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BA. LL.B. (Hons.), 2<sup>nd</sup> Year.**REFRESHING THE FOURTH PILLAR OF DEMOCRACY****ABSTRACT**

*Democracy is taken into account to be a rule of the people through their elected representatives. One among the merits of a democratic system is that the freedom of expression and therefore the space that's provided to disagreement by different sections of society. It's namely four pillars: Judiciary, Legislative, Executive and Media. The three former ones maintain a system of checks and balances in Indian context. Whereas the latter that's the Media is that the most powerful entity on earth. It ensures transparency altogether the three systems. It's sort of a mirror that shows the important side. It makes us conscious of various social, economic and political issues that surround up during a country. With variety of latest channels, newspapers and social media platforms which provided the foremost accurate news covering all kinds of stories, it's now a puppet of polarized politics. Just to not blame only politics, religious dominance also puts up a blanket on the authenticity of the news showered upon us. As said, "What the mass media offers isn't popular art, but entertainment which is meant to be consumed like food, forgotten and replaced by a replacement dish.". If there's an ideal blend of technology and media no stone is going to be left unturned in unearthing corruption and politics in our society. But thanks to loss of credibility of the media and people's trust in it democracy is at stake and every one in danger.*

## **INTRODUCTION**

The pontification, neck grabbing sensationalism, dirt throwing, ranking the TRP Charts, and last but not least their obsession with Taimur Ali Khan. The very first mistake of the Media is their attention towards nonsensical issues and nonchalantly avoiding problems with concern. During a robust democracy, the importance of media is utmost, molding our thoughts and helping us in opinion building. Taking a glance back in time, the feudal oppression has led to the media, become the 4th pillar of the state.

The medium had been extremely vocal about the colonial rule and have raised their voice against despotism and feudalism time and again. But when the govt and therefore the media unite to win elections and form governments then news doesn't happen, they're made. Then who should the people of this country trust; on these news channels on which, within the name of stories, political rivalries and communalism is being promoted and sensationalism is being sold or the govt who is busy making false promises?

Who will, in what ways and with what intensity telecast the news first is that the concern. Where the top goal should be news and therefore the medium should be money, unfortunately, has now changed to money becoming the goal and news a mere medium.

Opinions and facts are two various things, mixing both of them cause a negative impact, and if one-sided journalism is promoted then god forbid, the state is unquestionably getting into the incorrect direction.

Breaking News-XYZ has brutally killed ABC, PERIOD; our channel's investigation has led us to the present conclusion. Okay, so since when did the judiciary and therefore the enforcement officers continue exile? Channels conclude that the accused is that the real convict even before the court's Judgment and on top of that we believe them which leaves me flabbergasted. The phrase "sensation above sense" is that the go-to method for the Media.

The primary role of media is to play watchdog but are they really watchdogs or Tamed Dogs? Media must act as a way of empowerment and development. Honorable vice chairman of India Mr. Venkaiah Naidu rightfully stated that "Journalism may be a noble profession and every one of you as flag-bearers of this vocation must make sure that people are correctly informed and not become captive receivers of biased and partisan information"

## **HISTORY OF THE MEDIA**

The Indian Press features a long history right from the days of British rule out the country. British Government enacted variety of legislations to regulate the press, just like the Indian Press Act, 1910, then in 1931-32 the Indian Press (Emergency) Act etc. During the framing of the Constitution, the founding fathers bestowed enormous significance to Freedom of the Press. B. N. Rao, the Constitutional Advisor to the Constituent Assembly assured that freedom of the press was included within the guarantee of freedom of speech and expression and it had been hardly necessary to supply for it specifically.

Dr. Ambedkar said that we don't want to offer absolute rights to the press because it's two aspects. the proper might be given to the primary aspect of the press and to not the second aspect. The press may be a right of expression. The Constitution of India in Article 19(1) (a) lays down that "All citizens shall have the proper, to freedom of speech & expression and it includes the proper to press also."

This concept has been warranted by the Supreme Court of India. In numerous judgments the Supreme Court has ruled that Freedom of the Press is contained within the guarantee of freedom of speech and expression in Article 19(1) (a) of the Constitution. the liberty of press means freedom from interference from authority which might have the effect of interference with the content & circulation of newspapers.<sup>1</sup>

In the view of democracy, it only means people or the citizens can enjoy full freedom of speech and expression and may be only restricted within the reasonable subject. During the age when the press council in India felt anxiety, the birth of the Media Law is implemented and followed by the Press Regulations that significantly had an impression on the publishing industry.

Next is that the introduction of the compulsory licensing for owning and running the printing presses which is usually empowered by the government. This action simply means to ban the publication or circulation of any newspaper, book, or other printed material. The banning of the publication or dissemination created a commotion against the govt that effectively weakened the facility of authority.

