



A critical analysis of media regulation in India

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Abstract

Media is an important tool of democracy. Its freedom is protected under Art 19(1)(a) of the Constitution. Art 19 does not only talk about absolute freedom but it talks about the freedom which has reasonable restrictions which are mentioned in Art 19(2) of the Constitution. Media includes various types like print media, broadcasting media, and recently the social media. In this paper, the researcher is dealing with electronic media only which is popularly known as broadcasting media also. The state has the power to punish the citizen if he uses his freedom beyond the limitation mentioned in the article itself. So, the state also has the power to regulate the media. The subject of media regulation is mentioned in the Central list of VIIth Schedule of the Constitution. In India, we also have many regulations and bodies to regulate the actions of the media. For print media, we have Press Council which is the statutory body established under Press Council Act. Electronic media includes Radio and Television Broadcasting. For the regulation of radio, we have a statutory body which is known as Prasar Bharati, established under Prasar Bharati Act. But for Television, we don't have statutory authority. We have a self-regulatory body like NBA, NBF. The Cable Television Network Act, 1996 provides the programme and Advertisement code which is mandatory to TV channels as well as advertisement. But the act does not provide any statutory authority for the regulation of the act. Many times, media uses the freedom and interfere in the administration of justice also violates the privacy of the person so we need more stringent laws to curtail this practice. There are various instances in history which show that state regulation can interfere with the independence and autonomy of the press and hence the same is not recommended. Also, concerning self-regulation, it can be said that it has been failed miserably in India as in the case of the NBA which deals with news media. So there is a need for amendments in acts to make stringent provisions to deter the media also we need to make an independent body which is necessary to avoid earlier failure.

Keywords: media, constitution, freedom, reasonable restrictions, regulations

Introduction

The Media is the fourth pole of our democratic system, the legislation, the executive and the judiciary are another three poles. The freedom of media is guaranteed under Art. 19(1) (a) of the Indian Constitution (hereinafter called as Constitution). But the basic principle of our Indian Constitution is nobody or nothing is above the law. So the freedom of speech and expression is also not an absolute right, the restrictions are mentioned under Art 19 (2) of the Constitution. Communication is the most essential attribute of life. So right to communication is the quintessence of freedom of speech and expression and it expands from specific right to be informed, right to privacy, and right to participate in the public communicative system. The word media includes print media, electronic media, and internet. Blogs, mobile, software publishing, and mass media. Now a day, media plays a vital role in the development of society. It became a voice of a vulnerable class of people and protect the public interest also a watchdog on the government to make the government more responsible towards the citizens. On the other hand, it also creates an unnecessary interference in the individual's rights as well as the sub judge court's proceedings. The nature of media should be informative as well as people-friendly. The Supreme Court in various judgments recognized the different functions of media under Art 19(1) (a) of the Constitution. At the same time, Supreme Court in various

judgement restrains the media from using its freedom absolutely and arbitrarily. Media Trail is a common expression coined in the late 20th century and early 21st century which described the outcome of print, audio and visual reporting on a person's reputation by forming a universal opinion of guilt irrespective of any verdict in a Court of law. To create the balance between freedom of media and the undue interference of administration of justice court have power for contempt proceedings which mentioned under Art 19(2), Art 129 and Art 215 read with art 142. In *Jahira Habbiullah Sheikh V. State of Gujarat* ^[1] SC explained the fair trial which includes the impartial judge, a fair prosecutor, and the atmosphere for judicial calm. The media trial affects the fundamental of criminal jurisprudence, impartial judiciary, fundamental rights of accused as well as witnesses.

Media includes various types of media like print media, electronic media, and recently, social media. In this research, I am going to talk about electronic media only. Electronic media covers the media based on electronic technology and includes the radio, internet, and television. Under the VIIth Schedule of the Constitution, the Central Government has the power to make a law on electronic media. The Indian Telegraph Act 1885 deals with electronic media. Supreme Court in *Ministry of Information and Broadcasting v Bengal Cricket Association* upheld that this act was inadequate to deal with electronic media. Also, the

Cable Television Network Act 1996 (CTVN Act) explained the code of conduct to the programmes and advertise but the act does not establish the authority to regulate the law. The Ministry of Information and Broadcasting has established the Electronic Media Monitoring Centre which observes the content of all TV Channels as well as the FM radio Channels for the obedience of the Programme Code and the Advertising Code mentioned in the CTVN Act, 1996. There are some self-regulatory bodies like BCCC, NBA recently established body NBF which deals with the complaints relating to electronic media. So there is no specific and complete law for the regulation of electronic media. So presently we don't have a particular independent statutory body to supervise the subjects, ethics, ownership, and truth of the various media.

