



INDIA

Regulating dissent

As the Indian media community sought to come to terms with the shock and trauma, one of the many warriors for the new hyper-nationalism in the virtual space tweeted a message that the “merciless” murder

of “Commy (sic, Commie) Gauri Lankesh” was all about her deeds coming back to haunt her.

Late March this year, Mahesh Hegde, owner of the Postcard News website, was arrested in the southern Indian state of Karnataka, on charges of causing ill-will on religious grounds. A monk of the Jain faith had a few days before, suffered serious injuries in a road accident. Hedge picked up one among many images of the monk circulating over the internet and pushed it along on his website with the embellishment that his injuries had been inflicted by a violent mob of Islamic radicals. Hegde added the legend that nobody was safe in Karnataka as long as Chief Minister Siddaramaiah rules. It just so happens that Siddaramaiah is from the main party in opposition to India’s Prime Minister Narendra Modi.

Hegde’s twisting of fact was clearly part of the build up to the campaign for elections to the state legislative assembly due mid-May in Karnataka.

Postcard News is one among a growing ecosystem of websites that style themselves in a new idiom of nationalism, as articulating a supposedly long-suppressed majority voice in India. This idiom of majoritarian nationalism flourishes on antagonism – often confected in deliberately misreported facts – about the country’s principal religious minority.

It used to be referred to as ‘hate speech’ at one time, a very poorly defined category of offences in most parts of the world. In India, the harsh reality is that even with a surfeit of laws in place, the actual record of applying legal sanctions on hate speech has been indifferent.

A recent review of press freedom in India concluded that ultra-nationalist elements seeking to “purge” all traces of what they deem “anti-national” thinking from the public domain, have created an aura of fear among journalists and social media users. “Online smear campaigns” have been frequent, suffused with crass insults and threats of physical violence, that especially target female media practitioners. Journalists willing to run the risks have uncovered what seem

to be organised efforts to capitalise on the vast scope of viral multiplication that the social media “hashtag” affords, to intimidate reporters who hold the misdeeds of elected politicians to the light.

This problem was clearly not on the minds of the official information agency of the Indian government on April 2, when it announced fresh guidelines on the accreditation of journalists, ostensibly to check the menace of “fake news”. Media accreditation is granted to journalists after a specified number of years in the profession. If anything, this waiting period is sufficient assurance that professionals granted accreditation to access the official corridors in the national capital, will be immune to the temptations of fake news. The April 2 notification put journalists on notice of a “three strikes and out” policy. Any accredited media person found to have propagated ‘fake news’ would be put on notice and issued a formal warning after a second offence. A third transgression would lead to termination of privileges.

Following strong protests from the media community, the notice was withdrawn, with the stricture ostensibly issued from the highest political authority – the office of the Prime Minister of India – that the information agency had gone beyond its jurisdiction. Guidelines on accreditation and their revision, the Prime Minister’s Office said, were within the jurisdiction of the Press Council of India (PCI) and that was the appropriate forum for debating the issue.

It was not a source of comfort for journalists that the Chairman of the PCI, Justice C.K. Prasad, a retired judge of the Supreme Court of India, was already on record that he found little objectionable in the April 2 notification, since the problem it addressed was real and serious.

It so happened that Justice Prasad had at the same time, convened a meeting of the PCI to which few of the representatives of the journalists’ unions and professional bodies were called. The reason given for the move was supposedly, the ongoing reconstitution of the PCI.

Eight professional bodies – including IFJ affiliates, the Indian Journalists’ Union and the National Union of Journalists of India – wrote on the eve of the proposed meeting to the Prime Minister, urging that the reconstitution of the PCI be placed on hold since it was not in accordance with fair and democratic procedure.

This was one among a series of rather questionable decisions with a bearing on the media regulatory framework, where efforts to bring a semblance of order to a scenario of rapid flux continue to flounder. Little in the official response seems to indicate a genuine urge to get the

best of the new modes of information sharing and communication, while safeguarding against hazards such as fake news. A day had not passed since the Office of the Indian Prime Minister ordered that the ‘fake news’ circular issued by the Ministry of Information and Broadcasting be held in abeyance, before it announced the formation of a committee that will frame regulatory rules for news portals and media websites.

Five among the ten members of the committee were to be the secretaries of various ministries: civil servants who begin their careers administering a district and then serve various functional ministries in the states and the Indian union. Others were to be the representatives of the PCI, and various associations of the news broadcast and entertainment industries. Missing entirely were natives of the digital domain, of which a good number exist in India, that manage to set new standards on fact-checking both official claims made by the current regime, as well as their noisy cohorts of online propagandists.

