



Freedom of press and legal aspects of media

Dr. Vinod Kumar Bagoria

Assistant Professor, Faculty of Law, Jai Narain Vyas University, Jodhpur, Rajasthan, India

Abstract

Media law isn't a term for a uniform and coordinated collection of laws like the law of agreement or the law of violations. It is a blend of different laws and morals that are thought of as generally significant for a functioning columnist and media industry. At the point when the expression "media law" is utilized, the emphasis is on the actual law. It analyzes the cutoff points inside which the media associations and columnists work. The paper means to illuminate the beginning and parts of Media Laws in India. Article 19 of the Indian Constitution guarantees the right to freedom of assessment and expression for each resident. Be that as it may, dangers to the press go on regardless of this constitutional assurance. India positions 142 out of 180 on the Press Freedom List. Dangers to press freedom can emerge from many quarters: they could be from legislators or organizations; they could come as police cases or as criticism lawsuits requesting harms worth millions. This paper examines the pertinence of freedom of the press; these are the central concerns and manners by which media associations can situate their systems in the predominant setting of mechanical advancement.

Keywords: news, press, freedom, legal aspects, Indian media

Introduction

Freedom of speech serves as the democratic government's protecting wall. It is essential that people have the freedom to express their ideas and the opportunity to have their opinions heard by the general public in order to maintain the democratic way of life. This freedom is also essential to the healthy functioning of the democratic process. This method also benefits from the press, a strong mass communication tool. According to the U.S. Supreme Court, the freedom of the press serves more than just as a neutral channel for information between the public and their elected officials or as a neutral form of debate. It also includes the creation of a fourth institution outside the government as an additional check on the three branches of government — executive, legislative, and judicial. The main responsibility of the press is to disseminate comprehensive and objective information on all dimensions of the social, economic, and political life of the country. The first amendment therefore specifically protects a free press in the United States. The right to freedom of speech and expression, which only refers to the expression of one's thoughts and feelings in writing and does not cover freedom of the press, is the only right mentioned in Article 19(1)(a) of the Indian Constitution. The right to freedom of the press is not specifically mentioned in this provision. The discussions in the constituent assembly, however, would contradict the assertion that Dr. Ambedkar, the chairman of the drafting committee, stated it was unnecessary to specifically mention press freedom because the press and an individual or citizen were equal in terms of their right to expression.

Historical aspects of the press

The only tocsin of a nation is its journalism. Once there is perfect silence, all instruments for a group effort are removed.

According to the nation's founding father, M.K. Gandhi, there are numerous ways to resolve genuine public issues; it is not necessary to cause people suffering on a personal

level. The newspaper's understanding and expression of popular sentiment is one of its goals. Another is to courageously disclose common flaws and elicit from readers certain favourable responses. The Supreme Court declared in *Express Newspapers v. Union of India* that it is incorrect to believe that the right to free speech and expression just applies to the capacity to express or spread one's own opinions. The freedom of the press is undoubtedly a part of this freedom, but it also encompasses the right to communicate or publish the ideas of others. Expression as a whole includes "publishing, circulation, and the right to receive the matte distributed." As a result, the freedom of speech and expression would encompass the freedom to express viewpoints as well as the freedom to look for, gather, and import knowledge or ideas whether orally, in writing or print, or via the use of lawfully operated visual or auditory media like the radio. Early forms of communication included edicts and proclamations. These avenues of communication in India were improved by the Moghuls. Particularly news writers become institutions. Initially only intended for official use, the manuscript reports were eventually made available in copies for use by the general public. Under an emperor like Aurangzeb, a news reporter enjoyed a great deal of independence, yet the false information they provided him with ultimately led to his collapse in the Deccan.