This process continued and through the years brought a big change and created a fundamental right within the constitution. the whole developed article within the institution of the country speaks about the liberty to precise and expression and therefore the birth of the Press Council in India.

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<sup>1</sup> Sakal Papers Ltd. V. UOI AIR 1962 SC 305

## **WHAT IS GOING WRONG WITH THE MEDIA?**

The Indian media was busy praising Mr. Narendra Modi who took on India's questions on a public platform in London, now if one shall see the interview; one can realize how lopsided it had been. It had been displayed as an exemplar of direct democracy because the interaction was unscripted and unprecedented. Now the talk happening was, Has the Prime Minister by agreeing to participate in such a session, finally shut the mouths of the mourn Modi lobby, isn't this embarrassing. A debate was run on News India 18? Which was named as RAM VS HAJ. The media is creating fictional characters as a villain, one is that the Muslim Villain, other is Anti Hindu, and therefore the next is Anti National. Now sadly the person is that the same but he's viewed as these different characters from time to time consistent with the convenience of the media. It's called as stooping rock bottom when the news channel became forensic experts and analyzed the death of Sridevi. Every channel killed Sridevi in their own way.

Why are the important issues ignored, The bleeding banks of India, GST which caused huge losses to medium sized traders, people dying standing in queues to withdraw cash thanks to demonetization, 1.5 million youths losing their jobs from Jan- April (2017) and currently 31 million Indians being unemployed, the unsolved Kashmir issue, China's dominance , shabby state of state run schools, never ending farmer issues, inadequate washrooms for bogs in banks , petrol prices soaring to 90 Rs per ltr, Indian rupee being Asia's worst performing currency. Now it might be wrong to generalize because there are institutions that also fight for and report the real issues.

Media is now running the PR of state. The authoritarian government has time and again curbed voices of dissent. During a democracy constructive criticism should be welcomed with open arms and therefore the media should be free from government control. Many internet sites removed story on Amit Shah-linked bank getting huge sums of demonetized notes. Why this fear? Fear has become a profitable buy and when fear becomes profitable the People of the country shall beware because it's a loss to them. How can someone prove nationalism by shouting Bharat Mata ki Jai? Fake and muscular nationalism has led to numerous deaths and protests. TV anchors are busy influencing people consistent with the whims and fancies of the politicians.

Mr. Obama stated that you simply aren't alleged to be sycophants; you're alleged to be skeptics. Opposition, dissent and Criticism should be the three opportunities for the ruling Party to prove their mettle and better their performances. If one shall take a glance, since the last 5 years the

quantity of TV viewership has shot but all of a sudden questioning has reduced to NIL, TV anchors became intellectual terrorists and are busy shouting and fighting on television rather than addressing the important issues and questioning the government.

### **INCIDENCES OF PAID NEWS IN INDIA**

Andhra Pradesh is really every time on the very top whenever it involves paid news incidences. The dimensions of the marketplace for paid news is basically very big; which lies somewhere between Rs. 300 cr to Rs 1,000 cr. In Andhra Pradesh, politicians who participated within the elections for the Lok Sabha in 2009, paid huge sums of cash for favorable news coverage about themselves. It's really unfortunate that journalists forget their dignity for petty gains.

The Committee of India disqualified UP MLA Umlesh Yadav for filling an incorrect statement of election expenditure and also for paying two local Hindi newspapers for sponsoring 'paid news' before polling. She was the primary political victim of the paid happening.

The controversial telephonic tapes between corporate lobbyist Nira Radia with journalist Barkha Dutt and Vir Sanghvi resulted in controversy for running scripted interviews with politicians and lobbying for A. Raja the then Telecom Minister for his role within the 2G Scam.

The former Maharashtra Chief Minister Ashok Chavan was involved within the paid news controversy. While contesting for Bhokar Assembly constituency in Nanded district, he had paid money to varied Hindi and Marathi newspapers to urge publicity and news praising him. He spent an enormous amount of cash on advertisements, which wasn't accounted for correctly in his election expenditure account.

One of the most important expose of this so-called holy fourth pillar of democracy was the bunco conducted by the cobra post in video operation 136 which happened in 2 parts. In these sting, the cobra post showed that how the amount of media houses, whether televised, newspaper, or on social media; are willing to market and show the reports which could easily cause communal polarization and end in gaining electoral gains for a few. With the undercover reporter, cobra pose did a bunco on media houses like India TV, Dainik Jagran, Sab TV, Daily News Analysis, Amar Ujala, UNI, Samachar Plus, Punjab Kesari, Swatantra Bharat, Scoop-Whoop, Rediff, Sadhna Prime News, and lots of others; these media houses have an enormous audience, circulation, and subscribers and are easily ready to influence the opinion of the viewers, but these media houses are misusing their ability to vary the viewer's opinion so as to campaign and set the agenda of the political and communal groups, to assist in increasing their

electoral votes, in consideration of cash . This exposes the cobra post has shown truth greedy and irresponsible face of media whether mainstream, regional or national, big ones or small ones, old ones, or newer ones. All of those media houses agreed to line the campaign trail reciprocally for unaccounted cash.

