

EVA STALIN IAS ACADEMY - BEST IAS COACHING IN CHENNAI

12/24, Muthurangan Muthali St, West Tambaram, Chennai - 600045

<https://www.evastaliniasacademy.in/>

Contact Number - +91-8678969915, +91-9940332851

The silence around the state's seizure of India's press

Over 50 years ago, the Supreme Court of India ruled that during an Emergency proclamation, individuals could not challenge illegal detentions. While the ADM Jabalpur case is infamous for its disturbing decision, Justice H.R. Khanna's courageous dissent is what stands apart. Later, the Court in the Justice K.S. Puttaswamy case recognised both the right to privacy and expressly repudiated ADM Jabalpur as a "discordant note". Yet, even six years after Puttaswamy, enforcement worries intensify. Recent actions against journalists from the online portal NewsClick, such as raids, seizures, and arrests, amplify the calls for protections of digital data. To speak in a plain manner, many question whether they are living through an Emergency with ADM Jabalpur being dead only in letter but flourishing in spirit.

Aggressive actions by the executive

The Union executive's aggressive actions against NewsClick, accusing staff of terrorism, reflect a wider issue. India ranks 161 out of 180 countries in the World Press Freedom Index, which considers "legal interference" in journalism. Tanishka Sodhi's data from NewsLaundry shows that by May 2023, 44 media entities and journalists faced scrutiny from investigative and tax agencies over the previous five years.

An opinion article in this daily by this writer, "Media raids and breaking the silence on press freedom" (March 10), emphasised the serious threats from digital device seizures in these incidents. This pressing danger to the media prompted the suggestion of legal reforms (in the article), proposing guidelines akin to the D.K. Basu case for personal data search and seizure. If the Supreme Court chooses to intervene, what might these guidelines resemble? To understand them we must explore current policing methods, their clash with fundamental rights, and the road to reform.

In the age of instant messaging and cloud storage, the Code of Criminal Procedure, rooted in the time of telegraphs and wooden chests, guides India's criminal justice process. This approach not only ignores the invasiveness of modern technological advances but also struggles to uphold democratic rights within the Constitution of India.

Chapter 8 of the Code houses the essence of these search and seizure powers. It outlines provisions for voluntary document submission and police actions based on properly obtained warrants. Yet, in the quotidian experience of



Apar Gupta

is an advocate and the Founder Director of the Internet Freedom Foundation, India

India is passing through a transitory emergency as well as a marked phase of digital authoritarianism, which the higher judiciary seems unwilling to act against

Indians, these are mere formalities – and formalities are rarely respected. Most people willingly comply with law enforcement demands, even without warrants, fearing heightened risks such as physical assaults or prosecution under an unrelated charge.

The Lokniti-CSDS-Common Cause "Status of Policing in India" report shows that 47% believe that the police can access their phones without consent. Even when acting within the law, the police, with their broad exceptions, can easily sidestep the need for a warrant. Magistrates rarely provide a thorough check, often issuing warrants without detailed review. This already fragile safeguard is further eroded by specific laws such as the Prevention of Money Laundering Act and the Income-Tax Act.

Disturbingly, these provisions clash with the right to privacy and protection against self-incrimination, as stated in Part III and Article 20(3) of the Constitution. In such a climate, the only real safeguards come from technological precautions such as encrypted messaging apps with settings to delete old messages. But even this defence crumbles when a police constable confiscates a smartphone and forces you to unlock it and retrieve your backups. Can the police do this?

The Karnataka High Court, in the Virendra Khanna vs State of Karnataka case determined that an arrested individual can indeed be coerced to unlock their smartphone, granting law enforcement unrestricted access to personal data. This not only affects journalists but seemingly endorses mass searches and stop-and-frisk tactics, currently manifesting as cordon searches – prominently in Hyderabad. Here, officers can intrude into a restaurant or stop people on the road, insisting on phone unlocking and scanning WhatsApp conversations for terms such as "drugs". While a Central Bureau of Investigation special court has ruled to the contrary and the law is in flux, the confusion results in a guarantee of investigatory oppression.

Each day that this legal vacuum exists results in grave danger to the future of journalism in India. The searches on over 40 journalists who worked with NewsClick, consisted primarily of young freelancers associated with multiple publications. The forceful unlocking of their devices and subsequent cloning of their content uncovers information far beyond the scope of typical criminal investigations. Such access lays bare years of their personal and professional communications, exposing intricate relationships, networks, and confidential sources.

Notably, there is a real threat that some of these conversations, particularly those from email and apps such as WhatsApp, may surface on mainstream television, inciting hysterical national security debates. This intrusion is not just because their reports challenge powerful governmental and private sector entities, but also because they critique the Delhi police's actions directly.

Their interrogations pivot on three significant events: the anti-farm law protests, the North East Delhi riots of 2020, and the response to COVID-19. All these events are not just matters of public interest demanding accountability from the Union Government but also subjects of criminal prosecutions by the Delhi police. The very entity they report on now investigates and knows everything about them.

The quiet judiciary

Even at an individual level, many Indian journalists must feel a deep inner despondency for not only prosecution but also the absence of corrective action by the judiciary. Take for instance the journalist, Paranjay Guha Thakurta, who consults with NewsClick and was interrogated by the Delhi police. Before the recent seizures of his digital devices, the Pegasus spyware compromised his phone, prompting him to seek the Supreme Court's intervention. Yet, his case, among others, has not seen a hearing in over a year, even with an order specifying a listing within four weeks. This stupor by the judiciary can easily be shrugged off by addressing cases such as those from Ram Ramaswamy and the Foundation for Media Professionals. These cases advocate for protective measures: compulsory warrants, seizure specificity, protection against forced device unlocks, and hash value generation for secured evidence. When overruling ADM Jabalpur, the top court has also stated, "When histories of nations are written and critiqued, there are judicial decisions at the forefront of liberty."

