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# **PROTECTING RIGHT TO FREEDOM OF PRESS AND MEDIA UNDER INDIAN CONSTITUTION VIS-À-VIS SPONSORED MEDIA: A CONTEMPORARY STUDY**

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## **INTRODUCTION**

Article 19(1)(a) of the Indian constitution protects press and media freedom, stating that all citizens have the right to freedom of speech and expression. The right to freedom of speech and expression guaranteed by Article 19(1)(a) is a concept with many facets, both in terms of the content of the speech and expression and the means by which it is communicated. It's also a fluid concept that has changed over time as technology has advanced.

Article 19(1)(a) protects the right to express oneself verbally, in writing, on paper, in a photograph, or in any other way. It encompasses the freedom of expression as well as the right to propagate or publish one's opinions. The right to free speech and expression encompasses not only the right to publish, but also the right to disseminate information and ideas. The right to free speech and expression would be meaningless without the right to circulate. The right to circulate has been deemed just as important as the right to publish. In a series of rulings, the Supreme Court has held that the freedom of 'speech and expression' includes the right to receive information. With technological advancements, the right to broadcast has become a part of the freedom of speech and expression. The Supreme Court held in *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.* that a commercial advertisement or commercial speech was also a part of the freedom of speech and expression, which could be limited only by Article 19's limitations (2). The right to interview is a limited right that requires the interviewee's willing consent. The right to report judicial proceedings stems from the need for accountability. Not only must justice be carried out, but it must also be seen to be carried out. Transparency is a safeguard against judicial misconduct and error. The media enjoys privileges as a result of citizens' right to know about important public issues. The internet and phone have enabled the transmission of information to any part of the world in a matter of seconds, thanks to the revolution in communications and electronic media. The Supreme Court of India decided in *Maneka Gandhi v. Union of India* that Article 19(1)(a) of the Indian Constitution is not limited to Indian

territory and that freedom of speech and expression is not limited to national boundaries. The right to criticise the government is covered by freedom of speech and expression, which is a requirement of a healthy democracy.

The rights conferred under clause (1) of Article 19 are subject to certain reasonable restrictions under clause (2) of Article 19. When a restriction is unreasonable, it has no effect on the right, and when it is reasonable, it only restricts the right's exercise. When reasonable, such a restriction on the exercise of right can be partial or total. The test of reasonableness must be applied to each case on its own; there can be no general pattern of reasonableness that applies to all cases. The sovereignty and integrity of India, the state's security, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation, and incitement to an offence are all reasonable grounds.

As previously stated, the media not only plays a critical role, but also wields enormous influence, allowing it to exercise a wide range of freedoms. Few other agencies today have the same level of power and freedom as the media. However, with such broad powers comes a great deal of responsibility on the part of the media. Because the media is in a whirlpool of challenges, it is becoming more difficult for them to discharge these heavy responsibilities.

## **FACETS OF FREEDOM OF SPEECH AND EXPRESSION**

The right to freedom of speech and expression guaranteed by Article 19(1)(a) is a concept with many facets, both in terms of the content of the speech and expression and the means by which it is communicated. It's also a fluid concept that has changed over time as technology has advanced. Article 19(1)(a) protects the right to express oneself verbally, in writing, on paper, in a photograph, or in any other way. It encompasses the freedom of expression as well as the right to propagate or publish one's opinions. Ideas can be communicated through any medium, such as a newspaper, magazine, or film, as well as electronic and audio-visual media.

## **RIGHT TO CIRCULATION OF INFORMATION**

The right to free speech and expression includes the right not only to publish but also to circulate information and opinion. Without the right to circulate, the right to free speech and expression would have little meaning. The freedom of circulation has been held to be as essential as the freedom of publication.<sup>1</sup> In *Sakal Papers v. Union of India* the Supreme Court

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<sup>1</sup> Romesh Thappar v. State of Madras, AIR 1950 SC 124

held that the State could not make laws which directly affect the circulation of a newspaper for that would amount to a violation of the freedom of speech. The right under Article 19(1)(a) extends not only to the matter which the citizen is entitled to circulate but also to the volume of circulation. This case arose out of a challenge to the newsprint policy of the Government which restricted the number of pages a newspaper was entitled to print.

