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A Considered Silence:

The Regulatory History of Press Ownership in India

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ACADEMIC DISSERTATION

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Dedication

To

All heterodox policymakers, jurists and journalists
and

My parents and grandparents who disrupted many silences

Abstract

This dissertation raises one central question: why did the regulatory framework in India fail to address the anxieties about media ownership voiced in policy debates over half a century?

I will delve into three moments in India's regulatory history when different facets of press ownership were negotiated. While the first two pertain to the print press during the mid-1950s and the early 1970s, the third relates to TV news – the expanded sphere of 'the press' – in the early 2000s. The first moment was sparked by fears of market dominance by 'big' newspapers; the second was preoccupied by the presence of 'big business' in the press; and, the third was marked by apprehensions of a 'big media' across newspapers and TV news. In other words, the principal concerns during these three moments were respectively about concentration, ownership organisation, and cross-media ownership.

To explore a central question in media policy studies, media ownership, my dissertation utilises history as method. My theoretical framework blends the critical political economy of the media with elements of historical institutionalism. This enables me to pursue a political economy of media policy directed at historicising the regulation of news ownership. Document analysis is my research technique. My primary sources are reports of commissions and committees pertaining to the news media, parliamentary debates, and key legal judgements that shaped the three moments. I complement these with newspaper reports, and with auto/biographies of journalists, proprietors, lawyers, and policymakers to bring in personalised views.

The dissertation's findings can be positioned at three levels.

First, at the *descriptive* level, I unravel the evolving dynamics of ownership in the news media, and corresponding changes in understanding its social risks between the mid-1950s and early 2000s. This demonstrates the contrast between periodic concerns about ownership, diversity, and democracy in policy debates, and the inability to address these issues through effective regulatory mechanisms.

At the *analytical* level, I reason the fate of these three moments on three, inter-related counts. I find the plethora of normative, empirical, and ideological arguments about the adverse implications of ownership were unable to productively inflect each other. Moreover, the behaviour of domineering actors in the news media – both in collision and collusion with the state – stifled regulatory initiatives. The third impediment arose from institutional framework of regulation. Not only do I observe tensions between the legislature and judiciary over statutory interventions, but a conscious non-interventionist bent in the state. The latter motivates this dissertation to present the idea of 'considered silence' as the key trait of ownership regulation in India.

On the *theoretical* level, I build on the multiple reasonings adopted above to understand the regulatory constraints faced across the three moments. Looking back, the moments

appear as a continuum – or more specifically, critical junctures in a single arc of regulatory contests over values and stakes. The constraints present at each juncture imposed multiple path dependencies on subsequent junctures. Since these are products of historical processes, it is likely that considered silence, now posited as a theoretical possibility, came to inhabit the personality of the state. This is what has prevented mitigating the abrasive implications of press ownership even in present-day India.

The dissertation is structured across eight chapters.

Chapter 1 provides the context and significance of my research problem, lays out the methodology, details the sources and their limitations, and offers an overview of the succeeding chapters.

Chapter 2 situates the press in a specific historical setting, and provides a backdrop to the period and actors this dissertation deals with. It offers a critical appraisal of press development in colonial India, and highlights the institutional norms of the press that were in place when India became a constitutional republic. Importantly, this narrative is structured around my original typology of actors in the press – a typology further developed in Chapter 3, and one I feel can travel to other post-colonial countries.

In Chapter 3, I distil the extensive scholarship in media policy studies globally regarding the relationships between the press, diversity, and democracy. Chapter 4 reflects on notions of media regulation, including attention to concepts of regulatory silences, and the role of ideas, interests, and institutions in shaping, or impeding, regulation. Thus, both chapters enable me to evolve conceptual and theoretical frameworks that will be deployed in the rest of this dissertation.

My reconstruction of the three regulatory moments – those dealing with concentration, ownership organisation, and cross-media ownership – is narrated in Chapters 5, 6, and 7, respectively. These chapters are organised along broadly similar lines: providing the deep context shaping each moment, tracing policy debates and contesting advocacy on different facets of ownership, and reasoning the role of ideas, interests, and institutions in impeding each regulatory endeavour.

In conclusion, Chapter 8 revisits the elements of continuity, conformity, and contestation that were visible during the three moments of regulating press ownership. I reflect on what these experiences tell us, separately and together, about the arc of state-press relations during the period of study, and its implications on policy debates on press ownership since then in contemporary India.

As a historical account of media regulation, my dissertation brings together two hitherto distinct and distant intellectual pursuits in India, namely the growing set of enquiries into media history, and the much older and larger multidisciplinary scholarship on state formation in post-colonial India. In tandem, this dissertation will reach out to diverse global scholarship on the regulation of media ownership, much as it hopes to inform ongoing debates on media systems within and beyond the Global South.

Keywords: News ownership, Cross-Media ownership, Media concentration, News Conglomerates, Media regulation, Policy silences, Historical institutionalism, Indian media policy, State in India, Press history, TV news.

Acknowledgements

As a regulatory history of the news media in India, my dissertation engages with key questions in media history and media policy, and more widely with scholarship on the political, social, economic, and business histories of modern India. Conversations with scholars, across disciplines, thinking about the news media, journalism, media markets, and regulation have been extremely gratifying.

I must begin by profusely thanking my Supervisors, Kari Karppinen and Hannu Nieminen, for their support all through the past eight years. Discussions in their offices and over lunch in cafes, in written interactions and in online meetings during the darkness of the pandemic years have been enlightening and energising. They opened new cognitive windows and ways of understanding media policy studies, many of which became central to my arguments in this dissertation.

The broad theme of this dissertation had been wandering in my head much before I enrolled and started working on it at the University of Helsinki in 2016. Thinking about media ownership in India, its past and present, emerged as much from my discussions with scholars as from my engagements with journalists and policymakers. My particular interest in regulatory history of the media in India was triggered by the courses I taught since 2008 on contiguous themes in the MA Program in 'Media Governance' at the Centre for Culture, Media and Governance (CCMG) at Jamia Millia Islamia. Questions and clarifications by my students, and their energies during the 'policy mapping' workshops integral to my pedagogy of media policy, have stayed with me.

Looking back, I find some of the specific concerns motivating this dissertation were, since 2010, spread across various presentations I had made. What come to mind as I write this were my Keynote Lectures at the India Media Centre, University of Westminster in September 2011, at the University of Queensland in November 2012, and at Habib University in October 2014. Additionally, fragments and notes from my various seminar talks have found their way in some form or another into arguments in my dissertation; here, I especially recall my presentations 'Corporatization of Media: The Case of Financialisation in TV News' at a conference organised by the Human Rights Law Network in association with Indian Federation of Working Journalists, and UNI Employees National Joint Action Council at New Delhi (April 2010); 'Re-Framing National Communication

Policy in India: Notes on scandal-driven media reform’ at the Communication University of China, Beijing (October 2012); ‘The Shifting Presence of Media Diversity in Press Policy, c.1947-1990’ at the Indian Institute of Advanced Study, Simla (October 2014); and, ‘Enumerating Risk amidst Media Abundance’ at York University, Toronto (June 2015).

After settling into the ‘dissertation mode’ at the University of Helsinki, numerous presentations on aspects of news regulation, media ownership, press history, and media diversity provided opportunities to hone my thoughts and arguments. These include conferences presentations at *Negotiating the Future of Everyday Life in South Asia* organised by the Swedish South Asian Studies Network, Lund University (September 2016), *Changing Ecologies of Media Industries* at the Institute for Communication Arts and Technology, Hallym University (April 2017); Public Lecture under the series *Regional Reflections on the Shape of Democracy* at KU Leuven (May 2019), besides talks at the School of Culture and Education, Södertörn University (April 2018), Centre for Policy Studies, IIT Bombay (August 2018), and Winter School on digital humanities at IIT Gandhinagar (December 2019).

During the first half of my doctoral years (2016-19), I was warmly hosted by three universities as a visiting scholar. My interactions with scholars there were refreshing and productive, to say the least: Adrian Athique, late Tom O’Regan, Luzhou Li, and Graham Turner at the Institute of Advanced Studies in Humanities, University of Queensland; Leen d’Haenens, Chris Verschooten, and Bart Pattyn during my stint at Metaforum, KU Leuven; and Shishir Jha and Satish Agnihotri at IIT Bombay. I thank the Finnish National Agency for Education for awarding me the EDUFI Fellowship to spend an extended period of time in Helsinki in 2019. Travel support from the Doctoral School in Humanities and Social Sciences, University of Helsinki enabled me to share a slice of my research at IAMCR, Madrid in July 2019.

Early versions of what turned out to be Chapters 5 and 6 of this dissertation were published in different journals; besides the anonymous reviewers, I appreciate comments on my drafts by Britta Ohm, Per Stahlberg, Usha Ramanathan, and Amit Mitra. Mitra had suggested the use of tables to put across some of my ideas – something I subsequently took into this dissertation.

Pursuing a doctoral dissertation when well into one’s academic life involves acknowledging a mound of accumulated debts. So here goes.

Over the years, I have benefited from formal, friendly, and even stray conversations with scholars and journalists about the histories, complexities, and puzzles about the media milieu in India, and more widely across South Asia: included here are Abhijit Roy, Alam Srinivas, Ananda Mitra, Andreas Mattsson, Aradhana Sharma, Archana Shukla, Arshad Amanullah, Babu Remesh, Christine Ithurbide, Daya Thussu, Douglas Hill, Farooq Sulehria, Geeta Seshu, late Guy

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At the end of the day, writing a doctoral dissertation is a solitary endeavour. Nonetheless, I owe a big thanks to Neshat Qaiser, Britta Ohm, and Biswajit Das for reading, commenting, and re-reading chapters. Its final, printed form benefited from the experiences of Alam Srinivas who looked at my dissertation for language and technical corrections, and of Deepak Sharma who arduously helped in formatting the layout as per the required norms; any inadvertent errors are solely due to me.

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without reading it, bombarded me with a volley of questions (mostly spot-on). I will particularly miss Khalid at my doctoral defence.

The years 2019-21 were difficult, first with the demise of my father, a veteran at public policy, and then the scare and extended lock-down during the pandemic. I relocated to my parent's house during these difficult years to be with my mother, a towering educationist. As she stood like a rock for herself and me, I got the confidence to clinch the multiple last-miles that go into finishing and publishing my dissertation. No amount of thanks and hugs to her will ever be enough. Be it sheer coincidence or compulsions of individual calendars, it is befitting that my dissertation defence is scheduled on her birthday.

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Chapter 1

1 Introduction: The Puzzles of Regulating Press Ownership

Contrary to the innumerable statutes, laws, and legislations about content of the news media, India has a thin array of regulations on the market dynamics of this business. The mechanisms of resource mobilisation by actors in the news business, their relationships with others in the value chain such as distributors and retailers, and their associations with external, non-news industrial and financial interests have not been the objects of regulation. My dissertation has something to do with this contrasting attitude of the state to news as speech, and news as commerce.

This Janus-faced response is visible throughout colonial India, and post-Independence era, as it is till today. Scholarship on the regulation of news in India has overwhelmingly focussed on the former period, much to the detriment of attention to the latter, as will be evident in this and subsequent chapters.

While officials of the East India Company recognised the importance of public scrutiny by the press to their claims of governance and legitimacy, they feared public criticism would subvert the sovereign authority they sought to establish (Prasad 2021). Thus, the East India Company and later the British Crown (1857 onwards) tightly controlled and heavily penalised *newspapers-as-speech* that threatened their actions and legitimacy (see Sonwalkar 2015; Israel 1994, Ray & Gupta 2017). Many of these mechanisms survive today, and their incremental impact shape the administration of broadcast and online news (see Rajkhowa 2015, Parthasarathi & Agarwal 2021, Abhishek 2023). But the commercial, financial, and organisational dynamics of *newspapers-as-commerce* went effectively unregulated in the colonial period. Historians are yet to offer explanations of such longstanding non-intervention. There is however a reasonable claim about treating the administration of newspapers as an *economic enterprise* in colonial India, rooted in European traditions of *laissez-faire* exported from imperial Britain (Ryan 1990:56). A key facet of this tradition was its speculative and mercantilist tendencies, which scripted ownership in sections of the press in late colonial India (see Ray 2013).

For the early champions of the free press in Europe such as John Stuart Mill, promoting individual liberty through newspapers neatly dovetailed into a *laissez-*

faire approach towards the business of newspapers (see O'Rourke 2001). But the ideological compulsions of colonial administration in India dismembered the foundational European imagination of the free press. While the newspaper business was cradled in ideas of free enterprise, free speech was ruthlessly curtailed by the East India Company. The launch of the first newspaper in colonial India, *Hicky's Bengal Gazette*, and concomitantly, the earliest instance of press regulation, testifies this. Published by James Augustus Hicky (1780), a businessman, and primarily containing trade information, this newspaper was seen by officials to undermine, if not unmask, their commercial dealings; not only did they curtail Hickey's liberty, the newspaper was violently disbanded, and its typefaces smothered to bits (Otis 2018).

Subsequently, the British administration in India continued to harshly deal with newspaper speech critical of its policies and politics. This was a blatant "volte-face" of the liberal principles it followed in Britain (Kalpagam 2002:52). Less ferocious were mechanisms through which the pricing of postage and telegraphy, key requirements for the press, impacted access to newspapers, and the breadth of their views and news. Until the 1850s, high postal rates limited the geographical footprint of the newspapers; but circulation rapidly expanded during the 1860s and 1870s due to the lowering of postal rates, and expansion of the railways (GoI 1954, Frost 2016). Moreover, tinkering with the price of telegraph services, especially international telegraphy, at various times either enhanced or constrained the flow of news from abroad (Choudhury 2010, *passim*). While such measures indirectly shaped the market of newspapers and news, there was no explicit economic regulation of the market structure. There were no restrictions on sources of capital irrigating the press: British mercantile entities, indigenous petty financiers, local zamindars¹, and a host of politicians and social reformers were free to launch newspapers, either as (editorially) active or passive investors. No caps were imposed on the market-share of newsprint cornered by the bigger and higher-circulating newspapers; nor were any direct subsidies offered to those newspapers defending the empire. Thus, for more than 150 years, the market structure of the newspaper business developed under a largely free-market dispensation.

By 1950, when India became a constitutional republic, the press was drastically different than that in the previous century. There was a noticeable degree of concentration in circulation; prominent newspapers were owned by domestic businessmen, including those acquired from British proprietors. Not surprisingly, the three-volume report of the (First) Press Commission (GoI 1954) felt traditional threats to the press from state power – colonial or post-colonial – were enhanced

¹ Semi-autonomous, hereditary land owners.

by threats from commercial power. The normative, ideological, and empirical basis of this contention has been questioned and defended by a handful of scholars (esp. Dhawan 1987 and Banerjee 1973, respectively). In subsequent commissions and inquiries into the press during the 1960s, 1970s, and 1980s, anxieties about commercial power continued. This provoked a spiralling set of policy debates, regulatory interventions, legal tussles, advocacy by journalists, and even some academic scholarship on the governance of the newspaper business.

Throughout these decades, television news was the monopoly of the public broadcaster. From the 1990s, this scenario changed with incremental deregulation, and the advent of private news broadcasters. This ensured the world of the news media expanded in scale and tenor, and was no longer solely confined to newspapers; by the late 1990s, the landscape was reconfigured to include print and television news, thereby widening the inherited sphere of 'the press'.

Since both these segments involved private actors, policy debates on ownership structure and concentration in the news business expanded to include cross-media ownership i.e., horizontal integration across newspapers and TV news outlets (see GoI 1991, 1996). Yet, by the turn of the century, as India crossed 50 years as a democratic republic, we find no explicit regulatory interventions to address core aspects of ownership: i.e., investment and control in news outlets; market power in print or broadcast news; and, accumulation of interests across the two segments.

All this should not suggest the state did not periodically intervene in other aspects of the news business. Orchestrated through a mix of legislation, court judgements, and executive orders, these included administering the price of newspapers, offering subsidies to small newspapers, and allocating key resources like newsprint and spectrum. Aspects of such interventions were legally challenged by actors in the news business, and were largely upheld, in part or in toto, in their favour by the judiciary. There is something to analyse here about the role of the judiciary in stemming the desires of the two arms of the state, legislature and executive, to regulate the market structure and conduct in the news business.

There is thus a plentiful turf to examine regulatory contests around the commercial, financial, and organisational dynamics of the news media, and the rivalling imaginations of regulating ownership. These regulatory contests and imaginations were precipitated by periodic arguments to protect and nurture the news media. Embroiled in tussles over this were the legislature, executive, and judiciary; regulatory bodies (as they got instituted); and numerous constituents of the press, i.e., proprietors and trade bodies, journalists and their unions, seasoned editors and managers, and the long tail of retailers. Their contesting arguments were variously informed by rival normative standpoints on the press as a modern institution; by tensions between such standpoints and empirical evidence on the

prevailing nature of concentration and cross-media ownership; by systematic and anecdotal evidence on the abuse of market power by large newspaper chains; and, by the competitive strategies adopted by newspapers and broadcasters backed by substantial commercial and ideological stakes outside the news business, especially diversified industrial groups, political parties, and narrow sectional interests.

1.1 An Overview

Despite India being one of the leading democracies of the 20th century, and inhabiting one of the largest readers/viewers of news, I am puzzled about the longstanding silence in devising a coherent framework to regulate the dynamics of ownership.

From the days when ‘the press’ comprised only newspapers to when it expanded to include TV news, what explains the regulatory silence on aspects of ownership? In this dissertation, I frame my curiosity in another way: what was the Indian experience of attempting to regulate key aspects of press ownership? I examine policy windows between the mid-1950s and early 2000s to regulate three such aspects – viz. concentration, ownership organisation, and cross-media ownership.

The purpose of examining policy windows over a long period is twofold: to highlight the changing desires to address the perceived risks to the press and society from different dynamics of ownership; and, to explain how these desires were impeded by ideas, interests, and institutions marking different regulatory contexts. Pursuing ‘historical reconstruction’ in media policy studies (Nieminen 2006), I draw on a wide corpus of primary textual material to inquire into modern India’s tryst with regulating press ownership. I identify three moments – one each from the mid-1950s, early 1970s, and early 2000s – when opportunities emerged to regulate aspects of ownership.

Across these moments, foundational ideas of media policy, such as diversity, freedom, and competition (see Napoli 2001), were evoked; moreover, these ideas were astutely leveraged by contending interests implicated during these endeavours, such as newspaper and TV news outlets, associations of news proprietors, journalist unions, and even trade bodies of wider industrial actors. Yet, I find the three moments falling short of evolving an intelligible and effective framework to regulate aspects of ownership. To reason this, I draw on the role of ideas, institutions, and interests as explanatory logics. What kind of ideas were evoked to counter arguments to regulate the ownership structure, concentration, and/or cross-media ownership? Which interests, from within and outside news

media, propelled these ideas? Did their interests overlap with sections of the state in thwarting possible policy options? What were the tensions and compulsions within the institutional architecture, and between the executive, legislature, and judiciary, that inhibited these policy windows? My dissertation will identify the countervailing ideas, overlapping interests, and institutional constraints that diluted, limited, and/or prevented successive opportunities to regulate ownership.

1.2 The Problem

I see actors in the news media as those involved in the procurement of voice in society; their involvement is directed at consolidating and propagating their values and interests, a claim I elaborate in the following chapters. From this standpoint, ownership can be conceptualised as forms of cooperation to procure voice, and to accumulate and sustain it, as I elaborate in Chapter 2. Thus, stated otherwise, my dissertation delves into the impediments to regulate key aspects of procuring and aggregating voice in the news media in India. I am curious about the ideas invoked to articulate and mitigate the apprehensions in policy debates about ownership in print and TV news, the institutional mechanisms devised to address the risks to the press and society from different facets of ownership, and the confluence of interests that promoted, or muted, particular regulatory initiatives. This drives me to examine policy options and specific regulatory mechanisms at a particular moment; and additionally, to unravel the normative, ideological, and material attractions that shaped particular regulatory initiatives, and those that impeded coherently actualising these initiatives. Set up in this manner, my dissertation diverts from other narratives of media regulation in India, including those specifically about regulating ownership – narratives I capture, and contest, in Chapter 3.

To put forward a different narrative of media regulation, this dissertation traces three regulatory initiatives, at different moments of time between 1954 and 2005, which grappled with aspects of ownership perceived to be the most challenging at a particular moment: *market dominance*, or the concentration of audiences, advertising revenue, and other resources, in the 1950s; *market presence*, or the cooperation underlying the organisation of ownership, in the 1970s; and, *market possession*, or cross-media ownership across print and TV news, in the early 2000s. These initiatives were spread over a long period, and whittled down by varied values, powers, and constraints imparted by India's changing political economy and regulatory architecture. But precisely because of such factors, examining these seemingly unconnected initiatives can highlight the

enduring forces at play – forces that, I believe, have scarred the effective regulation of ownership till date.

Thus, this dissertation is about the persistent impediments to mitigate issues related to ownership advocated by sections of the government, parliament, judiciary, and press. It raises a central question: what were the conditions that constrained these attempts at different moments in the regulatory history of the press in modern India?

1.3 Vectors of Ownership

Globally, attention to ownership structures, concentration, and cross-media ownership are rather central to scholarship in media policy studies (amongst the vast and varied literature, see Hitchens 1994, Iosifides 1997, Doyle 1998, Baker 2006, Winseck 2008, Valcke 2011, Angelopulo & Potgieter 2013). Drawing on these helps me to unpack the three vectors that form the playing field of this dissertation.

The forms of cooperation involved in procuring voice – i.e., the organisation of ownership – trigger apprehensions in at least three circumstances: when proprietors of news outlets have stakes in multiple, non-news media businesses; when they possess more lucrative interests in the wider non-media industrial and financial economy; and when they are also actors in electoral politics, or represent organised sectional interests. The latter two forms of cooperation have long characterised the press in India, going back at least to the mid nineteenth century (see Ray 2013, Israel 1994). All such forms of cooperation make the performance of news outlets vulnerable to their owners' entanglements and priorities outside the news business, which entail larger pecuniary or non-pecuniary interests. Consequently, the market presence of such owners impacts the quality and veracity of news produced under their aegis, and the economic and extra-economic powers impacting the dynamics in news market.

Widening our attention beyond the types of actors to their conduct in the news market takes us to regulatory anxieties triggered by the two other vectors of ownership.

One anxiety is about an owner commanding market dominance, a feature of many businesses in the industrial era. In the media business, ownership concentration is usually seen in terms of a domineering market share of audiences garnered by a few entities. It can also indicate the possession of a large pool of raw materials like newsprint or broadcasting spectrum, or aggregating a large proportion of resources like advertising expenditure. Importantly, concentration is as much a consequence of the emergence of domineering actors as it is the cause

for their unorthodox market behaviour. On the whole, the concern of concentration pertains to skewed competition between ‘big’ and ‘small’ players, the former garnering disproportionate share of resources (also see Valcke et al 2010), and the adverse consequences of these developments on the dispersion of voice and diversity of viewpoints in the press (see Baker 2002).

The accumulation of interests by owners across different segments of the news business raises concerns of market possession. Two scenarios catalyse this: vertical integration, when owners of news outlets enter other stages of the value chain in the same segment (such as in distribution or news agency business); and, horizontal integration, when they enter the same site in the value chain in another segment (such as when newspaper owners enter television or online news). Market possession caused by the former raises risks of market foreclosure in the competitive milieu; while that resulting from the latter triggers apprehensions about some owners wielding power across distinct market segments of news. Threats of cross-media ownership typically surface when new technologies of production and distribution emerge – such as after the advent of cable TV or direct-to-home (DTH) transmission, and subsequently that of online news.

Clearly, threats of market dominance increase with widening market possession, and vice versa in some cases, as is underscored by some scholars (see Curran & Seaton 1997:84, Baker 2004 *passim*). Moreover, the market presence of certain kinds of actors can provide commercial and organisational pre-conditions to cultivate dominance and possession. The dynamics of such forms of market power render a common policy challenge: that of media ownership. Symbolising different registers of market power, the dynamics of market share, market presence, and market possession have provoked an array of economic arguments against certain configurations of ownership (Doyle 1998, Winseck 2008).

Beyond these primarily economic concerns, there are matters related to the adverse impact of the dynamics of ownership on society and democratic polity. This opens to debates about the implications of ownership on diversity, accountability, and transparency expected from the press. These provide an array of normative, empirical, and ideological arguments to regulate vectors of ownership – as detailed in Chapter 2.

1.4 The Canvas of Research

Leafing through policy debates in India over half a century, I found numerous anxieties and challenges that were not addressed by regulatory interventions. Among those that were addressed, their provisions and design were often half-baked. With changes in the dynamics of news markets, technologies to produce

and distribute news, and/or in the competitive behaviour of news organisations, concerns about ownership in policy circles re-surfaced in different guises. In few instances, this provoked revisiting past regulatory debates, honing of extant policy values, and rethinking the aims and purpose of regulation – be it substantially or superficially. These processes were modulated by competing stakes in the media milieu, and by the constraints, incentives, and legitimacy confronting the regulatory apparatus – all of which evolved with India's changing politics and polity over the five decades under study in this dissertation.

This suggests the study of media regulation is not only about the nature and impact of government decisions, it is equally about unearthing circumstances, processes, and interests constituting these decisions. Such examinations must also unravel inter-related decisions taken over a long period, including the continuities in the circumstances catalysing them, and the implications of one over the other.

Pursuing my research question calls for apprehending regulatory contests around ownership over a long period. This requires, foremost, identifying the period to be considered, and critical junctures within it. It further involves identifying the institutional framework and mechanisms to be studied, actors and stakes involved, and ideas spawned in the policy arena (see Bannerman & Haggart 2015:9). In parallel, it is fruitful to recognise mechanisms adopted by some actors to downplay empirical evidence and normative arguments advocated by others, and/or to undermine the values and legitimacy of rivaling policy options. Keeping track of all this would lay bare those interests in and around the press which ultimately benefited from the government either picking one policy option over others – or, as happens sometimes, the government actively choosing to maintain an effective status quo.

1.4.1 Three Moments in Ownership Regulation

In this dissertation, I take up three moments in the regulatory history that deal with core facets of ownership. While two of these pertain to newspapers, in the 1950s and 1970s, the third relates to TV news, the expanded sphere of the press appearing from the late 1990s.

The first regulatory moment sought to mitigate risks from newspaper combines cornering domineering shares of audiences, newsprint, and advertising revenues, thereby adversely shaping competitive behaviour. This was triggered by the Press Commission's revelations in 1954 about a handful of proprietors garnering a significant share of newspaper circulation and advertising (GoI 1954 *passim*). The Commission recommended equalising opportunities between the metropolitan-based combines with high circulation – touted as 'big press' – and the regionally published, predominantly non-English newspapers with modest circulation. Curtailing the circumstances that enabled the 'big press' to garner a dominant share of newsprint and advertising revenues signals India's experiment

with “regulated pluralism” (Thompson 1995:240-241) – i.e., statutorily ensuring diversity and pluralism are not undermined by concentration. In Chapter 5, I examine the Commission’s rationale for regulating the price, pages, and advertising space in newspapers, parliamentary debates shaping the scope of *The Price and Page Act* of 1956, and the Act’s legal and administrative afterlife.

The second regulatory moment, comprising Chapter 6, deals with the attempt to safeguard editorial and journalistic autonomy from the wider economic interests of their owners. The roots of this go back to the Press Commission observing overwhelming sections of the big press were owned by leading business families. Exactly a decade after the Commission’s report, the Monopolies Inquiry Commission revealed that newspaper combines owned by ‘big business’ brazenly and tacitly promoted the industrial and mercantile interests of their owners. This became a further cause for concern when these combines expanded into regional markets in the early 1960s, thereby threatening the sustainability of the small, regional language press. Assessing the second moment, I unravel the chequered regulatory history of dispersing ownership and control of newspaper undertakings of big business – starting from the rationale of options proposed by the Press Commission in 1954, through the concerns of market power elucidated by the Monopolies Inquiry Commission in 1964, and finally to legislative discussions between 1971 and 1974.

The third moment deals with the expanded sphere of the press, following the commencement of TV news by non-state actors. Taking this up in Chapter 7 provides me a methodological opportunity to bypass a medium-centric approach dogging the study of news media in India – that is, one where transformations in TV news have been examined largely in isolation from those in newspapers, and vice versa². This despite both these segments being marked by common commercial actors, similar business models, and comparable relationships with the state. With incremental deregulation of TV news during the 1990s, actors from print news found an avenue to widen their stakes in ‘the press’ by wading into TV news. The third regulatory moment centres around the *Guidelines for Uplinking of News and Current Affairs TV Channels from India*” (2003), the de facto licensing framework for TV news. These were amended in an ad hoc manner over the following two years, until a consolidated set of *Guidelines for Uplinking from India* was put together in 2005 (hereafter, Uplinking Guidelines). I trace the deep history of these guidelines in the strategic and opportunistic gradualism marking

² For instance, robust studies of the transformations in the print news from the 1990s onwards lost an opportunity to relate these to concurrent, even synergistic, developments in TV news; these include Jeffrey 2009, Udupa 2015, Neyazi 2018); similarly, the glut of scholarship on TV news has remained distant from examining related actors and dynamics in the newspaper business, exceptions being Rodrigues 2010, Jain 2015.

television policy from the 1980s, trepidations about cross-media ownership across print and TV news throughout the 1990s, and the regulatory response to such 'bigness' in the press through the Uplinking Guidelines in the early 2000s.

The first and third regulatory moments have been examined by scholars of journalism studies, media policy, and legal studies. Discussions about them are prominent in university syllabus of these fields of study in India. Legal scholars almost unanimously see these two moments as landmarks in contests over media regulation in general and free speech – a considered term – in particular (see esp. Bhatia 2016a and Chandrachud 2017). That said, common to these commentaries is their theoretical moorings in legal philosophy, rather than (additionally) in institutional analysis. I offer an alternative account of the state and non-state actors involved in these moments, their changing and enduring relationships, and of the intent and outcome of the regulatory endeavours. Central to my characterisation of the confabulations and contestations marking these two moments is the state's disinclination to curb concentration and cross-media ownership. This is why and where the second regulatory moment becomes crucial to this dissertation. Hitherto, this moment has found no mention in historical, legal, or institutional scholarship in India; consequently, it is yet to inform either the dominant or the marginal renditions of the master narrative of media regulation – both of which I critically review in Chapter 4. Completely ignored in the public history, the second moment unequivocally testifies to the state's disinterest, or inability, to regulate ownership in the news media.

1.4.2 Impediments scarring the Moments

All three moments come across as missed opportunities to address the adverse implications of ownership as perceived by some policymakers then, or as evaluated by scholars subsequently. This is what makes them *critical junctures* in the trajectory of ownership regulation.

What were the factors that impeded or softened the desire to mitigate the risks of ownership perceived at each moment? Drawing on the role of ideas, interests, and institutions in mediating regulatory endeavours – fleshed out in Chapter 5 – enables me to reason the 'failure' of these moments.

In policy documents and debates, I find a plethora of ideas driving normative, empirical, and ideological arguments about the implications of ownership on the press and on society. More often than otherwise, these ideas appeared in regulatory debates in a conflated manner; almost always, they did not manage to productively inflect each other. In some instances, the arguments overly relied on the normative, without substantial or informed empirical basis; during other instances, empirical evidence could not be judiciously leveraged to enhance singularly normative and ideological arguments.

Secondly, I find the behaviour of domineering actors in the press to thwart the design of effective regulatory mechanisms. Interestingly enough, this unfolded sometimes in collusion with interests of the state, while at other times in collision with the state apparatus. The former indicates the overlapping interests of news actors with members of the dominant coalition of class interests comprising the Indian state – i.e., political elites, industrial capital, and to some extent, landed gentry. When there were frictions between these actors and the state, judicial tussles emerged; these, over time, imparted legal path dependencies mediating the relationship between actors and the regulatory apparatus in subsequent regulatory moments.

This leads me to the third impediment, arising from the institutional arrangements in the regulatory edifice. On the one hand, there were tensions between legislative and judicial arms over the primacy to legitimise and implement the desire, and interventions, to regulate ownership. Equally, I observe silences in the legislature and executive that led to a conscious policy of non-intervention, despite substantial empirical reasons to do so. It is this aspect that has provoked this dissertation to forward the idea of ‘considered silence’ as a key trait of ownership regulation in India.

Having introduced the role played by ideas, interests, and institutions as explanatory factors, it is productive to view their inter-relationship to roundly reason the fate of these three moments.

In the first moment, the professed desire to curtail ownership concentration was impeded by three factors: one, dilution of policy values and regulatory recommendations; two, inadequate conception of policy instruments in *The Price and Page Act, 1956*; and three, the successful judicial challenge to this Act by the ‘big press’. With regards to the first two factors, the inadequate provisions in the Act reveal the state wanting to protect its own interests in and through the press: that is, it tacitly promoted advertising-driven commercialisation to continue harvesting fiscal gains from advertising; and, the state sought to control the big press while leveraging it to reach the widest array of readers. With regards to the third factor, I argue the libertarian bent of the jurisprudence of the Sakal Case of 1962 enabled the litigant big press to protect its interests, thereby constitutionally hampering the parliament’s attempt at regulating concentration, however partial this attempt was.

In the second moment, the confluence of institutional constraints and vested interests hampered the regulatory endeavour. Parliamentary debates between 1971 and 1974 illustrate a shift in intent from “diffusing” control *in* newspapers owned by the big press, to “delinking” ownership *from* big business, to ultimately side-lining both options. There are two reasons why I sense parliament was apprehensive the judiciary would roll back legislative intervention on permissible forms of cooperation and ownership organisation: due to the legal path

dependencies imparted by the first moment, especially the Sakal Case; and due to ongoing contests during the early 1970s between parliament and Supreme Court over constituent and constitutional powers of the state. Moreover, political parties, which owned newspapers, found the prospect of diffusion to unsettle their hold over their newspapers; they thereby found common cause with business-owned newspapers, which were equally threatened by a regulation that would diffuse control. In such circumstances, the government decided to quietly maintain the status quo on the two types of cooperation marking the press in India.

In the third moment, the inability to curb cross-media ownership arose out of the constituted contexts of media regulation. Three factors inhibited the regulatory provisions in the Uplinking Guidelines to assuage market possession by 'big media'. First, and most broadly, the values fuelling the emergent neo-liberal state, one that piloted the deregulation of TV news, refrained it from ideologically justifying economic regulation in this business, akin to that in other sectors of the economy. This, in turn, legitimised the 'dominant coalition' of interests comprising the state to maintain their commercial and ideological stakes in the press. Third, the legal path dependencies imparted by the first two moments hampered the regulatory apparatus to address market possession gained via cross-media ownership. This was also the reason why the Uplinking Guidelines were bereft of any provisions to mitigate the risks of concentration in the business of TV news.

Taken together, permutations of pervasive interests, incongruent ideas, and institutional constraints scarred the three moments. It is thus fruitful to view these critical junctures as a continuum, each forming the deep history of the next one. In this continuum, I observe the evolution of an ensemble of changing relationships: those between the news media, wider fulcrums of commerce, and arms of the state – as also among actors inhabiting these spheres of the press. Additionally, I find constraints and failures at one juncture contributed to those faced at subsequent ones. Consequently, these three junctures, although separated in time and pertaining to different vectors of ownership, appear to be a part of an extended field of contest over the regulation of press ownership.

Recognising this *field of contest* over values and stakes over five decades has theoretical and analytical advantages. Ideas, interests, and institutions as explanatory factors account for the continuities, changes, and absences in regulation. But beyond discrete elements of the explanatory framework, they support us in learning more about the types of path dependencies confronted in regulating ownership, i.e., the inherent constraints in a regulatory framework due to the legacy of weaknesses, impediments, or silences therein. It is in this context that I forward the idea of "considered silence" to characterise the conscious response of the state. As a descriptive concept, it echoes what elsewhere is termed

“policy silences” or “negative policy” (see Freedman 2010); as an analytical concept, it seeks to explain the arc of persistent impediments embodying an integrated regulatory field. Ultimately, the idea of “considered silence” provides an avenue to meet the widest possible purpose of this dissertation, i.e., to expose the lasting political character of media regulation. In this temporal arc of persistent impediments possibly lies the key to reason the weak regulatory framework of press ownership in present day India.

1.5 Outlining the Approach

Political economy refers to those broad approaches united by the desire to study social phenomenon as part of the interrelations between economic processes and political circumstances. The core questions raised by scholarship in the political economy of the media are about the reasons, ways and extent to which political and economic structures shape media institutions.

1.5.1 Political Economy of Media: The broad approach

Looking outward from India, I find broad ‘schools’ of the political economy of media (henceforth PEM), such as those in North America, Ibero-America, Australia, Britain, and France (illustrative, not representative, of this are respectively Mosco 1996, Becerra & Mastrini 2011, Graham 2001; Murdoch & Golding 2005, Miede 1989). These and the many traditions therein differ on the theoretical emphasis and analytical priorities towards understanding the articulation of economic forces and political choices³. This apart, there is something to say about PEM as an intellectual enterprise *about* and *from* non-western societies. The former expanded the horizons of PEM from the mid 1970s by drawing on *dependencia* theory (see Mattelart 1979), and other anti-imperialist approaches (such as Schiller 1976/2019). The latter insisted on the peculiar interrelations between economic forces and political choices due to historical contexts of non-western societies (see esp. Pendakur 1990, Chakravartty & Zhao 2008, Quaiser 2018, Rahman 2020).

Rather than delving into the differences among these traditions and emphases, it is productive to build on their commonalities, both in scope and analysis. In

³ Winseck outlines four influential perspectives: (1) conservative and liberal neoclassical economics; (2) radical media political economy; (3) Schumpeterian institutional political economy and its two recent offshoots, the creative industries and network political economy schools; (4) the cultural industries school; see Winseck 2011:3.

doing so, I put the spotlight on the role of the contexts, both historical and intellectual, that this dissertation engages with.

To begin with, two points must be made here.

First, there is not, and perhaps cannot be, one tradition of PEM outside ‘western’ societies. There are multiple streams within the amalgam of ‘non-western’ scholarship, each differentiated by its theoretical influences and analytical emphasis. Of course, there are arguments for such a singular tradition, such as propositions of a post-Western political economy to shed light on the peculiarities of media structures and the underlying (elite) practices in Asian and Arab countries (see Richter & Gräf 2015:26). I see two reasons why the categories of non-western and post-western can be contested: one is the sheer heterogeneity in the historical and institutional contexts constituting what are commonly termed as post-colonial worlds, transitional societies, or the global south; the other is the stark differences in the colonial experiences therein. This is not only among the British, French, and Spanish colonies but often within, say, British colonialism in East Africa and South Asia. There is thus an obligation to think of different traditions of PEM based on these experiences and contexts, as is with PEM within the North Atlantic world.

Second, most traditions of PEM examine media dynamics in societies undergoing long and complex ‘transitions’ to capitalism – transitions in India appear as complex as the debates it spawned (see EPW 1975). Vincent Mosco is most pragmatic in insisting PEM can be ‘applied’ to the study of pre-capitalist and capitalist communication systems although it is primarily concerned with the latter (Mosco 1996; *Cf.* Quaiser 2018). While recognising the distortion of categories as not unique to PEM scholarship, this dissertation remains cognisant of the hazards of travelling concepts and key categories across historical contexts. In fact, it begins by the issue of transporting popular constructs about the press, such as the ‘Fourth Estate’ and ‘the watchdog’, to media studies in India. The former has been criticised by leading scholars (in/from ‘the west’) for its uncritical and untheorised nature (see Sparks 1995:47). The ascribed role in latter construct is empirically questionable, given that the press emerged in colonial India before institutions of representative democracy and of modern mass education⁴. What is required, therefore, is to recognise the longstanding unique and/or peculiar features of the Indian context that call for a diligent adoption and careful reading of prominent conceptual and theoretical works – as I do in Chapter 2.

Common to all traditions of the PEM is they necessarily involve the study of power. Mosco finds political economy to offer an avenue for ‘the study of the social

⁴ That said, one is reminded of Dipesh Chakrabarty’s claim about the impossibility of a post-colonial political economy; he wonders if such scholarship can be postcolonial at all, since using categories bereft of the contexts could result in distortions; see Chakrabarty 2011.

relations, particularly power relations, that mutually constitute the production, distribution, and consumption of resources', including communication resources (Mosco 1996: 25). Other traditions see the essence of political economy as the examination of relationships of power involved in the production, distribution, and consumption of communication resources within a wider social context (Wasko et al 2011). These two traditions respectively exemplify the primary emphasis on the role of institutions and interests in examining the news media as an expression of the interactions between economic forces and political choices⁵.

Not surprisingly therefore, attention across PEM traditions is on the role of the state, which directly appeals to scholars of media policy. It is common to maintain sight of the impact of the state on the press; this primarily leads us to view the state as an apparatus. But it is equally crucial to maintain sight on the significance of the press to the interests of the state – or more precisely, to the coalition of interests that constitute the state in India. Such a dual approach makes PEM apprehend the relationship between the state and press as being substantive, and not merely transactional. Thus, attention is not only on the state's role in allocating resources and protecting interests, but on the relationship between media power and state power (such as in Streeter 1996; Meir 2002). As I will shortly explain, this two-pronged path is crucial to drawing on PEM in the study of media policy since it productively helps to reveal how power is produced in and through contests over policy values and interests.

My approach to PEM draws on the idea of “embeddedness” (Polanyi 1944/2001) to not only conceptualise the nature of the press but examine its relationship with wider economic dynamics and political structures. Alluding to this has a three-fold significance. One, it makes engagements with constructs of the Fourth Estate, or the expected ‘watchdog’ role, through historical examination in a particular context. By recovering economic sociology's emphasis on the historical conditions within which actors are embedded in longstanding networks of association and social identity, I hope to garner the full significance of the situatedness of press and press development in the (particular) setting of this study. Two, an emphasis on embeddedness forces us to engage with the role of extra-economic returns from the news business. Such phenomena are explained away, under the influences of neo-classical economics, as ‘externalities.’ But recognising the embeddedness of the press forces us to look out for the role of non-pecuniary forms of value in the news business, including in mediating its relationship with wider economic and political forces (also see Bolin 2009, Graham 2001). Three, since the embeddedness of the press brings into play other forms of value, not only is the exercise of power and the production of value

⁵ Reference here is respectively to “institutional political economy” (such as Mosco 1996) and the array of “critical” political economy (such as Murdock & Golding 1973, Zhao 2008 among others).

inextricable, but power itself becomes one form of value translated into another (Graham 2002). This nudges me to consider ownership as the ability to translate one form of value into another, including across economic, social, and political marketplaces prioritising distinct forms of value. My discussions in Chapter 2 detail the conditions under which value from the news market is converted into pecuniary value in other economic products, or into non-pecuniary value in the market for political loyalties⁶.

Recognising the embedded nature of the press offers an additional reason to incorporate historical analysis in PEM. The PEM projects an order of priorities which are, on the one hand, a hierarchy of determinants in the real world, and on the other, a specific order of research priorities. At the same time, as a researcher, I have chosen to examine, from a complex of historical process, aspects that are likely to lead to the clearest understanding of the phenomenon under study. In exploring “long loops of time” (Wasko et al 2011), what is called for is positing the relationship between the determinants of the embeddedness of the media, economic processes in and around the media, and political circumstances incubating the media. This is demonstrated in studies about technologies in particular contexts in India, such as on telegraph in the late 19th century (see Choudhury 2010), and on cinema in the early 20th century (see Bhaumik 2011). These studies focus on the realm of media technology and business, while this dissertation is in the realm of media policy. Nevertheless, influenced by PEM, they equally delineate continuity and change, and the reproduction of continuities over time.

1.5.2 Political Economy of Media Policy: The specific approach

For a long time, PEM focussed on media technology and business, including inter alia ownership, and broad economic, commercial, and societal effects (for example Bagdikian 1987, Garnham 1990, Mosco 1996, Schiller 1996, Wasko 2001). The deployment of PEM in media policy studies gained ground largely in the wake of widespread deregulation in the media and communication industries across the world. Consequently, PEM set itself up to unearth not just the production of an economic and cultural order of and around the media, but the production of policy itself (see esp. Thatcher 2004; Menon 2005; Mueller et al. 2007). Much as critical PEM has enriched our understanding of the production of polity and politics, it has aided the understanding of the production of policy as well.

Media policy studies are conducted in two broad traditions: within a political context (political economy traditions), and that devoid of it (positivist traditions).

⁶ All this does not make our approach to PEM less economic; in fact, it is quite the contrary. While the PEM may start with a theory of exchange value, one will do well to explicate the subsuming of the social in ‘the economic’; see Polanyi 2018.

I consider the first to be analytically sharper and theoretically productive, and politically desirable. A critical political economy of media policy cannot separate the analysis of media regulation from imprints of its political and historical situatedness. In as much as critical PEM embodies a historical sensibility, if it is not substantively historical in orientation, the critical political economy of media policy needs to be necessarily so. At its core, the latter attends to areas where economic forces and political choices interact. For instance, it can help understand how such interactions produce configurations of media markets (see Parthasarathi & Athique 2020; *Cf.* Streeter 1996) – and as part of that, produce and legitimise certain forms of ownership.

Thus, a critical political economy of media policy provides a framework to make sense of relationships in a given context between key structural factors (such as historical processes and embedded networks), institutions (formal and informal rules, norms and arrangements), and actors (seeking pecuniary or other forms of value). Three methodological misgivings could place this framework at risk: considering actors in the news market as passive; viewing the role of the state in an instrumental manner; and, presupposing the existence of news markets.

First, news outlets, their distribution and retail affiliates, and their representative trade bodies strive to influence policy options, the policy cycle, and the substance of policy instruments. In their active negotiation with fulcrums of policymaking, the actors conduct a series of trade-offs: one, between their media interests and those of their competitors; two, between the former and their larger interests outside media markets, if/where such stakes exist; and three, between their media interests and those of the state. This obliges a critical political economy to be cognisant of the motivations driving different trade-offs, something that this dissertation will bring out. This enables me to evaluate policymaking around press ownership as a function of the power of competing and collaborating actors, and policy outcomes in terms of the ability to canvas support for preferred policy options (see Galperin 2004).

Second, one cannot undermine granular attention to the role of state. The key is to grasp tensions between this role as an interest and an apparatus. The perception of this tension intellectually marks the differing emphasis between the critical and institutional traditions of PEM. The default subject of media policy studies is the way the executive, legislature, and judiciary shape the permissible behaviour of the news media and news markets. However, at various places in this dissertation, we find the ‘rationality’ of policy prescriptions by the executive and/or parliament confronting the political expediencies and ideological interests of the governments. Here, I find a window into the relationship between the nature of state as a set of constituent interests, and its imprints on the behaviour of the state as an apparatus. This results in, for instance, what functionalist policy studies term suboptimal policy outcomes. Often, this is despite clear articulations

of problems and resounding evidence gathered by the executive, and favourable legislative conditions – a scenario that policy analysis outside the PEM fold finds conducive for state intervention (see Koning 2016; Kingdon 1984/2011). This makes me attend to the interests that embody the state in India – interests that are safeguarded, or promoted, by leveraging the state apparatus. In broad basket of scholarship viewing the state in India to comprise an alliance of classes, three variations are visible as succinctly captured by Das (1998): the orthodox Marxist accounts (such as Kumar 1993); intermediate regime theory where state elites are an additional constituent (see Alavi 1975, Raj 1973); and, the dominant coalition theory where usurious-mercantile-industrial elites, landed agrarian elites, and state-created elites together embody the state (see Bardhan 1984, Kaviraj 1988, Vanaik 1990). My dissertation develops an account of policymaking and policy outcomes around news ownership shaped by the tensions between these interests constituting the state, and the apparatus of such a democratic state.

Third, the political economy of media policy needs to steer clear of presupposing the existence of news markets. For, such a ‘market’, including its economic dynamics and constituent actors, is itself a product of policy choices and regulatory arrangements. In chalking out the scope of political economy of media policy, McChesney points at the task of examining “how ownership, support mechanisms (e.g., advertising), and government policies influence media behaviour and content” (McChesney 2000:1097). His idea of “support mechanisms” mirrors my proposition about the types of cooperation marshalled by actors in the news business. Such cooperation is, implicitly or tangentially, enabled by the contours of the regulatory framework, as much as this framework contributes to define the nature and boundaries of conduct in news markets. That such types of cooperation and the forms of value they entail are themselves enabled and legitimised by policy choices, is one argument that my dissertation pursues.

1.6 Sources and Method

The corpus of sources I draw on include policy documents, reports of public commissions/committees, parliamentary debates, Supreme Court judgements, reportage in newspapers owned by different commercial and political interests, and auto/biographies of journalists, lawyers, and businessmen. Since this

⁷ Here, for McChesney, “communication policy studies examine the influence of government policies on media performance, but the work generally presupposes the necessary existence of the market and the broader social situation as the best of all possible worlds”.

dissertation relies on such published documents as research material, it is vital to clarify aspects of the method adopted to make sense of such materials, as I do later in this section.

1.6.1 Policy Documents

Reports of four inquiries into the press, between 1952 and 1982, capture the abrasive implications of different vectors of ownership, and the policy options considered to address these problems. The report of the *Press Commission* (1954) remains one of the most thinly read and under-utilised sources in scholarship on press history, and on the intellectual history of media regulation⁸. Two other initiatives had a narrower remit, as their names suggest: the *Enquiry Committee on Small Newspapers* (1965), and the *Fact-Finding Committee on Newspaper Economics* (1975). They deeply enrich my analysis of the first two regulatory moments. The more ambitious *Second Press Commission*, instituted in 1978 but reconstituted in 1980, produced its report in 1982. I have drawn on it as a source of evidence about press development, market structure, and ownership patterns. This is to contest the claims made by dominant actors about the nature of the news business during the 1970s, and to piece together the deep context of the third moment. In this sense, unlike the other three reports, that of the *Second Press Commission* serves more as a supplementary document.

These commissions/committees sought to amalgamate various, albeit not necessarily diverse, interests from the state and the press in its membership. Typically, from the ‘government’s side’ were a mix of parliamentarians (mostly from the ruling party but sometimes from the opposition), former ministers and politicians, retired judges, serving or retired civil servants, and technocrats (professional who served stints in government)⁹. Representatives from the press included editors of large newspaper groups, smaller regional language newspapers and news agencies, representatives of trade bodies of proprietors and advertising agencies, besides the odd writer¹⁰ and cartoonist. Certain interests found place in more than one commission/committee, such as the Indian Language Newspaper

⁸ I speculate two reasons for this. On the one hand, the discipline of history in India remains confined to studies before 1947, despite recent efforts to surmount this chronological apartheid. On the other hand, the under development of the sub-fields of media history and media policy studies in India has resulted in the Report failing to capture attention from both quarters.

⁹ For instance, The Press Commission (1954) and Second Press Commission (1982) were chaired by retired Supreme Court judges, the Enquiry Committee on Small Newspapers (1965) by a parliamentarian who was earlier a newspaper editor, and the Fact-Finding Committee on Newspaper Economics (1975) by an economist. The last was probably due to its ‘technical’ remit; for the same reason, its small membership consisted officials from the Union Finance Ministry, the Central Board of Direct Taxes, and the Registrar of Newspapers for India, besides a retired production manager of a leading newspaper combine.

¹⁰ The writer, Amrita Pritam, was the sole woman member across all four commissions/committees.

Association, and multi-lingual newspaper group, Bennett Coleman & Company Limited (BCCL). I keep these in mind while making sense of the analyses and recommendations of the four policy documents.

Notably, individuals generally critical of press policy, and specifically of the earlier commissions/committees, were incorporated in subsequent ones. This is best illustrated in the Enquiry Committee on Small Newspapers (1965; hereafter, ECSN), which included A.D. Mani, editor of numerous small regional language newspapers, despite his dissent note in the report of the Press Commission a decade earlier. The ECSN also drew in Hiren Mukherjee from the Communist Party of India who, less than a decade earlier, had vehemently accused the government of side-stepping key recommendations of the Press Commission on regulating ownership.

Two other reports I draw on to examine the first and second regulatory moments did not explicitly deal with the press; but they revealed copious information on aspects of ownership and concentration in the newspaper business during the 1950s and 1960s. One is the report of the *Commission of Inquiry on the Administration of Dalmia-Jain Companies* (1963), appointed in 1956 to investigate the malpractices by a web of industrial and mercantile undertakings of this group, including the holding company of its newspapers and magazines ventures, BCCL. The second is the report of the *Monopolies Inquiry Commission* (1965), constituted to investigate market power across various sectors of the Indian economy, including the press.

Three points must be made on the scope of these reports. First, these reports, particularly of the two Press Commissions, offer an important source on press development in colonial and post-colonial India. For my appraisal of press development in Chapter 2, I rely on them together with scholarship on press history, and the wider political and economic history of colonial India. Second, the reports harvest evidence through interviews with representatives from the press, and by aggregating data from government and other records on patterns of ownership, and ownership organisation. Yet, thirdly, we find these reports to regularly complain about the need for further data, and/or relevant data being shielded by large newspaper combines. Evidently, the inability to access data on aspects of ownership and concentration hindered the quality and empirical depth of policy deliberations, and therefore of regulatory recommendations during these decades – a phenomenon that recurred in the decades of TV news.

The weight of source material to evaluate the third regulatory moment, cross-media ownership across print and TV news, is relatively limited and far less rich. Official reports on TV policy from the 1990s had specific remits, and offered slim empirical documentation; these sharply contrast the reams of pages in the reports on the newspaper business informing my analysis of the first two regulatory moments. Among the former are the *Report of the Inter-Departmental*

Committee on the Introduction of Competition in the Electronic Media (1992), and the *Report on Restructuring of Prasar Bharati* (1996). Less than 20 pages each, they neither contain evidence that informed their deliberations and decisions, nor any quantitative data on the business of TV news. Nevertheless, three other sets of materials afford insights into the regulatory intent and vision on permissible ownership structures and cross-media ownership with the advent of TV news segment. The first set includes parliamentary Bills, such as the *Broadcasting Bill* of 1997, and the *Convergence Bill* of 2001. The second has reports by ad hoc and permanent committees of parliament¹¹. The third set consists orders and consultation papers by Telecom Regulatory Authority of India (TRAI), a new actor in the institutional architecture¹². The second and third sets of materials refract changes in the institutional architecture of policy-making from the decades when the press comprised only newspapers.

1.6.2 Complementary Material

Four other sources comprise the corpus of my research material.

The first is case laws from Supreme Court generated by litigation around press and media policy. Three of these are central to my dissertation: *Sakal Papers Pvt. Ltd. & Others vs The Union of India* (1962), *Bennett Coleman & Co. & Others vs The Union of India & Others* (1972), and *Secretary Information & Broadcasting, Government of India & Others vs. Cricket Association of Bengal & Others* (1995)¹³. They offer insights into jurisprudence about the role of the press in society and polity, including comparative interpretations from other national jurisdictions. The first two judgements additionally reveal information about the workings of newspaper business, albeit as filtered by and captured in the wisdom of the judges.

Then there are parliamentary debates. Some volumes are available online but a large part was accessed from archives in New Delhi; in both instances, few volumes relevant to the years of my study were missing. Parliamentary debates reveal the back story of the committees/commissions reports I engage with; they also reveal the joyous, sceptical, and critical responses in the aftermath of these reports. In them, we can decipher parliamentarians voicing, and in some cases openly representing, dominant and marginal interests in the press. This suggests the vast potential of examining parliamentary advocacy as a crucial site of research in media policy studies. However, parliamentary debates on TV news from the 1990s onwards were limited in scope, length, and frequency, compared

¹¹ For technicalities of their difference, see Parliament. n.d.

¹² Commencing as India's telecom regulator in 1997, the mandate of TRAI was enlarged in 2004 to include aspects of broadcast regulation.

¹³ Respectively, AIR 1962, AIR 1973a, AIR 1995.

to those on newspapers from the 1950s to the 1970s. This is intriguing given the massive explosion in private TV news from the late 1990s. To an extent, this lack of deliberation on the floor of the parliament was due to the introduction of department-related Standing Committees of the Parliament instituted in 1993 (see Rubinoff 1996: 728-747); consequently, matters dealing with the Ministry of Information & Broadcasting were allocated to the jurisdiction of the Standing Committee on 'Communications', whose reports inform my narrative.

The third source material is newspaper reportage on regulatory debates. A fair amount of reportage adopted the tone of advocacy, as these matters directly implicated the interests of the owners. For the years before 1970, I consult only the *Times of India*, given the logistical difficulties to access the archives of others. For the second regulatory moment, I additionally examine weekly newspapers of the Socialist and Communist parties for two reasons: they carried reportage and views contra to that in the mainstream, commercial press., such as *Times of India*; and, journalist unions affiliated to these parties were at the forefront of advocacy on press ownership during the early 1970s. In making sense of such reportage, I was cognisant of the editorial inclinations of these dailies and weeklies, and the interests of their proprietors – since this expectedly decided the choice, depth, and periodicity of reportage in the press, about the press.

Fourthly, to weave in personalised experiences in my dissertation, I draw on a source less engaged with in policy studies: auto/biographies. It is fascinating to get lost in autobiographies of journalists, lawyers, and politicians reminiscing on key events in, or dealing with, the news media. They tender nuanced insights into the inner workings of the news media, and individual perceptions about the evolving news business and news policy. For the same reason, I draw on popular histories of news organisations and their proprietors – though their hagiographic nature calls for a sharper reading. Nevertheless, they are dotted with personalised reflections, and off-the-record commentaries on policy debates, judicial proceedings, experiences of participating in executive or legislative forums, editor-proprietor interactions, or business strategies.

Such complementary material proved particularly helpful in uncovering the second regulatory moment. Whereas *The Price and Page Act, 1956* is the primary regulatory document for the first moment, that for the third moment is the *Guidelines for Uplinking of News and Current Affairs TV Channels from India, 2003* and its amendments until 2005. There is no equivalent, singular 'regulatory' document for the second moment, since no Bill was tabled in parliament. I piece together the intent and substance of this regulatory endeavour through parliamentary debates and news reports during the early 1970s, recommendations of the Monopolies Inquiry Commission, and a summary of the proposed Bill in the report of the Second Press Commission.

Before moving on the aspects of method, a final explanation is in order, especially for those less familiar with the Indian press, on the names of individuals and places. Since these are spelt differently across corpus of sources, I retain the spellings mentioned in the respective source¹⁴. Similarly, names of cities vary either due to spellings adopted in different documents (such as Poona and Pune), or after being officially renamed during the period of study (such as Bombay to Mumbai, and Madras to Chennai). Here too, I use the name as recorded in the cited source.

1.6.3 Document Analysis as Method

I use the word ‘document’ both in its limited sense to refer to public records generated by different arms of the state, and its broad sense to other published material produced by non-state actors.

The universe of policy documents refers to parliamentary debates, court judgements, and reports of committees/commissions, which have a bearing on regulatory decisions. With increasing digitisation of public records, many documents are available online. This prevents researchers getting entangled in the complex and time-consuming bureaucratic protocols to access physical copies from government libraries and archives. However, the available digital records depend on what governments see as priority, and necessary, for public access – a limitation I will return to.

Techniques of document analysis has been aptly summed up in terms of “skimming (superficial examination), reading (thorough examination), and interpretation” (Bowen 2009:32, original brackets). Three types of ‘data’ can be mobilised by reading of policy documents: observations in the text; interviews and quantitative data (transcripts and tabulations are often appended to the reports); and, external sources referred to, such as disclosures by companies, news reportage, and other government reports/files. They were organised into major themes that provide ‘windows’ of engagement for a researcher.

The specific method used to make sense of my materials is proximate to that of thematic analysis. While I do not adopt a formal system of coding, themes like ownership structure, concentration, and cross-media ownership were the principal categories inductively employed to classify and make meaning of the texts. Since these documents are available online or in libraries, and sometimes in both, concerns of trustworthiness raised in methodological discussions on thematic analysis (see Christian et al 2019) – be it the fragments quoted or the veracity of analysis – are readily amenable to peer and public evaluation.

¹⁴ For instance, while the 1962 report of the Vivian Bose Commission into the Times of India Group mentions *Shreyans* Prasad Jain, a family member of this group, parliamentary debates record him as *Sriyans* Prasad Jain (my italics).

The circumstances and actors involved in producing policy documents are crucial to take note of. This is why navigating policy documents as sources in media policy studies is rightly required to imbibe a methodological awareness (see Karppinen & Moe 2012). The ‘documents-as-texts’ approach acknowledges the force of extant ideas and discourses on their own, as also forces giving birth to fresh ideas and discourses. Official reports need to be delicately studied since they contain limitations and prejudices of the (usually collective) authors; what helps are the dissent notes as they lay bare the tensions in such collective official pronouncements. This apart, I am cognisant of the specific institutional contexts responsible for such reports, especially the audiences and purposes they were produced for. For instance, unlike published parliamentary debates, the reports of committee/commission were produced for limited, specialised readers, and transcripts of legal judgements are for more niche readers.

The commission/committee reports and judgements tend to comment on the inherited or extant policy environment. This enables me to glean through a narrative of developments in the regulatory environment, right from the earliest state interventions in late 1780s until the early 1980s. I was mindful not only of their construction of regulatory histories in particular ways, but of their terms of reference. For instance, the remit of the original and reappointed Second Press Commission included to examine “ownership patterns and the financial structure” of the press (GoI 1982: 1,2). However, there is a noticeable difference in their scopes. Whereas the original one’s terms of reference convey a desire to regulate micro-economic behaviour such as the price of newspapers (*ibid*, 1), the reappointed one’s focus on meso-level matters like the development of newspaper chains, and links with industrial groups (*ibid*, 2).

I consider news reportage as documents. These are also examined thematically rather than through a systematic content analysis. I am cognisant that newspaper reportage, which serve as the first drafts of history, come from quarters with stakes in the regulatory process – which is to say, they benefited, or lost out, from the regulatory decisions under contest. This is also the case with autobiographies of journalists, politicians, lawyers, and proprietors. Here, I am additionally aware of their authors’ desires to often amplify their role and centrality in regulatory contests. The tendency to glorify achievements and professional decisions is most pronounced in biographies and hagiographies of founders and co-owners of news outlets. If we cut through this haze, we stumble upon instances of their strategies to sidestep regulations, or/and attempts at advocacy against some policy options.

In (historical) policy research, engaging with documents in general and government records in particular leads to the discovery of additional sources. Similarly, the analysis of government documents leads to discovery of (and importance of) lesser-known pre/policy documents. For instance, I did not know the details or relevance of the Monopolies Inquiry Commission report until I

found it evoked in the 1982 report of the Second Press Commission, a document which was part of my corpus at the start of this research. The former became a key source in reconstructing and evaluating the second regulatory moment.

Important sources I could not lay my hands on were inter/intra-ministerial files and correspondences. Although de-classified at periodic intervals, these records are not digitised, making it cumbersome to locate and access, given the limited time and resources at my disposal. These would have provided details on the thinking within the government on decisions made during the lead-up to and following the reports of various committees/commissions. Additionally, I admit that the consulted newspapers are in English; the dissertation could have been enriched by experiences captured in the regional language newspapers. Similarly, the auto/biographies and hagiographies, far from being representative of the actors, were limited to the English language. While there are challenges of internal bias in both newspapers and auto/biographies as source materials, in case of histories of news organisations and news proprietors there may be issues of reliability as well. While efforts were made to counter-check the accuracy of events, often the authors' portrayal of their own roles reiterate my arguments and speculations about the role of private interests in shaping public policy.

Had I examined newspapers and auto-biographies in languages other than English, I would have surely been awarded with an additional set of articulations about these regulatory moments. Something similar can be said if I was able to access legal documents other than the judgements: i.e., petitions by newspapers and press associations, and responses by the government, leading to the judgements. This bottleneck is routinely faced by students of media policy, and legal studies in India. This material would have probably armed me with a more nuanced set of data on the news business, and 'first-hand' arguments for/against regulating ownership. Even if I had engaged with both these sets of documents, it was unlikely my findings and line of argumentation would be substantially different; however, they would have enhanced the weight of evidence I have leveraged, and the range of subjectivities considered, in detailing the narrative.

1.7 Organisation of the Dissertation

After this introductory chapter, over the next two chapters I present conceptual and theoretical considerations informing this dissertation. This responds to two traits observed in dominant narratives of press regulation in India: the sparse attention to 'ownership,' and the limited understanding of 'regulation'.

Chapter 2 provides a critical appraisal of press development in India. It traces the historical and institutional context, and outlines the specific norms of its

institutional structure. Recognising the embeddedness of the press in forms of economic capital and social identity, I conceptualise the press in terms of the *procurement of voice* in society. This leads me to forward an original four-way typology of actors, viz. Congregational Press, Merchant Press, Independent Press, and Conglomerate Press. They are differentiated by their principal motivations to procure voice, and the combination of pecuniary and non-pecuniary values they privilege. While this typology helps structure my appraisal of press development, it serves to familiarise readers with newspapers and owners featured in subsequent chapters.

In Chapter 3, I detail my understanding of ownership by building on my proposition of the press as a procurement of voice in society. Based on varying configurations of ownership organisation – i.e., of owner-outlet relations – I identify the principal vulnerabilities faced by different participants. Furthermore, I claim concentration and cross-media ownership, as different forms of accumulation and ways of sustaining it, pose incremental risks to the news business, and through that to society and polity. The Chapter argues that the abrasive implications of the three vectors of ownership undermine the resilience of the press to pursue its oversight roles in a democracy, and lend effective support to diverse social aspirations.

In Chapter 4, I widen the understanding of ‘regulation’ by conceptualising it in terms of both intervention and non-intervention on part of the state. Interventions, be it through legislations, judgements, ordinances or guidelines – the last two bypassing endorsement by parliament – or by international and bilateral treaties, reflect overt forms of regulation. That said, often the media environment and conduct of actors are shaped by the state consciously choosing not to intervene. As mentioned earlier, I propose the term ‘*considered silence*’ to grasp the intent and practice of such non-intervention. In the latter part of the Chapter, I outline an explanatory framework to reason impediments to statutory intervention. This hinges around the role played by ideas, interests, and institutions in shaping, or side-stepping, regulatory initiatives.

The next three chapters reconstruct and assess the three moments that form critical junctures in the regulatory history of press ownership. Chapter 5, 6, and 7 engage with concentration, ownership structure, and cross-media ownership, respectively. Their narrative structures are broadly similar: laying out the historical context in which particular anxieties of ownership emerged in the state and press; reviewing the propositions and contestations around policy options; and, reasoning the constraints to introduce, alter, or augment the regulatory framework to mitigate the relevant concerns.

Chapter 5 delves into the first moment, pertaining to the regulation of ownership concentration. My narrative lays out the context giving rise to the government’s apprehensions of market dominance in policy debates, rationale

behind the recommendations in the report of the Press Commission of 1954, their translation into legislation, and the legal challenge to provisions of *The Price and Page Act, 1956*. I explain two ways in which India's experiment with regulating pluralism was undermined: while some provisions of the Act diluted the Commission's original recommendations, others were wilted by legal challenges.

