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A Judicial Approach to Freedom of Speech and Expression of Journalist: A Comparative Study of BRICS Nations

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Abstract

Freedom of speech and press of journalists are essential fundamental rights for a functioning democracy. In the modern world, freedom of speech and expression plays a vital role for safeguarding the democratic governance, promoting societal transparency and accountability for the smooth functioning of the governmental organizations. Journalism is a benevolent profession and considered as the fourth pillar in the democratic society. Journalism provides influence-free or impartial information to the society and Journalists fulfil their role as a watchdog with freedom of speech and expression. Freedom of speech and expression empowers journalists to deliver information free from external pressures and maintaining their information reliable and credible.

This study is based on objective, the status in regard to the judicial approach: a comparative analysis of BRICS Nations: Brazil, Russia, India, China and South Africa. And how the Reporters without Borders (RSF, a French word) is playing its part in information transparency. In this comparative study on freedom of speech and expression of journalists in BRICS Nations shown judicial approach varies from one nation to another. This study adopted doctrinal methodology in this research paper. In this study, it founds that countries among BRICS Nations such as Brazil and South Africa have more protective measures in regard to the freedom of speech and expression of journalists, while Russia and China an environment with limited discretionary space for the individuals. The judiciary often step in to protect journalists' rights, but there are still concerns about government influence especially toward journalists. The freedom of speech and expression for journalists in India faces challenges, despite the judiciary's role in keeping checks on government access and protecting journalists' rights

Keywords: Journalist, Reporters without Borders, BRICS, Speech and Expression, Journalism

Introduction

The modern Indian society is blessed by the Constitution of India which grants certain fundamental rights to individuals in Part III of Articles 12 to 35. These rights are not only enjoyed by the citizens of India but also by non-citizens, although some rights are specifically reserved only for the Indian citizens (Such as Article 15, 16, 19, 29 and 30). The Constitution guarantees these fundamental rights and provides protection under the Indian Constitution. Any law that infringes on these rights is unconstitutional or invalid in the eye of the law. These rights are binding upon both the legislative and executive authorities.

Article 19 of the Indian Constitution specifically grants right to express freely. The term "freely" refers that citizen's expresses their viewpoints and thoughts in any manners such as spoken words, writing, printing, banner, sign and all through implied or silence manner[1]. Democracy is defined as "a government by the people, for the people, operating through their elected representatives". US President Abraham Lincoln in one of his best speeches delivered in Gettysburg address, November 19, 1863 stated that a government of the people, by the people and for the people was the most influential statement for any sort of democracy[2]. Traditionally, in democracy where only three bodies were considered as three basic pillars in our India society. But, with the passage of time and through the technological involvement in every field of society, the fourth body of democracy emerged which is known as Media[3] of which journalism is a part, and became the fourth pillar which enabled the society to peek in the working and make accountable the ones who are in power. The word Media referred as the Fourth Pillar of Democracy was firstly coined by Thomas Caryle.

Journalism as the fourth pillar of democracy supports good governance and democratic accountability. Media act as a watchdog to protect the society and provide information and ideas, maintaining transparency of the democratic process. The word "transparency" refers in multiple levels that include access to information, accountability as well as proper participation and public discourse. "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."[4] And to sum up it can be deduced Journalism is the voice of voiceless. Journalism is a noble profession but it's a sailor in the mayhem, full of challenges and threats, and many journalists have to struggle to get information mostly in war zone areas. The prime purpose of the free press to create a fourth branch, a media, outside the government influences as an additional check on the three official bodies-legislature, executive and judiciary[5]. The prime purpose of free media is to create accountability and transparency in the system to prevent any kind of dictate.

This research paper specifically studied about "the freedom of speech and expression of Journalists in BRICS (Brazil, Russia, India, China and South Africa) Nations". Thomas Jefferson once demonstrates the valuable existence of the media in the society as he stated that, "he would rather have newspapers without a government than a government without newspapers"[6]. The BRICS countries (Brazil, Russia, India, China, and South Africa) represent a diverse group of nations with significant influence on the global stage. The protection of journalism is a key indicator of a nation's commitment to free speech, transparency, and democracy. In addition, Egypt, Ethiopia, Iran, the United Arab Emirates were invited to join BRICS in January 2023 and Indonesia in 2025. However, study in question focuses on initial five member countries of the BRICS nations. BRICS nations are mainly focused to promote sustainable

[1] Sudarshan Behera, *Freedom of Speech and Expression in 21st Century,* Odisha Review, 36,37 (May 12, 2024, 03:52 PM), https://magazines.odisha.gov.in/Orissareview/2017/August/engpdf/36-41.pdf.
[2] Harpreet Singh Grover, "…Of the people, by the people, for the people", National Library of Medicine (Jan. 29, 2024, 10:04 AM), https://pmc.ncbi.nlm.nih.gov/articles/PMC7307473/.
[3] Shivansh Agarwal, *Media: Fourth Pillar of Democracy*, LEGAL SERVICE INDIA (Dec. 03, 2023, 10:30 AM), https://www.legalserviceindia.com/legal/article-3487-media-fourth-pillar-of-democracy.html.
[4] Dhruv Somayajula and Jai Vipra, *Access to the Freedom of Information and Expression in the Digital Economy in BRICS Countries,* Vidhi Centre for Legal Policy (Dec. 03, 2023, 07:49 AM), https://vidhilegalpolicy.in/blog/access-to-the-freedom-of-information-and-expression-in-the-digital-economy-in-brics-countries/.
[5] New York Times v. Sullivan, 376 U.S. 254 (1964).
[6] Carl Joachim. Friedrich, *Constitutional Government and Democracy*, Louisiana Law Review, (Jan. 04, 2024, 10:05AM), https://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=1743&context=lalrev.

development, peace and security, social and cultural exchanges, political coordination, technology and innovation, and economic cooperation and most importantly protection of the individuals' rights for their development.