Likewise, in *Bennett Coleman & co. v. Union of India*<sup>2</sup> the Supreme Court held that newspaper should be left free to determine their pages and their circulation. This case arose out of a constitutional challenge to the validity of the Newspaper (Price & Page) Act, 1956 which empowered the Government to regulate the allocation of space for advertisement matter. The court held that the curtailment of advertisements would fall foul of Article 19(1)(a), since it would have a direct impact on the circulation of newspapers. The court held that any restriction leading to a loss of advertising revenue would affect circulation and thereby impinge on the freedom of speech. In *Indian Express Newspapers v. Union of India*,<sup>3</sup> a challenge to the imposition of customs duty on import of newsprint was allowed and the impugned levy struck down. The Supreme Court held that the expression „freedom of the press“ though not expressly used in Article 19 was comprehended within Article 19(1)(a) and meant freedom from interference from authority which would have the effect of interference with the content & the circulation of newspapers.

In *LIC v. Manubhai Shah*<sup>4</sup> the Supreme Court held that the freedom of speech and expression must be broadly construed to include the freedom to circulate one's views by word of mouth or in writing or through audio visual media. This includes the right to propagate one's views through the print or other media. The court held that any attempt to deny the right to circulation and propagation of ideas must be frowned upon unless it falls within the mischief of Article 19(2).

## **RIGHT TO RECEIVE INFORMATION**

The freedom of 'speech and expression' comprises not only the right to express, publish and propagate information, its circulation but also to receive information. This was held by the Supreme Court in a series of judgement which have discussed the right to information in varied contexts from advertisements enabling the citizens to get vital information about life-saving

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<sup>2</sup> (1972) 2 SCC 788; AIR 1973 SC 106

<sup>3</sup> (1985) 1 SCC 641

<sup>4</sup> (1992) 3 SCC 637

drugs,<sup>5</sup> to the right of sports lovers to watch cricket<sup>6</sup> and the right of voters to know the antecedents of electoral candidates.<sup>7</sup>

## **RIGHT TO BROADCAST**

The concept speech and expression has evolved with the progress of technology and encompasses all available means of expression and communication. This would include the electronic and the broadcast media. In *Odyssey Communications (P) Ltd. v. Lokvidayan Sanghatana*,<sup>8</sup> the Supreme Court held that the right of a citizen to exhibit films on the State channel Doordarshan is part of the fundamental right guaranteed under Article 19(1)(a). The court held that this right was similar to the right of a citizen to publish his views through any other media such as newspapers, magazines, advertisements, hoardings and so on. In this case, the petitioners challenged the exhibition on Doordarshan of a serial titled *Honi Anthoni* on the ground that it encouraged superstitious and blind faith amongst viewers. The petition was dismissed as the petitioner failed to show evidence of prejudice to the public.

The right to broadcast was also recognized in *LIC v. Manubhai D. Shah*.<sup>9</sup> Doordarshan refused to telecast a documentary film on the Bhopal Gas Disaster titled *Beyond Genocide*, on the ground that the film had lost its relevance and that it criticised the action of the State Government. The Supreme court held that the film maker had a fundamental right under Article 19(1)(a) to exhibit the film and the onus lay on the party refusing exhibition to show that the film did not conform to the requirements of the law. It was held that Doordarshan, a State controlled agency that was dependent on public funds was not entitled to refuse telecast except on grounds under Article 19(2).

In *Secretary, Ministry of Information and Broadcasting v. Cricket Association, Bengal*,<sup>10</sup> the Supreme Court held that broadcasting is a means of communication and a medium of speech and expression within the framework of Article 19(1)(a). This case involved the rights of a cricket association to grant telecast rights to an agency of its choice. It was held that the right to entertain and to be entertained, in this case, through the broadcasting media are an integral part of the freedom under Article 19(1)(a).

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<sup>5</sup> *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.*, (1995) 2 SCC 161

<sup>6</sup> *Secy., Ministry of Information and Broadcasting v. Cricket Association Bengal*, (1995) 2 SCC 161

<sup>7</sup> *Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294

<sup>8</sup> (1988) 3 SCC 410

<sup>9</sup> (1992) 3 SCC 637

<sup>10</sup> (1995) 2 SCC 161

## **RIGHT TO ADVERTISEMENT**

A product or a service may be advertised through a variety of methods such as hand bills, circulars, direct mail, billboards, signboards, sky signs, roof signs, loudspeakers, mechanical or electric devices, newspapers and magazines, radio, television, the internet and so on.

