



MEDIA LAWS NEED FOR DEMOCRATIC INDIA

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Abstract¹: Media acts as an interface between the common man and the Government. It is a very powerful tool with the ability to make and break the opinion of people. If media tells the public that this picture is being demanded as one of the most wanted terrorists, people would regard him as one blindly. It has the capacity to swing perceptions or evoke emotions. This is what it has gained faith of public. The media has helped to make our society a democracy by placing emphasis on issues that at one point in time would have been considered strictly private such as child birth, homosexuality, child care, domestic violence, and sexual harassment.

Democracy can be understood as a form of government which is subject to popular sovereignty and one of the crowning glories of the democratic system is the freedom of speech and expression. Reliable information sources are an important constituent of any democratic society. This is where media steps in. The media has a strong social and cultural impact upon society. It is widely used to convey message to build public opinion and awareness only because of its inherent ability to reach large number of public. To understand the concept of media in India, it is necessary to know the meaning and different forms of media which affect the life of a common man in different ways.

Now the hypothesis to research is that “Do the Media Laws are essential for growth of democracy of India.”

In this research paper researcher attempts to analyse the role of media laws in the development of democracy in India and requirement for new media laws for protection of democracy.

INTRODUCTION

Democracy is commonly defined as a government of the people, by the people and for the people. Freedom and democracy walk hand in hand. Democracy, in my view, is only compatible with a free economy. Like a fish to water, democracy can only exist in an atmosphere of freedom of action; it is completely incompatible with a system that provides for a governing authority with coercive power. We live in society today where the media plays a pivotal role in how we see the world, and how our opinions are formed, whether it is from what we watch on television or what we gather from newspapers. Transparency and accountability are a must for proper functioning of a democratic system. The nexus between corruption and democrats intertwined by politics seems to snatch the serenity and peace of our country. The lethal politics played by these democrats: the politicians, the bureaucrats, criminals are far away from the peak of dextrous politics being played by the media. For their vested interest, they throw the whole society into an inferno.

A democratic system to run in its full potential need wide participation on the part of general masses which is impossible without the people being informed about the various issues. Thus reliable information sources form an important constituent of a democratic society. This is where the role and importance of media arises.

1. *Meaning of the term 'Media':*

The term media is derived from Medium, which means carrier or mode.² Media denotes an item specifically designed to reach a large audience or viewers. The term was first used with the advent of newspapers and magazines.³ However, with the passage of time, the term broadened by the inventions of radio, TV, cinemas and Internet.⁴

2. *Kinds of Media:*

Media especially can be categorized in to two main parts: One is Print Media and another is Electronic Media.

A) Print Media: It consists of Newspapers and Magazines etc.

B) Electronic Media: It consists of Radio and Television, Cinemas and Internet etc.

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² A. Pushparaj, “An essay on Role of Media”, available at: <http://www.publishyourarticles.net/eng/articles2/an-essay-on-the-role-of-media/2481/>

³*Ibid.*

⁴*Id.*



These can be sub-divided in following parts:

- Advertising media:
Various media, content, buying and placement for advertising.
- Electronic media:
Communications delivered via electronic or electromechanical energy.
- Digital media:
Electronic media used to store, transmit, and receive digitized information.
- Electronic Business Media:
Digital media for electronic business hypermedia, media with hyperlinks.
- Multimedia:
Communications that incorporate multiple forms of information content and processing.
- Print media:
Communications delivered via paper or canvas.
- Published media:
Any media made available to the public
- Mass media:
All means of mass communication.
- Broadcast media:
Communications delivered over mass electronic communication networks.
- News media:
Mass media focused on communicating news
- Net media:
Media that can only be created or used with the aid of modern computer processing power.
- Recording media:
Devices used to store information.
- Social media:
Media disseminated through social interaction.