1.1 Meaning and Definition

Freedom of speech and expression holds very prominent place in Indian constitution as it is made part of inherent rights provided in the constitution itself. Right to express your voice is nothing if they are not being heard by the system and the media materializes the right to express in its natural sense by compelling the system to hear and made amendments in the process.

The Constitution of India categorically specified right to express oneself under article 19 where it is placed as fundamental right namely freedom of speech and expression and enables a person to express their opinion in any manner such as by speaking, writing or by any mode but with certain restriction. Constitution of India clearly states that all citizens shall have the right to freedom of speech and expression[7] but nowhere has it defined what freedom of speech and expression is. To decipher freedom of speech and expression in its raw sense it can be understood as freemen is free to express it according to his whims and fancies.

In General, "Journalist" means an individual who collects or gathers information in the form of text, audio, or pictures, processes it into a news-worthy form, and disseminates it to the public.

Section: 2(f)[8], "Working journalist" means "a person whose principal avocation is that of a journalist and [who is employed as such, either whole-time or part-time, in, or in relation to, one or more newspaper establishments], and includes an editor, a leader-writer, news-editor, sub-editor, feature writer, copy-tester, reporter, correspondent, cartoonist, news photographer and proof-reader, but does not include any such person who: (i) is employed mainly in a managerial or administrative capacity, or (ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature".

Section 2(a) [9] "journalist" means "a person whose primary occupation is journalism and who works as one, either full-time or part-time, in, or related to, a visual or print media establishment. This includes editorship, leader writing, news editing, subediting, feature writing, copy testing, reporter, correspondent, cartoonist, news photographer, news reader, and news videographer, but excludes any such person who is primarily employed in a managerial or administrative capacity".

Section 9(2) of the Indian Post Office Act, 1898[10] defines "newspaper" that - "Every publication, consisting wholly or in great part of political or other news, or of articles relating thereto, or to other current topics, with or without advertisements, shall be deemed a newspaper subject to the following conditions that it is published in numbers at intervals of not more than thirty-one days; and that it has a bona fide list of subscribers".

1.2 Reporters Without Borders: Reporters Without Borders is an independent NGO based in Paris. It works to defend press freedom, considering the freedom of information to be a fundamental democratic and human right. The purpose of the World Press Freedom Index is to compare the level of freedom enjoyed by journalists and media in 180 countries and territories. **[11]** In these regard, RSF(Reporters Sans

[7] India Conti. art. 19(1)(a).
[8] Working Journalists (Newspaper Employees) Act, 1955, Act of Parliament, 1955 (India).
[9] Journalist (Preventive of Violence and Damage or Loss to the Property) Bill, 2022, Bill No. 250 of 2000 (India).
[10] India Post Office Act, 1898, Act of Parliament, 1898 (India).
[11] Human Rights Channel, Reporters Without Border, COUNCIL OF EUROPE (May 19, 2024, 11:53 PM), https://human-rights-channel.coe.int/reporters-without-borders-en.html.

Frontiers) (Reporters Without Borders) also prepare an analysed index of 2025 that particularly shows about the press freedom around the globe includes all countries approximately 180 nations; but in this research study our main focus is on BRICS nations (Brazil, Russia, India, China, and South Africa). In these rank index Brazil is on 63 number (global score: 63.80), Russia is on 171 (global score: 24.57), India is on 151 (global score: 32.96), China is on 178 (global score: 14.80) and South Africa is on 27 (global score: 75.71) out of 180 nations.

The Reporters Without Borders (RSF) index shows real time or everyday detained journalists and media workers, apart from that also shows world: abuse in real time on each year on journalists. Apart from the global score, it also indicates political, legislative, economic, sociocultural and security indicators on RSF.

1.3 Research Objectives: The objective of the study as follows:

a) A comparative study of the judicial approach to freedom of speech and expression in BRICS nations.

1.4 Research Area

The present study is focused on the comparative study of freedom of speech and expression journalism under BRICS nations in regard to the judicial approach.

Review of Literature

1. Joao V. S. Ozawa, Josephine Lukito, Taeyoung Lee, et.al.,[12] (2023),

The researcher provided data from mixed-method research that included in-depth interviews with journalists. The researcher explored how assaults on journalists and the spread of propaganda messages affected news coverage in Brazil, focused primarily on the first two years of Bolsonaro's administration. This study provided a comprehensive understanding of the challenges the press faced under Bolsonaro's administration by combining quantitative data analysis with qualitative insights from journalists, shredded light on the complexities of maintaining journalistic integrity and freedom of expression in increasingly hostile environments.