In *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.*,<sup>11</sup> the Supreme Court held that a commercial advertisement or commercial speech was also a part of the freedom of speech and expression, which would be restricted only within the limitation of Article 19(2). The Telephone Nigam permitted the contractors to publish telephone directories in 'Yellow pages' used to be added to the directory published by the Nigam in white pages. The Bombay High Court allowed the appeal of the Nigam, which sought a declaration that it alone had exclusive right to publish telephone directory and the Tata Press has no right to publish the list of the telephone subscribers without its permission as it would be violation of Indian Telegraph Act. The Tata Press went in appeal to Supreme Court. Admitting the appeal, the court said: The Advertisement as "Commercial Speech" has two facts. Advertising which is no more than a commercial transaction, is nonetheless dissemination of information regarding the product-advertised. Public at large are benefited by the information made available through the advertisements. In a democratic economy, free flow of commercial information is indispensable. There cannot be honest and economical marketing by public at large, without being educated by the information disseminated through advertisements. The economic system in a democracy would be handicapped without there being freedom of "Commercial Speech". The public at large has a right to receive the commercial speech. Article 19(1)(a) of the constitution not only guaranteed freedom of speech and expression, it also protects the rights of an individual to listen, read and receive the said speech. The Supreme Court emphatically held that the right under Article 19(1)(a) could not be denied by creating a monopoly in favour of the Government. It could only be restricted on grounds mentioned in Article 19(2) of the constitution.

## **RIGHT TO CONDUCT INTERVIEWS**

This is a limited right, subject to the willing consent of the person being interviewed. A number of cases have arisen where the right of the media to interview convicts or under trials has been

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<sup>11</sup> (1995) 5 SCC 139

examined. In *Prabha Dutt v. Union of India*,<sup>12</sup> the petitioner was seeking to interview the condemned prisoners Billa and Ranga. The court held that the press does not have an absolute or unrestricted right to information and there is no legal obligation on the part of citizens to supply that information. An interview may be conducted provided that convict gives his consent to being interviewed. The right to interview would also be subject to Rule 549 (4) of the manual for the Superintendence and Management of Jails which allows every prisoner sentenced to death to give interviews, engage in communication with relations, legal advisors etc. as the jail superintendent considers reasonable.

In *State v. Charulata Joshi*,<sup>13</sup> the Supreme Court reiterated the restricted scope of this right. The Additional Session Judge had granted the news magazine, *India Today* a blanket permission to interview Babloo Srivastava who was lodged in Tihar Jail. The court held that the under trial could be interviewed or photographed only if he expressed his willingness. The interview had to be regulated by the provisions contained in Jail Manuals and could be published in a manner that did not impair the administration of justice.

### **RIGHT TO REPORT COURT PROCEEDINGS**

The right to report judicial proceedings, stems for the necessity for transparency. Justice must not only be done, it must be seen to be done. Openness is a safeguard against judicial error and misconduct. “In the darkness of secrecy sinister interest, and evil in every shape, have full swing only in proportion as publicity has place any of the checks applicable to judicial injustice operate. Where there is no publicity there is no justice. Publicity is the very soul of justice. It is the keenest spur to exertion and the surest of all guards against improbity. It keeps the judge himself while trying, under trial.”<sup>14</sup>

The media enjoys privileges on account of the citizens right to be informed on matters of public importance. It is not because of any special wisdom, interest or status enjoyed by proprietors, editors or journalists. It is because the media are the eyes and ears of the general public. They act on behalf of general public. Their right to know and the right to publish is neither more nor less than that of the general public. Indeed, it is that of the general public for whom they are trustees.

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<sup>12</sup> (1982) 1 SCC 1

<sup>13</sup> (1999) 4 SCC 65

<sup>14</sup> *Vineet Narain v. Union of India* (1998) 1 SCC 226

Publicity of proceedings is not an absolute rule. The open justice system must give way when there are higher considerations. For instance, the names of rape victims or riot victims must be protected. Such persons may be reluctant to complain if their identities are disclosed and trials publicised. It is not only necessary to protect such persons from public humiliation and embarrassment, but also necessary to ensure that the victim gives the best available evidence which she may not be able to provide if she is in the public gaze. Similarly, family disputes warrant privacy, particularly to protect children from unwarranted publicity.

