

**AN ANALYTICAL STUDY OF MEDIA LAWS IN INDIA: AN OVERVIEW****<sup>1</sup>Sudharsana Moorthy G, <sup>2</sup>Prof. Dr. A Subramanyam**<sup>1</sup>Research Scholar (Part-Time)School of Law-Vel Tech Rangarajan Dr. Sagunthala R&D Institute of Science and Technology  
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Technology, Avadi, Chennai[sudharsanamoorthy.ml@gmail.com](mailto:sudharsanamoorthy.ml@gmail.com)**Introduction:**

Media is considered as the fourth pillar of democracy. The media has been emerging tremendously in recent times. Media influences the everyday life of the general public and influences in shaping public opinion. Freedom of the Press is guaranteed as a Fundamental right under Article 19 (1) (a) of the Constitution of India. There are several Statutory laws relating to media in India. A media trial refers to the coverage of a criminal case or an investigation by the media before a particular case has been fully adjudicated by a court of law. In recent times, the media transgresses its limit and provides sensationalized false exaggerated information to the general public even before the delivery of judgment by the Judiciary. The media trial violates the right to privacy and the right to a fair trial guaranteed under the Constitution of India. There is a need to regulate the press and media by strengthening the existing legal framework and guidelines.

**1. Methodology:****1.1 Objective of the Study**

- To analyze the concept of media and its development in India.
- To trace the historical evolution of media in India.
- To analyze the Freedom of Press and Statutory regulations relating to media in India.
- To discuss the media trial and its impact on society.

**1.2 Hypothesis:**

The Statutory framework relating to media has to be strengthened to make media a responsible pillar of the fourth democracy in India.

**1.3 Research Methodology and Sources of Data :**

The doctrinal method of legal research is adopted in this study. The Secondary Sources such as books, journals, and online materials were referred. To Study the Legal framework relating to media the respective bare acts and Constitution of India were referred.

**1.4 Review of Literature**

1. Law of Freedom of Press and Media in India – Contemporary Issues, Dr.Gopal Sharma, Dattsons Publishers, First Edition (2018)
2. In a democracy, the Government cannot function unless the people are well-informed and free to participate in public issues by having the widest choice of alternative solutions to the problems that arise.

3. Media Law in India - Freedom, Evolution and Contemporary Issues, Dr Sohini Mahapatra, Lexis Nexis Publication (2023)

Trespassing into the domain of the Court has become a persistently dangerous habit of the media, where the media takes up the role of a judge and declares verdicts on cases even before the court does so. While the media has every right to fair comment and criticism, the line between the right to comment on a sub-judice matter and passing verdicts at the cost of sabotaging the administration of justice is a very fine one.

### **2.1 Media – Meaning and its development:**

The word ‘Media’ is a plural verb of the medium. Media means communication, such as radio, television, newspapers, magazines, and the internet, that reach widely people or influence them. The very word ‘Media’ comes from the Latin language plural of ‘medium’. The term medium in its singular form of media is defined as one of the means or channels of general communication, information, or entertainment in society, such as newspapers, the radio, or television, and many recent inventions such as the internet and other social media such as Facebook, Instagram, Twitter, Whatsapp, etc.

During British colonial rule, the media landscape in India was limited and controlled. During the pre-independent India, Newspapers and magazines emerged as platforms for nationalist movements and played a crucial role in spreading awareness and mobilizing public opinion against British rule. However, after independence, the country witnessed a growth in media outlets. The print media expanded, and several prominent newspapers emerged. However, the post-1990s economic liberalization has led to a significant transformation in the media landscape in India. The government allowed private players to enter the broadcasting sector, leading to the establishment of numerous news channels and radio stations in India. Furthermore, with the advent of the internet and digital technologies in India, media consumption habits have changed dramatically.

The emergence of Online news portals, blogs, and social media platforms has gained popularity, providing instant access to news and diverse opinions. This digital shift has challenged traditional media and opened up new avenues for information dissemination. The very development of media in India has not been without challenges. Many issues such as the corporatization of media, political interference, censorship, biased reporting, and the rise of fake news have raised concerns about the credibility and ethics of media organizations. However, despite these challenges, the Indian media continues to play a vital role in disseminating information, shaping public opinion, and holding institutions accountable. Media can be broadly divided into three categories Print media, Electronic media, and Digital media.

