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Unseen bipolarity at the heart of our media policies



Speaker:
Mrinal Pande

The career trajectory of Mrinal Pande would inspire many. She has been the Senior Editorial Advisor to both NDTV and Doordarshan. She was the Founder President, Indian Women's Press Corps (IWPC). She has held eminent positions in the Editors' Guild of India; Executive Council, Jawaharlal Nehru University; Council for National Culture Fund; National Integration Council, Board of Trustees for The Wildlife Foundation of India, etc.

A very well-known journalist, she has held editorial positions in top publications of India, including The Times of India Group, Hindustan Times Group, National Herald Group, and more. She has had her work published also in the form of short stories, plays, novels, essays, etc. She is the recipient of several awards including the Padma Shree in 2006, the Lifetime Achievement Award for excellence in journalism by The Press Council of India in 2016, and more.



Mrinal Pande

I would like to begin my lecture first by extending my warm thanks to the Chairperson, Professor M S Sriram, and his team at the Centre for Public Policy, IIMB, for inviting me to this prestigious event. I would have liked to have attended the event in person, but I apologise for my inability to do so due to health reasons.

In my lecture today, I will be speaking on the unseen bipolarity that lies underneath policy creation for media in India. It is like a geological fault line where two disparate plates -- public policy makers and the implementing authority -- meet. They can occasionally rub each other to release a force that will make the ground above heave, and destabilise structures that sustain the media.

Policy creation is to the Indian media what their sexuality is to women -- that which is most their own, yet most expropriated for moulding and reshaping by outsiders. These planners believe they can put in place policies and procedures they believe will improve things vastly. Usually, such efforts, even with the noblest of intentions, prove to be a spurious effort at firming up freedom and autonomy. The actual oppression and unaccountable censorship that their policies were really supposed to address, continue.

My experience with India's public broadcaster Prasar Bharati was shaped during two time segments -- at the cusp of the old century and the new one, when I worked as senior editorial Advisor of Hindi news on DD and then a decade later when I was appointed as the Chairperson of Prasar Bharati between 2010 and 2014. My stint with private print and visual media was longer but I will speak on more of that later.

India's public broadcasting sector controls both DD and AIR. Up until 1997, they were both departments under the direct control of the Ministry of Information and Broadcasting. In 1982, the PC Joshi Committee report reiterated that an umbrella corporation should be created which would be run not by the Ministry but by an autonomous Board like the Railway Board. It would be manned entirely by professionals.

The Prasar Bharati Act received Presidential approval in 1990 with a stated aim to provide autonomy to public broadcasting in India. It became

an Act only in 1997. The main aims as stated in the act are traceable to Section 12 of The Act. Sec. 12 (3)A of The Act says that Broadcasting will be construed as Public Service. And Sec. (12(3)9b) assures it will gather and disseminate news, not propaganda, for the public.

If ever there is an example of policy makers locating a highly complex and sensitive business that includes gathering, aggregating, verifying and disseminating news to the public directly above unseen socio-political fault lines, Prasar Bharati was it. As one of its recent CEOs said, **“Despite being labelled autonomous, the entity is not a Corporation; it is the sense the Companies Act defines the term. Prasar Bharati is actually a statutory autonomous body that controls neither its staff nor its budgetary allocation directly.”**

Its staff remains on deputation from the Ministry that pays the salaries and to whose representatives they report. The Ministry refuses to pay the operational costs and as such, the Prasar Bharati Board must take steps to generate adequate revenues through commercial advertising and sponsorship. The Ministry has sanctioned two full time members for Finance, apart from the CEO. But this has not sorted things. In 1998, some of the delegated powers were restored to the Board, only to be re-delegated by the Board to the CEO in 2002. Since then, despite occasional allegations of indifference shown to administrative needs of the Corporation by the Executive, the Board remains largely a body highly dependent on the nodal Ministry.

Thus, Prasar Bharati is like rural Wessex in Hardy's novels where planners with all the modern ideas about information dissemination come up against the implacable force of India's Babudom. And when the fault lines between highly recommended media specialists and policy implementers begin to rub against each other, big tremors are caused and each new policy tweaking begins to fumble and stumble.



The areas of intellectual expertise in India have, for centuries, been run definitely by a Brahminical mindset, if not by people from the Brahmin caste. Whereas the arena of capital generation and investment is run along the lines followed by the trading castes. You could say that the ancient Brahmin Baniya divide the soul of our entire society and institutions of the democratic state. A close look at caste compositions in the Ministry, the Board and the newsrooms, confirms that de jure, the State may be above caste and gender disparities but de facto, our largest public sector media body still retains various disparities of caste, class and gender.

