

Freedom of Press: Issues and Challenges

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Abstract: *The freedom of the press plays a vital role in strengthening democracy and as a prerequisite for transparency, accountability, and an informed public participation. A free, independent press is necessary to act as the watchdog over government activities, disseminate information and provide a forum for public debate on issues of social, political and economic importance. The concept of freedom of the press is not included as a constitutional freedom in its own right in India, however, the judiciary has concluded that it is part of the freedom of speech and expression as entitled under Article 19(1)(a). The press, over the years, has been an important weapon in the fight against corruption, for the defence of civil liberties and for strengthening democratic institutions. However, there are many issues with press freedom in the modern day. Media independence has been an issue of concern because of governmental restrictions, political interference, misuse of legal provisions and because journalists face threats and violence from, and the influence of, business groups. Furthermore, the advent of digital technologies has posed challenges of misinformation and fake news, online censorship, digital surveillance and the growing power of social media platforms on public discourse. These trends have raised the issues related to the balance between freedom of expression and harmful or regulating content. In this article, the reader will learn about the constitutional and legal status of press freedom in India, its role in a democratic society and critically analyse the legal, political, economic and technological challenges that the media face today. International views on press freedom are also analysed and recommendations made to reinforce the independence of the media, journalistic ethics and democratic accountability. It brings to a close by underscoring the importance of a free, independent, and responsible press to democracy, fundamental rights, and good governance in the digital era.*

Keywords: Freedom of Press, Freedom of Speech and Expression, Media Freedom, Democracy, Journalism, Constitutional Law, Digital Media, Human Rights

1. Introduction

The press is an agent of vital importance in any democratic society and sometimes called the Fourth Pillar of democracy. Serves as a medium by communicating information, opinion, and ideas from government to people or vice versa. A free and independent press allows for informed participation of the public, eradicates transparency in governing and improves democratic institutions. The role of a watchdog over the actions of Government and the communication, reporting, analysis and investigation on matters of public interest is an essential feature of democracy and its effective functioning.¹ The media is able to function effectively as a changing agent and watchdog over governmental operations when it operates without restriction or undue interference from the State or private interests.

Freedom of press is not named as a fundamental right in Indian Constitution in itself. This protection granted by the Constitution in the Supreme Court's repeated interpretation and declaration signifies that democracy could not survive without recognizing and securing the freedom to publish, circulate and disseminate information and opinions without any interference.²

Today, with the influence of globalization, technological innovation, and the rise of the digital communication platforms, the role of the press has grown greatly in the 21st century. Print media today share the limelight with television broadcasting, web portals with news updates and social media which offer an unprecedented amount of opportunities to spread information. Meanwhile, there has been other challenges around misinformation, fake news, monopolisation of the media besides the digital surveillance,

political influence and threats to journalists which raise questions about the level of press freedom and the balance with other social interests.³

In this context, the present article tries to explore the concept, constitutional ambit and status of freedom of the press in India looks into the importance of freedom of the press in a democratic society and finally attempts a critical evaluation of the diverse legal, political, economic and technological issue before the media. The paper also examines potential steps to improve press freedom and responsible journalism and to maintain democratic accountability.

2. Constitutional and Legal Framework

The constitutional source of the protection of freedom of the press in India is the freedom of speech and expression which is guaranteed under Article 19(1)(a) of the Constitution of India. The term "freedom of the press" does not explicitly appear in the constitution. However, the Constituent Assembly consciously avoided making a special provision for the press freedom because it felt that it has no privileges which are different from that of all other citizens under the freedom of expression.⁴ The liberty of the press has thus emerged largely through judicial interpretation and constitutional jurisprudence.

The Supreme Court of India has since contributed much to the definition as well as the protection of free press in this country. These cases also laid down the principle that the restrictions on media should be narrowly interpreted and

¹ M.P. Jain, Indian Constitutional Law 1708–1712 (8th ed. 2018).

² INDIA CONST. art. 19, § 1(a).

