

MEDIA: A TENACIOUS RIGHT OR A REFORMATIVE RISK

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ABSTRACT

"The press is the only tocsin of a nation. When it is completely silenced all means of a general effort are taken away." -Thomas Jefferson

With great powers comes great responsibility. Since the media has grown over the period of time and, it is powerful enough to mould a society, either develop or destruct it, some rules and regulations are required to maintain the balance between the rights and obligations of media, so that the media cannot abridge the rights of an individual, institution and a private body. The media is deemed to be the fourth estate and freedom of the media is an essential feature of all democratic states. A discussion of the whole concept of media laws seems essential which has been the purpose of this manuscript. The manuscript attempts to discuss at length media laws.

The first part of this manuscript discusses the process of regulation and ownership of media; the middle part deals with the constitutional aspects of broadcasting such as free speech and privacy. The latter part deals with the obscenity laws, and international media law, thereafter concluding the manuscript and the point of view of the author.

Keywords: Media, Media Laws, Freedom of Speech and Expression, Right to Privacy,

INTRODUCTION

“Our freedom depends in large part, on the continuation of a free press, which is the strongest guarantee of a free society.”- Richard M. Schmidt¹.

One of the paradoxes is that freedom to media finds no mention in the Part III of the Indian Constitution which guarantees certain rights. There is no specific mention or guarantee of freedom in the Indian Constitution. In the constituent assembly debates Dr. B.R Ambedkar expressed the same point that “*no special mention is necessary of the freedom of the media at all*”. This view has been vindicated by the Supreme Court of India. In a series of decisions from 1950 onwards the Supreme Court has ruled that Freedom of the Media is implicit in the guarantee of freedom of speech and expression in Article 19(1)(a) of the Constitution.²

As the media is given freedom of expression, there is a need to regulate the functioning of media so that this freedom cannot be misused. At times, this freedom of speech might infringe the privacy of an individual or might defame him. It is for these cases, when there is a need to regulate media practices.

REGULATION OF MEDIA LAWS

Regulation is the proclamation, monitoring and enforcement of rules. Regulation creates, limits, or constrains a right, creates or limits a duty, or apportions a responsibility.

Disagreeing with the concept of self-regulation by the media, Chairperson of Press Counsel of India, Justice Markandey Katju said that he favoured only regulating media and not controlling it. But the regulation should be by an independent body and not by the government. He says “self-regulation is not enough and that is why we need law”.³

¹ Cf. Herbert Lee Williams, *Newspaper Organization and Management*, 5th Edn., page 347

² Media and Tort defamation, 22.January .2013, <https://www.legalindia.com/freedom-of-media/>

³ The Hindu, 19.04.2012

Professionals of mass media, like other professionals, are governed by all the laws of the land. In the profession of mass media as in other professions, there is a sizeable area of activity which remains out of the domain of law and must be governed by the professional Code of ethics or self-regulation.

Therefore, the media is regulated by its own Code of ethics and the laws of the land:

Self-regulation in Press:

Some of the professional bodies connected with the Indian press have formulated voluntary codes of conduct as part of their efforts at self-regulation. The code of ethics, evolved by the All India Newspaper Editor's Conference,⁴ is applicable to the members of that body.

This code, though drafted in general terms, emphasizes the need for journalists to attach due importance to human and social rights in the discharge of their professional obligation, to observe special restraint in reporting or commenting on communal matters and to promote national unity. The code is essentially persuasive in character; no sanctions have been prescribed for neither its breach nor any machinery created for its enforcement.

The code includes the following:

1. As the press is a primary instrument in the creation of public opinion, journalists should regard their calling as a trust and be eager to serve and guard the public interests.
2. In the discharge of their duties journalists should attach due value to fundamental, human and social rights, and shall hold good faith and fair play in news reports and comments as essential professional obligations.
3. Journalists should endeavor to ensure that information being circulated is factually accurate. No fact shall be slanted or the essential facts deliberately omitted. No information, which is known to be false, shall be published.
4. Confidences shall always be respected. Professional secrecy must be preserved.
5. Journalists shall not exploit their status for personal purposes.

⁴ AINEC, 1953

6. Journalists shall not allow personal interest to influence professional conduct.
7. There is nothing so unworthy as the acceptance or demand of a bribe by a journalist or the misuse of his power to give or deny publicity to news or comments.
8. Journalists shall be very conscious of their obligations to their fellow professionals in the profession and shall to seek to deprive fellow journalists of their livelihood by unfair means.
9. The press shall refrain from publishing matters likely to encourage vice and crime.