In *Naresh Shridhar Mirajkar v. State of Maharashtra*,<sup>15</sup> the Supreme Court held that the court may restrict the publicity of proceedings in the interests of justice. The court has the inherent power under Section 151 of Code of Civil Procedure, 1908 to order a trial to be held in camera, but this power must be exercised with great caution and only where the court is satisfied beyond doubt that the ends of justice would be defeated if the case were to be tried in open court.

### **RIGHT TO REPORT LEGISLATIVE PROCEEDINGS**

This right has often been curtailed in the name of legislative privilege available to both parliament and the State assemblies. Legislative privilege refers to special rights conferred by the constitution on parliament and state legislatures to ensure freedom of speech for legislators, to enable them to discuss and debate matters of importance without the fear of inviting liability of any sort.<sup>16</sup>

In *Tej Kiran Jain v. N. Sanjiva Reddy* the Supreme Court held that it is the essence of parliamentary system of Government that people representatives should be free to express themselves without fear of legal consequences. What they say is only subject to the discipline of the rules of parliament, the good sense of members and the control of proceedings by speaker. The courts have no say in the matter and should really have none.<sup>17</sup>

An extension of legislative privilege is the power of the legislature to punish for breach of privilege or for contempt of the House. Contempt of Parliament has been described as, “Any act or omission which impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his

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<sup>15</sup> AIR 1967 SC 1

<sup>16</sup> The Constitution of India, 1950, Articles 105, 194

<sup>17</sup> (1970) 2 SCC 272; AIR 1970 SC 1573

duty or which has a tendency directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence of sentence.”

In an age of information & technology, where the live telecast of legislative proceedings has become mandatory, the whole concept of legislative privilege & contempt is anachronistic. Further in the absence of defined privileges, this power is misused with impunity.<sup>18</sup>

## **RIGHT TO CRITICIZE**

Freedom of speech and expression covers the right to criticize Government, the requisite of a healthy democracy. In *Kedar Nath Singh v. State of Bihar*<sup>19</sup> there arose out a constitutional challenge to Sections 124-A and 505 of Indian Penal Code, 1860 which penalizes attempts to excite disaffection towards the Government by words or in writing and publications which may disturb public tranquillity. The Supreme Court dismissed the challenge but classified that criticism of public measures or comment on Government action, however strongly worded, would be within reasonable limits and would be consistent with the fundamental right of freedom of speech and expression.

In *Anand Chintamani v. State of Maharashtra*<sup>20</sup> a full bench of the Bombay High Court, while quashing an order of forfeiture under section 95(1) of the Code of Criminal Procedure, 1973 in respect of “*Me Nathuram Godse Boltoy*” a play critical of Mahatma Gandhi, upheld the right to criticise:

Tolerance of diversity of viewpoints and the acceptance of the freedom to express of those thinking's may not accord with the mainstream are cardinal values which lie at the very foundation of a democratic form of Government. A society wedded to the rule of law, cannot trample upon the rights of those who assert views which may be regarded as unpopular or contrary to the views shared by a majority. The law does not have to accept the views which have been expressed by the petitioner as a playwright to express those views. Respect for and tolerance of a diversity of viewpoints is what ultimately sustains a democratic society and Government. The right of a playwright, of the artist, writer and of the poet will be reduced to husk if the freedom of portray a message, whether it be on canvas, prose or verse-is to depend upon the popular perception of the acceptability of that message. Popular perceptions, however

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<sup>18</sup> P.V. Narashima Rao v. State, (CBI/SPE) (1998) 4 SCC 626

<sup>19</sup> AIR 1962 SC 955

<sup>20</sup> (2002) 2 Mah LJ 14



strong cannot override value which the constitution embodies as guarantees of freedom in what was always intended to be a free society.

## **PRESS AND MEDIA REGULATIONS UNDER INDIAN CONSTITUTION**

### **REASONABLENESS OF RESTRICTION**

There are two conditions imposed by the Constitution to validate the restriction on the freedoms guaranteed by Article 19(1). Any law restricting these freedoms must satisfy these two conditions. These conditions are that the restrictions must be for a particular purpose mentioned in the clause permitting the imposition of the restriction on that particular right and the restriction must be a reasonable one. The Constitution does not define the expression “Reasonable Restrictions”. The test of reasonableness has to be applied to each individual case and no general pattern of reasonableness can be laid down which applies in all cases.

