

GAGGED MEDIA; VIOLATION OF FREE SPEECH IN INDIA **UNDER THE GARB OF PROTECTING STATE INTEREST**

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Abstract

The Constitution of India lists “freedom of speech and expression” among the fundamental rights it guarantees, but it also justifiably allows the government to impose “reasonable restrictions” in the interest of “State, public order, decency or morality.”

The power centers miserably failed to understand the concept of free speech which is about freedom from persecution and chastisement in expressing an opinion.

Media is considered as the fourth pillar of democracy because it has the potential to monitor power and the centers of power. Every now and then, we witness how this fourth pillar of democracy is working hand in glove with power centers in “pushing their narratives”.

This study examined the current scenario and analyzed the state of affairs on Indian media and assesses whether there is any attempt to gag the media or is it the corporate media that serves as a government mouthpiece and get favors (Advertisements, licenses, money, etc.) in return. The study attempted to identify the scenario by interviewing media professionals through a questionnaire to find out the opinion of the journalists and media students on the issue. Focused group discussions were also carried out with the students of journalism and mass communication to get their views on the topic.

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1. Introduction

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“What journalism is really about – it’s to monitor power and the centers of power”.

- Amira Hass, journalist

“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”

- JawaharLal Nehru

Surf through any news channel or scan newspapers (both national and regional), you will hardly find Journalists questioning anything. If they exercise their right to “Freedom of Expression” as enshrined in the Indian constitution, they may get in trouble.

The power centres miserably failed to understand the concept of free speech which is about freedom from persecution and chastisement in expressing an opinion.

A case in point is banning the telecast of the Hindi news channel ‘NDTV India’ on November 9, 2016 by the Ministry of Information & Broadcasting (I & B) which imposed this ‘token penalty’ on the channel for revealing “strategically sensitive information” during the coverage of Pathankot terrorist attacks two years back though it did not share any information that was different from what other channels and newspapers presented at the same time. The ban was however put on hold after the apex court agreed to hear a writ petition filed by the channel.

Eminent Jurist FaliNariman in an interview did not mince words when he said no wonder you face another emergency in the country. There is however no denying the fact that Freedom of Expression, if it hurts someone’s religious sentiment or attacks our culture, is restrained and this we have seen in recent times when eminent writers faced threats and attacks for expressing their thoughts.

The Constitution of India lists “freedom of speech and expression” among the fundamental rights it guarantees, but it also justifiably allows the government to impose “reasonable restrictions” in the interest of “public order, decency or morality.”

We however need to ponder does the country need an unqualified constitutional amendment guaranteeing freedom of speech — like the American First constitutional Amendment. Otherwise, India’s claim to be the ‘world’s largest democracy’ is disingenuous,” says Suketu Mehta who teaches at the Arthur Carter Journalism Institute at New York University.

“Indians need to understand that free speech, the right to think and exchange ideas freely, isn’t just an elite privilege; it is at the core of the democracy that we so cherish,” observes Mehta.

This research paper examined the current scenario and analyzed the state of affairs on Indian media and assesses whether there is any attempt to gag the media or is it the corporate media that serves as a government mouthpiece. The study attempted to identify the scenario by interviewing media professionals through a questionnaire to find out the opinion of the journalists and media students on the issue.

News media and the journalistic ethics

Do the news media act as watchdogs, the fourth pillar of democracy, agenda setters and gate keepers or act as the mouthpiece for those in power or just reduced to be the PR agencies for them.

Very often we see people expressing their dissatisfaction with the media content and very explicitly they talk about losing faith in all kind of media. Over the period, we have witnessed deterioration in the media content as well as the presentation. Even the national television news channels now a day fail to verify their news stories and their sources of information are not credible. We have also witnessed some of the national television channels spreading fake news without any guilt and without any credence. What happened to the journalistic ethics and values that we taught our students? Is it the Government repression or the ownership pattern or the rush to attain the highest TRP that has affected the media content in a deleterious way?

