

FREEDOM OF PRESS IN INDIA :
PERSPECTIVE AND ISSUES

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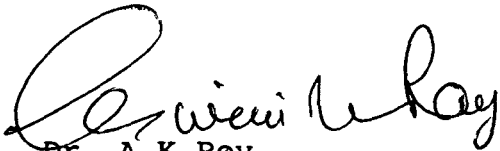



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INTRODUCTION

"Freedom of Press" is deemed to be the centre of any democratic systems. In fact scholars had many a time approached this topic in order to evaluate a political system. The traditional arguments which almost compared the freedom of press with the non-interference of the government in the Media functioning have been challenged. The concept of freedom of press of late have become one of the most radiant subject of debate with differing perceptions. The concept has been directly linked with the socio-political system and the peripheral analysis of freedom of press in vacuum have faded away. Freedom of press, in fact emerged from the individual freedom of speech and expression and it became a political philosophy during the period of enlightenment. The meaning of the "freedom of press" have undergone considerable change when different approaches were adopted to analyse the society. It acquired deeper meaning with emergence of new ideologies. The old libertarian concept got radically changed with the west turning to fullfledged capitalism and also it acquired diametrically opposite meaning with the rise of Marxism as a powerful political ideology. Many theories of Media emerged with the changing socio-political situation. In the present day world where the information is the real power, Media has become the powerful weapon in the hands of dominant ideology. In short the role of Media from the perception of individual

freedom during the period of enlightenment got transformed to a key political tool in the hands of the ruling elite.

According to Len Masterman, "The ideas of the ruling class are in every epoch the ruling ideas, it is of some importance to understand the precise mechanisms through which this process takes place. How is that subordinate groups in particular came to hold beliefs which simply guarantee their continued subordination? Since the Media have been seen as an important carrier of dominant ideology, the increasing sophistication of the answers which have been replied to that question has been paralleled by more complex conceptualisations of the Media themselves". One of the particular characteristics of the dominant ideology according to N. Poulantzas, is that it conceals class exploitation in a specific manner to the extent that all trace of class domination is systematically absent from its language. The use of "freedom" in relation to the press then involves a slight-of-hand which is achieved through the displacement of emphasis from the sphere of production to the sphere of exchange. We possess only the freedom to choose whichever newspaper we wish. "Consumption" in the words of Australian commentators Higgins and Moss, becomes a substitute for democracy. It compensates for all that is potentially undemocratic in our society, because we can choose and we live under the illusion that we are free. As Stuart Hall in his

'Media and ideological effect', argues, media constructs a representation of monopoly capitalism which foregrounds the abundant variety of products (brands) available for the gratification of supposedly autonomous individuals while entirely concealing from view the processes by which these products are produced and how, and the increasing uniformity masked by the multiplication of brand names.

It is a fact that the concept of freedom of press, role of press and the concept of news have transformed considerably on the basis of different ideologies. The capitalist concept still revolves around the individual right to property. It translates into the right of the press to function freely without any control and thereby to the absolute right of the published. The freedom of press under capitalist system according to socialist approach, is a myth and illusion and it simply perverts the existing society by imposing the will of the ruling elite or ideology. If we make a broad demarcation, the concept of freedom which has been evolved in the third world drastically differs from that of the Western concept.

The main criticism against the western concept is that it has turned the newspaper into a product for profit. The social role of the Media as perceived by the socialist ideology and the third world theory is absent in the western

concept to a larger extent. It is obvious that when newspapers become a commodity the role and the character of the news begin to change and the production of socially useful information is undermined by the production of profitable information and the philosophy that information is inherently social and public begins to wither away. Theodore Adorno and Max Horkheimer in their essay 'The culture industry, enlightenment as mass deception' bring forward an interesting analysis. The relationship between Mass production in the culture industry and needs of the consumer is linked to a technological system grounded in economic power which is characterised by what they see as a circle of manipulation and retroactive need in which the unity of the system grows even stronger. It is on the basis of this idea that needs are themselves subject to manipulation and that this process impinges on consciousness itself in a way that serves to strengthen the structure of domination which generates this form of social and cultural control. Therefore, as they see it, the stronger the position of culture industry becomes, the more summarily it can deal with consumers' needs, producing them, controlling them, disrupting them, and even withdrawing amusement. No limits are set to cultural progress of this kind. The extended version of this formulation is found in Hebermas's theory of communicative action, where among other things, he argues that consciousness and possessive individualism with their accompanying motivations of

performance and competition join forces to shape conduct in advanced industrial societies. Administrative systems, the bureaucracies are portrayed as taking the political space for action and, by the source taken, undermining independent sources of opinion formation. Hence politics becomes separated from the citizens - it happens over their head and the expert is separated from the public information is not meaningfully accessible even in what is sometimes labeled as information society. Knowledge, therefore, is both simultaneously present and absent in such a society. It is differently available and becomes an element in the control of societies, rather than routinely and publicly available for citizens as a basis for participation and decision taking.

There is no doubt that the concept of Media and its freedom is a complex topic with differing perceptions. As the press freedom is held in high esteem in a capitalist society, this is spurned off as the freedom of the ruling elite for making the subordinate classes submissive. Lenin was very categorical when he stated that the talk about absolute freedom was sheer hypocrisy. According to him there can be no real and effective freedom based on the power of money, in a society in which the masses of working people live in poverty and the handful of rich live like parasites.

Methodology

1. The intention of this study is to define the press freedom in the background of the socio-political realities existing in India. For this the study has been divided into four chapters. First chapter deals with the conceptualisation of freedom of press. In this chapter I attempt to understand the various perceptions to the subject. The first chapter is mainly intended to built up a base in which the salient features of Indian print media and its weaknesses could be analysed. In the first chapter titled "Concept of freedom of press" all the relevant formulations based on the dominant ideologies are looked into. First of all there has been an attempt to define the meaning of freedom and then it extends to the logical conclusion of placing them on the slot of each society with differing ideological perceptions. The evolution of press freedom as a political philosophy has been examined with special reference to the era of enlightenment when individual freedom for speech and expressions became the dominant catalyst of change.

As mentioned, the press freedom has been approached from western, socialist and third world angle. The emergence of print media as a powerful force to influence the character of society has been scrutinised. The merits and weaknesses of western, third world and socialist concepts have been

mentioned and at last the concept has been looked into with a set of values on the basis of the Indian condition.

2. Chapter II: In this chapter, I intend to analyse the constitutional and legal hurdles as the pass of press freedom in India. The study is mainly analytical and various provisions which have considerable bearing on the working of the media have been put to scrutiny. First of all an overview of press freedom in India has been given. Then I attempt to examine the relevant constitution provision from which the freedom of press acquires legitimacy. Contempt of court, parliamentary privileges, law of defamation and various other provisions in the Indian Penal Code and criminal procedure are incorporated as a base to the study to understand the problems faced by the Indian Media.

3. Chapter III: In this chapter, the political and ideological curbs have been examined. In order to make the study concrete the major events between 1988 and 1993 have been analysed. The frustration of executive to hide its misdoings always manifests in its attempts to block the free flow of information. This is what happened in 1988 when Rajiv Gandhi brought the Deformation Bill. The events leading to it and those reactions over this have been comprehensively touched upon in this chapter. The onslaught on the press in the name of legislative privileges also have been incorporated

as it is more political in nature. Main part of this chapter has been put apart to examine the ideological penetration into the Media. As a major event in the country's political history, the Ayodhya imbroglio which had far reaching consequences on the working of the Media, has been subjected for detailed examination. References have been made to substantiate the point that there was a communalisation - spree of the Media, especially in the Hindi Press. The demolition of Ramjanmabhoomi - Babri Masjid structure and the physical attack on the press by the forces of 'Hindutva' has been looked into for a detailed examination. Various activities of communal forces which have bearing on the Media also have been incorporated.

4. Chapter IV: Chapter I, II, and III mainly dealt with the curbs on the press freedom which of extraneous in nature. Chapter IV is titled "Curbs from within the press" and it tries to understand the structural deficiencies in the system which corrupts the Media. The structure of mainstream Indian Press is analysed here and the trends of commercialisation have been examined. The connection between Mainstream Press with the big business and the changing character of "News" as a commodity is analysed thoroughly. The political and social bias of the Indian Mainstream Press also has been empirically analysed with taking the response of the major dailies to important issues. The westernisation tendencies of the Indian

Media forging the values has been examined in a global perspective to the study.

5. The conclusion part consists of the summary of the study. The main findings of the study has been given here to understand the various factors which affect the press freedom in India

CHAPTER I

THE CONCEPT OF FREEDOM OF PRESS

The Concept of freedom of press is very ambiguous. It is understood by various sections from various stands. It differs both in letter and spirit. The term freedom is filled with semantic noise that give rise to innumerable arguments about its nature, especially among persons coming from different ideological and political walks. Differences have often being drawn between freedom and liberty, between negative freedom and positive freedom, between freedom and license.

There are many meanings or understandings of "press freedom" as of freedom itself. One would expect the concept of press freedom to differ widely from one ideological or political contest to another. It should be noted that even in the misty middle zones between capitalism and socialism there are strange ambiguous meanings assigned to the term. The ambiguity here is not the inability to define the concept, but the explicit and implicit differences in the definitions depending on the ideological and political orientation of a society.

There have been multitude of interpretations and perspectives. If you examine some of the classical approaches, freedom is natural, acquired, circumstances (according to

Mortimer J Adler), ability to choose (Herbert Muller), the possibility of meaningful choice (R D Patridge), choosing and acting (Jean Paul Satre), personal growth (John Dewey), spontaneity (Erich Fromen), the right to rebel (Harold Laski), living in a unplanned society (F A Hayek), living in a socialist planned society (Richard Tawney), being able to preserve one's rational self-interest (Ayn Rand), a result of tradition and order (Russel Kirk), practically impossible in todays technological society (Herbert Marcuse), and possible only through dictatorship of the proletariat (Mao Tse Tung).¹

It is very obvious that the meaning of the concept differ from person to person, broadly according to the ideological frame one acquires to define the social reality. In other words the concept of freedom of press is very much dependent on the social reality of a nation. Another important aspect is that it is an evolving concept. The meaning of the term changes from nation to nation and society to society and it acquires new meanings and perspectives as time passes. There is no doubt that this concept is the very extension of the freedom of speech and expression which is the base of any democratic format. What is democracy? And what should be a democracy? Emergence of new ideologies have given new answers and it is true in the case of press freedom also. There have been many a conceptualisation and the simple understanding of the term has been depicted through three essential elements:

(1) Freedom of access to all sources of information, (2) Freedom of publication and (3) Freedom of circulation.

As per a peripheral analyses these aspects may prove to be right. But the complex question of the character of society and other socio-political issues have a lot more to do with this. A basic question like whose freedom ? And freedom for what? will open floodgates of subsequent queries which will throw up a vast empire of dialectics and complexities. The meaning it gained during the period of enlightenment has undergone extensive changes and it has evolved into a concept of differing percepts. The issue of responsibility which sprang up in due course of history added new dimension to the term on the background of "interest of the society". At the same time some terms connected with the press freedom like objectivity and impartiality became subjects of unending debates.

History of the Origin Of Freedom of Press

The age of enlightenment created a new kind of society when it rejected dictators and kings. It celebrated democracy and individual freedom and acknowledged that democrat consent of the government would be meaningless unless it is an informed consent. In the seventeenth century which witnessed

the birth of press in England, the monarch adopted repressive measures against the press. Through licence, censorship and prohibition attempts were made to crush this freedom. In the course of history press has many stalwarts. John Milton wrote that every free individual should have rights and liberty to know, to utter and to argue freely according to his conscience². He argued that licensing of the press was impractical and impaired the search for the truth, which could arise only from the free and open encounter of ideas. Later in the 17th century, John Locke extolled man's rationality and postulated that free expression was a natural right³. In the 18th century, Voltair, one of the best known defenders of freedom of expression at that time, affirmed the biblical dictum that "truth shall make you free", even while recognising a related problem; one had to be free to know the truth. Adam Smith, at about the same time, was proposing his famous concept of Laissez faire---the government should keep hands off and let the various business enterprises, including the press, make their own way in the market place.

In America, Thomas Jefferson, following Locke in England, expressed strong faith in man's rationality and advocated a minimum of governmental interference in every day affairs. For Jefferson, a free and autonomous press was essential for public enlightenment and as a safeguard for personal liberties. In England Jeremy Bentham, who believed

that every law was a restriction of freedom and urged that law be minimised. He defended press freedom on the ground that publicity was necessary to good government and that it was the best way to get and keep public confidence in government. James Mill advocated freedom of press because it publicised individuals who were elected to wield power in government, and unless information about their activities was made public, the officials might serve only their own interest⁴. John Stuart Mill, son of James Mill, built on his father's ideas and in his famous book ON LIBERTY justified free expression on utilitarian principles.

Until 20th century discussions of press freedom and freedom of expression generally centered around Laissez faire, in government separation from the press, on personal and media autonomy, in the elimination of licensing and on the free market place of ideas. But this traditional concept changed rapidly due to the social and political upheavals. New roles were attached to the press by different ideology and social perceptions. The 'responsibility factor' gave concept new dimensions and character as mentioned in the beginning. There have been attempts in the history to infuse guidance and morals into the concept of freedom of press. The dialectic work will go on and would pave way for new synthesis which is inevitable to the human society.

The Evolving Concept Of Freedom of Press

Traditionally the freedom of press was discussed with its relation to the government. The absence of governmental control had been viewed to measure the fertility of the press in its relation to the freedom. As discussed in the preceding paragraphs, it is evident that more serious areas have sprang up which has given an entirely new outlook to the subject. Several like the authoritarian, communist, libertarian, social responsibility, are discussed below to have an insight to the roles the press have acquired.

The libertarian theory reflects the old concept of freedom from governmental interference as characterised by John Milton, John Locke, etc. The function of the press is to uncover and present truth and it cannot be in a position to function if it is controlled by some authority⁵. The free press (free from control) will produce reportorial truth because it is regulated by members of free society who express their wishes in a free market where they can support or refuse to support any section of the media (print media). It concentrates on the absolute right of the people to be informed. In fact the exponents of the free "free press" argued that the right is for the people and it only extensively honour of the media. Any obstacle which breaks the

flow of information between the independent media hindrance to the existence of a free media.

The libertarian view which sprang up in the era of enlightenment is no longer in a position to muster support. The challenge to this theory has primarily arisen since the World War II. The Hutchins Commission report and the development of Social Responsibility theory have brought about a shift in the thinking towards factors like 'responsibility, duties and obligation'. Freedom linked with responsibility became the base for many formulations on the concept of free press. The new thinking, though rooted in the libertarian ideology have a distinct character of its own. This acquired a more serious tone after the coming out of the Hutchins Commission report. Mr Hutchins who led a commission, conducted indepth study on the functioning of the American media. The commission found that the so-called freedom of press was seen as a freedom to increase the capitalist interest on the part of the media (publishers). The commission was of the opinion that a new meaning should be given to the concept of freedom of press rather than the individualistic view upheld so far. The commission admitted that there was a danger to the freedom of press from the very freedom it enjoyed⁶.

The importance of press to the people have greatly increased with the development of press as an instrument of

mass communication. This at the same time has decreased the proportion of the people who can express their opinions and ideas through the press. The few who are able to use the machinery of the press as an instrument of communication have not provided any new values to the society in deeper analyses. Those who direct the machinery of the press have engaged from time to time in practices which the society condemned and this tendency continues. When an instrument of public importance is avail to a small minority of people, and when it is employed by a small minority in such a way as not to supply the people the services they require, the very freedom will be in danger⁷. This danger is partly due to the modern society and also as a result of the failure of directives to accept the responsibilities, the Hutchins Commission remarks. The report of the commission was a turning point in the media concept of the West because it challenged the theory of newspapers that they will have to give to customers what they wanted. The commission observed 'we have weighed the evidences carefully and do not accept this theory. Many examples in the communication industry show good practices in the industry itself is good business. The mass media is not serving the static society. Year by year they are building and transforming the interest of public. They have an obligation to elevate rather than degrade it⁸. The public has come to see the press as arrogant, careless, and in many ways unethical in its pursuit of the news. Irresponsible is an

epithet increasingly hurled at the so called free press of the West. The fact is that Western public is becoming ever more aware of these press flaws, and the image of the press becomes darker all the while⁹. The Western press as per a recent study has vigorously turned sales oriented. The so-called freedom enjoyed by the media have been paving way for pervasive tendencies where by nudity of a royal figure becomes a matter of banner headlines. The tabloid press in Briton has recently come in for vehement criticisms for invading the privacy of high placed figures. By this the press is not at all upholding any traditional value nor is it creating new values for the betterment of society. The monopolist tendencies accepted by the Western press and explicitly reflected by persons like Rupert Murdoch underlines the fears expressed by the Hutchins Commission years back. The images being created by the mainstream press are often pro-elite and anti-poor. The lowest strata of the community is consistently ignored as part of the class bias of the media empires. The benefits of the communication revolution have been used as a potential weapon to control distant societies and to impose images totally unsuitable to the local population.

