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Communication Ethics and Media Practitioners and Institution:

Leela Rao

A set of enforceable code of conduct is considered a prominent feature of most professions like Medicine and Law. The lack of enforceability distinguishes media codes from those of other professions. It is also the main reason often cited as evidence of media's lack of professional standing.

Several arguments are put forth for the absence of rigid code of professional standards among media practitioners. Not many may agree with Geoffrey Robertson (1983) that Journalism is not a profession but "an exercise by occupation of the right to free expression available to every citizen." (P.3). There may be greater concurrence with Clifford Christians, (1993) that the ethical question is not one of producing value-free journalists, but to make clear what values are operating. In the same tone the Press Council of India has also repeatedly taken the view that it is neither feasible, nor desirable or necessary to formulate a comprehensive and rigid code of journalist ethics because these "ethical norms are not absolute. They have relativity to other dynamic social factors involving a multitude of imponderables.... these notions of right or wrong, good or bad prevailing in the society at large (do not) remain immutable or static. Rapid social and technological changes which have an inexorable impact on the tastes and attitudes of people and their expectations from the Press as an institution devoted to social welfare make the problem more complex " (Sarkari, R.S. 1991; p.1).

It is also not that the media practitioners oppose ethical norms in their work. It is the perception that a formally stated code of conduct is often an euphemism for censorship, and therefore a threat to the autonomous and free communication enterprise that prevents consensus as to what constitute media ethics.

Increasingly, however, there is a growing recognition that freedom and responsibility are not mutually exclusive, and several media organisations and professional bodies have evolved a form of code of conduct from time to time. These guidelines have remained, of necessity, general and vague and are often incapable of resolving the moral dilemma confronting media practitioners in specific instances. Admittedly it is even more difficult to precisely define the domain of "Public Interest", that is the foundation of media practices.

While these larger theoretical issues are important in themselves, the present attempt is to elaborate the role of media practitioners and institutions in promoting ethical practices. Before entering into a discussion of the theme however, it is important that the distinction between freedom of expression and freedom of media is understood. The former is an aspect of individual liberty and the latter the prerogative of an industry. The distinction is between the individual right and the exercise of power which may or may not be in public interest. It is in assessing the morality of particular exercises of individual/editorial discretion that ethics and standards become relevant. These decisions may lead to two kinds of adverse consequences:

- they may entail legal complications resulting in court cases of defamation, libel or breach of confidence and official secrets. The penal and financial risks involved in such a consequence is a natural deterrent to the individual/editorial decisions about media output.
- they may attract censure from self regulatory bodies that may cause retrospective embarrassment. The psychological impact of peer group opinion of lapses in professional standards, in a way confers extra legal stature to self regulatory processes.

Though the present discussion is concerned with the self regulatory mechanism, it is not always possible to talk of ethical issues in isolation or separated from legal consequences, particularly in cases where the distinction between the restrictions imposed by law and ethical propriety become blurred and hazy. However, both time and complexity of the issues involved necessitate that in this presentation the legal issues are referred to only when necessary.
pective, the arguments here can only be substantiated by Indian experience. While ethical principles may be universal and shared among the Asian countries, the applications are region specific. Therefore, it is quite likely that several issues of debate here are open to diverse interpretation. Given that the paper is situated in the Indian media context, it is also important to elaborate a little on the pattern of media operation briefly.

Among the mass media the Press and Film media in India are essentially in the private sector and are considered free enterprises while Broadcasting has enjoyed government monopoly until the recent advent of satellite technology. Article 19(1)(a) of the Indian Constitution that ensures freedom of speech and expression has been the foundation on which a free press has been functioning. While this principle of freedom of expression is valid for all media, Government control of broadcasting has been possible because of the Telegraph Act of 1885 that grants the Central Government exclusive control over transmission/reception of signs, signals in writing/image, sound or intelligence of any nature by wire, visual or other electromagnetic emissions. (Venkateswaran, K.S.; 1993). Since the advent of Satellites, several petitions are pending before the courts for a re-interpretation of the Telegraphic Act consistent with the developments in communication technologies. In what might turn out to be a landmark decision, the Supreme Court has ruled recently that Broadcasting should be a Public Trust. How this will affect the functioning of Broadcast Media in the country in future remains to be seen.

