



## INDIA

# DIVERSITY ON THE BRINK

**P**olitics is always first on the order of business of the Indian press, the calendar in a complex, federal polity being packed with electoral contests at some level or the other.

Five keenly contested elections to state legislative assemblies in the latter half of 2018 were a prelude to the seven-stage poll by which India will elect its 17th Lok Sabha, or lower house of parliament, by May 23, 2019. But the polling process in the world's largest democracy took place against a backdrop of serious allegations of bias in the Indian media and the growing problem of fake news. Until recently, the main challenge that election oversight bodies faced was identified as 'paid news', or candidates obtaining favourable media coverage in exchange for cash. But fake news and online abuse, propelled by social media, have been game-changers.

## FACTS, FICTION AND PROPAGANDA

In notifying the country's polling schedule, the Election Commission of India (ECI) made special mention of the menace of fake news and hate speech. Social media campaigns, which could previously evade ECI scrutiny, must now be disclosed by every candidate. The ECI has also put in place an app that enables any private individual to record a complaint where an

offence over social media is detected.

Responding to an urgent call from the ECI on March 19, social media platforms and internet services instituted a claimed stringent audit of content. According to its public affairs head for South Asia, Facebook appointed seven fact-checkers specifically tasked with monitoring election related content in India. However, the process is for Facebook to refer specific stories which are flagged by users to the fact-checking process.

The three-page code drafted by social media platforms and internet services gives a commitment to keep a channel open to the ECI on all matters of priority, submit featured political advertising to certification by an empowered body, and ensure the transparency of promotional material using relevant "disclosure technology". Participants to the code have pleaded for recognition of their special status as neither "authors nor publishers". The Ministry of Electronics and Information Technology (MeitY) initiated public consultations on "intermediary liability". Section 79 of India's Information Technology Act (ITA) already specifies that an "intermediary" – a telecom service or social media platform – could be held liable for content. Exemptions are granted where it does not "initiate the transmission, select the receiver of the transmission, (or) select or modify the information contained in the transmission".

## THE POLLING PROCESS IN THE WORLD'S LARGEST DEMOCRACY TOOK PLACE WITH A BACKDROP OF SERIOUS ALLEGATIONS OF BIAS IN THE INDIAN MEDIA.

working journalists, editors and owners of the news media in clear violation of stipulated guidelines was termed as “veiled censorship”. The IJU also protested against the decision of the Ministry of Information & Broadcasting to appoint a committee consisting largely of government officials and a few organizations to recommend a regulatory framework for online media.

### HYPER-NATIONALISM REIGNS

Nationalism was a key issue for the period under review. In particular, TV news was found lending its voice to feverish public frenzy after a terror strike in Pulwama district in the state of Jammu and Kashmir on February 14.

Neighbouring Pakistan was reflexively blamed and within days, a raid carried out by Indian Air Force combat jets deep within the territory of the neighbouring state, became the occasion for perfervid celebrations on the TV news channels. Pakistan retaliated within a day. Though full details remain unclear, India lost a helicopter on home ground, while one fighter jet was shot down over hostile territory. A combat pilot was taken captive by Pakistan, though this did not seem to dampen the mood of triumphalism on Indian news channels.

There was little hint of sobriety or restraint when Pakistan announced within a day of his capture, that the Indian combat pilot would be returned home. The unrelenting media hysteria seemingly gave Pakistan pause. It finally delayed the release of the pilot, till after he was recorded reading out a prepared script, praising the professionalism of the Pakistan army and sharply attacking the Indian media for adding “unnecessary fire and chilli to its words”. Contrary to the Geneva Conventions norm, that captured enemy combatants will not be put on unseemly and humiliating public display, the recording was broadcast over Pakistan national TV and eagerly picked up by the Indian media, which had no other source for documenting those moments prior to the pilot's release.

In November 2018, a survey by the BBC World Service revealed that “nationalism” was a major driver of fake news. It found that “facts were less important to some than the emotional desire to bolster national identity” and “suggested that right-wing networks (were) much more organised than on the left, pushing nationalistic fake stories further”.

The disturbing pattern of online trolling, including physical threats against journalists seen to be critical of the government's approaches on security and other policy issues continued, often in severely aggravated form.

Though a pattern going back many years, especially where female journalists are involved, the aftermath of the Pulwama terror attack saw a particularly nasty surge of threats against independent media practitioners. This period also saw a spike in unverified information circulated on social media being amplified in mainstream media, testing the credibility of the mainstream media and putting at risk the back-bone of the media industry – journalists and media staff.

### RISKING LIFE AND LIMB

The precarious situation for India's journalists remains a key concern for journalists and the organizations that represent them. The cold-blooded murder of editor-in-chief of daily *Rising*

TV news in particular was found lending its voice to feverish public frenzy after a terror strike in Puwama district in the state of Jammu and Kashmir. India and Pakistan's troubled ties risked taking a dangerous new turn on February 15 as New Delhi accused Islamabad of harbouring militants behind one of the deadliest attacks in three decades of bloodshed in India-administered Kashmir. CREDIT: ARUN SANKAR / AFP

But intermediaries are also obliged to respond when notified about content that could potentially lead to unlawful conduct. The MeitY's proposal now imposes a “due diligence” responsibility for offences that are defined by a broad list of circumstances that have no mention in Article 19. Any violation of terms of use could lead to termination of services. They can also be compelled by “lawful order” to provide information to any designated “government agency”.