The State still promotes the Brahminical ethic that intellectual capital is for promoting knowledge, for distributing it for free and protecting the weak (ज्ञानाय दानाय च रक्षणाय). But the market forces that put food on the table are run by the Baniya ethic which believes that if you let go of even one grain, you shall never build up capital (कणत्यागे कुतो धनम्?).

The results are predictable. A Parliamentary Standing Committee report says the net income of Prasar Bharati in the last three years (2018-21) has halved due to reduced media spending and pro bono campaigns it has been asked to carry out. The 2014 report of the Pitroda Committee had sensed this peculiar Indian hesitation in granting total autonomy as per the original Act.

It recommended that Prasar Bharati could be remodelled on the same lines as Britain's public broadcaster, the BBC. To begin with, the report underscored an urgent audit of long existing manpower and cross subsidy support issues.

In May of 2014, soon after the Pitroda Committee report was released, a new government took charge. To its credit, it took note of the Report and in 2015, the job of evaluating it was handed to Ernst and Young. They confirmed that Prasar Bharati needed an urgent restructuring, particularly in its HR division, if it was to be reshaped along the BBC model. They found that the then proportion of Engineering staff (25,000) to content creators (less than 10%) was exactly reverse of BBC's.

Now the question arises -- between 1997 and 2015, why did the Prasar Bharati Board not get the power to recruit its own staff?

Because the promised recruitment board is yet to be established and for the time being, the "matter has been kept in abeyance."

The rich assets by way of real estate, and priceless audio and video archives that the Act had said should be transferred formally by the Ministry to Prasar Bharati, have also remained frozen. And since the Board has not yet formally become the owner of these, it is not authorised to monetise them in any way.

This is a classic Catch-22 situation that Yossarian in Joseph Heller's classic novel about the military bureaucracy faces. A pilot who is crazy cannot fly. But if he applies to be taken off the roster for being crazy, he is told this shows a normal desire for self-preservation that makes him fit to fly under the rules.

This acute bipolarity created by bureaucratic rules and reasoning created snarls that could not go unnoticed. Over the years, in the name of restructuring and reshaping Prasar Bharati, a mountain of data has been generated (four reports specifically by Verghese, Joshi, Shunu Sen, Pitroda), countless brainstorming and inputs from some of the best scholars India. But all was lost for the want of a shoe nail -- vital inputs from the Prasar Bharati Board and its functionaries.

A 2015-16 Report of the Standing Committee, set up to monitor the functioning of Prasar Bharati as a corporation, criticised the casual approach of the government towards the entity and a lack of coordination between the CEO, the Board and the Ministry. It once again emphasised that the Board

needed to be ensured functional autonomy. But in 2018, the then Chairman was quoted as saying that the Board was being treated with utter contempt by the Ministry. And that in 2017-18, for two months, the Board had to meet its running expenses by digging into its contingency fund.

Given that the government and its policy planners considered the BBC as a role model for Prasar Bharati, it was surprising that two years ago, the then CEO of Prasar Bharati declined a BBC invite. The reason cited in media reports was the adverse coverage BBC had given to the Delhi riots. A little later, the March 2021 Freedom House Index Report also gave India an adverse rating. So now, a draft EOI has been floated to create a detailed project report for establishing DD International. And no surprises for guessing, the model is based on BBC World.

DD and AIR are still capable of becoming creative public service broadcasting assets. In the 80s and 90s, they came up with brilliant musical broadcasts and TV serials. More recently, during the Tsunami and various cyclones and landslides in the Himalayan region, AIR has played a seminal role. But the dependency level on the Ministry's approval causes delays and the broadcast bodies being saddled with obsolete equipment. But due to the Ministry's strong hold on decision-making, dissemination of vital news occasionally gets delayed. During the earthquake in Bhuj, the DD cameraman was the first on the spot with his camera but the footage could not be released until the Ministry had checked it and the entire Ministry was attending the Republic Day parade. So the news item was displayed later, before which private channels had already run their footage.

The new media ecology in any country, including ours, is undergoing huge churnings. It now presents us with major challenges. The first is the new devices driving out the old too fast and new technical platforms emerging. Freedom of expression laws notwithstanding, the State has become very sensitive to these platforms being used in India and abroad by individuals and groups that are very critical of the government. And since negativity attracts viewers, these short messages and wall writings can go viral within minutes.

