

# Freedom and Ethical Dimensions of Press in India : An Appraisal

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## Abstract

The mode and mechanism of media accountability varies from country to country. They take shape differently depending on the political, social and cultural scenarios. In India, we have regulatory laws and non-regulatory codes of conduct. The ombudsman system tried by one or two newspapers does not appear to have yielded satisfactory results from the readers' point of view. The Press Council of India has been there for over four decades and it has had its little or no impact on the sustenance of media credibility. Representative bodies of editors and other journalistic organizations have worked out their own codes of ethics and their effectiveness is a subject long debate. The information technology and satellite revolutions have added a new dimension to the problem of accountability. Internet has already started making an impact on the world societies. Hence, there is a need to reconcile the laws that regulate media and laws that protect the freedom and rights of the media. Further, the new miniature technologies in news reporting and investigative reporting pose a serious question of ethical considerations, as the old systems of news reporting have failed to deliver the goods. Social responsibility is being abused and neglected in the pursuit of circulation and revenue. The press is giving undue importance to crime, scandal, sensationalism, excessive bias, distortion and misstatement of facts to abandon the rational standards of relative importance. Even the reports of the international committees (Third Royal Commission, 1977; Calcutt Committee in UK, 1990; Royal Commission in Canada, 1981) cited that the commercial trends are afflicting the newspaper industry's responsibility to the public.

There is a severe criticism all over the world on the tendencies of sensationalism in the press and the subordination of facts to commercial criteria of performance and to vested interests of proprietors, slanting of news to fit editorial policies etc. Press is preoccupied with making profits at the expenses of papers' public role resulting in the total destruction of all interests in ethics and all pride of work leading to the general lowering of the status.

Hence, this paper is an attempt to analyze the inadequacies with reference to the observance of ethics in the newspaper

industry to suggest a mechanism of regulation for the sustenance of ethics in the profession in India.

**Keywords:** freedom of the press, Political Rights, press, responsibility of mass media, codes of ethics, media code of ethics.

## 1. Introduction

Press is the oldest of the mass media and remains one of the most important media. The role and significance of print medium cannot be underestimated even in the electronic era, where the reading habit is yielding place to the watching of moving images on the small screen. Fleeting images on the electronic media do need reinforcement. In this area, no other medium can help well than the print medium. The press has the facility to present any issue in its totality, in an everlasting way. Because of its immense influence and power, the press is termed as the fourth estate. It is appropriately said, "Press is the universal medium into which all other media can be translated. It is both visual and symbolic. It is the Meta medium (Brennam, 1982: 391). The press plays an important role in shaping the minds of people in modern society by providing information and opinions on matters of vital importance. So freedom of the press is an indispensable condition for the healthy functioning of a democratic government. The electorate can form rational judgment on government policies and public issues with the help of the press. A free press promotes national integration, social cohesion and consensus by intercommunication of the views of various interest groups. Art. 19 of the International Covenant on Civil and Political Rights (1966) stresses that printing is one of the modes through which thoughts and ideas are expressed and

discussed. The freedom of the press is therefore a necessary concomitant of the freedom of expression, which involves the right to receive and impart information.

In India, there is no specific mention of the freedom of the press in Art. 19 (1) (a), as in the First Amendment of the American Constitution. Though 'freedom of press' is not specifically mentioned in Art.19 (1) (a), it was judicially settled that freedom of press is included. Freedom of press though recognized as one of the pillars of democracy, is not higher than the freedom of an ordinary citizen (Sharma V.Srikrishna Sinha, 1959). It is subjected to reasonable restrictions on the grounds enumerated under Art.19 (2). It enables the state to impose reasonable restrictions on the exercise of the freedom, in the larger interests of the state and the welfare of the citizens.

