Rajesh Sisodia
Neha Saroj

HANDBOOK OF COMMUNICATION RIGHTS, LAW AND ETHICS

ALEXIS PRESS
JERSEY CITY, USA

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Published by: Alexis Press, LLC, Jersey City, USA
www.alexispress.us

First Published 2022

A catalogue record for this publication is available from the British Library

Library of Congress Cataloguing in Publication Data

Includes bibliographical references and index.

Handbook of Communication Rights, Law and Ethics by *Rajesh Sisodia, Neha Saroj*

ISBN 978-1-64532-771-4

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CHAPTER 1

CONSTITUTIONAL RIGHTS OF MEDIA AND LIMITATION ON FREEDOM OF SPEECH AND EXPRESSION

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ABSTRACT:

Constitutional rights of the media and limitations on freedom of speech and expression are subjects of significant importance and legal scrutiny. This paper examines the constitutional framework that protects the rights of the media and the limits imposed on freedom of speech and expression. It explores the balance between the fundamental right to freedom of speech and expression and the reasonable restrictions that can be imposed in the interest of public order, morality, national security, and the reputation of individuals. By analyzing the constitutional provisions and landmark judicial decisions, this paper provides insights into the delicate balance between protecting the media's rights and safeguarding broader societal interests.The importance of free expression in a democracy The Indian people created their own constitution in an effort to establish a self-governing, democratic, and socialist nation. The mother of all rights, freedom of speech and expression, holds a special position in our democratic society.

KEYWORDS:

Defamation Laws, Hate Speech Regulations, National Security Concerns, Privacy Rights, Public Order, Sedition Laws.

INTRODUCTION

One of the fundamental tenets of our democratic Constitution is the freedom of opinion, speech, religion, faith, and worship. The Preamble of the Indian Constitution, which is its goal portion, states that one of the guarantees made to the populace was the liberty, which includes a number of other fundamental freedoms including thinking and speech. These statements reflect the Constitution's goals with respect to the basic right to free speech and expression, which is significant since it contains a wide range of opportunities for creating a cohesive and civilized human community via communications. One of the most important human rights is the freedom of speech. It is the dissemination and implementation of a person's right to their own opinion. Freedom of speech, unlike freedom of thinking, is a communal freedom whose nature becomes more and more apparent as the technological techniques of its dissemination expand and advance. According to the Declaration of American Independence, the three most significant unalienable rights are life, liberty, and the pursuit of happiness[1], [2].A democratic society, whose governance is founded on the consent of an educated population and is committed to defending the rights of everyone, including the most hated minority, must be preserved at all costs. This is why the right to free speech is so important.Under Article 19 of the Constitution, this guarantee of protection for free expression and ideas is stated more clearly. It reads: Article 19 and other international constitutions[3], [4]. Numerous Constitutions throughout the globe have similarities with this article.

The First and Fourteenth Amendments to the United States Constitution, the Common Law of England, Section 40 of the Irish Constitution of 1937, Section 18 of the Sri Lankan

Constitution of 1972, Articles 50 and 51 of the USSR Constitution of 1977, and Section 298 of the Government of India Act of 1935 are just a few examples of international law[5], [6].According to the United States Constitution's First Amendment, "Congress shall make no law respecting an establishment of religion, prohibiting the free exercise thereof, abridging the freedom of speech or of the press, or restricting the right of the people to peaceably assemble and petition the Government for a redress of grievances".

1. The International Conventions and Article 19
2. This Article and other international conventions are quite similar.
3. the 1948 Universal Declaration of Human Rights' articles 13, 20, 23, and 29.
4. Article 22 of the 1966 International Covenant on Civil and Political Rights iii) Article 11 of the 1950 European Convention on Human Rights.
5. The International Covenant on Economic, Social, and Cultural Rights, 1966, Articles 6 and 12.

Both Article 19 of the International Covenant on Civil and Political Rights of 1966 and Article 19 of the Universal Declaration of Human Rights from 1948 both establish the freedom of the press.Everyone has the right to freedom of speech, according to Article 10 of the European Human Rights Convention. This right includes the freedom to have an opinion, as well as the freedom to receive, transmit, and receive information and ideas without restriction from governmental authorities or geographic boundaries. The licensing of radio, television, or movie theater businesses is not prohibited by this Article[7], [8].The exercise of these freedoms may be subject to formalities, conditions, restrictions, or penalties as prescribed by law and necessary in a democratic society, in the interest of national security, territorial integrity, or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of reputation or rights of others, for preventing the disobedience of laws, or for any other reason[9], [10].

Modifications to Article 19

The Constitution recognized civil freedoms as independent Fundamental Rights and created separate provisions in Articles 19, 21, and 22 regarding the restrictions and circumstances under which they might be taken away or curtailed on their own.Personal liberty is not covered by Article 19 but is instead governed by the criteria outlined in Articles 21 and 22. Although Article 19 lists the "seven freedoms," it is not all-inclusive in terms of Fundamental Rights. According to Das, J., Gopalan's case is as follows. The phrase "personal liberty" has been used in Article 21 as a compendious term including within its meaning all the varieties of rights which go to make up the personal liberties of men. In my opinion, Article 19 protects some of the important aspects of personal liberty as independent rights. The Supreme Court rejected the argument in this instance that a measure passed under Article 21 should not violate Article 19. Articles 19, 21, and 31 are not in parimateria since they have different purposes and contents, and their contexts also vary significantly from one another.

There are several additional rights that are not basic, such as the right to strike, the freedom of contract, the right to vote, and the right to run for office in elections, but Article 19 deals with fundamental rights of freedom. These rights may be limited and restricted by law without violating the Constitution.As has been said, the freedom of speech and expression in the media and among individuals does not provide an unrestricted right to express oneself freely and without restraint. It does not provide complete or unlimited immunity for the use of any language. The Supreme Court has often defended the value and reach of a free press. The Supreme Court recently expanded the reach of this freedom. The right to free speech was expanded to encompass commercial speech, and it was strongly declared that there was no

prospect of any earlier restrictions on press freedom. The courts also limited this freedom of speech and expression, stating that the press could not withhold a response and shouldn't carelessly disseminate unfounded accusations against the judges. The Apex Court also curtailed freedom of speech by emphatically rejecting Bundhs who violated the basic rights of all other people.

Normative Rights

According to Article 19, all citizens are entitled to freedom of speech and expression, the right to peaceful assembly without the use of force, the right to organize into associations or unions, the freedom to move around India's territory without restriction, the right to live and settle anywhere on the country's territory, and the right to engage in any profession or conduct any business. The rights listed in Article 19 do not include every freedom-related right. The freedom to relocate, citizenship rights, the ability to vote or run for office, legal recourse against the government under contracts, the right of government employees to remain employed, and the right to strike are a few of the rights not covered by Article 19.The freedoms listed in this article are those important and fundamental liberties that are acknowledged as being natural rights included in the position of a citizen, yet none of them is unrestricted or absolute. Not only citizens but also aliens or foreigners are entitled to the rights outlined in Article 19. Because the subclauses to and of Article 19 presuppose the freedom of the person, which is the only thing that can guarantee the ability to exercise the rights guaranteed by those subclauses, the protection of Article 19 is coterminous with the legal capacity of a citizen to enjoy the rights secured thereby.

Scheme

The structure of Article 19 is to list each freedom individually before defining the kind of limits that may be placed on it and the goals that would be achieved by doing so. A person has the right to enjoy all of their liberties simultaneously, and no freedom is valued more highly than any other. This implies that even if it would ensure the greater enjoyment of another freedom, the State cannot pass a legislation that directly limits one freedom. Therefore, the State cannot indirectly limit one freedom by imposing a restriction on another that would otherwise be legal.

The courts must interpret this Article 19's provisions in a way that would allow individuals to exercise their constitutionally protected rights to the utmost extent possible within the bounds of legal limitations. Everywhere and in every area of India's territory, people are permitted to exercise the freedom rights given to them by Article 19. Article 19 solely mentions citizens. No one may be stripped of their property without legal permission, according to Article 31. Hindu deities were declared to be legal persons with the capacity to own and possess property; as a result, the trustee of the god may use Article 31 rather than Article 19 since the god cannot be referred to as an Indian citizen.In accordance with Section 3 of the General Clauses Act and Article 367, a company that qualifies as a "person" for purposes of the constitution is deemed to be a citizen and entitled to the rights outlined in Article 12.

In his famous quote, US Supreme Court Justice Louis Brandeis J. asserts that free speech is a cornerstone of democratic government47. The right to express one's ideas freely via speech, writing, art, and other forms of media is known as freedom of speech and expression. Courts in England, the United States of America, and India have held that this right extends beyond the individual's ability to publicly express or spread their own opinions to those of others. According to Halsbury's Laws of England, the right to freedom of speech includes both the privacy of private conversations as well as the freedom to receive and impart ideas and information.

In Usha Uthup v. West Bengal49, the State refused to let the singer perform in the theater that was under its supervision and control. The court determined that the State's reluctance to comply with the request violated Article 19's basic rights since the term "speech and expression" includes the freedom to sing. In the Maneka Gandhi Case, the Supreme Court ruled that the term "express" has a wide meaning and that Article 19 protects the freedom to dance, sing, publish, and compose poetry or literature.

Purpose

Four main particular objectives for freedom of expression are listed below. It aids someone in achieving self-fulfillment. It aids in the pursuit of truth and increases a person's ability for active decision-making. It offers a system through which an acceptable balance between stability and societal change may be established. All those who advocate the engagement of the people in national governance are ardent supporters of the right to freedom of speech and expression. Because of this, the government should exercise more caution when imposing levies on matters that affect the newspaper sector.

DISCUSSION

A Need of Democracy

An individual's freedom to speech is protected in a democracy not only for issues of governmental concern but also for self-fulfillment in all sectors of life. Public debate takes on the character of a public obligation because it is vital for the people to be informed of all sides of a topic in order for the governed to develop a sensible and knowledgeable judgment and build an informed public opinion. In a democracy, the right to free expression serves to protect the community's right to information and free speech, not to define an individual's rights.

A person requested permission to organize a public meeting in conjunction with an all-Indian student strike in Himmatlal K. Shah v. Commissioner of Police51. The Commissioner of Police rejected the request on the grounds that there may be a disruption of law and order. The Bombay Police Act of 1951's guidelines and notifications covering processions and open gatherings were relied upon by the commissioner. Invoking discrimination and unreasonable restrictions on his constitutional rights to freedom of speech and expression and the right to assemble peacefully and without weapons under Article 19 and, the appellant contested the constitutionality of the Statutory provisions and the powers therein.

As a violation of Article 19 and, Justice K K Mathew upheld the appeal and invalidated the police commissioner's refusal orders. Prima facie, public processions are lawful. If a, b, and c individually have the legal right to pass and repass on the high road, doing so together is not against the law unless the procession is prohibited for another reason. Gibson J. said that a procession is inherently valid and differs from "the collection of a stationary crowd" in Lowdens v. Keaveney, but that it may turn into a nuisance if the right is used in an unreasonable manner or with reckless contempt for the rights of others. Consequently, freedom of speech and assembly is a fundamental component of a democratic society. The right of people to interact in person for the purpose of discussing their opinions and issuesreligious, political, or sociallays at the heart of this philosophy. Thus, in the Himmatlal Case, the freedom of expression and the right to assemble in a public park were preserved.

Bandh and Expression Freedom

Another key decision on the freedom of speech was made by the Supreme Court. The Apex Court upheld the historic ruling of the Kerala High Court, declaring that there was no

justification for calling or enforcing a bandh since doing so would impede other citizens' ability to exercise their basic rights and would harm the country in several other ways. "We are satisfied that the distinction drawn by the High Court between a "Bandh" and "Hartaal" is well made out with reference to the effect of a "Bandh" on the fundamental rights of other citizens," the Supreme Court said. There is no question that the claims of a single person or a small group of persons about their basic rights cannot trump those of the whole population.

Despite the fact that the "Bandh" is an expression of protest by a portion of the populace, its forceful implementation is incompatible with other relevant basic rights since it interferes with the ability to travel and do business. Therefore, the ability to call for and enforce a bandh is legitimately constrained by the set of basic rights of another citizen or group of citizens. A person's or a group of people's fundamental rights may be legitimately limited by the basic rights of society as a whole.

According to the Supreme Court's ruling in Indian Express Newspaper v. Union of India, all national courts have a constitutional obligation to preserve press freedom and to strike down any legislation or government policies that do so. Upon lease forfeiture, the government filed a notice of re-entry and threatened to destroy Indian Express' building. In the aforementioned instance, it was determined that the Government wanted to suppress the Indian Express. It must follow logically that the Government's contested notifications posed a direct and immediate danger to press freedom and are thus unlawful under Arts. Article 14 of the Constitution is read with number. When the Indian Express exposed scandals like the Bofors incident, when senior party officials were said to have taken payments in the arrangement to buy guns from the Bofors firm, the Indian Express received such notifications. In a separate case involving the Indian Express, Justice Venkataramiah noted that press freedom is one of the issues over which the biggest and most painful constitutional battles have been fought in all nations with liberal constitutions.

In the case of Life Insurance Corporation of India v. Manubhai D. Shah, it was decided that Article 19 includes the freedom to express one's opinions and to respond to criticism of those opinions in print or electronic media. According to a research report, Life Insurance Corporation charges excessively high rates. The research report in the LIC's internal magazine "Yoga Kshema" included a denial of the accusation. The trustee who wrote the research article requested that a rebuttal be printed in the internal journal. But the LIC was unwilling to comply. It was decided that the fact that it was an internal journal was not an acceptable defense for refusing to publish a response to the counter in its magazine. The Supreme Court ruled that it was the responsibility of the print media to publish opposing viewpoints. If an author's essay was criticized in a magazine, the author was entitled to have a response published in the same publication. In this case, the Supreme Court heard the respondent trustee's appeal on several circumstances relating to the same legal issue, namely the reach of free speech. The trust created the documentary "Beyond Genocide" based on the Bhopal Gas Tragedy, but Doordarshan refused to air it. The trustee disputed this decision. The documentary won the Golden Lotus for being deemed the finest non-feature film. Additionally, it was announced that all award-winning movies will air on Doordarshan. According to the ruling, "A film maker has a fundamental right under Article 19 to exhibit his film. Accordingly, the burden of proof rests with the party asserting that it had the right to refuse enforcement of this right because a law made under Article 19 did not apply to the film."The Supreme Court ruled that the Government's decision to refuse to transmit due to criticism of the Government and a statement that the legal dispute had been ongoing in courts for a while was improper. These were deemed to be absolutely no grounds by the Supreme Court. The Supreme Court dismissed LIC's appeals and said that since LIC is a state under

Article 12 of the Constitution, it must act in the community's best interests.The Community has a right to know whether or not the LIC complies with this criterion while doing its business. Every effort to choke, suffocate, or gag this freedom would be a death knell for democracy and contribute to the rise of authoritarianism or tyranny. Freedom to voice one's ideas is the lifeblood of every democratic institution.

