

WITH THE ADVENT OF MoJo, IS THE MEDIA AS THE 4TH PILLAR OF DEMOCRACY LOSING ITS CREDIBILITY?

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Abstract

Democracy is defined as the government of the people, by the people and for the people. Media represents the fourth pillar of democracy after executive, legislative and judiciary. In the recent years media has been an integral part of study everywhere due its demand and the growing viewership. With the number of channels and reading material online it has gained a lot of importance. A lot of studies have been conducted in order to under the impact of media and its reach. But in this study the author aims to understand how credible the media as the 4th pillar of democracy is? Through various case studies the analyzing the data collected the author has tried to answer the above question. The author also emphasis on the interference of media with the judiciary system and how it leads to media trial much before the court trial.

Keywords- MoJo, Democracy

Introduction

For the democratic functioning of a society, freedom of expression has always been emphasized as an essential and fundamental base of the society. Freedom of speech and expression which includes the freedom of press¹ is considered as the backbone of the democratic society. The extent of the freedom press enjoyed by the press is regarded as the parameter or credentials of democracy of a state. The Press plays an important role because it provides all comprehensive and objective information of all aspects of the country's Economic, Political, Social, and Cultural aspects.

If the democracy has to be meaningful and function effectively, then a free press is a sine qua non. Which is why very often the freedom of press is described as the oxygen of democracy; and without which a democratic society cannot survive. It is visibly evident, especially since Independence, a free and vigilant Press has acted as a vital agency to curb corruption and injustice. In addition, another important role, the press plays is to formulate the public opinion which helps on one hand imparting the knowledge to the society and on the other hand restraining the tyrannical actions of the government.

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1. Article 19(1) (a) of Indian Constitution

Right of freedom of speech and expression is incorporated in Article 19 of the Universal Declaration of the Human Rights, 1948. It states that everyone has a right to hold opinion without interference. This right of freedom of expression includes the right to hold opinions to receive and impart information either orally or in writing or in any other form through any of the agencies of the media. Article 19 of the International Covenants on Civil and Political Rights 1976 also incorporates the right of freedom of speech and expression. In India the right of freedom of speech and expression is incorporated in 19(1)(a) of the Indian Constitution. This right of freedom of speech and expression is a fundamental right in the Indian legal system. The right to free press does not exist independently and is incorporated in the right of freedom of speech and expression; and hence the right to free press is regarded as a fundamental right.

The press is regarded as the fourth pillar of democracy, as it is a potent check on the policies of the government, which are formulated with malafied intentions. The press also acts as a means for keeping the elected officials responsible to the people who are supposed to serve. The press not only brings to the notice of the society, the crimes, which otherwise would have gone unnoticed; but also plays a crucial role in initiating legal proceedings in such crimes, thereby ensuring justice.

Mobile journalism is a form of digital storytelling where the primary device used for creating and editing images, audio and video is a smartphone.

Many mobile journalists build other portable devices like laptops and DSLRs into their workflow, but smartphones are at the heart of mobile journalism, and are increasingly used by journalists for radio news and podcasts, and video for TV news and documentaries as well as videos for social platforms.

A widely accepted definition today is: “A new workflow for media storytelling where reporters are trained and equipped for being fully mobile and fully autonomous”.

Perhaps more than any other device, smartphones encourages cross-platform creativity and digital innovation.

Photos, videos, audio and graphics can be created and edited on the phone and uploaded to newsroom servers, online and social platforms direct from the device. You can also respond to audience queries and contacts via chat apps, social messaging and email.

Because journalists typically own a smartphone, they can develop skills like video journalism, radio journalism, podcasting, photography without the expense of traditional high-cost equipment. In a fully ‘mojo’ newsroom, this can break down silos between different departments such as the social media desk and the video production desk.

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2. The First Amendment guarantees freedoms concerning religion, expression, assembly, and the right to petition
 3. Constituent Assembly Debates, Vol. VII p 780 (2nd December 1948)

Constitutional Mandate

After independence when the new constitution was being framed, the question before the framers of the constitution was that, whether to have a separate legislation just like the first amendment of USA², or to follow the English way, where freedom of press is included in freedom of speech and expression. Chairman of the Drafting committee Dr. Babasaheb Ambedkar strongly argued that “The press is merely another way of stating an individual or a citizen. The press has no special rights which are not to be given or which are not to be given or which are not to be exercised by the citizen in his individual capacity. The editors of press or the managers are all citizens and therefore when they choose to write in news paper they are merely exercising their right of freedom of speech and expression and in my judgment therefore no special mention is necessary of the freedom of press at all.”³

In India therefore there is no separate law relating to the press prevails, and the same is protected under Article 19(1) (a) of the Constitution of India

The importance of this freedom was emphasized by the first Prime Minister of India, Pandit Jawaharlal Nehru in the following words: “I should rather have a completely free press, with all the dangers involved in the wrong use of that freedom, than a suppressed or regulated press.”