This paper deals with the idea of better regulation on media using powers of punishment and contempt and whether the method should be self-regulation or state-run regulation or independent regulation. Also, the researcher gives her ideas and opinions regarding some better regulations which enhance the efficacy in the legal system by media regulations by way of considering the comparative correlation of media laws in different countries like the United Kingdom (UK) and the United States of America (USA) to craft the best practices that can be suggested for the improvement of media regulations in India

Media Regulation in India

The freedom of speech and expression of media is mentioned under Art 19(1) (a) of the Constitution but as we saw that it is not absolute freedom. The restrictions are mentioned under Art 19(2) of the Constitution. It is also regulated by various statutes and regulatory bodies. In this chapter, we are looking for the national and international perspective of media laws and regulatory bodies regarding it. It is revealing of fact that nobody is above the law and everyone should use its freedom within the four corners of laws. For this, it is need to look into the laws which regulate the media in India.

Unlike the USA Constitution, we do not have the separate provision for Freedom of Media in Part III of the Constitution. But Art 19 have impliedly included the freedom of speech and expression of media. There was a demand for separate provision of freedom of Press in the Constitutional Assembly. K.M. Munshi has proposed the separate provision for freedom of Press like the US Constitution on the basis that the absolute rights are the real rights as it does not have any restrictions. Also, our first Prime Minister also beautifully remarked on freedom of Press is "I would prefer complete free press with all the hazards which involved in the wrong use of that freedom than a suppressed or controlled press." But Dr. Ambedkar explained that Press is merely another means of standing an individual and citizens. It does not have any special right or privilege against the citizens. It is the same as an individual right. When the Editor of the newspaper write in the newspaper, he is merely exercising his individual right to freedom and expression, nothing more. So there is no need to specially mentioned the freedom of media.

So after the voting, the final draft of Art 19 read as, Art 19(1) (a) Every citizen shall have the right to freedom of speech and expression Art 19(2) states that nothing in clause (a) of (1) from this Article shall affect the operation of any existing law or prevent the State from making any law,

relating to libel, slander, defamation, contempt of Court or any other matter which offends against decency or morality or undermines the security of or tends to overthrow the State.

But after the first and sixteenth amendments, the Art 19(2) read as,

Art (2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence ^[3].

Though the Article does not talk about the special rights of the freedom of Press but Supreme Court in various judgements upheld the other rights which are important for the freedom of press. In Romesh Thappar v State of Madras [4] SC upheld that Right to freedom of speech includes the right to circulation of newspapers and held the Section 9(1A) of the Madras Maintenance of Public Order Act, 1949 as illegal which prohibit the entry and circulation of the journal, crossroads which published by the petitioner as this section fell outside the scope of reasonable restrictions under Art 19(2) of the Constitution. In Brij Bhushan v State of Delhi, SC upheld that the pre-censorship of the newspaper is not the ground under Art 19(2) of the Constitution. The important pronouncement which is the essence of the First Amendment of the US Constitution reflected in Express Newspaper (P) Ltd. v. Union of India ^[5]. In this case Supreme Court held that the control of the legislature on freedom of press is remote. Legislature does not interfere in the rights of the media.

Laws which single out the press for laying upon it unnecessary and unreasonable burdens which would restrict the circulation, enforce a penalty on its rights to choose the tool for its implementation or to seek an different media, prohibit the newspapers from being started and eventually drive the press to seek the executive assistance in order to survive, would be struck down as illegal ^[6].

