
MEDIA LAW: HOW THE PROTAGONIST OF DEMOCRACY IS TURNING INTO AN ANTAGONIST

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ABSTRACT

In this essay, we would delve into the depth of the provisions governing media and debate about its role it actually should be performing: present, broadcast, endorse the happenings as it is without spicing it to ensure and enable the masses to opine their own perspectives about the same without brainwashing/subjugation of the viewpoint they want to patronize on which made the society eulogize them as the ‘protagonist of the democracy’ as they fearlessly and without crawling to the throne, report the headlines the establishment which they want to shelve and cache behind the enclosed spaces. But since the times evolved they switched alliances from being a protagonist and national hero to being an antagonist and a national villain which made them denigrate them as lapdog of the ideologies¹ they want to savour and serve to influence and manipulate the viewers in order to enhance a toxic cult to topple their adversaries in sync with them which aggregates the hate and despise of the masses towards this imaginary pillar which prompts them in asking for the reforms of the same to escort back the golden days of reporting and broadcasting.

¹ Ilana Gershon, *Media Ideologies: An Introduction*, (284) Vol 20 Issue 2 (2010)

INTRODUCTION & BRIEF BACKGROUND

"Media Law refers to the legal framework that governs the relationship between the media and society, including freedom of expression, censorship, defamation, and privacy. The media is often called the "protagonist of democracy" because it is crucial in informing the public and holding those in power accountable. However, recently, there has been a surging concern that media law is turning the media into an "antagonist" of democracy.

One of the main drivers of this concern is the rise of so-called "fake news" and disinformation, which can be spread rapidly & widely through social media and other online platforms. This has led to calls for effective media regulation, particularly regarding online content, to combat the spread of false information.

However, critics argue that such regulations could infringe upon freedom of expression and the ability of the media to hold those in power responsible. They also point out that governments and other powerful actors may use media law to silence dissenting voices and limit the public's access to information.

Overall, the relationship between media law and democracy is complex and multifaceted. While media law is crucial in ensuring that the media operates in the public interest, it is also essential to ensure that such laws do not unduly restrict the ability of the media to perform its vital role in promoting transparency, accountability, and democratic participation.

HISTORY & EVOLUTION OF MEDIA LAW

Until the British East India Company took control of a portion of India at the Battle of Plassey in 1757, there were no restrictions on the press.

Former British East India Company employee William Bolts sought but failed to start the first Indian newspaper in 1766. When newspapers were published in India, the ultimate punishment was the Editor's deportation from Europe. Its authority was confirmed by the Supreme Court of Judicature. To reside within the Corporation's territory, each immigrant was required to get a licence. The licence was cancelled if either of the officials found something they wrote or published to be unsatisfactory.

When Serampore missionaries published the first Samachar Darpan² Indian language journal on May 23, 1818, it appears that Lord Hastings removed pre-censorship as a result of the Fourth Estate's rising popularity in London and their readiness to create newspapers in India.

In addition, the corporation imposed directives prohibiting any association between employees and newspapers. This choice was made in response to an incident in Bombay (now Mumbai) in which a Governor's Council member was seen holding a newspaper. The licencing laws were replaced by Metcalfe's rule, which was applicable to the entire territory of the East India Company. It mandated that each newspaper's printer and publisher disclose the location of the premises where it would be published. But in 1857, Lord Canning brought back licencing and broadened it to cover all publications.

The passing of the Press and Registration of Books Act was the next key development in media law (25 of 1867). This Act is still in force, with sporadic little modifications. This Act was created with the intention of regulating printing presses and newspapers, safeguarding book copies, and certifying books.

The Vernacular Press Act was passed in 1878, at a time when the media in Indian became highly opportunistic. It was thorough and aimed to offer the press "greater control." It granted the authority to any district magistrate or police commissioner in a presidential town to ask a newspaper printer and publisher to sign a bond agreement pledging not to publish such material in order to claim protection.

To forfeit certain presses if necessary and confiscate any offensive printed material. No publisher or printer has been subjected to such action. They had the option of appealing to a court. Amrit Bazar Patrika, which was bilingual prior to this Legislation, was intended to be silenced. The clever owner, however, wasted this chance by immediately switching it to an English-language paper and requesting protection. To forfeit certain presses if necessary and confiscate any offensive printed material.