Regulation by Laws framed by the legislature

There are many laws that regulate the functioning of media in India. In the post-Independence time, various Governments have enacted many media related laws. Media being a very powerful influence on the society is regulated and controlled by various legislative enactments enacted from time to time.

1. It is at this point the enactment of the **Indian Penal Code in 1860**, with its offences of defamation and libel⁵ is a definite mention. However, the **Press and Registration of Books Act 1867** was enacted, that provided a specific law dealing with media, where publications and books were required to be registered and processes followed by publications.
2. The **Press (Objectionable Matters) Act, 1951** – This enactment provides against the printing and publication of incitement to crime and other objectionable matters.
3. The **Newspaper (Prices and Pages) Act, 1956** – This statute empowers the Central Government to regulate the price of newspapers in relation to the number of pages and size.
4. The **Working Journalists and other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955** – It lays down the minimum standards of service conditions for newspaper employees and journalists.

⁵ IPC § 499 (1860)

5. **Civil Defence Act, 1968** - It allows the Government to make rules for the prohibition of printing and publication of any book, newspaper or other document prejudicial to the Civil Defence.
6. **Press Council Act, 1978** – Under this Act, the Press Council was reconstituted (after 1976) to maintain and improve the standards of newspaper and news agencies in India.
7. The **Prasar Bharati (Broadcasting Corporation of India) Act, 1990** (the "PB Act") has enabled the establishment of the broadcasting corporation of India.
8. With respect to print media-- **Press and Registration of Books Act, 1867** was enacted to create a system for keeping a record of books and newspapers published in India.
9. The **Cable Television Network (Regulation) Act, 1994** regulates registration and functioning of cable network providers and also provides the Advertising code to regulate the contents of advertisements, the violation of which is penalized.
10. On the legislation that governs broadcasting the **Telecom Regulatory Authority of India Act 1997** (the "TRAI Act") enabled the establishment of an independent regulatory body, the "TRAI".

OWNERSHIP

The pattern of ownership is crucial in the newspaper industry, as the press has an extremely prominent role to play in a democratic set-up in India. In case of newspaper ownership, concentrations of two kinds are evident:

- i. Newspapers are concentrated in urban areas, in big cities such as Delhi, Mumbai, Kolkata, Chennai, Bangalore, Hyderabad etc.
- ii. The ownership of these newspapers is concentrated in a few big business houses.

Private ownership of Newspapers (Press)

1. Types of ownership patterns:

- i. Individual:** A single individual owner means one who generally owns 100 percent of the newspaper company's stock, and runs it as a private enterprise. For example, The Hindustan Times, New Delhi is owned by K. K. Birla and The Telegraph Kolkata is owned by Avik Sarkar.
- ii. Partnership:** There can be partnership of a small group of individuals holding stock in the company, Ex. The Hindu, Chennai.
- iii. Association/Society/Trust:** A trust is a non-profit organisation which runs a newspaper such as The Tribune of Chandigarh or The Lok Sevak of Kolkata.
- iv. Joint Stock Company:** A joint stock company is a big commercial organisation such as Bennett Coleman and Company, publishers of the Times of India and several other publications.

In India newspapers were concentrated in the individual ownership in the largest (70%), followed by associations (15%) and joint companies (5%) and others (10%).

Press Commission's Recommendation on Ownership Pattern

The Second Press Commission on Ownership Patterns observed, "It appears to us that a very significant part of the Press in the country in general and a major portion of all important daily Press in particular, is controlled by persons having strong links with other business or industries."

The Commission observed that, "the joint stock company is the predominant type of ownership of newspapers in our country. It means generally the dominance of a few shareholders. The pattern of editorial working follows the pattern of ownership. When an industrialist owns a paper, it is subsidiary to some other industrial, business or commercial interest."

The Commission recommended that "we think that in the interest of the public it is necessary to insulate the Press from the dominating influence of other businesses. We propose the enactment of a law in the interest of the general public making it mandatory for persons carrying on the business of publishing a newspaper to sever their connections with other businesses to the extent indicated hereinafter by us". The Commission suggested that the proposed legislation "should be enforced in the case of all persons who are in a position of controlling the publication of one or more daily newspapers with the same or different titles,

in one or more languages, the circulation of which, taken singly or cumulatively, exceeds one lakh copies per day”.