My narrative of the second moment in Chapter 6 traces the discomforts about the conduct, and abrasive implications, of newspapers owned by big business. I draw on the idea of ownership as cooperation, and the vulnerabilities faced by various participants arising from different forms of cooperation they adopt. I follow the events within and outside Parliament leading to the so-called Ownership Bill, which was promised but never tabled in parliament. The chapter closes by explaining this inaction due to the disincentives faced by the state as an interest, and the institutional constraints it confronted as an apparatus.

Chapter 7 begins by capturing three features of press development following the second moment: the rise of regional language newspapers; owners of newspaper expanding into TV news; and the presence of actors from TV news in TV distribution. This helps to evaluate the fears of 'bigness' – be it through horizontal or vertical integration – motivating the regulation of conglomeration due to, and in, the expanded sphere of the press. I end by reasoning on the inability of the Uplinking Guidelines to mitigate either the fears of cross-media ownership espoused in policy debates during the 1990s, or the risks of concentration and ownership vulnerabilities visible at the time the Guidelines were introduced.

In the Conclusion, Chapter 8, I revisit the three moments as an integrated field of contests around the regulation of ownership in the news media. In other words, I review these critical junctures, separated in time, as a continuum rather than discrete junctures. I highlight the role of path dependencies in constraining ownership regulation, the forces of conformity and contestations marking this field of contest, and the considered silence embodying the political character of media policy. My learnings about the fate of the three regulatory moments, while raising questions about the limits to reformist public policy, open on to larger theoretical debates on the nature of the state in modern India.

1.8 Contributions of the Dissertation

As a historical account of media policy, this dissertation hopes to reach out to global debates on the regulation of media ownership, perhaps tangentially to those on media diversity, and to scholarship on media and democracy. I also foresee it

contributing to ongoing debates on comparative media systems, and older debates on state formation in post-colonial India.

At the disciplinary level, my exploration into the regulatory history of press ownership in India fuses the preoccupations of media history and media policy, systematic pursuits of which are rare¹⁵. The dissertation enhances policy studies by focusing on *moyen durée* to bind seemingly discrete regulatory endeavours spread across time. Consequently, it contributes to making the study of regulation rather central to pursuits of media history – since these two scholarly preoccupations are hitherto separately pursued in India.

At an analytical level, my dissertation contributes to the examination of media regulation as particular confluence of policy, polity, and politics. In reasoning the hinderances to ownership regulation, I integrate the role of institutions, interests, and ideas, often deployed as distinct and separate explanatory logics.

¹⁵ One of the finest exemplars being Curran & Seaton 2018.

Chapter 2

2 Press Development in India: Actors and Institutional Norms

Before I venture into the three regulatory moments, it is essential to locate the press in India in its historical and institutional contexts, which is an ambitious endeavour.

This chapter presents a critical appraisal of press development in modern India. I extensively focus on the colonial period when newspapers originated as a novel form of speech and commerce, and the development of the institutional norms of the press. I then outline the changes over half a century after national liberation (1947), where I touch upon another segment of the press, private TV news, which emerged during the 1990s. Such a narrative provides a general context of the canvas of this dissertation – i.e., news media between the 1950s and early 2000s – and pinpoints the specific milieu where I commence my investigation – i.e., the press during the 1950s. For unfamiliar readers, my narrative introduces news outlets and their owners operating before 1950. Many of the former have survived in various forms, and feature in subsequent chapters.

There are other reasons why a chapter-length appraisal of press development is required. Knowing about the trajectories of press in a particular setting avoids abstracting it from the contexts of its operation (see Mihelj 2011, Voltmer 2013). This is theoretically important, as it enables us to reflect on standing models of state-press relations that are overwhelmingly based on experiences in other historical and institutional settings. This is also analytically important because my narrative brings out the constraints faced by the press to fulfil its normatively postulated functions in a society and polity. In doing so, my appraisal joins hands with those who have questioned the widely-accepted self-definition of the press as the ‘Fourth Estate’ (see Sparks 1998:209), while clarifying the conditions limiting its ‘watchdog role’ within and beyond a colonial setting.

I begin by forwarding a conception of the press as the procurement of voice in society. I claim the embeddedness (Polanyi 2001/1944) of the press in colonial society, polity, and economy shaped both its practices to procure voice, and its institutional norms. The legacies of these dynamics marked the press in the post-colonial period, where this dissertation is located.

To bring methodological coherence to my appraisal, I propose a four-way typology of actors constituting the press. Most immediately, this proposition is useful to assess the history of press development in India, something unsatisfactorily accomplished by other typologies I briefly review. My typology differs from others due to its ability to capture the differing motivations of procuring voice, and the organisation of such procurements – thereby paving the way to grasp the larger conception of ownership I offer in the next chapter. Thus, beyond its immediate use in this chapter, my typology is able to provide a framework to grasp the dynamics of press ownership in post-colonial India. Consequently, deploying this typology in this chapter provides a perspective on the kinds of actors and interests confronted during the three regulatory moments engaged in this dissertation.

2.1 Locating ‘the Watchdog’

2.1.1 Colonial Context of the Press

Compared to extensive theorisations on the state and press on both sides of the North Atlantic, in Latin America and Australia, scholarship on India falls short. One reason is the lack of a rich body of primary studies exploring the state-press relationship, including the historical location and role of the press. In tracing press development in India, there is a strong tendency to borrow, often unreflectively, on metaphors and frameworks from Anglo-American experiences. The limitations, and untenability, of such borrowings has been extensively argued by scholars from post-colonial Latin America and Africa (see esp. Chole & Ibrahim 1995:1-4; Barbero 1992; Berger 2002). Nevertheless, it is almost a truism that Euro-American liberal models and theories, built from specific historical and institutional trajectories of the press, were accepted in scholarship and imbibed in pedagogy almost globally (see Zhao & Hackett 2005:8-19, Curran & Park 2000a *passim*). Despite differing and contending renditions of these models, certain norms are expected of, and roles ascribed to, the press, especially in its relationship with the state. Pointing out hiccups in travelling theoretical formulations of press-state relationships does not entail normative issues alone, such as whether representative democracy or a free press should be expected in India; it is equally a matter of standards of explanation and description (see Berger 2002).

One construct that has travelled far into classrooms and libraries is that of the ‘Fourth Estate’, referring to its institutional site of the press. For me, the noteworthy aspect is the variation in conception of the other three estates as fulcrums of power. In (parliamentary) England and pre-Revolution France, these

three fulcrums referred to the (Appointed) Clergy, (Inherited) Nobility, and (Elected) members of the Common. But in the USA, bereft of the institutional burdens of European feudalism and church, the three were the legislature, executive, and judiciary. This may explain scholarship on news in the USA being largely rooted in the marketplace approach, while that in Europe based in the larger imagination of the public sphere, consequently spawning two distinct approaches to media diversity (see van Cuilenberg 2007:30-31).

Thus, differing instances of the location of the Fourth Estate seem to factor in the significance of distinct historical milieus. It is therefore vital to reflect on the institutional imagination of the press in sharply distinct milieux, such as in the once colonised regions of Asia, Africa, and Latin America. This is prudent when importing the metaphor of the Fourth Estate into such settings during colonialism and thereafter. I realise, and agree, that this construct is oblivious to the relationship of the news media to other forms of powers in society (Sparks 1995: 44-45). These fulcrums of power include larger media businesses; non-media industrial and commercial entities owning news outlets; and, informal or institutionalised denominational forces that are allies or financiers of news outlets. The construct of the Fourth Estate then posits the press as an autonomous force, independent of the state (Murdock 1981) – a trait vital to the self-definition of the press, legitimacy of its owners, and even the self-presentation of editors and journalists. Recognising these lacunae in the un-theorized character of the concept of the Fourth Estate, this dissertation uses it carefully, more as a metaphor.

A grounded approach to understand the location of the press as an institution is called for on both methodological and analytical counts. In viewing the press as a force in society, it is crucial not to abstract it from the historical and other contexts within which it operates (Mihelj 2011:59). This informs us, first, about the roles and sites of the press in modern India. This will aid me to evaluate the tenability of transposing the metaphor of the Fourth Estate to colonial India, and reflect on the conditions and efficacy of its expected watchdog functions. At a broader level, this will lay bare the empirical assumptions underlying the press-state relationship in modern India, compared to those construed elsewhere. Secondly, tracing press development in colonial India will inform us about the actors, and dynamics bequeathed to the Indian republic after 1950. My narrative will reveal the conditions in which social actors developed stakes in the press, and the typical ownership forms that characterised their news outlets. Understanding these conditions is vital to evaluate regulatory debates around ownership.

2.1.2 Press as the Procurement of Voice

The normative idea of a ‘watchdog press’ assumes actors carry and conform to ascribed roles in society and polity. Hence, any distortion or bias in the behaviour of news outlets signals infringing these roles. Such malpractices suggest the actors’

inability or disregard to maintain the institutional norms and expectations, which are themselves a product of a certain normative conception of a function of the press. The news media as a 'watchdog' idealises one of the many expected normative functions (Sparks 1995:53). A broader idea of the 'watchdog role', as I allude to, includes it being directed at misbehaviour by other actors. In this broader sense, this metaphor helps me to reveal power relations within the diverse constituents of the press.

But we can conceive of these distortions and biases in another manner. We can explain such behaviour due to the conditions in which actors and interests are constituted in the first place. In such a conception, the press comprises voices of actors with different motivations and roles. These include watching out for values, interests, and norms variously marginalised by the state and dominant sections of society; or, watching over their own stakes vis a vis competing voices within the press, and those outside it.

I view the press not as an arena comprising actors with a desired or expected set of (watchdog or other) roles, but as a clutch of interests seeking to procure voice in society – their procurements directed at promoting or safeguarding, and resisting or legitimising specific interests in society and polity. That the colonial state saw the press in this manner is evident in the numerous mechanisms adopted to aggressively deal with such voices and their procurements (see Otis 2018, Israel 1994, Sonwalkar 2015, Prasad 2021, Kalpagam 2002). Viewing the press this way enables us to continue to observe why actors reliably perform, or choose to bypass, their normatively-ascribed roles. But this has two other advantages. First, it directs me to the motivations of the actors in the first place. Second, it allows me to scan the kinds of associations they forge to procure and expand their voice – that is, to take off from scholars like Polanyi, and examine the cooperation such procurements involve (see Krippner et al 2002: 125-126).

The numerous reasons to procure voice are refracted in the different types of newspapers; these reasons have inspired scholars to impute different 'traditions' in the press. For instance, normative theorisations have enumerated four roles, all of which are not strictly that of a watchdog (see Christians et al 2010). It is unlikely that participants are equally motivated by a uniform, let alone common, vision of their role. This opens several possibilities to demarcate actors, such as the ones I review later in this chapter. The typology I propose after reviewing these is by no means the only one; but it serves my purpose to demarcate actors based on their desires and motivations to seek voice, and the associations they mobilise to procure and expand it¹⁶.

¹⁶ Often this is palpable in a newspaper's name. For instance, Nehru initially considered naming *National Herald*, which he started in 1938, as 'The Independent', but eventually chose a title to foreground its political interests; see Israel 2017.

2.1.3 Embeddedness of the Press in India

Methodologically, the roles ascribed to the press cannot be seen *a priori* to the conditions in which it germinated and developed. By conditions we mean a combination of motivations to enter the press (i.e., to procure voice), and sustained participation (i.e., cooperation nourishing voice). As I will show in this chapter, newspapers in colonial India emerged in pre-existing historical webs of social identity and sectional affiliations, and also in emergent forms of political associations and relationship with forms of accumulation. Recognising this embedded nature is vital to grasp the state-press and press-society relations in post-colonial India, and especially if we are to theorise the distribution of power underlying such relations in our times (see Keane 1991).

The point I wish to make is while the metaphor of the Fourth Estate, as an abstraction, is present in all regimes and societies, its institutional location, functional role, and ideological contribution in specific settings needs to be an empirical matter, not normatively pre-determined. Both dynamics involved in the procurement of voice – motivations and associations – illustrate the ‘embeddedness’ of the Fourth Estate in India. In this scenario we can only expect a “colouration” (Siebert et al 1956:1-2) of newspapers by forces in the colonial political economy, and the decades thereafter.

The press is also a business, a commercial activity. Apart from its role in the procurement of voices, I will posit it as a ‘market’ for embedded voices. There are three implications in such a conceptualisation. One, the cooperation structuring the organisation of the procurement of voice can be economic and social, modern and pre-modern, and monetary and ideological. The market is created in a manner wherein the ‘non-economic’ (as per Polanyi 1992; also see Krippner 2001) *also* plays out in its operations. This nudges us to view *ownership and ownership organisation* as constituted by pecuniary and non-pecuniary incentives – an argument that rests at the core of the next Chapter. Two, the institutional norms of the press in India tend to co-evolve with the institutional structure of procuring voice. The norms of the institutional structure did not exist *a priori*; they developed as a function of the embeddedness of actors, and their interdependence, and organisational complexity to procure voice. Three, the market of embedded voices, including ways to arrange and sustain the procurement of voice, was tempered by the apparatus and interests of the colonial, and post-colonial state.

2.2 Typologies of the Press in India

Appraising press development in India calls for a clear conceptual framework to help grasp the types of actors. This section reviews three typologies commonly adopted to delineate participants; thereafter, I lay out my own proposition.

However, the peculiar nature of press ownership in India cannot be readily accommodated within existing frameworks and typologies of media-democracy relationships, as a few discerning scholars have argued (see Roy & Chakraborty 2013; Shaw 2014). One peculiarity, central to this dissertation, is the widespread ownership by formal political interests (politicians and legislators, and their family members), and diversified business interests (industrialists, traders, and sundry financiers). In fact, their prominence is a defining trait till today (see Parthasarathi & Athique 2020). But the ownership and control by politicians and businessmen is not a new phenomenon in India; it goes back, at least, to the expansion of newspapers during the early twentieth century, and even to the mid nineteenth century. A critical evaluation teases out not only the genesis of such actors, but the reasons for the embeddedness of the press, which accounts for this enduring phenomenon.

This suggests that appraising the relationship of the press with the state, politics, and business involves at least two sets of histories: that of the diverse worlds of anti-colonial politics, going back to the nineteenth century; and, that of the trajectory of industrial development from the mid twentieth century. Although seemingly separate, the trajectories are intertwined at moments, which we are likely to come across in our pursuit. These twin trajectories provide a deep context about the resilience of formal political actors, and that of certain forms of ownership organisation adopted by industrial and mercantile actors. Both these dynamics are central to identify impediments to regulate news ownership during 1950-2000.

2.2.1 Socio-linguistic Types

Historians, a scarce community in the Indian context, concur on the presence of three types of newspapers in British India by the end of the nineteenth century: Anglo-Indian newspapers, weaving together the British community spread across the subcontinent; Indian-owned English-language newspapers, the voice of emergent English-educated social and economic elites; and, Indian-owned Indian-language newspapers, termed as the “Vernacular Press” (Israel 1994:1-9). One historian describes the latter two as:

Small, flimsy, and ephemeral, often the mouthpiece of some political or religious movement, or an individual. Many were essentially the product of one person, perhaps the spare-time activity of a religious leader, a lawyer-politician, or a school teacher (Hirschmann 2004:142).

The Anglo-Indian press, largest in circulation and revenues among the three types, commenced from Calcutta but over time from Bombay, fast becoming the mercantile and industrial node of British India. Started by journalists or others relocating from Britain, these newspapers were co-/owned, or inhabited investments, by varied business interests, whose profile we elucidate shortly. Among Indian-owned English language newspapers, less wordily termed as Indo-Anglian, and those in Indian languages, the latter were slimmer in size but numerically larger. By 1885, over 300 vernacular titles and 96 (Anglo-Indian and Indo-Anglian) English language ones accounted for a circulation of over 150,000 copies (Sengupta 2018:59). Initiators of both types of indigenously-owned newspapers included a mix of local politicians, social reformers, people of religious denominations, and those related to other sectional interests.

This three-way typology is based largely, albeit a bit amorphously, on the social world of their writers and readers. These worlds were perceived, arguably so in cases, distinctly from each other during the late nineteenth century. Hirschmann (2004:142) is emphatic about these three types being important to particular sections of society in colonial India, precisely because each formed “an information network linking writers and readers”; moreover, each articulated different political interests, and forged different relationships with the colonial state.

I am hesitant to accept the neatness of this separation on three counts. First, there is a strong likelihood that a small section of readers of the Indo-Anglian press were readers of the other two types. A striking example where the neatness of separations dissolves is the bilingual English-Bangla weekly, *Amrita Bazar Patrika* (1868; daily from 1891). To circumvent proscription under the Vernacular Press Act of 1878 that (temporarily) banned Indian language newspapers, it ceased publishing in Bangla, and morphed into an Indo-Anglian newspaper, retaining its political orientation (GoI 1954 V.2: 100-1).

Second, this typology ignores the likelihood of newspapers being associated with similar *types* of capital. It is here that this typology becomes shaky. While mercantile capital supported sections of the Anglo-Indian and the Indo-Anglian newspapers, a few of the latter together with reasonable number of Vernacular newspapers found partial patronage from India’s petty royalty and zamindars.

Thirdly, being more descriptive than conceptual, this typology is not robust enough to survive two significant political developments. The first was the during the early phase of the nationalist movement when politicians began Indo-Anglian and Vernacular newspapers. An early instance can be traced to the first generation of anti-colonial politicians; Bal Gangadhar Tilak started *Kesari* in Marathi, and *Mahratta* in English in the early 1880s. The second political development was India’s independence: the typology cannot account for press development after 1947, when the Anglo-Indian Press was bought by Indians.

2.2.2 Types of Organisations

Another typology considered the industrial organisation of ownership. The Press Commission in 1954 termed a bouquet of newspapers owned by a single proprietor, irrespective of their language, place, and frequency of publication, as “Common Ownership” (GoI 1954: 69). Based on this, it proposed a four-way categorisation: Multiple Units, or publishers of more than one daily of the same title and language at different centres under one ownership; Groups, or publishers of more than one daily from the same centre under one ownership, in the same language (e.g., morning and evening papers under different names) or in more than one language; Chains, or publishers of more than one daily under one ownership from more than one centre, which, the Commission clarified, are only combinations of the types mentioned earlier; and, Combines, which are “in essence Chains, Groups or Multiple Units but the units appear outwardly as different concerns” (*ibid.*).

The fuzziness of this typology was addressed by a clearer, three-way categorisation adopted by the Registrar of Newspaper of India (RNI) in 1956: Multiple Units were those publishing more than one newspaper with the same title, language, and periodicity under the same ownership from different locations; Chains, publishing more than one newspaper under common ownership from more than one location; and Groups, publishing more than one newspaper under common ownership from one location. Thus, as Tara Nair observed, Chains and Multiple-Units stand apart from Groups due to their spatially dispersed production facilities; moreover, Chains may include outlets with cross-ownership although effective control lies with the same set of shareholders (Nair 2003: 4185-4186).

Given the centrality of ownership in my dissertation, this typology seemed appealing. However, the singularity of these categories got blurred as the press evolved in the decades after the Commission’s report. Based on RNI’s categorisation, Nair has demonstrated that newspapers that commenced as a Group transformed overtime into Multiple Units, when they published newspapers across different cities, languages, and periodicities (*ibid.* 4186). Secondly, this categorisation treats all Chains and Multiple Units at par despite the different kinds of capital they embody. Research elsewhere has shown that managers of unlisted privately owned chains had different levels of autonomy in staffing, and making major content changes than those in publicly listed ones (see Roppen 1998:117). Thirdly, inspired by industrial organisation models, these categories are unable to account for the different types of social and political interests inhabiting the various sub-types of Common Ownership. Thus, for instance, this categorisation will view a Group owned by a politician at par with one owned by a diversified industrial group. This prevents us from highlighting

not only the kinds of capital infused but also the kinds of cooperation mobilised in various constituents of the press.

2.2.3 Political Types

Journalists have proposed another typology based on three ‘major’ traditions of news in India: the diverse, pluralistic, and relatively independent newspapers; state-controlled radio and television; and, the autonomous, small news outlets of various subaltern groups and their organizations (see Ram 2011, Sharma 2002). No doubt these three, in their own ways, contribute to the power-play of political and economic interests in the liberal democratic political process. In fact, they refract the distribution of power between the state and press in contemporary India. Immediately striking, however, is the uneven unit of analysis informing the identifications of these three ‘traditions’: while the second is based on ownership, the other two invoke a blend of ideological moorings (as per “independent” and “subaltern”), and normative desires (as per “diverse” and “small”). Secondly, this perspective, as it appears less of a scientific typology, ignores the embeddedness of the first and third traditions. It fails to account for economic, commercial, and organisational variations among newspapers inhabiting each of these three traditions. This is especially true because the first tradition can comprise different types of Common Ownership mentioned above – or be fuelled by different forms of industrial, usurious, or philanthropic capital.

2.2.4 Motivations and Types of Institutional Underpinnings

The discussion till now has critically reviewed efforts to conceive of participants in the press based on (porous) socio-linguistic categories, (static) forms of industrial organisation, and (loose) normative assumptions. Completely absent in these formulations are matters of ownership cooperation and resource mobilisation. The first and third typology decentre capital due to their exclusive focus on the spheres of the social, ideological, and political – a tendency observed by Murdock (1981) to mark pluralist conceptions of the press. Similar is the case with the second typology based on production organisation, which falls short of factoring in externalities generated by networks of social and political identity.

Given the scope of this dissertation, I find it necessary, and productive, to think of participants in terms of ownership. But for me, ownership does not reside in the personal backgrounds of the actors (British or Indian), languages they publish in (English or Vernacular), scope of their operations (Chain or Group), forms of capital they employ, or management styles. Instead, the motivations of owners to procure voice by entering the press, and the cooperation they manage to enable them to enhance their objectives, are most crucial. I thus draw on a new, four-way typology of actors to structure my narrative: i.e., Congregational Press, Merchant Press, Independent Press, and Conglomerate Press.

Table 1 Types of Participants in the Press

Motivations to Procure Voice	Actor Definition
Maintain Socio-Political Loyalties	Congregational Press
Fortify Non-media Businesses	Merchant Press
Public Good	Independent Press
Widen Rents in Media Businesses	Conglomerate Press

Most immediately, this typology aids me to methodologically keep track of the principal purpose of our appraisal: to gain a sense of the multiple motivations of and arrangements by actors inhabiting the press. However, I also see analytical advantages of this typology beyond my dissertation, including for those who engage with press history in India, and probably elsewhere in parts of the Global South.

‘Congregational Press’ captures the phenomenon of newspapers that were started from the late nineteenth century, and owned by formal political actors, and narrow sectional interests. It is fair to assume the principal motivation for them to procure voice, and participate in print, and later TV, news was non-pecuniary, and ideological. In other words, the partisanship visible in Congregational Press is congenital to their reasons to procure voice, *and* in the cooperation sought to procure, augment, and sustain voice.

By ‘Merchant Press’, I draw attention to business houses which, as part of their process of capital accumulation involving industrial, mercantile, or usurious ventures, find it worthwhile to procure voice through the press. The latter is principally driven by, and instrumental to, the zeal to enhance and protect the former. Their news undertakings, while often large compared to their rivals in the press, are the smallest and least profitable entities among their numerous non-media commercial undertakings.

What we call ‘Independent Press’ has evolved since the late-nineteenth century, and continues to do so in recent decades, despite notable changes in shareholding patterns. It may reflect partisanship – i.e., express specific, and fluctuating, ideological leanings – but ownership is not in the hands of formal political actors or sectional interests based on caste, religion, and ethnicity, and of course, not with multifarious commercial interests. This type is motivated by serving public interest irrespective of whether its newspapers are legally incorporated as a for- or non-profit entities. This is its motivation to horizontal expand into TV news. But if this set does not possess significant non-news media ventures, its salience as Independent Press is preserved.

‘Conglomerate Press’ is distinguished by owners’ non-news operations standing larger than news business. Text book illustrations include those publishing content in non-news genres within the same segment (i.e., print or broadcasting), or vertically present across the value chain, such as when a news broadcaster owns broadcast distribution or mobile telecom network. Alternatively, news proprietors may venture into others sectors of the media economy, such as musical labels, non-news radio stations, or cinema production. Yet another sub-type is probably peculiar to India: when owners of Merchant Press find their non-media businesses collapsing, their news and non-news media undertakings remain their predominant or sole businesses. In such conditions, incentives to seek profits from non-news media operations prevail upon the attempts to get them from news undertakings – a point I will come back to (*op. cit.* p.54).

My four-way typology offers a bouquet of inter-related advantages. Foremost, as mentioned before, it helps to view actors based on their motivations, and differing cooperation devised to procure, sustain, and augment voice. Secondly, in contrast to other typologies, it is a conceptually fruitful way to straddle differences in the production organisation of news outlets, and their linguistic areas of operations. More specifically, this typology can granularly capture, and more insightfully explain, the socio-economic backgrounds of owners, the capital and other resources they deploy in the news business, and the organisation of ownership structures.

Thirdly, it furnishes a sense of the range of actors with varied institutional norms that prevail in the period when this dissertation commences. Fourthly, it can account for developments in the newspaper business in the decades after colonialism – especially where the first two regulatory moments are located. Lastly, it is robust enough to deal with actors and their cooperation witnessed after the emergence of private TV news – i.e., the expanded sphere of ‘the press’ – and their relationship with those in the newspaper business, the subject of the third regulatory moment.

This will be evident in the next sections when I draw on my typology to piece together a critical appraisal of press development in India.

2.3 Tenacity of Congregational Press

Unappreciated and forgotten in the master narrative of India’s anti-colonial movement is the figure of the ‘nationalist’ newspaper editor. But this figure was morphed during the post-colonial years into the often-absentee politician-owner.

By the last quarter of the nineteenth century, newspapers in English and Indian languages were owned by regional politicians of varied importance, social

reformers of different hues, and sundry religious denominations¹⁷. This can be traced back to the English-educated Indian elites forming two kinds of associations: those preoccupied with social reforms (such as the Prarthana Sabha, Brahmo Samaj, and Arya Samaj); and, civic/political ones seeking a voice in colonial administration (as was the Indian National Congress to begin with). Organisations of the first type, and individuals connected with the second, started newspapers to air their social viewpoints and political critiques¹⁸. Things became easier due to relatively low costs of early printing, though initially the inefficiencies made the printing of weeklies easier than dailies (Sarkar 2014:357).

Narrow sectional and denominational interests also spurred English language newspapers in and around Calcutta, the colonial capital. Reference here is to *Indian Mirror* (1875), a daily started by Narendranath Sen associated with the reformist Brahmo Samaj, Surendranath Banerjee's *The Bengalee* (1879), *Hindoo Patriot*, and the weekly *Friend of India* by the Baptist mission at Serampore near Calcutta. A plethora of denominational interests populated the 'Indian English-language Press', and 'Indian language Press', as their newspapers catered to and represented numerous niche audiences. By 1905-07, the number of Indian language newspapers in Bengal was 1107, compared to 309 in English, garnering a combined circulation of over 800,000 (Sarkar 2014:310).

With anti-British mobilisation in the early twentieth century, politicians concertedly started language newspapers. This contributed to fashion what Quaiser more widely saw as the development of a 'literate critical anticolonial public sphere' in modern India (2012). Representative publications include *Al-Hilal* (1912) by Abdul Kalam Azad, three titles of *Young India* (1919), *Navjivan* (1929), and *Harijan* (1933) by Mahatma Gandhi, *Mooknayak* (1920) by B.R. Ambedkar, and the two newspapers by Tilak mentioned earlier. All renditions of the narrative of modern Indian history frame these politicians' journalism as a weapon (for instance, Sengupta 2018:58-60). Newspapers were aggressively leveraged to create political constituencies among literate Indians; specific political associations launched newspapers, as was the case with religious groups. Hosting a dinner at the launch of *Independent* in February 1919, founder-financier Motilal Nehru declared the newspaper would "think aloud for India" (quoted in Israel 1994:1). Another example from English language was *Bombay*

¹⁷ In the 1860s, the Indian Education Commission discomfitingly observed reportage, and/or speculation, on religious and social matters occupied major portions of newspaper content; William Hunter. 1882. Indian Education Commission, Vol.7 (p.337), quoted in Gupta 2013:77. One may well speculate such a profile of news and views in newspapers refracted the motivations and interests their patrons and owners.

¹⁸ The first newspapers in regional languages were located in Calcutta or Bombay: such as the social reformer Rammohan Roy's *Samvad Kaumudi* (1821) in Bangla from Calcutta, *Sri Mumbaina Samachar* (1822) in Gujarati, and *Prahakar* (1831) in Marathi from Bombay.

Chronicle, which was started in 1910 by Pherozeshah Mehta, a prominent lawyer and (by then) a former president of the Indian National Congress. For a generation of political actors within and outside the Congress, newspapers provided an expanded platform to circulate views, a public demonstration of influence, and an opportunity to contest and unmask the British government.

The cases of *Independent* and *Bombay Chronicle* show that during the anti-colonial movement, the idea of an editorially-partisan press was legitimised, and the practice of a politically-owned press was normalised. Moreover, during the 1920s, after the Indian National Congress reorganised itself into provinces based on languages, albeit not corresponding to the administrative divisions of British India, regional newspapers that spurred the nationalist cause often reflected the interests of influential politicians from these regions (Jeffrey 1997a:61). Precisely because of these tendencies, I forward the idea of ‘Congregational Press’ to capture the phenomenon of newspapers owned by formal political actors and other sectional interests.

An influential section among them were owned or editorially controlled by actors with aspirations in the political sphere. Despite differences in values or emphasis – viz. “Moderate, Extremist, Gandhian, or Left-nationalist-Marxist” (Sarkar 2014:76) – they were organisationally or/and editorially led by politicians adversarial to the colonial state. This inspired the master narrative of Indian history to construe the plethora of newspapers under the umbrella term, “nationalist press” (as in Sarkar 2014; Sengupta 2018). As an umbrella term, it masks two tensions. One is the relationship between national press and nationalist political movement, including the latter’s continuation of early British measures to curtail newspapers in Bombay and Central Provinces (see Israel 2017). The second related to rivalries between newspapers comprising nationalist press, which were reflected in the contending ideological and tactical positions of their owners/editors, who were no less ‘nationalist’, and at times no less feudal, than their rivals.

While the figure of the politician-lawyer is widely highlighted in narratives of anti-colonial movement, that of the politician-journalist receives less attention. Maybe because by the time such narratives were put in place after Independence, many politicians ceased to be, or distanced themselves from their role as, ‘journalist crusaders’. For those who maintained a foothold in the press, adversarial journalism acquired a different tenor, since the once anti-establishment politician was now part of the (new) establishment. For instance, the Indian National Congress continued with *National Herald*, but post-independence, its co-founder Jawaharlal Nehru and Congress Party were part of the political establishment. Thus, a section of the Fourth Estate – i.e., actors from Congregational Press – was ensconced in the First Estate!

This is not to sideline the decline of smaller actors from Congregational Press. After national liberation in 1947, their downward trajectory was fairly even across the country. Notable ones included *Navakal* (1923) in Marathi founded by K.P. Khadilkara (earlier editor of Tilak's *Kesri*), and *Andhra Patrika* (1908) in Telegu started by K. Nageswara Rao, head of the Congress Party in the region. Those who did not cross over from the Fourth to First Estate were compelled to envisage fresh motivations. Jeffrey succinctly captures this scenario:

[n]ewspaper's foes, as well as its friends, were Indians, not foreigners. Newspaper ownership now needed other rewards - profit or power - as well as a sense of 'serving the people'. To pay the bills and survive after 1947, nationalist newspapers had to conduct their affairs more like the long-established English-language newspapers which were already well-connected to the few sources of existing advertising. (Jeffrey 1997c:192).

In addition, the smaller actors hit against the altering economics of the newspaper business. For long, the appeal of these 'nationalist' newspapers lay in their front-page editorials, crafted with incisive political criticisms and, sometimes, literary quality. Slim in size, they traditionally did not carry a wide basket of news. They became less relevant to readers when rivals, commercially-oriented dailies, offered a wider breadth of reportage. Secondly, despite rising production and distribution costs, the smaller newspapers could not increase their prices or print runs, making them expensive to produce in terms of cost per page; equally, their slimness made readers see competitors as better value for money. Thus, the once firebrand and respected elements of Congregational Press went into a downward spiral – constraints on resources, circulation, page length and print runs, and on quantum of news reinforcing each other, in different permutations.

What kept outlets from the legacy Congregational Press alive were politicians, especially those opposed to the new regime. Between the 1950s and 1970s, this is readily visible in two sites: forces ideologically contesting the Congress party across regions, and those politically opposing it in specific regions. The former were a minority, such as newspapers of the communist political parties: the Communist Party of India (CPI) had *New Age*, and after splitting away from it, Communist Party of India-Marxist (CPI(M)) started *Peoples Democracy*. Being weeklies, they never competed with dailies; moreover, their presence and circulation depended on the electoral fortunes and footprint of the parties. Only CPI(M)'s Bangla daily, *Ganasakti*, was close to being a mass circulating newspaper in West Bengal, in large part due to the party-led front ruling the state from the mid-1970s.

Post-1947, voices of rising regional aspirations were the real drivers of Congregational Press. When states were linguistically reorganised in the 1950s, the state governments supported and promoted newspapers in their languages.

Typically, this took the form of liberal government advertising, and other forms of patronage¹⁹. A supportive, if not friendly state apparatus, seems to have been a key prerequisite for the expansion of the regional press in areas where it was comparatively weak. On the flip side, this relationship imparted vulnerabilities to the newspapers. Under conditions of patronage, the distance between (free) press and (elected) government – a necessity for an effective watchdog – became uncomfortably close.

The regional Congregational Press established before national liberation persisted under two rather contrasting circumstances.

First, regional press survived in languages where circulation and advertising were generally low, and not considered remunerative enough by the larger newspaper chains. For instance, *Samaj* (1919), an Odiya newspaper, was started by a Trust, the redoubtable Servants of the People Society, which was associated with the regional legend of national movement, Radhanath Rath who, like other such legends, became a minister in numerous governments in Orissa until the 1970s. Rather expectedly, a rival, *Prajatantra* (1947), was started by another Trust controlled by Harekrushna Mahtab, the chief minister of the state for most years until 1961 (Jeffrey 1997e). A different case is that of *Hitavada* (1911), started by the first generation of nationalist leaders, Gopal Krishna Gokhale. It survived well into the 1970s to become one of the largest selling English dailies in Central India. In 1978, it was taken over by Banwarilal Purohit, a politician who went on to become a member of parliament of the Bharatiya Janata Party, and still later, the Governor of Tamil Nadu.

Secondly, from the 1970s onwards newspapers from Independent Press got acquired by India's new breed of politicians who had managed to amass personal wealth. Details of one such newspaper, *Sakal* (1932), are worthwhile to lay out here since it played a pivotal in the first regulatory moment of this dissertation (see Chapter 5: s5.3.2). This Marathi language newspaper was founded by N.B. Parulekar, a follower of Gandhi who was influenced by American professional journalism imbibed during his university years in the USA (Jeffrey 1997d:384). Immediately after national liberation, Parulekar converted *Sakal* into a private limited company in 1948; while his family members were the minority shareholders, in the best traditions of a liberal (Independent) press organisation, he awarded majority shares to individual Trustees. After his passing, the Trustees sold their stakes in 1984 to someone who alternated between being a member as well as political opponent of the Congress Party, was chief minister of

¹⁹ Contrary to fears of such a regional press stoking separatist tendencies on ethnic and linguistic lines, Jeffrey argues the rise of regional language newspapers from the late 1970s actually linked the nation with its regions (Jeffrey 2009) – a claim that deserves to be backed by investigating reportage from those years.

Maharashtra²⁰, and bagged central cabinet portfolio – thus drawing *Sakal* into the fold of Congregational Press. I can confidently speculate this acquisition was triggered by the presence of *Lokmat*²¹, owned by a Congress opponent and minister. The ensuing press war between the two newspapers demonstrated actors from Congregational Press evolving beyond their modest origins and singular anti-colonial preoccupations, and in the process embracing textbook strategies of twentieth century newspaper chains²².

2.4 Making of a Merchant Press

A considerable part of the press in colonial India cannot be appreciated without understanding their exogenous commercial interests, and the business organisations that spawned it. Sections of Merchant Press were a product of two dynamics instigated by the colonial political economy: legal inculcation of a form of ownership organisation that enabled ‘hybrid’ capital accumulation; and, ‘nationalist’ claims and currencies leveraged by indigenous business houses. Although different sections of Merchant Press supported the British rule, as well as the Indian nationalist movement, and took on pro- or anti-government stance after Independence, they were largely motivated by leveraging news outlets to nurture and guard non-media businesses.

A focus on politicians and social reformers in the narrative of press history side-lines the fact that a businessman, James Augustus Hickey, started the first newspaper in British India (see Otis 2018). In fact, there is a rich but lesser-known history of newspapers owned by businessmen during the colonial period. Among those started by British merchants in India in the mid-nineteenth century, the notable one is *Englishman*, launched in Calcutta during the 1840s as the voice of British planters and European commercial interests. In *Bombay Times* (1838), one of the progenitors of the later *Times of India*, the controlling stake rested with various indigenous merchants by 1857 (Hirschmann 2004). Businessmen were among the prominent owners of the *Statesman*, probably the most respected voice of liberal British journalism in late colonial India. While launching it, the British founder-editor, Robert Knight, had solicited, among others, indigenous merchants

²⁰ The state where Marathi is predominantly spoken, and is an official language.

²¹ Starting in 1952 as a weekly, it turned into a daily in 1971.

²² After *Sakal* was acquired, *Lokmat* began an edition from Ahmadnagar (1988) to encroach on the former's territory; in response, the latter immediately started an edition in the former's borough of Nasik; Jeffrey 1997d: 386.

and regional politicians, before finding a part owner in Nicholls and Co., a large Managing Agency (a term explained below).

Much as colonialism played an important role in bringing the modern press into India, it created conditions for ownership and control by business interests. Colonial economic development shaped newspapers by formulating a certain structural form of ownership organisation for business groups. The incremental emergence of complex forms of industrial organization – viz. through the transition from independent artisanal production to manually-operated, and finally power-driven manufactories – did not take place in the nineteenth century. Indigenous businessmen, who took to factories, imported as a form of organization from Britain, and later to industrial units, leveraged their incremental mercantile and usurious accumulations of capital. They thus mediated capital in unorthodox ways, as Tyabji judiciously sums up, between their traditional roles of usury and/or trade, and their novel industrial enterprises (Tyabji 2015²³). The institution of Managing Agency enabled infusion of accumulated capital through varied and often tenuous activities in indigenous manufacturing and industrial enterprises (Lokanathan 1935:301-303²⁴). As a result, distinct forms of accumulation – combining industrial capital, merchant capital, and usurious capital²⁵ – came to operate under one ‘business house’.

It was within this form of hybrid capital, given legal sanctity through Managing Agency system, that indigenous ‘business houses’ launched or/and acquired their earliest newspapers – leading to the genesis of what I call the ‘Merchant Press’. My notion of Merchant Press refers to newspapers whose proprietors not only wield large interests exogenous to the press, but whose ownership/control was part of the complex organisational form of amalgamated capital. Indigenous business houses or managing agencies were drawn into the national movement for multiple reasons. One was to gain the moral authority to claim their ventures as not solely based on pecuniary self-interest. They thus managed to gain (privileged) access to the political elite in the Indian National Congress – a bond further harnessed during the post-colonial India (see Chapters 5 & 6). In fact, numerous leaflets, and pamphlets from underground press, perceived by the British administration to be ‘newspapers’, were part-financed by indigenous purveyors of

²³ The contention by Chakravartty & Roy 2013 about a significant proportion of capital invested in the contemporary news media in India having ‘dubious’ or ‘grey’ origins, if not outrightly derived from extra-legal sources, may well have its genesis in these years.

²⁴ Such pioneering scholarship on Managing Agencies also spotlights their informal or “unreformed” financial character; Lokanathan 1935: 315.

²⁵ While merchant capital expands through profits in buying and selling commodities, usury capital grows through interests on loans advanced by informal moneylending. Industrial capital is distinct because the critical stage of production is interspersed between two merchant transactions, namely buying raw materials and labour power, and selling manufactured commodities.

hybrid capital, though it is speculated their money was channelled through regional committees of the Indian National Congress (see Pandey 1975).

In battles to procure voice in colonial India, these indigenous business houses bootstrapped, supported, or salvaged newspapers by nationalist and sectional interests. They were equally motivated by their social and political values, and desires to promote/protect their much larger business interests. This fostered an intimate relationship between sections of the proliferating Congregational Press and business groups that evolved into the indigenous Merchant Press. The genesis of *Hindustan Times* vividly illustrates this. It was started in 1924 by the founder of Sikh politico-religious outfits; the nationalist-leader Madan Mohan Malaviya (who started *Leader* in 1909) was on its Managing Committee; and, Gandhi inaugurated the newspaper, as he did with other newspapers and more generally ‘swadeshi’²⁶ ventures of many businessmen. Subsequently, Malaviya saved the newspaper by money raised from nationalist leaders, lawyers, and G.D. Birla, the founder of a ‘hybrid capital’ business house (George 2007). Birla took control of *Hindustan Times* in 1933, and it rapidly became the largest English daily in North India during the twentieth century.

The political legitimacy of such financial cooperation and acquisitions normalised ownership by business houses. In fact, the Birla ownership of *Hindustan Times*, *Leader*, and *Searchlight* probably marks the first instance of an indigenous business house controlling a large and influential newspaper combine: three newspapers, in different cities, effectively under a single proprietor. Deeptanil Ray argues the success of the English-language press during the last decades of colonialism was largely due to its close following of indigenous business houses and their interests (Ray 2013).

The financial power of business houses aided Merchant Press in two ways: in their confrontational dealings with the colonial government, and commercial competition with less-endowed newspapers. Outspoken proprietors with modest resources faced difficulties in maintaining their newspapers, and grappled with legal suits with the government; more so, after the Press Act of 1911 empowered the colonial administration to periodically confiscate newspapers, and/or enhance security deposits by their proprietors. In contrast, well-endowed newspapers, such as from Merchant Press, could afford resources required for judicial contests. Witnessing the possibility of patronage by business houses, less-endowed newspapers took to “flirting” with them by offering to publicise their ‘swadeshi’ enterprises (Sahni 1974:121). This displayed the vulnerabilities of smaller proprietors in the webs of business, politics, and the press during the final three decades of colonialism. Thus, constituents of Merchant Press were in a good

²⁶ variously translated as ‘indigenous’, ‘domestic’, ‘self-reliant’.

position to protect their newspapers interests against the colonial government, while also being able to advertise and propagate their non-newspaper interests through other newspapers.

Indigenous amalgamated capital got a boost during the last decade of colonialism. With repatriation of British-owned business interests during the 1940s, domestic businessmen acquired the former's engineering industries, jute factories, tea plantations – and newspapers²⁷. One of the jewels of the crown, Bennett Coleman & Co. Ltd. (BCCL) which owned *Times of India*, was acquired by Ramkrishna Dalmia in 1946. Akin to G.D. Birla, Dalmia was the patriarch of a business house formed out of amalgamated capital, and particularly dominant in the sugar industry/trade. Following the change in ownership of *Times of India*, a versatile editor straddling the Anglo-Indian, and Indo-Anglian press, Pothan Joseph, moaned “a learned profession” was becoming “a commercial business” (George 1992:196). The new proprietors of BCCL were important actors in the second and third regulatory moments examined in this dissertation.

As mentioned before, the colonial state nursed a peculiar form of ownership organisation in Merchant Press. This legacy was bequeathed to newly-independent democratic republic in 1947. Indigenous business houses, which owned or acquired newspapers, such as Dalmia and Birla groups, featured in the deliberations of the Press Commission (1954). Its report estimated business houses to own a large share of high-circulating newspapers, augmenting trends in ownership by Merchant Press, first emerging in the 1930s.

To grasp further developments of Merchant Press, one needs to appreciate its relationship with the post-colonial state. My proposition, extensively illustrated in Chapters 5 and 6, is that Merchant Press' inherited ownership organisation became widespread under India's economic policy. The persistence of Managing Agency structure enabled business houses to continue to adopt the joint stock form of organisation during the 1950s and 1960s. Not coincidentally, such companies became the chosen ownership form of newspapers (GoI 1954:266).

Key dynamics underlying Merchant Press in metropolitan India also played out in regional language markets. Fresh actors in Merchant Press arose during the 1960s and 1970s in linguistically-defined states. For example, the Kannada newspaper, *Udayawani*, prominently circulated in pockets of Karnataka, where its proprietor owned diversified enterprises built on hybrid capital. With the gradual growth in India's regional economy, opportunities opened for regionally marshalled tenuous and hybrid capital to express itself through the press – their ownership organisations were similar to the older 'nationalist' business houses, a

²⁷ In fact, during this period a large number of British firms, including allegedly the more reputable ones, came within the control of indigenous groups inhabiting a tenuous connection with the industrial economy; see Goswami 1989.

trend that expanded during the 1990s (see Chapter 7: s7.1.1). A fair share of them forged links with regional political establishments, as documented in Telegu press (Jeffrey 1997c:193). In many ways, these links too were similar to those fashioned by ‘nationalist’ business houses.

2.5 Fonts of Independent Press

The figure of Independent Press evolved along multiple axes since the mid-nineteenth century, and continues to do so despite notable changes in shareholding patterns in recent decades. This section has predominantly comprised closely-held family enterprises with no significant or comparable stakes in other industries or trade; some were single-person shows like *Navakal* (1923) in Marathi founded by Khadilkara, or controlled by trusts (such as *Sakal* before its takeover by political interests). While they possessed distinct, and sometimes fluctuating, political leanings during and after the colonial period, ownership or equity was never shared with formal political actors.

The largest and lasting example of Independent Press is *Hindu* (1878), one of the oldest continuously-running English newspaper. Although it was an ardent supporter of the nationalist movement in South India, it at times adopted positions contrary to the movement’s leadership (see Paul & Dowling 2020). During the 1940s, it circumvented censorship to publicise Gandhi’s criticism of British rule, especially during Bengal Famine and Second World War; yet, diverting from his position, it galvanised support for the Indian National Army (see Subin & Dowling 2020). Since its inception, *Hindu* has been a closely-held family enterprise. It became a newspaper Group from the 1980s, when it branched into other genres, such as the fortnightly news magazine *Frontline*, a business newspaper, *Businessline*, and the sports magazine, *Sportstar* – the latter contributing a small part of the group’s revenues.

The 1880s saw the birth of another English language newspaper from Independent Press that is prominent till today – *Tribune*. However, unlike *Hindu*, it was incorporated as a public trust. *Tribune*’s circulation remains limited to cities of North India, though it has sister-publications in two regional languages, both started during the late 1970s.

The situation was and is a bit different in eastern India. When the proprietor family of *Amrita Bazar Patrika* – the Bangla-English bilingual mentioned earlier – split during the early 1920s, the entity that lost the media interests started a new Bangla daily, *Ananda Bazar Patrika*. In late 1930s, both factions interfered in each other’s markets, with the former launching *Jugantar* in Bangla, and the latter starting *Hindustan Standard* in English (Jeffrey 1997b). These newspapers

declined from the 1960s, except *Ananda Bazar Patrika* which became the largest circulating single edition daily in India. Unlike in other large states such as Maharashtra and Andhra Pradesh, centres of publishing outside Calcutta failed to develop in West Bengal, and over half the circulation of *Ananda Bazar Patrika* was in this city. Its owners launched an English daily, *Telegraph* (1983), which captured the fragmented linguistic market segment not only in Calcutta, but in cities in neighbouring states. Like *Hindu*, it expanded into other genres in English: a news weekly *Sunday*, business fortnightly, *Business World*, and business daily, *Business Standard*. Although never top-ranked nationally in circulation within these genres, they were successful for over two decades, before the first one closed down, and latter two were divested.

At the risk of a small digression, let me use the newspapers mentioned above to reiterate a vital element of my initial proposition of Independent Press: while it is not owned by politicians or narrow sectional interests, it is not always bereft of partisanship – the former trait differentiating it from Congregational Press.

Leafing through *Amrita Bazar Patrika* during the 1940s, Nilanjana Gupta found it “simultaneously attempting to define the idea of a nation and the issue of its national sovereignty” (Gupta 2013:76). Since the ‘nation’ in South Asia was being at once imagined and contested, she finds the newspaper simultaneously reporting to, and constructing a, political readership. She rightly asserts that the notion of a press being ‘neutral’, above affiliations, and/or always ‘rational’, was incompatible for these socio-political and religio-cultural newspapers. Gupta gives a further, more explicitly ideological instance of the partisan nature of Independent Press through a biography of a journalist. This journalist explains his inability, as a self-avowed Marxist, to toe the line of the ‘nationalist’ proprietors of *Ananda Bazar Patrika*, and therefore abandons the profession (Das 2002, quoted in Gupta: 2013:83).

In the aftermath of partition, states like Punjab were sensitive to the ways language and religion overlapped among newspaper readers. Lala Jagat Narain launched the Urdu newspaper, *Hind Samachar*, in 1948, and subsequently *Punjab Kesri* in Hindi, and *Jagbani* in Punjabi (written in Gurumukhi script). The rise of Hindi newspapers in Independent Press can be traced back to the pre-partition and partition period. A case in point is *Dainik Jagran*, launched by Puranchand Gupta in 1942; Gupta earlier secured advertisements for magazines in the United Provinces of British India. The newspaper grew slowly until the 1980s, and was limited to the original geography (renamed Uttar Pradesh); but it rode the media boom of the 1990s to become the largest-selling title, with over 35 editions across many states of North India (see Chapter 7: s7.1.1).

From the 1950s, there were other discernible actors in Independent Press. One was *Andhra Jyoti* (1960), set up by journalist Narla Venkateswara Rao, after he fell out with Ramnath Goenka, the owner of *Andhra Prabha* (Jeffrey 1997c: 195).

The former's collapse in the 1990s may have signalled the demise of Independent Press in the Telegu language in the (then undivided) state of Andhra Pradesh. However, a Urdu daily, *Siasat* (1949), owned by a family concern, thrived and exemplified Independent Press in the state.

In terms of circulation, number of newspapers, and linguistic presence, the Indian Express Group was once by far the largest actor in Independent Press. It was started by Ramnath Goenka, referred to and revered as India's first 'press baron', during the 1930s with *Indian Express* in English, *Dinamani* in Tamil, and *Andhra Prabha* in Telegu. Before it was split among subsequent generations at the end of the twentieth century, this Group was organised primarily around three holding companies; between them, it published leading newspapers, including multi-city editions, from over 15 largest cities in six of the largest regional language markets in India. Although it published non-news publications, their contribution to the revenues was far less than that of the newspapers; this prevents us from seeing it as a part of Conglomerate Press.

2.6 Evolution of Conglomerate Press

The phenomenon of proprietors launching editions of existing newspapers from different cities, in several languages, and/or in different genres (such as financial dailies) are subsumed under our category of Independent Press. Conglomerate Press is distinguished by owners having possessions, besides news outlets, in different media sectors such as non-news print and broadcast outlets, cinema, music, advertising, books, amongst others – and across different segments of the same sector, such as broadcasting and cable distribution. This effectively unfolded in the decades after colonialism due to extensive expansion in cinema and magazines between 1950 and 1990, and explosive surge in broadcasting from the late 1990s.

However, I must lay out a conceptual ground to explain the singularity of Conglomerate Press, before tracing its trajectories.

Large actors in Merchant Press had ventured into multiple newspapers, either in the same language from different cities, or in different languages dominant in different regions of India. The prime, and early, example of this are sister-newspapers of the *Hindustan Times* from the Birla Group. Yet, we refrain from dubbing them as 'Conglomerate Press,' since their non-media businesses remained far bigger than all their undertakings in the newspaper business. The singularity of Merchant Press arises from its non-media enterprises, on two counts. One, these, often separately, are substantially larger in revenues and profits than media or news undertakings. Two, being involved in diverse financial,

commercial, and industrial activities, they are engaged in different types of relationships with the state – either during decades of ‘mixed economy’ (1950s to mid 1980s), or those following the graduated turn to a market economy (mid 1980s onwards). In contrast, we conceptualise Conglomerate Press actors possessing principal interests in a string of undertakings in the media – viz. newspapers, magazines, television, and radio. They straddle opportunities and compulsions in multiple media markets, be such multiplicities defined in terms of linguistic territories, genre and periodicity, economic geographies, and technological infrastructures. Thus, distinctions between Merchant and Conglomerate Press are reasoned by the latter inhabiting interests in media.

The two trajectories marking the evolution of Conglomerate Press relate to key changes in sections of Merchant Press, and more widely in Independent Press.

One route was in line with the classic global scenario: proprietors of newspapers leveraging their infrastructure to venture into non-news publications – such as niche, popular, and trade magazines, besides books – and further, into other segments such as cinema, radio, and/or TV. In large parts, this trend can be traced back to the 1970s. An example is the entry of *Ananda Bazar Patrika* into Conglomerate Press, leaving behind its humble origins as a member of Independent Press described earlier. The transformation of the owners started with operations in the non-news segment of print media, with Bangla magazines dedicated to children, women, and films. With the deregulation of broadcasting, it ventured into news and non-news programming, including in languages other than Bangla.

In this process of expansion, print news outlets solicit investments from banks, insurance companies, private equity firms, and financial institutions – which sometimes include subsidiaries of diversified industrial conglomerates. This is visible in the evolution of the Living Media Group, which began its journey by leveraging its reputable printing press in Delhi. Launching an English news magazine, *India Today*, in 1975, it commenced regional language versions during the 1980s. When the public broadcaster commissioned private producers to provide daily news capsules and weekly video magazines in the 1990s, Living Media set up a television arm. These ventures enabled it to augment its band of reporters, news desks, and related infrastructure across the country. Armed with these assets, it launched a 24/7 Hindi news channel, *Aaj Tak*, in 2001, and thereafter, news channels in multiple languages and genres, like its competitors. Amidst the explosion of TV news during the 2000s, renditions of Conglomerate Press were only to be expected, as exemplified by TV18. Its proprietors started off with TV news ventures, thereafter developed stakes in tele-shopping, an online

financial information portal, non-news TV channels, and Indian imprint of a global leader in business magazines²⁸.

The other route through which Conglomerate Press emerged reflects the changing balance of power in the wider Indian economy from the 1970s.

This involved a business house behind Merchant Press gradually exiting its non-media industrial and commercial undertakings. Over time, the interests in media in general, and news specifically, became the principal, if not sole, preoccupation. The ‘evolution’ of the Dalmia-Jain group’s BCCL exemplifies this, as I elaborate in Chapter 7. Unlike its comparable peers in Merchant Press, the Dalmia-Jain group’s non-media entities either went into disarray, or became marginal in the national economy, like jute business, or lost out to competition from sub-national and regional actors, like in oil-pressing business (see Malhan 2013:33, *passim*).

Such a transformation from Merchant Press to Conglomerate Press implicated the latter’s ownership organisation and market power. BCCL perfectly illustrates both implications, not only as a noteworthy conglomerate news organisation ‘growing out’ of Merchant Press, but epitomising the phenomenon of Conglomerate Press. Despite shedding traditional ventures in trade and manufacturing, its proprietors retained their legal and economic forms of ownership organisation germinating in colonial India – i.e., a network of associated group firms involved in variegated capital accumulation. The retention of this traditional, networked form by both Conglomerate Press, and Merchant Press, explains the endurance of older ‘unreformed’ ownership organisation in print and broadcast news business under high-capitalism. Today, BCCL is a massive and opaquely interlinked web of over 150 companies, subsidiaries, step-down subsidiaries, and businesses operating in concert (see Sen 2012, The Hoot 2017).

2.7 An Agile and Enduring Typology

My four-way typology is extremely flexible to the changing political economy of the press in modern India. It can account for the constitution of interests in and across political regimes, from the colonial to post-colonial period. More importantly, it can account for developments, which often led to news outlets

²⁸ The emergence and expansion of TV news outlets from TV18, Living Media, and NDTV demonstrate an astute combination of benefiting from state patronage during the early years of broadcast deregulation and simultaneously forging links with trans-national capital (see Chapter 7: s7.2.1).

moving across their original type. Lastly, this typology is robust enough to deal with the expanded sphere of the press, following the emergence of private TV news outlets. Let me briefly illustrate this limited point, and reserve the details for later (see Chapter 7: s7.2).

Well before the end of the twentieth century, the circulation of Congregational Press, while present in almost all regional language markets, remained lower compared to its rivals in Merchant or Independent Press. But its resilience as a force in society, and therefore the efficacy of our typology, became visible when ‘the press’ expanded to comprise private TV news (see Chapter 7. s7.2.4). During incipient deregulation of television in the early 1990s, when only transmissions by broadcasters from overseas were permitted in India, SUN TV was among the first to launch a channel. It was owned by a leading member of Tamil Nadu’s DMK, one of the oldest regional political parties. Following complete deregulation of TV news in 2000, Congregational Press rapidly grew in this expanded segment. Between 2000 and 2010, there was a massive spurt in party-affiliated or politician-owned TV news outlets in regional languages, noticeably pronounced in a few like Telegu (see Reddy 2005, Shaw 2014).

This expanded sphere was dotted by merchant interests. In the early years of private TV news, several participants were involved, their ownership organisation similar to those of business houses formulated under late colonialism.

This is exemplified by *Zee TV*, the broadcasting venture of Essel Group, which was an early bird in the business of TV news. Its core interests ranged from trading in food grains to factories to make plastics and synthetic packaging (see Chandra & Sharma 2016 *passim*). Essel Group launched a raft of news channels in regional languages under the *Zee News* brand – with its entertainment channels in the 1990s, it marked the earliest instance of Merchant Press in the broadcast business (see Chapter 7: s7.2.2). Together, the group spawned a slew of TV channels in news, entertainment, music, and sports, entered film production, and owned a chain of film exhibition theatres, besides its older and rapidly expanding venture in broadcast (cable) distribution. This turned it into one of the earliest entities operating in vastly different segments of media economy – the size of which out-scaled its industrial and trading enterprises.

Much larger, and more diversified business houses who by the end of twentieth century had metamorphosised into “captains of industry” (Tyabji 2003:26), also ventured into TV news. Some boldly launched TV news outlets when the sector was deregulated in the early 2000s, and its pecuniary and non-pecuniary dividends became apparent, such as Sahara Group. Others waited for the right time to acquire established market leaders in TV news, as we shall see below.

Thinking about other actors in TV news in our four-way typology, viz. Conglomerate Press and Independent Press, leads us to developments resulting in

news outlets moving across their original type – thereby reiterating the ability and agility of our typology to deal with changes over time.

We explained the conditions in which BCCL was transformed from being part of Merchant Press to an archetype of Conglomerate. A different case of multiple movements across types is visible with *TV-18*. Pioneering the niche genre of business news channel, it was a successful, and profitable, example of Independent Press. However, as the owners expanded into non-news programming through sister-companies, it turned into an actor from Conglomerate Press. Subsequently, its takeover by India's largest business group, Reliance Industries Limited, turned it into an exemplifier of Merchant Press.

Another striking example of an actor mutating over time is NDTV. After launching news channels in English and Hindi, it was widely seen as the hallmark of Independent Press. However, after being listed on the bourses, it launched non-news, entertainment outlets in the TV business – thus qualifying as Conglomerate Press. Utter failure in this segment took its toll on news properties, leading NDTV to take loans from Reliance Industries. This debt was later taken over by another comparable business house, Adani Group, and converted into equity. This paved the way for NDTV's takeover by the Adani Group, making it part of Merchant Press.

Such mutations are visible in the newspaper business as well. *Madras Mail* was started by two journalists during the late 1860s, and was the primary rival of *Hindu*. In the early 1920s, it became part of Merchant Press, after being acquired by a European businessman; on the eve of national liberation, just like *Times of India*, it was taken over by an Indian businessman. The case of multiple mutations is exemplified in *Pioneer*, an influential member of Independent Press from the nineteenth century. In 1990, it was acquired by the Thapar Group, one of the smaller diversified business houses, thereby entering the world of Merchant Press. Later in the decade, it returned to the fold of Independent Press after being bought by a journalist. However, when this proprietor joined a political party, and became a member of parliament, thus henceforth making it part of the Congregational Press. In some cases, these mutations occurred in shorter durations.

There is the peculiar case of *Statesman*, which started in 1875 as part of Merchant Press. It remained so for over 120 years, including throughout the first two regulatory moments of this dissertation where it was an ardent supporter of big business and their newspaper undertakings. However, in the early 2000s its ownership moved to a “group of public trusts and its (newspaper) employees, including senior journalists”, thus making it qualify as part of Independent Press (Exchange4media 2003).

In closing, I do see a possible argument about Congregational and Merchant Press morphing into Conglomerate Press when their owners widen their

ambitions in different sectors of the media economy. But this does not hold ground since the original and principal motivations of such owners remain; that is, despite their expansions, these two types of actors principally strive to, respectively, consolidate their socio-political loyalties, and fortify their larger commercial interests. In fact, at times such expansion may be steered entirely to such ends.

2.8 Institutional Norms of the Press in India

I began my appraisal of press development to locate the historical genesis and institutional locations of the press as Fourth Estate in India. To structure this ambitious task, I deploy a four-way typology to locate key actors and dynamics amidst colonialism, and understand their reformulation in the decades after national liberation. Thus, this typology is agile enough to straddle changes in the political, economic, and material milieu between the nineteenth century and today. Principal among these were changes in the nature of state, political and commercial elites constituting the state, and the advent of private TV news.

Through our historical sweep, we gained insights into conditions within which the press pursued its watchdog role. I find the idea of ‘watchdog’ was confronted by several constraints in colonial India, some of which persisted after India became a democratic republic. Consequently, my narrative pointed at the dependencies and rivalling aspirations faced by constituents of the press; this in turn, shaped the norms of institutional structures within which the press evolved in India.

This reminds me of the importance of identifying “the particular norms” of institutional structure within which news outlets operate as being responsible for making the press a democratic force (Veltmer 2013:23). I will now tease out institutional norms in colonial India to grasp the immediate backdrop of the first regulatory moment, examined in Chapter 5, which occurred within a decade after national liberation.

Foremost, the press in British India developed before the emergence of institutions of representative politics, and mass education – that is, before a literate public sphere fully emerged. Consequently, during the nineteenth century, newspapers seemed to play the dual role of both being a medium to convey political views, and information (news). This, in turn, shaped the nature of interests seeking to procure voice, languages they chose, and societal quarters they solicited cooperation from. These dynamics together embedded the Fourth Estate in a specific manner during colonialism – a legacy that persisted in the post-colonial decades, right into the years private TV news emerged.

A striking feature of the press from its earliest days was its linguistic multiplicity. Newspapers were not just in English, which were owned by British and indigenous interests, but in Indian languages. This contributed to the contesting and overlapping roles of three broad interest groups identified by historians from the mid-nineteenth century: viz. the 'Anglo-Indian', 'Indo-Anglian', and 'Vernacular' press (see Israel 1994; Hirschmann 2004). Almost every large city published at least one newspaper in a language other than its own (Das Gupta 1977). This linguistic multiplicity prevailed over the next 150 years, contributing to the cacophony of voice reflected in TV News from the early 2000s.

Evidently, the press as an institution took shape in the enduring webs of history and identity marking Indian society. It was congenitally embedded in networks of association and identity, of patronage, and legitimacy forged around language, region, caste, or religion. Noticeable number of indigenously-owned newspapers from the nineteenth century was financially supported by equivalents of European Second Estate, i.e. the feudal landed Aristocracy/Nobility in India. Some early newspapers in Bengal were entirely patronised by local rajas, or petty royalty (Das Gupta 1977); even later in that century, local feudal elites subsidised journals in regional languages in north India.

Many proprietors in the fast-emerging Congregational Press were from the circle of local social elites, such as absentee landlords and urban aristocracy (Israel 1994, Ray 2013). While one section of Congregational Press contributed to shape a rational and political newspaper-reading public, a vehement section promoted the cause of narrow sectional identities, such as those based on caste and religion (for instance, see Udupa 2010). As the colonial government was compelled to broaden the local polity, political elites and sectional religio-cultural actors were accommodated in regional administrative and judicial bodies. Nevertheless, many retained their role as 'absentee editors/owners' in Congregational Press. The tendency to combine this dual role – viz. as members of the press, and of the legislature – continued after Independence. This trait geometrically expanded with the advent of TV news, and has become a key concern in regulatory circles over the last 15 years (see TRAI 2014:45-47).

The indigenous commercial elites managed to disengage the press from its commonly-perceived public interest orientations, and realigned the media towards their discursive and pecuniary interests. The Managing Agency system, in which Merchant Press was embedded, contributed to the organisational efficacy and legal legitimacy of this process. Fuelled by their amalgamated capital, the business elites started and/or acquired newspapers from the 1920s, besides 'rescuing' those from Congregational Press. This brought a triple dividend to proprietors of Merchant Press: politically, it legitimised their 'nationalist' credentials; ideologically, it ordained a *swadeshi* bent for their larger non-media enterprises; and, editorially, it fortified them in contests with both business rivals

and (colonial) government. A century later, different renditions of such political, ideological, and editorial logics are visible in TV news outlets owned by industrial and mercantile actors (see Shaw 2014, Mehta 2015, Chadha 2017), although their specific forms require close analysis.

The press operated within the social, political, and economic order of British India, and this defined the operating rationales for its behaviour as Fourth Estate. These continued to shape not only the post-colonial watchdog role but the dynamics of ownership²⁹. This is evident when we examine the newspaper business and the business of private TV news during our engagement with the three regulatory moments.

²⁹ Like with the modern press, the embeddedness of modern political institutions relates to arguments about the Indian republic illustrating a patron-democracy, an important element in the explanatory framework of the first two regulatory moments of this dissertation. For arguments about “primordial” networks structuring India’s “patronage democracy”; see for example, Chandra 2006.

Chapter 3

3 Abrasive Implications of Press Ownership

This chapter starts by conceptualising press ownership, building on my conception in the previous chapter of the press as a procurement of voice in society. In subsequent sections, I review its implications on democracy and diversity, and unpack the dynamics of ownership consequent to the news business.

3.1 Conceptualising Ownership in the Press

My approach to ownership of news outlets departs from the existing and dominant approaches. One such approach, influenced by neo-classical economics, construes it limitedly in terms of equity and types of capital invested in an enterprise (such as Picard et al 1988). Another common approach, influenced by institutional economics and relatively broader in persuasion, deciphers ownership in terms of mechanisms of resource mobilisation, or ‘business models’ (for instance, see Gomery 1989). Yet another approach is based on the legal incorporation of news outlets, as imbibed by the Press Commission’s report, which categorised ownership based on joint stock companies, public companies, private companies, partnerships, individual ownership, and trusts (GoI 1954:265-66).

Underlying my approach is the desire to grasp news outlets not only as economic enterprises (i.e., equity, capital, legal structures), but as part of existing political and social forces. Since newspapers and TV news channels simultaneously produce economic and symbolic value, any conception of their ownership must factor pecuniary and nonpecuniary stakes underlying the procurement of voice in society and polity. This wider conception enables me to granularly identify the constraints and incentives of ownership, gauge their impact on strategic behaviour of news outlets, and explain the (in)ability of a specific actor to fulfil its expected roles in society.

