

Regulation of Indian Media: Perspective of Leveson

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Abstract - The Media in India is mostly self-regulated. The existing bodies for regulation of media such as the Press Council of India which is a statutory body and the News Broadcasting Standards Authority, a self-regulatory organization, issue standards which are more in the nature of guidelines. The media performs a decisive part in unveiling of a fact and awaking the general public but recently various circumstances have surfaced some apprehension on its dependability. In the traditional mass media, ethical practices have been an ancillary to it but with the advancement in technology, these definite practices are subject to constant challenge. This essay tries to put light on those aberrations and ascertain the moral principles of the media that has been manoeuvred for a physical objective. The author asserts that the modern perspective of holding the responsibility of regulation with the media may result in exploitation of this power for its own business profits. Thus, the essay aims at bringing out an analysis of how media can be regulated in India.

Justice Leveson's inquiry has triggered the discussions in media ethical practices in Britain as well as other countries. Thus, the essay analyses the effect of the inquiry in India with other counterparts. The essay aims to appraise the measures to solve all conflicts concerning to the regulation of the media in the backdrop of the Leveson inquiry and provide some suggestions for its betterment.

Keywords - Ethical, Regulation, Leveson

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INTRODUCTION

*"Rights bring responsibilities to public interest; to acknowledge the truth, to honour and obey the law and to stand by the individual rights and liberties."*¹

The essence of a sovereign, independent and robust media is the substratum of a democracy, primarily in an eminently diverse social order like India. Media, being the fourth anchor of democracy, is not only a corner of public faith but also procures the human mind relatively and has presupposed a stature in society and governance. The contemporary democratic framework of the media has been formulated on the immortal text of the Rigveda that the noble thoughts come from all the extents.² It connotes the liberty of expression of thought of every individual as the cardinal foundation.³ Freedom of Press is paramount in the civilised society and is a protector of democracy. Media has several powers and privileges

along with the responsibilities for the public at large in whose name it exercises those privileges. Media is not only a passage to manifest ones ardour, outlook and perspective, but it also tends to build opinions and prospect on several topics of regional, territorial and extra territorial agenda.⁴ With this immense robustness and strength, media cannot loose apprehension of its entitlement, duties and compulsion. It is not only responsible to admire the individual rights but is also constrained to work within the composition of legal ethics and statutes.⁵

Mahatma Gandhi expressed that the ultimate purpose of journalism is to serve.⁶ The media especially the newspaper is influential in character, but just as an unfettered cascade of water immerses the full terrain and ruin the crops, similarly unchecked.⁷ Gaining profit has become the main aim where news has become exchangeable for money and traded for undue advantage, thus loosing the

¹ Lord Justice Leveson, *An Inquiry into the Culture, Practices and Ethics of the Press*, (1st ed., November 2012).

² Ralph T.H. Griffith, *The Rig Veda (Translator)*, 1-891(1st ed., 1896).

³ David Feldan, *Civil Liberties & Human Rights*, 40(2nd ed., 2002).

⁴ Justice A.N.Grover, *Press and the Law*, 7(4th ed., 1990).

⁵ S. 14, Press Council Act, 1978.

⁶ C.S Anand, "Centenary of Satyagraha: A Gandhian Experiment at the Edge of Nonviolence?",

⁷ V.S. Gupta, *Mahatma Gandhi and Mass Media*, Employment News, (Vol. XXVI, (2001).

ethical value. The concept of media has in modern time shifted to sensationalism over ethics.

Media and broadcasting are regulated in certain states by the means of varied codes comprising of professional ethical principles. Such codes are either the output of laws or are devised and approved by the professionals and the associations on their own accord. The inquiry conducted in United Kingdom under Justice Leveson seemed to be a historic step in regulation of the media. The ethical practices of the press that is the main focus of the inquiry covers only one side of the coin while is not much focused with the other requirements. Only in the last ten years have access to and viewership of digital media increased in India. Digital media have observed an increase in both the number of users visiting their sites and the amount of time they spend on them as a result of low-cost internet access and COVID-induced lockdowns.

