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FREEDOM AND LIMITS: THE LEGAL AND ETHICAL SPECTRUM OF MEDIA PRACTICES

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Abstract

The media plays an important role in the democratic functions of the country. It acts as watch dog to ensure justice in the society. The media usurps its freedom form the provisions of Article 19(1) (a) of the Constitution of India which guarantees the fundamental right of freedom of speech and expression. This paper gives an overview of the historical perspectives of development of media freedom especially from the period of Britishers. It also looks into the various aspects of freedom of media in the modern era. It also discusses limitations of media freedom under the constitutional provisions. The paper ends with the some observations and suggestions for exercising media freedom without hindrance to the rights and freedom of other rights guaranteed under the Constitution of India.

Introduction

The Media is the fourth pillar of democracy and is the watchdog of democracy. It exposes corruption in the society.[1] The freedom of media is intertwined with other freedoms such as freedom of speech, freedom of assembly, religious freedom, and political freedom, freedom of intellectual growth and communication of ideas. The freedom of media is recognized in various national and international instruments such as UDHR, ICCPR, and ECHR etc.

The media disseminate information to the society and it enjoys the same extent of freedom as enjoyed by the individual.[2]This paper examines the ambit of freedom of speech and expression with special reference to media along with its fairness restrictions. It also discusses how far media execute its functions without hampering the other rights of individuals.

Concept Of Media In the Digital Era

The traditional concept of media includes print and electronic media. The literal meaning of 'media' means a form of communication and it is a means of keeping relations in a society.[3] The print media covers newspapers, pamphlets, books, magazines etc. The electronic media covers radio, television, cinema etc. electronic waves have been used. The present trend of innovations in science and technology invites the need for the change in the concept of media. The term 'media' has been derived from the Latin word 'medium' which means 'middle sheath' or in other words, 'middle ground or intermediate'. The object of every media is to communicate people about social, political and other aspects related to society. Another classification of media is print media and visual media. The former confines to newspapers, pamphlets, books etc. The latter is related to television, motion pictures, video etc.[4]

In the era of artificial intelligence any person can gather news by using technology. Previously what traditional media performed is taken over by an ordinary individual by using his camera and cell phone. They upload news in the websites in every minute. Literally, now there is no cardinal difference traditional journalist and individual with a mobile phone. The boundary line between them is gradually blurring.[5] Because, with a single 'clip and click' the information is reaching all over the world within seconds. However, the law is lagging behind and it is essential to redefine the term 'media' in the changing world.

Press Enactments-British Legislations

The people in the British India during nationalist movement formulated political willingness through the medium of press. The British rulers introduced legislations to oppose the press freedom of Indians. The Regulations introduced in 1799 by Lord Wellesley contained rules for regulating the press. But during the period of Lord William Bentick, the press enjoyed comparatively more freedom. The Sepoy Mutiny had supported the press freedom and to overcome this Britishers enacted the Gagging Act, 1857 which required prior licence. Later, it had been repealed in 1858.[6]

In 1867, under the ruling of Sir John Lawrence, the Press and Registration Book Act, 1867 was introduced to impose control over the press freedom. The Government regulated the press and it should be registered. Under the Vernacular Press Act 1878, Lordship of Lord Lytton introduced a stringent provision to restrict press freedom. The government could seize the press freedom on the ground that it had published objectionable materials. Also, the press had to deposit security if they violated laws of Government and the Act had been repealed in 1880. After the formation of the Indian National Congress, under the Official Secrets Act, 1899 the press freedom was put under control by preventing them from publishing information relating to army and administration which was a non-bailable offence. Lord Minto Morley enacted Newspapers (Incitement to Offences) Act 1908 and it imposed punishment on editors for inciting people to rebellion. The Britishers enacted other laws such as the Indian Press (Emergency Power) Act, 1931, Foreign Relations Act, 1932 etc. to check the press from writing against British administration.