3. *Background development of Media:*

The media has undoubtedly evolved and become more active over the years. Mass media have great influence on human life in the present century. They have provided information and entertainment to people across countries. Print media was been the leader of mass medias over a considerable period of time. But now it has got competition from Television, which is reshaping many of the social responses. Radio apart from providing news and views has also developed a flair for entertainment, thereby getting a lot of acceptance. There is also the new media with internet being its flag bearer. Internet has indeed made it possible to disseminate information and ideas in real time across the globe. The media can make a real difference to the lives of poor and people can take assistance of media, as media helps them in following ways:

- Making people more aware of their rights and powers;
- Educating the public on social, economic and environmental issues;
- Making people more aware of political issues and options and helping to encourage debates;
- Facilitating people to have access to government programmes, schemes and benefits;
- Drawing people's attention towards institutional failings like corruption, fraud, waste, inefficiency, cronyism, discrimination, abuse of powers etc.;
- Promoting exchange of best practices, knowledge resources, access to better technology and to better choices;
- Generating pressure on government to improve performance, accountability and quality e.g., in service delivery; and
- Afford space for citizens to dialogue with other actors in the governance process.



Role of Media:

In this era of liberalisation, privatisation and globalisation (LPG) media has played a very important role in bringing the world to everyone's drawing room. Since the introduction of television in our country in late 70's visual media becomes a very potential tool in informing the current news to the society, entertaining the people and shaping up of public opinion. The growth of electronic media with the help of World Wide Web and web 2.0 technologies have totally changed the people's life style in such a way that now even a common man can express views through blogs, website posts, face book and twitter like social media. Coupled with traditional print media all these audio video and social media caters to a richly diversified media industry in India. Moreover, media helps in fighting against corruption, favouritism, cronyism of institutional machinery and carrying out relentless campaign against them. In recent scams from commonwealth to 2G, Indian media performs commendably in exposing the corrupted highly placed statesman. Media acted as a channel to government action by compelling government to swing into action including suspending ministers and putting ministers into jails. No one can forget the crusade taken by Indian media in the Nirbhaya rape case and shaping the public opinion in one of the most heinous crimes the world has ever witnessed. Without media, the news of government schemes and benefits would have never reached the target audience.

Media of today as the fourth pillar of democracy along with judiciary, executive and legislature, has an all embracing role to act against the injustice, oppression, misdeeds and partiality of our society. One can easily tell a lot about the state of a country's governance, as well as its commitment to democracy and economic and social development, by looking at whether it respects its citizens and its media. However, media does play a negative role as well. The burning example of media's negative role is 'Taj Operation'. During the Taj operation conducted by commandos, the coverage by media was helping the terrorists as well as they were aware of what steps the commandos were taking. The unnecessary exposure by media also has an adverse effect on children. They are shuffled by stringent laws.

In recent times Indian media has been subject to a lot of criticism for the manner in which they have disregarded their obligation to social responsibility.⁵ The fabric of Indian democracy has been affected by dangerous business practices in the field of media. Big industrial multinationals in the business of media have threatened the existence of pluralistic opinions. Post liberalisation, transnational media organisations have spread their wings in the Indian market with their own global interests.⁶ This has happened at the cost of an Indian media which was initially thought to be an agent of ushering in social change through developmental programs directed at the non-privileged and marginalised sections of the society.⁷

Generally, media reporting gives the impression that certain accused has committed the crime or the media through its independent investigation wing has found a particular fact. Whereas in fact, it has relied entirely on the information given by the police and failed to question or verify the facts by an independent source. The result is that most crime reporting is one-sided, because the information received from the police is rarely questioned.

Moreover, media in India violates privacy in day-to-day reporting, like overlooking the issue of privacy to satisfy morbid curiosity. The Press Council of India (PCI) norms prohibit such reporting, unless it is outweighed by 'genuine overriding public interest'. Almost all the countries of the world prohibit publication of details that would hurt the feelings of the victim or his/her family. Unlike the UK, where the PCC can pass desist orders, in India the family and/or relatives of the victims are harassed by the media.

Thus, the main public interest criterions that the media need to consider include freedom of publication, plurality in media ownership, diversity in information, culture and opinion, support for the democratic political system, support for public order and security of the state, universal reach, quality of information and culture disseminated to the public, respect for human rights and avoiding harm to individuals and the society.⁸

⁵Soumya Dutta, "Social Responsibility of Media and Indian Democracy" June 2011, Global Media Journal – Indian Edition/ Summer Issue, at.1.

⁶*Ibid.*

⁷*Id.*

⁸*Id.*, at.2.