The Hutchins Commission which manifested the fear of the common man in most concrete terms was paving way for a new thinking. The discussions and debates which sprang up as a

result of this to a certain extent succeeded in underlining the need for a new concept of freedom based on "responsibility". This was again carried on to a new stream of thinking by which the term "professionalisation" became a new concept for the functioning of the press. By this professionalisation, journalists as a body would control each individual journalist and enforce his or her responsibility. This had its inherent weakness due to the emergence of managerial tight control of media. The flaws in the press often occur as part of a deliberate market strategy adopted by the executive of the media. The professionalisation of the journalist did little to arrest this tendency as newspapers became products and brands in the hands of new market forces.

The social responsibility theory, any way, gained an acceptance in the Western world. At least the reaction of the thinkers and common man reflected this fact. "The American heritage, our birth right as a society of free individuals is being trampled by an army of bureaucratic politicians who have been nurtured in the miasma of a philosophical swamp. Realistic values have displaced absolutes; realistic ethical codes have displaced moral conviction; pragmatism have displaced objective reasoning as the motive power for human activity. All this must be stopped before we destroy ourselves and the remnant of liberty that remains to us today."¹⁰ It would be a mistake if one were to think that the evolution of

social responsibility theory from the libertarian concept put a full stop to the debate. The subject as the concept, has become more and more complex. The Western social scientists have drawn distinction between press freedom and journalistic freedom. Press freedom concerns a relationship between the press and the government. Journalistic freedom concerns a relationship between journalist working for a news medium and the executives and editors of the news medium. Journalistic freedom individualises or brings down to the personal level press freedom. The press is to a larger degree free of direction and interference from the government, but certainly reporters are not free from the interference of editors and publishers. John C Merrill in his book titled, "Existential Journalism" argues that the basic concept of press freedom in the United States is changing from the traditional emphasis on the press to a new emphasis on the people. The old institution of the press and press freedom is giving way to a new concept that would provide the people with more power over the press. Interestingly, if it is true this is leading to a situation in which the governmental and legal establishment have an ever growing power over the press, because it is only through such an establishment that the people can get more powers. The dialectic which adds new dimension to the concept of freedom of press according to the nature of society and the polity. This theory may not stand up to the existing scenario in almost all the nations. The so

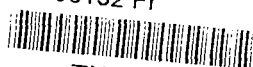
called increasing of powers of the people have just remained in terms of grammar text books only. The changing character of the capitalism sometimes create illusions which are always taken as full stops. The reality is that the capital society always denies freedom to the people in actual terms where the elite is called upon to decide matters for the common man.

The Hutchins Commission report was an eye opener to the state of affairs of the American press. It clearly showed how the so-called libertarian press in the developed capitalist society turned to be the fortress of vested interest. The technological development and the emergence of media as a powerful political weapon had far reaching impact on the social fabric of the society. At the same time it should be noted that any flaws in the polity of a society would certainly reflect on the functioning of the media in that particular society. The formal political system is designed as though in response to Lord Acton's aphorism that power corrupts and absolute power corrupt absolutely. The media power is no exception to this rule. "When fifty men and women, chiefs of their corporations control more than half of information and ideas that reached 220 million Americans, it is time for Americans to examine the institutions form which they receive their daily picture of the world."¹¹ 23 corporations control most of the business in daily newspapers, magazines, television, books and motion pictures in America.

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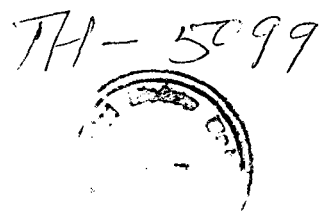
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Given capitalist pressures to maximise profits, media conglomerates treat public service as lip service. In the words of an A B C executives, " A network is paying affiliates to carry network commercials, not programmes. What we are is a distribution system for Procter and Gamble." The distinction between press freedom and journalistic freedom could be understood from this above mentioned aspects that the internal interference which could be inherent in every format will certainly undermine and cloud the concept of a free press. The very concept of freedom of press which the West nourishes has ended up with a situation in which just three men control the two thirds of daily and Sunday papers sold in Britain¹².

The United States has impressive array of mass communication. There are 1700 daily newspapers, 11000 magazines, 9000 radio stations and 1000 television stations, 2500 book publishing firms. If each of these were operated by a different owner, there would have been at least 25,000 individual media voices. It would have limited the concentration of power since each owner would share influence over the national mind. But there are not 25000 different owners. Today 50 corporations own most of the output daily newspapers and most of the sales and the concentration of ownership is ever more on the increase.¹³

Can the concept of press freedom be discussed in vacuum? Does it acquire a peculiar feature of the existing socio-political situation? The society changes and this may be preceded or followed by the media. Often it is the media which runs ahead of the changes. It is obvious and explicit that the media are not frozen in a permanent set of standards. But they suffer from inbuilt biases that protect corporate powers and consequently weaken the public ability to understand forces that create new values for the progress of the society. The media became the authority at any given moment for what is true and what is false, what is reality and what is false. Controlled information, when it is controlled mainly under the veil of free functioning, has a morbid history. It is not morbid solely because it violates ideology of democracy, though it does that, it is morbid because it is usually wrong. Unchallenged is inherently flawed information. When there is monopoly in the media, though it may reflect the existing monopolistic nature of society, it will lead to a situation in which "developed truth" (term used by Karl Marx) will be suppressed. It is very important to note that every authority figure in the Western world once knew for certain that the world was flat and silenced anyone who pointed out the error. The authorities knew or believed that the earth was flat and centre of universe and it paved way for the construction of ill-fated philosophies based on mere illusions. When bubonic plague decimated the population of Europe, the

authorities burned not the guilty rats but the guiltless witches. In an indepth analyses lack of scientific knowledge cannot be found as the reason for this. The real reason was the unchallenged information system in which counter opinion was not allowed, if it not crushed. These things turned to be wrong when they were effectively challenged by open and competitive ideas.¹⁴

Any discussion about the superiority of a media system would be unending and in the case of Western media, where the libertarian and social responsibility theories are prevalent the existing system of media have been accused of many flaws. The hidden hand of free market ensures that so-called media freedom for the society is for the pursuit of private interest. The very concentration of media power prevalent in the West shows the failure of the general notion that, a free market provides access to plurality and competing ideas. The Second Royal Commission which looked into the working of British press was dismayed at the spectacular movement towards the concentration of media power. In 1977 the Third Royal Commission was forced to go beyond their earlier findings when it frankly stated that the greatest acceleration of chain ownership has occurred.¹⁵ It was in this context that William Corbett commented that the English press instead of enlightening, does as far as it has power, keep people in ignorance, instead of cherishing the notion of liberty it

tends to the making of the people slaves, instead of being their guardian it is the most efficient instrument in the hands of all those who oppress, or those who wish to oppress.¹⁶ Freedom of press is though an epic and heroic concept and in no doubt any governmental interference will be unwarranted. It was always upheld that without freedom of thought there can be no such thing as wisdom and public liberty which in turn always go with the security of property. But the pertinent question here is, does this view take note of the market tendencies? The reality sometimes is that the concept of free press is contradictory to the theory of liberty.¹⁷

As discussed early it is imperative to note that media system of country is part of the existing socio-political system of that country. The character of the media cannot be discussed in isolation. The flaws of capitalist system is bound to have an impact on the working of the media. Moreover, when media is considered to be reflection of the private property where there is competition from bottom to top both for political and economical supremacy. The end of cold war spiralled up the corporatisation of the media in the West when it started to transgress the territorial boundaries. IT is obvious that in the changed order supra-national and regional institutions and processes of governance are beginning to more necessary to cope with the complexities of both an internationalised and a more liberalised set of economic and

social relations.¹⁸

The communist approach to the concept of freedom of press has its relevance in even in the changed scenario where the communist countries are facing the onslaught of capitalist system. The criticism of the Western media is the basic pillar of this concept. As per the communist philosophy the role of the media is linked with the construction of the socialist society in short. The media has been given a constructive role in reforming the thinking of the people for strengthening the socialist system or for aiding proletarian cause. When Karl Marx said that media should try for the "developed truth" it is certain that he attributed media with a positive role. Lenin viewed the freedom of press as a class concept. The mass media served the interest of certain classes, they served those political organisations that expressed and uphold those interest. Lenin described the press as the centre and basis of political organisation.¹⁹ The so-called freedom and the terms such as impartiality, objectivity or neutrality are viewed as sham and is a guise to protect the interest of dominant class. The socialist views that mass media, the powerful instrument for shaping public opinion cannot be left with any one except the state and public organisations expressing the interest of the entire society. Lenin once wrote that freedom of press in capitalist countries was the "freedom to buy up newspapers, to buy

writers, to bribe, buy and take public opinion for the benefits of bourgeoisie". The pertinent questions according to him were; what sort of freedom? what for? for which class? The media cannot be unbiased, or socially indifferent or neutral. They either support or oppose forces of exploitation. Its very ubiquity in political theory, gives the concept freedom of press central relevance to social science. If a true science of society is to develop it must be capable of explaining the differences which arise over such fundamental social tenets and also capable of using such aspects of these basic social ideas as are valuable for the explanation and prediction of social change.²⁰

Antonio Gramsci developed a theory of class struggle directly relevant in understanding the operation of media in developed capital. His theory incorporated the dimension of ideology, so covering in principle of all sources, mechanism and relations of communications²¹. Freedom of press is the freedom of property. It functions in the interest of owners of the means of production. The liberal media can ultimately only transmit messages which take into account the protection of these interests. The main thrust here is domination. The ideology of domination operates precisely through abstraction and idealisation, which confer, universality on the expression of particular interest. Thus when the bourgeoisie project has to abandon the panegyric spheres of its "pure democracy" in

order to give its abstract notions and ideals of liberty of the press and expression of concrete form, it finds it constrained to accept mediation of the capitalist enterprise in the production information as a 'sinequanon', the commercial orientation and professionalisation of this liberty. The liberation of citizens' expression passes through the boss and surplus value and it is here that mystification principally presides. As Marx and Engels wrote; primary freedom of the press lies in not being a trade²².

The Third World countries after the end of second world war came together and evolved a new theme on the role of the media. The third world concept of freedom of press, which may seem to be bit ambiguous had distinct nature as it emphasised on some regulatory methods for upholding certain values. The concept was linked to the aspirations of the developing countries for an equitable order. The Western concept of freedom of press and what is known as the free flow of information was seen as an infringement on the right of these countries. It is a fact that it was the non-aligned countries which had thrown up the issue of biased flow of information the countries which were freed from the yoke of colonialism had new values surpassing the Western media concept. In fact the voice of Third World in context of this was inevitable point in the history as it formed part of the anti-colonial stand. However the end of cold war and the disappearance of

Soviet bloc has once again plunged the issue of an equitable information order in sequence to the disintegration of the Third World fraternity. The aggressive forces of market place which has been propagated incessantly by the West has been now cashed in the Third World countries too. The media empires which was once restricted to the developed press has started transgressing the borders of Third World together with the slogan of free flow of capital.

After the second World War the doctrine of free flow of information was vigorously propagated by the United States and other Western countries both in United Nations and outside. The socialist countries for its ideological position, expressed their reservations to the free flow of information operated in their disadvantage and against the concept of the role of media and democracy. The Western slogans like "free flow" was recasted to "free and balanced flow" and the right to know became "right to know and communicate". The difference in perception was due to the different political background in which the Third World had to carry the burden of colonial role where as the West continued to dominate through economic devices. The Third World realised the Western journalism, despite its impressive technology and vast power to become a vulnerable giant.²³ The objective of Third World nations to have a new Information World Order gained momentum in 60s and 70s. The declaration adopted by UNESCO in 1972 said; "In order

to further the objective it is necessary that states taking into account, principles of freedom of information, reach or promote agreements concerning broadcasting and news agencies with population of those countries in which these are to be broadcasted or despatched.²⁴" This declaration was adopted with the United States and the Western countries opposing it. The Third World's gathering agitation for an equitable information system gave, undoubtedly a new dimension to the discussion of freedom of press. In 1976 non-aligned nations during the UN session raised the slogans of New International Information Order. The UNESCO in 1977 appointed a commission known as McBride Commission to study the demands of the third world. It brought out its final report in 1980 and the report have more or less endorsed the fears and demands of the third world countries. The US administration to show its displeasure with the proposed international information order withdrew from the UNESCO in 1985.

It is very explicit that the Third World objection to the Western concept was primarily guided by its own compulsions. The Third World leaders, standing with one foot in a traditional culture and other vastly different and intrinsically over powering one, see their peoples, values and social systems in transition.²⁵

The free flow concept was always viewed with the media

imperialism atleast by the Third World leaders. Former Tanzanian President Julius K Nyerera once noted sarcastically that the inhabitants of the developing countries should be allowed to take part in the American Presidential election because they are bombarded with as much information about the candidates as are North American citizens. Several years ago a well known Latin American researcher found that the share of various regions of the world in the total information output of the biggest agency, United Press International was as follows:

North America alone accounted for 71.2% of the news output, Western Europe-9.6%, Asia 5.9%, Latin America-3.2%, Middle East-3%, Africa-1.8%, Soviet Union and Eastern European countries 1.5% and the Mediterranean countries 0.3%.²⁶ The Western media have always been blamed for reporting Third World affairs in a distorting way. There have been allegations, some proved obviously, that developing countries most often appear in the information flow of the West only in connection with any catastrophe or disasters or sharp deterioration of their political situation or events making it possible to depict as ridiculous or even barbaric. Proliferation of images in one case and blackout in other. But new blackouts are not new. From the beginning of 1980s alone no Western Power allowed the media to present during the military foreign operations-(Israel/Lebanon 1982, UK/Falkland

1982, US/Granada 1983, France/Chad 1988, US/Panama 1989)²⁷. The main allegation against the Western media is that it has always been a device of propaganda rather than factual reporting. The market freedom gave them control over the information which in turn help them to control the economies of other countries.

As mentioned in the beginning defining the concept of freedom of press is a difficult task. The role, its functioning depends upon the existing nature of the society. The free market theory which advocated free press and unhindered information cannot be considered as the ideal type of media freedom. The libertarian concept ignores the monopolistic tendencies in the media world. Keith Rupert Murdoch controls about 150 odd publications. The critics, the very people advocating for an uncontrolled press accused Murdoch. "The Murdoch style is both ruthless and cynical, there is precious little respect for workers' rights and scarcely disguised contempt for customers. Mr Murdoch and others claim, the media revolution produces choices for consumers. But the skillful marketing of sex, scandal and violence in numerous different ways give people little choice."²⁸

In any society whether primitive or developing or modern will have its own set of values. In this context the complex

of freedom of press too will vary from society to society. The concept understood in the manner as in the West may be redundant in a developing society. The Third World countries would be giving priorities to values such as unity and stability of their political system and this will have important bearing on the media system too. No doubt every society now attribute the element of responsibility to concept of freedom of press. The media should have a dual role, first in providing the social control. Secondly in helping social change to some extent this may seem to contradictory. The fact is that the mass communication maintains certain values and also disrupt the system. This contradiction within a contradiction is an interesting phenomena because unless the media becomes a precursor to social changes, the social role will get eroded. The concept has to be viewed on the background of the set of values a modern society has to cherish. The words Hutchins Commission is very relevant; "Freedom of press is not an isolated value, nor it mean the same in every society and same in all times. It is functional within a society and must vary with the social context. It will be different in times of general security, in times of crisis, it will be different under varying states of public emotion and belief."²⁹ A society has to strive for certain developed truth or universal truth. Media's role and convrpy of freedom of press should be emphasised and understood in this background.