The basic premise of the order constituting this committee to frame rules has been called out as false. The order claims for instance, that all other media – print and electronic included – are covered by certain norms, while the online media functions in a regulatory vacuum. Critics of the move point out that India’s Information Technology Act, as adopted in 2000, incorporates Section 69, which provides for the interception, monitoring or decryption of any information stored in any computer resource, if a public authority or agency of the state thinks it warranted. In 2008, Section 69A was grafted onto this act by an amendment, authorising any state agency when satisfied that it is in the interests of public order, national defence, and a number of other criteria, to order the blocking of public access to any information through a computer resource.

In a significant judgment in 2015, India’s Supreme Court struck down Section 66 of the IT Act which allowed for the criminal prosecution of certain kinds of messages posted on social media. After a number of arrests were effected under this provision of law, outrage built up to a sufficient degree for an individual to mount a legal challenge. The Supreme Court agreed with the challenge since it held the definition of an offence under Section 66 to be over-broad and vague, enabling excessive latitude for arbitrary actions by the law enforcement authorities.

In the same judgment, the Supreme Court allowed Section 69A of the IT Act to stand since its language was consistent with the provision of the Indian Constitution that provides for “reasonable restrictions” on the right to free speech. It is another matter of course, that these “reasonable restrictions” have never been systematically codified and continue to be arbitrarily interpreted by law enforcement authorities, which can silence critical voices through the mere imposition of the tortuous and unending legal process.

Deadly rumour mongering

For the giant social media firms and other online platforms driven by advertising revenue, the commercial calculation has proved decisive. YouTube, Google, Facebook and Twitter are known to have complied with demands from official quarters to remove certain kinds of content from

their sites, simply because they all have operations in India and could potentially be subject to local liability laws. The Indian market though is of such expanse and promise that none of them would like to defy the official censor and risk being blocked.

It is a curiosity of the current state of the media in India, that the various excesses that are instigated through the heightened connectivity that social media enables, have never seriously attracted sanction or prosecution, or even an official reprimand.

There was in the eastern Indian state of Jharkhand, a particularly gruesome incident in May 2017, when seven people without any obvious criminal intent, were lynched on suspicions of running a child trafficking racket. Four of the victims were cattle-traders who happened to be passing through the district at the time. They belonged to a religious faith – the largest minority in India – that has been long stigmatised for its ostensible disregard for the cow, sacralised as an object of veneration by some within the majority faith. Rumours of the child trafficking ring had circulated over WhatsApp for at least a month and may have fused with a heightened vigilantism against people of the stigmatised faith, to provoke the hideous act of violence.

Photographs and videos of the lynching were widely circulated through WhatsApp and other social media soon afterwards. There was nothing to suggest that the baleful mood had abated since, though few seemed prepared for the crime of December 6 in Rajsamand district of Rajasthan, when a young man randomly picked up a migrant worker in his neighbourhood, hacked him savagely and after failing to decapitate him, set him afire. Shot on mobile phone by the man's 14-year old nephew, the crime was soon circulating in vivid and gruesome detail on social media, gaining a nationwide audience.

In an unhinged rant delivered to the camera after completing his heinous act, the murderer spoke of his determination to avenge the insults his faith had suffered. Social media had meanwhile exploded with posts in support of the killer, with the video recording of the murder being shared using a variety of user identities. Within days, an effort at funds mobilisation had helped gather a reported three hundred thousand rupees for his wife.

Social media and the legacy outlets – print and TV – have a mutual relationship that is not yet clearly understood. But it is a likely hypothesis that excess on one side could be dampened by sobriety and responsibility on the other. In junctures of inflamed sensitivities and heightened vulnerability to violence, legacy media could conceivably play a role to lessen probabilities of contagion. Yet a close audit of media content that day and the next by the fact-checking website

Altnews.in, showed that “the gut wrenching news from Rajasthan was largely ignored on prime time”.

These skewed priorities were not confined to the news channels: a comparison of the Delhi editions of various newspapers underlined that it was shared in print too. “It is no longer surprising”, the Altnews.in study concluded, “to see sections of mainstream media gloss over news that could put the establishment in the dock for its ineptness if not subtle encouragement to elements who are out to destroy the social fabric”.

Smart phones, fake news

These phenomena remain to be studied and India offers a rich laboratory with its mix of media, all of which show continuing signs of growth, though some sectors are clearly failing to get their revenue calculations right. Statistics may often have no more than a brief utility in the rapidly changing scenario of the modern media, but they could be used provisionally to gauge which way the winds are blowing. In 2011, as Robin Jeffrey – the renowned media scholar who has written celebratory accounts of how the newspaper has transformed India – set out to research the revolutionary impact of the cell phone, India had 100 million newspaper copies coming to market every day, and an estimated 600 million cell phones in use. In his book co-authored with Assa Doron and published in 2013 under the title *The Great Indian Phone Book*, the authors saw these figures as portending momentous change, though the future relevance of the newspaper seemed assured.