CONSTITUTIONAL ASPECTS OF BROADCASTING

Free Speech

“And ye shall know the truth and the truth shall make you free”⁶ the immortal declaration of Holy Bible about the significance of right and duty of freedom of speech is acting as a beacon of guidance for truth even after centuries of preaching. Freedom of speech and expression is a set of fundamental rights guaranteed by Indian Constitution. “Basically, it is designed to provide protection against state action other than in the legitimate exercise of its power to regulate private right in public interest”.⁷

The foundation of legal regulation is to secure justice. The objectives are to attain liberty, equality, fraternity, and the unity and integrity of the nation. Part III and Part IV of the Indian Constitution are the two most significant parts relating to regulations. Every legal regulatory system in the country shall toe the line with the fundamental rights. And every law in aspersion to the fundamental rights is null and void to the extent of such inconsistency.⁸

In India, freedom of press is implied from the freedom of speech and expression guaranteed by Article 19(1)(a) of the Indian Constitution. There is no specific provision in the Constitution that ensures freedom of the press. The freedom of press is interpreted as “species of which freedom of expression is a genus.”⁹

Thus, being a right flowing from the freedom of speech, the freedom of press in India stands no higher footing than the freedom of speech of a citizen, and the press enjoys no privilege as such distinct from the freedom of the citizens.

The right is at par with Article 19 of Universal Declaration of Human Rights which says: “*everyone has the right to freedom of information and expression: this right includes freedom*

⁶ John-8: 32, Holy Bible

⁷ Samdasani P.D. v Central Bank of India, AIR 1952 SC 59

⁸ Article 13 of The Constitution of India

⁹ Sakal Papers v Union of India, AIR 1962 SC 305

to hold opinions without intervention and to seek, receive and impart information and ideas through any media and regardless of frontiers.”¹⁰ Art. 19(1)(a) also corresponds to the U.S. Constitution which says: “Congress shall make no law....abridging the freedom of speech or of the press.”¹¹

In Printers (Mysore) Limited case, the Supreme Court has reiterated that “though freedom of the press is not expressly guaranteed as a Fundamental Right, it is implicit in the freedom of speech and expression. Freedom of the press has always been a cherished right in all democratic countries and the press has rightly been described as the fourth estate. The democratic credentials of a state are judged by the extent of freedom the press enjoys in that state.”¹²

Reasonableness demands proper balancing.

The phrase reasonable restrictions connotes that the limitation imposed upon a citizen in the enjoyment of a right should not be arbitrary or of an excessive nature. A legislation arbitrarily invading the right of a person cannot be regarded as reasonable. A restriction to be valid must have a direct and proximate nexus with the object which the legislation seeks to achieve and the restriction must not be in excess of that object i.e.; a balance between the freedoms guaranteed under Art. 19(1) (a) to (g) and the social control permitted by clauses (2) to (6) of Art. 19.

Regulation over the broadcasting media either through a specific statute or through a general statute is subject to the reasonable restrictions prescribed under Article 19(2) as well Article 13 of the Constitution. The Supreme Court has examined the different aspects of reasonable restrictions in several cases. The court has observed that the reasonable restrictions are the limitation upon the freedom. The restrictions should neither be arbitrary or excessive in nature. ¹³ In *Chintaman Rao* case,¹⁴ the court held the character of reasonableness would cease to exist when restriction invades the freedom guaranteed by the Article 19(1). If the restriction imposed in Article 19 (2) does not strike balance with the Article 19(1) it must be held to want

¹⁰ Article 19 Universal Declaration of Human Rights

¹¹ U.S. Const. amend. I

¹² *Printers (Mysore) Limited v Assistant Commissioner Tax Officer*, (1994) 2 SCC 434

¹³ *Dwaraka Prasad Lakshmi Narain v State of UP*, AIR 1954 SC 224

¹⁴ *Chintaman Rao v. State of M.P.*AIR 1951 SC 118

reasonableness. All the reasonable restrictions prescribed in the Article 19(2) are ‘social controls’.

Privacy

“From everyone who has been given much, much will be demanded; and from the one who has been entrusted with much, much more will be asked.”¹⁵

The freedom of the media, like any other freedom, has to be exercised within reasonable boundaries. There is an indomitable duty on media to respect the privacy of others. The individual who is the subject of a press or television ‘item’ has his or her personality, his or her reputation or career dashed to the ground after the media exposure. He too has a fundamental right to live with liberty, dignity and respect and a right to privacy guaranteed to him under Article 21 of the Indian Constitution. Today, it has been realised that the over inquisitive media, which is a product of over-commercialization, is severely encroaching the individual’s “Right to Privacy” by crossing the boundaries of its freedom. There is a need to maintain balance between the freedom of speech & expression of Press and right to privacy of the individuals. It is necessary to keep a check on the extent of its role and when it starts to forget the thin line between public and private interest. Since balancing of the right to privacy against freedom of press is a complex process and demands sensitivity to both interests, it requires a clear precision.

