

Media and its Flaws

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ABSTRACT

In this age of information, media plays an important role in educating the people and arouse confidence in them. Media is considered to be the fourth pillar of democracy along with judiciary, executive and legislature against any kind of injustice. It has the responsibility to safeguard large public interest. Without media, the news of Government schemes and benefits cannot reach to the public. Media is the face of any country. In a blink of eye entire world is aware of the scams, scandals and any other unpleasant happening into the society. In the last two decades the impact and effect of media have increased manifold. But in order to gain competitive edge, indulging in sensationalizing the news channels have hamper the very purpose for which freedom of speech and expression is granted. Publication or telecasting of news on any matter pending or sting operation has led to the contempt of court and also contrary to the spirit of the constitution of India. The Author through the said paper critically examines the role of media in the current times.

Keywords: Media, News, Democracy, Fake News, Trial Media, Transparence, etc.

INTRODUCTION:

The word ‘media’ refers to various means of communication. Media plays very important role in every aspect of our lives. Media is the mirror of the society. It provides information about the world around us such as complex issues of economy, society and politics. It is a source of entertainment also. Today, the world is in grip of media. It has played a big role in making the world connected with each other. With the evolution of digital technology, the role of mass media has taken considerable place in our lives and this role is also changing at a rapid pace. Therefore, it is expected that media and press should not publish anything which tends to corrupt the public mind specially our youth. Moreover, Democracy cannot be successful without free media. But in the last 20 years, Indian media has undergone several changes. Paid news and fake news can manipulate public perception and can instigate hatred or violence among the communities in the society.¹ Today’s media has blurred the lines between news, and entertainment.

MEANING OF MEDIA LAW

Media derived from ‘medium’ serves as a tool to reach and inform a broad audience. It is referred as the ‘sword arm of democracy’. The News Media (formerly called the press) embodies freedom of press enshrined in Article 19(A)² of the Constitution of India. Media Law is a branch of law that focuses on the regulation of telecommunications, broadcasting, advertising and the entertainment of society.³

1. Prof. Dr. Nandan Sharma, *Fundamentals on Media Laws*, 296 (Shree Ram Law House, Chandigarh, 2021).

2. The constitution of India, 1951, art. 19 (1)(a) Freedom of Speech and Expression .

Media Law always varies from country to country according to the economic, political, religious and cultural differences of the society. In a country like former VSSR and china which followed communism and totalitarianism there were always limitations on the media to say about the government? But on the other hand, in a country like USA which have a democracy everything is allowed. Shifting our views to the Indian perspective and its system of parliamentary democracy, the media is free to speak but subject to reasonable restrictions imposed by the Constitution of India, 1950.

MEDIA IN DEMOCRACY

In General terms, Democracy is understood that form of government which is subject to popular sovereignty. It is essentially, rule by the people. One of the features of democracy is freedom of speech and expression which means to welcome the views from different sections of the society. Howsoever with the largest democracy in the world, right from the era of independence, where power of ink was recognized as power of bullet, role of media was seen as statute to bind people together for a common agenda. Preamble of the constitution ensures to all liberty of thought, expression, belief and faith. Article 19(1)(A) includes the right to propagate one's views through the print media or through any other means of communication channel that means radio and television.⁴

In 1780, with the introduction of a newspaper "The Bengal Gazette", media came into existence. Since then media became the integral part of our lives. It is not only those sources of information which keep inform the people about day to day happenings but also inform the National and International events .However, in a democratic country the media plays a dual role.

- Firstly, to cover the laws made by the legislature.
- Secondly, to collect the general opinion of the public and bring it to the law making authorities.

This is why nowadays, Media is considered as the fourth pillar of our democratic country. It plays a crucial role in shaping the public minds. It is also called the Backbone of Democracy. It shapes the mind of the people. Because of its inherent capacity to reach large number of people, it is widely used platform to create awareness from public opinion, evaluate the operation of the government and discuss the alternative policies of the opposition. Various types of sources like cell phones, computers, different network channels, cable or satellite TV, internet, books, magazines and radio channels are connecting people around the world. Connectivity through the internet become so strong that anything happened anywhere the information spreads in few seconds all around. It work as bridge between the government and its people, but in the past two decades publication or telecasting of news have become contrary to the spirit of the constitution of India and adversely affect the administration of justice.