Viewing the *press as a procurement of voice* obliges me to attend to the kinds of *cooperation* that structure and mediate such procurements. Thus, I define press ownership as the material, financial, and ideological cooperation that proprietors

arrange to procure and expand voice. Since their motivations are not driven solely by financial returns, these arrangements necessarily envisage non-pecuniary and ideological returns as well. This does not make my approach less economic, as it might initially appear. Rather, it is more robust since I attend to the deeper social and political forces structuring the dynamics of news markets (see Demer 1996, Parthasarathi & Athique 2020).

To begin with, the organisation of ownership is constituted by all forms of capital, including those derived from networks of identity and affiliation in society where the press is embedded (Krippner et al 2004: 125-6). Doing so makes me sensitive to all forms of cooperation – economic or social, modern or pre-modern, and financial, political or ideological – mobilised by proprietors of news outlets. Thus, in my conception of ownership, the ‘business organisation’ refers to how “embeddedness” (Polanyi (1944/2001) of news outlets enables them to procure, sustain, and expand voice.

Following from this, my conception factors in ‘externalities’ shaping the media economy (Cf. Srinivas 2018:169-170). Orthodox traditions in economics view these as extra-economic factors that act as ‘spoilers’ in the otherwise smooth functioning of media markets. But these ‘non-economic’ factors play a role both, in the mundane operations of the press and in the constitution of its ownership. Consequently, I methodologically ‘internalise’ such factors because they directly spring from the embeddedness of actors in the press, and are central to the market for voice.

This leads to the third emphasis in my conception. I do not recognise the existence of either one form of exchange in society or one form of value to mediate the news economy (Cf. Bolin 2009). This standpoint enables me to visualise logics of ownership beyond monetary returns, and include social and political returns. This helps us to understand why certain news outlets behave in an ‘uneconomic’ manner, be it by lowering advertising rates, or being content with sub-optimum profits. In fact, such behaviour is precisely what makes them appear as ‘spoilers.’

Let me explain the relationship between these emphases comprising my approach to ownership. A news outlet may forego returns on investments *in* the press (through media products) to extract more significant value *through* the press (in non-media ventures). In this case the incentives arise from owners’ associations with networks of social identity and political loyalty. Another news outlet may make up for its deficits in the news business through non-monetary forms of value, such as influence, legitimacy, or empathy, harvested in other markets. In a reverse scenario, the press owned by politicians and political parties, besides those by religious, caste or other denominational groups, can translate

their existing loyalties in society into pecuniary value in the news business³⁰. This illustrates Polanyi's formulation about the creation of commodities involving the dis-embedding of exchanges in society, and their re-embedding in market exchanges. In all these scenarios, the market for procurement of voice provides the operating rationales for the mediation of symbolic value produced by news outlets. The entanglement and stakes of news proprietors in other markets makes them seek non-financial or ideological aspirations through their participation in the press – which then brings 'distortions' in the expected role of their news outlets.

3.2 Democracy, Diversity, and Ownership

This section draws out the significance of ownership in debates on democracy and diversity. Discussions on the watchdog role of the press, central to conceptions of Fourth Estate, worry about the detrimental effects of distortions and bias in the news media on representative democracy and plurality of public sphere. They focus on two principal distortions: the first related to supply and quality of news, and the second to the behaviour of actors. These intertwined anxieties variedly arise from dynamics of cooperation, concentration, or/and horizontal integration, as I will explain in the following sections.

3.2.1 News Ownership and Democracy

All democratic theories of the press are emphatic about its oversight functions in society and polity. This is expressed in enduring metaphors such as its 'watchdog role', and news being 'the oxygen for democracy'. This calls for our approach to ownership to dialogue with such debates.

The watchdog role obliges the press to discover and unmask abuse in society and polity. For long, this obligation was directed at abuse by the other three Estates – viz. executive, legislature, and judiciary. This required the press to be independent from abrasive influences from these quarters. However, this leaves out another abrasive influence: by its owners, especially on account of their entanglements in other spheres of society, polity, and economy. If the news media is considered the oxygen for democracy, I claim the dynamics of ownership determine *the supply of oxygen*.

³⁰ These processes are observed in India not only in media markets (see Parthasarathi 2018) but also in markets of 'secular' commodities such as groceries or cosmetics. A sterling example is yoga guru Ramdev's 'Patanjali', which competes with comparable offerings from global brands; see Thomas 2020: 290-291.

The organisation of ownership, what I term ‘cooperation’, causes anxieties when actors in the news market are entangled with other markets: be it with the wider media markets, larger and more lucrative industrial markets, and markets of social and political loyalties. These markets have their priorities and logics to harvest *value* (see Parthasarathi 2018, Bolin 2009). When news outlets’ watchdog role is subjected to these values, they seek to gratify the interests in those markets. In this process, the owners’ entanglements provoke them to extract and transfer value from other markets to the news market (see Parthasarathi & Athique 2020).

Ownership and its organisation can limit an objective and earnest reporting of abuses – thereby distorting the supply of oxygen in a democracy. Moreover, owners are inclined to consider trade-offs between serving the public interest – i.e., including watchdog role – and servicing private interests. These trade-offs also impact their role of watching over other news outlets – or the “checking function” in a democracy (Blasi 1977, quoted in Baker 2004:48). The net result is that the supply of news enabling a democratic polity becomes hostage to appeals faced by owners and their associations outside the operations of news markets.

Second, a democratic polity is ideologically threatened when media power gets synergised with the power of social and industrial elites. This is precisely what is at risk when the news market gets entangled with interests in industrial markets, or with markets of political loyalties. There are strong ideological concerns about such complicit entanglements reproducing dominant values and interests in society (see Freedman 2014). I see numerous renditions of this broad argument. Back in the 1940s, scholars argued since the mass media was supported by “great business concerns geared into the current social and economic system, the media contribute to the maintenance of this system” (Lazarsfeld & Merton 1948:236). Later, there were suggestions that private capitalist ownership and ideological values explicitly play out in the operations of news market in a manner that favours the views of dominant groups (see Herman & Chomsky 1988; Shaw 2014).

Others specifically point at how the overlap of media and elite power ensures the values legitimising the latter’s interests are reiterated in the former. This can take the form of endorsing the basic tenets of private enterprise, and rights of property ownership (see Curran & Seaton 1997:71-108) or, more silently, securing consent for a ‘market-driven politics’ (see Leys 2001). Such abrasions get attenuated as the links between the media and corporate ownership become more complex. To illustrate this, Meier (2002) points at the global interlocking of the media industry and traditional industrial power creating a powerful cartel or network of forces³¹. Arguments contrary to these contend that the form of

³¹ Earlier, Bagdikian showed the board interlocks of Time, Inc. (before it became Time Warner) involved the cream of American business including Mobil Oil, AT&T, American Express, Atlantic Richfield, Xerox, General Dynamics, besides major international banks; Bagdikian 1997.

ownership and control in the media is not necessarily a reliable indicator of the orientation of its content (Thompson 1995: 241-242). Bringing nuance to these debates, Golding and Murdock (1997) insist the relationship between ownership and content to be an indirect and mediated one. They reckon control over journalism is not always exercised in a direct way; and therefore, ownership cooperation does not always impact the quality of news output in the deterministic manner argued by others.

Besides the organisation of ownership, concentration, and cross-media ownership – which indicate different orders of accumulating voice – also pose threats to democracy and society.

Among normative arguments about risks to the press and society from concentration, one of the most articulate is in the works of Edwin Baker. He visualises ownership concentration to impede democracy in three ways. One, a domineering position enables actors to more easily (compared to their rivals) mobilise the required resources. Two, concentration dis-incentivises new actors to enter the news business (Baker 2007). Thus, *market dominance* by a limited set of actors skews the competitive milieu, and risks competitive abuse by dominant actors. This economic inequity and competitive misconduct make it difficult for smaller and marginal participants to ably perform their watchdog functions. Thirdly, beyond aspects of market behaviour, Baker underscores the impact of concentration on production and quality of news. The watchdog role, he argues, is disrupted because concentration generates incentives to forego the discovery of abuse by the press (Baker 2002, 2007). It this adversely implicates the watchdog role of both dominant and smaller actors. Small and marginal actors are not only important to the press and society; but, as Neshat Quaiser (2019) asserts in another context, their (invisible) disagreement and discontent contributes immensely in the making of history.

Evidently, ownership concentration is a mechanism for some owner-actors to grow bigger at the cost of others, and thereby create uneven competitive milieu (see Valcke et al 2010). But bigness is achieved in another way. This involves indulging in vertical integration, or horizontal integration, thereby paving the way to *market possession*. Horizontal or cross-media ownership renders an uneven competitive environment. Since these uneven conditions engulf the entire news market, the implications are far more acute than those fashioned by concentration, which is limited to a specific segment of the press. Under this condition, the press structurally becomes a hostage to an owner's stakes in different sectors of media markets. As Baker succinctly sums up:

[t]he point is to see how conglomerate ownership creates both the economic vulnerability to outside pressure to corrupt the journalistic enterprise and the internal incentives to trade journalistic integrity for other conglomerate economic interests (Baker 2002:910).

When numerous watchdogs operate in a milieu of hyper-commercialisation, they are obliged to dispassionately perform an ‘internal’ checking function. As a democratic safeguard, this function is crucial for at least three reasons: protect the professional logics of journalism; unmask the press gratifying their patrons; and, maintain the institutional accountability to citizens (see Scholsberg 2013). The ability to discover abuse in the conduct of other watchdogs is tremendously impaired by both forms of accumulation.

To sum up, the dynamics of concentration and cross-media ownership, in varying ways and in conjunction, ensure a small set gains a disproportionately large footprint of influence on the press, and in society. Both *market dominance* and *market possession* elevate the possibility of the press being abused. This includes extra-constitutional forces wanting to disrupt its watchdog role. It becomes easier for these forces to distort news by winning over the news outlets that command a large market share within or across segments. This is an apt point to reflect over the relationship between ownership and diversity, and the predicaments therein.

3.2.2 News Ownership and Media Diversity

If the news media is the oxygen for democracy, I claim *media diversity indicates the quality of oxygen sustaining* a democratic polity. While diversity is widely recognised as a foundational normative principle in media policy (Napoli 2001:21), it has remained a highly variegated and contested concept (see Thompson 1995, Napoli 1999, Klimkiewicz 2010, Valcke et al 2010, Smith & Tambini 2012, Karppinen 2013, Duncan & Reid 2013).

The universe of scholarly perspectives on media diversity can be diced into four broad baskets, based on their conceptual moorings and analytical emphases. The first focuses on the *diversity of News Content*, as reflected in its themes, prioritisation, sources, and social voices. Another shifts attention to *News-Makers*. This spotlights the presence/absence of journalists from marginalised social groups, especially in newsrooms and other decision-making roles. In India, such fractures hinge around, besides gender and religion, the absence of lower castes in such positions and roles (see Jeffrey 2001, Balasubramaniam 2011). A third basket underscores the diversity of actors, and of commercial behaviours in the *News Landscape*; they concentrate on the market and extra-market conditions under which news is financed, produced, circulated, and accessed (and some, on the implications of source diversity on content diversity). As opposed to these three ‘supply-side’ understandings, a fourth develops arguments around ‘demand-side’, i.e., *diversity of News Consumption*, including the social strata, preferences, and mechanisms of audience (see Duncan & Reid 2013, Van der Wurff).

Evidently, these four perspectives are more like points of analytical entry, and/or emphases to examine media diversity. Moreover, there is no uniformity or

consensus within each broad standpoint. Across these perspectives, endeavours to enumerate diversity have generated a rich lexicon: viz. ‘internal’ and ‘external’ diversity; ‘source’ and ‘exposure’ diversity; ‘market-share’ and ‘geographic’ diversity, among others (see Duncan & Reid 2013, Napoli 2011, KU Leuven 2009, Helberger 2012, Just 2008; Klimkiewicz 2005).

I gain three insights from this widening universe of scholarship. First, there is a shared sense of risks to media diversity catalysed by hyper-commercialisation, deregulation, trans-nationalisation, and marketisation of the press. What is apparent here is that anxieties of diversity are articulated through both normative and empirical arguments. Second, these four perspectives convey differing perceptions of the principal risk: viz. stemming from a dwindling array of voices and viewpoints from the limited profile of producers and decision-makers in news outlets, skewed structure of media landscape, and contingencies of audience exposure. Third, they more generally reflect diverse ontological standpoints about the media – viz. symbolism, labour, commerce, and audience – and therefore, different methodological preoccupations in apprehending diversity – i.e., in terms of, respectively, news discourse, news producers, market structure of news, and news audience. Nevertheless, during these intellectual endeavours, conceptions of (risks to) diversity are further refined. This contributes to various normative arguments to nurture diversity and empirical priorities in enumerating risks to it.

In all the four perspectives, the issue of ownership is conspicuous as a research problem, and as a regulatory anxiety. Such concern among scholars is due to three dynamics of ownership i.e., cooperation, concentration, and cross-media ownership. This is evident in efforts to variedly operationalise the concept of diversity: ‘source diversity’, or the variety of organisational actors, and ‘exposure diversity’, or conditions in which news is accessed and availed by audience (see Napoli 1999, 2011). This also fuels notions of ‘external diversity’, or differences in content offered by rival outlets, as opposed to ‘internal diversity’, or breadth of views carried by an outlet (see Karppinen 2018).

The detrimental impact of concentration is palpable in the conception of ‘market-share diversity’, as it gives weight to the dispersion of vital resources. This includes dispersion of audiences, advertisements and advertisers, and raw materials like newsprint and spectrum (see Valcke et al 2010). A handful of news outlets commanding a large share of resources is detrimental to the ability of competing actors to effectively procure voice – thereby possibly negatively affecting, to evoke our metaphor, the quality of oxygen available to society. For instance, there is evidence on the partial advertiser-supported model precipitating numerous closures and mergers (Collins & Cave 2013). Both these market

dynamics effectively result in concentration³², and thereby risk source and external diversity. These empirical arguments are aligned with Baker's normative views against concentration to protect diversity, since a dominant market-share constrains the amount of, and access to, resources for fresh actors (2002, 2007). Thus, *market dominance* doubly impacts media diversity – a few actors grow bigger at the cost of source, external, and market-share diversity, and (often consequently) diminish opportunities for marginal and additional actors – thereby disturbing the quality of oxygen.

There are claims that a developed regional media compensates for the lack of external diversity. One argument is based on the belief that widespread regional/local ownership, given the geographical diversity it ushers, ensures more responsible journalism (see Valcke et al 2010:102, Baker 2002:904); another points that regional social and political aspirations are better able to incorporate and represent diverse opinions, as Rao (2010) argues about India. Underlying the expectation of 'geographical diversity', fuelled by regional actors, are two assumptions: national actors do not additionally dominate regional markets; and, regional actors do not garner dominant share of resources at the cost of others operating in the same economic geography. However, I find both market-share and geographical diversity are trampled when actors accumulate interests across multiple linguistically-defined regional markets; or, when a regional actor owns numerous news outlets, including in different languages, within a geographical market. These phenomena provoked the term 'big press' among sections of policymakers and journalists in India, as I discuss while assessing the first and second regulatory moments in Chapters 5 and 6, respectively.

The risks of dwindling media diversity from concentration grow geometrically with the other form of accumulating voice: cross-media ownership. The latter makes internal, external, source, and exposure diversity structurally hostage to operations in other parts of the value chain of the news business, and in other sectors of media market. Internal diversity, for instance, is risked by a conglomerate's apprehensions of loss in rents in affiliate undertakings – be it a non-news media subsidiary, news subsidiary operating in another regional/linguistic market, or a distribution subsidiary. Alternatively, a distribution subsidiary of an outlet can impede access to rivals; this dwindles effective source diversity, or more directly the prevailing exposure diversity. Signalling the risks of *market possession* as a whole, cross-media ownership in particular and conglomeration in general pose severe hurdles to preserve "structural pluralism" – a concept that blends normative and empirical arguments about media diversity (see Klimkiewicz 2010).

³² The first regulatory moment was triggered by these anxieties in policy-circles; see Chapter 5.

To summarise, let me extrapolate the implications of different dynamics of ownership on media diversity. At one level, the risks of source diversity and market-share are similar to those of market dominance and market power in other sectors of the economy. Arguments by the Monopolies Inquiries Commission in India during the mid 1960s to regulate press ownership drew on a similar understanding, as explained in the prelude to my evaluation of the second regulatory moment (*Cf.* pp.143-144). However, the dynamics of ownership impact the news business in specific ways. Threats to source diversity, exposure diversity, and market-share diversity are concerns both in themselves and due to their implications on news content, particularly on external diversity. The lack of source diversity and market-share diversity, besides wider threats of market possession, also impede the entry of additional actors – much as they constrain existing smaller actors to sustain and/or expand their procurement of voice.

3.3 Intersecting Risks of Ownership

This section provides a framework to weigh the implications of cooperation, concentration, and cross-media ownership – the three consequences of media ownership – on democratic aspirations and media diversity. Their abrasive implications, I go on to infer, destitute the resilience of the press – both, to pursue its oversight roles, and give effective voice to diverse social aspirations.

3.3.1 Vulnerabilities of Cooperation: Foundational Risks

The issue of ownership, or cooperation involved in seeking voice, can be stated more precisely in terms of what is at stake in understanding the interests that own, control, and sustain news outlets. These interests are constituted by their impetus to participate in the press in the first place, as illustrated in the previous chapter. But these interests are also shaped by the constraints they confront in performing their expected watchdog role. This makes us delineate the incentives and vulnerabilities of configurations of cooperation.

To do this, I build on the four-way typology of actors adopted in the previous chapter (*op. cit.* pp.40-41). To recall this, one type (Independent Press) is motivated by ideas of news as a public interest preoccupation; thus, it is preoccupied by living up to, and expanding, its expected watchdog functions. The second type (Conglomerate Press) is additionally invested in non-news media, including entertainment, sports, and cinema. It is thus involved in extracting advertising rents across a variety of content, audience, and linguistic markets, in a single or multiple commercial geographies. The third (Merchant Press) comprises one of the numerous undertakings of business houses, which serve to fortify and

enlarge their owners' economic interests, and reiterate and propagate values that legitimise these interests. The fourth (Congregational Press) is driven by political ideologies, or by preoccupations of specific sectional interests. The embeddedness of the last three types imparts different logics to visions of news as public good.

It is reasonable to assume that the varied motivations to procure voice render vulnerabilities among news outlets. By vulnerability, I mean inhibitions to perform expected roles, structural constraints to sustain these roles, and inability to resist the economic, commercial, and strategic behaviour of dominant actors. Based on different configurations of owner-outlet relationships, I spot specific vulnerabilities faced by different actors: Internal vulnerabilities, triggered by immediate organisational imperatives of rent-seeking owners and investors; External vulnerabilities, caused by owners' additional interests in non-news sectors of media; Exogenous vulnerabilities, arising from owners' non-media interests; and, Extra-economic vulnerabilities, spawned by political and social networks of identity embedding news outlets.

Table 2 Capturing Ownership Vulnerabilities

Actor Definition	Primary Vulnerability	Source of Vulnerability	Incentive to Distort news
Independent Press	Growth; Expansion	Internal	Financial
Conglomerate Press	Rents from affiliates	External	Commercial
Merchant Press	Larger businesses	Exogenous	Industrial
Congregational Press	Networks of identity	Extra-economic	Ideological

In scenarios where proprietors are solely bothered by challenges of sustainability, the functioning of their news outlets is vulnerable to immediate organisational and financial imperatives. This imparts three risks to the watchdog role: hamper access to certain audiences by out-pricing their offerings; compromise quality and breadth of reportage by diluting investments in news gathering; and, sacrifice the quantum and breadth of news by prioritising advertising space. In other words, their “*bottom-line vulnerability*” relates to trade-offs between commercial and professional logics of newspapers³³. This vulnerability is especially discernible when actors from Independent Press operate in different linguistic markets variegated political geography. In striving to grab advertisers across these markets, they are exposed to regional and sub-regional

³³ For contrasting assessments on the play of these logics in contemporary India, see Fitzgerald 2018, and Downey & Neyazi 2014.

political and economic forces. That such forces are sometimes prominent advertisers, and/or those capable of directing advertising flow from government and private sources, enhances bottom-line vulnerability. For instance, Jeffrey has shown proprietors of regional language newspapers safeguard their financial interests through negotiations with regional political forces in their geographies of operation (Jeffrey 1997c). Constraints faced by their owners and managers impact the quality and sincerity of regional reportage, as they compete with ‘national’ chains i.e., those operating across multiple regional (language) markets.

When a news outlet is part of a conglomerate, its behaviour may be constrained by compulsions faced by the affiliates in non-news markets. It is analytically fruitful to not see vulnerabilities as personality-driven, as is often a temptation (see Thussu 2007). Rather, they emanate from trade-offs by owners between news and non-news media businesses. Baker suggests reportage in news outlets, with multiple profit-seeking media businesses, is muted by advertising pressure faced by non-news ventures – a phenomenon he terms “*media vulnerability*” (2002:908). He rightly links these two dynamics by underscoring such ownership to inevitably increase “contrary incentives already produced by advertisers”, which often outweigh incentives for uncorrupted journalism (Baker 2002:910). The lure of powerful advertisers irrigating non-news outlets can compromise the behaviour of news outlets operating as affiliates of Conglomerate Press. The strategic concerns of seeking advertising across multiple media markets takes a toll on news outlets in at least two ways: viz. through trade-offs in allocating advertising space in news outlets; and, through the influence of large advertisers prominent in the relatively more lucrative non-news media businesses.

Much in the same vein, Baker sees the substantial non-media businesses to “create opportunities and incentives” for their news outlets serve such wider commercial and industrial interests (Baker 2002:909). News outlets are induced to service opportunities, alliances, and risks associated with proprietors’ exogenous interests. But another dynamic plays out here as well: equally large industrial and commercial interests prevailing in the economy, who are also prodigious advertisers, can make news undertakings of such proprietors vulnerable. Thus, much as proprietors use news outlets to service their other economic preoccupations, such leverage works in reverse ways too. Slants and silences in reportage either further such stakes, or become collateral to them. I term this as “*merchant vulnerability*” to nuance Baker’s generic media vulnerability. The intensity of the former is high due to two reasons. One, exogenous interests are generally more profitable than that of their news outlets. Two, they often depend on state leniency, or/and patronage, as typified in news undertakings of family-owned, diversified industrial groups (see Tyabji 2015). The way this second factor impacts the regulation of news ownership is something I deal with in the differing contexts of the three regulatory moments.

Apart from exogenous interests that are mercantile and industrial, there are extra-economic and ideological ones. The concept of “contingent heteronomy” has been deployed to signify the relationship between news media and individuals of the political elite in India (Maheshwari & Sparks 2021) – i.e., norms and values pursued by embedded networks of associations applying rigid demands on the autonomy of news outlets. The extra-economic interests differ from that of Merchant Press in two ways. One, they perceive their functions to direct and further particular social, cultural, and institutional values, as part of their wider discursive efforts to order the world. Two, in vying for political and ideological loyalties, rather than principally commercial ones, their behaviour is driven by non-pecuniary considerations. This is demonstrated in our appraisal of newspaper development in the nineteenth and twentieth century, and equally by scholarship on TV news market in early twenty-first century (for instance, Shaw 2014, Ranganathan 2006). As argued earlier, such ownership reflects markedly different social and institutional values, many of which entail currencies other than money, and thereby provide different logics to participation in the news business. This imparts “*congregational vulnerabilities*” to news production, behaviour of these news outlets, and sometimes even functioning of news markets.

To sum up, my argument is about liabilities inherent in kinds of cooperation sought by news proprietors which, in turn, impede the behaviour of their news outlets. While some impediments are instrumental in nature, and arise from financial compulsions, others are transactional, and driven by larger pecuniary considerations or different forms of value. Specific owner-outlet configurations make proprietors prone to forfeit the pursuit of public interest to protect or promote private interests – viz. immediate financial stability, non-news indulgences in the media business, lucrative mercantile and industrial interests, or embedded ideological aspirations. Second, certain types of cooperation wilt the autonomy of participants, and/or dilute their desire to earnestly pursue “checking function”. Outlets from Conglomerate, Merchant, and Congregational Press are prone to this, given that pecuniary and non-pecuniary enticements push them to forego, trade, or trade-off checking function. Third, a robust Merchant and Congregational Press create conditions wherein media power overlaps with power held by economic and political elites. Possibly, the watchdog role is either beholden to patronage by elites, or proactively seeks to gratify them. Nonetheless, in both instances, the quality of oxygen offered by the press is polluted.

3.3.2 Concentration & Cross-Media Ownership: Incremental Risks

Equally competing autonomous watchdogs, irrespective of the vulnerabilities they inhabit, do not necessarily have incentives to pursue more viewpoints. This can result in their inability to capture the plurality of social aspirations. A precondition to ensure plurality of expressions is not merely the presence of a

multiplicity of news outlets bereft of ownership vulnerabilities. It is equally to have a multiplicity of ownership kinds with different organisational structures, and mechanisms of resource mobilisation. This is precisely what ownership concentration and cross-media ownership tend to impair. This section briefly explains why these dynamics threaten democratic ideals – such as distribution of voice and accountability – and different facets of media diversity.

In a society and polity professing to be democratic, market dominance by a few news outlets runs against the principle of an equitable distribution of voice: i.e., the even opportunity for a cross-section of social aspirations to influence public opinion. An early proponent of this position, Ben Bagdikian, contends the choice of politics and ideas in a democracy requires access to a range of truly competing sources of news (Bagdikian 1987:3). Approaching the matter in another way, Baker insists media influence over public opinion ought to be distributed in a “democratic one-citizen/one-vote manner” (Baker 2002:906). His insistence derives legitimacy from the principle underlying universal adult franchise in an electoral democracy. Two aspects are important in his analogy: parity in the ability to procure voice, and the ability of all voices to be equally heard. In recognising equal opportunities in public opinion making – *à la* one citizen, one vote – I recall that different voices constituting the press inhabit different capabilities to influence opinion, a caveat Baker offers elsewhere (Baker 2009: 654). Equally, the democratic distribution of opinion-making entails equal opportunity for contesting voices to be heard. It is here that concentration *and* cross-media ownership infringe the democratic principle: while few publishers with dominant market share of key resources can limit audiences to hear different or niche voices, vertical integration hampers the capability of certain voices to be heard. I feel there exist sufficient normative grounds to recognise threats to diversity that are catalysed by accumulation, which are independent of either measurable evidence, or precedents of tangible harms to the press and society.

Although persuasive, Baker’s analogy of one-citizen-one-vote misses a point: voting by citizens creates public authority and legitimacy at periodic intervals, while procuring voice facilitates shaping of public opinion on an ongoing basis. Moreover, while the equity principle is necessary in a first-past-the-post electoral democracy, it is not a sufficient one, as only the loudest voices may be heard. Baker’s normative argument about ‘equal voice’ is geared towards inclusion in the public sphere – since this ensures different groups and interests constituting the public to express themselves at par – rather than towards fostering different viewpoints in news outlets owned by similar or comparable social groups. This makes one wonder whether the purpose of ensuring parity of opportunity in procuring and accessing voice is only to create equitable conditions to influence public opinion? Or is it to ensure an even apportion voices in the press to (also) produce diverse opinions for news audience, and society? It is possible that some

voices are (equally) loud and heard, but are not substantively deliberative or pluralist in their orientation. This happens in news markets sufficiently de-concentrated, but stained by cross-media ownership – a scenario that propelled the third regulatory moment of my dissertation. Here, transplanting the democratic principle from votes to voices can safeguard against the consequences of inequitable distribution of voices, but not necessarily, or in itself, ensure internal or external diversity.

The question then is about how to reconcile the aspiration of equal opportunity with that of fostering external diversity in the press. It is fruitful to evoke the visions of James Mill and John Stuart Mill, for whom the defence of press freedom in the nineteenth century was not an end-goal, but was purposed to achieve the circulation of diverse viewpoints (Thompson 1995:238). There is thus a justifiable claim for bundling the concerns of democracy and diversity, and placing them centrally in debates on press ownership.

One way to steer clear of separating normative emphases on equality and diversity is to remind us that the watchdog role includes an obligation to unmask the misdemeanours of other watchdogs, and their motivations to do so.

Earlier, I had explained corruptions in this internal ‘checking function’ due to vulnerabilities of cooperation that news outlets are embedded in. Now, I will argue that concentration and cross-media ownership do the same, and thereby diminish media accountability. Horizontally integrated entities consider trade-off of their accountability when faced by contrary political and ideological regimes in different linguistic or geographic markets (also see Mazumdar 2021). Since cross-media ownership hampers divergent opinions to get prominence, or circulate, it undermines critiques of other watchdogs. There is every reason to make the internal checking function, a key to sustain accountability, robust by fostering a diversity of unfettered voices, and honing structural pluralism. Thus, by preventing trade-offs, and protecting diversity, the accountability principle safeguards the press as a marketplace of trust – central to any defence of a democratic polity.

Concentration and cross-media ownership also attract discomfort from sections of policy-makers and the press because they instil risks to diversity. There are ways in which the former incentivises, and the latter further eases, the dampening of diversity. First, as mentioned earlier, these two orders of accumulation risk source diversity, since a limited type of voices, within or across segments of the press, gain preponderance in the marketplace of ideas. Second, the dispersion of ownership is likely to generate several *loud* watchdogs – a scenario impeded in varying ways by concentration and cross-media ownership. “It is plausible to expect,” as Baker believes, “that a larger number of competing ‘watchdogs’, each of which competes to discover abuse, will better perform a watchdog role than would only a few” (Baker 2002:906, original emphasis).

Conglomeration in the form of vertical integration restrains exposure diversity by effecting news outlets bereft of their distribution capabilities to become less accessible, or financially unappealing, to media audience. In short, by dwindling access to rival watchdogs, vertical integration constricts the experiences to audience. Horizontal integration limits source and external diversity. Moreover, cross-ownership in concentrated markets provides dis-incentives to expand internal diversity due to reasons of organisational efficiency, and narrows external diversity across different sectors. This is what nudges the belief that dispersion of media power, stemming from market dominance and market possession, can be a democratic safeguard and propellant of diversity – arguments I witnessed in assessing the second regulatory moment.

Table 3 Types of Accumulation and Risks to Diversity

Type of Accumulation	Competitive Constrains on Rivals	Types of Diversity Impaired
Audience Share	Reach of Voice	Source, External, Geographical
Advertisement Share	Sustainability	External, Geographical
Resource Share	Volume of Voice	Source, External
Vertical Integration	Market Foreclosure	Exposure, Source
Horizontal Integration	Volume of Voice	Source, External, Internal
Media Conglomerate	Market Foreclosure	Source, Internal, Exposure
Industrial Conglomerate	Market Foreclosure; Sustainability	Source, Internal

Acquiring *market dominance* through the concentration of resources, advertisers, and audience weakens the ability of, and opportunities for, smaller voices to sustain themselves (see Valcke et al 2010). Mergers and acquisitions corner the required share of resources for rival news outlets, thereby negatively impact source and probably external diversity. This is well aligned with the argument that concentration and cross-media ownership, as forms of accumulating voice, hamper structural pluralism in media markets. Building on this, I further suggest threats to structural pluralism dilute the press’ resilience as an institution of democracy.

One can argue that a widespread Congregational Press bolsters democracy by enhancing the multiplicity of viewpoints in competitive politics. This increases the “angles pursued,” to borrow Baker’s phrase, by participants, (2002:906). This belief is subject to crucial caveats: such aspirations can equally procure voice, enjoy the capacity to produce comparably loud voices, and be heard equally. Or else, it will amount to an electoral democracy where only a section of citizens is able to vote. In the absence of these caveats, the contingent heteronomy of

Congregational Press will circulate the viewpoints of a limited set of aspirations; moreover, their news outlets will have incentives to distort and filter views of the relatively feeble political aspirations.

The overlap of political might and media power inherent in Congregational Press yields a highly partisan news landscape. Further disturbing is that dissonance and dissent, a foundational element of a democratic polity and a marker of internal and external diversity, gets stifled. Worse, Congregational Press can become a conduit for authoritarianism, even where an electoral democracy procedurally exists³⁴. This talks to Trappel & Meier's claims of concentration and conglomeration enabling social elites and governments to reach out more efficiently to citizen-subjects by taming the handful of influencers in the press (1998:192). This apart, they imagine another scenario: political elites and governments being vulnerable to the power of media elites, who gradually become distinct political actors (*ibid*). However, both scenarios assume a neat separation between those owning news outlets (news actors) and those present in the realm of polity and industry (political and profiteering actors). This assumption breaks down not only with the proliferation of actors from Merchant and Congregational Press, but when they attain vertical integration, cross-ownership, and/or dominant market shares. This is why proprietors from Merchant and Congregational Press vociferously advocate against introducing safeguards to mitigate the harms of conglomeration, as I show in the analyses of the third regulatory moment.

3.4 Diluting Resilience of the Press?

To summarise my arguments in this chapter, the dynamics of cooperation, concentration, and cross-media ownership are the three analytical vectors of press ownership. Granularly unpacking the forms these take allow me to reason out distortions in the expected watchdog role of news outlets – and thereby visualise threats to the supply and quality of 'oxygen'.

I explain these distortions stem from vulnerabilities bred by typical forms of ownership organisation (cooperation), opportunities for certain actors to misuse their preponderance in one sector (concentration), and the capabilities derived from actors' possessions across operational sectors of the news media (cross-media ownership). Furthermore, I flesh out how and why the last two dynamics

³⁴ The classic case here is of the first major German media conglomerate owned by Alfred Hugenberg, which supported the rise of Hitler; Hallin & Mancini 2004:155.

provide incentives to abuse voice, act as constraints to uncover abuse in society, and extract accountability from other watchdogs. I constantly highlight how, and why, these three vectors provoke an array of threats to democratic values of equity and accountability, and concerns about media diversity.

Evidently, these three facets of ownership weaken the internal functioning of the press as an institution of democracy, and create grounds for compromise with forces outside the press. There can thus be a meta-level argument about threats to diversity due to these dual forms of accumulation stripping the resilience of the press. This stems from a systems approach, and rests on the resilience of entities in sustaining themselves. Diversity infuses resilience to a system at an operational level, as scholarships in population ecology and more recently on financial systems demonstrate.

Scholarship in ecology and agro-biology claims diverse ecosystems, a forest or lake, display higher degree of resilience to a pest, or disease, as they are less prone to be susceptible to the invasion (see Tilman 1999). In short, and in the words of one scholar, “diversity can limit invasibility and may reduce the impact of an invader” (Dukes 2002). Ideas of “susceptibility” and “invasion” can be equated with the incentives to distort news due to external, exogenous, and extra-economic vulnerabilities faced by media owners, or predatory and abusive behaviour due to forces of accumulation. Hence, diversely-resourced, autonomous actors in the news business are likely to impart resilience in the marketplace of voice. When actors mobilise different types of cooperation, it is likely the marketplace of news is institutionally more resilient in battling different incentives and abuse, thereby safeguarding the commercial health and hygiene of Fourth Estate. An equitably apportioned plurality of voices, resting on different modes and strategies of procurement, is likely to help the press to better perform watchdog roles, including watching over their own. We return to the relationship between ownership, diversity, and resilience in the Conclusion of this dissertation.

Chapter 4

4 Theorising Media Regulation and its Impediments

A close reading of my narrative on press development in colonial India reveals the cultivation and normalisation of a particular order of press-state relations. This involved defining the nature of freedom of, and in, the press, the accepted forms of ownership and property rights, and legitimate forms of state patronage and clientelism. All these contributed to the norms within which the press operated.

I find contrarian regulatory imaginations of newspapers as speech and as commerce. On the one hand, the colonial state throttled and penalised *newspaper speech* that threatened its policies, or challenged its legitimacy (see Sonwalkar 2015, Otis 2018, Barrier 1974). Editors and publishers were fined heavily for their adversarial behaviour – a tendency that became more administratively stringent, and geographically wider as the anti-colonial movement gained ground³⁵. On the other hand, the colonial administration was benign towards the market power of large newspapers. There were no restrictions on sources of capital, or actors involved; neither did it cap market-share of larger newspapers, nor offer subsidies to newspapers with modest operations. This anchored the commercial contours of the press within “traditions of free enterprise” (Ryan 1990:56).

The colonial state cultivated certain forms of business organisation in the nineteenth century economy that also fashioned ownership in sections of the press. Owners of Merchant Press were the product of such implicit and explicit initiatives. Implicit, as colonialism created conditions to channel hybrid capital, and ‘unreformed’ finance into industrial enterprises (see Tyabji 2009) – including in newspaper undertakings. Explicit, since colonialism fabricated a form of ownership organisations, Managing Agency, to legally sanctify such networks of accumulation, and flows of capital into newspaper undertakings of commercial elites. This also became the norm in post-colonial India as newspapers expanded into large combines, and when they launched affiliates in TV news.

³⁵ It was ironic that British India actively participated in international forums championing ideas of a ‘free’ press, like the Imperial Press Conferences and the Empire Press Union; see Kaul 2006.

In addition, the colonial state was indirectly involved in the press. Although, the various regimes considered launching ‘official’ newspapers to further their administrative and strategic preoccupations, these efforts and desires did not materialise. But they patronised affable sections of the press in three ways: allocating advertisements to commercial rivals of newspapers critical of government; offering the former preferential access to government sources; and/or, permitting government employees to write in what were considered de facto ‘official’ newspapers. Press historians ascribe the unique position of *Pioneer*, although part of Independent Press, to its close contact with departments of Government of India, and Provincial Governments (GoI 1954 V.2: 144).

As indicated earlier, these core traits of press-state relationship outlived the colonial state.

This chapter begins by extrapolating various narratives of press regulation in India. My purpose is twofold: first, provide the contexts of scholarship; and second, spotlight two persistent blind-spots in this literature: i.e., shallow engagement with media ownership, and limited conception of media regulation. Then, I propose a thicker conception of “regulation”, which may also be applicable to sectors besides the media economy. The expanded canvas conceptualises it as a combination of interventions and silences by the state. Finally, I outline a framework to think about possible constraints to regulation in the media economy. I ponder over the role of institutions, ideas, and interests as explanatory logics, and underscore the purchase of their analytical integration to more roundedly account for these constraints.

4.1 Tales and Travails of Press Regulation in India

Scholarship on the regulatory framework of print and broadcast news is a sporadic enterprise in India. This said, there is something intriguing about accounts of regulation on what is arguably considered the ‘legacy’ news media. While the literature on newspapers conveys a narrative of restraint, the one on TV news conveys a narrative of relief.

4.1.1 Narratives of Press Regulation

It is obvious to expect a *narrative of restraint* vis-à-vis newspaper regulation and policy during the colonial era. While these point at legal constraints, and their brutal implementation on matters of editorial freedom (see Sonwalkar 2015, Israel 1994), there are more sophisticated arguments about the role of press in inculcating a colonial governmentality (Prasad 2021, Kalpagam 2020). Narratives of restraint dominate sporadic legal scholarship on newspaper regulation in the

decades after Independence (see esp. Dhawan 1987, Raghavan 1994:145-162, Bhatia 2016b). These point at the constitutional limits imposed on press freedom following the First Amendment in 1951³⁶, institutional mechanism devised to monitor newspaper circulation (see Jeffrey 1994), and trampling of rights of journalists, and functioning of newspapers during Emergency during 1975-77 (see Dhawan 1987). Undoubtedly, this narrative of restraint was firmly rooted in the state being the sole threat to newspapers and journalism. Precisely because of this, the abrasive impact of ownership and concentration, and its implications on democratic polity and media diversity, bypassed scholarly attention. The exception is the incisive admonition of Merchant Press in the late 1960s by Sumanta Banerjee (1973b) – the contexts and arguments of which we will turn to in Chapter 5.

Amidst wider deregulation in the Indian economy from the early 1990s, the narrative of restraint was mobilised by numerous interests advocating the ‘opening up’ of newspaper business to global actors (see Sonwalkar 2001). In other words, this seasoned narrative neatly dovetailed with the earliest neo-liberal arguments for media reforms – and thus was born another narrative. This is readily palpable in the subsequent *narrative of relief* on the regulatory framework of TV news – the expanded sphere of ‘the press’. The new portrayal articulates the demise of monopoly over broadcast news by the Public Service Broadcaster, and faith in the logic of market-driven multiplicity of private suppliers – details I lay out while setting up the context for the third regulatory moment (Chapter 7: s7.1.2). The vocabulary dotting this narrative testifies to its ideological enterprise: use of words such as ‘reform’ that carry a zeal to rectify inherited institutional constraints, ‘competition’ to signal the institutional norms mediating the marketplace of news, or ‘choice’ to convey a sense of economic agency accorded to news audience. Not surprisingly, ingrained in this narrative is the noticeable mention of news *consumers*, a significant shift away from the hitherto reference to news *audience* (see Pendakur & Kapur 1997).

The narrative of relief soon, and rather forcefully, emerged as the master narrative of press regulation. It pivoted around the wider exuberance during the 1990s in large sections of academia, and the press, about the ‘rolling back’ of the state. There was scarce opposition to this narrative, since de-monopolisation and deregulation in broadcasting appealed to everyone.

Nevertheless, this narrative has both dominant and marginal renditions. The dominant ones herald the values of competition and choice catalysed by the advent and profusion of non-state actors supplying news programming (see Price & Verhulst 2000, Mehta 2008b, Narayan 2013, Chadha & Kavoori 2012, Kohli-

³⁶ For contrasting perspectives on the First Amendment, see Liang 2004 and Burra 2017b.

Khandekar 2013, Ghosh 1997, Ninan 1998). The marginal renditions share discomfort about the news media getting enveloped by unfettered commercialisation, financialization, and/or aggressive trans-nationalisation (see Pendakur 1989, McDowell 1994, Shaw 2009, Udupa & Chakravartty 2012, Sinha 1996a). Buried in their scepticism are two discomforts: changes in the institutional norms of (print and) TV news in the wake of rampant marketisation that pose a greater threat to society than the earlier scenario of government control over public broadcasting (Sinha 1996a: 82); and, the emergent forms of speech in the newly de-regulated sphere of the news media, succinctly captured by Udupa and Chakravartty (2012:492) as, following Bourdieu and Waqant (2001), “neoliberal newspeak”.

4.1.2 Ownership as a Blind-spot

A ‘deeper’ narrative of press regulation, and not simply another rendition, should not be swayed by the rhetoric of neoliberal threats, or market euphoria. Like the marginal, sceptical renditions, it should not reduce neoliberalism only to the phenomenon of media power moving from the state to market, or from bureaucrats to marketing heads of news outlets. This is because neoliberalism involves deeper reformulation of the relationship *between* state and market – especially the role of state in the constitution of media markets (see Parthasarathi & Athique 2020, Rahman 2020). As I show in Chapter 7, the marketplace of private TV broadcasting did not develop autonomously; it was judiciously shaped by the ways the state legitimised and widened the participation of non-state actors (also see Sinha 1996a, Pendakur 1995). On their part, the dominant, euphoric renditions will do well to recognise how, and why, the imperfectness of competition, and vulnerabilities of cooperation puncture the efficacy of the market idea. Thus, altogether both renditions of the existing master narrative are obliged to examine the (causes of) enduring distortions in the marketplace of news, and the re-organisation of the relationship between the state and non-state interests. This calls for systematically engaging with matters of ownership.

The narrative of relief was so omnipotent that risks of ownership structure, concentration, and cross-media ownership were largely absent in debates in the decade following deregulation of TV news³⁷. For proponents of the dominant renditions, the regulation of ownership, or for that matter of any aspect of competitive behaviour, kindled anxieties of state intervention akin to that experienced in the pre-deregulation decades. Subsequently, few among them have veered round to dwell on implications of Congregational Press on democratic

³⁷ Even enumerations of media ownership are scarce, appearing only over the past decade (such as Bhattacharjee & Agrawal 2018, Parthasarathi & Srinivas 2022), albeit raising fruitful methodological debates (see Nair & Taneja 2018).

polity (see Mehta 2015c). Scholars embodying the marginal renditions tend to spotlight the implications of the presence of Congregational Press on regional polity and politics (see Shaw 2014, Ranganathan 2014). They correctly highlight the presence of such interests in TV news as part of the long tradition of political and sectional ownership in newspapers – a matter pointed out earlier in our appraisal of press development in India.

However, most scholars lost an opportunity to examine competitive behaviour by Merchant Press, and distortions catalysed by concentration and/or cross-media ownership with the advent of TV news (exceptions include Kumar 2016, Muralidharan 2018, Parthasarathi 2018, Saeed 2015). I feel both renditions of the master narrative of press regulation will benefit, despite their divergent pursuits, by more squarely engaging with ownership, concentration, and cross-media ownership. Doing so will enable adherents of the marginal renditions to comprehensively assess the role and impact of different vectors of ownership in the milieu of TV abundance. This will buttress their arguments about the corrosive impacts of unfettered commercialisation and marketisation. On their part, cheerleaders of the dominant renditions can more convincingly provide evidence of the declining risks of market power, and of increasing media diversity in the competitive milieu. This will bring empirical and analytical sharpness to their central contention about the efficacy of the market idea.

Furthermore, both these renditions, irrespective of their separate normative bent, will benefit from a wider and deeper conception of ‘regulation’. This requires them to go beyond sweeping generalisations of the ‘withdrawal’ of state. Such generalities are well argued to be not only empirically inaccurate but inhabit a methodological shortcut (for instance see Patnaik 1997 *passim*). What is required, and will be productive, is to think through why the state maintained the legacy of interventionist provisions in the print or TV press, where and why it chose not to intervene, and the interests such actions and inactions ultimately served. The next section conceptualises ‘regulation’ in a manner that addresses these issues.

4.2 Thickening ‘Regulation’: The Dual Emphasis

The terms Policy and Regulation are often used synonymously, albeit not always unwarrantedly so. ‘Policy’ is a field of contest among interests, each driven by its desires and goals over the institutional designs to shape the functioning of society (Mathur 2013, Fischer 2007/2019, Kingdon 1984/2011). Media Policy is pithily defined as a broad field, where “ideas and assumptions about the structure, conduct, and performance of media systems circulate” (Puppis 2016: 2). Threshing this out, media policy can be seen as a field to achieve sanction and

legitimacy to prioritise challenges confronting the media milieu, and devise institutional measures to surmount them; thus, policy debates could as much be about building and maintaining consensus over an agreed set of values (Nieminen 2010). This suggests media policy is not just about the decisions to shape the media milieu but equally about the decision-making process, both of which are shaped by competing actors (Freedman 2008).

4.2.1 Regulation as Intervention

The idea of ‘Regulation’ encapsulates a large canvas of state actions, ranging from, at the barest, interventions limited to monitoring and enforcing compliance, to specific types of state interventions, to all mechanisms of societal control (Jordana & Levi-Faur 2004). Here, “regulation” involves both a knowledge system informed by foundational normative principles (policy values), and institutional mechanisms curating a media milieu (policy instruments). The latter is often but not always backed by law and legislation to achieve the policy goals. Thus, media regulation is particular and limited, though not limiting, concept compared to media policy; the former refers to institutional mechanisms chosen and deployed to address anxieties and behaviours catalysed by the media milieu to achieve specified policy goals (Puppis & Van den Bulck 2019:7). From this standpoint, ‘policy options’ convey different priorities visualised by the state, and ways of resolving contests between competing actors and interests. Alternatively, we can visualise regulation as forms of explicit ‘intervention’ to fortify the stakes of specific actors, and/or interests. Consequently, regulation is understood in terms of awards and rewards by the state for chosen forms of behaviours by actors and interests.

The aims of regulation are normally visualised in terms of mitigating social and economic risks. However, much like the imagination of regulation itself, such aims are multiple: they range from the minimal, such as mitigating social risks arising from the prevalence of natural monopoly; to the reactive and intrusive, such as curbing concentration and other forms of market power; and, to the more ambitious like anticipating market failure or impact of emerging technologies (for instance, see Baldwin, Cave & Lodge 2012). Across such imaginations, their aims can broadly be dissected into those directed towards the regulation *for* competition, and the regulation *of* competition. Both the aims can be addressed by policy instruments that are *ex-ante* or/and *ex post* in nature. These factor in the inability of even the ‘fairest’ of competitive scenarios to address non-market concerns, and thereby insist on extra-market aims of regulation, such as enhancing universal access, and consumer protection. One such aim is captured in the concept of “regulated pluralism” (Thompson 1995: 240-241). This offers an argument to enhance diversity by mitigating social risks of concentration, a

concept I evoke in the first regulatory moment examined in this dissertation in Chapter 5.

All these differing aims breed numerous regulatory mechanisms: subsidies and waivers, quotas and preferential treatment, standards for devices and services, caps on pricing and market shares, anti-trust measures and universal service protocols, and inter-connection obligations, among others. Common to them is the desire to create the terms of interaction between rival commercial interests, and between them and readers/viewers/users. This is irrespective of whether a regulatory mechanism – i.e., a policy option exercised – creates a ‘balance’ of power between interests, or legitimises trade-offs for/against specific interests. Going further, the idea of re-regulation, which has gained currency in India and elsewhere, (see Horvitz 1989, Jayakar 2011, Parthasarathi 2018), can be deciphered in terms of changing interests, be it to tame markets, or cleanse it of unwanted actors and undesirable conduct.

4.2.2 Non-Intervention and Considered Silences

In foregrounding the aims of regulation, scholars immediately raise matters of efficiency of such mechanisms, their sloppy implementation, or lags in state response. Important in themselves, these carry rational choice assumptions, often viewed with scepticism in scholarship within and outside media studies (see respectively, Mathur 2013 and Udupa 2012). Beneath this thinking lurk the remnants of positivist policy studies. What needs to be squarely addressed is reason for such behaviour on part of the state. More importantly, it must convincingly explain instances of ‘effective’ and ‘efficient’ interventions co-existing with sloppy or delayed ones. Thus, scholars find arguments about regulatory laxity and lag tend to hide more than what they reveal (see Braman 2004, Horvitz 1989:2004-205). I find it productive to wonder what interests are served by regulatory laxity and inefficiency. This offers a pathway to contest assumptions about the neutrality of state, both as an apparatus and an interest, and more generally about the relationship between public regulation and private media. There is striking scholarship on how and why governments in India between the 1950s and 1970s – a milieu where Chapter 4 and Chapter 5 is located – designed economic policy to further state interests by leveraging and protecting private industrial interests (also see Tyabji 2015).

Having done away with rational choice assumptions, the concepts of “negative policy” and “policy silences” (Freedman 2010: 12-13), and of “non-policy-making” (Kaitatzi-Whitlock 1996) are fruitful in expanding our vision. Freedman underscores media policy in terms of political acts and ideological influences, including informal acts and invisible influence of lobbying, besides formal and visible procedures. This brings a dual emphasis in our conception of regulation. We make sense of the regulatory framework by correlating trends in news

business – such as, say, concentration – with government decisions. In tandem, we attend to non-interventions by the government that implicitly resulted in concentration, and more generally shape market behaviour or the balance of power between actors. This pushes us to carefully reflect over consistent and deliberate non-interventions on recognisable regulatory challenges, often despite compelling empirical grounds to do so.

There can be many explanations for non-interventions by the state. These include Inability, or limitations of state capacity due to the lack of organisational, intellectual, or financial resources; Reluctance, or regulatory abstinence deployed as a symbolic resource to prevent a perception of an interventionist state; Statism, or where the class interests embodying the state hinder the performance of its institutional apparatus, so that non-interventions signal an ideological and material resource; and, Bias, or non-interventions as a means to award certain actors and conduct (see Freedman 2010, Li 2021). But we must not lose sight of the values that non-interventions serve, and how these shape the balance of power between actors. This leads me to forward the notion of “considered silence” to unmask the complicity of the state in perpetuating a particular media milieu – one that retains the vulnerability of actors and momentums detrimental to social risks (also see Parthasarathi 2018). There are two emphases underlying this notion: one, non-response is the policy option considered by the state to lock prevailing interests to maintain the status quo of relationships between contesting interests; and, two, non-response ensures the symbolic, ideological, or material considerations of the state to be fortified.

The concept of ‘path dependency’ is usually drawn on to demonstrate that earlier choices made in the regulatory architecture have a determining influence on later ones (Humphreys 2012). This can be variedly evoked to explain regulatory stasis, impediments to change, or specific orientations of change (see Kay 2005, Belloc et al 2013, Bergek & Onyfrej 2014, Hutchins 2016). In drawing on this concept to explain constraints to regulatory interventions, it is useful to appreciate the persistence of a considered silence. Institutional and legal path dependencies lock values and interests so that they become hard-wired into the fabric of the regulatory architecture. It is to delve into this that this dissertation examines endeavours to regulate press ownership over a longer period. Furthermore, the blend of intervention and non-intervention over an extended period conveys the enduring political character of press regulation in a historical setting. From this standpoint, we can claim that partial or complete inaction by the state to a persistent regulatory challenge, such as those of ownership structure, concentration, and/or cross-media ownership, across different periods reveals the underlying personality of media regulation in India. Drawing on an anthropomorphic vocabulary helps to better visualise this dissertation’s larger purpose to lay bare the political personality of regulation in modern India.

4.3 Impediments to Regulation: A Theoretical Framework

4.3.1 Institutions, Interests, and Ideas as Co-determinants

Within the crisscrossing determinants of media policy, one can seek explanations about specific policy arrangements, or impediments in actualising them. My claim is that the triptych of institutions, interests, and ideas offers different levels of analysis to explain (impediments) to media policy.

On first appearance, this may echo John Kingdon's classic 'three streams', since the analytical emphasis on ideas, institutions, and interests appear analogous to his elucidation of the problem, policy, and politics streams (Kingdon (1984/2011)). There are nevertheless clear differences. To begin with, my approach is purposed to unravel regulatory stasis, while Kingdon's is about policy change. Secondly, his three streams are posited to, if we continue the metaphor, flow serially; whereas the triptych of explanatory variables is part of multiple reasoning underlying my framework. For instance, ideational scholars provide new insights about the relationship between ideas and institutions on policy-making by exploring the origins of institutions, and their impact on agenda-setting, policy discourse, and framing processes (Campbell 2004). Thirdly, Kingdon's streams are largely independent of each other, while my variables are largely co-determined. In a classic work, not only is the role of ideas emphasised at the expense of narrowly-defined material interests, their inter-relationship is not systematically explored (Béland 2016:234). An analytical separation between these streams as determinants of policy change forecloses the possibility of their interactions, and thereby risk misconstruing the exercise itself (Campbell 1998:279).

No doubt the metaphor of streams is easy to visualise, and therefore is an easy 'model' for scholars; my framework is more of an 'approach', with all the subtleties and overlaps constituting an approach. The latter stresses on the analytical integration between the role of ideas, institutions, and interests. The interplay I pursue between them (more plausible than some scholars may admit) enhances the overall explanatory power of my approach. This corrects what I see as the desire to 'discipline' the role of institutions, interests, and ideas by pursuing them separately, or giving greater weight to one over the other(s).

To sum up, the point being made is, foremost, about the inability of any one of the three determinants being enough to explain the political economy of media policy. Learning from this, my approach to explain the impediments to regulate aspects of ownership in the press necessarily involves institutions, ideas, and

interests in equal measure. Examining the combined relationship, it transcends squabbles about the importance of one over the other. Going further, I find it worthwhile to conceive of multiple interactions, if not a large degree of co-determination, between these three explanatory factors.

4.3.2 Institutions as Impediments

Institutional analysis focuses on state actors and structures to explain public policies. Media policy studies, located in traditions of political economy, are institutionalist in a broad sense, in as much as decisions and decision-making functions within regulatory architectures are concerned. This makes it easy to see why/how understandings of media policy from certain streams of historical institutionalism, for example, are rooted in political economy (Galperin 2004). The converse does not hold: policy studies located in institutionalism need not share the salient aspects of traditions of political economy – most importantly, the relations of power instigated by social structures and historical trajectories. The historical and sociological streams of institutionalism share the rejection of rational choice assumption that institutions are the outcome of efficient, rational processes (Hall & Taylor 1996: 946–949).

Much like political economy, historical institutionalism focuses “directly on the exercise of power in shaping the rules and processes that structure our lives” (Bannerman & Haggart 2015:3). As the term suggests, there is a necessity to examine the institutional fabric underlying the making and marring of media policy. The structure of this fabric not only determines the capabilities and constraints of those who *make* policy but of those who try to *influence* policy. Thus, the choice of institutional design affects the ability of different interests to be heard and influence outcomes (Galperin 2004:162). Regulators and legislators react to policy demands, and translate them into action; at the same time, their institutional structures spawn rules and procedures which can well function as tools for privileged actors to exploit societal power relations (Starr 2004). The latter leads historical institutionalists to focus on relationships between branches of government constraining policy making (Thelen & Steinmo 1992:14). Here, North’s reference to institutions as “rules of the game” (1990:364) carries important implications. This is unpacked by Hall (1992, quoted in Galperin 2004:163) in terms of three levels. First are the basic organizational arrangements associated with the state (political system) and economy (market system). Second are specific configurations of the state apparatus, such as regime type, organization of interest groups, electoral system, and organisational design of regulation. Third are the procedures and operational routines of bureaucratic agencies, including both formal rules and informal patterns of behaviour (Galperin 2004:163).

In India's parliamentary system, the relationship of the legislature with executive, and judiciary is based on the principle of separation of powers. I gauge policy outcomes impacted by structural tensions in the legislature-judiciary relationship over constituent and constitutional power (see Chapter 6: s6.4.2). In parallel, I maintain sight of (changes in) the 'rules of the game' during the period of study, and its implications on policy formulation at three levels: at the macro-level, through shifts from a social democratic state of the 1950s and early 1960s, social-corporatist-veering-to-populist democratic state of the late 1960s and early 1970s, to the nascent neo-liberal state of the 1990s; at the meso-level, in the consequent organisational design of regulation, including constraints imposed by the separation of power principle, on attempts at regulating ownership; and, at the micro-level, in consultations between the executive and actors in the press, adherence to routines like inquiry committees/commissions, intensity of parliament debates, and ways actors organise and express in procedural arenas.

4.3.3 Ideas as Impediments

'Ideas' can be defined as "claims about descriptions of the world, causal relationships, or the normative legitimacy of certain actions" (Parsons 2002:48). This said, the proposition of the state apparatus deploying policy ideas to create regulation attracts expected criticisms. One, it views ideas *per se* as a determinant in shaping or impeding regulation, thereby ignoring institutional arrangements that make policymakers receptive to certain ideas (see Hall 1997); two, it assumes all demands and ideas equitably find a place in the high table of policy options; and three, it expects dominant actors finding ideas from elsewhere (such as academia) acceptable enough to not contest them (Campbell 1998).

These criticisms primarily stem from conceptualization of the political/policy power of ideas. Ideas matter precisely because they are connected to social power, and attempt to both consolidate the existing institutional order, and undermine it (Harjuniemi & Ampuja 2018). How then do we more substantively see ideas enabling or constraining regulation? This requires unpacking different registers, and playing fields of what is referred to as ideas in policymaking.

For students of communication studies, ideas are straightaway about expressions in media. This makes us attentive to "priming" (see Iyengar & Kinder 1987), and/or "framing" (see Chong & Druckman 2007) by news media. Here, ideas amount to reportage that reiterate criticisms, or endorsements of policy options debated by governments – instances this dissertation will regularly spotlight. This is a delicate matter, since news actors who can form sizeable public opinion, including through priming and framing, are often the ones having sizeable stakes in the outcomes of efforts to regulate ownership.

In Kingdon's 'problem stream', the role of ideas tends to be limited to the construction and classification of policy problems. But a broader, albeit no less

operational, role must be ascribed to ideas about the definition and prioritisation of regulatory anxieties. Campbell rightly differentiates between programmatic ideas, or prescriptions helping to chart a specific course of action, and normative ideas, or values legitimising an action (Campbell 1998:384-85). In policymaking, ideas are about the interpretation of problems at stake, articulation of policy challenges, solutions to or arguments against policy problems, and definition of 'acceptable' courses of action (North 1990). They are also about limiting policy options that are seriously considered. Thus, ideas become the basic cognitive template through which decision makers assess the validity of alternative policy options (Galperin 2004:161).

Ideas convey dominant values a government, as opposed to the state, stands for during specific historical moments. For example, the liberalization of broadcasting in Europe is attributed to a fundamental ideological shift from being a sphere of national culture to a component of the European information economy (see Burgelman 1997). Changes in ideas are readily and regularly discernible, such as through electoral fortunes of political parties with rivalling world views. Irrespective of whether ideas can predate interests, they do inhabit the most dominant interest, i.e., the state. Here, ideas change slowly and less noticeably with changes in the 'dominant coalition' of classes embodying the state. I reiterate that the three regulatory moments in this dissertation are situated in historical junctures when the nature of the Indian state differed.

4.3.4 Interests as Impediments

There is an opinion about historical and ideational institutionalism, by and large, not fully considering the role of interests, central to political economy scholarship, in reasoning policy stasis or change. On the one hand, we are aware policy outcomes are a function of the power that each interest group leverages in support of its preferred outcome (Galperin 2004:160). On the other hand, the success of rival or new ideas is dependent on political conditions, institutional access available to actors, and the balance of power between them; hence, even ideational institutionalists aim to develop a more "agent-centred approach" to attend to undercurrents of elite interests (Schmidt 2008:305).

The history of media policy will unevenly demonstrate policy outcomes to denote socially-optimal equilibria, or a fair balancing of differing stakes and benefits. The underlying reason is that the institutional apparatus of the state does not simply lend itself as an open and unfettered arena for actors to carry out their battles for consolidating rents, and/or legitimising ideas. Organization of political system, operating procedures of regulatory agencies, opportunities for judicial reviews, and other institutional arrangements are significant because they determine the interests heard in policy processes, those finding seats at the

bargaining table, and those disabled to access procedures orchestrated by the state (see Galperin 2004:162-63).

Approaches to interest-groups can oscillate between extremes: from pluralist conceptions of formal institutions as neutral and interest-free brokers between competing stakeholders (for example see Krasnow & Longley 1978) to perceptions they are captured by dominant interests (e.g., Schiller 1982). Alternatively, we can see media policy arrangements as the result of the erosion of power of organised interest groups, thereby providing an opportunity for the state to intervene. For instance, the weakening of unions is cited as a decisive factor behind telecom and media reforms in Europe, and those in telecom in India (see Thatcher 1999, Cahill 2001). It is equally possible to see policy arrangements resulting from dominant actors calling on the state to protect their stakes due to changes in media technology, and/or disruptions in legacy markets – as my analysis of the third regulatory moment vividly shows.

However, such views look at the state more as an apparatus, thereby downplaying the fact that it embodies a certain set of social and economic interest as well. It is therefore productive to examine, on the one hand, the alignment of interests of the state with those of dominant actors in media markets (not only news outlets but also their trade bodies); and, on the other hand, the tensions between them and those advocating different regulatory options (such as journalist unions) – a phenomenon visible during this dissertation's second regulatory moment.

4.4 'Regulation' and its Explanatory Logics

Among ideas, interests, and institutions, the third is clearly the place giving form to their inter-relationships. However, concentrating on institutions alone, without considering underlying interests, will repeat some of the drawbacks of positivist policy studies. By bringing into play the role of ideas as impediments to regulation, what I seek is not a pristine ideational/sociological institutionalism – how/why changes in ideas affect policy change – since it is difficult to reason ideas themselves constraining policymaking in formal settings (see Campbell 1998). Instead, I find it worthwhile to work on the analytical advantages of recognising the confluence of ideas, interests, and institutions as explanatory factors in impeding regulation.

There is a convincing opinion about the power ascribed to ideas in media policy depending largely on the thrust they receive from interests (see Thatcher 1999, Streeter 1996). But this compels attending to the choice of institutional design enabling access to institutions by interests operating in the regulatory

arena (Hall 1989), since such designs can determine the latter's ability to influence preferred policy outcomes (see Galperin 2004). In this context, a focus on ideas highlights how public and regulatory attention is drawn to policy challenges, how challenges are defined and prioritised, and why some options are selected and endorsed as "acceptable" courses of action (North 1990). This suggests that ideas are not just about policy options per se but about the ways institutions and interests interact with social norms, attitudes, and beliefs (see March & Olsen 1984; Campbell 2002). Ideas thus become the currency through which interests and institutions operate, in as much as interests are the stakes behind ideas, and motivations to seek access and leverage institutions – all through institutions are the place giving form to these crisscrossing dynamics.

Media policy is about choices made in light of stakes and costs associated with ideas, abilities and constraints of institutional structures, way interests organise themselves within and outside policy processes, and the legacy of past policies. The last is where the concept of path dependence becomes a handy element of the theoretical arsenal of scholars of political economy of media policy, and of media history. It carries a methodological dimension in examining policy impediments over a longer period, and an analytical insistence about the power of ideas and institutional arrangements influencing policy decisions long after they came into being. The latter can be said to be about the influence of longstanding interests and ideas which, over time, are hard-wired in the policy arena in general, and particularly mediate the relationship between them, and the institutional arrangements/apparatus.

Entrenched interests in news markets continue to exert influence on policy processes. With the advent of new media technologies, they develop stakes in fresh segments – such as the expansion of actors from newspapers to TV news – thereby continuing to constrain policy arrangements. Alternatively, when threatened by disruptions caused by technology, entrenched actors leverage their accumulated power to fortify their interests in/through the regulatory field. Ideas connected to longstanding commercial and social power impart strong path interactions (see Bergek & Onufrey 2014) with the institutional order and entrenched interests to define acceptable course of action, thereby often undermining changes in inherited policy arrangements. The varying thrusts and permutations of these impediments impart multiple path dependencies in the policy arena; one consequence of this is the constraints in (re)formulating the regulatory framework of news ownership, as this dissertation will narrativize.

Chapter 5

5 Regulating Market Dominance, 1954-1961

This chapter examines Independent India's first endeavour at regulating ownership in the press. It delves into policy debates that precipitated it, aims and scope of the related legislation, responses of actors in the press, and capacity of the institutional architecture to deal with them.

This endeavour had its roots in the Press Commission constituted in 1952, two years after Constitution was introduced. Among the recommendations in its 1954 report were the suggestions to establish a Press Council, create legal mechanisms to protect journalists, and institute a Registrar of Newspapers of India. While it took a decade to fructify the first one, the second took shape in 1955 in the form of the Working Journalists Act³⁸, and the third was instituted in 1956.

There were two other recommendations directed to mitigate market power in the press.

The first proposed converting the ownership of high-circulating newspapers, predominantly owned by Merchant Press, into not-for-profit Trusts, with equity and control diffused among employees. Although this is actually the subject of the next chapter (second moment), it is relevant to mention that the 1954 Commission proposed a voluntary reorganisation, and not through regulatory fiat (GoI 1954:273-274). In contrast, the second recommendation – the subject of this chapter – involved statutory intervention. The Commission wanted to inculcate equal opportunities in the fractured world of the press, and mitigate competitive abuse by newspapers with dominant market shares. It is worth noting that it correctly sensed the regulatory success of the former largely depended on achieving the latter. This mirrors the proposition of 'regulated pluralism', which contends that the market, left to itself, is unable to prevent concentration (*op. cit.* p.84). To address the malaise it identified, the Commission recommended a host of inter-related mechanisms, including a Price and Page Schedule, which was legislated through the eponymous Act in 1956.