Freedom should always be responsible. But a large section of the press often behaves irresponsible and in the end loses its credibility. In a democratic society, press should naturally be accountable. There is a severe criticism all over the world on the tendencies of sensationalism in the press and the subordination of facts to commercial criteria of performance and to vested interests of the proprietors, slanting of news to fit editorial policies etc. Press is preoccupied with making profits at the expense of paper's public role resulting in total destruction of all interests in ethics and all pride of the work leading to the general lowering of the status. Thus media accountability and ethics are becoming debatable issues repeatedly as there cannot be any second opinion on the need of accountability. The shackles of commercialization and monopolization are preventing the media from attending and projecting the real issues of masses. It is not that there are no regulations and checks for journalists. But unlike other professions (doctors, lawyers), there are no checks and regulations on the entry into the profession of journalism. Any one can be a journalist, an editor or even the owner of a newspaper. Though the Press Council is established with a quasi-judicial status, it is relatively unknown institution to a common man. Further, press freedom faces no Constitutional problem in India, but the guarantee suffers from certain inadequacies and lacunae, which need to be focused through.

### **Press Freedom and Social Responsibility**

Press freedom and responsibility are the twin issues which cause debate around the world. For media, press freedom is a sacred ideal to be defied, fought for and protected at any cost. For others, responsibility is a quality which media are seen as abusing and neglecting and even discarding in the pursuit of circulation and profit. In this regard, Pt. Jawaharlal Nehru rightly said that there is no such thing as absolute freedom. Freedom is always accompanied by responsibility. Freedom always entails an obligation, whether it is the nation's freedom or the freedom of the press" (Ahuja, 1998:29). Press has high social responsibility. This view has been reiterated by most of the scholarly journalists. The newspaper press is not just any other business. This is well indicated by a much quoted phrase from a judgment of noted judge Frankfurter in the case of *Associate Press V. US* (1943): "In addition to being a commercial enterprise, it [the press] has a relationship to public interest unlike that of any other enterprise of profit. The business of the press is the promotion of truth regarding public matters, by furnishing the basis for an understanding of them"(McQuail, 1933:36). This view is echoed in many documents and pronouncements around the world.

In USA, because of the Constitutional protection to freedom of press from any governmental interference, there have been no official inquiries into or recommendations about the standards appropriate to newspaper performance. Yet, Hutchins Commission of USA (Hutchins, 1947) argued that the press owes its responsibility to society, thus 'social responsibility', which constituted the basis for the Social Responsibility Theory along with the other Press Theories. The Royal Commission in Canada (popularly known as Kent Commission) in its report (Kent, 1981) also cited approvingly that the economic trends were affecting the newspaper industry's responsibility to the public. The Third Royal Commission of UK (1977) on the Press also took the view that press is giving undue importance to sensationalism to abandon the rational standards of relative importance to society. Indian experience too has resulted in, stressing the responsibility of mass media. The recommendation of the First Press Commission (1954) provides the idea of what a responsible press should be? The Second Press Commission (1984) wanted the press to play a responsible role in the development process. The theory of responsibility is simple that everyone is responsible for the consequences of an action. An old legal maxim very aptly says, "No rights without responsibilities".

## **2. Is Journalism A Profession?**

The professions have long carried distinct moral obligation with respect to public and private decision-making and behavior. What we do as professionals and how we do it, whether in commercial or non-profit contexts, our sense of integrity and our regard for self and others, affects the lives of every one. However, journalism is a noble profession, as it is service oriented, yet a section of the researchers held different view points with reference to journalism as a profession. From the available literature, it is noted that most journalists accept journalism as a profession. But Porter (1968) argues that by the conventional definition of the word 'profession', the occupation of the journalist is not a professional at all, as there is no formal training required either to secure a job or to fit it well. There is no system of licensure or certification of journalists. Any official body of the profession does not police their activities. Gorwala (1971) submits that the tendency to view a journalist as a member of a profession seems to rest largely on the recognition of his work, which entails high social responsibilities, and the influence of the press in the society. Eapen (1969) has perceived that journalism is on the way to professionalization due to education due to education in journalism which started such earlier in 1938, organization of occupational associations at the national level (the first being IFWJ in 1950), the formation of the Press Council of India for self regulation in 1966.