The English East India Company issued a circular called Amherst circular in 1826 to prohibit the servants of the company from keeping in touch with the press. Lord Macaulay enacted the Gagging Act, 1835 to prevent the writing of criticism in print media. Lord Canning put regulations in the form Adam regulations in the whole of India in 1857. The Vernacular Press Act, 1878 came into force which put stringent regulations on media freedom. Under the Official Secrets Act, 1923 the State had been given more power by making a provision to keep certain matters as secret.

The term 'freedom' means 'to have the use of one's powers of action (i) without restraint or control from outside and (ii) with whatever means or equipment the action requires. In the negative sense it means the absence of external interference. In the affirmative sense, it means the ability to do something and to achieve the end.[7]The concept of press freedom originated in England in 1688.[8] It had been protected and restricted on the principle that what has not been prohibited is permitted.[9]The libertarian principle argued the man is a rational human being and he can distinguish between good and bad. The libertarians argued that the right to search for truth was considered as one of the inalienable rights of human being and the press was considered as a partner in the search for truth. Because, the people considered the press as an instrument through which they can check the activities of the rulers.[10]The libertarians demanded that the press should not be controlled and should not put under any kind of prior restraints. It was believed that the libertarian concept laid the foundation of free press. The authoritarians gained importance and the rulers used the media to inform the people about their functioning. The press enjoyed little freedom during that period. With the advent of libertarianism, the authoritarianism suffered set back in 1688.[11]

The political thinker John Milton argued for the absolute freedom of the press without any kind of interference.[12] He stood for the liberty to know, liberty to utter, and liberty to argue freely according to one's conscience. He considered freedom to express a prime position. During his period, under the Licensing Order Act, 1643 the people were arrested for publishing anything which contained any sort of criticism against the government. Therefore, he was against the censorship of the press because he believed that it ultimately end in the restriction of freedom of thought.[13]

He formulated his justification in terms of God. He said that restriction was not suitable in a protestant country. He highlighted that it was the duty of every individual to search the truth through the freedom of press.[14]At the same time, he said that the press should be accountable with respect to the content of their publication. The restriction should act as a safeguard against libel and can be said that Milton's perspective on press freedom had highly influenced the development of media freedom all over the world. The First Amendment of the U.S Constitution and development of media freedom in the U.K. and India were in line with the view put forwarded by Milton among others.

Historically, in India, The Indian Telegraph Act, 1885 was the major legislation that controlled the audiovisual communications such as television, video, films. The term 'telegraph' means any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds for intelligence of any nature by wire, visual or other electromagnetic emissions, radio waves or Hertzian waves, galvanic electric or magnetic means.

The Indian Wireless Telegraphy Act1933 was dealt with the matters relating to wireless apparatus and radio receivers, which were not covered under the Telegraph Act, The television became very popular in major cities only after 1972 and Doordarshan was the only one channel owned by the Government. Due to the misuse of the Doordarshan during the emergency period there was a mandate for an autonomous body for the administration of television. A 'White Paper On The Misuse Of The Mass Media During Emergency'was submitted to the Government and based on this

a working group was formulated to address the issues of Akashvani and Doordarshan. The Bill introduced had been rejected by the then Indira Gandhi Government.[15] The Ministry of Information and Broadcasting introduced a new policy in 1982 and in 1989, the Prasar Bharati Bill was introduced with an object of giving autonomy to the Prasar Bharati Corporation. Following this, the Prasar Bharati (Broadcasting Corporation of India) Act, 1997 was enacted.[16] The visual media extends a wide ambience to disseminate the and propagation of news and programmes. It is also an effective means of communication rather than a print media. The court in Indira Jaising v. Union of India[17]observed that the right to broadcast is a facet of freedom of expression and it is guaranteed to the visual media.. Odyssey Communications Pvt. Ltd. v. The Lokvidyan Sanghathan[18] preserved the rule that the citizen had the right to exhibit his films on Doordarshan subject to the rules of Doordarshan.