Telecom companies and social media platforms have attacked the proposals as excessive and inherently prone to abuse. Civil society groups have decried the violation of the spirit of the Supreme Court ruling in the Shreya Singhal matter striking down the over-broad Section 66 of the IT Act.

Government intervention in regulatory bodies came in for sharp criticism in the period too.

Journalists' bodies strongly resisted attempts by the government to control autonomous institutions such as the Press Council of India by reconstituting them with hand-picked members.

The Indian Journalists Union (IJU) also criticized the manner in which the Central Press Accreditation Committee (CPAC), which grants accreditation to representatives of various news media organizations, was reconstituted. The reconstitution of the body without the representatives of organizations of

An Indian citizen of Masaladanga enclave shows his ink-marked finger after casting his vote at a polling station in Cooch Behar district on April 11, 2019, during the first phase of general election in West Bengal. India's mammoth six-week general election kicked off April 11, with polling stations in the country's northeast among the first to open. CREDIT: DIPTENDU DUTTA / AFP



## IN NOTIFYING THE COUNTRY'S POLLING SCHEDULE, THE ELECTION COMMISSION OF INDIA (ECI) MADE SPECIAL MENTION OF THE MENACE OF FAKE NEWS AND HATE SPEECH.

*Kashmir*, Shujaat Bukhari, rattled Kashmir's media community and drew massive outrage, nationally and globally. Around 7pm on June 14, the 50-year-old journalist exited his office in Srinagar's Press Enclave, which houses the majority of newspaper offices including *Rising Kashmir*. Three gunmen showered bullets on his vehicle, leaving him dead. Two police personnel guarding him were also killed in the brutal attack.

Police held militant group Lashkar-e-Toiba responsible for the murder, and released a list of four suspects including Pakistan-based Sajad Gul, Naveed Jatt, Azad Ahmed Malik, Muzafar Ahmad Bhat as the killers. While Jatt and Malik were killed last year, Bhat is still at large. In the face of police 'claim' of solving the case, the Kashmir Editors Guild questioned the unwarranted delay in filing the charge-sheet in the murder case.

Bukhari, a peacenik and a regular at Track 2 conferences pushing for dialogue to reduce tensions between India and Pakistan, was the 19th journalist to fall to bullets in the Kashmir Valley since the insurgency began. Of the 18 journalists felled since 1989 in the Kashmir Valley, six were shot dead by security forces, five each by militants and unknown gunmen and two in blasts.

Bukhari's assassination was followed by the customary accusations from all sides of the Kashmir issue. Like much else that happens in the region, there is very little of clarity that emerges from the fog of the long-running insurgency.

On September 1, 2018, following a nationwide protest call by IFJ affiliate the Indian Journalists Union (IJU), thousands of journalists held rallies and protests denouncing attacks on freedom of the press and expression. The collective action drew attention to the increasing curbs on the freedom of press through covert and overt measures by governments, and alleged misuse of government powers to beat newspapers and channels perceived to be critical of their actions.

The action was to fight against what is described as 'undemocratic attacks' on independent media and the safety and security of journalists in India. It reiterated the need for strong laws to stave off the menacing growth of attacks and killings of journalists in the country. It said more than 120 journalists had been killed in the country over 25 years, with 95 percent of cases "still languishing in the labyrinths of pending court cases". Such attacks and the growing atmosphere of fear amongst working journalists were not only impacting the profession but also the public's right to information. While journalists in cities face immense challenges, the situation of journalists in small towns and villages is even more precarious.

### HAZARDOUS HINTERLAND

A single day in October highlighted the dangerous reality of journalists reporting in the field. On October 30, video journalist Achyutananda Sahu was killed while covering preparations for upcoming state elections in Chhattisgarh. Sahu was part of a media team from government-run Doordarshan television, embedded with local police. He was killed during crossfire when the group came under attack from a Maoist militant group. The other two Doordarshan media workers with Sahu were uninjured in the attack.

The same day, Chandan Tiwari, reporter for Aaj News in Chatra district of Jharkhand was found unconscious in the jungle after having previously lodged two police complaints over threats he had received. Tiwari later died in hospital. Jharkhand witnessed another journalist's death in early December when the body of Amit Topno, 35, a tribal journalist who had been covering a movement over tribal land rights, was found on the road near state capital Ranchi.

Three journalists covering the up-coming elections were



On September 1, 2018, following a nationwide protest call by the Indian Journalists Union (IJU), thousands of journalists held rallies and protests denouncing attacks on freedom of the press and expression. CREDIT: IJU

detained in October by the Chhattisgarh Police for eight hours in Narayanpur in Bastar district without any specific charges and released only after their phones were checked and memory cards copied. Following a pattern of ever-rising attacks on journalists by both the state and non-state actors, the IJU and the National Union of Journalists India (NUJ I) have been demanding enactment of a safety law from the Central Government. The Maharashtra government already has one in place.

Besides the long arm of the state, natural calamities also took a toll. Two journalists in Kerala died while covering the massive floods that swept across the state in July. Bipin Babu and K.K. Saji were part of a five-member team assigned by a leading daily Mathrubhumi to cover floods that were sweeping through the central district of Kottayam. Three members of the team were rescued when their boat capsized, but Babu and Saji perished in the accident.

