

International Multidisciplinary  
Research Journal

*Indian Streams  
Research Journal*

Executive Editor  
Ashok Yakkaldevi

Editor-in-Chief  
H.N.Jagtap

---

## Welcome to ISRJ

RNI MAHMUL/2011/38595

ISSN No.2230-7850

Indian Streams Research Journal is a multidisciplinary research journal, published monthly in English, Hindi & Marathi Language. All research papers submitted to the journal will be double - blind peer reviewed referred by members of the editorial board. Readers will include investigator in universities, research institutes government and industry with research interest in the general subjects.

### International Advisory Board

Flávio de São Pedro Filho Federal University of Rondonia, Brazil	Mohammad Hailat Dept. of Mathematical Sciences, University of South Carolina Aiken	Hasan Baktrir English Language and Literature Department, Kayseri
Kamani Perera Regional Center For Strategic Studies, Sri Lanka	Abdullah Sabbagh Engineering Studies, Sydney	Ghayoor Abbas Chotana Dept of Chemistry, Lahore University of Management Sciences[PK]
Janaki Sinnasamy Librarian, University of Malaya	Ecaterina Patrascu Spiru Haret University, Bucharest	Anna Maria Constantinovici AL. I. Cuza University, Romania
Romona Mihaila Spiru Haret University, Romania	Loredana Bosca Spiru Haret University, Romania	Ilie Pinteau, Spiru Haret University, Romania
Delia Serbescu Spiru Haret University, Bucharest, Romania	Fabricio Moraes de Almeida Federal University of Rondonia, Brazil	Xiaohua Yang PhD, USA
Anurag Misra DBS College, Kanpur	George - Calin SERITAN Faculty of Philosophy and Socio-Political Sciences Al. I. Cuza University, Iasi	.....More
Titus PopPhD, Partium Christian University, Oradea, Romania		

### Editorial Board

Pratap Vyamktrao Naikwade ASP College Devrukh, Ratnagiri, MS India	Iresh Swami Ex - VC. Solapur University, Solapur	Rajendra Shendge Director, B.C.U.D. Solapur University, Solapur
R. R. Patil Head Geology Department Solapur University, Solapur	N.S. Dhaygude Ex. Prin. Dayanand College, Solapur	R. R. Yalikalr Director Managment Institute, Solapur
Rama Bhosale Prin. and Jt. Director Higher Education, Panvel	Narendra Kadu Jt. Director Higher Education, Pune	Umesh Rajderkar Head Humanities & Social Science YCMOU, Nashik
Salve R. N. Department of Sociology, Shivaji University, Kolhapur	K. M. Bhandarkar Praful Patel College of Education, Gondia	S. R. Pandya Head Education Dept. Mumbai University, Mumbai
Govind P. Shinde Bharati Vidyapeeth School of Distance Education Center, Navi Mumbai	G. P. Patankar S. D. M. Degree College, Honavar, Karnataka	Alka Darshan Shrivastava Shaskiya Snatkottar Mahavidyalaya, Dhar
Chakane Sanjay Dnyaneshwar Arts, Science & Commerce College, Indapur, Pune	Maj. S. Bakhtiar Choudhary Director, Hyderabad AP India.	Rahul Shriram Sudke Devi Ahilya Vishwavidyalaya, Indore
Awadhesh Kumar Shirotriya Secretary, Play India Play, Meerut (U.P.)	S. Parvathi Devi Ph.D.-University of Allahabad	S.KANNAN Annamalai University, TN
	Sonal Singh, Vikram University, Ujjain	Satish Kumar Kalhotra Maulana Azad National Urdu University

Address:- Ashok Yakkaldevi 258/34, Raviwar Peth, Solapur - 413 005 Maharashtra, India  
Cell : 9595 359 435, Ph No: 02172372010 Email: ayisrj@yahoo.in Website: www.isrj.org

"FREEDOM OF MEDIA & PRIVACY ISSUES IN INDIA."



Swapnil Ukendrasing Sagane

Research student of Ph. D Research centre, Department of Law, S.P.P. University, Pune.

Short Profile

Swapnil Ukendrasing Sagane is a Research student of Ph. D Research centre at Department of Law in S.P.P. University, Pune. He has completed B.A., LL.B., LL.M., NET. He has published research papers on "Anti-Corruption Agencies In India, Its Role And Utilities".



ABSTRACT:

Freedom means liberty, absence of control, without any interference or restrictions and the word media comes from the plural of the word 'Medium', so media is nothing but medium or instrument to get information and communicating that information from one person to other. 'Media' the popular term inter-alia used as 'press', it denotes the Print media like Newspaper, Magazine, journal etc. then electronic media like Television, Film, Music, Radio & it also include the online speech on internet which called as social media or new media. Media play very important role in the democracy, it is consider as fourth pillar of the democratic organisation. In India Freedom of Media or press is not separately protected but it included in the same right of citizen which is guaranteed by The Indian constitution under Article 19(1) (a) i.e. freedom of speech and expression. Freedom of speech & expression

means the right to express own thoughts, opinion freely by words of mouth, writing, printing, pictures or any other mode without any interference or restrictions.

