

CURRENT LEGAL DEVELOPMENTS/ISSUES

Media Autonomy — Overdue or Premature?

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The increase in size and complexity of modern Government has resulted in a commensurate increase in the number of institutions of Government, as also in the degree of specialization of each facet. The institutions seem to be breaking away from the traditional mould and the shift from governmental control to public corporations and quasi-autonomous bodies is discernible to a large extent. The subject matter of government policy being far more technical and esoteric today, it becomes impracticable for officials to deal with it in a sufficiently competent manner, especially in view of the widening range of activities of the State. It becomes necessary to enlarge the horizon of involvement with technical experts and expand the institutional framework. The sheer sophistication of subject matter apart, the time factor is equally relevant to the effective implementation and formulation of key matters of public interest. As the State already handles so many varied aspects of institutional activity, setting up of public institutions or bodies to deal with specified target areas leads to better time management and greater efficiency. In fact, nearly 83,000 such "separate governments" exist in the United States today.¹

The role of the media in any democracy today cannot be overestimated. The powerful nature of this instrument warrants careful handling, as the opportunities for misuse are tremendous. In the wrong hands, this medium of communication, on which the duty of informing, educating and entertaining the public is incumbent, can be transformed into a tool of government propaganda and wide disinformation. It therefore becomes desirable for the media to have as high a degree of autonomy as is possible. In a bid to ensure such freedom from governmental control in India, the Prasar Bharati Bill was introduced, largely as a response to public opinion and demand. Whether the government had any genuine intention of granting autonomy to the electronic media, or was merely fulfilling its pre-election commitment towards media autonomy, freedom of information and the right to know, is highly unclear, but whatever the reasons, the fact remains that the Bill was finally passed, albeit after much delay and procrastination.

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¹ U.S. Bureau of Census figure, as quoted in 'American Public Policy: Promise and Performance' by B. Guy Peters, 2nd Edition, 1988, Affiliated East-West Press Pvt. Ltd.

Autonomy has been defined as “dispassionate objectivity exercised by autonomous minds through autonomous institutions, consciously and carefully cultivated and laboriously kept up by a socio-political culture inbred in the lives of the people who value utmost freedom with utmost restraint.” Whether what is being conferred is genuine autonomy, and whether an autonomous corporation like the proposed Prasar Bharati can survive free of the ultimate taints of commercialization and bureaucratic red-tapism, when even reputed corporations like the BBC are facing tremendous onslaught in England, is highly debatable, but rather than resorting to a foregone conclusion as to its inevitable failure, a historical background of the Indian media and an examination of the provisions of the Act are in order.

Broadcasting in India began as an elitist urban medium designed by the British regime to propagate its views and programmes. With its objective clear and its reach limited, its tasks were simple — enunciation of government policies and actions and broadcast of news from around the world. Distortions were there, no doubt, but the medium was functioning autonomously and interference from the rulers of the day was rare.² Few in the Government that was formed after Independence considered the media a tool of propaganda — it was mainly a medium of information and cultural communication. It was a consensus of public opinion that the fundamental functions of radio and television broadcasts were to *Inform-Educate-Entertain*.

Slowly the image of national media of radio and television tilted perceptibly towards being one of a governmental mouthpiece. The growth of competitive politics took a confrontational stance in which objectivity started getting blurred. The Emergency of 1975-77 demonstrated the dangers of abuse of the media, and its partisan use. The First Interim Report of the Shah Commission (March 1978) is very revealing. In June-July 1975, the Indira Gandhi Government decided to restructure the news agencies, do away with the Press Council and impose Press censorship. Mrs. Gandhi purported that it was the newspapers and electronic media which were inciting the people towards disruption of the law and order situation.

The consequences of such policy decisions were highly detrimental to the freedom of information and expression. Reports on Parliamentary proceedings were subject to censorship; electricity to newspaper offices was disconnected; newspaper reports that carried accounts of judgments that upheld the rights of individuals and the Press during the Emergency were censored; editors could not find willing printers and had to resort to cyclostyling their magazines.

