

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

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# MEDIA LAWS IN CHANGING INDIA

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## ABSTRACT

India is a vast and ever-changing country which is why the laws governing need to keep changing. This paper provides a deep insight into the history of media laws in India, how they have evolved over time with the changes in trends from before independence to the present day, and what legislatures are in practice today. It is important to study about the Freedom of Press in detail since Mass Communication is one of the most important methods of providing news to the common man since people make their decisions such as voting or purchasing based on the reviews and news provided to them. Laws along with their significance that govern Print, Broadcast and Film are also provided in this paper to provide a better understanding of Censorship and restrictions on Media houses for better accountability and reduction of violation of privacy and the dark side of media trials. This paper also compares the Freedom of the Press and Media laws in place in the US and UK with those of India and analyses the reforms that can be made to improve the freedom of the press in India and protect its journalists.

**Keywords: Freedom of Press, Mass Communication, Censorship, Regulations, Media Laws**

## INTRODUCTION

Media, in simple terms, stands for the means of mass communication. Such a form of mass communication influences and reaches A vast amount of people. Media is an effective and important mode of communication since it helps spread knowledgeable, concise, Correct and latest information to the masses and also has the power to influence world politics.

For Years on end, it has been seen that Media has played an important role in developing a modern society as seen in well-developed countries. During armed conflicts between countries

Media helps in keeping the people informed about the future of the governmental actions. It keeps people informed about the latest trends in fashion or technology while also providing information about the world of Sports. It is not limited to just these topics but also covers various other important information around the world in every different field. Hence, it is very important for Media firms and the Press to be free and independent from any undue influence or bias and provide information with complete transparency to the people, which is why it is important for any Legislature to have strong and clear rules and Laws governing Media houses for the protection and accountability of the information provided by them.

Press and freedom of speech are well-protected under Media Laws. It is a field of law that addresses information flow and the General welfare of the public; all publications and distributions are subject to its regulations. Given how the media shapes and Impacts society, media direction is particularly important. People get information about current events from the media and often Create their own opinions about them. This can have more substantial effects, like large-scale social disputes, social movements, And segregation. Such importance necessitates monitoring and controlling the media as well as the caliber and flow of information. As a result, printing and publishing legislation as well as media law were created. As media developed and became the main means Of information disclosure and sharing in today's corporate climate, laws and regulations pertaining to the media came into being. Information flow and quality are frequently linked to the source, the channel of distribution, and the regulatory framework to which It is subjected.

Media helped in gaining the unity of people in India as seen during the Indian National Movement where massive movements Against colonial rule broke out across India, this was due to the mass communication spread all over India. Even after Independence, The Media stood as a method of communicating to the masses and hearing their voices and concerns which in turn assisted in framing The Constitution of India.

Technology has advanced so much nowadays that information is available right at our fingertips. This shows the importance of Having transparent and clear information provided to the people. The significance of laws governing such information has never been more crucial. Thus, to understand the drawbacks and the laws that are in place for such mass communication a thorough Research had to be conducted which will be discussed further in this paper.

## DEVELOPING STAGES OF MEDIA LAWS IN INDIA DURING THE COLONIAL RULE

The colonial era in India was marked by the imposition of stringent media laws which were particularly aimed at suppressing Arguments and controlling public discussions. The development of media regulations during this period witnessed many milestones. And changes that shaped the media regulations in the country. The colonial rule was also marked by a complex interplay of colonial Policies, socio-political factors and the struggle for press freedom.

James Augustus Hickey established The Bengal Gazette, formerly the Calcutta General Advertiser, in 1780, making it the country's First newspaper. Because of its outspoken criticism of the regime, it was confiscated in 1795. Similar to Censorship, licensing was Imposed under Adam's regulations throughout Bengal in 1823 which was a European method of press control. The East India Company insisted that no worker be associated with a newspaper. The printer and publisher of every newspaper were required by The Metcalfe Act of 1835 to disclose the location of their publishing premises. But in 1857, Lord Canning reinstated licensing, Which was then applicable to all publications. The Indian Penal Code, which went into effect in 1860, established the offences of Obscenity and defamation, which any writer, editor, or publisher must abstain from.

The Vernacular Press Act was introduced barely two hours after receiving approval from the Secretary of State for India by telegram, Indicating that it was implemented swiftly. Lord Lytton crafted this harsh regulation against the native press in response to "the Increasing violence of the native press, directly provoking rebellion". The Act was soon termed "The Gagging Act"<sup>1</sup> because it Allowed a magistrate, with prior approval from the provincial government, to compel a printer or publisher to deposit security or Sign a bond committing them to refrain from printing or publishing anything that would incite discontent with the government or Resentment between India's various racial groups.