The Swadeshi Movement and the partition of Bengal marked the peak of public and media opposition to the government. The Newspaper (Incitement to Offences) Act, passed by the government in June 1908, gave local governments the authority to pursue legal action against any newspaper editor who published anything intended to incite uprising. Seven presses have

² *ibid*

been seized as a result of the nine cases that have been launched under this Act. After that, a law called the 1910 Press Act, which had a clause like the Vernacular Press Act and encouraged the government to seek protection from any newspaper.

The Press Laws Inquiry Committee was constituted by the Provisional Government in March 1947 to look into press regulations prior to independence. The Committee turned in its findings on May 22, 1948, following India's independence and division. The Press (Objectionable Matter) Act of 1951 repealed the Act of 1931 based on the recommendations of that commission. But because of how supportive the environment was of press freedom; it was ruled to be unlawful in February 1956 and repealed in 1957. Everyone has the right to free speech and expression under the Indian Constitution, which courts have construed to also encompass freedom of the press.

The enactment of emergency measures and censorship in June 1975 was the strongest barrier to press freedom in India. But, once the then-ruling party was defeated in the 1977 General Elections, citizens were discouraged from imitating them. After 1977, the liberal mindset took hold, and it affected broadcasting. Prasar Bharti was founded on September 15, 1997, following the notification of the Prasar Bharti Act, despite the proposal for an autonomous organisation to oversee All India Radio and Doordarshan being approved.

India is one of the most tolerant nations in the world when it comes to media freedom, despite the Government not yet allowing private radio news. Media freedom in India has increased with the implementation of the Access to Information Act of 2005.

CONCEPT OF MEDIA LAW

*Media law*³ is the legal regulations governing media content's production, distribution, and consumption. It is a broad area of law covering various media forms, including print, broadcast, and digital media.

Media law covers a wide range of legal issues related to media, such as freedom of speech, defamation, copyright infringement, intellectual property, privacy, and access to information. The laws aim to ensure that the media operate within ethical and legal boundaries and that the rights of individuals and society are protected. Media law applies to various media industries,

³ Anuradha and Atul Dua, In brief: media law and regulation in India, Lexology, (2019)

including journalism, advertising, entertainment, and telecommunications. The laws also vary depending on the country and jurisdiction in which they are applied.

In summary, media law is essential to ensure that media organizations operate within legal and ethical boundaries while respecting individual and societal rights. It is an ever-changing area of law that reflects the evolution of media technology and the social, political, and cultural changes that come with it.

LIST OF LAWS AND REGULATIONS GOVERNING THE MEDIA SECTOR⁴

1. The Press & Registration of Books Act of 1867
2. Central Rules for the Registration of Newspapers, 1956
3. The Order of the Press and Registration Appellate Board (Practice and Procedure), 1961
4. The Press Council Act of 1978.
5. Press Council Rules of 1979
6. Rules of the Press Council (Procedure for Nomination of Members), 1978
7. The Press Council (Inquiry Procedure) (Amendment) Regulations, 2006.
8. The Press Council (Procedure for Meetings and Business) Regulations, 1979
9. Regulations of the Press Council of India (Grant of Certified Copies), 1999
10. Working Journalists & Other Newspaper Employees (Conditions of Service) & Other Provisions Act, 1955
11. Working Journalists (Conditions of Service) and Other Provisions Rules, 1957

NEED FOR MEDIA LAW

The need for media law arises from several factors:

Defending the Right to Free Expression:

Although the right to free speech is an essential human right, it must also be balanced with other rights such as privacy, reputation, and national security. Media law provides a framework to balance these competing interests and ensure that individuals and organizations can use their freedom of expression while respecting other people's rights.

⁴ Dr Archana and Rahul Tripathi: "Media Laws in India: Origin, Analysis and Relevance in Present Scenario, Vol 7 Issue 2 IJHSSI 13, (13-15) (2018)

Preventing Harm:

Media can be a powerful tool for disseminating information and shaping public opinion. However, this power can also be misused to spread false information, incite violence or hatred, or invade privacy. Media law helps prevent such harm by imposing legal obligations on media organizations and individuals to ensure they act responsibly and ethically.

Regulating the Industry:

The media industry is complex and diverse, encompassing various forms of media and a range of actors, including journalists, editors, publishers, and broadcasters. Media law provides a framework for regulating the industry and ensuring that media organizations comply with legal and ethical standards.

Promoting Accountability:

Media law also helps promote accountability by providing legal remedies for individuals harmed by media organizations or individuals. This includes providing mechanisms for individuals to seek redress for defamation, invasion of privacy, or other forms of harm caused by the media.

