

BURNISHED LAW JOURNAL

Abstract

Media has always been a major pillar of the society. Apart from broadcasting the happenings, it also builds public opinion. This puts media in a powerful spot in a democracy. The media space has changed a lot with the development of social media. Media is a platform that reflects the pulse of the society. In the world's largest democracy India, elections fit as the supreme religion. Political marketing is growing in at a speed with every party bringing in more of newer tools and techniques to woo electorate. Even, regular opinions of celebrities motivate the general mass in creating their own belief. The present study highlights the impact of media as a platform of nation building through political, social and cultural democracy.”

“Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties”.

-John Milton

Media is known as the fourth pillar of democracy. Freedom of press has always been a cherished right in all democracies. “Growth and development of representative democracy are so much intertwined with the growth of press that the press has come to be recognized as an institutional limb of modern democracy.”¹

The part of media in a democratic system has been widely questioned. India has the largest democracy in the world and media has a powerful presence in the country. The media today has well and truly spread its arms. From being limited to the whims of a few individuals, it has come a long way to become a means of contribution. Democracy is fundamentally a rule by the people which is in contrast to monarchies or aristocracies. One of the crowing glories of

¹ Vide Author's Commentary on the Constitution, 6th Ed, Vol C, pg 95-97; Indian Express v Union of India(1985) 1 SCC 641

the democratic system is the freedom of expression and the space that is provided to views from different sections of the society.

A democratic system can run to its utmost likely when there is wide participation on the part of the general mass which is not possible without people getting informed about various concerns. Reliable information resources are an important constituent of any democratic society. This is where media steps in. Mass media in its different forms have influenced human life in the present century. They have primarily provided information and entertainment to people across countries.

While the fourth estate has been in order for a long while, it seems to have realized its true potential and purpose in the new millennium only in the true spirit of democracy as envisaged by Abraham Lincoln's of being an institution 'of the people, by the people and for the people'. This has been facilitated by the advent of the social media. With its capability to overcome the geographical barriers and the owing to the near-absence of gatekeepers, the social media seeks to provide a platform of information - sharing to all the participating individuals. This is significant because information and social awareness have emerged as important factors of human empowerment. Media has always been a significant pillar of the society. Apart from reporting the happenings, it also builds public opinion. This puts media in a powerful position in a democracy. The media space has changed a lot with the emergence of social media. It is a platform that reflects the pulse of the society. Even the traditional media channels keep an eye on ongoing social media trends. In the recent past, there are so many top news stories that originated from social media. Apart from highlighting issues that are socially relevant and crucial, social media has also exposed the connection between the government and the population. People are more aware of what our political leaders are up to. The discussions on political issues and implications are widespread and immediate.

Effects of Media in Our Society

“Every coin has two sides. There are both positives and negatives of one single given belief. The media, known as the fourth pillar of democracy, has a huge influence on the society. The effects are, positive as well as negative. It is on the people to decide which effect they want to bask in. Media is such an influential tool that it literally governs the direction of our society

today. It is the propeller as well as the direction provider of the society. Opinions can change overnight and celebrities can become infamous with just one wave by the media.”²

Freedom of the press is the most significant wheel of democracy. Without a free press, a democracy would not happen. In fact, the press is a vast medium that conveys the truth to people. However, it cannot function totally if the press is not free. People must have heard the saying about the cost of freedom is eternal vigilance. Thus, it is the media’s duty to remain vigil for people’s safety. Moreover, the freedom of people is perceived by the media. The press watches those in power to ensure they do not abuse it. In order to do this, freedom of the press is required.

Democracy and Media

The normative view of the press argues that the conduct of the media has to take into account public interests. 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 (McQuail, 2005). Informing the citizens about the developments in the society and helping them to make informed choices, media make democracy to function in its true spirit. It also keeps the elected representatives accountable to those who elected them by highlighting whether they have fulfilled their wishes for which they were elected and whether they have stuck to their oaths of office. Media to operate in an ideal democratic framework needs to be free from governmental and private control. It needs to have complete editorial independence to pursue public interests. There is also the necessity to create platforms for diverse mediums and credible voices for democracy to thrive. It has already been discussed that media has been regarded as the fourth estate in democracy. Democracy provides the space for alternative ideas to debate and arrive at conclusions for the betterment of society. The publicly agreed norms are weighed over that of actions on the part of economic organizations and political institutions (Barnett, 2004). Media plays one of the crucial roles behind the formation of public sphere (Panikkar, 2004). However, Barnett is of the opinion that in modern times the true sense of public sphere is getting eroded

² <http://lifestyle.iloveindia.com/lounge/what-are-the-effects-of-media-in-our-822.html>

with the media of public debate getting transformed to mediums for expressing particular interests rather than general interests which are universally accepted.

