



Media Consciousness

Analysis Of Freedom of Press in Light of Reasonable Restrictions and Constitutional Standpoint with Growing Challenges.

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Abstract: This article aims to dive deep in the concept of freedom of press and media which is an important facet of right to freedom of expression and speech envisaged in the Indian constitution in light of reasonable restrictions. The main objective of this article is to analyse the reasonable restrictions provided under the Indian constitution in the contemporary era and how are they being misused, at the same time the challenges which are faced by the people in media thus bringing out a balance among the two. Media consciousness in the current arena is important to maintain an equilibrium between the democratic values and the responsible disclosure of information. With the growing technology and advancement of digital age the accessibility to information has increased at the same time the reliability and credibility of such information has decreased due to political legal and ethical problems. The historical context and evolution of the right to freedom of press can be traced in various international laws and amendments. This article concludes that the right to freedom of press although not explicitly mentioned anywhere it can be inferred from article 19(1) of the Indian constitution creating a notable impression in the landscape of Indian jurisprudence. There are ample challenges posed and the press not being free in the real sense there is still some gap left for the legislature to bridge with the help of comprehensive legislation while maintaining constitutional integrity and democratic values.

Index terms: Constitution, Freedom of Press, Media Consciousness, Reasonable Restrictions, Right To Freedom of Speech And Expression

1. INTRODUCTION

"Freedom of the press is not an end in itself, but a means to attain a free society"

-Felix Frankfurter

This quote by Felix Frankfurter underscores the importance of press as he establishes that free press is not the goal but however a way to accomplish the end goal which is a liberal and democratic society. The freedom of press is one such cornerstone of a democratic society. *Media, which is plural of word medium, is defined as the communication channels through which we disseminate news, music, movies, education, promotional messages, and other data. It includes physical and online newspapers and magazines, television, radio, billboards, telephone, the Internet, and fax. (Market Business News, 2016).* Media can be mainly divided into three kinds i.e. print media, broadcast media, internet media. Print media includes the written form of media like newspapers, magazines, articles, journals etc. Broadcast media as the word suggests it means the

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disseminating of information on a large level with use of mediums like television, radio, cinema etc. Internet media includes platforms like social media, emails mobile phones etc. Consciousness on the other hand means the ability of one to understand the consequences of all the actions they perform, it can be as simple as occurrence of a thought however the idea here is to understand the basis of that thought. Media consciousness thus in simplest word means the consciousness exhibited by people who constitute media which is deeply entangled with reliability and authority; thus, media consciousness implies the ability of individuals to understand the consequences of the actions they are performing as they are authoritative and reliable to public at large.

2. HISTORY AND BACKGROUND OF INDIAN MEDIA

Indian media has been active since the late 18th century. It includes development of newspapers, radio, television and other forms of media. The first newspaper in the country was Hicky's Bengal Gazette, published in 1780 by Britisher James Augustus Hickey. Continued with notable publication by Raja Rammohan Roy, the work Sambad Kaumudi in Bengali in 1921 and Mirat-ul-Akbar in Persian published in 1822 with a distinct nationalist and democratic approach. The Times of India was founded in Bombay in 1861 earlier known as Bombay Times (1838) and then further The Hindu (1878), and Swadesmitran (1899) were founded. Print media was followed by Radio in 1923. During British rule the first radio club was operated named as "Bombay Presidency Radio Club". Afterwards, the government took over the broadcasting channel and called it "All India Radio" prevalent even today in the name of Akashvani. In the meantime, private radio players also took a lead. After radio, Television came, the first television in India was seen at New Delhi in 1959 which slowly expanded to several states of the country and began telecasting news. The first channel back then was Doordarshan, it was a part of All India Radio. Subsequently, this was followed by all forms of entertainment, advertising on Television. Today, in India media is a diverse and vibrant industry with a large number of all forms and developed other media sources superiorly like online media outlets which are accessible to all the segments of population in the country.³