2. International Federation of Journalists[13] (2023 report):

IFJ is the one of the biggest federations of journalist's and media person worldwide. It embodies more than half of million individuals, 6 lacs approximately from the 187 organizations and 146 nations. President of the IFJ is the French journalist and it works with the ITUC (International Trade Union Confederation) and Trade Union Advisory Committee to OBCD. In the 2023 report given by the IFJ, which clearly shows that violation against the journalists is on the peak, in its report it shown that around 128 journalists and media workers killed in the same year, specifically 4 journalists was from Europe, 12 from Asia and the Pacific, 11 journalists from America, 9 from the Africa and largely from the Middle East and The Arab World, which was 93 journalists killed globally in the report given by the International Federation of Journalists.

3. S.R. Myneni[14] (2023),

In this book, the author focuses on journalists' freedom of speech and expression, as well as the safeguarding of their fundamental rights. Through a review of several legislation and their provisions, the author underlines the legal safeguards in place to protect journalists' inherent rights. These laws and rules

[12] Joao V. S. Ozawa, Josephine Lukito, Taeyoung Lee, Anita Varma, Rosental Alves, *Attacks Against Journalists in Brazil: Catalyzing Effects and Resilience During Jair Bolsonaro's Government*, SAGE JOURNAL (Jan. 29, 2023, 10:05 AM), https://journals.sagepub.com/doi/full/10.1177/19401612231182618.

[13] Bellanger, 2023 Killed List, 2, 15 (Dec 31, 2023, 10:23 AM), https://www.ifj.org/fileadmin/user_upload/IFJ_KILLED_LIST_REPORT_2023.pdf.

[14] S.R. MYNENI, MEDIA LAW, 1 ASIA LAW HOUSE 32-275 (2023).

are believed necessary for the effective and seamless operation of the journalistic profession, providing a framework within which journalists can work without fear of censorship or punishment. Furthermore, the author observed that infractions of these regulations are penalized under the legal system, emphasizing the necessity of maintaining press freedom and preserving journalists' rights in society. This book added a better understanding of the role of the media in democracy and the importance of protecting journalists' liberties by offering a detailed review of the legal safeguards available to them.

4. Sadia and Prabhjot (2021),

In this research study, author used a qualitative research method (i.e., in-depth interviews) and focused on a research question: journalists lived experiences of safety risks (physical, psychological, financial, digital, gender-specific, topic-specific, and legal risks) in Pakistan and India. Both researchers experienced several challenges when collecting data in Pakistan and India. Firstly, female journalists were difficult to recruit in both nations due to male dominance in the media industry. Second, data collection was limited to large cities in Pakistan and India to save both researchers' travel costs. As per a recent Human Rights Outlook (2019) assessment, over half of the world's population (i.e., 3.38 billion or 46 percent) lives in nations where freedom of expression is dwindling, with authoritative regimes in 28 of these countries. The author makes attention to an issue that the safety and freedom of the press are not better in the Middle East and North Africa, and as a result, Pakistan and India are both of the only nations in the Asia-Pacific region to be included in the top ten most terrible countries for the killing of journalists in the last 25 years[15].

5. Prabhjot Kaur Sohal[16] (2020),

In this research paper researcher stated that India ranked 140th out of 180 nations in the World Press Freedom Index (WPFI) in 2019, down from 138th in 2018 and 136th in 2016. The country's standing had been steadily falling. This tendency indicated a challenging media climate, which was concerning for the biggest democracy in the world. The decline in press freedom brought to light several social, political, and financial constraints that made it more difficult for the media to function as the independent fourth estate. This study critically analysed the significant dangers to the Indian media's right to free speech and expression during that period. In the research article, main objective was to list the several risks that Indian journalism was facing. It also examined the short- and long-term causes of animosity against the media, concentrating on pertinent Indian press legislation and constitutional clauses. The goal of this research was to provide readers a thorough knowledge of the obstacles and forces that undermined the media's independence and efficacy in India. And in the year 2025 this ranking has dipped to the number of 151 in WPFI.

Research Gap

In the field of protection of journalism rights in the special reference to the BRICS countries, there are minimal research work on the comparative analysis of the BRICS countries in regard to the journalist protection.

Research Methodology

In this research study, researcher adopted a doctrinal research method for comparative study of the freed-

[15] Sadia Jamil and Prabjot Sohal, *reporting under fear and threats: The deadly cost of being a journalist in Pakistan and India*, World of Media. Journal of Russian Media and Journalism Studies (Dec. 21, 2023, 02:25 PM), https://research.nottingham.edu.cn/en/publications/reporting-under-fear-and-threats-the-deadly-cost-of-being-a-journ.

[16] Prabhjot Kaur Sohal, *Shooting the Messenger, Slowly, but Surely: A Review of Imminent Threats to Freedom of Media and Journalistic Integrity in India*, IGI Global 15 (2020).

om of speech and expression of journalists in BRICS nations. This study analysed judicial approaches in Brazil, Russia, India, China, and South Africa, focusing on constitutional protections, press laws, and related regulations.

The study investigated the role of international law and Reporters Without Borders in regard to the journalists' freedom of speech and expression in BRICS Nations. In this research secondary data sources have been used such as academic articles, government reports, books, journals, case studies. This comprehensive doctrinal study aimed to enhance understanding freedom of speech and expression of journalists in different legal and political contexts.

