



MEDIA LAWS: AN OVERVIEW

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Abstract

Media law is an emerging concept in India. It covers a wide range under its domain by including all types of media and extends to various legal fields. It includes copyright, Advertising, censorship, confidentiality, contempt, etc. the term Media law reflects the limits and boundaries within which the organizations of media need to operate. The laws of media determine the codes that the media and the journalists are obligated to follow. The concept of media law is not new in India, it has a long history starting from the reign of the Britishers. In our country, there is no uniform statute for the regulation of media laws. A collection of numerous statutes governs the sector of media. The laws that govern the media industry are the Cable Television Regulation Act, of 1995, the Telecom Regulatory Authority of India, of 1997 and various other statutes. The article throws light on the legal environment in which the media operates. The paper also focuses on the historical developments in the field of media law along with the new trends that have emerged with the growing time in the field of media law.

➤ Introduction

Communication is a way through which we exchange our thoughts and information. The channel of communication is media, an instrument for storing and communicating information. The word media, refers to a medium which is derived from the Latin word Medius, meaning middle.

Media refers to the communication channels through which we publicize news, music, movies, education, promotional messages, and other data. It includes newspapers both physical and online, magazines, e-books, and all the programs, be it news, entertainment or any other thing on television, radio, billboards, telephone, the Internet, fax, and billboards.

As said by Walter Cronkite-"Freedom of the Press is not just important to democracy, it is democracy." But the media can also, in some cases, become a contraption for the diffusion of false information, inciting messages and values that do not foster respect and spread vigorous dialogue and discussion. Negative messages can divide communities and can help perpetuate stereotypes that promote violence.

With the surfacing of the technology and the growing rise of the media and entertainment industry, it became very important to ensure that there is no misuse of media. In India, the government has not only established specific laws to regulate media activities but has also protected the freedom of media.

For better regulation of media industry, the concerned authorities like the Press Council of India, Ministry of Information and Broadcasting, Central Board of Film Certification, Telecom Regulatory Authority of India etc. have enacted various legislation from time to time.

➤ History of Media Laws in India

In India, Rock Edicts were engraved on rocks which consisted of measures adopted and regulations issued by the great Ashoka. These



were equivalent to the news content of modern news in India. There were no such restrictions on communication during the reign of Ashoka, but in the Arthshastra, written in the reign of Chandragupta, Maurya mentions the punishment for spreading false rumours and it also talks about the reporters.¹

In the era of the Mughals, Akbar was the term given to an official notification which was used to communicate that a tax would be waived upon all Muslims if he won the battle. However, there is no such mention of the rules and regulations in respect of the Akbar. The earliest mention of a pre-typographic newspaper is to be found in a contemporary historical work by later Mughals. In the era of the Mughals, there was neither pre-censorship nor licensing both being an initiative of western institutions.

Prior to the British rule, there was no press regulation, it was only after the Battle of Plassey which resulted in the taking over a part of India under the ruling of the British East India Company that certain rules and regulations were formed.

When the Europeans published the newspapers, in case of any offence expulsion of the editor was the ultimate penalty the Supreme Court of Judicature exercised this power. Censorship and license were the European concepts introduced in Bengal by Adam's regulations. The British government strictly restrained the employees of the East India Company from having any connection with the newspapers.

Licensing rules and regulations which were a part of European institutions were repealed

by the Metcalfe Act which was applicable to the entire territory of East India Company. It also made it necessary for every printer and publisher to declare the location of the premises of its publications.

It was in 1857 that licensing was reintroduced by Lord Canning. In 1860, certain provisions relating to the press regulations were embodied in the Indian Penal Code for defamation and obscenity by writers, editors or publishers.

Next in line was the press and registration of books act (25 of 1867), with the object of regulating the printing press and periodical news, for the preservation and registration of books. Followed by this remarkable legislation was the amendment in the Indian Penal Code by the inclusion of sedition law, which incurred punishment for anybody who "*excites or attempts to excite a feeling of disaffection to the government established by law in British India.*" Apart from these various other amendments were also passed.

In the 19th century, Drama activities were getting very popular among the locals and soon it became a medium to show the outrage of the Indians over the British Company and so the Dramatic Performance Act, (19 of 1876) was passed in fear that such performances may provoke the people against the government.

