

Congress Manifesto 2019 – A Freedom to Destroy Institutions and Help Terrorists

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The late Ramnath Goenka was perhaps the most legendary amongst the media owners in the country. He fought the British and refused to succumb to the censorship in the Quit India Movement. He temporarily closed down his newspaper. During Emergency he rest everything at stake and was in the forefront for the battle for restoration of democracy. His defence of independent media is an example of the kind of assertion the media must have.

Ramnath Goenka was also a member of the Constituent Assembly. He made a legendary speech when the Fundamental Rights were being debated and the issue of Freedom of Expression and the restrictions to be imposed thereupon came up, he intervened. He envisaged a time where free media would be curtailed by pinching the pockets of the proprietors. A financially fragile media will always be weak.

Indiraji's passionate dislike for free media was well-known. She used to refer to India's leading newspapers as the 'monopoly press' or the 'jute press.' The Congress in the 1960's and 1970's experimented various misadventures. They wanted to link the cost of newspaper to the number of pages, restrict the size of the newspaper as also restricting the quantum of advertisements to be published. These restrictions were challenged and in the legendary cases of Sakal Newspaper, Indian Express Newspaper and finally in the 1974 historical judgement in the Bennett Coleman case the court delivering pro-press verdicts. The court upheld the argument that unlike other Fundamental Rights on which reasonable restrictions can be imposed, Freedom of Speech and Expression was a preferred right on which only such restrictions could be imposed which had nexus to restrictions mentioned in Article 19(2). Such restrictive measures, as mentioned above, were not permissible as they did not fall in the ambit of Article 19(2).

The other important mindset with which the Nehru-Indira era was that 'large is evil' and 'small is better'. This led to restrictive legislations like the MRTP and the licencing requirements under the IDRA. With liberalisation, the Vajpayee Government demolished the former and the Narasimha Rao Government had significantly changed the latter.

The media and the Congress Manifesto

It must be borne in mind that Indiraji, during the Emergency, had revoked the Press Council Act and abolished the Press Council by an Ordinance. Today, the Congress wants to strengthen it and allow it to form a Code of Conduct on coverage of event of national interest. The issue is redundant since guidelines already exist. Initially where there were some stray cases of breach of those guidelines where the media organisations were given an advisory or a caution. Recently, on most occasions, the media organisations have borne the national interest in mind. Why regulate if the problem does not seriously exist?

It may be mentioned that the gentleman who drafted the manifesto is the same who had drafted the ill-fated Defamation Bill, 1988. That Bill provided for enhanced punishment for defamation, which was upto two years for the first offence and five years for subsequent offences. Today, while in Opposition, he wants to decriminalise defamation.

The more dangerous provision is contained in paragraphs 33(4) and 33(5) of the Manifesto. The first promises a legislation to curb monopolies and the other to bar cross media holdings of the different segments of the media. The ownership of media by group doing other business is sought to be restricted. These cases will be referred to the Competition Commission of India. Ramnath Goenka's prophecy is coming true - Legislate and empower yourself to pinch the pocket of the media organisations. This is also the culmination of both the anti-media and the 'large is evil' conventional ideology of the Congress. A convergence of both left and dictatorial attitudes.

The manifesto is liberal towards terrorists, criminals and insurgents. But it demolishes otherwise the current structure of independent media in India. India has the privilege of having multiplicity of print, television, radio and now the digital media. As a political activist, I hold the view that if some media organisations are opposed to my Party's viewpoint, they may constitute a miniscule share in the ocean of media news available. This applies to every other party. Ultimately, the enormity of the size of Indian media balances things out. Why is then a parliamentary legislation required? Such a parliamentary legislation is ill advised because:

- 1) No restriction in Article 19(2) of the Constitution bears any nexus to the restriction now sought to be imposed. Just as the similar legislations of the decades of the 1960's and 1970's were struck down, the same will be vulnerable to any constitutional challenge.

2) The concept of cross media holdings was relevant in the United States where within a geographical zone where the number of newspapers available in a city were either one or two. There was not even multiplicity of channels. With the advent of satellite, every citizen in India has access to hundreds of channels, multiple newspapers and digital mediums. Cross holding concept is an obsolete idea in India. There is no 'real and imminent' danger of a monopoly.

3) With the advent of technology, the concept of cross media holdings stands demolished. NDTV runs a channel and it has a powerful website which serves the purpose of a newspaper. Many newspapers across the country, both national and regional, run news channels, digital websites, and even newspapers. How is public interest advanced that if you run one, medium, you should be barred from running another? Is there a 'real and imminent danger' of monopolies being created? Individual citizen like me also write a blog on the Facebook and the Twitter and also release in an audio/ video form. Technology has enabled this. The whole concept of cross holding that if you own one segment of media, you should be barred from having the other is technologically obsolete.

History has witnessed, both in the case of fake news and paid news, as also resistance to political and Governmental pressures, professionally managed large organisation are less vulnerable. They have a muscle to resist. Why does the Congress want to unscramble a scrambled egg? This move will meet the fate of the 1988 Defamation Bill.

The dangerous idea in the media chapter

The dangerous chapter in the media paragraphs is contained in para 33(5). It promises a law to maintain the freedom of internet and not arbitrarily shut it down.

This power is generally exercised only when operations against terrorism and insurgency are in progress. They have to be exercised instantaneously. Restricting such power during anti-insurgency operations or where caste or communal violence is on, will hinder national interest. In some situations of either insurgent violence or massive social tensions, frenzies can be created on the social media. The mischief makers want to achieve that. The Congress wants the power of the security forces in this regard to be regulated.

The media chapter contains suggestions each one of which will regulate and restrict free journalism and otherwise multiplicity of Indian media. It is anachronic. It is not in tune with

the times. However, even while drafting this chapter, a new facility is sought to be provided to the terrorists and the insurgents.