Media Freedom-International Perspectives

In the international scenario, the freedom of expression is guaranteed under the Universal Declaration of Human Rights (UDHR).[19]The International Convention on Civil and Political Rights (ICCPR) also guarantees the free expression of every one subject to the limitations provided therein.[20]The European Convention on Human Rights (ECHR)[21], American Convention on Human Rights (ACHR)[22], African Charter on Human and People's Rights (ACHPR)[23]are other regional treaties, which contain similar assurance. The 1st session of the General Assembly declared that freedom of expression is the touchstone of all the freedoms. The American court of Human Rights observed that a democratic society can properly function only when there exists a free expression. In the same line of argument, the European Court of Human Rights acknowledged for the development of the society and that of individual the importance of free expression could not be denied.[24] Again, African Commission on Human and People's Rights observed that freedom of expression is a human right, vital to an individual's personal development, his political consciousness and participation in the conduct of the public affairs of his country.[25]

The key features of the freedom of speech and expression can be explained in the following way. The opinions are protected and can be claimed by everyone without any kind of discrimination. The right consists of every kind of idea and opinions which are capable of transmission to others.[26] It is considered as the most fundamental one than that of any other right. The democratic functioning of the state is impossible when people are not guaranteed with this most important right.[27]

Restriction on Freedom of Expression—Its Ambit

The right to freedom of expression is not an absolute right. It should not be allowed to find its place in the violation of other fundamental rights. Therefore, the right can be restricted for giving due respect to the rights and reputation of others, for the protection of national security, public order, public health and morals.[28]The restrictions provided in international instruments are in line with the above objectives.

To put restraint on the freedom of speech and expression it has to satisfy the tripartite test.[29] Firstly, there should be proper law to impose a restriction. Secondly, the restriction should be for the protection of a legitimate and overriding interest over the freedom of speech and expression. The purpose and its effect should be taken into account to clarify the restriction.[30] It is also required that the restrictions must be 'necessary' to protect the interests that are identified under the second part of the test.[31]

Under the third element, the court will enquire whether or not there is a 'pressing 'or 'substantial' need for putting the expression under restriction. It demands that there should be a nexus between the restriction and the object which is sought to be achieved.

The right is subject to some limitations. One of them is the margin of appreciation under which the state has to take into account the notions, values and culture of its society while implementing the provisions of international conventions.[32] The test of proportionality is also used to test the legality of the restrictions. The benefits that should be protected must be greater than the harm inflicted to freedom of expression.[33]

Freedom Of Speech And Expression –Why do We Need It?

The free speech and expression is considered as a valuable, important and basic human right. It is the mother of all liberties and no freedoms can have an existence without the freedom of speech and expression. The freedom of speech and expression serves broad social purposes. The realization of self-fulfillment or self-development of the individual depends on the exercise of the right to free expression by him. The search for truth is possible in the society when the people are allowed to express their ideas and opinion. It is said that it paves the way for the discovery of truth. Also it enables a person to participate in the democratic process of the state. A reasonable balance between stability and social change can be maintained in society by exchanging ideas and the free speech doctrine helps for it.[34] The prominence of free speech and expression doctrine is supported by certain theories.

a. Theory of Self-Development

The theory of self-development says that freedom of speech and expression is essential for the self-development of an individual.[35] The freedom of expression has wide acceptance in a society because it helps an individual for his

personal development. It gives every person an opportunity for the exchange of ideas, opinions, views, ideology etc. It creates a way for the formulation of public opinion. It helps for attaining education, growth and development in all fields of life cannot be denied.[36]

The restrictions on free expression will result in the diminution of one's personality and self-development. It develops autonomy in a person by which he helps him to make decisional choice. A man should be allowed to share his opinion and ideas with others. The suppression would be painful for him and in turn, it results in the 'mental sterilization' of the community.[37]

b. **Theory of Discovery of Truth**

This theory finds its place in J.S.Mill's famous work 'On Liberty'.[38] The truth can be find out through discussion because free speech gives a forum for discussion dn debate.[39] It has a strong influence on justifying media freedom in all countries as free speech provides a platform for sharing opinions and observation to know the truth.[40] The concept of the free market place of ideas closely associated with the assumption that every idea will get into the market and that is accessible to all sections of the people. It enables the free flow of ideas without any hindrance or obstacles. The difference of opinion will reach in a debate and it ultimately leads to the truth. It is through media that people gather knowledge, information, news etc. For the good and successful working of democracy, more than one opinion is essential because public opinion can be arrived at only out of different views.[41]

