

Constitutional Status for Prasar Bharati is it a Solution??

By Dipak Dholakia,

Why Constitutional Status: Our constitution guarantees freedom of expression as a fundamental right of citizens. Prasar Bharati is a medium of expression and, therefore, a part of the fourth estate and an important pillar of our democratic set-up. Print media - and now electronic media too - enjoys full freedom of expression. It is well-known facts that print and electronic media are owned by big corporate houses and, in the present scenario, it is these companies who enjoy freedom of expression. It is, therefore, unthinkable that a public broadcaster suffers from every kind of restrictions that hinder its functions and put it under the effective control of the government. Obviously, curbing the growth of full potential of Prasar Bharati is in the interest of the Private sector since Prasar Bharati, came into being on 15 September 1997 with the formal notification of Prasar Bharati Act, commands an unbeatable and incomparable reach. However, it has not been able to function as the medium of the people. It has practically no freedom except to sing praise of the government of the day. It is not surprising that it has not risen in public esteem.

This makes it imperative for all to consider whether or not Prasar Bharati Act, an Act of parliament, was sufficient to ensure autonomy and whether constitutionally independent status was not the need of the hour.

Philosophy of Autonomy: It is obvious that autonomy is not just a method of working a system. It is a philosophy essential to democracy. Ideas, however, do not fructify in the vacuum; they need necessary conditions to flourish. The situation became ripe in the days of emergency when everyone wanted AIR and DD free from Government control. That no Government, since then, made any serious attempt to give real autonomy to the electronic media is a justification in itself for autonomy. It shows that rulers desire control over media that can mould opinion. The situation, however, is different today with the addition of more compelling elements than there were in 1977. Now, people face an onslaught of pro-globalisation economic policies of the successive governments enamoured by market forces. There is now an open alliance between governments of the world and market forces. Public broadcasting is the first target of this alliance.

WTO ready to kill independent media policies: Free Press is an American non-partisan organization working to increase informed public participation in crucial media policy debates and to generate policies that will produce a more competitive and public interest-oriented media system with a strong non-profit and non-commercial sector. The organization draws our attention to the role of WTO vis-à-vis media, which a layman is most likely to miss: "The WTO has become a symbol of corporate globalization because of its closed-door decision-making, massive imbalance in influence between the developing countries and the countries of the North, and its attack on public services based on blind faith... that markets, left to themselves, will provide for the needs of all." The recent meltdown has shown that market cannot solve even its own problems. It further states: "Currently, most media policy, including state support for public interest media, local content requirements, national ownership requirements, and other public interest policies and programs, are exempt from the WTO under what is known as the 'cultural exception.' Even with this exception, the WTO has ruled several times against national media policies...the office of the United States Trade Representative (USTR) is currently creating great pressure to eliminate the 'cultural exception.' If that happens, domestic public interest media policy, in the US and around the globe, could come under heavy fire behind the closed doors of the WTO dispute resolution process. Local content requirements, local ownership requirements, and public funding for non-profit media could all be attacked. Governments could face multi-million or -billion dollar trade sanctions for maintaining democratically created, public interest media and cultural policies. Free Press considers information to be among the most important resources to any society. It strives to open up the media system to allow more diversity of opinion. The Organization believes that, this, in turn, "will lead to a more participatory and accountable government and to more sustainable policies and practices regarding national and global development... Our current media system is the result of explicit government policies that are drafted by special interests behind closed doors ...and serving private investors first and foremost, not public citizens... As corporate-crafted media policies increasingly weaken the foundations of our democracy, people increasingly understand that corporate control of the media is perhaps the most critical issue of our day... We also must not forsake completely the potential

of our public broadcasting system to serve democracy. Public broadcasting systems worldwide are under attack as multinational conglomerates curry favour with governments. ...As a direct result of policymaking which allows large communications conglomerates to expand their holdings in all sectors of media, we have lost many of our independent and local voices.”

Autonomy is essential for life. It is a yearning of an individual who, despite being a part of the whole, would like to retain some space for himself. An organization is an expression of such yearnings. There are tools to run a society and free flow of information is an essential tool for growth of a mature society. Democracy itself is an elaborate form of autonomy. It would be wrong to think of democracy and deprive Prasar Bharati of autonomy. It is, therefore, shocking for all freedom-loving people of our country to learn that the Government is moving towards open subjugation of autonomous Broadcasting Corporation of India. We firmly believe that electronic media can realize its full potential only if it is granted constitutional protection. India needs a medium that does not represent corporate interests. Of late, there is a growing realization that the plethora of private TV channels has done no good to the culture of our country. News channels claiming to be the ‘first’ with the news are found to be only too repetitive and indulging in sensationalizing simple things. Lately, the rather insensitive coverage by private media of the Mumbai terrorist attacks has raised many questions that amply make it clear how shortsightedness eclipses their journalistic judgment. In the hot pursuit of TRP ratings they ignored even the security requirement and unwittingly helped those who were in touch with terrorists in action. In the circumstances people need a responsible medium.