Under the Indian Constitution, Article 21 is a fairly innocuous provision in itself i.e. *"No person shall be deprived of his life or personal liberty except according to procedure established by law."*¹⁶ However, the Article has been deemed to include within its ambit, inter-alia, the Right to Privacy - "The Right to be let alone" as the Apex Court termed it. The concept of right to privacy finds its origin from the case of *Gobind case*¹⁷ wherein Justice Matthew of the Apex Court cited the Preamble of the Constitution of India which is designed to "assure the dignity of the individual". On the other hand, Freedom of press is not expressly mentioned in Article 19 but has been held to flow from the general freedom of speech and expression guaranteed to all citizens. This freedom is subject to reasonable restrictions mentioned in Article 19 (2) of the Constitution. Initially it was implied for the press to not indulge in any unethical activity

¹⁵ The Holy Bible, Luke 12:48

¹⁶ Article 21 Constitution of India

¹⁷ *Gobind v. State of Madhya Pradesh* (1975) 2 SCC 148

(infraction of privacy) but with the increased professionalism, it seems it remembers only its rights, but not the duties attached therein. Due to the non-appearance of privacy as one of the ground for reasonable restriction on freedom of press (which seems necessary after seeing the nature of press) many-a-times they escape from their misdeeds. Circumstances demand an effective and adequate regulation. A proper and harmonious balance between the rights of citizens (Right to Privacy) and the Press (Freedom of Speech and Expression) is need of the hour.

Since there is no comprehensive law to deal with the subject and the media is yet to evolve a code of conduct of its own, the judiciary is bound to play the role of an umpire. Under the Constitution of India there is no separate guarantee of freedom of press. It is inherent in the freedom of speech and expression which is conferred on all citizens. However, freedom of press is not absolute, unlimited and unfettered at all times and in all circumstances as it would lead to disorder and anarchy.

The movement towards the establishment of right to privacy in India started with *Kharak Singh case*¹⁸, wherein the Supreme Court observed “it is true that our constitution does not expressly declare a right to privacy as fundamental right, but this right is an essential ingredient of personal liberty.” After an intricate evaluation of this right in *Gobind case*, it has been fully assimilated under the umbrella of right to life and personal liberty by the humanistic expansion of the Article 21 of the Constitution.

The following observations of the Apex Court in *R. Rajagopal case*¹⁹ are true anecdote of the limits of freedom of press with respect to the right to privacy: “*A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters. No one can publish anything concerning the above matters without his consent - whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable to action for damages. Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy*”.

¹⁸ Kharak Singh v. State of Uttar Pradesh and Others, (1964) 1 SCR 332

¹⁹ R. Rajagopal and Another v. State of Tamil Nadu and Others (1994) 6 SCC 632

DEFAMATION

Material which is broadcasted has a very high chance of defamation. Newschannel, the comments made during the live debates and other programmes consisting of investigating reports etc. may contain depictions and statements which might defame some individual, institution or a private body. The Indian Constitution gives the right of free speech and expression to every citizen of the country but is subjected by acknowledging the reputation, goodwill and dignity of others.

Section 499 of the Indian Penal Code states “*Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.*”²⁰

Libel is tends to be in permanent form but slander is spoken words. Legislation has made clear that TV broadcasts or plays etc. are to be treated as libel. Other methods of communication it is mandatory to consult the law which applies a test of permanence or transience of the statement.

In *Monson v Tussauds*²¹, the court had to decide that whether a wax statue was capable of being libel. The court said that a thing which has a permanent or a lasting form can be libel including an effigy or chalk marks on a wall. Lopes, J. stated that libel can be of any other permanent form.

Another important difference is that libel is actionable *per se*, which means without any proof of damage. Whereas slander requires proof of some injury before a suit can be brought.

Though there is provision of defamation as a bar to free speech and expression but there are certain exemption provided against the any legal action of defamation that are as follows :

- It is the truth which is in public good and is required to be published.
- The conduct of the public servant during the discharge of his duties for public functions
- Any expression or comment made about a person in regards of a conduct towards any public Questa, while respecting his integrity, character and dignity.