Maneka Gandhi vs. Union of India: No Geographical Restrictions

The right to free speech and expression is not geographically restricted. This enforceable right is applicable both within and outside of India. If the State erects obstacles to restrict an Indian citizen's freedom of speech in any other nation, it is in violation of Article 19. Union of India v. Maneka Gandhi. The Government argued that the Constitution's basic rights applied solely to Indian territory, but the Supreme Court ruled that there is no geographical restriction on the right to free speech and expression. The right includes the freedom to inquire about things, to talk and write both at home and abroad, and to share ideas with others both within and outside of India. It would be a violation of Article 19 and would not be covered by Article 19 of the Constitution if the order canceling the petitioner's passport had the direct or indirect effect of restricting or removing freedom of speech and expression.

Bejoe Emmanuel vs. State of Kerala: Religious Freedom and Article 19

The Supreme Court has expanded the definition of free speech to even encompass a religious group's beliefs. As a result, they were no longer required to raise their voices in unison during the singing of the national anthem. Kerala State v. Bejoe Emmanuel The three youngsters belonged to a worldwide Christian cult called Jehova's Witnesses. These students politely stood throughout the reading of the national anthem, Jana Gana Mana, at the morning assembly at school but declined to sing since it went against the principles of their religious belief. The refusal of Jehovah's Witnesses to sing any national anthem or salute the flag is one of their many tenets, which has been widely accepted and upheld by the highest courts in the United States, Australia, and Canada as well as by authoritative texts like the Encyclopaedia Britannica. Schoolchildren in Kerala were required to sing the national anthem by decrees issued by the director of public instruction. As a result, the three kids were ejected from school under the Deputy Inspector of Schools' direction. After attempting to get relief via submissions without success, they filed a writ suit, which was first dismissed by a single judge and later by a division bench of the Kerala High Court. Their appeal was allowed by the Supreme Court. It was decided that the appellants really and sincerely felt that their faith forbade them from participating in any rituals except from praying to Jehovah, their God. Although their religious beliefs may seem odd, there is no doubt about their sincerity. They do not passionately subscribe to their views, and neither their behavior nor their motivations are disloyal. Their refusal to sing is not limited to the Indian National Anthem. In other places, they have refused to sing other national anthems. They are well-behaved, law-abiding kids who stand when the national anthem is played and would do likewise in the future. They are neither being disrespectful of the National Anthem by declining to sing along while standing, nor are they violating Article 51 A's Fundamental Duty. Therefore, there should have been no action against them. Their refusal to sing the National Anthem at the school's morning assembly was seen as a basic violation of their right to free speech and expression. This ruling protects freedom of mind and belief in addition to freedom of speech. Their right to remain quiet during the singing of the national anthem was deemed to be a recognized right under Article 19 as long as it did not imply willful contempt. Another way to exercise the freedom to expression is by being quiet.

CONCLUSION

In conclusion, the difficult balance between individual liberty and community interests is reflected in the constitutional rights of the media and the restrictions on freedom of speech and expression. Although the media is vital to democratic countries, appropriate limitations are required to safeguard the public's peace, morality, safety, and rights. Maintaining a free, responsible, and informed media while defending larger community values and interests requires upholding constitutional rights, recognizing restrictions, and providing a strong judicial framework. Governments, legal systems, and society at large must uphold and defend the media's constitutional rights while making sure that any restrictions are required, reasonable, and justified. Restrictions must be implemented in a way that promotes transparency, accountability, and the rule of law in order to prevent abuse and safeguard the media's capacity to play its democratic role.

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CHAPTER 2

EXPLORING THE SIGNIFICANCE OF FREEDOM OF PRESS

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ABSTRACT:

Freedom of the press is a fundamental pillar of democratic societies, ensuring the free flow of information, promoting transparency, and holding those in power accountable. This paper explores the significance of freedom of the press, examining its historical context, legal frameworks, and societal impact. It delves into the role of the press in fostering public discourse, safeguarding individual rights, and facilitating democratic governance. Additionally, it addresses the challenges and threats faced by press freedom, such as censorship, attacks on journalists, and the spread of misinformation. By understanding the importance of freedom of the press, we can appreciate its critical role in upholding democratic values and fostering an informed citizenry.In contrast to the American Constitution, the Indian Constitution does not explicitly provide a distinct right to press freedom. Although Article 19 does not specifically include press freedom, it may be deduced from court rulings that it covers press freedom as well as freedom of speech and expression.The Madras Government outlawed the publication and distribution of the periodical "The Cross-Roads" inside the Madras state. The Madras Maintenance of Public ruling Act, 1959which permits the imposition of restrictionswas declared invalid and unconstitutional by the Supreme Court when the ruling was contested.

KEYWORDS:

Accountability, Democracy, Government Transparency, Human Rights, Media Independence, Public Awareness.

INTRODUCTION

The Supreme Court has ruled in various instances that the freedom of the press is already protected within the right to free speech, thus it is not necessary to make a special mention of it. It is deemed unnecessary to make such a specific mention because the freedom of speech and expression includes the liberty to publish and circulate materials that are either taken from another person or printed with that person's permission, in addition to the freedom to spread one's own ideas[1], [2].

State of Madras v. Romesh Thapper

The Supreme Court stated that unless criticism of the government is such as to jeopardize the security of the State or tend to overthrow the State, it is not appropriate to regard it as a justification for restricting freedom of expression and of the press. A legislation limiting free speech and expression cannot be covered by the reservations in Article 19 unless it is purely intended to prevent weakening or overthrowing the security of the State. stated the Supreme Court. It goes without saying that the freedom of speech and expression involves the right to spread ideas, and that freedom is protected by the freedom of circulation. The freedom of circulation is just as important to that freedom as the freedom of publishing. In fact, the magazine would have little value without distribution[3], [4].

State of Delhi v. Brij Bhushan

The same decision was used to resolve both this case and the Cross-Roads case. In this situation, the East Punjab Safety Act of 1940 empowered the government to take whatever necessary measures to stop any acts endangering public safety or upholding the rule of law. It was contested that this was unconstitutional. The Supreme Court agreed with the argument and determined that the relevant parts of the 1940 Act were unconstitutional since Article 19 did not provide a basis for maintaining public safety and order[5], [6].

Following the Supreme Court's ruling in the Romesh Thapper and Brij Bhushan cases, many High Courts in our nation issued rulings stating that even inciting individual murder or fostering class discord could not be prohibited under the permissive restrictions outlined in Article 19. The Supreme Court stated with sorrow in State of Bihar v. Shailbala that the interpretation it provided in these two judgments shortly after the Constitution came into existence was misinterpreted and misapplied[7], [8].

Shailaba Devi v. State of Bihar

The booklet named "Sangram," which was produced by the Bharathi Press, was determined to contain undesirable material punishable under Section 4 of the Indian Press Act, 1931, and the state ordered the keeper to provide a security in the amount of Rs 2000. It was contested as a violation of the freedoms that the Constitution guarantees. The Supreme Court ruled that the booklet did not fall within Section 4's definition of "mischief" since it only comprised meaningless phrases and material that had been randomly appropriated from other writers. The Supreme Court further stated that in order to assess whether a particular document fell under the purview of Section 4, the writing must be evaluated as a whole in a fair, free, and liberal manner, without overly focusing on individual passages or a few strong words, and an effort should be made to ascertain the overall impact that the composition as a whole would have on the minds of the reader.The Government was forced to propose a modification to Article 19 in order to limit the liberal interoperation granted by the Supreme Court due to the worrying scenario created by its rulings in Organizer and Cross Roads. The First Amendment to the Constitution established additional grounds of cordial relations with foreign States, public orders, and incitement to an offense[9], [10].

Union of India vs. Sakal Papers Limited

The Newspapers Act of 1955 gave the federal government the authority to control newspaper pricing in proportion to their pages and sizes, as well as the distribution of advertising space. The Daily Newspaper Order, 1960 was published by the Central Government in accordance with this Act and set the minimum number of pages that a newspaper might publish. According to the allegations, this violated Article 19 of the Constitution. The argument was agreed, and both the Act of 1955 and the Order issued pursuant to it in 1960 were declared invalid for violating a fundamental right guaranteed by the Constitution that was not protected by Article 19. A person has the right to publish his thoughts and spread them by writing, printing, or verbal communication in order to further his beliefs. The right included not only the substance and its circulation but also internal control and the choice of how much room to provide the matter. According to The Supreme Court

The Newspaper Act was designed to have an impact on distribution, which would then directly impact freedom of expression. By using measures that are overtly targeted at limiting the distribution of what are referred to as bigger papers with stronger financial standing, the Act aims to accomplish its goal of allowing what are referred to as smaller newspapers to obtain wider readership. The contested regulation, far from being one, which just interferes

with the right to free expression accidentally, aims to accomplish the goal by ostensibly controlling the commercial operations of a newspaper. Such a line of action is prohibited, and the Court must maintain constant vigilance to protect one of the most damaging liberties provided by our Constitution. Under a democratic Constitution that allows for changes in the make-up of the legislature and the government, the freedom of speech and expression is of utmost significance and must be protected.

The Union Government attempted to justify the limitations by arguing that because newsprint was in low supply and needed to be imported, it was essential to limit and control its usage and distribution. The Court emphasized that allocation may end the paper deficit. No one can object to the policy if the government is satisfied with a fair and equal distribution of the available newsprint to the customers. Newspapers must be given the freedom to change their newsprint after the allotments have been made, to choose their pages, circulation, and new editions within the quota granted to them. However, under the guise of distributing newsprint, the government has really manipulated newspaper development and circulation, turning Newsprint Control into Newspaper Control. In both circulation and content, freedom exists. Newspapers are prohibited from being circulated under the in-question Newsprint Policy. They are not permitted to increase the number of pages, page area, or frequency, not even by lowering circulation. According to Article 19, the constraints are not acceptable constraints.

The Court concluded that the newsprint policy is unconstitutional because it treats newspapers, which are not created equal, as if they are when determining the needs and specifications for newsprint. The Supreme Court prevented the government from passing oppressive regulations under the guise of the newspaper control policy with this landmark decision, acting as a perfect defender of freedom.

Union of India v. Bennet Coleman

In this instance, it was decided that forcing a newspaper to cut down on its ad space would negatively impact readership since it would inevitably drive-up costs. Such an attempt would amount to an unreasonable restriction on the right to freedom of expression, or it would restrict its ability to select the means by which it will exercise that right, or it would undermine its independence by forcing it to seek government assistance.

DISCUSSION

Indian Express Newspapers Pvt Ltd. v. Union of India

In yet another major decision, the Supreme Court went on to further describe the significance and meaning of this right: "The expression freedom of press has not been used in Article 19 but it is comprehended within Article 19." The phrase refers to independence from governmental influence, which might affect the publication of newspapers and their dissemination. That freedom cannot be restricted for the sake of the general good. A democratic electorate cannot act responsibly without the publication of facts and views, which the press's role is to promote in the public interest. The core of social and political discourse is pressing freedom. The courts' principal responsibility is to preserve press freedom and nullify any legislation or government acts that infringe on it in violation of the Constitution.

According to Blackstone, the essence of freedom of expression is that each individual should be able to express their ideas to the public without prior approval; to do otherwise would be to destroy press freedom; however, if the individual publishes something improper, malicious, or illegal, he will be held accountable for his temerity.Justice Holmes stated that

one major goal of the constitutional clause was "to prevent all such previous restraints upon publications as had been practiced by other governments," adding that "the preliminary freedom extends as well to the false as to the true" and that "generally does not prevent the subsequent punishment of such as may be deemed contrary to the public welfare."People are allowed to believe, support, or argue against any faith in India as well. They may even claim that the Constitution itself is a text that should have been written differently. It is categorically prohibited for the government to limit or curtail such freedom.

The right to free speech and expression is basic and cannot be unjustly restrained, in contrast to the right to property, which is constrained and violated by the government. Freedom of speech directly affects democracy, elected leaders, and the general population. A democratic republic is intended to be established under the Indian Constitution. As stated by the Meiklejohn, this indicates that governmental authority derives from the agreement of the people. Personal freedom is incompatible with government without popular agreement. Government without permission is a violation of one's respect for and dignity as a human being. Everyone must give their assent to the government; if they do not, they are unlikely to become part of the governing elite. Freedom and dignity rely on a solid basis when they are backed by widespread self-interest and approbation. The relationship between them, in Meiklejohn's opinion, is one of force and counterforce, of compulsion on the one hand and submission and resistance on the other...the only essential fact being that one group has the power and the other group does not. In such dictatorship, a ruler compels his citizens to obey him without their agreement via the use of excessive force, cunning, or both.

The American Constitution, which itself took its inspiration from the English Constitutional tradition, imported the concept of free speech into our document. The English precedents make it abundantly obvious that some speech types in certain settings have been thought to fall beyond the purview of constitutional protection. They are not covered by Article 19's scope. Since the freedom of the press is integral to the freedom of speech and expression, no law can restrict the press unless it is constitutionally valid, that is, it complies with Article 19's clause. Unlike the Indian Constitution, the American Constitution does not specifically mention restrictions on the freedom of the press. The US courts adopted the due process clause, police powers, and clear and present danger tests to limit journalistic freedom. In comparing the American and Indian Constitutions' protections for journalistic freedom, Douglas stated:

The Indian Constitution essentially restates what the Justices of the United States Supreme Court have said about the Bill of Rights throughout the years. There doesn't seem to be anything wrong with listing the types of issues where a government may limit basic rights. No government can operate without the ability to impose justifiable limitations on these types of activities. The need that the limits imposed in each specific situation be reasonable is necessitated by the use of the word "reasonable," and a court may rule on whether or not they are.