The following are some of the principles which the Supreme Court of India has affirmed in *Narottamdas v. State of M.P.*<sup>21</sup> for ascertaining the reasonableness of restrictions on the exercise of the rights secured under Article 19 of the Constitution, which are as follows:

1. The phrase “reasonable restriction” connotes that the limitation imposed upon a person in the enjoyment of a right should not be arbitrary or of an excessive nature.
2. In determining the reasonableness of statute, the court should see both to the nature of the restriction and procedure prescribed by the statute for enforcing the restrictions on the individual freedom. Not only substantive but also procedural provisions of a statute also enter in to the verdict of its reasonableness.
3. The reasonableness of a restriction has to be determined in an objective manner and from the standpoint of the interests of the general public and not from the point of view of persons upon whom the restrictions are imposed or upon abstract considerations.
4. The court is called upon to ascertain the reasonableness of the restrictions and not of the law which permits the restriction. A law may be reasonable but the restriction imposed by it on the exercise of freedom may not be reasonable.
5. The word “restriction” also includes cases of prohibition and the State can establish that a law, though purporting to deprive a person of his fundamental right, under circumstances amounts to a reasonable restriction only.

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<sup>21</sup> AIR 1964 SC 1667

6. The Indian Constitution provides reasonably precise general guidance in the matter of reasonableness. The test of the reasonableness of the restriction has to be considered in each case in the light of the nature of the right infringed, the purpose of the restriction, the extent and the nature of the mischief required to be suppressed and the prevailing social and other conditions at the time.
7. A restriction that is imposed for securing the objects laid down in the Directive Principles of State Policy may be regarded as reasonable restriction.
8. If a restriction is not imposed by legislation but is the result of a contract freely entered into by the citizen, he cannot complain of the reasonableness of the law.
9. The conferment of wide powers exercisable on the subjective satisfaction of the Government cannot be regarded as reasonable restriction because the Government is the best authority to judge and take anticipatory action for preventing a threat to the breach of the peace.
10. The retrospective operation of legislation is a relevant factor in deciding its reasonableness, but it is not always a decisive test. It is not correct to say that because the retrospective operation covers a long period, the restriction imposed by it must be unreasonable.

## **SOVEREIGNTY AND INTEGRITY OF INDIA**

Sovereignty and integrity of India as a ground under Article 19(2) for restricting the freedom under Article 19(1) (a) was added by amendment.<sup>22</sup> This was as a reaction of the tense situation prevailing in different parts of the country. Chinese incursions have started in the north-east in 1960. Also, around this time, there were strong demands led by Master Tara Singh for a separate Sikh homeland. The Dravida Munnetra Kazhagam (DMK) had called for an entity separate from India called Dravida Nadu comprising Madras, Mysore, Kerala and Andhra. The Law Minister Ashoke Kumar Sen introduced a bill in the Lok Sabha on 21st January, 1963 describing its object as giving appropriate powers to impose restrictions against those individuals or organisations who want to make secession from India or disintegration of India as political purposes for fighting elections". The object of the amendment was to confer on Parliament specific power to legislate on this subject without having to face a constitutional challenge on the ground that the legislation was inconsistent with Article 19(1) (a). The amendment enabled the enactment of laws such as the Criminal Law Amendment Act, 1961

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<sup>22</sup> Inserted by the Constitution (Sixteenth Amendment) Act, 1963

and the Unlawful Activities (Prevention) Act, 1967 which made punishable the act or words of any individual or association intending or supporting the cession of any part of the territory of India or the secession of the same.<sup>23</sup>

## **SECURITY OF THE STATE AND PUBLIC ORDER**

Reasonable restrictions can be imposed on the freedom of speech and expression, in the interest of the security of the State and public order. The term security of state has to be distinguished from public order. For security of state refers to serious and aggravated forms of public disorder, example rebellion, waging war against the state [entire state or part of the state], insurrection etc.

