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# **MEDIA SELF-REGULATION AND LAWS IN INDIA IN CURRENT SCENARIO**

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## **Abstract**

The law governing the media is not a coherent body of legislation like criminal law or contract law. A combination of legislation and ethical principles that is particularly important to media workers and journalists. The focus of media law is on the legislation itself. Within the scope of this study, we analyse the limits that exist between journalists and media businesses. There is not a single piece of legislation that constitutes Indian media law. It continues to develop and undergoes revisions in order to achieve its objectives. This development has come up against a lot of obstacles, but it believes that it has lost its core in order to provide the information that it deserves. It is disturbing that the media is having an effect on people's perspectives, as a result of which they trust information. The press, which is a potent tool of mass communication, ought to be given the opportunity to help establish a robust and sustainable society. If people were prevented from exercising their right to freedom of the press, it would have a negative impact on public opinion and democracy. The new media is making the most of this precarious circumstance by insisting on their right to freedom of speech and expression. To protect the right to free speech and expression in this day and age of mass media and the internet, both the legislative and judicial branches of government need to collaborate. In this investigation, we shall shed light on the foundations and peculiarities of India's laws governing the media.

**Index Terms** Media, Law, fundamental right, freedom of the press, Self-regulation

## I. Introduction

The dissemination of information to the general public about their surroundings, truthfulness, and position is an essential function of the media. In contrast to other areas of law, such as criminal or contract law, media law is not characterized by a unified structure. For journalists and the media in general, it is of the utmost significance that laws and ethics be brought together. After the legislative, judicial, and executive departments of government, there are some people in the intellectual community who believe that the media should be considered the fourth pillar of the Constitution. Therefore, the application of media law is essential if it is to assist the effective functioning of the media and the regulatory agencies that oversee it, and if it is to allow journalists to conform to the professional ethical standards that govern their profession. When it comes to the implementation of media law, it is very necessary to pay attention to the legal framework [1]. The Constitution of India lays the groundwork for a democratic republic to be established within the context of the Indian Union, which has been operational for the last 66 years. India has successfully navigated its way through substantial clashes with neighboring countries, crises, and serious domestic turmoil over the course of the last 66 years. In the modern era, which is defined by the necessity for the preservation of society, it is vital to take into consideration the three main components of the state, which are the military, the police, and the courts. Each of the three branches of government—the Legislature, which serves as the legislative body responsible for creating laws; the Executive, which serves as the executive branch responsible for executing laws; and the Judiciary, which acts as the judicial branch responsible for enforcing laws—has successfully completed their individual tasks with relatively little duplication, demonstrating that they are both effective and efficient [2]. The media, which is frequently referred to as the Fourth Pillar of democracy, plays an important role in connecting the three branches of government and serving as a vigilant guardian to ensure that these branches adhere to constitutional obligations, the principle of separation of powers, and the rigorous application of the rule of law. This is a crucial role that the media plays in democracy. Our Constitution describes the current state of the Union of India, which has been around for 66 years, as a democratic republican society. This description is based on the fact that India has been a united nation since 1947. During the course of the last 66 years, India has successfully weathered big conflicts with neighboring nations, a variety of crises, and instances of severe internal upheavals. In the modern age, which is defined by the imperative of survival, the three departments of government, namely the Legislative Branch, the Executive Branch, and the Judicial Branch, have each performed their separate tasks with minimal overlap, indicating that they are both functional and efficient. It is essential that the

media, which is sometimes referred to as the Fourth Pillar of democracy, play an important role in coordinating the many departments of government, upholding constitutional commitments, maintaining the separation of powers, and adhering to the law.

