

### 3.7. India

Some commentators say the Indian media is wildly free, others are justifiably more circumspect. The Indian media, though, continues to confound observers. On occasion it is furiously dogmatic and fiercely protective of the status quo. But sometimes it surprises with the ferocity of its belief in liberal values.

#### I. General Conditions

The percentage of literacy in India is 65.4, according to the 2001 census. Over the two decades preceding this census, the literacy rate grew quite substantially: it was 43.6 per cent in 1981 and 52.2 per cent in 1991. Significantly, literacy rates are not uniform across the country and certain trends are immediately apparent. The southern states fare well with three out of four – Kerala (90.9 per cent), Tamil Nadu (73.5 per cent) and Karnataka (67 per cent) – recording figures higher than the national average. Other states that fare well include Goa (82.3 per cent), Delhi (81.8 per cent), Maharashtra (77.3 per cent), Himachal Pradesh (77.1 per cent), Tripura (73.7 per cent) and Punjab (70 per cent).

Illiteracy  
and education

Some states, though, are well behind the national average, principally Bihar (47.5 per cent), Jammu and Kashmir (54.5 per cent) and Uttar Pradesh (57.4 per cent). While generalisations may not be valid, certain trends are apparent from these literacy statistics. Relatively affluent states such as Kerala, Maharashtra, Punjab and Delhi fare well. States where the influence of Christian missionaries in the education sector has been strong also do well – Goa, Tamil Nadu and Kerala are cases in point. Poorly governed states, such as Bihar and Uttar Pradesh, fare rather poorly. Lastly, the impact of internal strife is reflected very clearly in the literacy statistics for Jammu and Kashmir.<sup>1</sup>

The largest penetration of radio and television is by state-owned media. Doordarshan, the state-owned television network, and Akashvani, the state-owned radio network, have the widest footprint. Doordarshan itself operates 19 national and regional channels.<sup>2</sup> In addition, there are at least 50 private satellite and cable channels.

Local media

TV

<sup>1</sup> *Census of India*, Delhi 2001, 1991, 1981.

<sup>2</sup> Doordarshan India, official data.

- Radio The public radio network consists of 214 broadcasting centres including 143 medium frequency, 54 high frequency and 139 FM transmitters.
- Print There are wide variances in the reported number of publications in the country. The reason for this is that many publications, while included in official and industry statistics, either publish sporadically or not at all. According to the Registrar of Newspapers for India, there are 55,780 newspapers registered in the country. However, this body itself confirms the existence of only 7,156 newspapers. These newspapers claim a combined circulation of more than 142 million copies.<sup>3</sup> An authoritative readership survey covering the same period reports a cumulative readership of all journals at 226 million.<sup>4</sup> The Indian Newspaper Society reports a membership of 990, or about 2 per cent of the total newspapers registered.<sup>5</sup> The newspapers and periodicals publish from all over the country, their geographic reach often determined by their language of publication.
- Media ownership Political parties do not directly own TV stations or newspapers. However, politicians of various parties have stakes – direct or indirect – in some satellite TV stations. Many politicians, though, own newspapers; indeed owners of many important newspaper groups are members of Parliament representing various political parties. While such politician-proprietors do, by and large, tow the line of the political party they belong to, it is neither unusual nor unheard of for business interests to force realignments. Equally, it is not unknown for such politician-proprietors to change political allegiances.
- Internet media A handful of independent local Internet newspapers exist. While state authorities do not censor or otherwise seek to control such newspapers, this is largely because their effects are so negligible. In these circumstances, the presence of Internet newspapers has not yet become significant enough for them to have improved the conditions for free coverage. Paradoxically, some Internet newspapers, for this reason, cross all bounds of journalistic propriety. This, far from helping to improve conditions for free coverage, may some day allow a repressive government to crack down on other, liberal and responsible media.

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<sup>3</sup> Registrar of Newspapers for India: *Press in India 2002-03*, Delhi 2003.

<sup>4</sup> Media Research Users Council (MRUC): *Indian Readership Survey 2002*, Mumbai 2003.