REGULATION OF MEDIA IN INDIA

The liberty of expression to the citizens and freedom to the fourth pillar is constitutionally preserved specially in a democratic State like India.⁸ But while exercising the freedom, media is under obligation of various requirements such as the means attainable for covering the affairs, the aspect of the audience, the outlook of the media proprietor and thus concerning its ethical value. In all enactments as well as the Constitution⁹, freedom of speech and expression is there but its purpose is not accomplished justly. Thus, it is pertinent to give emphasis on various media regulations observed in a State. The fundamental right of the media persons needs to be realised and concurrently their findings should not have an adverse effect on the State functions.¹⁰ Hence, it can be questioned that which authority can keep a check on its actions. The common presumption is that if the media became the subject of the State, then it would hinder the autonomy and liberty of the media. Thus, in order to abstain from such a situation, self-regulation was contemplated as an apt choice for India.¹¹ Initially, it lacked the enforcement powers, it was ineffectual in forming a system of ethical principles.¹²

Media and the broadcasters sometimes neglect the ethical code in order to accomplish the information regarding consequential news and further circulating it in the public. Such action leads to infringement of the privacy of an individual which is illegitimate unless overshadowed by substantial public interest. Presently, news broadcasters' association deals with the self-regulation and ethical principles of media in

India that also establishes a complaint mechanism to a statutory authority.

These self-regulating institutions which are comprehensive and generally perceived as being devoid of the enforcement powers or substituted by other regulations will lead to more accountable media or not is a matter of debate in the modern revolution. There are even various concerns relating to social media for which there is no regulator and disorientation exists in order to decide a model for its governance. Thus, if the proposition of ethical and moral journalism is not followed while reporting, it may result to fallacy, discord and support the current abuse in the society.¹³ On the same lines Clifford Christian observed that moral thought is an organised process and hence there needs to be transparency in the moral conclusions made by the media¹⁴.

ROLE OF LEVESON INQUIRY IN MEDIA LAW

Speech, according to many scholars, serves a self-fulfilment function¹⁵. Justice Leveson inquiry was based on whole examining the relations between the press, politicians, public and police. In light of the case of News of the World, a phone hacking scandal a committee was set up under the guidance of Justice Brian Leveson in order to promote high standards of media governance backed by legislation and inquiring into media ethics. According to Justice Leveson "Press in UK has played significant role delivering great journalism in vast majority of the times, informing, educating and entertaining but none of that means that the press is beyond challenge"¹⁶. It's most essential recommendation was the governance and controlling of the press by formation of a new press standards organisation supported by the legislation to increase and ensure its effectiveness. Purpose behind setting up this enquiry had two main reasons. He added to his report that exemplary damages have to be provided in cases of Tort in cases of media. Exemplary damages in litigation are at the base of Lord Justice Leveson's recommendations.¹⁷ According to Justice Leveson with obligation to public interest was required as a mandate.¹⁸

It was elaborated that newspaper should persist to be self-regulated and Government should have no role over the publishing of newspapers. Also, that body should be backed by the legislation which

⁸ Bennett Coleman & Co. V. Union of India, AIR 1973 SC 106.

⁹ Art. 19, the Constitution of India

¹⁰ Dunja Mijatović, *Media Self-Regulation Guide Book* (2nd ed., 2013).

¹¹ S Siva Kumar, *Lanka Vigil* 34 (2005).

¹² Surabhi Kumari, *Press Cuncil of India: A Critical Analysis*, Bharati Law Review, 133, (2015).

¹³ Ward J.A. Stephen, *Ethical Flourishing as a Aim of Global Media Ethics*, (3rd ed., 2011).

¹⁴ C. Christian, *Media Ethics: Cases and Moral Reasoning*, 20(7th ed., 2006).

¹⁵ Melville B Nimmer, 26 *Hastings Law Journal* 639 (1975).