In the case of People's Union for Civil Liberty v Union of India AIR 1997 SC 568 a public interest litigation (PIL) was filed under Article 32 of the Indian Constitution by PUCL, against the frequent cases of telephone tapping. The validity of Section 5(2) of The Indian Telegraph Act, 1885 was challenged. It was observed that "occurrence of public emergency" and "in the interest of public safety" is the sine qua non for the application of the provisions of Section 5(2). If any of these two conditions are not present, the government has no right to exercise its power under the said section. Telephone tapping, therefore, violates Article 19(1) (a) unless it comes within the grounds of reasonable restrictions under Article 19(2).

Ground of public order was added by the Constitution (First Amendment) Act, 1951 in order to meet the situation arising from the Supreme Court's decision in Romesh Thapar's case<sup>24</sup>. As per hon'ble Supreme court, public order is different from law and order and security of state [Kishori Mohan v. State of West Bengal]. The expression 'public order' connotes the sense of public peace, safety and tranquillity. Anything that disturbs public peace disturbs public order [Om Prakash v. Emperor, AIR 1948 Nag, 199]. But mere criticism of the government does not necessarily disturb public order. A law, which punishes the deliberate utterances hurting the religious feelings of any class has been held to be valid and reasonable restriction aimed to maintaining the public order.

## **FRIENDLY RELATIONS WITH FOREIGN STATES**

Restrictions under this category would include not only libel of foreign dignitaries but also

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<sup>23</sup> In People's Union for Civil Liberties v. Union of India, (2004) 9 SCC 580

<sup>24</sup> AIR 1950 SC 124

propaganda in favour of rivals to authority in a foreign state after India has recognised a particular authority in that state, or propaganda in favour of war with a state at peace with India. At present there is no specific legislation on this subject. However, a variety of statutes contain restrictions on forms of expression which would have an adverse impact on friendly relations with foreign states. Laws regulating media are enshrined in these statutes include the Cinematograph Act, 1952, the Cable Television Networks (Regulation) Act, 1995, and the Right to Information Act, 2005.

### **INCITEMENT OF AN OFFENCE**

The word offence is not defined in the Constitution. According to the general Clauses Act, 1897 it means any act or omission punishable by any law for the time being in force. In order to qualify as a reasonable restriction under Article 19(2), the law imposing a restriction relating to incitement to an offence" must relate to pre-existing offence i.e., the incitement must be of an act which is, at the time, a punishable offence under an existing law. Further, the legislation must be in respect of a definite offence. Mere approval of or admiration for an act of murder or violence does not automatically come within the scope of this restriction unless the publication itself has a present tendency to incite or encourage the commission of the offence. The court must look to the circumstances in each case in judging such a tendency, the purpose of the work, the time at which it was published, the class of the people who would read it, the effect it would have on their minds, the context of the words and the interval between the incidents narrated and the publication of the work.

### **DECENCY AND MORALITY**

Decency and morality in section 292 to 294 of the Indian Penal Code provide instances of restrictions on the freedom of speech and expression on the grounds of decency and morality, it prohibits the sale or distribution or exhibition of obscene words. The standard of morality changes with changing times. Supreme Court in *Ranjit D. Udeshi v. State of Maharashtra* (AIR 1965 SC 881) upheld the conviction of a book seller who was prosecuted under Section 292, I.P.C., for selling and keeping the book *Lady Chatterley's Lover*.

### **DEFAMATION**

Article 19(2) prevents any person from making any statement that defames the reputation of another person. One who gets the freedom of any type should not misuse that freedom to hurt or affect the reputation or status of another person. Generally, a statement that injures the

reputation of a man results in defamation. The right to free speech is not qualified. So, it does not mean to hurt any person's reputation which is protected under Article 21 of the Indian Constitution.

## **ISSUES AND CHALLENGES OF MEDIA**

### **RESPONSIBILITY OF THE MEDIA IN A DEMOCRATIC SOCIETY**

The media is bridled with the task of shouldering a very heavy, important and crucial duty in the present times. This is because of the three facets of human public life which are – (i) to know, (ii) to publicise, and (iii) to expose, plays a vital role in the societal life.