As educators of journalism and mass communication we try to instill values and ethics in the disciples which is of paramount importance and emphasize on the need for communicating for change and social development. News media in each country plays a vital role not only in informing people and disseminating important messages but also in ensuring better governance and a healthy society, provided that it is constituted in a way that sanctions it to perform the roles of a watchdog, ombudsman, and Fourth Estate. The press is called the fourth estate frequently because they discern the political processes to make sure that the accomplices do not abuse the democratic structure.

Sometimes denoted to as the fourth estate, the ideal role of journalism is that it serves as a “watchdog,” keeping government honest and watching out for the interests of people (Kovach & Rosenstiel, 2001). It follows then that independent news media should collectively keep the government responsive and responsible, especially with regards to how it treats citizens. (Woodring & James, 2012).

Freedom of expression & speech

Risen wrote; “My answer is to keep writing, because I believe that if journalists ever stop uncovering abuses of power, and ever stop publishing stories about those abuses, we will lose our democracy.”

These words acquire a distinct tone in the contemporary Indian media world. We think of Risen's advice as we grapple with different kinds of censorship virtually every day – some thinly-veiled, others blatant-imposed sometimes by the ruling party and sometimes by other powerful institutions.

A disturbing stillness abides in newsrooms. A Stillness symptomatic of times when journalistic deference to power seems to have become the creed of the profession or should we say 'industry'. Rather than pushing back the sweeping arc of censorship, the media is finding ever new ways to censor itself. Some of this is clumsily done – the taking down of articles from websites, the pushing out of 'difficult' editors. This increasing normalisation of self-censorship is perhaps one of most worrisome manifestations of how deeply the media is being co-opted.(Gupta, 2017)

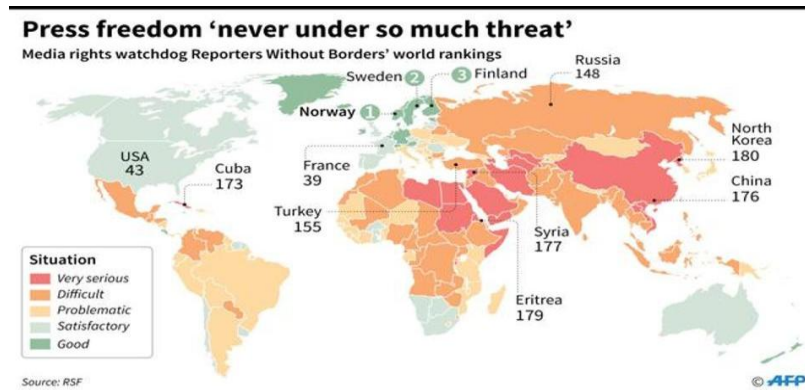
The recent story of PunyaPrasunBajpai, exiting ABP News is a live example. In one of the exclusive interviews that he gave to The Wire Hindi, he revealed how the proprietor-cum-editor-in-chief of the news channel directed him to refrain from mentioning the name of Prime Minister in his programme Masterstroke and how after the backlash from the government, which enormously effected the business of the news channel, he was made to quit.

When the power centers are not able to make headway, using these pressures tactics, then they do not hesitate to resort to violence and targeted assassinations. TongamRina was attacked, outside the office of Arunachal Times, in July 2012, where she is an associate editor. She says that unquestionably, the attack occurred because of her work as a journalist. Luckily, the journalist survived the shooting, unlike GauriLankesh who was assassinated in Bengaluru in 2017 for fearless reporting.

With her death, the number of media professionals slayed in targeted assassinations or violence in India with confirmed motives has climbed to 41. The toll, a Committee to Protect Journalists (CPJ) study has revealed, is just from the past 25 years.

The assassination of GauriLankesh has not only underlined the narrowingexpanse for open discourse but also the growing intimidations that journalists in India face today. The pressure from state and non-state actors, the fear of lawsuit and the risk of physical assaults often limits what makes the news – but more importantly, what doesn't.

A majority of journalists in India are inadvertently acceding to pressure. Only a handful dares to question the actions and motives of the establishment and unfortunately these are not from biggest media outlets which continue to exercise great influence over the nation. “The quality of journalism has shrunk so much that it’s difficult to find good reports,” Rina adds. (Khullar, 2017)



The latest Reporters Without Borders press freedom rankings. (AFP)

India slipped three places in the 2017 world press freedom rankings to 136th among 180 countries.