3. EVOLUTION AND BASIS OF RIGHT TO FREEDOM OF PRESS

The media acts as the watchdog of all the other three organs of the democracy, and it helps in forming the public opinion and shaping the different aspects of a country like social, political, economic as well as psychological. The evolution of freedom of press can be seen in various laws and constitutions of different countries. The first amendment to the constitution of USA protects the freedom to press, which states that, Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.⁴ Although there is no constitutional clause related to freedom of press in UK the same can be traced under Article 10⁵ of the Human Rights Act, 1998 of the UK which talks about the right to freedom of expression subjected to certain restrictions in the interest of national security and public policy. As a result of this, the UK laws allow for the regulation of free speech, and the ultimate blocking of speech, to protect people from suffering abuse on account of who they are.⁶ Situations in journalism raise both legal and ethical questions as they often intersect each other. In many newsrooms, the first issue arising is often whether an action would be considered within the ambit of freedom of press, guaranteed by the Constitution. Then comes the question of morals, laid down as reasonable restrictions vide Article 19 (2)⁷ of the Constitution. Legal journalists too carry this constitutional duty of public service on their shoulders. They need to cater to the needs of the people by immediate reporting of legal issues. This reporting has to be accurate and balanced as parochial and biased legal journalism can create havoc in a diverse country

³ History of Mass Media in India, National Institute of Mass Communication, <https://www.nimc-india.com/history-of-mass-media-in-india/> [last visited 22/11/2024].

⁴ U.S. CONST., amend. I.

⁵ Human Rights Act 1998, art. 10.

⁶ J. Rordorf, *Free Speech Laws in the UK: An Overview*, HOPE NOT HATE, (Sept.14,2020), <https://hopenothate.org.uk/2020/08/14/free-speech-laws-in-the-uk-an-overview/>, [last visited 03/11/2024].

⁷ Indian Const. art. 19(2).

like that of ours. Since legal journalists have knowledge of law, they do realise that the freedom available to them is not unfettered and they have to act within the four corners of the Constitution.⁸

4. THE INDIAN CONSTITUTION AND FREEDOM OF PRESS

Media laws in India have a long history which contributes to more reformation for the context till now. From British rule to the post-independence era many more media laws have been enacted by the government. The post-independence laws regulate the role of media in constitutional provisions as well as other statutes too.

The Constitution of India provides for both Fundamental rights and Reasonable restrictions in context to the subject. The freedom of the press/media is not provided separately in the Indian Constitution but is derived from Article 19(1)(a)⁹ which guarantees the fundamental right to freedom of speech and expression. **Dr. B.R. Ambedkar**, during the debates in the Constituent Assembly, while discussing the issue of freedom of the press, explained the position as follows: *“The press (or the mass media) has no special rights which are not to be given to or which are not to be exercised by the citizen in his individual capacity. The editors of a Press or the manager are all citizens and, therefore, when they choose to represent any newspapers, they are merely exercising their right of expression and in my judgement no special mention is necessary of the freedom of Press at all.”* This article of the constitution of India provides freedom of speech and expression. The reason behind it can be traced in preamble as it clearly talks about reforming the country based on principles of justice, liberty, equality and fraternity. Here liberty includes liberty of speech and expression.

A democratic setup can't be successful if the people of such nation don't have free and fair right of speech and expression without any restriction from state. Expression refers not only to words but is a much broader perspective which involves thoughts that originate in human mind and which are later delivered either by words oral or written or by ways of gestures in an implied way. The democratic credentials of a state are judged by the extent of freedom the press enjoys in that state. The supreme court has emphasised that the freedom of the press is not so much for the benefit of the press as for the benefit of a general community because the community has a right to be supplied with the information and the government owes a duty to educate the people within the limited scope of its resources.¹⁰ Article 19(1)(a),¹¹ of COI states that all citizens shall have the right to freedom of speech and expression subjected to certain reasonable restrictions as provided in article 19(2)¹². This article has a wider interpretation and includes the following aspects:

1. Freedom of Press
2. Freedom of Commercial Speech
3. Right to Broadcast
4. Right to Information
5. Right to Criticise
6. Right to expression beyond national boundaries
7. Right not to speak or right to silence

5. REASONABLE RESTRICTIONS AND SCOPE OF FREEDOM OF PRESS

Article 19(2)¹³ of the constitution of India provides for certain reasonable restrictions which an individual is subjected to while exercising his right to freedom of speech and expression. This article of the constitution states as follows **nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in**

⁸A. Mohapatra, *The Confluence of Media and Law: Legal Journalism as a Career*, LEX WITNESS, vol. 2, no. 4, at 39 (2010).