In the Express Newspaper case, the Supreme Court of India ruled that there was no need to expressly include press freedom since it is implied by Article 19 already. However, in its consultation paper on the expansion of fundamental rights, the National Commission for Review of the Working of the Constitution, presided over by Justice Venkatachalaiah, specifically recommended including freedom of the press under Article 19, along with freedom of information and the right to privacy, among other fundamental rights. These liberties serve as the cornerstone of democracy, according to the Consultation paper. The majority of country constitutions provide explicit guarantees of press freedom. It is believed that the right to know and the right to knowledge, as articulated by the Supreme Court in S.P.,

should also be explicitly included as guaranteed basic rights in Part III of our Constitution. Case of Gupta. The Commission suggested extending press freedom and other media freedom to encompass electronic communication devices. The guarantee of freedom to express one's opinions and to look for, accept, and share information and ideas across borders is another key element that has been recommended. It recommended replacing the current Article 19 with the following draft:According to Article 19, everyone has the right to freedom of speech and expression, which includes the freedom of the press and other media, the freedom to hold opinions, and the freedom to look for, receive, and share information and ideas without respect to national boundaries.

Independent Editorial Authority and Media Freedom

According to the Constitution, media freedom is not greater than that of the average citizen and is subject to the same restrictions.In essence, media freedom ensures that there won't be any direct or indirect influence that would undermine a newspaper's editorial independence. The editor has complete discretion over the newspaper's content. The justification is obvious—you cannot claim that there is freedom of speech in a country where the government decides what ideas or facts should be broadcast via the medium of expression.

Freedom of Movement

Press freedom encompasses both qualitative and quantitative aspects. Both the content and the circulation are free. When newsprint, the white paper used to print newspapers, was in short supply, the government took on the obligation of equally distributing it among the publications, which is legal. However, any restriction on the expansion and readership of newspapers would be a deprivation of press freedom in the name of such allowed equal distribution.The press has the freedom to spread and circulate without any prior restrictions. A law would violate the right granted by Article 19 if it singled out the press and imposed onerous restrictions on it that would limit its ability to publish, punish its personnel freedom, prevent new newspapers from being launched, and force it to seek government assistance.

Abandonment and Article

A lawmaker must retire in accordance with a statute adopted by the Jammi & Kashmir legislative if he leaves the party from which he was elected. Due to its unreasonable restrictions on the right to dissent and violations of a legislator's freedom of speech and expression, this statute was challenged under Article 19 of the Constitution. In Mian Bashir v. Jammu & Kashmir, the Court dismissed the appeal and noted that the rights possessed by a lawmaker as a whole, including the ability to speak on the House floor, are essentially privileges controlled by Article 105 and not fundamental rights.

Advertisement and Media Independence

Newspapers' primary source of income is advertising. The government often publishes several advertising in different publications. In a manner, it gives the government even another indirect tool to silence the press and other critics of its policies. The next concern is whether a newspaper that the government did not allocate any advertisements to may claim discrimination and a corresponding breach of their right to free speech.

Union of India vs. Hamdard Dawakhana

The Supreme Court was asked in Hamdard Dawakhana v. Union of India75 whether the ban on advertisements breaches the basic right to free expression. If there is a ban on advertising to encourage drugs, it was determined that the ban is lawful and that it would not infringe

someone's right to free speech. A commercial advertising has elements of trade and business and has nothing to do with the promotion of noble ideas or great literature. Advertising in general has no bearing on the freedom of speech and thought guaranteed by Article 19 of the Constitution.

Yellow Pages Case: Advertising is an element of press freedom

The Supreme Court ruled in Tata Press Ltd., Mahanagar Telephone Nigam Ltd that a business advertising or commercial speech was a kind of free speech that could only be regulated within the parameters of Article 19. Contractors were allowed by the Nigam to produce phone directories in "yellow pages" and rely on advertising for income. These "yellow pages" used to be included in the Nigam's white pages directory. The Nigam's appeal, which sought a ruling that Tata Press had no right to publish the list of telephone subscribers without its permission in violation of the Indian Telegraph Act, was accepted by the Bombay High Court. The Nigam had asked for a declaration that it alone had the exclusive right to publish the telephone directory. Tata Press appealed to the Supreme Court. Admitting the appeal, the Court said: "The Advertisement as a "Commercial Speech" has two facts. Advertising which is no more than a commercial transaction, is nonetheless dissemination of information regarding the product-advertised. Public at large are benefited by the information made available through the advertisements. In a democratic economy, free flow of commercial information is indispensable. There cannot be honest and economical marketing by the public at large without being educated by the information disseminated through advertisements. The economic system in a democracy would be handicapped without there being freedom of "Commercial speech". The public at large has a right to receive the commercial speech. Article 19 of the Constitution not only guaranteed freedom of speech and expression, it also protects the rights of an individual to listen, read and receive the said speech. Supreme Court emphatically held that the right under Article 19 could not be denied by creating a monopoly in favour of the Government, it could only be restricted on grounds mentioned in Article 19 of the Constitution.This is a welcome departure from the decision of the Supreme Court in Hamdard Dawakhana v. Union of India, wherein it was held that a law restricting the publication of advertisements to promote the sale of a particular good through the press or other media does not violate the right to freedom of speech and expression because such restrictions had an element of trade and commerce.

Expression Rights & Electronic Media

The Supreme Court ruled in Life Insurance Corporation of India v. Manubhai D. Shah that the phrase "freedom of speech and expression" must be broadly interpreted to mean the right to express one's opinions orally, in writing, or through the use of an audiovisual medium, and that this includes electronic media that broadcasts and telecasts information.

The High Court of Bombay granted a temporary injunction, but the matter was brought before the Supreme Court by special leave under Article 136 of the Constitution. The Supreme Court held that the order of injunction granted was improper and upheld the public interest litigation filed under Article 226 to prevent the authorities from telecasting the serial Honi Anhoni.The airwaves are a public property, owned and controlled by the Government or a central national authority, or they are not available due to scarcity, costs, and competition. It is a built-in limitation on the use of electronic media as it involves use of airwaves, which is a public property. A citizen has a fundamental right to use the best means of disseminating and receiving information.

Indian Union vs. Romesh

The film was based on a novel by Bhisma Sahni and depicted the events in Lahore just before the country was partitioned. In Romesh v. Union of India80, a petition was filed to prevent the screening of the film serial TAMAS on the grounds that it violates Articles 21 and 25 and Section 5B of the Cinematography Act. Two judges of the Bombay High Court saw the film and rejected the claim that it promoted the cult of

The right to freedom of speech and expression is considerably widened by the Supreme Court in a historic judgement in Secretary, Ministry of I & B. v. Cricket Association of Bengal. In this case the Supreme Court held that the Government had no monopoly on electronic media and a citizen had under Article 19 a right to telecast and broadcast to the viewers/listeners through electronic media any important event. The Court directed the Union to establish an independent and autonomous body to supervise the electronic media, Doordarshan and All India Radio, so that this media would be free from the shackles of the Government control. The Supreme Court held that the fundamental right to freedom of speech and expression includes right to communicate effectively and to a large population not only in this country but also abroad. A citizen should have access to electronic media for communication. It also warned that the airways must be used for the public good because they were the property of the members of general public. Justice B.P. Jeevan Reddy suggested relevant amendments to a century old Indian Telegraph Act as there was tremendous change due to scientific and technological advancement in the field of communication.

In the case of K. A. Abbas v. Union of India, where the censorship of films was contested as an unreasonable restriction on freedom of expression, the Supreme Court upheld the practice on the grounds that films must be treated differently from other forms of art and expression because they can evoke strong emotions more intensely than other forms of expression, and that censorship of films on any of the grounds listed in Article 19 is justified.

The classification of films between categories like "A" and "U", was held to be valid in K.A.Abbas v. Union of India and this position remained unchanged. The Supreme Court justified the pre-censorship of films under Article 19 on the grounds that they have to be treated separately from other forms of Article and expression because a motion picture was able to stir up emotions more deeply than any other product of Article.

Criminal Queen Case

A citizen Om Pal Singh Hoon asked the court to quash the certificate of exhibition given to the film "Bandit Queen" and to restrain its exhibition in India. The petitioner contended that the ion of the life story of Phoolan Devi in this film was "abhorrent and unconscionable and a slur on the womanhood of India". He also questioned the way and manner in which the rape was brutally picturized suggesting the moral depravity of the Gujjar community. Delhi High Court held that the rape scene was obscene and quashed the order of Tribunal granting "A" certificate to the film. The Supreme Court allowed the appeal and held that issuance of "A" certificate by Tribunal was valid. The Supreme Court said that the film must be judged in its entirety from the point of overall impact. Where theme of the film is to condemn degradation, violence and rape on women, scenes of nudity and rape and use of expletives to advance the message intended by the film by arousing a sense of revulsion against the perpetrators and pity for the victim is permissible, said the Supreme Court in Bobby Art International v. Om Pal Singh Hoon case. With the advent of satellite television channels and boom of private cable TV networks, the flow of visual information containing overdose of sex, obscenity, and information not in the interest of the nation, also increased. The pre-censorship of the TV

material is not practically possible. The regulation of satellite channels and cable TV is yet to take a shape of legislation, despite a direction from the Supreme Court in Hero Cup case.

CONCLUSION

A crucial component of democracy is pressing freedom, which supports openness, responsibility, and the defense of individual rights. It enables media outlets and journalists to work freely, cover topics of public interest, and serve as watchdogs, investigating the conduct of those in authority. The freedom of the press makes it possible to spread many points of view, promotes public discussion, and equips people with the knowledge they need to make wise choices. It acts as a check on governmental power, making sure that people in charge are responsible for their deeds and decisions. Press freedom does not, however, come without difficulties. Both overt and covert censorship may limit a journalist's capacity to report freely and reveal the truth. Physical and digital attacks on journalists pose serious risks to press freedom and jeopardize the security and wellbeing of individuals working to enlighten the public.

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CHAPTER 3

EXAMINING THE IMPORTANCE IN THE CONTEXT OF FUNDAMENTAL RIGHTS OF REASONABLE RESTRICTIONS

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ABSTRACT:

Reasonable restrictions are an integral aspect of constitutional rights, ensuring a balance between individual freedoms and societal interests. This paper explores the concept of reasonable restrictions, examining their importance in the context of fundamental rights such as freedom of speech, expression, and assembly. It explores the legal frameworks and principles that guide the imposition of reasonable restrictions, including considerations of public order, morality, national security, and the rights of others. By understanding the significance of reasonable restrictions, we can appreciate their role in safeguarding the well-being of society while upholding individual liberties.By introducing the Indian Press Act, 1931, the British India Government attempted to restrain the press for its active participation in the liberation fight. The British Executive implemented the licensing system in India as well as press offense trials with the help of this statute.

KEYWORDS:

Balancing, Compelling Interest, Constitutional Rights, Harm Prevention, Judicial Review, Narrowly Tailored.

INTRODUCTION

The liberties protected by Articles 19 to 21 are subject to restrictions. They make clear that although liberties are not a given, they may be regulated. A legislature's ability to curtail fundamental liberties is likewise constrained by these provisions. The legislature is not allowed to set further restrictions beyond what is allowed under these clauses[1], [2].These constraints' key components are as follows:

1. Only the law or someone acting on its behalf has the power to impose restrictions. Without a court order, the executive branch cannot impose restrictions.

2. The limitation has to be "reasonable".

3. The restriction must be relevant to the objective that is stated in these sections.

4. The court has the authority to determine whether these limits are lawful on two grounds: first, whether they are reasonable, and second, if they are being imposed for the purposes specified in the section that is imposing them. Legal review is conducted before a legislative finding of reasonableness is considered final[3], [4].

The English democracy had battled against these objectionable laws and succeeded in having them removed. This Act required the press to provide a security that would be lost if any material published by the press incited disaffection with the government, incited feelings of hatred or contempt between different classes of people, or encouraged a public servant to resign or neglect his duties[5], [6]. The Supreme Court ruled that this Act of 1931 violated Article 19 of the Constitution after India gained independence.

The 1951 Press Act

For a limited time, the Act of 1931 was replaced by the Press Act of 1951. It granted a right of appeal to the High Court and required judicial review by the sessions judge before security could be claimed from or lost by a printing press. In 1957, this Act was revoked. Another law was passed in 1975 to restrict free press during the Emergency. Pre-censorship was mandated by the Prevention of Publication of Objectionable Matters Ordinance of 1975, which also called for harsh punishment of the adversarial press. However, once the Indira Gandhi administration was overthrown in the general elections of 1977, this repressive law that had silenced the voice for over two years was abolished. The Press Council, which had been abolished by the government of Indira Gandhi, was reinstated by the new administration, along with the Parliamentary Proceedings Act of 1956. Despite criticism against it as a major restriction on press freedom, the Official Secrets Act of 1923 was another harsh regulation that dates back to the British government. Even now, it continues to hinder the right to knowledge[7], [8].

The appropriateness of a limitation imposed by the state via legislation cannot be determined with any certainty. Each case must be evaluated on its own merits, taking into account how rational the substantive law and procedural rules are. A fair limitation should have a logical link with the reasons for which the legislature is permitted to impose limits, according to M.P. Jain in his book Indian Constitutional Law, Fourth Edition. The legislation will be void if there is an insufficient relationship between a limitation and the legally permitted basis for the restriction. If a legislation is determined to violate a right protected by Article 19, it will be invalid unless it can be supported by the safeguards in Articles 19 to 19. The onus of proving that the limiting statute is unlawful lies with those who seek such protection rather than with the citizen. Therefore, it is the responsibility of the state to demonstrate that any limitation placed on a basic right protected by Articles 19 to 20 is justified in light of those provisions[9], [10].

The language of Article 19 proposes considering "prevailing conditions" in order to determine if limitations are fair. This expression refers to the current situation in the area in all of its political and economic ramifications, as well as the pressing needs of society and the general welfare at any particular moment. It is impossible to establish an abstract norm for reasonableness. The court's job is to determine whether a specific statute passes the impartial standard of reasonableness. The public's interest must be taken into account when determining whether limits are reasonable, not the interests of the people who will be subject to them.