Falsehood: A falsehood, however, is being propagated that a government media, by virtue of its being under the government control, is a public broadcaster. We reject this notion. Public Broadcaster has to speak for the public, and making it subservient to the government goes against all democratic values and denies the people their right to have a medium of their own which runs, without political or commercial motive, in the interest of the people. As such, Prasar Bharati has never been allowed to enjoy autonomy even after more than a decade of its existence. Before it could completely come on its own in terms of its identity and credibility - and despite the fact that the Prasar Bharati Act enjoined upon the Government to provide funds for the Corporation - propaganda was launched suggesting that Prasar Bharati was not a financially viable entity. Instead of taking the responsibility of its viability, the NDA Government added fuel to the fire and did everything to curb funds of Prasar Bharati. Finance Minister Yashvant Sinha withdrew tax concessions through his finance bill, and in the process amended the Prasar Bharati Act adopted both houses of the Parliament. His action debarred Rajya Sabha from expressing its opinion with regard to PB Act.

As if it were not enough, UPA Government appointed a Group of Ministers (GoM) to consider the financial restructuring of the corporation. We fail to appreciate, in the first place, the need to have a GoM to consider a settled issue of funding which was always the responsibility of the government. The question is why the successive governments did not act in the democratic spirit and fulfil their responsibility to support Prasar Bharati.

It must, however, be noted that GoM failed to come out with a proposal on financial restructuring even after the lapse of a considerably long time and after the Lok Sabha Elections that GoM does not even exist. More confounding, however, was the fact that the GoM was doing what was not its primary task when it was set up. It was reportedly busy considering the issue of the status of employees since the Supreme Court demanded of the government to know why it had failed to implement Section 11 of the Prasar Bharati Act and sought a firm decision in this regard. May it be asked, why the Apex court too failed to ask the Government to implement section 11 and simply sought a ‘firm decision’? In any case, this was a matter to be dealt with at Ministry level but it was GoM who was suggesting that section 11 may be done away with and Government employees working in Prasar Bharati may remain on ‘deemed deputation’ forever. Accordingly, the Ministry of I&B proposed an amendment replacing the Section 11 with a new formulation that will take away the democratic rights of employees to opt for Prasar Bharati service or remain government servants.

Clearly, the government plans not to have staff in the autonomous body as it may create problems later if some form of privatization of the assets is to take place. It is pertinent to mention here that the Supreme Court also gave a strange ruling that the Corporation would control government employees in All India Radio and Doordarshan. It suits the Government too, since employees will not have a stake in the decisions that the government may take regarding the Corporation, It can get rid of any number of employees by asking Prasar Bharati to contract out a part of its programming or technological needs. It may come handy even when the Government decides to sell off a part of the assets used by Prasar Bharati.

This is clearly an invitation to private parties to come forward to share the assets of Prasar Bharati without the responsibility towards the employees. The perennial nature of this arrangement, being forced upon employees will prove to be unconstitutional since it deprives employees of their right to exercise option. They will have to work in Prasar Bharati, obviously, for the government i.e. ruling party, without really being transferred to it.

The contours have already emerged, as the proposed amendment indicates, that it may be an equity-based structure making room for private equity. Corporate sector, waiting in the wings, will certainly appreciate this move as, for them, employees are a burden and the Government seems willing to keep them in good humour by withdrawing employees from Prasar Bharati.

We are aware that, there are certain quarters, with commercial interests in electronic media, who are afraid of the tremendous potential of Prasar Bharati. They have a vested interest in a non-functional Prasar Bharati under the Government for the simple reason that an effective autonomous Corporation, having an enormous amount of assets and reach, can beat any private channel any day. While Prasar Bharati Act is full of shortcomings that prevent the autonomous corporation from exercising full autonomy, JPA considers the move to amend section 11 as a step in the negative direction.

The bureaucracy, too, was never comfortable with the idea of the autonomy. Prasar Bharati is a public broadcaster, which cannot function effectively, and purposefully, with a borrowed staff. Also, it unquestionably deserves full financial support from the government as provided in the Prasar Bharati Act and not from other sources as contemplated by the former GoM. It would be a great disservice to the nation if the 'Public Broadcaster' is again converted into the 'Government broadcaster' which it was in its previous avatar. This is now being done surreptitiously. Only a concerted action by the public-minded people can save the independence of Prasar Bharati. We, therefore, demand that Prasar Bharati should be immunised against the whims of the market and its political collaborators.