⁹ Indian Const. art. 19(1)(a)

¹⁰ Printers Mysore Ltd. v. Asst. Comm'r of Commercial Taxes, [1994] 3 SCC 723, Retrieved from M.P. JAIN, INDIAN CONSTITUTIONAL LAW 1067(8th ed. 2018).

¹¹ Indian Const. art. 19(1)(a)

¹² Indian Const. art. 19(2).

¹³ Indian Const. art. 19(2).

relation to contempt of court, defamation or incitement to an offence.¹⁴ The freedom of press has a very wide scope under this article which provides for reasonable restrictions to the right to freedom of speech and expression which can be understood in context of media and press in depth. There is no such definite criterion of reasonability as it's opened to the discretion of the courts to decide as to what constitutes reasonableness in a particular situation thus a general pattern cannot be devised. The right that springs from article 19(1)(a) is not absolute and unchecked. There cannot be any liberty absolute in nature and uncontrolled in operation so as to confer a right wholly free from any restraint.¹⁵

➤ **Sovereignty And Integrity**

Sovereignty and integrity of a nation are the integral concepts of a democratic government and any kind of act which hampers the same is against the very foundation of the constitution. The press has a duty to use their right within this ambit. Publication of seditious content is one such example. However, this has been widely used against the media as in the case of **Vinod Dua v. UOI**¹⁶ The journalist Vinod Dua during covid 19 via a YouTube video highlighted the lacunas and inadequacy of government functioning during covid 19. He was alleged for disseminating false information and critiques against prime minister, and was subsequently charged under sedition section 124 A¹⁷ and other relevant provisions. The supreme court held that "Every Journalist will be entitled to protection in terms of Kedar Nath Singh, as every prosecution under Sections 124A and 505 of the IPC must be in strict conformity with the scope and ambit of said Sections as explained in, and completely in tune with the law laid down in Kedar Nath Singh". The act intending to create disorder, or disturbance of law and order, or incitement to violence should be limited according to the provision's application.¹⁸ Similarly, incitement of separatist movement in 2018 by certain media channels and news reporters can also be booked under various laws like Unlawful Activities (Prevention) Act, 1967¹⁹, The National Security Act, 1980²⁰. Media outlets which openly support propagandas which are anti-national or promote violence hatred and tensions are liable to legal action.

➤ **Security of the state and public order**

In **Anita Whitney v. California**,²¹ Brandeis J., has said that the fact that speech was likely to result in some violence or in destruction of property was not enough to justify its suppression. There must be a serious probability of serious injury to the state. Security of the state and public order are somehow interlinked concepts though there exists a very thin line between them. Public order can be understood

in the terms of public peace, safety and tranquillity whereas security of state can be understood in light of foreign affairs, military operations, riots, crisis etc.²²

One such controversial issue was the incident of Kargil war where a very renowned journalist Mrs. Barkha Dutta while doing on ground reporting highlighted the scenes of war however it also had various negative aspects as it leaked sensitive information to the enemy nation thus hampering security of the nation. During the coverage of sensitive topics like that of Babri masjid in 1992 certain media houses published provocative headlines and content instigating riots and tensions²³. Thus, media must be conscious while publishing any content and must give regard to its consequences.

➤ **Friendly Relations with Foreign States**

Friendly relations connote the relationship of the state with other foreign nations and any publication of information which damages such friendly relationships has to be curbed. It can include the spread of information which are related to diplomatic policy of nations, or publishing defamatory content or promoting

¹⁴ Indian Const. art. 19(2).

¹⁵ Ramlila Maidan Incident v. Home Secretary, (2012) 2 MLJ 32 (SC), 2012 (2) SCALE 682.

¹⁶ Vinod Dua v. Union of India, [2021] SCC OnLine SC 200.

¹⁷ Indian Penal Code, 1860, § 124A.

