
DEMOCRACY, FREE EXPRESSION AND PRESS CENSORSHIP

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ABSTRACT

Democracy is one of the best products of human civilization and the space of democracy has been shrinking all over the world including India. As per the observation of various independent national and international bodies curtailing press freedom is one of the prominent outcomes in this milieu. The Press has been universally recognized as an embodiment of truth for the high ethical standards of objectivity. It is a pivotal actor in the process of promoting pluralism in a country. India as a democracy has been going through relentless transformation since it adopted political emancipation in 1947. Paradoxically two strong notions came to the contemporary surface where freedom of the press is being muzzled by agencies of establishment and on the other hand, the press is also losing its integrity in a fiercely competitive open market system. In this context, the article will probe into the vulnerability and virtuous role of the press in contemporary India within the aspects of its social accountability, transparency, and intervention in its freedom on the part of the state and non-state actors.

Introduction

The relationship between democracy, free expression, and press censorship is a complex and crucial aspect of governance. Democracy thrives on the principles of free expression and a free press, which are essential for transparency, accountability, and the protection of individual rights. Press censorship, on the other hand, poses a threat to these fundamental democratic values by limiting the flow of information and stifling dissent.

Marxist philosophy emphasizes the importance of a free press in liberal democracies, viewing it as a tool for intellectual and political expression¹. This aligns with the argument that press freedom is intertwined with democracy, as highlighted in various studies². The freedom of the press not only serves as a watchdog for government accountability but also empowers civil society to protect and advance democratic norms³.

Press censorship often indicates authoritarian tendencies within a regime, where controlling information flow is a means of maintaining power and suppressing dissent⁴. Autocratic regimes are known to curtail press freedom as a way to shape public opinion and limit opposition⁵. This is further supported by the observation that authoritarian governments are more likely to infringe on press freedoms compared to democracies⁶.

The paradox of democracy lies in the delicate balance between free speech and the potential dangers it poses, such as misinformation and manipulation⁷. However, the benefits of a free and vibrant press in promoting transparency, democracy, and good governance have been

¹ Weaver, C. (2016). A marxist primer for critical public relations scholarship. *Media International Australia*, 160(1), 43-52. <https://doi.org/10.1177/1329878x16650735>

² Nisbet, E. C. and Stoycheff, E. (2011). Let the people speak. *Communication Research*, 40(5), 720-741. <https://doi.org/10.1177/0093650211429117>

³ Bethke, F. S. and Pinckney, J. (2019). Non-violent resistance and the quality of democracy. *Conflict Management and Peace Science*, 38(5), 503-523. <https://doi.org/10.1177/0738894219855918>

⁴ Rød, E. G. and Weidmann, N. B. (2015). Empowering activists or autocrats? the internet in authoritarian regimes. *Journal of Peace Research*, 52(3), 338-351. <https://doi.org/10.1177/0022343314555782>

⁵ Kozyreva, A., Herzog, S. M., Lewandowsky, S., Hertwig, R., Lorenz-Spreen, P., Leiser, M., ... & Reifler, J. (2023). Resolving content moderation dilemmas between free speech and harmful misinformation. *Proceedings of the National Academy of Sciences*, 120(7). <https://doi.org/10.1073/pnas.2210666120>

⁶ Gamso, J. (2021). Is China exporting media censorship? China's rise, media freedoms, and democracy. *European Journal of International Relations*, 27(3), 858-883. <https://doi.org/10.1177/13540661211015722>

⁷ Leigh, B. (2023). The paradox of democracy: free speech, open media, and perilous persuasion. by zac gershberg and seanilling. Chicago, il: University of Chicago press. 2022. \$20.00.. *Political Psychology*, 44(6), 1367-1370. <https://doi.org/10.1111/pops.12902>

demonstrated in various contexts⁸. In contrast, media censorship has been associated with higher levels of incarceration, suggesting a link between restrictions on press freedom and political repression⁹.

In conclusion, the interplay between democracy, free expression, and press censorship is a critical area of study in understanding the dynamics of governance and political systems. Upholding press freedom is essential for safeguarding democratic values, promoting accountability, and empowering civil society in the pursuit of a more transparent and just society.

Historical Context

Press censorship has a long historical context that has evolved. In the 18th century, the press in Europe was heavily censored, but public demand gradually led to a reduction in censorship by the 19th century¹⁰. The debate on press freedom was evident during the Enlightenment period, with discussions on the freedom of the press taking place in various intellectual circles¹¹. The roots of peer review, a form of censorship, can be traced back to the early twelfth century during the Inquisition and the early days of the printing press¹².

The impact of censorship extends beyond just controlling information; it can also influence public perception and resistance. Local communities have historically resisted censorship, as seen in the case of the local censorship controversy surrounding Monty Python's *Life of Brian* (Egan, 2020). Censorship can be a tool used by authoritarian regimes to control media freedoms, as evidenced by China's practices and potential export of censorship mechanisms¹³.