NOTES

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2. Carl Becker, Freedom And Responsibility, Page 34
3. John C Merril, The Dialectics in Journalism, Page 26.
4. E.M. Zashin, Civil Disobedience and Democracy, Page 25.
5. John C Merril, Global Journalism, Page 20.
6. Hutchins Commission Report, Page 1
7. ibid
8. ibid, Page 4
9. John C Merril, Dialectics in Journalism, Page 31.
10. Jerome Tuccille, Radical Libertarianism, Page 113.
11. Ben H Bagdikian, Media Monopoly, Page 10.
12. James Curron, Jean Seaton, Power Without Responsibility, Page 23
13. Ben H Bagdikian, Media Monopoly, Page 11.
14. ibid
15. James Curron, Jean Seaton, Power Without Responsibility, Page 17.
16. John Kean, Media and Democracy, Page 30.
17. ibid
18. Paul Hirst, Associative Democracy, Page 7.
19. Dalpat Singh Mehta, Mass Media In USSR, Impressions of Soviet Union, Page 6.
20. Kurt E Kent, Freedom of Press, An Emprical Analysis Of

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21. John Downing, The Media Mission, Page 147.
22. Armand Mattelary, Mass Media, Ideologies And Revolutionary Movement, Page 37.
23. Leonard R Sussman, Developmental Journalism, The Ideological Factor, Page 78.
24. D.R. Mankekar, Whose Freedom, Whose Order, Page 10.
25. Leonard R Sussman, Developmental Journalism; Page 78
26. Don Rojas, Information Imperialism, Third World Ressurgence, Page 16.
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28. The Pioneer, February 14, 1994.
29. Hutchins Commission Report. This Commission was set up to study the functioning of American media.

CHAPTER II

FREEDOM OF PRESS IN INDIA

Constitutional And Legal Provisions

As discussed in the earlier chapter the working of the media is very much part of the democratic setup of the country. Freedom of press is considered to be an essential and indispensable factor for the successful working of the democratic polity that has been accepted in the Constitution. No doubt the press over the time has acquired the status of the fourth estate and has made valuable contributions to this effect. The freedom of Press in India is derived from the constitution which gives every citizen the freedom of speech and expression. As in the American Constitution, there is no special provision for the protection of the Press freedom in the Indian Constitution. Over the time the Indian Media has grown many fold and has visibly shown western tendencies. This explains the capacity it has acquired to influence the Socio-Political situation. Whether the Indian Media has evolved a positive role or not will be a subject of unending debate. At the same time the extend of freedom enjoyed by the media also will be a subject of dispute. It would be pertinent here to examine the various factors which are influencing the Media. As the subject of discussion here is the Press Freedom, the constitutional and legal provisions has to be examined to have a concrete base on which a study could be carried further. Together with this various other factors

which have a lot of bearing on the working of the media also need to be examined deeply.

Modern States, remarked Robert Southey, in the early Nineteenth century, can no more stand without the Press than without bayonets¹. This maxim is true with the Indian situation also. In the post independence situation, the Press has gained clout and importance so as to influence the Socio-Political issues. But there are several factors which hamper a free working of the media, where by the flow of opinions among the citizens is hindered. Some of these obstacles are visible but most of them play discreetly. Some provisions are veiled with the emphasise attached to the sovereignty of the nation which is considered to be absolute. The Press Freedom has come to terms with the forms of state interference in the process of publicly and circulating opinions. The commercialisation of the news paper industry, as part of the capitalisation also have created implicit and explicit distortions in the flow of information. The nature and character of News have transformed to suit the interest of various groups which have control over the mass communication machinery. This would be discussed at a later stage. The intervention on the part of the government is mostly deemed as legitimate in nature. As per the Indian Constitution every individual has got the fundamental right of freedom of speech and expression. Freedom of Press also

shoots up from this provision. This right has to be enjoyed in consonance with the various other provisions which are restrictions.

The government of any format uses emergency provisions to bully parts of media for submitting them directly to their wishes by means of instructions, threats, bans, and arrests. This legal and extra legal "repression" come in two forms - pre-publication and post-publication. In the former place informal and formal procedures from a friendly chat with government's spokesman and simple request or warning delivered by telephone to the issuing of mandatory and discretionary guidelines to influence the Press are used. The later case includes legal actions initiated against the material already available to the civil society. It normally leads to banning, shredding, burning, re-classification or confiscation. This may even extend to the closure of news papers and printing houses. It may encompass the banning of particular anti-state organisations and the censoring and punishing of journalists. This are made during an alleged crisis period. The Indian media had to undergo the time honoured treatment on the part of the executive. It manifested in different forms as mentioned above. At a period it was the oppression of dominant press and in another period it turned against the anti-establishment (at most time anti-government) press. Sometimes the method was used in the

name of the security of the state. The emergency period (1975-77) could be taken in to consideration for getting a proper insight to the different methods used by the executive either to distort or suppress news.

Armed secrecy is another fact which has been traditionally hindering the path of the freedom of press. It is same, though it may vary in its degree, in the developing and developed world. Modern State power thrives on police and military organs which are shrouded in secrecy. There is no better way in which state official can outmanouvre their domestic and foreign opponents than to learn about them by monitoring their activities without being monitored inturn. This existed in primitive and now exist in the most free society in a sophisticated way. The growth of armed secrecy sometime produces bizarre results. This some times even deprive the legislature of decision making power. The integrity of the State and the democratic right of a sovereign people are interdependent values that should obviously go together. Yet considerations of the national security have world over tended to draw a veil of secrecy over everything broadly construed as military or defence related information which might provide useful intelligence to the enemy. Government or those authorities more particularly vested with responsibilities for national security are prone to give away as little as possibly on the tests of "need to know". Public

and parliament are however increasingly concerned with accountability, cost effectiveness and policy options and the demand "right to know". The Media mirroring society, finds itself in a fix². The report of the Estimates Committee of the parliament was also explicit in expressing its apprehensions. "The Committee are informed that excessive secrecy in matters concerning defence and uncertainties of annual budgetary support have rendered the task of formulating a defense policy difficult. The Committee while appreciating the difficulties are however surprised that not much has been done so far to overcome this by way of rationalisation of the regulations governing secrecy of information and the budgetary procedure in relation to the ministry of defense. The Committee note that a culture of excessive secrecy has inhibited free and wider debate in the country about issues concerning national security³.

The Committee of the Press Council of India which went into the whole issue had recommended; "the Committee is categorically of the view that there is need for greater transparency with regard to the defence related matters. This is not merely desirable but possible without being detrimental to the national security. The difference in approach and outcome as, between 'Operation Bluestar' and operation 'Black Thunder' in Punjab is vivid in national memory, and nor is this the only instance. Public support and national morale

are, to use the military terminology earlier cited 'powerful force - multipliers'. There admittedly are certain constraints that will operate in Defence information policy. But within these parameters the people have a right and need to know much more than what they are vouchsafed today"⁴.

Another important factor, though not construed as traditional, which affect free and clear flow of information is the art of lying adopted by political executive. Lying is termed as unparliamentary, hence 'distortions, half truths and planting wrong information could be substituted if necessary. The methods applied for "disfactualization" has assumed new forms. Formal and informal press conferences are used to project the opinion of the government which may sometimes contradictory to the factual position obtained to the people through the medium of Press. Questions are planted , sometimes supplementary questions are disallowed. For example the formal press conference of Indian Prime Minister is controlled by the principal information officer who has the authority to call each correspondent to raise the questions. In most cases, the name of the correspondent and the name of the Press he represents have to be given before rising the question. Undoubtedly this will have its bearing on the answers given since the person who addresses the press conference will weigh his relation to that particular newspaper. It is all the more pertinent to note that when the

spokesman of govt meets the Press, he will only answer to the questions which may be comfortable to the government.

State advertising is another weapon in the hands of the government which often have been used as a control over the print media. The simple arithmetic on which a Press functions is on the factor of profit in a capitalist society. The main revenue comes from advertisements in which the government has got a major contribution to make. The steady growth of state advertising gives the government enormous powers to blackmail since most newspapers rely heavily on the revenue from advertisements for their survival. Threats by the governments to withdraw such funding tends to produce compliance with pressures or otherwise the collapse of such ventures.

Rampant commercialisation has hit the media. The growth of papers and the penetration of big business houses into the media world has its impact. The very aspect which had pervasive impact on the Western Media has come to play important role in the Indian print Media too. The Freedom of Press has been usurped by the publisher or owner who now represent powerful vested interests. This would be discussed later.

Any study or evaluation of the Indian Media would be of

utility only of this could be based on the above mentioned broader areas. These innumerable factors implicitly or explicitly influence the Media. The attempt of this study is to take note of the major factors.

Though the Indian Constitution do not have a provision for freedom of Press it was guaranteed under the freedom of speech and expression granted to the citizens. The preamble itself has given a prime place to the liberty of thought an expression. It is the article 19 (1) (A) which guarantees press freedom in the country. But the clause (2) of the above said article enables the state to impose reasonable restrictions on the exercise of the freedom. According to article 19(1); All citizens shall have the right (a) to freedom of speech and expression. Clause (2) says 'nothing in sub-clause (a) shall affect the operation of any existing law or prevent the state from making reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interest of the sovereignty and integrity of India, the security of the state, friendly relations with foreign states, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offense. The Constitution in the beginning did not provide for imposing reasonable restrictions on the ground "public orders", "friendly relations with foreign state" and incitement to an offence." These were added to the Constitution by first

Amendment Act of 1951, following a supreme Court judgement. The restrictions in the interest of 'sovereignty' and 'integrity' of India were introduced in the Constitution (16th Amendment) in 1963 following the war with China.

The Indian Constitution have assumed that freedom of speech and expression include inter-alia, the freedom of Press. But the Supreme Court has also specifically stated that "a right flowing from the freedom of speech and expression, the liberty of the Press stand on no higher footing than the freedom of speech and expression to a citizen and no privilege is attached to the position of the Press as such⁵. According to the report of the First Press Commission freedom of speech and expression is stated in wide terms.....freedom of the Press, particularly of newspapers and periodicals is a species which freedom of expression is a genus⁶.

There have been many a case where the functioning of the Media have been affected in the background of the actions taken on the restrictive provisions of the Indian Constitution. The Supreme Court had intervened to give clarity to these provisions many a time. But ambiguity surrounding some of them still remains.

As mentioned earlier one of the restrictions,

"sovereignty and integrity of India" was added to the Clause (2) of Article 19 by the 6th Amendment Act of 1963. This amendment conferred adequate powers on the government to impose restrictions on individuals and organisations in the context of secessionist and divisive tendencies. The restriction on the ground of "public order" became a subject of controversy. In the Bihar case⁷, the supreme court observed; "it is plain that speeches and expressions on the part of an individual which invite or encourage commission of violent crimes such as murder cannot be matters which would undermine the security of the state so as to come under the ambit of law sanctions by Article 19 of the Constitution." But after this case in many other occasions, courts have validated several general public order statutory controls on the Press. Reasonable restrictions on the exercise of freedom of speech and expression 'in the interest of public order' which is much wider than "for maintenance of "public order". If therefore, certain activities have a tendency to cause public disorder, a law penalising such activities cannot be held to be a law imposing reasonable restrictions "in the interest of public order" although in some cases those activities may not actually lead to a breach of public order. The term 'public order' is of wide import but its scope in Article 19(2) has to be determined in juxtaposition with the other grounds of restrictions mentioned there in. Thus it covers small riot, an affray, breaches of peace or acts

disturbing public tranquility. The notable statutory enactments which authorise the state to put restriction on the freedom of speech and expressions in the interest of public order are, the Indian Penal Code section 153 A and 295, The Indian Telegraph Act 1885, the post office Act 1898, The police (incitement to Disaffection) Act 1922, and the security and public safety Acts of various states⁹. These Acts generally punish the publication of any statement or report, which incites the commission of subversive acts such as illegal acquisition, possession or use of arms, endangering communal harmony or safety or stability of the state, such as looting, Sabotage, prejudicing the recruitment or attendance of members of the police force, fire brigade or other public servants to tamper with the loyalty of such persons. In *Kedernath vs State of Bihar*, the Supreme Court upheld the constitutional validity of section 124 A and 505 of Indian Penal Code. Section 124 A makes sedition a punishable offence and section 505, the making of rumours or reports with intent to cause mutiny or an offence against -public tranquility or to induce one class or community to commit an offence against another, punishable as well.

The pertinent point to be noted here is that various provisions enacted by the central government give enormous powers to the authorities to strangle the press at any given point of time. A case could be slapped against a newspaper

citing any of the provisions given above since the interpretation of these are still clouded by various rulings and judgments which in many cases are contradictory in nature. In the past the guiding spirit for invoking these provisions were not genuine but often led by vested interest. The courts in most cases have supported these provisions as they are often veiled on the concept of the 'security of the state'. The Press (Objectionable Matter) Act, 1951, had been widely used which have resulted in curbing free working of several newspapers. This was justified on the ground that prompt action by the government were needed to prevent disorders even if prior notice was not given to the newspaper concerned. There were some safeguards in terms of getting approval from certain designated political law officers and a power of post-preventive decisional judicial review. However various only when the Bihar Press Bill was brought¹⁰. State governments set up their own legislations to deal with "objectionable matter". This turned to be a major controversy.

Apart from public order and security of state, reasonable restrictions can also be imposed in the interests of decency or morality, contempt of court and defamation. The terms 'decency' or 'morality' are of wide and variable content. the ideas about them vary from society to society, from age to age and from person to person. Generally speaking "decency" includes anything which an ordinary decent man or woman would

find to be shocking disgusting and revolting. Section 292 of Indian Penal Code lays down law by which it is an offense to possess obscene publications for the purpose of reading or selling them. Apart from the provisions in the Penal Code there are other laws;

- a. Section 3 of the Dramatic Performance Act 1876,
- b. Section 11 of customs Act 1962
- c. Section 20 of the Post Office Act 1898
- d. The cinematograph Act 1952,
- e. The drugs and Magic remedies (Objectionable advertisements) Act 1954
- f. The young persons (Harmful publication) Act 1956,
- g. The criminal procedure code makes the implementation of the penal Law against obscene publication more severe and permits the state government to confiscate all material concerning the same

Contempt of Court

The ground of contempt of court has found a place in Article 19(2) apparently to safeguard the independence and dignity of the judiciary and the due administration of justice. In relation to the freedom of speech and expression, there are three kinds o contempt of court;

- a. Scandalising the court itself
- b. Abusing parties who are concerned in cases in the court.
- c. In prejudicing mankind against persons before a case is heard.

In short it consists of any conduct that tends to bring the administration of justice into disrespect or to obstruct or interfere with the due course of justice. Under the Constitution, Article 129 empowers the Supreme Court to be the court of record and that it shall have all powers of such a court including the powers to punish for contempt. A similar declaration is made in respect of High Courts under Article 215. A special committee was appointed under the chairmanship of H. N. Sanyal, the then Additional Solicitor General to examine the entire law on the subject and on the recommendation of this committee, the contempt of court Act 1971 was enacted. The Act of 1971 was passed, as the long title would show, "to define and limit the powers of cretin courts in punishing contempt of court. This Act for the first time sought to define "Contempt of Court" by codifying results of judicial decisions.¹²"

In India, the law relating to contempt of court has been a subject of considerable attention since 1960. At least one departmental committee¹³ and one Parliamentary Committee¹⁴ had examined the matter at length. The real colour of Contempt of court was highlighted when a controversy raged up on the

contempt of court of action slapped on Mr & Namboothiripad, the former communist Chief Minister of Kerala. Mr. E.M.S. Namboothiripad had said that the judges belong to a certain class and suffer from class bias. No doubt judges and courts in India are under considerable pressure. They are anxious to preserve their image on the protection of justice and have used the contempt jurisdiction to protect themselves from controversies and to create and sustain respect for their work¹⁵. The Supreme Court had infact admitted that contempt jurisdiction is arbitrary and had called for using it sparingly. In India, the courts frequently punish people who say or do things, which in the opinion of the judges, lower the dignity of the courts. This power is used at the instance of the judges or on the complaints of others. It is often difficult to draw clear line between scandalising remarks and legitimate criticisms. Judges often use this jurisdiction to punish and answer their critics. The contempt jurisdiction is seen as a social devise by which westernised status is given legitimacy in an Indian context¹⁶t. In a contempt case against the Times of India, Supreme Court held the Editor, Printer and Publisher of the Paper guilty of gross contempt for having published an article titled "A disturbing decision", criticising the decision of the Supreme court. It was stated in the item that "politics an policies have no place in the pure region of law; and the courts of law would serve the country and the constitution better by discarding

all extraneous considerations and uncompromisingly observing divine detachment which is the glory of law an guarantee of justice". The court, though it dropped further proceedings in view of the unconditional apology tendered by the respondents, observed; no objection could have been taken to the article had it merely preached to the courts of law the sermon of divine detachment. But when it proceeded to attribute improper motives to the judges, it had not only transgressed the limits of fair and bonafide criticism, but had a clear tendency to affect the dignity and prestige of the courts¹⁷. Apart from the powers actually needed to maintain discipline in courts and secure compliance of court's orders, the rest of the law of contempt protects the judiciary much in the same way as a generously interpreted law of sedition protects rest of the state. If the law of sedition seeks to prevent any action or comment which might undermine the power, authority, and status of the executive, the law of contempt goes further in its protection of the judiciary. Contempt of court power had been used to fight the forces of change. During the British Raj, action was taken against Surendranath Bannerjee (1882), Mahatma Gandhi (1920). Even after independence top political personalities like Prime Minister Pandit Nehru (1958), Chief Minister E.M.S. Namboothiripad (1968-70), Chief Minister P.C. Sen (1971), Chief Minister Farooq Abdulla (1984) had to taste the action under this provision.

