

Ethical Media Reporting: A Myth Vis-À-Vis Role of Law to Safeguard Ethics

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Abstract

Press and Media houses have grown to be the most important pillar in any democratic nation. Just like any other basic right, the right to know and the right to access true information has become vital for human existence in the current societal setup. The understanding of media today has not been confined to the traditional concept of print media and now in the digital era where every piece of information is available over a click, the accessibility and the outreach of the information have gone to another level. Enormous trust is laid on the Media houses to report benevolently and ethically as they have all the power to enable the people to make good or bad decisions. The media reporting can instigate violence and at the same time, it can bring harmony. The current trend in Media reporting has become a matter of concern. Quoting a few instances like the Zee News reporting on June 15th, 2022, where the media house aired a debate show titled “Kudart Bahana Hai, Muslim Abadi Badhana Hai” directly creating a perception that one community as a whole is responsible for the rapid growth of Indian population. News Broadcasting and digital standards authority was forced to act in the matter.¹ Similarly, in the recent incident of Nupur Sharma, the media reporting was questioned on ethical grounds. There have been numerous such incidents where Media Ethics have been questioned and the media houses are warned to ensure ethical reporting.

Media Ethics cannot be listed down exclusively, it includes the basic respect for the rights of other beings. The Society of Professional Journalists has laid down some basic ethical principles under its code of ethics which the media houses must comply with. But unfortunately, as the press or media is mostly self-regulated, there is no deterrence. There are various laws that cater to the need but they have proven to be insufficient in the digital era. In this chapter, the research objective is to study the root cause of the prevailing unethical media practices like paid news, how it risks the entire democratic structure, what is the existing legal regime and how law can be a protective shield in the context of Media Ethics.

Introduction

People bestow trust in the media for reporting and publication of true and factual information which they cannot access and this job has been handed over to the news industry. The media has the power to create a public sensation as it has done several times like in Nirbhaya Case, the Me-too movement, the Aarushi Talwar Murder case, etc., where it has forced the authorities to act in a certain manner so to provide justice to the victims. It is the

¹ <https://scroll.in/latest/1026212/there-was-an-agenda-zee-news-directed-to-take-down-video-on-muslim-population>, last accessed on 22-11-2022 at 01:13 pm.

repository of public trust and is expected to act in the most benevolent manner. Media has the power to play the role of the rat catcher who was called to free the city of Hamel from rats, here in the place of rats, it is we the people of India, who faithfully believe and follow whatever the media houses are serving us. But media houses have breached this trust badly. They have been hypocritically portraying themselves as pious with high moral standards instead in reality the picture is different, where the media industry has caught itself in a puddle of various unethical practices like paid news. Whenever things are discussed or brought to light, the notion of paid news seems to have a very limited understanding among the people and is equated to just an election-time phenomenon but it is more than it². It not only influences others voting rights but also hampers the overall decision-making in normal day-to-day life.

The objectionable practice of publishing an advertisement in a disguised form as news is affecting the economic decision-making habits of an Indian Household in matters like investment in the share market, buying particular stocks, investing in real estate, or investing in any specific company. The news agencies are willing to publicize those corporate entities who are ready to favor them in monetary terms or in kind. This publicity is not done in the form of an advertisement, rather it is done as a fact, as a piece of news, thereby promoting the concept of paid news³. If ever the media houses are questioned about the prevailing unethical practices, they straight away deny the allegations and pretend that they are very much innocent and unaware of any such activity. In this research article the researcher has tried to point out some of the instances where the sanctity of media houses has become questionable, where the media has indulged into activities which leads to deprivation of people's right to true and accurate information. Researchers also points out the existing legal regime addressing the practices of the paid news and the lacunas that remains in its way. It tries to find some solutions to restrict the unethical practice of news in disguised form.

News In Disguised Form: Growing Practice Of Paid News

Media being the most hypocritical as it indulges in all questionable practices and showcases to be most noble and loyal. The advertising industry has grown big as a huge amount is invested in the advertisement. They have systematized the entire process of paid news, where they just collect the content and modify it in a manner so as to create the image of an advertiser. They design the promotional content in a manner so to make it look like factual news. They enter into private contracts for the same. The entire practice is properly structured in a manner, where there are professionals who are employed to find out parties and enter into contracts with them to procure news and publish it for the sake of monetary benefits⁴. People are working on giving an advertisement a look like news so that the advertisement is disseminated in the form of news. The practice of paid news has been imbibed in the system so deeply that it seems to be always a part of it. It affects severely every aspect of life and deprives an individual of his right to know. It is hard to define what exactly paid news is and what sort of publications falls within its ambit. News agencies and private entities enter into agreements, where the media organizations report that piece of information that is in favor of the private party, and in return, they get a huge lump sum amount⁵. These agreements are non-traceable and there is no evidence to prove them. Proving paid news is complex and hard as pieces of evidence cannot

² Shringarpure Salil, *Paid News: A Hurdle in Indian Democracy*, Bharti Law Review, July- Sept, 2014.