⁸ Skjerdal, T. (2010). Justifying self-censorship: a perspective from ethiopia. *Westminster Papers in Communication and Culture*, 7(2), 98. <https://doi.org/10.16997/wpcc.149>

⁹ Clark, R. and Herbolzheimer, C. (2021). The iron cage of development: a cross-national analysis of incarceration, 2000 – 2015. *Sociological Forum*, 36(2), 381-404. <https://doi.org/10.1111/socf.12683>

¹⁰ Abbasi, I. S. and Al-Sharqi, L. (2015). Media censorship: freedom versus responsibility. *Journal of Law and Conflict Resolution*, 7(4), 21-24. <https://doi.org/10.5897/jlcr2015.0207>

¹¹ Hellmuth, E. (1998). Enlightenment and freedom of the press: the debate in the Berlin *mittwochsgesellschaft*, 1783–1784. *History*, 83(271), 420-444. <https://doi.org/10.1111/1468-229x.00080>

¹² Gaudet, J. J. (2017). Investigating journal peer review as scientific object of study: unabridged version – part i.. <https://doi.org/10.31219/osf.io/kmcen>

¹³ Gamso, J. (2021). Is China exporting media censorship? China's rise, media freedoms, and democracy. *European Journal of International Relations*, 27(3), 858-883. <https://doi.org/10.1177/13540661211015722>

Press censorship in India has a complex historical background that has evolved. Prasad (2020)¹⁴ delves into the period between 1780 and 1823, highlighting the transition from press censorship to press licensing during colonial governance in India. This shift marked a significant change in the control mechanisms applied to the press. Kumar (2017)¹⁵ further explores the contemporary scenario by analyzing the power dynamics and censorship within the Indian media, considering constitutional and legal frameworks. The study emphasizes the impact of power structures on media freedom and the implications of censorship in a democratic setup.

The discussion on press censorship in India cannot be divorced from broader geopolitical and economic contexts. Lubinski & Wadhvani (2019)¹⁶ highlight the role of multinational corporations in navigating political strategies within rising nationalism, drawing parallels to historical cases in colonial India. This geopolitical jockeying underscores the intricate relationship between economic interests, political strategies, and historical legacies in shaping censorship practices.

After India achieved independence in 1947, significant events and laws influenced press censorship in the country. The Indian Constitution of 1950 and the establishment of the Indian Press Commission in 1952 played crucial roles in safeguarding freedom of speech and expression¹⁷. The Cinematograph Act of 1918 marked the beginning of film censorship in British India, allowing the colonial government to censor content that could be seen as a misrepresentation of the West or incite insurrection among the local population¹⁸. Additionally, the passing of the 1966 Press Law replaced the 1938 Press Law, further regulating publications during that period¹⁹.

¹⁴ Prasad, R. (2020). Imprimatur as adversary: press freedom and colonial governance in India, 1780–1823. *Modern Asian Studies*, 55(2), 335-370. <https://doi.org/10.1017/s0026749x19000374>

¹⁵ Kumar, L. R. (2017). Muscle or muzzle? a critical analysis of media, power and censorship in democratic india. *International Journal of Media & Cultural Politics*, 13(1), 75-89. https://doi.org/10.1386/macp.13.1-2.75_1

¹⁶ Lubinski, C. and Wadhvani, R. D. (2019). Geopolitical jockeying: economic nationalism and multinational strategy in historical perspective. *Strategic Management Journal*, 41(3), 400-421. <https://doi.org/10.1002/smj.3022>

¹⁷ Rosas-Moreno, T. C. and Ganapathy, D. (2019). Has India's tripartite cooperation with Brazil and South Africa helped it combat human trafficking? a news media framing analysis spanning two decades. *Journalism*, 22(7), 1831-1850. <https://doi.org/10.1177/1464884919831093>

¹⁸ Nair, K. (2012). Taste, taboo, trash: the story of the ramsay brothers. *BioScope: South Asian Screen Studies*, 3(2), 123-145. <https://doi.org/10.1177/097492761200300203>

¹⁹ O'Leary, C. (2019). From littérature engagée to engaged translation: staging jean-paul sartre's theater as a challenge to Franco's rule in spain. *Perspectives*, 29(1), 124-140. <https://doi.org/10.1080/0907676x.2019.1699585>

In more recent times, amendments to laws in India have restricted press freedom, enabling government monitoring of journalists. For instance, Press Law 96 of 1996 prohibited censorship, while the Combating Information and Communications Technology Crimes Law further limited press freedom²⁰. Furthermore, the Royal Decree 24/1977 in Spain, known as the Anti-Label Law, was a significant step towards dismantling administrative censorship and promoting freedom of speech²¹.

Press censorship in India has been influenced by a dispersed network of state power, commercial pressures, and self-censorship, as demonstrated through analyses of laws, reports, and interviews with journalists²². The impact of media censorship and governmental control on press freedom has been a topic of debate, with some arguing that while harmful to democracy, there may be potential benefits²³.

In conclusion, a combination of historical events, constitutional provisions, and legislative actions has shaped press censorship in India over the years. From the early days of independence to contemporary challenges, the interplay between legal frameworks, government regulations, and societal pressures continues to influence the landscape of press freedom in the country.

