

General Elections 2009 and Media Reporting

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Dear Friends,

I congratulate the Andhra Pradesh Union of Working Journalists (APUWJ) for organizing discussions on 'General Elections 2009 and Media Reporting'. In a representative democracy, the model followed by India, elections are the only method through which the people's representatives may be elected to the legislature and provide to the country the political executive or the Council of Ministers to rule the country duly supported by the rein checks of the opposition. The election process therefore assumes vital importance in the progress of the country. The responsibility to ensure the purity and impartiality of the electoral process is not only of the government, the Election Commission and the political parties but also of every individual and institution and the media as the fourth pillar of this democratic edifice, shoulders not just the responsibility but the duty to keep the electoral process independent of any influencing factor or force. The right of every citizen to participate in government through fair and free election is well settled under international human rights law. Article 21 of the Universal Declaration of Human Rights (UN General Assembly Resolution 217A (III), adopted on 10 December 1948) is the most cited source. Other numerous international agencies also recognize the electoral rights of the citizen in a democracy. Article 21 states,

1. everyone has the right to take part in government of his country, directly or through freely chosen representatives...

¹ Inaugural address by Hon'ble Justice G.N. Ray at Seminar on 'General Elections 2009 and Media Reporting' on 13th May 2009 organised by Andhra Pradesh Union of Working Journalist, Hyderabad

2. the will of the people shall be the basis of the authority of government, this will, shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

The International Covenant on Civil and Political Rights, a legally binding treaty ratified by 148 states, as well as the three main regional human rights instruments – the African Charter on Human and People’s rights (adopted 26 June 1981, in force 21st October 1986), the American Convention on Human Rights (Adopted 22nd November 1969, in force 18th July 1978) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (Adopted 4th November 1950, in force 3rd September 1953) – all guarantee electoral rights.

The same instruments also guarantee the right to freedom of expression and the right of the public to receive information and the right of the media to impart information. Article 19 of the International Covenant of Civil and Political Rights (ICCPR) guarantee freedom of expression in the following terms:-

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

However during the circumstances wherein these rights come into conflict, international law recognizes that certain restrictions on

freedom of expression may be legitimate in order to ensure that the political debate prior to an election is not distorted.

One such area in which restrictions on freedom of expression have been imposed to protect the integrity and fairness of the electoral process is in relation to the publication of pre-poll and exit poll surveys.

The universally accepted standard for restriction is set by Article 19(3) of International Covenant on Civil and Political Rights; which states:

The exercise of the (right to freedom of expression) carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by Act and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (order public), or of public health or morals.

With a view to allow media free and unrestricted access to places of election and to sensitize the authorities over their relationship with media during ensuing General Elections, the Press Council in furtherance of one of its objects under Section 13(2) (d), has formed guidelines that may be quoted:

1. The election process is the back-bone of our democratic system. The public has, therefore, a right to know through the medium of the press all public acts of the public functionaries engaged in the election process. It is, therefore, essential that not only should the election be free and fair but the press should be allowed unhindered access to information and venues of the election process, subject to reasonable restrictions in the interest of the security.

2. Rules/orders regulating entry of the media persons to places of election should be notified and the cut-off date for applying for passes should be given due and advance publicity.
3. As there is nothing secret or confidential about the electoral process, it is the duty of the authorities to give access to media persons to the polling booth and to the centres where counting process is underway and all other places where they can collect correct information with regard to different stages of the election. Advance information should be provided to all the media persons as to the cut-off date for filing applications for passes. If all the applications received by the due date, satisfy the criteria laid down, they must be uniformly applied and passes be issued to them by the concerned authorities without any discrimination.
4. The authorities cannot prohibit the use of vehicles by the media persons for movement during elections although its use for the voters by candidates and their agents is prohibited because the journalist have to move from booth to booth and collect information from all the centres whether on the polling day or at the time of counting.

Press Council's advise to media on election reporting is:-

1. It will be the duty of the press to give objective reports about the election and the candidates. The newspapers are not expected to indulge in unhealthy election campaigns, exaggerated reports about any candidate/party or incident during the elections. In practice, two or three closely contesting candidates attract all the media attention. While reporting on the actual campaign, newspaper may not leave out any important point raised by a candidate and make an attack on his or her opponent.

