively come to symbolize a diversity of ownership. It is feared that a concentration of ownership may lead to biased public discourse. Where

particular points of view are ignored or underrepresented, furthermore, because some points of view are expressed while others are marginalised, political power can be abused through lobbying by powerful interest groups, whether political, commercial or otherwise (COMMISSION OF THE EUROPEAN COMMUNITIES, 2007).

The new "Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021," which were jointly announced by the IT Ministry and the Information and Broadcasting Ministry, would significantly alter how Indians use the internet. A portion of the proposed rules deals with the regulation of online media, which, according to the rules' definitions, includes digital news media and video streaming platforms. While Part I of the Intermediary Rules primarily defines words, Parts II and III of the Intermediary Rules contain the actual compliances and requirements. The regulation of intermediaries, particularly social media intermediaries, is the subject of Part II. WhatsApp, Signal, and Telegram form Messaging-related intermediaries, and media-related intermediaries, like Facebook, Instagram, and Twitter, are part of social media intermediaries. The Ministry of Electronics and Information Technology is in charge of this section. Part III focuses on the regulation of digital news outlets and over-the-top (OTT) platforms like Netflix, Amazon Prime, and Disney+Hotstar. Part III is controlled by the Ministry of Information and Broadcasting.

While the rules appear to be intended to curtail problematic content, empower viewers to make more informed decisions, and create a level playing field for different mediums, many experts believe that excessive censorship and regulations would curtail freedom of expression, harm the creative businesses, as well as the creative community and audiences. Excessive delegation of authority: The Rules constitute a non-judicial adjudicatory framework for resolving complaints concerning digital news media and over-the-top (OTT) services content. They've also established an adjudicating body called the "oversight committee." This is although the IT Act does not expressly authorise the government to do so.

As applicable to digital News Media has to comply with the Norms of Journalistic Conduct of the Press Council of India and Programme Code, and ensure that content which is prohibited under any law is not published or transmitted. This is significant since OTTs are now required to classify content as 'U', 'U/A 7+', 'U/A 13+', 'U/A 16+', and 'A' based on the nature of the content. Apart from this, the Code of Ethics also mandates OTTs to take into consideration India's multi-racial and multi-religious history, take essential caution and discernment' while highlighting activities, beliefs, practices, or perspectives of any racial or religious group. This is likely to have a chilling impact on expression since it gives official credence to concerns voiced by some organisations over artistic content (Internet Freedom Foundation, 2021).

The recent IT raids on the Dainik Bhaskar media organisation and the Bharath Samachar regional television network are a premeditated attempt to suppress journalistic independence and democracy. Employees' homes were also invaded by IT personnel, who took cell phones away from them. According to Dainik Bhaskar and local media associations, the probes are revenge for critical coverage and an attempt to send a message to journalists. The Indian government's response to a second wave of the coronavirus

pandemic, which included scarcity of oxygen supplies and apparent under-reporting of the death toll, has been criticized by both media outlets.

Dainik Bhaskar was also one of the few Hindi-language publications to cover the Pegasus spyware intrusion, in which government-licensed monitoring software was discovered to have targeted roughly 40 journalists in India. The Editors Guild of India issued a statement condemning the raids, expressing concern that government agencies are being "used as a coercive tool to repress free expression.

Raids, according to Daniel Bastard of the media watchdog Reporters Without Borders, can have a chilling impact on other journalistic organisations. It's nearly become a trend for government entities to target news organisations based on false allegations (Scroll.in, 2021; VOA, 2021).

The Enforcement Directorate (ED) raided the homes of numerous officials and journalists from Newsclick.in, a Delhi-based independent media outlet.

The DIGIPUB News India Foundation, which is made up of digital media companies and freelancers, has issued a statement strongly criticizing the raids. The use of governmental institutions to intimidate journalists and conceal critical reporting is harmful not only to press freedom but also to the concept of democratic accountability.

The raids, according to the Press Club of India (PCI), are an unsavory onslaught on the media intended to frighten and muzzle critical journalism (scroll.in, 2021)

The NDTV founder's offices and residence were raided by the Central Bureau of Investigation in 2017 for allegedly scamming 48 crore rupees, but NDTV denied any wrongdoing. According to the report, the searches were carried out without any prior investigation. They were charged with criminal conspiracy, cheating, criminal misconduct, and several sections of the Prevention of Corruption Act.