Constitution and Laws regarding Press Freedom

Press censorship in India has been a topic of significant interest concerning democracy and the Indian Constitution. Following India's independence in 1947, the Indian Constitution of 1950 and the Indian Press Commission established in 1952 ensured freedom of speech and expression²⁴. However, historical contexts reveal that severe press censorship was

²⁰ AlAshry, M. S. (2023). Arab authorities use digital surveillance to control press freedom: journalists' perceptions. *Digital Policy, Regulation and Governance*, 25(3), 250-266. <https://doi.org/10.1108/dprg-05-2021-0071>

²¹ Martin, G. (2021). New approaches to translation, conflict and memory: narratives of the Spanish civil war and the dictatorship. *Translation Studies*, 15(2), 223-225. <https://doi.org/10.1080/14781700.2021.1899981>

²² Yeşil, B. (2014). Press censorship in turkey: networks of state power, commercial pressures, and self-censorship. *Communication, Culture & Critique*, 7(2), 154-173. <https://doi.org/10.1111/cccr.12049>

²³ Patten, D. and Storch, J. (2023). Forgive and regret: a comparative analysis of the role of forgiveness in the US and Rwandan criminal justice systems. *Correctional Facilities and Correctional Treatment - International Perspectives*. <https://doi.org/10.5772/intechopen.108044>

²⁴ Rosas-Moreno, T. C. and Ganapathy, D. (2019). Has India's tripartite cooperation with Brazil and South Africa helped it combat human trafficking? a news media framing analysis spanning two decades. *Journalism*, 22(7), 1831-1850. <https://doi.org/10.1177/1464884919831093>

implemented during the colonial era to shield the government from public criticism²⁵. The Indian judiciary has played a crucial role in interpreting constitutional provisions to protect fundamental rights, including freedom of the press²⁶.

In the broader context of democracy, the press plays a vital role as the fourth pillar, ensuring transparency and accountability²⁷. While the Constitution guarantees freedom of the press, challenges persist, such as harassment and intimidation of journalists, impacting media freedom²⁸. The presence of a free press is essential for a healthy democracy, providing a platform for dissent and accountability²⁹. Additionally, press freedom levels are instrumental in determining the quality of government and democracy³⁰.

The relationship between press censorship and democracy is complex. While high levels of press censorship indicate a regime's fear of public opinion³¹, some argue that a controlled press may have benefits, albeit with potential harm to democracy³². In contrast, media convergence poses challenges to traditional press roles, necessitating new regulatory frameworks to balance accountability and freedom³³.

In conclusion, the Indian Constitution's provisions for press freedom have been pivotal in upholding democratic values. However, challenges such as historical censorship legacies and

²⁵ Sehgal, M. and Sehrawat, S. (2019). Scandal in mesopotamia: press, empire, and India during the first world war. *Modern Asian Studies*, 54(5), 1395-1445. <https://doi.org/10.1017/s0026749x18000215>

²⁶ Singh, V. P. (2023). Judicial activism as an essential tool for the protection and expansion of human rights in india. *Kutafin Law Review*, 10(1), 88-109. <https://doi.org/10.17803/2713-0533.2023.1.23.088-109>

²⁷ Kriswanto, K. and Chansrakaeo, R. (2022). The state's responsibility to the journalist profession: the problems of the journalist competency test. *Syiah Kuala Law Journal*, 6(1), 108-119. <https://doi.org/10.24815/sklj.v6i1.28311>

²⁸ Chang, A. C. and Tang, Y. (2023). The political foundation of mainstream media trust in east and southeast asia: a cross-national analysis. *Asian Politics & Policy*, 15(4), 585-604. <https://doi.org/10.1111/aspp.12715>

²⁹ Whitten-Woodring, J. (2009). Watchdog or lapdog? media freedom, regime type, and government respect for human rights. *International Studies Quarterly*, 53(3), 595-625. <https://doi.org/10.1111/j.1468-2478.2009.00548.x>

³⁰ A, A. S. (2011). Law, democracy and the quality of government in africa. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2493175>

³¹ Rød, E. G. and Weidmann, N. B. (2015). Empowering activists or autocrats? the internet in authoritarian regimes. *Journal of Peace Research*, 52(3), 338-351. <https://doi.org/10.1177/0022343314555782>

³² Patten, D. and Storch, J. (2023). Forgive and regret: a comparative analysis of the role of forgiveness in the US and Rwandan criminal justice systems. *Correctional Facilities and Correctional Treatment - International Perspectives*. <https://doi.org/10.5772/intechopen.108044>

³³ Gibbons, T. (2016). Conceptions of the press and the functions of regulation. *Convergence: The International Journal of Research Into New Media Technologies*, 22(5), 484-487. <https://doi.org/10.1177/1354856516660809>

contemporary threats to media freedom persist. Balancing press freedom with accountability remains crucial for sustaining a healthy democracy in India.

Challenges to Press Freedom

Government regulations play a significant role in hindering press freedom in India. The country has laws such as the Official Secrets Act³⁴, which can be used to restrict journalists from reporting on certain sensitive issues. Additionally, laws like the sedition law and criminal defamation can be misused to intimidate journalists and media organizations, leading to self-censorship.

In India, press freedom faces various challenges due to government regulations and other factors. Some of the key issues include:

- 1. Laws on defamation:** India has stringent defamation laws that can be used to silence journalists and media outlets. Section 499 of the Indian Penal Code criminalizes defamation, and journalists can face legal action for publishing critical articles about individuals or institutions.
- 2. Sedition laws:** Section 124A of the Indian Penal Code, which deals with sedition, has been used to target journalists and activists who criticize the government or state policies. This law is often criticized for its vague and broad language, which can be interpreted to suppress dissent and freedom of speech.
- 3. Contempt of court:** The judiciary in India has the power to hold individuals, including journalists, in contempt for actions or publications that are perceived as undermining the authority or dignity of the courts. While contempt laws are intended to uphold the integrity of the judiciary, they can also restrict press freedom by discouraging critical reporting on judicial matters.
- 4. Restrictive media regulations:** The government has the authority to impose restrictions on media organizations through regulations and licensing requirements. These regulations can be used to control the content and operations of media outlets, limiting their ability to report freely

³⁴ Office, S. (1920). *Official Secrets Act 1920*.

on sensitive issues.