### **2.2 Historical Evolution of Media in India:**

The Publishing houses in India were created as private commercial enterprises, The Indian newspaper saga started with an Irishman - James Augustus Hicky who launched the “Bengal Gazette” also called “The Calcutta General Advertiser” in 1780 which was India’s first newspaper published in English. Later this newspaper was banned by the British administration. In newspapers, censorship was introduced in 1795, and the “Madras Gazette” was asked to submit to the Military Secretary all the General Orders of the government for censorship before publication. The birth of the first newspaper in the country took place towards the end of the 18th century. It was James Augustus Hicky, a British citizen, for the

first time published the newspaper in India and first issue came out on 29<sup>th</sup> January 29, 1780, in Calcutta, with the title “Bengal Gazette or Calcutta General Advertiser”.

In the history of the press, it was Sir James Silk Buckingham, one of the important personalities in Indian journalism, assumed the editorship of “Calcutta Journal” in 1818. The first issue of the paper appeared in Calcutta on 2<sup>nd</sup> October 1818 with an eight-page biweekly newspaper priced at one rupee. Calcutta Journal contents included political, commercial, and literary news and views. On publication of his paper, James Silk Buckingham was fearless in condemning the local custom of the practice of Sati and the government’s failure to put an end to such social evil. Raja Rammohan Roy is considered the father of Indian journalism by most historians in India. The Press Act, of 1910 was enacted, under this enactment, about 1,000 newspapers were processed, 500 newspapers were banned separately and several newspaper editors were jailed for sedition. The Government of India issued the ‘Indian Press Ordinance of 1930’ to control the press. This Ordinance was passed specifically to prevent the nationalist press from covering Gandhi’s historic ‘Dandi March’ in 1930. In pursuance of this Ordinance, the Newspapers were asked to deposit huge securities whenever the authorities made a demand. Today Indian media consists of several different types of communication such as television, radio, cinema, newspapers, magazines, Internet-based Web sites/portals, and several social media platforms.

### **2.3 Media and Society – A Golden Nexus:**

The media is influencing in shaping public opinion, influencing politics, and driving cultural and social change. The media provides information as its primary role is to provide accurate and timely information to the public. Media plays a key role in educating on issues of public importance such as health, the environment, social justice, and many other society-related issues. The media acts as a watchdog by exposing corruption, scandals, and abuses of power by those in authority. The media plays a vital role in promoting democracy by providing a platform for the exchange of ideas and encouraging public participation in decision-making processes. The media establishes a golden nexus with society by reflecting as a mirror and impacting the everyday lives of people living in the society.

### **3.1 Freedom of Press in India:**

In India, the rights of the press and media arise out of the freedom of speech and expression under Article 19(1)(a) of the Constitution. The press derives this right from the right to freedom of speech and expression in Article 19(1)(a) of the Constitution dealing with the guarantee of Freedom of speech and expression to every citizen. Freedom of speech and expression involves the right of citizens or media to express themselves by word of mouth, writing, printing, pictures, or any other manner. This freedom also includes the freedom of communication and the right to propagate or publish one’s view. Indian Constitution lays down certain reasonable restrictions in the form of Article 19(2) on the freedom of speech and expression which includes 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 about contempt of court, defamation or incitement to an offence.

Indian Constitution lays down certain reasonable restrictions in the form of Article 19(2) on the freedom of speech and expression. On freedom of the press, the Supreme Court

in its landmark judgment in *the Sakal Papers case*<sup>1</sup>, ruled that Article 19(2) of the Constitution permits the imposition of reasonable restrictions under the heads specified in Article 19(2) and on no other grounds. Dr. Ambedkar in his draft has rightly recommended that “no law will be made shortening the freedom of speech, of the press, of affiliation, and of get together, except for contemplations of open request and ethical quality”. Dr. B.R. Ambedkar strongly advocated for the freedom of the press.

In the case of *Romesh Thapar v. State of Madras*<sup>2</sup>, the Supreme Court held that the right under Art 19(1) (a) includes “the right to information and the right to disseminate through all types of media, whether print, electronic or audio, visual means”. The Supreme Court of India in *Printers (Mysore) Ltd. v. CTO*<sup>3</sup> has reiterated that though freedom of the press is not expressly guaranteed as a fundamental right, it is implicit in the freedom of speech and expression. Freedom of the press has always been a cherished right in all democratic countries and the press has rightly been described as the fourth chamber of democracy”. Justice P.N. Bhagavathi effectively emphasizes the importance of this Article 19(1)(a) in *Maneka Gandhi v. Union of India*<sup>4</sup>. In this case, held: “Democracy is based essentially on free debate and open discussion, for that is the only corrective of government action in a democratic setup. If democracy means government of the people by the people, it is obvious that every citizen must be entitled to participate in the democratic process and to enable him to intelligently exercise his rights of making a choice, free & general discussion of public matters is essential.”