Discussion & Analysis

Approach Of Judiciary Towards Freedom of Speech and Expression in BRICS Nations

1. National Case Analysis (in India)

1. In *Romesh Thapar* v. *The State of Madras*[17] *(1950) (Cross Road News Case)*

In this case, the petitioner (Romesh Thapar) was publisher and editor of a weekly journal in English called Cross Roads printed and published in Bombay. The Madras government, by a law called the Madras Maintenance of Public Order Act, 1949, banned the entry and distribution of the journal within the state and cited the reason that it's for the public safety and order maintenance. The petitioner claimed that the aforementioned order infringed their basic right to free speech and expression as provided by Article 19(1)(a) of the Indian Constitution. They challenged the legitimacy of Section 9(1-A) of the act which empowers the government to impose ban or restrict the circulation of material that were considered as undermining public safety and order, claimed that it is illegal under Article 13(1) of the Constitution since it violated their basic right.

The Supreme Court judges (H.J. Kania, C.J., Saiyid Fazl Ali, M. Patanjali Sastri, M.C. Mahajan, B.K. Mukherjee and Sudhi Ranjan Das, JJ.) stated that in order for a statute restricting free speech to be included by the exceptions in Article 19(2), it must clearly concentrate on risks to state security or its implementation. "Public safety" usually refers to the protection of the public from harm. Simply striving to maintain public order is insufficient. So, Section 9(1-A), which imposes restrictions for broader grounds such as public safety or order maintenance, lacks to meet that requirement. As a result, it was decided in this case as an unconstitutional and void.

To curtail the freedom of speech the most common reason is "public safety ", but what will be considered as harmful for the safety, what could be the criterion of deciding the norms of safety of society is totally dependent on political will and fancies. Public safety is disguised as a tool for restricting freedom of speech and expression that could also be inferenced from the above-mentioned case as well.

2. In *Manohar Lal Sharma* v. *Union of India (UOI) and Ors*[18] *(Pegasus Case)*

In this case, the petitioner expressed concerned over the alleged violation of individuals' right to privacy resulting from the possible installation of Pegasus software on their devices. The Israeli based cyber-arms company NSO created this Pegasus, a spyware program that tracks a user's mobile device. This spyware works by sending a link to the targeted individual, and when that recipient clicks upon a link, malware was injected into their device to enable tracking of the targeted persons, the person who received that link. WhatsApp owner said that 1,400 users globally, included journalists, human rights advocates, court employees, and other members of civil society from over 20 nations claimed that their phone systems

[17] Romesh Thapar v. The State of Madras Petition No. XVI of 1950, (India).
[18] Manohar Lal Sharma v. Union of India (UOI) and Ors, (CRL.) NO. 314 OF 2021, (India).

had hacked by the NSO Group using the Pegasus spyware. The court highlighted that snooping or conducting surveillance on people by the government or other organizations constituted a clear violation of one's right to privacy.

In this case, A separate inquiry into the Pegasus software claimed by some lawyers, while Mr. Shyam Divan, a lawyer, asked the Cabinet Secretary to provide information in an affidavit. A committee of judges or a Special Investigation Team headed by a retired judge could be formed to investigate the situation and ultimately formed the committee and their main objectives were to examine that, if Pegasus spyware had been used in India, victims and measures adopted in response to earlier incidents of hacking, acquired of spyware by governmental organizations, explanation for using spyware legally, authorized use of spyware in the home, any related matters. Moreover, recommendations were also given by the committee as follows: improved safeguards against cyberattacks, preventing unapproved observation, creating a system for citizen reporting, establishing a separate cyber security organization, interim steps taken by the court to safeguard citizens' rights. All the matters are not directly available for the public because of sealed pack cover of the report. The committee was initially expected to submitted their report to the government within eight weeks or 2 months and the Court stated that snooping or monitoring by government agencies or an outside organization directly violates citizens' right to privacy and freedom of speech and expression. With the advent of technology new paths have been carved for supressing individual right to express them by monitoring their activities in digital space that not only is the encroachment on the right of privacy as well as directly or indirectly curtailment of right of speech and expression.

3. In *Brij Bhushan* v. *the State of Delhi*[19] *(1950)*

In this case, the Supreme Court imposed pre-censorship on a newspaper is a limitation on press freedom. The Organizer was an English weekly newspaper located in Delhi. Mr. Brij Bhushan (editor and publisher) and K.R. Halkani (Editor), the petitioners, who approached the Supreme Court under article 32 of the Indian Constitution. They appealed in the supreme court of India and challenged that the Delhi Chief Commissioner had issued in accordance with East Punjab Safety Act, 1949, section 7(1)(c), "Whereas the Chief Commissioner, Delhi, is convinced that the English weekly Organizer had published extremely objectionable material that posed a threat to public law and order, and that the followed action was required to stop or counteract actions that jeopardize public safety or the upkeep of public order. The petitioner argued that restrictions specified in article 19(2) and their right to free expression are violated by this order. They requested that the court set aside the order and investigate its validity.

