

## **BOOK REVIEWS**

FORBIDDEN ZONES: ESSAYS ON JOURNALISM. BY Sebastian Paul.  
Pranatha Books, Kochi, Kerala. Pp. xvi + 180. Price Rs. 200/-

FREEDOM OF speech has become a cliché by overuse. Revolutionary changes in technology have ushered in a digital world where speech and expression assume different dimensions. Law, as usual, lags behind complexities created by the third wave civilization. In recent times right thinking people have realized the importance of interdisciplinary approach in their endeavour to study the problems in society. Therefore, a book on journalism and law should naturally instill interest and especially when the title of the book, *Forbidden Zones*, is so intriguing.

Sebastian Paul is a multifaceted personality. As a journalist, lawyer, social activist, politician, parliamentarian and media person, Paul has made a valuable contribution to the discipline of press-law. Within a span of 180 pages including Index divided into fifteen chapters this collection of essays on journalism is not voyeuristic to have a peep on the forbidden zones but a warning sign displayed outside the zone to the journalists. The book is divided into four parts: Part I contains essays pertaining to ‘History, Constitution and Procedure.’ This title of part I is a bit confusing for one may think that there may be essays on the Constitution (of India). Again by procedure one may wonder what it relates to. Chapter four offers an answer that it speaks about the procedure followed in the Press Council. The first chapter is titled ‘Freedom from Prior-restraint.’ Paul offers a thumbnail picture of freedom from prior-restraint. It is very interesting to note that prior restraint can be effected even if there is no explicit legal provision to do so. In his seminal study on pre-restraint, Thomas I. Emerson has elevated it to the status of legal doctrine. Even post-restraint may lead to pre-restraint. In his words, “a system of subsequent punishment allows the communication but imposes a penalty after the event...the deterrent effect of a later penalty may operate to prevent a communication from ever being made.”<sup>1</sup> How this kind of subtle censorship takes place in Indian journalism is a serious matter for further research.

Concept of regulatory mechanism, the second chapter is pointer to the fact how important journalistic freedom is and self regulation or regulation by the profession itself must be the desideratum. Aptly Gandhiji said. “If

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1. Thomas I. Emerson, “Doctrine of Prior Restraint”, 20 *Law and Contemporary Problems* (1955).



control is from without, it proves more poisonous than want of control. It can be profitable only when exercised from within.”<sup>2</sup>

The regulatory mechanism with regard to press in India is the Press Council. One may find a short history of it in the third chapter. If one expects any valuable suggestions –such as changing the Council into Media Council- one may be disappointed. It reads like a textbook with apt quotations here and there and also a brief account of how the British Press Council works.

Fifth Chapter ‘For and against Sanctions’ as the title suggests offers arguments regarding whether there should be any sanctions against the erring journals and journalists. In a few countries like Sweden and Sri Lanka the Press Council has the power to impose sanctions, but in India Press Council remains as a dog that barks but does not bite. The author concludes by saying, “that much power is needed for the Council and that much fear is to be instilled in newspapermen.” Here too concrete suggestions find no place.

Frontiers of free zone beyond which one finds the forbidden zone are obviously filled with issues and problems. Perhaps that may be the reason that part II has the title ‘Issues, Problems and Solutions.’ The seventh chapter speaks about the borderline of free speech when it encounters the parliamentary privilege. Interesting case histories, starting from R K Karanjia (1952) to Swapan Das Gupta, the columnist (2005) are cited. A comparison with the US law also finds a place.

The author in spite of being a Parliament member is highly critical of the parliamentary privileges. Anyone who wants a free press would definitely agree with him when he says, “ apart from the vexed question of codification, it is time to deliberate on whether a legislative house should enjoy privileges and wield penal powers for the conduct of its business and maintenance of its authority. It will be expedient if legislative privileges were confined for the purpose of dealing with encroachers, detractors and obstructers. The entire idea of a person committing a breach of privilege by making a comment or writing a report in a newspaper should be discarded as obnoxious. The American process of government based on free and uninhibited discussion is a shining example worthy of examination.” Here the journalist in the author articulates his arguments in strong terms. He is a Parliament member as well as a fellow traveler of the left and he was supported by the left parties in getting elected to Parliament. The usual practice in India is that such persons do not praise the free speech environ of the USA. But even in the USA if we are to believe ‘reporters without frontiers’ under Bush administration the free speech index has come down

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2. Quoted in *Forbidden Zones* at 15.



considerably. Again the author, for obvious reasons, does not go into the free speech position either in China or in Russia.