“With Hindu nationalists trying to eliminate all expressions of “anti-national” thoughts from the national debate, self-

The report cited that journalists were increasingly targets of online smear campaigns and threats. “Prosecutions are also used to gag journalists who are overly critical of the government, with some prosecutors invoking Section 124a of the penal code, under which “sedition” is punishable by life imprisonment.”

“No journalist has so far been convicted of sedition but the threat encourages self-censorship.” (Jyoti, 2017)

Censorship

From Bihar Chief Minister Jagannath Mishra in 1982 to Prime Minister Rajiv Gandhi in 1988, from Rajasthan Chief Minister Vasundhara Raje in 2017 to the Narendra Modi government recently, all have felt the need to severely deal with “fake” or “false” news, and alleged libelous reportage. If we analyze, we will be able to uncover a pattern to their criticisms and to the solutions they have projected as well as to the political environment in which they have tried to fetter journalists. In context of Indian Media if we date back to 1975, it was during the period of national emergency that the Government in power imposed censorship of media.

In 1988, the ‘Defamation Bill’ against the Press was introduced by then Prime Minister Rajiv Gandhi, but it was later withdrawn due to strong opposition to it.

The present government in Rajasthan, pursued to gag the media and safeguard adjudicators and government servants from investigation. The Bill “proposed to make publication of imputations falsely alleging commission of offences by any person an offence”.(Kaushal, 2018)

While obscenity was the chief weapon that the ministry used against the channels earlier, national security is the new stick that the current government is beating the TV channels with.(Prasad, 2016)

It is quite evident if we look at the three cases against the NDTV group under the present government. The Editors’ Guild of India called it a “direct violation of the freedom of the media” and said the move was “reminiscent of the Emergency”. (Prasad, 2016)

“It’s inherently wrong and dangerous for a government committee to have the power to take a TV channel off air,” said Business Standard chairman and business director T N Ninan. There is a need to reexamine Sec 20 of the Cable Act which gives authority to the government to forbid operation of cable television network in public interest and where the Central Government thinks it necessary or expedient.(Dhawan, 2016)

A study was conducted in South Asia in 2005 in order to gauge Conflict and Liberty to express. The study came up with a number of damaging trends in relation to freedom of expression in conflict situations. Some of the common trends in different countries of south Asia are as follows:

- ▶ Conflict protagonists disseminate biased or manipulated information in order to mobilize Public support for the way respective political leaders pursue their conflict goals. At times, this can mean that **media voluntarily disseminate distorted information out of Patriotic motivations**. At other times, there is an **underlying information strategy, planned and instigated at political levels**;
- ▶ Persistent misinformation is a powerful factor further **entrenching feelings of mutual hatred between divided communities and promoting the construction of enemy pictures**, thereby adding to the obstacles that long and difficult conflict resolution and peace processes will have to overcome;
- ▶ Media reporting is **often polarized along political, ethnic or religious lines**. Ownership of the media is regarded by the parties to a conflict as a central element in **gaining control of the flow of information**;

- ▶ There is a direct **correlation between an increase in intensity of a conflict and severity of restrictions on freedom of expression;**
- ▶ Exact information on civilian casualties and human rights violations caused by combatants is often concealed from the broader public. **Denial of facts, however, fuels fear and increases mistrust and resentment within the victim population against perpetrators and/or poor leadership.**(Asia Thematic Report, 2005)

Media effect theories; Relevance in present day media context

While studying media in the present day scenario, it is also imperative to understand historical developments in media in view of the media theories based on empirical evidences and research findings by theorist in different time periods.

If we review the present day scenario of Media through the lens of various communication theories, we will realize that most of the media effect theories still hold true and has a lot of relevance in the present scenario. Theories like gatekeeping, hypodermic needle, agenda setting, propaganda, reinforcement, cognitive dissonance, persuasion, dependency and many more are quite relevant and contextual in the present day.

Agenda Setting:

Walter Lippmann's in his classic, *Public Opinion* wrote in a chapter "The World Outside and the Pictures in Our Heads." He illustrated that news media are a major source of those pictures in our heads about the grander realm of public affairs, a sphere that is not accessible to most of the audience. Whatsoever we know about the world is mostly based on what the media decide to tell us. The effect of this mediated view of the world is that the priorities of the media strongly influence the priorities of the public. Elements prominent on the media agenda become prominent in the public mind.