- i. To know means to get information about various aspects. It is the media which imparts the information to the public, which helps the public in knowing and becoming aware of many issues and aspects prevalent in the society. This is the very reason that the media is the instrument of education.
- ii. To publicize means when a person or an institution or the government does any positive or good activity, it is the media which publicizes such activities and makes it known to the entire society. This publicizing a good activity, acts as a reward to the person doing such an activity, and the publicizing also gives an impetus to the others to engage themselves in similar activities.
- iii. To expose means the negative side of publicizing. The media not only publicizes the good activities, but also exposes the negative acts in the form of corruption and illegal activities of the public, as well as government officials. The exposing activity of the media acts as a check upon such activities.

Many a times media is regarded as the 'Fourth estate' of the state. Media makes us aware of the various social, political and economic activities which are happening around. A similarity can be drawn between a mirror and the media because just like the mirror, the media also reflects or projects to us the bare truth or the ground reality as it exists actually. An important aspect to be noted here is that the media not only projects the positive aspects of the circumstances, issues, or events but also shows those realities which are sometimes tainted negatively or could be categorized as 'harsh' in nature.

The media can remind the politicians every time they keep any promise unfulfilled, especially during the elections. Frequent reporting helps even the illiterate people in deciding the right person to vote for. The continuously reminders by the media persuade the politicians to fulfil

their promises, in order to continue to enjoy the confidence of the people, which is required to continue their position in chair. If any politician does not care to fulfil the promise the media will repeatedly communicate that to the public, who then will not elect that person again. Thus the politicians who do not care to fulfil their promise are risking their chair, and all this is possible because of the vigilant media.

Another very crucial function performed by the media, is that it highlights and brings to the notice of the society the mal administration, discrepancies, blunders, mistakes or the mismanagement of the government. This function fulfils a dual aspect like on one hand it helps the society to know the mal administration etc activities of the government, and on the other hand, it helps the government to improve its functioning and minimize the mal administration activities, thus making democratic system more transparent, efficient, responsible and accountable. Further the media helps the government and the society to exchange the ideas, views and opinions with each other which minimizes the friction between the government and the society and helps in developing harmonious relationship between the two; which no doubt brings stability and progress of the state.

The modern age is regarded as the era of information and technology. The consequence of the increased volume of information and technology has led to the fact that the society not only thrives upon the voluminous information, but the societal life exists on the vast and diverse information. Apart from the vast information, diverse and varied information is imparted to the society from every aspect of the society or from every nook and corner of the entire global arena.

### **COMMON CHALLENGES BEFORE THE MEDIA**

There is no doubt what so ever, that a free media is essential for the exercise of a fair democracy. Without free media it is impossible to imagine any democratic society, as the democracy will lose its essence. Without freedom, the press will be at the mercy of the rulers and will be under obligation to project any policy in the interest of the rulers, even if it may be detrimental to the interest of the society at large. A question now haunts is that whether the free media is really serving the people. The answer unfortunately is no. The media is not serving the people as was expected to serve, after freeing it from the governmental control. The said statement is not been made to justify the government control on media, but put a fact that

despite independence from the government the media fails to do the duties as expected from the media.

The question which arises before the researcher is that why the independent media sometimes fails to perform its duties fairly, objectively and impartially. The hurdles which come in the way of the media while performing its duties are as follows:

- a. **Paid News:** One of the major concerns in India is the concept of paid news. The definition of paid news as stated by Press Council is as follows, 'paid news as any news or analysis appearing in the print or electronic media for consideration in cash or kind'. A paid news is a where an advertisement is disguised as a news. Paid news is an advertisement which is designed as news and the viewer is made to believe that it is news, when actually it is not. Such a disguise is made to either promote or defame someone, in exchange for consideration.

Paid news is a blatant violation of the democratic spirits. In a democracy, which candidate is to be elected is the choice of the voter, which the voter has to make very carefully. It is obvious that while making such an important decision the voter should be well informed, only then he will make the correct choice. But if the press by publishing the paid news is promoting any one candidate; then it is in a way misleading the voters and destroying the basis of the democracy itself. In a country like India, the people tend to believe the media, so when the media, especially the press writes anything good or bad about someone the people tend to believe it. The rich politicians in India take the advantage of such a belief, gets lavish praise for them, or taint or tarnish the image of the opponents, by paying high consideration amounts. The phenomenon of "paid news" goes beyond the corruption of individual journalists and media companies. It has become pervasive, structured and is highly organized and in the process, which is undermining democracy in India.