Legislature versus freedom of press

The status of the press in India was investigated by the government soon after the country attained independence. In May 1948, the Press Laws Inquiry Committee submitted its final report after being created. It covered the Press and Registration of Books Act, the Indian States (Protection against Disaffection) Act, the Indian Press (Emergency Powers Act), the Foreign Relations Act, and the Indian States (Protection) Act. It also went into great detail about the sections of the Indian Penal Code, the Criminal Procedure Code, the Sea Customs Act, the Indian Telegraph

Act, and the Indian Post Offices Act. Finally, it examined the operation of ten provincial laws passed between 1947 and 1948. The Committee's recommendations generally favoured the repeal of laws, especially those governing the press, and the incorporation of their most important provisions into the state's common law. It pushed the removal of the Foreign Relations Act of 1932 and the Indian Press (Emergency Powers) Act of 1931, two Indian States Acts, in support of this agenda. It supported the provisions of the Telegraph Act of 1885, the Post Offices Act of 1792, and the Sea Customs Act of 1878 that permitted the reading of messages and the interception of books. The three sections of the Indian Penal Code—124A, 153A, and 505—that address disaffection, racial hatred, and interfering with the allegiance of the armed services were urged to be retained, together with the Official Secrets Act. It was advised that the necessary changes be made in order to prevent nonviolent protest for social or economic change. The Committee debated the subject of judicial and parliamentary contempt for a long period without coming to a decision. It was sufficient to assert that because the penalty for disobedience to the court and the legislature was so harsh and arbitrary, it should only be used in extreme cases in which there has been a considerable provocation. However, the Committee's recommendations were not put into action until 1951 due to the deteriorating relations between the Government and the Press.

The press council of India

The Press Council of India was created in 1966, as per the Press Council Act of 1965. This was established in order to defend journalistic freedom and maintain and increase industry standards. This Act was revoked in 1975 with the publishing of the "objectionable matter ordinance." This eventually led to the passage of the Prevention of Publication of Objectionable Matter Act in 1976. Both the Press Council (Repeal) Act of 1976 and the Parliamentary Proceedings (Protection of Publication) Repeal Act of 1976 were passed at the same time. The Prevention of Publication of Objectionable Matter Act was repealed in 1977, and the Parliamentary Proceedings (Protection of Publication) Act was enacted. This was supported by the 44th Amendment, which expanded the constitution by adding Article 361A. When the Press Council Act was passed in 1978^[12], the Press Council was reinstated. The Press Council Act of 1965 was replaced by the aforementioned Act, which it repealed. The protection of press freedom and (ii) maintaining and raising the standards of the country's newspapers and news organisations are this law's two key objectives. The Norms of Journalistic Conduct were developed as a result of the Press Council of India publicly stating in 2012 that the Press Council Act needs to be updated to include electronic media. The Press Council cited the instance of a viral SMS threat to residents from the North East in Bangalore that caused a mass exodus from the city as evidence that unrestrained electronic media is wreaking havoc with people's lives.

Laws enacted by parliament relating to press

A. Under constitution of India

1. Article 19 (1) (a) read with Article 19(2) (Freedom of speech and expression)
2. Article 361- A (Protection of publication of proceedings of parliament and State Legislature)

3. Article 105 and 194 (Parliament and Legislatures Privileges)
4. Article 21 (Individual's Right to Privacy emanating from Fundamental Right to life and liberty guaranteed to citizens of India)

B. Press laws and acts

▪ Indecent representation of women (prohibition) act, 1986

A measure to prohibit the degrading depiction of women in books, articles, paintings, sculptures, and other forms of art, as well as for matters connected to or incidental to the bill. The Indecent Depiction of Women (Prohibition) Act, 1986^[11] was created to make it illegal to depict women in publications, writings, paintings, figures, and other media in an indecent manner, as well as to address any problems associated with or incidental to such representation. Without the press, our lives would be incomplete. The instant we get out of bed, the media-driven atmosphere is upon us. We read the news one final time before going to bed each night and we start each day with a newspaper in our hands. Our decisions are being made by the media. The list of choices is endless: which food brand to buy, which clothes brand to wear, which sort of education to offer our children, where to go, which building materials to use for our home, who to vote for, which car to purchase. Media hastens the growth process by involving, persuading, and altering people. It is an essential tool for social change in Indian society. The media's pervasive influence on India's many social structures is having an immediate impact on economic, social, cultural, intellectual, religious, and even moral values. Since the media greatly influences how people think and act, communication is crucial for the development of women.