This chapter opens by briefly recalling the ideas and implications of concentration elaborated earlier. Thereafter, it is structured in three sections.

³⁸ 'The Working Journalists and other Newspaper Employees] (Conditions of Service) and Miscellaneous Provisions Act' was passed on 21 December 1955. Its critique rests on the inability of resource-scarce small dailies to offer wages commensurate with the Act; also see Remesh 2018.

In the first section, I focus on the conditions cradling the dynamics of concentration observed in the Press Commission's report of 1954. I highlight the normative, ideological, and empirical arguments against concentration, and principles evoked to design a regulatory response – principles that essentially reflected a politics of redistribution. The second section delves into the contestations marking policymaking. I detail parliamentary deliberations leading to the Price and Page Act of 1956, which dissipated many nuances and provisions in the Commission's regulatory vision. I then recount the trajectory and nature of judicial challenge to the Act, culminating in the Supreme Court striking it down in the landmark *Sakal* judgement of 1962. In the third section, I reason the 'failure' of the regulatory endeavour. I point at three factors responsible for it: impuissance of the ideas informing the Commission's recommendations; interests whittling the legislative process; and, institutional constraints in upholding the legislation.

5.1 Concentration and its Repercussions

A news market appears concentrated when a handful of outlets command a large share of resources. These include resources that augment revenues through subscription, and through commercial and government advertisements; and those that form the preconditions to derive such revenues, be it material resources like newsprint and spectrum, or organisational ones like advertising agencies and retailers. While these can be inter-related, some may reinforce the other. For instance, when newsprint is scarce, newspapers with high circulation get larger quotas, and have more advertising space. Where there are duopolies in the share of circulation, they strike arrangements to raise cover prices. Newspapers with dominant circulation can extract favourable terms from advertising agencies, retailers, and other intermediaries. With higher newsprint quota, they devote more pages to (advertising) 'Supplements' sponsored by state and non-state actors.

To explain the concerns, let us recall the adverse impacts of concentration on democracy and media diversity (Chapter 3: s3.3.2). I presented arguments emphasising how concentration impairs facets of diversity (esp. Valcke et al 2010, Klimkiewicz 2010). It limits the opportunities of small and marginal actors – thereby affecting source diversity. While larger share of circulation and publishing infrastructure weakens geographical diversity, the same trend in advertisements hampers the ability of the deprived actors to sustain themselves. Retail concentration inhibits rivals with competing viewpoints, thereby curtailing exposure diversity. There are risks to external diversity, i.e., the breadth of views.

Table 4 Concentration and its Implications

Types of Concentration	Constrains on Rivals	Risks to Diversity	Risks to Democracy	Interplay with other types of Concentration
Circulation	Reach of Voice; Exacting Accountability	Source/External diversity	Uneven Dispersion of Voice	Newsprint; Commercial & Government Advertisements
Commercial Advertisements	Sustainability of Voice	Advertising Share & Content diversity	Muting Marginal Actors	Newsprint; Circulation
Government Advertisements	Sustainability of Voice	Advertising Share & Content diversity	Dependence on state patronage	Circulation
Newsprint	Volume & Geography of Voice	Source diversity	Inequitable Dispersion of Voice	Circulation
Printing Press	Geography of Voice; Market Foreclosure	Geographical & Content diversity	Inequitable Dispersion of Voice	Circulation

Adverse impacts of concentration are augmented in scenarios of cross-media ownership. I earlier explain why this runs against the principle of equitable distribution of voice, and disturbs the opportunity for a wider cross-section of social aspirations to influence public opinion (esp. Baker 2002, 2007, Bagdikian 1987). While concentration in government advertising carries the risk of dependence on state patronage, this gets acute when such patronage is limited to a few newspapers.

In recalling the types of concentration, their inter-relationship, and their adverse impact on the press and society, the historical context is equally important. In some such contexts, as we shall see in this chapter, there are peculiarities of inherited market structures and competitive milieu that aggravate certain types of concentration, and their inter-determined dynamics. In the context of India during the early 1950s, it is crucial to foreground four peculiarities: disparate press development in different geographical or linguistic regions; uneven purchasing power across, and within, markets; newspapers from certain production centres, or in particular languages, attracting higher advertisement share; and, capabilities to gain market share of circulation, advertisements, and advertising agencies determined by the types of cooperation inhabiting newspapers. These dynamics necessitate different ways of understanding, and measuring (where it is possible) concentration, play of market power in maintaining market preponderance, and consequently, imaginations and possibilities of regulatory interventions.

5.2 Spectres of Market Dominance

5.2.1 Anxieties of the Press Commission

In the aftermath of colonialism and partition, the newspaper business was scarred by the multiple axis around which voice was distributed. Perhaps recognising this, different sections of the press were judiciously roped into the membership of the Press Commission. This peeved certain entrenched interest groups, who saw themselves as representatives of the press in the political and legal battles against colonialism. Among them was the All-India Newspapers Editors Conference, started in 1940 as a reaction to crackdown by colonial government (Ryan 1990:57).

Matters of concentration and market power were central to the mandate given to the Commission. Included in its terms of reference was an inquiry into “the control, management and ownership and financial structure of newspapers”; “working of monopolies and chains”; and, extent to which holding companies, distribution of advertisements, and external influence have “a bearing on the development of healthy journalism” (GoI 1954:455).

The Commission gathered data from less than half the newspaper concerns in India, but these covered 80 percent of national circulation. Evidence from this correlated the skewed distribution of voice with multiple fractures prevailing in society. In terms of ownership, of the 330 dailies whose data was available, proprietors of five controlled 31 percent circulation (*ibid.*, 309). Circulation was widely disparate across languages and geographies, with half of the total circulation located in metropolitan cities, state capitals, and large towns (*ibid.*, 18, 26). Within these urban markets, English language dailies accounted for two-thirds of circulation. Readership within a region were shaped by embedded networks of social identity. In partitioned Punjab, for example, while Hindus read *Pratap*, *Milap*, or *Hind Samachar*, Sikhs preferred *Ajit*, *Prabhat*, or *Akali Patrika* (Sharma 1954).

An overwhelming number of language newspapers were disadvantaged by telegraph services of news agencies, and typesetting in printing presses were in Roman alphabets. Moreover, these newspapers had poor or aging infrastructure, a cumulative effect of the Depression years, and the Second World War (Jeffrey 1987:608). Many were dependent on printing presses of established newspapers in English and regional languages. Breaking free from this dependency was particularly important for some marginal actors, like periodicals by lower caste editors/associations. This was astutely emphasised by Bhimrao Ambedkar,

economist-turned-leader of the lower caste movement, who chaired the committee drafting India's Constitution. He was candid about the probability of a "conspiracy among printers who are mostly caste Hindus to refuse to print a newspaper run by the Depressed Classes" (Ambedkar 1931,17/2: 410).

When states were linguistically reorganised in 1956, newspapers in regional languages were fervently supported by the newly formed state governments through government advertisements (Jeffrey 1997a: 61). But the elites read the English language dailies. Consequently, these newspapers attracted higher rates and volumes of commercial advertisements. Of the whopping 74 percent foreign advertisers constituting commercial advertising, small newspapers in regional languages were unable to get any share (Alva in Parliament³⁹). The Press Commission clearly found advertising spend to be directly impacted by unequal dispersion of purchasing power across society and geography (GoI 1954: 27, 55). The demographic strata with the highest purchasing power were also the ones literate in English; most of these readers resided in the four cities of Delhi, Bombay, Calcutta, and Madras. English dailies from the metropolitan press attracted highest advertising rates⁴⁰. Over time, they finessed an organisational machinery to lure additional and better-paying advertisers. By expanding in fresh geographic and/or linguistic markets, they were in a stronger position to deal with advertisers who wanted to reach potential local readers across cities and languages (*ibid.*, 30). By the early 1950s, English dailies received double the advertisements placed by advertising agencies compared to dailies in all regional languages, despite the former's combined circulation being a bit less than the latter's (*ibid.*, 91).

There was an additional concern. Since advertising revenue determined the ability of small dailies in regional markets to offer lower cover prices (*ibid.*, 58), the skewed dispersion impacted their spread. In linguistic markets that attracted lower advertising revenues, such as Malayalam and Urdu, dailies were relatively more expensive than in others (*ibid.*, 55). This created a dual disparity: because a section of society in a linguistically-defined economic geography was unable to consume advertised products, newspapers published there were compelled to charge higher cover prices.

An extension of advertisement, special Supplements, offered other mechanisms to mobilise revenue. These included commercial supplements, i.e., about an industry or a company, and political supplements, i.e., about a government department or its developmental projects. The Press Commission saw

³⁹ Violet Alva during discussion on Price and Page Bill in Rajya Sabha on 14 Aug. 1956.

⁴⁰ Interestingly, we see different results in other countries. For instance, newsprint rationing in Britain during the second world war caused a "space famine" in newspapers that resulted in a more equal distribution of advertising spend across the popular press; Curran 2011:159.

the latter as propaganda “disguised as general information”, and “possible deception” (*ibid.*, 96, 318). It was scornful of commercial publicity “incommensurate with the expenditure involved” on two counts: it was not beneficial to readers, and augmented the market power of proprietors (*ibid.*, 97). Akin to direct government and commercial advertising, the Commission saw the increasing frequency and spread of Supplements institutionalising “an element of patronage” (*ibid.*, 320).

The Commission was uneasy about the slew of newspapers from Merchant Press. The diversified Birla Group, then India’s second largest business house, owned a raft of newspapers in different languages, published from Delhi, Allahabad, and Patna. Others with myriad presence in manufacturing and trade, such as Dalmia group, owned a clutch of newspapers, among which English dailies were usually the milch-cows. Consequently, the Commission adopted a generic term, “*combine*”, for an entity owning multiple newspapers, be it a Chain or a “Group”. The “combined operations” armed owners with an array of industrial, commercial, and strategic advantages accruing from economies of scale, compared to those who owned a single newspaper (GoI 1954:71-71). Hence, the umbrella term ‘combines’ proved ideologically and empirically useful to highlight their market power.

The Commission categorised newspapers based on circulation, and areas of operations. Thus, “*big papers*” had a circulation of more than 15,000 copies a day each (GoI 1954:47). Since an overwhelming number of them were in English, the category of “*small papers*”, those with daily circulation less than 5,000 each, were in regional languages. Newspapers were also defined in terms of core economic geography and centres of publication. Those published from Bombay, Calcutta, Delhi, and Madras, with many finding readers in non-urban hinterland, and few across India, were termed as “*metropolitan papers*” (*ibid.*, 281). Most were in English, and part of combines, with the leading ones being part of Merchant Press. Those whose circulation was confined to India’s linguistically-demarcated states, were termed “*provincial papers*” (*ibid.*, 281). Although a few were in English, the vast majority were in regional languages, and consisted of standalone newspapers not owned by business houses⁴¹.

The binary categorisation – based either on circulation or geographical operation – glossed over matters of ownership; it flattened the types of ownership that constituted as big newspapers or metropolitan newspapers. Nonetheless, there were empirical and ideological undertones in the Commission’s categorisation. The metropolitan press largely overlapped with high-circulating English language dailies from combines owned by Merchant Press. But some of

⁴¹ After the 1950s, as we will see in Chapter 6, the metropolitan and provincial press were rechristened in policy debates in equally patronising terms of ‘national’ and ‘regional’ press.

these combines gradually launched and bankrolled newspapers in regional languages (*ibid.*, 71). This catalysed concerns about possible abuses in the competitive milieu of provincial press. The Marathi Journalists' Conference in May 1953 moved a resolution urging government to prohibit "undesirable method" of competition (Times of India⁴²).

Members of parliament drumbeating the spectre of concentration, and journalists standing up for small, regional newspapers provided their spin on the Commission's findings. Exemplifying this was the construct of '*big press*', an umbrella term that came into vogue during the 1950s⁴³, and was commonly used in ownership debates into the 1980s. It primarily referred to Merchant Press, dominating market share in English and some languages, but was elastic enough to include high-circulating newspapers which were then part of Independent Press, such as *Sakal* in Marathi and *Hindu* in English.

5.2.2 Layers of Concentration

The Press Commission was keen to evaluate all the enablers and pre-conditions of concentration. At the production stage, it was spurred by newspapers garnering crucial inputs, both public resources such as newsprint and spectrum, or private ones like advertisements and printing infrastructure. At the distribution stage, it stemmed from newspapers especially incentivising retailers, and resorting to price-cutting. In short, the interplay between (skewed) opportunities, and (anti) competitive practices drove concentration.

Scarcity or price-hikes of newsprint triggered knee-jerk regulatory responses, which enhanced concentration and malpractices. The Second World War saw most countries adopting steps to surmount newsprint scarcity in an equitable manner. In India, the British government introduced quotas and restrictions on consumption through a Page & Price Schedule in 1941. It fixed newspapers prices in relation to the number of pages. Until the restrictions were fully removed in June 1949 (Reddy 1966: 324), combines from Merchant Press enjoying larger quotas of newsprint resorted to reselling parts of it in the black market.

The post-War spike in newsprint price triggered different responses. Initially, anticipating a hike, the market leaders in linguistic markets with an effective duopoly, such as Tamil dailies, *Swadesamitran* and *Dinamani*, in Madras, "came to an understanding", and hiked cover prices (AIR 1962). While the Indian Language Newspapers Association, representing small papers, urged government to introduce a statutory price-page control in December 1950, the Indian and Eastern Newspapers Society, representing big papers, argued for voluntary

⁴² 'Dismissal of Editors-Journalists' Protest', *Times of India* 31 March 1953, p.9.

⁴³ This term was first used in parliament during the debate on the Price and Page Bill in 1956 by the leader of the opposition, Bhupesh Gupta; Gupta in Rajya Sabha on 14 Aug. 1956.

restrictions in newsprint consumption. The Newsprint Order of January 1951 gave statutory sanction to the voluntary restrictions; while it capped the total permissible pages for newspapers at 60 per week, there were no caps on cover prices. This was advantageous for high-circulating newspapers, since their cost per copy was lower than the smaller dailies.

As a course correction, the revised Newsprint Control Order of April 1951 prescribed permissible pages as per cover prices. While this brought some parity among big and small newspapers, it permitted advertising Supplements, subject to government approval, on festive occasions and Independence Day. Only newspapers with larger newsprint quotas could print them.

These knee-jerk administrative measures, while appearing to mitigate the handicaps of small newspapers, ended up furthering competitive advantages of big ones. Despite newsprint supply easing in September 1952, and controls gone, smaller dailies remained handicapped. Their smaller needs, and limited cash flows, prevented bulk purchases from overseas mills, and/or safer long-term contracts; they were either dependent on intermediaries to source steady supplies, or compelled to pay steep prices in the spot market (GoI 1954:108).

Ironically, combines with substantial quotas printed newspapers that exceeded their circulations, only to dispose a large number of copies as waste-paper. This strategy rode on three market aberrations. One, not only did waste-paper command lucrative prices, but income from their sales did not count as revenues for tax purposes (*ibid.*, 65). Two, combines leveraged inflated circulations to get more advertisements, and at premium prices (Gupta in Parliament⁴⁴). Third, printing high volumes lowered price per copy, which enabled them to further hurt rivals. The Press Commission viewed strategies of overproduction and misrepresentation of circulation as intertwined results of three conditions: knee-jerk newsprint policies, prevailing anti-competitive practices, and abuse of market power by big newspapers, particularly those from Merchant Press. Tackling these conditions was central to its recommendations to curtail concentration, as we shall see.

The War-time Newsprint Control Order capped advertisement space in newspapers at 40 percent. Once this was withdrawn, the space dedicated to advertisements in high-circulating dailies rapidly increased and, in cases, exceeded half their content (GoI 1954 *passim*). At a macro level, the volume and dispersion of circulation of big newspapers still drove advertisement-shares. Since their circulation was concentrated in metropolitan cities, where most of India's newspaper readers with high purchasing power were located, it was natural for advertising spend to gravitate to newspapers published there. This compelled the

⁴⁴ Bhupesh Gupta in Rajya Sabha on 14 Aug. 1956, p.1257.

Press Commission to think of provisions to ensure that the inter-related market dynamics of newsprint, circulation, and advertising did not hurt small papers.

Small papers were at a disadvantage in soliciting revenues from another source: government advertising in the form of classifieds, tenders, and other notices. Existing policy benefited big newspapers due to their greater volume and geographical spread of circulation, and led to a larger share of government advertisements. Although government advertising amounted to less than 7 per cent of the total (*ibid.*, 86), it was doubly essential for small papers: it enhanced their legitimacy, and helped them to attract advertisements from private sources. The Commission was aware that high-circulating English dailies, and those from combines, mostly being from Merchant Press, benefited disproportionately from government spend. While high-circulating English dailies demanded higher advertising rates, combines offered an advantageous (to them) combined rates for newspapers that circulated across cities and languages (*ibid.*, 86).

The conduct of some actors led to further, or refreshed, avenues for concentration. This shows the ability of Merchant Press to extract favourable terms from two crucial intermediaries – advertising agencies, and distributors.

Five large advertising agencies managed half the total advertisements (by turnover) placed by all the agencies (*ibid.*, 90). Despite this, the Press Commission found leading combines were able to arm-twist agencies to book space in both their (high-circulation) flagship (English) dailies, and (lower-circulation) sister publications, including those in other languages. Since direct subscriptions were insignificant (*ibid.*, 54), sales agents, with their commissions, were crucial. Big dailies from metropolitan press, more so from combines therein, used their powers to offer higher commissions than the market norm, often between 40 and 50 percent (*ibid.*, 61). This debilitated small newspapers in their negotiations with sales agents, if not threatening them with market foreclosure. This was particularly dangerous to regional language dailies which, despite low circulation, had a higher subscription-to-advertisements ratio (*ibid.*, 59). In addition, combines forced sales agents to buy copies of their main titles, along with the sister publications. Finally, they dumped copies on agents at concessional prices, which translated into higher indirect commissions, to lure them away from rivals. At times, agents received free copies, which gave them the liberty to sell them at any price, a practice which effectively led to price-cutting (*ibid.*, 68).

The ability of business groups to subsidise their procurement of voice is demonstrated in other practices. They frequently adopted price-cutting to enhance circulation – an effective strategy in India's highly price-sensitive market. This worked in metropolitan centres too, where (potential) subscribers had the highest disposable incomes. Proprietors of English and Hindi newspapers, published from Bombay and Delhi, claimed huge increases in circulation, once they reduced prices without reducing pages (GoI 1954: 21). The Commission was

bothered about price cutting by combines owned by Merchant Press, when they launched new dailies in regional markets. However, such conduct was also adopted by 'big' newspapers which were part of Independent Press. For example, when the Indian Express Group launched a Gujarati newspaper, *Jansatta*, from Ahmedabad in 1952, it was priced below incumbent newspapers, *Sandesh* and *Gujarat Samachar* (*ibid.*, 56).

We see numerous instances of the inter-related anxieties of concentration, ownership, and market power in the Commission's report. It implicitly built a case to view concentration given the peculiar nature of the press. Specifically, it viewed three types of fractures that contributed to concentration: unevenness in developments in linguistic markets; dispersion of purchasing power among readers that determined the decisions and allocations of advertisers; and, presence of English newspapers across geographical markets.

The report's sixteenth chapter, 'Competition and Monopolies', is significant to the regulatory endeavour at the centre of this chapter. On the one hand, it empirically grappled with the nature and extent of concentration in geographical and product markets; on the other, it outlined normative arguments to curtail the inherent risks. A few of its enumerations are worth mentioning since they illustrate the peculiarities in India.

The report's state-by-state analysis could not discover "large scale monopolies in any town"; nor did any daily command more than 4 percent of the total circulation across the country" (*ibid.*, 304). But a different scenario emerged in linguistic markets. The Commission found an "effective duopoly" in the Bangla and Tamil press that were among the larger and older/established ones; in other languages, a minimum of three newspapers garnered at least 50 percent of market share (*ibid.*, 305). The concern was not about market dominance, but the composition of market leaders. First, the top three dailies were not from the provincial press alone, since those from metropolitan press were conspicuous. Second, the latter were part of combines, most of which were owned by business houses. Thus, there was a dual anxiety about regional press, i.e., threats to localism, and prominence of Merchant Press. These led to concerns about concentration whittling source diversity in particular, with risks to structural pluralism in general.

5.2.3 Premise and Scope of Regulation

The Press Commission's definition of concentration – viz. the "predominant part of all the newspapers sold" (*ibid.*, 311) – lacked conceptual rigour and enumerative precision. This limited concentration to market share of circulation. Nonetheless, implicit in its report is an understanding of the correlation between market share in circulation, and advertising. For instance, noting that average advertisement revenue per copy of English dailies was thrice that of language newspapers, it

insisted that the preponderance of advertising spend reinforced inequitable distribution of capabilities (GoI 1954: 57). The Commission asserted that inequitable distribution impinged on suppliers, and readers of news. It underscored effective choice being shaped by both the quality of competition among news outlets, and unmediated access of readers to them. This is what made certain newspapers, the report reasoned, more easily accessible or/and financially appealing to readers. Further, it documented readers' exposure diversity being muted by anti-competitive practices involving sales agents and advertising agencies. The net result was enhanced concentration in the advertising market, which further skewed circulation of ostensibly competing newspapers.

Common to "unfair practices" was the fact that newspapers were "backed up by substantial resources" (*ibid.*, 27). For one, this was the result of accumulated market power of high-circulating dailies, and combines. Moreover, there was "concentration of control of a number of newspapers in the hands of one owner or group" (*ibid.*, 280). And when such groups were part of large business houses, they derived a greater ability to leverage substantial resources from non-media affiliates. Given the link between high-circulating dailies, combines, and business houses, the Commission insisted on prioritising ways to mitigate the spectre of concentration.

The Commission's premise of regulated pluralism was rooted in a kind of media exceptionalism. On numerous junctures, it pointed that free play of market forces in other industries was neither apt nor desirable in the newspaper business.

What sells most or what yields the maximum profit has in other industries a definite connection with quality of the product; but in the case of newspapers, unfortunately, sensationalism, extravagance, vulgarity and the like have a good sales appeal. Whereas, therefore, the profit motive may operate in the public interest in the case of other industries, it may require regulation in the case of the newspaper industry. (GoI 1954:265)

This is not to say the Commission veered away from viewing the press as a marketplace of ideas, or newspapers as commercial enterprises. But the typical economic advantages of entrenched actors in other industries were not seen to be "conducive to the even and healthy development of the press" (GoI 1954:73). Reference here was to the advantages enjoyed by high-circulating dailies due to their lower per copy production cost, and by actors from Merchant Press due to the "large capital resources" at the disposal of their owners (*ibid.*). The Commission was convinced that an advertisement-driven free market scenario enhanced vulnerabilities of some sections, and exposed the press to "pressure from advertisers" – both trends impeded "healthy journalism" (*ibid.*, 58).

Similarly, competition among newspapers was highly imperfect since there was "no automatic restraint exercised by the forces of free competition" to better the quality of product (*ibid.*, 265). Significantly, the Commission considered that rival

dailies within product and geographical markets were not competitors in the strict sense because they offered different opinions, vital for readers in a democracy. Nevertheless, the tone of its recommendations to arrest competitive abuse was not rooted in the grammar of anti-trust regulation. Although its members included lawyers and judges, there was unanimity that competition law was not only insufficient, but inappropriate for the newspaper business. Ingrained in their premise for state intervention was a different rationale. The Commission felt that the nature and forms of market power in the newspaper business produced disparities hampering the health and capabilities of small, standalone, and regional language dailies. As a corollary, providing an equitable opportunity to everyone to access and utilise key resources would “eliminate substantially the effects of competition” (*ibid.*, 74).

The underlying emphasis in the report on dispersion of voice, impeded by reigning free market milieu of competition, appears more normative than ideological – although scholars have seen it conversely (such as Dhawan 1987). This is manifest in it evoking normative conceptions of diversity; in its own words:

[.] the essence of the process of formation of opinion is that the public must have an opportunity of studying various points of view and that the exclusive and continuous advocacy of one point of view through the medium of a newspaper which holds a *monopolistic position* is not conducive to the formation of healthy opinion. (GoI 1954: 310, my italics)

On the whole, informed by a plethora of findings and observations, the Commission saw three risks to content diversity: limited types of organisations owning high-circulating products; lack of geographical dispersion of circulation, and market share of newsprint; and, advertising revenues dominated by few news outlets.

The Commission’s conception of a “monopolistic position” could be interpreted to make up for, or cover up, its inability to empirically demonstrate the existence of a monopoly. Another reading of this suggests that a complete and convincing mapping of concentration was not the real point. This makes the Commission’s rationale similar to Baker’s normative arguments, i.e., the desire or even obligation to foster a range of opinions to mitigate the imperfect *distribution of voice*. Recognising the implications of uneven and long-tailed newspapers business, the Commission insisted the “proper functioning of democracy requires that every individual should have equal opportunity in so far as this can be achieved, to put forward his opinions” (*ibid.*, 73).

The Commission’s recommendations look at regulation to neutralise the risks from concentration and associated competitive malpractices. The key, but not sole, instrument was the Price and Page Schedule. This was identical only in name to the measures taken by previous regimes – by colonial government due to war-time scarcity of newsprint in 1941, or by newly-independent government due to

spike in global newsprint prices in 1951. The Commission had its eye on the inter-related challenges of competitive disparities catalysed by economic advantages of dominant incumbents, misuse and abuse of access to more newsprint, and bottlenecks to newcomers receiving “a fair chance” (*ibid.*, 73-74). Thus, it recommended a minimum price for newspapers of a particular page-length; unlike past Schedules that prescribed only the permissible maximum pages at a particular price, it proposed a corresponding minimum number of pages being “clearly specified” (*ibid.*, 74). Two outcomes were expected: “fair value given to the reader” (*ibid.*), and confining competition to quality of news rather than “mere quantity of newsprint” (*ibid.*, 62). Given changes in newsprint prices, the Schedule was not cast in stone but open to periodic revisions by government in consultations with the press.

The Commission worked out the Schedule’s feasibility to ensure dailies would not become, as was the fear, “inordinately thin” (*ibid.*, 77), and constrain the quantity of news – an unintended repercussion of the Schedule of 1951. It anticipated newspapers juggling between reducing pages or increasing cover prices, given the temptation to “accommodate all advertisements they may have booked” (*ibid.*, 96). Factoring in existing advertising tendencies and projections once the Schedule was introduced, it recommended 40 percent advertising space, averaged over a week. Visualised to give a “fair return” (*ibid.*, 58) to both readers and advertisers, this number was based on consultations with various actors, and endorsed by the association of advertising agencies (*ibid.*, 96). The emphasis on fairness, as opposed to profit maximisation, was a manifestation of the media exceptionalism underlying the Commission’s regulatory rationale. Thus, the 40 percent cap was not consequential, but integral to the Price & Page Schedule.

[.] in our view the quantum of advertisement in, say, a week's issue of a newspapers should not exceed 40 per cent of the total area and we feel that this requirement should be made part of the schedule, which will thus prescribe (a) the maximum number of pages that could be sold for the price, (b) the minimum number of pages that must be offered for the price, (c) the minimum of news and editorial matter that each issue must contain. (GoI 1954: 74).

Most significantly, the price-page formula was to be “supported by” (GoI 1954:73) at least two complementary measures to ensure effective dispersion of power and diversity of voice. One, the latitude of commissions to sales agents was narrowed from prevailing 40-50 percent to between 25-33 percent (*ibid.*, 62). Any payment above this rate, or commissions and inducements to sell papers (preferentially or at reduced prices) were unfair. Two, since government advertisements were public interest information, their rates were unjustifiable if based on a daily’s language or location; and since the cost of producing a daily decreased with higher circulation, a telescopic rate was recommended – that is, higher the circulation, lower the rate (*ibid.*, 88). The objective was to evenly

disburse government advertisements over as many dailies, as public expenditure permitted.

Operating in tandem, these would strengthen the provincial press, and small dailies, and achieve the larger goal of promoting diversity:

The recommendations for eliminating unfair competition and restrictive practices would, in *conjunction* with the price-page schedule enable small newspapers and newcomers to have reasonable chance of competing on even terms with established newspapers of large circulation. Similarly, our recommendations in respect of advertisements including the maximum space that may be devoted to them *and* our suggestion of a telescopic tariff would also have the same effect of evening out the differences that exist between large and small papers and also encourage the starting of many more papers in those languages and areas where scope exists. (GoI 1954:310, *my italics*).

Notwithstanding measures to equalise the conditions in which voices competed for readers and advertisers, the Commission argued that a scenario did *exist* where one daily garnered a “position of virtual monopoly in a particular area or a given language” (GoI 1954: 310). Such thinking reiterates our reading of the Commission’s call for regulated pluralism being propelled by normative underpinnings.

5.3 Contestations in Policymaking

When the Press Commission’s summary was released in July 1954, there were rumours about backdoor deals between sections of the press and government. Some proprietors made claims that a Union Minister had assured them the government would not prejudice their vital interests. When the report was tabled in parliament on 23 August 1954, a member of parliament (henceforth, MP) queried the veracity of such claims. Prime Minister Jawaharlal Nehru whimsically remarked “Wise people do not read newspapers too much”⁴⁵. This obliquely hinted that MPs should not give importance to rumours and claims, as the government was unlikely to be influenced on its decision of acting on the Commission’s recommendations.

The next section delves into institutional contestations marking policymaking. I first detail parliamentary deliberations leading to the Price and Page Act of 1956, including voices that saw the introduced Bill to grossly dissipate and dilute the

⁴⁵ Answer to question on the ‘Press Commission Report’ by Jawaharlal Nehru in Rajya Sabha on 24 Aug. 1954.

Commission's recommendations. These debates refract tensions between two desires of regulation, i.e., protection against abuse of economic power, and against abuse of state power. I recount the judicial challenge to the Act by the press, culminating in Supreme Court striking it down in 1961. The Court saw that this regulation did not meet constitutional exceptions that could warrant constraining (the Fundamental Right to) freedom of speech. This was because such exceptions did not include public interest matters like concentration, and competitive abuse in the press.

5.3.1 Legislation as Intercession

On 31 July, 1956, the Union Minister of Information and Broadcasting, Dr. B.V. Keskar, introduced the Newspaper Price and Page Bill in parliament. He drew attention to three features of the newspaper business: "peculiar conditions" detrimental to small and regional actors, unorthodox competitive practices by established newspapers and skewed advertising market, and "opulent financiers" from other businesses entering the press (Keskar in Parliament⁴⁶). He viewed the cumulative impact as illustrating different facets of market power, and resulting in regional language dailies "living from hand to mouth" (*ibid.*, 1250).

Repeatedly quoting from the Commission's report to justify the proposed legislation, the minister summed up the two core aims of the Bill: guarantee a fair price to "independent small papers," and protect them against unfair competition such as cornering and price-cutting (*ibid.*, 1247). The Bill's operative instrument, the Price and Page Schedule, authorised government to determine prices charged for newspapers in relation to pages, sizes, or areas, and advertisement space in relation to other content (*ibid.*, 1245). Keskar succinctly explained the expected three-fold outcome: first, "equalise competition and prevent the emergence of monopolies"; second, loosen "the control of big advertising interests on newspapers, and in that sense generally make them more independent"; and third, allow "greater scope for freedom of expression than we can now" (*ibid.*, 1248). Moreover, since the uneven market structure took a toll on the quality of journalism in small and regional newspapers, Keskar saw the Bill as a "relief" to help them in improving "their standard" (*ibid.*, 1251), and in withstanding the (mal)practices of high-circulating dailies, and deep-pocketed proprietors.

Three elements in Keskar's rhetoric stand out: his wavering explanation of the Bill's genesis, his critique of a free market press, and his desire to claim procedural adherence.

⁴⁶ B.V. Keskar introducing 'The Newspaper (Price and Page) Bill, 1956' in Rajya Sabha on 14 Aug. 1956, p.1249.

He appeared to waver between pitching the Bill as a new regulatory instrument, and one with legitimate precedent. He did clarify that the context provoking it was different from one introduced due to war-time newsprint scarcity. But he drew attention to a precedent in the UK, while adding its recent withdrawal there had evoked protests from majority of the press (*ibid.*, 1253). At other times, Keskar pitched the Schedule as a “new approach” to address challenges unique to India, and thereby not “blindly follow” mechanisms adopted in another country (*ibid.*, 1250). When he felt cornered, he admitted the Schedules in war-time India and in the UK were directed at different purposes, albeit slipping in that the former had not adversely impacted “fluctuations in circulation or income” (*ibid.*, 1252).

Second, while admitting anti-competitive behaviour was tolerated in businesses, Keskar made a case for media exceptionalism, as the Press Commission did. Since newspapers entailed expression of public opinion, cornering power and scope by few publishers implied “throttling the expression of opinion by others who would like to place their views before the public” (*ibid.*, 1247). Thus, Keskar not only defined the limits of laissez faire in the newspaper business but underscored threats to newspaper speech from unfettered competition. He implicitly drove home a difference, if not hierarchy, between freedom of expression and freedom to conduct business in Article 19a and 19b of the Constitution, respectively.

Third, the minister left no stone unturned to sanctify the pre-policy process he had adhered to. He recalled discussing the Commission’s recommendations with trade bodies of both large and regional newspapers, like the Indian and Eastern Newspaper Society, and Indian Language Newspaper Association, respectively, journalists’ unions like the Indian Federation of Working Journalists, and editors and proprietors. Claiming that “majority of newspaper proprietors were very much in favour of some such legislation and restriction”, he admitted those with higher circulation were against the proposed mechanism (*ibid.*). He reminded his audience of “a strong majority opinion” (*ibid.*, 1247-48) in both houses of parliament favouring legislation along the lines recommended by the Commission to “help the poorer sections of the press” (*ibid.*, 1251).

The intense debate on the Bill in Rajya Sabha (Upper House of parliament) on 14 August, 1956, tunnelled into definitional, substantive, and procedural matters. That is to say, the definition of newspapers implicated by the Bill; its ability to address the Press Commission’s anxieties on concentration and competitive behaviour; and, consultation process to formulate the price-page details, and periodically revise these details.

Interestingly enough, MPs questioning the Bill included those who loathed regulatory intervention, and those who found the Bill shallow in curbing market power. I place them into two broad baskets: ‘*opposers*’ comprising vested interests

and sceptics of the proposal's operational feasibility and hidden intent; and 'critics', including sections of Treasury, who argued the Commission's recommendations were decontextualised in letter, and diluted in spirit.

There was an opinion attributing concentration to the health and quality of regional language press, and not to market power of combines, established English language dailies, or new dailies bolstered by non-media capital. This not-so-subtle re-attribution in the reasoning of concentration was directed at questioning the object and objective of the proposed regulation.

Calling the Bill "absolutely unwanted", Kishen Chand averred small dailies lacked resources to provide breadth and quality of news, and hence were inherently antithetical to readers' interests (Chand in Parliament⁴⁷). Not only was this a tacit defence of big dailies on grounds of efficiency and capability, it implicitly questioned state subsidy to small dailies. Hriday Nath Kunzru, an independent member who was earlier member of the Constituent Assembly that drew up the Constitution, termed the Bill "dogmatic" for two reasons – it would "penalise the good newspapers", and cushion those "unable to maintain necessary standards of efficiency" (Kunzru in Parliament⁴⁸). This buttressed his contention about the Bill's utter worthlessness in either enhancing journalistic quality of small dailies, or benefiting the cause of readers (*ibid.*, 1265). Underlying this rhetoric was another factor, as reflected in his own words:

While in line with recommendations of the Press Commission but I do not think that the Government will be able to devise any way of equalising the opportunities possessed by the bigger and the smaller newspapers *of securing advertisements* (Kunzru in Parliament, 1264; my italics).

Noteworthy here is the term "opportunities" being used in the context of securing advertisements by the press, and not procurement of voice through the press. Thus, what lay beneath Kunzru's apparent concern for journalism and citizens was the economic and ideological interests he stood for.

This brings us to MPs who outrightly questioned the normative and empirical underpinnings of the Bill. One was Sriyans Prasad Jain, an independent MP related to the Dalmia-Jain business family whose newspaper combine, BCCL, published high-circulating dailies in English (*Times of India*) and in Hindi (*Navbharat Times*). Reminding the Rajya Sabha that the war-time price-page schedule was directed at managing newsprint scarcity, and not market imperfection, he was categorical that every newspaper now enjoyed equal

⁴⁷ Kishen Chand in debate on 'The Newspaper (Price and Page) Bill, 1956' in Rajya Sabha on 14 Aug. 1956, pp.1272-74.

⁴⁸ Hriday Nath Kunzru in debate on 'The Newspaper (Price and Page) Bill, 1956' in Rajya Sabha 14 Aug. 1956, pp.1264-65.

opportunities (Jain in Parliament⁴⁹). He highlighted the Press Commission's inability to find concentration in circulation in any geographical market, conveniently skirting the effective duopoly noted in some linguistic markets. As far as unfair competition was concerned, Jain evoked conventional wisdom in competition law to highlight the different areas of operations of big newspapers – be they in English and other languages – published from metropolitan cities, and those in regional languages published from non-metropolitan centres or “mofussil areas” (*ibid.*, 1262). His simplistic categorisation ignored duopolies among language papers, which were owned by combines, and dominated non-metropolitan cities. The next day, *Times of India* prominently reported Jain's lengthy criticism of the Bill⁵⁰.

Chand and Kunzru's perspectives on the efficiency of individual dailies were as decontextualised as was Jain's thesis on opportunities. But in another way, they were astutely political: they perceived the Bill as a mechanism to control the press, “directly or indirectly”, as Kishen Chand put it (Chand in Parliament, *op. cit.* p.1272). This is true because the Bill sought a general sanction to formulate the Schedule's details but evaded this when ratified by parliament.

Leader of the Opposition in Rajya Sabha, and the widely respected MP of Communist Party of India (CPI), Bhupesh Gupta, felt the Bill shortchanged, and veered around, the Commission's recommendations. In tune with the principles of equitable voice distribution, and protecting diversity, he endorsed the necessity of the Schedule to curb tendencies of accumulation prevalent “*even* in the field of journalism” (Gupta in Parliament, my emphasis⁵¹). Yet, he punctured the populist rhetoric in the big press about more pages translating into “better journalism or more instructive and enlightened material”, and being advantageous to readers (*ibid.*, 1256-57). Nuancing Keskar's binary characterisation, Gupta implored the House not to view all dailies in non-English languages as either innocent or victims. To illustrate this, he pointed at the two most popular Hindi newspapers in the national capital that were owned by Merchant Press.

Critics of the Bill, primarily concerned about market power, were aware that the Commission did not visualise the Price and Page Schedule as an isolated mechanism; rather, it was effective only in conjunction with other recommendations. Gupta was aghast with the legislative intercession on three recommendations. First was the absence of mechanisms to curtail price undercutting, and excess commissions to agents. Second was the silence on telescopic

⁴⁹ Sriyans Prasad Jain in debate on ‘The Newspaper (Price and Page) Bill, 1956’ in Rajya Sabha 14 Aug. 1956, p.1260.

⁵⁰ ‘Guarantee Of Fair Price To Small Papers: Bill Introduced in Rajya Sabha’, *Times of India* 15 Aug. 1956, p.11.

⁵¹ Bhupesh Gupta in debate on ‘The Newspaper (Price and Page) Bill, 1956’ in Rajya Sabha on 14 Aug. 1956, pp.1255-56.

tariff rates for government advertisements, which amounted to a major concession to big papers and combines; for Gupta, this disabled the regulatory initiative to convincingly tackle one of the most worrisome effects of concentration. Third was the allegation that the Bill was soft on Supplements. Gupta not only questioned the subsidies on newsprint and postage to “bulky papers” (*ibid.*, 1256), he implicated the state as being a beneficiary from the tacit promotion of government-sponsored supplements that glorified public sector enterprises, or/and ‘contributions’ of politicians.

Silences and inadequacies in the Bill drew sharp criticism from sections of Treasury benches. Violet Alva felt obliged to begin her lengthy intervention by taking apart the opposers. Contesting Jain’s libertarian arguments, she shifted focus to the power prevailing in the newspaper business, and myth of equal opportunities. She reasoned that the organisational machinery of metropolitan combines enabled them to attract more advertisements. Alva called out Kunzru for ignoring the uneven distribution of printing presses, and dependence of small dailies on printing facilities of big dailies and combines (Alva in Parliament⁵²).

Yet, Alva insisted the Bill addressed a part of newsprint problem, as there were no specific mechanisms to prevent combines selling out part of their allocated newsprint in the secondary market. She did not see how the stipulations on price-pages alone could achieve the stated aims; like Gupta, she felt the Bill skirted the issue of Supplements:

[...]we know what supplements are. Tomorrow we shall be flooded with supplements and who can produce supplements? Only a few big papers. They can throw it away to the waste-paper buyer rather than sell it to the readers. That is the way it is done. But, Sir, supplements are nothing else but a mass bribery. (*ibid.*, 1269).

In the long run, she claimed the Bill would make small newspapers dependent on advertising, and bulk purchases, by the public exchequer – thereby resulting in government ending up as another kind of monopolistic threat. This scenario was echoed in the more explicit call for the undesirability of “patronage from the Government” by P.N. Nair, a member of CPI (Nair in Parliament⁵³). Elaborating, Nair argued protecting smaller dailies required implementing the other complementary measures recommended by Commission. In particular, he looked at telescopic tariffs for government advertisements, and separating accounts of each newspaper within a combine as vital for a “comprehensive legislation” (*ibid.* p1276).

⁵² Violet Alva in debate on ‘The Newspaper (Price and Page) Bill, 1956’ in Rajya Sabha on 14 Aug. 1956, p.1267.

⁵³ Perath Narayanan Nair in debate on ‘The Newspaper (Price and Page) Bill, 1956’ in Rajya Sabha on 14 Aug. 1956, p.1275.

MPs like Kunzru who held the Bill as unwarranted, and those like Gupta and Alva who found it shallow, pushed the Minister to spell out details. For, everyone equally realised the proposed regulation's efficacy lay in the details. Responding to the charge of seeking a *carte-blanche* from parliament despite the absence of clarity, Keskar said government could discuss the fine-print only after it was empowered by the eponymous Act. This convoluted response, together with other less-than-candid ones, enhanced distrust or intrigue among MPs about the sincerity of the endeavour. For instance, H.P. Saksena persisted in asking the Minister to spell out permissible ratio of advertisements and other content. He warned that delegating its powers to the executive on formulating and revising details of the Schedule "may prove to be a very dangerous weapon in the conditions other than those which exist" (Saksena in Parliament⁵⁴). This aptly symbolised the Bill in the eyes of the critics – its yearning for unaccountable regulatory power while slacking on containing market power. An MP even suggested including parliamentary ratification would dampen the wide-ranging criticism about the arbitrary power granted by the Bill to the government (Sinha in Parliament⁵⁵). Keskar turned the argument on its head. Legally mandating parliamentary ratification would, he argued, "not be at all right or fair" (Keskar *op. cit.* p.1297-98) since this would create an impression of matters being decided by parliament, rather than after negotiations with the press.

Keskar was aware of arguments by proprietors about any set Schedule inhibiting a quick response to fluctuations in newsprint prices. He had a four-pronged explanation of why the Schedule was "deliberately kept fluid": first, the price fixed would change from time to time; second, at each moment, there could be external factors determining the prices of newsprint; third, "a rigid schedule for the whole of the country" might work to the disadvantage of a majority of dailies in a particular regional language"; and fourth, the price at any given time would ultimately be fixed in consultations with the press (Keskar *op. cit.* p.1279). As a parting shot, he pointed that evolving an anticipatory Schedule would necessitate commercial data that many newspapers "would decline to put on the floor of the House" (*ibid.*, p.1278).

Unconvinced by the clarifications, R.B. Gour from Hyderabad mischievously asked whether the Schedule was kept fluid to enable the government to tweak it "in the direction that the press barons" wanted (Gour in Parliament⁵⁶). Keskar evaded an unequivocal denial, despite a push for a categorical answer. The

⁵⁴ H.P. Saksena in debate on 'The Newspaper (Price and Page) Bill, 1956' in Rajya Sabha on 14 Aug. 1956, p.1303.

⁵⁵ Rajendra Pratap Sinha in debate on 'The Newspaper (Price and Page) Bill, 1956' in Rajya Sabha on 14 Aug. 1956, p.1292.

⁵⁶ R.B. Gour in debate on 'The Newspaper (Price and Page) Bill, 1956' in Rajya Sabha on 14 August 1956, p.1284.

government found itself in a position where it was, as Keskar admitted, “ground between two millstones” (Keskar *op. cit.* p.1280). One set of forces opposed the Bill that sought sweeping powers to deal with what was, at best, an ill-defined problem. The other set contended the Bill did not do enough to address the problem of market power, a problem the Minister had originally hinted as one of the motivations behind it.

For MPs who felt the Bill did not effectively discourage commercial Supplements, Keskar clarified no (additional) newsprint allotment would be made for these purposes (*ibid.* p.1281). While there was no blanket bar, the Bill empowered government to define the (festive and other) occasions when Supplements or special editions were permissible. For a moment, Keskar was flummoxed when Gour proposed a rephrasing to restrict them to “Supplements (on dates of) of national importance” (Gour *op. cit.* p.1282). But the minister did not react. Given India’s cultural diversity and nascent federal polity, I interpret his silence to recognise that any discussion on the phrase would uncork highly-contested debates around statutorily-defined dates of ‘national’ importance.

But Keskar did take on Jain’s proclamation of the existence of a level-playing field. Admitting to equality of legal opportunity in permitting market entry in the press⁵⁷, he asserted that the economic power of combines, especially those operating in multiple geographies and languages, augmented “disadvantages that a newcomer or [...] different papers might be suffering from” (Keskar *op. cit.* p.1282). Rather than using the phrase market power, or the underlying cause of the suffering, Keskar chose to highlight parts of the effect, i.e., “unjournalistic practices” (*ibid.*). Another twist was Keskar creating an impression about the Bill’s provisions on advertisement space cap being aligned with Commission’s recommendations. But the Bill mentioned a cap of 50 percent, or higher than 40 percent stated in the recommendations. The former figure stemmed from existing provisions in the Postal Order, as Keskar declared (*ibid.*, p.1286)⁵⁸.

Debates on the Bill in Lok Sabha (Lower House of parliament) were far shorter and less intense. Critics like M.S. Gurupadaswamy of the socialist Kisan Mazdoor Praja Party held the Bill did not go far enough. For him, the “big press” was a threat not only to smaller dailies but posed the “greatest danger to the freedom of the Press” (Times of India⁵⁹). Conspicuous in Lok Sabha was the discomfort and suspicion on three matters bothering members of Rajya Sabha: the democratic deficit in parliamentary procedure, the government’s reluctance to detail key

⁵⁷ Later in this dissertation (Chapter 7: s7.2.3), I delineate how, and explain why, the criteria for licensing TV news broadcasters created legal and financial entry barriers.

⁵⁸ The eligibility criteria for postal despatch included maintaining not more than half the space for advertisements.

⁵⁹ ‘Small Newspapers To Have Fair Chance Of Existence: Lok Sabha Agrees’, *Times of India* 29 Aug. 1956, p.9.

provisions in the Schedule, and bypassing of marginal interests in the press in evolving and altering the Schedule. Some MPs were fearful that the Bill gave blanket powers to the government (and not to the parliament) to formulate and alter the Schedule. Bypassing parliament, observed the poet, dramatist, and independent MP, Harindranath Chattopadhyaya, was “not conducive to democracy” (*ibid.*).

During the clause-by-clause debates in Lok Sabha, one of the two amendments proposed by T.B. Vittal Rao from CPI echoed the democratic deficit. He proposed the price-page formulations, evolved after consultations with the press, must be discussed and ratified by parliament. His second amendment, supported by Gurupadaswamy and others, was to include journalists, their unions, and editors, and not just, as the Bill implicitly stated, trade bodies of publishers in the consultations. Just as in Rajya Sabha, Keskar rejected these amendments. With this or other deficits in mind, D.C. Sharma from Treasury bench was reported to cheekily congratulate the Minister for actualising “most” of the Press Commission’s recommendations (*ibid.*) – a qualification capturing sentiments of large sections of parliament.

The operative sections of the Price and Page Act passed in parliament on 7 September, 1956, read:

“Sec 3(1) “[.] The Government may, *from time to time*, by notification in the Gazette, make an order providing for the regulation of the charges for newspapers in relation to their maximum or minimum number of pages, sizes or areas and for the *space to be allotted to advertising matter in relation to other matters therein*.

Sec (2)b An order under this section may contain different provisions for daily newspaper, newspapers appearing at other periodical intervals and for different classes of newspapers, and may, in particular, make separate provisions for weekly editions of daily newspapers whether appearing under the same title or not, and *also for supplements or special editions of newspapers issued on special occasions*.

Sec (4) Before making any order under this section, the *Central Government shall consult associations of publishers*, and such publishers likely affected by the order as it may think fit with respect to the action proposed to be taken.” (The Newspaper (Price and Page) Act, 1956; all italics mine).

5.3.2 Politics of Judicial Challenge

Outside parliament, tussles within the press over the idea and basis of a Schedule had commenced even during the Press Commission’s tenure. In its numerous deliberations with the press, the Commission recorded “considerable divergence of opinion” on the proposition of a price-page Schedule (GoI 1954:74). All big papers, except one, had opposed it. The Indian Language Newspapers Association strongly supported it, although dailies owned by combines who were its members opposed the Schedule. Significantly, the Commission had felt “not all the

arguments in favour or against were based on the principles underlying the proposal” (*ibid.*, 74, 75). Whether this was a matter of its normative principles not finding purchase in the press, or whether operationalising these principles into legislation was weak, is a matter I will get to.

When the Commission’s report was released in 1954, some proprietors were lobbying with various state governments to oppose it – since the states were responsible for enforcing compliance with the Schedule (Gupta in Parliament⁶⁰). When the Bill was passed without amendments in August 1956, the *Times of India* was conspicuous in reporting Kunzru’s viewpoint about “not penalising good newspapers” (*Times of India*⁶¹). My interpretation is that that this had to do with government’s (expected) response to malpractices in the Dalmia-Jain group, the owners of this newspaper⁶² – a matter I attend to in the next chapter (see p.142).

The Price & Page Act required government consultations with representative factions of the press, and individual newspapers. Since the minister discarded multiple appeals by MPs to include journalists, their unions, and editors, only two trade bodies participated in the consultations. One was the Indian and Eastern Newspaper Society (IENS) – formed in 1927 in London to advocate in favour of British newspapers in India, Burma, and Ceylon – which by now was the mouthpiece of English-language newspapers in India. The other was Indian Language Newspapers Association (ILNA), whose members included combines from the metropolitan press, with titles in English and regional languages). Problems anticipated in arriving at an amicable formulation of the Schedule were typical of policymaking amidst polarised interests. A *Times of India* report concisely captured this after one round of consultations concluded in August 1957:

The Indian Languages Newspaper Association suggested a formula laying down a rather rigid price-page schedule which would be applicable uniformly on a pro-rate basis for big and small newspapers alike. The Indian and Eastern Newspaper Society, on the other hand, have favoured an elastic formula which, while safeguarding the interests of and economy of the smaller papers, would not adversely affect the larger papers by raising their prices unduly. (*Times of India*⁶³)

Nearly two years after official consultations had concluded, ILNA’s President harped about government not actualising the “integrated plan” recommended by

⁶⁰ Question by Bhupesh Gupta on ‘Views of any State Governments on Press Commission recommendations’ in Rajya Sabha on 21 December 1954. p.2875.

⁶¹ ‘Govt. Aim Is To Check Unfair Competition: Price-Page Schedule Bill Passed by Rajya Sabha’, *Times of India*, 16 August 1956, p.11.

⁶² In December 1956, an inquiry commission was constituted to examine the administration of this business house, whose newspaper undertaking, BCCL, published leading English, Hindi, and financial dailies across numerous cities.

⁶³ ‘Implementing Price-Page: Schedule discussions end in Delhi’, *Times of India*. 6 Aug. 1957. p.8.

the Press Commission, “possibly owing to the pressure from big papers” (Times of India⁶⁴). This conveys not only a discomfort with the procedural aspects of the Schedule, but the intriguing reasons for repeated delays in notifying it.

It took nearly another year for a draft Schedule to be presented in parliament (Times of India⁶⁵). Still under squabbles, a revised draft was tabled few months later – a commentator in Merchant Press averring this to be “infinitely worse” (Times of India⁶⁶). In the long unsigned article, this commentator recalled the government’s “mechanical majority” in parliament in 1956 made up for lack of Commission’s evidence, and a similar paucity in Keskar’s arguments when the Bill was adopted. The commentator gave contrary data, and cited two observations from the latest annual report of the Registrar of Newspapers of India: one, the growth of 22 percent in new titles during the year, and 13 percent annual growth in circulation that was not restricted to English-language newspapers; and two, the circulation share of combines had dropped over the previous year (*ibid.*).

Government’s continuing parleys with divergent interests led to a further year-and-a-half delay before the regulation was proclaimed. Drawing sanction from the Newspaper (Price and Page) Act, 1956, the Daily Newspapers (Price and Page) Order was to come into force from 12 December, 1960. This Order fixed the maximum number of pages published by a daily newspaper according to price charged, and prescribed the number of Supplements that could be published. Containing no categorical mention of caps in advertising space, as was the case with the Act, it ruptured the integrity of the Commission’s wholistic vision.

A week before the Order was to come into force, on 5 December 1960, a newspaper obtained a restraint on the Order. This legal challenge was initiated not by a combine from Merchant Press, as one would expect, but by a member of Independent Press (at that time), *Sakal*, the leading Marathi daily published from Poona. *Sakal*’s plea had a two-pronged argument. One, the regulation forced it to either reduce its pages by a third, or increase cover price by 14 percent (Times of India⁶⁷). Two, since *Sakal* hitherto published Supplements without “extraneous restrictions”, the regulation placed it “at the mercy of the government and thus interfere(s) with the freedom of expression” (Times of India⁶⁸). The restraining judgment did not entail a general action to suspend the regulation, as the stay was only applicable to *Sakal* (Times of India⁶⁹).

⁶⁴ ‘Distribution Of Advertisements’, *Times of India*, 24 June 1959, p.5.

⁶⁵ ‘Newspapers Costing Over 12 np. Exempted’, *Times of India*, 22 April 1960, p.6.

⁶⁶ ‘Unwarranted Schedule’, *Times of India*, 27 Aug. 1960, p.6.

⁶⁷ ‘Enforcement Of Price-Page Schedule Act Stayed’, *Times of India*, 6 Dec. 1960, p.1.

⁶⁸ ‘Price-Page act is held invalid: Supreme Court allows Poona paper’s petition’, *Times of India*, 26 Sept. 1961, p.1.

⁶⁹ ‘Price-Page Schedule’, *Times of India*, 9 Dec. 1960, p.5.

Sakal's petition disproved assumptions and arguments about provincial newspapers being, as Bhupesh Gupta had underscored in parliament, “either innocent or a victim” of the imbalances in the press (Gupta, *op. cit.* p.1258). Moreover, the simplistic binary between English and regional language dailies, i.e., the latter mostly needed protection against the more dominant former category, recurrent in the rhetoric of Keskar, Gupta, and others, was dismembered when *Deccan Herald*, an English daily from the non-metropolitan press, filed an intervention petition opposing *Sakal's prayer* in January 1961 (Times of India⁷⁰). Thus, the challenge to the Order, which aimed to protect regional language newspapers, came from a Marathi daily, and its defence from an English daily – and both were from the non-metropolitan press. This pierced the Press Commission's normative perception of fractures between various actors in the news business.

When the matter went to the Supreme Court, India's Attorney General, M.C. Setalvad, argued the Act was valid on two important grounds: on procedural grounds, since it was enacted on the recommendations of the Press Commission and, on substantive grounds, because it aimed to avoid concentration without interfering in the competition between “equally situated” newspapers (Setalvad 2008: 451). Recognising the ability to increase pages, and attract greater advertisements was afforded to proprietors of big newspapers, the Court well realised the intent and objectives of the regulation:

A free press, it is said, cannot mean a press composed of a few powerful combines and that in order to ensure freedom of press it is necessary to secure full scope for the full development of smaller newspapers. (AIR 1962).

However, the judiciary took on board *Sakal's* plea: a regulation curtailing newspapers' ability to increase page length, and capping advertisement space infringed on the constitutional right to freedom of expression. This sharply contrasted with Keskar's unwillingness to admit in parliament that the proposed regulation restricted freedom of the press. For him, as was the case with the Press Commission, the opposite was true: in his words, “the cornering of large numbers of page papers by one or two or three groups impinges on the fundamental right of freedom of expression” of other newspapers (Keskar *op. cit.* p.1248). Differences in the Price and Page Schedule proposed for certain languages stemmed from his logic of positive discrimination, part of the wider politics of redistribution that inspired the Act. However, the Court perceived Section 3(1) of the Daily Newspaper (Price and Page) Order, 1960 was “directly impinging” on, and limiting

⁷⁰ ‘Indian News in brief’, *Times of India*, 19 Jan. 1961, p.7.

the volume (para 35) of newspaper speech, and hence violating fundamental rights protected under Article 19(1)a of the Constitution.

No doubt, the law in question was made upon the recommendation of the Press Commission but since its object is to affect directly the right of circulation of newspapers which would necessarily undermine their power to influence public opinion it cannot but be regarded as a dangerous weapon which is capable of being used against democracy itself. (AIR 1962).

Even if the apex court wanted to maintain its own normative desire of “the full development of smaller newspapers”, and protect their voice that was infringed by practices of big dailies and combines, it was handicapped due to two constitutional stipulations.

First, the Court could not entertain the media exceptionalism underlying the Act, and reflected in the Order, as the Commission and Keskar had argued. This is because such an allowance did not meet the exceptions to freedom of speech, guaranteed in Article 19(1)(a), as laid out in Article 19(2), of the Constitution. The latter allowed curtailment of speech on grounds that included, inter alia, public order, not public interest which could be interpreted to include unfair competition. This interpretation blew apart the government’s plea to differentiate between two activities comprising newspapers, disseminating news, and conducting trade – or as I put it, newspaper as speech and commerce – and make a case for restrictions on the latter in public interest⁷¹.

Second, and fundamentally, Article 19(1)(a) protected freedom of expression when violated by the State. In this case, forces constraining and debilitating small newspapers, as Keskar contended, and those the Act’s positive discrimination aimed to mitigate, comprised non-state actors, i.e., privately-owned newspapers. Since the petitioner challenged the restrictions as violating freedom of expression, the Court examined the conditions in which such freedom is exercised.

It may well be within the power of the State to place, in the interest of the general public, restrictions upon the right of a citizen to carry on business but it is not open to the State to achieve this object by *directly* and immediately curtailing any other freedom of that citizen guaranteed by the Constitution..... (AIR 1962, my italics)

I find a sharp difference between the executive and legislature on one hand, and judiciary on the other, over circumstances in which a newspaper is disabled to exercise its freedom of expression. This was over interpreting the constraints under which press freedom is exercised. For the Press Commission and

⁷¹ It took decades before Courts came round to accept that in activities involving questions of freedom of speech as well as freedom to carry out business, it was legitimate to regulate the business aspect in terms of Article 19(g); see AIR. 1997.

parliament, such constraints primarily alluded to market dynamics – hence, their logic of abusive competitive practices impeding freedom of (some sections of) the press. However, for the Court, price-cuts, agent-incentives, and other forms of competitive malpractices were not carried out, or imposed, by the state – unlike, say, legal stipulations such as sales tax or newsprint duties.

The constraints on *Sakal*, following the Daily Newspaper (Price and Page) Order of 1960, were imparted by the state; in contrast, those confronted by small dailies due to the imperfections of laissez-faire were not imparted by the state. The latter were not protected under Article 19(1)(a). The Court granted the government’s right to ameliorate constraints catalysed by market dynamics in the public interest; however, this could not be pursued in a manner, and this is the crux, “directly” curtailing freedoms protected in the Constitution. In other words, it was constitutionally untenable to mitigate constraints faced in one section of the press by imposing legal constraints on another section⁷².

It was the direct nature of redistributive politics pursued through the Order that was struck down by the judgement. Seen in another way, measures to protect public interest and marginal actors could not transcend constitutional protections. This rationale to curtail the scope of public interest regulation was prominently reported in all newspapers. The *Times of India* gleefully reported the absence of public interest as a constitutional exception to regulate the business of newspapers: “nothing in (Article) 19(2) permitting the state to abridge this right on the ground of conferring benefits upon the public in general or upon a section of the public” (Times of India⁷³). The report’s headline portrayed *Sakal*, rather non-descriptively, as a “Poona paper”, suggestive of a David turning victorious over the Goliathesque state.

5.4 Reasoning Regulatory Failure

How do we reconcile the Press Commission’s zeal for regulated pluralism, supported by the legislature, with the judiciary’s rejection? In this section I draw on ideas, interests, and institutions as explanatory logics to reason this.

To start with the zeal, the Commission’s recommendations were smudged with three problems typical in policymaking: inability to operationalise normative conceptions; thin weight of evidence mobilised; and, an ideological predisposition

⁷² In the words of the judgement, “[t]he State cannot make a law which directly restricts one freedom even for scouring the better enjoyment of another freedom.”; AIR 1962.

⁷³ ‘Price-Page Act is held invalid’, *Times of India*, 26 Sept. 1961, p.3.

towards certain actors. These made the recommendations and policy options congenitally open to criticism, legitimately or otherwise, from various quarters.

The provisions of the Price & Page Act resulted from government's partial, selective, and even twisted rendition of the Press Commission's regulatory blueprint. This obliges me to ponder over the interests profiting from such legislative intercession. I refrain from considering the Act's design as being vague, as many MPs did. In fact, the vague clauses offered opportunities for the government to legitimately exercise discretion. They were open to government abuse, either to protect the interests of "press barons", as claimed by an MP, or gratify the state's interests, which I find it appropriate to argue.

This may hint as to why certain actors opposed the regulation, and legally challenged it. But this does not explain why the judiciary did not find reasons to defend the redistributive politics of the legislature, however weak it stood compared to the Commission's original prescription. The institutional impediments to regulation, I argue, relate to tussles over the interpretations of constitutional provisions, and protections of freedom of expression in a profit-oriented news media.

5.4.1 Empirical and Normative shortcomings

We recall debates on the economic regulation of the media need to draw on empirical, ideological, and normative arguments (see Freedman 2014). Strands of such arguments are visible in Press Commission's argumentative thrust and recommendations. But I find these thrusts were mutually misaligned, or ineffectively operationalised. At places, ideological arguments went beyond what could be sustained by the available evidence. At others, normative conceptions of risks to the press, and mechanisms to ameliorate them, fell short of being translated into corresponding and feasible policy instruments. These made the ideas of the Commission underlying its recommendations coarse and incomplete.

Clearly, the empirical argument was incomplete in parts, and speculative in other parts. The Commission failed to unambiguously demonstrate concentration in the press, and skewed market structure in linguistic/geographical markets, let alone nationally (see GoI 1954: 280-312). Within Independent Press, the Indian Express Group had 9.2 percent of total circulation, followed by 6.6 percent of *Amrita Bazar*; chains from the business houses of Dalmia-Jain and Birla, part of Merchant Press, garnered 5 and 4 percent circulation, respectively. That said, enumerations of circulation by languages, regions, and cities did reveal a prominent presence of chains and groups (ibid., 306-7), and many large language markets witnessed effective duopolies. The inability to firmly establish the former, and enhance the granularity of the latter was due to newspapers refusing to disclose data to the Commission.

What the Commission lacked was a rounded demonstration of the contours of concentration in different geographical and product markets. This would have involved, for instance, examining market share beyond newsprint and circulation – the most important being advertising. The Commission successfully showed that English language dailies garnered a dominant share of advertising, and gathered more advertising than comparable regional-languages dailies, even from the same combine. But it was unable to examine the advertising share garnered by dailies in all the geographical and linguistic markets, like it did with circulation share. The former would have added heft to the Commission’s wider arguments about the perils of concentration⁷⁴.

The intended beneficiaries of the Commission’s redistributive politics were (pre)conditioned by the ideological binaries it adopted. It propelled the simplistic and neat division between English and language dailies – without attending to their often-common forms of ownership organisation. This was manifested in its categories of metropolitan and regional press – where too the common elements of ownership vulnerabilities were ignored. These seemingly geographical categories reflected ideological readings of the market structure wherein, we recall, combines within Merchant Press got congenitally associated with the metropolitan press.

The Commission fell short on two assessments, as it drew comfort, if not also legitimacy, from this stand point. First, it failed to sense the ambitions of regional press, at that time dominated by small newspapers. Second, it could not anticipate the defining traits of metropolitan press, such as ownership by business groups, being reproduced in sections of regional press⁷⁵ – a phenomenon that started to unfold thirty years later (Cf. pp.181-182). A nuanced conception, and pinpointed categorisation of actors would have bolstered the Commission’s claims, helped it to better articulate anxieties about the press, and/or presenting more thickly the extent of market possession⁷⁶.

We now turn to the normative principles shaping the Commission’s recommendations – viz. diversity of opinion, and equality of opportunities. Here, we stare at the commonly observed problem of operationalising normative conceptions and policy principles (see Karppinen 2013). No doubt the Commission convincingly laid out the bulwark of its principles. Even critics of

⁷⁴ More so since the Press Commission itself was uncertain whether caps on advertising space could solve the problem. Even after a Price & Page schedule was introduced, it estimated advertising revenue per copy of English newspapers could be four times that of regional-language ones (GoI 1954:75).

⁷⁵ Keskar was certain price cutting by “opulent financiers” enabled their newspapers overtaking others in the regional press; Keskar *op. cit.* p.1249.

⁷⁶ Such conceptions could have been based on the logics of industrial organisation, as captured in sub-types of ‘combines’ defined by the Press Commission (also see Nair 2003).

state-press relations during the 1950s believed regulating the pages and price of newspapers was ostensibly to support a “decentralizing process, encouraging smaller provincial presses at the expense of the big urban chains and national dailies” (Ryan 1990:59). But the issue at hand was about devising ways to operationalise these principles. This could have been achieved by policies addressing two resources vital for newspapers: newsprint and advertisements.

The Commission ignored the commercial and regulatory hurdles in the equitable access to newsprint; it thereby lost an opportunity to mitigate the conditions that impaired for the equitable dispersal of voice. It is likely that the government would have favourably viewed newsprint quotas during those heady years of India’s centralised-planned economy. But is equally plausible that big dailies, much as they benefited from the quota system during the War-time years, would have opposed it. Subsequent developments show the attempt to regulate newsprint usage at the start of the 1970s led to legal challenge by newspaper combines (*op. cit.* pp.163-164).

Rather than addressing inequities in newsprint allocation head-on, the Commission choose to tackle it by regulating both the prices and pages of newspapers. This is why the Act was open to criticisms by its opposers *and* critics. For instance, Kishen Chand, the MP quoted earlier, saw no evidence about how a Price-Page Schedule was helpful to small dailies (Chand *op. cit.* p.1273); for another MP, Violet Alva, without ensuring equitable allocation of newsprint, the Schedule was “not going to help the smaller papers at all” (Alva *op. cit.* p.1268). During the parliamentary debate, P.N. Nair had advocated that government arrange for block purchases of newsprint, and make it available to smaller newspapers at cost price (Nair *op. cit.* p.1276) – a classic redistributive strategy. But the ‘newsprint issue’ was conspicuous by its absence in the Act as one of the complementary mechanisms to mitigate market dominance.