### 3.2 Media Regulations in India:

The Press and Registration of Books Act, of 1867 was enacted to evaluate the present position of books, newspapers, and magazines in the country at any given time. The purpose of this Act is to regulate Printing-presses and Newspapers, for the preservation of copies of books and newspapers printed in India and for the registration of such books and newspapers. The Vernacular Press Act, of 1878 empowered the then-British Government to exercise more stringent control over publications in the Indian languages. This Act empowered any District Magistrate or Police Commissioner could demand security from the printer and publisher of a newspaper, forfeit such security, or confiscate any printed matter considered objectionable in the interest of the British Government. This Act was proposed by Lord Lytton, then viceroy of India which was intended to prevent the vernacular press from expressing criticism of British policies.

The Indian Press Act, of 1910 provides that owners of presses were required to tender security deposits. In case they printed any objectionable matter, these securities were to be forfeited. In addition to this, the police were given extensive powers of search and seizure. This enactment imposed rigorous censorship on all types of publications. The Official Secrets Act, of 1923 is another enactment that consolidates the law relating to official secrets and deals with offences like spying and wrongful communication of secret information. Section 3 of the Official Secrets Act, 1923<sup>5</sup> provides penalties for spying. In a prosecution for an

<sup>1</sup> Sakal Papers Pvt Ltd v Union of India AIR 1962 SC 305

<sup>2</sup> 1950 SCR 594

<sup>3</sup> (1994) 2 SCC 434

<sup>4</sup> AIR 1978 SC 597

<sup>5</sup> Section 3 of Official Secrets Act, 1923 deals with penalties for various spying.

offence punishable under Section 3(1) of the Act, with imprisonment for a term which may extend to 14 years. The Official Secrets Act, of 1923 is also known as the Anti-espionage Act or the Anti-spying Act. The very idea of the Act is to keep the public away from certain confidential information which may threaten the security of the country.

The Cinematograph Act, 1952 regulates the exhibition of films in India and provides for the establishment of a board to certify films for public exhibition. The Drugs and Magic Remedies (Objectionable Advertisement) Act, of 1954 was brought in considering the increasing objectionable advertising of certain drugs for the treatment of certain diseases and disorders. This includes the prohibition of misleading advertisements related to drugs, the prohibition of advertisements of magic remedies for the treatment of certain diseases and disorders, and the prohibition of importing into and exporting from, India of certain advertisements.

The Cable Television Networks (Regulation) Act, of 1995 is an enactment that regulates the content of cable television networks in India and provides for the establishment of a regulatory authority to oversee compliance. The Young Person's (Harmful Publications) Act, of 1956 is another statute, the purpose of this Act is to prevent the dissemination of certain publications harmful to young persons. This Act seeks to prohibit the publication in India of such literature as glorifies crime, violence or vice.

The Contempt of Court Act, 1971 is an enactment that provides for reasonable restrictions under Article 19(2) of the Indian Constitution. This Act was enacted for the first time in the year 1952. Later on, this was again enacted in 1971, which was further amended in 1976. This is an Act to define and limit the powers of certain courts in punishing contempt of courts and to regulate their procedure in relation thereto. The Press Council Act, 1978 was enacted whereby provided for the establishment of the Press Council of India, which acts as a watchdog for the press and ensures that newspapers and journalists adhere to ethical standards. The Press Council aims to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India.

The Telecom Regulatory Authority of India (TRAI) Act, 1997 was established with effect from 20th February 1997 by an Act of Parliament to regulate telecom services, including fixation/revision of tariffs for telecom services which were earlier vested in the Central Government. One of the main objectives of the Telecom Regulatory Authority of India (TRAI) is to provide a fair and transparent policy environment that promotes a level playing field and facilitates fair competition.

The Indian Penal Code (IPC) was enacted. This Code contained offenses like defamation and obscenity which writers, editors, publishers, and printers must avoid. Sedition Section 124A<sup>6</sup> was added to it in 1870, promoting enmity between classes is punishable under Section 153-A which was added in 1898,<sup>7</sup> outraging religious feelings under Section 295A<sup>8</sup> in 1927, and assertions against national integration under Section 153B<sup>9</sup> in 1927. The

<sup>6</sup> Section 124-A of Indian Penal Code, 1860 deals with the provisions relating to Sedition.