¹⁸ Id.

¹⁹ The Unlawful Activities (Prevention) Act, 1967, Act No. 37 of 1967.

²⁰ The National Security Act, 1980, Act No. 21 of 1980.

²¹ Whitney v. California, 274 U.S. 357 (1927).

²² M.P. JAIN, INDIAN CONSTITUTIONAL LAW 1071 (8th ed. 2018).

²³ Amrita Jash, Media and the Kargil War: Staging India's first 'live war,' Observer Research Foundation, Aug. 6, 2024, <https://www.orfonline.org/expert-speak/media-and-the-kargil-war-staging-india-s-first-live-war>. (last visited on 11/12/24).

anti foreign sentiments. The basis of this ground mainly lies in forbidding any kind of malicious propaganda thus avoiding any kind of tension in already existing friendly foreign relationships.²⁴

➤ Decency or morality

Decency and morality are very subjective terms with no exact definition and keep varying with time, society, circumstances and morals. The recent RGKAR case and NIRBHAYA case are some examples which highlight both the negative and positive aspects of the freedom of press in this context. The Nirbhaya gang rape case was one of the most heinous crime ever committed in the country however the media played a significant role in disclosing the information responsibly to public related to sexual violence all across the country thus creating awareness and mass moment due to which the criminal law amendment of year 2013 was brought into the picture, however at the same time there have been some instances even then and now in RGKAR case where often media has failed in protecting the sensitive information as the name of victim and pictures along with fake forensic reports were widely telecasted and publicised rights like non-disclosure of victims identity and protection of personal liberty and dignity were harmed which must be condemned. The courts can intervene if they find out that there is breach of law ensuring that the law is honoured.²⁵

➤ Contempt of court

Contempt of court refers to punishable conduct that disrupts or obstructs an official proceeding or order²⁶. In a democratic society, freedom of speech and expression is a prized privilege and salutary right of people. But at the same time, no less important is the maintenance of independence and integrity of the judiciary and public confidence in the administration of justice. It thus becomes necessary to draw a balance between two values.

Trial by media is one of the surging subjects, according to Collins dictionary trial is a formal meeting in a law court at which a judge and jury listen to evidence and decide whether a person is guilty of crime. Nowadays there are a number of interviews, podcasts, shows which readily have taken this responsibility in their hands to perform the task which is justified according to article 19(2). In the case of **M.P. Lohiya V. State of West Bengal**²⁷ the anticipatory bail application related to suicide by wife due to harassment for dowry was rejected by lower court however when the special leave petition was filed before the supreme court an article was published in a magazine based on an interview of family of the deceased extensively quoting about the tragedy as well as the forthcoming trial. The supreme court in this case took a view that such articles would certainly interfere with the administration of justice and deprecated such practise and cautioned the publisher, editor and the journalist who were responsible for the said article against indulging in such trial by media when the issue was sub judice.²⁸ Right to freedom of media has to be exercised responsibly and an internal mechanism should be devised to prevent publications that would bring judiciary into dispute and interfere with administration of justice, especially since judiciary has no way of replying thereto by the very nature of its office.²⁹

➤ Defamation or incitement of an offence

Defamation is a crime as well as a tort, it refers to the act of making false imputations on a person in order to harm their reputation in society. It is defined under section 499³⁰ of IPC, on the other hand incitement of an offence has a very broad spectrum and it can be related to a person, a class or society at large. Media has a very significant role to play as it embodies to drive the society towards a welfare state however the current trend highlights that due to increase in dissemination of repetitive news and news; promoting hatred and enmity based on caste, sex, religion and imputations,³¹ assertions prejudicial to national integration³² defined under 153A and 153 B of IPC respectively. Media here needs to be collectively conscious and responsible

²⁴ M.P. JAIN, INDIAN CONSTITUTIONAL LAW 1087(8th ed. 2018).

²⁵ Sai Spandana, R.G. Kar Medical College Rape and Murder Case: Updates from the Supreme Court, Supreme Court Observer (Sept. 24, 2024), <https://www.scobserver.in/journal/r-g-kar-medical-college-rape-and-murder-case-updates-from-the-supreme-court/>. (last visited on 11/12/24).

