

Mass media laws in India: A Time to Review

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ABSTRACT: Media plays an important role in keeping people informed about their environment, the truth, and the circumstances they live in. Unlike fields like contract law or criminal law, mass media law doesn't represent a singular, cohesive body of law. Instead, it includes a diverse set of laws and ethical standards that are necessary for journalists and the media industry to function efficiently. Mass media laws in India have evolved significantly over the years, reflecting the dynamic interplay among freedom of expression, regulation, and the protection of public interest. This research paper tried to examine the key legislative frameworks, constitutional provisions and contemporary challenges facing the media landscape in India. It points out critical laws such as the Press and Registration of Books Act, 1867, the Cable Television Networks (Regulation) Act, 1995, and the IT Act, 2000, The IT Rules, 2021 alongside their implications for journalistic freedom and responsibility. The growth of digital media and social platforms has necessitated a reassessment of existing regulations, prompting debates around censorship, fake news, paid news and the ethical accountabilities of media entities. This study advocates for a comprehensive review of mass media laws to strike a balance among protecting democratic values and identifying emerging challenges in the information age. Through an analysis of landmark judgments and recent legal developments, the review calls for a collaborative approach involving stakeholders from the government, media, and civil society to foster a more resilient and responsible media ecosystem in India.

Mass Media, Legal system, Freedom of Press, Media trial

I. INTRODUCTION

In recent years, mass media laws in India has undergone key changes, reflecting the shifting dynamics of communication, technologies, and governance. It administers the rights and responsibilities of media firms, journalists, content creators, and audiences. As the fourth pillar of democracy, the media strives to be fair, neutral, and honest, particularly as its influence grows beyond human control. However, recent events emphasize different issues that threaten its key role, including problems of nationalism intertwined with religion, hate crimes, and various societal issues. The media has often exacerbated these hindrances through the promotion of religious ideologies, irresponsible reporting on sensitive topics, and sensationalist investigative journalism reminiscent of earlier media activities. Mass media law are critical in safeguarding freedom of expressions, safeguarding IPRs, ensuring fair competition, and maintaining ethical standards within the media sphere.¹Freedom of speech and expression is the fundamental rights safeguarded by the Indian Constitution under Article 19(1)(a). However, these rights are not absolute and is subject to limitations specified in Article 19(2), which include considerations of public order, defamation, morality, and state security.² Recent judgments have sought to strike a balance among this right and other competing interests, mainly in cases related to hate speech, misinformation, and the regulation of content on digital platforms.

II. PROBLEM STATEMENT

The evolving landscape of mass media in India, marked by speedy technological advancements and the rise of digital media, necessitates the critical reviews of existing media laws. Current regulations struggle to keep pace with issues such as misinformation, privacy violations, and the role of social media in shaping public discourse. This gap raises issues related to freedom of expression, the protection of journalistic integrity, and the safeguarding of rights of people. Consequently, a comprehensive evaluation of mass media laws is necessary to make sure they sufficiently address contemporary challenges while balancing the requirement for accountability and the promotion of a free and responsible media environment.

III. RESEARCH OBJECTIVES

- To analyze the existing mass media laws in India, addressing their aim and purpose in addressing contemporary issues.
- To examine how present mass media laws affect freedom of expression and journalistic practices, particularly in the context of government censorship and self-regulation within the media industry.

¹ Nilanchala Sethy, Media Laws in India- An Overview, IJCRT, 2023

² Sohini Mahapatra, Media Laws in India Freedom, Evolution and Contemporary Issues (LexisNexis, 2023)

- To analyze important landmark cases in Indian mass media law that have shaped the legal landscape, focusing on their implications for freedom of speech, media accountability, and the balance among laws and press freedom.

IV. THE LEGAL ANGLE: APPLICABLE LAWS

The Press and Registration of Books Act, 1867 : The Act mandates that every printer and publisher registers their printing presses and publications with the government. It establishes the role of the Registrar of Newspapers, who oversees a register of all newspapers published in India. In addition, the Act outlines guidelines for the printing and publication of newspapers, comprising laws in regards to titles, penalties for producing seditious or obscene content, and rules for appointing editors and publishers. The Act has undergone many amendments to adapt to evolving situations, and its provisions remain pertinent in present digital landscape.³

The Contempt Of Courts Act, 1971 : According to Article 129 and Article 215 of the Indian Constitution, the judiciary has the authority to oversee acts of Contempt of Court. This implies that the judiciary possesses certain powers under the Constitution that are independent of the existing Act. It is crucial to reevaluate the criteria for initiating contempt proceedings to ensure they are used more for the benefit of the trial and the interests of justice. The consequences of media induced contempt of court are considerable. It can compromise the fairness of the trials, potentially leading to a mistrial or the acquittal of the guilty parties. In addition, it may threaten the safety of victims, witnesses, and judges, who could become targets of retaliation or intimidation. Media contempt can also diminish public trust in the justice system. If the public believes that the media is swaying the results of a trial, they may lose self-belief in the courts' impartiality and integrity, which can have lasting implications for the rule of law.⁴

The Press Council of India Act, 1978 : This Act aimed to maintain and improve the standards of Indian newspapers and news agencies, protect press freedom, and encourage responsibility and a sense of public service amongst every journalist.