In 1959, the only television channel that is Doordarshan which worked for almost three decades remained a government mouthpiece. It includes All India Radio also.⁵ In 1990s, with the growth of the audio visual media the transparency and accountability has also increased. The source of information was controlled by private enterprises. It was the satellite revolution that brought a mind-boggling choice of TV channels at the time of Narasimha Rao Government. It includes quality and content of news,

³ S.Rao and Wasserman, Global Media Ethics revisited; A Post - colonial critique, Global Media and communication, vol.3(1), P.29(2007).

⁴ Bina Rai, ' Role of Media in Indian Democratic System' . *Avaiabale at* : [https:// www.jstore.org/stable/26534](https://www.jstore.org/stable/26534)(Assessed on 7th june, 2024)

⁵. DR. S. R.Myneni, *Mass Media Law*, 18(Asia Law House, Hyderabad,2023).

dramatically transformation of things and entertainment.⁶In a country where the literacy rate is low and one of the goal to reach up to 100% the impact of TV has been phenomenal. One advantage of audio-visual media is direct impact on the people's emotions no matter how incisive the news is. The rapid growth of 24 hours TV channels offer a wider platform for public debate. In order to provide political relevant information to society media should non-partisan with reference to its content.

Jessica Lal Murder case

The quality of democratic process has been enhanced by modern media by providing a platform for public participation on social, economic and national issues. For example, in 1999, Jessica Lal Murder case⁷ in which a cold blooded murder killed a young girl serving drinks at a restaurant. In 2006, the culprit Manu Sharma, son of vinod Sharma was acquitted by the ground of lack of evidence and proper witnesses. After the judgment media came into picture. The media reported incensed reaction from thousands of ordinary citizens at the failure of justice. The case was reopened and finally received its deserved judgment from the Supreme Court in 2010 when Manu Sharma was sentenced to life imprisonment. It was result of the attempt by media which stood upholding the truth of Jessica's family who brought out to the senses of the public and the judiciary.

R.k. Anand case

Another case where the media played an invaluable role was the R.k. Anand case⁸ also known as BMW hit and run case. A private TV channel, NDTV exposed the unholy nexus between the prosecutions, its witness and the defense.

In 2001, the Tehelka stings known as operation west end also raised a storm and led to the resignations of the Defiance Minister, George Fernandez and the BJP president, Bangaru Laxman. Another sting operation, in December 2005 operation Duryodhan by Aaj tak and Cobra post can exposed 11 Members of parliament (MPs) taking cash in return for asking questions in parliament.⁹

NEW MEDIA IN CURRENT TIME

There is another side of the media also which is not commendable. The journey of media has started from government news channels to private news channels. The change happened due to relaxation of rules and privatization of telecom industry. Hence, many 24x7 News channels are available in various languages. The horse race of being best and most watched channel is not only restricted to broadcasting channels but also much prevalent in news channels like AAJ TAK, NDTV,ZEE NEWS,ABP NEWS,INDIA TV, NEWS 24, INDIA AHEAD,NEWS NATION,BBC and etc. Today's changed and fierce media sensationalize the smallest issues for the sake of TRPs¹⁰. India has many 24hours news channels mushroomed and multiplied almost manically. The result of this competition is an obsession with grabbing "eyeball" and to carry "breaking stories" even on unworthy issues. It affect the journalize ethics. Many new and young reporters have to make a story indulge voyeurism without bothering about the right to privacy.¹¹ For media a reporter is entrusted to gather detail information by doing research, interview, recording audio or video, collection of photos in search of truth. But there should be some

⁶ Madhavi Goradia Divan, Facts of Media Law ' Eastern Book company, Lucknow,506(2018).

⁷Availble at : <https://www.expressindia.com/jessica>. (Assessed on 30th May,2024).

⁸ AIR (2009)8 SCC 106.

⁹ Available at <https://www.indiatodaygroup.com/today>,(assessed on 5th may, 2024)

¹⁰ Rajdeep Sardesai, pushing the boundaries'', seminar, May, 2006.

