

FREEDOM OF THE PRESS

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FORUM OF FREE ENTERPRISE

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THE FREEDOM OF THE PRESS

By

D. R. Mankekar

There seems to prevail a great misconception about the term "Freedom of the Press" in the minds of our political leaders. A journalist's first duty which he owes to himself and to the democratic way of life this country has chosen for itself is to rectify that misconception.

The essence of freedom of the Press lies in the right of dissent and the co-existence of varying and conflicting viewpoints contending for supremacy in the minds of the citizens of a democratic state. In the words of the Indian Press Commission of 1954, the democratic process of formation of opinion requires that "the public must have an opportunity of studying various points of view" and that "diversity of opinion should be promoted in the interest of free discussion of public affairs."

A New York judge has indeed been forthright on the point. District Judge M. I. Gurfien, delivering judgment in the U.S. vs. "The New York Times" case, declared: "A cantankerous press, an obstinate press, a ubiquitous press must be suffered by those in authority in order to preserve the even greater values of freedom of expression."

If we are to go by what their spokesmen have been saying, our Government seems to think that dissent is a grave crime and conformity to the Government's thinking on political and economic matters is the quintessence of the freedom of expression, and that "commitment" means blind, uncritical acceptance of the Government's policies.

The other misconception nursed by the Government and politicians is their concept of the role of the Press in

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"People must come to accept private enterprise not as a necessary evil, but as an affirmative good."

—Eugene Black

a modern State. Their intolerance to criticism of Government's policies and their general attitude towards the Press give the impression that they expect the Press to be the handmaiden of the Government, generally carrying out the behest of the Government and functioning as no more than a medium of communication with the public.

On the contrary, in a democracy the role cast for the Press is that of opposition, that of the watchdog of public interest, that of reporting to the citizens how, competently or otherwise, the business of government was being carried on by those pur in office by them.

Hence the insistence of the famous London "Times" Editor, John Thaddeus Delane, that a newspaper's purpose is not "to share the labours of statesmanship or that it is bound by the same limitations, and the same duties, the same liabilities as that of Minister of the Crown." Delane emphasises: "The purpose and duties of the two powers (the Government and the Press) are constantly separate, generally independent, sometimes diametrically opposite. The dignity and freedom of the Press are trammelled from the moment it accepts an ancillary position."

This role of the Press in a democracy constantly brings it into conflict with the Government. And, therefore, tension between the Government and the Press is traditional—and where that prescribed role of the Press is taken for granted, as in the USA and Britain, there develops what might be described as a "love-hate" relationship between the two.

It is this noble concept that prompted Jawaharlal Nehru to declare to an AINEC (All-India Newspaper Editors' Conference) session in 1950: "I have no doubt that even if the Government dislikes the liberties taken by the Press and considers them dangerous, it is wrong to interfere with the freedom of the Press. I would rather have a completely free Press with all the dangers involved in the wrong use of that freedom than a suppressed or a regulated Press."

A third misconception is the belief in many quarters that diffusion of Press ownership makes for freedom and independence of the Press. As we will see when we discuss the details of the draft Bill., nothing can be farther from the truth. Indeed, it will lead to the nationalisation of the Press by the backdoor.

A classical parliamentary democracy is defined as one in which radicalism and conservatism contend for the favour of the electorate. Only those countries where this classical two-party system prevails can claim to have made a success of democracy. Reactionaryism may be a crime, and capitalism a sin, but conservatism is not, and is indeed a legitimate ideology, as long as it expresses itself constitutionally. Conservatism may even be unfashionable in our country, but it is not illegitimate or anti-social.

The concept of freedom of the Press embodies within it the sound journalistic tenet: "News is sacred, but comment is free". A newspaper is supposed to commit an offence when it suborns, slants or distorts news, for which offence it is justly censured. By the same token, "comment is free"—it is legitimate for a newspaper to express any, and strongest, views against a Government's policy, while faithfully reporting and presenting that policy in its news columns.

In this context, it is worth noting that during the elections, all newspapers, without exception, proportionately gave vastly more space to the ruling party than to any other. Indeed, if the newspapers had failed to give a fair space to the ruling party, the latter had every right to complain. Even those newspapers which vehemently opposed the Prime Minister in their editorial columns, gave to the ruling party's election campaign full-blast publicity.