It has been used against, virtually all newspapers for either commenting on a matter that was subjudice or for raising criticism against the judges. Judges have been fairly adroit in their use of power. Prime Minister Nehru was let off because he did not know of the tendency of proceedings on a certain case which commented even though that was not a defense at that time. Chief Minister Nambudiripad's fine was reduced because the Supreme Court claimed that he got his Marxism wrong. When Chief Justice Begi issued contempt notice to the Times of India and the Indian Express in respect of the articles about the performance of the judges during emergency, he was persuaded by colleagues to withdraw the petition lest the judges find themselves in an awkward situation whereby the ensuing proceedings prove to be more embarrassing than the offending articles. There is no doubt that if the courts in India are to continue as viable institution, they must possess the power of contempt jurisdiction. This point does not mean that judges should be sensitive to every bit of criticism emerging from the society. By excessive coercion, the courts are preventing any change in the functioning of the system.

Laws of Defamation

Law of defamation has got important bearings on the freedom of speech and expression. Broadly defamation could be termed as the injury to one's reputation. Law of

defamation has been described as a tale of two interests. On the one hand, every person is entitled to his good name. On the other freedom of speech and expression is necessary in the interest of a democratic society based on the value of pluralism. The Constitution therefore allows under Article 19(2), the imposition by law, of reasonable restrictions on freedom of expression in the interest of "defamation." Defamation is an offence under the Penal Code as well as civil wrong under the common law. Section 499 of Indian Penal Code (IPC) defines defamation and section 500 provides punishment for the offense.

Section 499 IPC codifies the criminal law of defamation. It reads as follows.

"499. Defamation - Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or, publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1 - It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to

be hurtful to the feelings of his family or other near relatives.

Explanation 2 - It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

3. Explanation 3 - An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4 - No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of other, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

First Exception - Imputation of truth which public good requires to be made or published. It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Second Exception - Public conduct of public servants. It is not defamation to express in good faith in any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception - Conduct of any person touching any public question. It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, or respecting his character, so far as his character appears in that conduct, and no further.

Fourth Exception - Publication of reports of proceedings of courts. It is not defamation to publish a substantially correct report of the proceedings of a court of justice, or of the result of any such proceedings.

Explanation - A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Fifth Exception - Merits of case decided in court or conduct of witnesses and others concerned. It is not

defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a court of justice, or respecting the conduct of any person a a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Sixth Exception - Merits of public performance - It is not defamation to express inn good faith any opinions respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Explanation - A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Seventh Exception - Censure passed in good faith by person having lawful authority over another. It is not defamation in a person having over another any authority, either conferred by law or arising cut of a lawful contract made with that other, to pass in food faith any censure on the conduct of that other in matters to which such lawful authority relates.

Eighth Exception - Accusation preferred in good faith to authorised person. It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Ninth Exception - Imputation made in good faith by person for protection of his or other's interests. It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good.

Tenth Exception - Caution intended for good of person to whom conveyed or for public good. It is not defamation to convey a caution, in good faith, to one person against the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good."

It will be seen that the substantive paragraph of the section defines the offense. In this definition, the means prerequisite consists of an intention to harm the reputation, or of the knowledge that it would harm the reputation of another. Such mens rea will be presumed if the imputation is defamatory per se.

Law of defamation still exists to be the most controversial subject in the context of the freedom of Press. There are diametrically two points of opinion;

- a. The law of defamation should be strengthened to curb the tendency of hurling unnecessary and unwarranted allegations against an individual.
- b. Law of defamation should not be a hurdle on the path of a free Press in its attempt to expose corruption and misdoings of public figures. There have been attempts on both these fronts which will be discussed in another chapter. The need of the hour is to evolve a code of conduct by the Newspaper in such a way that writings to malign individuals are restricted if not completely avoided. At the sometime there should not be a tendency on the part of the executive to adopt measures under the law of defamation to discourage investigative reporting by the Media.

Press And

Legislative Privileges

In India there is a dichotomy between legislative privileges and fundamental right of speech and expression guaranteed by Article 19(1(a) of the Constitution. There are restrictions on the freedom of the press to publish its own evaluation of the legislative proceedings and to comment upon

the legislative for their conduct both outside and inside the legislature.

Before the 42nd amendment of 1974 clause (3) of Article 105 (also clause (3) of Article 194) of the Constitution said that a House could enjoy such privileges as were defined by Parliament or a State legislature by law and until so defined a House would have same privileges as the House of Commons at the commencement of the Constitution. But the 44th Amendment, 1978, substantially restored the earlier position, though it deleted the specific reference to the House of Commons. Despite the power given by Clause (3) of Article 105, no law has yet been passed by any House of the Centre or State legislature to define its privileges. The privileges of the legislatures become controversial in the backdrop of its power to punish anyone found violating the privileges. The Parliament, though in the limited form and State legislatures many a time have invoked the power to punish individuals for the breach of privileges. The important aspect which has to be noted here is that the ground on which an individual can be held guilty of its content remain vague, indefinite, uncertain and unspecified.

Is it expedient or advisable to grant such absolute powers to the legislatures? Rajiv Dhawan argues that it is politically dangerous. A legislature is, after all, a

political forum, which is divided into several political parties and one political party having the majority to control the House. It is quite possible that the majority, under the cloak of the legislative power to commit for contempt, may become oppressive and may try to stultify legitimate political activity outside the House. If a person belonging to different political party were to criticise an action of the majority party in the House or any of its members, there is nothing to prevent the House from holding the person guilty of the contempt of House. There is a danger that an excessive emphasise on privilege become a weapon in the hands of intolerant party to control and to make the legislature submissive to its pressures. 18

In 1966, the British House of Commons appointed a select committee to review the law of Parliamentary privilege. The committee was of the view that the Law of Parliamentary privileges should not be administered in a way which would fetter and discourage free expression of opinion or criticism however prejudiced or exaggerated may be. The penal jurisdiction of the House should be exercised as sparingly as possible and only when it is essential to protect the House from improper obstruction. In future when a member has a remedy in courts, is not be permitted to invoke penal jurisdiction of the House in lieu of or in addition to that remedy. 19

The Mathew Commission (Second Press Commission of India) approved these recommendations and suggested codification of the privileges. It is suggested that when a person who has been committed to prison for contempt, approaches a court under Article 32 and 226 of the Constitution, it should be clearly laid down that no contempt proceedings would be initiated against the lawyer representing him or the judges hearing the case. There have been many a time demand for the codification of legislative privileges but so far no action has been taken on this matter and the privileges remain to be a gray area. The Mathew Commission had recommended that alleged contempters should be given reasonable opportunity to defend themselves and to be represented by lawyers and the procedure should not violate the fundamental rights. The right of the press to be present in the committee of privileges as in the courts, should be recognised. It has also suggested that a High Powered Committee consisting of eminent jurists, judges, legislators, journalists and public men should be appointed to recommend legislative measures defining parliamentary privileges. Even the first press commission in its report had expressed its apprehension on the vast and vague area of legislative privileges. The report noted; it would therefore be desirable that the Parliament or State legislatures should define by legislation the precise powers, privileges and immunities which they possess in regard to contempt and the procedure for enforcing them. Article 105 &

194 do contemplate enactment of such legislation and it is only during the intervening period that Parliament and State legislators have been endowed with the power of privileges and immunities of the House of Commons²⁰. The Press Council also from time to time had emphasised the need for making codification of privileges. Council had noted that the undefined boundary of parliamentary privileges has been the cause of uneasiness for the press. The question of codification of legislative privileges was raised in the Rajya Sabha, Upper House of the Parliament, on December 4, 1967. The Government had at that time reiterated its keenness to safeguard the freedom of the press as well as to protect parliamentary privileges and also promised to have the question examined by the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha and Privilege Committees of both the Houses²¹.

The Indian print media had to face the wrath of the legislatures many a time in the history. The intolerable tendencies exhibited by many governments had paved way for the respective legislatures taking decisions to incarcerate journalists. The late 80s and beginning of 90s had many cases of arrest of journalists as per the warrant issued by the Speaker on behalf of the legislature. In Tamilnadu a series of cases had sprang resulting in the incarceration of many journalists who had criticised the government and the

legislature. In 1994 the Maharashtra Assembly issued warrant against Mr Nikhil Wagle, editor of a Marathi evening paper and he was jailed for breach of privilege of the House.

Despite all these incidents and criticisms from various corners against the vast and ambiguous powers under the title of privileges, the governments and legislatures have not taken any steps for codification of the same. The position is that even today controversy looms large over the legislative privileges with several cases cropping up in various states.

Official Secrets Act

One of the major cause of concern pertaining to the freedom of press is the Official Secrets Act of India. Many a time the discussion have attained the attention of the mainstream political arena with the slogans of "right to know" which is specifically on the backdrop of this draconian Act. In fact at the end of Rajiv Gandhi's regime, 1989, the National Front headed by V P Singh had vehemently argued the case for the incorporation of right to know. Yet nothing has been done so far to scrap or to amend the Official Secrets Act which had been attacked both by politicians and by academicians. Enacted in 1923, Official Secrets Act is the true replica of the British Official Secrets Act 1911. A study was undertaken by the Indian Law Institute, New Delhi to find

out the damage done to the freedom of press by the Official Secrets Act, contempt of courts act, parliamentary privileges, etc. The study has called for the liberalisation of present strict rules of Official secrecy to enable the press to discharge its social functions of informing the public about the policies and programmes of the government. It says, "The two wings of the government, namely the legislature and judiciary function in open..... on the other hand the executive does its business in its secret chambers to which people have hardly any access²²."

The Official Secrets Act, 1923, deals with two aspects. Espionage under Section 3, disclosure of other information under Section 5. Section 5 of the Official Secrets Act reads as follows: If any person having in his possession or control any secret official code or password or any sketch, plan model article, note, document, information which relates to or is used in a prohibited place or relates to anything in place or which is likely to assist, directly or indirectly an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the state or friendly relations with foreign states or which has been made or obtained in contravention of this act, or which has been entrusted in confidence to him by any person holding office under government or which he has obtained or to which he has had access owing to his position or a person

who holds or has held office under government or as a person who holds or has held a contract made on behalf of the government or as a person who is or has been employed under a person who holds or had held such an office or contract;

- a) willfully communicates the code or pass word, or sketch, plan, model, article, note, document, or information to any person other than a person to whom he is authorised to communicate it or a court of justice or a person to whom it is, in the interest of the state his duty to communicate it or,
- b) uses the information in his possession for the benefit of foreign power or in any other manner prejudicial to the safety of the state or
- c) retains the sketch, plan, model, articles, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it or willfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or
- d) fails to take reasonable care of, or so conducts himself as to endanger the safety of the sketch, plan, model, article, note, document, secret official code or password or information, he shall be guilty of an offence under the section.

2. If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document, or information knowing or having reasonable grounds, to believe at the time when he receives it that the code, pass word, sketch, plan model, article, note, document or information is communicated in contravention of the act he shall be guilty of an offence under the section.
3. If any person having in his possession or control any sketch, plan, model, article, note, document, or information, which relates to munitions of war, communicates it, directly or indirectly, to any foreign power, or in any other manner prejudicial to the safety or interest of the state, he shall be guilty of an offence under this section.
4. A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

The official information covered under this section is extremely broad. Any kind of information is covered provided it is "secret". Thus it include any official code, pass word, sketch, model, article, note or information. The only aspect which is stipulated for its qualification is that it should be secret. No where the word "secret" or words "official secrets" have been defined in the act. This gives blanket

power for the government to withhold any information it likes. The Second Press Commission which went into this aspect have made an important observation. A popular government without popular information means of acquiring, it is but a prologue to a farce. A people who mean to be their governors must arm themselves with power which knowledge gives. Neither the right to elect periodically their representatives to the legislative bodies nor their accountability to the people at the end of the period of stewardship is of much avail unless representatives are made responsive to public opinion on which they decide public issues. The necessary condition for an enlightened public opinion is the existence of a well informed citizenry. Public discussion is a public duty and to fulfill this duty the people must have necessary information, for they cannot carry on a discussion in the void. It is his duty which generates to political right to know²³. The Press Commission was very emphatic when it stated that the guarantee of freedom of speech can become effective only if the people have the right to access to the government proceedings affecting the public.

The openness of administration has been a matter of hot debates. The fact is that day by day the administration is sinking to the veil of secrecy. The very nature of the bureaucracy is to have everything done in secrecy. Government papers are classified as top secret, secret, confidential,

personal, not for publication. Documents issued are not revealed for 30 years and technically information is not available to the press through officially published documents and the press bureau²⁴.

The fact that the secrecy factor of administration is part of every government in the world has to be accepted. Today information is power. Officials have in the past and will continue in future to restrict and suppress information, control and manipulate it. The phenomenon is endemic to all governments. It transcends political ideologies and geographical frontiers and is encountered on both sides of information, the power to release information at an opportune moment is a powerful weapon in the hands of those in authority. Indeed their staying in office may well depend on the maintenance of this power²⁵.

At the same time the relevance of a political system should be judged by the degree of the participation of people in it. If the tendency is to plunge the administration in more and more secrecy then the debate for a democratic polity will become redundant. Accountability is sine qua non of democracy and the basic premise of accountability is that the people should have information about the working of the government. This thinking was projected in 1975 by Justice Mathew in the case of the state of UP vs Rajnarain. A question before the

court was regarding the privilege made by the government in respect of certain documents whose disclosure was claimed. In negating the government's claim for privilege, Justice Mathew ruled; "in a government of responsibility like ours, where all agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way, by the public functionaries. They are entitled to know the particulars of every public transaction in all its bearing. The right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary when secrecy is claimed for transactions which can at any rate have no repercussion on public security."

As pointed out earlier there have been consistent actions on the part of the government to cover up its function. One such step was the promulgation of the Commission of Enquiry (amendment) Ordinance on May 15, 1980. Again in 1986 the then Rajiv Gandhi government amended the act and became no longer mandatory on the part of the government to release reports of Commissions of Enquiry. It was on the background of the findings of Justice Thakker Commission which went into the assassination of Indira Gandhi. The Thakker Commission in its report had mentioned several names who were near to the Rajiv Gandhi regime. Suppression of information

continues and in most cases it is to protect somebody who is powerful in the ruling elite.

The Press Laws Enquiry Committee (1948) and the First Press Commission (1954) expressed satisfaction with the manner in which the Official Secrets Act was being administered. In 1977, the Janata Government dropped further consideration of the issue after an inter-departmental committee affirmed that such legislation was essential. The Second Press Commission (1988) while accepting the need for secrecy as a "functional necessity" followed the lead of the Franks Committee in England (1972) in suggesting that our similar "catch all" section (5) should be pensioned off, and that freedom of information bill---once again along British lines---should reduce and delineate the areas for which secrecy is absolutely necessary, should be considered by an independent committee which should examine the British proposal for "freedom information". S N Jain report to the Press Council and Indian Law Institute (1982) went further than the Second Press Commission and advocated for freedom of information in certain areas and chose to discipline prosecutorial discretion in official secrecy cases by reposing it in the Attorney General, Chairman Press Council and one other appointed by the latter acting as a committee²⁶. A joint study made by the Indian Law Institute and the Press Council of India recommended the enactment of a provision to the

following effect. " Nothing shall be an offence under the section if it predominantly and substantially subserves public interest, unless the communication or use of the "official secret" is made for the benefits of the foreign power or in any manner prejudicial to the safety of the State." It shall be noted that so far nothing has been done to pull down the veil of secrecy which is clouding the administration and which to a substantial degree curtails the press freedom in the country. It is high time that the government takes note of the various recommendations which have vehemently argued for the amendment or scrapping of the Official Secrets Act.