By 2017, the figures had not changed very much in respect of newspaper numbers, though there were growing doubts over how much of it was mere artifice to keep advertisers interested. Cell phone users – or at least the number of active SIM cards, which is its closest proxy – had topped one billion by then. Though these numbers tell their own story, it would remain incomplete without an understanding of how the vast population of cell phones is being used.

In September 2016 a new entity came into India’s universe of information transactions, with a splashy celebrity launch in the western metropolis of Mumbai. Promoted by India’s largest business conglomerate, Reliance Industries, under the brand-name Jio, the new entrant into the cell phone services market promised free data traffic over its “fourth generation” or 4G network (alternately called “long-term evolution” or LTE). Already vulnerable to mounting debt servicing obligations, other telecom and internet service providers were rattled. Their protests to the regulatory authority though, went unheeded.

In its June 2017 edition, the Ericsson Mobility Report which has become something of a standard reference source for trends in the telecom and internet domains, observed that total global “traffic in mobile networks increased by 70 percent” between the end of the first quarter of 2017 and the corresponding point the earlier year. “Part of this increase”, it said, “was due to one Indian operator’s introductory LTE offer that included free data traffic”. Mobile subscriptions had registered a 4 per cent growth over the year. In terms of the net additions during the

relevant quarter of 2017, India had the largest number at 43 million, with China second at 24 million. “The strong subscription growth in India”, the report concluded, “was mainly due to an attractive LTE ‘welcome offer’ by one operator, with free voice and data”.

Globally, smartphones accounted for 80 per cent of the total number of new mobile connections in the quarter, a figure expected to increase rapidly. Data traffic over mobile networks in 2017 grew 70 per cent globally, with video signals accounting for over 50 per cent of total traffic. Jio’s entry in India had contributed to a dramatic growth in data traffic. Though the report uses a broader geographic category (India, Nepal and Bhutan), the vast part of the increase in data traffic in this region between 2016 to 2017 – 0.3 exabytes per month to 1.0 – could be attributed to India. Data usage per smartphone within this geographic region increased from 1.5 to 4.1 gigabytes per month over the year.

India’s trajectory is a few steps behind the global trend in some respects, though the magnitude of the transition, because of the sheer size of the country, has attracted global attention. The Reuters Institute for the Study of Journalism (RISJ) has since 2011 been carrying out an annual survey of the digital media with substantial samples drawn from a large number of countries. While India is yet to figure in this annual survey, the global trends it highlights are clearly applicable in India and the evidence comes both anecdotally and from evidence from diverse sources.

In its survey published in October 2017, the RISJ identified a number of distinct trends. There was firstly, an increasing dependence on the smart phone for accessing news and information. “Distributed discovery” was becoming more important, with particular news sources less likely to be remembered than the platforms they were discovered on. Beyond these platforms, the growth of “private” messaging apps such as WhatsApp in news discovery was growing. And with all these multitudes of sources and choices, the vital attribute of “trust” was eroding in both social media and news.

Sensationalism reigns

In a scenario of great uncertainty, traditional media have been trying to gain some leverage through the online space, driving traffic to their sites using the hashtag as bait.

The hashtag strategy perhaps goes along with an editorial policy of soft-peddalling the criticism of established authority, since the largest number of mouse-clicks today seem to be reserved for news items

– fake or otherwise – that embellish the image of the ruling party and its top leadership.

This goes along with a tendency, especially marked in the visual media and India's bustling ecosystem of news channels, to play up the trivial and the sensational.

This tendency was most in evidence over the year under review in coverage of the death of the Bollywood actor Sridevi Kapoor – often celebrated as India's first female superstar – in a hotel room in Dubai in February 2018. A thorough forensic audit was a legal necessity under Dubai law, given the circumstances of the death. This process alone and the findings that emerged were sufficient to trigger a frenzy of speculative reporting on India's news channels, complete with news anchors and reporters re-enacting the hotel room scenes in the minutes before the actor's death. It was sharply critiqued as “voyeuristic” and “insensitive” by commentators in India's relatively more sober print media. Social media meanwhile, brimmed over with posts using the “death of news” hashtag or its equivalents.

Reporting that takes on and explains the full implications of policy choices the government has committed itself to, could be hazardous. In February 2018, The Tribune, headquartered in the northern Indian city of Chandigarh, ran a series of stories on the security vulnerabilities of an ambitious national database of Indian citizens. The reporter assigned to the story was able to obtain biometric and other information about registered Indian citizens through the mere payment of five hundred rupees (about USD 8). In response, the Unique Identification Authority of India (UIDAI), which runs the project, filed a criminal complaint against the reporter, the newspaper and its editor.

