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MEDIA AND LAW IN INDIA

AUTHORED BY - VASUNDHARA KUMARI

ABSTRACT

The evolution of media law in India has been deeply influenced by the constitutional vision of free speech and the democratic need for an informed citizens. This research paper traces the historical development of media regulation in India, from colonial censorship laws to modern judicial statements on press freedom. It critically examines Article 19 of the Constitution, restrictions imposed under reasonable limitations, and the legal responses to contemporary issues like hate speech, rude, and privacy violations. The paper emphasizes the role of the judiciary in striking a balance between individual rights and public interest, calling for stronger institutional mechanisms to uphold media ethics and constitutional values.

Keywords- media law, freedom of speech, Article 19, judicial statements, public interest, media ethics and democracy

INTRODUCTION

The Indian media operates at the intersection of law, technology, and public life. In today's hyperconnected world, where information spreads rapidly through digital platforms, the challenges surrounding media regulation have grown diverse. Issues such as hate speech, misinformation, online abuse, and exaggeration have raised serious concerns about the misuse of press freedom. This paper investigates the current legal framework that governs media in India, its constitutional underpinnings, and the pressing need to revisit and strengthen regulatory policies. It argues that maintaining a balance between protecting democratic freedoms and ensuring media accountability is more important now than ever before India's media landscape has undergone a remarkable transformation—from the days of colonial censorship to the digital age of instant communication. At the heart of this evolution lies Article 19(1)(a) of the Indian Constitution, which guarantees the right to freedom of speech and expression. This right has been the cornerstone of democratic engagement and journalistic freedom. However, its journey has not been without limitations, legal battles, and interpretive challenges. This paper explores into how India's media laws have evolved through legislative changes, judicial interventions, and societal pressures, and examines how they strive to balance

freedom with accountability in an increasingly complex media environment.

Key studies focuses on Media Trials, Digitization, Legal challenges and Judicial statements -

The trajectory of media law in India is closely linked to the nation's constitutional journey. Granville Austin (1999) in "*Working a Democratic Constitution*" emphasized the Constituent Assembly's vision of a vibrant press as essential for informed citizenry. Early legal works like H.M. Seervai's "Constitutional Law of India" laid the groundwork for interpreting Article 19(1)(a) in conjunction with Article 19(2), which sets reasonable restrictions. Legal historians often reflect on how colonial laws like the Vernacular Press Act (1878) influenced post-independence press legislation, setting a precedent for balancing press freedom with state control.

Digitalization has transformed the media landscape, creating new legal complexities. Scholars like Chinmayi Arun argue in their studies on intermediary liability and platform governance that existing Indian laws are insufficient to tackle the rapid spread of misinformation and hate speech online. *The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021* have been critically analyzed by the Internet Freedom Foundation and other civil society groups for their vagueness and potential to infringe on freedom of speech. These critiques highlight the gap between traditional media regulations and contemporary digital realities.

The phenomenon of "trial by media" has been a recurring theme in both academic and legal commentary. In *Sahara India Real Estate Corp. Ltd. v. SEBI (2012)*, the Supreme Court acknowledged the need for prior restraint in certain cases to protect the integrity of judicial proceedings. Scholars like Soli Sorabjee and Nani Palkhivala have defended press freedom but cautioned against its misuse. Academic journals, such as the Indian Journal of Law and Media, regularly publish analyses on the conflict between the media's role in exposing truth and its tendency to sensationalize, especially in criminal and political reporting.

METHODOLOGY AND DATA COLLECTION METHOD

Research Methodology -

This research is conducted using a qualitative and doctrinal approach, aimed at analyzing existing legal frameworks, statutory provisions, and judicial interpretations concerning media in India. The study emphasizes a legal-analytical method, wherein the researcher critically

evaluates legal principles, constitutional mandates, and judicial precedents that shape media law.

The methodology is rooted in library-based research, relying on the interpretation of legal texts and court rulings to understand the evolution, challenges, and implications of media regulation in the Indian context.