²⁰ Indian Penal Code § 499 (1860)

²¹ (1891), 1 Q.B, 692

- Any opinion relates to any literary work public performance which is substantially for judgment, this provision is applicable to broadcasting the criticism should be in good faith and requires due care and attention.
- The censure passed should be in good faith and should be passed by the person having the authority and must be conferred by the law and must be within the limit of the powers given to him and should be in good faith.
- Any intimation made by person for protection of himself and others interest in good faith or for public good in commendations to broadcasting, defamation, publication of scandalized content.

In the case of *T.S Goswami*²², the court said that there is no difference between journalist and non-journalist in the cases which relates to defamation, but the journalist and the broadcasting should bear a great responsibility as they cater to a large audience.

Further the Cable Television Networks Rules 1994 Rule 6 has prescribed that no programme should be carried in the cable service which contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half-truths.

OBSCENITY

The word obscenity is derived from a Latin word *obscaena* which means offstage an incident of the Ancient Greek root *skene*, due to presence of offensive content which may be murder or sex was done off the stage in the classical drama²³.

Obscenity is a term used to refer anything which ultimately offends morals of a person, generally the word obscenity is commonly linked or used in reference with pornography but word in itself is a genes, it includes many more things as it is subjected to each individual's moral values. Basically the concept of obscenity differs from nation to nation as obscenity depends on one moral value, it differs according to the culture values and the social and moral values imbedded in the society over the period of time.

²² T.S Goswami, AIR 1952 pepsu 165.

²³ Obscenity, <https://en.wikipedia.org/wiki/Obscenity>

Under India Law Obscenity is defined under section 292 India Penal Code “A book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene if it appeals to the prurient interest or if its effect, or where it comprises two or more distinct items the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt person, who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained in it”.²⁴

In the *Bobby Art International case*²⁵ the bench said that, while determining obscenity, the scenes depicting nudity must not be seen alone. They must be seen in the shadow of the background in which they are made and the message which is trying to be conveyed is of utmost importance. The movie Phoolan Devi shows the torture and the helplessness of a female child in the cruel world and how she transformed into a dacoit due her harsh childhood etc. It has to be seen that the objective behind the scenes was not to arise lust but to create sympathy for the victim. ‘Nakedness does not always arouse baser instinct.’²⁶

In Indian law there is a punishment of 2 years or fine of up to Rs.2,000 if an individual advances indecency, offers, has, enlists, circulates, imports, sends out, makes benefits from business or buys a foul material. Whenever found blameworthy for the second time, he/she will be subject for a detainment up to 5 years and fine up to Rs.5,000.

But there are some exception to the laws of obscenity in India stated under the section 292(a) and 292(b) of the Indian Penal Code

- Section 292(a) of IPC: If any book, pamphlet, paper, writing, drawing, painting, representation or figure is proved that it is for public good or such book, pamphlet etc. are for general concern or for religious purpose.
- Section 292(b) of IPC: “any representation sculptured, engraved, painted or otherwise represented on or in any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), or (ii) any temple,

²⁴ Indian Penal Code § 292 (1860)

²⁵ Bharucha, Art International, Etc. vs Om Pal Singh Hoon & Ors , <https://indiankanoon.org/doc/1400858/>

²⁶ Amartya Bag Obscenity and the law in India: Moving from Hicklin test to Community standards , August 2, 2014, <https://blog.ipleaders.in/obscenity-and-the-law-in-india-moving-from-hicklin-test-to-community-standards>

or on any car used for the conveyance of idols, or kept or used for any religious purpose.”²⁷

Generally to see whether the content can be labelled as obscene the courts look up to many tests. Brief information about some of the tests are given below:

- **Hicklin Test:**

In the Hicklin Test the obscenity it was seen that whether the matter which is claimed to be obscene, whether this matter is to deprave the mind of those people whose minds are open towards such immoral things and into whose hand this type of publications may fall. According to this test the work can be judged as obscene or not by its influence on the readers like children and the adults with weak minds. This test was laid down by the Queen’s Bench in *Regina v. Hicklin*²⁸.

- **Literary Merit and “preponderating social purpose”:**

This test is used where art and obscenity are mixed together, here what must be taken into notice is that whether literary or social merit of the work in question outweighs its “obscene content”. As in the case of *K.A. Abbas v. Union of India*,²⁹ the Supreme Court expressed that the law showed more concern for the person depraved rather than for the ordinary moral man. Hidayatullah CJ said that the failure of the central government, not to be able to separate the social and artistic value from the obscene and to appreciate that the artistic presentation of an episode could negate or render inconsequential its potential to deprave.