Radical parties in this country might as well note that in Britain, the majority of the newspapers are conservative, and thus the Socialist Party in office is up against a hostile Press. This was particularly true of the pre-Second World War era. In America, the majority of the newspapers

are Republican-owned and conservative in policy, and, therefore, Democratic Presidents like Franklin Roosevelt, Harry Truman and John Kennedy always encountered an unsympathetic Press.

Likewise, the ruling party in this country would do well to accept as a fact of life opposition from a conservatively-inclined Press to its radical policies and controversial legislative measures. There is nothing **mala fide** or treasonable about the Press being critical of such extreme measures as nationalisation of banks and general insurance, particularly when the performance of the existing Public Sector is hardly an advertisement for "more of it."

At the root of the current assault on the Press—actually concentrated on no more than two or three metropolitan newspapers "owned by monopoly business"—is ideological distrust of a capitalist-owned Press which has taken seriously the Fundamental Right of Freedom of Expression guaranteed in the Constitution and criticised governmental economic policies. Such criticism should be accepted as **bona fide**, as controversial measures like nationalisation of banks and general insurance and abolition of the Princes' Privy Purses were bound to raise a storm of criticism and opposition.

The gravamen of the charge against the Indian Press is that it reflects the views of its "monopoly business" proprietor—that the Press is not representative of the people.

In support of the latter charge, some politicians sneeringly refer to the failure of the Press to guess correctly the ruling party's spectacular victory at the mid-term elections. I would like to point out that in the last general elections in Britain, pollsters, political parties and the entire British Press went wrong in spotting the winner. Yet Edward Heath, leader of the victorious party, on taking office, did not indict the Press for its failure to reflect the electorate's wishes in its columns. At the roulette wheel of

general elections this is a common phenomenon—it has happened again and again in Britain and the United States.

By all accepted codes and definitions, a newspaper is deemed to have discharged its duty when it has faithfully reported the news about the political, cultural and social events and activities in the country and the world, and provided to the readers interpretation and comment on the most important of those events. This duty Indian newspapers do honestly endeavour to perform. I do not claim that the Indian Press is perfect. Far from it. My only plea is: "Don't shoot the pianist, He is doing his best."

In the comment columns, a newspaper, in the very nature of things, is bound to give expression to views in accordance with the policy laid down for the paper, which cannot but be that prescribed by its owner. Now the question arises, if the owner is not to lay down the policy, who should? If the editor is going to replace the owner in the role of policy-maker, there could be no objection whatsoever. For, that is how it should be.

But as the draft Bill on the diffusion of Press ownership suggests, if the void left by the elimination of the proprietor's authority is to be filled by a motley board of directors representing conflicting and extreme ideologies, as it is likely to be in a board dominated by representatives of trade unions (of different hues), then what will emerge will not be an editorial policy but editorial anarchy.

In any case, the Government would be well-advised to refer to the Press Council the charges made by them against the Press and seek their expert opinion on the validity of those charges and on the appropriate remedial measures needed to be taken, if the charges are found to be valid.

Those who know anything of the internal working of a newspaper also know that a newspaper's editorial policy can be effective only when there is unity of thought and purpose, that conducting the editorial policy of a newspaper is not like conducting the business of a board

meeting of a jute or cement factory, and that in an editorial team, as in a cricket team, there could be only one captain, with every one else keeping to his assigned post and faithfully carrying out the captain's policy.

As M. Hubert Beavue-Mery, the famous founder-editor of **Le Monde** of Paris put it, "As with a ship, the proper running of a newspaper does not allow for dissensions in its command, and democracy here, if there is democracy, must be more strictly disciplined than elsewhere."

There is, therefore, room for suspicion that the current assault on the Press is motivated not by a deep concern for fostering freedom and independence of the Press but an intent to divest the Press of its capitalist or "monopoly business" control. Not many may possibly quarrel with the latter motive. Indeed the peculiar pattern the Indian newspaper industry has taken after independence has led to quite a few evils and drawbacks which need to be urgently remedied. But the accent in the Government's measures for Press reform being an ideological vendetta, the truly desirable reforms may not at all be achieved, and on the other hand, the Indian Press may, at the end of it all, be left in shambles.

The 25th Constitution Amendment spells grave potential danger to the freedom of the Press. That amendment seeks to throw open the door for, among other things, tampering with the Fundamental Rights, including the fundamental right of freedom of expression.

It was in far-seeing anticipation of a constant confrontation between the all-powerful government and the Press, that the founding fathers of the American constitution instituted the First Amendment which makes Freedom of the Press sacrosanct and inviolable, by denying to the U.S. Congress the authority to abridge freedom of the Press. That is indeed the secret behind the vigorous freedom and independence enjoyed by the American Press. There is nothing that American Presidents can do to a

hostile newspaper but to "grin and bear" the slings and arrows of a free, vigorous, uninhibited Press.