OBJECTIVES

Detailed Objectives of the Study:

1. To examine the constitutional foundation of media freedom in India:
This objective involves a detailed study of Article 19(1)(a) of the Indian Constitution, which guarantees the right to freedom of speech and expression. It explores how this right forms the bedrock of media freedom and how Article 19(2) allows for reasonable restrictions in the interest of sovereignty, public order, decency, and other factors. The study aims to understand how constitutional values have been interpreted to protect or regulate the press in a democratic society.
2. To trace the historical development of media laws in India:
This includes an analysis of colonial-era laws such as the Vernacular Press Act, Press Act of 1910, and other British regulations, and how they shaped post-independence legal attitudes towards press freedom. The objective is to show the transformation of media regulations from instruments of control to facilitators of democratic engagement.
3. To analyze landmark judicial pronouncements that have shaped media jurisprudence:
This involves a critical study of Supreme Court and High Court judgments—such as *Romesh Thappar v. State of Madras*, *Bennett Coleman & Co. v. Union of India*, *Sahara v. SEBI*, and others—that have defined the scope, boundaries, and limits of media freedom. The study evaluates how the judiciary has played a pivotal role in balancing individual rights and public interest in the media context.
4. To evaluate the existing statutory and regulatory framework governing media:
This objective focuses on the legal institutions and laws that regulate media in India, such as the Press Council of India Act, Cable Television Networks Regulation Act, Information Technology Act, and the IT Rules 2021. It assesses their effectiveness, limitations, and impact on media practices, especially in light of the growing influence of digital media.
5. To assess contemporary legal and ethical challenges faced by the media:

The study aims to explore emerging issues like media trials, fake news, paid news, hate speech, obscenity, and violation of privacy. These issues raise serious concerns about responsible journalism and the balance between media freedom and the rights of individuals. The objective is to analyze how current laws address these problems and where they fall short.

6. To recommend legal and policy reforms for strengthening media accountability:
Based on the gaps identified in existing laws and practices, this objective seeks to propose reforms that ensure media remains free yet accountable. It advocates for stronger regulatory mechanisms, clear ethical guidelines, and institutional independence to uphold democratic and constitutional values in media functioning.

LEGAL FRAMEWORKS GOVERNING MEDIA IN INDIA

✚ Constitutional Foundation

Article 19(1)(a) of the Indian Constitution guarantees the right to freedom of speech and expression, forming the bedrock of media freedom in India. However, this right is subject to reasonable restrictions under Article 19(2), which allows the state to impose limitations in the interests of sovereignty, public order, decency, morality, and more.

✚ Key Legal Frameworks

1. Press Council Act, 1978

Establishes the Press Council of India, a statutory body aimed at preserving the freedom of the press and maintaining and improving the standards of newspapers and news agencies in India.

2. Cable Television Networks (Regulation) Act, 1995

Regulates the operation of cable television networks in India. It mandates registration of cable operators and prescribes a program code and advertisement code to ensure content is not offensive or harmful.

3. Information Technology Act, 2000 & IT Rules, 2021

The IT Act, 2000 provides legal recognition for electronic transactions and addresses cybercrime and electronic commerce.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 impose obligations on intermediaries, including social media platforms and digital news media, to exercise due diligence and establish grievance redressal mechanisms. These rules have been critiqued for potentially enabling government overreach and affecting freedom of expression.

4. Indian Penal Code (IPC), 1860

Contains provisions that impact media operations, such as:

- Section 499 & 500: Defamation
- Section 505: Statements conducing to public mischief
- Section 295A: Deliberate and malicious acts intended to outrage religious feelings

5. Contempt of Courts Act, 1971

Empowers courts to punish acts that scandalize or lower the authority of the judiciary, which can include certain types of media reporting that interfere with judicial proceedings.

✚ Broadcasting and Digital Media

Prasar Bharati (Broadcasting Corporation of India) Act, 1990

Governs India's public service broadcaster, Prasar Bharati, which includes Doordarshan Television Network and All India Radio.

Broadcasting Services (Regulation) Bill, 2023 (Proposed)

Aims to consolidate the regulatory framework for broadcasting services, including OTT platforms. The bill proposes the establishment of a Broadcasting Authority of India and introduces content regulation measures.

✚ Judicial Interpretations

Romesh Thappar v. State of Madras (1950)

The Supreme Court held that freedom of speech and expression includes the freedom of the press.

Bennett Coleman & Co. v. Union of India (1973)

Affirmed that any restriction on the number of pages in a newspaper is a violation of the freedom of the press.

Shreya Singhal v. Union of India (2015)

Struck down Section 66A of the IT Act, 2000, as unconstitutional, reinforcing the importance of free speech in the digital realm.

✚ Regulatory Bodies

- Press Council of India (PCI)

A quasi-judicial body that adjudicates complaints against and by the press for violation of ethics and for violation of the freedom of the press.

- Ministry of Information and Broadcasting (MIB)

Responsible for the formulation and administration of rules, regulations, and laws

relating to information, broadcasting, the press, and films in India.