²⁶ P.V. Narasimha Rao v. State (T.M.N.A.P.), (1998) 3 SCC 317.

²⁷ M.P. Lohiya v. State of West Bengal, (2005) 10 SCC 654.

²⁸ M.P. JAIN, INDIAN CONSTITUTIONAL LAW 1088(8th ed. 2018)

²⁹ Id.

³⁰ The Indian Penal Code, No. 45 Of 1860, § 499 (Ind.)

³¹ The Indian Penal Code, No. 45 Of 1860, § 153 A(Ind.)

³² The Indian Penal Code, No. 45 Of 1860, § 153B (Ind.)

while disseminating sensitive information and it should also make sure that such dissemination of information reduces such incidents rather than promoting them.³³ There are various other laws in relation to media and the right to freedom of press and speech can also be traced from thereto.

It can be gathered from various legislations relating to the Freedom of press, Freedom of speech, The Press And Registration Of Books, The Delivery Of Books And Newspapers (Public Libraries) Act, Press and Registration of Books Act, 1867, Dramatic Performances Act, 1876, Official Secrets Act, 1923, The Drugs and Dragic Remedies (Objectionable Advertisements) Act, 1954, The Young Persons (Harmful Publications) Act, 1956, National Security Act, 1980, Press Council Act, 1978, and some other Acts particularly relating to the restrictions and the ethics as followed and enjoyed by the media including the provisions particularly included from time to time in the Indian Penal Code, 1860, likewise the Criminal Procedure Code and also by Criminal Law Amendment Act. Incidents relating to the freedom of press, freedom of speech and the other privileges including the restrictions and the ethics as followed and enjoyed by the media spells out the law relating to the media. Those involved in the media activities like Television, Radio, Internet, Newspapers and Journals are expected to know laws that will be attracted in the course of their activities.³⁴

6. THE ROLE OF MEDIA CONSCIOUSNESS CREATING A RESPONSIBLE PRESS

The events which took place during Kargil war highlight the key points and constitutional basis peculiar to the area under discussion. Kargil war is one of the most crucial and historic war fought between Indian and Pakistan during late 90's due to some dispute regarding LoC. This was the era of electronic media entering the Indian landscape and the war was live telecasted and was remarked as first live war of India as well as that of south east Asia. The chain of events which happened highlight the lack of consciousness exhibited by journalists and reporters of well-known media houses like NDTV and Star News.³⁵

The case study emphasizes opposing yet complementary synopsis on the topic, while the war was telecasted live, awareness related to hardships faced by Indian army and feelings of nationalism and patriotism were promoted, it also helped to draw international attention to the war and an emotional connect was built as figures, data, official statements were published. However, as the war continued the irregularity of media coverage and endless repetitive news deviated the topic and critics argued that the media houses turned a topic into an entertainment episode for extracting TRP. There were also certain fumbles committed which backfired the country in war state like the star news announced the date and time of the assault on tiger hill three days prior to it took place. Similarly, the use of satellite phones, and blazing camera lights drew the attention of enemy leading to serious repercussions. According to senior journalist VC Natrajan "the press had access to forward areas when the war broke out. Neither the top brass of the armed forces nor the bureaucracy made any effort to hinder the media from reporting what was happening on the battlefield."³⁶ The then Army chief, General Malik, who led the army in 1999 during the Kargil war, had specifically quoted in his book how Barkha Dutt had revealed classified information during her live coverage. He also pointed out how her reporting was threatening to hurt the secrecy of the operations.³⁷

Under the name of war journalism ethics were ignored and the freedom of press was misused in a way violating reasonable restrictions provided under constitution, the sovereignty and the security of state as well as national interest was hampered. The questions which surfaced after India won war and during it are still of great consideration in contemporary era. Barkha Dutta a very prominent journalist did live commentary of the secret tiger hill operation and she was also accused of causing casualties due to her reporting, instead of

³³ Ipleaders Blog, Defamation (Sections 499-502 of IPC), ipleaders (Sept. 19, 2023), <https://blog.ipleaders.in/defamation-section-499-to-502-of-ipc/>. (last visited on 21/11/24)

³⁴ K.R. Rao, *Law and Media*, Compendium of Articles, New Delhi: Bar Association of India, (2010).