The Art 19(1) (a) talks about the concept of freedom of speech and expression which have various dimensions. This is a dynamic concept which evolved with the time and progresses with electronic and information technology. It consists of the right to express oneself through words of mouth, writing, printing, picture or in any other means. The communication of thoughts can be through any medium, newspaper, journal or film, ^[7] which includes the electronic and virtual media. But to exercise this right properly, there is need to give protection to for the other facets of the Press. The Supreme Court in various judgements upheld the other rights of the Press or Media. In Sakal Paper v Union of India, Supreme Court upheld that the right mentioned under Article 19(1) (a) extends not only to the matter in which the citizen is permitted to circulate but also include the capacity of circulation ^[8]. In LIC v Manubhai Shah ^[9] Court upheld that the Art 19(1) (a) contains the right to circulate one's views or opinions by the print or other media. Right to criticise also protected by Supreme court in Romesh thappar case. In Kedar Nath Singh v State of Bihar ^[10], Supreme Court clarifies that the criticism against the government or comments on public measures, however strongly expressed, would be protected under Art 19. Recently Supreme Court

reiterated this judgement in *Vinod Dua v Union of India*, and stated that the *Kedar Nath Singh* judgement applies to every journalist and criticism against the government is not a sedition unless it incite the people.

Though the Art 19 talks about the freedom of speech and expression of press or media which includes radio, television or other media but it is subjected to reasonable restrictions mentioned in clause 2 of the same article. Art 19(2) exhaustively mentioned the grounds on which freedom of speech under Art 19 (1) (a) can be restricted. Any restrictions which does not falls under the Art 19 (2) is not permissible and would be struck down as it violates the Art 19. The Art 19(2) includes following grounds: The sovereignty and integrity of India or the security of the state or Friendly relation with foreign states or Public order or Decency or Morality or contempt of Court or Defamation and Incitement to an offence ^[11]. To give effect to these provisions state makes various laws. Art 129 read with Art 141 and Art 215 gives the power to Supreme Court and High Court respectively to punish for the Contempt proceedings.

Broadcasting is the dissemination of information through audio and video. It means it includes broadcasting through radio and television which constitutes the huge portion of mass media. In our country, Radio Broadcasting (AIR) started in the year 1936. Also the television broadcasting (Doordarshan) started in the year 1959. Earlier this media is under the control of the government. In 1990, the government framed laws for the autonomy of AIR and Doordarshan. This change resulted in mushrooming of a private television channel and to regulate them Cable Television Network Act, 1995 came into forced.

The Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (herein after called as an Act, 1990) this act aims to reduce the government control on AIR and Doordarshan and give them autonomy. This Act came into existence in 1990 but came into force in 1997. It provides the provisions relating to the autonomous corporation for electronic media which make it free from government control. The act established the Broadcasting Corporation of India which named as Prasar Bharati. The act also constitutes the board to deal with the affairs of General Superintendence, direction and management. The Board shall consist of:

(a) A Chairman (b) One Executive Member (c) One member (Finance) (d) One member (Personnel) (e) Six Part – Time Members (f) Director-General (Akashvani), Ex-officio (g) Director-General (Doordarshan), Ex-officio (h) One representative of the Union Ministry of information and broadcasting, to be nominated by that Ministry. (i) Two representatives of the employees of the corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by other employees from amongst themselves ^[12].

Section 9 of the Act, 1990 says subject to such control, restrictions and conditions as may be prescribed by the Government, the corporation may appoint, after consultation with the recruitment board, the director-general (Akashvani), the director-general (Doordarshan) and such other officers and other employees and all other matters connected and the conditions of service of such officer and employees shall be such as be provided by regulations ^[13]. The Act lays down the powers and functions of the corporation. The corporation is to ensure the public good and is to keep the interest of the citizens in mind while

discharging its functions ^[14] The Section 13 of the constitute a Parliamentary Committee which includes the 22 members from Lokasabha and Rajyasabha to ensure that the corporation discharges its functions properly and accordance with the law. Section 15 talks about the Broadcasting Council to advise the corporation in discharge of its functions. These two mechanisms are for the purpose to check whether the corporation is working properly or not. This also gives power to the Central Government to issue the directions for the public interest.

Basically, the aim of the act to established an autonomous mechanism to regulate the AIR and Doordarshan. But as we see, in this act it describes the three tier system which includes the Broadcasting council, Parliamentary Committee and Central Government which redress the complaints against the Prasar Bharati. As we see on the one hand, act gives the autonomy to the Prasar Bharati and other hand it creates the control on this Corporation.