Reporters in rural Kashmir say they are more vulnerable to being questioned and harassed. On March 25, 2019, two policemen in civilian clothes arrived in the neighbourhood of *Greater Kashmir* Bureau Chief in south Kashmir, Khalid Gul. They carried with them a summons against him for a report on an attack on a local politician two days earlier, and Gul said a statement was forcibly recorded from him at the police station.

He said police officials in the districts will not accept his calls and describes it as harassment for his reporting. The situation in southern Kashmir, comprising three districts, is especially grim with frequent gunfights and attacks.

"Either I have to greet them every morning and not report anything, then nobody will have a problem with me," said Owais Farooqi, who is a reporter with *Kashmir Reader* based in Bandipora in north Kashmir. Besides threats and insecurity, he says the biggest challenge for journalist is to send a story when the internet is suspended. "We have to travel to other districts to file stories or just do it by sending SMS. We travel for kilometres either by foot or if the situation is suitable then by the vehicles in search of internet," he said.

## BESIEGED VALLEY

Like the north-east, the insurgency prone region of Kashmir continues to pose enormous challenges for journalists. The Himalayan region of the state of Jammu and Kashmir (J&K), the main bone of contention between India and Pakistan, has been reeling under a full-blown armed insurgency since 1989.

Since the killing of the Lassa Koul, director of the Doordarshan station in Srinagar in 1990 by suspected militants, at least 21 journalists in Kashmir have been killed due to their work, according to IFJ statistics, making the region the deadliest in the country in terms of journalist killings alone. In the same time, the national total of killings for India was just over a 120.

Armed conflict as well as civilian unrest pose severe challenges for local journalists targeted by all sides of the conflict. The killing and intimidation continued in Kashmir in 2018 and is the key reason the IFJ continues to give focus to the media situation there.

While the journalist community was still in mourning following Shujaat Bukhari's assassination, a young journalist was jailed under draconian security legislation. In a night raid on August 27, 2018, Jammu and Kashmir police arrested the assistant editor at *Kashmir Narrator*, Aasif Sultan, from his home in Srinagar's Batamaloo neighbourhood. Sultan was illegally held in police lock-up for four days until being formally arrested on August 31. The announcement followed after Kashmir-based journalists associations questioned his illegal detention.

Police charged the 30-year-old for "harbouring militants" and giving support to a "proscribed" militant organization. Sultan was charged under the Unlawful Activities (Prevention) Act, an anti-terror law which has come under sharp criticism for curtailing freedom of expression. Local and international media organizations have repeatedly urged the state government to withdraw charges or release him on bail.

To date, Sultan continues to languish behind bars some eight months on. It is believed that Sultan was under watch by the police since he featured a story in July on the second anniversary of the death of the young Kashmiri militant Burhan Wani, a killing that sparked off months of strife on the streets.



Relatives and friends of slain editor-in-chief of the Srinagar-based newspaper *Rising Kashmir* Shujaat Bukhari mourn during his funeral procession at Kreeri on June 15, 2018. Thousands of mourners gathered for the funeral of the veteran journalist shot dead by unidentified gunmen on a motorbike outside his office in Srinagar. CREDIT: TAUSEEF MUSTAFA / AFP

Sustained surveillance by state agencies, especially the police, to monitor the activities of media workers is well underway in the Valley. Social media platforms are on the State's radar with content being closely monitored. Among those monitoring is also a loose collective of trolls in cahoots with state institutions resort to name-calling, smear campaigns and sometimes threats against journalists who question and report facts contrary to the State line. Intentionally, these actions are aimed at criminalizing journalists by default and restricting their access to officials.

Photojournalists frequently bear the brunt of armed forces and mobs. Four photojournalists were injured after security forces fired pellets on them on October 30, 2018, while covering an anti-militancy operation in south Kashmir's Shopian. Waseem Andrabi of *Hindustan Times*, Nasir ul Haq of *Rising Kashmir*, Junaid Gulzar of *Kashmir Essence* and Mir Burhan of ANI were hit in the eyes, head, and face but thankfully did not lose their vision.

Pellets are lethal lead metal balls regularly deployed against protesters in the Valley. The pump-action gun which disperses high velocity pellets across a wide expanse, were introduced in a significant way into the Jammu and Kashmir police force's enforcement repertoire following mass demonstrations in 2010. This followed widespread public outrage over the use of live and lethal ammunition to enforce crowd control, which caused massive loss of life through that cycle of unrest. The pellet gun was introduced on the understanding that it deters, but does not kill. Yet, the injuries it inflicts have proven lethal on occasion and often cause lasting physical damage, including potentially, permanent loss of eyesight.

The weapon, which Amnesty International wants banned, is responsible for the blinding, killing and traumatizing of civilians in Jammu and Kashmir. Two journalists Zuhaib Maqbool and Mir Javid were each blinded in one eye after being hit by pellets in 2016. But there is no end to the trauma for them, as expensive medical treatment continues.

With journalists working amid State, separatist and militant parties, any perceived slant or oversight in reporting, even if unintentional, can be extremely dangerous.

On October 17, about a dozen journalists were beaten while covering a gunfight between security forces and militants in Srinagar's Fateh Kadal neighbourhood. While police physically assaulted the journalists, allegedly in front of other senior officers, and the incident was recorded on camera, no action followed.