In the latter part of the 19th century, the Vernacular press act was passed with a comprehensive and rigorous view aiming at better control over the language of the press. In 1851, the Indian telegraph act was introduced which was repealed by the Indian

¹ CA Rajkumar S. Adukia, *Media Laws of India*, (May, 28, 2022, 10:30 AM), pg. no. 7.



Telegraph act 1885 which gave exclusive privilege to the government in respect of the telegraph and the power to grant the license. Thus, by the turn of the century government had given enormous power to intercept anything anywhere along all possible channels.²

With the end of the 19th century, the Britishers could see the revolt in the Indian and the thirst for the Independence was increasing amongst the people, so various other acts and regulations like the Newspaper (Incitement to Offences) Act, Press Act 1910, Cinematograph Act (2 of 1918), Press Law Act 1922, were passed to hinder the free communication between the people so that they cannot revolt against the Britishers.

➤ Media Laws- An Overview

There is a catena of laws for the regulation of media from the very beginning. During the British period various laws, rules and regulations were enacted to cater for the smooth functioning of the press and other media activities and also to have better control over the media. Some of these legislations are; First Press Regulation, 1799, Gagging Act, 1857, Indian Press Act, 1910, Vernacular Press Act, 1878, Constitutional Provisions regarding Press Freedom, Official Secrets Act, 1923, Press and Registration of Books Act, 1867, Contempt of Court Act, Cinematography Act, 1952, Young Persons (Harmful Publications) Act, 1956, Parliamentary Proceedings Act, 1956, Delivery of Books and Newspapers Act, 1954, Copyright Act, 1957, Press Council of India Act, 1965, Prasar Bharati Act, 1990,

Cable Television Regulation Act, 1995, Telecom Regulatory Authority of India, 1997, Sports Broadcasting Signal (mandatory sharing with Prasar Bharati) Act, 2007.

- **Constitutional Provisions**

The media is the fourth hand and foot of the democratic system, while the legislative, executive, and judicial branches are the other three. While the legislature prepares laws for society and the administration takes steps to enforce them, the third foothold is the judicial system, which must ensure the legitimacy of all actions and decisions. The press must act within the scope of these statutes and constitutional provisions acting in the public and national interest.

The constitution of India does not directly provide for any specific provision in relation to the media, but it is indirectly embodied under article 19(1)(a).

- ✓ **Article 19:**

Article 19 of the constitution guarantees freedom of speech and expression. The freedom of media is indirectly ensured by this article.

However, the right to freedom of speech and expression cannot affect the enforcement of existing laws or prevent states from enacting them. The state can impose reasonable restrictions in the interest of sovereignty and integrity of India and all the other subtle factors which demand the control and supervision of the government.

- **Penal Provisions**

² *Legal framework of media laws in India*, MEDIA OWNERSHIP MONITOR INDIA, (May, 28, 2022, 5:00 PM), <https://india.mom-rsf.org/en/context/law/>.



The Indian Penal Code has various provisions for controlling the media and preventing its misuse. Though the provisions mentioned below do not directly talk about media law but there are certain laws which regulate the media sector as well. If any of the below-mentioned offences are found to be happening on any media platforms, then the accused will suffer the consequences of the same according to the sections and the punishment prescribed.

✓ **Section 295 A:**

Section 295 A of IPC is a cognizable, non-compoundable and a non-bailable offence that talks about deliberate and malicious acts, intended to outrage religious feelings or any class by insulting its religion or religious beliefs. If any such act is done on any media platforms, the person will be charged under section 295 A of the Indian Penal Code.

✓ **Section 124 A:**

The Indian Penal Code defines sedition (Section 124A) as an offence committed when "*any person by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the government established by any law in India.*"³ If any person with his actions does any act as mentioned in section 124 A on any media platform, then he will be charged under section 124 A for the offence of sedition.

✓ **Section 153 A:**

Promoting Enmity Between Groups on Grounds of Religion, Race etc. on social media platforms or on radio, television,

newspaper, etc. is an offence under section 153 A.

✓ **Section 505:**

Spreading any kind of false or mischievous news or information or any statements leading to Public Mischief on media is a punishable offence under section 505 of the Indian Penal Code.

✓ **Section 499:**

Defamation is mentioned under section 499 of IPC according to which whoever abuses or defames or does any act that could defame the other person on any media platforms will be charged for the offence of defamation under section 499 of IPC.

✓ **Section 509:**

Insulting the Modesty of a Woman on any kind of media platform is also an offence under section 509 of the Indian Penal Code.