There was hardly any doubt that pre-censorship on a publication is a constrained on the freedom of the press, as stated by article 19(1)(a) of the Indian Constitution, according to Honourable Justice Patanjali Shastri, who gave the court's decision. It was an indisputable right of every free individual to voice his opinions and viewpoints in public[20]. The primary question presented to the Court was whether section 7(1)(c), which enabled publishing restrictions, complied with article 19(2) prohibitions should prohibited or not. In the case of *Romesh Thappar* v. *State of Madras*, precedent was cited by the court, the State of Madras prohibited the petitioner's publication from being distributed, which the Court considered to be a violation of the right to free speech and expression. The Court underlined that the right to free speech

[19] Brij Bhushan v. the State of Delhi A.I.R. 1950 S.C. 129, (India).

[20] Sidhant Dudeja, Brij Bhushan Sharma v. The State of Delhi, 2 De Jure Nexus Law Journal (May, 24, 2024, 09:26 AM), dejurenexus.com/wp-content/uploads/2022/03/Case-Commentary-Brij-Bhushan-Sharma-Vs.-Union-of-India-By-Sidhant-Dudeja.pdf.

include the ability to spread ideas, highlighted the significance of distribution for a publication's significance.

In the present case, the court dismissed the petitioners' application and stated that the Chief Commissioner acted within his authority based on the affidavit from the provided Sec. 7(1)(c) of the East Punjab Public Safety Act. The court found no grounds to grant relief to the petitioners.

Pre-censorship is the enemy of free thought and opinions, if it is not attached with criterion in reference to the grounds which will be applied while putting any kind of censorship on the speech rights.

4. In *Bennett Coleman and Co.* v. *Union of India*[21]

when this case was filed Indira Gandhi was a prime minister of India. She got upset because news reporters wrote things about her political party in the newspaper. To remove this issue, Indira Gandhi has implemented a new policy, which is known as the Newspaper Regulation Policy and gave the excuse that we faced three wars in 1962, 1965, and 1971, and due to this reason, our country's revenue was not so stable to purchase or import a newspaper sheet from the foreign nations at this time. Ultimately, the result of this policy directly affected the manufacturing of the newspaper. The 1972-1973 newspaper policy imposed further limitations based on four characteristics[22]:-

a. If established newspaper firms already own two newspapers, one of which is a daily newspaper, they were not permitted to launch additional publications;
b. The total number of pages was acceptable only 10 in the newspaper;
c. For newspapers with less than ten pages, the number of pages can increase, but not more than twenty percent;
d. Exchanging newsprint between publications owned by the same organization or among issues of the same newspaper was prohibited.

The Supreme Court of India dismissed the Newsprint Control Order, which set a page limit because it violated article 19(1)(a) and was not a reasonable restriction as defined by article 19(2). The court declared that the Import Policy could not employ article 19(1) to protect itself from challenges in a state of emergency. Executive acts, which violate basic rights without appropriate legislative support are unacceptable, not even in emergencies. The court also stated that infringement of basic rights is not excused by the "pith and substance" of law or its intention. Recently, in *Jigisha Arora* v. *Uttar Pradesh*[23], The journalist Prashant Kanojia, whom the Uttar Pradesh Police had detained for tweeting about a woman who declared her love to Yogi Adityanath, the chief minister of Uttar Pradesh, was granted release on bail by the Supreme Court of India and stated that they were in conversation. The Court held on a habeas corpus petition brought by the journalist's wife that Mr. Kanojia's right to life and freedom of speech are "non-negotiable rights" and that holding him for around 13 or 14 days was unlawful because of his allegedly offensive statements.

2. BRICS Case Analysis (except India)

In Brazil

1. In the case of *Gleydson Carvalho murder case*[24]

In this case, victim was a radio journalist known for his outspoken commentary on local politics in Rio

[21] Bennett Coleman and Co. v. Union of India, A.I.R. 1973 S.C. 106 (India).
[22] Muskaan, *10 Landmark Judgements relating to Freedom of Speech in India*, LDMI, 2023, at A1.)
[23] Jigisha Arora v. Uttar Pradesh, A.I.R. 2019, 6 S.C.C. 619 (India).
[24] Simon Romero, *Murder of Brazilian Journalist Furthers Alarming Trend,* N.Y. Times, Aug. 7, 2015, at A1.

De Janeiro. This program was telecasted in the local beach city of Camocim in the northeastern state of Ceará and called on authorities to bring the killers to justice, where two unidentified killers entered in the studio and opened fire inside the radio station. Both the gun man pointed the gun shot toward the desk clerk and told an operator to mute himself during a musical break. Subsequently, they carried out their task by fire three shots and taking the life of Mr. Carvalho, a journalist who had been opposing against government corruption. This incident sent shocked waive in the city (Ceará), a state in the north-eastern Brazil. A committee has been established by the government and that committee reported that Since 2011, At least three cases has been filed related to the journalist's murder. Mr. Lauría senior American program coordinator emphasized that proposed legislation that would allow such crimes to fall under federal jurisdiction, in the hope of making them easier to solve, had recently been harder to tackle.

Mr. Lauría said that 65 percent of the journalists murdered in Brazil since 2011 had been reporting on corruption and that government officials were suspected to be the perpetrators in 52 percent of the cases, according to research by the Committee to Protect Journalists. Police authorities in Ceará said that they had arrested two suspects in Camocim in connection to the murder of Mr. Carvalho, but the gunman who had carried out the slaying remained at large. The police did not disclose other leads or information regarding potential motives in the killing and nearly about four years after radio journalist Gleydson Carvalho's murder in his studio, a Brazilian court has convicted three individuals for their involvement in the crime, the person who shot to the journalist got imprisonment for 27 years and other 2 persons who helped "in logistical support" punished with 23 years of imprisonment for this murder case.