Separatists frequently issue subtle threats to media outlets and workers for not carrying their press statements and one young reporter was pressured to reveal a source by a separatist group, which also threatened to publicly blacklist and ostracize the journalist until the issue was resolved with separatist leader. The source was not revealed, but it sheds light on the issue of pressure from non-state actors and a lack of state accountability on media threats.

In May 2018, Zakir Rashid Bhat alias Zakir Musa (who claims to head Al-Qaeda affiliated Ansar Ghazwat-ul-Hind), threatened journalists with dire consequences if they continued taking photos of women participating in funerals of militants.

In recent years, vulnerability has grown manifold with journalists in the Valley regularly falling prey to violent mobs. The public aversion to media in the troubled region is little helped by news channels seen as lapping up a nationalist and pro-government stand on the Kashmir issue. In private conversations, journalists narrate sordid accounts of being harassed, attacked and threatened both on the ground and social media.

## RESTRICTIONS AND CONTROL

There is little doubt that the ongoing developments and conflict in the Kashmir Valley have made the region a significant place for news outlets across the globe. But like with other zones of conflict in the country, there remains "restricted" access for foreign journalists working for news organizations outside of India.

In 2018, the Government of India's Ministry of External Affairs revived a dormant rule and sent an official dispatch to foreign news bureaus in New Delhi on May 22, asking them to get permission/clearance before travelling to Jammu and Kashmir. This fettered access to foreign journalists and restricted them

from reporting. Among them, *The Washington Post's* outgoing India bureau chief, Annie Gowen, was not granted a permit last year by the Indian government. Another foreign journalist, Joanna Slater from *Washington Post's* India Bureau highlighted that the permit granted to Kashmir for her story in March limited her to Srinagar and included a condition that she not meet with people engaged in "anti-national activities".

On January 26, India's Republic Day, the state police's security wing stopped seven journalists from reporting the event in Srinagar, prompting other journalists to boycott coverage. Though the state government later called for a meeting with official representatives of the journalists associations and assured them of no hindrance in the future, no action was taken against the officers responsible. The journalists, including seniors who work for international news agencies include Tauseef Mustafa (AFP), Mehraj-u-din (APTV), Yusuf Jameel (*Asian Age*), Habib Naqash (*Greater Kashmir*), Danish Ismail (Reuters), Umar Mehraj (APTV) and Aman Farooq (*Kashmir Uzma*).

When curfew or restrictions are imposed, curbs are also imposed on the movement of journalists. Senior journalist Farzana Mumtaz reported that uniformed personnel stopped her during curfew/restrictions last year in the city, despite proving her identity. She later had to call a top police officer for intervention in order to get approval to move around and do her job.

Reporters and photojournalists are restricted from covering events in other non-formal ways. On October 11, 2018, media workers were stopped from covering the funeral of a militant leader Manan Wani in Kupwara, who was formerly a doctoral candidate at Aligarh Muslim University before signing up with the Hizbul Mujahideen. Almost a dozen journalists were stopped by policemen on the road and not allowed to proceed. Similarly, journalists are often stopped by youth who ask them to show their social media timelines or stories before allowing to proceed.

Journalists active online in the Kashmir Valley are closely monitored by police and intelligence wings. After sharing photos or information, journalists have been asked to describe the

"motive" behind their posts, especially those of killings of civilians during protests and are sometimes asked to take down posts.

WhatsApp groups are also closely monitored and documented. "The surveillance is so acute that a reporter immediately gets the screenshots of what he or she has posted on social media from police and intelligence officials," a journalist noted.

### STARVING INDEPENDENT MEDIA

Valley news outlets remain in economic dire straits due to recurrent shutdowns and ongoing conflict. Without a vibrant corporate sector due to the political uncertainty in the region, the denial of advertisements is aimed at serving a blow to leading newspapers at the forefront of reporting the conflict. *Kashmir Reader* had previously been banned for three months from October to December 2016 with no official reason given. But the *Reader* was a leading voice in reporting the conflict, giving extensive reportage of protests and civilian killings in the aftermath of the killing of Hizbul Mujahideen commander Burhan Wani on July 8, 2016.

In the weeks following the Pulwama suicide attack, there was a crackdown on the press by restricting advertising revenue. Though there was no official order, state government advertisements were stopped to three leading newspapers, *Greater Kashmir*, *Kashmir Reader* and *Kashmir Uzma*. In an unprecedented move, major newspapers published empty front pages on March 10, 2019 to protest the denial of advertisements.

Advertisements from the Directorate of Advertising & Visual Publicity (DAVP), the nodal agency to undertake multi-media advertising and publicity for various ministries and departments of the Government of India had been stopped back in 2010 on grounds that the Kashmiri press was partisan. It is worth noting that in a similar case of suspension of advertising by the state government to *Rajasthan Patrika*, the Supreme Court in September 2016 ordered that advertising be restored, as withholding it amounted to curtailing the freedom of the press.