The Cable Television Networks (Regulation) Act, 1995 : This Act is an important advantage to India's media and entertainment industry. Without its execution, cable TV networks would have operated chaotically, with cable operators able to transmit or re-transmit copyrighted material without the owners' consents. There would have been no oversight regarding the kind of content shared by cable operators. In general, the Act effectively and broadly regulates cable TV networks in India.

The Information Technology Act, 2000 : The IT Act includes different important provisions that effect mass media laws and the digital landscape in India: Digital Signatures (Section 3): Establishes the legal validities of digital signatures, facilitating secure electronic transactions. Electronic Records (Section 4): Recognizes electronic records as valid evidences, guaranteeing that digital documents are treated equally to physical ones. Intermediary Liability (Section 79): offers the framework for the liability of intermediaries (like social media platforms) in cases of unlawful content, outlining conditions under which they can be exempt from liability if they act in good faith.

Cybercrimes (Chapter XI): Defines different cyber offenses, including hacking (Section 66), identity theft (Section 66C), and data theft (Section 43), and prescribes penalties for these offenses. Blocking of Websites (Section 69A): Empowers the government to block access to certain websites or contents that are deemed a risk to national security or public order. Data Protection: While the Act itself doesn't offer inclusive data protection, it lays the groundwork for addressing issues of privacy and security in electronic communications. Cyber Appellate Tribunal (Section 48): Establishes the tribunal for adjudicating disputes arising under the IT Act, offering the mechanisms for redressal.⁵

The Right to Information Act, 2005 : The RTI Act empowers the media to connect in evidence based reporting that exposes corruption, mismanagement, and inadequacy. It allows the media to underline the accountability and transparency of public officials and the delivery of public services. The Act permits journalists to expose information about government expenditures, project progresses, and more.

³ https://smkvbstar.ac.in/Admin/Files/StudyMaterial/05182023022139_F03.pdf

⁴ Manish Kumar, Contempt of Court in India (Corvette Press, 2023)

⁵ Tanwar, Parth and Poply, Jaispriya, An Analysis of the Impact of Indian IT Laws on Media Law, SSRN, 2023

The rights to receive and share information is an important aspect of Article 19(1), although it is subject to reasonable restrictions under clause (2) of the same article. It is vital for the media to act as an honest mediator among the government and the public, interpreting facts and evidence carefully to reveal the truth. The media must maintain objectivity and independence, viewing these qualities as essential assets for serving the public and acting as a catalyst for societal empowerment.⁶ The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 The IT Rules, 2021, are designed to regulate digital media platforms, including social media intermediaries, OTT services, and digital news publishers. These rules require intermediaries to appoint grievance officers, ensure traceability of messages, and remove illegal content within a specified timeframe. They also establish a three-tier regulatory framework for digital news publishers and OTT platforms, emphasizing adherence to a code of ethics and effective grievance resolution. The rule allows important social media intermediaries that provide messaging services to ease access to the originator of any information, aiming to curb the spread of fake news and illegal activities on messaging apps. Although, cybersecurity experts worry that this may compromise end-to-end encryption, potentially leading to a surveillance state and significant privacy violations, which many messaging apps promote as a key feature. The abilities to track the originator can also be utilized to prevent or investigate offenses related to the state's sovereignty, integrity, and security. However, the Rules do not sufficiently address the vast potential for misuse of such broad and discretionary powers.

V. IMPACT OF MEDIA TRIALS

Rights to privacy: Many persons forfeit their constitutional rights due to media trials, which often invade their privacy and violate the rights to privacy protected under Article 21 of the Indian Constitution. **Not good for democracy:** Recently, it have been observed that the media has neglected its responsibilities, causing a setback for democracy and adversely impacting people and the system.⁷ **Wrongful portrayal:** At present, the media has succeeded in exposing wrongful events that must remain confidential. Media trials have led to the misrepresentation of alleged offenders, damaging their careers based solely on accusations, despite the fact that they have not yet been found guilty by a court of law. **Instigate hatred and violence:** Paid and fake news can obliterate lives, distort public perception, and incite hatred, violence, and discord in society. As a result, a lack of objective journalism results in a misleading portrayal of the truth, considerably impacting people's perceptions and arguments. **Negative effect on functioning of courts:** Media trials also effect the functioning of the judiciary. Biased, misinformed, and agenda-driven discussions in the media about cases still before the courts interfere with the delivery of justice.⁸ **Unable to differentiate fake and genuine news:** It is challenging to differentiate amongst fake and genuine news, making media trials an unreliable basis for deciding cases.