## II. Review of Literature

It is essential to keep individuals informed about their environment, the facts, and the situations. There is not a single body of law that can be referred to as "media law," similar to how there is contract law and criminal law. The combination of media laws and journalistic ethics constitutes the majority of the most significant laws and ethics for a journalist. Legal issues pertaining to the media will be discussed. We will investigate the limits that are placed on journalists and media outlets. This shifts the emphasis away from issues pertaining to freedom of expression, libel, privacy, secrecy, censorship, disrespect, and access to information [4]. Over the course of its history, India's media regulations have undergone significant changes. Due to the length of time these limits have been in place and the fact that they have their origins in colonialism, I will break down the historical context into two components (Figure 1):



**Fig 1: Segments**

### 2.1 Prior to Independence

The Lord Wellesley's Press Regulations of 1799 were the first set of legislative restrictions; these regulations pre-censored newspaper production. The Press Act, which was enacted at the beginning of 1835, did away with most of the limits that were placed on the topic. The Gagging Act was enacted on June 18, 1857, and it mandated the use of likening for owners and operators of printing presses, granted the government the authority to halt the publication or distribution of any newspaper, book, or other printed matter, and prohibited the dissemination of any statements or news stories that could cast doubt on the legitimacy of the government [5]. In 1780, J. A. Hickey established the Bengal Gazette, which is considered to be India's first typographic press. It brought to light the unethical treatment of Indians by the E.I.C. Media regulations caused Hickey to catch fire, which resulted in it being fined and imprisoned. The Madras Courier was the first publication to conduct an investigation into imperial military strategies. The very first censored newspaper appeared in 1795 and demanded that all content be submitted for evaluation before it could be printed [6]. The Metcalfe Act of 1830 was a comprehensive piece of legislation that governed the

production and distribution of newspapers in colonial India. After the uprising in 1857, this was eventually superseded by the Indian Penal Code of 1860. Nearly every journalist in India who wrote about the Indian Independence Movement was charged with defamation, which is a criminal offense. In India, the Press and Registration of Books Act of 1867 and the Vernacular Press Act of 1878 placed restrictions on the freedom of the press, which resulted in incarceration and fines for writings that were deemed to be subversive.

## 2.2 After Independence

India attained its independence in 1947, shortly after the Indian National Congress took control of the government. The 1947 Press Legislation Enquiry Committee conducted research and issued recommendations on regulations governing the press. A change was made to Section 124-A of the Indian Penal Code, and the Indian Press (Emergency Powers) Act and the Foreign Relations Act were both abolished. Both the Telegraph Act of 1885 and the Post Office Act of 1898 were amended throughout this process. The Press (Objectionable Matters) Act of 1951 was a piece of legislation that governed the press; nevertheless, it was abolished in 1957. The Press Commission of India, which was established in 1952, eventually gave rise to the Press Council of India. The most significant event in the history of media regulation occurred on January 26, 1950, which was the day that the Constitution became legally binding. Their time spent living under colonial rule in India instilled in them an appreciation for an independent press. Therefore, this freedom was included in the Constitution to provide the press with the opportunity to educate the people, and the Constituent Assembly ensured that it would be preserved as a basic right [7]. Even though it does not specifically mention press freedom, Article 19(1) of the Indian Constitution protects the right to free speech and expression, which includes the freedom of the press. The right to print books, pamphlets, handbills, circulars, and any other kind of publication that acts as a vehicle for information and opinion is protected by the Free Press Clause, which may be found in Article 19(1)(a) of the Constitution of the United States of America. In spite of the fact that freedom of the press is protected, there is still a multiplicity of regulations that control the different types of media that need to be negotiated in order to have a complete understanding of the landscape of the media. The Indian and Eastern Newspaper Society established the Press Trust of India in 1949 with the goal of creating independent news organizations [8]. The Newspaper (Price and Page) Act of 1956 was passed with the intention of regulating newspaper pricing and protecting consumers from unfair competition. It would be financially impossible for the magazine to publish articles more regularly without increasing their price. In the seminal case *Sakal Papers v. Union*

of India [AIR 1962 SC 305], the Supreme Court of India ruled that it was unconstitutional. In accordance with Article 19(2), the government could only limit journalistic freedom through the use of indirect reasons.

