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## ROLE OF MEDIA IN INDIAN DEMOCRACY: AN EVALUATION

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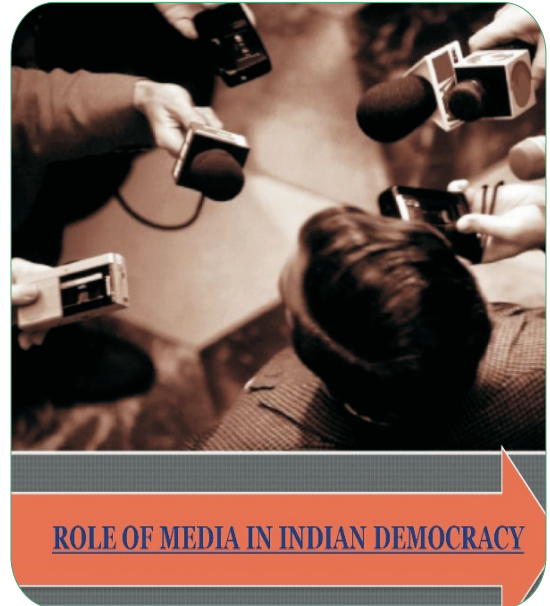
### ABSTRACT

**F**reedom of press or media is very important for political liberty and proper functioning of democracy. As everyone has a right of speech and expression so does media have. Democracy can thrive not only under vigilant eye of its legislature, but also under the care and guidance of public opinion and the media is par excellence, the vehicle through which opinion can become articulate. Media is meant for the society, it works in such a way to bring truth in front of public. Media is considered as the eye, ear and mouth of the public. The press which is called media now days obtains its power from the constitution. Freedom of speech and expression is an integral part of democracy. A democratic country in the world cannot deny freedom of speech and expression. If we focus on in the Indian constitution article 19(1)(a) is freedom of speech and expression from where media obtains its power. In this article, an evaluation about the freedom of media in Indian democracy has been made.

**KEYWORDS** :political liberty and proper functioning of democracy, Indian Democracy.

### INTRODUCTION

The freedom of speech and expression means the right to express one's own idea freely by words of mouth, writing, printing, pictures or by any other mode that is visible representation such as gesture, sign etc. The freedom of speech and expression includes fundamental rights of freedom of media or press, is a liberty to express not only own views but includes to express the views of other peoples also. Media of India consists of several different types of communications media: television, radio, cinema, web sites. The Indian media, was initiated since the late 18th century with print media started in 1780,



radio broadcasting initiated in 1927, and the screening of Auguste and Louis Lumiere moving pictures in Bombay initiated during the july of 1895- is among the oldest and largest media of the world. Indian media- private media in particular- has been free and independent throughout most of its history. The period of emergency (1975-1977), declared by Prime Minister Indira Gandhi was the brief period when India's media was faced with potential government retribution.

The freedom of press is no where defined in the constitution but it is implicit in article 19(1) (A) which is essential for political liberty and proper functioning of democracy. Before independence, there was no constitutional or statutory provision to protect the freedom of press. Lord Mansfield in sakal papers Ltd. Vs. Union of India<sup>1</sup>, observed "freedom of press consist the printing without any license

subject to the consequence of law” thus the liberty of the press means liberty to print and publish what one pleases, without previous permission.

In *Indian express newspapers vs. Union of India*<sup>2</sup>, the supreme court observed, “The purpose of the press is to advance the public interest by publishing facts and opinions without which a democratic electorate cannot make responsible judgments. Freedom of press is the heart of social and political intercourse. It is primary duty of the court to uphold the freedom of press and in validate all laws and administrative actions which interfere with it contrary to the constitutional mandate.

In *printers Mysore Ltd. vs Asst. Commercial tax officer*<sup>3</sup>, the Supreme Court held that the freedom of press has always been cherished right on all democratic countries. The newspaper not only survey news but also ideas, opinion, and ideologies of the people. They are supposed to guard public interest by disclosing the misdeeds, failing and lapses of the government and other bodies exercising government power. Therefore, it has been described as the fourth estate.

In *Menaka Gandhi vs. Union of India*<sup>4</sup>, the Supreme Court held that the freedom of speech and expression carries with it the right to gather information and to exchange thoughts and ideas with others not only in India but also outside. The freedom of speech and expression cannot be confined to one country it has global application.

### PRE-CENSORSHIP INVALID

The imposition of censorship on journal previous to its publication would amount to an infringement of article 19(1) (a). The question of validity of censorship upon media came up for consideration in many cases. In *Brij Bhushan vs Union of India*<sup>5</sup>, the supreme court held, “the imposition of pre- censorship upon a Journal is restriction on the liberty of press which is an essential part of the freedom of speech and expression declared by 19 (1) (a). In *express newspaper vs Union of India*<sup>6</sup>, the supreme court held that a law which imposes pre censorship or curtails the circulation or prevent newspapers from being started or required to seek government aid in order to survive was violative of article 19 (1) (a).