• **Intellectual Property Rights Provisions**

IPR covers a wide range of content related issues in the media segment. IPR under its shield covers issues from content creator's rights to the problem of licensing of the content.

India has copyright and trademark laws even before independence, and these laws have been amended with the changing times. Indian courts have tried their level best in filling the gaps whenever the laws were unclear and demand a clear interpretation or any necessary interference of the judiciary.⁴

The main intellectual property laws relating to the media sector are the Copyright Act of 1957, the Copyright Rules of 1958, and the International Copyright Order of 1999.

³ The Indian Penal Code, 1860, S. 124 A.

⁴ R Parthasarathy, *Protecting intellectual property in media and entertainment*, IAM, (May, 29, 2022, 9:00

PM),

<https://www.iam-media.com/copyright/protecting-intellectual-property-media-and-entertainment> .



✓ **Section 13:**

Section 13 of the Copyright Act affords separate and exclusive protection for the following seven clauses of work, which are; original literary, dramatic, musical and artistic works, cinematographic films and sound recordings.

✓ **Section 22:**

This section provides for the terms of protection of copyright, i.e., provisions for copyright in published literary, dramatic, musical, and artistic works.

✓ **Section 30:**

Section 30 deals with the licenses that an owner of a copyright may issue for the use of his content.

✓ **Section 37:**

Section 37 talks about broadcast reproduction rights. IPR also provides for various other provisions which protect the owners of the copyright.

➤ **Authorities regulating the Media Industry**

There are distinct agencies that particularly regulate the flow of information in India. The government is also interested in oversight and keeping a check on citizens' communication as well thus almost topping the charts for snooping in a democracy. In October 2011, the Government of India made a proposal to the UN for the formation of an inter-governmental 50-member body, a Committee on Internet Related Policies (CIRP).⁵

• **Ministry of Information and Broadcasting- Government of India**

The Information and Broadcasting (I&B) Ministry of the government of India through its activities cover three sectors namely, Broadcasting (DD and AIR), Information and Films and their functions are complementary to each other. Each of the three sectors as mentioned work through specialized media units. It captivates the needs of information, education, and entertainment of all sections of the society through mass communication media like Television, Films, Radio, advertisements, Publications and traditional modes like Dance and Drama.⁶

• **Press Information Bureau**

The Press Information Bureau (PIB) is the prime agency of the Government of India to promulgate facts to the print and digital media on authorities' policies, programmes, tasks, and achievements.

It facilitates an interface between the Government and the media and additionally offers remarks to the Government on people's response as pondered inside the media.

The headquarters of PIB is situated in New Delhi. It is headed via way of means of the Principal Director General (Media & Communication) who's assisted via way of means of a Director-General and 8 Additional Director Generals. Besides, the Bureau has Officers withinside the ranks of Director, Joint Director, Dy. Director, Assistant Director, and Media & Communication.⁷

⁵ R. Bhandari, *Should media be regulated*, INDIA INSTITUTE SOUND CLOUD FEED, (May, 29, 2022, 11:30 PM), <http://indiai.org/blog/should-media-be-regulated/>.

⁶ *Information and Broadcasting*, (May, 30, 2022, 2:00 PM), pg. no. 633, <https://niti.gov.in/planningcommission.gov.in/docs/plans/mta/mta-9702/mta-ch28.pdf>.

⁷ Rajkumar S. Adukia, *Media laws in India*, (May, 30, 2022, 6:30 PM), pg. no. 74.



- **Registrar of Newspaper for India**

It is a government statutory body functioning under the ministry of broadcasting catering for the registration of the publications, such as newspapers and magazines, India. This publication and all the other activities of newspapers are monitored under Press and Books Registration Act, 1867. The Registrar of India came into existence in July 1956 on the recommendation of the Press Commission in 1953.⁸

- **Directorate of Advertising and Visual Publicity**

The Directorate of Advertising and Visual Publicity (DAVP) is a body functioning under the Ministry of broadcasting and affairs, as a multi-media advertising agency of the Government. It facilitates the communication needs of Ministries/Departments including Public Sector Undertakings and Autonomous Bodies under them and provides a single window of cost-effective service.

The DAVP permeates and educates people, about the policies, messages and achievements, and programmes, of the Government and spreads awareness amongst the public for the same. It reaches out to people using modern & traditional means of communication such as press advertisements, audio-visual media, printed material, outdoor formats, exhibitions, and mass mailing.

DAVP with its integrated media approach handles campaigns all over India with optimum utilization of various means of communication for coordinated & focused campaigns.