2. In *Sarney* v. *O Estado de São Paulo*[25] (2009)

In 2009, the Brazilian Federal Police conducted an operation that exposed connections between prominent politicians, including Fernando Sarney, and alleged criminal activities. On July 22, 2009, the newspaper O Estado de São Paulo reported on these links, revealed that Fernando Sarney, son of the then Senate President José Sarney, was implicated in a scandal involving secretive Senate acts. Following this publication, Sarney sought a court injunction to prevent further reporting, citing potential damage to his reputation and privacy. Initially, the Court of Appeals of the Federal District overruled the injunction, emphasizing the importance of freedom of expression. However, Sarney appealed and secured a court order against the newspaper, argued that the criminal investigation details should remained confidential to protect his rights. The case escalated to the Federal Supreme Court of Brazil. The newspaper argued that the injunction violated freedom of expression principles established in a previous ruling, ADPF 130-DF, which declared the Press Act unconstitutional. The Supreme Court, however, dismissed this argument, stating that the current case differed from ADPF 130-DF and that publishing investigation details infringed on Sarney's privacy rights under the Federal Constitution.

Justice Carlos Britto dissented, argued that the case involved judicial censorship, which was the very issue addressed by the unconstitutional Press Act. Justice Eros Grau and Justice Celso de Mello highlighted the essential role of the press in a democracy, especially regarding public interest and officials. The Supreme Court ultimately remanded the case back to the Court of Appeals for further review. The final decision from the Court of Appeals is still pending.

[25] Sarney v. O Estado de São Paulo, 9.428/DF (2009).

In China

1. In *Sophia Huang Xueqin*[26] *('inciting subversion of state power case)*

In this case Sophia Huang Xueqin, a freelance journalist, women's rights activist, and independent journalist, who wanted to raise awareness about sexual harassment in China, poses with a #MeToo sign at her home on Aug. 12, 2017 as all individuals have their human right to freely express themselves without any exploitation. The International Women's Media Foundation Wallis Annenberg Justice for Women Journalists Award winner Huang (Sophia) Xueqin stated that in 2019, the Chinese government started coming for me," during a May 2019 interview with the University of Michigan Institute for research on women and gender. Additionally, in 2016, Ms. Huang discussed on WeChat her experiences with sexual harassment in the workplace while worked at a Chinese news agency, prestigious Chinese institutions, and media firms. Due to Huang's coverage, several prominent Chinese media professionals and scholars were victims of #MeToo claimed.

Mr. Wang was well-known for protected labour rights and aiding to workers with disabilities to provide legal assistance. Ms. Huang was arrested on September 19, 2021, on her way to the Guangzhou airport. According to the Chinese Human Rights Defenders Network, 70 individuals were questioned about the case before the trial. Many were subjected to harsh questioning techniques and abuse. Growing insecure, a few even left Guangzhou afterward. Others spoke of their continued PTSD (Post-traumatic stress disorder) issues as a result of the experience. A BBC investigation done in 2022 founded that both of them were detained in solitary confinement and their secret locations known as 'black jails' and held initially for five months in solitary confinement without accessed to lawyers. In August 2022 their case was transferred to court, but no information was given about their trial's dates[27] trial began on Sept. 22, 2023. Her family was not kept informed, and a state-appointed attorney surreptitiously took over as her attorney.

On 14 June 2024, the court sentenced her for five years imprisonment for “inciting subversion of the state power”. Which she has detained from since 2021. In September 2024, Huang was transferred to Guangdong Provincial Women’s Prison, and there have been no updates on her whereabouts since.[28]

Huang has been charged with "publishing distorted, provocative articles and speeches attacking the national government on social media", along with "gathering overseas organisers to participate in online training for 'non-violent actions.” This case simply indicates that freedom of speech and expression of journalist as well as citizens of China was deprivable as they don’t have their fundamental rights to communicated their views and reports. As China, ranked 177th out of 180 in 2019 and 178th in 2025 in the RSF World Press Freedom Index, is the world's largest captor of journalists with at least 122 detained.

In South Africa

1. Khumalo and Another v. Holomisa[29] (2002)

In this case, a significant legal battle before the Constitutional Court of South Africa, the editor of Sunday World, Khumalo, found himself at odds with Bantu Holomisa, leader of a South African opposition party. Holomisa had brought a defamation suit against the newspaper following the publication of an article

[26] Max Fallon-Goodwin, *Sophia Huang Xueqin Won Awards for Her #MeToo Reporting. Today, Her Fate Remains a Mystery*, Ms. Magazine: MTAMAM, Mar. 10, 2024, at A1.
[27] World Report 2020, pp no. 134-135, Manupatra.
[28] Reporters without borders, Arbitrary detention and proceedings, (Jan. 18,2025, 12:02 AM) https://rsf.org/en/rsf-demands-release-sophia-huang-xueqin-journalist-who-sparked-metoo-movement-china-first.
[29] Khumalo and Another v. Holomisa, No. 2002 (5) SA 401 (CC) (South Africa).

alleged his involvement in criminal activities. Khumalo argued that Holomisa's failure to explicitly deny the truth of the article in his claim rendered it baseless. He contended that in cases involving public figures and matters of public interest, the burden of proving falsehood should rest with the plaintiff. However, the Constitutional Court, led by O'Regan J., upheld the balance established in the landmark case of *National Media Ltd* v. *Bogoshi* (1998), wherein the defence of reasonable publication played a pivotal role. The Court underscored the essential role of the media in a democratic society while emphasizing the need to weigh it against the value of human dignity. It deemed the requirement for plaintiffs to prove the falsity of statements as unnecessary, highlighted the equitable balance struck by the reasonable publication defence.