5. Surveillance and censorship: There have been concerns about government surveillance of journalists and censorship of online content. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, for instance, empower the government to demand the removal of content deemed to be against national interests or public order, which can have a chilling effect on freedom of expression.

6. Ownership and control: Media ownership in India is concentrated in the hands of a few major corporations, which can influence editorial policies and limit diversity of viewpoints. This concentration of ownership can result in self-censorship and bias in reporting.

7. Violence and harassment: Journalists in India often face physical violence, intimidation, and harassment, especially when reporting on sensitive issues such as corruption, communal tensions, or human rights abuses. Perpetrators of such attacks are rarely held accountable, leading to a culture of impunity.

These are some of how government regulations and other factors can hinder press freedom in India. However, it's important to note that despite these challenges, India also has a vibrant and diverse media landscape with many journalists and media organizations committed to upholding democratic values and holding power to account.

Political pressure is another major challenge faced by the press in India. Politicians often use their power to influence media coverage, either by providing incentives to media outlets that support them or by threatening those who criticize them. This can lead to biased reporting and a lack of diversity in the media landscape.

Censorship tactics are also commonly employed to suppress press freedom in India. The government has been known to block websites, revoke licenses, and even arrest journalists who are critical of the authorities. Online censorship is particularly prevalent, with the government frequently ordering social media platforms to take down content that is deemed objectionable. Here are some common tactics:

1. Advertising Revenue: Governments may use control over advertising revenue as a means to influence media outlets. By selectively allocating government advertising contracts to

friendly or compliant media organizations, governments can incentivize favorable coverage and punish dissenting voices.

2. Selective Access to Information: Governments may restrict access to information by selectively leaking or withholding crucial details from journalists, thereby controlling the narrative and preventing critical reporting.

3. Legal Intimidation: Politicians or government officials may file defamation or libel lawsuits against journalists or media organizations to intimidate them into silence or self-censorship. The threat of expensive legal battles and potential jail time can deter journalists from pursuing investigative reporting or publishing critical stories.

4. Threats and Harassment: Journalists critical of the government may face threats, harassment, or physical violence from political activists, organized groups, or even state actors. Such intimidation tactics aim to silence dissenting voices and create a chilling effect within the media community.

5. Internet and Social Media Regulation: Governments may impose restrictions on Internet and social media platforms to control the flow of information and suppress dissent. This can include blocking access to websites, censoring online content, or enacting laws to regulate digital media platforms and online speech.

6. Surveillance and Monitoring: Journalists and media organizations may be subjected to surveillance and monitoring by government agencies, intelligence services, or law enforcement authorities. This surveillance can be used to gather information on journalists' sources, activities, and communications, leading to self-censorship and fear of reprisals.

7. Ownership and Control: Political parties or individuals with close ties to the government may own or control media outlets, allowing them to dictate editorial policies and influence coverage to align with their interests. This concentration of media ownership can limit diversity of viewpoints and stifle independent journalism.

8. Manipulation of Regulatory Bodies: Governments may manipulate regulatory bodies responsible for overseeing the media industry to target critical journalists or media organizations. This can involve arbitrary enforcement of regulations, biased adjudication of

complaints, or politicized decisions on licensing and accreditation.

These tactics are often employed in combination to exert maximum pressure on journalists and media outlets, undermining press freedom and the public's right to information. Despite these challenges, many journalists in India continue to courageously report on issues of public interest, often at great personal risk, to hold those in power accountable and uphold democratic values.

Impact of Press Censorship on Democracy

Press censorship can have a significant impact on democracy, as evidenced by various studies. The presence of press freedom has been shown to positively influence corruption levels in countries with poor democratic norms, while in more democratic nations like Indonesia and Bangladesh, press freedom harms corruption³⁵. In the context of India, the media landscape is generally commended for its resemblance to the North Atlantic liberal model and its lack of state censorship³⁶. However, the nurturing of political dynasties at various levels in India has paradoxically influenced the democratic political discourse, showcasing a complex interplay between media, politics, and democracy³⁷.

A free press indirectly affects democracy through the establishment of good institutions, as highlighted in research on institutions and economic development³⁸. High levels of press censorship are often associated with regimes that are wary of public opinion and actively control domestic information flow, indicating a potential threat to democracy³⁹. Authoritarian governments are more prone to infringing on press freedoms compared to democracies, hinting at the potential diffusion of media censorship practices from countries like China⁴⁰.