In the case of film, a significant distinction has been made in the application of the concept of freedom of speech and expression. The Cinematography Act 1952 (revised in 1983) provides the statutory basis for pre-censorship of films in India. In 1977, when this Act was challenged, the Supreme Court upheld the practice of censorship stating that in view of the audio-visual nature of the medium, it had to be treated differently from other forms of art and expression. Similarly, there is a slight difference in the degree to which the principle of freedom of speech and expression can be enjoyed by the Advertising industry. In 1960, the Supreme Court has ruled that a distinction had to be made between commercial advertising and advertising concerned with expression and propagation of ideas.
Thus legal interpretation of statutes governing freedom of expression seem to have made a clear distinction between the information/entertainment function of mass media. Also, there has been a consistent liberal legal interpretation of Article 19(1)(a) to ensure that the Press functions as a free and independent enterprise. Because of this privileged position there is greater expectation of responsible behaviour from the press. The Press as an institution has responded to these anticipations of social responsibility by advocating self regulatory mechanism to promote high standards of professional journalistic practices. Mainly these canons of journalistic standards can be found in the occasional, public introspection by practicing journalists themselves and the more regular publications of the decisions of the Press Council which reflect the principles that have been applied in the adjudication of the cases that come up for hearing.

In the past decade or so, there has been several instances of earnest introspection by journalists about what ails the print media? Some see the genesis of this soul searching in the black days of emergency during 1975-77. The well known political leader L.K. Advani's cutting remark that when the press was asked to bend, it crawled best reflects the response of the press to imposition of censorship, though there were several remarkable exceptions to this. (Individual journalists like Kuldip Nayar, C.R. Irani, Nihal Singh and Editors of several smaller newspapers like Freedom First, and Tuglak fought censorship under 'most adverse conditions and great personal risk).

Still, by and large the press earned itself the name of gutless press. Post emergency press, however, made a serious attempt to rediscover itself. There was a mushrooming growth of slick professionally produced news magazines and "investigative journalism" made its entry. Nanporia (1989) compliments the new breed of journalists for their writing styles that is "terse, edgy, pointed and sharp with minds relatively more lively and equipped with a far greater sense of topicality than was evident some years ago". He goes on to argue that these new found competence of skills has not substantially contributed to improve journalistic standards. On the contrary he lists out several disturbing trends that seem to have become the hallmark of new journalistic practices;

- calling the new journalist the "hero-editor", Nanporia sees his/her role more as a committed commentator than as an objective reporter. They seem to play a self
imposed role of being a champion of people's rights, and in this heroic role they are flattered by the attention they receive and soon develop delusions of grandeur. In this pursuit of the heroic persona, there is an absence of anonymity and the appearance of by-line even for news stories. So that readers begin to talk of so-and-so's opinion rather than the editorial policy of the paper.

- Nanporia laments the for and against syndrome of new journalism which gives the appearance of playing a decisive role in public affairs. This trend has resulted in a simplification of issues precisely at a time when they are more complex than ever.

- Nanporia is particularly harsh on what he terms the borrowed (from the west) journalistic practices and principles of the hero-editor which is totally misplaced in the Indian context.

Concerned at what he considers a devaluation of print media, Nanporia asks "what happened to those old fashioned things known as balance and objectivity and dullest of all dull things-the other side of the coin, which the new journalism pretends does not exist?" (quoted in Swamy, Jane; 1991;piii).

Nanporia's lament about the falling standards of journalistic standards is further elaborated by Arun Shourie in a lead article in Indian Express of March 25, 1990. Shourie, himself a hero-editor of sorts uses the very means of new journalism to amplify the erosion in journalistic standards. In the Sunday edition of the newspaper he edited and writing a personal narrative style, Shourie declares" Malice, wholesale inventin, utter disregard of the hurt it causes to innocent individuals, swallowing and vomiting 'plants', shooting off 'news' stories or pontifical admonitions without the slightest enquiry - these characterise our press as much as well researched and responsible writing." and goes on to amplify these characters of the press by examples.

Shourie is concerned not only with the carelessness and calousness of the press, but decries its failure to inform and inspire the readers. He argues that being a good professional is not sufficient. "the problem today is that these skills are looked upon as substitute for a social conscience". Thus instead
professionalism is merely distracting and entertaining society. The remedy as suggested by Shourie is a code of conduct for journalists, based on Gandhian philosophy against which they can be measured. "The remedy consists not in making demands on others but on ourselves, not in demanding that others change their conduct, but in improving our own". He insists that Gandhian principles of 'I shall not claim for myself any more than I shall urge for the ordinary citizen' and 'if I am wrong I shall at once and openly acknowledge the error' are not mere platitudes but if set to practice will result in a reorientation of journalistic practices.