The Commission proposed ways to regulate the dynamics of advertising. It saw equality being impaired by the competitive milieu in two ways: power wielded in the advertising market by combines, and incentives offered by large dailies and combines to advertising agencies.

To address the first, it recommended that commercial advertisements be booked separately for each daily of a combine. However, separating dailies as individual firms was unimplementable, given the web of cross-holdings typifying companies in general, and the complex ways in which business houses owned newspaper undertakings. Apart from issues of feasibility, it is difficult to see such separation neutralising the collective bargaining power of dailies that were organisationally, albeit not always legally, part of the same entity.

To address the second, the Press Commission recommended capping commissions on advertising, and for distribution agents. No doubt there was a need to quell or cull existing unfair or fraudulent practices. However, it was not

feasible for government to monitor transactions between newspapers, and the long tail of agents – or as Keskar put it, check commissions received by “every newsboy” (Keskar *op. cit.* p.1298). Even if organisationally feasible, such stipulations could open opportunities for abuse – by the partisan attitude of officials in the regulatory architecture, by sections of Congregational Press, or by MPs who were on the boards of, or otherwise associated with, newspapers from Merchant Press.

Thus, both recommendations, far from signalling a redistributive politics, were flawed and unfeasible. They did not address the larger normative desire to reduce advertising-dependency. The Commission considered stipulating a ratio between subscription and advertising revenues, but found it unfeasible. So, it recommended a 40:60 ratio between advertising and news content (GoI 1954:461). The measure was less directed at fostering equality of opportunity – since it ignored newsprint quota – and aimed to curtail the anxieties of marketisation, and vulnerabilities faced when exposed to prolific advertisers. But the point I want to make is not only about a misalignment between goals and mechanisms. Although the cap on advertising space effectively targeted dailies in a better position to garner advertising, it impacted all dailies, including the small ones. Thus, it is impossible to see how this cap could translate into any substantive positive impact on small dailies – supposedly the primary beneficiary of the Commission’s recommendations.

This apart, the Commission missed something fundamental in trying to imagine a regulatory framework for advertisements. Unlike its mapping of circulation share, it enumerated concentration in advertising neither in geographical markets, nor in linguistic ones. Without baseline evidence, it proposed caps irrespective of size (number of pages), and strength (market share of advertisements).

By not enumerating market share of advertisements, the Commission could only partly compute the breadth of risks to market-share diversity. It also utterly failed to operationalise normative conceptions of diversity – the term used in a loose and untheorized manner throughout its report. No doubt its efforts were rooted in the premise that “diversity of opinion should be promoted in the interest of free discussion of public affairs” (GoI 1954: 501), and the report repeatedly evoked diversity as an important policy value. Nevertheless, coherent conceptions of diversity and/or risks to it were never elaborated.

5.4.2 Legislative whittling

The Press Commission’s recommendations, and occasional tugs by Prime Minister Nehru and others, incrementally built an impression of an impending radical intervention. Keskar’s initial pitch in parliament about the Bill’s twin aims set high expectations. Subsequently, he resorted to call the Bill “an experiment” (Keskar

op. cit. p.1280), possibly due to its shaky canvas, and more likely due to its validity for only five years. Finally, while moving the Bill, he underplayed the whole effort – it is, he said, “a very small Bill, and the objects are also quite limited” (*ibid.*, 1303). To the contrary, I see the Bill as neither small nor innocent. Rather insidiously, it sought to trump state interests over public interest, as I will argue in this section.

The regulatory moment symbolised by the Price and Page Act promised to enhance structural pluralism, and address the inequitable distribution of voice. Some MPs sympathetic to the Press Commission’s recommendations saw them as instruments of public interest, potentially able to realise a politics of redistribution. But to this end, the Act was incomplete, ignoring many allied elements of the Commission’s recommendations.

The more instrumental way to see the Act is as symbolising a reactive measure to address anti-competitive behaviour, and as a proactive one to mute risks of concentration. But even in achieving these limited objectives, it fell short. Not only did the government bypass measures the Commission felt were *complementary* to these objectives, the ones the former adopted were either mothballed or ambiguous.

This begs the question: what were the interests responsible for diluting the Commission’s recommendations enroute its translation into legislation?

When Keskar introduced the Bill, we recall his goals were to achieve “fuller opportunities of freedom of expression”, “prevent unfair competition”, and “equality of opportunity”. These blended constitutional values with the Commission’s normative and empirical rationales, all laced with a populist rhetoric. However, and this is noteworthy, there was no categorical mention of the diversity principle in the Bill – which at least had nominal presence in the Commission’s report. The lack of nuance in the Commission’s binary categorisation of the press was furthered by Keskar’s populist projection of a neat division between newspapers in English and other languages, which implicitly denoted metropolitan, and regional interests. For Keskar, it served a dual purpose: ideologically, it buttressed the desire to bring the health of the small dailies to the centre of discussions; and politically, it helped his claim to advocate a gradual switch from English to regional languages that was integral to India’s decolonisation project (Keskar *op. cit.* p.1250). Nevertheless, the neatness of this categorisation ignored that regional press comprised high-circulating dailies like *Sakal*, and English press consisted of smaller regional dailies like *Deccan Herald*. One wonders if Keskar saw the irony in the fact that the Act was challenged by a regional language daily – a section of the press he wanted to protect – and defended by an English daily – section he disdained.

Critics of the Bill in parliament repeatedly highlighted the yawning gap between the Commission’s recommendations, and Act’s scope. This was most

economically summed up in Alva's outburst about the Bill being incomplete in scope, vague in substance, and short in democratic accountability. This, in turn, points at the numerous intercessions in translating Commission's ideas, problematic as some of them were, into legislation. More widely, this indicates the tensions between desires of pre-policy processes, and contingencies shaping regulation – and at another level, between the state as an institution, and as an interest.

It is evident that combines benefited since the Act did not incorporate the Commission's recommendations in toto. This compounded the Commission's leniency towards combines on issues the Bill sidestepped, the most crucial being newsprint allocation. Leniency was further visible due to parliament's lack of comprehensiveness in the options it considered – i.e., issues the Commission did not sidestep, and clearly addressed. For example, Keskar aired the administrative headaches in implementing, and ensuring compliance, on measures related to commissions to sales and advertising agents; this enabled him to take the moral high ground of not wanting to police the press on matters where the state lacked organisational capacity (see Keskar *op. cit.* p.1298).

Let us ponder over the reasons for these leniencies. We recall the self-styled 'nationalist' newspapers and combines were owned by business houses, many of which indulged in black-marketing of newsprint during and after the Second World War (*op. cit.* p.100). After national liberation in 1947, such owners from Merchant Press, while maintaining political proximity with the ruling party, developed an economic partnership to service the state-led planned economy (see Tyabji 2015, Mazumdar 2008).

The government's leniency towards Merchant Press was called out on occasions both before and after the Bill was debated in parliament. The government either deftly responded, or brazenly left it hanging. Consider the discussions on the secrecy over state governments' views on the Commission's report. When the leader of opposition in Rajya Sabha inquired if proprietors operating in various states were asking the respective governments to oppose the recommendations, he did not get a reply from the Minister (Gupta in Parliament⁷⁷).

Government clinically devised two ways to modulate the Commission's vision of a Price and Page Schedule. One, to gain power over all sections of the press, it tempered the latter's recommendations; and two, it designed the scope of the Act to fortify its stakes in and through the press. Both desires were achieved through substantive and procedural clauses in the Act.

⁷⁷ Bhupesh Gupta, Supplementary to Question 403 in the Rajya Sabha on 21 Dec. 1954, pp.2874-75. This response recurred when Gupta queried Keskar whether certain other Union Ministers had assured proprietors the Bill will not prejudice their interests.

The first was manifest in parliamentary intercessions on two key recommendations by the Commission – advertising space, and telescopic tariffs. The Bill ignored the call to explicitly mandate a minimum news-advertising ratio of 60:40 percent (GoI 1954: 465). The generous 50 percent cap on advertising space, committed by the government in parliament, was also absent. In the long run, the implications of a linguistically differentiated Price and Page Schedule, together with an undifferentiated cap on advertising space, pushed newspapers towards advertising dependency – whence the vulnerabilities of small dailies would persist. The silence on telescopic tariff rates implied a loss of an opportunity to introduce a feasible mechanism to de-concentrate the market-share of public advertising. This was a low hanging fruit grounded in the politics of redistribution. The regulatory silence continued the practice of tariffs indexed with circulation, thus benefiting big dailies and combines. At the same time, it provided leeway for government to be arbitrary and partisan in its allocation of advertisements across newspapers.

Procedurally, the government had a free hand on how to conduct consultations with newspapers, and which was tuned to gain power over the press. The Act did not mandate the government to consult marginal interests in the press while evolving the Price and Page Schedule. Sub-clause 41 neither specifically mentioned proprietors from the small press – the stated reason for the regulation was to protect their interests – nor working journalists, their unions, and editors. The relevant phrase only mentioned consultations with “associations of publishers” (The Newspaper (Price and Page) Act, 1956⁷⁸). The most influential association, IENS, opposed “the very fundamentals of this Bill,” as Gour said in parliament (Gour *op. cit.* p.1292); hence, another Gupta had wanted to replace the phrase by “associations of journalists, working journalists, newspaper editors” (Gupta in Parliament⁷⁹). This aimed to broaden and specify the types of interests involved in the consultation process. But the amendment was rejected.

If the purpose of the Bill was to protect and nurture small newspapers, it was intriguing to not accord them representation in consultations to frame the Schedule. Keskar’s explanations reveal the interests benefiting from the procedure. First, he reasoned it was easier to engage with a limited number of proprietors, compared to the cumbersome responsibility of managing a diverse set of disparate interests. Second, fixing the price of newspapers pertained to “the business side of the paper”; thus, it was justifiable to leave out editors and journalists, and fitting for proprietors to be “given a fair hearing” (Keskar *op. cit.* p.1299). Perpetuating the mythic separation between editorial and commercial

⁷⁸ The Newspaper (Price and Page) Act, 1956, p.2, line 33.

⁷⁹ Bhupesh Gupta in debate on ‘The Newspaper (Price and Page) Bill, 1956’ in the Rajya Sabha on 14 Aug. 1956, p.1289.

aspects, Keskar did not find it worthwhile to engage with the long tail of small newspapers, and with journalists.

The government gained two ideological dividends by limiting participation in consultations. First, sidelining journalists favoured the interests of capital over labour. This was beneficial to both government and newspaper combines. We come across a rendition of such interest alignment during the second regulatory moment too. Second, keeping out journalists/editors restricted the process to negotiations between proprietors and government. Here, the government had leverage over proprietors: small dailies from Independent Press were vulnerable to the lure of government advertising; while those from Merchant Press were beholden to government patronage for their much larger, and more lucrative, industrial and commercial ventures.

Let me point at more instances of government fortifying its stakes by twisting other aspects of the Act.

One brazen example was in the case of Supplements, which were not curtailed by the Act. On the one hand, this allowed the government to circulate its voice through political Supplements it financed, and whose timings it decided. On the other hand, the qualified approval of commercial Supplements enabled the government to shower leniency on the big press since the latter primarily attracted such revenues. Since the specified occasions to print them included festivals, with specific regional popularity and national ones whose dates differed across states, the central government could decide the regional-language combines that could benefit from them. In fact, not defining the dates in the Act left the door open for government's discretion to define, amend, and increase the days when the supplements were permissible; this indirectly allowed the state to shower benefits on big papers, be they from Independent Press or Merchant Press.

If the provision on Supplements was vague, that on the delegations of power was, as Alva termed it, "vaguer still" (Alva *op. cit.* p.1270). We recall opponents and critics of the Bill wanted iterations of the Schedule formulated in consultations with proprietors to be approved by parliament. Bypassing this opened the issue to multiple interpretations. For institutionalists, this was a blatant breach in procedures; for naïve supporters, this mollified their concerns about the press being involved in the ultimate decision-making. Critics felt the government was pacifying the big papers – given that a handful of MPs on the Treasury and opposition benches ideologically abhorred the them.

There is an element of truth in all these interpretations. The core of the matter is that the Act provided the executive with tremendous power to formulate the Schedule, without an iota of answerability or transparency to parliament. The embedded procedure signalled that the government was short on propriety, and escaped democratic accountability. Through the Act, government extracted an endorsement for a procedure that excluded deliberations in parliament. This

would enable it to easily parley with sections of the press, including negotiating quid pro quos that could impede public interest.

Predictably, some among big papers were anxious they would become targets of the unfettered powers extracted by the Act. This standpoint found traction even among legal scholars who otherwise lauded the Act's objective of protecting small and regional language newspapers. Recounting the history of judicial activism in India, S.P. Sathe granted that the net effect of awarding discretionary powers to the government might lead to establishing the latter's control over the press (Sathe 2007: 54).

5.4.3 Constitutionality and Myopia of Freedom

From the time MPs debated the Bill, large questions hung over parliamentary propriety and constitutional morality of the procedural aspects. For MPs like Kunzru, delegating legislative power, as included in the Bill, was justifiable only where government had better knowledge of the policy problem, greater confidence in its interventions, and preferably on issues not as dynamic as pricing (Kunzru *op. cit.* p.1266). Other opposers of the Bill, like P.N. Saprú of the ruling Congress party, felt that without any specifics on the Schedule's scope and surety on its benefits to small newspapers, seeking sweeping powers was not in line with the spirit of the Constitution (Saprú in Parliament⁸⁰). Saprú agreed with critics that the Schedule decided in consultation with the press should be ultimately approved by parliament.

When *Sakal* took the matter to Supreme Court, the substantial, not procedural, aspects of the Act were the locus of legal challenge. The Court was constitutionally barred from considering either the regulation's (arguably) noble intent or impact. Instead, as succinctly summed up by a prominent lawyer, Rafiq Zakaria, while commenting on the *Sakal* judgement: the "legitimacy of result does not permit any means" (Times of India⁸¹). Grounded in this premise, the judgement refused to consider the implications on the risks to market-share and content diversity. It placed the freedom of publishing newspapers, without differentiating between their size, ownership or market power, over threats to source and/or market-share diversity. Hence, it reiterated the spirit of *laissez-faire* in the economic regulation of the news media – contra to Keskar's premise in parliament.

Notwithstanding this, there is an argument about the judgement's limited conception of media markets and their operations. For the judiciary, the competitive constraints faced by small papers refracted the conditions in which they exercised free speech; this was completely distinct from the legal constraints

⁸⁰ P.N. Saprú in debate on 'The Newspaper (Price and Page) Bill, 1956' in Rajya Sabha on 14 Aug. 1956, p.1274.

⁸¹ 'Legal Notes: Fundamental rights of newspapers' by Rafiq Zakaria, *Times of India*, 31 Oct. 1961.

they faced, as did others, due to the conditions under which their speech was guaranteed protection. While the former could involve anti-competitive and unfair behaviour by rivals, the latter comprised regulatory stipulations by the state, such as entry barriers, foreign investment caps, fiscal obligations, etc. In short, the judgement articulated the difference between the substantive and formal factors conditioning media markets.

This distinction carried two regulatory implications.

One, it identified the legitimate, i.e., legally tenable, “perpetrator” disturbing the procurement of voice – and therefore the actor responsible for infringing free speech of small dailies. Like the Press Commission and parliament, the Court recognised that the alleged perpetrators were specifically big papers (and ‘market forces’ in general). But precisely because of this situation, any infringements of freedom of expression of small actors by larger actors were outside the remit of protections under Article 19(1)a of the Constitution – whose scope concerned violations by the state, and not by the actors in the marketplace of ideas.

Two, the Court ignored market and state induced constraints playing out seamlessly in shaping competitive behaviour. To a reader of news, for instance, it is irrelevant whether formal or substantive constraints are responsible for a newspaper being expensive, or its access foreclosed. Thus, irrespective of the source imparting constraints, there is a strong reason for state intervention in public interest. However, public interest did not constitutionally qualify as an exception under Article 19(2) of the Constitution. The judgement was constitutionally bound to demarcate constraints imposed by market dynamics (acutely faced by small dailies) vis-a-vis those imposed by the state (faced by all dailies). Reminiscing this, Chalapathi Rao, an editor and member of the Press Commission, felt the Sakal judgment created an “anomalous position” because its interpretation of Article 19(1)(a) separated press freedom into two parts, the “freedom of expression part and the industrial and trade part” (Rao 1974: 166).

But there is a larger, theoretical issue arising from demarcating the two constraints. This is about the judgement’s discomfitingly neat separation between the market and state. This water-tight distinction refuses to recognise that small dailies possibly face market/substantive constraints due to legal/formal checks introduced in the past. One of the lasting consequences of War-time scarcity of newsprint was that combines from metropolitan press benefited from the fixed quota system. Despite its rollback in 1952, this contributed to the accumulated competitive edge of big dailies in the ensuing years, as the Press Commission documented. Unfortunately, the Court felt that such a historical making of competitive conditions was inconsequential.

The key point I want to make is about the judgement’s theoretical inability to perceive the role of the state in constituting the market. In adopting a particular relationship between the state and market, it did what every judgement does –

reject one theoretical and/or ontological standpoint over others. Herein lies the politics of knowledge that inhabits the judgement's core: adhering to an understanding of a 'market idea' rooted in a particular stream of neo-classical economics. In choosing a theoretical frame to view the state-market relationship, it made a political choice. This is not unusual, as all judgements do so after engaging with a varying latitude of legal and constitutional philosophies. But this time, the choice implicated the initiative to introduce regulated pluralism. The Court's ontological standpoint on 'market idea' affected its engagement with the foundational principles in media policy. These were about the perceived synergies, or tensions, between ideas of freedom and diversity (see Napoli 2001). The judgement's resolution of these tensions implicated the life and afterlife of India's experiment in regulated pluralism, and in regulating media ownership.

This leads to my claim about Sakal judgement having dismembered the values of freedom and diversity – values which congenitally constituted the vision of and expectations from the press as a modern institution.

Historically, freedom and diversity were intimately bundled in the earliest imaginations that fostered a media modernity in Europe, and which indirectly framed aspects of press development in British India. The defence of press freedom in the nineteenth century was not a goal in itself but a means to achieve diverse viewpoints (Thompson 1995:238). This assumed free enterprise to be *the* institutional foundation to protect the press from state power. Promoting individual liberty through newspapers, especially for John Stuart Mill (see O'Rourke 2001), neatly dovetailed into a laissez-faire approach towards the business of newspapers. It is not surprising that the legal framing and administration of newspapers as commerce in British India was cradled within this tradition (Ryan 1990: 56).

During regulatory tussles in post-colonial India, the foundational values of freedom and diversity – akin to proverbial siblings in Hindi (Bollywood) films – were disentangled. For all its gaping holes and faults, the Press Commission recognised laissez-faire as a risk to structural pluralism. It reasoned that 'market idea' was undesirable to nurture diversity, and check concentration, which impeded media freedom. It is another matter that neither were the Commission's arguments forceful enough, nor did its recommendations operationalise such a normative viewpoint.

The Sakal judgement did take on board the undesirability of unrestrained markets; but its theoretical conception of 'the market' was insensitive to state curating a configuration of market forces. In contrast to the Press Commission, the judgement placed the risks to diversity, feebly articulated by the Commission, at a lower pedestal than risks to freedom. This displacement of diversity was bulwarked by a de-contextualised and unqualified notion of freedom.

The judgement's idea of freedom was de-contextualised because it was insensitive to, as Parekh remarked in another context, the concept of opportunity being 'subject-dependent' (Parekh 2005:241). Hence, the judgment could not differentiate between freedom of the press as a universal liberty, and as a subject-dependent capability. There is a case for such a distinction since the newspaper business is marked by the market power of profit-oriented speech⁸². Equally, an unqualified notion of freedom was evident in the judgment; this was due to its inability to qualify the freedoms determining commercial speech in conditions of *laissez-faire*. Thus, without differentiating between volume of voice (circulation), capacity to mobilise resources (advertising), and means to procure voice (ownership), the judgement placed the freedom of publishing newspapers over safeguards against the inter-related threats to diversity and competition.

This decontextualised and unqualified notion of freedom resulted in pitting risks to diversity *across* the press against risks to freedom of *sections* of the press. In the judgement's defence, we can say that this was due to the constitutional rendition of freedom of expression, and the judgement's consequent inability to redress risks to diversity catalysed by concentration and unfair competition. Nevertheless, it embodied a jurisprudence wherein the economic philosophy of free enterprise became the ying to the yang of decontextualised and unqualified notions of a free press.

5.5 Inferences

The regulatory pathway proposed by the Press Commission was essentially inspired by a rendition of redistributive politics applicable in the newspaper business. Institutionalising regulated pluralism to neutralise concentration and abusive competition was akin to what was visible in media regulation in other democracies (see Curran 2011: 44).

But the Commission's recommendations, especially its Page and Price Schedule, were wobbly on three counts: informed by a narrow set of empirical evidence on concentration; identification of dominant and marginal actors largely through an ideological lens; and, inability to translate normative criticisms into coherent regulatory mechanisms.

These wobbly ideas were further distorted when the government selectively drew on the recommendations. For proponents of the Price and Page Act, it was

⁸² In our times, not making such a distinction is argued to result in the rationale of public intervention contested by a neoliberalism standing for individualist relativism; Duncan & Reid 2013:486.

an instrument to tackle proven and unproven problems – such as from existing policy of newsprint allocation, dominant actors abusing the allocations and/or engaging in anti-competitive practices, to advertising dependence of newspapers, among others. Undoubtedly, many of these were inter-related. A productive regulatory response could either have addressed specific problems, to the extent they could be addressed in isolation, or developed a more comprehensive framework to tackle them together. More fruitful, and perhaps more politically acceptable, would have been to focus on anti-competitive practices. The corresponding recommendations could have included, for instance, caps on circulation- and advertising-share in the more developed geographical or linguistic markets. I can only speculate whether the judiciary would have viewed such caps as “directly impinging” the freedom of speech⁸³.

The government astutely leveraged the Commission’s imagination, however incomplete in parts, to attain and fortify its interests in and through the press. Differences between the Commission’s provisions, and those legislated by parliament, testify to my claim. Prominent legal scholars saw the government taking on a “pro bono publico position” that it was just and right in protecting small dailies (Dhawan 1987: 52-53). This called for the government to begin by providing a particular ideological spin to binary between the big and small newspapers proposed by the Commission, and then pose itself as a champion of the latter.

Provisions in the Act were a considered decision by the government since these included some of the Commission’s recommendations, mutated others, and completely sidelined a few. The government retained provisions that helped it to tame sections of the press – such as caps on cover prices – and mutated those where its interests partly overlapped with those of big press, primarily by conditionally allowing Supplements. Moreover, it ignored complementary provisions deemed necessary to stem concentration – despite pleas by MPs from both the Treasury and opposition benches – to *indirectly* protect its interests. These included ignoring provisions on caps on the space for commercial advertising – which guaranteed rising fiscal benefits from advertising to the government – and telescopic pricing for government advertisements - without which government advertising could not truly benefit small newspapers, and remain a means to patronise big newspapers.

In tandem, the government protected its interests more *directly* by sidestepping two key procedural matters: refusing to broaden consultations in the press, or being accountable to parliament. The Act empowered government to bulldoze both marginal interests, for whom the Act was ostensibly intended, and

⁸³ Many decades later, the regulatory framework to allocate FM radio licenses included caps on the number of frequencies an applicant could bid for within one territory of operation; see GoI 2004.

protocols of parliament, which sanctified the Act. This discretion robbed the regulatory framework of democratic safeguards. The Act enabled the government to occupy a more formal position to expand and fortify its interests in and through the press.

The considered adoption of the Commission's recommendations ensured the factors responsible for the bigness of actors and unequal opportunities in the press remained untethered – while the government shifted the balance of power in its favour. That said, it is not my intention to underplay the institutional impediments to regulate concentration. Rather, I will like to point at three aspects of the legal afterlife of this regulatory endeavour.

One, as stated earlier, the Sakal judgement separated freedom and diversity as foundational policy values. It created a tension between the two; and furthermore, it prioritised freedom over diversity, rather than viewing that essential purpose of media freedom is to enhance media diversity.

Two, the judgement was oblivious to the role of state in constituting media markets, including configurations of market power. The Court was in a strange position of being constitutionally bound to disregard market constraints and conduct that warrant state intervention. Tempering certain freedoms of newspapers, stemming from the Act's redistributive politics, was not constitutionally tenable. This was because the constitutional exceptions to restrain speech did not include public interest arguments related to diversity and concentration.

Three, the judgement did not enunciate a considered position on the limits to exercise power in the marketplace of ideas⁸⁴. Overcoming the falsity of its neat distinction between the state and market required a theoretically considered position on the drivers and implications of competition in highly uneven news markets; and, a legally contextualised and qualified perception of freedom *in* the press, not freedom *of* the press. The Court was not ignorant, but was unwilling to deal with the implications of market power. This emanated from a certain libertarianism ingrained in the constitutional exceptions to freedom of expression. This says a lot about the tensions between normative ideals of a free press, and operational vulnerabilities of marginal actors.

In their own ways, these three facets of the Sakal judgement enunciated principles, and consciously took an ideological standpoint⁸⁵. These assumptions and standpoints were institutionally hard-wired over time, and ingrained legal

⁸⁴ A similar logic is put forward on the limits to exercise state power in debates on the first constitutional amendment which imposed restrictions on free speech, as per Article 19(2); see Burra, 2017a.

⁸⁵ Perhaps this inspired constitutional experts to view the judgment as standing out as an early instance of judicial activism in India; see Sathe 2007:54.

path dependencies in subsequent efforts to regulate ownership – aspects of which I weigh in subsequent chapters (*Cf.* p.164, 214).

I can only speculate whether the judicial verdict would have been more favourable to public interest if the Press Commission had thickly enumerated the types of concentration, effectively operationalised its normative principles, and/or offered a boisterous argument about the relationship between freedom and diversity. Most probably the verdict would have been the same because the judiciary was bound by the constitutional exceptions to curtail freedom of expression. However, parts of the judgement might have taken a different path, thereby bequeathing a different set of philosophical and theoretical considerations in subsequent judgements.

Chapter 6

6 Regulating Ownership Organisation, 1969-1974

From the last chapter, we recall the Press Commission had recommended mechanisms to distance big business from the ownership and control of newspapers. This idea lurked around in the 1960s, despite widening anxieties among policymakers and journalists over owners and ownership. Their worries were further spawned by official inquiries into the health of the press and, separately, into the hygiene of leading business houses, many of which owned leading newspapers. By end-1960s, a concert of interests revived the policy idea to regulate ownership, as mooted by the 1954 Press Commission.

Buoyed by victories in an international war and national elections in 1971, the Congress Party gained arithmetic strength in parliament, and enjoyed tremendous public legitimacy. It was ideologically inclined to continue the economic and social policies initiated during its previous term; it nationalised banks, and dismantled the privileges of the erstwhile petty royalty. But the recent past also saw noteworthy contests between legislature and judiciary over policy supremacy. This formed the political context and emergent “rules of the game” (North 1990:364) to revive policy options to regulate ownership⁸⁶.

Starting 1971, government championed the reorganisation of newspaper ownership, towards which it found support from political allies, journalist unions, and sections of proprietors and editors. The earliest pronouncement proposed “diffusing” ownership and control of large papers. Subsequently, this was reoriented to “delink” ownership from business houses. Astonishingly, even this revised proposal was not translated into regulation. This is intriguing given the government of the day enjoyed wide-ranging political enthusiasm, ideological legitimacy, and rare legislative opportunity.

All this constitutes the second regulatory moment examined in this dissertation. This chapter reconciles the pressures on government and its seeming-intent to act on the issue of ownership organisation, and its subsequent

⁸⁶ That said, one is aware of differences in the institutional theories of North, where the key explanatory category is the idea of transaction costs, and those of Polanyi, where the social embeddedness of the economy is the key idea.

silence in actualising regulation. In doing so, I recover this vital moment from the early 1970s, completely unacknowledged in the public history of media regulation.

I begin by recalling my framework to visualise risks to the press and society from the interests participating in the newspaper business. Based on my typology developed in Chapter 2 (s2.2.4), this framework incorporates the cooperation sought by proprietors, and the vulnerabilities these impart to news outlets.

In the second section, I trace the stream of anxieties surfacing in regulatory debates about the cooperation in procuring voice. Starting from Press Commission, my narrative flows through policy deliberations in the 1960s, and climaxes with the resurrected proposal to regulate ownership in 1971. In outlining the gestating conditions leading to the proposed (but unactualized) ‘Ownership Bill’, I put the spotlight on the behaviour of commercial and state interests.

The third section details the twists and turns in the life of the Bill during 1971-74 as a particular confluence of policy and politics. I put together discussions, within and outside parliament, centred around diffusion, and delinking. Forming the political backdrop to the Bill’s withdrawal, this life-cycle offers preliminary clues to legislative “failure”.

The fourth section examines inter-related factors impeding the regulation. Here, it is useful to keep in mind that the afterlife of the first regulatory moment shaped the impediments confronted at the second regulatory moment: viz. tensions between the judiciary and parliament, legal path dependencies imparted by Sakal judgement, and expansion of the large newspapers after the judgement. As the state hit against a complex set of constitutional and legal constraints in legislating the Ownership Bill, it also deftly leveraged them to shelve a legislation that could reorder its relationship with the press. For one, diffusion of ownership could empower editors and journalist unions vis-à-vis proprietors, an empowerment equally feared by sections of proprietors and government. Delinking ownership, especially in Merchant Press, carried other implications for the state: it could weaken the latter’s ability to patronise the former, whose proprietors were beholden to the government. It is likely the state chose to shy away from battling institutional constraints because of legal and constitutional hazards, and to maintain a consensus in state-press relations. Such a consensus did not disregard tensions between actors; rather, it suggested, as Kothari argued about other developments during the period, the acceptance of some sort of order in the relationship between contending interests (1974: 1049).

6.1 Logics of Ownership Vulnerabilities

Unlike the previous chapter, this one is less about the dynamics of market structure and the competitive behaviour of some owners. Instead, the focus is on ownership organisation, and vulnerabilities these infuse to news outlets – a canvas which cannot ignore their implications on markets and competition. This aids us at two levels: evaluating regulatory safeguards to prevent abuse through the press; and, explaining impediments to introduce such safeguards at a historical juncture.

At their core, arguments to regulate ownership, reviewed in Chapter 3 (s3.3.1), point at two considerations. Viewing the press as an object, the first wants it freed from influences by domineering forces. Within this ideological framework emerges different explanatory thrusts about the abuse of the press by certain interests and values. Some argue ownership to outrightly favour dominant groups (Herman & Chomsky 1988); others focus on the press endorsing basic tenets of capitalist system (Curran & Seaton 1997); and still more point at the spread of certain values through interlocking ownership and control between media and non-media businesses (Meier 2002, Almiron 2014). Viewing the press as a subject, the second one wants to ensure it is capable to perform its expected roles. Within this normative framework, there are arguments to ensure the press comprises outlets with different financial stimulants, ownership organisation, and organizational structures (see Baker 2007, Valcke et al 2010). The ask is to encourage, in the language of this dissertation, different modes of cooperation to procure voice. These, in turn, spawn a multiplicity of values and aspirations in the press.

In both considerations, the lack of regulatory safeguards is reasoned to result in distortions in news outlets and, often resultantly, risk the plurality of voices. The need for safeguards is directed against forms of ownership that incentivise unorthodox behaviour through and in the press. Arguments for regulations are therefore directed at mitigating the underlying causes of distortions – whether they arise from the abuse of accountability and decision-making within the press, or from the press being hampered to discover abuse in a democratic setting. Our attention is on the varying powers of owners and vulnerabilities of news outlets responsible for inculcating abuse, and hampering rivals' abilities.

This requires delineating the motivations of actors to procure voice, and cooperation they leverage to sustain it. What comes in handy is my unique typology of participants, put forward in Chapter 2 (*op. cit.* p.40, Table 1). In the decade leading up to 'Ownership Bill', newspapers with significant circulation, or/and respected standing emerged from four quarters: editors or editor-family undertakings; ventures by politicians, their extended families, or political parties; large combines publishing across multiple cities and languages; and, subsidiaries

of diversified business groups. These correspond to the four types of actors – i.e., Independent, Congregational, Conglomerate, and Merchant Press, respectively. The first two types emerged from the tradition of social reform, anti-colonial, or sub-national movements, some dating back to the late nineteenth (see Israel 1994). Merchant Press originated in usurious-merchant capital of the late nineteenth century, and thus had variably tenuous connections with the industrial economy (see Goswami 1985, Tyabji 2015). Conglomerate Press rose from the desires of news outlets across categories to expand into other segments of the media economy.

As our appraisal of press development in Chapter 2 shows, these actors were differentiated by, foremost, the motivations of their owners. But equally, their interests were mediated by different vulnerabilities they were exposed to; these ‘ownership vulnerabilities’ were incorporated while building on my typology in Chapter 3 (*op. cit.* p.70, Table 2). Both factors are widely considered to temper the breadth and quality of news in different settings (see Golding & Murdock 1997, Baker 2002, Curran & Seaton 1997, Shaw 2009). We also recall from Chapter 3 that vulnerabilities of news outlets arise from four contexts structuring the interests of proprietors: immediate imperatives to seek rents and/or investors (bottom-line vulnerabilities); profitability of non-news undertakings that form their wider media business (media vulnerability); huge profits from much larger non-media enterprises in industry, trade, or finance (merchant vulnerability); and, influential associations with networks of social identity and formal politics (congregational vulnerability). These factors, and the cooperation solicited to achieve them, impart specific constraints on owners, and incentives to distort news.

Table 5 Vulnerabilities of Actors in the Press

Actor Definition	Primary Source of Vulnerability	Incentives to Distort News
Independent Press	Sustenance & Sustainability	Commercial
Congregational Press	Sectional affiliations	Ideological
Conglomerate Press	Rents from media affiliates	Financial & Industrial
Merchant Press	Larger non-media enterprises	Industrial & Ideological

Configurations of owner-outlet relationships indicate different reasons why proprietors may choose, or feel compelled, to subvert public interest roles. My explanation of vulnerabilities points at such subversion shaped by commercial, meta-commercial, and extra-commercial logics. These logics have continued in TV news, as evident in scholarship over the last decade (see Shaw 2014, Mehta 2015,

Bhattacharjee and Agrawal 2018, Parthasarathi & Srinivas 2019). This makes examining mechanisms to regulate the participation of specific interests in the newspaper business, the focus of this chapter, a key element in India's experiences of regulating ownership.

6.2 Evolution of a Policy Discourse

This section unfolds the chequered trajectory of regulatory anxieties, policy debates, and ad hoc interventions around ownership. The anxieties were periodically visible through the 1950s and 1960s in key policy debates, inquiries into the practices of big business, evaluations of the health of small newspapers, and observations by the judiciary. The press mostly shied from talking about the role of proprietors or their influence on editorial and journalistic practices; when it did, this was triggered either by government pronouncements or advocacy by journalist unions.

6.2.1 Mounting Anxieties of Ownership

The Press Commission estimated 20 business houses controlled a sizable share of high-circulating newspapers (GoI 1954: 281-305). In the erstwhile Bombay state, combines owned by business houses – what I call Merchant Press – accounted for over 50 percent of circulation in all languages. The Commission's report is replete with owners' motivations and mechanisms to influence newspapers: be it to boost individual profiles and public perception, fortify non-media businesses, or desire favourable news reports on non-media interests, especially in financial columns of newspapers (*ibid.*, 268). In regions where ownership, and to an extent, readership, was aligned with religious or political groups, there were numerous instances of misrepresentation and bias in reportage (*ibid.*, 265, 271-72).

But the Commission was reconciled to the presence of all such exogenous interests so long as their influence did not spill beyond editorial pages, and there were adequate disclosures about proprietors (*ibid.*, 267). Rather charitably, its report differentiated between owner-driven advocacy journalism, and reportage that expressly furthered their exogenous commercial interests (*ibid.*, 273). Its biggest angst was about distortions in reportage involving monetary returns:

Such interference with professional standards is most objectionable when it arises from financial and economic interests of the proprietor. These interests may be divided into two categories; the first is the hope of greater *profits from the newspaper itself*, and the second is the expectation of *advantage to the other financial interests of the proprietor*. As long as the institution of private property exists, the

desire to add to one's holding or to safeguard them from diminution would also exist. (GoI 1954: 270, my italics)

In other words, the Commission's worries were more about bottom-line and merchant vulnerabilities. For example, its report contemptuously termed sections of Merchant Press as "jute press" (*ibid.*, 146), since the owners' diverse undertakings included jute factories⁸⁷. Primary among them was the diversified Birla Group, then India's second largest family-business group, which owned newspapers in the two largest languages, English and Hindi; and the Dalmia-Jain family which, through BCCL published several dailies, monthlies, and weeklies in English and Hindi.

The other high-circulating and most respected English newspaper, *Statesman*, was owned by a consortium of business groups. M.C. Setalvad, who had led the government's defence in the Sakal case, and later served as a director of *Statesman*, candidly talked about the "inherent difficulties" in industrialist proprietors granting editorial freedom (see Setalvad 2008:607). N.J. Nanporia, the second Indian editor of *Times of India*, part of BCCL, had a tense relationship with his owner. In a confidential letter to Prime Minister Nehru, he narrated the misdemeanours of "those who owned and ran the company" (Malhan 2013:22). On several occasions, Nehru spoke in parliament about the press not being free since it functioned under wealthy proprietors who were "perverting the individual freedom of the press" (quoted in Gopal 1984:183).

More nuanced, albeit not less explicit, was J.N. Sahni, former editor of *Hindustan Times*, part of Birla Group. In his tell-all autobiography, Sahni recalled editors were kept "on the leash" by proprietors, who were susceptible to government pressures at two levels: losing out on government advertisements, and losing state patronage for non-media businesses (Sahni 1974: 216, 241). Editors aligned with the ruling regime, like M. Chalapathi Rau of *National Herald*, part of Congregational Press owned by the Congress Party, put matters differently. Inaugurating the first conference of the Andhra Pradesh Union of Working Journalists in August 1957, Rau warned about the lack of distance between professional and industrial interests comprising Merchant Press:

As long as there is no separation of powers between the editorial and the managerial side, along with wide sharing of that power among all persons from the managing director to the mofussil correspondent, and as long as the same persons parade proprietors, managers or editors on

⁸⁷ Nearly 30 years later, the Second Press Commission of 1982 read the (First) Press Commission's coinage of the "Jute Press syndrome" as a mark of the elitist political establishment of the 1950s consisting of "the neo Brahmin politician, the. I.C.S. bureaucrats and the Oxbridge academics looking down on indigenous businessmen who had taken over some of the British-owned newspapers."; GoI 1982: 225.

the various organisations in the profession and the industry, there will be confusion about its functions and responsibilities (Times of India⁸⁸)

Several disclosures of competitive misconduct, and commercial malpractices by business houses in general exponentially fuelled ownership anxieties. Most devastating were the findings of the Vivian Bose Commission, appointed in 1955 to examine the administration of the Dalmia-Jain Group, which owned BCCL. This Group's crisscrossing nexus between the holding company, and plethora of associated undertakings in manufacturing and trading typified the ownership organisation of such forms of variegated capital dominating the economy (see Tyabji 1989). The Bose Commission's report of 1963 severely indicted the group, including its head Ramkrishna Dalmia and co-owner Shreyans Prasad Jain – the latter was the same MP who vehemently opposed the Price & Page Bill of 1956. Besides manipulations in financial accounting, tax avoidance, and fiddling with share values of joint stock companies, the Bose Commission found the group's newspapers to regularly promote or defend private business gains (GoI 1963, *passim*). It is noteworthy the findings were suppressed in newspapers that were not only owned by the Dalmia-Jain Group, but in others that were part of Merchant Press (GoI 1982:147).

Similar government debates on market power within the wider Indian economy led to scrutiny of the management and regulation of business groups. These scrutinises had implications due to the belief that market power of groups owning newspapers affected the health and hygiene of the press.

The Monopolies Inquiry Commission of 1964 was tasked to comprehend market power across industries, including control over newspapers by business houses. Like the Press Commission, the Monopolies Inquiry Commission (henceforth, Monopolies Commission) blended normative, empirical, and ideological arguments against big business ownership, an emphasis considered vital in recent scholarship on media policy (see Freedman 2014). The Monopolies Commission observed that the "bigness" of business houses tinted market dynamics, competitive behaviour, and editorial spins in newspapers. Updating the Press Commission's findings, it enumerated an appreciable section of leading English, Hindi, and financial dailies, across large cities, owned or controlled by big business. The Monopolies Commission report quoted three stellar examples: Birla Group, (Dalmia) Sahu-Jain Group, and, consortium owning *Statesman* (GoI 1965a:186-187).

The Monopolies Commission viewed Merchant Press as a double risk. Newspaper Chains or Groups, if found, could better negotiate with advertisers, thereby augmenting their market power. In addition, their owners weaponized the

⁸⁸ Diffusion Of Press Ownership: Editor's Plea. *Times of India*, 18 Aug. 1957, p.11.

advertisements given by their non-media entities to extract positive opinion in other newspapers (*ibid.*, 137). Thus, Merchant Press was armed with not only the means but incentives to distort the watchdog role. Based on the evidence on direct and indirect influences, the Monopolies Commission was emphatic about the ability of dailies owned by big businesses to prejudice readers.

.....there seems to be some force in the contention that the section of the press that is under the control of big business tends to obstruct the free formation of public opinion, by presenting too rosy a picture of the performance and practices of big business in general by slurring over many of their malpractices. (GoI 1965a: 187)

Clearly, the Monopolies Commission believed big business to impart merchant vulnerability in their newspapers, and bottom-line vulnerabilities among other dailies. Although it mocked the idea of “editorial independence” (*ibid.*, 187), in the best liberal tradition, it was neither against big business per se nor against their diversification into multiple sectors⁸⁹. The exigent risk was of a handful of large business houses influencing, and shaping public opinion about, government’s economic policy, a practice where their newspapers played a pivotal role (also see Mazumdar 2008).

Concerns over editorial hygiene within Merchant Press found traction with other examinations specifically into press policy during the 1960s. Enquiry Committee on Small Newspapers divulged that combines, though only 13 percent of the over 8000 publications, commanded high circulation and revenues. Although the press had hugely expanded since the days of Press Commission, growth, and expansion was imbalanced. A bleak picture surfaced: most high-circulating newspapers were part of Chains or Groups – and many such combines were owned by big business (GoI 1965b).

Proprietors of profitable newspapers syphoning money to other ventures was discussed but not established until revelations by the Monopolies Commission⁹⁰. Nearly a decade later, this malpractice was comprehensively captured by the Fact Finding Committee on Newspaper Economics (hereafter, Fact Finding Committee) set up in April 1972⁹¹. Its principal contribution was to systematically unearth the axis of inter-locking interests – what it termed “inter-unit holdings”

⁸⁹ In fact, it was clear about “[d]iversification with its necessary concomitant country wise concentration of economic power, even though an evil in some respects, is a necessary evil in the economic interests of the country”; GoI 1965a: 165.

⁹⁰ For instance, the *Indian Express* and its subsidiaries were reported to distribute losses from their stock market investments and defaults on public loans among their other ventures; ‘Gujral’s arguments for delay unconvincing’ by Pauly V. Parakal, *New Age*, 25 Aug. 1972, p.16.

⁹¹ A common mechanism was to incorporate a separate company either to hold the hard assets (land, buildings, machinery etc.) and rent them out to their own newspapers, or to function as the advertising agency for their newspapers – in both cases rents and commissions were higher than prevailing ones (GoI 1975: 203, 138).

(GoI 1975: 50-51) – in the press-business relationship. It found business houses held controlling interests in newspapers by acquiring shares through subsidiaries, especially those in the sugar and jute business (*ibid.*, 198).

Moreover, reinforcing findings of the Enquiry Committee on Small Newspapers, the Fact Finding Committee showed that combines owned by big business groups accounted for a large share of the number of dailies, and a larger share of total circulation (*ibid.*, 37). As periodically reported by journalist unions during the 1960s, the Fact Finding Committee found owners floated advertising agencies that charged higher-than-prevalent commissions from their newspapers – an example being *Free Press Journal* of Bombay (*ibid.*, 138). Pursuing its limited remit to examine correlation between (declining) profitability of dailies, and (rising) newsprint costs, the Fact-Finding Committee was troubled by the unorthodox and opaque practices implicating the financial health of newspapers (*ibid.*, 198).

The reports of these commissions and committees variedly relied on their normative assumptions, waveringly quantity and quality of data gathered, and ideological dispositions of their members. But these elements were not systematically integrated, except by the Monopolies Commission. Outside government, Sumantha Banerjee's book-length admonition of high-circulating newspapers managed to integrate these elements. Examining newspaper reportage from six largest cities during 1969 to 1971, it punctured the clams of 'objective' reportage by English dailies from Merchant Press (see Banerjee 1973b). Thus, this painstaking task empirically reinforced many observations, stray contentions, and speculative arguments in the Monopolies Commission's report. For example, Banerjee showed whenever changes in government policy threatened proprietors' non-media interests, their dailies intensely questioned them, distorted the substance of policy measures, and attached unwarranted motivations to them. Interestingly, *Statesman* was one of the worst offenders. So was *Indian Express*, which reflects its partisan character despite part of Independent Press – a matter I had flagged when delineating my typology. Quoting from his book, a review in *New Age*, the weekly newspaper of Communist Party of India, captured Banerjee's core apprehension: "As long as extra-professional control remains over newspapers, the Press Commission's fears expressed 19 years ago will continue to dominate the newspaper world in India" (*New Age*⁹²).

⁹² 'Distortion, A Speciality of Indian Monopoly Press' (Review of Banerjee's book by S.M.) *New Age*, 5 Aug. 1973, p.12.

6.2.2 Trajectory of a Regulatory Move

The Press Commission was categorical about the impossibility and undesirability to insist proprietors to divest holdings in newspapers. Instead, the remedy lay in the diffusion of effective control (GoI 1954:498).

The Press Commission was aware of the difference between the mechanisms of control, and ownership. It insisted that diffusion of both control and ownership, in tandem, could surmount extant risks. The easiest way of diffusing control without changing ownership was to transfer management to a public trust (*ibid.*, 273-74). In terms of ownership, the Commission found malpractices in joint stock enterprises – the increasingly preferred form of newspaper ownership – due to the apathy of small investors. This is what it said about diffusion of both control and ownership as a policy option:

Turning now to diffusion of ownership, we find that one of the usual consequences of such diffusion in other fields has been the lack of effective control by those who share the ownership. We are, therefore, of the opinion that effective diffusion of ownership of newspaper, with aim of diffusion of control, can be secured best if shares are gradually distributed among the employees who function in the undertaking itself and are in constant touch with all its activities. (GoI 1954: 498)

There were three elements to operationalise redistribution of shares: issuing shares among those with common professional logics; ensuring they are transferred to or among employees at a fixed par value; and creating a Trust to assure profits were ploughed back. Each element appealed to specific safeguards: the first was against external threats stemming from merchant vulnerabilities; the second was against internal temptations due to appreciation of shares tinting the conduct of journalists or editors; and, the third was against organisational profits diverted to their affiliate non-news or non-media undertakings (GoI 1954: 274, 279).

Diffusing ownership to employees was not unprecedented. Earlier, the Press Commission had cited the successful way *Milwaukee Journal* did this (*ibid.*, 276), and journalists being made financial stakeholders in *Le Monde* (also see Benson 2004: 210). While strongly advocating diffusion of control to a Trust, the Commission neither found merit in legislation to achieve this nor suggested criterion to select trustees (GoI 1954:274). It magnanimously urged big papers to voluntarily transfer ownership to employees within a timeframe of five years.

The Press Commission pacified proprietors by arguing this move would prevent any opportunity for intervention by the state. This implicitly referred to calls by journalist unions to carry out diffusion through legislation. At the conference of the Andhra Pradesh Union of Working Journalists referred to

earlier, Chalapathi Rau pleaded for “widely diffused” ownership for the press to grow and strengthen the democratic process (Times of India⁹³). Since leading journalist unions were affiliated to political parties, the Press Commission did not want politicians to circuitously co-own or control newspapers. Hence, its imagination of diffusion surmounted the social risks of newspapers being owned-controlled not only directly by big business but indirectly by political actors, i.e., neither by Merchant Press nor Congregational Press. In short, the Commission’s proposition furnished a hedge against both merchant and congregational vulnerabilities.

Since the premier news agency, Press Trust of India (PTI), was co-owned by a consortium of big papers, with government as a minority shareholder, the Press Commission recommended that it be turned into a corporation. While this decision was kept hanging, a second news agency, United News of India, created in 1961, was structured along the same lines as PTI. When quizzed about this in parliament by Bhupesh Gupta in 1961, Minister Keskar responded that the government’s reasons were clearly known (Gupta in Parliament⁹⁴). This prompted suspicions among MPs, journalists, and media unions, about a tacit understanding between the government and big press on latter’s control over news agencies. As successive governments remained silent, not wishing to relinquish their stakes in news agencies, the idea of ownership diffusion in newspapers remained appealing. But neither was there any urgency depicted in the press nor any political purchase visible for governments to act on the Press Commission’s recommendations.

Between 1969 and 1971, the diffusion principle was mobilised in three, possibly related, circumstances: through a scandal, a voluntary move, and a legislative amendment, which I will describe now.

On 28 August 1969, the Bombay High Court disbanded the board of BCCL, owned by Dalmia-Jain Group. The Court found the board ran BCCL “in a manner prejudicial to public interest and to the interests of the Company” (GoI 1982: 369). This was the consequence of the Bose Commission that indicted the group on various counts. The Indian Federation of Working Journalists (IFWJ) rallied behind the government to, invoking Press Commission’s recommendation, convert BCCL into a public trust run by employee-journalists. While this did not happen, the High Court relieved Shanti Prasad Jain – who had taken over BCCL from his father-in-law, Dalmia, in unorthodox circumstances – from the directorship, and appointed a new board with nominees of the company, government, and judiciary. But subsequently, Ashok Jain, son and heir apparent

⁹³ ‘Diffusion Of Press Ownership: Editor’s Plea’. *Times of India*, 18 Aug. 1957, p.11.

⁹⁴ Question by Bhupesh Gupta of Communist Party of India on ‘IFWJ on the non-implementation of the Press Commission’s recommendations’ in the Rajya Sabha on 18 Aug. 1961

of the accused owner, was accommodated on BCCL's board as a representative of the shareholders.

Much against general apprehensions of indirect government control in such circumstances, BCCL appeared to function independently between 1969 and 1976 under the new board. A senior editor of BCCL's *Times of India* felt the government, while keeping a close watch on company's activities, did not interfere in editorial decisions (Malhan 2013:31). But the political opposition believed otherwise. The weekly newspaper, *Organiser*, linked to the political Right in parliament, Bharatiya Jan Sangh, felt the board was amenable to government pressures, especially in playing the "inglorious game" of running down rivals (Organiser⁹⁵). Much as the business history of *Times of India* claims this period to be "zero years" (Malhan 2013: 28), my assessment suggests otherwise. First, BCCL launched two important dailies during these years: the Marathi *Maharashtra Times* in 1972, and Delhi edition of its financial daily, *Economics Times*, in 1974. Second, and most notably, the combine legally challenged the regulation of newsprint allocation in 1971, which culminated in the historical Bennett Coleman Case. I will delve into this in the next chapter since this case decisively impacted the attempts to regulate ownership organisation (see p.152).

The IFWJ's ceaseless advocacy against what it called the 'monopoly press', and the order on BCCL convinced even liberal editors, like George Verghese of *Hindustan Times* (from the Birla Group), that discourses on ownership were ideologically motivated, and politically inspired (GoI 1982-V2: 402). These were the years when the Congress government energetically pursued nationalisation of private enterprises, and took other measures inimical to big business. Not surprisingly, the odd abrasive civil servant reportedly threatened business houses with diffusing ownership of newspaper undertakings (Banerjee 1973a). Sensing the political climate, in January 1970, Verghese asked his proprietor, K.K Birla, the then Prince of Merchant Press, to set up a Board of Editorial Trustees to quarterly review the workings of the combine. There would be no transfer of ownership, but the trustees would implement the group's editorial policy, and maintain an oversight on the quality of news (GoI 1982-V2: 402). Verghese saw this as a solution to ward off pressures from interests that pushed for regulatory intervention.

Initially, Birla had no objection, as long as the trustees were "right of centre" (*ibid.*). But consultations with other proprietors of big papers led to a rethink. Ramnath Goenka, owner of India's biggest multi-lingual combine, *Indian Express*, and the epitome of Independent Press, found the proposition satisfactory, if it entailed no changes in shareholding or directorships. But C.R Irani, the managing

⁹⁵ 'Indira brigade pesters the Indian Press'. *Organiser* 28 Aug. 1971, p.2.

director of *Statesman*, then the flagbearer of Merchant Press in eastern India, strongly advised Birla against it. Birla twisted the issue when he told Verghese that the combine was already diffused – since most shares in the newspaper business were held by "our (other Birla) companies", whose shares, in turn, were held by thousands of individuals (retail) and institutional shareholders (GoI 1982-V2: 402). The idea of editorial trustees fell through, reflecting Birla's comfort with status quo. Perhaps, his sense of the threat of regulatory interventions was different from that of Verghese, given the close inter-generational relationship between the Birla Group and Congress Party (*op. cit.* pp.47-48). The Birla Group was far bigger than Dalmia-Jain one, played a crucial role in the mixed-economy, and aided the aims of governments to deliver developmentalist promises⁹⁶.

From the early 1960s, the IFWJ demanded changes in the Companies Act to unmask hidden and proxy newspaper ownership by big business, and prevent the growth of monopoly press. The activism was directed at preventing business houses from using their newspapers for, to borrow from Bose Commission, their "selfish ends"⁹⁷. Unearthed malpractices highlighted the weakness of Companies Act on issues of evasive and fraudulent business transactions (Varshney 1964:42). Although the Act was subsequently amended in 1965, it was not as per the desires of journalist unions⁹⁸ (also see Thanjavur 1987).

In December 1970, the government told parliament that the Department of Company Affairs was studying ownership patterns of companies publishing newspapers. Objectives of the next round of amendments in the Companies Act circulated in August 1971 included "delinking" and "diffusing" newspaper ownership. These involved capping each corporate and individual ownership at 5 percent, limiting total corporate shareholding at 20 percent, and distributing excess shares to employees and public. The employees independently could elect half the board members (as employees, not shareholders), while all shareholders (including employees) could elect the remaining half (GoI 1982-V2: 402); besides, voting rights of shareholders was fixed at 0.5 percent, irrespective of shareholding, with remaining percentage of votes exercised by public trustees.

If these changes were incorporated in the Companies Act, heavyweight titles that constituted Merchant Press would have passed out of their owners' hands. As

⁹⁶ This delicate relationship may well explain the absence of any inquiry against the Birla Group, like that against the Dalmia-Jain Group, despite audit reports of its group companies finding numerous malpractices; Varshney 1964:42.

⁹⁷ 'Diffusion of Press Ownership: IFWJ Council's Appeal'. *Times of India* 5 Jan. 1965, p.3.

⁹⁸ Despite startling disclosures of the Bose Commission, there was a belief that amendments to the Companies Act in 1965 dealt with only a small universe of businesses, mostly business houses and their proxies, in matters of investment, transfer of company funds, and syphoning profits. More significant were the amendments of 1969 as they, inter alia, prohibited companies to make contributions to political parties, and abolished the Managing Agency System – the legal institution underlying the power and opacity of business houses since the 19th century.

the editor of *Hindustan Times*, Verghese editorially opposed the amendments (*ibid.*, 403). Eventually, due to disagreements within the government, the final amendments introduced in parliament in August 1972 did not include provisions on diffusion. The reasons could be that either there was ideological dissonance within the ruling Congress Party, or this was simply a sign of things to come.

By now we have gained a sense of the historical backdrop of politics and policy of regulating ownership. I have stressed the varying anxieties, motivations, and stakes marking ownership debates, beginning from the Press Commission report of 1954 through to later inquiries into the health and misbehaviour of, respectively, small and big papers. I find successive governments sat on the Press Commission recommendations, and bypassed legislating measures that even tangentially addressed ownership anxieties; and when an exigency unfolded, the judiciary implemented its rendition of distancing the press from business houses. Such silences and interventions, together with corresponding ideas under contest, or resistance, formed the gestating conditions leading up to the second regulatory moment of my dissertation.

6.3 Politics of Policy Options

At the start of the 1970s, there appeared a juncture when a confluence of incidents and interests resurrected the ambitious policy option of diffusing ownership. This was conditioned by the politics of media policy, amidst the wider reorientation in India's economic policy. The 'left-populist turn' commencing in the Congress government's previous term, and continuing after its landslide electoral mandate in 1971, was supported by political allies inside parliament, such as the Communist Party of India (CPI); it also gained ideological legitimacy from outside quarters, including sections of the press (see Hardgrave & Kochanek 2008).

Once the idea of diffusing ownership was resurrected – as delved into in this section – its underlying principles were championed inside and outside parliament. Following the life of the proposed and so-called 'Ownership Bill' between 1971 and 1974, I trace the circumstances leading to why the option of diffusion was repeatedly stalled, and quietly recalibrated in terms of 'delinking ownership'. In tracing this, I will touch upon implications of this crucial policy shift on interests in the press, business, and government.

Both official words and public utterances recognised the complexity and enormity of ownership as a regulatory endeavour. This challenge was located at the intersection of media policy and industrial policy, media law and company law, journalistic values and business ethics. I find government was sucked into grappling with institutional intricacies, while juggling expectations of contending

interests. These processes affected each other, as they were products of an interdependent dynamics shaping the politics of policymaking. There thus exists an analytical opportunity to examine the confluence of policy and politics – one which not only formed the site of the Ownership Bill but contributed to its failure.

The section closes by spelling out conditions in which the regulatory endeavour was silently buried in 1974. In the last section of this chapter, I delve into the crosscurrents underlying these dynamics which can explain the ‘failure’ of this regulatory endeavour.

6.3.1 Diffusion under Contestation

Even as the amendments in Companies Act were being debated, as mentioned in the previous section, on 3 June, 1971, the Minister of State in the Ministry of Information and Broadcasting, Nandini Satpathy, told parliament the Department of Company Affairs was studying the question of “common ownership of newspapers”. A MP promptly sought assurance this step would not lead to nationalisation of the press. The phrase “common ownership” spurred suspicion. Allaying such fears, Satpathy explained the reason for acting at that moment:

Since even among large newspapers a voluntary diffusion of ownership had not been brought about, as recommended by Press Commission, the government was studying proposals to bring this about through suitable provisions in the law. (Times of India⁹⁹).

In other words, instead of the voluntary process proposed by the Press Commission, government had decided to explore regulatory mechanisms. Outside parliament, members of the ruling party set up a National Campaign Committee for the Diffusion of Press Ownership. At its inauguration in Bombay on 26 Sept, 1971, Mohan Dharia, Union Minister of State for Planning, asserted the move was to “end the grip of monopolists and to liberate the press”. Presiding over the inauguration, Rajni Patel, the head of the Congress Party in Bombay, provided a spin by advocating that the decision gave “an opportunity in the management of newspapers to those who work for them and are responsible for their growth and propriety” (Times of India¹⁰⁰). Earlier in the same month, IFWJ, broadly aligned with CPI, saw all such talk falling short of bringing about complete diffusion; only this, IFWJ believed, would guarantee the independence of editors, and insulate them from the pressures of big business and government (Times of India¹⁰¹). An alignment was emerging between the government and journalist unions affiliated to its ideological allies in parliament.

⁹⁹ ‘Govt. studying steps for diffusing press ownership’. *Times of India* 4 June 1971, p.6.

¹⁰⁰ ‘Press Bill to end monopoly’s grip’. *Times of India* 27 Sept. 1971. p.5.

¹⁰¹ ‘IFWJ hails move on press Bill’. *Times of India* 6 Sept. 1971, p.5.

A few months later, Minister Satpathy informed parliament that a Group of Ministers would be set up to go into the ownership reorganisation matters recommended by the Press Commission. In parallel, government pursued its commitment to amend the existing clauses of Companies Act related to newspaper establishments. Thus, the regulatory challenge identified by the government was that of prevailing ownership and ownership organisation.

From the outset, public pronouncements about diffusion aroused a mix of doubt, scepticism, and suspicion.

The parliamentary opposition, marginal as it was, did not shy away from venting apprehensions. The Swatantra Party, a small but vocal representative of economic libertarianism, accused the “proposed anti-press monopoly Bill” as being a mechanism for the government to manipulate shareholdings to suit itself, and “leftist elements it supported” (Times of India¹⁰²). Business quarters were worried that the proposal signalled the first step towards nationalisation of the press. In January 1972, R.K. Bajaj, patriarch of Bajaj Group, a leading business house that did not own newspapers, saw the compulsions of technology making newspapers a large-scale industry wherein commercial considerations were increasingly dominating management. Finding it difficult to “reverse this trend of ‘bigness’”, Bajaj advocated devising measures to ensure supremacy of editors (Times of India¹⁰³). With tactful adept, Bajaj reoriented the regulatory challenge as one of autonomy, not ownership.

Much like trade bodies and journalist unions, the press was engaged in what Kochanek (1970) saw as “interest aggregation”. Some editors supporting the proposal in principle highlighted their autonomy as professionals was also subject to government pressures. Such priming in newspapers appears to have diverted attention from the battle of ideas on ownership and control. Responding to the defence of Merchant Press in *Statesman* by its editor, J.J. Irani, an editorial in *National Herald*, a part of Congregational Press aligned with the Congress Party, had this to say:

Mr Irani has talked of 'difficulties deliberately created' in India as compared to 'any other liberal democratic society'; he who places himself in the ranks of 'pioneers' and 'leaders' should have also answered the question in which other 'liberal democratic society' the jute, cement, textile and rayon magnates own and control the press and employ contact men as editors and special correspondents to project and further their private business interests. (quoted in Nireekshak 1972:1297)

¹⁰² 'Swatantra council attacks press Bill & amendments'. *Times of India* 19 Sept. 1971, p.1.

¹⁰³ 'Bajaj attacks press Bill: A Staff Reporter'. *Times of India* 25 Nov. 1971, p.5.

On 25 July, 1972, a 'Newspaper Companies Bill' was listed for introduction in Parliament. After it failed, Inder Kumar Gujral, the freshly appointed Minister of Information and Broadcasting, told a consultative committee of MPs attached to his Ministry that legislation on "changes in the pattern of ownership and management of newspapers" would be shortly ready (Times of India¹⁰⁴). Outside parliament, the Congress Party backed the government, tacitly hinting at interests impeding the latter. Addressing the Karnataka Union of Working Journalists in the following month, the party's General Secretary, part of the so-called 'Socialist Bloc' within the party, claimed "the same forces which stood for the 'status quo, conservatism and obscurantism'" were opposed to diffusion (Times of India¹⁰⁵).

Delays and ambiguity together created an impression by November 1972 that the proposition was effectively dropped (Times of India¹⁰⁶). What added fire to such apprehensions was the verdict in the Bennett Coleman Case on 30 October, 1972 (see AIR 1973a). This was the result of government's continuous, annual tweaks in newsprint allocation policy through measures it felt were within the framework of *Sakal* judgment. The annual newsprint policy of April 1972 was legally challenged by BCCL, and others, on grounds of discriminating against newspapers with high circulation¹⁰⁷. The Supreme Court struck down several provisions of the newsprint policy of 1972 as infringing freedom of speech, and upheld the petitioners' unfettered "right to do business" (Chandrachud 2017: 264-266). In the aftermath, and after meeting Prime Minister Indira Gandhi, the IFWJ felt her assurance was "to say the least, vague and ambiguous", and "bound to create legitimate misgivings that the Government proposes to water down its own commitments" (Kant in Parliament¹⁰⁸).

Accumulated apprehensions and scepticism catalysed a parliamentary debate on 16 November, 1972. A radical section from the Treasury bench viewed the judiciary getting in the way of progressive measures. One such radical was Chandra Shekhar¹⁰⁹, who wondered if his government did not have enough powers "at least to delink those newspapers from the big industrial houses" (Chandra Shekhar in Parliament¹¹⁰). This hinted at the willingness of a section of the Treasury to force through proposed regulation by other means, thereby asserting the supremacy of parliament. This issue linked with the ongoing

¹⁰⁴ 'Press ownership bill being prepared: Gujral'. Times of India, 26 Aug. 1972, p.8.

¹⁰⁵ 'Press ownership public issue'. *Times of India* 17 Sept. 1972, p.3.

¹⁰⁶ 'Press ownership bill likely to be delayed'. *Times of India*, 18 Nov 1972, p.7.

¹⁰⁷ These measures had barred combines (many owned by big business) from reallocating their quota of newsprint among affiliate dailies, or to start a new newspaper, or a new edition of an existing newspaper.

¹⁰⁸ Resolution of IFWJ quoted in statement by Krishna Kant in Rajya Sabha on 16 Nov. 1972.

¹⁰⁹ Coincidentally both Chandra Shekar and Gujral (then Minister of MIB) went on to briefly become Prime Ministers during the 1990s.

¹¹⁰ Discussion between Chandra Shekhar and Inder Kumar Gujral in Rajya Sabha on 16 Nov. 1972.

Kesavananda Bharati case over the tenability of the twenty-fourth Amendment to the Constitution. Introduced a year ago, this amendment empowered parliament to alter constitutional provisions, including Fundamental Rights, like the ones related to freedoms of speech and conduct of business¹¹¹. This goaded the conservative opposition bench to insist that the move to distance newspapers from business houses was to disable newspapers from criticising government – implicitly positioning Merchant Press as the principal critic of the political establishment. Gujral deftly articulated that the core of the regulatory intent was to ensure delinking of vested interests, including “vested interests in criticism.” (Gujral in Parliament¹¹²)

Although this question-answer session in parliament is recorded as “Diffusion of press ownership”, it marked the appearance of the (word and) idea of “delinking” newspapers from business houses. The call from the Treasury bench for “at least to delink” conveyed this policy option being a weaker measure, even an ideological dilution. This nevertheless offered government latitude to recalibrate its original intent of diffusion, push delinking as an option, and legitimise the idea to mitigate ownership vulnerabilities. This shift was politically pragmatic, retained the original ideological appeal, and appeared legally viable.

The day after the parliament session, the headline in *Times of India*’s captured the government’s bind – “No press diffusion bill now: Gujral”¹¹³ – seeding doubts among proponents of ownership reforms in the policy community.

6.3.2 Delinking as a Climbdown

The resurrected regulatory endeavour was recalibrated at two levels: first, the remit of diffusion was limited to newspapers, sidelining that in news-agencies; and thereafter, the idea of diffusion was replaced by delinking. Government felt *regulating ownership* of news outlets through diffusion i.e., a micro economic intervention, could be legally challenged by Merchant Press. If the Bennett Coleman judgement was an indication, such a challenge was likely to be upheld by the Supreme Court. So, the government shifted attention towards, essentially, *regulating market-entry* through delinking, a meso-level intervention. It felt confident of neutralising likely arguments about infringing the Fundamental Right to conduct business by evoking the twenty-fourth Amendment.