The Editors Guild of India condemns any attempt to silence the media and demands that the CBI follow due procedure and guarantee that news outlets continue operating freely (EconomicTimes Bureau, 2017).

Six ministers from Karnataka state have sought an injunction order from the city court against the publication of any defamatory content against them after a video allegedly showing the then Water resources minister in a compromising position with a woman went viral. A city civil court in Bangalore issued a temporary injunction against 68 media houses, restraining them from telecasting or publishing any unverified news item defamatory contents/CDs against the plaintiffs/applicants. This is a typical example of media freedom being curbed through legal means, even when the media had clinching evidence against the accused minister (Mustafa Plumber, 2021) [9].

3. Scope of the study

The very scope of this study is to analyse the various media regulations and ownership patterns in India so that we can understand the current scenario of journalistic freedom and reflect on media pluralism. For this study, the report on the safety of journalists by UNESCO, the world press freedom index report, articles on press regulations, and media conglomerates' ownership patterns in India will be studied based on documents available at the registration end and respective media sources. Due to geographical and time constraints, the study is limited to document analysis from

authentic secondary sources.

4. Objectives

The present study will explore how journalistic freedom is being curbed under various regulatory policies by the state. The study would like to highlight the misuse of criminal laws against journalists for their work. The study would analyse various factors which lead to the attacks on journalists. The study also examines the present government's commitment to journalistic safety and measures taken to control impunity. The study would like to highlight media ownership and its effect on media pluralism.

5. Methodology

The study has adopted a qualitative approach by using document analysis as a research tool to gather data from secondary sources. Purposive sampling is applied. Official documents from UNESCO, world press freedom index report, Universal Declaration of Human Rights, Getting Away with Murder, a report on the attack on journalists in India 2014-2019. RNI's annual "Press in India" report, data from Prasarabharati and the Ministry of Information and Broadcasting have been carefully examined. Along with these documents, several national and international news articles regarding journalistic freedom and ownership patterns have been analyzed to reach the stated objectives.

6. Data analysis

The Data analysis conducted on the topic of Media Regulations in India: A Study of Journalistic Freedom and Ownership Patterns by using authentic secondary sources and employing Theme-based content analysis (TBCA). The analysis revealed several prominent themes, which are categorised into the following: Journalists Killed, Journalists attacked, Gagging the media and Ownership patterns to draw inferences.

6.1 Journalists Killed

From 2014 to 2020 at least 46 killings of journalists have been documented. 27 of which were directly linked to their professional work. The motive behind the remaining 19 killings was either not linked to their work or was unclear. In 2020 alone, there were six cases of deaths of journalists namely S V Pradeep, Rakesh Singh, Parag Bhuyan, Isravel Moses, Sunil Tiwari, and Shubham Mani Tripathi all of the cases are related to their professional work. The majority of the killings that happened are related to investigative journalism which had exposed illegal activities such as mining, sand and liquor, kerosene trade, stone crushing, and corruption. Businessmen, police, politicians, right-wing organisations, state security forces, village officials, Maoists, splinter groups, and supporters of political parties are among the offenders.

6.2 Journalists attacked

The attacks can be broadly divided into two categories: One, attacks on journalists reporting or covering any incident or event, and two attacks targeted at journalists involved in investigative work or reportage.

There were 198 cases of attacks on journalists between 2014-19. Of these, 63 cases of targeted attacks on an individual journalist or a team of journalists engaged in any investigation in the period between 2014-18. In 2019, there

were over 36 serious attacks on journalists in India, including six during the recent protests over the passage of the Citizenship Amendment Bill.

According to a report prepared by the Rights and Risks Analysis Group (RRAG), at least 55 journalists faced arrest, registration of FIRs, summons or show cause notices, physical assaults, alleged property destruction, and threats for reporting on COVID-19 during the national lockdown from March 25 to May 31, 2020. According to the group, Uttar Pradesh saw the most attacks (11 journalists), followed by Jammu & Kashmir (6 journalists), and Himachal Pradesh (5 journalists).