▪ The press and registration of books act, 1867

During the British occupation of India, the writing of books and other educational materials took on more of a defined shape, and with the introduction of printing presses, a broad variety of books on practically every subject and periodicals covering every aspect of life started to appear. This gained popularity as a result of the focus on education and the abundance of printed materials that resulted from it. Industry professionals who are involved in writing, publishing, and printing have thought about how to put up a system for tracking publications. The erstwhile East India Company was advised to keep a record of the publications. The government tried to gather books and other publications created by the various printing presses spread out across India. The Board of Directors of the East India Company mandated that copies of any important and intriguing publications written in India be sent to England for archival storage in the India House library. Such an order took time to take hold. The late East India Company Board of Directors had instructed that catalogues of all books published in India be sent to England, and the Royal Asiatic Society in London once more pleaded with the then-Secretary of State for India to restate this instruction. A voluntary publication registration system was created, but it was a failure. In India, it was determined that a system of required sales of three copies of each book to the government was necessary. To achieve this, a bill was filed in the Legislature that would govern printing presses and newspapers, preserve copies of books and periodicals with

news written all throughout India, and register such books and periodicals with news. The legislature approved and signed into law the Press and Registration of Books Act, 1867. (25 of 1867) ^[21]. The nomenclature for the Act was established by the Indian Short Titles Act of 1897. (14 of 1897).

In accordance with the Act, all magazines and books printed in India must be legible and contain information about the printer, publisher, the place of the printing, and the publishing date.

▪ **The dramatic performances act, 1876**

The Dramatic Performances Act was enacted in India by the British Raj in 1876 to curb seditious theatre. India, a part of the British Empire, has begun using theatre as a form of protest against the oppressive features of colonial rule. The Dramatic Performances Act was then put into place by the British government to put an end to these revolutionary impulses. After India attained independence in 1947, the Act was not repealed, and most of the states have since established their own modified versions with numerous revisions, which have repeatedly increased the government's control over the theatre. Everything had been combined. In the 19th century, there was a great deal of worry about the press, especially in relation to the Indian languages. The possibility of seditious messages appearing in the Indian language press caused a great deal of worry. Because they believed that Indians were gestural people who would be especially sensitive to a media like cinema because it at the time provided hyper-modern technology and gesturality, the colonial rulers were apprehensive.

▪ **The Indian telegraph act, 1898**

According to the Press Information Bureau, multiple articles that emerged in various media channels discussed the Cabinet Secretary's report on telephone tapping. Broadcasting in India is governed by both the Indian Telegraph Act of 1885 and the Indian Wireless Telegraphy Act of 1933. The Indian Telegraph Act of 1885 grants the Government of India exclusive rights for the development and use of electromagnetic wave telegraphy. The foundation for the regulation of broadcasting is the authority that this Act grants to the Government of India. It contains provisions that permit the interception of licenced telegraphs in accordance with Rule 419(A) of the Indian Telegraph Rules of 1951, along with Section 69 of the Information Technology Act of 2000 read with the Information Technology (Directions for Interception or Monitoring or Decryption of Information Rules, 2009).

▪ **The representation of the peoples act, 1951** ^[13]

An Act to Control Elections for the Houses of Parliament and the House or Houses of the Legislature of Each State, the Qualifications and Exclusions for Membership in those Houses, the Corrupt Practices and Other Offences Related to Such Elections, and the Resolution of Questions and Disputes Arisen Out Of Or Related To Such Elections

A Consultation Paper on Media Laws by the Law Commission of India was released in May 2014 ^[6], and it addresses a range of issues including media freedom, sponsored news, self-regulation, cross-media ownership, and opinion polls. The article emphasises press freedom and makes the case that it advances the larger objective of the public's right to information about a wide range of facts,

views, and opinions. It plays a critical role in exposing people to fresh information and ideas, making it an essential component of a democracy that is functioning well. Thus, the independence and dynamism of our press have been crucial to the survival and growth of Indian democracy. According to the article, opinion polls are now routinely conducted throughout elections in India, with the results widely disseminated by newspapers and television networks. Such surveys have come under fire for a variety of reasons, including bias in sample size selection, the potential for manipulation to favour particular political parties, and the excessive influence they have on voters' minds while disguising themselves as an objective study, especially in multi-phase elections. It has also been questioned if banning these surveys is constitutional. Attorney General of India at the time, Soli Sorabjee, declared in a statement on April 8, 2004, that banning opinion (and exit) polls would violate Article 19 (1) (a) of the Constitution, specifically the right of the public to know.