³⁵ Shabbir, G., Farooq, A., & Ahmed, T. (2015). Sociopolitical institutions and corruption: does conditionality matter?. *Forman Journal of Economic Studies*, 11, 33-52. <https://doi.org/10.32368/fjes.20151103>

³⁶ Uppal, C. (2020). Mobilizing citizens at their level: a case study of public engagement. *Journalism Practice*, 15(5), 601-619. <https://doi.org/10.1080/17512786.2020.1753561>

³⁷ Ghosh, A. K. (2023). Understanding layered dominance of political dynasties in india: a de-hyphenated reading of dynastic representation and dynasty-led parties. *Asian Journal of Comparative Politics*, 8(3), 727-747. <https://doi.org/10.1177/20578911221147657>

³⁸ Roy, S. Three essays on institutions and economic development.. <https://doi.org/10.33915/etd.3111>

³⁹ Rød, E. G. and Weidmann, N. B. (2015). Empowering activists or autocrats? the internet in authoritarian regimes. *Journal of Peace Research*, 52(3), 338-351. <https://doi.org/10.1177/0022343314555782>

⁴⁰ Gamso, J. (2021). Is China exporting media censorship? China's rise, media freedoms, and democracy. *European Journal of International Relations*, 27(3), 858-883. <https://doi.org/10.1177/13540661211015722>

The impact of press censorship on democracy is further underscored by the fact that self-censorship persists among journalists even in countries like Nepal, which have seen improvements in democracy and press freedom⁴¹. Additionally, the presence of press censorship is a common trait of authoritarian regimes, where the suppression of press freedom is a fundamental aspect of maintaining control⁴². The potential underreporting of incidents like terrorism in countries with restricted press freedom further emphasizes the importance of a free press in upholding democratic values⁴³.

In conclusion, press censorship can have multifaceted implications for democracy, ranging from its influence on corruption levels to its role in shaping political discourse and public opinion. The interplay between press freedom, democracy, and governance underscores the delicate balance required to maintain a healthy democratic society.

Case Studies and Examples

High levels of press censorship in a country like India can indicate a government's wariness of public opinion and its active role in shaping domestic information dissemination⁴⁴. Such censorship practices are often associated with authoritarian regimes that seek to control narratives and suppress dissenting voices. In the context of India, where press freedom is essential for a vibrant democracy, instances of press censorship raise concerns about the free flow of information and the ability of the media to hold those in power accountable.

In modern times, issues of press censorship in India continue to be relevant, especially in high-profile criminal cases where witness tampering and public outrage can influence judicial outcomes⁴⁵. These cases highlight the delicate balance between freedom of the press and the need to ensure fair and unbiased reporting, particularly in cases of public interest.

Emphasizing the role of the press in upholding constitutional values, the SC drew a link between privacy and press freedom. The Court also stressed that the Right to Freedom of

⁴¹ Koirala, S. (2020). Practices of self-censorship among nepali journalists. *Advances in Media, Entertainment, and the Arts*, 72-82. <https://doi.org/10.4018/978-1-7998-1298-2.ch005>

⁴² Fuente, E. d. l. Limiting media freedom in democratic states.. <https://doi.org/10.26481/dis.20220624ef>

⁴³ Savun, B. and Phillips, B. J. (2009). Democracy, foreign policy, and terrorism. *Journal of Conflict Resolution*, 53(6), 878-904. <https://doi.org/10.1177/0022002709342978>

⁴⁴ Rød, E. G. and Weidmann, N. B. (2015). Empowering activists or autocrats? the internet in authoritarian regimes. *Journal of Peace Research*, 52(3), 338-351. <https://doi.org/10.1177/0022343314555782>

⁴⁵ O'Flaherty, B. and Sethi, R. (2009). Public outrage and criminal justice: lessons from the Jessica Lal case. *New and Enduring Themes in Development Economics*, 145-164. https://doi.org/10.1142/9789812839428_0007

Speech and Expression plays a key role in ensuring this freedom⁴⁶.

1. Manohar Lal Sharma v Union of India⁴⁷

On July 18th, an international consortium of 17 media organizations and Amnesty International called the Pegasus Project leaked a list of 50,000 phone numbers that were potentially targeted by the Pegasus Spyware. Multiple petitions were filed by affected journalists, activists, and politicians, demanding a judicial probe to investigate the Indian government's use of the spyware.

On October 27th, the Court passed an interim order in Manohar Lal Sharma v Union of India, constituting a Technical Committee to conduct the Pegasus probe. The Bench emphasized that even a lawful encroachment on the Right to Privacy has to be proportional to the purpose of the law. The Union Government cannot invoke national security to evade accountability. The Bench recognized the link between the Right to Privacy and Freedom of Speech, noting that a breach of privacy can lead to self-censorship. They said that press freedom and privacy were allies and that the fear of surveillance is an 'assault' on the press, which is the fourth pillar of democracy.

The Bench appointed a Technical Committee to be overseen by former Supreme Court Justice R.V. Raveendran. This Committee will determine whether Pegasus was used to surveil Indian citizens and whether it was done lawfully. They must also make recommendations on improving the nation's cybersecurity measures to protect citizen's Right to Privacy and provide grievance redressal mechanisms in cases of illegal surveillance.