Today, the problem seems to be that it is avoiding even making them. Today, our nation is not just passing through a transitory emergency; it is going through a transformational phase of digital authoritarianism. In this difficult time, it is principled journalists who are helping check power and hence maintain India's constitutional framework that is under clever and muscular forms of challenge. It requires the Supreme Court of India to take the principal lesson of Justice H.R. Khanna's dissent, which is to act with judicial courage, knowing it comes with sacrifice.

EVA STALIN IAS ACADEMY - BEST IAS COACHING IN CHENNAI

12/24, Muthurangan Muthali St, West Tambaram, Chennai - 600045

<https://www.evastaliniasacademy.in/>

Contact Number - +91-8678969915, +91-9940332851

Mental health and the floundering informal worker

The theme of World Mental Health Day (October 10) this year is 'mental health as a universal human right'. A segment often overlooked when it concerns mental health is the informal worker. A study by the International Labour Organization (ILO) says that 15% of working-age adults, globally, live with a mental disorder. On one hand, decent work influences mental health in a positive way while on the other, unemployment, or unstable or precarious employment, workplace discrimination, or poor and particularly unsafe working environments, can all pose a risk to a worker's mental health. Workers in low-paid, unrewarding or insecure jobs, or working in isolation, are more likely to be exposed to psychosocial risks, thus compromising their mental health.

The Indian experience

India's informal workforce accounts for more than 90% of the working population. These workers often operate without regulatory protection, work in unsafe working environments, endure long hours, have little access to social or financial protections, suffer high uncertainty and deep precarity, and face discrimination – all of which further undermine mental health and limit access to mental health care. Gender disparities are also stark, with over 95% of India's working women engaged in informal, low-paying, and precarious employment, often without social protection, in addition to suffering patriarchal structures and practices in their social and familial spaces.

According to the United Nations Development Programme (UNDP), unemployment and poor-quality employment have consistently been detrimental to mental health. The Lokmiti group within the Centre for the Study of Developing Societies, which interviewed 9,316 youth aged between 15 to 34 years across 18 States in India, has shown that they are highly susceptible to negative emotions. Youth unemployment is one of the highest in India which, along with the



Neethi P.
is a senior researcher at the Indian Institute for Human Settlements, Bengaluru

Informal workers, despite their significant contribution to national income, are perennially exposed to economic, physical, and, in turn, mental vulnerabilities

stigma around unemployment, significantly impacts their mental health. Moreover, an ILO report highlights how young workers are shifting to more precarious and informal work, accepting less pay and poorer working conditions, out of desperation, and, sometimes, giving up and exiting the labour force altogether. The State of Inequality in India Report 2022 observes that the unemployment rate actually increases with educational levels, particularly for educated young women who show an unemployment rate of 42%. With this phase of demographic dividend, where half of India's population is of working age and projected to remain so for two decades, it is pertinent to think about the quality of employment and long-term social security for them.

India will also become an aging society in 20 years, with no apparent social security road map for this rapidly growing group that is especially vulnerable to poor mental health. The Census of India 2011 shows that 33 million elderly people are working post-retirement in informal work. Another study, by the ILO on elderly employment in India, shows high poverty among them, in terms of economic dependency and access to financial assets. The absence of proper financial and health-care security among the working elderly can severely impact their physical and mental health, aggravating their vulnerability.

On social security

Informal workers face mental distress due to accumulating debt and rising health-care costs, which are intertwined and mutually reinforcing. A study by Women in Informal Employment: Globalizing and Organizing (WIEGO) among informal workers in Delhi, mostly migrants, indicates that recovery post COVID-19 remains uneven among informal worker cohorts. Many still report food insecurity, skipped meals, or reduced consumption. As observed by the Keshav Desiraju India Mental Health Observatory, mental health and well-being are impacted by factors

such as food security, access to livelihood and financial stability. While certain schemes have received a higher allocation this year, others such as the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) have seen their funding slashed. In 2021, the National Crime Records Bureau (NCRB) reported that 26% of the people who died by suicide were daily wage earners. Employment guarantee programmes can indeed improve mental health outcomes. Thus, social security can be: promotional, aiming to augment income; preventive, aiming to forestall economic distress and protective, aiming to ensure relief from external shocks.

A relook at the Code on Social Security 2020 shows how glaring issues concerning the social security of India's informal workforce still remain unheeded. While India should universalise social security, the current Code does not state this as a goal.

Care needs drastic improvement

Informal workers, despite their significant contribution to national income, are perennially exposed to various economic, physical, and mental vulnerabilities. India's budgetary allocation for mental health (currently under 1% of the total health budget) has over-focused on the digital mental health programme. As the World Mental Health Report 2022 observed, addressing mental health involves strengthening community-based care, and people-centred, recovery-oriented and human rights-oriented care. There is an urgent need for proactive policies to improve mental health recognition and action. This is critical in upholding the basic human right to good health, including mental health, and in advancing to the Sustainable Development Goals (SDGs), especially SDG 3 on 'good health and well-being' and SDG 8 on 'decent work for all/economic growth'.

The views expressed are personal