The Shah Commission Interim Report and the White Paper on the Misuse of Mass Media (August 1977) give a depressing account of how all organs of

² Shri. Krishan Kant; 'Autonomy of Electronic Media: Some Issues' — Inaugural paper presented at a workshop in Hyderabad.

information were speedily subverted.³ It is against this background of perceived media misuse that the Prasar Bharati Act must be viewed. The first attempt in this direction was made by the Janata Government in 1978 after the receipt of the Akash Bharati report of the Working Group headed by George Verghese. It had proposed the creation of an autonomous trust; the present effort is based on this bill which was introduced in 1979.

The intention spelled out in the Prasar Bharati Act is to provide for a Corporation that should function as a genuinely autonomous body — innovative, dynamic and flexible — with a high degree of credibility. In the discharge of its functions, the corporation will be guided by special objectives — upholding the unity and integrity of the country, nurturing democratic and social values enshrined in the Constitution, and projecting the varied cultural traditions of the different parts of the country. The proposed Corporation has been conceived as a single unit with two distinct wings — one for radio and the other for television. The Corporation is to have a Board of Governors comprising a Chairman, an Executive Governor, a Governor for Finance and one for Personnel, all of them full-time members on a six year term of office. There will also be six part-time Governors who will be people of eminence, and one representative from the Union Ministry for Information and Broadcasting. The Governors will be appointed by the President of India on the recommendation of a committee, while the representative is to be nominated by the I and B ministry. The selection committee will be headed by no one — it will consist of the Chairman of the Council of states, the Chairman of the Press council and a nominee of the President. The corporation will be answerable to Parliament.

The Act also provides for the setting up of a Broadcasting Council consisting of a President and ten other members nominated by the President of India. The Council will ensure that the citizens' right to be informed freely, truthfully and objectively is protected, and that the Corporation does not stray from the objective of providing adequate coverage of the country's culture and of catering to various sections of society. It will also review complaints about programmes and offer advice to the Board of Governors.

The statute provides for the transfer to the Corporation of properties and funds, now vested with the Central Government, and also for transfer of staff to the Corporation. It enables the Central Government to give directions from time to time in the interest of national security or preservation of public order, asking the Corporation to black out some piece of information or to broadcast a news item. On occasions when it does make such a broadcast, the Corporation will have to announce the conditions under which it did so. A copy of every direction issued by the Government will have to be laid before both Houses of Parliament.

The general consensus is that the drafting leaves much to be desired as the existence of many lacunae dilutes the purpose of granting autonomy.

³ Anil Divan, 'Doordarshan & Akashvani — Freedom not Autonomy', *Indian Express*, 28/12/1989

The government purports that the granting of autonomy to the electronic media is sought to be done, but on perusal of the actual text, governmental control and direction appear to be writ large in this piece of legislation. The provisions of the Act do not seem to be in consonance with the alleged objective.

With a view to air dissatisfaction with the Act and suggest appropriate recommendations for improvement, many workshops, debates and seminars have been organized by various organisations and bodies. A Bangalore based organisation 'Madhyam', suggested that the committee to select Governors should comprise of the Chief Justice of India, the Chairperson of the UGC, the Chairperson of the Editors Guild and the Chairperson of the Sangeet Natak Akademi, as they are better qualified for the purpose of nominating competent people in whose hands something as important as the Media could be entrusted. For the same reason, they also opine that the members of the Broadcasting Council should comprise of people of eminence nominated by the Chief Justice of India, the Chairperson of the UGC and the Chairperson of the Sangeet Natak Akademi.

Since the efficiency and credibility of the Corporation will be directly dependent on the quality of its staff, they feel recruitment of personnel should be on the basis of merit. Rather than transfer individuals from different cadres and train them, qualified individuals with necessary exposure and training in Media should be employed. Current employees should be reoriented to the culture of Prasar Bharati to keep pace with new trends, professionalism and modernization. Further, clause 28 of the Act which permits government to make rules and regulations should, in Madhyam's opinion, be deleted and this power should remain with the Prasar Bharati.

A workshop on Autonomy of Doordarshan and Akashvani was held in Hyderabad under the joint auspices of the Rajaji Institute of Public Affairs and Administration, the Institute of Mass Communication and the Department of Journalism of Osmania University. Some of the significant contributions of this session were that the pay and perks of the Board of Governors should be stipulated in the Act itself instead of leaving it to delegated legislation. Guidelines and objective criteria for selection of people of eminence in public life should be laid down, even if eligibility conditions as such cannot be strictly laid down and the posts of Chairman and Executive Governor should be combined into a single position of Chairman-cum-Executive Governor (CEG) in order to avoid potential power conflict between the two roles.