2. Vinod Dua v Union of India⁴⁸

The late Journalist Vinod Dua was charged with sedition over a YouTube video he made in 2021, criticizing the government. He challenged the FIR, arguing that he was merely exercising his rights under Article 19(1)(a) of the Constitution and that the offense of sedition was not

⁴⁶ *SC Judgement Review 2021 : Freedom of the Press*. (2021, December 21). scobserver.in. Retrieved April 18, 2024, from <https://www.scobserver.in/journal/sc-judgment-review-2021-freedom-of-the-press-pegasus-manohar-lal-sharma-vinod-dua/>

⁴⁷ WRIT PETITION (CRL.) NO. 314 OF 2021 ...PETITIONER UNION OF INDIA AND ORS. With WRIT PETITION (CIVIL) NO. 826

⁴⁸ Writ Petition (Criminal) No.154 of 2020 Vinod Dua vs. Union of India & Ors.

made out. He also sought directions to ensure that no FIR be registered against a person belonging to the media with at least 10 years of standing unless cleared by a Judicial Committee

On June 3rd, a two-judge bench of the Court quashed the FIR but rejected the plea of a committee for screening FIRs on journalists. Relying on the judgment in **Indian Express Newspapers (Bombay) Private Ltd v Union of India**⁴⁹ The Court stated that the freedom of the press was the '*heart of social and political intercourse*'.

Role of Social Media in Shaping Free Expression

Social media and digital platforms have significantly influenced free expression by shaping information dissemination and impacting users' freedom of expression⁵⁰. Governments have increasingly used these platforms to impose restrictions on free expression and engage in surveillance. Social media has evolved into a crucial medium for individuals to exercise their right to free speech⁵¹. Platforms like Google and Facebook play a pivotal role in enabling public expression and shaping social, political, and economic interactions. These platforms, while claiming neutrality, are primarily developed by private companies with their interests⁵².

Digital platforms not only facilitate socialization and online expression but also contribute to the increase in their number and types globally⁵³. The interaction between digital platform-related factors and entrepreneurs' capabilities can shape the performance of ventures and the success of digital platforms for distributed entrepreneurship⁵⁴. Furthermore, digital platforms have been shown to enhance organizational innovation performance⁵⁵. The role of digital

⁴⁹ <https://main.sci.gov.in/judgment/judis/570.pdf>

⁵⁰ Fathaigh, R. Ó., Moeller, J., & Bellanova, R. (2021). Digital platforms and the digitisation of government surveillance. *AoIR Selected Papers of Internet Research*. <https://doi.org/10.5210/spir.v2021i0.12220>

⁵¹ Psychogiopoulou, E. and Casarosa, F. (2020). Social media before domestic courts in Europe: an analysis of free speech cases. *Maastricht Journal of European and Comparative Law*, 27(6), 791-805. <https://doi.org/10.1177/1023263x20979191>

⁵² Nielsen, R. K. and Ganter, S. A. (2017). Dealing with digital intermediaries: a case study of the relations between publishers and platforms. *New Media & Society*, 20(4), 1600-1617. <https://doi.org/10.1177/1461444817701318>

⁵³ Chen, J. Y. and Qiu, J. L. (2019). Digital utility: datafication, regulation, labor, and didi's platformization of urban transport in China. *Chinese Journal of Communication*, 12(3), 274-289. <https://doi.org/10.1080/17544750.2019.1614964>

⁵⁴ Nambisan, S. (2017). Digital entrepreneurship: toward a digital technology perspective of entrepreneurship. *Entrepreneurship Theory and Practice*, 41(6), 1029-1055. <https://doi.org/10.1111/etap.12254>

⁵⁵ Khattak, A. (2022). Hegemony of digital platforms, innovation culture, and e-commerce marketing capabilities: the innovation performance perspective. *Sustainability*, 14(1), 463. <https://doi.org/10.3390/su14010463>

strategic agility and platform capabilities is crucial for knowledge-intensive enterprises⁵⁶.

Social media tools are instrumental in setting governmental schemas and shaping public opinion⁵⁷. Scholars have also explored the impact of social media on populism and electoral campaigning, highlighting the role of these platforms in the development of such movements⁵⁸. Additionally, the link between freedom of expression, community participation, and disaster risk reduction has been examined in the context of digital feedback channels provided by aid and government agencies⁵⁹.

In conclusion, social media and digital platforms play a multifaceted role in shaping free expression, influencing public discourse, enabling activism, and impacting governance and societal dynamics. These platforms have become integral to modern communication and have implications for democracy, individual rights, and social interactions.

Diplomatic Implications of Press Censorship

Press censorship in India can have significant diplomatic implications on the country's global image. Mehta & Kaye (2021)⁶⁰ highlight how media censorship in India can obscure autocracy and Hindutva ideology in governance, potentially impacting how India is perceived internationally. By controlling the narrative through censorship, the Indian government's motives and actions can be misrepresented, affecting its standing on the global stage. Dey (2023)⁶¹ discusses how diplomacy can be used as a tool for deterrence, suggesting that India's diplomatic efforts are crucial in shaping its international image and relationships. The way

⁵⁶ Liu, Y., Chung, H. F., Zhang, Z., & Wu, M. (2023). When and how digital platforms empower professional services firms: an agility perspective. *Journal of Service Theory and Practice*, 33(2), 149-168. <https://doi.org/10.1108/jstp-04-2022-0092>

⁵⁷ Patel, K. C., Binjola, H., & Siddiqui, T. (2020). Indian social media politics: new era of election war. *RUDN Journal of Studies in Literature and Journalism*, 25(1), 184-192. <https://doi.org/10.22363/2312-9220-2020-25-1-184-192>

⁵⁸ Siles, I., Guevara, E., Jiménez, L. M. T., & Barrantes, C. C. (2021). Populism, religion, and social media in central america. *The International Journal of Press/Politics*, 28(1), 138-159. <https://doi.org/10.1177/19401612211032884>

⁵⁹ Longboan, L. (2018). "i don't want trouble". *Disaster Prevention and Management: An International Journal*, 27(4), 380-392. <https://doi.org/10.1108/dpm-01-2018-0021>

⁶⁰ Mehta, S. and Kaye, D. B. V. (2021). Media censorship: obscuring autocracy and hindutva-ideology in Indian governance. *Communication, Culture and Critique*, 14(3), 524-528. <https://doi.org/10.1093/ccc/tcab036>

⁶¹ Dey, S. (2023). Is diplomacy a new tool for deterrence?. *Journal on Political Sciences & International Relations*, 1-8. [https://doi.org/10.47363/jpsir/2023\(1\)102](https://doi.org/10.47363/jpsir/2023(1)102)

India engages with global issues and presents itself diplomatically can influence how it is viewed by other nations.