While urging internal constraints, Shourie also prescribes a role for the 'vigilant' reader. Although Shourie's severe castigation of the press resulted in media debate praising his forthrightness as well as accusing him of an 'self righteousness' attitude, there has been a general consensus at the failing standards of the press. While S. Muggoankar expressed his anguish at the 'growing tendency to over step the dividing line between freedom and license' ( Indian Express; 2 May 1987), M.V. Kamath in his Media Watch columns carried by several newspapers, touches on a variety of issues such as shabby reportage, editor-management relationships and the limitations of Press Council that are related to ethical practices directly or indirectly. This periodic soul searching may reflect a degree of maturity by a section of the Indian press, but the general trend of majority of newspapers continue to be a matter of concern.

Taking an overview of the status of Press in India, the Annual Report of Press Council (1992) hauls up the style of reporting (particularly investigative reporting) of most newspapers as being "aggressive and often overstepping the bounds of decency, fairness and responsibility. The increasing tendency to play God and think that Press can do no wrong is quite disturbing. This is not good Journalism" (7.10).

The Council itself has, however, not made any attempt to frame a formal code of conduct for journalists, though one of the main functions of the Press Council constituted in 1965 under an Act is to "build up a code of conduct for News Papers, News Agencies and Journalists in accordance with high professional standards" (Cl.13.(2)(b) of the Act). Instead the Council has followed the practice of clearly stating the principles applied in the adjudication of the cases that come up for hearing before the Council. These decisions, therefore, indicate the principles
of Journalistic ethics and propriety as established by the Council.

In 1984 a compendium of the Council decisions was published in which the cases adjudicated were classified under six main subject groups. Under each subject a summary of principles applied in arriving at the decisions were also listed. These summaries, in a way, indicate the journalistic norms underlying the Council rulings in relation to

(a) Communal writings (b) Right of Reply, (c) Non verification of news, (d) Defamation-Scurrilous writings, (e) Obscenity and bad taste and (f) Journalistic impropriety. Since then in its annual reports the Council has resorted to preparing a statement indicating the trends of complaints against the Press. In its 13th Annual report, the Council has classified the complaints into four subject areas of (a) Principles and Publications, (b) Communal and anti religious writings, (c) Press and Defamation and (d) Press and Morality.

Most of the principles enunciated, when examined closely are amenable to common sense solutions. As for instance the direction that prior verification of facts is necessary before publishing; or that when an error has been found out, there should be an immediate retraction or that an editor reading between the lines and slanting the statements of public personalities is liable to charges of defamation or that in deciding whether a matter is obscene or not, it is not the stature of the author but the material that is to be judged and so on. At the same time it cannot be denied that several cases of journalistic ethics debated involve ticklish issues that may have no right-wrong solutions. For instance in the case of complaints against communal writings, the Council has no explanation of how to reconcile the "legitimate role of the press to draw attention to the genuine grievances of any community" with the advise that the "Press should exercise due care and caution while reporting matters that involve the sentiments of the communities or castes". Similarly in dealing with cases of attempted defamation, the council has always been careful to examine whether reporting was done in "good faith" before taking a decision to censure the concerned journalist/newspaper.

The question, however, is to what extent have these rulings of the Press Council helped to improve journalistic standards? The Council continues to maintain that these
decisions do have an indirect influence of controlling violations of journalists ethics (13th Annual Report). But as Kamath points out it is not clear how warning an editor or admonishing a newspaper helps unless there is a follow-up study on whether they have continued to behave. "Monitoring of newspapers is as important as complaining against them. Many newspapers tend to fall back into their old ruts for the simple reason that no one oversees them" (Swamy, Jane; 1991, p29).

Several others have also felt the need for the Council to have more "teeth" to monitor implementation of its rulings. It is also a fact that Press Council decisions are rarely published even by leading dailies. Aslo as the Press Council Annual report itself indicates there is an upward swing in the cases registered against the Press in recent years. More importantly, in majority of the cases the rulings have gone against the Press. In 1991-92, out of the 102 cases files against the Press, 70 carried charges of attempted defamation. The fact that 39 were upheld is surely a matter of concern. The second largest number of cases were against Communal and anti-religious writings (13 cases), of which 11 were upheld. This has led the Council to lay down specific guidelines in an effort to "preserve and protect the freedom of the Press and improve its standards". An abstract of the guidelines is given in Annexure A.