Any right must not be exercised in a way that causes harm to people, society, or the state. Individual rights are never absolute and are always subject to certain limitations in the interest of decency, public order, public health, morality, State security, etc. These fixed principles of law are established in all modern states and are expanded upon by court decisions or statutes. The theory of the state's police authority was established and received legal acceptance. This state's policing authority was required in America to offset the pervasive "due process clause," which granted citizens an endless stream of rights and safeguards. The courts always asked this question when the "due process clause" was invoked: "Is this fair, reasonable, and appropriate exercise of the State's police power, or is it an unreasonable, unnecessary, and arbitrary interference with the individual's right to his personal liberty? The need to deploy police authorities to thwart this manifestation of the due process article was not necessary since the Indian Constitution did not make reference to it. There is no need to rely on or manufacture an inchoate and all-pervasive "police power" in the State to protect public interests since the Constitution's guarantees of Fundamental Rights

are explicitly spelled out in the document itself. The "due process clause" provided American courts vast authority to overturn any state interference with individuals' rights, while the State's "police power" served as a shield from the wrath of the judiciary. The Indian Constitution correctly predicted that recognizing the state's police power would reduce the authority of the courts to nearly nothing. In America, the court must ultimately decide whether the Legislature lawfully utilized its police authority. This judicial oversight authority served as a check on overzealous use of state police power. Particularly in India following the First Amendment, the aspect of judicial review was increased by putting the qualifier "reasonable" before the phrase "restrictions" and by outlining the justifications for passing legislation that restricts basic rights. A healthy theory for balancing individual rights with societal and communal interests is the idea of reasonableness. In American use, restriction often refers to regulation rather than outright ban. However, it depends on the situation and the kind of company. Therefore, it may be strictly forbidden to sell tainted food or pharmaceuticals, or to operate a brickyard in densely populated regions.With the 1951 amendment to Article 19, the State was given the authority to enact laws with the goal of imposing reasonable limitations on the exercise of the right granted by Article 19 in the interests:

1. State security,

2. Friendly relations with foreign states,

3. Public order,

4. Decency or morality,

5. In relation to Contempt of court.

6. Defamation

7. Provocation of an offense.

8. India's sovereignty and integrity as guaranteed by the Constitution of 1963)

Public order and state security

Even if an act may not result in a violation of public order, it would still be legal to impose limits under Article 19 if it has the potential to produce public disturbance. The Supreme Court defined public order as the calm that characterizes members of a political society as a consequence of the internal rules that the Government has set and is enforcing them88. Instead of referring to a regular issue with law and order or public safety, the phrase "security of the state" refers to a significant and intensified type of public disturbance. The statements and actions that incite violent crimes are relevant to national security.

Public Secrets

Simple criticism of government behavior would not constitute a threat to "public order," and would thus be protected under Article 19. The Supreme Court decided that an action becomes criminal when it is intended to cause disturbance, citing Section 124A of the IPC. The Official Secrets Act of 1923 continues to place onerous limits on free speech in the name of security. The countries did, however, agree in principle to lessen the severity of this colonial law and include a Right to Freedom of Information provision. The Official Secrets Act is a significant barrier to the right to information process.

DISCUSSION

Incitement to an Offence

The basic right to free speech and expression is terminated when it encourages violent acts, including efforts to disparage the religious beliefs of any group. Aggravated types of religious insult that are obviously designed to disturb public order are justifiable justifications for restricting free speech and expression. On the same grounds, it is also prohibited to encourage class strife during an election address. In a secular state, soliciting votes based on a candidate's religion goes against social standards of decency and appropriateness. In light of the fact that Article 19 includes "decency" as a reason, Section 123 of the Representation of People Act of 1951, which places restrictions on the exercise of Article 19 rights, is based on this provision.Section 3 of the Police Act of 1922 was challenged in Indulal K. Yagnik v. State of Maharashtra on the grounds that it violated the right to freedom of speech. According to the Bombay High Court, inciting a police officer to commit an offense is unlawful, and as a result, Article 19 permits the limitation of free speech to stop such incitement.

In Babulal v. State of Maharashtra and State of Bihar v. K.K., it was determined that section 144 of the Criminal Procedure Code, which grants District Magistrates broad authority to impose restrictions against the basic rights of freedom of expression and assembly, is constitutional. Mishra.

Misconduct in Court

The legality of using contempt of court as justification for limiting freedom of speech and expression has been acknowledged. In C.K., the Supreme Court. In the case of Dephtery v. D.P. Guptha, the Supreme Court's contempt jurisdiction under Article 129 was found to be reasonable under Article 19. Contempt of court is criminal under both the 1952 Contempt of Courts Act and Section 228 of the Indian Penal Code.

E.M.S. Namboodripad, a former chief minister of Kerala, was questioned for contempt of court after making a number of disparaging comments against the judiciary during a news conference. He claimed that Article 19 provided protection for the statement. The Supreme Court rejected the argument, holding that one should not break the law while exercising their right to free speech and that the Constitution does not protect against statements that may be construed as disrespectful to the court.

In a recent case called Narmada Bachao Andolon, the Supreme Court described the goal and specifics of this prohibition as follows: "No person is permitted to distort orders of the court and intentionally give a slant to its proceedings that has the tendency to scandalize the court or bring it to ridicule." Extreme sensitivity and pettiness have no place in legal processes; the stream of justice cannot be tainted by cruel stultification and vulgar debunking. However, subject to the court's orders settling the disagreement, publications and other outlets have the right to publish reporting on the court's proceedings. However, it is not an invalid order if the Court directs that a specific piece of witness testimony not be published. Therefore, it cannot be argued that the press or TV networks have a basic right to report on judicial proceedings.

The freedom of the press does not include inciting contempt of court. In truth, Article 19 of the Constitution allows for the restriction of press freedom on the basis of contempt of court. Some publications carried a news report claiming that the petroleum minister gave preference to two sons of prominent Supreme Court judges and two sons of the Chief Justice of India while allocating fuel stations from the discretionary quota. The responsible Editors, Printers, and Publishers acknowledged that the news item was inaccurate and that it was accidentally

published without any animosity against the judicial system. The article with the title "Pumps for All" appeared in "The Sunday Tribune" on March 10, 1996. A similar article appeared in "Punjab Kesari" as well. On the petition of K.T.S. Tulasi, the Additional Solicitor General, and a few senior Advocates, contempt proceedings were opened. The Supreme Court ruled that the publications had disserviced society by distributing misleading material that damaged their reputation and embarrassed the Supreme Court by not even exercising ordinary care to confirm the veracity of the charges. The Court said that it was clear that this could not be seen as having been done in good faith. The Supreme Court did, however, accept the journalists' apologies. According to the Court, "he has no doubt committed serious mistake, but he has realized his mistake and expressed sincere repentance and has tendered unconditional apology for the same. He was present in the Court and practically looked to be gloomy and felt repentant of what he had done. This suffering in itself is sufficient punishment for him. He being a senior journalist and an elderly person and, therefore, taking lenient view of the matter, his apology was also accepted." The Supreme Court, however, emphasized the significance of a thriving free press in a democracy in its ruling by using the following words.

A democratic form of government has long been seen to need freedom of the press as a fundamental precondition. It has been seen as essential for a society's mental health and well-being. It is also thought to be important for a person's entire personality development. It is stated that the pursuit of truth is impossible without press freedom. In a democratic country, the freedom of the press is recognized as "the mother of all other liberties." A real democracy cannot operate without a free and vibrant press. People must actively and intelligently participate in all areas and affairs of their society and the State under a democratic system. They have a right to be kept informed about current political, social, economic, and cultural affairs as well as hot topics and significant issues of the day so they can think about and form unbiased opinions about these matters and how the government and its officials are handling, addressing, and managing them.

The Contempt of Court Act, 2006 was passed by the Parliament in order to uphold the requirement for fair commentary and criticism of the judicial process and to satisfy a long-standing request to include the "truth" of media criticism of the court as a defense option for writers, the press, or media organizations facing a charge of contempt of court. According to the Act, the Court may allow justification by truth as a viable defense in any proceedings for contempt of court provided it is convinced that it is in the public interest and the request for using the abovementioned defense is genuine. This amendment addressed the argument that we hold "Satyameva Jayathe" up as the ideal of our country while making it unlawful to criticize the judiciary. The change is a huge comfort for those who have made honest, though harsh, and unfavorable remarks about courts of law. The truth was not used as a comprehensive defense, however. The journalist who made the statement must demonstrate that it was done in the public interest and that the request to invoke the defense is legitimate.

Supreme Court ruling

The Supreme Court ruled in a case from 2010 that truth based on facts should be accepted as a valid defense when courts are called upon to decide contempt proceedings relating to a speech, article, or editorial in a newspaper or magazine, unless such defense is used as a cover to avoid the consequences of a deliberate attempt to scandalize the court. Justices on a bench G.S. A. K. Singhvi and A. According to Ganguly, Section 13 of the Contempt of Courts Act is a significant legal acknowledgement of one of the cornerstones of our moral code: truth. The court may allow justification by truth as a viable defense in any contempt case under the modified Section if it is convinced that doing so is in the public interest and the desire to use the defense is sincere.

The Excise Law Times, a newspaper, published an editorial in this case on June 1, 2009, calling attention to what it believed to be anomalies in the transfers and postings of several members of the Customs, Excise and Gold Appellate Tribunal. The magazine's editor, R.K., was accused of contempt by the Indirect Tax Practitioners Association. Jain argued that the respondent had broken a previous assurance made to the Supreme Court and that the editorial amounted to contempt of court.

On August 13, 2010, the Supreme Court's bench, composed of Justices GS Singhvi and AK Ganguly, ruled that criticism could not be construed as an attempt to scandalize or undermine the authority of the court or other judicial institutions, or as an attempt to impede the administration of justice, unless it was malicious or seen as a deliberate attempt to denigrate the institution or a specific person, or the judge was the target.

The facts relating to the manipulative transfer and posting of some CESTAT members and the substance of the orders made by the specific CESTAT Bench, which were overturned by the High Courts of Karnataka and Kerala, were the only things included in the editorial, the Bench stated in dismissing the petition. The Bench assessed the petitioner costs of Rs. 2 lakhs, of which Rs. 1 lakh should be deposited with the Supreme Court Legal Services Committee and Rs. 1 lakh should be paid to Mr. Jain. The Bench said that the editorial based on facts would not amount to contempt. . amiable ties with foreign countries

This justification for limiting free speech is yet another. However, a state cannot stop all criticism of the government's foreign policy. The media should refrain from regularly disseminating news that are purposefully inaccurate or misleading since they harm cordial ties with other countries.

The state has the broad authority to put reasonable limits on people's freedoms of speech and expression. The law's subject matter, the significance of the limits, their intended use, and other relevant facts must all be taken into consideration when determining what is reasonable. Limitations shouldn't be arbitrary or too severe. The guarantee of freedom and the preservation of communal interests, which required the imposition of a limitation, should be balanced.

In Kharak Singh v. State of Punjab99, the Supreme Court ruled that restrictions cannot be imposed by executive or departmental orders. Legislation passed by the legislature has the power to set reasonable restrictions.

Book Censorship

Mr. Ranjit D. Udeshi, a partner of the company that ran the Happy Book Stall in Bombay, was charged and found guilty under Section 292 of the Indian Penal Code for possessing an offensive copy of Lady Chatterley's Lover. The Supreme Court affirmed the conviction when he filed an appeal. The court ruled that the determination of whether a book is obscene should not be based on the recommendations of literary or other experts. The Hicklin test, which was established by Chief Justice Cockburn in Regina v. Hicklin101, was approved by the court. As stated there:

The test for obscenity is whether the allegedly offensive material has a propensity to deprave and corrupt those whose minds are susceptible to such immoral influences and into whose hands a publication of this nature may fall. It is unquestionably likely to arouse thoughts of the most impure and libidinous nature in the minds of young people of either sex or even older people.

Defamation

An insult to someone's reputation is called defamation. It is a tort as well as a felony. In India, civil defamation law is not codified. However, it offers recourse in the event that a person's reputation is damaged for no legitimate cause. The Indian Penal Code's Sections 499 and 500 deal with criminal defamation. According to Article 19, a person may be charged with a criminal offense of defamation if they deliberately damage someone else's reputation. This is a legal basis for restricting their right to freedom of speech and expression.

When Harbhajan Singh launched a vicious assault on the Chief Minister's son, Pratap Singh Kairon, he was charged with defamation, and the case ultimately reached the Supreme Court in Harbhajan Singh v. State of Punjab. Mr. Singh said that the Chief Minister's son was a smugglers' leader and the perpetrator of several crimes across the State. The Supreme Court overturned his defamation conviction, and the appellant was qualified to use exception 9 to section 499 IPC since his comment was made with the intention of advancing the common good.

In addition to the limits mentioned above, tariffs and other trade-related restrictions might be placed on the press, just as they are for regular people. Reporters and media professionals who violate the privileges of Parliament, which are protected by a unique clause in the Constitution known as Article 194, cannot be shielded from prosecution by the freedom of speech. The use of these legislative rights may be subject to limitations, however. The Judiciary has the authority to investigate any abuse of privilege that compromises the basic rights to life and liberty without any justification or due process.

In the Auto Shankar case, the Supreme Court established a timeline for the advancement of press freedom legislation. It established some groundwork for the development of new legal concepts related to this topic. In reality, it was waiting for the appropriate case to come along so that it could examine how Article 19 might affect the Sections 499 and 500 of the Indian Penal Code that deal with criminal defamation. The Supreme Court generally approved of the New York Times ruling of the US Supreme Court and Derbyshire case in England's broader view of press freedom. These rulings increased the scope for criticizing the public behavior of public officials and limited the ability of those in public office to pursue defamation claims using their positions and taxpayer funds. While successfully establishing a civil person remedy for defamation in favor of people, it is necessary to examine whether criminal defamation should continue in its current form.

The broadcast media is another area of legal growth that is ambiguous. After concluding that the government did not have a monopoly on the airwaves, it became necessary to enact laws to manage electronic media by freeing it from governmental restraints. In a thriving democracy, press freedom is actively exercised, and the court actively interprets that freedom. New principles will arise throughout time in accordance with the changing trends and requirements of democracy.

The other rights under Article 19 are also necessary to exercise the right guaranteed under Article 19, as the freedom of expression is vehemently exercised by the media, especially electronic media, by arranging the meeting of significant personalities from different walks of life over a teleconference, video conference, or online conferences and traveling abroad for news coverage. The other rights include the freedoms to assemble, associate, move about, own property, and engage in commerce and business.

Rights to Free Assembly

The right to peaceful assembly is acknowledged and protected under Article 19. However, it is not a fundamental right. This right may also be subject to restrictions, as stated in Article 19 and. The right to peacefully and armed-free assembly is guaranteed under Article 19.

Strike, Demonstration, and Picketing Strikes and demonstrations may be seen as expressions of one's right to free speech. Free speech includes peaceful picketing. Similar to words are non-violent deeds. A non-violent form of persuasion is picketing or protest. The Indian Constitution recognizes democratic rights, including the ability of the State to impose reasonable limits, including the freedom to hoist banners with messages in a procession, participate in a peaceful protest, and organize public meetings. Clause 3 of the American Constitution stated as follows:No legislation limiting the ability of the people to gather peacefully may be passed by the Congress.