The Indian press persisted in being a vital tool for spreading nationalist ideologies and encouraging public opinion against colonial Rule in spite of censorship and punitive measures. Journals and newspapers like "The Bengal Gazette," "Amrita Bazar Patrika," and A Bengali weekly appeared as outlets for expressing Indian people's desires and opposing colonial

practices. Dadabhai Naoroji and Bal Gangadhar Tilak were two prominent journalists and publishers who became ardent supporters of press freedom, frequently Facing repercussions for their strong opinions.

Censorship and the imposition of Emergency in June 1975 was a significant blow to Freedom of Press in India. But nobody has Been able to replicate it since the then-ruling party was defeated in the 1977 general elections. The Press Council recommended the Government not to restrict press freedom, including in volatile regions such as Jammu and Kashmir. This idea appeared more Appealing than the government's restrictions on the media. Radio has also been impacted by the liberal attitude that was strengthened After 1977. Although the desire for a self-governing company to run Doordarshan and All India Radio was granted, Prasar Bharti, An independent corporation, was established on September 15, 1997, after the Prasar Bharti Act.

During the British Era, the origins of India's media laws and regulations may be found in the British colonial era, when they imposed Strict laws to regulate the press. One of the first laws to monitor and control publications was the Press Act which is also known as The Metcalfe Act of 1835, which was enacted mainly to quell nationalist feelings and opposition to colonial rule. Content that was Considered seditious or critical of the colonial government was subject to censorship, and journalists who dared to question the Status quo risked going to jail. Press freedom was further restricted by later laws like the Vernacular Press Act of 1878, which Sparked strong criticism and calls for change. India's media rules during the British colonial era were marked by strict censorship Meant to quell opposition and steer public opinion.

## **DEVELOPING STAGES OF MEDIA LAWS IN INDIA POST INDEPENDENCE**

In 1947, India gained independence from the two-century long struggle against colonial opposition. Independence from British rule Meant the formation of an entirely new Constitution for India to become an independent state. Which is why after the formation of The Constituent assembly their first concern was to include a supreme that demarcates fundamental rights, directive principles, and The duties of citizens and the government.

The Legislatures in place for mass communication are intertwined with our country's history against colonial oppression. One of The most important rights revolving around Freedom of

speech came into force on 26<sup>th</sup> January, 1950; When the Constitution of India was brought into force. The struggle and oppression faced by British rule made the framers of the Constitution realise the “Freedom of Press” and speech. Which is why to empower the press and spread true knowledge to the masses, the Constituent Assembly decided to protect the Freedom of Speech and Expression as a fundamental right. Article 19(1)(a) of the Indian Constitution is a Fundamental Right which protects every individual’s right to have the Freedom of Speech and Expression to Communicate freely. Although this Article does not expressly mention the “Freedom of the Press”<sup>6</sup>, such “Freedom of Press” is Guaranteed under this Article;

It Is vital to highlight that this freedom under Article 19(1)(a) applies not just to newspapers and magazines, but also to pamphlets, Leaflets, handbills, circulars, and any other sort of publication that conveys information or opinion. So, even while press freedom is Guaranteed as a basic right, it is important to understand the vast diversity of media regulations that deal with various different laws Governing different types of media.

The “Press Trust of India, 1949” was founded by the Indian and Eastern Newspaper Society to develop independent news Organizations. The Newspaper (Price and Page) Act of 1956 was enacted to restrict newspaper prices and promote fair competition.

However, in the case of Sakal Papers V. Union of India<sup>7</sup> The Supreme Court gave a landmark judgement stating that the Government Could only impose restrictions on Press Freedom using the reasonable restrictions provided in the Article 19(2) of the Indian Constitution.<sup>8</sup> The Court held that the Newspaper Act and Newspaper Order were unconstitutional. In view of this relief, the Court Did not consider the grievance of the readers that their right under Article 19(1)(a) was also infringed.

A few years after Independence the Indian Press underwent a massive growth of Media and Mass communication Many leading newspapers companies such as the Times of India, The Hindu, Hindustan Times, and The Indian Express, were founded and became prominent figures in the country's political debate. These periodicals were essential for informing the public, exposing corruption, and pushing for social justice. The media environment in India portrays the nation's linguistic and cultural richness. In addition to the rise of English newspapers, there has been notable growth in regional and language-specific newspapers across different states. Newspapers are now published in regional languages such as Hindi, Telugu, Tamil, Kannada, Malayalam, Marathi and Bengali suited to the individual requirements and interests of diverse

language communities, resulting in more locally relevant information transmission.