Not wanting to signal any dilution in the journey from diffusion to delinking, in December 1972, Minister Gujral put up a brave face, and assured parliament on

¹¹¹ This amendment in November 1971 abrogated the Supreme Court judgement in *Golaknath v. State of Punjab*, 1967, barring parliament from curtailing Fundamental Rights – a judgement which, in turn, had reversed the Court’s earlier verdict upholding parliament’s power to amend all parts of the Constitution, including those related to Fundamental Rights; see AIR 1967.

¹¹² Gujral in Rajya Sabha on 16 Nov. 1972

¹¹³ ‘No press diffusion bill now: Gujral’. *Times of India* 17 Nov. 1972. p.11.

the intent to diffuse ownership towards “eliminating present system of control of the press by big money” (Times of India¹¹⁴). To fortify journalists’ interests, the IFWJ presented research in 1973 to reveal big English newspapers distorted reportage on bank nationalisation, and thereby stood against (what it saw as) progressive steps by the government. This was a response, more ideological than empirical, to a 1970 study by IENS, the influential association of large newspapers, that defended the existence of Chains and Groups as necessary to provide considerable choices to readers (IENS 1970). Another study following IFWJ’s showed that Merchant Press took less interest in development news than Independent Press (Vilanilam 1976) – although it also inferred that ownership was not the only contributor to skewed reportage.

In early 1973, the judiciary adjudicated on the tenability of twenty-fourth Amendment in the landmark Kesavananda Bharati Case (see AIR 1973b). By the slimmest of possible majorities, the Supreme Court held parliament to embody powers to amend the Constitution, albeit without altering its basic structure, which included Fundamental Rights (Vilhena et al 2013). This put the government in a delicate position on the legal tenability of policy options to regulate press ownership. Nevertheless, the face-saving moves by the government continued.

Within parliament, the government exercised caution, calling for the importance of examining the matter “in all its aspects” due to the Bennett Coleman Case (Sinha in Parliament¹¹⁵). To pacify regulation-sceptics in the press, Gujral asserted any conceived measures, including delinking, would neither interfere with freedom of expression, nor alter the structure of newspapers to enable takeovers by political parties (Times of India¹¹⁶). The latter emphasis was to quell fears that pro-government political parties would make a back-door entry to co-own the sections of the press through affiliated journalist unions.

Publicly, the government championed ownership diffusion as a safeguard against unfettered journalism, and to promote editorial autonomy. The annual conference of the IFWJ on 29 March, 1973, provided one such occasion to champion the cause of diffusion. Playing to the gallery, three Ministers, including Gujral, not only reiterated that they “stood by their commitment on the diffusion of the ownership of newspapers”, but supported IFWJ’s demand to distance newspapers from big business and monopoly houses (New Age¹¹⁷). Minister Gujral said:

¹¹⁴ ‘Govt. firm on diffusion of press ownership’. Times of India, Dec 29, 1972, p.10.

¹¹⁵ Answer by Deputy Minister of Information and Broadcasting, Dharamvir Sinha, in Rajya Sabha on 14 March 1973

¹¹⁶ ‘Steps on press ownership to await court ruling in rights case’. *Times of India* 9 Apr. 1973, p.6.

¹¹⁷ ‘IFWJ Conf. Demands New Wage Rates’. by K. Gopalan, *New Age* 15 Apr. 1973, p.4. The other two ministers present were K.V. Ragunatha Reddy and L.N Mishra.

Freedom of expression should be for those who wield the pen and not for those who own the papers. The diffusion of ownership of newspapers is the only way to ensure that those who wield the pen have really the freedom of expression and not others through proxy. (Times of India¹¹⁸)

But political frustration grew, and reached a crescendo when MPs from the Communist Parties that supported the government, introduced a parliamentary resolution to adopt immediate measures “for delinking and democratically diffusing the ownership of newspapers and news agencies” (Times of India¹¹⁹). This cleverly fused the original and ideal measure (diffusion), and the alternative, diluted measure (delinking) to maximise traction from the Treasury benches. A handful contested the resolution, including Swatantra Party’s Piloo Mody, a seasoned politician and former legal counsel for BCCL. Minister Gujral did not accept the resolution.

The Minister’s response to the voice vote conveyed a mix of being pragmatic, prudent, and an apologist. He argued the main problem in diffusion was finding finances to buy the shares if/when big business houses divested ownership. Second, he expressed anxiety over institutional constraints, such as the possible conflicts with judgements in the Bennett Coleman and/or Kesavananda Bharati cases. His weakest defence was that high circulation dailies were not controlled by monopolies, despite an admission that group ownership was on the rise. This cast aspersions on the minister’s personal integrity. On the day after Gujral’s scrambled defence in parliament, Congress Party set up a committee of its Parliamentary Party to examine diffusion of ownership, *and* delinking newspapers from industrial monopoly houses. The Congress Party’s supporter in Parliament, CPI, dubbed this initiative as “dilatatory antics” (New Age¹²⁰).

The voice vote moved in the Lower House on the non-official resolution was defeated on 17 August. Clearly, members from the Treasury bench opposed the motion after Minister Gujral pleaded and committed, “I hope I shall be able to bring forth soon a measure which would be an effective method of delinking the press from big money” (Times of India¹²¹). In effect, his legislation would have none of the problems associated with the defeated unofficial resolution. MPs of the Communist Parties and the so-called Left Bloc within the Congress Party criticised the government in different tenors. The more pragmatic ones felt if the government came up with a legislation, the hurdles posed by the judgement in the

¹¹⁸ ‘Centre firm on press ownership diffusion: Gujral’. *Times of India*, 30 Mar. 1973, p.6.

¹¹⁹ The motion “Ownership of Newspapers and News Agencies” was defeated on 3 Aug. 1973; ‘Motion to delink press ownership defeated’. *Times of India* 18 Aug. 1973, p.9.

¹²⁰ ‘Govt dithers on curbing press monopolies’, *New Age* 24 Aug. 1973. p.16

¹²¹ ‘Motion to delink press ownership defeated’. *Times of India* 18 Aug. 1973, p.9.

Kesavananda Bharati Case could be sorted by parliament (New Age¹²²). Additionally, the CPI publication recalled that Gujral had promised to constitute the Second Press Commission in 1969 but later argued that another committee (what turned out to be the Fact Finding Committee) would suffice to address policy challenges (*ibid.*). Others doubted if government was ever committed to the measure, since it had encouraged monopolies in other industries (Times of India¹²³).

By the start of 1974, the measure to diffuse ownership was off the agenda. Ironically, this was the year when the government informed parliament that seven business groups attracted 50 per cent of all newspaper readership (Sinha, in Vilanilam 1976). The regulatory endeavour was now reoriented to delink ownership from business houses. Some journalists welcomed this by underlining that delinking would preserve the autonomy of editors against proprietors – even through statutory means, if required (see Mankekar 1973 *passim*).

In November 1974, government admitted that while no formal committee on delinking had been set up, a Group of Ministers was examining proposals in light recent Supreme Court judgements. Forced to explain this, Gujral harped upon constraints he had spelt out earlier: operationally, the vacuum in financing newspapers exited by owners from Merchant Press would be filled through proxy transactions by vested interests (implicitly admitting loopholes in Companies Act); and, institutionally, threats of legal challenge to the proposed legislation for curtailing the right to business (Nireekshak 1974). The stage was set to shelve the long-promised regulation. Despite intense debates in parliament, which showed support for the diluted provision of delinking, government backtracked¹²⁴.

India's second attempt at regulating press ownership failed to materialise.

6.4 Anatomy of a Regulatory Stasis

On the face of it, the life of this regulatory initiative symbolises a fusion of insincerity, ineptitude, and even deceit. One can see it falling short on procedural transparency, and legislative acumen, as periodically alluded to by sections of the press, and journalist unions. Or it reflects a lack of political commitment and

¹²² 'Govt dithers on curbing press monopolies'. *New Age* 24 Aug. 1973, p.16.

¹²³ 'Motion to delink press ownership defeated'. *Times of India* 18 Aug. 1973, p.9.

¹²⁴ As late as in February 1975, the government stated in parliament that no decision on Delinking had been taken; Reply of Deputy Minister of Information and Broadcasting, Dharam Bir Sinha, in Parliament on 27 Feb. 1975.

transparency, as claimed by many MPs, since the so-called draft Bill was never passed on to Parliament's consultative committee dealing with the Ministry of Information and Broadcasting (Times of India¹²⁵). The abject whittling down of the original intent (i.e., leaving out diffusion of news agencies), and of the revised option (i.e., climbdown from diffusion to delinking) evinced a sense of deceit.

The fuzziness of both policy options, and the weaknesses of one relative to the other, cannot wholly explain the collapse of the endeavour. They nevertheless created a fertile ground for contesting underlying principles. In this section, I explain the impediments to the endeavour in context of the political economy of the press – both, compulsions it imparted, and incentives it offered. I begin by scrutinising the impuissance of the ideas ingrained in the policy options; I move on to weigh the institutional constraints, and multiplicity of likely interests this endeavour hit against. The former involved tensions within the state as an apparatus, especially that between the legislature and judiciary, to impinge regulatory proposals. But I find these tensions cleverly leveraged by forces having stakes in retaining status quo – not only business interests within and outside the press, but interests of the state as well.

6.4.1 Impuissance of a Regulatory Vision

My first contention is that the measures to mitigate risks of ownership organisation were conceptually weak and/or ambiguous, unable to operationalise their normative visions, and ignored the reigning political economy. It is useful to keep in mind the extent to which these limitations were similar to those underlying the ideas motivating the first regulatory moment (Cf. Chapter 5: s5.4.1).

Fuzziness of the Policy Discourse

Striking is the changing *nomenclature* of the proposed legislation in parliamentary debates, and public pronouncements: viz. 'Ownership Bill', 'Press Ownership Bill', 'Press Bill', 'Anti-monopoly Bill', and 'Newspaper Companies Bill'. Complicating this was different Ministers referring to them either as "a proposal", or "a scheme" (Parliament, various). For instance, in the parliamentary discussions in November 1972, Minister Gujral said, "I would not use the word 'Bill'" (Gujral in Parliament¹²⁶). His statement suggested what the Group of Ministers was assessing hitherto was not a draft Bill but merely a proposal, or possibly more than one proposals.

¹²⁵ One of the MPs was Samar Guha, quoted in 'Press ownership bill being prepared: Gujral', *Times of India*, 26 Aug. 1972, p.8.

¹²⁶ Gujral's answer to questions on 'Diffusion of press ownership' in Rajya Sabha on 16 Nov. 1972.

This fuzziness should not blur the attitude of Merchant Press in reporting this endeavour. Its English dailies were a crucial terrain mediating advocacy against the Bill. Claiming adherence to the letter and spirit of Press Commission's recommendations, an editor (from Independent Press) opposed state intervention in ownership, while questioning the future of dailies run by "non-newspapermen" (Times of India¹²⁷). Managerial leadership of combines put in their own spin by alleging few editors privately confessed their lack of knowledge of newspaper operations (*ibid*¹²⁸), surreptitiously signalling that diffusion would lead to organisational inefficiency. Such priming in news reportage poked holes in the appeal of the regulation's normative ideas, and/or questioned the viability of dailies post diffusion/delinking – techniques commonly used to gently delegitimise undesirable policy options.

An air was created about the endeavour, which itself was ambiguous to the press and their publics; even supporters of diffusion became susceptible to it. Over time, even those ideologically wedded to the measure developed blinkers, and started to wonder how newspapers could be sustained – as Minister Gujral highlighted one impediment of how the diffusion or sale of shares would be financed. Mohan Kumaramangalam – face of the Left Bloc within the Congress Party, and member of the Cabinet Committee on Diffusion of Press Ownership – possibly carried the greatest burden of defending (the feasibility of) diffusion. After his untimely death in 1973, the Chairperson of the board of *Patriot*, a left-wing newspaper not owned by the communist parties, noted in her obituary: "I remember pleading with him (Kumaramangalam) to apply his mind as to how the existing newspaper ownership structure could be 'diffused' and yet efficiently run" (Asaf Ali 1973: 6).

Undoubtedly, both diffusion and delinking were bereft of mechanisms to sustain newspapers once ownership was re-organised. While there were longstanding normative arguments to disperse power, equally longstanding ideological arguments to devise democratic safeguards, and mounting evidence about detrimental effects of ownership on reportage, devising a regulatory framework required a sharp conception of feasible mechanisms. An attempt to legislate a Newspaper Finance Corporation to support small newspapers, as the Press Commission and Enquiry Committee into Small Newspapers advocated, might have held answers to some of these questions; but it never materialised.

The Press Commission was preoccupied with normative considerations about the power wielded by big newspapers, irrespective of those belonging to Merchant Press. Its recommendations to devolve editorial and financial roles through a

¹²⁷ R.K Karanjia, editor-owner of the weekly, Blitz, quoted in, 'Ownership diffusion won't hurt press rights: Jung'. *Times of India* 5 Apr. 1972, p.5.

¹²⁸ Uma Shankar, General Manager of BCCL, quoted in above.

Trust were to safeguard vulnerabilities of big newspapers from businessmen-owners. On its part, the Monopolies Commission was categorical about the “bigness” of business houses doubly implicating the press: owners of combines providing large advertising space, and business groups luring the press through advertisements. But since it considered industrial groups and their diversification as “a necessary evil in the economic interests of the country” (GoI 1965a: 165), it could not normatively argue against their newspaper ownership. Hence, it advocated safeguards against such bigness distorting the watchdog role of newspapers.

The sceptre of bigness reverberated in parliamentary and public debates. The ruling Congress party and Merchant Press channelised the anti-big business sentiments to serve their own motives. For the former, the proposed regulation illustrated the endeavour of, in Gujral’s words, “eliminating the influence of big business on newspapers” (Times of India¹²⁹). For Merchant Press, the regulatory initiative was part and parcel of government’s hostility towards big business, manifested earlier in its decisions to nationalise banks and coals mines.

In debates on the direction of economic policy from the 1960s onwards, the term ‘monopoly houses’ gained currency in the government, press, and academia. This coinage soon entered debates on press policy, giving credence to the idea of ‘monopoly press’ – the title of Sumantha Banerjee’s book. Along with variants like ‘industrial monopoly houses’, it was amplified by outspoken members of the Congress party, editorials in Congregational Press, and public discussions by MPs from Communist Parties and their affiliated unions¹³⁰. Erudite renditions of this mobilised arguments from institutional economics to emphasise the competitive behaviour of large English dailies owned by business houses was different from those of rivals in Independent and Congregational Press. Being part of the largest combines, the former were said to leverage market power in advertising, circulation, and newsprint markets – as detailed in the previous chapter.

Implications of Policy Options

Reflecting on ideas underlying the regulatory (re)imagination of press ownership, their discursive elements deserve critical examination.

Amidst overlapping fractures in Indian society, the phrase ‘big press’ carried both empirical and ideological underpinnings. Empirically, it denoted high-circulating dailies, as distinct from small papers with far lower circulation, as defined by Press Commission. Since most high-circulating dailies were in English, their readers were the social elite. But such as framing ignored leading regional

¹²⁹ ‘Govt. against big business in press’. *Times of India* 14 Aug. 1972, p.9.

¹³⁰ One occasion was at a roundtable, “Anti-Monopoly Unity”, organised by the CPI, duly reported in the party’s weekly, *New Age* 21 May 1972, p.4.

language dailies, such as *Sakal* and *Ananda Bazar Patrika* which, while not as high in circulation, catered to regional social elites in their respective languages and cultural geographies¹³¹. The difference of course was that English language dailies catered to Anglophone elite with higher purchasing power, and harnessed the largest share of advertising revenues. Thus, 'big press' refracted socio-economic disparities broadly between English newspapers with national readership in urban centres, and regional language press limited to specific geographies. That the former included newspapers from Independent Press and Merchant Press was not a matter of distinction for proponents of the idea of big press. Thus, the big press also carried an ideological connotation, since leading English dailies were mostly part of combines owned by big business. Thus, in this rendition, the big press got associated with Merchant Press.

There are two inconsistencies in the construct of the big press. One, all prominent English dailies during the early 1970s were *not* from Merchant Press – for instance *Hindu* and *Tribune*. Two, not all business houses owning newspapers were 'big'. Although the Dalmia-Jain Group embodied India's big business houses during the 1950s, by the early 1970s most of their ventures had dwindled and became secondary to their stakes in the press. Another case in point is *Hindu's* principal rival, *Madras Mail*; although the latter was owned by a business group, the proprietor was by no imagination 'big,' when compared to the Birla group or the companies co-owning *Statesman*.

To these inconsistencies, I add the inaccuracy in the use of the term 'monopoly press'. No doubt many English dailies from Merchant Press, like *Hindustan Times* and *Statesman*, were leaders, by a fair distance, in their principal markets, and their proprietors did abuse their dominant market position vis a vis more modest and smaller competitors. But to conjure them as monopolies, as Minister Gujral did, amounts to the ideological spin conveyed by 'monopoly press' far outweighing its empirical basis. Gujral and others were aware of this; but they deployed this term purely as a rhetoric, as politicians do, to mask their ability to deliver in substantial ways, in this case on the Ownership Bill. The point I wish to make is that ideological arguments of bigness and monopoly tend to hide a lot; they reveal the general weakness of policy perspectives seeking to surmount challenges of ownership.

This takes me to the operational limitations of the policy options at hand.

Diffusion was participatory and inclusive to the extent it could reorganise financial and editorial power within large newspapers. One must caveat the implications of devolution and conversion of the legal organisation into a Trust. Radical as it may sound, it was/is not immune to abuses prevalent in other forms

¹³¹ This and other factors make me term such newspapers to represent the "subdominant press", a concept I will forward in the next chapter (see pp.177-178).

of organisation. The Trust was not immune to catering to narrow interests. Congregational Press, where Trusts are not uncommon, is replete with instances of vulnerabilities towards advertisers, and the narrow interests of those owning/controlling it. In other words, conversion of newspaper companies into a Trust could overcome some but not all forms of vulnerabilities that adversely impact journalism. Nor are newspapers that are organised as Trusts inherently benevolent to journalists. *Pratap*, a Trust-owned Hindi newspaper from Kanpur, declared a lockout during the mid 1960s to deprive journalists of benefits – a practice adopted by *Statesman* later in the decade¹³².

Manifestly, the policy option of delinking was a poor cousin of diffusion. Advocates of delinking recognised the basket of ideological, normative, organisational, and financial compromises it involved. Delinking bypassed co-ownership between proprietors and employees, which would happen with diffusion and Trusts. It allowed proprietors to remain in control of their newspapers, but severed commercial and financial ties with their non-media undertakings. While the shareholding proposed in diffusion muted risks of financialization in a Trust-owned newspaper, there were no such safeguards in delinking. Last but not the least, delinking normalised the idea of for-profit entities, thereby implicitly delegitimising not-for-profit Trusts. That said, there was one major and common advantage of both diffusion and delinking: they prevented profits from newspapers being diverted to other undertakings of business houses, and re-ploughed them into news organisations (GoI 1975: 202, 231). This explains why an MP from Treasury bunch pleaded for “at least delinking”.

In winding up this section, I reiterate that the impuissant ideas and lofty rhetoric of both policy options were divorced from the workings of the political economy. First, if monopoly over revenues and views was the prime concern, the re-organisation of ownership through diffusion or delinking had limited benefits. A Trust or a ‘delinked’ stand-alone newspaper could still dominate the newsprint and advertising markets. Second, both options did not offset the influence of business houses on newspapers, including ones incorporated as Trusts, through indirect means. This is why it is surprising that Press Commission’s crucial recommendation of a 60:40 news-to-advertisement ratio was never resurrected – despite dailies devoting 60 percent space to advertisements by the early 1970s (New Age¹³³). Third, both options missed appreciating the state’s interdependence with industrial and political elites. Delinking adversely and solely impacted Merchant Press, while diffusion impacted Congregational and

¹³² ‘Diffusion of Press Ownership: IFWJ Council’s Appeal’. *Times of India* 5 Jan. 1965, p.3.

¹³³ ‘Monopoly Mouthpieces’. *New Age* 6 May 1973, p.2.

Independent Press. Thus, both risked upsetting the (balance of) power among the dominating segments constituting the state.

6.4.2 Tensions over Policy Supremacy

Differing reasons for legislative delay shrouded the Ownership Bill's procedural sanctity. In November 1971, a Group of Ministers was set-up to steer the regulation on diffusion; two years later, the matter was (still) being looked into by the same, or another Group of Ministers. On another occasion, the burden of delay was placed on a committee of the Congress Parliamentary Party looking into the matter. Parliament was not privy to the details of these proceedings, casting a cloak of uncertainty and secrecy.

Multiple explanations puzzled even MPs from the ruling party. One of them, Joachim Alva, evoked the government's recent withdrawal of privy purses of the erstwhile royalty to agitatedly wonder: "why when the government had 'blasted' mahajaras, it should have difficulty in dealing with the press?" (Alva in Parliament,¹³⁴). Reasoning about this "difficulty" takes us beyond what initially appears to be matters of parliamentary procedure and political pragmatism. This opens out to battles over policy supremacy between executive, legislature, and judiciary from the late 1960s. These tensions were refracted in two inter-related matters around regulating ownership: legal tenability, and constitutional viability. The former arose from judiciary repeatedly striking down measures aimed at the economic regulation of the press, which imparted cumulative legal path dependencies. The latter had roots in tussles to enact legislation that could override constitutional protections of freedom of speech and business.

Mires of Legal Path Dependency

Legal challenge to legislative and executive measures to reform the newspaper business, including those recommended by Press Commission, had resulted in the Sakal Case of 1961. As explained in the previous Chapter, although the judgement recognised the risk of the press being "composed of few powerful combines," it stated that the Price and Page Act violated Fundamental Rights of newspapers. The verdict that struck down the newsprint policy of 1972 in the Bennett Coleman Case was part of a trajectory of libertarian judgements. It forced the government to rethink its approach towards, and possible mechanism of, press regulation. The Supreme Court invoked, inter alia, protections to free speech. Consequently, proponents of the Ownership Bill feared that any regulation on reorganising ownership, if judicially challenged, would receive a similar response.

¹³⁴ Question by Joachim Alva in Rajya Sabha on 16 Nov. 1972.

Just over two weeks after this verdict, in the extended parliamentary debate on ownership diffusion, Minister Gujral pinpointed the key constraint posed by it: since this judgement cited three crucial Articles of the Constitution (14, 19 and 31), it legally complicated efforts to regulate newspaper ownership. Article 19 protected freedom of speech and business, and by extension, shareholders of companies, which made Gujral apprehensive about the legal tenability of delinking. Queried if the findings and recommendations of the ongoing Fact Finding Committee might strengthen the case for re-organising ownership, Gujral was crisp and practical: “The (Bennett Coleman) judgement is a reality and we have to examine the situation in the light of the judgment” (Gujral in Parliament¹³⁵).

In fact, the sole but erudite dissent by Justice Mathew in the Bennett Coleman Case foregrounded the multiple inequities inhabiting the newspaper business to make a larger argument about the irrelevance of *laissez faire* as a constitutional theory for the communication of ideas (see Baxi 1978: 284-298¹³⁶). Mathew insisted that curbs on exchange of newsprint quota between newspapers owned by a combine, aimed to remedy the inequality created by previous policies, did not violate the right to free speech (Mathew 1978: 284-298). Not only was this view (correct in my assessment¹³⁷) marginalised, the Bennett Coleman and Sakal Cases created strong legal path dependencies in efforts to bring about equity, and stem market power, prevailing in the press.

Since regulating market power through a micro-level economic intervention was successfully challenged in Sakal Case, government feared a similar fate for measures of diffusing ownership and control, another micro-level intervention. This is possibly why it shifted attention, when an opportunity arose, to consider delinking – a meso-level intervention essentially *regulating market entry*. In doing so, the government was probably aware that this measure too could be challenged on the ground of violating the Fundamental Right to conduct business.

By early 1973, some MPs from the Treasury benches who did not want to give in nudged parliament to force delinking through other means. Reference was to the twenty-fourth Amendment of the Constitution, which allowed parliament to alter constitutional provisions, including Fundamental Rights. Gujral pleaded with his effervescent colleagues to be patient, and wait for Supreme Court

¹³⁵ Answer to question on ‘Diffusion of Press Ownership’ by Inder Kumar Gujral in Rajya Sabha on 16 Nov. 1972.

¹³⁶ Justice Mathew’s dissent also questioned the legal philosophy underlying the *Sakal* Case. Upendra Baxi adeptly unravels many judgements by Mathew while introducing an anthology of the judge’s writings and lectures (see Mathew 1978: I-LXXXVI; for his dissent note, pp.284-298).

¹³⁷ Echoing Justice Mathew’s critique of the marketplace of ideas metaphor, one argument points at this metaphor to be skewed towards entrenched power structures and ideology, and therefore incomplete without a theory of freedom of conduct; see Ingber 1984.

judgement on the validity of this amendment before formulating ownership legislation.

Tempering Legislative Absolutism

The history of the twenty-fourth Amendment led to complex legal-constitutional tussles during 1967-74. Government was on thin ice after the judgement in the Golaknath v. State of Punjab Case (1967), where the majority ruled against parliament's power to curtail the rights in Part III of the Constitution. The Congress government introduced the Amendment in the Constitution to abrogate the Golaknath judgement, as I explain below¹³⁸.

The legal implications of, and legal principles evoked to, regulate the press through Constitutional changes were pointed out even by those concerned about corrosive consequences of ownership. This was pithily worded by A.O. Mani – member of Press Commission, and editor of small regional newspapers run by a non-profit society – in his dissent note to the report of the Enquiry Committee on Small Newspapers. He cuttingly asserted that between the views of Press Commission and Supreme Court, the latter ought to prevail (GoI 1982:262). Watchful about the larger implications of regulating the newspaper business through a constitutional amendment, Mani reasoned:

(the) acceptance in principle of the Government's right to interfere, influence, and control the economy of newspapers; once that principle is conceded, it may be possible for future governments to extend the field of interference to bring into existence a State-controlled Press and such a Press would undermine democracy in the country. (GoI 1982:263).

The government's might in parliament in November 1971 had steamrolled the twenty-fourth Amendment to assert the supremacy of Parliament¹³⁹. The block of Communist parties, actively supporting government in parliament and outside through affiliated journalist unions, supported the amendment. Some of their firebrand leaders had long viewed the Constitution as a document drawn up by “representatives of princely houses and big business” (A.K. Gopalan, quoted in Mirchandani 1977:35). The press portrayed the Amendment as sweeping in ambit, and dubious in legality; it was opposed by many jurists, and the (last of the living) members who had drafted India's Constitution.

Despite the Supreme Court (partial) validation of the twenty-fourth Amendment in Kesavananda Bharati Case, the government was apprehensive

¹³⁸ For details of the 24th Constitutional Amendment, see <https://www.india.gov.in/my-government/constitution-india/amendments/constitution-india-twenty-fourth-amendment-act-1971>

¹³⁹ Closely in tow, the 25th Amendment in 1971 curtailed the scope of property rights, and of judicial review in such matters.

about using a legislation on press ownership to test the boundaries of this amendment – a move that would have squarely pitted parliament’s constituent power against constitutional power. Even earlier, Gujral was upfront that the government was not inclined to come into conflict with judiciary (Times of India¹⁴⁰). A Bill to delink ownership could complicate, if not upset, the delicate institutional frameworks. A dejected Gujral succinctly admitted to parliament that the endeavour to reform ownership was in trouble: “The whole question is being examined in the light of the Supreme Court’s judgment on the Newsprint Policy for 1972-73 and their recent judgment on the validity of 24th, 25th Constitutional Amendments” (Gujral in Parliament¹⁴¹).

Since the judiciary and specific provisions of the Constitution were seen as obstacles, MPs of the Left Bloc in the Congress Party proposed taking protection under the Ninth Schedule of Constitution to delink the press from businesses houses. The Ninth Schedule fortified a list of Union and State laws that could not be legally challenged on grounds of violating Fundamental Rights¹⁴². Thus, legal wrangles along the lines of the Sakal Case and Bennett Coleman Case could be circumvented, or so it was argued. But Minister Gujral vented possible constraints even in this approach:

So far as the 9th Schedule is concerned, my honorable friend will bear me out that it primarily deals with acquisition of property. It does not deal with Article 19 — freedom of the press or freedom of expression. Therefore, just putting anything which the Supreme Court has held to be covered by Article 19 of the Constitution, in the 9th Schedule does not solve the problem by itself. (Gujral in Rajya Sabha, 16 Nov. 1972).

In practical terms, government was not keen to implement delinking in a round-about manner: that is, by first acquiring newspapers owned by business houses, if at all tenable under the Ninth Schedule, and subsequently handing them over to a Trust or another entity. Thus, the government was disinclined to take on the legal responsibility, and associated reputational risks, of piloting a press ownership bill through either the twenty-fourth Amendment, or Ninth Schedule.

¹⁴⁰ ‘Motion to delink press ownership defeated’. *Times of India* 18 Aug. 1973, p9.

¹⁴¹ Reply to question on ‘Delinking of Press from business and industry’ by Inder Kumar Gujral in Rajya Sabha on 3 May 1973.

¹⁴² The Ninth Schedule was added to the Constitution in 1951 to fortify a list of Union and State laws. Under the provisions of Article 31, amended several times later, laws placed in the Ninth Schedule pertaining to acquisition of private property and compensation for such acquisition could not be challenged in court on grounds of violating fundamental rights. This shielded numerous laws passed by state legislatures since 1951 to regulate the size of land holdings and abolishing tenancy systems inherited from the past. For a brief, critical overview, see Noorani 2007.

6.4.3 Accordant Stakes in the Press

Both diffusion and delinking would reposition the balance of power among key actors in the press – namely, proprietors, investors, advertisers, editors, and journalists and their unions. For each actor, there were different implications. Diffusion threatened to reorganise power relations between the state and dominant sections of Merchant, Independent, and Congregational Press. Simultaneously, it would empower unions who, we recall, kept alive many recommendations of the Press Commission including those on ownership, incessantly highlighted the malaise of Merchant Press following various public inquiries during the 1960s, and campaigned hard for amendments in the Companies Act. On its part, delinking would limitedly reorganise the balance of power, impact only one type of actor in the press, and fend off risks of control by journalists and their unions. The one actor who felt adversely impacted by both options was Merchant Press.

Curbing “Rash Radicalism”

Ambiguity over the regulatory endeavour’s nomenclature, secretive scope, and procedural delays made it prone to distortions by parliamentary opponents, right from the outset. In November 1971, Dattopant Thengadi, MP of the political Right parliamentary party, Bharatiya Jan Sangh, and head of its affiliated labour union, felt the proposed ‘Press Bill’, “under the pretext of diffusing ownership, would concentrate ownership in the hands of government” (Times of India¹⁴³). Such claims gained currency when prominent newspapers projected the initiative as government’s backdoor attempt to take over the press. These claims were believable since a government-funded Newspaper Finance Corporation was also being discussed during these years, although it too remained on paper.

Nevertheless, the government deftly managed multiple interests implicated by the ownership regulation. This involved a politics of visibility where institutional access to one set of interests was sought to be balanced by reaching out to rival interests. Of course, each move provoked criticism by parliamentarians, and sections of the press, as per their leanings. When Prime Minister Gandhi interacted with editors of leading dailies on 11 May, 1972, a few MPs inquired if the government was thinking of shelving the regulation. But the Congress Party’s Campaign Committee on diffusion was busy canvassing support among unions. In parallel, Mohan Kumaramangalam, who had piloted the nationalisation of banks and steel industry, was handed the responsibility to steer the proposed regulation through Cabinet and parliamentary committees. Once a stalwart of the

¹⁴³ ‘Press Bill opposed’. *Times of India* 24 Nov. 1971, p.9.

Communist Party of India, Kumaramangalam had moved to the Congress Party in the late 1960s, and was an eminent and influential Minister.

MPs from both the Communist parties¹⁴⁴ had felt “monopolies” were scuttling the regulation. But for their loud and consistent advocacy on Ownership Bill, they argued against party newspapers being included in the purview of diffusion. The IFWJ was a vocal and categorical proponent of this position. Diffusion was not conducive to the wider Congregational Press, as it amounted to a party ceding ground to journalists in their newspapers, whether unionised or otherwise. Thus, the machinations of their affiliated political parties drove the standpoint of IFWJ. On the one hand, these parties wanted a say through their unions in the running of big dailies from Merchant Press; on the other hand, they were unwilling to cede control to the unions in their affiliated newspapers.

Merchant Press was inimical to diffusion of ownership or control. Intriguingly, even within some statutory bodies, there were apprehensions about political and ideological consequences of diffusion. This is blatant in the behaviour of Press Council of India, which set up a committee to study monopolist tendencies. Its chair, a retired judge of Supreme Court, Justice N. Rajagopala Ayyangar, was keen to safeguard the press against “rash radicalism” (GoI 1982-V2:403). This was a euphemism for a (possible) post-diffusion scenario wherein unions and journalists would have a stake and say in the workings of newspapers. To sidestep this scenario, Justice Ayyangar reached out to (Editor) Verghese and (Owner) Birla in 1970 to voluntarily create a trust or an editorial board of trustees. As explained earlier, Verghese’s positive views on the idea were initially supported, and later rejected by Birla.

There is an argument that political pragmatism, or on-ground practicality, was responsible for government’s backtracking on diffusion. The reorganisation of ownership could well lead to Trust-run newspaper chains operating across states (potentially) ruled by different political parties. These combines would thus be exposed to (even contrarian) pressures from state governments – rather than, as was prevalent, proprietors being primarily and directly vulnerable to central government. The added political unease was about governments dealing with journalist unions affiliated to rival political parties, not only to the Communists but those aspiring to sub-national and identify politics.

Multiplying this was an unease with diffusion placing influential newspapers under co-ownership and control of journalists’ unions – plausibly the ‘rash radicalism’ referred to by Justice Ayyangar. The rethink, manifest in the proposition of delinking, was motivated by ensuring that journalist unions are kept at a safe distance from editorial policy, and management. A commentator in

¹⁴⁴ In 1964, the Communist Party of India split due to ideological factionalism and leadership rivalry, leading to the birth of the Communist Party of India (Marxist); see Sharma 1978.

India's leading academic weekly astutely summed it: "The thinking of the Information and Broadcasting Ministry in New Delhi appears to be that it is easier to deal with newspaper proprietors than with journalist unions" (Nireekshak 1973). Underlying such a bent was the desire to curb the role of unions by both dominant actors, viz. the democratically elected government, and privately-owned combines. No wonder this made IFWJ and many MPs to allege a collusion between the government and press barons. When the voice vote in parliament on diffusion, moved by Hiren Mukherjee of CPI was defeated in August 1973, he reasoned the government was not categorical on its proclaimed commitment because its "links with big money are so strong" (New Age¹⁴⁵).

But the political establishment had made up its mind by reading (correctly, I suggest) the political economy of Merchant Press. The former realised that proprietors with large stakes in industry and trade were crucial allies in delivering its economic promises, but also vulnerable to patronage and leniency of the ruling dispensation. Government saw its interests effectively safeguarded by dealing with a handful of business houses owning newspapers, rather than having to juggle with a plethora of interests co-owning influential newspapers in the aftermath of diffusion. The well-respected Nikhil Chakravartty, editor of an independent weekly leaning towards the Communist Parties, sensed that for the political leadership, it was "easier to control five proprietors than 5,000 shareholders" (quoted in Jeffrey 1994:759).

Adversities of Delinking

Having fully grasped these overlapping stakes, the diffusion proposal was watered down. A media commentator observed in September 1973 that now "we hear only of plans to 'delink' the Press from business houses" (Banerjee 1973a). To be fair, much like diffusion, delinking would make the management squarely accountable for reportage. It could prevent editors and working journalists to explain away slants in reportage on count of the business houses that directly, or surreptitiously, owned newspapers.

But the very features that made delinking a climbdown from diffusion – preventing devolution of ownership and control in Merchant Press, and persisting with existing ownership structures in other quarters – were appealing to sections of the government and press. For Congregational Press, delinking was attractive on three counts: it did not impact their stakes; it bypassed devolving control in their newspapers; and, it dented the market power of Merchant Press. Simultaneously, delinking held three advantages for the government. Symbolically, it preserved the ruling party's moral high ground of introducing a

¹⁴⁵ 'Govt dithers on curbing press monopolies', *New Age* 24 Aug. 1973, p.16.

mechanism to distance editorial control from the clutches of big business. Politically, it assuaged allegations from opposition MPs about the ruling party wanting to control the press through the backdoor. Ideologically, it muted the capacity of Merchant Press to contest government policy, a central concern of the Monopolies Commission.

Thus, reformulating the regulatory initiative in terms of delinking was a smart mechanism to bypass re-distribution of power within the press. However, akin to diffusion, delinking ensured that business houses could influence reportage through other means. Two instances from the early 1970s testify this. One relates to subordinating the role and autonomy of the editor vis-a-vis management. In 1973, the *Statesman* altered its articles of association to empower the managing director, rather than editor – a change Gujral called “unfortunate” (*New Age*¹⁴⁶). The dismissal of Verghese, editor of *Hindustan Times*, by owner Birla was another noteworthy example. When this matter went to court, the judgement noted a proprietor “beholden to the Government” would be prone to dismiss an editor as a way of “placating the Establishment to further his business interest” (AIR 1976).

By relieving the exogenous vulnerabilities of newspapers, delinking threatened the autonomy and leeway of proprietors of Merchant Press. Whereas high-circulating dailies from the four actors in my typology would have to diffuse ownership, only Merchant Press was obliged to delink. This enthused the other three types, as delinking addressed merchant vulnerabilities. Second, delinking did not address extra-economic and media vulnerabilities that distorted news in, respectively, Congregational and Conglomerate Press. Thus, their editorial positions and reportage remained open to non-pecuniary and pecuniary incentives. Lastly, delinking enabled three of the four actors in the press (i.e. other than Merchant Press) to maintain organisational and decision-making structure, and keep journalist unions at bay. Consequently, constituents of the big press no longer stood as unified as they did while opposing Price & Page Act of 1956, and newsprint policy of 1972.

Sidestepping the normative desire of dispersing power, as sought through diffusion, delinking strengthened political interest inhabiting the press. This included not only Congregational Press but part of Independent Press with issue-based editorial slants. This was not favoured by proprietors of Merchant Press. Even a few years before delinking was proposed, it made noises about newspapers owned by politicians, or what the Monopolies Commission called “sectional affiliations” (GoI 1965a: 188). This assertion pointed to an inconsistency in delinking, i.e. distancing press from economic power but not political power. This position was aptly summarised in Birla’s negative response to his editor’s plea, as

¹⁴⁶ “The filth of the “free press””. *New Age* 14 Sept. 1973, p.16.

recounted earlier, of voluntarily creating a trust: “in case the socialists and communists could have their paper, why can’t industrialists” (GoI 1982-V2: 402).

By unevenly impacting the procurement of voice, delinking threatened to disturb the equations among news outlets owned by political, professional, and business elites which constituted the state in India. Shelving the idea involved entailed a *quid pro quo*: government refraining from distancing power in Merchant Press in return for the latter reigning in anti-establishment editors, and remaining quiet on political ownership and partisanship in the press. The spectre of delinking became a lever for government to tame Merchant Press. Thus, government’s backtrack on delinking maintained the existing consensus between the Fourth Estate and First Estate, and between Merchant Press and government.

Taken together, delinking would have reshaped the balance of power within the big press, and between political and business elites. In both reorganised equations, proprietors from Merchant Press were to lose out – the actors with whom the government was partnering with to realise some of its promises of industrial development. There thus appears a trade-off confronting the political establishment: on the one hand were the ideological challenges periodically posed to its legitimacy by Merchant Press; on the other were the material and operational incentives in maintaining partnership with a handful of proprietors. The government’s considered silence on delinking reflects the trade-off settled in favour of the latter, as was also the case with the prospect of diffusion.

6.5 Inferences

The first two regulatory moments examined till now reflect the broad political bent of the regimes of the times – the allegedly welfarist government of the 1950s, and the Left-populist government of the early 1970s. Consequently, we find the political character of the corresponding regulatory endeavours differed. The first was rooted in the politics of redistribution, in response to anxieties of market dominance, and expressly addressed dominant actors of Merchant, Independent, and Congregational Press. The second was rooted in a politics of re-appropriation, responding to the abrasive form of ownership organisation inhabiting Merchant Press, and therefore largely addressed this section.

Unlike the first moment, the regulatory aim in the second moment was not to mitigate competitive malpractices, but to specifically ameliorate vulnerabilities (perceived to be) dogging Merchant Press. This is not to suggest that the government was not bothered about equalising the dispersion of voice. But that it

chose to do so by equalising terms of competition between dominant actors who relied on different types of cooperation.

Unlike the thin body of evidence on the extent and nature of concentration generated in the first moment, the second moment relied on a wide body of evidence on practices in the press, on the conduct of big business, and on the impact of the conduct on practices. However, since the policy options of diffusion and delinking were conceptually vague, the normative critique of undesirable forms of ownership organisation could not be coherently translated into tangible, comprehensive, and workable regulatory mechanisms.

In my opinion, both options were not well thought through. And neither would have been helpful if the aim was to curtail monopolistic revenues, and source and content diversity in the press. Their conceptions ignored that business houses could influence Trust-owned newspapers, and those separated from their organisational clutches, through their large advertising spend. Moreover, the normative underpinnings of both options failed to recognise compulsions of political economy, as successive governments forged transactional relationship with big business.

This is not to underplay the endeavour impaired by the confluence of interests between the state and Merchant Press which, undoubtedly, had the most to lose in any reorganisation of ownership. Diffusion would have resulted in creating another power centre, and compelled the political establishment to deal with unions, including those affiliated to rival political parties. This would complicate the government's ability to protect its interests in the press, which were more easily achieved if it dealt with a handful of proprietors owning high-circulating newspapers, owned by either Independent or Merchant Press. Delinking would wilt the state's hold over those proprietors of influential newspapers, whose other businesses were contingent on state's leniency or patronage. It would have severely dented Merchant Press, and proved advantageous to Congregational and Independent Press. There were multiple trade-offs to maintain a consensus in state-press relations, and equations within dominant sections of the press, and this was achieved through considered silence marking the regulatory endeavour.

Given the incentives to maintain the status quo, and the minimal incremental gains of regulatory change, government did not see reorganisation of ownership worth the legal and constitutional entanglements involved. The legal path dependencies imparted by Sakal judgement contributed to these tangles; it was (one of) the basis of the Bennett Coleman judgement on a related matter that, in turn, made the government apprehensive to reform press ownership. Any challenge to a prospective regulation would neatly leverage both the right to free speech and right to conduct business that were protected under the Constitution. The ruling Congress party was equally wary of reforming ownership in a round-about manner, i.e., by acquiring newspapers from Merchant Press, and then, if

legally tenable, transferring them to a Trust or another entity. Thus, given the weight of legal path dependencies, and the delicate matter of parliamentary supremacy, the Congress Party was unsure whether further economic regulation of the newspaper business would be upheld by judiciary.

The regulatory silence on Ownership Bill augmented the presence of Merchant Press in the following years. By the end of the 1970s, such quarters came to seize 40 percent share of total circulation in India (GoI 1982: 141). I will get back to the long-term implications of this development in the next chapter.

Chapter 7

7 Regulating Cross-Media Ownership, 1995-2005

While the first two moments in the regulatory history of ownership pivot around the newspaper business, the third moment relates to the business of TV news. This followed the reformulation of TV news from a public service monopolised by the state to an arena of commerce comprising a plethora of non-state actors. From the early 1990s, a fresh set of circumstances cradled this expanded sphere of the new media: an institutional milieu rendered by technology, an ideological milieu propelling deregulation, liberalisation, and trans-nationalisation, and an economic milieu comprising traditional and nascent actors in the news media. These circumstances broadened the realm of the press, from one defined by print news alone to that spawned additionally by TV news.

By the end of the 1990s, the landscape comprised two types of actors: those in the newspaper business, and those incubated by the advent of privately-owned TV news outlets. The confluence between traditional and nascent actors triggered regulatory debates on cross-media ownership – the third vector of ownership this dissertation deals with. Delving into this regulatory challenge provides me a methodological opportunity to traverse a medium-centric approach to examine the press – i.e., one not preoccupied only with print or TV news. Examining the accumulation of power across these two sectors allows me to more robustly claim *incremental* risks to diversity, distribution of voice, and accountability.

The chapter begins by outlining key developments in the news business in the decades following the Ownership Bill of the early 1970s. I spotlight two striking continuities: persistence of specific forms of ownership organisation, and reconfiguration of actors responsible for concentration. Thereafter, I show how incremental deregulation and marketisation in broadcast policy incubated private actors in TV news. Recalling them helps identify the inter-related stakes inhabiting the expanded realm of the press at the turn of the century. This matter was periodically expressed by quarters of government, the press, and even business during the 1990s.

All through the 1990s, I find that windows of opportunity to mitigate the spectre of cross-media ownership was marked by policy silences, as narrated in this chapter's second section. Despite intense debates and sporadic attempts to

hone institutional capacity – most prominently, the desire and directives to create a broadcast regulator – successive governments refused to address accumulation of interests across the two sectors of the press. The ‘*Guidelines for Uplinking of News and Current Affairs TV Channels from India*’ of March 2003, the de facto licensing framework for private TV news, and the key instrument defining the third moment, was a significant window of opportunity to guardrail against cross-media ownership. I will demonstrate the licensing framework was flawed, both procedurally and substantively: it was operationalised in an ad hoc manner, and embodied silences implicating all aspects of news ownership, including cross-media ownership.

In the last section, I explain the hindrances to regulate cross-media ownership through three *levels of analysis*: the particular logics and renditions of deregulation, competition, and marketisation that gained currency in TV policy; interest aggregation by dominant actors that brushed aside concerns related to the aspect of horizontal ownership; and, path dependencies and policy silences marking the institutional framework cradling TV news.

The imaginations of ‘Broadcast Reform’ honed by the neo-liberal turn during the early 1990s disdained state intervention in the deregulated space of TV news. This is noteworthy since this space attracted not only dominant interests from the newspaper business but over time sundry political, industrial, and agrarian elites – i.e., the set of dominant interests constituting the state (see Bardhan 1984, Kaviraj 1988). Procuring voice (additionally) through the expanded sphere of the press was necessary for these interests to maintain, and/or augment commercial and ideological stakes in the news media. This necessitated them to marginalise, if not stamp out, any apprehensions of cross-media ownership in regulatory debates.

I observe the long shadow of the first two regulatory moments muting the desire and feasibility to address cross-media ownership. This is due to the legal path dependencies imparted by the previous moments, and the consolidation of power in the press due to the ineptitude of earlier regulatory endeavours. This is why the myopic provisions of the Uplinking Guidelines of 2003 (and its subsequent amendments) failed to tackle not only cross-media ownership but concentration and ownership organisation.

7.1 Preconditions for Horizontal Integration

The defining development in the press in the years after the Ownership Bill is stoutly captured in the trope of “India’s Newspaper Revolution” (Jeffrey 2009). However, the new actors piloting this revolution were in the lineage of Merchant

and Conglomerate Press. Not only did it replicate the existing dominant forms of ownership organisation, it reinforced inherited relations of power. In this section, I conceptualise this set of new actors as *subdominant press* to help my analytical pursuits: qualify contentions of ‘de-concentration’ propagated in this massively popular trope, and reason why dominant forms of ownership survived the ‘revolution’.

Almost running parallel to the revolution was a series of developments and transformations, framed as “Broadcasting Reform” (see esp. Price & Verhulst 1998). This refers to deregulation within the public broadcaster, and the eclipse of its monopoly, first by trans-border broadcasters and then by non-state actors from within India. I will unravel how and why non-state interests surfaced, and their associations with actors in the newspaper business, and ties with interests in wider industrial and commercial economy.

This section provokes readers familiar with scholarship on India to reconsider standing narratives of changes in the newspaper business and that of the emergence of TV news. Apprehending the newspaper revolution and broadcast reform together helps me to foreground the converging stakes within the news media by the turn of the century. It is this that aroused debates around cross-media ownership, as I present in subsequent sections.

7.1.1 Underbelly of the “Newspaper Revolution”

At the heart of Jeffrey’s influential thesis of newspaper revolution was the massive increase in circulation of newspapers, and changes in their dispersion during the last quarter of the twentieth century (2009 *passim*). The latter was reflected in trends of de-concentration: decrease in circulation share of newspapers published from large cities; decline in unevenness of share between English and regional language newspapers; and, decline in share garnered by combines from the metropolitan press (see Nair 2003). Driving all this, Jeffrey correctly asserts, were newspapers owned by proprietors of regional language press, as opposed to those from the dominant metropolitan press. Thick studies of the Hindi market reveal expansion in circulation and dispersion marshalled by a new set of actors in linguistically defined press – regionally-owned newspaper combines operating in specific linguistic markets (see Stahlberg 2002, Neyazi 2011).

Arguments about the internal dynamics and implications of the revolution will benefit from a sharper conception of the new set responsible for it. This will, in turn, help to better appreciate two implications: changes in volume and dispersion of dominant voices (concentration), and reformulations in the types of interests procuring voice (ownership).

As an interest group, the salience of regionally-owned combines is profitably conceptualised through the notion of “subdominant” – i.e., regionally dominant sections of society with their geographically limited claims to power and authority,

(thereby) lacking the cultural capital and commercial mobility associated with Anglophonic metropolitanism (see Lelyveld 1994). Thus, '*subdominant press*' – as I christen the new set of actors – comprised sub-national and regional voices muffled in previous decades by the organizational and financial might of metropolitan combines, i.e., erstwhile 'big press'. It is the subdominant press that propelled the expansion in circulation, and dislocated the structure of regional (language) markets captured in the trope of India's 'newspaper revolution'.

Conceptualising this new group as 'the subdominant' helps me to spotlight two noteworthy continuities despite the revolution: prevalence of the phenomenon of 'big press,' and (resultant) persistence of the malaise of ownership organisation and concentration, grappled with by the first two regulatory moments. The subdominant press was responsible for continuities.

First, the revolution essentially signified an expansion of the 'big press' phenomenon into non-metropolitan (smaller cities and towns) India. It therefore marked the emergence of regional renditions of Merchant and Conglomerate Press in metropolitan areas. Not surprisingly, the ownership organisation, and therefore the vulnerabilities, of leaders in subdominant press were strikingly similar to those in metropolitan press. I feel it will be worthwhile to follow up whether these dynamics might call for transformations during this period being re-framed as the 'Newspaper Counter-Revolution'.

Second, the ascendancy of subdominant press altered conceptions of diversity inhabiting the report of Press Commission of 1954, and reiterated in report of Second Press Commission of 1982. While the revolution pacified anxieties of linguistic, geographical, and content diversity, it maintained ownership anxieties identified by these reports. While the revolution reformulated prevailing notions and measures of concentration, it reinforced and widened the extent to which ownership vulnerabilities marred the press.

Figures of De-Concentration: Elements of Change

The quality of growth in circulation can be weighed along several axes: geographical axis or the urban-rural share; linguistic axis or relative share of linguistic markets; and, ownership axis or share of subdominant press.

The urban skew in geographical concentration was reversed¹⁴⁷; this was due to combines printing and producing newspapers in smaller towns in regional languages (Jeffrey 1994:761). In south India, the altered production organisation of a Telegu newspaper, *Eenadu*, epitomised this transformation.

Eenadu in 1993 published from seven centres, each of which produced its own distinctive twelve or sixteen-page broadsheet. In addition, each

¹⁴⁷ Whereas in the early 1960s, the largest urban centres (metropolitan India) accounted for about 45 per cent of all daily circulation, this reduced to 24 per cent by the mid-1990s; Nair 2003: 4184.

centre since 1989 has been responsible for five or six surrounding districts, and into each broadsheet each day goes an eight-page, tabloid-size "district daily" for the district in which the broadsheet is sold (Jeffrey 1997a: 75-76).

In north India, spatial de-concentration was most pronounced in the Hindi market; the term "localisation" was adopted to describe this trend in *Dainik Bhaskar* (Neyazi 2011: 76-77).

The second axis affected the relative circulation across language markets, or inter-regional dispersion of newspapers. In the 1960s, Maharashtra, West Bengal, Tamil Nadu, and Kerala accounted nearly 60 percent of national circulation; this fell to 27 percent by the late 1990s, indicating increased access and consumption in other linguistic markets (Nair 2003:4184).

The ownership axis reflected an altered balance of power between rival high-circulating newspapers. The largest circulating non-English dailies in regional markets were no longer owned by metropolitan combines; rather, they were owned by the subdominant press (see Nair 2003, Jeffrey 2009). Nair has deftly shown that by the 1980s, Hindi, Marathi, Gujarati, Tamil, Telugu, and Kannada newspapers from the *Indian Express* combine no longer led circulation in their respective linguistic markets (Nair 2003)¹⁴⁸. In some markets, even English dailies from subdominant press overtook established metropolitan press – such as in Hyderabad, where *Deccan Chronicle* displaced *Indian Express* (GoI 1982:142). This leads Nair to contend that the press was "broad-based" by this reversal in market share: it widened the commercial and cultural geography of newspapers, and altered the composition of dominant combines in these geographies (Nair 2003:4184). Thus, unlike during the years of Ownership Bill, by the 1980s, dominant combines were no longer only those owned by metropolitan press but included some from regional press.

Advertisers were quick to sense the correspondence between the declining circulation of metropolitan press in regional markets, and rise of competing dailies from subdominant press. The re-organisation of advertising was perhaps least along the geographical axis, and most along linguistic and ownership axes. The localisation of production provided large actors in subdominant press a double commercial advantage. Their 'embeddedness' attracted hyper-local capital, and/or advertising, something less undertaken (or feasible) for their competitors from metropolitan press. The geographical penetration of subdominant press enabled it to compete with advertisers on TV wanting to reach newer, possibly first-time, consumers/audience in India's hinterland. Succinct explanations of the re-dispersion of advertising revenues point to regionally embedded subdominant

¹⁴⁸ Epitomising this transformation were the Telegu daily, *Eenadu*, in Andhra Pradesh, and the Marathi daily, *Sakal*, in western Maharashtra; see Jeffrey 1997c, 1997d.

press, and trans-regionally ('nationally') operating advertisers having "discovered" each other from the late 1970s (Jeffrey 1997a: 69).

Beneath this incisive contention, I find three discomfiting traits. One, advertising revenues garnered by metropolitan press remained far higher than subdominant press. This was due to disposable incomes of readers of the latter remaining far lower than those in India's four largest cities, the core market of metropolitan press. Two, advertisements rather than subscriptions dominated gross revenues of subdominant press. A representative from Everest, the agency marketing *Eenadu*, was candid to state that their aim was to create advertisers rather than readers (Jeffrey 1997c: 73). I therefore infer that the relative de-concentration in circulation catalysed by the revolution was accompanied by commercialisation in subdominant press. The third discomfiting trait is that different newspapers constituting the subdominant press reflected unequal capacities and opportunities. Only a handful of tactful regional owners managed to leverage national and hyper-local advertisers – much like a handful from the metropolitan press had captured bulk of advertising during the 1950s (*Cf.* Chapter 5: s5.2.2). Thus, the spectre of concentration in the market-share of advertising, both within subdominant press and by metropolitan press, was not substantially dislodged by the revolution.

Dynamics of Ownership: Continuity in Change

The above discussion warrants a few qualifiers that are central to the narrative of revolution. First, the altered balance of power between metropolitan and subdominant press was limited to one facet of market power, share of circulation. Despite the subdominant press's increasing income from advertisements, it garnered a small *share* of national advertising revenues – compared to that mopped up by metropolitan press. Second, the relative growth of advertising revenues in subdominant press widened commercialisation and advertising-dependency. Third, members of subdominant press who successfully marshalled an advertisement-oriented strategy possibly employed anti-competitive means. These mechanisms were likely to be similar as the ones adopted by sections of big press in metropolitan press, as observed by First Press Commission 30 years ago.

These three qualifiers, in turn, provoke us to rigorously examine the underbelly of the revolution – in particular, the profile of owners and popular forms of ownership organisation between the late 1970s and mid 1990s. Here, we refer back to my typology of actors (*op. cit.* p.70, Table 2): viz. Independent Press; Merchant Press, owned by industrial or mercantile groups; Congregational Press, owned by politicians and political parties; and, Conglomerate Press, owned by companies present in non-news sectors of media business.

From the 1970s, leading members of the traditional Merchant Press gradually exited non-news activities. For some, newspapers became the largest operating

units, when their industrial ventures failed or fell apart – such as with BCCL, an undertaking of Sahu-Jain (earlier Dalmia-Jain) Group (see Malhan 2013: 33). Exiting from non-media enterprises, they became part of Conglomerate Press. They launched new titles, including in non-news genres, in multiple languages. The third-generation heir of BCCL, Samir Jain, who was unsuccessful to revive the group's New Central Jute Mills in the 1970s, focussed to heighten the commercialisation in, and gradual conglomeration of, the group's news and non-news media undertakings (Malhan 2013 *passim*).

BCCL's principal rivals were the resilient actors from Merchant Press. Among them, Birla Group still ruled the roost. This ensured the key anxiety from earlier decades – namely, big business leveraging large and influential newspapers to further commercial interests, and influence the political sphere – continued during the 1980s. A noteworthy entrant during the early 1990s was the fast-rising Reliance Industries Limited which, within a decade had diversified from textiles to petroleum (see Hamilton 1999).

Contrary to expectations from a 'revolution', which signifies change, the dominant entities in subdominant press had similar ownership structures as those leading the metropolitan press. But the cheerleaders glossed over merchant, conglomerate, and congregational interests, that marked metropolitan press, being onerously reproduced in subdominant press. During the late 1970s, of the total circulation garnered by top 50 newspapers, over 40 percent was accumulated by Merchant Press; 9 percent was with entities "owned or controlled by companies or families or individuals or groups of individuals with primary interest in newspaper business", i.e., Conglomerate Press (GoI 1982:141).

Within subdominant press, newspapers owned by regional politicians were prominent; many that were once part of Independent Press were acquired¹⁴⁹. Similarly, subdominant press comprised regional renditions of large newspapers in the metropolitan press. Take, for instance, *Dainik Jagran*, launched before 1947 and operating as a chain across the Hindi market. Long dwarfed in circulation and reputation by titles from metropolitan press, it became India's largest circulating Hindi daily by the end of the 1990s. Explanations of this geometric transformation point at its operational strategy of launching editions across cities and states in the Hindi market (see Stahlberg 2002), and editorial strategy of aligning with the then rising political forces of Hindutva (Gupta & Mukul 1996 *passim*).

¹⁴⁹ Two newspapers from Congregational Press that augmented their circulation and operations during the newspaper revolution are noteworthy: *Sakal* in Marathi, which by then was acquired by the politician-family of the Pawars; and, *Hitavada* in English, owned by Banwarilal Purohit who began his life in the Congress Party before moving to the Bharatiya Janata Party.

The subdominant press also included regional renditions of metropolitan Merchant Press; that is to say, newspapers owned by business groups largely operating in India's regional commercial geographies. The rise of regional capitalist class in the 1980s contributed to the ascendancy of subdominant press (see Baru 2000); this fractured the power to influence public opinion hitherto held almost solely by regional language editions of metropolitan press. No doubt, these new business groups were modest in financial size and areas of operation compared to national 'big-business'. However, like their metropolitan peers, the former straddled a varying mix of manufacturing, trade, and usurious activities. A striking example is Sahara Group, which had its origins in the shifty business of informal credit during the 1980s. An exemplar of tenuous capital, it rapidly grew to establish factories across Hindi-speaking states, and launched an airline when aviation was de-regulated; somewhere in between it became a newspaper combine, with multi-edition newspapers in Hindi, Urdu, and English.

For the purpose of this chapter, we need to find ways to weigh the changes in the business of print news?

We must be mindful of the new actors spawned by the newspaper revolution, subdominant press, being embedded in regional political economy. This afforded them several competitive strategies: tap dormant regional capital, bolster existing newspapers, expand editions, and/or launch new ones; attract brands and advertisers looking for new consumers beyond metropolitan centres; and, align with regional political interests to benefit from their patronage. The bigger picture following the revolution illustrates that the malaise dogging the press did not subside but was reformulated in different forms.

First, the subdominant press reproduced merchant, conglomerate, and congregational traits marking the extant metropolitan press. While the newspaper revolution dislodged dominating actors from metropolitan press in regional language market, it did not dislodge dominant forms of ownership organisation. It did not foster, as a seasoned editor hoped, "a widely held, independent and viable newspapers" (Chopra 1980:1656).

Second, the revolution reformulated the profile of the giants across the press; leaders of subdominant press replaced, or joined, those from metropolitan press as the fountainheads of concentration. The changing patterns of circulation in regional language markets did not dilute the spectre of concentration but implanted new actors responsible for it. In cases where a duopoly emerged, both rivals were from subdominant press – *Dainik Jagran*, and *Dainik Bhaskar* in parts of the Hindi market.

From a regulatory perspective, threats that the earlier two moments grappled with did not subside. The persistence of risks from concentration were akin to anxieties of market power in the 1950s; similarly, reproduction of dominant forms of ownership organisation in subdominant press reminds us of debates on

diffusion and delinking in the early 1970s. In fact, the project of delinking ownership to free the press from exogenous business interests remained hanging during the 1980s, despite the occasionally probing parliamentarian (Jha in Parliament¹⁵⁰). There is thus an argument that the ascendancy of subdominant press was enabled by the inability to curb market power (late 1950s), and/or regulate ownership organisation (early 1970s) – matters that I dealt with in the previous two chapters.

Now, market power and ownership organisation in metropolitan and subdominant press directly implicated the expanded sphere of the press, about to explode with private news broadcasting. To appreciate this, we turn to the trajectory of ‘broadcast reform’. Interestingly enough, the temporal span of this trajectory overlaps with decades of newspaper revolution.

7.1.2 “Broadcast Reform”: Fonts of Deregulation

TV broadcasting was cradled as a national, centralised, and public-funded enterprise. This guided state investment in *Doordarshan*, public TV service, and *Akashwani*, radio arm. Public investment drove Doordarshan’s in-house programmes from its commencement in 1959, and augmented its infrastructure of terrestrial broadcasting. These foundational practices, and their underlying ideas, were morphed from the early 1980s, and incrementally displaced during the 1990s by various tropes of ‘Broadcast Reform’, such as deregulation, privatisation, and liberalisation. Two significant features of broadcast deregulation: first, they were heralded through a combination of regulatory gradualism, stealthy moves, and policy silences. Second, they were exercised within and beyond the institutional confines of public broadcaster to explicitly and implicitly nurture non-state actors. These private actors increasingly supplied programming to both the public broadcaster, which retained its monopoly over terrestrial transmission, and transborder broadcasters (some of them Indians) operating in the cable-and-satellite mode. Their appetite tempered subsequent contours of Broadcast Reform, thereby implicating the expanded realm of the press, as subsequent sections show.

Contending Values

The foundational values shaping television broadcasting go back to introduction of radio as a public service in 1935 in colonial times (see Lelyveld 1994). These prompted broadcasting to contribute to the goals of education, health, and agricultural extension. Appended to these, when terrestrial broadcasting was introduced as a state monopoly in post-colonial decades, were those of

¹⁵⁰ Question by Shiva Chandra Jha in Parliament on 21 March 1983.

modernisation and nation-building (for instance, Narayan 2013, *Cf.* Pendakur 1989: 179-184). But rural access to television remained minimal across the country until 1980 (GoI 1982: 183). Thus, much like the scenario in the print press before the newspaper revolution, access to the public broadcaster's transmissions was primarily an urban phenomenon.

Starting from the 1980s, the foundational values of television broadcasting were challenged. One ascendant value denting its public service moorings was commercialisation. After advertising was introduced on Doordarshan in 1976, under the garb of a 'mixed model,' there was a concerted move towards advertising-funded entertainment programming, including those commissioned from private producers. However, until the start of the 1980s, Doordarshan was not yet a competitor or alternative to newspapers in "advertisement pull" (GoI 1982:31). Nevertheless, the emphasis on entertainment led to television policy additionally embodying the realm of culture. This resulted in pluralism being pushed as a central value in policy circles (see GoI 1985; also Joshi 1989: 189-213). Yet, the overwhelming share of programming remained in Hindi; a fraction was in English, largely comprising imported teleserials.

The emphasis on pluralism did not extend to altering the language of news bulletins; these remained in Hindi and English, thereby masking the vast 'demand' in regional languages. Addressing this demand had to wait for another idea, decentralisation, which complemented pluralism. The policy makers reimagined Doordarshan's regional stations (once limited to four metropolitan centres) from being merely retransmission nodes to programme production centres, including in languages other than English and Hindi. Furthermore, the federal impetus in India's polity during the 1980s influenced a more generous imagination. The plea was to allow states (many ruled by political parties that did not share power at the centre) to commence broadcasting services in their regional languages. Noteworthy was a call by the Chief Minister of a state in south India, Ramakrishna Hegde, for linguistic regionalism in public broadcasting. Asserting the rights of states within a federal set-up, this view insisted that central government's monopoly over broadcasting was "not in keeping with the spirit of the Constitution" (Hegde 1986: 49)¹⁵¹.

The fledgling normative discourses of decentralisation and pluralism were tempered by the ideological discourse of national integration – whose economic and political derivative, nation-building, aligned with public service model of broadcasting. This was manifest in "national programming", whereby regional stations were mandated to carry the same during certain time-bands in the

¹⁵¹ This could additionally be seen as an attempt to render a devolution in media policy along the lines of devolution of certain administrative powers by state governments to Panchayats (village associations), the lowest administrative tier of governance in India.

evening (see Rajagopal 1993, Pendakur & Kapur 1997). The desire to carve out a uniform audience space, on the back of giving some room to regional programming, turned out to be a double ideological project. Content broadcast during national programming time-slot was overwhelmingly produced (or acquired) by Doordarshan's headquarters in New Delhi, and remained in Hindi and English. Since this slot attracted the largest audience because of its timing in the evenings, and was therefore most appealing to advertisers, it came to define 'primetime'. Thus, national programming initiated to institutionalise a political idea willy-nilly came to ingrain the market idea.

Gradualism and Silences

The moves towards a 'mixed model' in television policy, including commercialisation, mirrored earlier developments in other countries (see McQuail 1995). Numerous policy options exercised while expanding broadcast infrastructure and programming were tinged with commercial motivations.

The migration from black-and-white to colour transmission on Doordarshan's sole channel sought to enhance advertising experience – as a former Secretary of the Ministry of Information and Broadcasting (hereafter, MIB) frankly recalled (see Gill 2004). Manufacture of TV sets, once the monopoly of public sector enterprises, was 'opened' to private ones, and included assembling imported TV kits. Augmenting the infrastructure of terrestrial broadcasting was directed at rapidly expanding the number of transmitters across the country (Singhal & Rogers 2006: 65-67, *Cf.* Pendakur 1989). Although the apparatus of public broadcasting was limitedly decentralised through regional transmissions, terrestrial transmission remained the sole technological model. Neither infrastructural expansion nor its decentralising fragments explored other means of distribution, such as wired (cable) or wireless (satellite) distribution.