c. **Theory of Democratic Governance**

The theory of democratic governance says that all are entitled to participate in the democratic process by expressing his views and opinion. It says that people cannot actively participate in the governance process of the country if they are unaware of politics. Therefore free expression gives a foundation stone for self-government. The political decisions are guided by the principle of majority opinion.[42]The followers of this theory also says that the people would not engage in those activities which are widely accepted as wrong. It prevents a person from engaging in wrongful activities.

Media Freedom – Constitutional Perception

The freedom of speech and expression is treated as the mother of all liberties. It is a basic human right and also a natural right.[43]In India, the media enjoys its freedom from 'freedom of speech and expression' limb under Article 19(1) (a) of the Constitution of India.[44] The freedom of expression is wide enough to include all possible forms of expression, thoughts, feelings and conviction. Therefore, the media freedom extends to writing, printing, drawing etc. The freedom of publication, freedom of circulation and freedom of access to all sources of information are also included under this clause.[45] It is often said that the rationale of free expression under Art 19(1)(a) is the first amendment to the US Constitution which in turn amounts to separate provision for media freedom. [46]

In India, during the drafting of the constitution of India, there was a demand for the separate provision for the freedom of the press. It is also argued that the press did not enjoy any special rights and it should not be adorned with special status. Therefore, the press does not call for any specific provision for its freedom.[47] The judiciary also took the view that the phrase 'freedom of speech and expression' include, inter alia, the freedom of the press also.[48] Based on this the view that the liberty of the press did not stand on a higher footing than that of an individual had been widely accepted. In short, the press freedom and individual's free expression are one and the same and no privileges can be attached to the freedom of press.[49] But political philosophers argue that free speech should be given a greater degree of protection since media plays a crucial role in the democratic process than that of an individual.[50]

Freedom of Media-A Bunch of Rights

The freedom of expression encompasses several other rights. It is extended to the freedom to seek, receive and impart information and ideas through a different medium. Since the ideas require propagation, it had been held to include the right to publication and circulation.[51] The right to circulate is important for dissemination of information and news and therefore it is essential to acknowledge the right to circulate as the derivative right of media freedom. The constitutional validity of Madras Maintenance of Public Order Act, 1949 was challenged in Romesh Thapper v. The State of Madras[52] on the ground that the ban imposed on the weekly journal in English called Cross Roads in the State of Madras for securing the public safety and the maintenance of public order is violative of the freedom guaranteed under Article 19(1)(a) of the constitution. The majority judgment viewed that the impugned Act is void since it violated the fundamental right of freedom of speech and expression. Freedom of speech and expression includes freedom of propagation of ideas and circulation and the ban imposed prohibited the media from exercising this right.

The above observation was followed in Brij Bhushan v. State of Delhi[53] where S.7 (1) (c) of East Punjab Public Safety Act, 1949 was challenged. The impugned provision imposed a pre-censorship of a journal. It has been viewed

that the pre-censorship was unconstitutional since it would amount to a restriction on the liberty of the press, which is considered as part and parcel right to free expression. Therefore it is said that freedom of the press means the absence of previous restraint upon publication.[54] The Sakal Papers(P) Ltd v. Union of India[55] case examined the constitutionality of Newspaper (Price and Page)Act, 1956 and Daily Newspaper (Price and Page)Order,1960 which regulated the newspapers according to price charged on the ground of violation of freedom of expression under Art 19(1)(a) of the Constitution. The freedom under Art 19(1) (a) is also meant for propagating the idea also. The citizen should be given the right to publish, disseminate and circulate his ideas and opinion either by word of mouth or by writing. It includes the right to decide the content of the publication and the volume of circulation. It was held that the impugned law put a restriction on circulation and therefore freedom of free expression was curtailed. The court opined that the press freedom could not be restrained for regulating the commercial activities of newspapers. Because the decrease in the circulation of newspapers directly narrows down the dissemination of news. For achieving the goals set out in the preamble of the impugned law inroads on the right guaranteed under Art 19(1) (a) of the constitution is not a good signal. All these observations culminated in the ruling that the impugned Act and order were void and violative of the Art 19(1) (a) because the state could not make a law which directly restrict one of the guaranteed freedoms guaranteed under the constitution.