Importance of the Press and Its Freedom

The press has been given the duty of checking and balancing the administration and the regime. Whenever there is a social evil lurking or corruption and domination happens, the press is the first one to raise a voice. Moreover, we have faith in the press to collect verify and disseminate the facts and figures which influence people's decisions. If the press won't have the liberty to do all this, the people will be in the dark. Therefore, we see how if even any one of these liberties is take away from the press, the voiceless will lose their voice. Worse yet, if the press will be deprived their job. This will result in uninformed citizens who will thus become powerless.

Moreover, we see how censorship of the press is nothing less than a dictatorship. When the government imposes censorship on the press, it obviously means they are trying to hide something. A person only hides lies and not the truth. Thus, this way the citizens will be influenced into thinking there is nothing wrong with the government. Subsequently, when there remains no agency to report the truth, the government will gain absolute power. In short, freedom of the press is important for the smooth functioning of democracy. It is significant for people to be socially aware of happenings in the world. One must have the power to criticize the government; it will keep the administration on their toes to do better for the country.

Duty of a Free Press

*"Freedom of Press is not absolute, unlimited and unfettered at all times and in all circumstances as it would lead to disorder and anarchy."*³

The media has a huge responsibility on their shoulders. They need to be vigilant and truthful. Media has an influential role to play in any form of government, whether democratic or totalitarian. The information they allocate helps in shaping the views of the public. When you have such a power to influence the views of a whole public, then you must be even more responsible. In fact, the media is sometimes more powerful than the government. They have

³ In re , Harijai Singh ,(1996) 6 SCC 632; AIR 1995 SC 264

people's belief and support. However, such a power given to any individual or organization is quite dangerous. In other words, any media without restraints can be hazardous. As they have the power to showcase anything, they may report anything and twist the facts as per their agendas. They have the power to cause outrage amongst the people. A free press can easily manipulate the public's opinion. This is why we need responsible journalism to refrain the media from reporting false facts which may harm the harmony and peace of a country.

Important Judgements Regarding the freedoms provided to the press

Celebrated Constitution Bench judgment of the Supreme Court is in the case of Romesh Thappar v. The State of Madras⁴, In this case, Romesh Thappar , a printer, publisher and editor of weekly journal in English called Cross Roads printed and published in Bombay was detained under the Madras Maintenance of Public Order Act, 1949. The detention order was challenged directly in the Supreme Court of India by filing a writ petition under Article 32 of the Constitution. The allegation was that the detenu circulated documents to disturb the public tranquillity and to create disturbance of public order and tranquillity .

In Romesh Thappar v Union of India⁵, Justice Patanjali has rightfully held that 19(1)(g) is the very basis and essence of the constitution and our democracy. Reasonable restrictions, however, he noted, should be such that others rights should not be hindered or affected by the acts of one man, in the case of Menaka Gandhi v. Union of India⁶. The judiciary has upheld the restrictions that can be imposed and the author describes them under several subheadings, but the courts have also held that the government's interference in this right has to also be kept in check.

Vijay Namdeorao Wadettiwar and Ors.v. The State of Maharashtra and Ors.⁷ (13 .09 .2019 - BOMHC) inherent rights under Articles 21and 22 have been stated. Likewise, while dealing with freedom of speech and expression and freedom of press, the Court, in Romesh Thappar v.

⁴Romesh Thappar vs The State of Madras (1950 AIR 124, 1950 SCR 594)

⁵ Romesh Thappar vs The State of Madras (1950 AIR 124, 1950 SCR 594)

⁶ Maneka Gandhi v. Union of India, 1978 AIR 597 1978 SCR (2) 621 197

⁷ Vijay Namdeorao Wadettiwar and Ors.v. The State of Maharashtra and Ors. 6922 OF 2019

State of Madras⁸, has observed that freedom of speech and expression includes *freedom of propagation of ideas* .