Programming policy also experienced a well-orchestrated push towards commercialisation. Advertising-funded entertainment programmes populated specific time-bands. While initially produced inhouse, they were soon outsourced to private producers; *Doordarshan* retained the monopoly over advertisements accruing from commercialisation of 'airtime'. The second half of the 1980s witnessed a decisive shift to address television audience as consumers of advertised products. First, advertisement-driven programming received abundant broadcast time. Second, more private producers were commissioned to produce more (audio-visual) magazines and interviews on topical and artistic themes; but news bulletins remained the sole preserve of Doordarshan. Third, the start of 'sponsored programming' altered Doordarshan's business organisation. Earlier, the public broadcaster raised advertising (and retained earnings) through programs commissioned to private producers; now, under the sponsorship regime, private producers financed productions through advertisements they

raised, and paid a fee to the public broadcaster (also see Pendakur 1990). This structural transition, from commercialisation of airtime to managing a business of airtime sales, was geared to monetise the public broadcaster¹⁵². These trends intensified on *DD Metro*, Doordarshan's second terrestrial channel launched in 1989. The footprint was limited to four metropolitan cities, since the higher-income households were the prime-target of advertisers – akin to that of advertisers in metropolitan newspapers. By 1991, there were demands for the second channel to be expanded to include regional language telecasts (Thomas in Parliament¹⁵³).

As may be evident by now, policy options exercised in this early phase of broadcast reform provided increasing space to non-state actors without disturbing traditional institutional frameworks – be it the organizational confines of the state-led mixed model, administrative and financial edifice of the government-managed public broadcaster, or technological precincts of terrestrial broadcasting. There is a convincing view how such commercialisation and quasi-privatisation were driven by governments keen to reduce its funding commitments, while harvesting increasing revenue from advertising, and maintaining political control over *Doordarshan* (Greeves 1994: 7, Gill 2004: 64). Terrestrial transmissions provided the basis to maintain the coherence of this national enterprise, lest any centrifugal technology fragment the uniformity of a unified broadcasting space.

Despite this judiciously designed, unabashed commercialisation of the public broadcaster, producing news bulletins remained within its control.

By the early 1990s, a palpable set of regulatory silences started to blotch broadcast reform. The government chose not to respond to the trend of Trans-Border Broadcasters (hereafter TBBs) transmitting signals from other jurisdictions into India, such as by global majors like CNN, Disney, and BBC. Nor did the government respond to Indian TBBs in regional languages, such as *Zee* (Hindi), *SUN TV* (Tamil), and *Asianet* (Malayalam). Transmissions from overseas and devices to receive signals (satellite 'dish' and cable headends) were, strictly speaking, illegal. Interestingly, government's tacit encouragement to such services often put cable operators in a fix, as they found the situation "of being neither legal or illegal to be quite confusing" (Dayal 1992:4).

Like in China, TBBs in India evoked anxieties of 'cultural invasion' from outside (see Parthasarathi 2010). The then leader of the opposition in parliament described the electronic media as being "under considerable assault from the

¹⁵² An adverse fallout of this was the decline in rural-oriented programming by the end of the 1980s; see Rao 1999.

¹⁵³ K.V. Thomas during debate on 'Varadan Committee on Electronic Media' in Lok Sabha on 25 Nov. 1991.

skies” (Advani in Parliament¹⁵⁴). Despite such rhetoric, there were clear institutional, populist, and fiscal motivations underlying policy silences towards TBBs (also see Menon 2011). Any de jure regulation, some scholars argue, could appear contrary to government’s discourse of a liberalised regime (Shields & Muppidi 1996: 1-2). Others postulate that curtailing TBBs risked alienating the urban upper middle-class homes, cheerleaders of deregulation and liberalisation in the wider economy, which invested in reception devices to satiate their pangs for foreign entertainment (Sinclair & Harrison 2004). Still others see this policy silence as aimed at not disturbing fiscal revenues from increasing advertisements on TBBs’ channels (McDowell 1997). While they may be all true, the incentives to maintain a regulatory silence trumped concerns by the odd parliamentarian about advertising on TBBs such as *Zee TV* and *Star TV* “draining” what in those days was precious foreign exchange (Mitra in Parliament¹⁵⁵).

This regulatory silence was a considered decision, since it successfully accomplished three inter-woven goals of wider economic ‘reforms’. The first was to liberalise global trade, accomplished by turning a blind eye to import of products – which was what inward transmissions through TBBs effectively amounted to. This eclipsed *Doordarshan*’s position as the sole broadcaster, thereby realising the second goal of de-monopolising economic activities: marginalising the role of state enterprises. The third goal, normalising the values of choice, competition, and marketisation was achieved by pushing *Doordarshan* to compete with non-state actors (TBBs) on the latter’s terms. Thus, *Doordarshan* was left to vie with TBBs for advertising revenues, outsourced content, and commercialised programming cycles. This carefully-crafted framework signified ‘reform by stealth’, as inferred about neo-liberal deregulation more generally in India during the 1990s (see Jenkins 1999¹⁵⁶).

In a roundabout manner, the judiciary legitimised TBBs in its momentous ‘airwaves judgement’ of 1995. The matter before the Supreme Court originated in two cricket boards selling broadcast rights of a tournament to *ESPN*, a Disney subsidiary and one of the TBBs. The boards went to court when MIB barred *ESPN* from uplinking from India, preventing live transmission of cricket games. The Court invoked constitutional and normative grounds to reason against the continuation of state monopoly in broadcasting. Since the public broadcaster used

¹⁵⁴ L.K. Advani during debate on ‘Varadan Committee on Electronic Media’ in Lok Sabha on 25 November 1991

¹⁵⁵ Question by Ashok Mitra in Rajya Sabha on 1 Aug. 1995 <https://pqars.nic.in/annex/174/Au199.pdf>. While this “drain” did lead the government to briefly mandate Indian companies to finance their advertising on TBBs through their export earnings (Page & Crawley 2001:266), there was no significant step to curb TBBs.

¹⁵⁶ Jenkins’ is a sophisticated proponent of the view that wider economic reforms in India during the early 1990s could only occur through stealth. This thesis was subsequently twisted by others to legitimise further neo-liberal reforms with such sneakiness, Panagariya 2008:78-94.

terrestrial frequencies only, it reasoned satellite frequencies were “available for transmission” by other entities (AIR 1995: para 48), thereby sanctifying their use by non-state actors.

Distinct from the judiciary’s grounds for the de-monopolisation of broadcast frequencies, parliament and executive were ideologically committed to deregulation and liberalisation. They responded to TBBs by designing strategies to extract benefits offered by this scenario while fortifying state interests. They leveraged the commercial opportunities of an advertising-driven multi-channel milieu, while protecting the state’s commercial, financial, and fiscal stakes.

Three sets of interventions illustrate this strategy, one each in the spheres of broadcast distribution, broadcast programming, and satellite transmission.

Unlike the TV broadcast segment comprising TBBs, the concomitant TV distribution segment comprising cable operators was within the state’s jurisdiction. The Cable Television Networks Regulatory Act, 1995, imposed taxes on the hitherto ‘illegal’ cable distributors at rates upwards of 35 percent; it mandated that operators carry terrestrial channels of *Doordarshan*. This ensured that public broadcaster’s offerings reached cable homes, thereby protecting its advertising revenues in a multi-channel milieu. Furthermore, the Act capped foreign equity in the cable business at 49 percent. This was the earliest indication of containing the role of transnational actors in the value chain of broadcasting, examples of which we will come across later in this chapter.

On its part, Doordarshan launched a slew of channels in both terrestrial and satellite modes. Many were in regional languages to compete with TBBs like Asianet and SUN. This amounted to, as Page and Crawley neatly summarised, taking “the battle to the camp of their rivals” (2001: 268). The public broadcaster devised commercial arrangements with TBBs such as MTV, CNN, Disney, and Nine Network to supply a palette of programming directed at urban audiences. Thus, Doordarshan not only mimicked its transborder competitors but the former became “a conduit” for some of the latter to reach lucrative audiences (Pathania 1998:66).

In December 1995, India launched the Insat 2C satellite with a wider footprint than previous satellites. Besides 12 transponders on it allocated to satellite (i.e., non-terrestrial) channels of Doordarshan, five were to be leased to private broadcasters. This move was significant for two reasons. One, Doordarshan did not need to hire foreign satellites, saving US\$182,500 annually (Singh in Parliament¹⁵⁷). Two, Insat 2C could compete with rival satellites, which were sought by TBBs to broadcast elsewhere in Asia – that is, in areas not competing for advertising with *Doordarshan* (Shields & Muppidi 1996:17). Thus, the state

¹⁵⁷ Answer by the Minister of State for Information and Broadcasting, K.P. Singh, to question 271 by K. Rahman Khan in Rajya Sabha on 1 Aug. 1995.

extended its liberalisation drive to satellite policy to harvest international revenues through crucial public infrastructure.

Altogether, state interventions in distribution, programming, and transmission attest to a particular rendition of broadcast reform. These elements ideologically reinforced a policy of guided deregulation, unbridled marketisation, and conditional liberalisation within Doordarshan, and in the entire broadcasting milieu.

Ascendent Actors

The years of broadcast reform legitimised a raft of non-state actors. Here, we draw attention to the new actors that prospered, or were set to prosper, because of the state's actions and inactions.

Doordarshan's incipient deregulation during the 1980s cogently nurtured non-state interests within the confines of a mixed model. For instance, private manufacturers of TV sets, antennas, transmitters, and related ancillaries helped expand the reach and audiences of *Doordarshan* (Guhathakurta 1994). Similarly, private companies found exciting opportunities in the incremental commercialisation of content production, marketisation of programming cycles, and financialisation of airtime during the 1980s (see Pendakur 1989). Prime amongst these were the so-called 'independent producers.' This term veils the ad hoc and/or opaque state patronage underlying Doordarshan's programming contracts with them (see Greeves 1994). Even those based outside Delhi, such as film producers, advertising agencies, and managers of airtime availed of these opportunities¹⁵⁸. Thus, incipient broadcast reform incubated an array of non-state actors – some from the newspaper business – to supply, package, and monetise programming for the public broadcaster.

The considered silence towards TBBs multiplied this array of private actors. Conspicuous here were satellite owners, cable distributors, broadcast and transmission equipment providers, foreign production companies, overseas (shell) companies, and sundry financial agents – most without experience in broadcasting. Merchant and congregational interests were congenitally present in this expanded space. *Zee TV*, the first TBB entity in Hindi, was an undertaking of a medium-sized diversified industrial conglomerate, Essel Group; its preoccupations ranged from wholesale trade in rice to high-tech plastic and packaging factories (Chandra & Sharma 2016, *passim*). The other TBB in Tamil, *SUN TV*, was piloted by a powerful regional political party in Tamil Nadu – a state which has plentiful history of politicians deploying cinema and print to canvas ideological pursuits (see Ranganathan 2014).

¹⁵⁸ For instance, film producers in Bombay realised supplying soap-operas to *Doordarshan* entailed less financial risk and plentiful potential sponsors; Singhal & Rogers 2006:88-92.

The ingress of merchant and congregational interests was pronounced among cable operators. Being localized operations, the earliest cable distributors were local shopkeepers, traders, realtors, and other petty businessmen. In this long-tailed business, the first large actor was the distribution affiliate of Zee TV; subsequently joining in were subsidiaries of a Bombay-based construction company (Hathway Cable & Datacom), and of a London-based expatriate-Indian industrial-trading concern (IndusInd Media). The other large distributor, *Sumangali Cable Vision*, was an affiliate of *SUN TV*. Cable distribution attracted local politicians across the country for two reasons. Since small operators flung wires across lampposts, along electricity poles, and over terraces of homes, there were brushes with the law, including when rivalries led to cutting of cables, even murders (Mehta 2008a); these new entrepreneurs frequently sought protection and patronage of local politicians. In the burgeoning cable business, politicians saw the prospect to enhance their profiles, such as when local festivals were relayed by cable operators (Naregal 2000). Mutual dependence with merchant interests motivated local congregational interests to become minority or hidden investors in cable networks (see Parthasarathi & Srinivas 2019).

Trade bodies sprouted to fortify the interests of private broadcasters, distributors, and equipment manufacturers. Two of the loudest voices were the Cable Operators Federation of India (COFI), and Indian Broadcasting Foundation (IBF)¹⁵⁹. Besides, the more established trade bodies representing industrialists and traders across business sectors propelled discourses of broadcast reform. These included the Confederation of Indian Industry (CII), and the Federation of Indian Chambers of Commerce and Industry (FICCI), which incessantly advocated a wider role for private sector in all sectors of the economy. Claiming to fortify the interests of an array of different sectors and companies, their “interest aggregation” was faulted for elitism (see Kochanek 1970). Nevertheless, their interest articulation championed, and resisted where required, options on broadcast regulation – as we will see in the following sections.

This long prelude to the chapter outlines developments vital to understand the context, intent, and possible constraints to regulate cross-media ownership – the third regulatory moment in this dissertation. Thus, it needs a summary.

The newspaper revolution deepened merchant, conglomerate, and congregational interests. It did not dislodge dominant forms of ownership organisation; the prominence of Merchant and Conglomerate Press, once unique to metropolitan combines, was replicated in subdominant press. Similarly, it did not dilute the spectre of concentration within regional language markets; it merely altered those who were responsible for concentration – now (additionally)

¹⁵⁹ That a (then) recently retired permanent Secretary of the MIB was appointed the IBF’s first Secretary-General, indicates a growing proximity between state and non-state actors.

members of subdominant press. The ascendancy of this press can be explained by the inability to regulate either concentration of voice during the late 1950s, or cooperation enabling the procurement of voice in the early 1970s. This inability, I claim, severely affected the dynamics of the emergent arena of TV news.

To further set the context of the third moment, I locate the genesis of private actors in TV news amidst the gradual deregulation and commercialisation with the pretext of broadcast reform from the 1980s. This first phase witnessed the public broadcaster involving private actors in expanding non-news programming. This was augmented during the second phase, catalysed by the advent of and competition from TBBs. The state adopted a considered silence towards satellite transmission, while protecting Doordarshan's monopoly over terrestrial transmission. Ominously, state interventions in distribution, transmission, and programming leveraged the values of commercialisation and competition marking broadcast reform, and commercially capitalised on the rising internationalisation of television flows. In this process, non-state actors in and around broadcasting came to the fore.

The phenomena described as newspaper revolution and broadcast reform created the preconditions for a particular set of private actors to participate in the expanded sphere of the press, TV news. In the next section, we tease out the details and trajectories of subsequent developments.

7.2 Patronage and Accumulation in TV News

Policymakers had once configured broadcasting as an enterprise that was centred around citizens, conditionally accommodating federal aspirations, and shielded from vulnerabilities imparted by advertising. The previous section brought out how, and why, these values were re-conjured during Broadcast Reform. In this section, I focus on the way such 'reform' created a market for new actors in the TV news space. The path adopted for deregulation in TV news explicitly and implicitly benefited private actors, such as independent TV producers, dominant players in newspapers, and TBBs in the news business.

This section begins by reviewing the implications of Broadcast Reform on the supply and circulation of news programming by private actors. I spotlight their rather rapid rise, starting off as outsourced suppliers of news bulletins on *Doordarshan*, and TBBs (which too launched news channels), and ultimately, their birth as private news broadcasters.

Doordarshan's accommodation of non-state actors during the 1980s decisively shifted from the early 1990s: from commercialising and outsourcing entertainment programming to pursuing this approach with news programming.

Soon, independent producers nurtured by *Doordarshan* were solicited by TBBs as outsourced suppliers of news. This enabled independent producers to reach out to audiences, including in regional languages, in a roundabout way – akin to the phenomenon of ‘roundtripping’¹⁶⁰ in financial markets – roundtripping of TV news entailed programming produced in India, sold to TBBs, who transmitted it back to India for domestic viewers. This reduced the *Doordarshan* to one of the many competitors jostling for audiences, advertisers, and suppliers of news.

Following this de facto de-monopolisation, further deregulation could mean one thing: de jure de-monopolisation to permit private news broadcasters to operate within India. The Minister of Information and Broadcasting summed this up in parliament in March 1997: “The issue of permitting uplinking facilities from Indian soil is related to the question of permitting private broadcasting from within the country” (Ibrahim in Parliament¹⁶¹). Motivated by commercial imperatives and ideological anxieties, the state tamed TBBs that claimed to be ‘Indian’ news outlets. They were offered legal legitimacy and commercial opportunity to operate within India in lieu of regulatory obligations. This was achieved through the *Uplinking Guidelines* of 2003 – the regulation central to the third moment of this dissertation.

I end this section by distilling the core of the Uplinking Guidelines: while its thrusts fashioned a particular register of participation and competition in TV news, its silences facilitated institutionalising cross-media ownership.

7.2.1 Deregulation as Outsourcing

There is a definitive claim about the interventions and silences of the state propelling private actors to the forefront. One set of actors included independent producers supplying news programming to *Doordarshan*. The other set originated as TBBs catering to an Indian audience. There is compelling evidence to argue broadcast reform explicitly and implicitly incubated both sets. Looking back, my analysis indicates that *Doordarshan* was complicit in nurturing private actors who ultimately dislocated the former’s monopoly over TV news.

By the early 1990s, *Doordarshan* was short of news programming to fill airtime on its growing bouquet of channels, and compete with comparable offerings from TBBs. Three types of players were roped in to fill this vacuum: independent

¹⁶⁰ As a mechanism of structuring financial flows to bypass national regulation, *round-tripping* is the practice of money leaving (not always legally) a country, circulating in (one or more) external jurisdictions, and making its way back into the country of origin, often as legitimate foreign investment.

¹⁶¹ Answer to question 152 by Minister of Information and Broadcasting, C.M. Ibrahim, in Rajya Sabha on 4 March 1997. In the same breadth, the minister declared the intent of the Indian government, for the first time ever, to introduce a Bill enabling private actors to commence broadcasting from within India.

producers, along the lines it had done earlier for entertainment programming; established actors in newspapers; and subsequently TBBs in the news genre.

Maintaining its live news bulletins, Doordarshan contracted private producers to supply prerecorded daily news capsules, weekly news magazines, and interviews. An early beneficiary was NDTV, whose reputation stemmed from producing live analysis of national elections for Doordarshan since 1984. In 1988, the latter bestowed it with a sponsored programme, a weekly magazine on global news, 'The World this Week' (see Kumar 1996). To attract audience swayed by TBBs such as BBC World and CNN, NDTV was further contracted in 1991 to supply pre-recorded daily news bulletins for different slots, such as 'Good Morning India', and 'The News Tonight,' for five years. Doordarshan's supply chain embraced actors from Conglomerate Press, such as India Today Group, the owners of one of India's largest multi-lingual print magazines. In 1987, its proprietor expanded stakes in audiovisual news via a weekly magazine, *Newstrack*, circulated as videotapes through newspaper agents, bookshops, and retail outlets in Delhi and Bombay. From 1995, it bagged contracts from the public broadcaster to deliver (pre-recorded) daily and weekly news programming¹⁶². Desperate to populate its round-the-clock news channel launched in June 1995, Doordarshan forged associations with global broadcasters. A two-year agreement with CNN was designed to equally share advertising revenues, earn an annual telecast fee of US\$ 1.5 million, and get access to CNN's news footage (Singh in Parliament¹⁶³).

Outsourcing news programming realised greater audience and advertisers for the public broadcaster¹⁶⁴. This strategy was significant in another way: it legitimised the idea of privately-produced TV news. It is worth exploring whether this created an oligopoly of independent producers. The increases in outsourced programming by Doordarshan enabled independent producers and television arms of print publications to grow commercially, and scale-up organisationally. Financial security from Doordarshan contracts cushioned them to expand infrastructure, develop expertise in different genres of news, and create a countrywide network of reporters. For instance, NDTV's staff swelled nearly 10

¹⁶² In 1995, for a daily 20-minute pre-recorded Hindi news bulletin, 'Aaj Tak', on *DD Metro*; in 1996, for a bouquet of daily and weekly news programs in English and Hindi (such as 'Good Morning Today' and 'Sapthahik Aaj Tak'); and, in 1997, for a daily business news bulletin, 'Business Aaj Tak'. India Today's original audio-visual offering, *Newstrack*, was transformed into a weekly news magazine on *DD Metro*.

¹⁶³ Answer by the Minister of State of Information and Broadcasting, K.P. Singh in Rajya Sabha on 1 Aug. 1995.

¹⁶⁴ Typically, an independent producer gave Doordarshan content and paid a telecast fee in return for advertising time; revenues from spot advertisements above such time got shared between them, such as in a 70:30 ratio with NDTV; Answer by Minister of Information and Broadcasting, C.M. Ibrahim in Rajya Sabha on 18 March 1997.

times in four years, from a mere 30 at the end of the 1980s to 293 in 1994 (NDTV 2004: 56).

Doordarshan's strategy to compete with TBBs resulted in the normalisation of outsourcing as a business practice, and of TV news driven by advertisements. The inclusion of non-state actors in Doordarshan's supply chain signalled a fresh order of accommodation between the state and market. I argue that this was not based on a newfound value, or a product of wider macro-economic reforms at the start of the 1990s – as claimed by most narratives of broadcast policy cited in this dissertation. Rather, as the previous section shows, this logic was a continuation of incipient commercialisation, quasi-privatisation, and committed marketisation initiated from the 1980s.

What the public broadcaster failed to anticipate were the repercussions when it was not the sole player in TV news. For, the TBBs replicated Doordarshan's strategy to augment supply of news; they commissioned independent producers and others for daily and weekly programming catering specifically to an Indian audience. One of them was TV18, a Delhi-based company creating India-centric non-news programming for NewsCorp's *Star*, and a weekly news magazine, 'India Business Report,' for *BBC World*. The latter's success inspired TV18 to occupy the niche of business news, including contracts to supply *Doordarshan* a pre-recorded late-night business news bulletin.

Patronage by Doordarshan and TBBs helped NDTV and TV18, and others, to develop physical and human infrastructure – which came in handy when a larger opportunity turned up. This was to supply an entire day's programming to a TBB – which led these producers to break ties with Doordarshan. NewsCorp contracted NDTV for bilingual news programming in 1997 and, in the following year, ABN (later CNBC) struck a similar partnership with TV18 (see Shrikhande 2004). This amounted, as explained earlier, to the roundtripping of news broadcasting: news 'exported' from India through a set of satellite frequencies returned as (often 'live') programming for publics in India through another set of satellite frequencies. Within a year, two news channels, *Star News* and *CNBC-TV18*, exponentially gained audiences in India.

A former governor in India's central bank explained roundtripping in the wider economy due to governments awarding better incentives to foreign investors than domestic ones (Reddy 2005). This matched the scenario in the TV business during the late 1990s: the government's silent approach towards TBBs allowed the latter to grab Indian viewership, but domestic actors could not commence broadcast operations within India, and had to follow the more arduous TBB route. A few aspects of news roundtripping are important for subsequent discussions. As suppliers of news programming to TBBs, independent producers developed competencies to scale up operations. Participating in the international economy, they attracted attention of global investors. The 'Promoter Group(s)' of the

producers comprised proprietors' family members such as spouse, parents, and/or siblings. This trait is significant: despite hailed as new-generation entrepreneurs in India's sunrise sectors, their ownership structure was similar to traditional family-owned business houses¹⁶⁵.

Partnerships between domestic suppliers and global TBBs competed with another set of actors. These were the nascent 'Indian' TBBs with varying amounts of domestic capital and ownership; their original programming mix centred on entertainment but soon expanded to news – such as *Zee News* in Hindi and *SUN TV* in Tamil. The news channels catered to an audience whose demand for news in regional language was long masked by *Doordarshan's* Hindi and English programming. *SUN TV* harvested this unaddressed demand in one of the largest linguistic media markets. Like with global TBBs, news production on *Zee News* and *SUN TV* hinged on roundtripping. But the latter, unlike the former, had affiliates in cable distribution, *SitiCable* and *Sumangali Cable Vision*, respectively. I will address the implications of such vertical integration in a later section (*op. cit.* p.202).

The swell in audience for news attracted the attention of domestic advertisers. Many were already prominent in the newspaper business. Thus, they were responsible for a fair share of revenues driving both print news and emergent TV news. The expanded sphere of the press remained dependent on advertisers, and advertising agencies, a matter I will return to.

7.2.2 Policy Options on De-monopolization

By the late 1990s, the Indian scenario was similar to an earlier one in Europe, where satellite technology allowed TBBs to circumvent domestic regulation (see Humphreys 1996: 170). In most European countries, overseas transmissions competed with more than one domestic terrestrial broadcasters, whether public, public-private, or private. In contrast, Indian and global TBBs catalysed a different dynamics of TV news in India. The operations of *Zee TV*, *SUN TV*, *Star News*, *CNBC*, etc. enabled television publics to experience a *de facto* de-monopolisation in news broadcasting. But the *de jure* de-monopolisation within India necessitated procedures to admit additional suppliers of TV news; it called for normative and ideological decisions on the kinds of commercial, financial, and political interests tenable in this space.

These matters were debated throughout the 1990s. The first signal to de-monopolise broadcasting within India was in the report of the inter-departmental

¹⁶⁵ This has been true for a large part of Indian business as economic liberalisation progressed; see Mani 2021.

committee initiated by MIB, popularly known as Vardan Committee Report¹⁶⁶, which was set up to provide solutions to counter the impact of TBBs (see GoI 1991). Among its two key recommendations was licensing private satellite broadcasters to operate from within India; but this came with a caveat on ownership structure:

organisations eligible to receive licenses should be public limited companies with major interest groups concerned with broadcasting represented in management and with open access to shareholding (Vardan 1998).

Vardan Committee's second suggestion was to lease Doordarshan's second terrestrial channel, *DD-2*, to private licensees. This interim strategy appealed to government due to its ideological signalling; the Junior Minister of MIB proudly positioned it to exemplify encouraging "an element of competition in electronic media" (Vyas in Parliament¹⁶⁷). Statements like this were part of the rhetoric by ministers, MPs, and officials vying to be champions of liberalisation and deregulation. Although this suggestion to part-privatize Doordarshan fell through, moves to de-monopolise broadcasting were unabated¹⁶⁸.

Ironically, a decisive argument came from an initiative to (ostensibly) restructure public broadcasting due to growing popularity of TBBs. Recognising the inability to stop overseas transmissions, a clutch of regulatory, populist, and commercial reasonings were mobilised to domesticate them, and thereby allow them to 'uplink' from India. The slim report of Sengupta Committee (GoI 1996b), also constituted by MIB, played a crucial role in weaving such a discourse. Instituted to review public broadcasting, its core outlined, rather crudely, a design for private broadcasting.

It was argued that allowing satellite broadcasters to uplink from India, either by registration or licensing, would bring them under the purview of Indian laws. This was prompted in no small measure by the spectre of legal violations related to foreign exchange, and financial roundtripping, due to overseas uplinking (*ibid.*, para 7.6). The Sengupta Committee saw allowing uplinking from India as a solution to "unbridled deregulation" that characterised broadcast reform hitherto (*ibid.*, para 2). However, accompanying it was the desire to usher in "an atmosphere of competitiveness" (*ibid.*, para 6.8). Lest this was perceived to serve large and transnational commercial actors, this *de jure* de-monopolisation was

¹⁶⁶ Different documents have spelt the name as Vardan and Varadan; I have used the spelling as per the document being cited.

¹⁶⁷ Answer to question on 'Varadan Committee Report' by Deputy Minister of Information and Broadcasting, Girija Vyas, in Lok Sabha on 9 March 1992.

¹⁶⁸ For instance, in 1993, Doordarshan's four terrestrial transmitters were networked, and rebranded as *DD-2 Metro Entertainment* to cater to "more entertainment for the urban audiences"; GoI 1996b: para 2.22.

argued to realise the government's commitment to institute local terrestrial TV. Turning a blind eye to the unviability of such a venture, it was projected to generate employment, and preserve regional cultural identities (*ibid.*, para 6.3).

De-monopolisation was smartly positioned as a way to finance a broadcast regulator, mandated by Supreme Court's 'airwaves judgement' the previous year. Private broadcasting was conjectured to rake in advertising revenue from overseas companies, and earn "huge" foreign exchange (*ibid.*, paras 7.6, 6.2). These resources, the Sengupta Committee insisted, could finance an independent Radio and Television Authority which would, inter alia, license private broadcasters (*ibid* paras 6.2, 6.8). Creating such an Authority aligned with recommendations of the National Media Policy, cobbled up in 1996 by a parliamentary sub-committee (GoI 1996a). But another this committee, to open broadcasting to state governments – not surprising given the presence of regional political parties in central coalition governments – was ignored by the Sengupta Committee. Ultimately, the consensus was to maintain the central government-controlled public broadcaster's monopoly on terrestrial broadcasting, and license private actors to operate as satellite broadcasters – a position implicit in the 'airwaves judgement'.

Attention shifted to the thorny issue of the norms for market entry, i.e., criteria to license broadcasters who uplinked from within India. Designing them presented a rare policy window, or opportunity, to revisit traditional frameworks and values underlying regulation of the news media.

One option was to envisage versions of light-touch regulation obliging a simple notification by news broadcasters. This was not alien to India. Cable operators and newspapers were obliged to only register themselves – the former with local post offices for a nominal fee, and the latter with the Registrar of Newspapers.

The other option was to move away from public service traditions, and devise obligations typical in industrial licensing. This 'industrial vision' required a paradigm shift, from picturing social and political goals of broadcasting to envisioning economic goals (see van Cuilenburg & McQuail 2003). The regulatory framework devised earlier for mobile telecom operations illustrated this industrial vision (see Athreya 1996). Tucked in were two economic goals: preventing ruinous competition and/or monopolies, and institutionalizing revenue-share agreements between private actors and government.

The first hint of a licensing framework for satellite broadcasting was spelt out in the Broadcast Bill of 1997. It proposed myriad categories of licensees, limits on foreign investment, caps on cross-media ownership, and a broadcast regulatory authority. It was never legislated, akin to the subsequent *Communication Convergence Bill, 2001*, which too specified categories and criteria for licensees. A Parliamentary Standing Committee's observations on Convergence Bill feebly made a case for registration, rather than licensing, keeping the door ajar for minimal criteria for market entry (PSITC 2001: para 129). Since several

frequencies required for satellite broadcasting were available, the traditional argument for licensing – i.e., frequency scarcity – did not hold. But public interest considerations were pointed out: for instance, the Sengupta Committee had necessitated programming obligations for private broadcasters to ensure diversity (GoI 1996b: para 6.7); on its part, the Standing Committee called for specifying, inter alia, “restrictions regarding ownership and control” to prevent monopolies (PSCIT 2001: para 129). To achieve these normative goals through licensing required a justifiable set of criteria for market entry.

Fortunately, policy options for entry in TV news never witnessed arguments to auction frequencies, as there was no frequency scarcity for satellite broadcasts¹⁶⁹. Moreover, auctions were neither seen to achieve diversity of voices, nor to ameliorate ownership risks. Resultantly, the Sengupta Committee and Standing Committee debated obligations for potential licensees limited to application and annual fees, and provisions to restrict ownership, respectively.

Time and again, the Bharatiya Janata Party (hereafter, BJP) government in the late 1990s was asked in parliament whether it proposed to bring a “comprehensive legislation” to regulate satellite broadcasting (Rajkumar in Parliament¹⁷⁰). This echoes questions in parliament during the late 1950s about devising a comprehensive regulatory framework for newspapers (Cf. p.112). However, unlike the Price and Page Schedule of 1956, or even the Ownership Bill of the early 1970s, governments throughout the 1990s lacked a semblance of such a proposal. This paved the way for regulating broadcasting by deliberately bypassing parliament – an approach that was normalised over the next two decades.

The way licensing of TV news finally panned out, substantively and procedurally, was ad hoc and knee-jerk, to say the least.

In July 2000, the government introduced the rudimentary *Guidelines for Uplinking from India*. The nomenclature indicates a hurry to de-monopolize (news) broadcasting – rather than devise a framework to regulate ownership and market power, let alone to safeguard diversity and plurality. Confirming this were the amendments in the Guidelines within a short span. The provisions were first revised in March 2003 as the *Guidelines for Uplinking of News and Current Affairs TV Channels from India*, with a notable change to cap Foreign Direct Investment at 26 percent; this was again amended in August 2003, now requiring the largest Indian shareholder to maintain 51 percent.

Although a consolidated set of guidelines emerged by December 2005 (GoI 2005), the experience of amendments and rollbacks conveyed a framework riddled with makeshift steps. Moreover, this was undertaken through cabinet

¹⁶⁹ For arguments on government-created, ‘artificial’ scarcity of telecom spectrum, see Prasad & Sridhar 2014.

¹⁷⁰ Question by Dr. Alladi P. Rajkumar in Rajya Sabha on 2 June 1998.

decisions, rather than through legislation, or, as the ‘airwaves judgement’ directed, creating a broadcast regulatory authority and handing over the matter to it. When queried about the impromptu nature of the Guidelines, the Minister of MIB offered a rationale that became the norm: since the broadcast business and technology continuously underwent change, it was apt for policy to address these changes “as and when they occur” (Prasad in Parliament¹⁷¹).

In this “piecemeal approach” (Page & Crawley 2001: 273), safeguards against risks of ownership were actively circumvented, as I delineate next.

7.2.3 Circumventing Ownership Risks

Unpacking the criteria for a license is central to grasp how the Uplinking Guidelines (2000/2003/2005) addressed, or bypassed, anxieties about ownership. The licensing term for prospective broadcasters was identical (10 years), irrespective of whether they planned to telecast news or other content (such as music TV, soap operas, sports, movies etc). So was the procedure¹⁷². However, the annual license fee, minimum net worth of applicants, permissible Foreign Direct Investment (FDI), and obligations of largest Indian shareholder were different for news broadcasters, and those in other genres. In essence, this determined the actors eligible to enter TV news, and their permissible relationships with others – newspapers, domestic TV distributors, global TBBs, political parties, and transnational financial companies.

The Uplinking Guidelines ensured the marketplace of TV news was financially, legally, and organisationally designed to fortify certain interests. This was through pinpointed provisos and notable abstinences in the criteria to procure voice. Beneath the seemingly ad hoc approach to licensing lounged a dubious politics of policymaking. This compromised the regulation of ownership and market power in TV news – a claim the next pages will pursue. I will argue that the licensing framework infused ownership concerns in TV news that were similar to those observed during the earlier two regulatory moments.

The framing of the Guidelines wasted an opportunity to devise criteria to facilitate a diversity of news broadcasters, and/or safeguard against tenuous actors wading into TV news. Instead, the criteria excluded certain domestic players, while they domesticated foreign actors, and promoted financialization in the business of TV news.

¹⁷¹Answer by Minister of State for Information and Broadcasting, Ravi Shankar Prasad, in Rajya Sabha on 4 Apr. 2003.

¹⁷² A potential broadcaster had to obtain two licenses: a Grant of Permission Agreement from the MIB, and a Wireless Operational License from the Wireless Planning & Coordination Wing (WPC) of the Department of Telecommunications under the Ministry of Communications; only thereafter could the applicant get spectrum from the WPC. Besides elementary company financials, the applicant was obliged to show a satellite lease agreement and details of its footprint.

A host of non-profit entities, such as political parties, unions, and NGOs were ineligible to apply for a license – although they were not barred from publishing newspapers. This exclusionary criterion expressly cast the sphere of TV news as a marketplace comprising only commercial actors. Two amendments in 2003 to the Guidelines of 2000 further skewed the field in favour of large domestic companies. The largest Indian shareholder had to hold 51 percent of the equity (excluding holdings of Public Sector Banks and Public Financial Institutions). This effectively disbarred a possible TV news outlet that was collectively owned by several small investors. At the same time, FDI shareholding was reduced to 26 percent – including indirect FDI¹⁷³ – with resident Indians obliged to hold 75 percent of board directorships. Thus, no transnational actor could enjoy either a majority stake or decisive control¹⁷⁴. Consequently, broadcasters operating as joint ventures between domestic and foreign partners had to restructure themselves¹⁷⁵. This reminds us of the initial regulatory framework for mobile telephony that obliged foreign actors to form joint ventures, with a cap of 49 percent FDI, with domestic entities to bid for licenses (see Sinha 1996b).

Intriguingly, within the conditional inflow of foreign capital, a space was created for purely financial interests to develop stakes in TV news. Calls to solicit Foreign Institutional Investors (FIIs) – global investors in stock markets – gathered pace as part of ‘second-generation’ economic reforms of 1997-2002 aimed to strengthen financial markets. FIIs were expected to lower cost of equity capital if they paid premiums on shares, boost stock prices, and improve corporate governance (MoF 2005:14). Contrary opinions highlighted the risks of volatile capital flows to individual companies and the economy (see MoF 2004). Veering towards prudence, a policy consensus emerged in broadcasting in 2005: FII flows were permitted but within the overall limit of FDI, brushing aside calls for separate FII caps to be computed over and above FDI caps (*ibid*).

Expectedly, this benefited stock price of listed news broadcasters, such as *TV Today*, *NDTV*, and *CNBC-TV18*. Being listed on the bourses thrust TV news into a ‘triple-product market’ (see Albarran 1996). That is to say, the conditions under which advertising-driven TV news was produced – which directly instilled bottom-line vulnerabilities to such outlets – became additionally albeit indirectly

¹⁷³ This refers to Foreign Direct Investment in Indian companies which, in turn, held equity in a news broadcaster.

¹⁷⁴ It is plausible the rollback in FDI was influenced by the critical reportage of large-scale violence in 2002 in the state of Gujarat by one of three operational 24-hour news channels, *Star News*, which comprised an arrangement between NDTV and Murdoch’s *STAR TV*. This made, the argument goes, the incumbent Bharatiya Janata Party government, sections of which were blamed for the riots, uncomfortable with majority-foreign owned news broadcasters; see Mehta 2006, Ohm 2014.

¹⁷⁵ In *CNBC-TV18*, for instance, NBC reduced its holding to 10 percent while TV18 raised its equity from 49 to around 90 percent.

vulnerable to pressures in capital markets. Welcoming transnational capital flows in TV news made it a somewhat speculative venture; in the medium run, this bolstered financialisation, or heavy dependence on capital, across TV news. Foreign Private Equity firms, already present in the newspaper business, such as Warburg Pincus in *Dainik Bhaskar*, widened their presence to engulf TV news, such as SAIF in *TV9*.

The licensing criteria dovetailed in the Uplinking Guidelines of 2003 nurtured specific interests. While stipulations on FDI, directorships, and equity holdings gave an upper hand to large domestic organisations, a window was created to appease global financial interests, and listed domestic companies. Keen for more elbowroom, broadcasters pleaded about operational difficulties to “keeping a tab on FII investments in listed companies on a daily basis” (Anon 2004). While this testifies to the highly mobile and short life of transnational capital flows, it paves the way to more squarely discuss the criteria implicating ownership organisation and market power.

There were absolutely no restrictions on the *types* of commercial entities participating in the marketplace of TV news. Since licensing did not mandate domain experience or knowledge, this attracted entities from industrial conglomerates to petty-manufacturers, realtors to trading companies¹⁷⁶. This ‘free-for-all’ approach could be normatively justified as upholding the Fundamental Right of free speech. But the lack of qualifiers reduced this sphere of the press to the status of real estate – as lamented in the case of newspapers a few years earlier (see Prasad 1997).

Provisions in the Guidelines fell short of three crucial qualifiers for licensing TV news outlets: ownership disclosures, limits on market share, and effective caps on vertical integration.

The application for licenses required rudimentary disclosures on ownership and ownership structure. During the 1990s there were anxieties about TBBs, such as Zee, inhabiting dubious capital and financial flows. Yet, the licensing application did not mandate applicants to divulge secondary owners, financiers, or big lenders. Thus, one of the biggest malaises of Indian business culture, promoters using fronts and proxy-investors, was reproduced in TV news. Shallow disclosure norms helped political parties, which were *de jure* barred from getting a license, to procure voice in TV news through proxies. With a touch of exaggeration, an MP moaned in parliament: “Every political party is having a particular channel. If one person is in the ruling party and another person is in the

¹⁷⁶ Again, the contrast with the inaugural phase of mobile telephony seems relevant; there, potential licensees required experience in managing networks with at least 50,000 subscribers, a decision directed at legitimising the involvement of established global players in India; see Sinha 1996b.

opposition party, they are having a TV channel each” (Natchiappan in Parliament¹⁷⁷).

The licensing framework was devoid of any *ex-ante* safeguards on concentration. This sharply contrasted with the criteria later adopted when FM radio was deregulated; licensees could not garner more than 40 percent of frequencies in any market. Minus a similar restriction, major ‘broadcast news networks’ developed, and garnered large shares of audience and advertisers across linguistic media markets. The lack of safeguards on the number of licenses acquired by a broadcaster further contributed to the accumulation of media power.

Vertical ownership was restrained by capping cross-holdings between broadcasters and distributors to 20 percent. Two of the largest cable networks, *Siti Cable* and *Sumangali Cable Vision*, managed licenses for news broadcasting, via *Zee News* and *SUN TV*, respectively. They achieved this through indirect ownership and control. The two ventures of Zee involved equity held by trading companies constituting Essel Group. Such clusters enabled *Zee News* to exercise organisational control over *Siti Cable*, while on paper remaining within permissible caps of vertical integration. Foreign broadcasters adopted a different route. NewsCorp, the parent of *Star News*, allied with *Hathway Cable*, and became a minority partner in a Direct-to-Home distributor, *Tata-Sky*. This brought two advantages: they could better harvest subscription revenues, and foreclose market access to rivals. Later, other vertically-integrated entities emerged, such as *Odisha TV*, with its cable affiliate, Ortel Communications (see Parthasarathi and Srinivas 2022).

7.2.4 Accumulation by Design

The licensing framework allowed different facets of market power to run amok. The trends marking the newspaper business, i.e., cooperation and concentration, were reproduced in TV news. Entrenched actors in Conglomerate Press, such as BCCL and *Malayalam Manorama*, those from Congregational Press including *Sakal*, and relatively recent actors in Merchant Press such as Sahara Group, launched TV news outlets. The rollback in FDI limits in the 2003 amendments provided opportunities to newspapers – cash-rich and familiar with news operations – to enter TV news by acquiring the shareholding of foreign players. When News Corp was compelled to dilute its equity in *Star News*, an Indian entity, Anand Bazar Patrika Group, owners of prominent English and Bangla

¹⁷⁷ E.M. Sudarsana Natchiappan during discussion on ‘Cable Television Networks (Regulation) Amendment Bill, 2000’ in Lok Sabha on 11 Aug. 2000.

newspapers, acquired a dominant share in a joint venture cobbled up almost overnight – thereby fulfilling the latter’s zest for cross-media ownership.

Since the Uplinking Guidelines did not include any provision to limit cross-media ownership, they allowed newspaper proprietors to procure voice in TV news through indirect and opaque means too.

One indirect mechanism entailed minority shareholders acting as levers of cross-media power. This was surprising as during contests to enhance FDI in newspapers in July 2002, MPs pointed at the ability of shareholders with limited equity to exercise control over companies. As one put it: “Companies can be controlled by minority shareholders, far below 26 per cent” (Pal in Parliament¹⁷⁸). Although this was directed at transnational actors, the same held true for and between domestic companies.

Another mechanism to exercise cross-media control was through common directorships. Diversified industrial conglomerates adopted inter-locking directorships in subsidiaries, affiliates, and joint ventures. Family members of proprietors comprise overlapping directors in print and TV news undertakings. Despite the talk of corporate governance, this remains a characteristic feature of Indian business houses in recent decades (see Naudet & Dubost 2017). Private equity firms, with minority stakes in unlisted companies, sign contracts with promoters that give director(s) appointed by them ‘veto rights’ over crucial board decisions.

The Guidelines ignored the role of private contracts in forging synergies between horizontally-owned news outlets. Take the case of TV Today, a Hindi and English news broadcaster, and its affiliate, Living Media, publishers of one of India’s most prominent multi-lingual print magazines. Although the news broadcaster disclosed that agreements with print affiliate – viz. common editorial services, bartering commercial airtime, and garnering advertisements – were at “an arms-length basis”, little is known about the details of such “Related Party transactions” (TV Today Network 2004: 70).

The absence of cross-media stipulations had two implications: it skewed the competitive milieu in favour of TV news outlets cross-held by newspaper combines; and it paved the way for such entities to garner a large share of advertising spend and audiences in the news market. The accumulation of multiple types of market share was compounded by further omissions in the Guidelines – ones that proved a handmaiden for concentration.

One omission was about accumulation of market share, which enhanced the power of some news broadcasters. The failure to do so reminds us of regulatory debates in the 1950s around market power garnered by newspaper combines,

¹⁷⁸ Rupchand Pal in ‘Discussion regarding government decision to allow foreign direct investment in Print Media in India’ in Lok Sabha on 17 July 2002.

which had peddled anxieties about not only plurality but unequal opportunities in competing for audiences and advertisers (Cf. Chapter 5: s5.2.2). The market of TV news in India is similar to newspapers, in both being determined primarily by languages, and therefore being geographically bound. The Uplinking Guidelines needed to recall tussles faced by the Second Press Commission (1982) to identify the relevant market within which concentration should be measured in newspapers. The crux of the matter was whether linguistically-defined regional markets were the apt unit to gauge concentration, or should it be the national (all-India) market.

Refraining from engaging with this definition, the Guidelines missed two prospects. One was to disallow newspapers from owning TV news outlets in the same linguistic market. This would have at least ensured that cross-media interests did not develop within a linguistic market, where threats to source and content diversity are most immediate and acute¹⁷⁹. The other, or additional, prospect was to cap news broadcasters' licenses across linguistic markets¹⁸⁰. Since such markets are unevenly sized, the apt and fair unit to gauge concentration would arguably be, not total audience, but total licenses. This idea was not alien to the government. Licensing in FM Radio adopted this principle to disallow an applicant from bidding for more than 15 percent of licences auctioned (see GoI 2004¹⁸¹); moreover, owners were barred from possessing more than one "Inter-Connected Undertaking" to seek a license within the same region (TRAI 2005). The licensing framework for TV news could have considered such stipulations.

The second omission was on advertising time. Not regulating advertising particularly suited news broadcasters with cross-media interests. Unlike their rivals, they could offer advertisers space across their (often numerous) print and broadcast outlets. For instance, TV Today's "Multiplier Offer" enticed advertisers with discounts when buying commercial time across Hindi and English news channels (TV Today Network 2004: 40). As an *ex post* mechanism to check concentration, imposing constraining advertising practices could be complicated: this would have to rely on disclosures on advertising revenues, or discover an accurate value of advertising spend in a market, linguistic or national. A more

¹⁷⁹ This is not to deny that delineating the relevant market in TV news would have posed other challenges peculiar to India's multi-lingual media markets; see Parthasarathi 2019.

¹⁸⁰ While stand-alone broadcasters rarely desired more than one news outlet in the same linguistic market but those cross-owned by leading print publications predictably emerged as the exceptions; *Aaj Tak* and *Aaj Tak Tez* in Hindi owned by Indian Today group, and *Times Now* and *Mirror Now* in English by BCCL.

¹⁸¹ The market for FM Radio is regionally defined in two ways: through linguistic geography constituted by their audience, as that of newspapers and TV news, and through the physical geography constituted by the footprint of the radio signal. Concentration was checked in the FM radio by constraining a licensee from owning more than 40 percent of frequencies in their geography of operations, and not more than 15 percent of all frequencies across India; see GoI 2004.

feasible mechanism could have been to regulate advertising time, along the principle of the news-advertising ratio proposed for newspapers by the First Press Commission of 1954. Even the Sengupta Committee of 1996 recommended determining the maximum limit for advertising content private broadcasting (GoI 1996b: para 7.3). Proposing advertising caps, even if only during “prime-time”, could surely have made such a regulatory provision simpler and easier to monitor.

The idea of containing market share was not unfamiliar in policy circles, even among the so-called pro-marketeers. For instance, while seeking to expand foreign participation in broadcasting, there were appealing arguments to replace caps on FDI with caps on the market share of foreign news broadcasters, between 25 and 49 percent (see Virmani 2004). Incorporating *ex ante* mechanisms in the Uplinking Guidelines to prevent news broadcasters from accumulating audience and advertising, probably beyond certain thresholds, would have cushioned ownership risks in the absence of explicit cross-media norms.

Let me wind up this section by distilling the second and third phases of broadcast reform it deals with. We recall the first phase from the mid 1980s onwards, discussed in the previous section, witnessed incipient deregulation, including private actors to meet the public broadcaster’s non-news programming needs. During the second phase, commencing from the early 1990s, the public broadcaster outsourced news programming to independent television producers, and newspaper proprietors from Conglomerate and Merchant Press to compete with global and ‘Indian’ TBBs offering news. Initially successful, the move backfired when TBBs adopted this strategy.

While this effectively de-monopolized news broadcasting for television publics, *de jure* de-monopolisation required some sort of regulatory framework to be in place – which the Uplinking Guidelines provided. The licensing framework, which commenced the third phase of broadcast reform, encouraged certain types of cooperation between the actors to procure and sustain voice in TV news. The Guidelines ensured this in three ways: they protected domestic actors by capping FDI; fortified the interests of newspaper combines that expanded into TV news by excluding cross-media regulation; and, provided loose provisions on vertical integration to enable TV distributors to launch TV news outlets (and vice versa).

Following the licensing of private TV news, actors from subdominant press procured voice in the newly-deregulated commercial space of TV news. Besides the ones mentioned earlier, *Rashtriya Sahara* and *Dainik Jagran* launched TV news outlets. Thus, the rise of subdominant press, courtesy India’s newspaper revolution, directly impacted prospective owners in TV news. This, in turn, has two implications. One, traditional anxieties of concentration and ownership organisation in the newspaper business were transposed to the business of TV news. Two, burgeoning cross-media ownership – prominent among actors from subdominant press – catalysed a new and additional challenge to ownership.

Risks to the press and society from horizontal integration are most acute when publishers were owned by business houses – both traditional groups, such as Birla Group, and their recent, equally tenuous renditions, such as Sahara Group. For this infused into TV news merchant vulnerabilities that had worried the Press Commission report of 1954 about similar issues in newspapers 50 years ago. Moreover, the absence of protection against concentration, together with mothballed provisions on vertical integration, proved attractive for business houses who ventured into TV news. The biggest beneficiary of this was Reliance Industries Limited, India's largest diversified industrial conglomerate. In the early 2010s, it acquired two large multi-lingual news networks, *TV-18* and *Eenadu TV*, and thereafter controlling equity in two of the three largest TV distribution operators, *Hathway* and *DEN*. That the Competition Commission did not find the latter acquisitions a risk to market power, opens on to peculiarities of market definition in India's broadcasting business – a matter I address in the next section.

7.3 Impediments to Regulate Cross-Media Ownership

Our discussions on Uplinking Guidelines point at them being inept, ill-informed, and/or insufficient to mitigate ownership risks. This section forwards a wider and deeper explanation of the failure to develop a coherent and effective licensing framework that can prevent horizontal ownership in India's news business. The palette of libertarian values in currency during those years was averse to economic regulation in the business of TV news; they provided intellectual fodder for dominant actors in newspapers and TV news to resist state intervention that would contain their accumulations. Apart from libertarian ideas and predatory interests, I argue that the licensing framework was tempered by the legacy of institutional constraints dogging the regulation of news ownership.

7.3.1 Marketplace and Marketisation

Our theoretical engagements in Chapters 3 and 4 made the point about a critical conception of media markets, and a well-rounded conception of media diversity being necessary tools to regulate ownership. The inability to mobilise such conceptions, I find, prevented visualising a systematic framework to regulate cross-media ownership in TV news.

During the 1980s, just as advertising-driven newspapers became the norm, arguments of advertisement-funded programming was normalised in public broadcasting. As I demonstrated in earlier sections, this imagination rapidly morphed into an advertising-driven one. In short, commercialisation of news

production yielded to its marketisation. This market idea got a tremendous, almost overnight, fillip with neo-liberal economic ‘reforms’ in manufacturing and trade commencing 1991. The liberalised trade regime legitimised TBBs as a form of unfettered ‘import’ of transnational programming from various quarters. In doing so, the right of audiences to make a choice, a considered term, to access televised signals via technologies other than terrestrial transmission (such as cable and satellite) was sanctified. Policy options to counter TBBs equally imbibed the market idea, such as discussions to lease the second channel of Doordarshan catering to four metropolitan cities to domestic private actors – whose audiences were prime targets of advertisers. Rather than augmenting and diversifying state capacity in broadcasting, such suggestions resorted to renting out the most lucrative parts of the public infrastructure to private actors, thereby creating preconditions to kickstart private broadcasting within India. This further legitimised incremental commercialisation within the public broadcaster during the 1990s. At one point in 1995, the Minister of MIB candidly admitted in parliament: “It is the constant endeavour of Doordarshan to augment its commercial revenue” (Sayeed in Parliament¹⁸²).

Thus, by the mid 1990s, the foundational ideas of broadcasting were dislocated by contingency and conjuncture, and actively encouraged by the state to mutate further. Attesting to this were three key interventions during the 1990s that I pinpointed – viz. the Cable Act, recalibrations in satellite policy, and increasing the number of Doordarshan channels. These interventions in the arenas of, respectively, distribution, transmission, and programming, I insisted, reinforced commercialisation and marketisation – both within the public broadcaster, and wider policy responses to TBBs.

In the multi-channel milieu afforded by cable and satellite broadcasting, all tropes of ‘choice’ and ‘competition’ were normalised during the mid-1990s – a period when such tropes also shaped the newspaper business. The Supreme Court’s 1995 ‘airwaves’ judgement legally sanctified the inter-related ideas of providing choices in programming, and private participation in broadcasting. Scholars have read the judgement as legitimising the values of “choice and diversity” (Thomas 1993:28-29), and/or bestowing a constitutional basis for non-state actors participating in broadcasting (see Mehta 2008a). However, I suggest that these established readings miss out on crucial nuances. The judgement was aware of the pitfalls of private participation in broadcasting.

Allowing private broadcasting would be to open the door for powerful economic, commercial and political interests, which may not prove beneficial to free speech right of the citizens - and certainly so, if strict

¹⁸² Answer by the Minister of State of Information and Broadcasting, P.M. Sayeed, in Rajya Sabha on 5 Dec. 1995.

programme controls and *other controls* are not prescribed. *The analogy with press is wholly inapt* (AIR 1995: para 199, my emphasis).

As the last fragment of the quote illustrates, it took care to not equate private commercial broadcasting, the subject of the dispute, with newspapers – terming such an analogy as “misleading and inappropriate” (AIR 1995: para 206.1.c). Constitutional protections to the news media under Article 19(1)(a) were not applicable to sports broadcasting. Additionally, since the broadcaster in question was foreign, it could not seek protection under Fundamental Rights, which were guaranteed to Indian citizens. The judgement was categorical that the right claimed – in principle no different from a right to operate a private TV broadcaster – did not flow from Article 19(1)(a), and “was not implicit in it” (*ibid.* para 206 1.d).

Over the following years, numerous policy debates, legislative efforts, commercial lobbies, and corporate advocacy evoked this judgement to legitimise private broadcasting. However, the judgement had legitimised this with caveats; it was neither a *carte blanche* for unfettered marketisation, nor explicitly tenable for private news broadcasting, as opposed to sports broadcasting.

While insisting on de-monopolising broadcasting within India, the judgement categorically underscored the government’s obligation to warrant this space not being “monopolised, *dominated* or hijacked by privileged, rich and interests” (*ibid.* para 196, my emphasis). This sanctified and sanctioned state intervention in the event such scenarios unfolded in private broadcasting. While the judgement conceded that allowing private broadcasting was a matter of policy for the legislature to decide, it was uncompromising that it “should not be left to market forces” to ensure a variety of voices partake in this field (*ibid.* para 205).

The necessity for and nature of state intervention desired by the judgement are evident in its direction to create a new regulatory authority for the broadcasting sector. On the face of it, this was to “avoid uncertainty, confusion and consequent litigation” (*ibid.*, para 205.4) – and therefore, to reduce judiciary’s involvement. But the verdict saw that the responsibility of this Authority was to devise safeguards to nurture pluralism, and reign in market power. As Page and Crawley incisively observed, even the “ideological libertarians” welcoming the de-monopolisation of broadcasting were aware that the judgement was not a “privateers’ charter” (2001: 269).

Some legal scholars insist (and I agree) that the judgement’s most quoted fragment – “airwaves are public property” – did not put the seal of constitutional validity on private broadcasting *per se*; rather, underlying this was the insistence to foster pluralism (Jariwala 1996:164). In short, the *purpose* of de-monopolising broadcasting, and opening doors to private actors, was expressly to nurture diversity. This is why the judgement was categorical about preventing concentration of frequencies in the hands of “the rich few” (AIR 1995: para 48).

Although the judgement evoked the diversity principle, this was neither directed at encouraging private news broadcasting, nor more generally at advocating *laissez faire*. Despite this noble intent, its prime limitation was its inability to normatively flesh out the idea of diversity – and coherently think through the implications of various vectors of ownership on media diversity. The judgement was primarily concerned about viewpoint diversity; it was unable to articulate concerns of source diversity, and oblivious about exposure diversity in a milieu of cable and satellite news broadcasting.

These voids affected future regulatory debates. This is why, I claim, the Uplinking Guidelines were framed without normative and legal grounding that could visualise protocols to safeguard diversity – preventing applicants seeking licenses for multiple TV news outlets, or configuring mechanisms to regulate newspaper combines to procure voice in TV news. I also assess the judgement as failing to take cues from earlier observations – Press Commission, or Sakal judgement which it evoked – about news outlets leveraging ownership organisation to acquire market power. A charitable reading of the ‘airwaves’ judgment is that the judiciary hoped the prospective broadcast authority would design mechanisms to prevent abuse of ownership and market accumulation – given the judgement’s insistence on such matters “not left to market forces”.

The lack of alternative ideas became hostage to both interest groups and regulatory conditions. Reflecting on this takes us to their role in impeding cross-media ownership.

7.3.2 Networks and Power of Alliances

The policy framework for private actors in the business of TV news was Janus-faced from the early 1990s. In the years the state barred private actors to broadcast from India, it encouraged Doordarshan to outsource news programming to them. Another rendition was visible in the Uplinking Guidelines: non-profit entities such as unions and NGOs were barred from applying for a license; and for-profit entities, apart from financial and legal entry barriers, enjoyed no constraints on ownership or cross-ownership. In the aftermath of the Guidelines, there was an opinion about the TV business being too small to attract cross-media stipulations. “Let them grow, prosper and start looking like monopolies”, the argument went, “before we figure out how to tackle them” (Kohli-Khandekar 2006:232).

Advocacy and pressures from dominant business interests contributed to the absence of provisions on cross-media ownership in the Guidelines. I reason out this claim by addressing three questions. Which kind of actors consistently benefited in the years before the 2000 Guidelines? What were their stakes in the licensing framework of TV news? How were their desires and interests articulated?

By the time the Guidelines were framed, independent producers, newspaper combines, and TBBs anticipated opportunities to launch TV news outlets in India. Having tasted the benefits of state regulatory silences, they were ideologically opposed to statutory intervention that could constrain their stakes in a deregulated scenario. For newspaper combines, procuring voice in TV news was crucial to retain power in the expanded sphere of the press. Their interests at times overlapped with those of the state, such as in limiting the role of foreign actors. In fact, a decade earlier, dominant newspaper combines prevented the entry of foreign newspapers in India, fearing threats to entrenched dominance (Sonwalkar 2001: 757, Baru 2021: 324).

In addressing the second question, about the stakes in the deregulated space of private TV news, we recall the agility of my four-way typology: Independent, Merchant, Conglomerate, and Congregational Press (Chapter 2: s2.7). Recognising their incentives and strategies to partake in TV news can tell us about the interests hindering regulation of ownership in general, and cross-media ownership in particular. Merchant Press, ever wanting to enhance symbolic and ideological power already present in newspapers, was willing and able to subsidise ventures in TV news through its much larger industrial and mercantile undertakings. As a veteran editor recalled:

... some owners are quite happy to write off their deficits against gains from other sectors of the industry owned by them, which means that newspapers have come to be included in the industrial sector. Compared to the power that a successful business commands, newspapers carry a clout, especially with those in authority, whether they make or lose money. (Bhatia 2006:312).

Leaders from Conglomerate Press leveraged their brand value and cash reserves to expand horizontally into TV news. Congregational interests banked on loyalty of their followers being successfully converted into lucrative audiences for TV news. There were three requirements for these actors to expand into TV news. One, there should be no stipulations on cross-media ownership. Two, it was necessary not to have caps on concentration, so that market power in the newspaper business could be transposed to TV news. This was particularly so for newspapers in regional languages from subdominant press. Three, the maze of cross-investments and indirect control in newspaper combines required that stipulations on ownership organisation in TV news be similar to those in newspapers. Since provisions in the Uplinking Guidelines aligned with these requirements, I infer that they responded to this desire of dominant actors.

This leads to the last question: how were the desires and interests of these actors articulated?

By the 1980s, the Sakal and Bennett Coleman judgements, together with successive governments abstaining from acting on regulating ownership, emboldened leading newspapers. Any legislation was portrayed by newspaper

barons as infringing press freedom (see Chopra 1980). The subdominant press, despite commercially rivalling metropolitan press, found common cause in further propagating such distorted views of state intervention.

With the neo-liberal turn in the 1990s, a robust display of interest aggregation played out in the policy arena. This is where the role of trade bodies, an ascendant actor in the policy community (*op. cit.*, p.190), gained ground in influencing regulatory deliberations. These included multi-sectoral (or ‘apex’) trade bodies representing numerous industrial and mercantile interests, and sectoral trade bodies propagating the cause of particular sectors of the media economy, such as newspapers, TV broadcasters, cable distributors, etc. Their advocacy entailed gala symposiums, briefing notes, newspaper columns, extensive public relations, and sundry ‘study’ reports and annual compendiums (also see Govil 2016). In these practices, we find concerted efforts to further particular regulatory discourses – be it on licensing norms, pricing and fiscal bottlenecks, cartelisation, technology choice, and protectionism. Office bearers of trade bodies were invited to interact with parliamentary and ministerial committees framing or reviewing legislation.

This is not to blur tensions among interests within trade bodies. For example, in the mid-1990s, COFI (representing cable operators) did not want business houses owning newspapers in the television business because they were “in a position to manipulate the minds of general public, literate or illiterate” (Sayeed in Parliament¹⁸³). The undulating dynamics of broadcast reform saw sectoral interests at loggerheads, but stringing coalitions when mutually beneficial. For instance, cross-media norms in the proposed Broadcasting Bill of 1997 were criticised by broadcasters and cable operators for being unworkable, and/or preventing organisational synergies (Page & Crawley 2001: 271). A few years later when the Convergence Bill, 2001 was circulated, apex and sectoral trade bodies, such as the CII and IBF, respectively, lobbied hard to convince legislatures about this being “too early” for any “restricted legislation” (PSCIT 2001: paras 7-8). Reference was to the more comprehensive and detailed regulatory framework proposed in the 2001 Bill, compared to 1997 Bill.

Thus, interest aggregation by actors with stakes in news broadcasting created an environment where state intervention was projected not only as impractical and unwarranted but ideologically contra to the claims of liberalisation and deregulation by successive governments. The success of their articulation is visible in the rudimentary provisions of the first set of Uplinking Guidelines in 2000.

¹⁸³ Answer by the Minister of State for Information and Broadcasting, P.M. Sayeed, in Rajya Sabha on 19 Dec. 1995.

7.3.3 Inheritance of Regulatory Abstinence

The failure to provide effective safeguards against cross-media ownership rests additionally in the accumulated institutional constraints that confronted broadcast regulation. The marginalisation of ownership matters became the norm way before deliberations on the Uplinking Guidelines commenced. Moreover, multiple path dependencies limited the permissible contours of regulating horizontal ownership across print and TV news. The regulatory lockins and silences in the decades preceding the Guidelines impacted policy options to tackle cross-media ownership.

In fact, the issue of cross-media ownership was first voiced in the report of the Second Press Commission in 1982 – strangely enough, when private TV news was not in picture, and while thinking explicitly about market power in the newspaper business. This is most significant because in those years Doordarshan was the sole broadcaster. Nevertheless, the Second Press Commission report astutely proposed restricting newspapers acquiring stakes in broadcasting, whenever it was opened for non-state actors (GoI 1982:143). Nearly a decade later, the Varadan Committee of 1991, despite its otherwise pro-competition orientation, categorically recommended cross-media restrictions “to avoid monopoly over information sources” (Vyas in Parliament¹⁸⁴). For similar reasons, the draft National Media Policy of March 1996 insisted on restricting cross-media ownership. Thus, in the earliest debates during the 1980s and 1990s, and way before the Uplinking Guidelines were on the cards, addressing this type of accumulation of interests was on the agenda.

But no one saw a cross-media presence when Doordarshan outsourced news programming to actors in print news.

Moreover, the new government in 1998, a coalition led by the BJP, was eager to commence private broadcasting from India. Queried about the conditions involved, the Minister of MIB spelt out the criteria for awarding licenses in parliament – none of these restricted cross-media ownership (Naqvi in Parliament¹⁸⁵). Subsequently, another BJP-led coalition’s draft *Convergence Bill, 2001*, despite proposing a comprehensive multi-layered licensing framework, was silent on the specifics of effective horizontal and vertical caps in broadcasting. Thus, by the time the Uplinking Guidelines were first framed in 2000, the need for regulating ownership was largely off the agenda.

¹⁸⁴ Statement in reply to question on ‘Varadan Committee on Electronic Media’ by Deputy Minister of Information and Broadcasting, Girija Vyas, in Lok Sabha on 25 Nov. 1991.

¹⁸⁵ Minister of State in the Minister of Information and Broadcasting, Mukhtar Abbas Naqvi, in response to question by S.M. Krishna in Rajya Sabha on 3 Dec. 1998. Two years later, the next Minister of State, Arun Jaitley, maintained this position; see Rajya Sabha, 8 May 2000.

Moreover, the unwillingness of the Uplinking Guidelines of 2003, and its subsequent amendments, to contain cross-media ownership appear to have resulted from legal path dependencies inhabiting the regulatory framework. To begin with, the failure to delink newspapers from merchant interests in the early 1970s encouraged a wider array of regional business groups to invest in newspapers during the following two decades. Many of these actors from Merchant Press entered TV news. There is thus a reasonable argument that the failure of delinking led to, over time, institutional path dependencies enabling the traditional Merchant Press getting reproduced in TV news.

There is another way regulation in the legacy years contributed to this malaise. A key strategy to achieve cross-media accumulation, completely ignored by the licensing framework, was exploiting regulatory loopholes in the Companies Act. We recall advocacy by journalist unions to delink ownership during the 1960s pointed at business houses exploiting grey areas in the Act to own and control newspapers through proxy or front companies. Such indirect equity holdings by newspapers in news broadcasters masked the real extent of horizontal integration. Similarly, indirect and proxy ownership became the *modus operandi* to surmount stipulations on vertical integration in the Guidelines.