## THE PELLET GUN WAS INTRODUCED ON THE UNDERSTANDING THAT IT DETERS, BUT DOES NOT KILL. YET, THE INJURIES IT INFLICTS HAVE PROVEN LETHAL ON OCCASION

Clashes erupt as the National Investigation Agency launched a raid at the Kashmiri separatist leader Mohammad Yasin Malik's residence in Srinagar's Maisuma area on February 26, 2019. CREDIT: HABIB NAQASH / AFP



**IN THEIR EVASION OF THE ISSUES RAISED IN THE COBRAPOST REVELATIONS, THE MAINSTREAM MEDIA MAY HAVE BEEN GUILTY OF OVERLOOKING THE SINGLE GROUND RULE OF RESPONSIBLE JOURNALISM: THAT OF "COMPELLING, OVERRIDING PUBLIC INTEREST".**

## DEADLY ECONOMIC PRESSURE

By the government's own admission, less than ten percent of newspapers in the country have fully implemented the Wage Board recommended wages to the working journalists and other newspaper employees.

IJU president, Amar Devulapalli, said the biggest danger to independent journalism in India comes not only from physical attacks, but also non-payment of statutory wages to working journalists. But upholding good standards in the profession was simply not possible under threat to personal safety and on an empty stomach, he added.

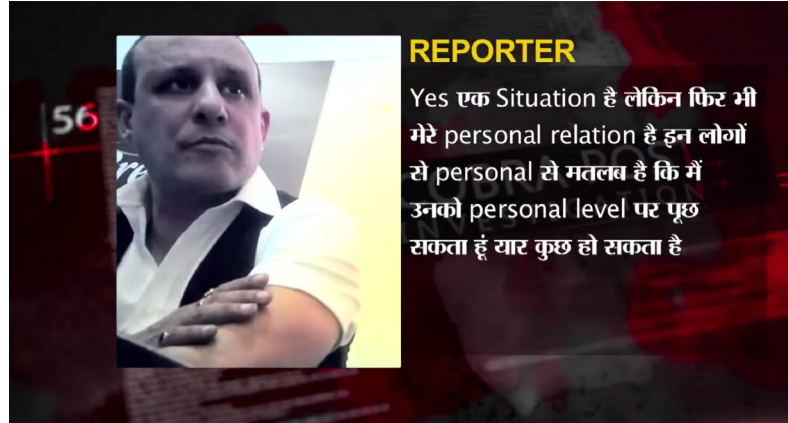
Instead, rather than implementing the recommended wages, all major newspapers have "opted out" for contract employment. Rural journalists remain the worst affected of all with no newspaper paying statutory wages. This media is also known to practice the worst type of 'hire and fire' policies.

According to a survey conducted by the Telangana State Union of Working Journalists (TUWJ), one of IJU's affiliates, in 2018, nearly 220 journalists had died due to work-induced health complications between July 2014 and August 2018. The average age of deceased journalists was 46 years old, 75 died due to heart attack, 10 of brain haemorrhage, 20 of liver and kidney-related diseases, 21 were killed in road accidents and five committed suicide.

The TUWJ maintained that working conditions for journalists were creating an environment that is unworkable. It also claimed that 90 percent of journalists in the state were unpaid, as no newspaper in Telangana had implemented the wage board to its full time journalists. Stringers are also working in precarious situations, making up 80 percent of the journalist work force in Telangana.

In a memorandum to the Telangana state governor ESL Narasimhan, the union said: "The newspapers and news channels are putting tremendous pressure on the reporters to secure advertisements and increase their circulation. They do not have weekly offs or other holidays. Almost all of them are on 24 hour duty without rest or respite. Constant tension, irregular or scant wages is taking a toll on the health of journalists leading to premature death."

The largest news agency in India, Press Trust of India (PTI), headquartered in New Delhi sacked 297 employees on September 29, 2018. Its Administrative Officer MR Mishra issued a blunt notice that read: "The following employees whose names appear in the list displayed with this notice have been retrenched from the employment of the PTI with immediate effect."



## REPORTER

Yes एक Situation है लेकिन फिर भी मेरे personal relation है इन लोगों से personal से मतलब है कि मैं उनको personal level पर पूछ सकता हूँ यार कुछ हो सकता है

Cobrapost's undercover 'Operation 136' investigating corruption in the India media, was released in April-May 2018. The exposé was largely ignored by mainstream media. CREDIT: SCREENSHOT

The names of 297 employees mainly in non-editorial positions were sacked with management claiming the posts had been made redundant. IJU and NUJI strongly condemned the massive retrenchment of permanent employees in the country's largest news wire agency. All but 52 of the non-editorial staff at PTI remained. On October 1, the PTI employees union and other journalists organizations held a day-long sit-in in front of PTI centres across the country, including the headquarters on Parliament Street in Delhi, protesting the "illegal" mass retrenchment.

On November 27, the Delhi High Court passed an order halting the mass retrenchments. The order, passed on the petition filed by the Federation of PTI Employees Union said that the 'arbitrary policy of the management didn't follow the rules of retrenchment'. However, a month later, a double bench of the High Court put this stay in abeyance, a rude shock for the employees who were suddenly out of job.

The Federation aims to take on the fight, but it may turn out to be a long battle. A similar battle was that by the 272 employees of the *Hindustan Times* (HT), who were fired on one single day back in 2004. After 14 long years, in December 2018, a Delhi court finally ordered HT pay over Rs 14 crore to 147 employees as back wages. Sadly, over 20 employees had died in the interim.