VI. FREEDOM OF PRESS AND MASS MEDIA LAWS :

Freedom of the press in India is a crucial component of freedom of expression and a fundamental requirement for a democratic system. The Indian Constitution recognizes this freedom as a Fundamental Right. While the media is required to respect individual rights, it must also operate within the boundaries of legal principles and statutes. These regulations establish minimum standards and are not meant to undermine the higher levels of protection for freedom of expression. In India, freedom of the press and media is legally safeguarded by amendments to the Constitution, while mass media laws protect sovereignty, national integrity, and moral standards, thereby supporting a hybrid legal framework for independent journalism. Media bias and misleading information are restricted under specific constitutional provisions. Additionally, offenses related to the media fall under the Indian Penal Code (IPC), which governs all significant aspects of criminal law.⁹ Media systems worldwide differ based on the economy, politics, religion, and culture of various societies. In countries that have experienced communism and totalitarianism, such as the former USSR and China, there were strict limitations on what the media could express about the government, with nearly all criticism of the state being censored to prevent revolts. Conversely, in countries like the USA, characterized by bourgeois democracy, there is much greater freedom of expression.

VII. OTHER COMMON AREAS AND ISSUES OF FOCUS

Media Ownerships and Competition : Laws governing media ownership and competition are designed to prevent monopolies and encourage diversity within the media landscape. These regulations may impose

⁶ Regulation of media in India - A brief overview <https://prsindia.org/theprsblog/regulation-of-media-in-india-a-brief-overview?page=43&per-page=1>

⁷ Sachin, Supreme Court Calls Out Media Trials Characterised by Biased Reporting, Deccan Chronicle, 2023

⁸ Rachit Garg, A critical analysis of media trial and its effect on Indian judiciary, Ipleaders, Apr 25, 2021

⁹ Gopal Sharma, Law of Freedom of Press & Media in India:: Contemporary Issues, 2018

limitations on cross-ownership, restrict the concentration of media ownership, or mandate the disclosure of ownership details. Their primary goal is to ensure a variety of voices in the media and to prevent any undue influence or control over media outlets.

Privacy and Data Protection: With the rise of digital media and online platforms, legislation concerning privacy and data protection has gained significant importance. These laws govern how media organizations collect, use, store, and disclose personal information. Additionally, they grant individuals the rights to access, correct, and manage their personal data.

Ethical Standards and Media Regulation: In some jurisdictions, regulatory bodies or self-regulatory organizations have been created to monitor media practices and uphold ethical standards. These entities may establish codes of conduct, address complaints, and ensure that media organizations comply with principles of journalistic ethics, fairness, accuracy, and accountability.¹⁰

Access to Information: Laws may contain provisions that enhance transparency and access to information held by public bodies or government agencies. These laws support the public's right to know, allowing both journalists and citizens to access government documents, records, and proceedings. It is important to recognize that mass media laws are subject to change and are shaped by societal, technological, and cultural developments. The rise of digital media, social media platforms, and online content distribution has introduced new challenges and opportunities that lawmakers are actively working to address.

VIII. LANDMARK CASES

In *Vijay Singhal v. Government of NCT of Delhi*¹¹ case, it was apprehended that the trial's objectives are to attain the end of justice, and if, there are competitions so as to reach that conclusion among the rights to freedom of expression against the rights to the free trials, the rights to free trials would Trump upon the rights to freedom of expressions.

In *Nipun Saxena v. UOI*¹², the Court considered the issues in regards to what situations can the survivor's individuality be disclosed. The judgment pointed out: No person can print or publish in press, digital, social media, etc. the name of the victims or even in remote ways reveal any fact which can cause the victims being addressed and which must make her identities known to the public in general. The bar extend to anything which can even distantly be utilized to recognize the victims "*Sahara India Real Estate Corporation Limited vs SEBI*"¹³, the SCI argued the issue of media trials and its effect on fair trials. The court stressed that mass media must work out caution and restraints whereas reporting on current legal procedures to evade prejudicing opinion of common people. In *Ajay Goswami vs UOI*¹⁴ case, the failure of the Press Council to bring about effective change was seen as the Council has power to only 'warn, censor or admonish' newspapers and the council does not have any jurisdiction on electronic media platforms.