<sup>5</sup> [www.ins.org.in](http://www.ins.org.in) .

<p>State-owned radio extends to 99.1 per cent of India's population.<sup>6</sup> The domination of state-owned radio is complete, especially in the news segment. While a handful of FM licences have been issued to private broadcasters, these licencees are permitted only to air entertainment programmes. A majority of Indians, therefore, depend on state-owned electronic media for news.</p>	<p>Media access  Radio</p>
<p>Doordashan reaches 89.6 per cent of India's population.<sup>7</sup> Industry estimates say private satellite and cable TV reach more than 40 million homes. These channels, however, reach mostly urban India and come nowhere close to Doordarshan in terms of reach or penetration.</p>	<p>TV</p>
<p>Only 5.8 of every 1,000 Indians have access to a personal computer, and only 38 of every 1,000 have access to a telephone line. Less than 5 per cent of the population thus has access to the Internet.</p>	<p>Internet</p>
<p>The print media reach 226 million readers, or about 25 per cent of the population.<sup>8</sup></p>	<p>Print</p>
<p>It can safely be estimated that almost the entire Indian population accesses one or another form of media, with state-owned radio and television having the largest audiences. Citizens use the media with varying degrees of frequency as a source of information. Radio is the most frequently used source [<u>very often</u>: 4], followed by TV [<u>often</u>: 3]. The press is <u>occasionally</u> [2] used, while the Internet <u>almost never</u> [1] serves as a source of information. It is also important to note that information is <u>very often</u> [4] verbally exchanged.</p>	<p>Media consumption  Radio, Print, TV, Internet</p>
<p>The media have <u>significant influence</u> [3] on the formation of political opinion in India. However, because of the overwhelming domination of state-owned media, coupled with the reasonable and fairly well justified suspicions of bias in favour of ruling dispensations, such influence is tempered by scepticism. Thus, while the influence of the media on the whole is significant, it cannot be termed total or even highly significant.</p>	<p>Media influence on political opinion</p>
<p>As already explained, the radio and television scene is dominated by state-owned players. Appointments to top positions in Doordarshan, the TV network, and Akashvani, the radio network, are made by the government. Indeed,</p>	<p>State-owned media</p>

<sup>6</sup> All India Radio, official statistics.

<sup>7</sup> [www.ddindia.gov.in](http://www.ddindia.gov.in).

<sup>8</sup> MRUC 2003.

most top positions are held by bureaucrats and even by officials of the Indian Information Service of the Government of India. While, in recent times, some efforts have been made to relieve newsrooms of the suffocating confines of bureaucratic control, these have largely been half-hearted. For the most part, state-owned radio and TV are extensions of the government and thus vehicles for state propaganda. Various parliamentary committees do monitor the activities of state-owned radio and TV; however, since the composition of such committees by and large reflects the composition of Parliament, the ruling party controls the committees. Sadly, civil society and independent media watchdogs appear largely to have accepted that radio and TV will spout the official line. Tacitly, therefore, there seems to be an admission that as long as private media are allowed by the state to be independent, state-owned media can continue to be an extension of government.

State-owned  
media and  
published  
opinion

Published and broadcast opinion is dominated by the state-owned media. While the presence of a vibrant private and independent media apparatus ensures that the state does not have hegemony over opinion, its domination is overwhelming. The coverage of the state-owned media can fairly be assessed as being between very friendly to the government [+2] and outright propaganda for the government [+3]. There has been a very slight, and barely perceptible, effort to professionalise state-owned media in the past decade and this has been for two reasons – (1) the presence of political coalitions, as opposed to single parties, controlling the central government, and such groupings forcing state-owned media to encompass a broader spectrum of political opinion, and (2) the need to compete with private television.

In spite of these efforts to professionalise the state-owned media, there are often differences in approach and coverage between various media organs. While the state-owned media tend to either skirt or avoid controversial issues, especially those where the party in power may be perceived in a negative light, privately-owned media are more penetrative and comprehensive in their coverage.