¹⁶ *Supra* note 1 on 1.

¹⁷ Alternative Libel Project – Final Report (March 2012).

¹⁸ Edmand Dester Thecursian, *Case Study – News of the World Phone Hacking Scandal* (2014).

promoting independence and effectiveness. There is a need for new standards body with a new code of conduct. Further in the report it was laid down that the press needs to. It must promote prominent level of journalism, safeguarding public interest and rights of individual. Legislations to achieve certain essentials enshrining. Therefore, Leveson's inquiry would provide confidence to the public for their interest and ensure that press are protected from interference.

INDIA LOOKS FOR LESSONS FROM LEVESON REPORT ON MEDIA

According to Justice Leveson 'The culture we share is of vibrant and free press, and there is a concept and opinion in order to understand comparative and relevant international experiences.'¹⁹ Since past two decades media landscape has witnessed ascending transformation in both Indian and global context²⁰. In India steps have been taken in order to discuss elaborately on the recommendations of the Leveson Report and its significance and the magnitude of applicability in the Indian milieu. Freedom of Media is appraised essential till the extent it enhances the standard of living of the masses which can be attained by the widespread of lucid and scientific ideas and by not supporting the freedom of media where it perpetuates poverty and other social evils by proliferating such unprogressively ideas. India is facing immense level of illiteracy, unemployment, inflation, lack of required healthcare etc., in such scenario it becomes the foremost responsibility of the Indian Media to take mandates for improvising by the technology they possess.

Several other events triggered Indian media including proliferation and subsequent curbing of social media, occurrence of paid new, false string operations, breach of privacy, trial by media etc. pose a set of anxieties. According to Justice Leveson India should discard and eliminate such practices the way European media has done; he wanted regulation and not control of the media which incorporates freedom with subject to reasonable and acceptable restrictions in public interest.²¹ Recommendations given in the matter added that the government should not regulate the media rather there should be single authority to govern television and press, the appointment of the regulatory body should be just, fair, unbiased and transparent. The Authority recommends that editorial independence must be ensured through a regulatory framework, also the entities including religious bodies, governmental bodies, political bodies and local to be barred from the

entering into broadcasting and TV channel distributing sector.²²

In India various instances of irresponsible journalism.²³ In a research made by "Representing Citizens and Consumers in Media and Communication Regulation" it was quoted that 'interest of the consumer and the citizen are separate from each other',²⁴ media at times fails to meet the needs of the citizens rather rushes to fulfil the consumers. Instances of irresponsible and sensationalization journalism are not few in India, whether it is identification of rape victims, it be moral police targeting the way women choose to dress, cases of tragic disaster where journalists question how they felt, irrelevant and unnecessary breaking news to gain TRP or creating differences amongst the segments of the society in terms of religion and politics.²⁵ It will be a long-time process requiring and exercising new concepts, ideas, several.

EFFECTS OF LEVESON ON U.S.A AND UK

Regulatory system of Britain defines, regulates and governs excesses of press.²⁶ Although this report did not receive extensive attention in U.S.A but at the same instance it recommended the formation of fresh, powerful press regulatory body backed up by statute along with journalist progressive changeover of the equivalence amongst privacy and public interest. One essential recommendation which arose from the Leveson inquiry was that there should be statutory declaration for press and media freedom, balancing other rights with freedom of speech and expression.

In America its first amendment safeguards for free press and free speech which is ineradicable in its Constitution, but is also deep rooted into their culture and practices. At the same instance cultural norms of America allows hate speech to have a platform and are more repressive. Whilst the US is aghast by the concept of regulated press, but it is equally scandalised by some kinds of practices which allegedly went on in US. The competition is less ferocious for the press and the 'equilibrium' and 'ethics' of journalism in America come much from a market of imperative as they do from confined standards in journalism. Despite of the essential polarity between approaches, there should be

²² TRAI, *Recommendations on Issues relating to Media Ownership*, (2014).

²³ Shashi Tharor, *India Shastra: Reflections on the Nation in our Time*, (1st ed., 2015).