In *Indian Express Newspapers (Bombay) Private Ltd. Vs. Union of India* (1985) 1 SCC 641⁹, “it was held that in today's free world freedom of press is the heart of social and political intercourse; the press has now assumed the role of the public educator; the purpose of the press is to advance the public interest by publishing facts and opinions without which a democratic electorate cannot make responsible judgments; the authors have to be critical of the actions of the government in order to expose its weaknesses; that such publications become an irritant or even a threat to power and the Governments naturally take recourse to suppress such publications in different ways but it is the primary duty of all the national courts to uphold the said freedom and invalidate all laws or administrative actions which interfere with it, contrary to the constitutional mandate. It was held that the Court represents the conscience of the community and exercises the power to keep alive and vital the higher values and goals towards which our society imperfectly strives.

In *Printers (Mysore) Ltd. Vs. Asstt. Commercial Tax Officer*,¹⁰ “there is prohibition upon imposition of any restriction directly relating to the right to publish, to the right to disseminate information and to the circulation of newspapers.

*Sakal Papers (P) Ltd., And Others vs The Union Of India*¹¹: “This right includes the right to communicate, print and advertise the information. In India, freedom of the press is implied from the freedom of speech and expression guaranteed by Article 19(1)(a). The freedom of the press is regarded as a “species of which freedom of expression is a genus

In the decision of the Honourable Supreme Court in *Ramesh Thappar vs. State of Madras* reported in the Honourable Supreme Court held that freedom of speech and expression includes freedom to propagate ideas which is ensured by freedom of circulation of a publication, as publication is of little value without circulation. At the same time, such freedom of speech and expression guaranteed to a citizen must not go unchecked and it is subject to reasonable

⁸ *Romesh Thappar vs The State of Madras* (1950 AIR 124, 1950 SCR 594)

⁹ *Indian Express Newspapers (Bombay) Private Ltd. Vs. Union of India* 1986 AIR 515, 1985 SCR (2) 287

¹⁰ 1994 SCR (1) 682, 1994 SCC (2) 434

¹¹ *Sakal Papers (P) Ltd., And Others vs The Union Of India* (1962 AIR 305, 1962 SCR (3) 842)

restriction, meaning thereby that such freedom should not be used for destruction of the development of the society and its sovereignty. A person who exceeds or abuses such freedom of speech and expression for his personal gain with motive towards a particular class of citizen cannot be spared and he will be prosecuted for defamation and incitement. It is with this background, let us examine as to whether the statements made by the defendant are per se defamatory and that he should be restrained from making any such statement.

Brij Bhushan and Another vs. State of Delhi,¹² and *Sakal Papers (P) Ltd vs. Union of India*¹³, “among others. However, as mentioned in Article 19(2), reasonable restrictions can be placed on this right, in the interest of the sovereignty and integrity of India, the security of the state, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offense. Hence, freedom of the media is not absolute freedom.

“The Supreme Court has laid emphasis in several cases on the importance of maintaining freedom of the press in a democratic society. The press seeks to advance the public interest by publishing facts and opinions without which a democratic electorate cannot make responsible judgments. Articles and news are published in the press from time to time to expose the weakness of the government. The primary duty of the courts to uphold the said freedom and invalidate all laws or administrative action which interferes with the freedom of the press contrary to the constitutional mandate.”¹⁴

“Blackstone said that the essence of freedom of expression is that every person should be able to lay his sentiment before the public without previous restraint, that to forbid this, is to destroy the freedom of the press; but if publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity.”¹⁵

Power of Social Media (The New Weapon)

Barack Obama’s use of social media in his 2008 Presidential Campaign has been widely acclaimed and written about. Simultaneously, Obama’s ability to mobilize American youth not

¹² *Brij Bhushan and Another vs. State of Delhi* AIR 1950 SC 129

¹³ *Sakal Papers (P) Ltd vs. Union of India* AIR 1962 SC 305

¹⁴ *Indian Express Newspapers(Bombay) p. ltd. V. Union of India*, AIR 1986 SC 515