Government  
press  
conferences

The government does regularly hold press conferences to inform the public about its programmes. All journalists have access to such press conferences, although for administrative and security reasons, access is regulated through the granting of accreditation to journalists and media organisations. Press

conferences can be broadcast, and here too access is available to accredited journalists and media organisations.

## II. Legal Environment

Freedom of speech and expression is guaranteed by Article 19 (1) (a) of the Constitution of India. This is one of the fundamental rights granted to citizens by the Constitution. The article reads: 'All citizens shall have the right (a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; and (f) to practice any profession, or to carry on any occupation, trade or business.' These freedoms are uniform, and can be restricted only in specific circumstances such as the promulgation of an emergency, or to cover security in sensitive border areas.

Freedom of expression

Freedom of the press and media coverage is not specifically mentioned in the Constitution; however, a succession of judgements by the Indian Supreme Court (the Apex court) has held that freedom of the press is implicit in the general freedom of speech and expression guaranteed to all citizens. As judicially construed, this freedom includes not merely the freedom to write and publish what the writer considers proper (subject to reasonable restrictions imposed by law for specific purposes) but also the freedom to carry out business so that information may be disseminated and excessive and prohibitive burdens restricting circulation may be avoided.

Media coverage

The Indian Penal Code makes criminal defamation a non-cognisable offence. Thus, criminal proceedings can be initiated against a newspaper, TV or radio channel if the complainant is able to satisfy a magistrate that a statement made about him/her was on the face of it defamatory. Civil suits for defamation are also possible under Indian law. Two significant aspects of the defamation law impact on the press. First, once a case of defamation is taken to trial, the matter is deemed to sub-judicial and cannot be commented upon. Second, where the person claiming to be defamed is the Prime Minister or the chief minister of a state, the prosecution can be launched by the public prosecutor; in other words, at the state's expense and without the person claiming to be defamed having to appear in court. This enactment has been used by the chief ministers of some states to launch vexatious litigation against the press, with a

Regulation of media coverage

view to causing harassment and cowing newspapers and other members of the media deemed to be 'unfriendly'.

Censorship is not permitted by law and media reports do not have to be examined by state authorities before publication; however, when a state of emergency is declared under the Constitution to deal with war, external aggression, armed rebellion, internal strife or financial instability, fundamental rights – including the right to freedom of speech and expression – are suspended. In such a situation, the government may resort to censorship. In the history of free India, censorship was practised as a matter of state policy during the period from June 1975 to January 1977, when a state of emergency was declared by the late Indira Gandhi.

While there are no apparent restrictions on the free coverage of groups or issues, there are some restrictive enactments in place to deal with contempt of the judiciary, and breach of legislatures' and Parliament's privileges. Criminal contempt, the offence chiefly concerning the press, is defined as any publication that interferes with or undermines the administration of justice or has a tendency to do so.

Contempt of court is deemed to have taken place when a publication tends to create an apprehension in the minds of the people regarding the integrity, ability or fairness of a judge, or tends to deter actual and prospective litigants from placing complete reliance upon the court's administration of justice, or is likely to cause embarrassment in the mind of the judge themselves in the discharge of their judicial duties. While fair and reasonable criticism of a judicial act in the public good does not constitute contempt, a significant aspect of the law is that the truth of the statement does not constitute a valid defence. This seemingly sweeping power of the judiciary is occasionally debated in the press; the only reason the debate is not more strenuous than it ought to be is that the judiciary, by and large, has been restrained and even-handed about dealing with alleged contempt.

The position of parliamentary privilege and how it impacts on the press is fuzzier still. While the Constitution has empowered Parliament and state legislatures to enact laws to deal with their own privileges, and any breaches thereof, Parliament has not, in fact, codified its privileges. Thus, breach of legislative privileges remains largely a bewildering mass of Indian and English precedents. These aspects of Indian law were brought into sharp focus by actions of a

state assembly in attempting to jail senior journalists whose writings were inconvenient to the party in power. The intervention of the Supreme Court and the prevalence of wiser counsel, however, averted a crisis. The Press Information Bureau of the central government and the directorates of information and public relations of the various states monitor media coverage on behalf of the government; however, their role is not coercive but restricts itself to projecting the achievements of government.

