Dilemma of Deception-To Do or Not To Do A Review of Literature on Ethics of Deception by Media

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Abstract:
The meaning and the value of ethics, for a person, depends upon an individual’s knowledge and understanding of ethics, good, bad, objectives and possible repercussions of his/her actions. Even after awareness of ethical standard; how far one follows them, is deeper inquiry; especially in the area of applied ethics. Ethics is a term which is subjective, individualistic and circumstantial in nature; demanding a great sense of understanding of the impact of one’s action over the larger set of people. The concerns gets deeper when the outcome of a professional practice impacts a large number of people. Journalism is one such professional area where the consequences of journalistic actions affects mass culture and society. The study of ethics, with specific reference to journalism practices has been the subject of academic inquiry since long. However ethics of investigative journalism is a difficult area to study majorly because different journalists and philosophers often have divergent and opposing opinions on the strict observation of ethics when it comes to the actual practice of journalists. This paper is a summarized encapsulation of the various research contributions made by national and international scholars on professional ethics and deception by media.

Keywords: Applied Ethics, Journalism, Deception, Sting Operations

1. Introduction:
The role of journalist in a nation is extremely sacred and full of responsibility and it is important for them to have established public interests in every news story. As providers of information they are bound to uphold certain modes and codes of conduct to ensure the veracity and authenticity of their work. These modes and codes of conduct comprise what are broadly understood as media ethics. While media professionals on occasion claim that certain facts are in the ‘public interest’ to disclose and need wide dissemination for that purpose, they are often accused of sensationalizing information distorting reality, trivializing events, transgressing individual privacy and worse; lying, cheating and deceiving.

However as gatherers of information, they are not above deceiving sources to gain information; particularly when the deception is viewed to be just treatment of newsmakers who are engaged in illegal activities or unethical behavior. In the recent past, even if much of the mass media in India has by and large acted in a responsible manner, there have been many instances of television channels and other mass media organization abusing the tremendous power enjoyed by them while deploying methods and tactics in the hope of gaining easy and quick popularity.
2. Journalism, Deception and Ethics

Journalism, being a social endeavor of information sharing, are subject to a number of ethical enquiries. The conflict between white, black and grey of journalism practices, particularly investigative journalism, has been a subject of microscopic examination and criticism right since the origin of the journalism. Journalists and their employers can apply a variety of methods for enforcing and implementing ethical behavior. These include employing an ombudsman, requiring commitment to ethical behavior on the part of all employees, and adhering to a code of ethics. Media ethics are a complex topic because they deal with an institution that must do things that ordinary people in ordinary circumstances would not do.

The word “ethics” when associated with journalism practice has elicited various definitions including “a set of principles and norms that, at least to some degree, guided journalistic practice” or “a way of studying morality which allows decisions to be made when individuals face specific cases of moral dilemma” or “the study of the grounds and principles for right and wrong human behavior”. Ethics reflects human values such as courage, self-control and generosity and focuses on the standards of right and wrong.

Journalists, in the course of their duty, deal with the choice between what is moral or immoral if published. They even have to deal with moral and legal issues regarding how they obtain information. The information that investigative journalists seek—that which touch on corruption, immoral behavior and other vice are always private or hidden by the power elite and as such journalists are forced to dig deep to obtain information. Indeed, investigative journalism’s key controversy has centered on how journalists obtained information. “It has always been an ethical and legal grey area, in which journalists have often stepped over the boundaries in pursuit of stories” and “sometimes it isn’t easy to avoid ethical problems”.

Ethics makes the core of media practices. Going by the Deontological view of ethics, journalists have certain duties towards the society. And these duties are accompanied with the core concepts of freedom and responsibility. When responsibility is associated with an action, the agent automatically becomes accountable for the consequences and it is expected that he maintains high degree of utility in his decisions. Keeping a constant account of duty, utility and consequences, requires a person to be high on virtues and morals. Thus, the study of media ethics is an amalgamation of variety of ethical theories combining together to scale the act of journalism on the parameters of ‘social responsibility’.

In any given situation, a person who holds the status of a media person can’t deviate from two core concerns: first his duties as a journalist (duty based action-Deontology) and second, the utility and the consequences of his actions (larger good for larger number of people).