After 1990 the rules regarding the electronic media were relaxed, signals of foreign television network via satellite resulted into the haphazard progress of cable television network. The programs which shows on the satellite is alien to Indian culture and presents western culture. There was no censorship on these programs and advertisements. The cable industry had been completely disorganized and unregulated. So to avoid the exploitation of new technology and to regulate the cable television network *the Cable Television Network (Regulation) Act, 1995* (herein after referred as an Act, 1995) is framed for the country. So the broadcaster became unaccountable under this act. The act 1995 does not prescribe the power for the action against the broadcaster or television channel. It only talks about the cable operator. The provisions of the impugned act contain loosely worded provisions. So to cover the broadcasters and to make strict provisions Parliament came with the amendments and guidelines. For this purpose, there are substantial amendments in this law in the years 2003 and 2011.

The act, 1995 provides for compulsory registration ^[15] for the cable operator. The regulation of the act confines only to cable operator not cover the broadcasters. Section 5 talks about the program codes which says that the person who are transmitting the programme shall follow the programme code. Chapter III talks about the powers of seize and confiscate the equipment which is used for operating the cable television network. Chapter IV of the impugned act talks about the Offences and Penalties. Section 16 provides the punishments for the contravention of this act. Chapter V of the act, 1995 talks about the miscellaneous provisions under which Section 20 provided the power to the Central Government to prohibit the operation of cable television network in public interest. Section 22 of the impugned act provides the power of the Central Government to frame a rules on the Programme Code and the Advertisement Code mentioned under sections 5 and 6, respectively.

According to Section 22, the Central Government framed the rules which came into force from September 29, 1994. Rule 5 talks about the programme code which start with the negative words which talks about no person shall broadcast or re-transmit by a cable service any programme if such programme is in conformity with the known Programme Code. Rule 6 talks about the programme code which states that the programme should not include the following contents: (i) anything which is indecent, defamatory, deliberate, untrue and suggestive inferences and half-truths

(ii) anything which amount to contempt of court (iii) criticizes, insults or slanders any person or certain groups, sections of societal, public and moral life of the country (iv) insults women by the representation in any kind of the character of a woman, her form or physique or any part thereof in such way as to have the consequence of being unpleasant, or insulting to women, or is likely to degrade, unethical or hurt the public decency or morals.

From this it can be understood that, any individual involved with cable television network in their acts and purposes under the registration should follow the programme code mentioned under Section 5 and rule 6 of the act, 1995. Any contravention to this shall be liable for the punishments prescribed by the act, 1995.

Further the amended act *The Cable Television Networks Regulation Amendment (Act), 2011* (herein after called as *Act, 2011*) covers the digitalization of cable networks in a time bound-phased mode in the entire country. It constitutes the Inter-Ministerial Committee (IMA) chaired by Additional Secretary, Information and Broadcasting which give recommendations to the Ministry in respect to the measures to be taken on offending channels. The ultimate action is taken by the Ministry of Information and Technology under the provisions of this act and rules.

Also, government has set up an Electronic Media Monitor Centre in 2008 to have an active monitoring of content of several TV stations beaming over the Territory of India for any violation of Programme Code, Advertisement code and other provisions of the act. The Central government has been allotted with the work of checking the contents of (a) all TV channels up linking and down linking in India to checked the violation of Programme and Advertisement Codes cherished under Cable TV Networks (Regulation) Act 1995 and Rules framed there under, (b) Any additional work concerning towards the monitoring of contents of the broadcasting sector given by the Government from time to time ^[16].

In 1997, *the Telecom Regulatory Authority of India Act, 1997* (hereinafter referred as *an Act, 1997*) came into force. The main aim of the act to constitute the telecom regulatory authority of India and the Telecom Dispute Settlement Appellant Tribunal. Earlier it does not include the broadcasting media but after the notification ^[17] by the government of India in 2004, the scope of the Section 2(1) (k) of the act which talks about Telecommunication services, was expanded to cover the broadcasting and cable media. TRAI also makes recommendations for the standard norms for the TV channels and the advertisement. On this recommendation, the Government form an Up-linking and Down-linking Guidelines in 2011.