The agenda-setting influence of the news media is not limited to this initial step of focusing public attention on a particular topic. The media also influence the next step in the communication process, our understanding and perspective on the topics in the news.(McCombs, 2018)

In context of India media, this theory holds true and relevant in the present scenario.

Dependency

This theory is based on the premise that our dependency on media determines its position in our lives. DeFleur and Ball-Rokeach (1976) described dependency as the correlating relationship between media content, the nature of society, and the behavior of audiences.

The same holds true in context of India Media even in the present day, especially with the advent and rapid growth of social media. With the changing pattern of media consumption of the target audience, the ways and methods of gagging or manipulating media has changed.

Gatekeeping: In today's context, gatekeeper has gained paramount importance in journalism because they are the ones who at the end of the day manufacture truth and decidewhat will be published to the audience; therefore they define what is to become the public's social reality, and how they should view the world.(Tutheridge, 2017)

The gatekeeping is based on several factors such as government-media relations,making reference to the power elite, personal beliefs, editorial policies, business value, internet, etc. These factors decide whether the news stories will be accepted or rejected.

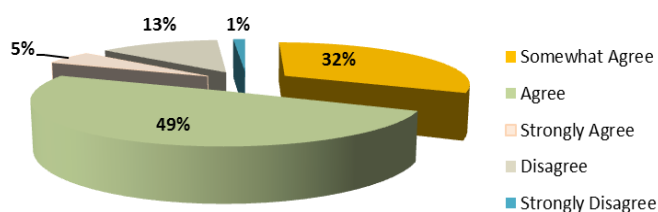
Shoemaker and Reese (1996: 65) claim that "professional roles and ethics have a direct effect on mass media content, whereas the effect of personal attitudes, values, and beliefs on mass media content is indirect". Roberts argues that the advent of blogs has resumed gatekeeping to the forefront of research deliberations.(Al Maghlooth, 2014)

2. Research Method

This research study examined the current scenario and analyzed the state of affairs on Indian media and assesses whether there is any attempt to gag the media or is it the corporate media that serves as a government mouthpiece. The study attempted to identify the scenario by interviewing media professionals through a questionnaire to find out the opinion of the journalists and media students on the issue. We have analyzed data using descriptive statistics.

3. Results and Analysis (10pt)

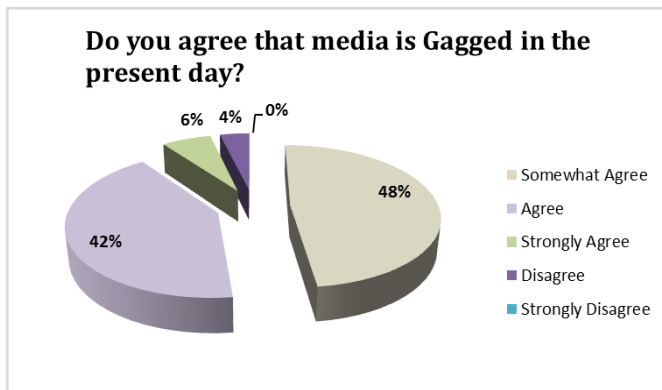
There is no such thing, at this date of the world's history, as an independent press²
Do you agree?



During our study we interviewed journalists and journalism students and also conducted a survey wherein a Google form was filled by Approximately 80 respondents who were either journalists or journalism students. The purpose of conducting the

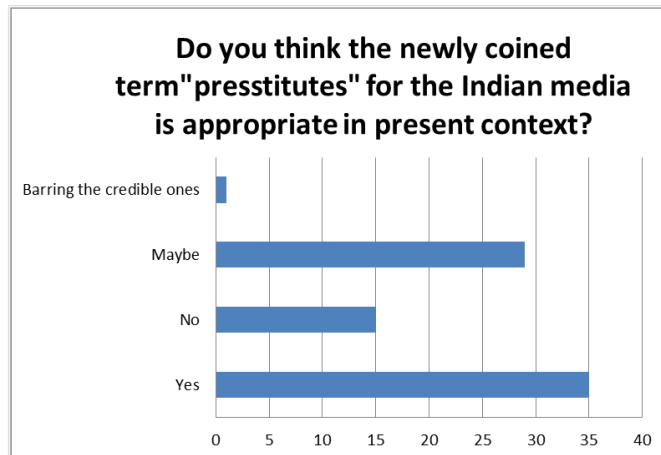
study was to understand the media scenario and to find out the opinion of the journalists and media students on the issue of media autonomy and self-regulation.