Above all these varied apprehensions, journalism is a noble profession with its service element and therefore every journalist owes an obligation towards the society. A journalist is described as a social engineer. Hence, this profession needs to be necessarily monitored by ethics.

## **3. Need for Ethics**

In modern times when the business angle is gaining priority in newspaper industry, there is a need for an exhaustive and vigorously enforced code of ethics for journalists. There is a

controversy about the extent of observance of public interest by the journalists. The press does not exhibit social commitment says Drieberg (1973). The press has not worked in accordance with the declarations made to the public. Kamath (1980) states that, his study analyzed the contents of 8 major English dailies of 4 regions in 1978. It has been found that the social interest has not been given due consideration. Further Indian journalism has been accused of being obsessed with politics at the cost of public interest. In an empirical study undertaken by Sharma (1990), it was found that majority rated the practice of journalism low, on the continuum of social responsibility.

Newspapers are moneymaking enterprises to their owners thus; considerations of social service or dedication, truth and justice are irrelevant to them. Suppression, distortion or falsification of news leads to loss of hard work as well the initiative for public good. The declining standards of reportage of newspapers are proved in a few of the empirical studies. According to Sharma (1990), a good majority of journalists agree that they exploit their status for non-journalistic purposes. They subscribe the view that any reporting which proved false is seldom or never admitted and rectified. It has been accepted that sensationalism has become a practice in journalism to achieve fame and name. Further, they felt that they have to give preference to proprietors' business interest. Justice Sawant (1985) stressed the need for a statutory code of ethics for journalists, as was the case of the other professions.

These observations indicate that it is no wonder that the crusading zeal and spirit is absent in the present day professionals. From time to time, complaints are heard through out the world that a section of the press functions without regard to its responsibilities to the society. It is impossible for the law also to be over vigilant to conduct the press, as there are vast areas, which are outside the jurisdiction of law and are uncovered by any legal regime. Apart from which the new advances of technologies have imparted urgency to the entire debate of responsibility and the need to draft and redraft the existing code of ethics.

#### 4. Press Code of Professional Ethics

Since early 1920s, code of professional ethics of journalists began to be formulated. The codes of ethics have gained added significance in the present day scenario as there are several forces acting against the press freedom and are trying to malign the press. There are more than 80 countries all over the world, which have drawn up and are enforcing such codes. Though they differ in form and vary in scope, ideally all aim at enforcing high-minded principles such as objectivity, impartiality, truthfulness and freedom of information. In some countries the codes have been voluntarily drawn up and are followed by the professional bodies of journalists and in other countries, the government in power lays down codes. Communist bloc states enforced the governmental codes. A code of professional ethics includes standards for specifying actions, which comply with the moral orientation. Journalism ethics provides a process by which individual mistakes and excesses are corrected without jeopardizing the ultimate objective of free media to provide a healthy check on centers of power in order to maintain the free and enlightened society. Ethics imply the norms and values that a journalist must uphold and cherish to keep the professional

integrity and sanctity. Formulation of a code of ethics constituted a key attribute of a profession. These ethics define calling of journalism as a profession meant to serve and to guard the public interest. A media code of ethics aims to protect the consumer, reader, listener, viewer or public in general as the case may be. An ethical code protects and inspires a working journalist in gathering, writing, processing and presentation of news and opinions. It guides the editors, proprietors, shareholders and the government in defining their responsibilities.

Most of the codes are long lists of "dos" and "don'ts", salted with an occasional element on the decision making process. But codes of ethics do not address enforcement. In attempting to achieve balance between freedom and responsibility, ethical aspects depend not only on the conscious decisions by journalists but also on practices in the media and the general social environment.