KEYWORDS

Media & Privacy issues, Freedom, information and communicating.

## INTRODUCTION:

In one side media have right to get information and communicate that for sake of public interest, on other side citizen have right to be alone, without any unwanted & unreasonable interference by other i.e. right to privacy which is also a fundamental right and protected under Article 21. It is general rule that freedom or right of one person should not be violate or infringes the freedom of any other person but due to increasing the wide power of media it come to know that it infringing the right to privacy & reputation of other in the shadow of public interest and also evolving so many socio-legal problems in India.

## Constitutional Framework in India:

### Freedom of press:

"In Indian Express news Paper v. Union of India the court pointed out that, "Right to freedom of the press as a pillar of individual's liberty which has been unfailingly guaranteed, court also pointed out that, in today's free world freedom of press is the heart of social and political intercourse. The press has now assumed the role of the public educator making formal and non formal education possible in a large scale particularly in the developing world. The purpose of the press is to advance the public interest."

In the above wording of court it is clear that, freedom of press is most important for democracy & it should be protected. Freedom of press is included in the Freedom of Speech and expression of citizens, it is rightly said about the Freedom of speech & expression that, it is the mother of all other liberties, it is fundamental, natural, inherent right of citizen and therefore it is guaranteed by Indian Constitution under Article 19(1)(a)- All citizens shall have the right to freedom of speech and expression, which also includes freedom of press, subject to reasonable restriction under Article 19(2) which reads: " 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 interest of, The sovereignty and integrity of India, Security of State, Friendly relations with foreign state, Public order, Decency of Morality, Contempt of Court, Defamation, Incitement of an offence." This are the grounds on that basis reasonable restriction can be imposed on the freedom of press but due to recent wide growth in the media, it results commercialisation and competition among them which leads some challenges.

### Right to privacy:

Right to privacy means, right of person to be let alone without any interference, this right is not merely to his physical being and property but it also extends to his mind space. Media have right to get information and communicate that information to other similarly citizens also have right to possesses his information with him only & no one should disclose it without his consent. Right to privacy is also not separately recognised in the Indian constitution but it implicit in the Right to Life as an essential part of it under Article 21- "No person shall be deprived of his life or personal liberty except according to procedure established by law." It means that right to privacy can be curtailed under pre-condition procedure established by law. In landmark case of Maneka Gandhi v. Union of India. Supreme Court held that, Procedure established by law means not any procedure but that procedure should be just, fair and reasonable one.

In *R. Rajagopal and Another v. State of T.N.* Popularly called Auto Skanakar case. court held that, " A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing, and education among other matters, no one can publish anything concerning the above matters without his consent, whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action damages."

### Freedom of press vis-à-vis Right to Privacy :

"Privacy is vital to the mental, spiritual and physical well being of all individuals and also to the morality and personality of the individual."

The freedom of press and right to privacy are correlated with each other. In a liberal democracy like India, citizens have a right to talk on the telephone, send e-mail, watch television and surf the internet without interference of government unless for compelling reasons such as legitimate defence and national security considerations. A person who exercises his right to know and be informed may violate another person's right to privacy. The Black's law dictionary, has defined it as 'the right to be let alone; the right of a person to be away from unwanted publicity; and the right to live without unwanted interference by public in matter with which the public is not necessarily concerned.'

In *People's Union for Civil Liberties v. Union of India*, Supreme Court observed that, the interception of telephone conversation and unauthorized tapping impinges on the right to privacy of individuals and formulated guidelines to be adopted by the government when it intercepts telephonic conversation.

The exponential growth of print as well as electronic media in recent years, due to that there is over commercialization, competition and race for enhance readership and high TRP ratings. Media is controlled by large corporate entities having the motive of profit making only, no social contribution and ignored the actual public interest; for the sake of TRP and Sensationalism media bring the private life of individual into the public domain, exposing them to the risk of an invasion of their space and their privacy. In other words we can say that, on matters concerning public interest, it is Freedom of press to get information and communicate that information through media but it should not encroaches the individual's right to privacy. Now a day there is great controversy between freedom of press and Right to privacy, which indicates present legal framework is inadequate to solve these socio-legal problems.

### RECENT ISSUES & CHALLENGES :

#### 1] Violation of Privacy by Media:

Some other democratic countries like in UK, Sweden, France, Netherlands, the right to photograph a person or retouching of any picture is prohibited they protect the privacy of individuals but in India press photographer do not expressly seek consent of the person being photographed. Personal life of celebrities & public person is openly discussed and communicates to the people by the media for entertainment & for high TRP this is personal interest of media and not the public interest.