### **MEDIA, CRIME AND SOCIETY**

The paid news which is given by any party or the other big organization easily deviate the media from the important objective and therefore the media being the mirror to the planet or being an eye fixed opener, becomes a puppet within the hand of powers. Hence media being working for the people, by the people and of the people become for the sponsor, by the sponsor and of the sponsor. Sometimes these issues give birth to the media trials during which the media proof someone guilty before the judgement of the court. Generally, media describe crime which are wiped out society in their own words regardless of what the particular situation is.

In the Sheena Bohra Murder Case, the eyes of media have pierced the private lifetime of the most accused Indirani Mukherjee which was fully accused by the media. Every aspect of her personal life and character was publicly lens of examination compromise.

In recent times there are numerous instances during which media has conducted trials of an accused and that they had been verdict even before the judgement gone by the government.

Some criminal cases that might have gone unpunished except for the intervention of media are Priyadarshni Mattoo Case and Jesica Lal Case, Nitish Katara Murder Case and lots of more.

In the case of Arushi Talwar Murder Case the media has verdict that the murder has been done by her parents Rajesh Talwar and Nupur Talwar, he wasn't guilty but the media proved him guilty.

The Law Commission in its 200th report, Trial by Media: Free Speech versus Fair Trial Under Criminal Procedure (Amendment to the Contempt of Courts Act, 1971) , has recommended a law to debar media from reporting anything prejudicial to the rights of the accused from time to arrest to investigation and trial in criminal proceedings.

On November 2006, the previous judge of India Y K Sabharwal expressed his views on media trials as:



According to law an accused is presumed to be innocent till proven guilty within the court of law, and is entitled to be a good trial. So, it's legitimate to demand that no-one are often allowed to prejudge or prejudice one's case? Why should judges be swayed by public opinion?

In the 20th century where a famous celebrity Fatty Arbuvckle was proved guilty by the media trial but he was proved acquitted by the Hon'ble Court but thanks to the media trial his entire career and his reputation was against him thanks to all the incorrect media coverage.



## **JUDICIAL RESPONSE TO THE FREEDOM OF PRESS**

In *Romesh Thappar v. State of Madras*<sup>2</sup>, Patanjali Shastri, CJ observed that “Freedom of speech and of press laid at the inspiration of all democratic organization for without free political discussions no public education, so essential for the right functioning of the method of popular government, is feasible.”

In *Brij Bhushan v. State of Delhi*<sup>3</sup> Patanjali Shastri, J observed that” William Blackstone in his commentaries said that each freeman has undoubted right to get what sentiments he pleases before the general public, to forbid this, is to destroy the liberty of the press, but if he publishes what's improper, mischievous or illegal, he must take consequences of his own temerity.... Pre censorship of a journal may be a restriction on the freedom of press...”

But thanks to ‘transitional media’ with the progress of communication technology, it became necessary to impose certain legal checks and bounds on transmission and communication. With this came restriction on freedom of press “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 thus far intrinsically law imposes reasonable restrictions on the exercise of the proper conferred by the

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<sup>2</sup> *Romesh Thappar v. State of Madras* 1950 AIR 124, 1950 SCR 594 (India)

<sup>3</sup> *Brij Bhushan v. State of Delhi* 1950 AIR 129, 1950 SCR 605 (India)

said sub clause within the interests of the sovereignty and integrity of India, the safety of the State, friendly relations with foreign States, public order, decency or morality or in reference to contempt of court, defamation or incitement to an offence.”

Bennett Coleman and Co. v. Union of India<sup>4</sup> as per opinion of KK Mathew, J ‘...Art 19(1) (a) isn't a “guardian of unlimited talkativeness” ...’

In *Indian Express Newspapers v. Union of India*<sup>5</sup>, the Supreme Court emphasized the importance of freedom of the press in these words:

“.... The expression freedom of the press has not been utilized in Article 19 but it's comprehended within Article 19(1)(a). The expression means freedom from interference from authority, which might have the effect of interference with the content and circulation of newspapers. There can't be any interference thereupon freedom within the name of public interest.”

In *Tata Press Ltd. V. Mahanagar Telephone Nigam Ltd.*<sup>6</sup>, the Supreme Court held that a billboard advertisement or commercial speech was also a neighbourhood of the liberty of speech and expression, which might be restricted only within the limitation of Article 19(2). The Supreme Court held that advertising, which is not any quite a billboard transaction, is nonetheless dissemination of data regarding the product-advertised.

