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"MEDIA REPRESENTATION OF MARGINALIZED COMMUNITIES: LEGAL RESPONSIBILITIES"

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ABSTRACT

The present paper analyses the "**Media Representation of Marginalized Communities: Legal Responsibilities**" as a subject matter and the jurisprudential concept behind it. The paper forms an inquisitive curiosity that lingers behind the cynic of the media representation portrayed by the marginalized communities and how it thus establishes a stereotype. The paper unravels the inquiry behind it and brings an insight on the inclusivity and dynamic of the legal framework along with the media representation of marginalized communities along with establishing the need of the ethical code, stipulated for the representation. Several law provisions from the Indian Constitution and the Bhartiya Nyaya Sanhita along with landmark judgements such as '**Bobby Art International v. Om Pal Singh Hoon**'¹ or '**S. Rangarajan v. P. Jagjivan Ram**'² are also being impugned and brought into the light to unravel the jurisprudential psyche behind it. Ultimately the paper argues for triumph of righteousness for a balanced legal ecosystem which embodies the principle of equality as a front by promoting the representation of the marginalized communities in the media representation in the accordance and covers of the law and legal regulations. The paper or this investigation dwells along the idea of the consequential need of the society for the upliftment and equality of the society that a professional construct or a framework to be built for a proper representation which does not promote any stereotypes or prejudice but rather inspires the promotion of representation and flourish tranquillity along with it. Hence this paper proposes the dire need for the supervision of law for the accountability and for the hosting the ideals of inclusivity, diversity and representation.

Keywords: Marginalized, Media, Representation, Legal, Privileged, Society, Framework.

¹ (1996) 4 SCC 1

² (1989) 2 SCC 574

Introduction

*'The world is a complex place, and the influence of the media in its representation and its power of communication and interpretation is a remarkable amplifier of emotions, and of illusions'*³ quote by Tariq Ramadan⁴ portrays how the media aids in personifying an animus in the ethos of the society. This prerogative trust of disseminating and influencing to its audience makes the media a powerful yet dangerous medium. The media holds accountability and responsibility of being an overdog guardian to the masses and supersedes any hysteria or hoax, ***thus Media can be interpreted as the compass of the society***, which not only provides awareness about the world but also helps in molding the idea of the structure of the society by promoting and influencing good values to lead towards social solidarity. The narrative of society is highly inspired by the beliefs and prejudice of its people; the media plays a pivotal role in communicating these sentiments to the fellow members of the society thus constituting an emergence of norms.

The use of media can be seen as a instrument for the people to connect not only socially but emotionally, which can further leave a perpetual mark of a narrative, hence usage of media should be regulated with various regulations and mandates to prevent any desolation to anyone. From the ancient times, there has been a social hierarchy which has led to concentration of power and privileged to some exclusive groups while insatiably snatching away the comfort and soul from some secluded and marginalized people, and due to these adhesive bigot cycle has been repeated throughout the generation to generation, this has left a mark in the societal norms. This incessant practice of seclusion and discrimination adopted by the society from generation to next generation has been repeated for such a longer time without any inquisitively anarchy that now this discrimination feels like a tradition to practice. Therefore, it has led to birth of a custom in the disguise of an unresolved discrimination.

However, the **Indian Constitution**⁵ entrust the people of India with equality, the constitution rejects the idea of prejudice or marginalization. **Article 14 of the Indian Constitution** guarantees that no person shall be denied equality before the law or equal protection of the laws within the territory of India. It establishes the principle of equality, which is fundamental to the rights and freedoms of Indian citizens. This article is crucial in ensuring that all individuals are

³ Quote stated by Tariq Ramadan

⁴ Swiss philosopher and writer

⁵ Enacted on November 26, 1949

treated equally and provides a legal basis for challenging discrimination, it creates a mutual bond between the citizens and opposes the idea of social hierarchy and stereotypes. **Article 15 of the Indian Constitution** prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. It ensures equality before the law and prohibits any form of discrimination in the society.

But yet the constitution is just a legal imperative of regulations, the apathy and prejudice of the society can only be eradicated by the enticing the solidarity and mutual respect. The media is a medium consumed by the masses and it is an impeccable platform to widespread the importance of equality therefore establishing a voice for marginalized is a must, and it should be prioritized. Hence representation of media is the wheel to empower the structure of equality, but to ensure transparency and progress it should be spurred and mounted by the legal obligations and responsibilities.