- b. **Cross media holdings:** Cross media holding means owning more than one media business, by a single person or an entity. The South Indian Channel Sun T.V has 14 channels, four magazines and two newspapers. 147 Incidentally approximately 400 channels are being provided by only 11 cable distributors.<sup>25</sup> In a democracy, multiple channels or modes are essential as there may be various opinions related to a single

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<sup>25</sup> Shivaji Sarkar, 'Cross Media Ownership - A Threat to Vibrant Democracy', available at <http://www.vifindia.org/article/2013/august/22/cross-media-ownership-can-india-checkmake-it>

issue. In order to get a proper solution all, the views are needed to be projected. However, if the person or the entity who runs or owns the multiple channels is the same; then the very purpose of having multiple channels or mode fails, as they are mere different sources of the same person, imparting the views and appreciating the ideology of the same person, running it. People will believe that different channels are advocating the same ideology, hence the ideology is worth following. This is nothing but a way of misguiding the people.

There is no dispute that there shall be multiple informing bodies in a democracy, however it is the very necessary that those bodies should be of different entities or individual, rather than of the same individual, only then different views can be put before the people.

- c. **Glorification of crimes:** Today in this cut throat competition the news channels and news agencies want sensational news to be in the race of TRP. Crimes generally create sensation. The media to get popularity end up showing the way crimes are committed, who was the person successful in evading arrest, how lavish did the criminal live etc, making the criminal virtually a hero, and when a criminal is depicted as a hero then his actions make a deep impact on the minds of the people, especially the young ones.

The role of the media shall be to discourage the youth from the path of crime, and to encourage the spirits of brotherhood, honesty, tolerance etc. However continuous projection of crime may tend to corrupt the minds of the young ones, and the society will lose its balance.

- d. **Neglecting important issues:** Another major problem with the media is it is often portraying lesser significant news as real news side-lining the real news. Issues like which celebrity is getting married, who is pregnant, etc. is given coverage. Actual relevant issues such as economic position of India, poverty, etc. are either not covered properly, or not covered at all. The media persons may argue that it is the demand of public, and hence we fulfil their demand, as the public is the consumer. Here the media cannot afford to forget that the role of media is also to develop the good taste of public, they should make the public inquisitive about those happenings which would have impact on their life, their prosperity, their enrichment etc.

## CONCLUSION

On analysing the current scenario, latest issues and developments of Freedom of Press, it can be concluded that although the Press is considered the watchdog of democracy, sadly, there is



scant regard for this truism in a country which is, ironically, the world's largest democracy. In keeping with its affirmation that freedom of expression is “one of the essential foundations of a democratic society”, the Court has clearly shown a preference for freedom of press. In conclusion, it must be reiterated that the freedom of press and information are fundamental to healthy working of a democracy and therefore, must coexist with the freedom of speech and expression.

The media has a significant role in devising the public opinion, but it has consistently ignored the major issues the nations facing, such as poverty, corruption, health, education and raging communalism and concentrating only on news that increases readership and viewership. Customized and profit-oriented journalism have come to replace spirited journalism. If the fourth estate has lost its prominent position, it is because of a paradigm shift in the priorities of reporting, driven by corporate interests. Many sections have a clear corporate agenda, for which they create news and do a partisan analysis based on false information. This tendency is stronger in the regional press. Language is the lens through which journalists report to the public on news developments.

The ground realities are that a citizen is largely dependent on the press for the quality, proportion, and the extent of news. He can seldom obtain for himself the information necessary for the intelligent discharge of his political duties and responsibilities. In disseminating news, the press therefore acts as a representative or, more appropriately, as the custodian of the public. It serves public interest in pluralistic democracy by permitting expression and opinions of all persons. Hence freedom of the press has a dimension and range that is vastly different from the ambit and content of other individual freedoms. Press freedom embodies the principle of accountability and thus enables press to be an instrument of democratic control. Protection and promotion of free press is substance sub serves and strengthens democracy, an essential feature of the Constitution.

Hence, it can be concluded that the constitution has provided multiple safeguards to the press and media which is time and again interpreted by the courts to make that much wider but at the same time certain responsible attitude is expected from such a powerful institution. The sponsored and paid media had changed the way media reporting use to take place and it is required to regulate the media to stop commercialization of news reports. There is very little evident self-regulatory mechanism for the media, so a collective effort needs to be taken by the media sector to uphold the responsibility been given to them.