When asked if they agree that there is no such thing at this date of the world history, as an

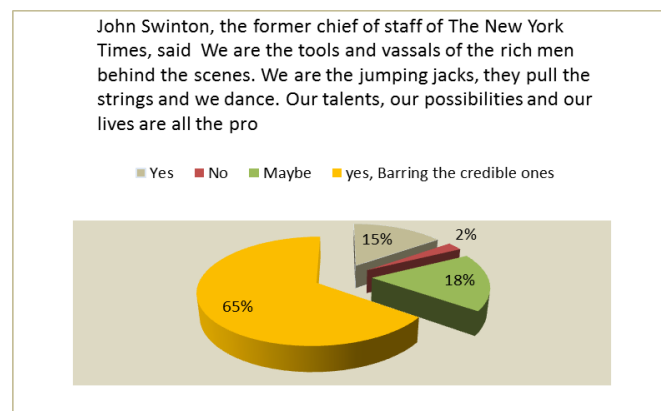


independent press, 49% of the respondents agreed with this whereas 5% strongly agreed and 32% of the respondents somewhat agreed. Only 14% of the participants still believed that media has the independence to publish or broadcast/tecast the news content that they feel is newsworthy.

When further asked if they agree that media is gagged in the present day, 6% respondents strongly agreed and 42% agreed to this, another 48% somewhat agreed to it, whereas 6% respondents disagreed and remaining 4% strongly disagreed that the Indian media is gagged.



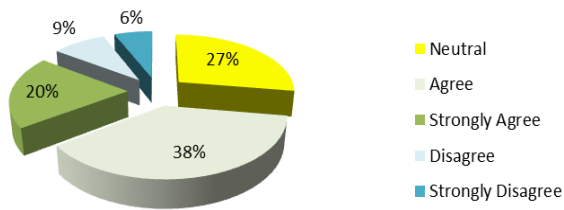
Thirty five out of eighty respondents think that the newly coined term presstitutes for the Indian media is appropriate in the present context. Twenty nine said maybe and one respondent said that barring few credible ones, majority of them deserve to be called prostitutes. Fifteen out of eighty respondents said "No".



John Swinton, the former chief of staff of The New York Times, said we are the tools and Vassals of the rich men behind the scenes. We are the jumping jacks, they pull the strings and we dance. Our talents, our possibilities and our lives are all the property of other men. We are intellectual prostitutes. When the respondents were asked if they agree with John Swinton vis-

à-vis Indian Media, 15%, of the respondents agreed, 18% said maybe and 2% of them disagreed, whereas the rest 65% agreed but they feel it is not applicable in case of few credible ones who are still managing to work independently.

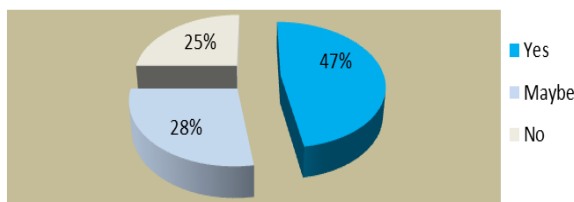
Do you agree that the decision to take the channel off the air for a day is a direct violation of the freedom of the media and the harsh censorship imposed by the government reminiscent of the Emergency days?



about it, 9% disagreed and the rest 6% strongly disagreed.