The role of media in India, the largest democracy of the world is different from merely disseminating information and entertainment. Educating the masses for their social upliftment needs to be in its ambit as well. In a country where there is large scale poverty, unemployment and underdevelopment media has a responsibility towards developmental journalism. It has a role to play behind formation of public opinion which can force the political parties to address the core issues haunting the country's progress.⁹

4. *Media laws:*

Basically, media laws in India are collection of statutes, regulations and case laws. Although a number of statutes are there related to media, yet the Courts in India continue to represent the significant source of Media Law. The fundamental principle on which Media Law of India rests is the freedom of speech and expression as provided under the Constitution of India as a fundamental right.¹⁰ Unlike certain other countries, like the United States of America, there is no separate provision in the Constitution guaranteeing the freedom of press.¹¹ Although, the Supreme Court of India has held that there is no requirement to mention freedom of press separately because the freedom is impliedly provided for in the guarantee of the freedom of speech and expression.¹² In another leading judgement, the apex court stated that the freedom of expression includes not only the print matters that have either been borrowed from someone else or are printed under the direction of that person.¹³ The Supreme Court also held that the freedom of expression encompasses the liberty of publication in circulation, and the right to answer criticism levelled against such views.¹⁴

5. *Legal Dimension of Media in India:*

Legal Dimension of Media can be evaluated by going through the following aspects of Media Law in India:

- i. Media & Criminal Law (Defamation/obscenity/Sedition);
- ii. Media & Tort Law (Defamation and Negligence);
- iii. Media and Legislature-Privileges of the Legislature;
- iv. Media and Executive-Official Secrets Act;
- v. Media & Judiciary-contempt of Court ;
- vi. Media and Human Rights.

Freedom of speech and expression includes liberty to propagate not one's views only; it also includes the right to propagate or publish the views of other people, otherwise this freedom would not include the freedom of the press.¹⁵ Right to know is the basic right of the citizens of any free country and is guaranteed and protected by Article 19(1) (a) and there comes the role of media. Media has been regarded as the fourth estate in democracy and it provides the space for alternative ideas to debate and arrive at conclusions for the betterment of society. To understand Media Law in India, it is mandatory to discuss above mentioned concepts in detail as under:

CONCLUSION

Mass media which is also called the sword-arm of democracy, commands awe and respect of nation as well as individuals it is the most effective instrument which has the potential to bring about the downfall of the despot rulers of the world.¹⁶ It is the most powerful investigative machinery that exposes the injustice, oppression, partiality and misdeeds of society. In a country like India where the percentage of poverty and illiteracy is high radio serves as the best means of mass media. Print media is a type of media (as mentioned earlier also) that

⁹*Id.*, at.4.

¹⁰ Art.19 of the Constitution of India.

¹¹ Andrew B. Ulmer, Frost Brown Todd LLC Multilaw International Contributors, "Media, Advertising, & Entertainment Law Throughout the World, Vol. 1, (2012) South Asian Edition, at. 16:2, 717.

¹² Express newspaper v. Union of India, 1959 SCR 12.

¹³*Ibid.*

¹⁴RomeshThappar v. State of Madras, 1950 SCR 594.

¹⁵Srinivas v. State of Madras, AIR 1931 Mad 70.

¹⁶ Vishal, "Role of Mass Media in Indian Society", available at : <http://www.shareyouressays.com/2916/1256-words-essay-on-role-of-mass-media-in-indian-society>



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remained leader over a considerable period of time, but now it has got competition from television, which is reshaping many of these social responses. Commercialization has created a stiff competition in media. In order to outdo each other print media has often gone one step further in publishing articles, cover stories, etc. on sex. Media experts say this is one of the means of attracting readers who are glued to T.V. news channels, which have cropped up swiftly in a recent past and they believe this is a cheap form of journalism.

Good governance is an ideal system which is difficult to achieve in its totality. In other words, no country or society has ever said to achieve good governance in totality. One can only come close to this by one's activities with the aim of making this ideal a reality. The journey of India from developing nation to a developed nation will depend on the role played by the media in the country. It needs to be focused on the real matters, which are mostly social and economic in nature, instead of trying to divert the attention to the non-issues. Achieving the good governance requires the understanding and participation of every member of the society. The media, their significant roles, channels and contents, are considered to be the most powerful weapon to make this achievement a reality.

By the above discussion we can conclude that the media laws are controlled tools on media and mass media for a democratic country.