#### 5. Institutional Efforts in Codification

The AINEC constituted a code of ethics in 1953. This code defines the calling of journalism as a profession meant to serve and to guard the public interest. Later on in 1968, the AINEC again formulated a code of ethics for the press in reporting and commenting on communal incidents. In 1976, a Committee of 17 editors presented a code of ethics for journalists and newspapers, to the Rajya Sabha. This code directs the journalists to promote national unity, solidarity, integrity, the economic and social progress of India and to propagate and project the national objectives of democracy, socialism and secularism. Journalists shall not publish information detrimental to the security of the state and friendly relations with foreign countries or comments leading to tensions, civil disorder, mutiny or rebellion. Apart from these, the National Union of Journalists in 1981 and the IFWJ in 1986 made declarations on the observance of high degree of norms and social responsibility. The All India Small and Medium Newspapers' Association had drawn up a code of ethics in 1975. However, the general body did not approve it. Contrary to this, the Editors Guild of India is against drawing up of any code of ethics for guidance of journalists on the ground that responsible people cannot be governed by codes (Sarkar, 1984). Thus a section of journalists are against framing a code for journalism.

Apart from these efforts towards sustenance of ethics by the professional organizations, the Press Council Act 1965 contained a provision in Chapter III under the heading "Powers and Functions of the Press Council" in Sec.12(2)(b) "to build up a code of conduct for newspapers and journalists in accordance with the high professional standards". This was repeated in the Press Council Act of 1978 in Sec.12 (2)(b), although the First Press Commission had recommended (1954) the formulation of code of ethics as one of the prime responsibilities of the Press Council, it had been the consistent view of the Council that these provisions spoke of building up a code of conduct. Parliament while enacting the legislation in 1965 made an apparent departure from the recommendations of the First Press Commission in this regard and considered that it would be better and more useful to build in course of time a body of case laws gathered from the principles formulated in adjudications in the concrete cases coming up before the Council.

But the attempts at framing an exhaustive code for professional bodies of journalists in various countries including India have either proved futile or resulted in mere enunciation of certain basic principles in general terms. They had not proved helpful when it came to applying them to individual cases. If the Council reduced these principles into a kind of code of conduct of journalistic ethics or propriety, they would have a tendency to attain a degree of rigidity, which might give rise to differing interpretations. So the view that prevailed all along was that it was neither necessary nor desirable or even feasible to draw up a comprehensive code, but it would be better and more useful to build up in course of time case laws gathered from the principles formulated in the adjudications in the matters coming up before the Council. The Council constituted in 1979 under the present Act 1978, had given a lot of thought on different occasions to this question. It had invited the view of several press organizations, news agencies and organizations like the Bar Council of India, UGC and Sahitya Academy etc. They were overwhelmingly against the formulation of any such code. The Second Press Commission (1982) had also recommended that it would not be desirable to draw up a code of ethics for newspapers, but that such a code could be built up case by case over a period of time.

There is an argument that the task of enforcement of the codes cannot be left to the government or the politicians alone. The whole process or system of enforcement of the responsibilities should evolve from within. In one hand, the media organizations have to evolve some kind of code of conduct and evolve the mechanism to implement it. On the other hand the readers should be involved to represent on the committees and panes assigned in the task of implementing the codes of ethics. This would result in a healthy environment in favor of responsibilities (Dalal, 1996).

In furtherance to these efforts, the Times of India set a new trend by appointing Justice P.N.Bhagwati, Retired Chief Justice of Supreme Court of India as its internal ombudsman. The Nav Bharat Times, a Hindi Daily of the Times group also appointed Mr.T.N.Chaturvedi, former Comptroller and Auditor General of India as its ombudsman. The Ombudsman is an independent person appointed on a non-renewable, non-cancelable contract to monitor the contents of a newspaper. A senior professional appointed from outside, reviews the contents on a daily basis to evaluate a newspaper's adherence to the principles of professional journalism. He can be a person whom both the newspaper and readers can trust. Any individual who feels aggrieved by the newspaper contents can approach and expect a fair and thorough examination of grievances.