²⁴ Sonia Livingstone, *Citizens, Consumers and the citizen consumer: Articulating citizens Interest in Media*, D & C Journal, (Vol. 1(1), 2007).

²⁵ Ravi S. Jha, *India Free Press Problem: Politics and Corporate Interest invade journalism*, Canadian Journal for Free Expression, (2016).

²⁶ Department of Culture media and Sports (UK), *Consultation on the Leveson Inquiry and its implementation*, (2016).

¹⁹ *Supra* note 16 on 4.

²⁰ Constituent Assembly Debates: Official Report, 18 (Vol. VII, 1946-1950).

²¹ P. Seabright and J. von Hagen, *The Economic Regulation of Broadcasting Markets: Evolving Technology and Challenges for Policy*, 150(4th ed., 2011).

appropriate balance amongst safeguarding and protecting free speech and privacy interest in U.S.A, UK and Europe, and that freedom of press and recognition of the democratic role of media should not be marginalized.²⁷ An inquiry sanctioned by government may not happen in America but certain essence and traits can be adopted. Though press reforms are pending in the state of Britain but the concept of self-regulation may enhance the system of governance of media largely by keeping it segregated from political aspects. The regulatory bodies have come over with guidelines in context. The mere use of this “judicial harassment” creates climate of fear and a “chilling effect” which encourages self-censorship, which often stifles reporting on the matters of public interest.²⁸

India can learn valuably by the discussions from U.S.A and UK which has been provoked by the unfair, discriminatory and unjust practices reputing segments in media by witnessing considerable differences in the situations. Indian scenario extensively demands for independence, comprehensiveness and elaboration into ethics, culture and practices of the news media, keeping in mind and focusing on the apt regulatory and governance mechanism to be followed by India for such governance.

CONCLUSION AND SUGGESTIONS

Practice of following ethical journalism is a mandate for every society where it can be said that free press is a framer of prosperous and blooming democracy. Indian Media should take mandatory steps in order to eliminate illiteracy, unemployment, inflation and lack of healthcare and reasonable restrictions should be levied for safeguarding public interest. Media should not be regulated by government rather there should be separate individual authority to govern Indian media at large backed by regulatory framework. Leveson report explicitly laid about exemplary damages which should be available in Courts and introduce a statutory public interest defence for all closely connected civil and criminal legislation.

BIBLIOGRAPHY

1. Lord Justice Leveson, *An Inquiry into the Culture, Practices and Ethics of the Press*, (1st ed., November 2012).
2. Ralph T.H. Griffith, *The Rig Veda (Translator)*, 1-891(1st ed., 1896).
3. David Feldan, *Civil Liberties & Human Rights*, 40(2nd ed., 2002).
4. Justice A.N.Grover, *Press and the Law*, 7(4th ed., 1990).
5. V.S. Gupta, *Mahatma Gandhi and Mass Media, Employment News*, (Vol. XXVI, (2001).
6. Dunja Mijatović, *Media Self-Regulation Guide Book* (2nd ed., 2013).
7. Ward J.A. Stephen, *Ethical Flourishing as a Aim of Global Media Ethics*, (3rd ed., 2011).
8. C. Christian, *Media Ethics: Cases And Moral Reasoning*, 20(7th ed., 2006).
9. Shashi Tharor, *India Shastra: Reflections on the Nation in our Time*, (1st ed., 2015).
10. TRAI, *Recommendations on Issues relating to Media Ownership*, (2014).
11. Lili Levi, *Journalism Standards and “the Dark Arts”: the U.K.’s Leveson Inquiry and the U.S Media in the Age of Surveillance*, Univ. of Miami, (Vol. 48, 2014).
12. Frank La Rue, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, United Nations (2012).

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²⁷ Lili Levi, *Journalism Standards and “the Dark Arts”: the U.K.’s Leveson Inquiry*.

²⁸ Frank La Rue, *Report of the Special Rapporteur*.