This manner of “strategic litigation” to stop critical reporting was in evidence in a story carried by The Wire, a news portal that has earned a substantial readership with its energetic fact-checking of official statements and claims. In October, the news portal ran a story documenting how a company owned by Jay Amit Shah, son of the ruling party president, had increased its annual revenue an astounding 16,000 times in just a year. It was subsequently learnt that Shah had contacted the legal officers of the Government of India for advice even before the story was published, after getting a sense of what was coming from the news portal's outreach effort to verify facts. Once the story appeared, Shah filed a criminal defamation suit for no less than a billion rupees (USD 15 million) that had all the hallmarks of an official censorship attempt through the endless harassment of court summons and adjournments.

Two senior journalists from Vice India – the local arm of a global website – quit when pressured to kill a story about an activist of the ruling party's youth wing, who was with full and informed consent, willing to render a candid account of his experiences as a gay individual within an intolerant political milieu. In a phone call to the reporters, the chief executive of Vice India

cautioned that a phone call from the ruling party president was the last thing they wanted to receive.

Police raids in June 2017 on the offices and other premises of New Delhi Television (NDTV), on unsubstantiated allegations of money laundering, led to worries that one of the few news channels willing to give critical voices some space, was under threat.

In Kashmir, always a challenging milieu for journalism, news photographer Kamran Yousuf was arrested while covering demonstrations in September 2017, on charges of causing public disorder and fomenting unrest. In a charge-sheet filed in court three months later, the National Investigative Agency (NIA) – a specialist arm dealing with terrorism offences – accused Yousuf of not being a “true journalist”.

To merit that status, the NIA wrote, he would have to show greater commitment to covering events such as the “inauguration of a hospital, school building, road, (or) bridge”, or the “statement of political parties or the government of India”.

Biting the bullet

Two journalists were killed in the restive North-East of India, both in the state of Tripura. Sudip Dutta Bhowmik, a 49-year-old journalist working for a local daily in the state capital of Agartala, was shot dead in November, within the base of an armed police force specialising in anti-insurgency operations. He had in the weeks prior, published a series of reports on corruption within the top command of the force.

Just two months before, 27-year-old Shantanu Bhowmick, who worked for a news channel in Agartala was seized by armed activists as he covered a demonstration of the Indigenous Peoples’ Front of Tripura (IPFT). He was taken away from the scene of the demonstration and his body found at a spot some 30 km from the state capital. In elections to the state legislative assembly held in March 2018, the IPFT in alliance with the ruling party at the national level, won eight of the nine seats it contested and assumed a number of offices in the state cabinet.

Gauri Lankesh, editor of an eponymous weekly journal published from the southern Indian city of Bengaluru – capital of Karnataka state – was shot dead as she entered her home early one evening in September 2017. As the Indian media community sought to come to terms with the shock and trauma, one of the many warriors for the new hyper-nationalism in the virtual space tweeted a message that the “merciless” murder of “Commy (sic, Commie) Gauri Lankesh” was all about her deeds coming back to haunt her.

Gauri Lankesh was an outspoken journalist who inherited Lankesh Patrike, a newspaper that her equally irreverent and iconoclastic father had founded and named after himself. She had since kept that effort at sharp social critique afloat under her own name, associating herself with human rights causes and speaking up strongly and frequently against the effort to stifle dissent under the cloak of the new nationalism.

Gauri Lankesh’s assassins were waiting for her as she arrived home and sped away on motorcycles after shooting her dead. The method was eerily similar to that employed in three murders of public figures involved in campaigns against superstition and religious obscurantism: Narendra Dabholkar in the western Maharashtra city of Pune in August 2013, Govind Pansare in the southern Maharashtra town of Kolhapur in February 2015 and M.M. Kalburgi in the northern Karnataka town of Dharwar in August 2015. Unlike in the three earlier instances, one arrest has been made in the Gauri Lankesh killing. K.T. Naveen Kumar, allegedly an activist of an extremist group from a southern district of Karnataka, was arrested in March 2018, six months after the murder. Very little has since come to light about the circumstances of the murder and the others who may have been involved.

Incitement to murder, sexual violence and extreme nationalism – which often takes the form of a bullying partisanship for Indian sport, principally involving the iconic national cricket team – have become accepted parts of social media practice. Mainstream media which has long years of experience in the more sober and responsible idiom, could potentially call out these abuses, but financial fragility renders their voice weaker than in earlier years. The menacing prospect today in India is that the mainstream media may be opting to piggyback on the rampant abuses of the social media, to retrieve their commercial fortunes from a rapid plunge into the red.



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