³⁵ News Bharati, when "Journalist" Barkha Dutt Ended Up Helping Pakistan in The Kargil War, <https://www.newsbharati.com/Encyc/2022/7/26/When-Journalist-Barkha-Dutt-ended-up-helping-Pakistan-in-the-Kargil-War.html>, (Jul.26,2022), last seen on oct. 11,2024

³⁶ Sharanya Alva, *Kargil War 1999: The impact of media coverage during the conflict*, UDAYAVANI, <https://english.udayavani.com/article/kargil-war-1999-the-impact-of-media-coverage-during-the-conflict/1092090>, (Jul 26, 2021) last seen on oct. 11,2024

³⁷ News Bharati, when "Journalist" Barkha Dutt Ended Up Helping Pakistan in The Kargil War, <https://www.newsbharati.com/Encyc/2022/7/26/When-Journalist-Barkha-Dutt-ended-up-helping-Pakistan-in-the-Kargil-War.html>, (Jul.26,2022), last seen on oct. 11,2024

creating awareness she ended up helping the terrorists. A book titled “Kargil: Turning the Tide” written by Lt Gen Mohinder Puri (Indian Army General at that time) talks about Barkha Dutt’s reporting in Kargil war. In which there is a mention of incident where he called the journalist and politely talked about her professionalism while reporting war and unintentionally sharing army’s plan.³⁸

The need of the hour suggests that a press which takes responsibility is essential but what is more essential is that a responsible press must exist. The press must be conscious about its duty as much as it’s conscious about its rights. Topics which involve secrecy, national interest, security of state as well as public order are very delicate and must be handled scrupulously.

As we have advanced into the digital arena the access to information has become much faster and cheaper, however at the same time the reliability and the credibility of the information has decreased. The consciousness related to media needs to be examined in regard with the reliability, shaping of public opinion, civic awareness, advocating social injustices, as well as public disclosure of information in a democratic setup. As the accessibility to information has increased now information can be accessed from anywhere. The media in the modern world has become so powerful that it is able to shape psychology, frame narratives thus imposing fixed ideas in the mind of people. Media plays a very crucial role in shaping public opinion. Public opinion simply means the perspective of society at large related to any situation it can be positive, negative or neutral. As we know that law is nothing but social science public opinion plays a key role in policy formulation and lawmaking. When public opinion is crystallised, it takes form of law.

In the case of *Indian Express Newspaper vs Union of India*,³⁹ the Supreme Court of India in this case highlighted the role of press in enhancing public interest. The court said that there cannot be any interference with the freedom of press in the name of public interest. The purpose of the press is to enhance public interest by publishing facts and opinions, without which a democratic electorate cannot take responsible decisions. It is, therefore, the primary duty of courts to uphold the freedom of press and invalidate all laws or administrative actions which interfere with it contrary to the constitutional mandate.

The media is endowed with various responsibilities it has legal, social, and professional responsibility, a responsible press is the foundation of a democratic society. The social responsibilities embody the responsible efforts to narrow down the gap in society while maintaining peace and harmony and advocating towards social justice. Legal responsibilities on the other hand envisage upon creating awareness related to legal issues at the same time not harming the privacy of an individual and other factors like contempt of court or defamation. Similarly professional responsibilities are more related to clarity, ethics and accountability. The duties must be followed with a fine-tooth comb paying regard to the constitutional integrity and democratic values.

7. IMPACT OF NEW MEDIA

The contemporary world in the light of advanced technology and developing arena of skills empower the shares of knowledge both technically and ethically. Increase in the number of online platform users has significantly increased which paves a clear path to more social issues, alternates for the issues and thereby evolving neutrality in the issues. International issues like racism (black lives matter), Russia-Ukraine War, Israel-Palestine conflict has gained much attention and viewpoints from people globally. Meanwhile, in India some brands like Parle, Bajaj and others have stopped giving advertisements to such news channels that broadcast toxic news and this act has also gained much impetus on social media. A customer, counting on the brand will directly go to the market and get it on ethical grounds but its negative publicity through the media will affect one’s mindset. With the enhancement of media, it is clearly proven that the things we consider private is not private anymore. Even Mark Zuckerberg covers his web camera and microphone with a tape, which was accidentally revealed to the world through a photo that he shared on one of his Facebook posts. Each app we install stores our data and use it in somewhere, like true caller it definitely stores our personal data and apps which ask for cookies permission when we reach there for information, social media apps asking for our location services, many apps asking for terms etc. This is why we do see related content on the internet

³⁸ Id.