³ King Gary, Pan Jennifer & Roberts Margaret E., *How Censorship in China Allows Government Criticism but Silences Collective Expression*, The American Political Science Review, may 2013, Vol. 107, No. 2, pp. 326-343.

⁴ Thakurta Paranjoy Guha & Reddy Kalimekolan Sreenivas, "*Paid News*": *How Corruption in the Indian media undermines democracy*, Press Council of India.

⁵ Thakurta Paranjoy Guha & Reddy Kalimekolan Sreenivas, "*Paid News*": *How Corruption in the Indian media undermines democracy*, Press Council of India.

be traced down. Only hearsay and circumstantial evidence can be collected and no action can be taken without any concrete piece of evidence. A major problem that exists is determining which piece of the news is paid news and which is not. This is because it is next to impossible to prove that any sort of financial transaction has taken place between both parties. The paid news phenomenon has been discussed in the parliament and various report addressing the concern has been prepared but much heed is not paid to it.⁶

Generally, the practice is that the corporate houses or these investors are the owners of one or other media houses and are in the managerial decision-making itself. They themselves select the news that they wish to publish and report. There is really no institution or organization which keeps a check on the ownership pattern of these media houses. The media houses do have some other political affinity but they are not loyal to any one of the political parties. Whoever offers more money or the higher the bribe amount, the higher the chances that the information in favour of that party is being published. Here in this huge news industry as the trend shows, money speaks the most. The news houses organize award functions to felicitate their investors who make them more profitable and help them in the TRP race. Monopolies in the media sector by way of cross-media ownership must be checked on an urgent basis, the publication of news must not be politically dictated, the working conditions for the journalist must be improved and they must be properly incentivized.⁷ Government must establish a statutory body that will monitor the ownership pattern, the institution must be funded by the government but the government must not interfere with its work else its credibility will be questioned. It might work in a similar manner as the Comptroller and Auditor General of India, with full autonomy.

The problem that exists with regard to legal regulations is that a wide variety of restrictions and legal rules exist but some govern only electronic media and some govern only print media⁸. Due to the huge range of laws, there exists a lot of loopholes that are being misused. Like during the time of elections a complete ban on any sort of publications on any sort of electronic media is totally regulated, and no campaigning can be done 48 hours before the election but there is no clarity with regard to such restrictions for print media.

The Operative Legal Framework & The Persisting Problem

India being the country with the lengthiest written constitution, have numerous rules, regulations, laws and bye- laws that governs all the sectors of the nations and they are so beautifully made that they don't even miss even the minute area. Even in the are of media freedom and media governance there exists enormous legislations that regulates media in and out. Still the problem of disguised advertisement or paid news or media ownership exists and have, to some extent rotten the system. For instance, paid news has become a problem as it severely affects the democratic structure of the nation by influencing the citizens in the most unethical way and letting morals and ethics take the back seat and monetary gains overpower everything.

Our understanding for the paid news has remained restricted with regards to election and to curb this practice in election matters, it has been discussed numerous times in the parliament and it was decided that there must be supervisory bodies at different levels, starting with the self-regulatory bodies, where unethical practices can be checked by the media houses

⁶ Report on Paid News, Press Council of India, 30-07-2010.

⁷ Katju's Cure, Economic & Political Weekly, April 6, 2013, Vol XLVIII No. 14.

⁸ Mazumdar Abhijit, *Paid News I India Disrupts Press Freedom and Ethical Conduct*, International Communication Research Journal, 2016, Vol. 51, No. 920, pp. 43-67.

themselves, it must be simultaneously checked by the supervisory committee at the local regional level, then at the state level, and then at the national level⁹. A complete independent setup must be created just like the judicial structure where there must not be any interference from the side of the government in the working of this newly constituted body and whole autonomy must be given to it with regard to appeals, determination of penalty, imposition of restrictions, etc. In lines of these recommendations some effective actions have been taken by the election commission by ensuring that this practice is checked and restrained by constituting various committees like District and State level media certification and monitoring committees and any complaint or report from this committee will be forwarded to the committee constituted at the national level, which will punish the culprits. Further in election campaigns, forty-eight hours before the polling, television and various other electronic news mediums are prohibited to broadcast any news related to the election. The prohibition is imposed on electronic media under Section 126 of the Representation of People's Act¹⁰, by judicial decision in Secretary, Information and Broadcasting, Government of India vs. M/s Gemini Television Pvt Ltd¹¹ and by the 2004 and 2015 Rules issued by the Election Commission. But still there is no such strict restriction imposed on the print media which can fetter its powers.