2. Election campaign along communal or caste lines is banned under the Representation of the people Act, 1951. The press should eschew reports which tend to promote feelings or enmity or hatred between people on the ground or region, race, caste, community or language.
3. The press should refrain from publishing false or critical statements in regard to the personal character and conduct of any candidate or in relation to the candidature or withdrawal of any candidate or candidature, to prejudice the prospects of that candidate in the elections. The press shall not publish unverified allegations against any candidate/party.
4. The press shall not accept any kind of inducement, financial or otherwise, to project a candidate/party. It shall not accept hospitality or other facility offered to them by or on behalf of any candidate/party.
5. The press is not expected to indulge in canvassing or a particular candidate/party. If it does, it shall allow the right to the other candidate/party
6. The press shall not accept or publish any advertisement at the cost of public exchequer regarding achievements of a party/government in power.
7. The press shall observe all the directions/orders/instructions of the Election commission/Returning Officer or Chief Electoral Officer issued from time to time.
8. Whenever the newspapers publish pre-poll surveys, they should take care to preface them conspicuously by indicating the institutions which have carried on such surveys, the individuals and organizations which have commissioned the surveys, the size and nature of sample selected the method of selection of the

sample for the findings and the possible margin of error in the findings.

9. In the event of staggered polls, no newspapers shall publish exit-poll surveys, however, genuine they may be, till the last date of the polls is over.

It should be noted that even though Press Council of India did not suggest ban on pre-poll opinion surveys, it cautioned the print media against allowing its forum to be used for distorting and manipulation of election process by publishing inter-alia poll surveys indiscriminately. It had also strongly advised against exit poll surveys in the event of staggered date of voting so as to allow voters to exercise his right uninfluenced by extraneous considerations.

The technological revolution in the world has made electronic media and blogs a force to reckon with seriousness. Election Commission is thinking of imposing a ban on campaigning 48 hours before polling on internet as well.

Friends, another serious matter of concern is the covert emergence in the form of "paid news" syndrome. This is perhaps the worst form of 'misinformation' or even 'disinformation' when the gullible public is led to believe the 'truth' of the glorified achievements and promises. It is heartening that the Chief Electoral Officer at Hyderabad has instructed all the District collectors and presiding officers in the state to take necessary action for the inclusion of expenditure incurred towards "paid news" articles published in the various daily newspapers, in the candidates' election expenditure.

It is no more a secret that media coverage of elections today does not focus on real issues affecting millions of people and instead is led by sensationalism and glamour. India is the world's largest democracy. Since the first election things have dramatically changed

and so have media reporting of elections. We tend to forget the real and basic ethics of election coverage.

In the age of globalisation, media is being increasingly governed by market forces somewhat removed from social issues. The question as to whether or not in this race of marketism and profit making, journalism today is losing its credibility, needs to be addressed carefully and dispassionately. Apparently, oblivious to the fact that the vast majority of people are still below the poverty line, large segments of the society still remain illiterate, extreme maldistribution of nation's wealth is widening the rift between vulgar affluence and abject poverty, large sections of the media seem to be keen in focusing on trivial issues concerning the so-called 'Page-3 Persons' for increasing circulation and earning higher profits instead of addressing serious issues for eradicating social and political evils and bringing transparency in the administration of the country to lead the nation for balanced and healthy growth.

It is sad that media which is supposed to highlight the drawbacks of marketism is being swayed by it. Journalists are working on package. Editors are being marginalised and they have allowed devaluation of the dignity of the high and respected office of an editor. Gone are the days when a newspaper was known by its editor. Today, journalism has become more a profession and service than a mission and news content has become secondary to advertising and entertainment content. Fortunately, news agencies are not affected by this evil and generation of news remains their primary goal.

The ethics are essentially to be observed by the self-restraint and practiced by journalists voluntarily to preserve and promote the trust of the people and to maintain their credibility and not betray the faith and confidence of the people. Since introspection and consequential voluntary action by the journalists do not always happen in real life,

the need of a regulatory body, be it voluntary or statutory will always be there. What is more important, the ethics and guidelines formulated by the regulatory body should be voluntarily accepted and followed by the media in letter and spirit.

Socially responsible, fair and accurate journalism aimed at serving public interest in the mind set of self-restraint is the ultimate public service when journalists find themselves caught between traditional glorious values and today's competitive world that vouches the survival of the fittest.

Journalists need to be more scientific, authentic, truthful, positive and rational. The right of the newspaper to have its own political beliefs is not a matter of debate. However, the newspapers which profess to inform the people, are under an obligation to convey to the public fair and accurate reporting on public issues and policies, more so when the process of election having far reaching consequence on the preservation of democratic value and governance of the country, is in operation.

I hope that today's discussion will throw up questions by which we may identify the relevant issues and find answers before the next elections.

Namaskar.