³⁹ Indian Express Newspaper (P) Ltd. v. Union of India, (1985) 1 SCC 641.

every time to what we desire. One should be conscious while agreeing to each term and be firm to their own interests individually rather than bringing them to the internet and media.⁴⁰

8. CHALLENGES

In the speech given by Justice Chandramauli Kumar Prasad at the National Press Day 2017, he states that the most serious challenge faced by the media would be its credibility. If the media is credible all other challenges will fall in line. The profession of Journalism does not have the power of politics, it lacks the influence of bureaucracy and salary does not match with the corporate sector. The desire to become the agent of change earlier drove people to journalism and their contribution can be written in golden letters. The media used to be in mission mode during the freedom struggle, later in the post-independence era it got transformed into a profession. It has turned into a commercial enterprise in the post liberalisation era. In the last few decades what we know for certain is that the media has changed, but what we do not know is, has it changed for the better or not? The media houses have flourished by leaps and bounds, but at the same time, the credibility of the journalists have gone to the rock bottom. The majority of the journalists across the country wish to work professionally, they want to be the mirror of the society and the voice of the voiceless, but their passion has become a casualty in the corporate web. They have become pawns in the hands of media houses and their survival largely depends upon their mercy. Change is always not beneficial somewhere it leads to disruption too like newspapers were challenged with the arrival of radio and radio because of television. Meanwhile, the internet evolved. The unethicity of media in the concept of paid news, unawareness of viewers, undiversified reports, for example: - news of remote areas covers little coverage in national media, independent journalism and public media shall me encouraged for the lesser involvement of political parties to have control over are some of the serious challenges being faced by the media in the country.⁴¹

The media ensures that voices of decent are not sounds in the wilderness in a free society. As society evolves in the age of the interests' new challenges are being posed to fundamental constitutional freedom, many of them are by the activities of non- state entities. Real conflicts arise between values such as free speech on the one hand and privacy on the other, between commercial speech and the inviolability of the individual. The law must consolidate upon the principles which were evolved to deal with traditional sources of transgression against individual freedom. The law must equally be versatile enough to confront the sources of challenge because they are as, if not more, significant⁴².

According to the Reporters Without Borders' (RSF) 2024 Press Freedom Index, India ranks 159 out of 180 countries. RSF states that press freedom in India faces severe threats, including violence against journalists, concentrated media ownership, and political alignment with the ruling party. Journalists critical of the government risk harassment, attacks, and legal persecution are often posed with serious problems, questioning whether the media consciousness that we are talking about is achievable given the context.⁴³ One of the most significant challenges faced by the media in the contemporary era is political influence, the media is highly deviated by the people in power and politics due to which the public narrative is often blurred. It involves propagating a particular agenda or policies while supporting one end so biasedly that another end remains unnoticed. There is a lack of balance and this is often due to the ownership, advertising pressure, self-censorship, and polarization. And the same was seen in the 2024 election result where social media played a huge role in determining the fate of the elections. Similarly, the fatal Manipur violence is one such example where there was a divergence in the dissemination of information while one side supported the government the other dissented.⁴⁴

⁴⁰ Vidya. S. S et al, A. Babura, S. Chakraverty, *Unearthing the State of Media Consciousness and Its Effects*, 20ELEMENTARY EDUCATION ONLINE,3328,3329, (2021), (last seen on 21/11/24).

⁴¹ Chandramauli Kumar Prasad, *Challenges before the Media, address at the National Press Day 2017* (2017), available at <https://www.presscouncil.nic.in/Pdf/NATIONALPRESSDAYSPEECHSAVENTEEN.pdf> (unpublished speech). (last seen on 23/11/24).

