

A STUDY ON FREEDOM OF SPEECH AND EXPRESSION IN RESPECT OF SOCIAL AND ELECTRONIC MEDIA

SUMMARY

Media plays a major role in shaping the nation by way of broadcasting 24x7 news channels, science and technology channels, sports channels, etc. Amidst all these, as news channels are a major form of informing the news events, news stories from nation and the world, they have been termed as the fourth pillar of democracy. Though the Constitution of India did not specifically provide any rights to press, freedom of press was guaranteed time and again through consistent judicial decisions which specified that press had the same rights of free speech as any other citizen under the Constitution of India and the same were also subject to reasonable restrictions.

The Constitution of India provides freedom of speech and expression to all its citizens which is subject to reasonable restrictions namely in the interests of 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. The said restrictions ensure that the freedom of speech and expression is not transgressed by the citizens in any manner but so utilized so as to bring out the best in them. The said freedom is nowhere specifically mentioned in the Constitution but through various landmark judgments freedom of press has been provided to press and media.

As the use of newly found social media kept increasing due to its unique concept of sharing live videos, photographs through social networking sites such as Facebook, Instagram, WhatsApp, Twitter, etc. the right of freedom of speech and expression found a new platform to stand on. Anyone and everyone could now use social media to make himself heard or to give his opinions and share his views with anyone else on a public platform. The widespread use of social network also came to be used by news channels. News channels created their websites which continuously

updated the news headlines through reports, photos and videos. Anyone on the go could stay abreast with the latest happenings through social media and even give his views on any issue, be it political, social, national or international.

However, social media came with its own vices which also spread its roots in electronic and print media. News channels which were originally the sole broadcasters of news stories and news coverages through their professional level journalists now faced competition not only from its peers but even from social media which helped in rapid news communication. Again, anyone could now report and

update news from his vicinity by taking photo or video and putting it in public domain for viewing, informing and spreading it ahead.

For this reason, media started indulging in sensationalisation of news by creating fake news, media trials, sting operations and paid news.

All such instances have raised doubts on the freedom of press which was to be utilized for healthy reporting of news events and news reports. However, it has now started getting misused and overstepped by indulging in such acts of media trials, sting operations, fake news and paid news. Again, as no present legislation defines either of the terms, the gravity of the same cannot be exactly determined.

Chapter One is the introductory chapter. It discusses the rationale of present study, object and hypothesis of present study as well as literature review alongwith how present study differs from previous studies conducted on the subject. The research was conducted on the basis of the following hypothesis:

- Are the existing laws adequate to tackle the impact of science and technology on freedom of speech and expression?
- Are the regulatory bodies of India like Press Council of India and News Broadcasting Standards Authority adequate to control the telecast through internet?
- Have the provisions of I.T. Act been misused by State machinery to curb, control and silence the political criticism?
- Does the media carry impression that their rights are superior to rights of citizens of freedom of speech and expression?

The researcher has used Maximum variation sampling which is a purposive sampling technique where subjects are selected to study varied perspectives in order to determine the exposure of media laws. Thus, questionnaires have been collected from various segments of society such as judges, advocates, law students and teachers as well as students from journalism field and company secretaries.

Chapter Two of present research deals with development of media starting from the earliest print media and its development in the world and in India followed by advent of electronic media and its spread through electronics like television sets and radios. The research also discussed the development of internet and how it formed the crux of the entire social media. Major platforms of social media such as Facebook, WhatsApp, Twitter, Instagram, etc. have been discussed as not only

individuals but even news channels use the said platforms for seeking opinions, tweets and views of everyone on the news stories posted by them.

Chapter Three of the research studies the national and international legislations as well as regulatory bodies pertaining to media in USA, UK and India. How the free speech is regulated in USA and UK have been discussed in this chapter. Likewise, as the Constitution of India provides freedom of speech and expression subject to reasonable restrictions and the same also apply to freedom of press, they have been discussed in the Chapter in detail. Also, regulatory bodies like Press Council of India, News Broadcasters Association, News Broadcasting Standards Authority, etc. regulate the functioning of newspapers and news channels.

Chapter Four deals with the judicial position of cases involving newspapers, TV channels and social media wherein it has been observed that news channels and newspapers have been specifically granted freedom of press subject to reasonable restrictions mentioned above. Where the media has been attempted to be stepped upon by tax authorities or by arbitrary increase in price of newspapers, Supreme Court has directed appropriate strictures to concerned authorities so that freedom of speech and expression remains undeterred. Likewise, if legislature has been found to be inconsistent or wrongly stepping over citizens' right of free speech, such provisions also have been struck down.

Chapter Five deals with non-doctrinal research which seeks to know how media laws are viewed by different sects of society and how far have they utilized their free speech right on media. Analysis have been drawn on basis of the response which show that media needs to be regulated at dual level, viz. internally as well as externally. Also, the research shows that the cases of media trial, fake news, paid news and sting operations are now known to one and all and hence need to be treated at the earliest.

In Chapter Six, the researcher has given conclusions and suggestions based on the entire study. Need is found for a separate legislation which relates to the recent vices of media rising from freedom of press combined with ever-developing science and technology. No legislation defines media trials, fake news, paid news or sting operations and hence when the cases thereof arise, the same are not aptly tried.