Yet, not only the government but also India's private media must co-exist and interact with social media channels arising out of the socio-political structures of a hierarchical society. Our legacy media is also changing as it is no longer guided by the needs of traditional consumers across the nation but caters to a young and mobile new audience that wants more news, shorter view time and no background information. To top it all, the major Indian media houses are controlled and funded by a few families and funded in cash by rich political parties and major corporate houses. Boards of the major media bodies now have members who own multiple products ranging from cement to textiles and chemicals. Their political and business interests also need to be nursed and cared for by the media products they preside over.

Vernacular media is important now both to political and marketing forces. But even though India's currency carries the denomination in 18 different Indian languages, within the mainstream media in the Indian society, the power groups, even those who claim to be secular and liberal and equal-opportunity employers, remain largely anglocentric, and under-inform about 90% of Indians that produce and consume the vernacular media in all forms. The newsrooms, the platforms and Boards in the private sector media have remained largely

skewed against women, Dalits and vernaculars.

In 2018, a year before the general elections in India, the Election Commission of India (ECI) set up a special committee. The committee was to initiate a multi stake-holder engagement process to take stock of the critical gaps in the extant Section of the Representation of People Act (RPA) 1951 (amended in 1996) and also examine the challenges in its implementation and suggest suitable measures.

Three major areas identified by the committee where violations of Section 26 of the RPA were possible, were:

1. Live TV coverage of political rallies and speeches during the mandatory “silent period” to observe 48 hours prior to voting as per the Section 26 of The Representation of the People Act
2. “Systematic and organised” use of social media platforms to “manipulate and deceive...and undermine electoral verdicts”
3. The fact that the 1996 amendments applied only to the electronic media (television, cinematograph or similar apparatus), not print





So, during the process of consultation, one heard a hot debate about the status of **Intermediaries and their liability**.

Intermediary Liability is a legal concept that governs the responsibility of all online platforms for user-generated content. So long as an intermediary informs the users that they are not supposed to post illegal or harmful content, and agrees to take down any such content within 36 hours of receiving a report, they cannot be held accountable for the news item or items put out on their platform by a third party.

On the eve of the 2019 elections, the representatives of the “Intermediaries” submitted to the Ministry of Electronics and Information Technology that they, the Intermediaries, were only providers of content to be uploaded by print or electronic media. As such, it was fair that they remain governed by the Information Technology (IT) Act, not Section 126.

They assured the government that the IT Act provided them immunity on condition that they issued rules and regulations for users and took down content proven to be violative of laws in force. The ECI would be better served by issuing “advisories” to political parties and candidates. Ultimately, the ECI Committee report concurred and suggested a voluntary code of ethics.

Interestingly, four subjects found regular mention in political parties' submissions for much needed reforms in regulatory laws for the print media. They

were:

1. The phenomena of Paid news
2. The threats posed by Fake News
3. Pervasive campaigning via social media apps
4. Continued TV telecasts featuring interviews with political leaders during the mandatory “silent period”

The government and the Indian media are waking up to the fact that the web is a series of paths and pipes for raw data. It may have been initially designed to be objective, and drive the consumers towards verified and truthful stories as opposed to bogus ones, but the business models are largely ad revenue driven. In the long term, this creates a need within the government to constantly monitor information from sources outside its own.

But since 2019, due to various reasons including the COVID lockdowns, consumption of digitised online news jumped up from 0.8 GB per person per month in 2018 to 8 GB. The print media's share in the total media revenue has begun to decline (from 30% to just over 18%). This has given a huge uptick to online media (IRS records over 279 million people reading news online). And with this, the question of controlling the Intermediaries by holding them liable for the content they carry has acquired a new urgency.

But of late, several efforts by the State agencies to monitor and remove content deemed 'objectionable' have led to a worrisome crisis of trust and credibility between the media, the public and the government. True, today a huge fragmentation of media is happening the world over, dissolving the mortar of society and free speech. Major international Intermediaries are acting more and more like a nation state in itself. They have also handed each user of their platforms, the right to act as a citizen journalist and voyeur rolled in one. This has in many cases weaponised social media and increased the flow of fake news, ugly trolling and communally charged and aggressive campaigns.

All this is killing news as we knew it, gathered and checked by professionals leading to informed democratic debate in print and in visual media. And at the same time, the revenue pie is being redistributed heavily in favour of digital media.

