



Freedom of press: Pillar of democracy

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Abstract

For the democratic functioning of a society freedom of Expression has always been emphasized as an essential basis. Across the democratic world in the past few decades freedom of Press has remained an issue that has led to endless number of debates. Today by the extent of the freedom press enjoys in that state the democratic credentials of a state are judged. The Press provides comprehensive and objective Information of all aspects of the country's Social, Political, Economic and Cultural life.

Keywords: press, freedom, democracy, Constitution, legislative privilege

Introduction

A free press is very important and essential for the effective functioning of a democracy. A free press has also been described as the oxygen of democracy; one cannot survive without the other. Our actual experience since Independence, and especially in the last decade or so, also suggests that to restrain corruption a free and vigilant press is important & even the public opinion can also be roused through comments and press investigations. To keep the elected officials responsible to the people whom they were elected to serve, the press serves as a powerful antidote. Today by the extent of the freedom press enjoys in that state the democratic credentials are judged. At this present juncture of time, as we approached the sixth decade of our freedom, it is essential to keep in mind, the pertinence of freedom of press, which is regarded as the fourth pillar of democracy.

Freedom of expression is added by the existence of mass society for further dimensions in which communication among citizen can take place only through the use of media like the Press and broadcasting and not directly which prevails both technical and financial, and in the Indian context, the importance of the Press is even more crucial.

Freedom of Expression has at all times been emphasized as an essential principle for the autonomous functioning of a elite. Freedom of Press has remained a problem that has led to endless variety of debates across the Socialist world. The democratic credentials of a state are judged today by the extent of the freedom press enjoys in that state. The Press provides comprehensive and objective Information of all aspects of the country's Social, Political, Economic and Cultural life.

Freedom refers to the voice of liberty. Press and media (publish, electronic and on the Internet) are the largest channel of expressing opinion of one's folks within a Socialist country that justifies one's man freedom to address inside the Indian constitution and inside the constitution of other countries on the globe. Earlier press generally referred to the newspaper industry. In modern world, besides newspaper, there are

various forms of media such as television and radio broadcasting, on the internet websites and blogs, etc. India is actually a egalitarian country. The Indian legislation guarantees the "freedom of speech and expression" as a fundamental claim of each taxpayer of India.

What is Freedom of Press?

'Freedom' means absence of control, interference or restrictions. Hence, the expression 'Freedom of press' means the right to print and publish without any interference from the state or any other public authority. Like other freedoms, this freedom cannot be absolute but is subject to well known exceptions acknowledge in the public interests, under Article 19(2) of the Indian constitution such is enumerated.

To keep check on the under three official branches a fourth institution outside the government i.e. free press is created:-

- Executive.
- Legislative.
- Judiciary

Significance of Freedom of Press

Press plays an informative and mobilizing act in moulding public opinion and might be mechanism of common reform, for the liberty of Press is regarded as "the mum of all other liberties within a democratic society. The press serves as an impressive solution of law by administrator and as a design for agreement the public official reliable to the folk whom they were voted in to serve. The liberty of Press must be guarded, as free press stands as one of the great interpreters between the government and the folk simultaneously, the liberty of individual even inside the press also needs to be preserved, secured and any try to encroach the liberty of press must be prevented.

History of Freedom of Press in India

The beginnings of the struggle for free speech in India date back to 18th century British India. The history of the freedom of press in India is inseparable from the history of the

nationalist movement. The nationalist movement for a free India was fought with repression of the freedom of speech and expression through a series of legislations aimed at stifling the possibility of a consolidated front against colonial subjugation. That the press played an invaluable role in generating political consciousness is evident from the fact that the British government found it necessary to introduce repressive enactments from time to time to neutralise the power of the print medium.

Press and Registration of Books Act, 1867

The earliest surviving enactment specially directed against the press was passed in 1867, the Press and Registration of Books Act. The object was however to establish government control over the Freedom of press. To preserve copies of books and other matter printed in India a system of registration by this regulatory law was enabled in government.