As can be seen these guidelines are still in very general terms and it remains to be seen how helpful they will be when applied to individual cases.

Discussion about the principles of high journalistic standards generally do not distinguish the journalist from the Newspaper he serves. However, the Press as a business enterprise can introduce internal conflict of interest between the Proprietor-editor in defining the social responsibility of the Press.

The first press commission (1954) pointed out the general decline in the status and independence of editors which is partly due to the type of ownership and partly also due to the growth in size of newspapers and the volume and variety of its content. The report also made an attempt to separate the responsibilities of the proprietor and editor by suggesting that proprietor should have control only on opinion columns and not on hard news. These suggestions of the Commission...
translated itself as one of the functions of the Press Council when the Act was formulated in 1978. Clause 13(i) of the Act states that the Council should "Concern itself with developments such as concentration or other aspect of ownership of newspapers and news agencies which may affect the independence of the press".

However, the Press Council has rarely been called upon to adjudicate any developments that may tend towards greater concentration or monopoly practice in the Press. The conflict between editors and owners has been looked into on a few occasions. Even then the Press Council limited its role to pointing out this unethical trend and expressing disapproval at these 'internal disputes', which tended to "affect the editorial freedom and independence on the one hand and besmirch proper functional relationship between the managing proprietary body and staff engaged in the production of newspaper on the other." (Annual Report; 1990).

In an article "How Editors are managed", Keval Varma analyses some of the factors that cause conflict between the editors and proprietors. Generally the management does not want the editor to be too critical of the government. This is because the interlocking of industry with Press is much greater in India than in most other countries. This makes the owners vulnerable. "having business interest apart from newspapers, they are aware that if the government wants to it can create significant barriers between them and their profits from other factories" (Sunday; 1978;P.10). A fascinating narration of the Editorial Musical Chair witnessed during and after the Emergency days (1975-77) by Malavika and Vir Sanghvi (The Illustrated Weekly Of India: 1985) illustrated this point rather well. During 1975-77, proprietors of several leading newspapers in the Country replaced their editors to be in tune with the government. With the lifting of the emergency and formation of a new government, several of the editors were in demand again and came into prominence. When the political scene changed in 1977, so also the editors. Keval Varma raises several ethical question in this rather imbalanced editor-proprietor relationship which is of relevance to the discussion here.
"No one would deny the owner of a newspaper group the right to choose his editors, but at what point does this begin to hurt the fundamental duty of the press, and how does one prevent an owner from crossing this point? No one, equally, can deny the right of a management to remove an editor— but is there any recourse for an editor if he is removed on unethical grounds? .... Would it be more honest if all owners simply became the editors of their publications too?" (Sunday 1978; p.10).

This question seems to be resurfacing now with a difference. It is not so much the political affiliation but the reality of commerce that is altering the Proprietor-Editor equation. Samir Jain of Times of India perhaps best reflects this new management philosophy that "a newspaper is like any other product and should be manufactured and marketed like one". (Thapa, V.J.; India Today: 1994). How an editor fits into this scheme of things and what are likely consequences on journalistic standards are issues of contemporary debate.

While monopoly tendencies and business pressure are hard to curtail, unhealthy competitive practices among newspapers have come in for strong censure by Press Council. One typical example is the cartoon/advertisement war between Hindustan Times and the Times of India. Briefly the case goes something like this. The Hindustan Times announced in January 1989 that their advertisement were going up effective 1 April, 89, but promised that paper would have 24 pages instead of 16 on a regular basis. However, on the 7th and 8th April, the paper published only 16 pages. The Times of India issues of the 8th and 9th April contained a cartoon with a caption "Humpty Tumpty had a great fall", which was clearly an attempt to ridicule Hindustan Times though Times of India argued that it was done in good humour and no malice intended. When the case came up for hearing, the Press Council made a strong censure of Times of India for violating norms of good taste. Though the case was limited to the Cartoon-Ad issue, the observations of the Council touch on several aspects of the institutional responsibility to uphold ethical values. It is worth noting the sentiments of the Council since it touches on several issues being debated here."
"Newspaper business is not merely an industry, to be run for the benefit of its proprietors and organisers, but it is also a profession committed to the larger purpose of public service through dissemination of news and views in a sober, objective and a fair manner..... If newspapers with the dominant motive of earn ever-more profits for their proprietors/organisers, engage themselves in an unseemly, cut-throat commercial competition or merchantile war for supremacy over their rivals, its concept as a public utility, discharging the basic social function of informing, educating and entertaining the public in a graceful, well-balanced, dignified and impartial manner tends to get down graded to a secondary, subservient place. ..... It is therefore, high time that this unethical trend was checked and discouraged." (11th Annual Report; 1990).