Furthermore, press censorship can shape the discourse around key topics like climate change, as seen in the study (Billett, 2009)⁶². The framing of issues in the media can create a nationalistic position that may impact how India is perceived in the global environmental arena. Additionally, the study by Afzaal (2021)⁶³ on the image of China in diplomatic discourse emphasizes how press releases and media representations play a role in constructing the ideological image of countries, which can extend to how India's image is portrayed in international relations.

Overall, press censorship in India can affect its global image by influencing the narrative around key issues, shaping diplomatic relationships, and potentially obscuring certain aspects of governance. How India manages its media landscape and engages in diplomatic efforts can significantly impact how the country is perceived on the world stage.

Emerging Challenges to Press Freedom in India

Press freedom in India has faced various challenges influenced by historical and contemporary factors. Following India's independence in 1947, the Press Law Enquiry Committee considered the Official Secrets Act essential for national interests, aiming to strike a balance between freedom and national security⁶⁴. However, during the Emergency period, there was a direct exertion of control over press autonomy, leading to the abolition of bodies like the Press Council of India⁶⁵. The constitution and press commissions in the 1950s initially guaranteed freedom of speech and expression⁶⁶. Recent challenges to press freedom in Melanesia underscore a global trend where governments and powerful groups are increasingly challenging

⁶² Billett, S. (2009). Dividing climate change: global warming in the Indian mass media. *Climatic Change*, 99(1-2), 1-16. <https://doi.org/10.1007/s10584-009-9605-3>

⁶³ Afzaal, M. (2021). Exploring image of China in diplomatic discourse: a critical discourse analysis. *Journal of Development and Social Sciences*, 2(IV), 120-133. [https://doi.org/10.47205/jdss.2021\(2-iv\)11](https://doi.org/10.47205/jdss.2021(2-iv)11)

⁶⁴ Ankit, R. (2023). Dewan chaman lall: from trade unions to the indian union, 1946–1966. *Studies in Indian Politics*, 11(2), 192-204. <https://doi.org/10.1177/23210230231203771>

⁶⁵ Ohm, B., Parthasarathi, V., & Ståhlberg, P. (2019). Untitled. *Culture Unbound*, 10(3). <https://doi.org/10.3384/cu.2000.1525.18103>

⁶⁶ Rosas-Moreno, T. C. and Ganapathy, D. (2019). Has India's tripartite cooperation with Brazil and South Africa helped it combat human trafficking? a news media framing analysis spanning two decades. *Journalism*, 22(7), 1831-1850. <https://doi.org/10.1177/1464884919831093>

media independence⁶⁷.

The relationship between emerging media technologies, press freedoms, and political conflicts is crucial, as evidenced by established linkages between them⁶⁸. The proliferation of poor-quality open-access journals due to press freedom and internet access presents challenges in the scientific publishing domain⁶⁹. Furthermore, the legalization of press control during democratic backsliding can restrict press freedom through legal means⁷⁰. The global decline in freedom of speech and the press, influenced by dictatorships, further compounds challenges to open societies⁷¹.

In India, the discourse of diversity and inclusion, as enshrined in the constitution, plays a significant role in safeguarding individual freedoms⁷². The judiciary and governmental institutions continue to grapple with issues such as religious freedom, reflecting the ongoing struggle to balance rights and societal norms⁷³. Additionally, the empowerment of socially disadvantaged groups is emerging as a potent political tool in India, shaping narratives around diversity and empowerment⁷⁴.

Addressing press censorship in India necessitates a comprehensive approach that takes into account historical contexts, global governance practices, technological advancements, and lessons from other nations. Reforms should aim to strike a balance between the necessity for regulation and the preservation of press freedom. It is crucial to proceed with caution to prevent

⁶⁷ Backhaus, B. (2020). Talking the talk: navigating frameworks of development communication. *Pacific Journalism Review : Te Koakoa*, 26(1), 164-177. <https://doi.org/10.24135/pjr.v26i1.1070>

⁶⁸ Groshek, J. and Christensen, B. (2016). Emerging media and press freedoms as determinants of nonviolent and violent political conflicts, 1990–2006. *International Communication Gazette*, 79(4), 335-356. <https://doi.org/10.1177/1748048516682139>

⁶⁹ Kebede, M., Schmaus-Klughammer, A. E., & Tekle, B. T. (2017). Manuscript submission invitations from ‘predatory journals’: what should authors do?. *Journal of Korean Medical Science*, 32(5), 709. <https://doi.org/10.3346/jkms.2017.32.5.709>