The case of Express Newspapers (P) Ltd. v. Union of India[56] examined the validity of the provision of Working Journalist and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955. It was observed that the consequences of the impugned Act on press freedom were too remote and did not require any kind of intervention. In Bennett Coleman & Co. v. Union of India.[57] the court examined the Newspaper (Price and Page) Act, 1956 which allowed the government to determine the space for advertisement in the newspaper. It had also been observed that the press should be given the right to determine the matters relating to pages and circulation. Otherwise, it would have a adverse impact on the freedom of media.

The right to criticize which is essential for a healthy democracy is another facet of media freedom. It acts as a weapon against corrupt practices of the public authorities. The American case of Terminiello v. Chicago[58]clearly explained that one of the functions of free speech is to invite dispute. It serves its best purpose when there is unrest, dissatisfaction etc. which leads to criticism. The media acts as a proper forum of discussion and criticism. The same line of dicta can be seen in Kedar Nath Singh v. State of Bihar[59]in which the court clarified that the criticism of the functioning of public authorities within the reasonable limits was an aspect of media freedom. The criticism against the government cannot be said to be misconduct.[60]

The right to report on judicial and legislative proceedings is another facet of media that is enjoyed by the media. In the case of reporting judicial proceedings, it should not encroach upon other rights and freedoms. This right is also on the rationale that media is bestowed with the duty to inform the public on matters of public importance and it is a weapon against errors and injustice.

Prior Restraints on Media Freedom

In Indian Express Newspapers & Others v. Union of India[61] the Supreme Court interpreted the absence of interference with the content and circulation of newspapers as the facet of media freedom. It is only through this freedom that people can make a reasonable judgement in all fields of the life. If media is not publishing information and news, a democratic country cannot make reasonable judgments. The term 'prior restraint' has been derived from the US First Amendment and it prevents the government from interfering with the media freedom.[62] In the 18th century, the liberty of the press was meant to be the freedom from prior restraints.[63] However, limitations on freedom are necessary to prevent abuses of freedom and to prevent harm to individual rights.[64]The constitution does not permit any restriction on the freedom of expression unless it falls within any of the categories of restrictions mentioned in Art 19(2). The constitutional limitations on freedom of expression are the security of the state, friendly relations with a foreign state, public order, decency and morality, contempt of court, defamation and incitement to an offence. At the time when restrictions were incorporated under Article 19 (2) of the constitution on the freedom of media, special attention had been taken by the framers of the Constitution to preserve freedom of speech.

The restrictions which can be imposed on fundamental right of freedom of expression were considered in the case of State of Madras v. V.G.Row[65]. While putting the media freedom under restrictions, the nature of the right alleged to had been infringed, the purpose of the restrictions imposed, the extent and scope of the evil sought to be remedied, the inconsistency in the imposition, if any, and the prevailing conditions at that time of restriction etc should be considered.[66] The universal rule applicable to all situations cannot be laid down and each case should be decided on its own facts and circumstances. The limitation should be reasonable and it implies intelligent care and deliberation. The validity of restrictions should be decided from the view of a reasonable man.[67] For construing the provisions of