Chapter 8 is a short essay dealing with ‘Contempt of Court’. It offers a running commentary on the Contempt of Court Act, 1971. An analysis of case laws—at least a few landmark cases – might have been useful to the readers who are not law persons. How could one miss the case of the Marxist ideologue *E M Sankaran Namboothiripad* wherein the issue was that he described the courts as ‘bourgeois courts’? Again the epochal contempt case that the Supreme Court brought against the contemnor Arundhati Roy<sup>3</sup> does not find a place in this section.

Whether a journalist could be forced to reveal his or her confidential source of information is a serious question that touches mainly law, politics and ethics. The ninth chapter thus discusses ‘Confidential Sources’. Cases from the USA, Britain and India are cited and mention also is made of ‘whistle blowers’. Here too *Satyendra Dubey’s* case is conspicuous by its absence.

A brief history of defamation law in Britain and how similar law affects journalists are the topics discussed in the tenth chapter. On the one hand there is right to reputation that every individual enjoys and he or she has the right to protect this from unjustified invasion. The legal concept that emerged in English law came to be part of Indian law also. The author gives a few interesting observations of English and the US justices in this context. He refers to Indian libel that Indian penal code contains. India being a country with social complexities and rampant illiteracy and poverty and consequently ignorant millions being exploited by political elites, need a new look at the defamation law especially when a journalist publishes something in the interest of the public at large.

This is applicable with regard to ‘privacy’ also. Right to privacy is discussed in chapter 11. Privacy needs more protection in India where sensationalism rule the roost in the publishing industry. Often the code of behavior for the journalist is violated. Publishing the names of the victims of rape or pictures of gruesome murders have become more of a habit for both print and electronic media. This, in fact, is a sort of trial by media and at times the journalist cross the frontiers of forbidden zone.

Chapter 12 deals with ‘right to know’ and ‘right to reply’. Paul starts with the landmark cases on right to reply. Since the publication of this book the Right to Information Act has been passed. And the bureaucrats display a tendency to get things exempted from the purview of the Act. It is an obvious fact that right to know and right to reply are vital to a journalist

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3. *In re: Arundhati Roy*, Suo Motu Contempt Petition (Crl) No. 10 of 2001 decided on 06/03/2002.



who acts as the ear, eye and tongue of the public. One may expect a thorough revising of this essay in future edition.

Anyone who has something to do with publication should be aware of this borderline with the forbidden zone of obscenity. With the advent of electronic revolution a stage has set in wherein nothing can be kept secret and our younger generation is more adept in handling the devices designed by the digital technology. Rightly does the author say “attitudes are bound to differ greatly between people of different age, class and creed.” Moreover in the Indian setting where in many regions the temples display erotic sculptures, which are subject matter for serious discussion, Western concept of obscenity seems to be incongruous. “The highly erotic themes and their vivid picturization, the unnatural modes of sexual congress and the startling poses (*asanas*) of men and women performing varied acts of physical love have astonished and shocked prudish and prurient viewers.” Again “Art is above morals, and since the temple sculptures of Khajuraho, Konark, Bhuvanewar and other places are undoubtedly beautiful as works of art, they cannot be condemned on moral grounds.”<sup>4</sup> In such a social milieu how can one identify ‘obscenity’ by adopting *Hicklin’s* test. Sebastian Paul refers to Child Online Protection Act in the USA. But in India though Internet access grows by leaps and bounds, law does not come up with any effective legal mechanism regarding harmful matters in the Web World.

Part III of the book is a compilation of those cases that came before the Press Council. This would help a student of journalism to grasp the procedure adopted by the Council and also comprehend how far Press Council has succeeded in resolving disputes.

On the whole the book is a significant addition to literature pertaining to law for the journalists. The cover design and printing keep a good standard. Pranatha Books deserves credit for this. The book has a ‘Forward’ by Somnath Chatterji, the Speaker of Lok Sabha. This moderately priced book should reach every student of journalism.

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4. G D Khosla, *Pornography and Censorship in India* 60-61 (1976).

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