- **Judging The Overall Work:**

According to this the work as a whole should be examined and the parts containing what is claimed to be as offensive should be separately examined as to confirm or to judge whether those parts are depraving and corrupt. This was given in the case of *Anand Patwardhan*³⁰.

²⁷ Indian Penal Code § 292(b) (1860)

²⁸ *R. v. Hicklin*, LR 3 QB 360, (1868)

²⁹ (1980) 2 SCC 780

³⁰ (2006) 8 SCC 433

INTERNATIONAL MEDIA LAWS

The media is controlled by the national institutions by the way of laws and regulations made by these national bodies as in the relation to the content and various other aspects of media. Media doesn't yield any competence to the external bodies. In the absence of any international governance the media is not subjected to any central or a definite framework or a specific outline or limit within which the media laws and regulations should be framed by national institutions, without such international government the laws and regulation made by the national institution are just guided by the forces of sovereignty of the nation, free market forces. Nevertheless, there are some international controls that regulate the national based media. Generally these controls and constraints are due to some mutual necessity or voluntary cooperation.

There are many international treaties, including the UN Declaration, the European and the American Conventions on Human Rights that offer some remedy or solution to those injured by misuse of communication. Then the focus shift towards deregulation and privatization, with the new 'communications revolution' based on computers and telecommunications, closed off the way towards greater international regulation. But the same shift increased the need for administrative, technical and economic cooperation on a range of wide spread issues. Most recently, the development of the internet has demanded calls for international regulation, but this time with some reference to content as well as structure.

The main bodies that play variety of roles in the emerging of media governance at the international level are as follows:

- **The International Telegraph Union (ITU):** Governed by a council of delegates whom are nominated by national governments, the ITU deals with telecommunication technical standards, spectrum allocation, satellite orbits and various more things.
- **The United Nations Educational Social and Cultural Organisation (UNESCO):** A branch of the UN established in 1945, UNESCO has wide competence on cultural and educational matters, but little power and no very specific media function active on questions of freedom of expression and the internet.³¹

³¹ International media regulations, https://www.le.ac.uk/oerresources/media/ms7501/mod2unit11/page_32.htm

- **The World Intellectual Property Organization (WIPO):** Established in 1893, WIPO has a main aim to see that there is harmony between the relevant legislation and procedure and also see to that there is proper resolution disputes between owners of rights, users and authors.
- **The International Corporation of Assigned Names and Numbers (ICANN):** This is the latest addition to the multiple governance bodies. It is a voluntary private body that represent the community of internet users. It started in the year of 1994 after privatization of the World Wide Web and the main function was to allocate addresses and domain names and some server management related functions. It has very less power to deal directly with the social and other problems relating to the internet.
- **The European Commission (EC):** The EC can affect certain aspects of broadcasting and telecommunications in relation to the 25 member states of the European Union.

CONCLUSION

The role of media in India, the largest democracy of the world is different from merely circulating information and entertainment. Educating the masses for their social upliftment, needs to be in its domain as well. In a country where there is large scale poverty, unemployment and underdevelopment, media has an obligation towards developmental journalism. It is, therefore, referred as fourth pillar of democracy.

Louis Brandeis J in a celebrated judgment has said that “*the right to privacy is the most valued by the civilized men.*”³² Lord Hoffmann³³ has observed, “*in relation to the complaints against media that there is no logical ground for saying that a person should have less protection against a private individual than he would have against the state for the publication of personal information for which there is no justification.*”

The rights to privacy and to freedom of speech appear to be of equal value. A equivalent analysis should be applied to both, so the court should ask whether it was necessary to restrict publication in order to protect privacy, and vice versa, whether to allow the publication would excessively sacrifice the individual’s privacy. Protection awarded to the right to privacy must

³² Olmstead v. US 277 US 438

³³ In Campell v. Mirror Group Newspaper Ltd. [2004] 2 AC 415

be weighed against the public interest. The State cannot impose a prior restraint upon freedom of press on the ground that relevant publication would offend the privacy of an individual or would defame a public official; the remedy in all such cases would be for the aggrieved person under the appropriate law after the offending matter is published. However, it is also to expatiated that the right to privacy should not be allowed to make illegal activities.

A balance needs to be struck between a fearless and a free right to speech and proving the supremacy of law over pugnacious, malignant and unethical behaviour from the fourth estate. This can be done only when the media holds aloft the spirit of values and truth and rise above vested interests and lower loyalties to be truly a part of the democratic quarries system.