6.3 Gagging the media

The study has observed the recent shift in the patterns in media being regulated. Rather than using the old age acts, the impediment has been in the form of police interrogation, notices, detention, FIR, arrest, and even assault. At least 24 journalists have been prevented from working since India declared a statewide lockdown to contain the coronavirus pandemic on March 25. Uttar Pradesh has the most journalists booked of any state, with eight. Himachal Pradesh, Tamil Nadu, Chhattisgarh, Andaman and Nicobar Islands, Bihar, and Maharashtra are among the other states with cases. The journalists have mostly been charged under Section 188 of the Indian Penal Code, which makes it illegal to disobey a public servant's order, and Section 505 (1)(b), which makes it illegal to cause fear and alarm to the public, whereby anybody can be persuaded to commit a crime against the state. Sections of the 2005 Disaster Management Act have also been used as a deterrent. Six top journalists and editors have been charged with sedition and fostering communal division in the wake of the recent farmer protests in the states of Uttar Pradesh, Madhya Pradesh, Karnataka, and Haryana. UAPA is an anti-terror law designed for unusual circumstances, yet it has been used against journalists regularly. The UAPA allows for up to 180 days of imprisonment without charge, making it a useful weapon for silencing dissenters.

Sedition and the Unlawful Activities Prevention Act (UAPA) have become weaponised and routinely used against dissidents of various ruling governments in recent years. These findings are supported by data from the National Crime Records Bureau's recently released Crime in India figures for 2019. In 2019, 93 instances of sedition were filed, up from 35 in 2016, a 165 percent increase. In 2019, there were 1,226 UAPA complaints filed, up 33% from 2016.

6.4 Ownership pattern

Viewership and readership are disproportionately controlled by media owners with political ties. There is a plethora of media outlets owned by people with direct or indirect ties to politics, but many of them have refused to declare their political affiliations. The co-owner of Zee News, has been an independent Member of the Rajya Sabha, the Indian Parliament's Upper House, from August 2016 to 2022. Zee News, one of the top four Hindi news channels in the country, is often seen as favourable to the present central government and its political agenda. The Incumbent Minister of State for Electronics and Information Technology is the founder of Republic TV, which now controls a significant portion of the English news market. His Jupiter Capital Private Limited also owns two south

Indian news networks, Asianet News in Malayalam and Suvarna News in Kannada. A handful of regional news networks are also owned or controlled by politicians. One of the former members of the Biju Janata Dal, a regional party centered in Odisha that has been in power for five terms. Today, the politician serves as the BJP's national vice president and official spokesperson, as well as a co-owner of Odisha Television. The owner of the Hindi newspaper Dainik Jagaran, is a Rajya Sabha member. The director of Sakal, a Marathi newspaper, is a member of the Indian Parliament from the Nationalist Congress Party. The owner and operator of the news television channel News Live is married to a minister in the BJP government in Assam. The media is owned by those who have direct access to or are in close proximity to power. Their media outlets are more likely to focus on influencing and generating opinions rather than providing unbiased information. The ownership of news outlets by people with political ties could readily influence news distribution, giving the impression that they are potential propaganda machinery serving the agenda of a certain political ideology or thinking.

7. Conclusion

The research has found that various elements, such as government, media conglomerates, politicians, businessmen, infringe groups, village panchayaths, police, and security forces, actively control the media through money and muscle power. The research has also found that the current government is heavily curbing media freedom through stringent laws such as UAPA, defamation, seditions, etc. In a recent farmer's protest, the government has drawn severe criticism from global media organisations for the way they falsely charged the journalists. India has fallen two places on a worldwide press freedom rating, reaching 142nd out of 180 countries; even more worrying is its failure to report to UNESCO on measures it has taken to improve journalist safety and combat impunity as a method to promote best practices. Another point of concern is the increasing polarisation within the media, with explicit biases and stances taken by media houses owned by or close to political parties that had a role in the attacks on Indian journalists. As a matter of fact, the dissenting voice and media pluralism has visibly deteriorated under the current regime.

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