- **Broadcasting Authority of India (Proposed)**

Envisioned under the Broadcasting Services (Regulation) Bill, 2023, to oversee broadcasting services and enforce content standards.

Accessing Legal Resources via Manupatra

For in-depth legal research and case law references, Manupatra is a comprehensive legal database offering access to:

Statutes and regulations

Judgments from various courts

Legal commentaries and articles.

POLICY FRAMEWORK ON MEDIA REGULATION IN INDIA

Policy Framework on Media Regulation in India

India's media policy framework is rooted in the constitutional guarantee of freedom of speech and expression under Article 19(1)(a), balanced by reasonable restrictions in Article 19(2) to ensure public order, decency, national security, and integrity. The policy landscape spans across print, broadcast, and digital media, and is shaped by statutory laws, government regulations, and judicial interpretations.

Key Policy Elements:

1. **Self-Regulation and Oversight:**

The Indian government encourages self-regulation by media bodies (e.g., News Broadcasting & Digital Standards Authority), but also retains oversight through statutory bodies like the Press Council of India.

Recent policies have stressed the need for greater accountability of digital news platforms and OTT services.

2. **Code of Ethics and Broadcasting Guidelines:**

The Programme and Advertising Code under the Cable Television Networks Act regulates content to prevent obscenity, violence, and communal disharmony.

OTT platforms and digital media now fall under the IT Rules, 2021, requiring grievance redressal and adherence to content classification norms.

3. **Digital and Cyber Media Regulation:**

With the rise of online platforms, India's policy direction has moved toward content moderation, fake news control, and data privacy, sparking debates around censorship

vs. freedom.

4. Proposed Policies:

The Broadcasting Services (Regulation) Bill, 2023 seeks to create a unified framework to govern TV, radio, and digital streaming services under one authority.

These policies reflect India's attempt to create a balanced regulatory environment that respects democratic freedoms while maintaining national interest and social harmony.

CASE LAWS

1. Romesh Thappar v. State of Madras (1950)

Issue: Ban on a political journal citing public order.

Significance: First major case on freedom of the press. The Supreme Court held that freedom of speech and expression includes freedom of the press, and any restriction must fall within the scope of Article 19(2).

2. Brij Bhushan v. State of Delhi (1950)

Issue: Censorship of a newspaper.

Significance: The Court struck down pre-censorship, reinforcing that press freedom cannot be curtailed without reasonable restrictions defined by law.

3. Bennett Coleman & Co. v. Union of India (1973)

Issue: Government policy limiting newsprint quotas.

Significance: The Court ruled in favor of press freedom, stating that newsprint restrictions directly affected the freedom of expression, and any indirect control is unconstitutional.

4. Indian Express Newspapers v. Union of India (1985)

Issue: Customs duty on newspaper imports.

Significance: Held that economic restrictions impacting the functioning of the press can amount to indirect censorship and must be scrutinized under Article 19(1)(a).

5. R. Rajagopal v. State of Tamil Nadu (1994) (Auto Shankar case)

Issue: Right of a magazine to publish the autobiography of a prisoner.

Significance: Established the Right to Privacy and held that freedom of the press includes the right to publish true accounts, unless it interferes with the privacy of an individual not already in the public domain.

6. Sahara India Real Estate Corp. Ltd. v. SEBI (2012)

Issue: Media reporting and right to fair trial.

Significance: Introduced the concept of "postponement orders" to balance freedom of

the press with the right to a fair trial.

7. Shreya Singhal v. Union of India (2015)

Issue: Constitutionality of Section 66A of the IT Act.

Significance: Section 66A was struck down as unconstitutional for being vague and arbitrary, thus upholding online free speech.

8. Aweek Sarkar v. State of West Bengal (2014)

Issue: Obscenity in media.

Significance: The Court adopted the “community standards test” and held that nudity per se is not obscene, emphasizing the importance of context in media content.

FINDINGS AND RESULT

CHALLENGES OF MEDIA IN LAW IN INDIA

1. Conflict Between Free Speech and Reasonable Restrictions

Issue: Article 19(1)(a) guarantees freedom of speech, but Article 19(2) allows restrictions.

Challenge: Determining what constitutes a "reasonable restriction" often leads to subjective interpretations, resulting in censorship or suppression of dissent.

2. Lack of a Unified Media Regulatory Framework

Issue: Different media platforms (print, TV, digital) are governed by separate, outdated laws.

Challenge: The absence of a unified, modern media law leads to regulatory confusion, inconsistency in enforcement, and legal loopholes.