the constitution the substance and the result of the act of the State should be given importance. The loss or injury caused to the citizen by imposing restrictions on the fundamental right should be given importance.[68]
As in all injunction cases before granting injunctions, the court has seen a prima facie case, the balance of inconvenience and irreparable loss[69] But as a precautionary measure, before granting prior injunction the consequences of prohibition and what is being prohibited should be taken into consideration. Therefore Brennan J. in Time Inc. v. Hill[70]observed that for a healthy government, political expression or comment or criticism upon the government is required. In a civilized community, it is not possible to live without interacting or exposure to society. In turn, the private life of the individual to society is natural. The press should not be burdened with the impossible task of verifying the correctness of news articles published. The courts usually follow the above principles in testing the balance of convenience in granting an injunction. In the U.K also, the view is that government action should be subjected to public criticism. In Derbyshire County Council v Times Newspapers Ltd[71] the court took the view that the threat of civil action would affect the public interest involved in freedom of expression and also it would result in a 'chilling effect'.
The freedom of media would be in danger when it is put to prior restraint and subsequent punishment. The consequences of both are different. The former has a freezing effect and the latter has chilling effect. Most of the authorities are of the view that prior restraint is more serious than the subsequent punishment.[72]The public debate and dissemination of information would be affected by prior restraint. Therefore, it is a commonly accepted view that prior restraint upon media freedom can be imposed when there is an interest that should be protected at a greater level.[73]
The principle of prior restraint which is applicable to print media would be equally applicable to visual media as well. It is an accepted principle that free press implies the absence of prior restraint.[74]Blackstone says that the prior restraint is a fetter on the free will of the people and it is the control of liberty of expression by administrative authorities. He favoured subsequent punishment on the ground that it would maintain liberty of the press.[75]
In Akshaya Creations v.Muthulakshmi[76] prior restraint was not granted on the ground that the wife and daughters had not to claim over the privacy right of deceased Veerappan. He had not objected to the publication of his criminal prosecutions during his lifetime and it had also been agreed with the publishers that the latter would delete the private details from the film. However, there are views that the prior restraint is not enough to keep the standard of free media. Since the media enjoys freedom similar to that of an individual's, restrictions are also the same as that of an individual. But taking into account the higher degree of responsibility, the rights of both cannot be considered on the same footing. Moreover, the nature of media had been subjected to a thorough transformation in the modern era.
Lord Denning in Schering Chemicals v. Falkman[77]stressed the need for restrictions because the media had no right to ruin the reputation of a person. It is not supposed to blow on the confidence and to interfere with the administration of justice. The issue of granting an injunction was considered in Rajagopal v. J Jayalalitha[78] and the court relied on various U.K. and USA judgments. After the Puttaswamy judgment it seems that there is gradual dilution in the strictness in granting prior restraint. It is exemplified in Kanimozhi Karunanidhi v. Thiru.P.Varadarajan[79] the Madras High Court allowed an interim injunction restraining the newspaper not to publish any material that was related to the private life of the applicant without his consent. The private law action is maintainable for violation of privacy right and the same had been recognised in R. Rajagopal v. State of Tamil Nadu[80].

Right To Reply

The right to reply means that if the reputation of any person has been adversely affected the person whose right has been so affected, should be given a platform to answer in respect of it. It enables the weaker persons who have no control over the powerful persons, to protect their reputation. Such a mechanism would also maintain a healthy debate in the society. In the United States, the Commission on Freedom of the Press recommended for the law on the right of reply mainly to free the media from proceedings of the court of law.[81] It had been accepted at international conventions such as the American Convention on Human Rights[82] and the European Convention on Human Rights.[83]
The United Nations General Assembly had taken significant step by adopting the Convention on the International Transmission of News and the Right of Correction[84]. It focused on the prevention of the dissemination of false or distorted news. It was also indented to ensure media responsibility and wide dissemination of information. But the convention failed to provide effective enforcement mechanisms.
In United States, the Supreme Court considered it in Red Lion Broadcasting v.FCC.[85]The court upheld the constitutional validity of Federal Communication's fairness doctrine. But later in Miami Herald Publishing v. Tornillo[86] a Florida law of the right of reply was struck down. In England also there is no general right of reply but there are certain self-regulatory mechanisms relating to the right of reply. The regulation obliges the journalist to

rectify promptly any harmful inaccuracies.[87]For Broadcast media, there is Of com Broadcasting under Communications Act 2003 and Broadcasting Act, 1996. Under these statutes, the persons concerned would be allowed to make a response.[88]The BBC also gives this opportunity under its Code of Conduct, the Producer's Guidelines.[89] In Europe, Television without Frontiers Directive of European Council requires that the persons whose reputation had been affected by incorrect facts should be given remedies which include the right of reply. It has been incorporated in European Convention on Transfrontier Television.[90]