One of the important work published in 1988 by L. Hodges, titled ‘Undercover, Masquerading, Superstitious Taping’ claims that all levels of deception are justifiable by the same rules which include:

1. The information sought must be of overriding public interest.
2. There must be no reasonable likelihood that comparably accurate and reliable information could be obtained as efficiently through convention investigative techniques.
3. A clear understanding of the impact of deception over innocent people?
Sandra H. Dikson in her research paper on “The Golden Mean of Journalism” argues that “the pattern of criticisms of the press over the decades underscores the problems caused by the absence of universal ethical standards. Situation ethics or “adhocracies” are an insufficient moral compass to guide a fast-paced, technologically-drive, bottom-line oriented industry”. She recommended Aristotle's “moral mean”; as a moral compass.

Defending the methods of investigative journalism, Gilligan says “if investigative journalism always had to be perfect, very little would get investigated. We’re shining a feeble torch into a large, dark cupboard. We’re dealing with tricky people” In line with the argument by Gilligan, Christopher Meyers in her work titled ‘Justifying Journalistic Harms: Right to Know vs. Interest in Knowing’ writes that “the public’s right to know- does justify some harmful journalistic behavior, Too often the phrase is used without the conceptual precision necessary to justify the competing harm. That is, journalists often confuse having a right to know with having an interest or curiosity in knowing and such conceptual confusion too often allows journalistic behavior to occur that would otherwise be seen as unethical.”

Neil Levy in his paper ‘In the Defense of Entrapment (and Beyond), challenges the view that deception by journalists should be frowned on as an ethically unsound practice. In fact he calls for greater use of entrapment to ensure journalists fulfill their watchdog role. Belsey says the reality of ethical journalism is based on the idea of virtuous conduct, facilitating the democratic process and serving the public interest. He stresses on the six basic questions that a journalist need to ask to decide the ethicality of deception - “Whose interest does investigative journalism serve by publishing a given story? Does the press fulfill its social responsibility in revealing wrongdoing? Whose interests are being affected? Whose rights are being invaded? Is the issue at stake a matter of public interest? Or is individual privacy being invaded when no crucial public issue is at stake?

The study of ethics of journalism is not limited to the methods of information access and methods of deception. Journalism ethics is a wider term which includes personal behavior and attitudes of journalists while operating on the field. Often investigative journalists (and specially sting journalists) are blamed for doing stories to blackmail people and to gain personal, institutional benefits out of it. Thus, it is important to understand the journalist’s view on the ethics of the practice. One of the prominent research works pertaining to the journalism and ethics, is conducted by Lo, Chan & Pan in 1997. The attempt was to evaluate the “Ethical Attitudes and Perceived Practice: A Comparative Study of Journalists in China, Hong Kong and Taiwan.

Commenting upon the significance of ethics in journalistic practices, Dr. Radheyshyam Yadav in his paper titled “Media ethics and development of consciousness in mass media language to combat structural oppression” writes though media has freedom to publish and broadcast information in form of news or entertainment it has to oblige to certain norms, rules and regulations. In the age of media credibility crisis, these ethical norms will help to restore the faith and confidence in media.”

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In the similar direction, Lasorsa and Dai examined 10 high-profile cases of journalistic deceptions at major American news organizations, and analyzed deceptive news and authentic news in a comparative perspective. Applying disaster incubation theory and normal accident theory to newsrooms, the study focused on how newsroom organizational culture contributes to journalistic deceptions. Results suggested that prior to the final revelation of a reporter's deception, an incubation period occurs during which a “first flag”—an initial warning signal often related to the reporter's earliest work that gives rise to suspicion of authenticity—is overlooked. The study also identified the patterns in deceptive news that distinguish it from authentic news. Deceptive news stories are more likely than authentic news stories to be filed from a remote location, to be on a story topic conducive to source secrecy, to be on the front page (or magazine cover), to contain more sources, more “diverse” sources and more hard-to-trace sources. It is suggested that editors might use these recognizable patterns to help prevent journalistic deceptions.