In addition to this, we are going to see a strange sort of relationship, with the amendment to section 11, emerging between the Government and Prasar Bharati - almost comparable to two contracting parties. The government will outsource programmes, and Prasar Bharati will outsource manpower. Mutual outsourcing! This is certainly not what the people of our country deserve. We think that the proposed amendment to Prasar Bharati Act Section 11 is a first step towards the privatisation of Prasar Bharati.

World speaks for public broadcasting: In fact, people the world over, reeling under the impact of globalisation, are alarmed at the speed with which they are losing ground beneath their feet. They find themselves overwhelmed by an overpowering culture of commercialism. People in powerful countries realise that their Governments are but organs of the mighty MNCs that want to capture the world, and Governments function only to facilitate their growth, unwilling to listen to the dissenting voices in their own backyards. Ordinary men and women in developed countries have increasingly found themselves in disagreement with their own Governments, be it Iraq invasion or war on terrorism, be it WTO or Environmental issues, and this is precisely the reason that it is the people in developed countries that come out on the streets spontaneously. They realize that Radio and TV are their own organs that are now under the threat of being taken over by big monopolies. They come out in defence of independence of their electronic media. What they mean by 'independence' is independence from big monopolies as well as Governments. On the other hand, people in developing countries, including some ruled by autocrats where the Governments exercise full control over Radio and TV, want the electronic media to become people's instruments. They do not trust their own Government-controlled media and yearn for different 'windows to the world'.

European Federation of Journalists (a regional organisation of International Federation of Journalists) held a conference at Budapest in February 2002 for the countries of Southeast and Central Europe to discuss the issue of public broadcasting. Journalists and media professionals from 16 countries called for the creation of transparent and quality systems of public service broadcasting in every country of the region. Saying that the Public service obligations in media are essential to freedom of expression and opinion, they stressed the need to defend and promote public service broadcasting. They adopted a Resolution and I quote: "In particular we stress that the independence, plurality of views and variety of programming in public broadcasting must be protected from political interference; the financial standing of public broadcasting must be secured; and structures for the independent management of public broadcasting and editorial independence of journalists and programme makers must be

guaranteed.” Unquote. In support of these objectives they launched a ‘Public Broadcasting for All’ Campaign, broad based and inclusive of all sections of civil society in the countries of the region.

In the United States, the Government is facing public ire on the issue of public broadcasting. The Federal Communications Commission recommended greater powers to the big media barons but some three million Americans wrote to members of Congress against the attack on small public broadcasters.

In the United Kingdom, Voice of the Listener and Viewer (VLV) launched a campaign to ensure that citizens have a say in determining the future of British broadcasting, in general, and the British Broadcasting Corporation (BBC), in particular. The aim of the campaign was "to raise awareness of the vital role that broadcasting plays in British life and democracy, and of the threats to the quality of radio and television that now exist." It included a series of public events designed to enable as wide a range of people as possible to influence the future of the BBC, as well as public service broadcasting as a whole.

In Netherlands, Broadcasting Services Corporation monitors broadcasts by public and private broadcasters. The broadcasting time on the public radio and television channels is shared by a large number of private organizations, which have obtained a broadcasting license because they represent a certain section of the population (broadcasting associations and small licensed broadcasters). Until 2000, the public broadcasting system in the Netherlands was funded from the (fluctuating) advertising revenues and the license fee fixed by law and to be paid by every household in possession of a radio and/or television set. The license fee was scrapped in January 2000 and replaced by an index-linked national broadcasting subsidy, which is funded from the public coffers. The Media Act contains safeguards for the independence of the public broadcasting system and the level of funding. The Media Act imposes restrictions on advertising on the public broadcasting system. For example, commercials are not permitted to interrupt programmes and the amount of airtime devoted to advertising is limited. The large number of mobile and portable receivers (transistor sets as we know them) in the country means that terrestrial broadcasting is of great importance for public and commercial radio stations.

In Germany, Public Broadcasting Corporations of Germany have formed an association (ARD). The programmes are fed by all the constituent corporations and broadcast both terrestrially and via cable throughout the country. The state corporations also provide a regional terrestrial television programme in their respective transmission areas. The broadcasting corporations are established under public law or an inter-state agreement determining their functions and structure. They are, therefore, not to be regarded as state-owned joint stock companies. The "Deutsche Welle" (Voice of Germany) is the only radio corporation governed by federal law. It is financed for the most part from Federal Government funds and its statutory responsibility is to produce radio programmes for listeners abroad in order to give them a comprehensive account of political, cultural and economic life in Germany and explain the German position on major issues.

However, a political decision against an increase in the broadcast license fee, which had been recommended by an independent commission, provoked several institutions of civil society to rise in support of public service broadcasting. *Initiativkreis*, an organisation representing German listeners and viewers, convened a conference to highlight the importance of public service broadcasting for the country's culture and stress the need to fund it adequately.