Who are Marginalized communities?

The term 'Marginalized', according to **Merriam-webster dictionary** depicts the definition of marginalized as, '*an unimportant or powerless position within a society or group*'⁶. This term marginalized originates from *the Latin word "margo," meaning "edge, brink, or border"*.

The word establishes a powerful yet cruel tone of seclusion and isolation by creating a barrier between the society to distribute the people into groups of '*privileged*' and '*marginalized*'. The *privileged* people are blessed with greater reputation and liberty while enjoying the entitlement of liberty without any exclusion by the society whereas the *marginalized* are mistreated and abused by the society to maintain the hegemony of privileged over the *marginalized*.

This insidious segmentation of people into marginalized occurs when certain individuals or groups are denied prospective opportunities in social, economic or cultural life due to their differences like race, religion, gender or any other discriminatory distinguish.

This leads in creating a barrier between the *marginalized* and *privileged*, which further leads to social inequality and accomplishment of monopolistic hegemony in the society and degradation of the social solidarity and common enjoyment of rights among the public.

⁶ <https://www.merriam-webster.com/dictionary/marginalized>

This shade of stereotype has blurred the societal balance and harmony; it has further divided and created segments in the society. It snatches away the spirit and thrives and fill the marginalized commodity with the insecurity, low confidence and a social or economic gap while also depriving them from the enjoyment of liberty and equality.

This cursed blade of marginalization happens in every arc of the life; the enjoyment of liberty and rights are compromised and snatched due to its cruel casted consequences.

The *marginalized* commodities such as Dalits, LGBTQ individuals, religious minorities, tribals are few of the people who have suffered due to this oppression; this oppression has been prevailed historically from ancient times due to the paradigm and adherence to bigot and prejudice.

Media as a ‘Wheel of Propagating’

According to **Market business News**, “The term ‘**Media**’, which is the plural of *Medium*, refers to the communication channels through which we disseminate news, music, movies, education, promotional messages, and other data. It includes physical and online newspapers and magazines, television, radio, billboards, telephone, the Internet, fax, and billboards.”⁷

The media plays a significant role in prospecting and propagating any information to the masses. The media, possesses a transparent, metaphysical truth also known as ‘influence’ over the masses. Its ability to reach the ears and eyes of its every audience means it can foster inclusion and equality or a deeper bond. Media as a social force can influence the masses to connect or divert their ideologies. The media should be a watchful guardian of truth and information, so that it can distribute those assets to the masses to enrich the society. The Marginalized (*marginalized*) people need a drastic example in the society to get more comfortable with the norm of the society which pushes them out, they need a fuel to drive them out of their paranoid insecurity to triumph over their apathy and speaks against the odd. Hence the role of media can be interpreted as a watchful guardian for this dire need of representation. Media plays a dualistic role in the society as the **MIRROR** which reflects the events and present situation of the society and as the **TORCH** which influences perceptions, shape ideals and even policy-making. When marginalized communities are portrayed, the media is not depicting the set reality but it is also fueling and constructing a version of reality that the

⁷ <https://marketbusinessnews.com/financial-glossary/media-definition-meaning/>

millions of its audience will accept as their general truth. Implications for Media Studies **Stuart Hall**⁸, a renowned British Sociologist proposed a **representation theory**⁹, which has significant implications for media studies, as it encourages critical examination of how media constructs meaning and influences public perception and how by interrogating representations in media, scholars and audiences can uncover underlying ideologies and power structures that shape societal narratives. In summary, **Stuart Hall's** representation theory provides a framework for understanding how meaning is produced and contested in media, highlighting the active role of representation in shaping cultural perceptions and identities. This theory remains influential in analyzing media texts and their impact on society. This is why Stuart Halls's representation theory is so essential, as media does not simply reflect what exists; it actively shapes meaning through the choice of words, images and narratives. Like for an example – If a news report on '*TRIBAL PROTEST*' focuses solely on violence without explaining any other causes or derivatives underlying, it frames the community as lawless rather than victims of injustice.

The role of the media in the use of society extends far beyond the reporting of events, it shapes the social imagination. For marginalized communities, the stakes are even costlier and heavier due to the media can be the only bridge between their struggles and the receptivity of the *privileged* to the *marginalized*. The marginalized sector of the society faces insurmountable obstacles and that is further compoundable due to their lack of energetic representation and the positive, ethical influence of media with their energized representation can surely persuade the masses to push that obstacle away into welcoming the inclusivity to the greater solidarity.