For one thing, the Government's pronouncements, actions and proposals for the reform of the Press betray an unwarranted allergy for the "big" (and therefore economically successful) newspapers and seeks to perpetuate economic non-viability in the country's newspaper industry. As it is, technological progress and exorbitant newsprint and production costs make the starting of a newspaper prohibitive.

Whereas the first thing that a Government desiring to foster a free Press should do is to take measures to enable newspapers to grow quickly and fast and become economically viable. Indeed, "Making a profit" is laid down as a vital requisite of a free and responsible Press, for the simple reason that the Press to be free should be beholden to no single individual or group or government

The Government's newspaper policy encourages the suspicion that their championship of the small newspapers primarily stems from the fact that the latter are more amenable to governmental pressure and influence, whereas big newspapers are financially too independent to be won over by patronage or blandishment.

Any newspaper reaching the circulation of 50,000 is, under Government's definition, a "big" paper, and immediately invites governmental curbs and discrimination against it, in terms of pegged newsprint quotas, denial of licence for import of machinery, etc. On the other hand, any one in the newspaper industry knows that a newspaper in this country reaches economic viability only when it touches a circulation of 50,000 (in comparison with the prescribed minimum circulation of 500,000 in West Germany, for example).

Now let us examine the draft Bill on diffusion of Press ownership. The Press Commission, which recommended diffusion of Press ownership, warned: "We find that one of the usual consequences of such diffusion in

other fields has been the lack of effective control by those who share the ownership." The Commission further cautioned: "It should be understood that this suggested form of ownership will succeed only where there is a general agreement among the employees of a paper about the policy which the newspaper should pursue. It is necessary for the employees of each paper to realise that the success of any such scheme depends entirely on their unity on matters of policy." In the circumstances created in a newspaper management by the proposed legislation, that would indeed be a tall order!

Introducing the poison of trade union political ideology and conflicts into the editorial sanctum is hardly the way of fostering freedom and independence of the Press. Press freedom and independence can be truly fostered only by bolstering the editor's freedom and independence. Instead, everything that the Government has been saying and doing over the years has denigrated the position and status of the editor, as they prefer to discuss the problems of the Press either with the working journalists' trade union body or the proprietors' organisation.

The Yugoslav analogy does not apply to Indian conditions. In Yugoslavia, in the first place, the Constitution permits of only one political and economic ideology to be pursued in the country, and there was no question of a "co-existence of different and conflicting ideologies." This applies as much to editorial policies of newspapers as to other spheres of life. Secondly, in that country all industries, production and services are socially owned—there is no Private Sector or individual ownership. And the self-management councils in the newspaper as in other industries are guided by the officially and constitutionally laid down ideology, and differences could exist only within the four corners of that ideology.

Worst of all, this draft Bill will lead to nationalisation of the Press by the backdoor as, if adopted in its present form, it will mean Government nominees entering the board room under various guises.

Since most newspaper enterprises do not yield any profit, it will be difficult to persuade the employees, journalist or non-journalist, to invest their scant, hard-earned surplus cash on buying the shares. That would lead to Government's finance organisations stepping in to buy up the unsold shares in the newspaper enterprises and coming on their management boards, in addition to the public trustee.

Yet another disincentive to the employees against buying the shares is the provision that gives them 50 per cent representation on the board, willy nilly, which would enable them to make an effective bid to have their own way on the board. Then why should they throw good money after bad! But something even worse could happen, if political parties step in and buy up the unsold shares in the name of the employees and seek to control the policies of the paper (as is reported to have happened in a Madras paper co-operatively run by employees).

One remarkable feature of the draft Bill on diffusion of newspaper ownership is that any reference to such a vital matter as preservation of freedom and independence of the Press is conspicuous by its absence. To the draftsmen of the Bill a newspaper enterprise is just another "company", a factory, manufacturing words and news, instead of jute or cement. For, they show little awareness of the fact that they are here dealing with an unique institution whose "feet were firmly planted in industry while its head was stuck in public affairs", and therefore they have to tread the ground warily lest its sensitive values were violated or damaged.

Nor do they show any consciousness of the fact that in a country where more and more newspapers is the need of the hour, the legislation will come in the way of starting newspapers, when, already, the prevailing conditions discourage investment in a new newspaper venture, what with the prohibitive costs of its initial capital outlay and no prospects whatsoever of financial return on the investment.