Save permitting limited foreign investment in Indian print and broadcast media, there has been no change in legal implementation of media coverage in the past five years. The decision to allow limited foreign investment has led to a slight improvement [+1] insofar as freedom of the media is concerned.

Changes in  
the past five  
years

While some restrictions on media access have been necessitated by the sensitive security situation in Jammu and Kashmir, and some of the north-eastern Indian states, these are often born out of practical considerations such as the difficulties involved in obtaining contrary viewpoints. There has been no change in the quality [0] of free media coverage during the past five years. The events of 9/11 have had no significant impact on media freedoms.

No direct censorship exists. Neither does a law on censorship. Still, indirect censorship is practised by the central and state governments through various means and strategies. These can be broadly outlined as:

Censorship  
under the  
law

- Denial of government advertising or a reduction in its quantity
- Delay in the settlement of advertising bills
- Arbitrariness in accepting or rejecting the advertising rates of publications, or in modifying these unilaterally without proper reason
- Denial or curtailment of journalistic facilities to media outlets deemed hostile or non-pliant by the government of the day.

Sometimes, inconvenient journalists and news organisations are denied access to news by the state, but in such cases the courts have often been quick to take corrective action. In June 2005, the Chief Electoral Officer of the state of West Bengal decreed that journalists would not be allowed to enter polling booths during municipal elections in Kolkata.

However, the High Court intervened and the right of the press to witness the electoral process has been affirmed.

Media  
licences

Newspapers, radio and TV stations must be licensed or registered by state bodies before they can commence publication or broadcasting. These state authorities are an extension of the government of the day. They are not, therefore, politically independent or impartial bodies, but are manned by the bureaucracy. The laws relating to registration are bureaucratic and cumbersome. Newspaper licences can be withdrawn if the conditions relating to their granting are not met. Publishers are required to submit annual returns, provide audited circulation figures, publish information on ownership and submit returns for the import of newsprint. Failure to comply with these conditions can result in penal action, or withdrawal of the licence. However, the whimsical refusal of registration or taking away of licences is almost never resorted to because the actions of the regulatory bodies are subject to judicial scrutiny.

Journalists'  
status

Journalists do not need state permission to practise their profession. Subject to reasonable restrictions, journalists have the right to attend sessions of Parliament. The government seldom holds public meetings, but when it does journalists may cover these without restriction. Telecasting of Parliamentary proceedings is confined to the state-owned media.

Journalists have the right to legally challenge state repression. For the most part, the Indian judiciary has been fair and fearless, and has often intervened, sometimes strenuously, to stop the state repressing journalists. Journalists also have access to the Press Council of India, a council established by law to improve standards of the press; however, it must be borne in mind that the cost of litigation and its leisurely pace are significant deterrents to individual journalists wishing to challenge state repression.

Monopolies  
and cartels

While general legislation exists to regulate monopolies and cartels – the Monopolies and Restrictive Trade Practices Act – this has been ineffectual in curbing the formation of monopolies and cartels of private media companies. In the absence of restrictions on cross-media ownership, such monopolies in fact straddle various units of the media. Thus, private monopolies and cartels of the media do exist. Such monopolies and cartels are found largely in the press, but some media barons have overlapping interests in television



and FM radio. Media monopolists are generally pro-establishment and support the governments of the day to ensure that their monopoly positions are not threatened. These monopolies exist mainly to enrich the owner of the media company.

State authorities have in the recent past not taken any action against private media monopolies. This is largely because such monopolists support ruling dispensations, are adept at gauging the popular mood about political parties and see no difficulty in swearing or switching allegiance to those in power.