⁴² D.A. Behera, *Media & Law: An Overview*, pg. 109 (New Delhi: Bar Association of India 2010).

⁴³ Pandey, S., 2024. *Committee to Protect Journalists condemns attacks on journalists in India*, The West Bengal National U. of Juridical Sciences, IN: JURISTnews. (last visited on 21/11/24).

⁴⁴ ipleaders Blog, *Challenges Faced by Indian Media: Respecting Media Laws & Ethics* (Aug. 2, 2022), <https://blog.ipleaders.in/challenges-faced-indian-media-respect-media-laws-ethics/> (last visited on 21/11/24).

Another challenge is the growing violence culture towards journalists. Reporting on sensitive issues, uncovering corruption, and questioning those in power can put journalists at risk of intimidation, violence, or harassment. Such hostile environments create a chilling effect, discouraging journalists from pursuing stories that are in the public interest and depriving the citizens of crucial information⁴⁵ Ismat Ara, a journalist based in India. says *“As journalists, we are not strangers to threats and intimidation. Whenever we go out for a story, we anticipate some kind of violence and we analyse the risks and think about what could go wrong,”* this statement is quite disturbing to encounter when taken in account the constitutional principles. India is one of the largest democratic countries in the world and as we enter in the 21st century the press still remains instilled with fear of violence, killing, intimidations and threats. Srivastava, a correspondent for local news channel Sudarshan News and a member of the ruling Bhartiya Janata Party (BJP), was shot dead while riding his motorcycle on May 13, and Trivedi was assaulted during an election rally on May 12. Srivastava had previously expressed concerns about his safety due to his reporting on illegal cow slaughter. Trivedi was attacked after questioning BJP leaders about alleged payments to rally attendees.⁴⁶ Journalists in Jammu and Kashmir have been subjected to various kinds of violence for doing their jobs. While the Farmers’ Protest, Delhi Pogrom and the anti-CAA protests highlight violence against journalists at specific geographical locations and in the context of specific events, the general category highlights various instances of violence against journalists, showing the range of violence across geographical locations.⁴⁷ Legal harassment is another facet of the same coin as discussed earlier in the article misuse of sedition laws, anti-terror laws, UAPA, filing of frivolous suits and arbitrary arrests are some examples.

9. CONCLUSION AND SUGGESTIONS

At last, it can be concluded that freedom of press is one of the most integral parts of the right to freedom as envisaged under the Indian constitution. The right has evolved significantly in its timeline while we navigate into a completely new era, we are now posed with new challenges and circumstances and it can be rightly concluded that although there are many laws in this regard, they are not sufficient to counter the problems. Due to increased use of social media and the digitalisation of information there is a need for new reforms to be introduced and the laws to be made further stringent. Our constitution only lays down the basis to this freedom however it’s the responsibility of the state to uphold the same. There has been a growing trend of showing repetitive news on the television as well as in broadcast, similarly circulation of unauthentic news without any verification or evidences has a very damaging impact on the society especially youngsters there is a need of passing a comprehensive legislation to curb such activities. Media is a platform of free and frank public discussion and such discussions have the power to shape the society at large for better thus such productive discussions should be encouraged.

At this juncture it can be concluded that freedom of press and expression are very valuable rights which if used in the right direction can bring social transformation however the negative implications must also be taken in regard so that constructive development can take place, as in the words of Albert Camus ***“a free press can of course be both good and bad, but, most certainly, without freedom, the press will never be anything but bad.”***

⁴⁵ LNCT Group of Colleges, *Scope of Journalism in India: The Role of Media in Shaping Public Opinion and Democracy 2024*, (Nov. 17, 2024), <https://lnct.ac.in/scope-of-journalism-in-india-the-role-of-media/>. (last visited on 21/11/24).

⁴⁶ Id. at 17.

⁴⁷ Pooja George & Vedika Inamdar, *Mapping Violence Against Journalists in India: Key Findings* (The Polis Project 2021), <https://www.thepolisproject.com/research/mapping-violence-against-journalists-in-india-key-findings/>. (last visited on 21/11/24).