In Hague v. Committee for Industrial Organization108, the US Supreme Court noted that the freedom to peaceful assembly might be restricted for everyone's benefit and for peace and good order. The court ruled that it was possible to control in the public interest the right of citizens to express their opinions in public spaces like streets and squares. The public interest comes before this right. Similar to Edwards v. South Carolina, the US Supreme Court upheld the democratic rights of the protesters to free speech, free assembly, and the freedom of petition for redress of grievances of Negros when they were detained and found guilty by a magistrate in Columbia, South Carolina, of the common law crime of breach of peace for registering their protest against segregation in a public meeting. The Court decided that the Fourteenth Amendment shields the basic First Amendment rights from state intrusion.

In a similar vein, the Supreme Court of India upheld the citizen's right to conduct a procession, hold a demonstration, or hold a public meeting as part of the freedom to assemble peacefully and without weapons and the right to move freely anywhere on Indian territory in Babulal Parate v. State of Maharashtra. The court ruled that Section 144 of the Criminal Procedure Code was constitutional in this instance and that the magistrate had the authority to stop any actions that would jeopardize the public good and the peace. In a different decision, the Supreme Court made it clear that only lawful protests, and not all types of demonstrations, are protected. The Supreme Court's ruling in Himmatlal v. Police Commissioner further strengthened this basic freedom with appropriate limitations in the public interest. In this instance, permission was refused to conduct a public assembly on the street. The Supreme Court ruled that even while this right was subject to the regulation of the proper authority, authorities should not be given unchecked power to limit the freedom of assembly. The prohibition of public gatherings on public property was seen as arbitrary in the lack of rules. However, the right to have a meeting on government property is not included in this right to hold a public assembly.

CONCLUSION

In conclusion, Constitutional rights must have acceptable limitations in order to strike a balance between community interests and individual liberties. We can safeguard societal well-being while upholding the ideals of democracy, justice, and equality by placing restrictions on fundamental rights, such as freedom of speech, expression, and assembly, when justifiable by factors of public order, morality, national security, or the rights of others. Legal frameworks, proportionality, and respect for individual rights should serve as the guidelines for the application of acceptable limits, promoting a peaceful and inclusive society. Striking a careful balance between defending individual liberty and defending the interests of

society is crucial. To avoid their exploitation or misuse, reasonable constraints should be put into place with transparency, accountability, and monitoring.

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CHAPTER 4

FUNDAMENTAL HUMAN RIGHT: FREEDOM OF ASSOCIATION

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ABSTRACT:

Freedom of association is a fundamental human right that enables individuals to form and join groups, organizations, and associations of their choice. This paper explores the significance of freedom of association, examining its historical context, legal frameworks, and societal impact. It delves into the role of freedom of association in fostering social cohesion, promoting collective action, and protecting individual autonomy. Additionally, it addresses the limitations and challenges faced by freedom of association, such as restrictions imposed by governments, social pressures, and the balancing of conflicting rights and interests. By understanding the importance of freedom of association, we can appreciate its crucial role in democracy, civil society, and the protection of human rights.

KEYWORDS:

Assembly, Autonomy, Collective Action, Democracy, Expression, Human Rights.

INTRODUCTION

The freedom to organize an organization was protected under Article 19. This does not imply that anybody may claim the right to occupy public office indefinitely as a component of this basic right. A right of this kind cannot be deemed basic by either the organization or the members. The Supreme Court invalidated a statute that the Assamese government had passed that would have allowed it to assume control of the Asom Rastrabhasa Prachar Samity by a notice because it violated Article 19113 and was thus unlawful and unconstitutional. Government cannot entirely seize control of an association, preventing its members and officers from holding on to the organization they founded to carry out the aims and objectives[1], [2].

This right to association is not absolute and is susceptible to restriction in the benefit of society, just like any other basic right protected by Article 19. Article 19 expressly grants the state the authority to enact any legislation that restricts, restricts, or abrogates any of the rights under Article 19. The Supreme Court rejected the argument that the right to association also encompassed the right to recognition in Raghubir Dayal v. Union of India, concluding that although the right to association was essential, the right to recognition was not. Members' right to maintain their relationships with persons they freely allowed into the organization is also a part of their right to create an organization. In the case of Damayanti v. Union of India, it was determined that any rule that violates the freedom to create an organization is one in which new members are admitted into a voluntarily formed group without giving the existing members the chance to kick them out. In this instance, the court rejected the State's takeover of Hindi Sahitya Sammelan and the entrance of certain new members without the agreement of the organization's current members[3], [4]. It was determined to be an unlawful intrusion on the legally protected right to association.

Mr. D.J.De appropriately included a few American judgments in his extensive work on the interpretation and enforcement of fundamental rights published in 2000. He cited a case in which the National Association for the Advancement of Colored People cooperated with

various orders from the State Court of Southern State of Alabama to release the Association's documents and papers but failed to provide a list of its members and their addresses. The Association was found in contempt of court and fined $100,000 by the court. The US Supreme Court ruled unanimously that the Association was not required to reveal a list of its members and that the Fourteenth Amendment protected members' rights against state action. Additionally, it was determined that this production order violates the fundamental liberties guaranteed by the Due Process Clause of the Fourteenth Amendment and must be viewed as likely to result in a significant restriction on the exercise of the right to form an association by the members of the association[5], [6].

The Madras High Court ruled in Ramakrishna v. the President District Board, Nellore that the government's requirement that teachers only join associations that have been formally recognized was arbitrary and hence unconstitutional. The Supreme Court ruled in L.N. Mishra Institute of Social Changes v. State of Bihar that the government did not violate the right to form an association when it took control of the institution by passing the Bihar Private Educational Institution Act, 1987, because the Act did not impose any limitations on how the society could function. It is true that the society no longer has control over or the authority to run the institution, but that was a result of everyone assuming charge[7], [8].

DISCUSSION

Freedom of Movement

A citizen's right to unrestricted movement across the nation is guaranteed under Article 19. Article 19's clause gives the freedom to live and establish oneself wherever in the nation. On the reasons listed in Article 19 this privilege is subject to certain restrictions. The people are free to migrate both inside each state and between them. This right is violated by expulsion or internment orders that demand a person leave a certain location or access a specific region exclusively. According to Article 19, restrictions must be reasonable, in the best interests of the public, or to safeguard the interests of the Scheduled Tribes[9], [10].

International Travel Rights

In the Maneka Gandhi case, the issue of whether the freedom to travel internationally may be recognized as a component of Article 19 was taken into consideration. It was decided that one has the right to exercise their speech and expression both within and outside of India. In the Satwant Singh case, the Supreme Court also recognized the right to travel internationally and return to one's own country. Both Article 13 of the Universal Declaration of Human Rights and Article 12 of the ICCPR mention this right. Nothing in this clause shall prevent the State from enacting any law imposing reasonable restrictions in the interest of the sovereignty and integrity of India, the security of India, and the friendly relations of India with any foreign country, as suggested by the Constitution Review Commission for inclusion of this right under Article 21 as 21A.

Headgear Bag

Every two-wheeler rider must wear a crash helmet; however, this is not a limitation on mobility since it promotes safe movement, hence there is no infringement of the right to freedom of movement. In Ajay Canu v. Union of India, it was decided as such. In K, the issue of the Sikh community's exemption from helmet wear was also raised. In v. Union of India, Veeresh Babu. The Court concluded that the exception given to Sikhs to honor their religious practice of wearing a headpiece would not invalidate the legislation while maintaining the legitimacy of the helmet requirement.

Kharak Singh v. State of Uttar Pradesh. Suspects were under police monitoring, which was sustained. It was determined that Regulation 236 of the UP Police Regulations, which authorizes monitoring, is constitutional. However, the freedom to travel freely was not violated when suspects were observed and followed in order to document their whereabouts and actions. The regulation, which permitted domestic visits without a court order, was ruled to be in violation of Article 21. The claim that such a limitation violated someone's right to freedom of movement has not been accepted by the court. Justice Subbarao said in his dissent that legislation authorizing monitoring were illegal and that even psychological restrictions on freedom of movement were against Article 19.

For security concerns, the Official Secrets Act of 1923 restricts access to "prohibited" places. Restrictions under the Official Secrets Act were ruled as legitimate in Gurudatta Sharma v. State of Bihar on the grounds of security, public order, and public morality. Because his freedom to mobility was limited by a reasonable limitation on the basis of social security, the offender's right to movement will not be invoked in the event of conviction and incarceration. In the case of Sunil Batra v. Delhi Administration, it was determined that the limitation placed on a prisoner under Section 30 of the Prisons Act of 1894 was reasonable in light of the security of the jail and the safety of the convicts, and as a result, did not violate Article 19. In a similar vein, the application of the death penalty was deemed appropriate under Article 19 and not in violation of it. In A.K. Gopalan v. State of Madras124, it was determined that preventive detention under the Preventive Detention Act was both constitutional and did not violate Article 19.

The Federal and State Governments are not allowed to reduce the privileges and immunities of American citizens, according to Section 1 of the 14th Amendment. In a particular region, the State may put reasonable restrictions on the right to move about freely. The movements of non-tribals in tribal territory might be justified in the interest of the tribes. The migration and settlement of non-tribals in tribal lands has been regulated in Seven North Eastern Tribal States. Non-tribals are not even permitted to purchase tribal land via transfer, much alone sell it to another non-tribal.

Owning property

After the Constitution's 44th Amendment, which removed Article 19's sub-cl, the right to own property ceased to be a basic right. The property right, which was protected by Article 31 of the Constitution, was moved from Part III of the Constitution and is now included in Article 300A, and the section of that Article that dealt with the forced acquisition of property has been abolished.

Trade and business freedom

A right to employment is guaranteed under Article 19. It stipulates that everyone has the right to engage in any activity, trade, or business, as well as to practice any profession. The right under Article 19 is subject to reasonable constraints, according to Article 19. The limitations placed on this right must be "in the public interest" and "reasonable." Any law imposing reasonable restrictions in the interest of the general public, prescribing the professional or technical requirements for engaging in any occupation, trade, or business, or allowing the State to engage in any trade or business to the complete or partial exclusion of citizens, may be passed by the State. The right to conduct one's own trade or business is protected by the Constitution; however this right is not unqualified.

Freedom to trade

In accordance with Article 19, starting an educational institution is neither a trade nor a profession. Trade and business often imply a pursuit of an objective of financial gain. Education cannot be considered a business. State of AP in Unnikrishnan v. According to the Supreme Court, 1 education is more of a mission and vocation than a profession, trade, or business. It is impossible to turn education into a business. By no means, under any circumstances, can the establishment of educational institutions be considered the practice of any profession. The Supreme Court ruled in Excel Wear's Case that the basic freedom to operate any company as provided by the Constitution includes the right to shut down a firm.Art. 19. In the case of D.C.M., it was determined that the government's discretion under Section 25D of the Industrial Disputes Act, as amended in 1986, to deny permission to close an industrial undertaking does not violate the fundamental rights protected by Articles 14 and 19, which are protected by this clause.The freedom to operate a passenger transportation company was likewise upheld by the Supreme Court. In yet another instance, the Supreme Court ruled that Article 19 also applies to street hawking and commerce. In a number of judgments, the Supreme Court affirmed the government's participation in commerce to the exclusion or limitation of citizens, based on the guiding principles of governmental action and the Indian regulated and planned economy.The 1951 amendment that added Clause 6 made it clear that the State was free to engage in any trade, business, industry, or service, whether completely or partially without the participation of citizens, whether directly or through a corporation owned or controlled by the State.In the Bank Nationalization case, the state's decision to forbid the listed banks from conducting banking operations was a necessary byproduct of the Union's assumption of the relevant activity and was thus exempt from challenge under Article 19 insofar as it impacted the freedom to conduct business.

Concerns with Privacy

Every person has the right to privacy as part of their overall right to live in dignity without having their enjoyment of any basic freedoms interfered with. If his right to privacy is violated without justification, there must be legal repercussions; otherwise, individual rights are meaningless.The right to privacy is seen as one of the most important human rights. Its meaning is "the right to be left alone," and its goal is to safeguard one's unalienable character. In the area of tort law, the right to privacy has been created as a distinct notion. According to some, an invasion of privacy poses the same danger to such freedom as an attack, violence, or detention. It violates one's sense of dignity. The general law of privacy, which permits a tort action for damages arising from an illegal invasion of private, is one aspect of this right. The other face is the constitutional acknowledgment of the right to privacy, which safeguards individual privacy against unauthorized governmental intrusion. The right to privacy is implied from Article 21 but is not expressly listed as a basic right in our constitution. The National Commission for Review of the Workings of the Constitution, however, advised adding the right to privacy specifically to section III in the following wording.

1. Every individual has the right to respect for their home, their communications, and their personal and family lives.

2. Nothing in clause shall prevent the State from enacting any law imposing reasonable limitations on the exercise of the right granted by clause in the interest of national security, public safety, or to prevent disorder or crime, to protect public health or morals, or to protect the rights and freedoms of others.

In the case of Time Inc. v. Hill, there was a first effort to claim and establish the right to privacy in relation to press freedom. In this instance, three escaped convicts broke into James

Hill's home and kept the family members hostage for nineteen hours before releasing them safely. Two of the offenders were killed by gunfire as the police promptly pursued them. While the family's position was that they were not mistreated, the press greatly distorted how these instances were presented. Hill sued Time Inc. for damages when the article was published in Life magazine and was successful. However, the Supreme Court applied the decision in New York Time v. Sullivan and overturned the damages judgment.The Court stated, "With the impossible burden of confirming with certainty the facts associated in news articles with a person's name, picture, or portrait, particularly as related to non-defamatory matter, we create grave risk of serious impairment of the indispensable services of a free press."

The Georgia Law makes it illegal and punishable to publish a rape victim's identity. The identity of a rape victim was acquired by a newspaper reporter from the court file and publicized. In Cox Broadcasting v. Cohn, Justice White acknowledged: "In this sphere of collision between claims of privacy and those of the free press, the interest of both sides are plainly rooted in the traditions and significant concern of our society." However, the learned judge decided the case on the narrow question of whether the press can be said to have violated the said statute or the right to privacy of the victim by publishing her name after having obtained permission to do so. The court determined that if the press received the identity of the rape victim from the public record and published it, neither the Georgia Law nor the right to privacy had been infringed. The court said that the country's current government structure depends critically on the freedom of the press to disseminate facts found in public records.

The violation of privacy by the government was at issue in Kharak Singh v. State of Madhya Pradesh. The petitioner was placed under surveillance in accordance with police regulations, which included secret picketing of the suspect's home or approaches to it, nighttime visits, periodic inquiries by police officers into reputation, habits, associations, income, or occupation, and reporting by police constables on the person's movements, among other things. The rule was contested because it went against basic rights. A special panel of seven judges ruled unanimously that the regulation was legitimate save insofar as it permitted police officers to visit people at home.