### III. Political Conditions

The privately owned media in India are a largely urban presence. Only the state-owned media have successfully penetrated rural India. The private media therefore tends to ignore and be ignorant of the concerns of the poorest of the poor. Furthermore, due to the biases inherent in private media because of their ownership and control by the privileged classes, they tend to ignore the concerns of economically and socially deprived sections of society. The state-owned media do not offer space to these sections either, for although they constitute its audience, articulation of social or economic wrongs would constitute criticism of the state. Thus, large sections of the populace find that issues concerning them find little or no space in the media.

Coverage of  
marginal  
groups

Large sections of the population, namely the poor, the underprivileged, the deprived and the indigent, are deliberately excluded by state actions from their right to freedom of information. Such denial comes in the most basic forms – the poor educational infrastructure, a lack of commitment to literacy programmes, the lack of rural electrification and the paucity of poverty-alleviation programmes.

Self-censorship in the media does exist. Such self-censorship occurs in all forms of media. Thematically, self-censorship occurs mostly in matters relating to the defence of the country, sensitive border states and, to a certain extent, the judiciary. The private media, however, resort to self-censorship even in matters of business and commercial interests, and in political coverage that might be deemed critical by those in power.

Self-  
censorship

Illegal state repression	<p>In addition, media companies and journalists sometimes face state repression contrary to the law. Such repression is <u>rarely</u> resorted to in most states of India, but some do resort to such measures <u>often</u>.</p> <p>Such measures could include withholding advertisements, delaying payment for published advertisements, the institution of false or exaggerated civil or criminal cases, the denial of legal protection against physical attacks by interested groups, and the denial of access to news.</p>
Obstacles to Internet access	<p>Access to the Internet is not hindered by state measures; however, this is largely because of the low infiltration of the Internet.</p>
Changes in the past five years	<p>It must be admitted, though, that there has been <u>no significant change in the quality</u> of threats of state repression during the past five years [0].</p>
Government control over print media	<p>State authorities do monitor the production and distribution of the print media. Control mechanisms exist through the office of the Registrar of Newspapers, whose licence is mandatory for the import of newsprint to qualify for the concessionary customs tariff which is allowed for registered newspapers. In some states, the distribution and sale of newspapers is under the umbrella of trade unions that are affiliated to political parties. While the regulatory mechanisms for the import of newsprint are <u>seldom</u> used to influence content, <u>often</u> serious attempts have been made to restrict the distribution of newspapers critical of political parties whose affiliates control distribution.</p>

#### IV. Economic Pressures

State subsidies	<p>All units of the private media are supported by, and need the support of, the state through advertisements. Newspapers get the most support from state advertising, followed by TV and radio. The extent of state advertising varies from region to region, but it is in the range of 10 to 25 per cent of all advertising, according to some estimates.</p>
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It may not be appropriate to label all state advertising as a subsidy, for in many cases, the government has to use neutral newspapers to spread its message because of the reach of these newspapers. However, there are sections of the media – especially among newspapers – that would cease to be commercially viable in the absence of state advertising, and these must be described as subsidised media. Such media

tends to be very friendly towards the government [+2], sometimes acting as its propaganda [+3] arm. Radio, as already explained, is largely state-owned. However, private television organisations, while needing state advertising, are less dependent on it than newspapers.

Besides those already covered, economic aspects that disadvantage media houses include: tariffs imposed on the import of newsprint, press and pre-press equipment; controls on accessing capital markets and investment; and arbitrary fixation of wages in the newspaper industry through the mechanism of wage boards without taking into account the ability to pay. At times, this last can result in some organisations paying far less than they ought to and in others driving themselves to near bankruptcy, paying what their revenues clearly do not justify.

Further aspects

## V. Non-state Repression

Non-state repression of media companies and journalists is rampant. Such repression can take several forms.

Repression by non-state groups

- Advertiser pressure, where commercial houses favour friendly media with advertisements, while denying these to publications deemed unfriendly, is the most common form of non-state repression
- Pressure by opposition groups, who use the device of trade unions affiliated to them to stir unrest in media organisations
- Threats of violence by militant and terrorist organisations, and incidents of actual violence to prevent the media from reporting freely and without bias
- Denial of access to information.