The communication going from ground to satellite is called the Uplink and if it going from satellite to ground i.e. earth is called downlink. These guiding principles are applicable to the members looking for the approval to set up an Up linking Hub/Teleport or Uplink a TV Channel or Uplink facility by a News Agency, a company which is registered under the Indian Companies Act, 1956. It also provides that the company will uplink those channels only which are precisely accepted by the Ministry of Information and Broadcasting from up linking from India. It categorized into two parts. One category deals with the up-linking of non-news channels and second category deals with the up-linking of news channel in paragraphs 2 and 3 respectively. Paragraph 5 deals with the general terms and conditions for

company. It states that the Company shall fulfill the Programme & Advertising Codes, as framed by the Cable Television Networks (Regulation) Act, 1995 and the Rules framed there under ^[18]. And if the company fails to comply with the conditions, then Ministry of Information and Broadcasting takes action against it. Ministry may also suspend the permission of company for the specified period as it thinks fit.

Article. 129 of the Constitution gives the power to the Supreme Court to punish for the contempt proceedings and Art 215 gives the same power to High court. But what is mean by Contempt of Court is explained under the Contempt of Court Act, 1972. This legislation is directly relating to the media in India, the provisions of the *Contempt of Courts Act, 1972* (hereinafter referred as *CoC Act*) act as an external check and balance mechanism between freedom of press on one hand and administration of justice on the other. The provisions of the CoC act are aimed at securing sacred right of fair trial while putting remote restrictions on freedom of press. Section 2 of the CoC Act states that "contempt of court include either i.e. civil contempt or criminal contempt." ^[18] It further provides the definition of civil contempt which are as follows, "civil contempt means wilful disobedience to any judgment, decree, direction, order, writ or another process of a court or wilful breach of an undertaking given to a court" ^[19]; and "criminal contempt means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which,

1. scandalizes or tends to scandalize, or lowers or tends to lower the authority of any court; or
2. (prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
3. interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;" ^[20]

It can be observed that reporting by media in case of matters which are sub judice can amount to criminal contempt by bare reading of the provisions. Section 3 of the CoC Act protects Innocent publication and distribution of matter when the person did not know of the pending proceeding. The provision further explains the term pending proceeding to define the scope and ambit of criminal contempt in respect of the pending proceeding. The words 'administration of justice and 'in any other manner', is wide enough to enable courts authorized to punish for their contempt to pass orders to protect judicial process Fair and accurate report of Judicial proceeding is protected under Section 4 and Fair criticism of judicial act is protected under section 5 of the act. Section 7 of the act enumerates provisions regarding the publication of information relating to proceeding and lays down certain exceptional cases in which such act of publication would not amount to contempt. Therefore, provisions of the CoC Act can be seen as one of the main external control over the content of media in India as it is also mentioned under reasonable restrictions to the freedom of speech and expression enshrined under the Constitution of India.

There are some provisions in Indian Penal Code which regulate the media. Section 153A talks about promoting hate between different groups and peoples on the grounds of religion, race, place of birth, residence, language, etc., and

disturbing the peace of society. Section 499 punish for the Defamation. Also Section 501 of code punished for printing or engraving matter is known to be defamatory. The Juvenile Justice (Care and Protection) Act, 2000 limits the freedom of media in the matter relating to juvenile.

In India for Self-Regulatory Bodies in India to regulate the electronic media. *The News Broadcasting Association (hereinafter referred as NBA)* is a private regulatory body that represents the private television news and current affairs, presenters. It is a body, self-regulated by broadcasters. The association has currently 24 foremost news and current affairs broadcasters (including 77 news and current affairs channels) as members. The body presents a combined and trustworthy voice before the Government, on the issues that affect the rising industry ^[21]. This authority is constituted to promote excellence for the broadcasters. It also constitutes the *News Broadcasting Standards Authority (hereinafter referred as NBSA)* for complaints redressal. It is a two-tier mechanism. Firstly, the complainants have to file a complaint before the broadcasters and if not satisfied by their action they can file complaints before the NBSA. This body has its own code of conduct in which it prescribed some areas where the broadcaster seeks to self-regulate. It provides the following areas: (i) Impartiality and objectivity in reporting (ii) Ensuring Neutrality (iii) Reporting on crimes and safeguards to ensure the crime and violence are not glorified (iv) Depiction of violence or intimidation against the women and child (v) Sex and nudity (vi) Privacy (vii) Endangering the national security (viii) Sting operations (ix) Viewer feedback ^[22]. This body has its own regulation to deal with matters.