The statute passed by the State of Connecticut that imposed a fine on anybody who used a medicine, medical device, or other item with the intention of preventing conception was contested in Griswold v. Connecticut. In order to provide couples with advice on conception prevention and other medical issues, the appellant operated a counseling facility. Even more so, he was recommending birth control. The defendant was charged with breaking the law. He argued that the legislation violated the US constitution's first and fourth amendments. The Supreme Court supported the argument and ruled that the government cannot regulate or prohibit actions that are legally subject to state regulation by using methods that sweep overly wide and infringe on fundamental freedoms. The concept of marital privacy being violated by allowing the police to inspect the hallowed sanctum of married beds for telltale signs of contraceptive usage is simply repugnant.

In yet another landmark ruling, the Supreme Court determined that the telephone tapping violated both Article 19's guarantee of free speech and Article 21's protection of privacy. In The Peoples Union for Civil Liberties v. Union of India, the petitioner contested the legality of telephone tapping that was done on the pretense of using Section 5 of the Indian Telegraph Act, 1885, to exercise a legal right. This provision allows for the interception of communications for "public emergency" or "in the interest of public safety" reasons. The Court held that "it is not possible to safeguard the rights of the citizens guaranteed under

Articles 19 and 21 of the Constitution" in the absence of a reasonable and fair system for controlling the use of authority under Section 5 of the Indian Telegraph Act. A telephone tapping order may only be granted by the Home Secretary of the Center or State Governments, in accordance with the rules established by the Supreme Court. The time for telephone tapping cannot exceed two months unless granted by the reviewing authority, who has the ability to prolong it up to six months. This order is subject to review by a high-power review committee. The three-person committee, which consists of the Cabinet Secretary, the Secretary of Law, and the Secretary of Communications at the federal level, and the Chief Secretary, the Secretary of Law, and a member other than the Home Secretary at the state level, is granted this authority. Unless the prohibition arises under one of the justifications specified in 19, telephone tapping also breaches Article 19. When two people are conversing with one another, both are exercising their right to free speech and expression and exchanging ideas. This freedom is violated by tapping. It may even violate someone's right to privacy.

The Auto Shankar Case: Privacy, Defamation of Public Officials, and Public Order

The Supreme Court issued a landmark decision in R. Rajagopal v. State of Tamil Nadu, holding that the Government has the ability to prohibit the publication of an autobiography because doing so would be libelous or would violate someone's right to privacy, among other things. It is impossible to predict in advance whether a newspaper will be critical of certain prominent figures. If anything is claimed to be defamatory after it has been published, the authorities have a legal recourse. This is a case that vehemently opposes any restriction on press freedom based on the suspicions of potential victims. The Court also ruled that if a publication was based on "public records," the press could not be punished. When a Tamil spectacular weekly called "Nakheeran" suggested publishing the memoirs of a convicted prisoner named Auto Shanker with a forewarning regarding sensational disclosures concerning a relationship between criminals and public officials including police and jail authorities. The newspaper's editor pleaded with the court to order the Tamil Nadu government not to obstruct the publishing of the prisoner's memoirs, which was written after he was found guilty of six murders and given the death penalty. With the permission of the jail administration, the prisoner's counsel gave the autobiography to the news magazine for serial publication. The newspaper chose to start publishing and publicised it in advance since the autobiography included a narrative about the connections between criminals and authorities, particularly between the prisoner and various IAS, IPS, and other personnel.

It was claimed that the police authorities used third-degree tactics to obtain several letters from the prisoner that were sent to high-ranking government officials and asked them to halt publication of the autobiography. The prisoner denied writing any such memoirs, prompting the Inspector General of Prisons to request that the publication be halted in a letter to the editor. It was labeled as a fraudulent autobiography by the IG. The Editor asked the Court for guidance in order to stop interference with his right to decide at his discretion what should be included in his publication. The journal has every right to print Auto Shankar's autobiography, according to the Division Bench, which was composed of Justices B. P. Jeevan Reddy and Subhas C. Sen. According to the Supreme Court, a newspaper may publish a person's life narrative without their permission or agreement as long as it is consistent with public records. However, if they go beyond the public record and publish, they risk violating the privacy of the identified officials and damaging their reputations.

Although they had the ability to file a lawsuit for defamation after publishing, the Supreme Court ruled that even if the officials' fears about the publication's libelous contents were accurate, they could not prevent it from happening beforehand. Even if they are entitled to do so, there is no law that allows them to prevent the publication of a material that is likely to be

defamatory of them, according to the Supreme Court. "The remedy of public officials and public servants, if any, will arise only after publication and will be governed by the principles d therein," it was stated. In this instance, some general ideas about press freedom are developed.

1. The right to privacy is embedded in the rights to life and liberty that Article 21 guarantees to its inhabitants. A right to be left alone exists. A person has a right to protect his or her own privacy, as well as the privacy of his or her family, marriage, reproduction, motherhood, childbearing, and other things. Without his permission, no one may write anything on the aforementioned topics, whether it is true or false, positive or negative. If he did, he would be infringing on the person's right to privacy and liable in a lawsuit for damages. However, if a person deliberately enters a debate, or actively initiates or raises a debate, their position may alter. The Supreme Court proposed a new exemption to the list of exclusions under Article 19 to limit the freedom of the press.

2. The aforementioned regulation is subject to the exemption that any publication pertaining to the aforementioned features becomes permissible if it is based on public data, including court records. This is due to the fact that once something is public knowledge, the right to privacy is lost and it is acceptable for press and media, among other parties, to remark on it. We are, however, of the opinion that an exception to this rule must be made in the name of decency [Article 19], specifically that a female victim of a sexual assault, kidnap, abduction, or other similar offense should not be further subjected to the humiliation of having her name and the indecent made public in press/media.

3. There is still another exception to the rule stated above; in fact, this is a separate rule. It goes without saying that in the case of public officials, their actions and behavior related to the performance of their official responsibilities do not give rise to a right to privacy or, for that matter, a remedy of action for damages. Unless the official proves that the publication was made by the defendant with reckless disregard for the truth, this is valid even though the publication is based on facts and claims that are untrue. In such a situation, it would be sufficient for the defendant to demonstrate that his actions followed a reasonable verification of the facts; he would not be required to demonstrate the veracity of what he has written. No doubt. The defendant would have no defense and would be liable for damages if it were shown that the publication was false and motivated by retaliation or personal enmity. It is similarly evident that the public official has the same protection as any other citizen in situations not related to the performance of his responsibilities, the public obligations, as indicated in and above. It is unnecessary to reiterate that the judiciary, which is protected by the ability to penalize for contempt of court, and Parliament and legislatures, which are exceptions to this rule due to the rights afforded to them by Articles 105 and 194 of the Indian Constitution, respectively, are exceptions.

4. They cannot sustain a lawsuit for damages for defaming the government, local authorities, and other organs and organizations exercising governmental power.

5. The Official Secrets Act of 1923 or any other comparable statute or regulation having the force of law does not, however, entail that rules 3 and 4 do not bind the press or media.

6. No legislation gives the State or its representatives the authority to forbid the press or media or to place restrictions on them in advance.

The Supreme Court issued a warning. The statement read: "The aforementioned concepts are only their broadest forms. The Supreme Court desired that such a legislation should grow on a case-by-case basis since these notions were still in the process of formation. They are

neither comprehensive nor all-inclusive; in fact, no such enunciation is feasible or appropriate.

Times Newspapers Ltd. v. Derbyshire County Council, case no.

The Court claims that these problems weren't fully addressed. In an English judgement from 1993, Derbyshire County Council v. Times Newspapers Ltd., the idea of the impossibility of a state being falsely accused by the media was stated as a well-established legal principle. In this instance, it was unequivocally stated that a person holding a position in a state or municipal authority had only a private right to sue for defamation if the publication included negative remarks about how well he was doing his public obligations. However, he is not permitted to file the claim in the name of the office or authority and use its funds to support the claim.

Defamation and official behavior: New York Times v. Sullivan

Similar to this, the Division Bench accepted the ruling in New York Times v. Sullivan. The Defamation is mentioned as a limitation on press freedom. In this instance, the New York Times newspaper ran a full-page ad sponsored by the Committee to Defend Martin Luther King, Jr., and the South's Freedom Struggle that claimedor impliedthat Montgomery, Alabama police had wrongfully detained and harassed Dr. King and other civil rights demonstrators on a number of occasions. There were accounts of the police mistreating innocent individuals harshly. A court in Alabama ruled that the defendant newspaper was responsible for publishing defamatory material without independently confirming the information from its own office, which had previously published news reports that were at odds with the information in this advertising. The Court determined that a rule requiring a critic of official conduct to attest to the veracity of all of his factual assertions and to do so under penalty of virtually unlimited libel judgments results in "self-censorship" because it prevents potential critics of official conduct from speaking out, even if their criticism is true and can be proven in court, and because they are afraid of the cost of doing so. Thus, the vigor is diminished and the range of public discourse is constrained. It goes against the US Constitution's First and Fourteenth Amendments. The Constitutional guarantee necessitates a federal rule that forbids a public official from seeking compensation for a defamatory statement about his or her official conduct unless the official can demonstrate that the statement was made with actual malice, that is, with knowledge that it was false or with reckless disregard of whether it was true or not.

After considering its effects on Article 19 read with clause, sections 499 and 500 of the Indian Penal Code, and other factors, the Division Bench in the Auto Shankar case concluded that the Supreme Court should wait for a suitable case to establish this a norm. With this landmark ruling, the Supreme Court has laid the groundwork for developing new legal doctrines on the aforementioned ideas, which will undoubtedly increase the breadth of freedom in respect to criticism of official behavior while restricting that freedom in regard to a citizen's right to privacy.The right to privacy is inherent in the rights to life and liberty protected by Article 21, according to the Supreme Court. To be left alone is proper. A citizen has a right to protect his personal information, including information about his family, marriage, procreation, motherhood, childbearing, and education. No one else is allowed to publish this information without the individual's permission. But the aforementioned prohibition does not apply if such publishing is based on public information, including court record. The Court also ruled that it is evident that a public official's actions and behavior related to the performance of their official responsibilities do not give rise to a right to privacy or, for that matter, the right to bring an action for damages. They cannot sustain a

lawsuit for damages for defaming the government, local authorities, or any organs and organizations exercising government power. There is no legislation that gives the State or its representatives the authority to forbid the press or media or to put restrictions on them beforehand.

However, an exception to this restriction was made in the sake of decorum. The humiliation of having her identity and the occurrence reported in the media or press should not be extended to female victims of sexual assault, kidnapping, abduction, or other similar crimes.The House of Lords said in the "Spycatcher case" that it is not in the public interest to for governmental agencies to file libel lawsuits. It was against the public interest because acknowledging such an action would impede free expression, and because taking legal action for defamation or threatening legal action would always have a chilling effect on free speech.

Attorney General of Antiqua v. Leonard Hector

The defendant in Leonard Hector v. Attorney General of Antiqua was charged for violating section 33 of the Public Order Act of 1972. The appellant contested the clause on the grounds that it violated the right to free speech protected by Section 12 of the Antigua and Barbuda Constitution. In support of the claim, the Privy Council said that section 33's jurisdiction is broad enough to embrace misleading comments that may potentially harm public order in addition to those that already have. As a result, the provision grants a great deal of authority to halt any utterance that violates the Constitution. The criminal case against the appellant was dismissed. The Supreme Court must weigh the constitutionally protected freedom of the press against the constitutional right to privacy. In Time, Inc. v. Hill, the Supreme Court decided that in the absence of proof that Life magazine had falsely claimed that the members of Hill's family were being held hostage in the Hill home by the escaped convicts, the application of the privacy statute to correct false reports of matters of public interest was prohibited by the Constitution's protection for speech and the press. Later, the US Supreme Court sided with press freedom above the right to privacy. Despite how important political discourse and public commentary are to a functioning government, they are not the exclusive domain of the right to free speech and the press. Living in a civilized society entails varied degrees of exposure to other people. The danger of this exposure is a necessary part of living in a culture that prioritizes press and speech freedoms.

The topic of the governing journalists' and broadcasters' invasions of privacy is now under discussion. There are arguments that asserting privacy protections will impede media freedom of speech and that privacy is insufficiently defined. These assertions may not be valid. As the general law in Great Britain does not recognize a right to privacy, there is a larger discussion with reasons for creating a common remedy that might be used by all people against each other's breaches of private. Except for certain key Supreme Court rulings that interpreted Article 21's right to life to include a person's right to privacy, this is the situation in India.

CONCLUSION

In conclusion, Freedom of association is a basic human right that improves democratic society, empowers people, and promotes social cohesion. It is crucial for the growth of civil society, teamwork, and the defense of human rights. Governments, civil society groups, and individuals all have responsibilities for upholding, defending, and promoting freedom of association so that people may band together, express themselves, and advance society. By protecting and promoting this right, we may promote inclusive, democratic communities that honor people's inherent worth and freedom. It might be difficult to strike a balance between freedom of association and other rights and interests. Conflicts may occur if the exercise of

this right interferes with another person's right to privacy, equality, or public safety. In resolving these disputes and striking a fair and acceptable balance between conflicting interests, courts and legislative authorities are essential.

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CHAPTER 5

CODE OF PRACTICE FOR MEDIA IN UK: A REVIEW STUDY

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ABSTRACT:

The Code of Practice for media in the United Kingdom (UK) sets standards and guidelines for journalistic ethics, accuracy, and fairness. This paper examines the significance and impact of the Code of Practice in maintaining journalistic integrity, protecting individual rights, and ensuring responsible media practices. It explores the key principles of the Code, including accuracy, privacy, discrimination, and the treatment of vulnerable individuals. Additionally, it discusses the role of regulatory bodies such as the Independent Press Standards Organisation (IPSO) in enforcing the Code and addressing public complaints. By understanding the Code of Practice for media in the UK, we can appreciate its role in promoting accountable journalism and upholding public trust in the media.When it was the only logical, workable technique of gathering information in the public interest, deception, covert monitoring, or inflicting suffering or humiliation might be acceptable.

KEYWORDS:

Harassment, Impartiality, Misrepresentation, Plagiarism, Press Standards, Privacy.

INTRODUCTION

The Press Complaints Commission of the UK developed a Code of Practice in 1997, which comprises sections dealing with privacy, media use of covert recording devices in Section 5, and preventing misrepresentation in Section 7.The use of long-lens photography to take pictures of people on private property without their consent is generally not accepted, and publication can only be justified when in the public interest, according to Section 4 of the Constitution.