In order to know the views of the media persons and media students with regard to the ban on NDTV more than two years back (on November 9, 2016), the respondents were asked as to what

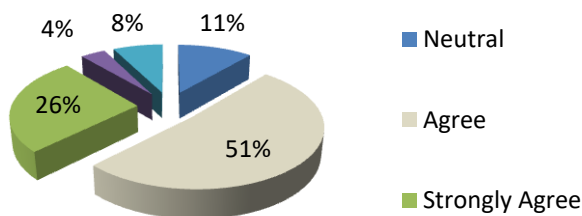
Do you think NDTV faced a ban on pretext of revealing strategically-sensitive details during the coverage of the Pathankot terrorist attack because they refused to eulogise Prime Minister Narendra Modi?



respondents said maybe and the rest 25% of the respondents did not agree with this proposition.

Fifty one percent of the respondents agreed that Indian Media has strong political inclinations

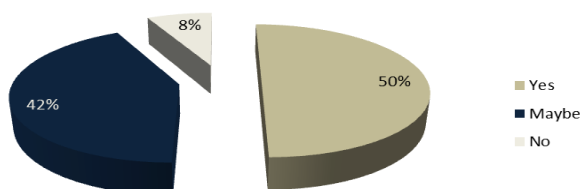
Indian media has strong political inclinations?



and twenty six percent strongly agreed to this. Eleven percent was neutral and the remaining 12 percent did not agree.

Not only political inclinations and affiliations, these media houses are also in some way or the other gagged or governed by the crony capitalists. For example through loans and investments,

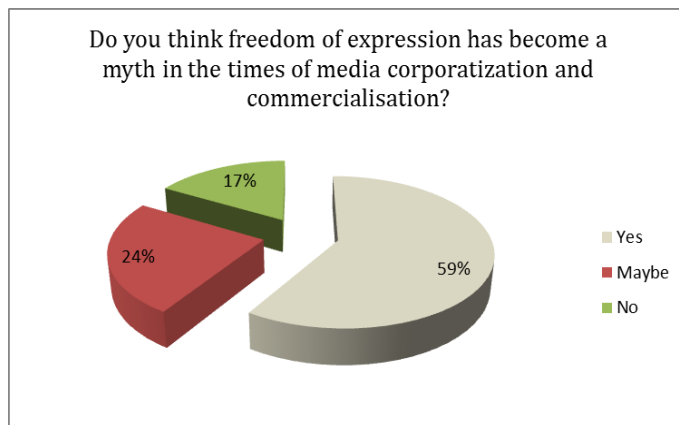
Do you feel there is a need for restricting the role of big businesses like RIL in the media ?



MukeshAmbani, MahendraNahata and the industrialist AbheyOswal have given the five media companies funds that range

from tens to hundreds of crores of rupees. As a result, the control that the three businessmen wield over these media networks varies from 20 to over 70 percent. Five Indian news media companies—NDTV, News Nation, India TV, News24 and Network18—are either indebted to MukeshAmbani, the richest Indian and the owner of Reliance Industries, or to MahendraNahata, an industrialist and associate of Ambani's, who is also on the board of Reliance's new telecom venture, Reliance Jio. (Krishn, 2016)

When the respondents were asked about their views vis-a-vis putting restrictions of big businesses like RIL in the media, 50% of the respondents were of the view that in order to ensure media independence and fair reporting, there should be restriction on this. 42% felt that it may be helpful; whereas 8% felt that there is no need for imposing any restriction.



Approximately 60% people think that freedom of expression for media has become a myth in the times of media corporatization and commercialization, another 24% feel that corporatization and commercialization may affect media in terms of freedom of expression. View of 17% of the respondents differed and they were of the view that it may not affect

freedom of expression of media.

In this era of commercialization, TRP's really matter. The revenues are guaranteed not only by the advertisements but by the parties who want to control the medium. Each channel has multiple ways of sustaining themselves. Gone are the days when media used to do fair and neutral reporting, now there is a lot to gain for all the main players by taking a stand. The people who are smart & sensitive to will reap the windfall.

On being asked to express their views on the above, 76% of the respondents agreed and 24% said that they somewhat believe that the revenues are guaranteed not only by advertisements but also the parties who want to control the medium.

Stake of corporate houses and government patronage to media houses

The ownership explains the control of media in India by foreigners, big corporates, and politicians so the result is obvious.