The other suggested media monitoring mechanism include the formation of Editorial Committees to rigorously scrutinize the contents of their own media. It is for the newspaper organization to have a mission statement or statement of goals and objectives with the editorial position of the newspaper from time to time. Irrespective of what this statement says, it is possible then for both the employees and public to measure the performance against its stated objectives. This method is essential because a proper evaluation or performance or a proper monitoring of content can only be done if one knows what the aims, goals and objectives of the medium are?

Environment, in which media operates, plays a vital role in monitoring the performance. Social institutions such as consumer groups, voluntary organizations, courts, research institutions could play a role in studying the manifest contents of newspapers for determining the amount of coverage given to various issues and the bias – the extent to which the media are performing their gate-keeping and agenda setting role. Sometimes, the existence of these mechanisms is resentful among media professionals as they consider a direct threat to the freedom of expression and to their perception of the moral mission of media.

The Mac Bride Report says that the codes of ethics at national and in some cases, at the regional level are desirable, provided that such codes are prepared and adopted by the profession itself, without government interference. Further the multiplicity of clients' interests constitutes a major constraint in developing a consensual code of ethics in particular. The fast pace of technological developments throws up a complex gamut of regulatory challenges to society. This can be addressed by self regulation which should therefore be considered as the preferred model of regulation.

## 6. Press Ethics and Other Relevant Issues

### (A) Press Ownership

The Indian Press has been a private commercial enterprise since the days of independence. Today individuals own the largest number of newspapers with a circulation of more than 1/3rd of the total circulation with 3/4th of the total number of newspapers published in India. Joint Stock Companies, many of the industrial and commercial ventures constitute another 1/3rd of share of total circulation. The commercialization of the press attached big industrialists in newspaper industry. It opened up for them new fields of profits from this adventure. But it gradually helped the development of concentration of ownership in the newspaper industry and brought profound alterations in the character of the national press. The chain newspapers are up surging and led that a few press barons decide what majority of newspaper reading public in India should be told every morning. Multiplying circulations and swelling advertising revenues now beckon the newspaper proprietors. As time passes on, the concentration of ownership in the newspaper industry steadily continues to increase. Justice Krishna Menon described India's monopoly press as the "Jute Press". Way back in 1984, the Second Press Commission recommended for the National Development Commission to promote the entire Indian press. It was to set up advisory councils to oversee the fair and equitable distribution of both government and foreign advertisements.

Thus newspapers constitute the moneymaking enterprises to their owners and the considerations of social service or dedication, truth, justice are irrelevant to them.

### (B) Editorial Policy

The freedom of journalists in a specific newspaper organization depends largely on the editorial freedom. Editorial freedom thus means that the journalists working as a team of professionals must be able to function freely to purvey news as well as views to the public under the able leadership of a qualified editor on the basis of collective responsibility (Sharmanna, 1973). But the

traditional supremacy of the editor is no longer in existence and holds well in the vies of the proprietor. According to proprietors, in the context of production and marketing conditions, editorial expertise alone cannot deliver newspapers to expanding markets. Economics play a major role in shaping information today. The mass media are profit driven enterprises. Balancing the cost of quality of journalism against corporate profits is one of the significant challenges being concentrated upon by the proprietors today. Therefore the control of the management is needed to sustain the economic independence of the paper. Hence, in the Indian Press, the power of decision lies in the hands of capitalists. In India, newspaper organizations mostly the proprietors lay down the editorial policy in view of their business interests. Journalists are compelled to follow these policies as against to their professional demands.