The Silicon valley platforms are the biggest gainers here. They rake in millions through advertising for popular sites but share, so far, a very small part of their earnings with their news aggregators from whom they cull localised news. In this big fish small fish world, big newspapers cannibalise small ones, big platforms buy out smaller ones, the model for legacy media seems to be: 'Gut the staff, Sell real

estate, Jack up subscription prices and Wring out as much cash as possible.'

This is not a story about tribal loyalties overtaking democratic fair play. It is about destruction of the entire chain of institutions that have provided democracies the world over with hard verifiable information and views from unbiased experts. A whole young generation of media folk today faces a world where any dissent and/or whistle blowing means being forced to hide and live in fear of reprisals. This dilution of real information is now proving harmful for the governments, who have no idea of the public unrest brewing beneath the surface. Sri Lanka is an example.

To address these anomalies, in 2021, the government brought out a draft bill that authorised the State to monitor social media with a three-tier system. It begins with the editorial rooms and in between, there is a grievance redressal cell, but the final court of appeal against charges ranging from defamation to anti-national activities is the Central government, represented by its chosen bureaucrats and members of the Oversight Committee.

The proposed note was hotly debated across media bodies and Intermediaries. The Internet and Mobile Association of India and The Dialogue heavily criticised this bill and recommended that a progressive intermediary liability regime should be implemented. For digital media at this point, they felt, the draft still made the Intermediary media individually liable for the content they uploaded.

If this is applied, it might create an entry barrier for small vulnerable new players. It will also be technically infeasible since expunging large quantities of matter deemed 'objectionable' each day is a refined job and requires double technical and domain expertise. A fear of legal reprisals enforced by an aggressive law enforcement agencies is not the solution.

How is all this even going to work if the government is yet to put in place implementable SOPs (Standard Operating Procedures)?

The Honourable Chief Justice has recently said that the judiciary is answerable only to the Constitution. Another judge, Justice Pardiwala, also rightly said that social media needs new policies to be controlled. But as the USA is showing, if politics turns polarised, the judiciary's role as the guardian of people's rights gets affected.

Let's accept that the media today has also become both a social and political institution. So, we need to recognise that the core issue is not Talmudic debates over who monitors and how but protecting the Freedom of Expression guaranteed by the Constitution that have kept our media and democracies functional. It is time, like the geologists, the media specialists did some depth sounding and recognise a few facts:

1. Recognise the realistic conditions in which media, especially vernacular media, functions today. These create conditions whereby journalists are abused regularly with the police citing a legally validated policy interpretation which, after months of harassment and incarceration, the Honourable Court may disagree with.

2. Recognise that despite all claims as women experience it, the State and its law enforcement agencies have a male figure when handling the media. Even on social media, the same forms of

male power that want to deny freedom of speech to women, and publicly shame them for dissent, are often seen not just in trolls but party spokespersons as well. No law gives State or media corporations the right to violate citizens' privacy and freedom of speech. This is not necessary because we are yet to accept the disproportionate sense of entitlement and access to the data based on lives of its consumers, that the media giants and governments in power already have. And they may well be tempted to use it to their advantage to oblige, and/or monetise, since on occasion, political parties have themselves been known to access vital data using both coercion and authority

3. Recognise that de jure, our law outlaws any muzzling of the right to freedom of expression as guaranteed under Article 19 A of the Indian Constitution. But de facto, it is permitting the State to cherry pick whistle blowers and fake news busters

4. Recognise that the way media is fast evolving, the policymakers need a new jurisprudence that reconnects real life to law. An inclusive theory to back up policymaking is yet to be tried in India

Will we see a Digital Geneva Convention for World Media in our lifetime?

One of the wisest recorders of the history of mankind, Herodotus had no access to mobiles or global media. But he managed excellently to engage emotionally and cognitively with the world as he saw it during his long travels. Herodotus talks of his ideal fighter, an Athenian Sophanes who carried a heavy iron anchor into battle attached to his breastplate with a bronze chain. When he spotted the enemy, he dropped his anchor and invited a head-on collision. If they turned and fled, it was his plan to pick up the anchor and go after them.

For the young students in the audience, this rather rambling lecture is aimed at recapturing that lovely metaphor of Herodotus' through this brave warrior Sophanes. He who promotes a sense of curiosity about the world around us also tells us that the best policy to win a battle is to stand upright and fearlessly against the forces that need to be challenged.



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