It was also suggested that in addition to the two full-time Governors of Finance and Personnel, it is desirable to provide for two more full-time Governors to overview Technology and Programmes. Further, the powers and functions of the CEG and the Governors should be prescribed and not left to the Board to delegate unto itself or its members. These changes would bring about greater efficiency, and minimize the discretion of the Board, thus preventing abuse of wide discretionary powers which may prove detrimental to the purpose of autonomy.

In addition to these recommendations, it was also suggested that rather than a 6 year term, the CEG and Governors be given a 3-year term, extendable by another term of 3 years. This would prevent the Governors from taking their positions for granted and remaining inactive — by decreasing the term, incentive is given to them to carry out their tasks competently in the hope of securing an extension.

Madhyam suggested that since financial autonomy is extremely important in order to secure freedom from political nexus, the Budget and activities of the Prasar Bharati should not be subjected to government approval. Further, organisational culture, human resources, audience research, technology, news analysis, commentaries and performance evaluation should be incorporated to achieve excellence. It was also pointed out that the provision for a representative from the I and B ministry is virtually self-defeating, as it is an obstacle in the way of a total divorce of the Media from the institutional structure of Government.

Although the premise that functional autonomy without financial autonomy is meaningless holds good, it must be noted that however legitimate the demand for no financial interference on the part of the Government, the important question is whether the proposed Prasar Bharati will be capable of commanding the kind of finances required for its functioning. It is all very well to suggest raising of funds through interest free bonds as in the case of electricity generation, but the fact is that, at least initially, budgetary dependence in part on the the government is warranted. Financial autonomy may be integral to the concept of true autonomy but till the Prasar Bharati is capable of being financially independent, some assistance from the government is in order, and a realistic grasp of this fact is preferable to idealistic high handedness about being financially autonomous.

When inaugurating the aforementioned workshop in Hyderabad, the Governor of Andhra Pradesh, Shri. Krishan Kant raised a series of questions that need to be answered in order to analyse the inherent value of the proposed structure. Firstly, within the Media there is a feeling that autonomy will be premature. Since the corporation will include staff from AIR and Doordarshan who are used to an established way of functioning and whose reflexes will take time to adjust to autonomy, how will the functioning of the Corporation be any different from the present set-up? Secondly, what is the relationship between professionalism and autonomy? Should professionalism lead the autonomy or will autonomy lead apex growth of professionalism? What will the level of autonomy be? Will it be restricted to the open layer or will there be decentralization of decision making down the line? How will this decentralization lead to avoidance of domination by the same bureaucratic political elite or by consumerist interests?

Further, whose autonomy within the corporation is envisaged? The Governor's, the CEG's, the journalist's or the viewer's? What can be the possible guidelines to arrive at a rational view to fight consumerism, avoid commercial pressures but at the same time inform viewers of the latest developments in various fields? What are the limits to the spectrum of views that can be aired on the electronic media? How will the public, which has influenced the emergence of Prasar Bharati

continue to influence the development of the Corporation on autonomous lines, unlike many others floated by the Government which have become extended units of public administration?

By reading these into the provisions of the Act, it becomes apparent that the government has no answers to these questions.⁴ The loopholes and governmental directions are many and the sincerity of granting autonomy is debatable. It stands to reason, as no political party at the Centre will be prepared to relinquish its hold over the powerful instrument of the electronic media and surrender it unto an autonomous corporation. The great delay in passing the bill is indicative of the intention, or lack of it, of the government and shows that it was finally passed to bring about a high promise-performance ratio and to appease the masses.

The Act should be a part of the socio-political process of distancing the Media from sovereign functions of the State, not a reaction to recent controversies as to the functioning of the present structure of the electronic media. The move should not connote mere self-governance, but freedom from partisan political pressures. It should be a step towards democratization, decentralization and freedom from State control. It should not be a reaction to the past, but a perspective of the future.

⁴ The Government has decided to elicit public opinion on the record number of 522 amendments placed in Parliament, *Indian Express* Bangalore, Friday Feb. 8, 1991.