*Navalakra vs UOI*¹⁵ The High Court provided guideline for TV news channels when reporting on current legal procedures. The Court heard the batch of public interest petition filed against news channel for immoral reporting in the consequences of the death by suicide of the famous Indian actor Sushant Rajput. The public interest petition alleged that in the result of death of Rajput, some news channels conducted media trials and this adversely influenced the legal proceeding. The Court agreed that the reporting had influenced the rights to a fair trials of the accused person as per Article 21. It censured the news channel and put down the series of guidelines to balance the freedom of the press as per Article 19(1)(a) and the rights to a fair trial as per Article 21 when reporting on existing legal proceeding. The media trials happen when the media start carrying out parallel proceeding, and asserting its views as the appropriate views, over those legally entrusted with the tasks of investigations or adjudications. Reporting seeped out facts in current investigation. if it prejudice the accused is also objectionable as viewed in *Romila Thapar vs UOI*¹⁶.

¹⁰ Akshita Gupta, Challenges faced by the Indian media with respect to media laws and ethics, IPLEADERS, 2021

¹¹ WP(C) 195/2013

¹² (2019) 2 SCC 703

¹³ (2012) 10 SCC 603

¹⁴ *Ajay Goswami v. Union of India*, (2007) 1 SCC 143

¹⁵ PIL (ST) No. 92252 / 2020

¹⁶ WRIT PETITION (CRIMINAL) NO. 260 OF 2018

*State of Maharashtra v. Rajendra J. Gandhi*¹⁷ The Court agreed that huge damage had been caused to the girl by needless publicity and pull out rallies by the community. There are procedures established by the laws administering the conduct of the trials of the persons accused of a crime. The trials by press, digital media, or public agitations are very antithesis of the rule of laws. It may well cause the miscarriages of justice. The judges have to protect himself against all such pressures and he is to be guided firmly by rule of laws. If he finds the persons guilty of a crime, he is then to identify himself to the question of sentences to be awarded to him under the provision of laws.

Subramanian Swamy v. Union of India (2016): In this instance, the Supreme Court of India annulled Section 66A of the IT Act, which faced widespread criticism for its broad and ambiguous terms that limited online speech and expression. The court ruled that this provision was unconstitutional as it infringed upon the right to freedom of speech and expression. *Manohar Lal Sharma v Union of India*¹⁸ The Supreme Court acknowledged the connection among the Right to Privacy and Freedom of Speech, highlighting that privacy violations can result in self-censorship. They stated that press freedom and privacy are interrelated, and that the fear of surveillance constitutes an "assault" on the press, which serves as the fourth pillar of democracy. *Vinod Dua v. Union of India & Others*¹⁹: The Supreme Court stated that criticizing the government and its policies does not constitute sedition and affirmed that the right to free speech and expression applies to the press as well. *Mr. Nilesh Navalakha vs Union of India*²⁰ The Court issued a judgment in response to a series of PILs filed against media trials in the highly publicized case of Sushant Singh Rajput. The division bench, comprising Chief Justice Dipankar Dutta and Justice G.S. Kulkarni, emphasized that the media must refrain from reporting on ongoing investigations and instead focus on presenting facts that serve the public interest, rather than merely what they believe the public wants to hear.

IX. CONCLUSION

The evolving landscape of mass media in India necessitates a thorough review of existing media laws to address contemporary challenges and uphold the principles of democracy. As digital platforms gain prominence and the lines among traditional and new media blur, it is essential to ensure that regulations promote freedom of expression while safeguarding against misinformation, bias, and undue influence. A balanced approach that encourages responsible journalism, protects individual rights, and fosters transparency is crucial for the media to effectively serve its role as the fourth pillar of democracy. As society continues to change, so too must the legal frameworks governing the media, ensuring they remain relevant and effective in protecting both the rights of individuals and the integrity of public discourse. In conclusion, mass media law underscores the significance of freedom of expression and the media's role in democratic societies. It safeguards journalists and their sources, protects intellectual property rights, ensures fair competition, and creates regulatory bodies to oversee compliance and uphold ethical standards. The digital age has introduced new challenges, such as online privacy concerns, digital copyright issues, content moderation, and the responsibilities of social media platforms. As technology advances, mass media law must evolve to find a balance among fostering innovation and protecting the rights and welfare of individuals and society.

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¹⁷ (1997), 8 SCC 386

¹⁸ Writ Petition (CRL.) NO. 314 OF 2021

¹⁹ 2021 SCC OnLine SC 414

²⁰ *Mr. Nilesh Navalakha v Union of India* (2020) PIL ST no. 92252

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