Despite Khumalo's plea for aligned defamation law with constitutional principles by mandating proof of falsehood from the plaintiff, the Court dismissed such arguments. It emphasized that the common law does not inherently demand such proof but rather places the onus on the defendant to justify their publication through truth, public interest, or reasonableness. The Court recognized the challenges inherent in proving truth or falsity but deemed the framework laid out in Bogoshi as striking an equitable balance. By rejecting Khumalo's reliance on foreign jurisprudence and affirming the Bogoshi approach which established a reasonable publication defence, the Court maintained a delicate equilibrium between freedom of expression and the preservation of human dignity in defamation cases. The Bogoshi approach provides protection to media organisation in defamation cases. This decision ensured that while individuals was protected from reputational harm, the media can fulfil its crucial role in disseminating information in the public interest without unduly burdening plaintiffs with the requirement to prove the falsity of statements.

In Russia

1. *Mazepa and Others* v. *Russia*[30] *(2018)*

The European Court of Human Rights recently issued a ruling in regard to the tragic murder of Russian journalist Anna Politkovskaya in 2006. She was known for her fearless investigative reporting on human rights abuses in Chechnya and her criticism of the Russian government under President Putin, Politkovskaya's death sent shockwaves through the journalistic community. While the Russian authorities initiated a criminal investigation that resulted in the conviction of five individuals directly involved in the murder, the ECHR found significant deficiencies in the investigation. Despite its duration of nearly ten years and the production of numerous documents, the investigation failed to identify the mastermind behind Politkovskaya's assassination. This critical oversight undermined efforts to understand the motive behind her murder and to hold all those responsible for her death to account. Consequently, the ECHR deemed the investigation inadequate, criticizing both its focus on a single line of inquiry and the prolonged delay in identifying those who gave order for her murder.

In the judgment of the ECHR highlighted the importance of a thorough and timely investigation into Politkovskaya's murder, emphasized the need to uncover the full extent of state involvement or complicity in the crime. While acknowledging the conviction of the perpetrators as a step forward, the court underscored the failure to address the alleged role of the Federal Security Services (FSB) or Chechen officials in the assassination plot. The length of the investigation, deemed unjustifiably protracted by the ECHR, further exacerbated concerns regarding the authorities' commitment to uncovering the truth behind Politkovskaya's killing. As a measure of redress for the flawed investigation and its impact on

[30] Mazepa and Others v. Russia, No. 15086/07, art. 2 (2018).

Politkovskaya's family, the court awarded compensation, although this decision faced dissent from some judges who argued that the investigation, despite its length, was effective in identifying the direct perpetrators. Ultimately, the ECHR's decision serves as a poignant reminder of the ongoing challenges facing press freedom and accountability in Russia, particularly in cases where journalists pay the ultimate price for their commitment to truth and justice.

Note: Freedom of speech and expression remains a cornerstone of democratic societies, yet the cases across India, Brazil, China, South Africa, and Russia revealed how this right can be restricted through censorship, surveillance, or inadequate investigations. Overall, the balance between state interests and individual freedoms depends heavily on an independent judiciary and progressive legislation that actively protects the press and public discourse.

Table 1. Briefly comparison of legislative and Judicial approach between BRICS nations provided in tabular chart: -

	Brazil	**Russia**	**India**	**China**	**South Africa**
Scope	Moderate press freedom with occasional threats and violence against journalists.	Severe restrictions, state censorship for journalists.	Low press freedom with threats, attacks, and legal harassment of journalists.	Strict government control and censorship, with significant obstacles for independent journalism	Highest press freedom among BRICS nations, with constitutional protections but some political interference and attacks on journalists.
Restrictions on freedom of speech & expression	For protection of privacy, honour, and reputation as well as prevent hate speech, crime incitement and obscenity under Article 5 of the Brazilian Constitution	For the protection of national security, public order, and morals under Article 29 of Russian Constitution.	sovereignty and integrity of the country, security of the state, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation, and incitement to an offense under Article 19(2) of Indian Constitution.	Protection of national security, public order, social stability, and protection of the rights of other individuals such as journalists or media persons as per mentioned under Article 35 of Chinese Constitution.	To prevent war propaganda, incitement to violence, and hate speech as per mentioned under Section 16 of the South African Constitution and Bill of Rights.