¹⁵ Blackstone, *Commentaries on the Laws of England* (1765; 4th ed. 1770 in 4 vol Bok 4 Chap II, 151-152) 13

only energized his campaign, but ultimately became his strongest voting segment. Youth voters used social media to build a non-traditional voter-politician relationship with Barack Obama, how political fandom manifested itself during the campaign, and what this new, mediated relationship between politicians and voters could imply for the future of politics. A study by PR firm Edelman attributes Obama's 'landslide victory' primarily to his successful use of social media (Lutz, 2009). But what exactly is social media and how does it differ from social networking sites (SNS)? Social networking sites, which include Facebook, Twitter, MySpace, blogs, and YouTube, are defined by Boyd & Ellison (2007) as web-based services enabling individuals to:

- (1) Construct a public or semi-public profile within a bounded system,
- (2) Articulate a list of other users with whom they share a connection,
- (3) View and traverse their list of connections and those made by others within the system.

According to Kaplan & Haenlein (2010), social media encompasses technology that allows for user-collaboration as well as User Generated Content (USG) which focuses on individual participation and content creation. For Kaplan & Haenlein (2010), social media includes: blogs, social networking sites (such as Facebook and Twitter), content communities (such as YouTube), and collaborative projects (such as Wikipedia). This study uses Kaplan and Haenlein's (2010) definition of social media with sole focus on blogs, social networking sites, and content communities.

India's National Elections slated to happen between April and May, 2014 is probably one of the most awaited elections in the recent times. It is not only becoming a sort of a presidential contest but is also creating waves for several other reasons. Among them, a very important one is the involvement of the youth. For a considerable period of time over the last two-three decades or so, the educated urban youth had completely alienated themselves from mainstream political activism. For a long time, associating with politics or political activism was a taboo and was considered a major negative in the path of a bright young Indian's professional career growth. But things are changing and rather changing fast. The signs were all there for the last two three years when the rapid popularity of the social media was making things undergo fast metamorphosis. Twitter and Facebook became great tools for the reluctant young Indian to actively engage at least in the discussions on political, economic, military as well as social issues. What started as discussions eventually became powerful groups for not just mere discussions but criticism and dissemination of opinion on several such issues which

mainstream media would not discuss or show for several reasons. Initially most political parties did not take the social media and the rising wave of youth seriously and ignored it as a passing phase which would have no impact on voting patterns or electoral outcomes. Yet some political leaders found this as a great tool to connect with the educated and the middle class of India who for long had taken the voting day as an unexpected holiday to enjoy instead of voting. The reason for the success of social media and why some political parties have gained immensely out of it is because, most of the youth of India, that teeming millions working in ad agencies, research houses, IT companies, BPOs and in other spheres of the service or manufacturing sector do not get a chance to watch television or have rather distanced themselves from the ubiquitous television sets, but have hooked on all the more to the virtual world through their laptops, workstations and smart phones. Eventually what started as a mere virtual platform for discussions became a wonder tool for dissemination of information, advocacy, voter registration drive and voter mobilisation. There can never be any doubt that a large number of first time voters and a large number of those young people who have never voted in the past did vote with much enthusiasm in the recently concluded assembly elections. Each of the states that went to poll witnessed massive surge in the polling percentages which broke all previous records. This could not have been possible without the active participation from a large number of such voters who were not voting in the past. In respect of using the social media and especially Twitter and Facebook, BJP and especially its Prime Ministerial candidate Narendra Modi had a head start and their popularity as well as reach through social media is far more than that of any other parties. Narendra Modi has the highest followership in twitter while in Facebook one can see many Facebook pages dedicated to him with considerable following. He was one of the early movers into the social media paradigm and it worked for him. Aam Aadmi Party too has to give a certain portion of its electoral success in Delhi to the impact it could create through the social media. However parties like Congress and several other political parties were late in realising the reach of the social media and the kind of impact it could create. Many of them are now trying to play the catching game. With elections merely two months away, social media campaigning is heating up with the focus changing to renewed drive for voter registration, crowd funding of events as well as development of election strategies. Social media is here to stay and it is increasingly becoming an indispensable tool for political democracy. With India's internet penetration on a massive upward journey, the reach would eventually extend to not just the educated mass of cities but also perhaps one day become a tool to connect with every Indian, be it urban or rural, be it the skilled or unskilled workforce,

be it the elite or the rustic. Social Media is now an extended army of democracy of India from which nothing can be hidden.