Restricting the definition of paid news or disguised news only to election matters is like closing our eyes to the problems around as it is not only restricted to election but is happening all around us. The information is manufactured and supplied to consumers. There still exists a huge gap between the laws and regulations that are available for the traditional media on one hand and modern-day media on the other hand. With the increase in the ambit of media, this gap needs to be addressed at urgency. Through the amendments in the Information Technology Act, 2000, the new Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and the draft Registration of Press and Periodicals Bill, 2022 have been formulated to bridge this gap to some extent and there is some check on the online media. Further the Security Exchange Board of India has made it a mandate to disclose the security purchase and any sort of security holding in any of the media houses with complete information about the transaction¹². This helps in calculating the various stakeholders who have invested in the news agencies and have a say in the decision-making power. Shareholding helps in determining the type of news being published and, in whose interest, it is being published. By compelling the news agencies to publish their earnings or revenue for every financial year, which must reflect their sources of revenue and their regular investors, it has helped in identifying the actual people around the decision-making and the managerial activities of these news agencies.

Government has also through the Right to Information Act, has empowered the citizens to ask questions to the authorities, and media houses through this important weapon of RTI. Media industry files RTI and seeks information from the governmental departments to expose any corruption or maladministration but filing RTI to seek information from the news channels is a still unsettled position as RTI is applicable on public authorities and even by the public function test or the state agency test, making media accountable through RTI is difficult and non-trackable. Similar mechanisms must be established where people can approach the

⁹ Sardesai Shreyas & Verma Rahul, *Does Media Exposure affect Voting Behaviour and Political Preferences in India?*, Economic and Political Weekly, September 27, 2014, Vol. 49, No. 39, pp. 82-88.

¹⁰ The Representation of the People Act, 1950, No. 43, Acts of Parliament, 1951 (India).

¹¹ 2004(5)SCC714.

¹² Thakurta Paranjy Guha, *Manufacturing News*, Economic and Political Weekly, April 2-8, 2011, Vol. 46, No. 14, pp. 12-14.

concerned media houses and can complain to them about any false reporting or reporting without any factual backing or about any other unethical practices.

Ministry of Information and Broadcasting has established the Directorate of Advertising and Visual Publicity to disseminate information with regard to various policy decisions taken by the government and about its function among the people of the nation. The directorate uses various media channels and news agencies to publish the information and to provide its wide circulation. The influential power of the government tends to unduly influence the media houses to publish sugar-coated information and the probability of biasness is extremely high. The activity of the directorate must be watched and it must be a compulsion on them to do a full-fledged disclosure of the amount used and keep in the public domain all the types of agreements entered with the media houses.

Apart from the legal regime discussed above, there do exist various other laws and rules that regulate the media industry like the Working Journalists Act, Press Council of India Act, Indian Broadcasters Foundation Guidelines, Code for Commercial Advertising on Doordarshan, etc. but time and again they have proved to be inadequate. There have been various other self-regulatory norms made and agreed upon by the different media houses but they also have proved to be ineffective.

The Urgency To Monitor & The Way Ahead

Talking about the major reasons which led into the growth of such questionable activities in the media industry which doubts its sanctity, there cannot be one or two reasons but several reasons leading to other reasons and when these dots are joined they lead to a big bubble that the media has created around us. One of the pertinent reasons includes the changes in the entire structure of the media and press in India, with media houses being corporatized, having the decision-making power to select the news and publish it lying with the owners of the media, thereby giving no say to the reporters and editors. The ownership structure also changes, with the investors in the media houses buying the shares and getting control over the managerial decision-making. Enormous interference from the management can also be one of the rampant causes of the increase in unethical practices by the media¹³. Editors succumb to the wishes and the directions given by their managers. The management puts pressure on the editors and the journalists to report and publish that news which tends to increase their TRP ratings and accrue more revenue to them. This thirst for earning more revenue leads to compromising with the media and journalism ethics. The role of the managers in selecting and presenting the information must be cut down and autonomy should be restored to the editors and the reporters. Even the editors or the other journalists choose to remain silent and succumb to the directions given by the owners and the managerial staff just because of the fear of getting fired from the job. Independence and power to make decisions about the importance of particular news must be with the journalist or the reporter himself.

Legislations like the Working Journalists Act was introduced to systematize and mechanize the entire working conditions of the journalists. It provides for the bare necessary working environment that a journalist must be provided with for smooth functioning, and it fixes the rates of wages or remuneration they must be paid for their work. The wages that they are entitled to as per the act are so menial and insufficient that to fulfil their and their families' basic requirements, they indulge in various other activities to earn extra income. The wages that they are entitled to for their work seems inadequate and not in pace with our inflation rate.