¹¹ In july ,2012, a news channel, NDTV sued Nielson company, the parent company of TAM, a rating agencyin New york for alleged manipulation of data ratings to favour channels that offered bribes.

principles which must be applied to journalism. In 2012, the mutated videos and pictures of an earthquake went viral. All this morphing was done only with the purpose to create riots in country. Miscreants were morphing these images to show that these were Muslim victims of civil riots in Assam and Burma. It leads to hate and revenge idea against Hindu Migrants.¹²

Another drawback is the tendency to conduct media trials of pending cases. The media often dumps up support in favor of or against an accused. While a case is sub-judice, the chat shows are held in which opinion of the legal experts, retired judges and public are invited. Accused person's family members and victim's family members are invited for interview on T.V channels. This all create an atmosphere which put pressure on the judges to act independently.

PAID NEWS AND FAKE NEWS

Paid news and Fake news are another issue which is grave threat to creditability of media. The media has undergone a full transformation from mission driven to commerce driven industries. Anything which catches "eyeball" straight away gratifies deserves to be a screaming headlines. There is also another bitter secret that various media houses sell news space to politicians and companies for advertisements. This practice misleads and misinforms the public. On the other hand, professional ethics of journalism has thrown away. Rather than reporting of facts and correct data, the journalists have simply become an agency who sensualize the news, magnify the facts and overemphasized the stunts of political parties.¹³ In 2009, the media in Maharashtra came up with what were known as "Coverage package". If a candidate has not paid for coverage, he was not covered at all. It simply means no pay no news. Indeed, the power of the politician has been overwhelmed by the power of media.¹⁴ Paid news has become threat for the democratic process.

COURT GUIDELINES

Judges have been exculpated about inaccurate and imbalanced reporting by the media. In recent years, the judiciary has admonished the media for its fake and sensational reporting.

Sushant Singh Rajput's suicide case

In Sushant Singh Rajput's suicide case¹⁵ the curious death of Bollywood actors sushant Singh. Various TV channels provided some verified and unverified facts for the purpose of sensation. The media have built up mass hysteria around the death of actor sushant and it created a media storm. In between the media trial and judgment was provided by the media house. The Chief justice Dipankar Datta and justice G.S. kulkarni pronounced their verdict in a batch of PILs filed against media trial. Bombay High Court held that media trial is interference in the administration of criminal justice. The Court ordered that media should avoid putting photographs of victims and blaming any person in the industries as an accused when the real investigation is underway.

Vodafone case

In another case, Vodafone International Holdings BV vs. Union of India¹⁶ also known as Vodafone case, argued before the Supreme Court in the second half of 2011. One PTI reporter incorrectly reported an

¹² Rastogi Komal "misuse remedies and also the consequences of social media in India". Article, dated; 17 May 2016.

¹³ Available at <https://press.councilofindia.org.in/council> (Assessed on 5th May, 2024).

¹⁴ *Supra* note 6.

¹⁵ Order delivered on jan 18th, 2021, Available at <https://indianexpress.com/article/cities/mumbai/bombay-high-court-media-trial-sushant-singh-rajput-order-verdict>. (assessed on 8th june 2024).

¹⁶ (2012)6 SCC 613.

argument about tax avoidance as tax evasion. The Supreme Court decided that its time to show media its place. The Bench issued notice for contempt of court.

Created sensation by News channels of self –manifested stories and material without full investigating of the true facts then trial transforms into kangaroo courts and claim as guiding light on the issue. These acts are done to boost TRP. It not only violates the rights of person but also makes free and fair trial impossible. The accused may be acquitted but have to face public hatred and loss of reputation. Due to this media circus the suspect, accused, victim and witness all are acerbated in one ring only.

SUGGESTIONS AND CONCLUSION

In India, Media has developed with a hard history from country domination from a foreign ruler to independence. Media which is considered as the fourth pillar of democracy provided freedoms and immunities so that this pillar stands tall and long. Media is the gatekeeper and watchdog of democracy. Its role is not limited to disseminating of the news but also to stir the public opinion and consciousness. Thus media undoubtedly form the backbone of a democratic country. Therefore, irresponsible media reporting without ethical and social responsibility is detrimental to society. Most news channels have their own written codes of ethics as do professional membership bodies. But this professional journalist violating these ethical standards. Freedoms of media are constitutionally enshrined and have precise legal definition and enforcement. This freedom is subject to several clauses. In the 2024 edition of the *Press Freedom Index*, India is ranked 159 out of the 180 nations. It is published by the organization reporters without borders . India’s performance in the recent past has been consistently poor.¹⁷

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