### **III. Analysis of Self Media Regulation in Current Scenario**

As a result, one may claim that the Indian Constitution does not have a provision that guarantees the media's freedom to operate independently. In spite of this, there is a way that the media's independence may be indirectly guaranteed. This information comes from Article 19(1)(a), as may be determined by following its trail backwards. This article guarantees the protection of people's rights to free speech and expression. An examination of the history behind and the ramifications of today's free press may be found in [7], which offers the relevant information. According to Article 19 of our country's Constitution, the preservation of several basic rights, notably the right to freedom of speech and expression, is guaranteed. These provisions are of the utmost significance because they provide the basis for the protection of individual liberty and serve as the foundation for doing so.

#### **3.1 Need of Media Regulation**

In India, there aren't any overtly stated restrictions that the media must abide by; instead, there is a system of checks and balances that controls how the media operates. Freedom of the press, freedom of speech for citizens, and freedom of expression for people, including journalists, editors, and individuals, are all protected under the Indian Constitution. In spite of this, it is difficult to govern the media since there is a lack of regulation in the legislative, executive, and judicial departments. This is problematic because the media acts as a mirror for society and should not sensationalize news.

#### **3.2 Regulatory Issues in Indian Media**

Regulation of the media is very necessary because of the widespread effects it has not only on the general population but also on the country as a whole, spanning a variety of social, political, and economic issues. Electronic media has a higher influence than print media in today's technologically sophisticated society, which has led to distinct regulatory frameworks being implemented. There has been a call for the Media Council of India to combine the country's print and electronic media outlets. However, many organizations are now drafting and enforcing rules regarding the media, and departments often forget that they have intervention and cross-purpose

capabilities. When it comes to regulating the content of electronic media, several bodies overlap. The Law Commission of India is concerned about the absence of effective broadcasting content control in India, and it has expressed these concerns in a consultation paper about media regulation. The Information Ministry of the Union Ministry is in charge of both content regulation and policymaking in India's media, notably electronic media. Other notable institutions in India also govern the media, particularly electronic media. The Ministry of Information and Broadcasting has been deemed capable of better judging the substance of television programs, and the courts have concluded that their intervention is superfluous.

### 3.3 Significance of Self-Regulation

Setting media standards or guidelines of conduct that both support freedom of speech and monitor behavior is an example of self-regulation in the media. Since the media plays such an important part in democratic processes, it is crucial for them to have some kind of self-regulation in order to maintain their independence and autonomy and shield themselves from governmental interference. In an environment that is more global and has increasingly complicated jurisdictional concerns, the media often suggest that self-regulation is preferable. The significance of self-regulation within the media is seen in Figure 1.



**Fig. 2 Merits of Self-Regulation**

#### 3.3.1 Good for PRESS

- The adoption of self-regulatory measures helps to maintain public trust in the media by promoting and enforcing standards. This, in turn, contributes to the preservation of public confidence in the media. The exercise of self-regulation within the media sector is an extremely important factor in enhancing the general public's faith in the honesty and dependability of a free press system.
- Self-regulation protects the independence of journalists and makes it possible for them to receive professional criticism from their colleagues rather than from those in positions of authority.

- When journalists are satisfied with the judgments of self-regulatory bodies, it reduces the amount of pressure placed on the judicial system to punish journalists who have had a grievance redressed.

### 3.3.2 Good for PUBLIC

- People who consume media have every right to want reassurances regarding the information that journalists report, since it is only natural for them to do so. Complaint mechanisms and ethical standards collaborate to ensure that editorial content is of the highest possible quality.
- Self-regulatory bodies, in contrast to courts, will receive complaints from individuals at no expense to the one making the complaint. The typical person stands to gain quite a lot as a result of this development.
- Complaining politicians could be able to resolve differences quickly, and they might find it satisfying when the press calls them out on their mistakes.

### 3.3.3 Good for DEMOCRACY

- Conflict is not the only aspect of democracy. A culture of reasoned and fair discourse is something that should be shared as well. Even governments that are democratically elected are still political contenders, and as such, they are not the most qualified to enforce rationality and justice.
- Another problem with governmental control of the media is that it undermines democratic principles. The democratic political culture may be maintained by the self-regulation of the media even in the absence of governmental authority. It also moves forward the transition from periodicals controlled by the state to media owned by civil society.