Media proprietors have become capitalists to survive, thus reinforcing the media's relationship with the political groups in power, producing a

dangerous cronyism and a vulnerability to the interests of advertisers. Indeed, it is the brand manager who determines what goes in from the front to the last page of the newspaper. Editors have been downgraded and many proprietors have assumed the mantle. The battle for circulation and thus ads in the highly competitive market environment has driven sensationalism in reporting. (Asia Thematic Report, 2005)

Media today is driven by the drivers like globalization, individualization and the growing importance of the market economy which we can see as a reference system. (monobine, 2017)

When we say gagged media, we are referring to media which lacks freedom of expression and is influenced by one or the other above mentioned driver.

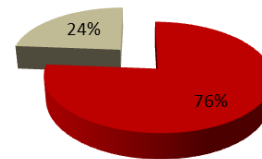
4. Conclusion (10pt)

Based on the analysis, we can conclude that most of the media professionals and media students are of the view that there is no such thing at this date of the world history, as an independent press. Freedom of expression and speech of media has been curbed from time to time. The space for free speech is shrinking by the day and the journalists are succumbing to all kind of pressures. At all times these pressures are not so visible. There are direct, indirect and invisible pressures from state and non-state actors, the fear of litigation and the risk of physical attacks, the fear of Hindu nationalists trying to eliminate all manifestations of "so called" anti-national thought from the national debate, leading to self-censorship in mainstream media. Indian media deals with different kinds of censorship practically every day – some thinly-veiled, others blatant-imposed sometimes by the ruling party and sometimes by other powerful institutions. (monobine, 2017)

More than fifty per cent of our respondents agreed that media is gagged in the present day and a significant number of respondents agreed that the newly coined term presstitutes for the Indian media is appropriate in the present context. They agreed to the proposition that Indian media has become the slaves to the rich men behind the scenes i.e. the corporate houses and the proprietors and sometimes the political parties directly or indirectly running the

In this era of commercialisation, TRP's really matter. The revenues are guaranteed not only by the advertisements but by the parties who want to control the medium. Do you Agree?

■ Agree ■ Somewhat agree



media houses due to their direct stake or due to the nexus between the politicians and the corporate houses behind the media outlets. More than seventy six per cent of the respondents agreed that Indian Media has strong political inclinations and fifty percent of the respondents were of the view that in order to ensure media independence and fair reporting, there should be restriction on big businesses like in the media, and another forty two percent felt that it may be helpful.

So, while trying to analyze the current scenario and the state of affairs on Indian media and assesses whether there is any attempt to gag the media or is it the corporate media that serves as a government mouthpiece, it came to the fore that it is not that simple to explain media gagging because there are numerous ways and means of gagging media.

Media is gagged to set political agenda, for gatekeeping of media messages wherein it is decided by the ruling party or the other stakeholders and influential people as to what should make news and what should not go in media, to strengthen their political agenda by “construction” of social and political reality.

Because of the dependency of the audience on news media and unwarranted enslavement to social media, it has become all the easier for the agenda setters and the gatekeepers to push their disguised agenda through these gates. The gates that are controlled by them are pushing their agenda and the gates that are not under their control are crushed. Media has been gagged and free Speech violated under the garb of protecting State interest. A case in point is banning the telecast of the Hindi news channel ‘NDTV India’ on November 9, 2016. Free Speech in the present day is not only violated under a garb, the violation has become barefaced and it has shamefully gone to the extent of censoring media, interruption telecast, banning the website and webpages, lynching, attacking and murdering those journalists who do not lobby with the agenda setters and who refuse to succumb to the pressures exerted by the political parties and their allies. The fear has seeped in so deep that the media houses are resorting to self-censorship in order to escape the wrath of those in power. The non-partisan and fair minded journalists are muzzled either by the media owners or the proprietors or are threatened and attacked to instill fear in them to prevent them from fair and unbiased reporting, their stories are killed and they are made to succumb to political pressures. We cannot deny the fact that India slipped three places in last year’s world press freedom rankings to 136th among 180 countries and that is quite evident from the content of the news broadcasts, telecasts and publications. Not only the manufactured as well as the fake content but the recent incidents of attacks, murders and censorships and interruption in transmission of the content that do not match their narrative speak volumes about the discernible as well as imperceptible efforts to gag media.

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