In *Ramesh Thaper Vs State of Madras*<sup>7</sup>, it was held that the banning entry and circulation of journal in a state was held to be invalid. The *Journal Cross Road* printed and published at Bombay was banned by madras government, the court held that publication includes circulation without interruption.

### MISUSE OF FREEDOM OF PRESS

However, the freedom of expression is a constitutional right guaranteed under article 19 (1)(a) but sometimes the media and others people misuses this power and gives and publish such statements which is abridges the constitutional limit given under article 19(2), as a result some people have been convicted by the court for gross violation of this right.

In *M.P Lohia vs. State of West Bangal and others*<sup>8</sup>, in this case young girl committed suicide at her parents house allegation of demand of dowry was made by her parents. Her in-laws took plea that she was suffering from mental illness. The matter subjudiced and both parties gave evidence in support of their case. At the same time an article published in a magazine called ‘Saga’ titled doomed by dowry written by Kakoli Poddar giving the views of the father of deceased in that case. This type of the article certainly interfered in the administration of justice. The court held that this practice is deprecated and the publisher of this article warned not to indulge in such trial by media when the matter is subjudice.

In *R.K Anand vs Registrare Delhi High court*<sup>9</sup>, the supreme court held that sting operation is un constitutional and violates of article 19(1) (a) of the constitution. In *S. Khusboo vs Kannalmmal and*

others<sup>10</sup>, the Supreme Court held that unpopular remark about social acceptance of pre marital sex need to be tolerated is socio-culture space and law should not be used to chill freedom of speech. Further held, that an adult willing in sexual relation outside marital setting is not an offence.

### FILM CENSORSHIP VALID

The honorable Supreme Court in many cases has decided that the film censorship is valid in *K.A abbas v. Union of India*<sup>11</sup> is the first case in which the question whether prior censorship of films is included in article 19(2) came for the consideration of the supreme court of India. The petitioner had challenged the validity of censorship as volatile of his fundamental right of freedom of speech and expression as according to him it imposed unreasonable restriction. Under the cinematograph Act.1952 film are divided into two categories, i.e., 'U' films and 'A' films 'U' films are meant for unrestricted exhibition while 'A' films can be shown to adults only. The petitioner's film "Tale of four Cities" was refused 'U' certificate. He also contended that there were other film of speech and expression besides the films and none of them were treatment with such other forms. The court, however, held that pre-censorship of films was justified under Article 19(2) on the ground that films have to be so treated separately from other forms of art and expression because a motion picture was able to stir up emotions more deeply than any other product of art. Hence classification of film between two categories i.e., 'A' (for adults only) and 'U' (for all) was held to be valid.

In *Bobby Art International vs. Om pal Singh Hoon*<sup>12</sup>, Popularly known as "Bandit queen case" the respondent filed a writ petition in the court for quashing the certificate of exhibition given to the film "Bandit Queen" and restraining its exhibition in India. The film "Bandit Queen", is the story of a village child (Phoolan Devi) exposed to from an early age to the brutality and lust of men.

The film was presented for certification to the censor Board. The examining committee of the censor board referred it to the Revision committee recommended that the film be granted an 'A' certificate (for adult only) subject to certain modification and cuts. Aggrieved by the decision of the Revision committee and appeal was filed before the appellate tribunal. The Tribunal consisted of a Chairman and three other members who were ladies. The tribunal granted the film an 'A' certificate. The respondent then filed the writ petition in the Delhi High Court seeking to quash the certificate granted to the film and restrain its exhibition in India. He contended that through the audience were led to believe that the film depicted the character of "a former queen of ravines" also known as Phoolan Devi, the depiction was "abhorrent and unconscionable and a slur on the womanhood of India". The respondents and his community had been depicted in a most depraved way especially in the scene of rape by Babu Gujjar. Which scene was "suggestive of the moral depravity of the Gujjar community". The High court held that the film was obscene and quashed the order of the Tribunal. The Supreme Court allowing the appeal held that the certificate issued to the film bandit Queen upon conditions imposed by the Appellate Tribunal is valid and is, therefore, restored. The court held that the film must be "judged in its entirety from the point of view of its overall impact. "The story of the film is a serious and sad story of a village born female child becoming a dreaded dacoit. "the film levels an accusing finger at the members of society who compelled her to become a dreaded dacoit. The scene where she humiliate stripped, naked, paraded, made to draw water from the well within the circle of hundreds man, the exposure of her breasts and genitals to those men is intended by those who strip her to demean her to try. This does not arose the cinema goer's lust but to arouse in him sympathy for the victim and disgust for the perpetrators. Nakedness does not always arouse the baser instinct. "Bandit Queen" tells a powerful human story and to that story the scenes of phoolan Devi's enforced necked parade is central. It helps to explain why phoolan devi become what she did, her rape and vendetta against the society

that had heaped indignities upon her. The rape scene also helps to explain why phoolan Devi become what she did.