Listening Devices: The Code's Section 5 addresses listening devices. It states that journalists should not gather or publish information gained by employing covert listening devices or by intercepting private telephone calls, unless it is justified by the public interest.

Misrepresentation: According to Section 7, journalists should typically avoid using deception or other sneaky tactics to get information or photos.

1. Documents or photos should only be deleted with the full authorization of the owner, unless doing so is in the public interest[1], [2].

2. Only when it is in the public interest and when there are no other ways to collect the information, can subterfuge be justified.

As many as five different codes of practice provide guidance on safeguarding privacy interests. The Press is subject to the aforementioned Press Complaints Commission's code of conduct. Prior to that, the 1976 Press Council Declaration on Principles of Privacy served as the standard. It was stated that the justification for publication or inquiries that infringe on a person's right to privacy must be a proper and legitimate public interest rather than just a "prurient or morbid curiosity," that is, when "the circumstances relating to a person's private life may be likely to affect the performance of his duties or the public's confidence in him or

his office[3], [4].The Press Council in the UK was never able to properly enforce the Declaration since it is up to the press to determine what would impact public obligations and perhaps what were fairly reasonable procedures[5], [6].

Ethics in broadcasting

Even Broadcasting Code agrees that privacy invasion is justified by the public interest. It states that a compelling public interest in the publication of the material must outweigh any potential privacy intrusion. This might include exposing or discovering criminality or improper behavior, safeguarding the health or safety of the general public, debunking false statements made by people or organizations, or exposing flagrant ineptitude in public service. Additionally, the methods used to get the material must be appropriate for the subject under study[7], [8].

Individuals' right to privacy

The European Convention on Human Rights provided a definition of privacy and made a case for its defense.

1. Everyone has a right to respect for their home, their communications, and their private and family lives.

2. There shall be no interference with the exercise of this right by a public authority, except as authorized by law and required in a democratic society to protect the interests of national security, public safety, or the nation's economic well-being, to prevent disorder or crime, to protect health or morals, or to protect the rights and freedoms of others.The right to control the access of information about oneself is often referred to as privacy. The argument for such restrictions is sometimes expressed in terms of a human desire for privacy or control over how one presents themselves to others[9], [10].

According to Gibbons, the protection of privacy may be subordinated in the face of a compelling public interest in disclosure. If keeping the information secret would negatively impact the public at large, despite the potential harm or distress to the individuals involved, intrusions or deceptions, such as snooping, covert surveillance, trespassing, or intercepting letters and telephone conversations, may be justified.The fact that information regarding damaging and antisocial actions is private does not excuse its ongoing concealment; rather, in the sake of democratic participation, information pertaining to a politician's capacity to rule must be made public.According to the aforementioned standards, recording and disclosing tapes of conversations with public officials in private spaces is not an invasion of their privacy because they were exposing scandalous arms purchases, which are a public matter and people have a right to know about because it affects their security.

A person must be allowed to live according to his or her own terms, free from any intervention or intrusion by promotional agencies. Man's right to privacy is inside himself, with unjustified and unneeded publication being the most concerning aspect. Emulation and pleasure are obtained via imitation of a certain life. However, unneeded and invasive exposure makes a private existence a public nuisance. It is not imitation to be exposed. Publishing personal information in the media might cause unwanted shame. In a media presentation, no one may violate another person's private and claim ownership of it. Newspapers are there to expose; that is their purpose, as Sir Norman Fowler said. At their finest, the media exposes thieves, spies, and con artists; nevertheless, at their worst, they pry into people's personal affairs when doing so serves no legitimate public purpose. Drawing a line is plainly tough.

Describe privacy

It is impossible to define "privacy" in a way that is satisfying. Black defined it as the individual's right to shield himself and his possessions from unwanted exposure and public scrutiny.There have been proposals to define a particular statutory tort of privacy invasion. The two options are that they "either go very far, equating the right to privacy with the right to be left alone, or they boil down to a catalogue of assorted values to which the adjective "private" or "personal" can reasonably, but not exclusively, be attached." The risk of having a broad privacy regulation is that it will be difficult for the media to serve as the watchdog role that the European Court of Human Rights values highly. The following is the working definition of privacy as proposed by the 1990 Calcutta Committee: The individual's right to be shielded from physical or informational eavesdropping on his or her private life, affairs, or those of his or her family.According to the Calcutta Committee, a right to privacy in this sense could include defense against physical intrusion, publication of hurtful or embarrassing personal information, publication of inaccurate or deceptive personal information, or publication of pictures or recordings of an individual taken without their consent.The Indian Supreme Court further explains it in the R.R. Gopal case as follows:

A citizen has a right to protect his or her own privacy, as well as the privacy of his or her family, marriage, and other personal matters like becoming a mother and raising children. Without his permission, no one may write anything on the aforementioned topics, whether it is true or false, positive or negative. If he did, he would be infringing on the person's right to privacy and would be subject to legal action for damages.

Rape victims' identities: media's repeated invasion of privacy

The victim is further impacted by the rape victim's identity being made public. It has been ruled that publishing a newspaper article or making a movie that claims a specific lady was raped constitutes defamation of the victim. The social climate and the shame associated with a defenseless woman enduring an injustice and its effects are the cause.The privacy must be protected in a number of ways, such as by urging the media not to reveal the names of women and children who have been the victims of sexual assault and other crimes. The Press Complaints Commission, which took over the Press Council following the Calcutta Committee's recommendation, developed a code and stated: The press should not name minors under the age of 16 who are involved in cases involving sexual offenses, whether as victims or witnesses, even if the law does not forbid it. Press cannot name family members, friends, or those who have been convicted or suspected of crimes without those people's permission. Press must refrain from identifying sexual assault victims.

DISCUSSION

The Supreme Court observed

A rapist not only harms a victim physically but also irreparably damages her dignity, chastity, honor, and reputationthe things she values most in life. When such beasts in human form sexually abuse youngsters, juveniles, and, as in the present instance, a pregnant lady in the advanced stages of pregnancy, they have fallen to the lowest moral depths.The argument that the act of rape was committed by a criminal and did not entail any wrongdoing on the victim's part, and thus did not constitute any defamation, was rejected by the court. Such an accusation causes social exclusion due to the stigma the victim carries in society. In 1986, the Indian Criminal Law was revised to reflect developments in western criminal law that made it illegal to publish the identification of a victim. The Indian Penal Code's Section 228A stipulates a two-year sentence, with or without fine, for disclosing the victim's name and

identify only to prevent repeat victimization. It is an expression of the victim's right to privacy and right to reputation, as well as the obligation of the government and society to shield her from further rights abuses, all of which are key components of Article 21.

Privacy invasion propensity

The media often violates someone's privacy by penetrating their solitary, publishing private information, placing them in a false light in the public view, or exploiting a portion of their personality for monetary gain. Although the market's demands centered on sensationalism are what led to it, they often claim that it was newsworthy. Lord Byron, one of the most well-known poets, filed a lawsuit to stop the publishing of subpar poetry under his name. The press needs to comprehend that newsworthiness is not a defense.

Three women's lives were recently taken in Hyderabad, according to recent reports in the local media. After the loss of the father, the mother and two girls chose an inside existence before an outside death. Both their life and death were spent in isolation. They stayed indoors for a while out of dread of being harassed, both sexually and otherwise, by their unemployed neighbors and neighborhood rowdies. They had made a suicide pact, as shown by the overpowering scent of rotting. Their clothing was lost due to decomposition and other factors. The visual media didn't think twice before showing their naked, lifeless corpses on the little screen. According to their account, they would have chosen death over losing their private, and when they died, the media caused them to lose their privacy. The majority of viewers believed the media would have avoided exposing the subject in up-close images. Nobody stayed with their family to voice their complaints, yet the wrong is nevertheless done to the deceased, who would have chosen death to being mistreated. This is but one instance of privacy being violated.

When other video channels and broadcasters utilize the video clips, either with or without the original news channel's "courtesy," a new layer may be added to this. The original broadcaster may want to stop copies of their "exclusive" and "sensational" material even if the deceased may have a valid complaint based on the invasion of privacy. If the basic legal principle—according to which judges are not inclined to safeguard material that violated a right—were implemented in this case, the people who copied the exclusive video clips would profit, subject, of course, to the repercussions of a privacy invasion. The media cannot get copyright over such works in violation of an individual's right to privacy by working hard for it. Understanding the interplay between copyright and privacy in relation to print, electronic, and new media in cyberspace is necessary in this setting.

A limited right to privacy is outlined in Section 85 of the Copyright, Designs and Patents Act of 1988 in the following terms:A person who commissions the taking of a photograph or the making of a film for private and domestic purposes has the right not to have copies of the work issued to the public, the work exhibited or shown in public, the work broadcast, or the work included in a cable program service, and a person who does or authorizes the doing of any of those acts violates the right where copyright exists in the resulting work.Even when the commissioning party holds copyright in the work, he is restricted from violating others' privacy. Section 85 of the CDPA contains a few exceptions to the right to the accidental incorporation of the work in an artistic production, film, broadcast, or cable show. The privacy issue does not arise if the work was commissioned for commercial purposes with the person's agreement. Before the right to privacy may exist, the copyright in the image or video must exist. Only as long as there is copyright on a work will the right to privacy endure.

Depending on the terms of the model's contract, a newspaper or broadcaster that hires a cameraman to shoot a model for a commercial reason is not infringing on the model's privacy.

In contrast, privacy invasion would occur if news channel staff cameramen recorded a private person's life for their commercial benefit without first getting that person's informed permission. Although the victim's personal life may be of interest, it may not be in the public interest to publish it under certain circumstances. The circumstances of Shailaja's sensational murder in Hyderabad, where she dismembered the victim to obliterate the evidence, have received widespread media coverage. She falsely claimed that the victim had tried to sexually exploit her while she was being interrogated. The wife or other family members were not consulted before the media hastily published such character aspersions. In a news report, it violates privacy. There is no comparable guarantee for privacy in India as there is in England under the CDPA of 1988. The Protection from Harassment Act of 1997, which criminalizes harassing behavior and also offers a civil cause of action for damages, also protects privacy in England. It also defends against media harassment.

The Indian Supreme Court's recognition of workplace sexual harassment as a new kind of human rights abuse in the Visakha case provides working women with legal protection for their privacy. The regulations governing data protection place significant limitations on the applications that may be made of personal information. Through the enforcement of land rights and interests, such as trespass to land and annoyance, privacy may be indirectly protected. Unlawful interception of communications sent over the mail or through a public telecommunications infrastructure is a crime, according to the Wireless Telegraphy Act of 1949 and the Interception of Communications Act of 1985. In India, the Freedom of Information Act of 2002 protected privacy by allowing exceptions to the norm against disclosing information. By identifying the telephone tapping as an invasion of privacy, the judiciary saved privacy.

In the Autoshankar Case, the state asserted the prisoner's right to privacy and said that the jail and police were involved. The state also argued that the prisoner's autobiography should not be published and attempted to prevent the Nakheeran from doing so. It was decided that although if the person in question was a prisoner, their right to privacy belonged to them alone, and no one else had any claim to it. If the author gives Nakheeran permission to publish the latter's autobiography, there is absolutely no violation of privacy. In this instance, the press is not required to get the state's or the police's approval before publishing that autobiography. Nakheeran might also be the owner of the work's copyright after purchasing it from the author. Defamation of the state and its officials was asserted as one of the grounds to stop the publishing in this instance, thus that issue was also addressed. The court ruled that there could be no previous restrictions on publication and that those affected could only seek redress for defamation after it had already been published. Additionally, it was determined that the state was not permitted to assert the prisoner's right to privacy or make a defamation lawsuit before or after the publishing.

Daniel Case

The Prince of Wales Diana and her companion Dodi Fayed visited Villa Windsor in Paris the day before their deaths in a vehicle accident, according to still images captured by a security camera in Hyde Part Residence Ltd v Yelland. A security guard grabbed the images, sold them to the newspaper, who published them more than a year later. Hyde Park had requested summary judgment in the first instance, citing a copyright violation. In order to report on current events, the defendant used the defense of fair dealing. Fair use was affirmed by the court. On appeal, it was nonetheless overturned. The intent of the accused infringement, the scope and purpose of the use, and whether the scope was required for the purpose of the current events in issue will determine whether the usage was fair or not. In Diana's instance, the material had not been distributed to the general public or published. One of the key signs

that the usage was unfair and not for the purpose of reporting current events was thought to be this. A fair-minded and honest person would not pay for the dishonestly obtained driveway stills and publish them in a newspaper knowing that they had not been published or dispersed, the court stated in its analysis of the fair use doctrine using the standard of a reasonable man. The use's scope was also seen to be excessive, which was another contributing cause. It may also be contested on the grounds that it violates the privacy of a well-known individual, which will prevent the creation of any copyright for a work against public policy.

Selling Intimate Life Tales

In the case of Pro Sieben Media AG v. Carlton UK Television Ltd. from 1998, Calton UK TV aired a current affair show that critically examined the problem of "cheesebox journalism" and the selling of media outlets tales about people's private lives. The show included a 30-second clip from an interview with Mandy Allwood, who at the time was well-known for being pregnant with eight babies and profiting from her condition. The interview was aired by the plaintiff Pro Sieben. The defendant claimed fair use as a defense for criticism or review whereas the plaintiff claimed violation of his copyright. The trial court rejected the fair use defense and ruled that there was insufficient credit given to the creator of the original software. As there had been enough recognition, the Court of Appeal overturned the judgment. The Court argued that the exceptions to the theory of fair use had successfully struck a balance between safeguarding the original author's rights and the larger public interest, with free expression playing a significant role in the latter.

However, she is unable to bring up the privacy problem since she agreed to make her private information public in exchange for payment. Since the fair dealing was done with the intention of receiving criticism, it is acceptable for the criticism to be harsh and unjustified without jeopardizing the fair dealing defense. It is best to regard the phrases "for the purpose of criticism or review" and "for the purpose of reporting current events" as a composite. Regarding fair dealing, the intents and motivations of the user of copyright material were very important. Ideas and stylistic critique are both included in the criticism. The presentation was a critique of cheque-book journalism in general and the way the Allwood affair was covered by the media in particular. Since the event was ongoing and just a brief excerpt was used, there was no violation.