There is little doubt that conventional media continues to be challenged by developments in technology and changes in financial parameters. India remains, according to a recent estimate, the only country where advertising spending in print media continues to increase. But growth in 2018 was weak, a mere 4.4 percent. And despite the expected windfall from campaign advertising, the forecast for 2019 is a modest 5 percent.

Advertising expenditure in television grew 19 percent in 2018 and the current year is expected to be lower, but a nonetheless buoyant increase of 18 percent. The most rapid growth, an estimated 26 percent, has been registered by digital media, with an even higher forecast of 33 percent for 2019. The share of digital advertising in the total is expected to touch 22 percent, still behind TV and print, though rapidly catching up with the latter.

It is yet unclear how this shift in advertising budgets is influencing the content of older news media. Print and TV news have engaged in various strategic manoeuvres to staunch the haemorrhage of advertising to digital platforms. Podcasts are one among the new services gaining traction.

Whether these commercial strategies also constitute



## REPORTER

लोया जी भाई साहब के साथ तो खाली आर्थिक व्यवस्था है पैसे की व्यवस्था है मेरे साथ क्योंकि कई बार नागपुर का थोड़ा agenda रहेगा देववाणी जी का मतलब अपने भागवत जी भाई साहब का अगर मान लीजिए उनकी तरफ से कोई आदेश है किसी minister के



## PRADEEP GUHA

and I will not be happy taking money from you and not delivering products that I have promised to you

inducement for the older media to emulate the “echo chamber” effects of the new, is a matter that seems to cause some worry for seasoned journalists and observers of the media.

## STINGING QUESTIONS

In May 2018, Cobrapost, a website that specialises in the ethically borderline practice of “sting” journalism, released a number of video recordings that showed top executives of the Indian media industry showing an unseemly eagerness to take up the advocacy of a political agenda for assured financial rewards.

Operation 136 was, in most part, ignored in mainstream media reporting and editorial introspection. Pratap Bhanu Mehta, a columnist who enjoys a certain autonomy, found no reason for similar restraint. Cobrapost, he raged, had laid bare, “the thorough contempt Indian media has for the Indian citizen”. Citizens were treated as “infantilised fools”, willing to suspend disbelief given the “thinnest veneer, the smallest gesture” or pretence of covering the news. Instead media owners only acknowledged some measure of accountability to “those who allocate capital or use political power”.

A foreign correspondent wrote a few days later about a “potential scandal” that struck at a “key pillar of Indian democracy” and yet was “barely being reported in the Indian media”. And even if the methods used by Cobrapost warranted a degree of “healthy scepticism”, the questions raised were deeply troubling.

In their evasion of the issues raised in the Cobrapost revelations, the mainstream media may have been guilty of overlooking the single ground rule of responsible journalism: that of “compelling, overriding public interest”.

## COURTING TROUBLE

In late March, 2019, a court in Yamunanagar district in the state of Haryana, granted bail to Apoorvanand and Harish Khare, a columnist and former editor of the widely read daily newspaper *The Tribune*. The charges were “offending religious sentiments” and “causing disharmony between communities”.

At the same time, a court in Kerala, issued notice to TV news anchor Arnab Goswami on charges of insulting the people of the state by referring to them as “shameless” for accepting aid offered by overseas donors after devastating floods swept the state in August 2018.

Goswami’s travails may seem to be on the same scale as the legal harassment suffered by *The Tribune*. Yet it drew very mixed responses, in part because of some journalistic standards that others find deeply worrying. Once conferred the title of the man who wrecked TV news, Goswami has been credited with creating a template for primetime broadcasts dominated by acrimony and a truculent intolerance of alternative views.

Just a few weeks before, a magistrate’s court in Delhi had

directed that that an FIR be filed against Goswami and Republic TV news channel which he heads. This followed a complaint by Shashi Tharoor, a Member of Parliament of the opposition Congress, that Goswami and his channel had possibly hacked into his email account and stolen confidential documents about an investigation into the mysterious death of his wife. Goswami’s keen interest in pinning culpability on Tharoor has been widely read as stemming from the Republic TV promoter, businessman and politician Rajeev Chandrashekar’s keenness to challenge him in the seat he holds.

Chandrashekar has held a seat in India’s upper house of parliament, the Rajya Sabha, since 2006, first as an independent member and since 2018, representing the ruling Bharatiya Janata Party (BJP) and has tangled with the press in the past, securing an injunction against a number of websites in 2018 for their reporting on a possible conflict of interest between defence procurement matters and his investments in several companies that actively bid for defence contracts. In March this year, a Bengaluru city court vacated all such injunctions against the news portal *The Wire*.

Tejasvi Surya, a candidate contesting on the BJP ticket from the southern city of Bengaluru, secured an injunction against any “defamatory” reporting on no fewer than 49 news outlets and websites. The city court order applied to most newspapers published in English and the local Kannada language, both national and local TV news channels, YouTube, Google, Yahoo and Facebook, and even WhatsApp. In a welcome move, the High Court of Karnataka on April 13 lifted the gag order.

Auqib Javed Hakim, a reporter at *Kashmir Observer*, was summoned by federal counter-terror agency, the National Investigation Agency (NIA) to New Delhi. He was questioned for three consecutive days about his interview with separatist leader, Aasiya Andrabi. While he was let go after questioning, his phone was seized by NIA officials and hasn’t been returned to date.