NOTES

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3. The Estimate Committee of X Lok Sabha On the Ministry of Defence, 19th Report, August 20, 1992.
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5. B. R. Sharma, Freedom of Press Under the Indian Constitution, Page 66.
6. First Press Commission Report, 1954, Part I, Page 357.
7. State of Bihar V/s. Shaibala Devi, AIR 1952 SC, 329.
8. Ramchilal Modi V/s. State of U.P., AIR 1957 SC, 620.
9. D.D. Basu, Commentary on the Constitution Of India, 96-97.
10. Bihar Press Bill to amend the Indian Penal Code and the Code of Criminal Procedure in their application to the State of Bihar, 1983.
11. R.C.S. Sarkar, The Press in India, Page 66
12. ibid, page 129.
13. H.N. Sanyal Committee on Contempt of Court.
14. Joint Committee on Contempt of Court Bill, 1968 (Bhargava Committee).
15. Rajiv Dhawan, Contempt of Court And Press, Indian Law Institute and Press Council of India, Page 3

16. *ibid*, page 10.
17. R.C.S. Sarkar, *Press in India*, Page 131.
18. Rajiv Dhawan, *Parliamentary Privileges and the Press*, Page 98.
19. Justice R. Sarkaria, *Freedom of Press and Its Responsibilities*, *Mainstream*, May 14, 1994.
20. *First Press Commission Report, 1954, Vol. I*, Page 421.
21. Rajiv Dhawan, *Parliamentary Privileges And the Press*, Page 98.
22. S.K. Aggarwal, *Investigative Journalism in India*, Page 85.
23. *Second Press Commission Report, Vol. I*, Page 39.
24. Rajiv Dhawan, *National Colloquium Of Press As Mediator Between State and Society*, Page 21.
25. Soli J Sorabjee, *Right to Know and Official Secrecy*, *Indian Express*, May 6, 1990.
26. Rajiv Dhawan, *National Colloquium of Press As Mediator Between State and Society*, Page 21.

CHAPTER III

POLITICAL AND IDEOLOGICAL CURBS

The title may seem to be bit ambiguous as politics and ideology are always intermixed. There would be a specific ideology, however feeble it may be, behind a particular politics and vice versa. Any study of the press freedom in India will have to taken into consideration the political and ideological pressures which is bound to have an impact on the functioning of the media. The political attack on the press was explicit during Emergency and to a certain extent it continued after the Emergency in the different guises. This chapter will only examine a few important incidents since 1988. Taking this period it would give way for examining the attitude of the Rajiv Gandhi government and also the subsequent governments headed by Mr V P Singh and by Mr Chandra Sekhar. In the earlier chapter the constitutional and legal curbs were discussed and this part will examine the implicit and explicit pressures mounted on the press by the executive. The Government and the political parties whether they are in power or not have shown tendencies of intolerance. There have been many a example of various governments using various provisions with vengeance against the press. Apart from these there have been physical assault on the media men. This tendency is directly connected with the erosion of values from the political arena.

The freedom of press is an essential feature of democracy. The interaction between people and the government is possible only if there is a free media. Unfortunately even in India there are many instances of press being heckled. Repressive measures were undertaken by the authorities to curb the freedom of press, muzzle it, silence it and to suppress. One of the major event in this context was the Defamation Bill brought by the Rajiv Gandhi Government. There were various interpretations to the Bill. But the consensus of all debates pertaining to it showed that the move of the government was to pressurise the press. It is a fact that Rajiv Gandhi Government was haunted by allegations of corruption. Both national and regional press gave wide coverage to the alleged corruptions. This provoked the government to bring forward a legislation to control the media in such a way that off-hand news items of corruption are not published by the press. There was argument that the government's move was to inculcate the values and responsibility among the media. But the public opinion was opposite to this argument and held the government responsible for its attempt to curb the powers of the fourth estate. One interesting aspect was that both the editors and owners together with the journalists lined up with the Opposition parties to fight the government bill. The text of the bill, 1988, spread over four chapters namely preliminary (chapter 1), defamation (chapter 2), criminal imputation (chapter 3), miscellaneous (chapter 4). The first

chapter of the Bill was harmless as indeed it was the case with most enactments₁. Chapter 2 consisting of 10 sections---3 to 12---commenced with a very "innocent look"₂. Section 3, 4, 5, 6 and 7 were reproductions with slight verbal changes of sections which have existed in the Indian Penal Code for over a century. The slight changes only dilute the linguistic elegance of the original Macaulay composition. In other words section 3 to 7 re-enacting chapter 21 (sections 499 to 507) of the penal code, retained the famous ten defences to a charge of defamation. They included not only truth for "public good" and expression "in good faith of any opinion" concerning the conduct of a person "touching any public question" but also the classic "9th exception"---"An imputation.....made in good faith for the public good." This defence the British did not withhold even in the worst days of the Raj. But the defamation Bill 1988, deleted it in respect of new offence of "criminal imputation", and in its re-enactment of the Bihar Press Bill Section 8 and 12 was very important. The existing provision for the penal code were adequate to cover the enquiry. But the Bill added some new dimensions including significant injury to the person "in his office". This was the main thrust of the Bill. It was very expressive that it was brought not to protect the citizens from libel but those who were holding high posts in the government. It penalised any matter which was grossly indecent or scurrilous or was intended to black mail. Any thing published in a news paper

which attracts the above mentioned character could be subjected for punishment. Any bonafide exposure could be converted into an offence under section 8. The most important provision was the section 12 by which the accused had to prove his innocence. By this prosecution might lead no evidence at all and ask the accused to give his evidence₃.

Under the Bill any imputation which directly or indirectly in the estimate of other lowers moral or intellectual character of that person in respect of his calling or lowers the credit of that person or causes it to be believed that the body of that person is in a loathsome state or in a state generally considered disgraceful or that imputation which exposes, directly or indirectly, such person to hatred, content or ridicule or disparages, or causes injury to such persons in his trade, business, provision, calling or office, "was to be considered or construed to be defamatory". It provided "diabolical weapon" to all of them to prevent discussion of public issues₄. Section 13 of the chapter 3 of the Bill listed a category of new offences. "Whoever by words either spoken or intended to be read or by sign or by visible representations, makes or publishes an imputation falsely alleging that any person has committed an offence, under any law for the time being in force, shall in the case of the first offence, be punishable with imprisonment for a term which shall not be less than one month, but which may extent

to one year and with fine which may extend to Rs 2000, and in the case of second or subsequent offence, with imprisonment for a term which shall not be less than three months, but which may extend to two years and with fine which may extend to Rs 5000.

As mentioned earlier this provision should be judged on the background of the political events of that period. At the time of the introduction of the Bill newspapers had published many a corruption charge. Bofors deal, Westland helicopters deal and HDW submarine deal were linked to persons like Mr Lalit Suri, Mr Ajitab Bacchhan and even Mr Rajiv Gandhi alleging corruption behind these deals. If the Bill had come to operation the news papers would have been punished because most of the documents to prove the allegations were with the government. The Bill intended to suppress the information and to block the flow of information from the government to the people. It also intended to convert the truth into a line where some dared to right about the truth and dared prosecution and incarceration. And consequently the lie becomes the truth, Section 18(1) of the Defamation Bill stated that "provide that where the accused, being the editor, publisher, or printer of a newspaper, or periodical is prosecuted for an offence under the Defamation Bill 1988, the court shall not dispense with his personal attendance, if it is proved he has refused within a reasonable time, to publish

in a reply of the person against whom any imputation relating to such offence was made, in the same manner under the same prominence as the imputation was published in that newspaper or periodical.

Disregarding the opposition to the Bill the government passed it in the Lok Sabha. Even after the passage of Bill by the Lok Sabha pressure was being mounted on the government to withdraw the bill. A national strike was observed on September 6, 1988 by the media fraternity. Entire press community, with the exception of the papers owned by the Cong(I) participated in the strike. The two national news agencies, PTI and UNI also observed the strike. Because of the growing resistance, the Prime Minister offered to have a dialogue with the press on the Bill. Mr Rajiv Gandhi, while inaugurating the diamond jubilee celebrations of the National Herald on 9th September 1988, said that he was open to a dialogue without any conditions. "That is the democratic way. We are open to argument, to reason, to persuasion. We are ready to listen to those who will talk to us. We are confident that the voices of moderation, tolerance, calm counsel, and good sense in the end will triumph."

The newspaper fraternity chose not to have dialogue with the government and as a result the agitation only strengthened. As an explicit consequence of this on 22nd

September 1988, the government of India dropped the controversial Defamation Bill. Rajiv Gandhi announced that the government had decided to not to make Defamation Bill into a law. The announcement of Rajiv Gandhi was the final scene of a political drama that was unwisely enacted by some amateur actors. The audience which witnessed it had a traumatic experience. The Bill could have been dropped earlier. Instead the government chose to disgrace itself and then gave it up plunging to a total surrender.

The dropping of the Defamation Bill exhibited the strength of the media, if not the Indian democracy. The struggle for the press freedom in concrete terms had the support of the people by and large. It was the malafide intention of the government rather than contents of the Bill which provided fuel to the agitation. The background on which the Bill was drafted was the main weakness of the government and this exhibited the government's desperation which ultimately boomeranged against the government. In any analysis the withdrawal of the Bill was one of the very few victories the Indian press scored during the recent history.

The frustration of the executive will be manifested in many ways. The Defamation Bill was the case in which the executive tried to bring new legislation to heckle the press. But there are instances when executive acted against the press

in the pretext of protecting privileges and laws. The happenings in Tamilnadu belong to the latter category when the Legislative Privileges were used against the press to muzzle it. It would more proper to see this as a political curb on the functioning of the media rather than the legal constraints. Of late, the Tamilnadu assembly had passed a spate of breach of privilege motion against the press which wanted to expose the unruly behaviour of the legislators.

The most controversial among the privilege cases was that of Mr K P Sunil who was the correspondent of Illustrated Weekly in Madras. An item titled "Tamilnadu Assembly fast gaining notoriety" appeared in the weekly in its September 21st 1991 issue. The item described how a DMK member of the Legislative Assembly was thrown out of the House and his dhoti snatched unceremoniously by members of a rival party. K P Sunil in his item further added: "Legislative violence is fast becoming routine. Clearly the Assembly has degenerated from being an intellectual forum into a combat arena." Sunil's item was mainly the description of events that occurred in the Tamilnadu Assembly on September 9 and 11, 1991 and also the earlier incident of violence including the March 25, 1989 episode when some DMK members had assaulted the then leader of the Opposition, Ms Jayalalita. Congress(I) leader of the Opposition taking exception to the writer raised the matter in the House on 23rd September 1991 and the matter was

referred by the Speaker to the Privileges Committee of the Assembly on 25th September. When sought of an explanation by the Privilege Committee Mr Sunil quoted the statement made by Ms Jayalalita on an earlier occasion. Jayalalita had said: "The Assembly is an unsafe place, I will not attend the Assembly until situation is created when a woman could feel safe."¹⁰ Mr Sunil also said that as he was no longer with the Illustrated Weekly there was no question of publishing an apology and he offered his sincere regrets if the item was considered to be that of a breach of privilege. Interestingly breach of privilege notice was sent to Mr Anil Dharkar, the editor of the Weekly who was not the editor when the item had appeared. Mr Pritish Nandy was the editor when the item had come for the consideration of the Privilege Committee. The Tamilnadu Assembly summoned both Mr Anil Dharkar and Mr Sunil to appear before the Bar of the Assembly on 20th April 1992 for a reprimand¹¹. However they didn't appear before the House instead had sent explanations. Mr Sunil's reply stating that he was not in a position to appear before the Assembly as he would be away was viewed as an action contempt against the House. However, the Speaker accepted the explanation of Anil Dharkar as he had nothing to do with the publication of the impugned article. The Speaker said that punishment would have to be carried out and for that, an arrest warrant was issued to secure Mr Sunil to be brought to the House¹². The action of the Tamilnadu Assembly and the observation of the Speaker

was condemned by the journalists. Eminent journalists in a statement observed: "Ms Jayalalita and her government have shown a spirit of intolerance towards the right of freedom of expression which is guaranteed by the Indian Constitution. We are shocked to find that several perfectly valid and bonafide observations in the article of the Illustrate Weekly on certain proceedings in the Assembly have been objected to in a spirit of intolerance. It is a blow against freedom of expression and freedom of the press. The central issue of the press to inform the public fairly, freely and without inhibition about the affairs of Legislatures have been ignored by the speaker."¹³ The statement urged the Tamilnadu Assembly and the Speaker to rescind their decision and to refrain from such intolerant and punitive action which tend to dangerously expand the meaning of legislative privilege and contempt and which erode the freedom of expression and democratic values. There was wide spread protest against the stand of the Tamilnadu assembly and the Speaker. On 24th April 1992, the Supreme Court stayed the execution of arrest warrant against Mr K P Sunil. It also stayed a notice dated 10th April 1992 issued by the Speaker directing Mr Sunil for appearing before the Bar of the House¹⁴. However, the Supreme Court's decision was ignored by the Tamilnadu Speaker and on April 27th the Speaker stated that neither he nor the House was bound by the Supreme Court order. "The Assembly is sovereign and supreme in respect of its decision and actions

in which no court of law could intervene. The Supreme Court's stay order would in no way be binding on the Assembly"¹⁵.

The decision of the Tamilnadu Assembly once again created a furore and Mr Sunil again approached the Supreme Court. As a result on 29th April 1992 the Supreme Court issued a notice to the Union Government and the Director General of Police, Tamilnadu, not to violate its orders dated April 24th and to ensure that Sunil was not arrested pending disposal of the petition¹⁶. The defiance of the Tamilnadu Assembly again brought the matter to the Supreme Court and court gave specific instructions to the Delhi police that its order should be kept in mind as there was report that Tamilnadu police had come to Delhi to arrest Mr Sunil. Had the Supreme Court hesitated to do so or fallen short of doing so through a explicit directive to the Delhi police to protect Sunil against arrest and harassment, there might have been a danger that the confrontation with the Tamilnadu Assembly would have become even more ugly and destructive and that other state assemblies might have taken a cue and similarly started define the highest court of the land¹⁷.

The issue had come up for discussion in the Lok Sabha too. All parties with the exception of AIADMK condemned the attitude of the Tamilnadu Assembly. Leaders like Mr George Fernandes, Mr Ram Vilas Paswan and others said that Parliament

could not ignore the assault on the freedom of press and urged that it should address to setting the things right. BJP leader Mr Jaswant Singh felt that the incidence in Tamilnadu were not isolated but part of a wider "malice" that had crept into the national life. He suggested that the Speaker should convene a meeting of the leaders of the State Assemblies and said that time had come for the codification of the privileges of the legislature¹⁸.

Even when Sunil's case came to standstill there were series of happenings in the Tamilnadu Assembly. Action was initiated against a Tamil evening paper, Kovai Malai Marasu, and the editor was called to the Bar of the House for reprimanding. The matter came up in the Supreme Court and the court stayed the decision of the Tamilnadu Assembly. Even though the Speaker said that he ignored the Supreme Court's decision nothing was done to upset the order of the court. But again in another incident the Editor of "Murasoli" the official organ of the DMK, Mr Selvam was arrested on 11th May 1992 from his residence for the non-compliance of the Assembly's order. He was produced before the Speaker in the Chamber at the Secretariat. The latter read to him the formal statement of the Assembly. After giving an undertaking to the effect that he would appear before the Bar of the House on the first day of its next session to be reprimanded by the Speaker, he was let off¹⁹. The Joint Action Council of

Journalists (JACOJ), representing four organisations on May 9, 1992 urged before President R Venketaraman for his intervention for upholding the press freedom which was imperilled by a spate of repressive action by the State Government.

Attack against the press in Tamilnadu is a continuing Saga. A Muthu Pandian, news editor of Tamil Daily, Dinakaran, was arrested twice for privilege of the Assembly. About 160 civil cases were filed against the Tamilnadu journalists. A reporter of a Tamil Daily was stripped naked in Madurai for his writings against the ruling party. This incident was dismissed lightly and not many questions were raised though the assailants were known functionaries of AIADMK₂₀. Mr Muthu Pandyan, the news editor of Dinakaran who had been a victim of two arrests narrated the incident of his arrest. "I was taken away from my office a good two hours before the Speaker issued the arrest warrant. There were about 50 policemen outside the office building. Two inspectors came upto me and said I would have to go with them since the Speaker wished to see me. I was kept till arrest warrant was issued in two police stations"₂₁. There is no doubt that the above mentioned incident pertains to the various devices by which the executive suppress the freedom of press. The intolerance of the rulers have many a time become the obstacles in the path of the free media.