The High court ought not to have entertained the respondent's petition challenging the grant of certification to the film. The supreme court accordingly, set aside the judgment of the High court and restored the order of the appellate tribunal.

### REASONABLE RESTRICTIONS

Article 19 (1) (a) says that all citizens shall have the right to freedom of speech and expression. But this right is subject to certain reasonable restrictions imposed under article 19 (2) which are as follows

1. Security of the state: under clause (2) of article 19 reasonable restrictions can be imposed on freedom of speech and expression in the interest of security of the state.
2. Friendly relations with foreign states: this ground was added by constitution (1st ammendmend Act 1951) this ground prohibits the malicious propaganda against a foreign friendly states which may badly effect the friendly relations with them.
3. Public order: this ground was also added by the constitution (1st amendment act 1951). If this right disturb the public order effecting the public peace, safety and tranquility can be restricted under article 19 (2) of the constitution
4. Decency or morality: if the publication leads to indecency or immorality, it can be restricted Dr. J.N. pandey has rightly observed, "Publication is obscene if it tend to produce lascivious thoughts and arouses lustful desire in the mind of substantial number of that public into whose hands the book is likely to fall"
5. Contempt of the court : freedom of press can be restricted if it exceeds the reasonable and fair limit which amount contempt of the court either civil contempt or criminal contempt.
6. Defamation: an imputation concerning any person by which the reputation is lower down in the eye of the others amounts to defamation. Defamation brings a man into hatred, ridicule and contempt. In India section 499 of IPC contains the criminal law related to defamation.
7. Integrity and sovereignty of India: this ground was added to article 19 by (16th amendment act 1963). Under this clause freedom of speech and expression can be restricted if it challenged integrity and sovereignty of India.

### SEDITION

Sedition is another mode by which the peace and tranquility of the state is disturbed hence can be restricted. In India section 124 (a) of Indian panel code defines the offence of sedition as "whoever by words either spoken or written, or by sign, or by visible representation or otherwise brings or attempt to bring into hatred or contempt or excite or attempt to excite disaffection towards the government established by law in India shall be punished". Explanation 3 to this section state that mere comments expressing disappropriation of government is no offence it does not excite or attempt to excite disaffection towards government established by law.

Niharendra vs emperor<sup>13</sup>, the federal court held that mere criticism or even redicule of the government was no offence unless it was calculated to undermine respect for the government in such a way as to make people cease to obey the law. It is to be noted that the suggestion is not mention in article 19 (2) as ground to restrict freedom of speech and expression. But it has been held in devi saran vs state<sup>14</sup> that section 124(a) and 153 (a) of IPC impose reasonable restriction in the interest of public order.

There are other exceptions to this freedom and they do include restrictions on the ground of national security. Other exceptions can include restrictions on the grounds of public safety, the protection of health and morals, and restrictions to prevent crime and disorder. The disclosure of information that has been received in confidence is another exception. The main exceptions to the right of freedom of speech and expression are that the expressions do not endanger or harm others.

The freedom to communicate is a right, as is the freedom to pass and receive information. If the newspaper had been forbidden to print the cartoons it could be seen as censorship of the press. If the editor of the newspaper had not printed the cartoon that could have been viewed as self-censorship, and where do the boundaries end in giving information? However, if they had acted in a more responsible manner it may have avoided the deaths and violence that occurred. Freedom of speech and expression is important but there are consequences if these rights are not used in a responsible manner.

Freedom of speech and expression are fundamental within our society. But, with rights come responsibilities and obligations. Using these rights responsibly is a necessity. This does not necessarily mean censorship but there are consequences that should be considered when using the right of freedom of speech and expression. Before independence, there was no constitutional or statutory provision to protect the freedom of press.

## CONCLUSION

In all democratic countries media is enjoying its power by virtue of freedom of speech and expression. The right of freedom of speech and expression are guaranteed by democracy no doubt it includes freedom of press but this freedom is not absolute, it can be restricted as mentioned under article 19(2) of the constitution if freedom of speech and expression is left unrestricted then it can violate another fundamental right that is right to privacy. Freedom of speech and expression are fundamental in our society. The two strong pillars of democracy that are freedom of speech and expression and personal liberty have come face to face which is needed to be checked. The media should work into its limits so that the privacy of individuals can be maintained. However the media is important in democracy otherwise it may lead several dangerous consequences which can destroy democratic character of government.

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1. AIR 1962 SC 305
  2. (1985) 1 SC 641
  3. AIR 2007 SC 493
  4. AIR 1978 SC 597
  5. AIR 1950 SC 129
  6. AIR 1958 SC 578
  7. AIR 1950 SC 124
  8. AIR 2005 SC 790
  9. (2009) 8 SCC 106
  10. AIR 2010 SC 3196
  11. AIR 1971 SC 481
  12. (1996) 4 SCC 1
  13. AIR 1942 FC 22
  14. AIR 1954 PAT 254

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