⁷⁰ Lee, F. and Chan, C. (2022). Legalization of press control under democratic backsliding: the case of post-national security law Hong Kong. *Media, Culture & Society*, 45(5), 916-931. <https://doi.org/10.1177/01634437221140525>

⁷¹ Moghaddam, F. M. (2021). Peace psychology and the deadly competition between democracy and dictatorship. *Peace and Conflict: Journal of Peace Psychology*, 27(3), 337-338. <https://doi.org/10.1037/pac0000577>

⁷² Bose, A. C. (2023). Learner diversity in higher education: articulations of diverse subjectivities through everyday life experiences. *Society and Culture in South Asia*, 9(2), 264-298. <https://doi.org/10.1177/23938617231156549>

⁷³ Tripathi, N. and Kumar, A. (2022). The constitutional struggle for religious freedom: a comparative study of India and Indonesia. *Constitutional Review*, 8(1), 1. <https://doi.org/10.31078/consrev811>

⁷⁴ Cooke, F. L. and Saini, D. S. (2012). Managing diversity in Chinese and Indian organizations: a qualitative study. *Journal of Chinese Human Resources Management*, 3(1), 16-32. <https://doi.org/10.1108/20408001211220548>

the infringement of constitutionally guaranteed freedoms⁷⁵. Drawing lessons from experiences in countries like Turkey, where press censorship is enforced through a combination of state power, commercial influences, and self-censorship, can offer valuable insights into the complexities of censorship systems⁷⁶.

Conclusion

Democracy, free expression, and press censorship are interconnected and complex issues that have been at the forefront of discussions in India. Over the years, India has made significant progress in establishing itself as the world's largest democracy. However, the challenges faced by democracy in India regarding free expression and press censorship cannot be ignored. The media, especially social media, plays a crucial role in shaping public opinion and facilitating the free flow of information in a democratic society. Social media has become a powerful tool for conveying and disseminating opinions, allowing individuals to express themselves freely and engage in public discourse. However, the freedom of expression and the expression of opinions in India have faced challenges from both the government and other powerful entities. The enactment of the Information Technology Act in 2008 has posed significant challenges to freedom of expression and press freedom in India. Under this law, individuals who express their opinions or report on those in power, including government officials, can face legal consequences. The law has been used to punish and control individuals who speak out against the government or criticize its actions. Despite the protection of freedom of expression in various international human rights treaties, there is a worrying global trend of governments, including in Western democracies, limiting vibrant discussions and debates within civil society. In India, this trend is evident in the declining press freedom rankings. According to the Press Freedom Index published by Reporters Without Borders, India's press freedom rank dropped from 140 in 2019 to 142 in 2020. This decline highlights the increasing restrictions on media and journalists, including imprisonment for spreading fake news through social or mass media platforms. These restrictions not only impede journalists' ability to cover stories and bring them to the public, but also infringe on the intellectual, moral, and fundamental rights of citizens. The challenges to freedom of expression and press freedom in India have sparked

⁷⁵ Baba, K. M. M., Alkuino, K. A. S., Tictic, E. P., & Dungog-Cuizon, A. L. D. (2022). Press freedom and censorship during covid-19 pandemic: the case of cebu city. *Jurnal Studi Komunikasi (Indonesian Journal of Communications Studies)*, 6(2), 383-402. <https://doi.org/10.25139/jsk.v6i2.4860>

⁷⁶ Yeşil, B. (2014). Press censorship in turkey: networks of state power, commercial pressures, and self-censorship. *Communication, Culture & Critique*, 7(2), 154-173. <https://doi.org/10.1111/cccr.12049>

widespread debate and concern among civil society and human rights organizations. Many have called for the repeal or amendment of laws like the Information Technology Act to safeguard the right to free expression and press freedom. Additionally, there have been growing efforts to raise awareness about the importance of free and independent media in a democracy.

Despite these challenges, Indian journalists, activists, and citizens continue to push for greater transparency and accountability from the government and other powerful entities. Social media and digital platforms have become avenues for mobilization and advocacy, enabling individuals to amplify their voices and hold those in authority accountable.

To address the issues of press censorship and freedom of expression, India needs to uphold its democratic principles and ensure that media and journalists can operate without fear of reprisal. This includes fostering a legal and regulatory environment that protects and promotes freedom of expression while also upholding standards of journalistic integrity and responsibility.

Efforts to enhance press freedom in India require collaboration among policymakers, media organizations, civil society, and international partners to advocate for legal reforms and create an enabling environment for independent journalism. By safeguarding free expression and press freedom, India can further strengthen its democratic institutions and ensure that its citizens have access to diverse and reliable information, essential for a robust and thriving democracy. The challenges to press freedom in India, including censorship and restrictions on access to information, are hindering the ability of journalists to fulfill their role as a check on government power and inform the public. This not only undermines democracy but also deprives citizens of their right to access accurate and unbiased information. Press freedom is a crucial component of a thriving democracy, as it allows journalists to investigate and report on matters of public interest without fear of censorship or retribution. Indian democracy must protect and promote press freedom as well as the right to free expression. Press censorship and limitations on free expression pose a threat to the democratic fabric of India.

Democracy thrives on free expression and an uncensored press. Censorship undermines these pillars, stifling dissent and hindering societal progress. To uphold democracy's essence, safeguarding the freedom of speech and press is paramount. It ensures diverse voices are heard, fostering transparency, accountability, and the flourishing of democratic ideals.