- **Press Council of India**

The Press Council of India was set up in the year 1966 on the recommendation of the First Press Commission with the aim of preserving the freedom of the press and of maintaining and improving the standards of the press in India.

- **The Advertising Standard Council of India**

The advertising standard council of India was set up in 1985. It is a self-monitored organization in the advertising industry in India. It is committed to the cause of self-regulation in advertising clinching for the protection of consumers. With the support of four sectors connected with advertising, i.e., Advertisers, Advertising Agencies, Media (including Broadcasters and the Press) and others like PR Agencies and Market Research Companies, the advertising standard council came into existence.

The Consumer Complaints Council is the ardent part of the advertising standard council of India. It is the hard work of the Consumer Complaints Council that has given life and meaning to the advertising standard council of India.

- **Copyright Board**

The Copyright Board is a quasi-judicial body which came into existence in September 1958, having its jurisdiction extended to the whole of India.

The board was set up by the Government of India to discharge certain functions as prescribed under the Copyright Act. The

⁸ S. Ghosh, Overview of Registrar of Newspaper of India, LEGAL DESIRE, (May,30, 2022, 8:55 PM),

<https://legaldesire.com/overview-of-registrar-of-newspaper-for-india/>.



board is embodied with certain powers similar to that of a civil court for the purpose of Sec. 345 & 346 of the Code of Criminal Procedure, 1973⁹ and other tasks such as adjudication of disputes pertaining to various problems arising in registration, licensing, copyright, etc.

- **Telecom Regulatory Authority of India**

The Telecom regulatory authority of India was set up under section 3 of the Telecom Regulatory Authority of India Act, 1997. It monitors the telecommunication sector of India. TRAI's major advisory, supervisory, and tariff-setting functions include making recommendations on the need for and timing of new service provider introduction, terms, and conditions of the license to a service provider, ensuring compliance with terms and conditions of the license, effective spectrum management, and laying down the standards of service quality to be provided by the service provider.¹⁰

- **Directorate of Field Publicity**

The Directorate of Field Publicity is the largest rural-oriented interpersonal communication medium in the country. The headquarters of the Directorate is situated in New Delhi. It wields as a two-way channel for the diffusion of information among the masses and congregating feedback for the government. It paves an easy way for communication between the masses and publication. Its objective is to increase the involvement of people, educate them, and motivate them in the process of development.

- **Central Board of Film Certification**

Central Board of Film Certification is a statutory body working under the guidance of the Ministry of Information and Broadcasting, monitoring the public exhibition of the films under the provisions of the Cinematograph Act, 1952. Prior to any film being publically exhibited, it must get certification by the Central Board of Film Certification.

The board is constituted of non-official members and a chairman, each one of them being appointed by the Government of India. It prescribes four categories of certificates before the public exhibition of films namely, "U" for unrestricted public exhibition, "A" for public exhibition restricted to adults only, and "UA" for unrestricted public exhibition with parental guidance for children below the age of 12 and "S" for exhibition to a restricted audience such as doctors etc.¹¹

➤ **Conclusion**

The media has the most powerful influence on society and plays a significant role in keeping everyone updated about the happenings of the country and beyond. As the fourth limb of democracy along with the judiciary, executive and legislature being the other three, the media of today has an encompassing role to act against the injustice, oppression, misdeeds and prejudice of our society. Media being such an influential component to the masses if misused might

⁹ N. Jain, *Working of Copyright Board in India and Procedure for Litigation with Regards to Copyright*, LAWCTOPUS, (June, 1, 2022, 11:30 AM), <https://www.lawctopus.com/academike/working-copyright-board-india-procedure-litigation-regards-copyright/>.

¹⁰ Telecom Regulatory Authority of India, DEPARTMENT OF TELECOMMUNICATIONS, (June, 1, 2022, 5:00 PM), <https://dot.gov.in/act-rules-content/2426>.

¹¹ Rajkumar S. Adukia, *Media laws in India*, (June, 2, 2022, 8:00PM), pg. no. 79.



impact the people negatively and hence it is of prime significance that there must be the regulation of media to prevent any negative consequences that might disturb the harmony and balance of the country.

From the above discussion, it is clear that there are certainly many laws that govern the regulation of media. Laws related to press and media date back to the British law and since then there has been a catena of amendments in the laws that were prevalent and certain new laws were also enacted for catering for the smooth functioning of media.