Media law plays a crucial function in ensuring that the press operates responsibly and ethically while protecting the fundamental human right of freedom of speech.

OBJECTIVES OF MEDIA LAW

The main goal of media law is to safeguard the rights of individuals and institutions involved in the media industry and to ensure that the media operates within legal and ethical boundaries.

Some of the critical purposes of media law include the following:

Protecting speech and the press rights:

Media law protects the freedom of speech and guarantees that the media can report on public interest without fear of censorship or retribution.

Promoting responsible journalism:

Media law establishes ethical standards for journalists and media organizations and holds them accountable for reporting accurate and truthful information.

Protecting privacy and personal rights:

Media law limits the publication of personal information and protects individuals from defamation, invasion of privacy, and other forms of harm caused by the media.

Regulating media ownership and competition:

Media law aims to prevent monopolies and promote diversity and competition in the media industry.

Protecting intellectual property rights:

Media law protects the intellectual property rights of authors, journalists, and media companies and establishes rules for using copyrighted material.

Overall, media law plays an essential role in ensuring that the media operates pretty, responsibly, and transparently while protecting the rights and interests of all parties involved.

TYPES OF MEDIA LAWS

Several media laws govern how various media outlets operate in India. Some of the prominent media laws in India are:

1978 Press Council Act:

It establishes the Indian Press Council, whose duty it is to uphold journalistic standards and guarantee press freedom.

Regulatory Act for Cable Television Networks of 1995:

This Act creates the Cable Television Networks Regulatory Authority and controls how cable television networks are run in India.

Information Technology Act, 2000

This Act regulates electronic communication and internet use in India.

Copyright Act, 1957:

This law defends the legal interests of writers and publishers of original literary, theatrical, musical, and artistic works.

Cinematograph Act, 1952:

This Act regulates the exhibition of films in India and establishes the Central Board of Film Certification.

Information Rights Act, 2005:

Citizens in India have the right to access information that is held by governmental entities thanks to this Act.

Indian Advertising Standards Council Code:

This code is a self-regulating framework that governs advertising content in India.

Indian Broadcasting Foundation (IBF) Code:

The content of television channels in India is governed by this code.

Rules of Cable Television (1994):

This prescribes the standards for the operation of cable television networks in India.

Telecom Regulatory Authority of India (TRAI) Regulations:

These regulations govern the telecommunications industry in India and regulate the functioning of telecom service providers.

LOOPHOLES - THE MEDIA EXPLOITS

Every law has its loopholes & every conglomerate auxiliary to that discrete guidelines tries its utmost might to exploit them to earn profits at full tilt. How they exploit these loopholes is as follows:

a) **Media Ownership Restrictions:**

Indian media is highly concentrated in the hands of a few voluminous corporations, resulting in biased and one-sided reporting. This is primarily due to a need for stricter media ownership regulations.\

b) Lack of Independent Regulatory Bodies:

Despite the existence of numerous independent regulatory bodies, such as the National Broadcasting Authority (NBA), the Indian Broadcasting Federation of India (IBFI) and the Press Council of India (PCI), they are ineffective in regulating the media. Because media corporations can easily exploit these loopholes, this has resulted in manipulating media content to influence public opinion.

c) Inadequate Advertising Regulations:

Indian media is subject to insufficient advertising regulations allowing advertisers to manipulate content. This allows propaganda to be broadcast during programs.

d) Loopholes in Media Finance:

Media companies frequently use financial loopholes to avoid regulations, which leads to unethical behaviour. This includes buying the public's attention through product placement, sponsorships, and advertorials.

e) Endogenous Reporting Bias:

The Indian media is heavily biased and reports from a specific point of view, which is frequently the perspective of powerful corporations. Its objectivity is questioned, as news outlets cover the same topic differently and fail to provide an unbiased perspective.

f) Lack of Transparency:

Regarding its sources and the true agenda behind its articles, Indian media frequently lacks transparency.

CONCLUSION

Media law is crucial because it establishes a framework for people working in the media industry to operate within and safeguards the right of the public to information. Independence of expression is fundamental in democratic societies, and media law is critical to protecting those rights. Media law also includes regulations and standards the media industry must follow, such as copyright, libel, privacy, and obscenity. It is a complex area of law that can be difficult

to navigate due to different regulations in different countries. All parties must uphold media law and protect the public's right to information and expression are well prevented.