³ V.N. Shukla, Constitution of India 198–203 (Mahendra P. Singh ed., 14th ed. 2017); D.D. Basu, Introduction to the Constitution of India 118–123 (22nd ed. 2015)

⁴ M.P. Jain, Indian Constitutional Law 1708–1715 (8th ed. 2018).

justifiable under the conditions of the constitution.⁵ In *Romesh Thappar v. State of Madras*, the Court held that the freedom of speech and expression in Article 19(2) of the Constitution also includes the right to propagate ideas which is vital for the effective functioning of a democratic government.⁶ In *Brij Bhushan v. State of Delhi*, the Court struck down the system of pre-censorship introduced on a newspaper, recognizing this as the greatest restriction on the freedom of press.⁷

There are, however, limitations to the constitutional freedom of the press. The courts have reiterated on several occasions “restriction u/s Article 19(2) has to be reasonable” and that the restriction should not be “in excess of what is necessary” to curb democratic freedoms.⁸

One of the key advancements in the क्षेत्र of freedom of press was in the case of *Bennett Coleman & Co. v. Union of India*⁹ where the Supreme Court overturned government restrictions on importing newsprint material that negatively impacted the circulation of newspapers. Similarly, in *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India*¹⁰ the Court again reiterated that the freedom of the press was the essence of the free press and that policy decisions of the government in relation to newspapers must be considered carefully to ensure that freedom is not affected.

In addition to constitutional safeguards, there are some statutory legislations that control the working of the media in India. In addition, the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 govern digital media platforms and online content, which highlights the evolving landscape of media in the digital age.¹¹

There are also laws that directly affect print and journalistic work concerning defamation, contempt of court, official secrecy and national security. Though these laws have a valid purpose of serving the public's interest, there have been several such cases which made it a concern regarding the misuse of these laws to curtail investigative reporting and critical commentaries. As a result, ensuring a proper balance between lawful ends of these laws and constitutional freedom is a constant challenge in the existing Indian legal regime for news coverage.

Importance of Freedom of Press

In a democratic society the freedom of the press is an essential requirement. It facilitates the free movement of information and ideas, helps citizens to take part in public activities effectively, and encourages openness and responsibility of government. A free media serves as a

reflection to the behavior of public powers, promotes accountability of government and helps governments to behave in accordance with the rule of law and within the limits of the constitution of the country. The media as a watchdog, acts as a key to scrutiny of policies, to expose corruption and maladministration and helps foster good government and the welfare of the people.

The disseminating of information and the promotion of democracy is one of the most important jobs for the press. Democracy depends on the presence of informed citizens who are able to make rational decisions about public affairs, the electoral process, and its many facets. Without an independent media, democracy itself would be undermined and the people would lack the information they need for exercising their democratic freedoms.¹²

Another but no less important function of freedom of the press is to hold the government accountable. Throughout history, investigative journalism by both individuals and groups has brought to light corruption beyond imagination, money shod, wrongs of far greater proportions against the public good. The media holds government and other public bodies accountable by critical reporting, and the knowledge that it will be subject to public scrutiny acts as a deterrent for arbitrary use of power and administrative misbehavior.

Beyond this, the press plays a vital role with regard to the protection of human rights, raising awareness of violations of fundamental freedom, discrimination and injustice. The media can give public visibility to human rights issues and can motivate governments to intervene on behalf of the victims to resolve grievances and promote justice.¹³ The media can also provide the forum for the marginalised to air their concerns and seek to redress any social or economic grievances.

An important service the press provides is to help in the discussions or debate of the general public. The media serves as an arena for the circulation of various ideas, thereby achieving intellectual debates and intensifying democratic culture. Also the press has an educating role as it provides information about their rights and legal matters, about public health, economic progress, the environment and the social welfare programmes. In addition, citizens can interact with different points of view and be part of discussions on public policy and national issues. It makes a contribution to the development of an informed, responsible citizenry, through this role.

Contemporary Challenges in the Digital Era

Since the dawn of the digital revolution, the face of the media has changed quite drastically, giving more access to information and the ability to communicate instantaneously and without geographical boundaries. Digital technology has not only given the press better opportunities to reach audiences and engage the public, but it has also created huge hurdles that jeopardize media independence, journalistic

⁵ D.D. Basu, Introduction to the Constitution of India 118–120 (22nd ed. 2015).

⁶ *Romesh Thappar v. State of Madras*, A.I.R. 1950 S.C. 124.

⁷ *Brij Bhushan v. State of Delhi*, A.I.R. 1950 S.C. 129.

⁸ INDIA CONST. art. 19, § 2.

⁹ *Bennett Coleman & Co. v. Union of India*, (1972) 2 S.C.C. 788

¹⁰ *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India*, (1985) 1 S.C.C. 641.

¹¹ Information Technology Act, No. 21 of 2000, Acts of Parliament, 2000 (India).

¹² D.D. Basu, Introduction to the Constitution of India 120–122 (22nd ed. 2015).