▪ **The working journalists and other newspaper employees (conditions of service) and miscellaneous provisions act, 1955**

A specific talent or other qualification is needed for news reporting because it is not an easy job and involves a lot of field and mental effort. Media journalists, whether they are newspaper writers, news readers, information collectors, news reporters, editors, etc., have a significant role to play in public and national life, just like other professionals working in various sectors. The right to equal compensation for equal labour is protected by the Indian Constitution. This led to the legislature passing the Working Journalists and Other Newspaper Employees (Conditions of Service and Miscellaneous Provisions Act, 1955) ^[14], which defines guidelines for the working circumstances of journalists and other people employed by newspaper firms. According to the Act, the Central Government must create a Wage Board as and when required in order to establish or modify rates of pay for working journalists. After receiving the Board's recommendations, the Central Government must issue an order based on them, and this order is then applicable to the category of newspaper outlets that the Board has suggested.

▪ **The young persons (harmful publications) act, 1956**

Numerous publications in India known as horror comics featured images of tales that extolled vice, criminality, and other undesirable attributes. The spread of these stories influenced youngsters negatively and encouraged children's antisocial behaviour. On December 28, 1956, the Young Persons (Harmful Publications) Bill, which forbade the production of such literature in India or any variant as well as its dissemination within India, was introduced in the Parliament, enacted by both Houses of Parliament, and received the President's approval. It became law in 1956 under the name The Young Persons (Harmful Publications) Act (93 of 1956).

▪ **The contempt of courts act, 1971**

The media's publication of information concerning crimes and legal matters has some advantages. But negative media coverage of recent or impending judicial proceedings may also unjustly impact the judge, witness, and other participants in the administration of justice, making fair and impartial administration of justice all but impossible. The

current Act took the place of the 1952 Contempt of Courts Act, which addressed contempt. Through the existing Act, the Central Government seeks to reduce disrespect for the judiciary on the part of the general public and judicial officials. The administration of justice and normal court business are likewise prohibited by the Act from being interfered with by individuals or groups. A person or organisation is held in contempt of court when they disobey or violate the court's authority. It is also known as the court's power to stop acts that block legal processes.

▪ **The press council act, 1978**

To safeguard press freedom and uphold and increase the bar for Indian newspapers and news organisations, an act to establish a press council is required. Press Council meets the Act's definition of "body corporate." The Act sets forth the many responsibilities and tasks of the Council in upholding the press's independence, which is expressly protected by the Act. The Press Council of India created an ethics code in order to uphold high standards of public taste, to feel appropriately free, and to encourage the development of a sense of duty and public service. The Act also gives authority to reprimand, forbid, and alert the media. The PC's only available tools for enforcing the law are these. Because of this, the PCI Act restricts the PCI from taking extreme action. The government has always thought that press freedom should be preserved, thus it just serves as a self-regulatory organisation. A Civil Court hearing a case under the CrPC would have the same authority to perform its duties as the Council, according to section 14.

▪ **Right to information act, 2005** ^[10]

The Central Information Commission and the State Information Commission in an Act to establish a practicable Right to Information for Residents to ensure the entrance of information under the control of public experts are included and for matters associated with or incidental thereto. Despite the fact that democracy depends on informed citizens and that information transparency is crucial to its operation in order to fight corruption and hold governments and their agents accountable, the disclosure of information is likely to conflict with other public interests, including efficient handling. It is crucial to find a solution to these conflicting objectives in order to maintain the importance of the present while making the best use of governments' limited financial resources, protecting the secrecy of sensitive information, and upholding the democratic ideal. It makes sense to provide certain information to citizens who want it. In order to establish a practical regime of the Right to Information for citizens to secure access to information under the control of public authorities, and to promote transparency and accountability in the workings of every public authority, the Central Information Commission and the State Information Commissions were established and passed by the Parliament in the 56th year of the Republic of India.