Legal responsibilities

In India, the media enjoys constitutionally granted freedom of speech and expression under the Article 19(1)(a) of the Indian Constitution. However, this cherished freedom is not completely absolute, it is weighed and levelled by the Article 19(2) of the Indian Constitution, which empowers the state to impose “reasonable restrictions” to the public conscience in the interests of sovereignty and integrity of the State. When it comes to issues relating to the marginalized communities, these “restrictions” create a legal obligation for the media to ensure that the coverage does not perpetuate prejudice or incite any discrimination nor promote violence.

⁸ British sociologist

⁹ Representation theory, introduced by Stuart Hall, is a critical concept in media studies which explores how media texts present or represent reality.

Several statutory and regulatory provisions govern media conduct:

Constitutional Provisions

- I. Article 14**, *"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."*¹⁰ as the article 14 guarantees equality before the law and equal protection of the laws. Hence everyone under the law are treated and seen as one.
- II. Article 15**, *"The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or any of them. In particular, no citizen shall, on grounds only of religion, race, caste, sex or any of them, be subject to any disability, liability"*¹¹ it Prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. This article ensures that no bigot or prejudice is expressed nor should be regarded, which promotes discrimination.
- III. Article 19(1)(a)**, *"(1) All citizens shall have the right—(a) to freedom of speech and expression;"*¹² it protects the freedom of expression, forming the foundation for press freedom and it also promotes the Media as the Fourth pillar of the Democracy, as the freedom of expression is a dire requisite to question the sovereign for the welfare of the public.
- IV. Article 19(2)**, *"Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence."* it allows reasonable restrictions applied by the states to prevent speech that harms public order or spreads hate.
- V. Article 21**, *"No person shall be deprived of his life or personal liberty except according to procedure established by law"*¹³ it protects the right to life and personal liberty, which courts have interpreted to include the right to dignity. Misrepresentation or invasive reporting on marginalized individuals can amount to a violation.

¹⁰ Article 14 of the Indian Constitution.

¹¹ Article 15 of the Indian Constitution.

¹² Article 19 of the Indian constitution.

¹³ Article 21 of the Indian Constitution.

Bhartiya Nyaya Sanhita (BNS) Provisions¹⁴

- I. **Section 196**, “Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc , and doing acts prejudicial to maintenance of harmony” ¹⁵it criminalizes promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language and promotes peaceful resolutions.
- II. **Section 299**, “Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs” ¹⁶it penalizes the deliberate and malicious acts intended to outrage religious feelings and thus spurring violence.
- III. **Section 353**, “Whoever makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means, with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities shall be punished with imprisonment which may extend to three years, or with fine, or with both.” ¹⁷it punishes publication of content that incites fear, alarm, or communal disharmony.

Cable Television Networks (Regulation) Act, 1995¹⁸

- I. **Section 5**, “Programme code. —No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code.” ¹⁹it Prohibits transmission of programs that do not conform to the Programme Code.
- II. **Rule 6 of the Programme Code**, Forbids content that:
 - a) That offends good taste or decency.
 - b) Which contains attacks on religions or communities.
 - c) Which promotes communal attitudes.
 - d) Which contains anything obscene, defamatory, or likely to encourage crime or disorder.

¹⁴ Enacted on 1 July, 2024.

¹⁵ Section 196 of the Bhartiya Nyaya Sanhita

¹⁶ Section 299 of the Bhartiya Nyaya Sanhita

¹⁷ Section 353 of the Bhartiya Nyaya Sanhita

¹⁸ Enacted on March 25, 1995.

¹⁹ Section 5 of the cable television network regulation act.

*Press Council of India Act, 1978*²⁰

The Norms of Journalistic Conduct require:

- I. Accuracy and fairness.
- II. Avoidance of **casteist or communal references** unless directly relevant.
- III. Protection of privacy.
- IV. Respect for **human dignity**.
- V. The Council can censure newspapers for violating these norms, although it has no punitive enforcement powers.

*Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*²¹

While primarily a criminal law, but it indirectly impacts media: careless or derogatory depiction of SC/ST communities, which could be seen as promoting enmity or insult, thus leading to legal action.

Landmark Judgements

I. Bobby Art International v. Om Pal Singh Hoon (the “Bandit Queen” case), (1996)²²

Issue- Whether a film realistically depicting caste and gender-based sexual violence against a marginalized woman (*Phoolan Devi*) could be restrained as “obscene”/ “demeaning” to women or communities.