¹³ Sardesai Shreyas & Verma Rahul, Does *Media Exposure affect Voting Behaviour and Political Preferences in India?*, Economic and Political Weekly, September 27, 2014, Vol. 49, No. 39, pp. 82-88.

The editors, reporters, etc enter into a private contract with others and publicizes any piece of information for money, some of it is in form of advertisement and some in the form of news (i.e.) disguised advertisement. Such kind of unethical practices has gradually become a normal activity, where to earn extra monetary benefits one finds it okay to adopt them. The continuing problem cannot be checked or controlled unless the journalists are paid adequately. Till the time they are paid meagerly, they will incline towards procuring advertisements and getting paid in the form of a commission. They will cross their ethical boundaries to get news and publish it to earn more. The provisions of the Working Journalist Act must be brought into operation in a full-fledged manner so that the working conditions can be improved and the salary structure must be revised as per the current financial needs.¹⁴

Further it must be ensured that to become a journalist or a part of the media industry some bare minimum qualification must be necessitated and it must not be waived in any circumstances. Then the journalists must be trained by providing them in- job training through various specialized induction programs. It must be checked that the news reported and covered is worth reporting and covering, it should not be merely news that is saleable in the news market. The news must add to the worth. Moreover, it is observed under the disguise of self-regulation, little or no regulation is imposed on media organizations which leads to the dissemination of fact less and biased information and affects the decision-making power of a citizen. In such a situation, it becomes inevitable to pass any law or regulation to supervise and regulate the conduct of the news agency. But these laws and policies have to be drafted and implemented in such a way that the right to freedom of the press is not infringed. There is a need to wisely draw a boundary between the freedom of the press and the regulations to check the exercise of these freedoms, Civil societies can play an important role here in policy formulation¹⁵. The media industry must establish a redressal mechanism wherein they could themselves take cognizance of the complaint and take strict actions on any complaint received. Further punishing or penalizing the people belonging to the media industry for any unethical reporting must become a regular practice taken strictly by everyone so that it creates a deterrence for others. It cannot be said with full surety that by adopting these measures, some unethical practices can be abolished but it can be definitely said that by adopting these measures there will be control or restraint on them.

Conclusion

It is well accepted and discussed among the common people that media has become a business adventure and it no longer remains a custodian of public trust. People do not have a clear idea about what is going on in the media industry but somehow, they have sensed that media cannot be trusted and it is more or less a drama show that goes on in the news channels. The reason behind the same is the biased media reporting, lack of true information and dissemination of manipulated information, where the information is cooked and served to the nation for publicising someone's interest. Enormous amount is spent on paid news but there is no accountability, no check on the amount spent on paid news.

In any democratic country, if any nation wants to flourish while protecting the interest of its citizens, it needs to have a good and sound opposition. A good opposition can only be able to work efficiently when it is aware of the actual happening of the event, which the media needs to report wisely, but that have become rare. The regulatory bodies that are appointed to

¹⁴ Mazumdar Abhijit, *Paid News I India Disrupts Press Freedom and Ethical Conduct*, International Communication Research Journal, 2016, Vol. 51, No. 920, pp. 43-67.

¹⁵ Shringarpure Salil, *Paid News: A Hurdle in Indian Democracy*, Bharti Law Review, July- Sept, 2014.

keep an eye on the functioning of the media themselves involve the owners of the media houses who tend to have conflicts of interest. The supervisory authorities also have their shares and stocks invested in the media industry either on their own name or in the name of their near and dear ones, so taking strict penalising actions against the culprits is doubtful¹⁶. Further whenever the question of regulating and controlling media has come for debate, self-regulation has always been preached as it is argued that any sort of laws supervising the publication will mean curbing the freedom of the press so enormous autonomy is given to the media industry to regulate themselves and keep check on their activities. But time and again self-regulations have proved to be insufficient. The problem of paid news and unethical reporting cannot be addressed just by framing and passing on more laws and by establishing other regulatory bodies, it needs a complete change and monitoring by all the stakeholders like the media houses themselves, the government, private parties, consumers of the news, etc. It has become inevitable that citizen awareness must be expanded, they must be taught, educated, and informed about the various practices adopted by the media agencies. Strict actions must be taken against the news providers for taking any monetary benefits and publishing any favourable news in return. This must also be disclosed and should be set as a precedent for others and the action must be such that creates a deterrence.

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¹⁶ Thakurta Paranjy Guha, *Manufacturing News*, *Economic and Political Weekly*, April 2-8, 2011, Vol. 46, No. 14, pp. 12-14.