¹³ V.N. Shukla, Constitution of India 205–208 (Mahendra P. Singh ed., 14th ed. 2017).

quality and the wholesome usage of press freedom. This is an era where social media platforms, Artificial Intelligence and advanced surveillance technologies have developed a landscape where traditional legal and ethical frameworks have not been able to keep up with technological advancements.¹⁴

A major problem of our times is misinformation and fake news. The digital platforms are a medium for information to be shared quickly and sometimes without proper verification. You can easily spread fabricated contents, which can affect public opinion, affect the electoral processes, trigger social unrest and make the public mistrust the legitimate journalistic process. The easy dissemination of fabricated contents through the social media networks has also posed challenges for journalists to maintain professional standards of accuracy and credibility.

Digital surveillance and its effects on the independence of the press is another significant issue. Enhanced technological capabilities and increased ease of access by governments and private entities to monitor electronic communications, track online activity, and obtain confidential information can undermine confidentiality of journalistic sources and deter whistle-blowers from reporting on matters that are in the public interest. Source confidentiality is an essential fact of investigative journalism and accountability in democracy.

The other challenge is the regulation of SMCPs. But governments around the world have come up with ways to try to curb these dynamics, by regulating online platforms – problems arise when this goes too far and leads to censorship and limits on freedom of expression. Deciding on what is right to balance in terms of content and free speech is one of the big legal/policy issues.

The process of the press working in the electronic age has also been impacted by economic pressure. As a result of competition by digital news sources and shifting market trends, many of the traditional news outlets and media companies have had trouble in the advertising market and have faced financial problems, leading to layoffs and newsroom closures and more of a reliance on corporate sponsorships, advertising and other financial support. This economic vulnerability may negatively impact editorial independence and diminish the ability of media organisations to do investigative work.¹⁵

Moreover, the rise of Artificial Intelligence (AI) in journalism has its associated opportunities and challenges. As AI advances, it is now becoming a technology to generate contents, analyse data, target audiences, and disseminate the news. The ethical and regulatory responses to AI “media practices” have sparked much debate and discussion among policy makers, academics and media professionals.¹⁶

Given these developments, it is important that; the digital age has to be met with proper laws, ethics, and technologies that ensures protection of the press freedom and confronts new types of threats coming from the digital communication and digital technologies in general.

3. Recommendations

To guarantee the freedom of the press, it is important to have a balance between legislation, institutional measures and responsible journalism. Governments should make greater efforts to pass laws to protect the rights of journalists, and secure the safety of journalists from threats, harassment and violence. Mechanisms should be in place to investigate if media professionals are attacked and hold the offenders accountable. Legislation which can be abused to chill legal journalism should be examined to ensure that it does not needlessly abridge freedom of expression.

Media literacy promotion is no less crucial as well in the digital age. Citizens need to be taught to think and dig out misinformation, fake news and manipulated text. Media ownership and funding should also be transparent, avoiding undue political or corporate interference in media contents. This transparency can foster public confidence in the Media institutions and create a higher level of accountability in the media.

Journalists must have the right to keep their sources of information confidential, and the privacy of journalists should be protected, especially when new and more sophisticated technologies are emerging. Media organizations should also have high levels of professional ethics, accuracy, impartiality and fact checking. Cooperation among governments, media institutions, and civil society and the public can help preserve and strengthen a free, independent and responsible press.

4. Conclusion

The right to freedom of press is one of the core values of a democratic society. Strengthens transparency, accountability, awareness and informed involvement in governance. The press serves as watchdog on governmental and institutional activities, which includes but is not limited to, the process of revealing corruption, safeguarding human rights and reinforcing positive democratic values. While not explicitly stated, the freedom of press has been accorded recognition in India as an integral part of the freedom of speech and expression as protected under Article 19(1)(a) of the Constitution.

Although the press is constitutionally protected, it still faces a number of challenges: legal provisions, which are frequently being misused; violence against journalists; pressure of a political nature; economic pressures; and concentration of the media. The advent of digital technology further raised issues of misinformation, fake news, social media regulation, digital surveillance as well as Artificial Intelligence news dissemination.

So, in order to prevent the freedom of press being infringed, few factors are essential: the law, the independence of

¹⁴ Sevanti Ninan, *Headlines from the Heartland: Reinventing the Hindi Public Sphere* 155–162 (2007).

¹⁵ Uday Raj Rai, *Media Law and Ethics* 212–218 (2018).

¹⁶ S.C. Bhatt, *Media Ethics and Journalism in India* 188–194 (2020).

institutions, rigorous journalistic ethics as well as the backing of the public. The free and responsible press is the bulwark of a democratic government, governmental accountability and defence of constitutional values. In a society which continues to transform into a digital environment, it is important to defend the freedom of the press in order to keep people informed and have a healthy democracy.

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