Held – The Supreme Court set aside the restraint and restored the “A” certificate. The court said that the realistic depiction of social evils, even with explicit scenes, is protected speech when contextually necessary; not obscene per se. public sensibilities alone can’t trump over Article 19(1)(a).

II. S. Rangarajan v. P. Jagjivan Ram, (1989)²³

Issue - Madras HC revoked the certificate for a film (*“Ore Oru Gramathile”*) critiquing reservation policy, could the State suppress exhibition due to anticipated public disorder/offence on a sensitive social justice issue?

Held- The court held that “Prior restraint requires a very close nexus to a clear and present danger”; therefore, the State must protect free speech against a hostile audience. Films on

²⁰ Enacted on September 7, 1978

²¹ Enacted on 11 September, 1989.

²² (1996) 4 SCC 1

²³ (1989) 2 SCC 574

controversial public policy affecting disadvantaged groups cannot be suppressed merely due to likely protests.

III. Director General, Doordarshan v. Anand Patwardhan, (2006)²⁴

Issue- Can public broadcaster refuse to telecast a documentary exposing communal/gender violence (impacting minorities and women) on “unsuitability” grounds?

Held- The court held that the ‘Doordarshan’ cannot deny telecast absent valid Article 19(2) grounds. The Court directed telecast without cuts and that the State cannot stifle critical discussion of social violence against vulnerable groups.

In the essence of it all, Indian law imposes on the media not just a negative duty to avoid harm, but also a positive responsibility to uphold dignity, equality, and inclusivity in coverage. While enforcement mechanisms vary in strength, the combined effect of constitutional mandates, penal provisions, broadcasting codes, and ethical guidelines creates a legal framework that demands sensitive, fair, and accurate representation of marginalized communities.

These provisions and various judicial precedents set by the legislation and the judiciary dictates the set narratives which conceives the required legal responsibilities of the media to the marginalized communities to improve the societal gap without disrupting the societal peace.

Conclusion

In examining the intricate and the delicate relationship between media representation by the marginalized communities and the legal responsibilities that govern and authorize such representation, A critical reflection on this study compels us to analyze the importance of why establishing the role of representation of the marginalized as important as their upliftment in the society. Like for an instance, when a tribal kid sees an actor from his/her community in a movie or a tv show, it inspires him and ignites a spark in his eyes that the privilege he felt he could never obtain was nothing but a cake walk barrier to cross. The way marginalized are portrayed in the media has a direct consequence in the society for respect to their dignity, rights and opportunities. Yet the framework of law establishes a positive discrimination which encourage the employment and opportunities to the marginalized but the conclusion emerges is a need for a more nuanced legal framework that can grapple with implicit biases as

²⁴ (2006) 8 SCC 433

effectively with the explicit hate speech and bigots. It is important to underline that law alone cannot bring this positive change and transform the media norm. the judiciary and legislation may provide the authority of law and legality, but the soul of media responsibility lies in the ethics. The conclusion of this investigation provides some several directions such as the: -

- Codified guidelines that prohibit the stereotyping of marginalized in entertainment and news media, which will further eradicate the old-ill stereotypes.
- Stronger sense of accountability mechanism for media platforms, which guarantees the user with the free expression along with the safeguard against vilification.
- Inclusivity and positive discrimination which requires the representation of marginalized voices not as subjects of prejudice or stereotypes but the producers of content.
- Legal literacy campaigns for promoting the inclusivity and equality.
- Judicial sensibility in interpreting free speech jurisprudence through the lens of substantive equality.

The society must flourish and rejuvenate the marginalized with the enjoyment they were snatched and taken away. The Representation plays a crucial role in shaping our perceptions and beliefs. It is through that mirror of representation that we are able to see ourselves and others reflected in various forms of media and society. By having diverse and accurate representations, we can challenge stereotypes, break down barriers, and foster inclusivity and finally conceive the equality by removing the barrier that separates the marginalization. In the reimagining, the law lingers a constitutive role in the upliftment of marginalized communities and it ensures the ideals of equality, dignity and fraternity. Hence the media representation of the marginalized communities must be in the adherence of ethical code and lawful mandates, not to complicate the process but to purify and accountable.

“Representation is not an option; it is a necessity for a fair and just society.” A beautiful quote stated by **Jamie Raskin**, a United State Representative.