Australian Broadcasting Corporation Act 1983 says that the functions of the Corporation are: to provide within Australia innovative and comprehensive broadcasting services of a high standard as part of the Australian broadcasting system; broadcasting programmes that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community; and broadcasting programmes of an educational nature. The Corporation shall develop and maintain an independent service for the broadcasting of news and information by the Corporation. The Act specifically says that "The Corporation shall not broadcast advertisements; the Corporation is not subject to taxation under any law of the Commonwealth, of a State or of a Territory." We, in India, have a different story to tell. In the budget for the year 2002-2003, the then Finance Minister Shri Yashvant Sinha withdrew the benefit or income tax exemption by amending Section 22 of PB Act. *Prasar Bharati* is liable to pay tax on its income from 2002-2003 onward. The reason adduced by the Government in this regard was that since these institutions had come of age and were working on commercial lines, no further exemption was necessary.

Friends of Canadian Broadcasting, a non-profit, independent watchdog group voluntarily financed by 60,000 Canadian families, has recently been involved in efforts to ensure

that the proposed additional funding for the Canadian Broadcasting Corporation (CBC) in the federal budget would be used to fulfill the demand from the public for more regional programming.

UNESCO supports Public Broadcasting: UNESCO has highlighted importance of public broadcasting in the clearest terms. It delineates the characteristics of public broadcasting:

- It would not be appropriate to offer a public service to only part of the population, for example those living in cities, although different regions will not necessarily receive identical services. It is also a significant justification for public service broadcasting organisations since it serves to ensure that the public's right to know is satisfied in equal measure throughout the whole territory.

- It reflects the role of these broadcasters in building a sense of national identity, belonging and participation. To this extent, it can be seen as essential to the larger project of promoting a national democratic and rights-respecting culture. This feature is perhaps more controversial, both because it represents a restriction on editorial freedom and because it might lead to chauvinism. However, it is no longer understood in the narrow sense of promoting the dominant culture and in many States includes the idea of promoting multiculturalism as an aspect of nationhood.

- A key goal of public service broadcasting organisations is to provide quality broadcasting which meets the informational, entertainment and educational needs of the population while respecting and promoting diversity. Satisfaction of this goal is impossible if public broadcasters are expected to compete for funds in the same way as commercial broadcasters. Commercial dependency would inevitably lead to public broadcasters subjecting programme production and scheduling decisions to popularity tests rather than making such decisions in the public interest.

- In many countries, the greatest threat to quality public broadcasting comes from attempts by government to control the state-funded broadcaster to achieve its own ends. State-funded broadcasters have often been accused of being mouthpieces of government, to the detriment of the public interest and the right of citizens to receive a diverse range of information.

- It is inappropriate for a particular government to exercise influence over a public service broadcasting organization, given that the latter is funded through public monies. It may be noted that there is a tension between these two types of independence as freedom from commercial pressures necessarily leads to dependence on public funding with the attendant risk of State interference. Impartiality is closely related to independence. If it is inappropriate for the government to use public funds to promote its particular viewpoint, it is equally inappropriate, given its public mandate, for a public service broadcasting organisation to promote a certain position or support a particular political party.

Citizens' Charter of All India Radio: The 15-point Charter contains 10 important points committing AIR to

- (i) be an exemplary Public Service Broadcaster,
- (ii) uphold and strengthen democratic and secular values,
- (iii) promote national integration and harmony,
- (iv) inform, educate, entertain, enrich and empower people,
- (v) become a powerful tool of social transformation,
- (vi) fight with social evils and strengthen social justice,
- (vii) provide timely, updated, objective and comprehensive news and views,
- (viii) provide a balanced insight on Indian thought, institutions and culture,
- (ix) become a truly national broadcaster by covering 100% of the population,
- (x) achieve international standards in programme content and signal quality,
- (xi) encourage international co-operation."

It will be wrong to argue that Prasar Bharati is 'National Broadcaster' and, therefore, the government may legitimately have a say in its functioning. After all, National broadcasting is no different from public broadcasting. In a democracy, government cannot be given the right to define national interest, except in certain external developments. Prasar Bharati, as people's media is the fourth pillar of our democracy and, is equal to the Executive i.e. Government. The Organisation will be second to none in discharging its responsibilities without a super boss. This is the essence of the public broadcasting. It aims at making Prasar Bharati an organization for the people, by the people and of the people. Given the level of commitment – and also the habits - of our political class it is necessary to place Prasar Bharati beyond the reach of those who can damage its status as a public Broadcaster.

Therefore, it will be in the greater National interest to amend the Constitution of India to make Prasar Bharati a constitutional body and real instrument of the people of the country.

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Publishing this article doesn't mean that FRIENDS OF PRASAR BHARATI endorse all the views expressed by the author.

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