The media in Punjab had plunged into a crisis with terrorists on one side and state machinery on the other. The press had to suffer a lot in the state and around 65 persons of the media world got killed in this state²². At the end of 80s Punjab passed through the trauma of violence perpetrated by the separatists. This had its fall out on the working of the media rather than any other institution. A section of the media alleged to have been mouth piece of terrorists and secessionists. This section (in most cases, forced) published every bandh call and code of the terrorists. For example Punjab's leading Punjabi daily published from Jalandhar carried at least 3 displays of bhog advertisements in memory of the Indira Gandhi's assassins on January 5, 1990. As far as media relations are concerned the land mark event can be dated to the publication of the full text of the 21 page Sukha-Jinda letter from General Vaidya's killers to the President of India in the last week of July 1990. The text was sent to the news agencies and some newspaper offices with an emphatic threat of the most serious consequences should the full text was not published. The agencies moved the full text for distribution within Punjab and most papers carried abridged version on July 27th. The Tribune and the Dainik Tribune (Hindi) also carried abridged versions. But the Punjabi Tribune whose correspondent had received a direct threat carried the complete text. The editor-in-chief of the Tribune group and the editor of the Punjabi Tribune were out of the

state. The differential treatment of the letter within the Tribune group brought an immediate threat to the Tribune and the Dainik Tribune. The Tribune accordingly carried full text on July 28th but not the Dainik Tribune. The Editor of the latter is there upon said to have received a dire warning and the paper carried the full text on July 29 with an abject page one apology. Some weeks later the then editor of Dainik Tribune resigned and left the state to take up another assignment. The yielding of Tribune with its high prestige and credibility, signalled that the press in Punjab could be bent. This emboldened the terrorist and other criminal gangs who then started issuing press note on a variety of subjects with accompanying threats to ensure compliance²³.

The state of affairs in the press of Punjab took serious turn when the Sohan Singh Committee issued the Panthic Press Code. This threatened "memorable punishment" to those violating the code while "reporting from the land of Khalistan". The code demanded use of the phrase militant or Mujahideen instead of terrorists and the omission of the prefix "so-called, self-styled" before the rank of terrorists commander without placing the rank within quotes, either affixing Sant to the name of Bhindranwala and no further reference to the Panthic Committee as being Pakistan based. The press note had said that the code would come into affect from December 1,1990. However, no sooner it had been issued

it met with compliance with the official media and department of information and public relation leading the pack with press in tow²⁴.

The mere account of suppression from terrorist will not be enough to draw a clear picture. The acts of the Punjab government too had come in for criticism. A notification was issued on January 29, 1991 by which newspapers including the hawkers and newsagents were made liable for punishment under section 95 of Criminal Procedure Code if the newspapers were to carry objectionable matter. On February 2nd 1991, copies of the early edition of Tribune, carrying a news item on the latest ultimatum issued by the Panthic Committee was seized by the police. Actions were initiated by the Chandigarh Administration against Indian Express, Tribune and Ajith. The heavy crackdown on Ajith evoked strong protest from the newspaper community. In Chandigarh some 70 editors and newsmen held protest meeting on March 4 and they sat in dharna outside Raj Bhawan. The resolution passed by the protesters expressed shock at the onslaught on the press in general and on Ajith in particular. A committee was set up to ensure security for newspapers and their employees so that they can function in a atmosphere. The journalists deplored the attack from both the government and militants²⁵. However, the committee appointed the Press Council of India didn't approve the arguments of the Punjab media. "The news items found

objectionable and actionable by the Punjab administration do not represent 'news' by any test of public interest. Spreading fear and panic is certainly not in public interest. Nor can these items be cited as representing legitimate views which must be published in the interest of impartiality and objectivity. The point is well taken that it would not be desirable to shut out the militant's point of view completely. Grievances, varied perceptions, demands for reform and such like should be properly aired and people in a democratic society have a right to what the militants stand for and the basis for their arguments. All this is conceded. But there is a point beyond which the state cannot abdicate. Nor can terrorist organisations, which issue press notes with the most dire warnings of death be equated with the legitimate government. To label actions taken to prevent such stories being published as censorship or attacks on the freedom of press is perverse. It must betray either a deep sense of fear or guilty in the minds of those making such assertions or a terrible lack of understanding of "the true meaning of press freedom."²⁶

The state of affairs of Punjab media as described above shows the extent of pressure mounted on it. This could be included in the category of political or ideological onslaught. The militants had a clear intention of imposing their political ideology on the press. This was evident on the

introduction of Panthic Code and other press notes with dire warning.

The ideological curb of press freedom was exhibited in a blatant manner when the country passed through the trauma of Ayodhya problem. The ideology of Hindutva played havoc with the freedom of press. The 'Hindutva' ideology penetrated into the media and this inturn created innumerable political and social problems. The major event of the communalisation of media became explicit in connection with the 'Karseva' undertaken by the Bharathiya Janata Party/Vishwa Hindu Parishad/Bajrangdal combine. The media was specifically used to create communal passion in the society and this paved way for bloodshed as a result of a chain of communal riots. It would be pertinent to examine the role played by some newspapers especially the Hindi papers to arouse communal passion. Even Indian Express was alleged of taking part in the communal game when it gave importance to the Hindutva campaign. The news items appeared as the Hindi press are to be examined to understand the gravity of ideological curb on the functioning of a free press. The aborted Karseva in October 1990 was reported in a vicious fashion by most of the mainstream Hindi dailies to arouse communal passion all through the country.

Karnailganj danga main saw mare, Darjanon bachche ghar

nahin laute, (hundred killed in Karnailganj riots; dozens of children did not return home)²⁷. President of India was unhappy and astonished at the statements of Chief Minister Shri Mulayam Singh and that Mulayam Singh will not be given assistance of the army to strike terror in the state²⁸. Mirzapur Jail Main Ram Bhakton Ko Ghodey Kee Leed Khilayee Jaa Rahi Hey (The worshippers of Ram are being fed horse dung in Mirzapur Jail)²⁹. Ayodhya Jane Par Babar Ke Bad Pahli Bar Rok (Visiting Ayodhya banned for the first time after Babar)³⁰. Ayodhya Main Ram Mandir Toda Gaya (Ram temple demolished in Ayodhya). The news under the above headline did not mention this. It only said that the canopy standing over the shilanayas site and idol put in the pit had been removed³¹. Government has banned the chanting of Ram in UP. Therefore, instead of chanting of Ram Naam Satya Hai (Ram Nam is truth), the people were forced to chant (Mulayam nam satya hai)³². Guerilla war has begun between the armed forces and the Ram bhakts³⁴. Shriram Kranti Brigade Agale Maah Tak Mulayam Ke Haath Pair Kaat Degi (Shriram Kranti brigade will cut off the hands and feet of Mulayam by the next month)³⁴.

A few vertical and horizontal lines were drawn in a picture of an arrested mahant to look like a jail gate. (The editor admitted the manipulation, but did not find anything wrong in it)³⁵. The newspaper had originally given a figure of

15 dead on November 2 in a special bulletin that afternoon, but at the last moment "1" was inserted by hand to make it "115". The item remained credited to the news agency "Univarta" even after this change. Gorakh Nath Mandir Ke Gate Par Kabza, Sadhuon Mein Dahashat, Mandir Ke Pramukh Dwaar Par Virodhi Jhande Phehrayegaye (Gate of Gorakhnath Temple seized, terror among Sadhus, opponent's flag unfurled at the main gate). The news was contradicted by the temple spokesman³⁶. Nihatthe Kar Sewakon Ko Bhoon Dala:100 Tak Ke Marne Kee Aashanka: 25 Lashen Baramad: Hazaaron Ghayal (Unarmed Kar sewaks massacred: upto one hundred killed, 25 bodies found, thousands wounded)³⁷. Ayodhya Main Khoon Kee Nadian Baheen: 168 Mare (rivers of blood flow in Ayodhya: 168 dead)³⁸. Ayodhya mein phir firing: 32 log shahid (Firing again in Ayodha: 32 become martyrs)³⁹.

Asthai Jail ki Deewar Todi; Pradarshan, Rasta Jam, Vishakt Bhojan Khane Se Dedson Bandi Kar Sewak Beemar (Temporary jail wall broken, protest road block: 150 Kar Sewak taken ill after consuming poisoned food)⁴⁰.

Har Gaon ko Ayodhya Main Kar Sangharsh Karan (Consider every village Ayodhya and fight out), Ram Mandir Ke Liya Das Lakh Ka Ladekoo Dasta Banagge (Ten lakh stron militant force shall be built up for the ram Temple). This was based on a statement, but no attribution was made to any source in the

heading, nor did it carry any quotation mark⁴¹.

1000 police and army personnel who are Ram bhakts were leaving their jobs to join "Shri Ram Kranti Brigade" (some totally imaginary)⁴².

Chief Minister, Shri Mulayam Singh was very angry that no enough bullets were fired on the unarmed Ram Bhakt Kar Sewak at Ayodhya during the past few days. A subheading said that the police was not in favour of firing at the unarmed Kar Sewaks⁴³.

Chief Minister, Shri Mulayam Singh had repeatedly tried to pressurise the Chief of the Army's Central command Lt Gen. Billimoria to order his force to fire at the unarmed Kar Sewaks from all sides in Ayodhya on October 30. After visiting the areas by helicopter, Lt Gen Billimoria refused to obey the orders of the Chief Minister. The Chief Minister then contacted the central Government and requested it to get orders for Lt Gen Billimoria from the Army Headquarters⁴⁴. Saw se adhik lashen saryu mein fainkee Gayen (More than hundred dead bodies thrown into river Saryu). Armed Kar Sewaks will now be pressed into the movement⁴⁵. The November 2, 1990 issues of Aaj gave different figures of casualties from different centres of publication as below:

Varanasi..... 100 dead
 Ranchi..... 400-500 dead and injured
 Agra..... 100 killed
 Kanpur 200 killed
 Bareilly..... 500 killed ⁴⁶

Kartik Poornima Par Khoon Se Nahai Ayodhya; Ram Bhakton Par Char Ghantey Firing; Kam-se-Kam 500 log mare(Ayodhya has a blood bath on Kartik poornima: firing on Ram Bhaktas for four hours, at least 500 people killed.)⁴⁷ Badayun mein jama masjid par Pakistani jhanda phahraya (Pakistani flag hoisted on the Jama Masjid in Dadayun)⁴⁸. Hathiaron Se Lais Ho Kar hi Ayodhya Ayen, V P Mulayam Ko Kutton Se Nuchvayen, Advani Mughaltay Mein Na Rahan Ki Musalmaan Kamzor Yoa Bhuzdil Hein(Com to Ayodhya only after being armed, V P Mulayam should have torn by dog, Advani should have no illusion that Muslims are either weak or coward⁴⁹. Lok Shakti ki Jay Ho (Victory be to the power of the people). The editorial campaign on page 1. (Such editorials destroy all journalistic prodence and balance in presentation, and suspense, speculation and guess work is paraded as news⁵⁰.

It is the media which influence the mind of the people. No doubt the above mentioned writings in the press took the people for a ride. The communal riots which spread from one place to another across the length and breadth of the country

had the root in the ideological penetration of 'Hindutva' into the media. This became more explicit in physical terms in Ayodhya when the Ramjanambhoomi-Babari Masjid structure was demolished by the RSS-BJP-VHP-Bajrangdal combine. The subtle penetration was here turned to a forceful expression of force when number of journalists were assaulted by the volunteers of Ramjanambhoomi movement. It was one of the most organised and pre-planned attack on the press in the history of Indian print media.

A large number of media persons had gathered in Ayodhya on 6th December 1992 to witness the 'symbolic karseva' announced by the Sangh Parivar(RSS-BJP-VHP-Bajrangdal). The Karseva turned violent and 450 years old Babari Masjid(claimed to be temple by the Sangh parivar) was brought down to dust and in the midst of this media persons were hunted and assaulted by the volunteers. Selected statements of journalists who were victims to the thunderous attack are given below. The statement of Ms Suman Gupta, staff correspondent of Jan Morcha, Faizabad is as follows:

"On the Karseva day of 6th December 1992 I took photographs until 12.05 noon from near the platform in the acquired land. A foreign journalist was standing near me with his video camera. He was pushed by the crowd and fell down. Another foreign journalist who was passing the message

remained standing. First, I ran towards the control room. Because of stone-pelting, the exit point had become dangerous. While from the road on the backside of the Janambhoomi I was trying to take photographs of the kar sevaks dancing and breaking in 'Gumbad,' a group of Kar Sevaks, shouted: Journalist! journalist!. I ran towards a stack of bricks on which about 40 policemen were standing. The kar sevaks pushed me into the stack of bricks and tried to snatch my bag. At that time I was in the midst of policemen but they did not intervene. The Kar Sevaks continued to make efforts to snatch my bag which I had concealed below my abdomen. When I shouted, then a Kar Sevak said:"Leave it.!" Then another Kar Sevak interjected: "She is a journalist." Then they called a woman kar sevika. I told her that I had not taken any photograph. She said:"If you have not taken any photograph then why are you not parting with the camera?" When I was holding fast to my bag and camera, two Kar Sevaks commanded me to go with them. I entreated them to leave me. They said: "You people publish news against us. Why don't you talk of Hindu welfare? Whatever is happening is only for Hindu welfare." I requested them for water. I was not able to understand what they were saying. They neither gave me water, nor released me. Near water tap, a PAC Jawan offered water to me. At that moment, another PAC Jawan brandished his stick and threatened the Kar sevaks. only then they released me and ran away. Afterwards, standing near a hut type house took me inside, gave me water

and allowed me to lie down on a cot. They thought, I was a CRPF woman residing in Jain Mandir Dharmshala. They alter on, brought a CRPF man for my identification, who said that I was not with them. I was lying there for 30 minutes hearing all the noise. I had concealed the film roll and the bag in their house. I had asked their son to convey message to Jugal Kishore for onward transmission to Janmorcha office; but he refused, out of fear. At around 1.15 pm, I requested them to take me to my car as I was not feeling well. When their son and I were moving out, the kar sevaks who were carrying the bricks of Babri Masjid, said: "Jai Shri Ram" and shouted at us: "The journalist is going away? When they were arguing with the boy, I ran away from there. PAC, armed with canes, were standing near the water tank. I ran away from the crowd. The kar sevaks numbering about 15 and equipped with trishuls, knives etc came running towards me and one of them snatched my bag. One heavily built kar sevak, wearing a yellow cloth-strip on his forehead and waist caught hold of me and pointing a trishul towards my chest, asked to surrender the film roll, threatening that otherwise I would be killed. After opening my bag, they took out the camera(Cannon),Tape(Sony) flash and started dashing it on the road. The bag contained the exposed film roll, my money bag with approximately Rs 200/- cash in it, a press card(Information Department), secretariat entry pass and driving licence, etc. They were breaking my camera by repeatedly knocking it on the road⁵¹.

Mr Peter Heinlein, Bureau chief of Voice of America stated: When I was watching the demolitions, one young fellow grabbed my microphone and ripped the wire from the tape recorder. But I did not loose my grip on the mike and tape-recorder. My tape-recorder was in my shoulder bag. My microphone was rendered unworkable. I became aware that I was surrounded by other kar sevaks. Three of them tried to snatch away my bag as I was surrounded by other kar sevaks. Three of them tried to snatch away my bag as I was wrestling with them. on being hit on the head, I blacked out I learned afterward that I was hit with a steel pipe. When I regained semi-consciousness I noticed that people were carrying me and a cloth had been wrapped round my head. i am there, among others, in this photograph (Marked Ex 79/A) now shown to me. i think, I had regained my consciousness when this photograph was taken. In Exhibit 79/A though I had regained my consciousness I was unable to move my hands or legs. i had my wallet containing Rs 2,000 and my notebooks in my pocket and they were in that pocket in which that man shown in Ex 79/A, appears to be putting his hand. My wallet and note book were taken away from my hip pocket. The wallet was subsequently returned to me with all the money intact. But the note book was not retrieved. In Ex 79/A one of those persons with the yellow headband who had put his arm around my waist, was trying to help me. Those persons must have carried me from the inside of the structure and this picture was taken outside the

structure. Gradually, in a couple of minutes, I was regaining the strength in my arms and legs. Then I found myself having been carried to the place near the entrance. Then I stood up and saw persons hammering at the disputed structure and trying to break it. Then I walked and met Mr Bob Drogin, correspondent for Los Angles Times. i called him and he inquired 'who are you.' He had also been beaten and was in a dazed condition. After some time he did recognise me. Mr Bob and myself went to a courtyard where other reporters and Mr Gargan of New York Times was also present. My wound was washed with water by Mr Gargan and Mr Mcgirk. The reporter from National Herald along with Ms Natasha Singh, Bob Drogin, Mr Tim Mcgrick and Mr Edward gargak and myself went from the back street where the vehicle of the National Herald was parked. From there, we turned left to pick up my car. i had left my Lucknow stringer, Kulsim Talha near my vehicle. Our vehicle was there but she was not there. We then went to Faizabad Hospital and there my wound was cleaned further and antiseptic was applied. It was around 1.15 pm. The wound was dressed. They also bandaged my head. We drove to Lucknow₅₂.

