

# RIGHT TO PRIVACY IN STING OPERATIONS OF MEDIA

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The strength and importance of media in a democracy is well recognized. Article 19(1)(a) of the Indian Constitution provides for freedom of the press and permits freedom of speech and expression. The existence of free, independent and powerful media is at the center of a democracy, especially in a highly mixed society such as India. The media is not only a medium to share one's ideas, beliefs and opinions, but also to establish opinions and opinions on different subjects on the regional, national and international agenda. The media's main role is to bring millions of people together in their thinking. The Supreme Court Judge Learned Hand wrote, 'The hand that controls journalism, radio, television and the broad magazine rules the country. His words have accurately reflected the growing role of the media in today's globalized and technologically knowledgeable world.

The rule of the people is democracy, a structure of three powerful pillars. But the Indians of today in their three areas of the executive, the legislature and the judiciary have been rather dysfunctional, and a fourth pillar called the media has been set up by guaranteeing Article 19(1) . It plays the vital part of an aware guard, a watchdog of civil servants and tries, by taking them to the attention of all in the hope of correctness, to deal with wrongs of our system. It is unquestionable, that the recent transformation in the media has brought great gains to the public in many ways. The State's judiciary itself, after using its reports and news to emphasize serious breakings of rights, has been able to profit from responsible and courageous journalism and in many cases has gained a suo-moto cognition. In this country the criminal justice system has several loopholes that are used to free up scot by the rich and wealthy. The statistics are the same in this situation as in our country where the conviction is abysmally poor by 4%. In these situations, the media play an important role not just in mobilizing public sentiment, but often in disclosing injustice that is most likely unrealized otherwise.

However, there are always two sides of a coin. This increased presence and significance in the media cannot underline the need to be responsible and professional in reporting. No right to freedom in civil society can be regarded as absolute, unrestricted or unskilled in any conditions, as invaluable as it may be. Media freedom must be exercised within acceptable limits, as is the other freedoms recognized under the Constitution. Great responsibility comes with great strength. The right referred to in point (a) of Article 19(1) is equally related to the obligation not to break any statute.

All institutions are susceptible to violence and every freedom is prone to a license that leads to chaos and anarchy, if left unscathed. That's the mark we stand at today. Television channels are using sensationalized journalism in order to boost their TV rating points (TRPs) to gain a competitive advantage over others. Sting operations are the focus now. They are part of the development of the media , bringing as much promise as

risk with every stroke. However, it cannot be twisted by technology, but it has its limits. The fact that a delicate balance between constitutional freedom of speech and the right to personal privacy is of practical significance must not be ignored. The second method that is now more common is that of media trials. This move is now a pattern which is dangerously interfering with the judicial system and has started showing the general public the truth about procedures. Both are media-intensive tools. And both stress the immense need for what is known as "responsible journalism."

### Sting operations vs. Right to privacy

TV networks have started hidden camera and other spy equipment analysis. The appearance of miniature audio and video technology, particularly pinhole camera technology, allows you to capture conversations and act in video and audio clandestinely. The devices are normally composed of four components – a digital camera, typically a 25-coin scale (pin top size) or even smaller, a video collector, cable transmitters and a battery cell. Wireless transmissions may prevent the use of the cable.

A sting operation is a law enforcement operation designed to trick a perpetrator of a crime. A typical sting would involve a law enforcement officer or a cooperative member of the public as a criminal partner or potential victim and follow a suspect's actions to gather evidence of the criminal offense of the suspect. Now, the question is whether the media should be the police force. This is an issue.

The success of a sting operation may represent the right to free press; however, it has an indomitable duty to protect the privacy of others. After the exposure to the media, the purpose of the newspaper or TV issue has shattered the identity, reputation or career. It has a fundamental right to live with equality, integrity, respect and the right to privacy as provided for in Article 21 of the Indian Constitution.

The Apex Court stated that our Constitution, in particular, did not declare a "right to privacy" as the fundamental right, but that the right constitutes a major component in personal freedoms, Kharak Singh vs. Uttar Pradesh State and other organizations began a campaign to acknowledge the "right to privacy" in India. The extension to humanistic content of Article 21 of the Constitution is fully integrated into heading the right to life and personal rights, following a thorough evaluation of this right in Gobind v. Madhya Pradesh State and Another.

Today the media over-investigating the product of excessive marketing, by crossing the limits of the person's rights, are seriously impinging upon the "right to privacy." Another finding from the Court, which touched on this aspect of the breach of privacy rights of individuals, was contained in the High Court's judgment in The Labor Liberation Front against the State. It was stated by the Court: "The press acts and does nothing to be done by the Public Prosecutor or the Courts after a case involving prominent individuals or institutions. It has recently taken on dangerous proportions to the level of interference with the privacy of the person. Great abuse of technological advancements and low competition in reporters' industries has caused standards or commitment to a noble profession to vanish. Freedom of expression is grossly undermined, which is the basis

of journalism. It should be remembered that rights and freedoms can be effectively exercised only in those who are excluded."

In *Mr. X v. Hospital Z* the Supreme Court held that the right to privacy could also emerge in addition to the contract from a special commercial, marriage or even political connection. Even real personal information may be a breach by public exposure of the right to privacy.

The following observations by the Supreme Court reiterate in *R. Radjagopal and Another v. State of Tamil Nadu and Other* the limitations of press freedom in the area of privacy "A individual shall have the right to protect the privacy, family, marriage, childcare, motherhood and education of their own. Nobody can make something known - true or otherwise and praiseworthy or critical - without his permission. The person involved violates the right to privacy and is also liable for damages in the proceedings. The role may however be separate if a person involves a dispute voluntarily, invites or voluntarily raises a dispute."