<sup>7</sup> Section 153-A of Indian Penal Code, 1860 deals with promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

<sup>8</sup> Section 295-A - of Indian Penal Code, 1860 - Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

<sup>9</sup> Section 153-B - of Indian Penal Code, 1860 - Imputations, assertions prejudicial to national-integration.



Information Technology Act, of 2000 is an important enactment that regulates the use of electronic communication and provides for the punishment of Cybercrimes. Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 was introduced in February 2021 with the main aim of regulating digital media and social media platforms in the country.

### 3.3 Media Regulators in India:

The Prasar Bharati (Broadcasting Corporation of India) Act, 1990 is an enactment to provide for the establishment of a Broadcasting Corporation for India, to be known as Prasar Bharati, to define its composition, functions, and powers and to provide for matters connected therewith or incidental thereto. Section 12 (3)(a) mandates that Prasar Bharati ensure that “Broadcasting is conducted as a public service.” Section 12 (3)(b) reinforces that the purpose of establishing the corporation is to gather news, not propaganda. The News Broadcasting Standards Authority is a self-regulatory organization that issues standards for media in India.

### 4. Media Trial in India:

A media trial refers to the coverage of a criminal case or an investigation by the media before a particular case has been fully adjudicated by a court of law. In India, media trials have become increasingly common, with news channels, newspapers, and social media platforms extensively covering high-profile cases and investigations. Media trials have a significant impact on a case, at times leading to the conviction or acquittal of the accused even before the trial has started. Press and Media enjoy the right to freedom of speech and expression under Article 19(1)(a) guaranteed by the Indian Constitution. Though the rights are not absolute, it has reasonable restrictions under Article 19(2).

In recent times there have been numerous instances in which various kinds of media, particularly, the television media have conducted the trial of an accused and has passed the verdict even before the court passes its judgment. The media is now transgressing its limits provided by law by conducting trials and impacting the judicial process in India. Media trial violates the right to privacy and right to fair trial which is guaranteed under Article 21 of the Constitution of India. In *Zahira Habibullah Sheikh and others v. State of Gujarat and Others*,<sup>10</sup> the Supreme Court of India observed “Each one has an inbuilt right to be dealt with fairly in a criminal trial and further held that denial of a fair trial is as much injustice to the accused as it is to the victim and society”. In the landmark judgment of *Justice Puttaswamy v. Union of India*<sup>11</sup>, in which the Supreme Court unanimously held that the right to privacy was a fundamental right under the Indian Constitution. The court held that the right to privacy was an intrinsic part of the right to life and personal liberty under Article 21.

The Supreme Court of India in *R.K. Anand v. Delhi High Court*<sup>12</sup>, held that the media's conduct in sensationalizing a case can amount to contempt of court. The court observed that the media has a responsibility to report news objectively and dispassionately, and not to interfere with the administration of justice. In the case of *Saroj Iyer v. Maharashtra Medical (Council) of Indian Medicine*<sup>13</sup>, it was held that the press and media enjoy the privilege of sitting in the Courts on behalf of the general public to keep them informed on

<sup>10</sup> (2006) 3 SCC 374

<sup>11</sup> AIR 2017 SC 4161

<sup>12</sup> (2009) 8 SCC 106

<sup>13</sup> AIR 2002 Bom 97, 2002 (3) BomCR 416, (2002) 1 BOMLR 504

matters of public importance. The powers and privileges provided by law are being misused by media houses by conducting media trials and stepping into the domain of the Judiciary. There is a tire need that the press and media to become responsible as the fourth estate of democracy and use their powers and privileges for the benefit of the society.

**Conclusion:**

In India media plays a significant role in shaping public opinion, increasing transparency, and holding the judicial system accountable. Freedom of the Press arises out of the freedom of speech and expression under Article 19(1)(a) of the Indian Constitution. The media trial violates the right to privacy and the right to fair trial in India. The media houses need to adhere to responsible journalism practices and ethical standards, which include verifying information, providing balanced coverage, respecting the rights of the parties involved, and refraining from sensationalism or speculative reporting. The promotion of media literacy and responsible exercise of freedom of the Press will promote fairness and accountability in media reporting. Striking a balance between freedom of the press and the fair administration of justice requires responsible journalism practices and a commitment to ethical standards.