### (C) Education and Training

There is unanimous agreement over the need for education and training to strive for excellence in the area of journalism. Education is perhaps the best monitoring mechanism. It is necessary to educate, on the way media works and on the way, in which media decisions are made and forces which act as restraints. The best method in which an ethical code can be maintained by journalists is when they become professionals in terms of educational levels, qualifications and incomes. The Desai Committee (1977) holds that most of the institutions do not train in the roles of a communicator and social animator and suggested that journalism departments should adopt a cluster of villages as the Faculty's Laboratory to inculcate concern for rural, cultural and social interests.

### (D) Working Conditions

A journalist who does not enjoy good pay and working conditions can not help to advance the cause of responsibility and ethics, as they will be tempted to fall prey to corruption and the so called envelope journalism is going to survive. A study of the background of journalists working in Indian media organizations shows great variation in professional standards, incomes and benefit packages. While established national media maintain very high standards, the same can not be said for the small newspapers or regional languages or in rural areas wherein the journalists are not qualified and are low paid. Stevenson (1995) argues that "ethics in reporting and coverage has taken a severe beating owing to the vast network of stringers – the darker side is that these stringers have become the centers of power without responsibility in their respective areas.....These stringers are being patronized by local politicians, police officials and lumpen elements for favorable coverage" (Banerji, 1995:30). The essence of journalists with good pay and good working conditions can ensure high professional standards and enhance the due course of the press freedom.

Thus professional journalists have become a dying breed and press has undoubtedly eroded its credibility. Journalists' social and educational backgrounds help shape standard of views and professional perceptions.

## 7. Conclusions

In order to realize the full implications of the Constitutional guarantee to press, it is essential to have a specific mention as to the 'freedom of media' to cope up with the changing media needs

in the present day society. The press is part and parcel of a system of mass communication. The Constitutional guarantee has been more emphasized on the expressions of the press and not in the manner in which the press is flourished as a viable situation. Further, the right to freedom of speech and expression is given to citizens. Corporate bodies are normally not considered as citizens. But when the press industry takes corporate form and particularly when foreign investment is allowed in Indian Press it may be necessary to consider the institutional rights of the press. And a Clause may be added to Art.19 (1) providing specifically for the institutional right of the freedom of press and other media.

Though codes of ethics are formulated far ahead since 1920s in India, but they do not address enforcement. It is the code of honor of professional conduct that distinguishes a profession from mere occupation. Hence, a Statutory Code of Ethics must be formulated applying to all the mass media, integrating the media personnel involving in different roles. And the implementation of the Code shall be strictly attached to the upgraded Media Council of India in the place of the Press Council of India. There is also a need to create Regional Councils on each language. In order to wipe off the ignorance over its existence, it has to undertake the task of educating the press on its existence and secondly on its functions and powers. There is a need for multiplicity of media monitoring mechanisms in promoting ethical standards. Professional ethics be continuously upgraded and strengthened in terms of training, research and resource inputs with the view of upholding and promoting standards. Regional organizations, educational institutions should be encouraged to carryout comparative research on media ethics. The output of such a research should be widely publicized. Appropriate regional organizations should compile and circulate a recommended framework drawn form codes of ethics from various countries and invite the communication practitioners to define the framework in actionable terms within their national context. There should follow regionally acceptable standards of ethics on issues such as violence, horror and sex. The journalistic ethics formulated from time to time and the relevant publications on ethics and standards must be translated to different languages and should be widely circulated to the comfort of stringers. Minimum educational qualifications shall be prescribed for journalists. Training is required not only for the reporter but for the whole desk. Licensing may be made mandatory for journalists at the entry level. Expert panes may be created at the level of each newspaper organization at least to monitor the coverage of the most sensitive issues such as communal or war related, health, women issues etc. More than codes, there should be constant endeavor to develop professional conscience among the practitioners. Media Council can request all of those associations to include in their rules or constitutions, a provision that if these directions given by the Media Council are not complied with, then the associations should suspend or cancel their membership till such time as they comply with their directions. Reservation may be instituted for membership for women in the ensuing Media Council, keeping in view the coverage of women related issues and problems effecting the women in different media.

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