Praveen Jain, photographer with the Pioneer stated: It was then around 11.30 am. Some kar sevaks started shouting: "Do not allow them to take pictures." When I saw below I saw kar sevaks entering the inside of the disputed shrine. There were then cries of 'Jai Shri Ram,' and also that kar sevaks

had gone inside. So I rushed down and came in front of the mosque. I saw huge crowd converging on the mosque. It was like the same scene which I had seen on the 5th December. On 5th December the rehearsal was well organised. Now on the 6th December it was not so organised, and kar sevaks were converging on the Babri structure from different directions. I must have taken 15-20 snaps of the scene. i shall tender copies of the photographs. The kar sevaks were carrying kudals and other house breaking instruments. I was taking pictures. Then I saw on my left side an Indian photographer caught by the kar sevaks who were beating him and also forcibly snatching his camera. Then I sensed that they would turn their ire against me, also. I took 10-15 pictures. On seeing the mob, I started shouting, 'Jai Shri Ram' and quickly concealed my cameras in my bag. i did not wear any head-band with the inscription of 'Jai Shri Ram.'

"By this time, people had climbed the domes of the disputed shrine. I felt like take snaps. I saw kar sevaks running towards the structure. I went into a tent where some Indian women were rejoining. They were also 'bucking' up and encouraging kar sevaks. This I thought, was the clever way of hiding my identity I took 10-15 photographs. Then I came out of the tent. I found that cameras were being snatched and smashed.

"Pablo Bartholomew of Gama Agencies, Nitin Rai of Sunday came running carrying cameras. Nitin shouted: 'Parveen, hurry up! These people are attacking us. Then we three (Pablo, Nitin and myself) held one another's hands and started running for an exit. Mob started chasing us. A mob of 6-7 kar sewaks caught me and started beating me with fists. At that time we three got separated. They started to snatch my camera. i was crying to save myself by using my bag as a cushion. Suddenly, I saw another cameraman being manhandled. So I swiftly ran. On the way I saw Pablo and Nitin, I screamed to them and they stopped. We were together again. The kar sewaks caught hold of Pablo and Nitin and started beating them and felled them to ground. i started running towards the area where leaders were giving lectures. Suddenly I saw an ambulance. I said, 'I am a kar sevak, I have fallen from the dome and I have received injuries.'" They let me in the ambulance. I saw a man lying in the ambulance with broken legs and arms. There were two-three kar sevaks inside the ambulance.

"Then a crowd surrounded the ambulance and started peeping inside through a window pane of the ambulance. The man who was lying injured in the ambulance said 'I am a journalist.' Then the kar sevaks laughed and taunted him 'Acha will you learn journalism'? Then with a view to get out I told them" "Thank you. I am now feeling alright and I am now going back for kar seva.' I then got down from the ambulance and

went to Ram Katha Kunj and wanted to climb up where the leaders were. I was not allowed to go up. There was another photographer. I started shouting to those who were upwards: "We are press photographers, please allow us to go up." Then I spotted Prashant Panjya. I requested him to take us up. He took us upstairs. Leaders were there. I told Prashant, 'Press photographers and journalists are being manhandled please do something to save them.' Shri Vivan Mehra was also there. I beseeched Advaniji, 'Please help us. But the leaders were not interested in our pleas.' They were looking towards the disputed shrine with binoculars. One lady IPS officer was also there. Sadhus were speaking on the mike saying: 'Honour Supreme Court orders.' Their tone was such that it was apparent that they were saying this (honour Supreme Court order) to ridicule the Supreme Court orders⁵³.

The descriptions and details clearly show the extent of assault on the press. The ideological curb on the media didn't rest with the Ayodhya episode alone. The perpetrators of Hindutva ideology in the form of Siva Sena had conducted a series of assault on the media in the state of Maharashtra. Media which represent the plurality of the society will be the first target of any attack on the part of any fascist force. The Indian experience is that they try to impose their ideology on the society by influencing the media and if they fail in this they let loose a chain of terror tactics to

intimidate the media. The Siva Sena struck thrice at journalists in Bombay in the space of just "days in August 1993. On August 18th a newspaper office was vandalised and the staff intimidated. less than four hours later, there was a violent attempt to disrupt a seminars conducted on the "role of the Print Media in combating communalism". There was more of the same 10 days later at a meeting to condemn the growing incidents of terrorism in the city⁵⁴.

The centre of Siva Sena's ire was Mr Nikhil Wagle, the editor of 'Mahanagar', Marathi evening paper. The reason was the Nikhil Wagle was unequivocally critical of the various deeds of Siva Sena. Wagle was attacked first when he was speaking in a seminar organised by the Hindi Patrika Sangh against communalism. The criticism of Siva Sena drew flak from a section and it resulted in an attack against Wagle. On an earlier occasion the Siv Sainiks had attacked the office of another Marathi evening paper 'Aaj Dinank' for an article on the internal wrangles in Siva Sena. The Siv Sena activists created rumpus on August 28 when a seminar was organised by the media against terrorism.

For the last several years Siv Sena had tried to cowdown the press. Office of the 'Mahanagar' was ransacked by it in October 1991. Three persons who had participated in a protest action was assaulted in front of the Siv Sena headquarters. The

press in Maharashtra has been coerced between the terror tactics of Shiv Sena and the apathy of state government. In protest against this a demonstration was organised by the committee against attack on media on September 11 1993 in which editors and journalists participated. Despite resistance from the media community there has been no let up in the Shiv Sena's attack on the media. The Shiv Sena is a communal, fascist organisation, an organisation without a claim to a place in civilised society. From its formation in 1966 it has been the enemy of, and has organised violent--and often murderous--attack against the organised trade union movement, non-Maharashtrians, Dalits and persons committed to democracy, secularism and tolerance. It thrives like any other communal organisation by subverting democracy and creation of an atmosphere of fear. An important part of communal organisations' attack on civil society is on the prominent institution, an independent press.

NOTES

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10. Times of India, April 23, 1992.
11. Indian Express, April 17, 1992.
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14. Ibid, April 26, 1992.
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24. Ibid, Page 362
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27. Aaj, Lucknow, October 4, 1990.
28. Aaj, Varanasi, October 22, 1990.
29. Ibid, Kanpur, October 24, 1990.
30. Ibid, Lucknow, October 24, 1990.
31. Ibid, Ranchi, October 26, 1990.
32. Ibid, Lucknow, October 27, 1990.
33. Ibid, Lucknow, November, 1, 1990.
34. Dainik Jagran, Lucknow, November 18, 1990.
35. Swathantra Chetna, Lucknow, November 2, 1990.
36. Ibid, Gorakhpur, Novebmer 2, 1990.
37. Swathantra Bharat, Lucknow, November 2, 1990.
38. Ibid, November 4, 1990.
39. Dainik Jagran, Lucknow, November 3, 1990.
40. Ibid, November 6, 1990
41. Ibid, November 7, 1990
42. Ibid, November 8, 1990.
43. Ibid, November 15, 1990.
44. Ibid, November 16, 1990.
45. Aaj, Lucknow, November 2, 1990.
46. Ibid, Patna, November 2, 1990.
47. Ibid, Bareilly, November 2, 1990.
48. Ibid, November 4, 1990.
49. Ibid, November 9, 1990.

50. Dainik Jagran, Lucknow, October 31, 1990.
51. Statement given to the Enquiry Committee Of The Press
Council of India.
52. Ibid
53. Ibid
54. Frontline, September 24, 1993.

CHAPTER IV

CURBS FROM WITHIN THE PRESS

The class which has the means of material production at its disposal has control at the same time over the means of mental production, so that thereby, generally speaking, the ideas of those who lack the means of mental production are subject to it.... In so far, therefore, as they rule as a class and determine the extent and compass of an epoch, it is self evident that..... among other things ... regulate the production and distribution of these ideas of their age ; thus their ideas are the ruling ideas of the epoch. (Marx and Engels).

This passage puts forward three important propositions that control over the production and distribution of ideas is concentrated in the hands of the capitalist owners of the means of production, that as a result of this control their views and accounts of the world receive instant publicity and come to dominate the thinking of subordinate groups, and that this ideological domination plays a key role in maintaining class inequalities. This scenario is very relevant when an evaluation of Indian Print Media is taken up. As stated earlier this study concentrates on the so called mainstream press which has a say in the public opinion of the nation whereby influencing the power structure. Many a study has been conducted on the factors that curb the press freedom in

India. The constitutional, political, ideological curbs on the working of the free press have often been debated. A look into the structure of India Print Media which too have a say on the freedom of press had been sidelined if not ignored. When we talk of press freedom we have got many objectives in our mind such as the role of the press to uphold certain values, to express the diverse public opinion reflecting the plurality of the society and so on.

The Indian Print Media has grown manifold both in its circulation and in its technological and economic superiority. Recently the Indian Press has been adopting the western style of functioning. The mainstream National Press is suffering from many deficiencies some of them inherent in the system. There is a charge that it is pro-urban elite and that it disregards actual feeling of the people. There is explicit tendency by which the industrial powers hold much clout on the press through its direct and indirect control. Top to bottom there is a predominant flow where it seeks to promote the acceptance of approved ideas at the expense of independent thought and critical judgement. Operating in a one way direction, the media sometimes succeed in transmitting the values and norms fostered by the dominant group to a public which, in a large measure, fails to find in them any reflection of its own vital concerns and aspirations. Indian Print Media may be different from that of western media. The

westernisation of all spheres of our society influenced the media also. The capitalist and monopoly tendencies have penetrated very deeply into the functioning of almost all the mainstream news papers of the country. In this context many parallels could be drawn between the western and Indian Media. Many criticisms of the western press have been found almost relevant in the case of the big newspaper establishments of the country. There is no question of disregarding the fact that the credibility of media within a democratic society rests upon their ability to demonstrate independence from Govt., business and powerful interest groups.

The preceding chapters have dealt with the pressures that come from Govt. and other pressure groups. The real danger or the curb from within, the commercialisation, has not been discussed seriously in India. All the more there has not been any genuine tension between the Press and the State except for the brief period of emergency in India. There may be superficial contradictions but the Media and the State, the ruling ideology have never come in for a heavy clash. In this context, it is all the more necessary to have an indepth study of the structural base of the Mainstream Press.

In a permissive economic climate such as ours, the voices, that could be heard through media would not be of those who are economically weak. An inexorable logic of the

market place helps to consolidate the supremacy of interest already established in the media arena and exclude less financially resourceful groups seeking entry into the field. This means that the person or institution which will decide what voices should be heard, would be those who have stake in perpetuating the present distribution of wealth and power. In another sense, voices which challenge the statusquo would not be heard and news values as prescribed and practised by the print media would exclude all information aimed at achieving change in the social and economic order.

If we take the Mainstrem Press it would be understood that all the managements have got interest outside their newspaper domine. Hindustan Times is owned by the Birlas, Times of India by Sahu Jains, Idian Express by the Goenka family. The Second Press Commission had made a special study to understand the structure of the press and its influence in the working of the newspapers. Eventhough the report was published in 1982 its relevence has ony grown together with the rise in the monopolistic tendencies of the Media. The Second Press Commission commented that the Indian Newspaper industry has a high degree of concentration and what is more disquieting is that trends suggests its continuation. There is explicit and precise degree of domination and control of big business on the press. It is observed that ownership and control of the press does not rest within the industry.

Present managements have vested interests and strong connections outside the industry₂. A study was conducted by Dr. S.K. Goel and Mr. Chalapathi Rao of the Indian Institute of Public Administration, New Delhi on this subject. On the basis of linkages of the newspaper establishments through top share holders and directors, with acativities outside newspaper industry, the authors of the study put different newspaper establishments in 6 categories and worked out the percentage share of each category in the total circulation. This is as follows₃ :

- a) National Monopoly Houses - 30.22%
- b) Local industry and business - 17.66%
- c) Political Parties - 2.99%
- d) Educational, Cultural and Religious Authorities - 5.37%
- e) Families and Individuals with main interest in the newspaper industry - 27%
- f) Others where the information available was inadequate - 2.41%

The study put 8 newspaper establishments in the category of "National Monopoly Houses". The criteria adopted to identify them was as per the provisions of the Monopolies and Restrictive Practises Act 1969. Apart from this, the Govt. reports and the material with the Corporate Information System

was also considered before making this classification. The National Monopoly Houses in the newspaper industry were (1) Express newspapers (2) Bennet Coleman & Company (Times of India) (3) Hindustan Times and Allied Publications (4) Malayala Manorama Co. Ltd. (5) Statesman Pvt. Ltd. (6) Pioneer Ltd. (7) Sanmarg Pvt. Ltd. & (8) V.S. Dempo and Co. Pvt. Ltd. The Second Press Commission has stated that the Monopoly Houses controlled 62% of the circulation of English Dailies and also the Monopoly press have hold over the Marathi, Malayalam and Hindi Newspaper publishing industry. The main papers in the country like Indian Express, Hindustan Times and Times of India and also Statesman have interest outside the newspaper industry. The largest circulated daily Malayala Manorama has explicit industrial interest in tyre industry (MRF) and Plantation.

After the study of the Second Press Commission, the mainstream National Press have grown manifold both in circulation and in clout. The press handbook, 1993, brought out by the Indian Newspaper Society shows that the English press have a dominant say with the combined circulation of 3304447. Hindi tops the list with 5990578 and the point which is to be noted here is that most of the Hindi papers are owned by the English dailies. If one takes 6 newspapers, each utilising more than 60% of the space for advertisement, one finds out that out of the total newsprint utilised by this 6, the share of the

Monopoly House Press is 88.3%.

Almost all the main newspapers have got link with business houses and this is bound to have influence over the working of the newspapers. Today there is a crisis of confidence closely related to news values in vogue. The swelling circulations of media do not belie this statement. Newspapers do flourish despite this crisis because there is a lack of alternatives available to readers. The very economics of operating a hightech - capital intensive print medium restricts the number of alternatives. There is a growing awareness among the readers that even as more newspapers are coming out with more editions in terms of content and ideological bias they are all the same with minor differences. This is because the news values they practice are similar and have same objectives and goals. The big business link of the newspapers often paves way for rampant commercialisation. In India there are many instances in which the press had been used as a propaganda machinery. Indian Express Group and the Observer Group are owned respectively by Goenkas and Ambanis. Mr. Nusli Wadia, the Bombay Dyeing Chief, has also got considerable stake in the Express Group. As a result of this the trade war between both the factions became a media war between Express Group and Observer Group. This propaganda oriented journalism had impacts on other fields also. The political spectrum was viewed by Indian

Express by looking who sided with Ambani and who didn't. The late 80s, considerable space in Indian Express was used for propaganda against Ambani Group. The series of items published by Indian Express may be based on facts, but it is indisputable that the nature of items and its display proved them to be a propaganda war with vested industrial interest. The news and views should be for public good but propaganda based on vested interest cannot be considered to be within the frame work of good journalism.

The main danger for society as that the media as we know is very much a establishment of captive. It is open only to the powerful, to those in authority and to the educated articulate minority as a means of communicating views. It is susceptible to sophisticated manipulation by public relation agents₅. In India the mass media should be thought as a resource input in the process of planned development in their sturggle against poverty and backwardness. Media is supposed to initiate, stimulate and accelerate the process of change in tradition bound developing society. The mainstram print media has got well developed media systems, but the social system is underdeveloped. A study conducted shows that the rural masses do not have much access to the media and media do not go into the rural people₁₆. This argument is not without basis. The mainstream Indian media to an extent, have never bothered to reflect the

lives of the rural people who constitute the 3/4 of the population. Any policy decision coming from the Govt. is viewed and weighed on the basis of its impact on the urban elite. The New Economic Policy of Narasimha Rao Govt. is a valid example in this respect. The so called national dailies without any sort of hesitation have hailed the policy of the Central Govt. to liberalise the economy and to rationalise (another word for dismantling) public sector. The support extended to the Govt. in this respect was not on the basis of any evaluation or study of the policy in the context of its impact on the common man. From 1989 onwards the mainstream newspapers of the country displayed items to prove the point that the policy has improved the economy of the country. This was substantiated on the ground that the foreign exchange reserve have multiplied and the inflow of foreign capital doubled. But the impact of the policy on the rural population and the common man was not at all studied by the media. The growing unemployment, poverty, rise in the rate of inflation was never a major item in the agenda of the big press. The media deliberately failed to assess the impact of the policy in an objective manner. The General Budget of 1994 - 1995 was positively reported by the National Press. All the major dailies praised the Budget for its liberalisation spirit. The rise in the revenue deficit which was a major matter of concern was played low. The revenue deficit was reported to be in the safe level. To emphasise this point all

major dailies displayed the report about the Press Conference of the Finance Secretary, Mr. Monte Singh Ahluwalia, as the lead item. "Deficit at safe level" was the title given to the statement of the Finance Secretary⁷. "Budget to boost Growth, concessions to industry", was another title⁸. Another paper in its editorial praised the Finance Minister, Dr. Manmohan Singh, for the extraordinary courage in persuading the new economic policy⁹. Dissent to the spirit of the Budget from some opposition political leaders and economists were given by the Press in inside pages without any prominence. The main papers had praised Dr. Manmohan Singh in 1993 for the steps taken to curb the deficit. The very papers didn't find it necessary to criticise the Finance Minister for his failure to check the deficit in the subsequent Budget. The major papers which have links with big business groups displayed their happiness when Finance Minister dolled out favours after favours to the super industrial firms. The major papers never tried to look at the new economic policy of the Govt. from the angle of the common man and the rural masses in particular.