Belsey writes that the reality of ethical journalism is based on the idea of virtuous conduct, facilitating the democratic process and serving the public interest. The questions investigative journalists need to ask however are: “Whose interest does investigative journalism serve by publishing a given story? Does the press fulfill its social responsibility in revealing wrongdoing? Whose interests are being affected? Whose rights are being invaded? Is the issue at stake a matter of public interest? Or is individual privacy being invaded when no crucial public issue is at stake? Waisbord defends of the public’s right to know and stresses on ‘the need to publish stories that are in the public’s interest even if they turn out to be contested by the people mentioned in the story’.

Another important piece of research work by Shakuntala Rao and Navijeet Singh Johal, titled “Ethics and News Making in the Changing Indian Mediascape” was found greatly relevant to the present research. In the paper, the researchers address the dramatic changes that Indian media witnessed after post 1990 due to core changes in the structure of media in the country. The paper argues that “gradual privatization and deregulation have resulted in increased entertainment-driven rather than public-service oriented news.” Their paper explores various ethical issues pertaining to Indian journalism and journalists. The research was based on interactive workshops they had conducted in various Indian cities. Findings from these workshops revealed that although journalists encounter serious ethical issues, media ethics is not a topic being widely discussed in Indian newsrooms and TV stations. Marketing pressures, the tabloidization of news, and management and economic pressures are affecting journalism ethics and issues such as accountability, independence, and conflict of interests. A lack of professional training, especially ethics training, is affecting journalists’ understanding of concepts such as privacy and accuracy.

there are not many researchers in 1990s that supported deception by journalists whole heartedly. Sisella Bok says deception is the intention to mislead. A lie is stated but deception is much broader and can include lying. Elliott and Culver say that (1992) “to deceive is, in a prima facie sense, to do something morally wrong. When saying that a person has deceived another, there is an implication that the deceiver is worthy of blame, unless he or she can provide adequate moral justification for the deception. If an act of deception lacks adequate justification then it is “unethical.
A survey found that about 84% of the news directors thought it was okay for electronic journalists to go “undercover” to gather news. In another study of two newspapers, it was found that codes of ethics did not necessarily influence the decisions journalists make. The code of ethics “is one ingredient in a rich stew” and unwritten professional norms play a big role in the decision-making process, and that codes may only be symbolic.

H. de Burgh in his book ‘Investigative Journalism’ traces a case of investigative reporting dating way back in 1885. The case mentions that Pall Mall Gazette journalist William Thomas Stead, operating undercover while misrepresenting his identity, found a 12 year old girl and bought her to prove his investigative story of child prostitution. Stead’s case is a notable example, among many, that deal with investigative journalists going undercover or misrepresenting their identities to get to the bottom of news stories. Stead’s justification for going undercover was to expose how easy it was to procure young girls for prostitution in the United Kingdom at the end of the 19th century. A similar way of investigative reporting was followed by an Indian journalist Ashwini Sarin in 1980, who wrote a story on similar lines as Stead. Sarin learnt of large-scale women trafficking in the Agra-Morena-Mainpuri-Etahwa area and knew it would merit investigation. He bought a girl named Kamla in exchange for Rs 2,300.

Both, Stead and Sarin were criticized for their way of reporting; the issue raised a debate on what is morally wrong or right for a journalist? However in this case, journalists had to expose it so as to generate public debate or bring about changes in laws to control vice in society. Such choices can be justified ethically as long as journalists can determine “who will benefit as a result of the reporting” writes S. Waisebroad in his book titled ‘Why Democracy Needs Investigative Journalism’. The ability to do a great good rarely comes without some power to do harm, and the free press is no exception to this general rule. The press should do what it can to minimize the abuse of power by the authorities. Journalism is done with an objective, but the method to achieve those objectives are quite subjective and varies from journalist to journalist. Present study is an attempt to develop an understanding of researcher’s view over Journalism Ethics and its relevance to the practice of Journalism.