One relevant measure of Press reform therefore is building up the editor's supremacy and protecting him against proprietorial interference and the intrusion of undue commercial considerations in the newspaper operation.

There is yet another vital measure of reform to which the Government would do well to apply its mind. I am of the firm opinion that if the health and vigour of the Indian Press have to be fostered, the newspaper proprietor should be a whole-time newspaperman, divesting himself of other business interests that tend to compromise the independence of his newspaper. This provision will at once compel the proprietor to turn from an amateur part-time or absentee proprietor into a whole-time newspaper executive and to arm himself with the requisite intellectual, professional and technical qualifications to discharge his onerous duties satisfactorily and intelligently.

I will conclude with a quotation from Hans Dieter Muller, the author of the book "Press Power—a Study of Axel Springer", which sums up admirably the dilemma facing those genuinely concerned with fostering a free and independent Press in a democracy in the present technological age. That biographer of West Germany's most successful newspaper proprietor and monopolist wrote:

"Technical advances necessitate capital concentration and mass production; none of the radical critics who oppose the system has so far revealed how otherwise the millions are to communicate and acquire information."

The views expressed in this booklet are not necessarily the views of the Forum of Free Enterprise.

APPENDIX

FREEDOM OF THE PRESS *

"The Press is a public service rather than an industry. It exists to gather print and broadcast information. It should do so as fully, accurately and with as little bias as possible. It should aim at helping people to know more and so to judge better and decide better.

"Inevitably, the journalist moves in the realm of public affairs and power. His path is strewn with hazards and temptations. If he seeks truth and is determined to serve the one master worth serving, namely the good of the people, he has to brave the hazards and resist the temptations. Perhaps the most difficult temptation to resist is the Faust complex—that is the complex about one's supposedly superior knowledge and mysterious power over the minds of men.

"Our Press has been built up by men of courage and high ideals, men who sought truth and made no alliance with authority. It is not a coincidence that some of the great figures in the history of our journalism were also those who moulded and led the freedom movement and shaped the new India. May I refer to only two of them. Lokmanya Tilak and Mahatma Gandhi. To Tilak the purpose of his newspaper was 'to work for the awakening of the people, to teach them sincerity and the sense of unity'. He said, 'We write in order that the readers might imbibe our spirit and understand our thoughts, our urges and our indignation.' Gandhiji, who called the pen 'the foundry of the nation', once wrote, 'To be true to my faith, I may not write in anger or malice, I may not write idly, I may not write merely to excite passion. The reader can have no idea of the restraint I have to exercise from week to week in the choice of topics and vocabulary. It enables me to peep into myself and to make discoveries of my

weaknesses. Often my vanity dictates a smart expression or my anger a harsh adjective. It is a terrible ordeal but a fine exercise to remove these words.'

"Our Press and our democracy will be safe if newspapermen observe the self-examining ordinance. The threat to a free Press comes not only from authority but from within itself. If journalists become too respectful towards power, whether economic or political, or if they chase popularity and circulation to the neglect of professional integrity, then the liberty of the Press will be in trouble. The old newspaper adage that 'news is sacred and comment free' underlines the need to keep news-columns unprejudiced. With the ascendancy of interpretative reporting, this old-world distinction is disappearing. Special editorial pleading is understandable in a newspaper, but a news agency cannot afford to do so. The word 'objectivity' is used loosely. Modern philosophy tells us that there cannot be absolute objectivity, for, the eye of the beholder changes what it sees. But when a newspaperman remembers that considerations of nation, party, class, or personal gain can contaminate the flow of news, then he is likely to exert himself to keep the channel clear. A news agency serving journals of varying views and news, will certainly be sensitive to this need."—Mrs. **Indira Gandhi** (from the book "Selected Speeches of Indira Gandhi". Feb. 1, 1968).

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"In the First Amendment, the **Founding** Fathers gave the free **Press** the protection it must have to fulfil its essential role in our democracy. The Press was to serve the governed, not, the governors. The government's power to censor the Press was abolished so that the Press would remain forever free to censure the government. The Press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained Press can effectively expose deception in government."—Justice Hugo Black (of the U.S. Supreme Court in the judgment on U.S. Government vs. "New York Times".)

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"Free Enterprise was born with man and shall survive as long as man survives."

—A. D. Shroff

(1899-1965)

Founder-President,
Forum of **Free** Enterprise.

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