Nirbhaya case¹⁶ had cut deep into the heart of people of India irrespective of caste, creed or religion. The unfortunate incident inspired a whole generation to stand together for women's rights and make the state answerable for its citizens. There were calls for social reform that were not based on clichés of being holistic but on equality for men and women in opportunity and access, in education and familial structures. An important part in raising this debate was played by the media, both national and foreign. The amazing characteristic of the nationwide protests was never called for by any political party or a religious leader. It was a people's movement and it was the conscience of the people who made them come out and demand justice for Nirbhaya. Television broadcast the developments all the time but people on the streets certainly were not watching Television. News reached them on their cell phone via Facebook and Twitter and also via other news sites. People received the reactions of prominent people who are respected and hold a special place in society on twitter and got bonded like never before. With so many people pitching in, it was people's movement. Media also seethed with anger. People connected with each other on social networking sites, offering an insight into how it has emerged into a space for nuanced debate.

Media activism of a powerful kind, of a type that jolts people out of their comforts and brings them on a same pedestal calling for both, meaningful dialogue and action for a better future, is not to be shunned, but actively promoted through social media .

Today, most of the talking happens on social media. India's biggest chunk of population i.e. the young India spends a considerable amount of time on Twitter, Facebook and on mobile messaging applications. The reach might be questioned by traditional media players but today from politics to films, from an actor to a cricketer, everybody has a social media presence and is also using it effectively. With this new wave, brands realized that along with other mediums like radio, television, print, etc the consumer also happens to be on social media.

Social media, a relatively newer entrant in the field of mass media, has proved to be more democratic than newspaper and television. Social media has provided the opportunity for citizens who are conversant with the medium to express their views about a number of issues. In many cases groups have been formed by likeminded people who discuss and debate over a

¹⁶ Mukesh & Anr vs State For Nct Of Delhi & Ors

number of decisions on the part of the government and seek new ideas for way ahead. The power of the medium can be easily judged from the developments in India in recent times. The barrier to communication is minimal in this medium which helps in the formation of a participative environment. There is also greater empowerment of the users through higher level of interactivity and flexibility in choice of media outlets. The potential of the medium lies in its ability to be more personalized by offering user-created content (Flew, 2009).

Nevertheless, there is the threat of advertising revenues influencing media outputs. Those who control considerable wealth have the opportunity to sway public opinion in their favour with the help of mass media. In the 2G scam the Radia Tapes controversy brought in focus the journalist, politician and industrial conglomerate nexus. Developments like these are a threat to democracy and undermine the media fraternity.

Conclusion

“The media’s the most powerful entity on earth. They have the power to make the innocent guilty and to make the guilty innocent, and that’s power. Because they control the minds of the masses.”– Malcolm X

Media can adversely affect the thinking capability of individuals and in still negative or destructive thinking patterns in the society as a whole. As already said before, the media has the power to form and alter opinions. This means media can portray an ordinary thing so negatively that it may force people to think or act in quite the opposite way. Media glorifies violence and contains graphic descriptions or images. When viewed by the vulnerable portion of the society, i.e., the children, it can have grave effects on their upcoming and thinking patterns.

Two big democracies of sphere; America and India have extraordinarily protected this right. As far as India is concerned, this important right is declared in Article 19(1) (a), which falls in fundamental right category. Indian courts have always placed a broad understanding on the value and content of Article 19(1) (a), making it subjective only to the limitations permissible under Article 19(2) as reasonable restrictions.

The words “in the interest of public order”, as used in the **Article 19** include not only statements as are directly intended to lead to disorder but also those that have the tendency to

lead to disorder. There should be reasonable and proper nexus or relationship between the restraint and achievement of public order.

It brings into open the innumerable achievements that are going on in the country. Media gives conventional people the power to reach out to the society as a whole. It can make heroes out of common men. The media acts as a deterrent on corrupt practices and keeps a check on the working of the government. Media has significantly promoted social causes like literacy, health management, anti-dowry practices, discouraging female feticide, AIDS awareness, etc.