Restrictions on Freedom of Press in India

The right to freedom of speech and expression is not absolute and its exercise is subject to the limits permissible under clause 2 of article 19 of the Constitution; these limits apply equally to freedom of the press. Accordingly, under Article 19(2) of the Constitution of India, the State may make a law imposing reasonable restrictions on the exercise of the right to freedom of press in the interest of the public on the following grounds:

The following are the grounds of restrictions laid down in Article 19(2):-

- 1) Sovereignty & Integrity of India
- 2) Security of the State
- 3) Friendly relations with Foreign States
- 4) Public Order
- 5) Decency or Morality
- 6) Contempt of Court
- 7) Defamation
- 8) Incitement to an Offence

Judicial Trend

The Supreme Court has shown unerring consistency in preserving and enlarging the scope of press freedom

In *Romesh Thapar vs. State of Madras*⁴, Patanjali Shastri, CJ, observed that “Freedom of speech & of the press lay at the foundation of all democratic organization, for without free political discussion no public education, so essential for the proper functioning of the process of popular government, is possible.”

In *Indian Express Newspapers vs. Union of India*⁵, it has been held that the press plays a very significant role in the democratic machinery. The courts have duty to uphold the freedom of press and invalidate all laws and administrative actions that abridge that freedom

In *LIC v. Manubhai Shah*⁶, the Supreme Court reiterated that the freedom of speech and expression must be broadly construed to include the freedom to circulate one's views by word of mouth, or in writing, or through audio visual media. This includes the right to propagate one's views through the print or other media. The Apex Court observed: “Freedom to air one's view is the lifeline of any democratic institution and any attempt to stifle, or suffocate, or gag this right would sound a death knell to democracy and would held usher in autocracy or dictatorship.”

An analysis of the judicial decisions reveals that the Indian judiciary has always placed a broad and liberal interpretation on the value of freedom of press which is implied in Article 19(1) (a), making it subjective only to the restrictions permissible under Article 19(2).

WHY THE MEDIA AS THE 4TH PILLAR OF DEMOCRACY IS LOSING ITS CREDIBILITY

India is ranked 138th out of 180 countries in the 2018 Reporters without Borders press freedom index (Available at: https://rsf.org/en/ranking_table). The challenges to press freedom in India arise from restrictions imposed by the owners of newspapers, Government, political parties, business interests, etc., who may attempt to compel newspapers to compromise their independence.

News and information must be clearly set apart from advertisements or commercials that are paid for by corporate houses, governments or individuals. When the distinction between news and advertisements start blurring, when advertisements, double up as news that have been paid for, or when news is published or broadcast in favor of a particular politician or a political party by selling editorial space, the reader or the viewer is misled or duped into believing that an advertisement or sponsored feature is a news story that is truthful, fair and objective.

4. AIR 1950 SC 124

5. (1985) 1 SCC 641

6. (1992) 3 SCC 637

Payment of money by candidates of elections to representatives of media companies for favorable coverage is a phenomenon popularly known as “paid news”. The deception or fraud that such “paid news” entails takes place at three levels. The reader of the publication or the viewer of the television program is deceived into believing that what is essentially an advertisement is in fact, independently produced news content. By not officially declaring the expenditure incurred on planting “paid news” items, the candidate standing for election violates the Conduct of Election Rules, 1961, which are meant to be enforced by the Election Commission of India under the Representation of the People Act, 1951. Finally, by not accounting for the money received from candidates, the concerned media company or its representatives are violating the provisions of the Companies Act, 1956 as well as the Income Tax Act, 1961, among other laws. The phenomenon of paid news goes beyond the corruption of individual journalists and media companies. It has become pervasive, structured and highly organized and in the process, is undermining democracy in India by influencing free and fair elections (PCI report, 2010:2).

In *Saibal v. B.K. Sen*⁷ the Supreme Court said: “It would be mischievous for a newspaper to systematically conduct an independent investigation into a crime for which a man has been arrested and to publish the results of that investigation. This is because, trial by newspapers, when a trial by one of the regular tribunals of the country is going on, must be prevented. The basis for this view is that such action on the part of a newspaper tends to interfere with the course of justice.”

Today, our 'Media Studios' have literally turned to be a courtroom for all purposes. The facts of the particular case in all their lurid details, full particulars – correct or otherwise - the various steps and stages of police investigation, freely embroidered with subjective comments and observations are presented, evidence discussed, expert opinion sought, even the public is given an opportunity to participate in this process. They can send in their views by sms or by logging on to the channel's website. The conclusion tending either to pronounce on the guilt of certain persons or on the motives of the investigators are being splashed in the mass media. What role is the media playing here? Today, one will be forced to admit, though reluctantly and with regret, that there exists a system of parallel justice administration in the country.

Following the judgment in the *Priyadarshini Matoo* case⁸, the television channels are on a new high. Their leading lights want endorsement of their belief that television, with its sms polls, can now help galvanize justice. In a premier English news channel, it was seen asking: “Do you believe in the Judiciary, or do you believe Judiciary needs a push from media?” On another channel, the presenter was seen haranguing his

7. AIR 1961 SC 633.

8. *Santosh Kumar Singh v. State through CBI*, 2010 (9) SCC

audience: "Does it require public pressure for the wheels of justice to move?" These two are purportedly discussing trial by media; but the subject is: would there have been justice without our intervention?

Conclusion

It is true that the media forms the backbone of a democratic society. It subjects the functioning of all public institutions to public scrutiny, and makes them answerable and accountable to the public to whom they have to serve. It also plays an important role in assisting in administration of justice. However, it cannot be ignored that at times the media fails to exercise the freedom of press conferred upon it by the Constitution in 'public interest' as pointed out above. It neglects the real and core issues which the society is facing. It forgets its social responsibility towards the people. It is for this reason that a need arises to regulate this freedom of press.