There has been a strong westernisation of the Indian Media whereby the views of the urban elite are reflected more in comparison with other sections of the society. For eg., not even a single mainstream press has so far voiced concern in favour of the trade unions and the mass organisations when they protested against the New Economic Policy of the Govt.

Bandhs and strikes organised against the large scale closure of factories were projected by these papers as anti-people and which disrupt the lives of the people. This tendency has a parallel in the western media too. A study about the US media found that the lives of hundred million working people those who make the US economy and society run are being routinely ignored, marginalised or inaccurately portrayed in the media. Although reporting about working people and organised labour had declined since 1960s, the last 10 years have seen an accelerated drop. This tendency coincides with the rapid pace of the concentration of the media in fewer and fewer hands¹⁰. This is the same with the Indian Media also. As it has become explicit that all the major dailies have interest outside newspaper industry, these dailies will in no way accept even a subtle change in the situation against their interest.

The upper class bias of the Indian Media manifested its ugliness when these papers almost unanimously conducted campaign against the implementation of Mandal Commission Report providing reservation for backward community in the Govt. Service. A brief background to this issue is necessary to understand the problem in a clear perspective. The Janata Govt. of 1977 had appointed a commission to look into the question of reserving jobs, University places and other benefits for the under privileged, but by the time the report was submitted, the Congress Party was back in power and the

successive Congress Govts. thought it wiser to let the report gather dust. After the National Front Govt. coming to power in 1989, Prime Minister V.P. Singh notified the reservation of 27% of jobs for backward castes as per the recommendation of the Mandal Commission Report. The announcement was notified on 7th August, 1990. There was huge protest with BJP opposing it publically and Congress in a discreet manner. The students were on the forefront of the protest with several political parties pulling the strings. Dozens of students immolated in protest against the reservation. The situation in many parts of North India became tense with the law and order situation thrown to shambles. What made the situation worse ? It was the press to be blamed for that. Non other than, a Sernior Journalist Mr. Nihal Singh admits that. The newspapers were plastered with photographs and the reports of immolation and students protest. Most newspapers berated V.P. Singh for a cynical game of politics. Newspapers in the South, however, were less emotional because they were familiar with the practice of reservations, which in some cases, was half century old. Press coverage in major newspapers invited two kinds of criticism. Academics and concerned citizens felt that the press was unwittingly inciting students to immolate themselves with the headline coverage they were giving to the story. Leftists, however, claimed that the major newspapers stands stemmed from the fact that their senior staff were almost entirely of the upper castes. Two questions were

raised here. One was the familiar charge against the free press that it was helping bad and disruptive forces by glorifying the wrong doers and the misled. Much of the critical reporting and comment were by journalists belonging to the higher castes who empathised with the protesters¹¹. N.K. Bohra, Advisor in Mental Health to the Govt. of India in his study stated that "the reverence historically bestowed upon the concept of self sacrifice, the traditional middle class mores, media glorification perceived distress and the highly impressionable mind of young etc. contributed to the spate of self immolations in North India"¹².

The Media often tries to create an impression that it is above the vested interests, but the so called impartiality will be there only on fewer occasions. The mainstream Indian media reflect the dominant ideology. One of the particular characteristics of the dominant ideology is that it conceals class exploitation in a specific manner, to the extent that all trace of class domination is systematically absent from its language¹³. In a developing country like India, the media has to play positive role. It has to shoulder heavy responsibility to see that the lives of the people are detached from the shackles of superstition, communal thinking, poverty, unemployment etc. The media are important shapers of our perceptions and ideas. They are consciousness industries which provide not simply information about the

world, but ways of seeing and understanding it. As social groups and classes live..... increasingly fragmented and sectionally differencited lives, the mass media are more and more responsible (a) for providing the basis on which groups and classes construct an image of the lives, meanings, practices, values of other groups and classes. (b) for providing images, representations and ideas around which the social totality composed of all these seperate and fragmented pieces can be coherrently grouped as a whole¹⁴. The reality in India is just the opposite. Rampant commercialism has crept into the media, atleast in the case of national English papers. It has now been compounded by the consumerism which is sweeping across the society. "Many publishers are in the press and say they are in the press only to make money. And going by what they purvey, by the breezy values they profess, many an Editor, many a journalists might as well be in a commercial concern selling soap. In fact in the case of atleast one of our largest publishers, the publisher has made it his credo that he wnat's persons as his editors and journalists who might as well be in a commercial concern selling soap"¹⁵. This attitude has been institutionalised to a larger extent. In Times of India, Resident Editors and Advertising Managers have been redesignated. A Resident Editor is now called "Resident Editor - Manager (Response)", the latter being the new fangled discription of soliciting advertisement. Similarly an Advertisement Manager is now

called "Manager Response - Deputy Resident Editor". In protest against new thinking of the management whereby the paper is considered to be a product of profit, the editor Mr. Dilip Padgonkar resigned. India has come to have publishers to look upon the different publications of their group as many brands of soap, who demand that their editors and journalists look upon their output in the same way. In line with this attitude there is a tendency among the editors to give the reader what he wants. Infusion of modern technology into the newspaper industry, of high voltage advertising and this conjunction of attitudes among publishers and journalists have begun to alter the character of what is put out. The consequence is inescapable ; instead of engaging readers in issues of public importance, many newspapers are set to become vehicles of entertainment. The news has become not only the reflection of information but also a commodity shaped and marketed for profit. Now the news have atleast two functions, to inform and to generate profits. The dual goals of the newspaper industry may often clash. The profit making mentality at many a time clearly overwhelms the newspapers' information role. The fabrication and sensationalism engendered by the system hardly can be considered as informational. This transformation has made the news a commodity or product¹⁶. The premise of democratic governance is that the people will decide, but what will be character of the decisions they take when instead of being informed, inspired, enraged to act on

issues they are distracted and merely entertained¹⁷.

The Americanisation of the journalism in the third world led not only to the acquisition of professional skills but more dangerously to the acquisition of an ideology. This has resulted in an integration of domestic media culture with the global media culture and in the accumulation of new values which gives very little importance to the larger section of population but promote the elite culture and consumerism. The whole world of or common man and rural masses, their lives and activity are not at all reflected in the mainstream media. It is explicit that new values and concepts in the Indian print media are primarily rooted in the publisher's political-economic perceptions and to a small extent to the social, educational and professional orientation of the individual journalists. In many contexts, press freedom has become identified with private property and has been taken to mean the right to own and to use means of publication without restraint or interference from Govt. The chief justification for this view, aside from the assumption that freedom in general means freedom from the Govt. has been through the transfer of the analogy of the free market of ideas to the real free market in which communication is a good to be manufactured and stored¹⁸. The mainstream Indian media cannot escape from the criticism that there are a lot of factors within the industry which work as curbs to the press freedom.

When it is alleged that the freedom of press is actually the freedom of the publisher and not the press, there are not many points which could be used to counter this.

NOTES

1. Sean McBride, *Many Voices, One World, Communication and Society*, Today and Tomorrow, Page 17
2. Second Press Commission Report, Page 305.
3. Ibid, Appendix, X 4, (An Appraisal of the Commission's Secretariat of the IIPA Study and response thereto).
4. Indian Newspapers Society, Hand Book, 1993, Part C.
5. Ian Baker, *The Media as an Institution*, Page 180.
6. Rekha Bhagat, *Communicator*, IIMC, October-December, 1993.
7. Times of India, March 2, 1994.
8. Hindustan Times, March 2, 1994.
9. Indian Express, March 2, 1994.
10. Democrat Socialist, January 1991, Page 22.
11. S. Nihal Singh, *Role of Media In National Crisis, Painful Splits*, Article No. 4.
12. Indian Express, November 25, 1990.
13. N. Poulantzas, *Political Power and Social Classes*, 1978, Page 214.
14. Len Masterman, *The Media*, Page 3.
15. Arun Shourie, *Things to do About the Press*, Indian Express, March 25, 1990.
16. Solemon and Mc Nerney, *Ruthless Criticism*, Page 116.
17. Aurn Shourie, Indian Express, March 25, 1990.
18. Dennis Mcquail, *Mass Comunication Theory*, Sage Publications.

CONCLUSION

"The talk about absolute freedom is sheer hypocrisy. There can be no real and effective freedom based on the power of money, in a society in which the masses of working people live in poverty and the handful of rich live like parasites" - Lenin. This statement could be extended to the arena of media also. The freedom of press is very much dependent on the nature of the society. The ups and downs and its various shades would be reflected in the working of the press also. Media without government control does not mean a free press. At the same time it is important that one of the main factor which ensures an independent media is its relation with the government. The study broadly analysed the various factors in India which do influence the working of the print media. Conceptualisation of the freedom of press in Indian context will have to be looked into on the basis of several values which the society upholds and will have to uphold. This would not be of much relevance to the western media. The redemption of people from the age old miseries, traditions and to strive to attain universal truth should be a major item of the agenda of the Indian print media. The study reveals that the print media suffers from many deficiencies. These are both external and internal, which do come to play a major role in the working of the media.

The constitutional and legal factors have great bearing on the press. Various laws which put restrictions on the freedom of speech and expression become obstacles for a free functioning of the media. There are many laws, some of them part of the British legacy, which form shackles around the press. The Official Secrecy Act which was enacted during the British rule casts its shadow on the media now also. This in fact forms an iron curtain between the rulers and the people. Many a time there was demand for the scrapping of this act but the successive governments have thought it fit to have a veil of secrecy over their doings. Another major point which has been discussed is the judicial and legislative privileges. There have been many cases in which journalists have been convicted for the breach of these privileges. The period which came to be examined in the study clearly shows that arbitrary breach actions were taken against the press as part of the vengeance of the executive. There has been a grey area between the supremacy of the courts and the legislature. Unfortunately, this does have a bearing on the media too. Many journalists were convicted for breach of legislative privileges which were mainly interpretive in nature. Even after several years of democratic rule, the executive and the legislature have not thought it fit to codify the privileges of the parliament and state legislatures. Each legislature has got supremacy of power in deciding a matter of privilege. This blanket power paved the way for clumsy situations. The demand

of codification of these privileges have been ignored so far. But at the same time it should be noted that several other democracies have managed to codify the privileges of their legislative wing. Apart from this area, is the visible and invisible acts of executive to control the media. There has been many overtures on the part of the government to influence the media by using various tactics which are common to all governments in the world. There are instances when censorship had been clamped on the press. When the government feels that the press is not toying the line of the government it usually tries to bring in more restrictions. The Defamation Bill which was brought during Rajiv Gandhi's regime is an example in this context. Even though the government withdrew from its attempt to cow down the press several other measures followed invisibly to gag the press. The press censorship in Punjab under the guise of fighting terrorism often crossed the sober parameters. The existing laws are potential enough for the government to suppress press freedom in this country. The pressure tactics manifests in different forms in different periods.

The rise of communal and divisive forces have cast their shadow on press freedom. Fascist tendencies exhibited by the Sikh extremists and the Kashmiri militants had thrown the press to turmoil both in Punjab and in Kashmir. Moreover, the ideological penetration of the Hindutva combine

(RSS-VHP-BJP-Bajrang Dal) into the fourth estate became explicit during the Ayodhya imbroglio. Many newspapers, especially those Hindi dailies coming out from North India deliberately played into the hands of the forces of communalism and added fuel to the Hindutva combine. The third chapter in the study has specifically dealt with this tendency among the media to be part of the communal onslaught on the society. The Babri Masjid/Ramjanmabhoomi issue was brought to the central stage of Indian politics in the end of eighties squarely with the help of the media. There was blatant communalisation of the media which in turn paved the way for many a communal riot in various parts of the Northern and Western India. The chapter which has dealt with the ideological curbs have clearly substantiated the extent of communalisation of the media in the wake of Ayodhya controversy. The ideological penetration of the Hindutva into the media took an ugly turn when physical measures were adopted to suppress the media. The turn of events reaching to the demolition of Babri Masjid on December 6, 1992 and the physical assault against the media persons in Ayodhya exhibit the fascist tendencies prevalent in the Indian society and its potential to disrupt the free speech and expression. The statements of journalists and photographers who were victims to the assault are recorded in the study to give a proper perspective to the issue. The incessant attack carried out by the Shiv Sena in Bombay against a section of press also finds

place in this chapter.

Another area, the curbs from within, which has been consistently ignored has been subjected to a detailed examination in the last chapter. This issue has been analysed both from a social perspective and also from an economical angle with the touch of empirical evaluation. The prevailing social and economic system has a lot to do with the character of the media in that particular system. The mainstream print media in India has been undergoing westernisation due to its obvious class nature. The monopoly tendencies and the link with the big business have landed up many newspapers against the genuine feelings of the people. It is deemed that every democratic system will be having a mass media as pluralistic agents of progress, maturing and improving, as the society evolves towards a more egalitarian form. This study emphasises on the point that these sort of images are consonant only with those grammar school text books and they do little to explain the contemporary society and the media system. To reconcile an intensely centralised media with an image of society as democratic and pluralist, the traditional view cites professional ethics, new technologies and market forces as being sufficiently dynamic and or unpredictable as to make largely irrelevant the issue of media ownership. Thus capitalism and democracy are compatible, if not inter-dependent. This study has challenged this very premise.

The diversity of media voices have not led to a more diverse array of media voices today, to a public sphere where all voices have equal loudness. In fact the development of capitalism from a proprietary phase to a corporate phase has brought the rise of culture industry that dominates the public discourse today. A major section of people are too far from the reach of the media and the voice of the big press is to air the views of the elite in the society. The so called values, the developing society have to uphold are consistently ignored, if not rejected. There has been an inherent bias against the rural population. The stand on every issue is being decided in India by the big media over its impact to the well to do elements of the society. The unwarranted interest to preserve the uneven society has even taken the press to the brink of losing all its credibility. Many a public accusation has turned to be right about the character of the media, that it caters to the views and needs of the dominant ideology only. The disruptive tendency exhibited by the press when the Mandal Commission recommendation was implemented and when the Ayodhya issue came up are relevant materials to analyse the class and caste character of the mainstream print media. The westernisation of the newspaper industry has reduced the status of the news to a product for profit. The publishers value is revolving around the concept of profitability. The freedom of press which is assumed to be exercised by the editor in the ultimate analysis rests with the publisher whose

hands are full with different activities including business interests and politics. The publisher's main concern is what sells the newspaper and what attracts the advertisers. If these two conditions are met, he would turn to some policy formulations mainly according to his economic orientation. We may sometimes be treated to great heroics by editorial crusaders, but a deeper probe may reveal that the string puller in this puppeteer is the publisher. It is a fact that the editor enjoys a lot of autonomy but within the specific guidelines put forward by the publisher as the interpreter of the line of action of the press. These intentions of the publisher often get the status of values. A study commissioned by the Editors Guild which has been mentioned in the last chapter, shows that the print media have not deserved the faith the readers have in their sense of news value. The study said "the doings of the ruling class are a major concern of news gathering and dissemination. This has resulted in the development of the media by the elite and for the elite."

In India so far there has been no serious attempt to find the maladies of the fourth estate. Two Press Commissions were appointed but the reports were not even discussed and assessed properly. The Press Council has so far been ineffective due to the various reasons including the lack of power to emerge as a regulatory body. The overtures from various corners which have important bearings on the working

of the media have to be studied in detail. Anyway this study has tried to analyse the various problems both external and internal which affects the true press freedom in the country. The much-debated freedom of the press has significance only so long as the press is the mouthpiece of the people. Divested of its credibility, the press loses its power. When the truth is lost, power is lost. The power of the fourth estate stems from its truthful presentation of news and the support it enjoys from the people. It would be pertinent to note that various issues raised in the study could be dealt in depth in a subsequent study. This study could in clear terms form a concrete base for a detailed analysis in future.

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