## IV. Media Law and Ethics

The Press Council of India carried out research in 2010 on the issue of media corruption in democracies. The New York Times Ethical Handbook places an emphasis on the constraints that are placed on members of the media, prohibits the use of erroneous or misleading material, and advises against getting preferential coverage or financial advice. A paid speaking engagement should also be avoided wherever possible. Even if a member of the media lends support to a political candidate during an election, this places a greater demand on ethical standards. The challenges of protecting journalists are far more complex than those of protecting companies. Legislation pertaining to the media is a collection of legislation as well as ethical guidelines that

govern the work of the media. The restrictions for the various media are all different. Nevertheless, every journalist is required to abide by a set of rules [12–15]. The only way for journalists to serve the public interest in a society based on democratic principles is for them to adhere to the legally and ethically mandated standards of their profession. There has never been a time in our history when mass communication has been more pervasive in our everyday lives.

## **V. Conclusion**

This research paper investigates the connection between freedom of the media and freedom of speech or expression, focusing on the ways in which freedom of the media might exist alongside or in place of freedom of speech or expression. This further highlights the critical role that the media plays as a public watchdog and its ability to efficiently transmit information and ideas, therefore protecting the people's right to access information of this kind. The development of a free and democratic society is contingent upon the availability of unlimited freedom of speech as well as free and independent media. It is vital to maintain the existence of an atmosphere that supports the freedom to exchange ideas and develop points of view in order for democratic political institutions to operate efficiently. This environment should also allow for the free development of ideas and perspectives. The protection of people's rights to speak their minds freely is one of the most important requirements for efficient administration as well as the promotion of economic and social progress on a national scale. It has been concluded that the existence of freedom of expression plays an essential role in promoting the evolution of persons, the maintenance of their dignity, and the achievement of personal pleasure. The essential values of democracy and the very survival of a free society are put in jeopardy when there are not sufficient protections in place to protect the right to freedom of expression, which are backed by institutions of the law that are neutral. The realm of media has broadened to include, among other things, the realm of internet media. They are subject to a variety of laws in their respective jurisdictions. This article does not cover all laws pertaining to the media; nonetheless, it does educate readers on the most important laws impacting media communication, their rights, and how to use those rights within the confines of Indian law, thus increasing freedom of speech, expression, and information.

## References

1. Andrew Puddephatt (2011): The Importance of Self-Regulation of the Media in Upholding Freedom of Expression.
2. Christian Nissen (2006): Public Service Media in the Information Society. Media Division, Directorate General of Human Rights, Council of Europe,
3. Aiyer Venkat (2000), Mass Media Laws and Regulations in India, Bahri Sons (India Research Press), Delhi
4. Prasad Kiran (2011), Media Laws in India, Kluwer Law International
5. Hijazi Irshad (2015), Media law and Ethics, Irshad Hijazi
6. Puddephatt, Andrew (2011) The importance of self-regulation of the media in upholding freedom of expression; ISSN: 2176-3224.
7. Sridhar, Madhbhushi (2011) Media Law Review; NALSAR University of Law, Vol. I 2010 and Vol. II, 2011.
8. Panneerselvan, A.S. (2013) Regulating Media; The Hindu Reader's Editor Series of VI Articles.
9. Tiwari, Shishir and Ghosh, Gitanjali (2017) Social media and freedom of speech and expression: Challenges before the Indian Law. North Eastern Hill University, Shilong.
10. Korpisaari, Paivi (2014); The Finnish model of Media self-regulation and freedom of speech from the legal point of view; University of Helsinki.
11. Tsesis, Alexander (2016) Terrorist Speech on social media; Vanderbilt Law Review, Vol. 70, 2017.
12. Prasad Kiran (2011), Media Laws in India, Kluwer Law International
13. Hijazi Irshad (2015), Media law and Ethics, Irshad Hijazi
14. Hugh Tomlinson & Matrix Chambers, The New UK Model of Press Regulation (Mar. 2014).
15. Lunt, Peter and Livingston, Soria (2012) Media regulation: Governance and the interests of citizens and consumers; Sage Publications Ltd; ISBN: 9780857025708