Official Secrets Act, 1923

A general Act which has a greater impact on the press, in particular is the Official Secrets Act, 1923, which is aimed at maintaining the security of State against leakage of secret information sabotage and the like. The Indian press (Emergency) Powers Act 1931 imposed on the press an obligation to furnish security at the call of the Executive. The Act, (as amended by the Criminal Law Amendment Act, 1932) empowered a provincial Government to direct a printing press to deposit a security which was liable to be forfeited if the press published any matter by which any of the mischievous acts enumerated in S.4 of the Act were furthered, e.g., bringing the Government into hatred or contempt or inciting disaffection towards the Government; inciting feelings of hatred and enmity between different classes of subjects including a public servant to resign or neglect his duty.

Press (Objectionable Matter) Act 1951

The preamble of the Press (Objectionable Matter) Act, 1951, looked innocuous as it was "to provide against the printing and publication of incitement to crime and other objectionable matter". The other improvements were as follows: While the Act of 1931 was a permanent statute, the Act of 1951 was a temporary one to remain in force for a period of two years; the new Act provided for a judicial inquiry by a sessions Judge before security could be demanded from a printing press or forfeited to Government; and the person against whom a complaint had been made could demand the matter to be determined with the aid of a jury and had a right of appeal from the order of the sessions Judge to the high Court.

Press Council Act 1965

Following the British precedent, a Press Council was constituted in 1965 under the Press Council Act 1965, which was enacted to implement the recommendations of the Press Commission. To maintain and improve the standards of newspapers in India was the main object for establishing this Council. It was to form a code of conduct to present writings which were not legally punishable but were objectionable.

Freedom of Press: Constitutional Perspective

1. The Preamble to the Indian Constitution resolves to secure

for all the citizens of India, liberty of thought, expression and belief.

2. From Article 19(1) (a) of the Indian Constitution, i.e. 'Freedom of Speech and Expression', the media derives its rights. It is a fundamental right.
3. Freedom of Press is not specifically mentioned under the Indian Constitution, but it is included under Article 19(1) (a) of the Constitution of India. Article 19 (1)(a) of the Constitution from which the media derives its rights guaranteed to every citizen of India, Article 19(1) (a) reads: 19. (1) All citizens shall have the right (a) to freedom of speech and expression, The exceptions to the right guaranteed under Article 19(1) (a) are contained in Article 19(2) which reads:
Nothing in sub – clause (a) of Clause (1) shall affect the operation of any existing law, or prevent the state from making any law, on the exercise of the right under Sub-Clause in the interests of the sovereignty and integrity of India, public order, decency or morality, or in relation to contempt of court, the security of the state, friendly relations with foreign states, defamation or incitement to an offence in so far as such law imposes reasonable restrictions. The media derives its rights from the right to freedom of Speech and expression available to the citizen. Thus, the media has the same rights --- no more and no less than any individual to write, publish, circulate or broadcast.
4. Fundamental rights under the Constitution of India (Part III of the Constitution) are those basic rights that are recognized and guaranteed as the natural rights inherent in the status of a citizen of a free country. These rights cannot be infringed or taken away from the citizen by governmental action or statute except to the extent permitted by the 'reasonable restrictions' enumerated in Clauses (2) to (6) of Article 19. While statutory rights other than fundamental rights can be taken away by legislation, fundamental rights cannot be taken away by legislation, can only impose reasonable restrictions on the exercise of the right. *Dharam Dutta v. Union of India*¹,

Freedom of Press and Legislative Privileges

What Is Legislative Privilege?

To enable legislators to effectively perform their functions, to discuss and debate matters of importance without fear or favor, without hindrance or obstruction, the Constitution confers special rights on Parliament and the State Legislatures. The conflicts of freedom of press guaranteed under Art.19(1)(a) and the legislative under Art.105 and Art.194 are unavoidable...