So it's crystal clear that freedom of press is important for correct functioning of the democratic process. And thus, freedom of press flows from freedom of expression which is bound to all citizens by Article 19(1)(a). And it's the duty of the press to disseminate real and every one sorts of information within the restrictions imposed under Article 19(2) of the Constitution of India, 1950.

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<sup>4</sup> Bennett Coleman and Co. v. Union of India 1973 AIR 106, 1973 SCR (2) 757 (India)

<sup>5</sup> Indian Express Newspapers v. Union of India 1986 AIR 515, 1985 SCR (2) 287

<sup>6</sup> Tata Press Ltd. V. Mahanagar Telephone Nigam Ltd 1995 AIR 2438, 1995 SCC (5) 139



The Supreme Court during a recent plea seeking action against media houses for criminalizing coronavirus pandemic stated CJI S.A. Bobde “We cannot gag the press. We'll not pass interim orders/directions.”

## **RIGHT TO INFORMATION AND THE ROLE OF MEDIA**

Information is crucial for a vibrant democracy and good governance because it reflects and captures Government activities and processes. Access to information not only facilitates active participation of the people within the democratic governance process, but also promotes openness, transparency and accountability in administration.

‘Right to Information’ (RTI), the proper of each citizen to access information held by or under the control of public authorities, can thus be an efficient tool for introduction good governance. the main characteristics of excellent governance are participation, rule of law, transparency, responsiveness, equity and inclusiveness, effectiveness, efficiency, accountability, strategic vision and consensus-orientation.

Transparency means decisions are taken openly and enforced as per rules and regulations. It requires that information is freely available and directly accessible to those that are going to be suffering from such decisions and their enforcement. It also means enough information is provided to all or any the stakeholders in easily understandable forms and media to enable their meaningful participation in deciding processes.

Accountability means public institutions and functionaries are answerable to the people and to their institutional stakeholders. generally, a corporation or an establishment should be accountable to those that are going to be suffering from its decisions or actions. Accountability can't be enforced without a regime of transparency.

A direct relationship exists between the proper to Information, informed citizenry and good governance. the proper to Information provides citizens the chance of being informed of what the govt does for them, why and the way it does it. Good governance provides a platform that permits government functionaries to work efficiently, effectively and transparently and be accountable to the general public for his or her actions. It aims to place an end to inconsistent government practices and helps in establishing a responsive State.

Public participation in Government, respect for the rule of law, freedom of expression and association, transparency and accountability, the legitimacy of state , and therefore the like,

which are the core values of excellent governance, are often realised as long as the proper to information is implemented within the right spirit. Right to information is that the hallmark of excellent governance.

## **CONCLUSION**

In any democracy, weakening of pillars is usually damaging. We need to reach the most trunk, to trim the vicious aerial roots that are spreading and poisoning the society. So, in a nutshell, the media is forced to be a puppet of the government. They're not allowed to travel against the government, they can't question them. Whatever policies the govt makes should follow that blindly. But during this way, there won't be any medium for the general public to understand the reality of the government and its policies. Within the hide of freedom of expression, the watchdogs of democracy are having a nexus with the political parties, corporate and large organization for his or her own petty gains. The greedy media is killing the people and therefore the democracy, not at the speed of authoritarianism but killing an equivalent.

Today's media is inspired by the American media where TV debates turn into boxing ring matches. The very ability to listen can help us garner some respect for each other along with mentioning of real facts and figures and not mere face punching and heart throbbing verbosity. The people of this nation should feel productive and have nuanced views after reading a piece of news or watching a T.V debate.

Print media does have regulatory authority but it does not have real time powers to penalize someone. TV media is regulated by news broadcaster editors' association keeps a check on the content of news channel and is a body of the editors of various news channels and supports a self-regulatory body. A regulatory body can go haywire or a success. It's a risky but necessary call. And independent autonomous press commission should be made which shall be led by any SC Judge. So that the media is regulated and monitored.

If the media doesn't criticize the govt then who will? Ask questions. That's your job. Unless we keep the media faraway from money, greed and politics we as a nation cannot climb the ladder of growth. Shamefully India stands 138th out of the 180 nations within the World Press Freedom Index.

## **REFERENCES**

<https://www.lawctopus.com/academike/freedom-press-pillar-democracy/>

<https://www.trendingnews.news/media-4th-pillar-democracy/>

<https://blog.ipleaders.in/media-fourth-pillar-democracy/>

<https://www.asianage.com/newsmakers/071218/is-the-media-as-the-4th-pillar-of-democracy-losing-its-credibility.html>



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