Front/proxy companies, inter-locking directorships, control through group affiliates, and private contracts were/are historically widespread in Indian business houses. These practices enabled newspapers to be clustered within the “penumbra” – as the Second Press Commission’s report saw it – of large diversified industrial and trading houses (GoI 1982: 152). The Second Press Commission called out the nexus between business houses and newspaper undertakings by exposing layers of inter-corporate investments, and inter-locked directorships (*ibid.*, 215). This highlighted the key regulatory loophole in the Companies Act. In its limited attempt to rectify this, the Second Press Commission recommended the term “associate” company – one with links to other companies within a group - to be more comprehensively defined in Section 6 of the Companies Act (*ibid.*, 215). But such an amendment never happened.

After turning a blind eye to this in framing the the first set of Uplinking Guidelines of 2000, the Minister of MIB clarified to parliament that any TV channel could uplink from India “irrespective of its equity structure or ownership or management control” (Jaitley in Parliament¹⁸⁶). This leeway led to interesting competitive practices by newspapers, as they accumulated interests in TV news. Dominant actors in print news, like Living Media and BCCL, transposed their

¹⁸⁶ Answer to question by the Minister of State for Information & Broadcasting, Arun Jaitley, in discussion on ‘Uplinking facilities for foreign telecast companies’ in Rajya Sabha on 14 Aug. 2000.

established and popular brands to news broadcasters. Others flaunted associations between print and broadcast news outlets¹⁸⁷.

Equally, loopholes in the Companies Act enabled proprietors of TV news outlets, such as *Zee* and *SUN TV*, to sidestep *de jure* stipulations on vertical integration in the Uplinking Guidelines. Here perhaps the fault rests primarily with the Cable Act of March 1995 that did not incorporate checks on it. The regulatory silences in the Cable Act testify to the unwillingness to introduce statutory safeguards to offset concentration or contain cross-media ownership – matters the Sengupta Committee had obliquely raised.

Till now, we have realised that the Uplinking Guidelines' provisions to check cross-media ownership, while ignoring the business practices of companies, suffered from the institutional path dependencies caused by loopholes in earlier regulations. Additionally, I identified path dependencies that constrained introducing safeguard against risks of ownership. The path dependencies imparted by Sakal and Bennett Coleman judgements thwarted introducing caps on market share in the newspaper business. While until the 1980s, the metropolitan press profited from this, thereafter the subdominant press benefitted.

As I had demonstrated earlier, rather than dispersing market share, the newspaper revolution ensured that actors from subdominant press replaced their rivals from metropolitan press, and amassed significant market share (*Cf.* pp.178-179). Recognising this, there is a reasonable ground to claim legal path dependencies shaped efforts to regulate concentration in TV news. Lacking visibility over deliberations *within* the government bureaucracy on the Uplinking Guidelines, it is unclear whether mechanisms to prevent concentration in regional language markets were ever considered. But we can be sure that any discussions on these matters is likely to have considered the risks of legal challenges from news outlets with, or planning to develop, cross-media interests. Whether the courts would have upheld it, given the precedents set by the Sakal and Bennett Coleman judgements, is a speculative matter. Equally speculative is whether the courts could draw on the spirit of the 'airwaves judgement', which disfavoured leaving broadcasting to unfettered market forces, to insist on regulating concentration in TV news. Nevertheless, it is reasonable to speculate that the government was wary of attracting criticism and litigation by dominant interests in the press, which included the earlier petitioners in the Sakal and Bennett Coleman cases.

¹⁸⁷ Even now, website of Sakal Media Group proudly states "Saam TV is the *group's* first venture into broadcast media business" (Sakal Media n.d, my emphasis) – mentioning below its logo "Print | TV | Digital".

7.4 Inferences

This chapter began by arguing that the long-drawn ‘revolution’ in newspapers, and ‘reforms’ in broadcasting from the 1980s, failed to assuage risks to ownership. Consequent to these transformations, the inter-relationships between traditional and nascent actors in news media, and their ties with interests in wider industrial and commercial economy, precipitated anxieties of cross-media ownership, besides augmenting age-old concerns about concentration and ownership structures. I claimed this was primarily because the types of cooperation personifying the traditional press – the typical merchant, congregational, or conglomerate interests therein – were procreated not only during the newspaper revolution but in TV news.

Being cognisant of all this allowed me to make claims on the risks to diversity, on the inequitable distribution of voice, and on accumulation of interests in the expanded realm of the press. The third regulatory moment – the licensing framework of private TV news – provided the opportunity to argue out these claims.

It was not that there was no discomfort with the real and anticipated threats to news media from inherited and emergent configurations of ownership. I captured periodic regulatory debates during the 1990s on perceptions and anxieties of market possession in TV news, through horizontal and vertical integration; in doing so, I pointed out policy windows, or opportunities, when at least some facets of ownership anxieties could have been assuaged. However, these were marked by regulatory silences, a behaviour replayed in the licensing policy for private TV news introduced in 2000, revised twice in 2003, and consolidated in 2005. Besides indicating an ad hoc approach on procedural and substantive matters of licensing, I demonstrated how these silences in the Uplinking Guidelines prevented instituting safeguards against anxieties of ownership organisation.

More widely, the trajectory of television policy from the mid 1980s demonstrated not the retreat of the state, as many scholars quoted earlier believe, and much of news media portrays. Instead, I suggest that it illustrates the state re-prioritising its aims and emphases in media policy, akin to convincing explanations of economic reforms in India during the early 1990s (see Pattanaik 1995 *passim*). During this period, incremental deregulation in the public broadcaster procreated a host of non-state actors to supply it with varied genres of news programming. These actors serviced private TBBs in similar capacity; but they did so at a greater scale, in wider news genres and diverse languages, which effectively disrupted the public broadcaster’s monopoly on TV news.

Having extensively deregulated public broadcasting, and allowed *de facto* de-monopolisation of TV news, further deregulation could only mean one thing: *de jure* de-monopolisation of TV news, by permitting private broadcasters to operate

from within India. This was achieved through the Uplinking Guidelines of 2000, whose design was marked by two principal traits: explicit provisions to ensure a particular palette of entrepreneurs, and type of entrepreneurial dynamics to procure and sustain voice in TV news; passive provisions and regulatory abstinences implicitly to enable concentration and cross-media ownership to play out. Taken together, the financial, legal, and organisational provisions of this licensing framework were designed to ensure the space of TV news was construed as a marketplace comprising particular types of economic interests and competitive capacities. Thus, beneath the seemingly ad hoc approach to licensing TV news outlets lounged a politics of policymaking.

To explain the impediments to regulate cross-media ownership, I drew on, akin to previous two chapters, the role of institutions, interests, and ideas as explanatory logics. In other words, the 'failure' to regulate horizontal ownership is presented through three levels of analysis: normalisation of values of choice and competition, deregulation and marketisation in broadcast policy; interest aggregation by dominant actors to marginalise concerns of ownership; and, policy silences and path dependencies dotting the institutional framework.

The palette of ideas sculpting broadcast reform, not to forget the newspaper revolution, was averse to economic regulation of the news media. This is refracted, not in parliamentary or public pronouncements of the government, but in the laws and guidelines that it enacted, and chose not to enact, over a period of time. These ideas provided intellectual fodder for dominant actors in newspapers and TV news to resist state intervention to contain accumulation of interests. The expanded realm of the press attracted dominant interests from the newspaper business, besides political, industrial, and agrarian elites. Procuring voice in this space was necessary for such interest groups to maintain, extend, and/or augment commercial and ideological stakes in the news media.

In tandem, it appears that the state's ideological commitment was not to *laissez faire* per se but to appease or patronise its own interests. This limited the scope of licensing provisions in the Uplinking Guidelines to the minimally required, and least contentious issues. Further limiting was the legacy of (historical) institutional abstinence and (anticipated) legal constraints dogging ownership. The multiple path dependencies, including those imparted by the earlier two regulatory moments, tempered the state's ability to tackle concentration, and ownership organisation, which were amplified with the refusal to address cross-media ownership. Since the actors seeking to widen stakes in the news media comprised dominant class coalitions constituting the state, this may explain the unwillingness (not inability) to break out of path dependencies.

Chapter 8

8 Conclusion: Continuities, Contestations, and Conformities

This dissertation examines the Indian experiences of regulating ownership in the press over a long period.

I view the press as engaging in the procurement of voice in society, be it through print or TV news, and ownership as the cooperation to procure, expand and sustain such voices. The latter shapes not only the organisation structure of the news outlets but concentration and conglomeration in the market. I identify three moments, spread over 50 years, when attempts were made to regulate facets of press ownership – i.e., ownership concertation, ownership organisation, and ownership conglomeration – and delve into the impediments faced at and across them.

Drawing on current concerns in media ownership to examine earlier regulatory contests, my dissertation adopted history as method. From a complex analysis – viz. determinants of embeddedness of the media, economic processes surrounding the media, and political circumstances shaping the media – I elicit aspects that provide an understanding of past phenomenon that continue to inscribe regulatory debates today. I identify and examine a range of documents produced by governments, parliaments, courts, individuals, and the press. My study invariably involves juxtaposing seemingly disparate and even unrelated documents to weave a coherent narrative.

This exercise in regulatory history is relevant on three counts: it brings out the ways an earlier historical moment defines the permissible contours of the later ones; it can inform current debates at a time when the press has expanded to include online news media; and, more widely, it provides a sense of the evolving nature of the state, including state-press relations, in modern India.

Given the period examined, the nature of the state in India in the three regulatory moments were different. Despite this, there were striking similarities across them. I therefore find it productive to capture them as critical junctures in an integrated field of contests around press ownership. This helps me to view them as a continuum i.e., the inter-relationships between these junctures, reappearance of impediments across them, or/and path dependencies imparted across them.

Drawing on the role of ideas, interests, and institutions as explanatory logics helps me to conceptually organise the enduring relationships and persistent impediments in this integrated regulatory field. Exploring these logics as a continuum hones my proposition of *considered silence* to capture the Indian regulatory experiences on press ownership.

8.1 The State and Ownership Regulation

There are dangers of abstracting the press from the context in which it operates, and treating it as an autonomous force of democracy (see Mihelj 2011:59). This makes us ponder over the autonomy of the other principal character, the state in a constitutional democracy. If we theoretically posit the state to possess a degree of autonomy from dominant sections of society (à la Poulantzas 1968), we expect it to be in a position to undertake redistributive and progressive media reform. This is expected to translate into concessions to small and marginalised actors, and restrictions to protect the public interest against pervasive private capital. But if we picture the state as comprising an alliance of classes that uphold it, we arrive at other inferences. Following Bardhan and others, we can picture the three elites – i.e., the mercantile-industrial ones, the landed agrarians, and state-created social and political ones – who contest and align with each other in a space supervised by a relatively autonomous state (Bardhan 1984, Kaviraj 1988, Vanaik 1990).

I find dominant actors in the press refracting these three broad interests embodying the Indian state. Owners of Merchant and Conglomerate Press have roots in the usurious-mercantile-industrial elite in colonial and post-colonial India. A fair portion of Congregational Press stems from state-created sectional and parochial political elites, especially in post-colonial India (see Maheshwari & Sparks 2021). The presence of agrarian elites is less visible, but being closer to regional political leadership, they are prominent actors in regional-language news markets (see Shaw 2014).

Merchant, Conglomerate, and Congregational Press share a common interest with the state to dismiss contending interests wanting a stake in decision-making. These contending interests include a section of Independent Press, and journalist unions. We see this vividly playing out during the three moments examined in this dissertation. Moreover, insufficiently dispersing concentration and ineffectively curbing conglomeration allows the state to defend a regime of property rights, and maintain a competitive milieu that favours the interests embodying it.

My analysis shows that the three regulatory moments experience a yawning gap between what governments publicly profess, and what ultimately transpires. This reminds me of the failure of periodic endeavours at reforms in agrarian land

reforms in India, which overlap with the first two regulatory moments in this dissertation. Herring saw these attempts as signifying a mere “shadow-play” on part of the state (Herring 1983:2). In this light, a sceptical explanation of the three of moments similarly illustrate governments resorting to forms of shadow-play. That is to say, the endeavours to address press ownership were not wholeheartedly intended to achieve their publicly deliberated, and openly promised objectives – which is why they end up being distorted, diluted, or defeated.

Alternatively, the fate of the three moments can be reasoned to illustrate the state’s recurrent inability to undertake a redistributive politics – and thereby ‘domesticate’, so to say, the news business as per the expectations of the liberal model. There is a large scholarship, within and beyond land reforms, that explicates the challenges of redistributive politics encountered by the state. Kohli (2010) argues that such challenges were part operational, due to the state’s limited capacity to implement redistributive policies, but in large part ideological, given that the state comprises an alliance between the government and private capital. Both explanatory logics seem to hold, based on my review of the evidence and trajectory of the three moments.

Yet another explanation implores us to view the fate of the three moments in terms of the government’s enduring ability to maintain a framework of consensus. By consensus, we do not mean the absence of tensions between inevitably contending actors but, instead, maintaining a relationship between them that is in some way stable and ordered (Kothari 1974: 1049). My analysis shows that this was achieved through allocating public resources such as newsprint and government advertising in variably partisan manners; fostering capitalist market relations by permitting concentration and conglomeration in Merchant Press; and, allowing political elites and sectional forces to partake in the news market, even if they distorted the market through extra-economic means. It is the desire to maintain a framework of consensus that better explains governments’ unwillingness and/or inability to break out of path dependencies.

Finally, we can argue that attempts to ameliorate the threats to operations and opportunities in the news media caused by different facets of ownership were thwarted by dominant actors who collared the state system. This echoes the argument about progressive land reforms impeded by dominant landed castes who “captured” the local organisation of the long-ruling Congress Party (Frankel 1978:200). This is similar to the way I see dominant actors in the news media leveraging their inter-dependent interests, and/or overlapping values with governments during the three junctures. Here, two nuances must not be lost. One, as Frankel underscores in the case of land reform, the capture of ownership regulation in the news media was not only organisational but also structural. While there is no explicit capture of the regulatory apparatus by the ‘big press’, the

structures of power in the state, press, and society curtailed or muted decision-making. This is because the dominant interests, implicated by the three regulatory attempts, are embedded in existing distribution of power and voice in society. Two, this capture is not complete in the case of the news media, as is evident in the persistence of harsh measures to regulate speech, including that produced by sections of the big press.

Corresponding to these arguments, inferences from my history of press ownership regulation can convey a sense of deceit, inability, unwillingness, or compulsion on part of the state. At times, these explanations may be complementary, as the following pages suggest. Irrespective of which reasoning appeals to readers, my analysis raises larger questions about media regulation, and potentially about progressive public policy in contemporary India.

8.2 Revisiting the Three Moments

I identified three moments that offered policy windows to tackle the adverse implications of different aspects of ownership. The first sought to mitigate risks during the 1950s from *market dominance*, i.e., from newspaper combines cornering domineering shares of newsprint and advertising. Efforts to curtail the circumstances enabling the big press to garner such dominance was directed to ensure diversity. The second moment attempted to mitigate risks from the *market presence* of newspaper proprietors with larger industrial interests. By dispersing ownership and delinking control of ‘big business’, this initiative hoped to safeguard the press from abuse by corrosive forms of *ownership organisation* during the 1970s. The third moment was catalysed by the commencement of private TV news in the late 1990s. Various iterations of Uplinking Guidelines of 2000/2003/2005 flimsily tried to limit vertical-ownership but failed to mitigate risks from *market possession* by actors invested in both print and TV news.

8.2.1 Moments Across Time

Given the timespan involved, the three moments expectedly differed in their constituted contexts – viz. the market dynamics of the press, and the political character of the state.

For instance, the mid-1970s have shown to be a watershed period in market dynamics. Not only did advertising-driven commercialisation gather pace, the public broadcaster decided to depend on advertisements. A further analysis of market dynamics led to other insights, more central to this dissertation. While until the end of the 1960s, dominant actors were English-language newspapers published overwhelmingly by Merchant Press from metropolitan centres, the

circulation in regional languages began to gain ground from the early 1970s. Although metropolitan actors expanded existing and/or started new publications, those in India's variegated linguistic geographies did the same; the latter became what I term as the subdominant press. The Second Press Commission's report in 1982 astutely noted the clash of commercial and normative aspirations between so-called 'national' and 'regional' press (see Parthasarathi 2021: 771-773). By the late 1990s, two significant developments radically altered the landscape: the prominence, and in some regions, dominance, of the subdominant press; and, nascent the emergence of private news broadcasters, who expanded the traditional sphere of 'the press'. This expanded sphere was inhabited by fresh actors in the business of TV news, and by those from the existing Merchant, Independent, Congregational, and Conglomerate (newspapers) Press who entered TV news.

Throughout the 50 years spanning this dissertation, the political character of the state morphed in significant ways. A proposition that has gained much ground is that it is important to acknowledge a shift during the 1990s from an interventionist to a regulatory state (see Rudolph & Rudolph 2001). This echoes wider discourses, especially by economists, that neatly demarcate contemporary India before and after the macro-economic reforms of the early 1990s¹⁸⁸. However, this dissertation supports a different argument that the state was always interventionist, albeit in different ways and served different interests – be it during the decades of the so called “socialism of scarcity” (Sherman 2022: 88) from the 1950s till 1970s, during the incipient market-turn in the 1980s, or in the macro-economic deregulation of the 1990s. If we consider the theorisations of the state's principal ideological dispensation, and principles underlying its economic policy, we get a granular picture of the morphing character. On the one hand, this is captured in a shift from the Pluralist-Welfarist orientation until the mid 1960s, a Left-Populist state over the next decade and a half, to one that incrementally embraced Neo-liberal tendencies from the mid 1980s. Equally nuanced changes are palpable in the state's hand in the economy. There are forceful arguments about the shift from a state-led mixed economy until the mid 1960s, to a state-centred mixed economy until the mid 1980s, and to a state-guided market economy in the 1990s (see recently, Mody 2023). My analysis highlights how such shifts conditioned debates and decisions on press policy during these phases, which largely overlapped with the three regulatory moments.

¹⁸⁸ For different perspectives in this huge body of scholarship, see Bhagwati & Panagariya 2013, Ahluwalia 2002, Jenkins 1999.

8.2.2 Similarities Across Time

There are striking similarities across the three moments. Particularly insightful are the policy values evoked to justify state intervention, set of actors implicated by the prospects of intervention, interests of the state, existence of institutional tensions, and course taken by policy cycles.

Beyond the specifics of the three moments, the ‘bigness’ of actors in the news business was perceived by sections of policymakers and the press as the principal risk to news media, society, and democracy. Moreover, policy debates leading up to the three endeavours illustrate that these some sections of the policy community were anxious about dominant actors in the news media “clustered within the umbra” of big business houses – as the Second Press Commission phrased it (GoI 1982: 152). Such apprehensions led to a common policy value, ‘*diversity*’, invoked to articulate threats from different facets of ownership. That said, different renditions of diversity were mobilised to justify regulation: to nurture regional languages outlets, to enhance plurality of voices, to protect small actors from industrial and strategic constraints imposed by dominant actors, and to promote varied forms of ownership organisation. An assorted normative and empirical vocabulary emerged, one evoked by permutations of source diversity, geographical diversity, linguistic diversity, viewpoint diversity, and exposure diversity.

A broadly similar set of actors were embroiled in the three moments. On the one hand, domineering news outlets jostled to fortify their commercial interests, industrial groups strove to protect and proliferate their investments in the news business, and, narrow sectional interests deftly nurtured their stakes in and across segments of the news media. On the other hand, the three endeavours were concerned, albeit diminishingly, about two common beneficiaries, both threatened by the spectre of bigness. One was the audience, expected to benefit if the issue of bigness was addressed. The second were small and marginal news outlets, anticipated to benefit if the milieu of competition was equitable. While journalist unions played crucial roles in propelling the first and second endeavours, they were invisible in the third. In contrast, trade bodies of news proprietors were on the margins during the first moment, visible during the second, and in the thick of policy advocacy during the third moment.

Amidst all this, the state was an interested party; as we saw across the three moments, it constantly sought to advance its ideological, political, and fiscal aspirations in the news media. Sometimes, the government rallied small news outlets and journalist unions to justify proposed interventions; at other times, it colluded, tacitly or overtly, with dominant actors. However, a common impediment across the three moments was the overlapping interests of the state and dominant sections of the press. More specifically, they wished to maintain their ideological and commercial hold over sections of the press in the first

moment, marginalise journalists and their unions wanting to have a say in running the press in the second moment, and gain financially from the increasingly commercialised news business in the third moment.

The shifting character of the state is not the core issue for me. More important for me was to keep track of how it, despite changes in its political and ideological character, safeguarded its interests. This insight leads me to ponder about the state as an institutional apparatus with limited autonomy in mediating rival dispensations. Specific arms of the state emerged as catalysts, or roadblocks, during the three moments. While the legislature was central in the first and second ones, the judiciary was undoubtedly a consequential actor across the three moments. The executive was preoccupied with framing and prioritising options, albeit with varying degrees of intellectual capability and procedural sincerity. Thus, common is the role and limitations of different arms of the state apparatus to propel, or impede, ownership regulation. This may suggest a textbook rendition of the system of checks and balances in the institutional architecture of policymaking. But my analysis demonstrates that this 'system' enables the state's interests to trump public interest. Much as the bigness of actors was a common rationale to legitimise regulating ownership, what ultimately mattered was the ability of the state, while considering policy options, to consolidate its interests in and through the press.

There was another similarity: none of the moments witnessed a smooth, textbook-like progression to devise interventions. On each occasion, governments were compelled to deal with scepticisms and apprehensions from news media. All the three regulatory endeavours confronted commercial and ideological interests in the news media; some took to, or threatened, legal recourses. At the same time, governments at each moment were ambiguous about the scope of regulation they ostensibly championed. Partly due to this, if not to cover up their ambiguities, they resorted to procedural rigmaroles, causing delays and detours in the policy cycle; this included constituting cabinet committees, inter-ministerial working groups, and parliamentary sub-committees that take time to devise and/or examine policy options. Ultimately, both factors – i.e., governments' lack of a clear regulatory vision, and compulsions to pander to a host of interests – resulted in the endeavours getting distorted, diluted, or defeated, as the case may be.

8.2.3 An Integrated Field of Contests

Given these similarities, the three moments appear as a series of related and recurrent flashpoints in a singular narrative. That is, they appear as *critical junctures* in the regulatory history of press ownership in India. Elements of this narrative include the re-articulation of ownership concerns with changes in the news landscape, normative and ideological rationales for policy options, weight of

advocacy and litigation by contesting interests, and the institutional constraints confronted, or perceived, by governments.

My analytical narrative managed to capture an integrated field of contests. Drawing on the role of ideas, interests, and institutions as explanatory logics, introduced in Chapter 4, led me to scrutinise it at three levels: the changing arguments to regulate the perceived risks to press ownership, relative influence of competing actors with stakes in the press, and, the tensions within the institutional architecture mediating the first two levels. Beyond serving as discrete elements explaining the fate of individual moments, I was able to conceptually organise enduring relationships and persistent impediments across the three junctures.

While grasping this integrated field, I revealed how impediments reappeared in different guises at these junctures – despite their different constituted contexts. Most striking was the wobbly evidence that informed policy options, and the ability of dominant actors to weaken regulatory mechanisms. These accounted for changes and absences in seemingly discreet endeavours over long loops of time.

Revealing this integrated field enabled me to explore inter-relationships between these three junctures within a wider and shared analytical field. I found the constraints and failures to regulate ownership at one juncture impacted subsequent junctures dealing with related matters. For instance, the inability to distance business houses from their newspaper undertakings during the early 1970s prevented, 30 years later, such provisions being incorporated into the licensing framework of TV news outlets. Thus, a particular permutation of pervasive interests, incongruent ideas, and institutional constraints that thwarted one juncture tempered the contours of subsequent ones. This is where I draw on my theoretical framework introduced in Chapter 4, which discusses scholarly propositions about path dependencies – i.e., arguments about inherited constraints in a regulatory framework imparted by the legacy of weaknesses, impediments, or silences therein. Clearly, the legal path dependencies catalysed by the Sakal judgement of 1961, discussed in the first moment, shaped the Bennett Coleman judgement of 1972 which, in turn, made the government apprehensive about the constitutional tenability of the proposed Ownership Bill during the second moment.

Consequently, the three critical junctures, despite sprawled over 50 years, were part and parcel of a continuum of contests over values and stakes in the regulation of ownership. Revealing this proved advantageous to bring into relief the multiple and overlapping relationships in the evolving political economy. Exploring these as a continuum assisted me to pinpoint what remained amiss in (inter-related) endeavours on concentration, ownership organisation, and cross-media ownership. It is in this context that I forward the idea of *considered silence* to capture the experience of regulating press ownership. As an analytical concept, it

helps explain the arc of persistent impediments dotting an integrated regulatory field. For, in this narrative lies the key to understand voids in the regulatory framework of press ownership in present day India.

8.3 The Weight of Ideas

Arguments to justify regulatory interventions draw on empirical, ideological, and normative grounds in varying proportion and depth. This is demonstrated in the evidence mobilised, in the extent to which media diversity was consequential as a policy value, and in the wider ideas that (pre)determined the contours of regulatory decisions.

8.3.1 Role of Evidence

The first moment witnessed empirical and normative arguments to regulate ownership concentration. I find a limited body of evidence was gathered by the Press Commission of 1954 to make a robust case for the nature and extent of concentration during the 1950s. Its recommendations, which informed the key regulatory instrument in the first moment (Price and Page Act, 1956), relied on measures of market-share of circulation and newsprint; however, it did not have evidence on market-share of advertisement – an important driver. This gave an incomplete picture of the extent of market dominance by a few newspaper groups.

A potent blend of empirical, ideological, and normative arguments is visible during the second moment. To begin with, debates informing the proposed Ownership Bill during the early 1970s drew on a wide body of evidence on business practices. The findings of the Monopolies Commission, and the Enquiry Committee, while updating those of the Press Commission, provided ample and conclusive evidence on how Merchant Press adversely effected the milieu of speech and commerce in the newspaper business.

But from the 1980s onwards, there were minimal attempts to enumerate ownership patterns in the newspaper business; this was less so when private TV news outlets emerged during the 1990s. A study of ownership and market power in the newspaper business, appended to the report of Second Press Commission (1982), was the last indepth, official effort to map news ownership. In subsequent years, the scarcity of ownership data was explained on two counts: the refusal of newspapers, and their associated companies, to be transparent about their financials; and, where such data was available, the lack of systematic research by academics and/or journalists (see Eapen & Rao 1984: 26-27). However, based on my analysis in this dissertation, I suggest that the state rescinded its public obligation to gather robust and periodic evidence to inform policy debates. Its

enumerative silences led to a void in data on the business of TV news – be it about the number of cable homes, viewership of news channels, or ownership structure.

Filling this void since the mid 1990s were sundry ‘industry reports’; the most widely cited ones, even in government reports, were prepared by consultancy companies, many of which were auditors of news organisations. Apart from the matter of ingrained conflict of interests, the reports aimed to portray a specific image about the media business (also see Govil 2016). Even after the first set of licenses to news broadcasters were awarded in 2000, governments ignored their roles in gathering and sharing data on concentration and cross-media ownership. Baseline information was available – be it in official documents like license applications of TV news outlets, or mandatory annual filings by companies. Ignoring this led to policy debates and regulatory provisions that were not informed by extensive and hard evidence. Such evidence would have, for instance, enabled the government to calibrate whether caps on cross-media ownership were required, and if so to what threshold, in the Uplinking Guidelines of 2003/2005).

This should not obfuscate news outlets’ efforts to shield different aspects of data. The (First) Press Commission discomfitingly noted newspapers’ unwillingness to provide data (GoI 1954: 6). Learning from this, the Fact Finding Committee was empowered to seek financial data from dailies. *Statesman* went to the court against this, arguing the economics of its business was “not a matter of public importance” (AIR 1975). Even after the Supreme Court made such disclosures binding, only 20 percent of dailies responded to the Committee’s questionnaire (GoI 1975:16). The Press Commission also noted that numerous newspapers were not members of the Audit Bureau of Circulation (ABC), set up in 1948, to audit and monitor newspaper circulations. Consequently, this industry-driven, non-statutory attempt to assemble reliable figures resulted in incomplete datasets. Something similar occurred 25 years later when the first National Readership Survey (NRS) sought to broaden the metric from circulation to readership. Many newspapers opposed, or did not cooperate with the industry-led NRS fearing the expanded canvas of data would possibly push advertisers to redirect their spending to rivals (see Jeffrey 1994).

8.3.2 Diversity as a Policy Value

In Chapter 3, I discussed concerns around the dynamics of ownership organisation, concentration, and cross-media ownership conspicuous in varied scholarly renditions of the concept of media diversity. Commentaries and analyses drew on normative, ideological, and empirical arguments to demonstrate the adverse impact. These continuing debates, I argue, spawned different ways to enumerate diversity, including those based on the diversity of sources, viewpoints, market-shares, geographies, and exposures, which proved helpful in gauging the risks due to different dynamics of ownership.

A broad normative emphasis on diversity is visible in the three moments. This has its roots in the report of the Press Commission of 1954: viz., “diversity of opinion should be promoted in the interest of free discussion of public affairs” (GoI 1954: 501). Its recommendations were cognisant of the need to safeguard content, exposure, geographical, and linguistic diversity. But risks to content diversity from the concentration in advertising-share was ignored. This impacted the strength of arguments to diffuse control in Merchant Press to a Trust, or delink newspapers from business houses, as proposed by the Press Commission and later attempted by the proposed Ownership Bill. The way concentration in advertising-spend could constrain diversity, even after a business house ceased to own/control a newspaper, was not attended to by advocates of the Trust.

This suggests an inability among policymakers to translate normative visions about the ownership-diversity relationship into regulatory mechanisms. For instance, deliberations on diffusion and delinking lacked a blueprint for newspapers to sustain themselves once business houses were edged out. Even arduous proponents and supporters of the Ownership Bill failed to thrash this out. The normative vision of the Trust was not a protection against market power and threats to diversity. It is questionable whether this form could have sufficiently shielded the press against incentives to distort news by advertising spend – especially by business houses whose ownership was diffused or delinked.

Yet, diversity as a policy value was repeatedly evoked during the third moment. This was because the Supreme Court’s ‘airwaves judgement’ of 1995 stated that the purpose of de-monopolising broadcasting was to nurture (viewpoint and source) diversity. While affirming airspace for private TV broadcasting, it wanted this space “*not be left to market forces*, in the interest of ensuring that a wide variety of voices enjoy access to it” (AIR 1995: para 205, my emphasis). The judgement echoed ideas of regulated pluralism through its insistence on preventing concentration of broadcast frequencies among few actors (*ibid.*, para 48). But akin to Sengupta Committee report a few years later, it was oblivious to threats to source diversity posed by horizontal integration, and to exposure diversity by vertical integration.

Here I want to make a larger point. The omissions and ambivalence in conceptualising diversity offered the state the scope to deploy this policy value to legitimise interventions that aligned with its interests. For instance, the (First) Press Commission’s imagination of risks to diversity from concentration was leveraged by the government to fortify its interests through the Price and Page Act. Similarly, the trope of Broadcast Reform during the 1990s evoked the idea of diversity to justify de-deregulation of broadcasting. This resulted in the emphases on pluralism in the programming carried by the public (monopoly) broadcaster during the early 1980s, limited as they were, getting transmuted into ideas of market diversity – thereby, paving the way for non-state actors to enter TV news.

The (arbitrary) caps on vertical ownership in the Uplinking Guidelines helped the government occupy the high moral ground to safeguard diversity – whereas, in practice, it created conditions to reduce source diversity. These rhetorics and loopholes consented to the institutionalisation of accumulation of interests, paving the way for a limited set of large and influential actors within and across both newspapers and TV news.

8.3.3 Ideological Currents

Fluctuations in ideological arguments underpinning ownership regulation arguably reflect the nature of the state within which the three moments unfolded. Propositions in the first two refracted the bent of the pluralist-welfare state (1950s), and the left-populist state (early 1970s). Deliberations and propositions in the third moment were inscribed by the emergent neo-liberal state (1990s).

During the first moment, the *Price and Page Act* aimed to institutionalise regulated pluralism to neutralise concentration. This was part of wider redistributive politics that then characterised government – attempts to reform agrarian land reform being the salient example. But the government did something different through the Act. It empirically differentiated between big and small newspapers; it then ideologically framed this binary as one that refracted fractures between the metropolitan and regional press, and between newspapers owned by combines within Merchant Press and others; and finally, it projected itself as the champion to safeguard small and regional-language newspapers from metropolitan. However, I maintain this was largely a rhetoric to rally support from regional and linguistic aspirations in parliament to legitimise the real and underlying objectives of the Act. It aimed to tame big press, as a few legal scholars insist (see Dhawan 1987, Bhatia 2016a). But I expose that the Act was not against advertising-driven commercialisation, as testified in its refusal to incorporate a news-advertising ratio, which the (First) Press Commission felt was crucial to address concentration; and, it did not incorporate measures to protect small newspapers from vulnerabilities imparted by advertising and advertisers.

The second moment, grappling with restructuring ownership organisation, was rooted in another kind of redistributive politics. The (First) Press Commission's suggestions to diffuse ownership were resurrected from the late 1960s, when the priorities of the state changed, with the rise of a Left-Populist regime. The thrust to bar forms of ownership was precipitated by two convictions of the state: threats of market power wielded by big business groups, and the need to do away with the private sector's role in the economy. These two respectively informed policy options: delinking newspapers from non-media undertakings of business groups, and diffusing newspaper ownership and control from proprietors who were the organisational fulcrums of such groups.

Regulatory endeavours at the first two junctures encountered the challenges of redistribute politics that are generally faced by the state. The operational constraints, following Kohli's argument mentioned earlier, is amply visible in the second moment – in the inability of supporters of diffusion to visualise ways newspapers would finance themselves, after being delinked from business houses. The ideological constraints are glaringly visible during both moments: respectively, in the government's silence to stipulate a ratio for news-advertisement space, and in the reluctance to pursue delinking. Both measures would have impaired a crucial member of the dominant coalition constituting the state to procure voice, thereby fracturing the alliance of government and private capital.

In the third moment, the legacy of distributive failures met with an ideological disinclination to protect similar risks in TV news. I argue that despite the *Newspaper Revolution* during the 1990s, the phenomenon of concentration in circulation and of business-owned newspapers was reproduced in subdominant press. This was due to the state's inability in earlier decades to regulate the two dynamics – something the government admitted in the Bennett Coleman case (see Mathew 1978:288). In other words, the state's inability, or lack of political desire, to mitigate ownership risks were normalised by the mid 1990s – i.e., when extensive policy debates on private cable and satellite TV had just commenced. Reinforcing this normalisation were values driving broadcast reform from the mid 1980s, which strengthened during the transition to a state-guided market economy in the following decade. The state patronised media elites during the mid 1990s; for instance, by awarding contracts to affiliates of large newspapers to supply news programming to the public broadcaster. This decision tangentially legitimised cross-media presence, however miniscule the scale and impact of market possession was in those years.

By the end of the 1990s, many newspaper-combines saw private cable and satellite TV news as an avenue to widen procurement of voice. Equally, this attracted the industrial and political elites. For them, this was necessary to develop commercial and ideological stakes in the expanded sphere of the press. These elites were averse to regulation in the nascent business of TV news. Their views were reinforced by values adopted by the state during the 1990s to reorient macro-economic policy more generally through deregulation, privatisation, competition, marketisation, and transnationalisation (see esp. Pattanaik 1995 *passim*). They created the intellectual context for dominant actors in the press to question safeguards against cross-media ownership, and attempts to distance news outlets from industrial groups.

Thus, the historical inability of the state to safeguard newspapers from concentration and business houses was compounded by an ideological disdain to mitigate corresponding and additional risks in TV news. This explains the

provisions on aspects of ownership in the Uplinking Guidelines, as they exist till today. The initial rules, and amendments, legitimised industrial elites to own TV news outlets; they ignored measures to curb concentration through, say, caps on licenses, and were disinterested in framing provisions to prevent cross-media ownership.

That such a ‘market idea’ became endemic is visible in another initiative in 2005. This was the government’s proposal to open terrestrial broadcasting, hitherto a monopoly of the public broadcaster, to private actors. These discussions sidelined provisions to check crossholdings between newspapers and broadcasters, and between terrestrial and cable & satellite broadcasters (see TRAI 2005:18-20).

8.4 Institutional Commissions and Omissions

Earlier I discussed the enumerative silence by governments that resulted in dwindling their ability to undertake evidence-informed decisions in an earlier section. I now suggest that two other forms of institutional silences are responsible for the ability of contesting forces to shape policymaking.

8.4.1 The Procedural Space

Within and outside the procedural rigmaroles of policymaking, governments prefer to negotiate with dominant actors from the news media. This ‘procedural silencing’ created an imbalance in the relative power of different constituents in the press to influence policy options.

Although the purpose of regulating concentration during the 1950s was to protect small and regional-language newspapers, their proprietors, journalists, and editors were excluded in discussions to frame the Price & Page Schedule. We recall Minister Keskar explained this on pragmatic and substantive grounds. Involving few participants reduced the burden to manage diverse interests; and, within this limited number, proprietors should be accorded a “fair hearing” since the matter concerned “the business side of the paper” (Keskar in Parliament¹⁸⁹). Consequently, the process of effectively involved negotiations between big press and government.

Similarly, participation by journalists and editors in the formal regulatory process was crucial in the second regulatory moment to diffuse ownership and

¹⁸⁹ B.V. Keskar introducing ‘The Newspaper (Price and Page) Bill, 1956’ in Rajya Sabha on 14 Aug. 1956, p.1299.

control. But the government was disinclined to take on the onerous task of mediating with journalists and their unions, as also with proprietors and investors in the press. Politically, governments preferred to deal with proprietors commanding influence across linguistic and geographical news markets. One of the longest serving press advisors to Indian Prime Ministers confided that ensuring a favourable press from the mid 1960s till mid 1980s effectively required befriending editors of only five leading English newspapers (Baru 2021: 320).

By the 1990s, the ineffectiveness of journalist unions to influence policy was complete. We recall, from Chapters 5 and 6, the vocal and persistent advocacy by journalist unions from the 1950s to the 1970s was directed both to goad the government to intervene in press policy, and influence the options deliberated. But in the lead up to the Uplinking Guidelines for TV news, such contestations by unions were invisible. Existing unions of newspaper journalists were unable, or disinclined, to intervene. This is despite the first generation of TV journalists predominantly shifting from newspapers. Thus, from the 1990s, newspaper journalist unions vacated advocacy space to proprietors.

Moreover, the rapid evolution of the TV business was not accompanied by the emergence of unions, or even professional associations, of TV journalists. This was part of a larger trend during deregulation in India; this phase witnessed a decline, if not failure, of trade unions more generally to protect the industrial workforce (see Ghosh 2008, Mahmood 2016). That Uplinking Guidelines debarred a trade union to apply for a license unmistakably indicates the state's outlook to unionised labour. Even in the wider information economy, the active presence of unions and professional associations was conspicuously absent – as research on the software and outsourcing business has shown (see Stevens & Mosco 2010). Therefore, it is not surprising that union among TV journalists, a new niche in information/media labour, failed to take roots.

In sharp contrast, commercial actors were quick to devise new forms to influence policy. Their interest aggregation took place through entrenched and newly-created trade bodies (*op. cit.* p.2011). They proactively represented the concerns of their members to policymakers. For instance, in 1993, the newfound North India Cable Operators Welfare Association (NICOWA) was invited to give “evidence” by a parliamentary committee steering the earliest discussions on the Cable Bill (Parliament 1993: 4-5)¹⁹⁰. Other consequential actors guiding broadcast policy were the age-old, multi-sectoral trade bodies, CII and FICCI. Besides traditional lobbying, they influenced economic policy more generally in subtle ways; for example, they offered public platforms to help build the stature of

¹⁹⁰ Overtime, NICOWA grew and amalgamated numerous small and regional associations of cable operators, and rechristened itself as the Cable Operators Federation of India, the leading voice of this business today.

government officials, and function as a bridge between business, government, and news media (Baru 2021: 166). Since the late 1990s, FICCI particularly played an increasing role in advocating the nature and direction of broadcast deregulation, and continues to do so today.

8.4.2 The Deliberative Space

Proprietors of prominent news outlets had another opportunity to influence the direction of media policy through their presence in parliament.

In the decades after national liberation, a few family members of owners of Merchant Press became MPs. In Chapter 5, we saw Shreyans Prasad Jain, the brother of BCCL's owner and member of Rajya Sabha, ardently making a case against the need to regulate concentration through the Price & Page Bill. Starting from the 1980s, there was a steady and noticeable increase in the number of proprietors and proprietor-editors in parliament. They were either elected to Lok Sabha, or nominated to Rajya Sabha by national and (more conspicuously) by regional political parties. The latter confirm my earlier contention about the proximity between regional politicians and regional language press. Thus, media owners found space to influence the legislative process, formally as participants in parliamentary debates, and as members of parliamentary sub-committees dealing with news media, but also informally in discussions with fellow MPs.

This brings us to the changes in the extent of parliamentary deliberations on press policy during the years of study. Unlike the extensive deliberations on the Price & Page Bill in 1956, and the prolonged ones on the Ownership Bill during the early 1970s, this was not the case while the Uplinking Guidelines were formulated, or amended. While questions posed by MPs on the licensing framework for TV news were vague, the typical response by successive MIB ministers were vaguer.

This silence in the First Estate was complemented that in the Fourth Estate. In the years around the Uplinking Guidelines, reportage and editorials in newspapers hardly delved on the adverse implications of cross-media ownership, and negligibly on diversified industrial conglomerates owning news outlets. This vividly contrasts with sections of the press championing the cause of regulating ownership between the 1950s and 1970s. Not that concerns about market power or competition were never raised during the 1990s. For instance, leaders of Conglomerate and Merchant Press, such as *Times of India* and *Hindustan Times* respectively, lobbied hard to protect their turfs, and crush efforts by *Financial Times* (England) to commence publishing from India (Baru 2021: 324). But similar advocacy on cross-media ownership and concentration was (not surprisingly) absent. In fact, studies on the framing and rhetoric of reportage in Merchant and Conglomerate Press have shown them to promote economic policies that benefited business and media elites (see De 2017).

The picture emerging from my analysis is about the relative power of different constituents of the press to orient and shape regulatory interventions. The procedural space accorded to journalists saw a steady decline; in tandem, governments increasingly leant an ear to proprietors and trade bodies.

8.4.3 Multiple Path Dependencies

Chapter 2 unequivocally demonstrated that the ideals of the liberal model of the press were absent during colonial times. Central to its legal framework was clamping down on newspaper-as-speech, while allowing newspaper-as-commerce to unabatedly flourish. This bequeathed a strange legacy in post-colonial India: while the press remained embedded in networks of social identity and economic association, the normative assumptions underlying the liberal model were not quite in place. Consequently, state interventions in public interest – viz. be it instituted pluralism or checks on market power – appeared out of place.

India's constitutional provisions on the freedom of expression partly continued this legacy. On the one hand, exceptions to restrict free speech, also applicable to the news media, were formalised in the first amendment of the Constitution in 1951 (see Sethi 2015). However, these exceptions did not include protecting public interest that entailed curtailing market power or competitive abuse in the press. On the other hand, the Constitution saw the state as sole threat to free speech. Its provisions did not consider threats by non-state actors as legitimate exceptions to curtail speech; this tempered the behaviour of the judiciary as the protector and interpreter of the Constitution, as I argued in Chapters 5 and 6.

I am not the first to point out the role of the judiciary in constraining the thrusts and/or direction of public policy. Seasoned scholars spotted this trend decades ago (for instance, Frankel 1978). Even from the 1990s, during India's gradualist macro-economic deregulation, the judiciary played a consequential role, as we saw in the 'airwaves' judgement of 1995 shaping the broadcasting sector. Scholars suggest that in the telecommunications sector, the Supreme Court sought to make a constructive contribution to both the actual disputes and the overall regulatory framework (see Thiruvengadam & Joshi 2012).

Reflecting on the judicial pronouncements impelling the critical junctures examined in this dissertation, I find legal path dependencies to have constrained the regulation of press ownership.

Since legitimate restrictions on speech did not include threats to the public interest from commercial power, the Sakal judgement disregarded concentration as a reasonable exception to curtail newspapers during the first moment. Overcoming its neat distinction between the state and market required the judgement to factor in two matters: one, a theoretically considered position on the drivers and implications of competition in highly uneven news markets; and two, a legally contextualised and qualified perception of freedom in (and not only of)

the press. This is not to say the Sakal judgement was ignorant of the implications of market power, but it was (compelled to be) ambivalent about it.

The weight of precedence set by the Sakal judgement of 1961 is evident in the BCCL one of 1972, a crucial development scarring the second moment. This played a major role in the government becoming wary of pushing through the Ownership Bill, as conceded by Minister Gujral in parliament. The Bennett Coleman judgement categorically held that Article 19(1)(a) of the Constitution protects free speech only when infringed upon by the state or public authorities. Thus, the conduct of dominant actors that constrained the capacity of small newspapers to produce and circulate voice did not qualify as an instance of the infringement of free speech. Furthermore, the Bennett Coleman judgement was influenced by the ambivalence of Sakal judgement, which was derived from a certain libertarianism embodied in the constitutional exceptions to freedom of speech. This is what Justice Mathew, the lone dissenter in the Bennett Coleman judgement, termed the myth of “marketplace of ideas” (Mathew 1978: 103). This says a lot about the tensions between constitutional protection of free speech, normative ideals of free press, and operational vulnerabilities of marginal actors in the press.

Legal path dependencies imparted by both judgements directly implicated attempts to regulate press ownership during the second moment. They placed the risks to media freedom as primary, and far above the risks of media concentration and media diversity. This reminds me of the inability of the government in Britain in the late 1990s to introduce legal checks on concentration after newspaper proprietors raised issues of press freedom (Leys 1999: 321). Moreover, both judgements in India were unable to decipher the role of the state in constituting media markets, and catalysing configurations of market power therein. This is where the ‘airwaves’ judgement of 1995 was different, as we saw while examining the third moment (*op. cit.* pp.207-208). Having insisted that broadcasting be monopolised from the clutches of the state, it equally demanded that the government evolve mechanisms to prevent market power and abuse in this space.

But the all iterations of the Uplinking Guidelines appear to be mindful of the collective weight of the Sakal and Bennett Coleman judgements, and slightly negligent of the ‘airwaves’ judgement. For one, they included the least contentious issues regarding ownership. The provision to allow business groups in broadcasting aimed to blunt anticipated legal challenges if they were barred. The earlier legal path dependencies, especially from Sakal judgement, constrained the Guidelines to squarely restrict concentration and/or cross-media ownership.

But my analysis found the state to have shied away from diligently attempting to overcome legal constraints that, many legislatures felt, impeded the regulation of ownership. As observed in the context of the Ownership Bill during the 1970s, the government did not see the reorganisation of ownership as worth the potential legal and constitutional risks. Both factors played a role in the Uplinking

Guidelines instituting lenient provisions – i.e., to allow business houses to own TV news outlets, and maintain a silence on cross-media ownership.

Furthermore, the state shied away from amending mothballed provisions in the Companies Act, as journalist unions pleaded throughout the 1960s, to lay bare the complex webs of ownership. Big business groups wielded indirect control in newspapers, i.e., through cross-holdings by a maze of group-companies (GoI 1975:198). Unions claimed proprietors exploited loopholes in the Act to drain or syphon money from newspapers, as later proved by the Fact Finding Committee (*op. cit.* p.144). Plugging drawbacks in the Companies Act might have guaranteed a coherent means to evaluate the extent business groups exerted control across seemingly-unrelated entities (including newspapers).

Years before the Ownership Bill was debated in parliament, the Monopolies Commission had pointed at the diffusion of ownership (in non-news entities) as a way to prevent shareholders from exercising control beyond their holdings (GoI 1965a: 201). While inter-corporate investments became a mechanism to expand large family-run business groups, the Companies Act was satisfied by controlling persons to merely declare nominal stakes in companies (see Thanjavur 1987). These practices continued and, with the advent of TV news, became handy to mask cross-media ownership. Of course, masking such webs of cross ownership cannot persist without collusion with financial accountants, periodically rotated auditors, and corporate lawyers. The success of any cross-media regulation demands enumerating the changing business and organisational practices of conglomerates, whether media or industrial ones. We can only speculate whether the judiciary would have viewed any amendments in the Companies Act to demand disclosure and collection of ownership data from news outlets as an infringement on the Fundamental Right to conduct business.

What does the repeated disinclination of the state to overcome limitations in the institutional framework, or to plug loopholes in extant regulatory instruments, tell us? These decisions of non-intervention were either cognisant of state capacity, or reluctant to test the constitutional tenability of regulatory interventions, implicitly biased towards entrenched interests, or simply acts of Statism, i.e., to maintain the state as an interest. Depending which reason we choose, the trail of considered silences in the regulation of press ownership can be explained by permutations of operational constraints perceived by the state, its desire to reap symbolic capital from certain constituencies, its ideological motives, or simply its ambitions of self-preservation.

Recurrent disinclination can be interpreted as a wilful desire to maintain a consensus in the relationship between governments and big press. This consensus involved accepting and maintaining the balance of power between contending (dominant) forces inhabiting the press. This is visible, during the early years of private satellite broadcasting and distribution, in successive governments' refusal

to attend to the gestating conditions that contributed to cross-media ownership. Much as the 'airwaves judgement' of 1995 legally sanctified values of choice and competition in broadcasting, it obliged the state to evolve mechanisms to safeguard against market power. However, governments were disinclined to deploy this mandate to effectively curtail vertical and horizontal ownership through effective provisions in the Uplinking Guidelines.

This leads to possible explanations of why the state played the role it did across the three regulatory moments. Detailing this supports my claims about the state's inability, unwillingness, or compulsion in addressing matters of ownership.

8.5 A Union of Interests

To begin with, I argue such mediation fortified the state's interests in and through the press. That the factors responsible for the bigness of actors in the press remained untethered, helped governments in another way. Regulatory silences on concentration and cross-media ownership resulted in an inequitable spread of advertising share among news outlets. Neither the Price and Page Act of 1956 nor the Uplinking Guidelines of 2000-05 adopted mechanisms to cap advertising space/time. The consequent rising advertising spend in the press fiscally benefited successive governments.

In Chapters 6 and 7, I brought out the state's reticence to regulate either the organisation of ownership or cross-media ownership – and the advantages this brought to Merchant Press. These regulatory silences enabled the state to protect its interests, while allowing forms of market power to prevail. The inability to diffuse or delink ownership or/and devise norms to contain cross-media ownership provided incentives for business houses to own and expand news undertakings. Since these houses were dependent on state leniency, and patronage for their more lucrative non-media ventures, their media power, which threatened diversity, did not threaten the state; in fact, the state gained leverage over the business houses it patronised. Moreover, if diffusion of ownership and control had been legislated, the government would be forced to deal with several interests that could co-own newspapers and, in due course, those who would co-own TV news outlets. Sidelining this option ensured the government nurtured its interests through the press by dealing with a handful of proprietors of high-circulating (and high-viewership) news outlets.

Thus, the normative ideas informing diffusion and delinking were at odds with India's political economy; they also appear oblivious to the longstanding relationship between the political and commercial elites. In Chapter 2, I had pointed at the close relationship that developed during the freedom struggle

between these two elites. Scholars of business history have pinpointed the 1930s as the period when an “alliance” between emerging business groups and the Congress Party was firmed up (Markovits, 1985: 177). This continued throughout the 1960s and 1970s, as compulsions of mixed economy saw governments forging a transactional relationship with business houses. For instance, the Industrial Licensing Policy Inquiry Committee (1969) revealed that the largest share of licenses was allocated to the diversified Birla Group, owners of a leading multi-lingual newspaper combine (Baru 2021: 144). Given elements of reciprocity involved in state-business relations, it is difficult to imagine the state pushing through either diffusion or delinking of combines owned by business groups¹⁹¹ – or cross-media caps that would impact them in the Uplinking Guidelines.

Successive governments’ largesse benefited business houses owning news outlets in other ways: they ignored the intricate webs of cross-holdings that formed the bedrock of the business organisation of diversified conglomerates. Within this complex and opaque structure, it was common for an affiliate of a business house to finance an affiliate in an unrelated sector. Yet, the Uplinking Guidelines appeared unmindful of a newspaper undertaking indirectly controlling or influencing a TV news company, or vice versa. This reminds me of a commentator from the 1970s who was sceptical about delinking. He was convinced that even if the unexpected happened (and the proposal was accepted), “enough loopholes will be left open” in the legislation for business houses to retain control of newspapers (Banerjee 1973a: 1713).

There was a set of variably overlapping interests of the state and dominant actors in the press. For instance, while concentration in the share of newsprint and advertising were key rationales propelling the Price & Page Act, this legislation refrained from barring newspapers from publishing political Supplements (*op. cit.* p.128). This was contra to the recommendations of the (First) Press Commission, advocacy by journalists and their unions, and pleas by MPs including those from the treasury bench. Halting such Supplements would have weakened the government’s ability to disseminate its views through high-circulating newspapers, mostly owned by Merchant Press; in tandem, it would have muted the ability of Merchant Press to enhance its share of revenues from government advertising.

A similar interest-alignment saw to the Ownership Bill being abandoned. Both policy options, diffusion and delinking, would risk undesirable scenarios for Merchant Press and government. On the one hand, diffusion would have led to another power centre, namely journalists and their unions, co-owning

¹⁹¹ Interestingly, at the height of the diffusion-delinking debate, the government bought shares of Andrew Yule, one of the investors in *Statesman* – a bitter critic of any sort of state intervention in private enterprise; see Banerjee 1973a.

newspapers. Since unions were (and are) affiliated to political parties, diffusion in Merchant Press would have given an upper hand to Congregational Press. On the other hand, delinking did not oblige owners of Congregational Press to distance themselves from their patrons. Thus, choosing either policy risked ruffling the balance of power within the press, and between its dominant actors and the state. The considered silence on the Ownership Bill retained this balance – which while tilted towards Merchant Press, fortified the state’s interests.

Debates on delinking briefly resurfaced in the report of the Second Press Commission in 1982. Strangely, this was inspired by an Ordinance from 1944 in France intended to disassociate newspapers from industrial groups, including by preventing common directorships. Despite knowing this Ordinance was not implemented, the Second Press Commission in its exuberance recommended that business groups should not directly own more than 10 percent in each newspaper. But it was sensitive to indirect ways in which control could be exercised, such as by “inter-member control, inter-company control, management control, voting trusts, irrevocable proxy, cross-holdings, circular holdings, etc.” (GoI 1982: 152). These were not acted upon by the government as some members of the Commission, who were editors of a leading newspaper combine, strongly objected to these propositions.

In retrospect, all the talk, reports, and consultations on concentration during the 1950s, and on ownership organisation from the 1960s until the early 1980s never culminated in anything effective¹⁹². This legacy hardwired institutional conformities and path dependencies that, in turn, prevented the Uplinking Guidelines from either safeguarding against concentration, or qualifying the market entry of business houses in TV news outlets. In fact, its clause that mandated licensees to have a minimum net worth disincentivised entry of small actors. Thus, I find the regulatory framework of licensing in TV news dampened competition. This reminds me of some scholars who while ardently professed the virtues of market economy felt the trajectory of wider economic reforms in India during the early 2000s to be less pro-deregulation, and more pro-business (for example, Rodrik & Subramanian 2005). The Uplinking Guidelines were part of this trajectory since they protected entrenched actors in two ways: they stifled competition by allowing dominant actors in print news to dubiously develop cross-holdings in TV news; and, kept at bay competition from international news broadcasters, through a 26 percent cap on foreign equity. This suited the state since it had to deal with a handful of domestic actors, many of whom depended on its patronage on other fronts.

¹⁹² Perhaps not so coincidentally, such regulatory silences prevailed even at the height of India’s ‘command economy’ in the 1960s, since concentration was hardly curbed in other industrial sectors (see Mazumdar 2008).

The domineering academic discourse affirming neo-liberal reforms from the 1990s onwards was about the state having hitherto neglected and even undermined private commercial interests. The necessity for reforms was to ensure the withdrawal of the state to unleash the animal spirits of private enterprises. The expansion of the economy after deregulation, de-monopolisation, and liberalisation is presented to testify the efficacy of this argument. For instance, trade bodies responding to the Parliamentary Standing Committee on Communication Convergence Bill of 2001, which was never legislated, insisted that the wider information-communication sector had blossomed precisely since “there had been no intervention from Government side” (GoI 2001: para 7).

However, some of the alternative narratives are analytically nuanced, theoretically informed, and less ideologically blinkered. They ascribe the indisputable success of private enterprises to the state creating the (pre)conditions for their robust growth¹⁹³. Something similar can be said about the role of the state in promoting actors and market dynamics in the news media. The rise of large actors in the subdominant press, during the Newspaper Revolution, as I argued in Chapter 7, was due to historical non-intervention on concentration and ownership organisation – given the dilution of the Price & Page Act, and withdrawal of the Ownership Bill. The Uplinking Guidelines were an intervention that actively curated the marketplace of TV news to comprise not only commercial actors – with ban on not-for-profit entities and unions – but the larger ones among them.

Thus, I find the state was largely responsible for creating and inculcating certain dynamics of ownership that clearly favoured large actors and their stakes in the press. The three regulatory moments did provide windows of opportunities to weed out the abrasive impact of different dimensions of ownership. Not capitalising on them for multiplicity of reasons laid out in Chapters 5, 6 and 7, unmasks the structural and ideological bent of the state in modern India.

8.6 Continuing Silences

Over the past 15 years, after the period analysed in this dissertation, there were a slew of attempts to bring back ownership matters into the mainstream of regulatory debates. Although the Broadcasting Services Regulation Bill of 2007 met the same fate as the Broadcasting Bill of 1997, the former did propose a cap of 20 percent on cross-media holdings between print and TV news outlets. One of

¹⁹³ Critical examinations of the ‘miracle’ in India’s informatics and software industries illustrate this nuanced argument; see for instance, Balakrishnan 2006, Parthasarathi & Joseph 2002.

the criticisms of the Bill was the lack of evidence on the nature and extent of cross-media ownership.

Perhaps this is what later led to two initiatives.

The MIB commissioned a study on media ownership, the first since the Second Press Commission (see ASCI 2009). Conducted by the Administrative Staff College of India, its brief was to examine cross-media ownership across print and TV news, and vertical integration among TV broadcasters and distributors. While the study did not find significant concentration nationally, it found, and emphasised, intense market dominance in most linguistic markets; it thereby introduced the concept of computing market shares in 'relevant market' (*ibid.* 45). Such fundamental ideas of market definition, which include identifying relevant product and geographical markets, did not inform earlier regulatory endeavours, such as those towards the Price and Page Act, and the Uplinking Guidelines. The ASCI report recommended not only caps on cross-media and vertical ownership, but that media outlets publicly disclose their cross-holdings.

On its part, TRAI – whose expanded mandate from 2004 included aspects of broadcasting – produced a Consultation Paper on media ownership in 2008 (see TRAI 2008). Not only were its findings along the lines of ASCI's report, it also underscored the importance of market definition, and the methodological need to enumerate concentration in linguistic and geographical markets (TRAI 2008: 81-83). The Paper's significant contribution was to capture, albeit rather sketchily, the regulation of ownership in other countries. Consequently, for the first time, discussions in India were benchmarked from a global media policy perspective.

Since then, TRAI repeatedly drew attention to the extent media groups dubiously expanded and consolidated cross-ownership (see TRAI 2013a, 2013b). This culminated in its recommendations of 2014, which stand out on three counts. First, it insisted on conceptually distinguishing ownership from control (TRAI 2014: 9). This rekindles arguments and advocacy around the 'Ownership Bill' during the second regulatory moment in the early 1970s – albeit TRAI seemed unaware of this piece of regulatory history. Secondly, TRAI sought to respond to the advent of the internet and ways it was re-shaping news delivery, thereby complicating prevailing conceptions of a relevant geographical market. Thirdly, to ensure caps on cross-media ownership are adhered to, TRAI recommended creating mechanisms to monitor front companies, and step-down subsidiaries, and provided a judicious list of mandatory disclosures (TRAI 2014). On the whole, TRAI was clear that guardrails to prevent the abuse of ownership involve obligations on part of both public authorities and private companies.

Besides publishing a series of documents, nothing moved on regulating media ownership. The key reason for this is that TRAI's recommendations were (and are) not binding on MIB. This despite the regulator often preparing documents following a reference from MIB. As an observer commenting on

telecommunication policy during the early years of TRAI puts it, “the central government has retained the right to impose policy” on the regulator (Macmillan 2005: 35). Resultantly, the conformities sharpening the dynamics of ownership plaguing the news market continued to persist. Arguments and evidence on the abrasive implications, although anecdotal and sparse, point at two worrisome trends: increased levels of conglomeration, and widening presence and prominence of Merchant Press (see Thakurta & Chaturvedi 2012, Bhattacharjee & Agrawal 2018). But these matters are diluted in TRAI’s latest Consultation Paper of 2020; instead, it hints at a fresh concern: role of a new actor, mobile telecommunication operators, in the news market (TRAI 2020). Affiliates of these operators entered news broadcasting, broadcast distribution, or online news – and at times, all the three segments. At least one of them had an earlier presence in newspapers. Such expansion and accumulations spun a new dimension to the traditional risks of cross-media ownership and threats to diversity.

Although this dissertation dealt with ownership in the high noon of the newspaper and broadcast era, it can contribute to ongoing debates in three ways. First, it provides policymakers, lawyers, and scholars the historical backdrop, aspects of which have escaped institutional memory. Second, it lays out the complex of impediments that need to be considered while advocating policy options. Third, despite the new set of actors participating in a rapidly-changing news business, the dissertation offers an agile framework to view the implications of news ownership for democracy and diversity.

The disinclination and inability of the state to regulate ownership has led to both, concentration in linguistic markets – such as in newspapers in Malayalam – and conglomeration across news media, BCCL being the exemplar. In both scenarios, the market power of entities which accumulate audiences and advertisers imparts competitive risks to (the sustainability of) other news outlets. Moreover, when a large section of society ends up being catered to by a limited number of actors, source and viewpoint diversities are at severe risk. This threatens democracy because the skewed dispersion of voice makes it easier for governments to influence large sections of society by leaning on a handful of press owners, who are in a good position to shape or sway public discourses. It is worth exploring the extent to which the failure of past governments to judiciously regulate news ownership created fertile conditions for ideologically majoritarian and administratively more centripetal governments to emerge, and subsequently to hone their legitimacy.

8.7 Future Research

This dissertation can contribute to inform and frame research on ownership in a milieu of convergence – i.e., a milieu where the press straddles print, TV, and online media. For example, it will be fruitful to examine ways in which the organisation of ownership by dominant actors in legacy news markets (i.e., print and TV news) shapes dependencies confronting the much small, native-digital news outlets. Another worthwhile exploration is the inter-relationship between mobile telecommunications operators and online (print or TV) news outlets, especially since some actors have operations in both markets. Since online connectivity is overwhelmingly provided by mobile operators in India, and not wired (telecom or cable) services, it is vital to explore how concentration in the mobile market mediates the access, availability, and affordability of online news. It will also be promising to examine the role of ‘innovative’ ownership structures in forging partnerships between mobile operators and legacy big press (print and TV), which has stakes in online news markets.

At the more theoretical level, my dissertation is likely to add to two big debates in different scholarly circles: nature of the state, and nature of media system. While the first is outside our field and largely limited to scholarship on/from India, the second is within our field, but hitherto pursued by scholars in/from other jurisdictions.

The first pertains to the longstanding debate on the nature of state in India, and types of dominant interests that constitute it. These interests have developed extensive presence in the news media. They deploy this to curry favour, and when required, needle the government, and contest the priorities in the policy arena. There is a strong rationale for examining the role of these media elites in maintaining and balancing the dominant coalition of interests constituting the state. This is a matter left out in the otherwise extensive debates on state formation in India among economists and political scientists – and brought out at various places in this dissertation.

One site where the dynamics of media ownership significantly intersects with debates on state pertains to the rise of a majoritarian state. Recent scholarship has brought out the role of news content and journalistic practices in creating conducive conditions for, and upholding, such state power (see esp. Subhagit & Pegu 2021, Roy 2023, Khan & Vahanvaty 2023). Given their preoccupations at the micro- and meso-levels, these examinations tend to marginalise the co-determining role of press ownership and (the lack of its) regulation. The skewed dispersion of voice makes it easier for governments to leverage the big press to influence large sections of society. Thus, there are no incentives for a majoritarian state to address the malaise of concentration and cross-media ownership. Conversely, actors in the big press, especially those with substantive stakes in

other industrial sectors, are likely to reiterate majoritarianism politics, polity, and policies. These circumstances call for ongoing debates on the nature of state in India to engage with the character of its 'media system' – especially the dynamics of concentration, cross-media ownership, and ownership structures in the news media that characterises this.

Globally, 'media systems' scholarship has moved beyond its genesis in research on Western Europe and North America. This is due to introspections by its progenitors (Hallin & Mancini 2011), following earlier criticisms of their Eurocentric approach (Curran & Park 2000, Sparks 1998). There are striking accounts about media systems in the so called 'transitional societies' of Eastern Europe (Dobek-Ostrowska et al 2010) and in Russia (de Smaele 2010), besides in the culturally heterogeneous 'Arab' world (Richter & Kozman) and China (Zhao 2012). I see such scholarship to encompass a critical media systems approach. While some scholars felt it productive to address the limitations of 'travelling' theories and models originally devised for the study of 'the west' (Veltmer 2012), others called for grounded analyses of specific (non-western) settings to generate comparable reference points and analytical variables (see Jain 2017).

That said, I find a fundamental fissure marking scholarship pursuing the critical media systems approach. The issue is not about how many types of media systems are proposed, their internal cohesion and hard external boundaries, and their ability to travel in time and space. Instead, it is about tensions between thinking about media systems by historicising the dynamics of a country/region, or by applying methods, theories, and analytical variables to the dynamics we can witness today. In short, it is between approaches rooted in the social sciences, and those in history (Bastiansen 2008:102).

I have an observation on media systems scholarship about Asia. This relates to the overemphasis on one set of analytical variables – i.e., breaches in journalistic norms, ethics, and responsibility. For instance, a case is made for one such breach, termed 'paid news', being a noteworthy crucial determining characteristic of the Indian media system (see Jain 2017). Since similar malpractices are observed in China (Tsetsura 2015) and Vietnam (Mattsson 2022), we find a rich vocabulary capturing such misconduct, such as 'envelop journalism' and 'check-book journalism' (see Skjerdal 2019). Perhaps this motivated comparing the institutionalisation of abusive practices of 'red envelope' journalism and paid news, respectively, in China and India (see Rao 2018). My issue here is not about incorporating such analytical variables in comparing media systems; rather, it is about deploying them in isolation from aspects of ownership, market structure, and their influence on the press. In fact, such comparative media systems scholarship will benefit from explaining, if not correlating, journalistic malpractices with the vulnerabilities involved in procuring, expanding, and accumulating voice.

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