Various technological advancements that took place in the late 20th Century also helped in the revolution of the Press Industry. Number of machines such as offset printing, phototypesetting and even digital printing. These technological innovations in turn greatly assisted in the efficiency and productivity of printing and distribution which allowed Newspapers to be more readily available to a larger number of people. The emergence of the internet further transformed the media landscape, as online news portals and digital platforms gained popularity as significant sources of information. These advancements made the Press a forum for the general public to debate and discuss in expressing their concerns on political issues. Interviews, panel discussions, and talk shows provide opportunities for many different parties to voice their opinions and engage in constructive conversation. This encourages the flow of ideas and the growth of a thriving democratic culture.

Such an advancement of Press led to highlighting social inequalities, discrimination and the hardships faced by marginalized people Which would have gone unnoticed from the public eye if it wasn't for the press. Social issues such as poverty, caste and gender Discrimination, religious conflicts were brought to light and the Press helped in abolishing such hardships and drawbacks of the Society.

While the Constitution provides for protection of the independence, national integrity, and ethical principles of the Press in order To retain a hybrid legal system for independent media, Media crime is covered under various sections of the Indian Penal Code, 1850 and Information Technology Act, 2000. For example Section 156 of IPC provides for offence under promoting enmity between groups on ground of Religion, Ract etc. Similarly, Section 499 of IPC covers Defamation, , Statements conducing to Public Mischief (S. 505), Insulting The Modesty Of A Woman (S 509)10, Criminal Intimidation (S. 506), Sedition (S124-A), etc. Section 67 of IT act provides for the offence of publishing obscene material in electronic form, section 69 similarly, gives the Government power to monitor and intercept any computer in the interest of National security. The Freedom of Indian press is although free and independent it is subject to some reasonable restrictions, such as the laws Governing defamation, waging war against government or outraging the modesty of a woman. Despite its accomplishments, the Indian press encountered numerous hurdles in preserving its independence. Challenges such as Censorship, limitations on free speech, and assaults on journalists posed significant threats to

press freedom. In order to uphold the Tenets of a free press, journalists and media entities had to navigate through legal disputes, political pressures, and sporadic acts of Violence.

## **LAWS UNDER PRINT AND BROADCAST**

### **I.PRINT**

#### **1.1 Parliamentary Proceedings (Protection of Publication) Act 1960**

The purpose of this Act was to safeguard the publishing of legislative proceedings reports outside of the media. According to Section 3 of the Act, no one shall be accountable for whatsoever procedures, either civil or criminal, in any court regarding the publishing In a newspaper of a report that is essentially accurate of any proceedings of either House of Parliament, unless it is demonstrated That the publication was made maliciously.

#### **1.2Newspaper (price and pages) Act, 1956**

The Newspaper (print and pages) Act of 1956 was a bill to regulate newspaper pricing in the public interest so that they may be Made available at reasonable costs and that newspapers can continue to be an effective mass communication tool under the current Circumstances.<sup>12</sup> An act that would regulate newspaper rates in relation to their pages and related topics in order to avoid unfair Competition among newspapers and provide them more freedom of speech. This act gives the Central Government the authority to Control newspaper pricing in relation to page count and size, as well as the amount of space allotted for advertising.

#### **1.3The Press Council Act, 19781**

As per the preamble of the Press Council of India Act, the Press Council of India is founded “For protecting the freedom of the Press and maintaining and improving the standards of both newspapers and news agencies”

It is crucial to keep in mind that the Press Council of India is not a court of law, as M.V. Kamath previously said. It is an Honourable Court. Its decisions are not rulings made by judges. As a result, it is not necessary to punish a journalist or publication that violates The law. In the same direction, the Council is unable to grant the harmed party damages. “The only weapon in the armoury of the Press Council of India is moral authority,” as Justice Mudholkar stated. The Council’s appeal to conscience is its only source of Strength. Section 13 (1 A) grants a newspaper the authority to disclose any information related to an enquiry under section 13, but This does not give it the authority to penalise a newspaper that does not comply.

## **II. BROADCAST**

### **2.1 Prasar Bharti (Broadcasting Corporation of India) Act, 1990**

The Act provided for the formation of an autonomous Broadcasting Corporation that would manage Doordarshan and All India Radio, discharging all powers previously held by the Information and Broadcasting Ministry. The organisation would take over the capital assets of Doordarshan and AIR and be run by a 15-member Prasar Bharati Board, which would include two employee representatives and the directors general of the two companies. On the advice of the Vice President-led selection committee, the Chair and other Board members would be nominated. A fifteen-person Broadcasting Council would handle grievances from the general public.<sup>15</sup> "Organise and conduct public broadcasting services to inform, educate, and entertain the public" was the Broadcasting Corporation's main responsibility. Additionally, it was to ensure "a balanced development" of broadcasting of radio and television.

### **2.2 Cable Television Regulation Act, 1995**

This Act states that a person must be registered as a cable operator under this act in order to operate a cable television network. A programme may not be transmitted or retransmitted over a cable service unless it complies with the established programme code. Beginning with the enactment of this act, any cable operator that uses a dish antenna or "Television Receiver only" is required to retransmit at least two Doordarshan Channels of their choosing via the cable service.

