

State media must be fair

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Does the government of the day possess the sole monopoly over the television and radio broadcasting media in the matter of dissemination of news and programmes? This question has been considered by a full bench of five judges of the Lahore High Court in a petition filed by an officer of the Jamaat-i-Islami during the run up to the general elections of March 1977, and answered in the negative. The present writer who was also a member of the Bench, in his opinion observed, inter-alia:

"The provisions of Section 10(1)(e) of the Pakistan Broadcasting Corporation Act (XXXII) 1973 and clause (2) of Articles III of Memorandum of Association of the Pakistan Television Corporation, are relevant in this context and require consideration.

Section 10 (1) (e) of the Pakistan Broadcasting Corporation Act provides:

10(1) The function of the Corporation shall be

(e) To bring to public awareness the whole range of significant activities and to present news or events in as factual, accurate and impartial a manner as possible.

Clause (2) of Article 3 of the memorandum of Association of Pakistan Television Corporation Ltd is in the following terms:

To ensure that programmes telecast by the company from its each television station maintain a high general standard in all respects and in particular in respect of their content, quality, balance and wide range of the subject-matters, having regard to programme as a whole.

The perusal of the above provisions indicate that they enjoin on the two media that they should maintain impartiality and balance in the discharge of their functions.

The question that arises is whether this obligation requires the said media to provide 'equal time' to the activities of the two major participants in the elections and otherwise require them to accord equality of treatment in the dissemination of their party programmes and expression of views?. The question was answered in the affirmative and it was observed that the provisions of clause (e) of section 10 of the Pakistan Broadcasting Act, obliged the Pakistan Broadcasting Corporation to present news of events in as 'impartial' a manner as possible, and the provisions of clause (3) of article III of the memorandum of Association of the Pakistan Television Corporation, enjoined the Corporation to maintain "balance in respect of the programmes telecast by it."

It was pointed out that the terms 'impartial' as defined in the English language dictionaries means 'fair', 'just', 'equitable', 'not favouring one more than another'. In other words, the term 'impartial' in the relevant respect would require the radio stations to bring to public awareness news in 'fair', 'just', and 'equitable', a manner and that 'one party is not favoured over the other'. Similarly, the television authorities are also required to maintain a balance. One of the meanings of the word 'balance' is 'to equal in

weight'. Thus the television stations are enjoined to maintain equality. The conclusion reached in the Court was that the provisions relating to the responsibilities of both the media cast a duty upon them, so far as possible, to grant equal facilities and provide equal coverage to the activities of both the parties."

Accordingly by a unanimous decision the full bench accepted the writ petition filed before it and issued the following directions, for the purpose of maintaining balance and impartiality:

(a) equal time, as far as possible, should be given to the activities with regard to the election campaign to the two major participants in the elections, i.e. The Pakistan People's Party and the Pakistan National Alliance in their daily news bulletins.

(b) Permit the representatives of the Pakistan National Alliance to televise and broadcast the manifesto of the said Alliance and address the nation over their systems whenever the representatives of the Pakistan People's Party are permitted to do so; and

(c) (i) either refrain from expressing any views on the election issues through its commentators:

(ii) or do so with respect to both the above named participants"

(PLD 1977 Lah 852)
This judgement still holds the field and has not been upset, modified or differed from in any subsequent judgement either by the Supreme Court or by any other High Court. The directions issued are indeed as relevant today, as they were in 1977. The state controlled media is duty bound, indeed legally obliged to follow these directions for maintaining balance and fairness in their daily news bulletins and other broadcasts in letter and spirit.

Unfortunately, the authorities appear to be quite oblivious to the principles laid down in this judgement and have hardly ever followed them in practice. Shortly after this judgement was delivered, Martial Law was clamped over the country on July 5, 1977. All political activity ceased and a deep veil of gloom and slumber enveloped the country and the all round stupor made people forget even about their fundamental rights to get a balanced, impartial and fair account of all that was happening around them. This was their right under Article 19 of the Constitution which, in part, refers to "freedom of the press". The time has come to look at this right more closely.

With the advent of radio, TV, cinema and video in recent decades these mass media now can be considered as falling in the same category as the press, by virtue of their being also means of mass communication. The phrase: "freedom of the press" in the context of contemporary history and as per the spirit of the Constitution thus, would in my opinion include in its ambit, the radio and TV.

It goes without saying that the press, as a means of reporting and analyzing information and as a means of representing public opinion, serves a vital and essential function in a democratic society. Indeed with the evolution of these new media in the 20th century the function of reporting and analyzing informa-

tion and of representing different shades of public opinion has also become a function of these new media, and thereby ended the original monopoly of the press in this field.

In a country like Pakistan where the rate of literacy is amongst the lowest in the world and amongst its population of about 130 million, the combined circulation of all newspapers and magazines, (which conventionally represent the term "the press") does not exceed 1.5 million copies. The total readership, even if each printed newspaper or magazine is taken to be read by 6 to 8 persons, comes to about 12 million people. This is less than 10 per cent of the country's population.

In this situation it is unconscionable that the illiterate voter as well as the literate voter who have put one political party into public office and who have ensured legitimacy to the democratic and electoral process should be eligible only to be fed by the propaganda of the ruling party and its government through the news bulletins of radio and TV heavily biased and tilted in their favour. It is manifest that if the radio and TV are used in democratic, multi-party system entirely at the will of the ruling party, this would be a perversion of democratic norms, besides being contrary to the law and a negation of the principle of "freedom of expression." Indeed some of the serious consequences of the failure of radio and TV to apply the principle of "freedom of expression" guaranteed by Article 19 in news bulletins and current affairs programmes of these media, would be:

a) Reporting of the political debate, which is the very life-blood of democracy, will (and does) remain biased and one-sided in favour of the ruling party, denying citizens access to information to which they have a basic right.

b) Numerous issues of public interest arising from instances of corruption, misuse of public office, etc that are regularly covered by the press will be (and are in fact being) deliberately ignored by radio and TV because they implicate individuals who hold elected or appointive government office, denying citizens access to information about the conduct of their elected representatives and officials.

c) Different facets of opinion and of political activities characterising the country will not be (and are not being) reflected in the coverage provided by the electronic media as these do not advance or may negate the interests of the ruling party, thus projecting an inaccurate and restricted view of the broad range of news and issues that exist in our society.

These unfortunate results ensue by not abiding by the principles laid down in the court ruling noticed above and ignoring the provisions of the Pakistan Broadcasting Act, 1973 and the Memorandum of Association of the PTV which requires "balance" and "impartiality" in the coverage of political and social events. It is high time that the electronic media took heed of their long neglected obligations in this respect, lest the Court is forced to intervene again.

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