This long quotation has been presented because of the several issues raised in this judgement deserve to be debated. Though not in the same spirit as Newspapers, Broadcast media under government monopoly also has come in for strictures for curbing fair, balanced presentation of information. However, these have necessarily come through legal interpretations of the constitutional right to information and therefore cannot claim to be considered in the same category of self regulatory ethical standards.

It is often said that Institutions don't behave unethically, People do. However, the issues is not so simple as it appears. The more fundamental question is whether media institutions alter our ethical standards or merely reflect them? Perhaps they do both. Therefore the anticipation that media institutions would respect the needs and sensibilities of the public they serve- that they would act with a sense of social responsibility, and would adhere to high ethical standards.
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INDEX OF PRINCIPLES

Principles applied in adjudication of cases by the Press Council of India.

Rights and Responsibilities

If a person approaching the Press Council is not acting bona fide having no special interest in the subject matter, nor any personal wrong to be redressed nor any public cause of justice to be vindicated but in motivated by oblique consideration at the behest of others, to denigrate the respondent in the eyes of his employers and/or professional colleagues, the complaint should be rejected at the threshold without entering upon the merits of the case.

Conjectures, comments and facts or factual information should not be mixed up and passed off one for the other but should be stated distinctly and separately.

It does not behove an editor to show contempt for a reader.

It is incumbent on a paper to correct any factual inaccuracy in its report as soon as it is brought to the notice of the paper.

Defamatory Writings

Where the impugned publications are manifestly injurious to the reputation of the complainant the onus is on the respondent to show that they were true or to establish that they constituted for comments made in good faith and for public good.

Truth is no defence for publishing derogatory, scurrilous and defamatory material against a private citizen.

Right to Privacy

Intrusion or invasion on the privacy of individuals is not permissible unless outweighed by genuine overriding public interest, not being a prurient or morbid curiosity.

Explanation: Things concerning a person’s home, family, religion, health, sexuality, personal life and private affairs are covered by the concept of PRIVACY excepting where any of these impinges upon the public or public interest.

...2/-
Communal Writing

1. Distortion or exaggeration of facts or incidents in relation to communal matters of giving currency to unverified rumours, suspicions of inferences as if they were facts and base their comments on them.

2. Employment of intemperate or unrestrained language in the presentation of news or views, even as a piece of literary flourish or for the purpose of rhetoric or emphasis.

3. Encouraging or condoning violence even in the face of provoking as a means of obtaining redress of grievances whether the same be genuine or not.

4. While it is the legitimate function of the Press to draw attention to the genuine and legitimate grievances of any community with a view to having the same redressed by all peaceful, legal and legitimate means, it is improper and a breach of journalistic ethics to invent grievances, or to exaggerate real grievances, as these tend to promote communal ill-feeling and accentuate discord.

5. Scurrilous and untrue attacks on communities, or individuals particularly when this is accompanied by charges attributing misconduct to them as due to their being members of a particular community or caste.

6. Falsely giving a communal colour to incidents which might occur in which members of different communities happen to be involved.

7. Emphasising matters that are apt to produce communal hatred or ill-will, or fostering feelings of distrust between communities.

8. Publishing alarming news which are in substance untrue or make provocative comments on such news or even otherwise calculated to embitter relations between different communities or regional or linguistic groups.

9. Exaggerating actual happenings to achieve sensationalism and publication of news which adversely affect communal harmony with banner headlines or in distinctive types.

10. Making disrespectful, derogatory or insulting remarks on or references to the different religions or faiths or their founders.

...3/-
While reporting crime involving rape or molestation of women, or sexual assault on children, or raising doubts and questions touching the chastity, personal character and privacy of women, the name, photographs of the victims or other particulars leading to their identity should not be published. While such publication serves no legitimate public purpose, it may bring social opprobrium to the victims and social embarrassment to their relations, family, friends, community, religious order or the institution to which they belong.