## **III. LAWS UNDER FILM**

### **3.1 Guidelines to certify films (CBFC)**

The 1952 Act's Section 5B (2) stipulates that the Government may issue "such directions as it may think fit setting out the principles which shall guide the authority competent to grant certificates under this Act in sanctioning films for public exhibition" in addition to the general guidelines outlined in Section 5B (1). These directives, which are more often known as guidelines, were released by the government and have since been updated to reflect shifting societal views and the genre of films being produced.

### **3.2 The Cinematograph act, 1952**

An Act to provide provision for the certification of cinematograph films for display and for controlling exhibitions by use of Cinemographs. The purpose of this legislation is to establish guidelines for the certification of cinematographed films for public Display.<sup>19</sup> The Central

Board of Film Certification, in conjunction with advisory panels at regional offices, is mandated by this Statute to review and certify all films, regardless of whether they are intended for adult audiences alone or for children under their Supervision. They may also decide not to approve a movie for release in theatres.

## **DIFFERENCE BETWEEN INDIA AND UK AND USA MEDIA LAWS**

The Freedom of Press in the United States of America is guaranteed under the First Amendment right. This Constitutional Amendment applied only to the Federal Government, and is incorporated by the U.S Supreme Court to the states. It guarantees Freedoms upon religion, expression, assembly, and filing a petition. In the case of Gitlow V. New York<sup>20</sup>, it was learnt that the Freedom of speech and press is protected by the first amendment and is A fundamental personal right in the US subject to restrictions.

In all 50 states, the District of Columbia, and US territories, the Federal Communication Commission governs interstate and international communication by radio, television, wire, satellite, and cable. In the US constitution, the freedom of the press extends to the ideas or expression which is hurtful, offensive, or even racial can be expressed freely. The Central Government is in charge of broadcast regulation in India. In contrast, it is in the hands of both Centre and State Government and private organisations in the UK. In India, the self-regulatory method is ineffective. The print media in the UK is entirely self-regulatory. In the UK, print and broadcast media are not under the authority of the government in order to protect the integrity of broadcasting services and the public interest, a code of practice has been developed. There isn't a code of conduct similar to the UK in India. The UK media does not favour any particular viewpoint. One cannot create their own problems and give statements. Intricate Laws are created to control the dissemination of misleading material during elections. The UK's code of practice and media laws are adaptable, allowing them to be modified in accordance with service providers' requirements.

## **DRAWBACKS OF INDIAN MEDIA LAWS**

Although there have been many efforts by the Legislature to guarantee Press freedom and independence to bring out unbiased and unfiltered journalism, India still lacks well defined features and laws as followed in other developed countries. A census brought by RSF Reporters Without Borders showed that India ranked 161th among 180 countries with regard to Press

Freedom. This shows how big a drawback it is since India is the country with the world's largest population and its people deserve to be provided with unbiased and unfiltered news.

Paid news is another drawback in India which refers to the unethical practice of media law where articles produced in print and Electronic media favour the institutions that have paid for them which can be seen as an advertising. Additionally, it is unethical because it tends to mislead the public by withholding the case's true facts from them. Second, this violates election spending laws and tax regulations due to the payment methods employed. Voters are directly impacted by the media, which makes it a problem during elections since the information fed to the public may be different from the ground reality. Violation of Privacy is another big concern since the growth of mass media has undoubtedly increased in data privacy violation as seen in the 2G scam of Nira Radia Tapes where her private voice recordings with influential clients such as politicians were leaked. Such a violation causes a lot of mental trauma for the victim and other intangible losses such as exclusion from society.

## CONCLUSION

The research examined the profound effects of media laws on India's dynamic and constantly changing environment, illuminating how these laws have shaped the nation's media landscape and impacted core democratic values like accountability, transparency, and freedom of expression. The study has emphasised how important media regulations were in controlling and forming India's media environment during and after colonial rule. It has explained how these laws protect the rights and liberties of media organisations, the public, and journalists while acting as the cornerstone for a thriving, diversified, and responsible media industry. The development, functioning, and moral standards of India's media sector have all been greatly impacted by the interaction of laws, regulations, and court rulings. Through an in-depth analysis, the study has emphasised the critical role that media regulations play in maintaining the right to free speech, which is a fundamental component of India's democratic system. These regulations make media organisations and journalists responsible for disinformation and ethical transgressions in addition to giving them the ability to provide information and a range of opinions. Additionally, by permitting investigative journalism and public scrutiny of official acts, media regulations promote accountability and openness in governance. The study concludes by highlighting the crucial role that media laws have had in forming India's media environment and the significant implications that this has for democracy, free expression, and government.

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