We also have another body named as *Indian Broadcasting Foundation (hereinafter called as IBF)*. The Indian Broadcasting Foundation was constituted in 1999 to mainly satisfy this simple need. A not-for-profit association, IBF's members include both News and Non-News Channels (like the GEC, Sports, Music, Movies, Infotainment, etc.). In 2011, IBF constitute the self-regulatory body which named as *Broadcasting Content Complaints Council (BCCC)*, an independent self-regulatory body to examined the complaint against non-news general entertainment television channels. It has its own regulation to deal with matter and also comply with Programme code of the CTVN act, 1994 and its rules.

International aspects regarding the regulation of media

Media Regulations in the United Kingdom (hereinafter referred as UK)

Previous chapters discussed the media regulation system of India, now; this chapter discusses the media regulation system of the United States of America and the United Kingdom. In order to attain an efficient model of regulation, it is required to study and analyze the system of other countries. Since Indian Constitution has borrowed several of its codes and practices from the Constitution of the United States of America and the United Kingdom, an analysis of media regulation system of these two nations have been done. The media of the United Kingdom is governed by statutory as well as self-regulatory bodies. These are independent bodies which develop the code of conduct of media and journalists.

Up to a certain extent, UK system relies on bodies which are either self-regulatory or bodies which are independent of government. System in UK ensures that regulatory

standards are being followed by media in both print and broadcasting sector. Also, codes of conduct framed by regulatory bodies are flexible and are subject to constant change. It is not possible to provide guidelines and rules with respect to each subject. But then code also gives wide margin of interpretation which enhances the working of regulatory bodies. There is a need to protect public interest and at the same time strike balance between competing rights and freedom. Free press is not an element for lawlessness. The conduct of media over years cannot be justified by taking defense of liberal principles and the right of media does not mean it can encroach on individual rights to gain rating or for business purpose. The Office of Communication (Of com), which is a statutory body accountable to parliament and regulates communication; Independent Press Standards organizations (IPSO), established in 2014, an independent regulator of newspapers and magazines; The BBC, which has its own guidelines and regulates the work of their journalists; Reader's Editors, which offers an internal but independent complaint resolution service.

Media regulations in United States of America (hereinafter called it as USA)

Since USA has been a hegemonic power, thus, its democracy and its constitution has influenced globally John Stuart Mill, an English political philosopher has defined the limits of freedom of and authority in the modern state in his popular work 'On Liberty', published in 1859. Mill argued that the role of press was very significant in countries like USA and England during mid-19th century as it was a pillar against totalitarian government. The most significant aspect of the media regulation system of United States of America is the First Amendment dealing with freedom of press. The amendment clearly states that any law which abridges the freedom of speech or freedom of press shall not be making by Congress. Although, in *Schenck vs. US* 1919 case, Supreme Court held that the freedom of speech and press can be abridged for the national interest and Congress has the right to do so. The national interest is above all freedom and rights, thus, first amendment is not absolute. In another case, Supreme Court held that freedom of speech under first amendment does not apply to obscenity. The broadcaster rules are more complex in United States of America as compared to regulation for print media. FCC, a law-making as well as an executive body, governs the electronic mass media. It provides licenses, supervise those licenses and also perform judicial functions to penalize those who violate its rules. However, it has limited power and it is supposed to follow "due process of law" as per Fifth Amendment, First Amendment and other provisions of Constitution.

Discussion

There are some cases like Jessica Lal, Priyadrshini Mattoo, Sanjeev Nanda where media played an vital role exposing the truth in front of society whereas there are some incidents like Aarushi Murder, Sheena Bora case, Dadri cow slaughter incident, Muzzafarnagar riots and 26/11 Mumbai terrorist attacks, when media was required to handle the situation in a more diligent manner and showing the content with utmost care but failed to do so resulting in making situation more adverse and invading right to privacy, fair trial and affecting national security. This is the reason that media is claiming Article 19(1) (a) but often forget that it is subject to reasonable restrictions under Article 19(2) of

Indian Constitution. In India, press is governed by Press Council of India act, 1978, whereas, there is no specific law with respect to electronic media. Newspapers are still governed by 1978 media law despite of so many technological advancements. By discussing all the relevant issues, it can be inferred that Indian media requires regulation. Regulation should not be linked with control as both of them have different meaning and intentions. Regulation should be interpreted in a way that freedom is subject to certain reasonable restrictions.