The U.S. law enforcement officials use sting operations to penetrate into their financial system any point of entry believed to inject illegal proceeds. Access to places like car dealers, hotels, bookmakers, cash-making services, pebbles and even churches was used as a result. "Covered techniques of investigation are also the safest, most effective and the only practical way to gather evidence for the prosecution and conviction of those responsible for the most virulent strains of crime, e.g. organized and major drug crimes."

In *Sherman vs US*, former US Chief Justice Earl Warren said that "a line between an unconscious innocent trap and an unconscious criminal pit must be drawn." It is a critical point, however.

On the other side, the UK authorities have developed a code for the undercover operations committee that has been identified and defined.

The opportunity to do much good never comes without the power to harm it, and the freedom of the press is no exception. Although the media can do everything possible to minimize abuse of authority (self-examination can also help and competition can help), we should also seek to understand why and how press freedom improves human life, enhances public justice and also encourages economic and social development. The media use technology to highlight "truths" that have never been understood by the general public. But it is important to make the best use of technology, and to stress properly the right guidelines.

The right to a free and equal trial vs. media trial

Media trials have developed a "issue" because they entail a tug of war between two contradictory concepts - free press and free trial, both of which are of fundamental concern to the public. Press freedom comes from the public's right, in today's issues, to engage in a democracy. That is why study and campaign journalism.

The Right to Fair Trial is also considered as the basic principle of justice in India as a trial that has no impact from abroad. The rules for the defense of this right are set out in the Constitution of India in accordance with Articles 129 and 215 (Computed Court-of-competency of the Supreme Court and the High Court to punish the

Contempt of Courts Act of 1971 for its own contempt). In particular, the media are concerned with limiting the discussion or publishing issues relating to the merits of a case pending before the Court. Consequently the journalist will be accountable for his disregard for the Court if a journalist issues anything that could harm a "fair trial" or that may distract from the impartiality of the Court's judgment in terms of the merits if the proceedings before it are a crime or a civil case.

Several decisions of the United States Supreme Court affirm that there could be risk to media outlets. Billie Sol Estes' conviction in favor of violating his constitutional rights to the due process of law was disregarded by the US Supreme Court in connection with a massive television program at the previous trial. The Court has ruled that Amendment Quatorzeen's "due process of law" would not prohibit television of reputable crimes.

In another case, the Court found that through prejudicial publicity Dr. Samuel H. Sheppard had been refused fair trial. In reference to the TV trials of Michael Jackson and O.J. Simpson, Michael Kirby stated that "To maintain the dignity and justice owed to the accused - sometimes successfully and sometimes not - is the judicial system trapped in such amusement fights via public television. However, this is not a problem for the media. Lawyers should be mindful that entertainment, money-making and the assertion of media power are media concerns."

In England to the House of Lords ruled in a well-known case of the Attorney general vs. the British Broadcasting Corporation (BBC), despite its assertion of judicial superiority over human frailty, that media action had an effect on judges. However, it became clear that the person could not remove entirely from his own mind what he had seen, heard or read, and could be contracted out by him. In particular, courts and tribunals have the authority to settle cases in accordance with the legal process, structured to handle the litigation. The proceedings of the media are like a conviction prior to the verdict. The Court found it important to recognize that the duties of courts cannot be usurped by any other authority in a democratic society.

Similarly, a multitude of cases have occurred in India. In Bofors Case, and in Kartongen Kemi OchForvaltning AB and Ors versus State against CBI, the High Tribunal of Delhi's remarks are of great importance because the Court has weighed the right to fair trial of an accused while calculating the role of media in the simplification of the criminal justice regime. It cannot be ruled out once more that the audience used for everyday spectacle of pseudo-trials in news media can have an adverse impact on the recognition of the courts as the correct place to settle legal disputes. This right is firmly upheld by the European Court of Human Rights.

In some cases, courts like the Indian Supreme Court have rejected the ever-expanding tendency to use media in subjugation. "The Supreme Court noted in the Maharashtra versus Rajendra Jawanmal Gandhi that a procedure regulating the conduct of a trial of the individual convicted of a crime is specified by legislation. The case of a law is highly antithesis by newspapers, public unrest or by electronic means. It could lead to a miscarriage of justice. A judge must guard against such pressures and be strictly regulated by the rules. If the person believes himself to be guilty of an offense, he shall be punished by statute."

In the words of Justice H. R. Khanna the position was most aptly summarized: "The media have emphasized those facets of a case so much that attention gives rise to intense public emotions. This ultimately leads to a fair trial between both sides. We have to know to what extent limitations are needed, and the media must practice them in order to maintain the clarity of the lawsuit. We still have another danger to take care of. Simultaneously. As I said in 1969 for the Full Bench of the Supreme Court in Delhi, people cannot stop all public debate in this respect by beginning a kind of judicial process on matters of public interest, with the pain of contempt from the court. Sometime, the whole thing needs to be balanced by a line. When the court or legislature is not being given any power of disregard towards the media, it seems necessary that hyper sensitivity is not exercised, and that proper account is taken of the functioning of press freedom in a democratic society. This is vital for the well-being of democracy. The press also needs to be mindful of its obligation to ensure that the courts or legislature have done nothing to discredit and to cause the people to lose confidence.

The Hon'ble Supreme Court observed that both the free press and independent justice are essential and hence need to be protected to ensure the rule of law and an orderly society in the case *Rajendra Sail Vs. Madhya Pradesh High Court bar Association and others*. The purpose and duty are both to communicate the truth. And the truth is considered to be found more in gray shades. The two positions can be adequately highlighted, particularly in a 'New India' in which the public is more aware and conscious of their environment than ever before. Only through coordinated activity can the sensitive balance between the two be maintained. The country can't perform most trustworthily without two foundations.

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