3. Regulation of Digital Media and OTT Platforms

Issue: Digital content is growing rapidly but lacks adequate regulation.

Challenge: Balancing content moderation, free expression, and privacy rights on online platforms while avoiding overreach or censorship.

4. Fake News and Misinformation

Issue: Spread of unverified or false information, especially through social media.

Challenge: Legal mechanisms to curb fake news often risk becoming tools for silencing criticism or dissent if not properly implemented.

5. Media Trials and Judicial Fairness

Issue: Excessive media coverage of ongoing investigations or trials.

Challenge: Media trials can influence public perception and affect the accused’s right to a fair trial, violating legal principles like innocent until proven guilty.

6. Political and Corporate Influence
Issue: Ownership of media by political or corporate interests.
Challenge: Threat to editorial independence, leading to bias, suppression of truth, and erosion of public trust.
7. Invasion of Privacy
Issue: Invasive reporting practices in the name of public interest.
Challenge: Striking a balance between public's right to know and an individual's right to privacy.
8. Weak Enforcement of Media Ethics
Issue: Self-regulatory bodies often lack teeth.
Challenge: Absence of binding enforcement mechanisms makes it hard to hold media houses accountable for unethical or illegal practise.

RECENT EXAMPLE OR RESULT

Media and Legal Challenges in the 2025 Pahalgam Attack

Incident Overview: On April 22, 2025, five armed militants attacked a group of tourists in the Baisaran Valley near Pahalgam, Jammu and Kashmir, resulting in the deaths of 26 civilians and injuries to over 20 others. The Resistance Front (TRF), a banned militant group with alleged links to Lashkar-e-Taiba, claimed responsibility for the attack.

Media Reporting: The attack received extensive coverage across national and international media platforms. While the media played a crucial role in informing the public and bringing attention to the incident, certain challenges emerged:

Sensationalism: Some outlets were criticized for graphic imagery and emotionally charged narratives that may have exacerbated public fear and communal tensions.

Speculative Reporting: In the immediate aftermath, some reports speculated on the identities and affiliations of the attackers without official confirmation, potentially hindering ongoing investigations.

Privacy Concerns: Interviews with survivors and families of victims were broadcasted, raising questions about consent and the ethical boundaries of reporting in traumatic situations.

Legal and Policy Implications:

Government Response: In response to the attack, Indian authorities launched "Operation Sindoor," targeting suspected militant camps across the border. Additionally, over 2,000 individuals were detained under anti-terrorism laws, and properties linked to alleged militants were demolished, actions that have been both supported and criticized in public discourse.

Judicial Scrutiny: The demolitions and mass detentions have sparked debates about due process and the rule of law, with legal experts and human rights organizations calling for adherence to constitutional safeguards.

Media Regulation: The incident has reignited discussions on the need for stricter media regulations to prevent the spread of misinformation and to ensure responsible reporting during crises.

Impact on Media-Law Dynamics: The Pahalgam attack underscores the delicate balance between press freedom and legal responsibilities. While the media serves as a watchdog and information conduit, it also bears the responsibility of reporting ethically and accurately. Simultaneously, legal frameworks must ensure security and justice without infringing on civil liberties or press freedom.

CONCLUSION

The judiciary in India has significantly shaped the boundaries of media freedom through a series of landmark rulings, ensuring that the press remains free while protecting the dignity of individuals and institutions. From protecting journalistic expression in *Bennett Coleman & Co. v. Union of India* to striking down unconstitutional provisions in *Shreya Singhal v. Union of India*, courts have protected the democratic ethos.

This research highlights the urgent need for stronger institutional mechanisms to uphold ethical journalism in the face of rising sensationalism and politicization. The judiciary's role must be complemented by media self-regulation, transparency in ownership, and accountability systems that empower the public to question unethical content without undermining freedom of expression.

The emergence of digital platforms, OTT media, and citizen journalism has further complicated the legal framework governing the Indian media. Traditional laws like the Press Council Act, Cable Television Networks Regulation Act, and Information Technology Act are either outdated or insufficient to address contemporary issues such as deepfakes, algorithmic bias, and online trolling.

The research concludes that India requires a comprehensive and unified media law that covers both traditional and digital platforms, incorporates data protection, and provides a code of conduct with enforceable standards. Without such reforms, media may increasingly become a

tool for propaganda, surveillance, or public manipulation, rather than a medium for truth and accountability

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Bar & Bench

Ministry of I&B

Press Council of India