There were incidents where media houses have taken money in exchange for favorable coverage of political party and their interest. Paid news, sale of editorial space and advertisement have become common in present scenario. Therefore, fairness and impartiality are losing their significance in journalists which was one considered as core-value in journalism. Unethical and sensational reporting of terror attacks, riots, health scams, superstitious content, private affairs of individuals/celebrities, disclosure of rape victims name are few major issues that need to be addressed in order to curb such practices which are forbidden by law but are not being followed in reality due to either self-regulatory/weak framework for regulation of media.

Conclusion

So, to conclude, researcher has to suggest that media regulations suffer from grave lacunae's and the legislative branch of the Country is not well equipped with laws in its repertoire to curb the menace of excessive and selective control on media agencies and free independent flow of information through media. As written in the earlier part of the paper, the three types of media agencies overlap and there is no single institution to effectively govern them collectively with penal sanction for non-compliance of its orders or directions. The Government must take up steps for thorough implementation of legitimate restriction imposing techniques upon the freedom of speech and expression of Media while keeping in mind that its essence lies in the extent of permissible independence it exercises. In this lies a big challenge to the Judiciary & the Parliament. As we see the state regulation can interfere with the independence and autonomy of press and hence the same is not recommended. With respect to self-regulation, it can be said that it has been failed miserably in India as in the case of NBA which deals with news media. Although Press Council of India is a statutory body but according to the composition of the council, more or the less it works like self-regulatory only. Both PCI and NBA have failed to curb unethical practices by media and often termed as toothless tiger. It will be better to establish an independent regulator which will also ensure media autonomy and independence against government interference. The measures adopted by media to increase rating are highly unethical and sometimes illegal also. Questions have been raised several times as to what should be done in this regard should the license of editor/journalist be suspended or should heavy fines be imposed against media houses that do not conform to regulations. Also, should the prison be the last resort when the above-mentioned options fail to work. There is an urgent need that something should be done to curb the unethical and even illegal practices by media. In almost every profession there are some rules and regulation which has to be abided by the professionals, for instance Bar Council of India and Medical

Council of India regulates the conduct of Legal and Medical professionals respectively. And in case of any breach of rules and regulations of their respective codes, provisions for punishment are provided based on the proximity of the act which includes heavy fines, cancellation of license etc. So, the same rule should be followed with respect to journalists/ media professional as all three-profession including journalism, medical and legal are considered as noble and hence all are more or less at the same footing. Media has nowadays become unruly horse and corrupt, defamatory and reckless media houses are repeatedly ignoring the warning from the self-regulatory bodies which shows that there is an urgent need to set up an independent regulator for media which protect the independence of media as well as regulate it. As current regime of corrupt, unregulated, politically complicit and crony-capitalist media in India is undermining rather than aiding democracy.

Future Scope

Following are the suggestions and recommendations to improve media regulations in India: -

- There should be different regulatory bodies for each medium of media i.e. print, television or radio as there cannot be uniformity of regulation if the form itself can be distinguished.
- News Channels should be made mandatory to be a part of News Broadcaster Association and Power to suspend license and impose heavy fines should be given to the same
- There are no specific rules with respect to Cross-Media Ownership and the same should not be made although recommended by TRAI as media houses are owned by many corporate houses, it will not be fair to say that other organization i.e. religious/ political organization will impart their own views because same can be the case for corporate houses also as they are profit making organization.
- There should be a qualifying exam to work as a journalist/media person and same should cover the legal framework of media in India including guidelines, norms and ethics to be followed by media professionals to get the license for journalism. An inference can be drawn from open book All India Bar Examination to practice in Court for Advocates.

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19. S. 2(b) of The Contempt of Courts Act, 1972.
20. S. 2(c) of The Contempt of Courts Act, 1972.
21. News Broadcasting Agency website
<http://www.nbanewdelhi.com/about-nba>
22. Code of ethics referred from http://www.nbanewdelhi.com/assets/uploads/pdf/code_of_ethics_english.pdf