Penalties	For hate speech: 2 to 5 years imprison and fine[31]. Contempt of Court[32]. Slander Art.138; Defamation Art 139; and injury Art140, none commit crimes against honour can be sanctioned with detention from 1 month to 2 years and fine.	Extremist Activities: Whoever committing Extremist Activities shall be punishable for up to 5 years, or a fine of up to 300,000 Rubles.[33] Insulting Authorities, fine 40,000 rubbles with three months imprison.[34]	Speech promoting enmity on the ground of religion, race, religion, language, or caste with up to 3 years, fine of the Bharatiya Nyaya Sanhita. If it committed in religious places then penalty rises to 5 years. These offences are non-cognizable and non-bailable.	Subversion of State Power: Whoever organizes, plots, or acts to subvert the political power of the state shall be Imprisonment for a fixed term of not less than 10 years, life imprisonment, or death. Article 246, whoever publicly stories to defame other person shall be sentenced for the term not less than 3 years as a criminal detention.	Hate Speech: prohibited for any individual to publish, propagate, advocate, or communicate words based on prohibited grounds that clearly intend to be hurtful, harmful or incite harm, or promote or propagate hatred. Punishment for this offence is fine and imprisonment which varies from case-to-case decisions.[35]
Judicial Approach	freedom of speech and expression of the press is mixed, Brazilian Constitution guarantees these freedoms, and the judiciary	freedom of speech and expression of the press is highly restrictive. The judiciary is generally not independent and tends to	freedom of speech and expression of the press is generally protective but complex, often acts as a check on government overreach, defending the	freedom of speech and expression of the press is highly restrictive. The judiciary is not independent and generally enforces government	freedom of speech and expression of the press is generally protective but faces challenges. the judiciary remains a key defender of

[31] Presidency of the Republic Civil House Deputy Director for Legal Affairs, LAW No. 7,716, OF Jan. 5, 1989 art. 20, § 2 (Brazil).
[32] Civil Procedural Rules, ACT No. 13.105, of 2015.
[33] The Criminal Code of the Russian Federation No. 63-Fz of June 13, 1996, art. 280 (Russia).
[34] Criminal Law of the People's Republic of China, Order No.83 of the President of the People's Republic of China, art. 105 (1979).
[35] The Promotion of Equality and Prevention of Unfair Discrimination, 2000, No. 4 of 2000, Act of Parliament, § 10 (India).

	has often upheld them.	support government actions against the press.	rights of journalists and ensuring a degree of press freedom.	censorship and propaganda policies.	media rights, often striking down laws and actions that threaten free expression.
Reporters Without Border (RSF) 2024	Rank 63, Global Score 63.80	Rank 171, Global Score 24.57	Rank 151, Global Score 32.96	Rank 178, Global Score 14.80	Rank 27, Global Score 75.71

FINDINGS:

In these research study, it has been observed that, as per objective analysed the judicial approaches towards providing freedom of speech and expression of journalists in BRICS nations (Brazil, Russia, India, China and South Africa), Brazil and South Africa have more freedom in regard to speech and expression to the press by the legislature as well as judiciary. India stands in the middle position among the BRICS nations that where it provides freedom of speech and expression of journalists and its courts often support towards government censorship. On the other hand, Russia and China have strict control over the media platforms and their judicial system also impose many restrictions on freedom of speech and expression.

6. Conclusion & Suggestions

6.1 Conclusion

The freedom of speech and expression for journalists in BRICS nations (Brazil, Russia, India, China, and South Africa) is influenced by a combination of domestic laws, international treaties, and conventions. Despite the presence of legal frameworks and numerous judicial decisions aimed at protecting free speech and the rights of journalists, the conditions for journalists in the BRICS nations: Brazil, Russia, India, China, and South Africa, remain unsafe and their judicial systems have occasionally delivered judgments that support these freedoms. However, these measures have not been sufficient to create a safe and conducive environment for journalists to operate without fear.

In Brazil, while the Constitution guarantees these freedoms, journalists face threats, harassment, and violence, particularly when reporting on corruption and organized crime.

Russia exhibits a more restrictive environment despite nominal legal protections. The government exerts tight control over the media, using laws under the guise of national security to limit freedom of expression. Independent journalists often face harassment, arrest, and violence, contributing to widespread self-censorship and a repressive atmosphere.

In India, constitutional protections for free speech are similarly undermined by legal harassment, physical threats, and political pressures. Journalists encounter obstacles such as sedition and defamation charges.

China represents the most restrictive environment among the BRICS nations. The government exercises comprehensive control over the media and the internet, using laws to suppress dissent. Journalists who challenge the official narrative face severe penalties, including imprisonment, and the judiciary offers little protection for press freedom.

South Africa, while comparatively better, still has its challenges. The Constitution robustly protects press freedom, and the judiciary generally upholds these rights. However, journalists investigating corruption

face threats and harassment, and there are ongoing attempts to introduce restrictive measures that could undermine press freedom.

6.2 Suggestions

After studying all the above-mentioned parts such as judicial approach at national and international level both on BRICS nations, and role of international laws to provide freedom of speech and expression of journalists in BRICS nations. There are some suggestions for improving the freedom speech and expression of journalists worldwide as follow:

1. BRICS nations should create strictly binding legal frameworks that explicitly protect freedom of speech and expression of journalists and government should strictly enforce laws at national level to reduce impunity and ensure the safer environment.
2. Invest in digital security technologies and train journalists on secure communication practices to protect them from digital threats. Use international diplomatic channels to encourage BRICS nations to adhere to global press freedom norms and standards.
3. Promotes media literacy for credible public support for press freedom, assisting citizens understand the importance of an independent press and provide ongoing training programs to equip journalists with skills to navigate threats and legal challenges, focusing on ethical practices.