“I am suffering a lot since my all contacts were in the phone,” says Auqib. Repeated reminders to return his phone have been sent to the authorities but in vain. Journalists’ associations in Kashmir reacted sharply, condemning the “intimidation and harassment”.

A young photojournalist from Pulwama in south Kashmir, Kamran Yousuf was early arrested by the NIA in September 2017. It is widely believed the arrest was for photos and videos taken by the photographer showing stone throwing protests, massive funeral gatherings of militants which went viral on social media.

The 21-year-old spent six months behind bars in Delhi and was released on bail on March 14, 2018. He was charged with stone pelting and other “subversive activities” but the NIA could not produce evidence of “any single photo/video showing that the applicant/accused was indulging in stone pelting activities at any site”.

Though released on bail after a Delhi court found that the



Congress party workers wear masks of Indian Prime Minister Narendra Modi (L) and business tycoon Anil Ambani, as they pose in front of a model of a Rafale fighter jet during a protest against the Rafale fighter jet deal, in Mumbai on September 27, 2018. CREDIT: INDRANIL MUKHERJEE / AFP



NIA had no evidence, the charges against Yousuf were not dropped. He was not formally charged until the Press Council of India (PCI) took cognizance of his matter and summoned the NIA for a hearing. In the intervening time, the NIA filed formal charges against Yousuf in a specially designated court, effectively removing the matter from jurisdiction of the PCI, which is not empowered to inquire into matters under criminal investigation.

## LITIGATION OVERLOAD

The thicket of litigation that has sprung up over particular stories is a feature of an increasingly testy and contentious relationship between the Indian media and political and business actors linked to governmental authority. In October 2018, Anil Ambani's Reliance Group filed a Rs 7,000 crore (about USD 100 million) defamation suit against founder editor of *The Citizen*, Seema Mustafa, for its reportage on the Rafale defence deal.

By one count, the corporate leader Anil Ambani, once ranked among India's richest men, has filed 28 defamation suits in a single court in the western Indian city of Ahmedabad. Of those, 20 are against media outlets and practitioners. A tally by one of the newspapers sued for defamation, puts total damages claimed in all Ambani's suits at INR 650 billion (USD 9.4 billion).

Litigants normally are liable to pay court fees in proportion to the monies claimed. Ahmedabad though has a different set of rules, levying a court fee of a mere INR 75,000 (USD 1,080), irrespective of the damages claimed. It is thus a forum of convenience for political and business actors to carry out their campaign of legal harassment of the press.

Many of the Ambani suits were filed to silence media reporting on a high-level defence deal for the acquisition of Rafale fighter jets for the Indian Air Force from France's Dassault Aviation. Ambani is believed to have floated a firm, which was within a fortnight awarded a significant share of the contract value of the fighter aircraft deal. After a series of investigative reports by *The Hindu*, India's Supreme Court took up a petition demanding a new criminal investigation, after having dismissed it earlier.

At the hearing, the Attorney-General of India, K.K. Venugopal informed the Supreme Court that all the documents suggesting

malfeasance in the deal had been obtained through illegal means. The Government, he asserted, would not be obliged to answer questions arising from stolen documents. Media platforms publishing the documents connected with the Rafale deal could be prosecuted under the Official Secrets Act (OSA), he warned.

N. Ram, former editor of *The Hindu* and now chairman of the proprietary company, dismissed any suggestion of impropriety. He said the documents were obtained from "confidential sources" which would remain protected. Finally, it was an unintended outcome of the Attorney-General's submissions, that they testified to the authenticity of the published documents.

At a subsequent hearing, one Supreme Court judge observed that the OSA had been to all practical purposes, superseded by the "revolution in governance" ushered in by the passage in 2005 of India's Right to Information Act (RTI). Hearings will continue, though the Supreme Court is unlikely determine while the electoral process is on.

On April 10, the three-member bench of the Supreme Court ruled unanimously, that the documents would be considered as part of the court's deliberations on the petition. The bench in two separate but concurring judgments endorsed the right of the press in general, to publish sensitive documents of the kind unearthed by *The Hindu* in relation to the Rafale deal.

The occasional triumph aside, the year brought legal travails aplenty for journalists and newspapers without the national profile and financial resources of *The Hindu*.

In March 2019, the High Court in the north-eastern state of Meghalaya found editor Patricia Mukhim and publisher Shobha Chaudhuri of *Shillong Times* guilty of contempt. They were fined INR 200,000 (USD 2,900) each, for the alleged offence of publishing two articles that questioned decisions of the High Court in matters involving the remuneration and post-retirement benefits enjoyed by judges. Though both had responded to a summons from the High Court in December and submitted an apology in February, the judge who happened to be on the verge of retirement, found these insufficient as acts of contrition. Mukhim and Chaudhuri were given a week to pay their fines, failing which they faced six months of imprisonment and a ban on their newspaper. Following a crowd-sourcing initiative,

## MANY OF THE AMBANI SUITS WERE FILED TO SILENCE MEDIA REPORTING ON A HIGH-LEVEL DEFENCE DEAL FOR THE ACQUISITION OF RAFALE FIGHTER JETS FOR THE INDIAN AIR FORCE FROM FRANCE'S DASSAULT AVIATION.

the matter went up in appeal before the Supreme Court, which stayed the conviction.