The Supreme Court in *M.S.M. Sharma v. Sri Krishna Sinha*², held that under the scheme of the Constitution of India, the legislature has the right and privilege to prohibit absolutely the publication of the report of the debates and the proceedings in the floors of the houses and the houses are competent to impose punishment for breach of such privileges. Thus the freedom of speech and expression as contained in Art. 19(1) (a) is subjected to Art. 105(3) and Art.

¹ (2004) 1 SCC 712, Para 36, pp 738-39

² 1959 AIR 395, 1959 SCR Supl. (1) 806

194(3) of the Constitution. The privilege of Legislature prevails over the fundamental right to freedom of speech and expression. The reports of the proceedings in newspapers are protected under the Parliamentary Proceedings (Protection of Publication) Act, 1977. The Parliament has the power to power to the publication of its proceedings and prescribe punishment the resolution of the house of Parliament. In case of conflict between the fundamental right to freedom of speech and expression and the privilege of Legislature, the privilege of Legislature shall privilege the fundamental right to freedom of speech and expression. In case of any conflict between the privilege of the Parliament under Art. 105(3) of the Constitution and the freedom of speech and expression, the inconsistency has to be resolved by harmonious construction of the provisions. Article 19(1) (a) being general in nature must give way to the special provision under Art. 105(3) of the Constitution.

Recommendations for Ensuring Freedom of Press

1. Codification of Legislative Privileges

The decision regarding whether contempt is proved and, if so, the punishment to be awarded being left to a Court of Law and the legislature should only be permitted to file a complaint. The idea that the legislature should itself be both the accuser and the judge might have had a historical reason in England; but there is not reason for such a fundamentally unjust approach to be accepted in India.

2. The Main Goal - Growth with Freedom

Press can only enable a young democracy like India to survive, and also help its development of social justice and to serve the interests of the common people. A free Press can help develop a body of citizens who are well informed both regarding current events and also about the problems facing the country and the alternatives available for tackling them.

3. Importance of Constitutional Amendment

As to keep the general body of citizens in our young democracy well informed press requires some special protection so that they can have the maximum freedom to carry out its work of recalling facts within different parts of national life, and evaluating them and affirming upon them. The Right to Freedom of Speech conferred by Article 19(1) of the Constitution is adequate to protect the freedom of the Press many authorities have stated so. Further, National Commission to Review the Working of the Constitution have recommended the inclusion of Freedom of Press-media under Article 19(1) (a).

4. Press Needs To Improve

The private business and those who control it are treated with kidglove therefore the philosophy of those who are appointed to senior journalistic positions is partly because of ownership of many newspapers. Collecting and disseminating facts and offering comments many a times it has been seen for this editors and journalists have no adequate freedom as they are under the pressure of the capitalist owners. Thus, capitalist owners pressure should be minimized.

5. Positive Assistance to Independent Papers

At the same time, it is important that steps are taken positively to make it possible for independent papers to survive and develop. Assistance to them should be provided through general institutions meant to help the growth of independent entrepreneurs, including small ones.

6. The State, should stop becoming the Main Threat

The State remains the source of the most potential threat to Press freedom this is our own experience since independence so thus suggest that this resistance is necessary.

Conclusion

On analysing the current scenario, latest issues and developments of Freedom of Press, it can be concluded that although the Press is considered the watchdog of democracy, sadly, there is scant regard for this truism in a country which is, ironically, the world's largest democracy. The Court has clearly shown a preference for freedom of press in keeping with its affirmation that freedom of expression is "one of the essential foundations of a democratic society". In conclusion, it must be reiterated that for healthy working of a democracy the freedom of press and information are fundamental and therefore, must coexist with the freedom of speech and expression but many a times is misused as free press is privately financed, This puts the press in the position of either needing wealthy owners willing to take losses on subsidizing the press or needing to make money by catering popular tastes, which often aren't especially refined. As most of the press, in order to make enough money and to stay in business caters to dumbed down popular sentiment.

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