Advertiser pressure is brought to bear by commercial houses unhappy with the exposure of questionable business practices, and sometimes in pique, because media companies in their estimation did not do enough to highlight their achievements. There have been several cases when commercial houses stopped placing advertisements in media that did not carry photographs of top executives, or did not extensively cover the launch of a product or service. Such non-state repression is used very often.

Political groupings in opposition have been known – albeit rarely – to use trade unions affiliated to them to stir up

unrest among staff of media houses deemed unfriendly. This is done by raising unwarranted and unjustified demands on managements.

The use of threats and violence by militant and terrorist organisations to cow the media is common in the state of Jammu and Kashmir, in large parts of north-eastern India, and in states where Maoist guerrilla groups are known to operate. In these parts of India, the use of repressive tactics by such groups occurs often, sometimes very often.

Denial of access to information is a strategy used by commercial houses and political groupings, but not very frequently.

State authorities seldom prosecute physical attacks on journalists. Indeed, there is often a conscious effort to underplay such attacks, unless the contrary is politically convenient. There have been numerous instances of attacks on photojournalists, even inside government buildings. However, the state either refuses to launch a prosecution, or does it in such a half-hearted fashion that charges are never formally framed.

Changes in  
the past five  
years

There has been a slight change for the worse insofar as actual intimidation through non-state repression during the past five years is concerned. Thus, a fair evaluation of the effect of such repression on the present situation would have to be that there is slight aggravation [-1].

The reasons for these are varied. Advertiser pressure has been a direct consequence of greater competition among the media. Thus, with more advertising vehicles available, advertisers can choose to expend budgets on friendly media vehicles. Pressure by political groups has also increased, mostly because of the fractured mandates received by parties, and consequently a greater feeling of insecurity among them. Terrorist groups in sensitive border states have similarly reacted to the pressures on them by intimidating journalists reporting on their activities.

## VI. Conclusions

Evaluation  
of media  
coverage

There has been no change in quality [0] as far as free coverage of the media is concerned in the past five years. While there has been no perceptible deterioration, it cannot equally be said there has been a significant improvement.

At present, the Konrad Adenauer Foundation does not have any programmes specifically targeted at the Indian media; however, the media do play an important role in highlighting the KAF's activities in the country. There is a definite need for the KAF to intensify its engagement in supporting free media. It would be desirable for the KAF to use its efforts to strengthen media at the grassroots. While media in the major cities operate with reasonable freedom, the same cannot be said about the media in smaller towns and in rural India. In these areas, it is either shackled to the agenda of state-owned TV and radio stations, or largely disorganised. Engagement by the KAF at this level to raise standards would aid the cause of free media. In urban centres, the KAF can play a role in organising discussions among media practitioners, to encouraging them to think about issues concerning the free press.

KAF  
support

There is, generally speaking, freedom of the media with minor restrictions as far as the privately owned media are concerned. State-owned media, which reach a majority of Indians, has very little freedom and operates with major restrictions.

Freedom of  
the media:  
general  
situation

The major obstacles to free media coverage are the unwillingness of the state to grant autonomy to state-owned television and radio, restrictions on the free movement of journalists in certain parts of India (especially Jammu and Kashmir), an unwillingness to curb privately-owned media monopolies, and an increasing and depressing tendency to trivialise the role of the media and its role in society.

Major  
obstacles

There is a need for the free media in India to build on their strong foundations, to focus on issues of democracy, freedom and development. They must not allow themselves to be hijacked by an urge to entertain, when their primary role is to inform and to engender debate. Such entertainment, increasingly popular in a dominant section of newspapers, has begun to reach absurd proportions, with at least one large newspaper group having decided that it sees its primary role as that of an entertainer, not as of a purveyor of information or as that of an analytical commentator.

The example of a successful, free private media must be used by media practitioners to impress upon the government the need to unshackle state-owned television and radio stations. Furthermore, privately owned TV must identify cost-effective delivery systems in order to expand its reach. Private media thus must make consistent efforts to raise the

bar, and in a fashion that will force state-owned media to both think about their function in society and make their operations more professional.

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