Freedom of speech and expression and the media regulation

Social and economic regulation systems are the two main categories. Fundamentally, there are three different categories of constitutional laws: social, political, and economic. Justice protection is the cornerstone of legal regulation. The goals are to achieve equality (of status and opportunity), freedom (of thinking, expression, belief, and

worship), brotherhood, and unity and integrity of the country. The two most significant sections of the Constitution of India that deal with regulations are Part III, Fundamental Rights, and Part IV, Directive Principles. Every legal and regulatory framework in the nation will adhere to the Fundamental Rights. And to the degree of this discrepancy, every law that breaches basic rights is void. Additionally, it should be the goal of all legal requirements to safeguard fundamental rights. The right to equality, the right to freedom from exploitation, the right to an adequate education, and the right to constitutional remedies are the fundamental rights that are pertinent to laws governing electronic media. Constitutional directives for legal control are based on the social order, which promotes the welfare of the populace with a social order that includes justice on all levels—political, social, economic, and otherwise—rather than to lessen disparities in wealth, status, access to resources, and opportunities—not just between individuals, but also between groups of people with different racial backgrounds or occupations.

Freedom to broadcast and observation of the courts

The independence of the telecaster includes more than only freedom from governmental restrictions, pre-control, and other things. It includes the freedom to defend the right to free speech and expression without interference from the government or private interests, assuming all other things are equal. In that regard, the telecaster may occasionally function as a supporter of free speech. The right to communicate oneself is the most important right as a result of electronic media. It is a hotly debated subject whether the state has the authority to outlaw all broadcasting activity. Broadcasting is a technique of correspondence and, hence, a kind of speech and expression, according to the Supreme Court of India. Therefore, no private person, foundation association, government, or government association can ensure exclusive rights over it in a country where the majority rules. Additionally, paper or electronic media syndication is prohibited by our constitution. In a related case, the court further stated that "the right to access and disseminate information is a part of freedom of speech and expression."

Constitutional restrictions on freedom of speech and expression

The Constitution's Article 19(2) lays out eight particular justifications for restricting the freedom of speech and expression. According to the article, the state may impose reasonable restrictions due to a legitimate concern for (I) the strength and respectability of India, (II) the state's unity, (III) friendly relations with foreign governments, and (IV) public order. (v) Due to a sincere concern for justice or a profound quality (vi) in relation to the court's disdain (vii) as for defamation and (viii) as for the aiding of an offence. The practise of "reasonable limitation" may be accomplished through any existing statute or future state legislation. It suggests that it includes (I) any law in the nation (which includes (a) past laws embraced for the current reason, (b) current laws, and (c) laws that may be made in the future); (ii) it applies to laws made by the State; and (iii) the legitimacy of such limitations ought to be acknowledged because such law forces reasonable limitations based on eight specific classes, as it were. Citizens with regular incomes have access to constitutional

insurance. A partnership cannot provide security under Article 19 since it lacks the characteristics of a person. It is not relevant to consider in this case whether a business body's investors are residents. However, other fundamental rights, such as Article 14, also apply to corporate entities. This rule also holds true for social orders that are not organised.

Conclusion

The terms "freedom of speech" and "freedom of expression" are frequently used alongside one another, but the protection of media freedom takes a special position because the media serves as a "public watchdog" and disseminates information and ideas, ensuring the public's right to receive this information. For nations to be open and democratic, media and speech freedom are fundamental pillars. The ability to freely express one's thoughts and create opinions is a crucial requirement for political processes to run democratically. The right to free speech is essential for effective national governance and, by extension, for social and economic advancement. Individual freedom of expression is essential to everyone's growth, dignity, and fulfilment. There cannot be democracy or a free nation without a comprehensive guarantee of the right to free expression that is upheld by independent courts.

According to *The Wire In*, journalism is regarded as a risky profession in India because it has resulted in journalists receiving death threats or even being murdered for speaking the truth. India is also ranked 140th out of 180 countries in the world for press freedom. The goal of the press is to report the news and represent the interests of the people in matters like welfare, statistics on corruption, and how the government is performing its duties. It is not intended to spread unrelated information.

The Press must uphold specific ethical standards and operate legally and according to the law, but at the same time, statutory authorities must assume responsibility for ensuring that journalists are not killed or hurt while carrying out their duties.

As citizens have the right to information, the government has recently provided reasonable freedom to the press in India through the Whistleblower Act, Sedition Act, and amendments to the RTI Act. Many of us would be eager to witness the day when the press, not just in India but in every part of the world, is free to cover news while being safe and present unbiased opinions about an issue.

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