In November 2018, Manipur journalist Kishorechandra Wangkhem was taken into custody for posting four videos and comments on his Facebook page, criticizing the state government led by the BJP and describing the Manipur chief minister as a “puppet” of Prime Minister Narendra Modi’s federal government. The journalist also went on to criticize the adoption of practices from the northern plains of India into Manipur’s public rituals.

Police reported that the videos “bring or attempt to bring into hatred or contempt, or excites or attempts to excite disaffection towards the government” and held him for six days. Wangkhem was granted bail on the ground that his language though intemperate, may have been an impulsive reaction. The local police however went on to frame charges under the National Security Act, which effectively eliminates all possibilities of bail for a year. Defending its decision to jail the journalist, the Manipur government claimed that the 39-year-old was arrested to “prevent him from acting in any matter pre-judicial to the security of the state and maintenance of public order”.

Wangkhem’s family went on to challenge the detention in Manipur’s High Court with political opponents and human rights advocates saying that it was an attempt to silence dissent.

On April 8, the Manipur High Court quashed all charges against Wangkhem and ordered his immediate release. There is a demand that reparations be rendered the wronged journalist for loss of reputation and damage to health, though the chances of securing this seems unlikely in the current climate.

Orders for the arrest of Abhijit Iyer-Mitra, a national security commentator, were issued in September 2018 by police in Odisha in eastern India, after a Twitter post which allegedly ridiculed the iconography of some of the state’s most revered temples and ascribed it to a “conspiracy of the Muslims”. Iyer-Mitra was granted bail but went on to cast slurs against the elected legislators of Odisha.

A month after the initial arrest warrant was issued, Iyer-Mitra was taken in to custody from his home in Delhi by Odisha police, on the additional charges of breach of legislative privilege.

Legislative privilege is an ill-defined provision and like contempt of court, invoked with extreme caprice to curb the public right to free speech. Iyer-Mitra spent 43 days imprisoned in what seemed collateral punishment for his friendship with an influential politician from Odisha, then going through a rift with the chief minister. He finally walked free after all charges were dropped. His incarceration was also a time of the failure of solidarity among media professionals. As in the case of TV news anchor Arnab Goswami, this was another instance when political partisanship overwhelmed principle, occasioning rather more feeble protests than warranted over the arbitrary application of a law to punish a media practitioner.

In the central Indian state of Chhattisgarh, long in the grip of a Maoist insurgency, editor Kamal Shukla of *Bhoomkaal* magazine was charged under the draconian law of sedition for sharing a cartoon on social media with a few comments of his own. In July 2018, the Chhattisgarh High Court granted him anticipatory bail, which gives him immunity from arrest. In issuing its order, the High Court cited well-established case law, often ignored, on essential conditions that must be met before sedition law is invoked.

## GROWING MONOPOLIES, LAX REGULATION

Soon after India’s election schedule was announced in March, 2019, cable TV and DTH operators began telecasting a channel bearing the name NaMo TV, an obvious acronym of Prime Minister Narendra Modi’s name. In April, news websites reported the channel had been broadcasting for well over a week with no broadcast licence or the statutory security clearances.

What NaMo TV offered, as reported by *Scroll*, was “an unending stream of Narendra Modi’s speeches and other pro-BJP material”. Under persistent questioning, the head of the BJP Information Technology cell explained that NaMo TV was a feature of a campaign app they had launched. It was, as various commentators noted, not classifiable as news, but had not been certified as advertisement. At time of publication, the ECI was reported to be urgently studying if the matter of NaMo TV merited its intervention and possible stricture.

Over a year when regulatory matters issues were addressed in most part by a policy of wilful neglect, ownership issues and in particular, the crucial priorities of checking concentration and ensuring plurality, remained another area of default. After partially disclosed investments that allowed it an influential, perhaps even decisive, voice in various media content firms, Reliance Industries Ltd (RIL), India’s biggest corporate conglomerate, extended its influence by securing controlling interests in two major carriage-ways for satellite-cable TV transmission.

Operating through one of its many investment arms, RIL in November also acquired a controlling interest in a new journalism start-up called the New Emerging World of Journalism, catering to India’s growing market for mobile news consumption.

The Reuters Institute for the Study of Journalism (RISJ) at Oxford University, released a report in March that describes India as a “platform-dominated market”, where those that seeks direct access to traditional news outlets is a small and diminishing minority.

More than most other markets, the cell phone is king in India. No fewer than 68 percent of respondents in the RISJ study identified “smart” phones as their main source for accessing news; and no fewer than 31 percent had no source other than the mobile phone.

Data volumes transacted over the mobile phone network have multiplied several times since 2015 when RIL’s telecom division, Jio, entered the market with an offering of data plans that were virtually free. As with RIL’s stealth take-over of the media content space, this capture of the carriage function leverages the enormous financial clout that the industrial conglomerate has from its presence in energy, petrochemicals and infrastructure.

Jio’s free offerings moreover, threaten the future of India’s other telecom operators, increasingly stressed by debt and the pressures of coping in a market where service costs are already rock-bottom. And as with the RIL takeover of content, its intrusions into carriage have been facilitated enormously by indulgent policy, which treats the corporation as virtually an extension of the government. Diversity and pluralism in the Indian media, already under pressure, took significant steps towards the brink through the year under review.