#### 2] Increasing the Defamation cases:

Media misusing their freedom and affects the individuals reputation & status and therefore

recently defamation suits are increases and court also awarded the huge amount of damages in defamation cases. We all well aware that recently Pune court awarded damages of Rs. 100 crores to former justice P.B.Sawant against the Times Group, for fifteen second clip by TV channel that accidentally showed his photographs next to the name of judge who was an accused in a scam. Similarly Sahara Initiated 200 crores defamation suit against the Tamil journalist. Under Sec. 499 of IPC Cover the defamation suits, but having some lacunas not clearly given the criteria on that basis amount of damages decide.

### 3] Trail by Media & Administration of justice :

When the matter is sub-judice in the court, trial by Media is not permissible. Freedom of press guaranteed by Article 19(1)(a) did not permit the media interfering in the administration of justice. In some cases Media Trial is consider as Contempt of court also. Every coin have two side , similarly sometime Media's role for sake of justice is good which was seen in Jessica Lal Case, Nirbhaya Delhi Gang rape case, Priyadarshini Mattoo case, due to media only some culprits are behind bars. Some news channels forgets their profession ethics and they discloses some information of rape victim or their relatives, or discloser the information of accused or culprits. Media have to keep in mind that the golden principles 'presumption of innocence until proven guilty' so media should not disclose any information of arrested person, victims and not conducting the trial of the accused and passing the verdict even before the court passes its judgement.

### 4] New Media / Social Media & Online Speech :-

New media or social media means using of internet to communicate, it include all the social networking site and online speech means writing on website, posting any pictures, videos, liking and tagging of any others posts, pictures etc. Recently supreme court eliminates the Section 66A of The Information Technology Act, 2000, it was preventing the misuse of networking to send the messages that are "grossly offensive" or have ' menacing character'. Transmission which cause annoyance and insult were also included in section 66A. Mere liking or tagging any post was also include in this definition, in 2012 two girls were arrested for comments made on facebook relating to the Bal Thakarey. This is good sign that our judiciary is using their discretionary power and solve the recent social media problems but still we requires some amendment in present law or enacting any new good laws which minimise the cyber crime.

### CONCLUSION:

Wide increasing power of media is dangerous and it violates the Right to privacy which is essential ingredients of right to life, present legal framework is inadequate to solve this recent socio legal problems & requires some amendments in present law or enacting new laws.

### END NOTES

1. See in State of Uttar Pradesh V. Raj Narain, AIR 1975, SCR (3) 333.
2. AIR 965( 1999)
3. H.M.Seervai, Constitutional Law of India, Vol. I, Universal Book Traders.2012.

4. See Kharak Singh V. State of Punjab, AIR 1963, SC 1295. AND Govind V. State of M.P. AIR 1975, SC 1378.
5. Supra 3.
6. (1978) 2 SCR 621
7. (1994) 6 SCC 632.
8. Available at <http://www.lawyersclubindia.com/articles/Rights-of-Media-and-Privacy-Issues-Bridging-the-Gap>. last seen on 23/05/2014/ 5:25 pm.
9. Ibid.
10. AIR 1997 SC 568
11. See S.u.sagane, "Media And Right to Freedom of Expression- Recent Legislative & Judicial Trends." Souvenir, ISBN 978-81-930233-1-0, One day state level seminar on 28/02/2015 by A.k.k.New Law Academy Pune.
12. S. Vashist v. State [NCT of Delhi], AIR 2010, SC 2352.
13. See supra 11.
14. Mahapatra, D. Explain Facebook arrest, Supreme Court tells Maharashtra govt. November 2012. Times of India.  
Available at: [http://articles.timesofindia.indiatimes.com/2012-11-30/india/35484450\\_1\\_arrest-ambikesh-mahapatra-social-network-site](http://articles.timesofindia.indiatimes.com/2012-11-30/india/35484450_1_arrest-ambikesh-mahapatra-social-network-site). last seen on 30/11/2012

# Publish Research Article

## International Level Multidisciplinary Research Journal

### For All Subjects

Dear Sir/Mam,

We invite unpublished Research Paper, Summary of Research Project, Theses, Books and Book Review for publication, you will be pleased to know that our journals are

## Associated and Indexed, India

- ★ International Scientific Journal Consortium
- ★ OPEN J-GATE

## Associated and Indexed, USA

- Google Scholar
- EBSCO
- DOAJ
- Index Copernicus
- Publication Index
- Academic Journal Database
- Contemporary Research Index
- Academic Paper Database
- Digital Journals Database
- Current Index to Scholarly Journals
- Elite Scientific Journal Archive
- Directory Of Academic Resources
- Scholar Journal Index
- Recent Science Index
- Scientific Resources Database
- Directory Of Research Journal Indexing

Indian Streams Research Journal  
258/34 Raviwar Peth Solapur-413005, Maharashtra  
Contact-9595359435  
E-Mail-ayisrj@yahoo.in/ayisrj2011@gmail.com  
Website : www.isrj.org