In India, in Life Insurance Corporation of India v. Manubhai D Shah[91] the Supreme Court directed LIC to publish the reply given by Prof.Shah. In the case of print media, the right to reply is statutorily recognised under the Press Council of India Act, 1978. Under this provision, if a relevant matter is not published it will be considered a professional misconduct.[92] Under Press Council (Procedure for Enquiry) Regulations, a complaint can be lodged if the matter is not published. However, the formulation of right to reply as a general right is not welcomed on the belief that it would encroach into the freedom of editors.[93] It should be noted that the above regulation applies where incorrect information has been aired. But in case of privacy right, the affected person is affected not with incorrect information, but with disclosure of personal information. However, the Indian law lags behind the need for having the right to reply in visual media very effectively.

Conclusion

The freedom of speech and expression is a basic human right and has also been ensured under international instruments like UDHR, ICCPR, ECHR etc. An idea generated in the mind of a man is crystallized in a tangible form when it is getting printed. It is the best possible form through which information or idea is disseminated or circulated. After the popularity of the printing press, the place has been taken over by television, radio, internet, other social media etc. The accountability of media is as great as it shapes the democratic ambiance of a country. The media enjoys the same degree of freedom of expression as that of a person.

The historical analysis reveals that the freedom of media is closely knotted with struggle for freedom movement. In British India, the rulers enacted several laws with an intention to restrict the free expression of media. Because they firmly believed that if the media had been given freedom to publish according to their wishes it would be a threat to the ruling party. The underlying principles of freedom of print media are equally applicable to visual media also. The visual media exercise the freedom in the form of right to telecast or broadcast programmes as audio and visual images. The development of technology led to the enactment of new laws for the media. As discussed in the paper the Indian judiciary interpreted the freedom of media in tune with the social transformation of the society.

It is recognized that the freedom of expression is a core value for both for self-development and thereby the society. At the same time the imposition of restriction on the media is always and challenging one. Because, it is firm belief that the freedom of media is the liberty from prior restraints. But when it crosses the limits and unjustifiably interferes with administration of justice it should be restrained. For example, the visual media is conducting a parallel trial of cases to attract the audience and the same is subjected to severe criticisms. Besides, the media is disclosing the identities of victims who were involved in cases. It ultimately affects the privacy right even though it is prohibited in statutory provisions. In cases involving victims of sexual offences the area of super injunctions is a new development. However, media can justify the invasion on the ground of public interest, waiver, consent etc. The right of reply is a tool to minimize the friction between media and the individuals whose privacy right had been violated. The Indian law has not addressed this issue properly even though there is code of conduct for journalists. Therefore it can be summed up that media freedom is not an unbridled freedom. When it crosses every limit it should be regulated by upholding the rationale of right to freedom of expression.

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Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances.
[47] 7 Constituent Assembly Debates, 780 (1948)
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[49] *M.S.N Sharma v. Sri Krishan Sharma* AIR 1950 SC 395 at 402, *See also, Arnold v. King* (1914) 41 I.A.149. at 169.
[50] BARENDT, FREEDOM OF SPEECH (2nd ed.2007).
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[90] Article 8 provides:
Each transmitting Party shall ensure that every natural or legal person, regardless of nationality or place of residence, shall have the opportunity to exercise a right of reply relating to programmes transmitted by a broadcaster within its jurisdiction. In particular, it shall ensure that timing and other arrangements for the exercise of the right of reply are such that this right can be effectively exercised. European Convention on Transfrontier Television art.8, May 5, 1989, Europe. T.S. No.132 (amendedMar.1, 2002), http://www.ebu.ch/CMSimages/en/leg_ref_coe_convention_transfrontiertv_consolidated_1989_1998_tcm6-4463.pdf (Last accessed 25th Dec 2021).
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