3. Judiciary on the Ethics of Deception by Media:
Sting operations, being an offensive method of journalism, often end up in the court of law. A number of cases have been addressed by various courts. While the court does not completely rule out the contribution of the sting operations, in revealing the criminal activities; it doesn’t agree to the methods and impact of sting. Operation which entrapped a Delhi based school teacher initiated the long debate on the need, impact and methods of sting. Delhi High court on its own motion on sting operations by media raised the need of introspection and self regulation for media. A two judges bench stated that the “regulation of electronic media has always invoked sharp and divergent views with emotive and logical pleas and counter arguments. The court urged that, there is no doubt and there is no second opinion that “truth” is required to be shown to the public in public interest and the same can be shown whether in the nature of sting operation or otherwise but what we feel is that entrapment of any person should not be resorted to and should not be permitted.

Addressing the issues of conflict between freedom of expression and right to privacy, the bench said that “the sting operations showing acts and facts as they are truly and actually happening may be necessary in public interest and as a tool for justice, but a hidden camera cannot be allowed to depict
something which is not true, correct and is not happening but has happened because of inducement by entrapping a person”. The verdict also comments on the limitations of freedom of media and says that the Media is not to test individuals by putting them through what one might call the “inducement test” and portrays it as a scoop that has uncovered a hidden or concealed truth. In such cases the individual may as well claim that the person offering inducement is equally guilty and a party to the crime that he/she is being accused of. This would infringe upon the individual's right to privacy.

The court argued that “the duty of the press as the fourth pillar of democracy is immense. It has great power and with it comes increasing amounts of responsibility. No doubt the media is well within its rightful domain when it seeks to use tools of investigative journalism to bring us face to face with the ugly underbelly of the society. However, it is not permissible for the media to entice and try to actively induce an individual into committing an offence which otherwise he is not known and likely to commit.”

In the case Rajat Prasad Vs CBI, a three judges bench of Supreme Court headed by P.Sathasivam, clearly said that “being essentially a deceptive operation, though designed to nab a criminal; a sting operation raises certain moral and ethical questions. The victim, who is otherwise innocent, is lured into committing a crime on the assurance of absolute secrecy and confidentiality of the circumstances raising the potential question as to how such a victim can be held responsible for the crime which he would not have committed but for the enticement.”

4. Conclusion:
A detailed study of available literature suggests that media ethics are a widely discussed area across the world. Also, it is been established that the practice of media, its role and responsibilities have been a matter of concerns since the very beginning of the media. While most of the media critique believe that the practice of journalism should be consequence based and must ensure that the desired results are achieved in the larger interest of the larger public, many other believe that media must restrict to its duties and obligations. With special reference to sting operations, the scholars have agreed that sting operation invade many human rights and calls for serious attention in terms of ethics, objectives and outcome. Journalism ethics is a qualitative term thus having different interpretations (specifically with reference to sting operations) for different journalists. Deception to the audience is inviolate; however deception to a newsmaker can be justified as a means to an end when the story is of overriding public interest and cannot be obtained any other way and when the benefits outweigh the harm done to a few individuals.

It has been observed that despite of many concerns, all the critiques unanimously believe that media has unlimited power to structure the society. Nobel laureate and Bharat Ratna Amartya Sen in his article titled “The glory and the blemishes of the Indian news media” writes that Despite the limitations of the Indian news media, we have every reason to applaud our free media, including our largely unfettered press, as a hugely important asset for democratic country.

The study of ethics is subjective and may not have a universal objective value for all. The meaning and the value of ethics, for a person, depends upon an individual’s knowledge and understanding of ethics, good, bad, objectives and possible repercussions of his/her actions. Ethics of investigative journalism is a difficult subject area to study because different journalists, different media houses and different authors have divergent and opposing opinions on the strict observation of ethics when it comes to the
actual practice of journalism. How far one follows the professional ethics, is an inquiry in itself. Journalism and Ethics are the terms which are subjective, individualistic and circumstantial in nature thus, demanding a great sense of understanding of the impact of one’s action over the larger set of people.

Bibliography
9. Gilligan, A. 2011. ‘Phone hacking: My big fear is this scandal could damage investigative journalism’. Retrieved on 10 July 2013


28. Court on Its Own Motion Vs State Respondent (Delhi High Court December 14, 2007) (Dist. file). Retrieved on December 14, 2010 from https://indiankanoon.org/doc/45618/