Privacy and Surveillance

According to reports, in a number of high-profile lawsuits, representatives of the copyright industries have attempted to force recalcitrant third-party service providers to carry out monitoring on their behalf. Even network service providers are required to monitor and report on consumer activity. The current dispute focuses on the contradiction between the corporate program maker's financial interests and the average television viewer. The corporate program maker owns the copyright to every single work of art created by various persons. The privacy of the average consumer and the commercial owner's copyright are at odds, and there is no regulation in place to govern these issues or shield privacy from the assault of the commercial owner's copyright. This enables exploitation of intellectual property rights (IPRs) by corporate business managers who just trade on IPRs' property. They buy the copyrights of individual producers for meager sums or for next to nothing, combine them with corporate streams of entertainment industry programming broadcast on their own television channel, and are ready to take advantage of consumers as well. At first glance, it seems as if you are defending a person's right to their creative works in order to reap financial rewards for themselves. Once the intellectual property has changed hands and is in the possession of the entertainment trader, it takes on a new proposal and will continue to trade over it for a very

long time, charging for each minute that a person views it, as he is aware due to its technological competence. The term "Digital Rights Management" is used to secure the commercial aspects in this context, and it is justified on the basis of contract law and copyright, as well as the necessity to safeguard and uphold the property rights of copyright owners. Even in the case of the assignment of copyright, the insufficiency of the consideration in a contract of that sort is not in doubt, as is the case with any other standard contractual norm.

CONCLUSION

In conclusion, promoting ethical journalism, defending individual rights, and maintaining public confidence in the media are all important goals of the UK's Code of Practice for Media. It establishes norms for precision, confidentiality, equity, and nondiscrimination. Regulatory organizations like IPSO provide a system for handling complaints from the public and ensuring responsibility. Despite the fact that the Code represents a substantial advancement in responsible media practices, ongoing efforts are required to assure its successful implementation, accommodate new problems, and promote a media environment that serves the public good. The Code of Practice does include certain restrictions, however. Compliance is optional, and some people want more regulation to deal with enduring media ethical problems. Enforcing the Code across online platforms and social media is extremely challenging due to the ever-changing digital environment.

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CHAPTER 6

CHARACTER ASSASSINATION OF VICTIM OF SEXUAL ASSAULT

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ABSTRACT:

The use of blogs for character assassination of victims of sexual assault is a concerning and ethically problematic phenomenon. This paper examines the impact of such behavior, exploring the motives behind character assassination, the potential consequences for victims, and the ethical implications for bloggers and society as a whole. It delves into the importance of ethical journalism, responsible online behavior, and the need to support and protect victims of sexual assault. By understanding the detrimental effects of using blogs for character assassination, we can foster a more compassionate and responsible digital environment.Defense counsel frequently employ character assassination of sexual assault victims to undermine their testimony in court. The defense attorney in a rape case is permitted by Section 155(4) of the Evidence Act 1872 to demonstrate that the victim had a history of immoral behavior.

KEYWORDS:

Consent, Crime, Harassment, Rape, Survivor, Support, Trauma.

INTRODUCTION

When an international school principal was arrested for allegedly raping a 17-year-old student in the 11th grade, the TV channels showed building shots of all the international schools in Hyderabad, oblivious to the fact that they were implying that those schools were also dangerous for girls. Salahuddin Ayub, the principal of Parkwood International School in Manneguda, near Vikarabad on the outskirts of Hyderabad, has been charged with rape and criminal intimidation. The school administration refuted claims that they were made to malign their well-known institution, which has branches across the Middle East, while the parents of the girl from Mumbai said that she was frequently raped by the principal over the course of the last year[1], [2].

Criminal Activity: As News, Case, Story, Success

The media usually turns its attention to the investigative process after constantly showing arrest scenes, which is what occurred in this instance as well. In an effort to convince the public that they were effective and had located the genuine offender, the police attempted to capitalize on the media's desire to learn more about the accused's alleged "confession." The following words demonstrate how the nameless "sources" are the core strength of such reports. According to reports, the accused admitted that he had resided on the third floor of the Princes Court Block, which housed females who were students at the institution. According to sources who cited the confession statement written on a laptop, he used to contact female students from the first floor of the building each day and pleaded with them to remain there even during late hours. To clarify up some questions in March, the girl went to his room around 9.30 p.m. He then came up with a strategy and put a sedative in the girl's refreshing drink before giving it to her. When she drank it, she passed out. The sources said that after having the girl raped, he also threatened to murder her if she told anybody about it and brandished his legally owned 0.32 handgun. The accused acknowledged taking the child

to two hospitals. On May 5, he initially brought her to a Banjara Hills corporate hospital because he suspected she was pregnant. He told the girl to go into the hospital while he was waiting outside and gave her the necessary cash. The girl was then sent to a private nursing facility in Lower Tank Bund for further care. Her abortion medication was given to her by a female hospital doctor. According to sources, he also admitted to having the bad habit of often photographing and filming female pupils and used to see them at night. In his confession, he also admitted that he had taken the girls beyond the boundaries of the school without recording their departure in the security log. On July 1, a few female students visited my room to watch a movie on the television[3], [4]. The international student watched TV while dozing off in my room. I requested that the other pupils leave the girl alone in my room. I caressed her after the other females had left and made an attempt to take her clothing off. But she fought back and sobbed loudly. Then I had a change of heart and told the girl I wouldn't tell anybody, Ayub said in the confession. The prosecution's case won't be strengthened in any way by the official or informal release of such "sensational" material with incident specifics to the media. Still, both parties eagerly exchange and reciprocate.

Is it a concern of the police or the media if a confession to a police officer would be sufficient to establish guilt or admissible in court? Both the media and the police wash their hands after writing the confession article. No further investigational achievements are reported in the media. Once the media loses interest, the case becomes normal, and no one would be paying attention while evidence was being destroyed, the inquiry was being watered down, etc. When the case results in an acquittal or minor penalty, everyone begins to discuss it[5], [6].It would be helpful for readers to be informed of the status of the investigation if media outlets reported that police had seized a handicap camera with memory card on which the sleazy scenes were recorded and the.32 pistol used as a threat. Once again, it is not necessary to disclose the specifics of the recordings. All of these will aid the accused in creating a strategy to weaken, undermine, or eliminate the force, which occurs when the media completely "forgets" this. Thus, media will aid the accused rather than the victim since it first overexcitedly reported confession details and items confiscated, and because it was silent, careless, or preoccupied with other crimes of current interest. Crime is only an interesting topic for the media, a challenge for the police to get attention for their effectiveness, a legal matter for the courts, and humiliation or worse for the victim, while reports serve the accused as "alerts" at every level. The system's dishonesty and corruption provide as significant advantages for the accused in shattering the case[7], [8]. As judgment day approaches, the judiciary is held accountable. Justice also suffers.

Blogging to assassinate the protagonist

Every time a victim of rape goes through this procedure, something even worse occurs; in the case of this schoolgirl, it was the use of a new media for character assassination of the victim in defense of the rape accuser. The character assassination is a key tactic practically all sexual offense accusers use. a blog was up to discredit and demoralize this rape victim, a 17-year-old student. The Times of India published it as a banner piece, which may have caused readers to hurry to the blog to look for the victim's identity. It argues that the blog includes a picture and other information that online users find sufficiently interesting. According to the headline news story, a blog has been launched specifically with the intention of defaming the rape victim of Class XI at Parkwood School and her family, breaking several laws of the nation. The 17-year-old, who has accused the school's director of rape and uploaded the director's images online, is named in the blog. In addition to refuting all of her assertions made in connection with this case, it also raises concerns regarding her "relationship" with other male students at the institution. Even worse, it distributes a photo of the girl that was taken from

her profile on a social media website. Although the identity of the blog's author is unknown, it is abundantly evident from its content that the angry school administration uses it for their own purposes. The site goes on to discuss the victim's family history in detail, including her parents and siblings among others, and makes the claim that it was started to thwart the "malicious attempt to defame the director and the school." This allegation alone would be sufficient to file a case against the accused and his crew. The victim's father is also quoted in the paper as adding, "They have not only spread her pictures all over the internet, but they have also made false accusations." It is not only against the law but also immoral[9], [10].

The following elements presented in the news article further support the idea that the blog is produced by the accused group. The school administration's statements from last week, when M S Ayub, the school director, was accused of being raped, are repeated in what seems to be a blog post. The school administration, led by Ayesha Tanvir, Ayub's sister, subsequently said they would allow the law handle the situation on its own, but the blogger has oddly cited every argument Tanvir raised last week. The evidence that points to the accused includes allusions to the victim's police testimony, accusations that the victim had a "hidden agenda," or mockery of claims that the accused had taken photos or videos.

Can the Legal System Save the Victim

The law was extremely clear that disclosing the identity of the rape victim would be illegal. The 1983-enacted Section 228A of the Indian Penal Code imposed a 2-year jail sentence as well as a fine for this offense. Anyone who prints or publishes the name of someone against whom a violation of section 376, section 376A, section 376B, section 376C, or section 376D is alleged to have occurred or is found to have occurred is subject to a fine as well as imprisonment of either kind for a term that may last up to two years. Nothing in the following sub-section applies to any printing or distribution of the victim's name or any other information that might reveal their identity:- By or pursuant to a written order issued by the police officer in charge of the police station or the officer conducting the investigation into the alleged offense who is acting in good faith in furtherance of the inquiry; or by the victim or with their written consent; or Where the victim is deceased, a minor, or mentally incapacitated, by, or with the written consent of, the victim's next of kin, with the caveat that no other person shall receive such consent other than the chairman or secretary, by whatever name called, of any recognized welfare institution or organization.

The term "recognized welfare institution or organization" as used in this section refers to a social welfare institution or organization that has been approved in this regard by the Central or State Government. Without the prior consent of the relevant court, anyone who prints or publishes any information regarding any proceeding before a court with regard to an offense mentioned in subsection is subject to fines and imprisonment of either description for a term that may not exceed two years.Printing or publishing a Supreme Court or High Court decision does not constitute an offense within the terms of this provision. Under a protocol from May 2000, the 1989 U.N.-adopted Convention on the Rights of the Child asks for "protecting the privacy and identity of child victims and avoiding inappropriate dissemination of information that could lead to child victims' identification".

When the victim gives the publisher written consent, Section 228A exempts the publisher from punishment. Only if the disclosure is required to further the investigation is the investigating police officer likewise spared. Otherwise, the policeman would also be responsible for giving a news conference and disclosing useless information about the victim. The Supreme Court recently163 made the observation that it would be wrong even for courts to reveal the victim's name and address in judgements, which are seen as public papers and

often published and quoted from. The division bench instructed all courts to refrain from writing the victim's name even if the law did not require it. It goes a long way toward respecting the victim's right to privacy. We do not intend to divulge the victim's name because, as Arijit Pasayat, J noted, Section 228A of the Indian Penal Code of 1860 makes it illegal to reveal the identity of the victim of certain offenses. A violation of Ss. 376, 376A, 376-B, 376C, or 376D may be penalized if it is printed or published together with any information that might reveal the identity of the person who the violation is claimed to have been perpetrated against. True, the printing or publishing of High Court or Supreme Court judgments are not subject to the prohibition. However, given the societal goal of avoiding social victimization or exclusion of the victim of a sexual offense, for which Section 228A has been created, it would be acceptable for the victim's name to not appear in judgments rendered by this court, the High Court, or a lower court. We have decided to refer to her as the judgment's "victim".

Of course, the accused is not afforded the same protection. He has no legal standing to demand that his identify not be revealed. He loses part of his right to privacy and even some of his reputation as a result of the criminal charge. It is acknowledged that the loss will be made up when the acquittal verdict is announced. Although there is a prima facie case for prosecution, the news report cannot go any farther with the charge. The media would be responsible for violating people's privacy and ruining their reputation if they made unfounded accusations and provided information without any support. Any further modifications to the work based on allegations that the events violated people's privacy would not qualify for copyright protection since the events cannot be protected by copyright. Naturally, if copyright had not been violated, the following copy that was published in breach of privacy would also be equally responsible for such wrong. The Juvenile Justice Act of 2000 included a punishment for disclosing the identify of a kid who is in trouble with the law or in need of care in an effort to protect minors from privacy violation. The International Federation of Journalists' standards require journalists to protect children's privacy and identification, as well as to think about the effects of publishing any reports and the need to prevent children from suffering damage.

DISCUSSION

Norms by Press Council

According to the Press Council of India's standards for journalistic behavior, names, images, and any information that might identify a kid who has been sexually assaulted should not be published. Press Council of India established Norm No. 14 that reads, in part, "Caution against identification: While reporting crime involving rape, abduction or kidnapping of women/females, sexual assault on children, or raising doubts and questions touching the chastity, personal character, and privacy of women, the names, photographs of the victims, or other particulars leading to their identity shall not be published".

Juvenile victims of crime

According to the Juvenile Justice Act of 2000, it is illegal to reveal a juvenile's name, address, school, or any other information that could be used to identify the juvenile in any newspaper, magazine, newssheet, or other form of visual media. It's probable that the claims made in the blog would fall under section 499 of the IPC's definition of criminal defamation, which carries a two-year jail sentence as well as a fine.

Online Crimes

In addition to being cyberdefamation, it may even be a crime under India's new cyberlaw, such as sending insulting comments, publishing or transferring obscene content online, or conveying information featuring minors in sexually explicit acts. Any individual who repeatedly uses a computer resource or a communication device to send information that is grossly offensive, menacing, or false with the intent to cause annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, or ill will is subject to imprisonment for a term of years.

Preventing Blogging

State or federal governments have the authority to order the banning of public access to any material through any computer resource under Section 69A. The sui case for using section 69A's ability to prohibit this blog is presented here. This directive may be sent to the middleman, server, or subscriber, and anybody who disobeys it faces a seven-year jail sentence as well as a fine. It is common knowledge that the victim is first raped during a physical sexual attack, followed by the media and the prosecution. Another media rape would occur when the victim was being cross-examined if the in-camera procedure were not the norm. Finally, the discussion and argument continue to harm the victim's reputation in the judgment text and, if it is appealed, in the appellate court's orders, for which there is no conceivable remedy. Blogging is now another technique used to further victimize the victim.

Attack of the Media on Privacy: The Arushi Case

On August 9, 2010, the Supreme Court issued a warning to the media for their careless reporting that invaded privacy and damaged the honor of crime victims in the Aarushi murder case. In response to the "wild allegations" made by the Noida police, who conducted the first investigation into the death of Aarushi, an attorney named Surat Singh filed a Public Interest Litigation in the Supreme Court in 2008. He was asking for some restraint in reporting. When the attorney representing Aarushi's parents brought up news stories and repeated television broadcasts that threw doubt on the character of everyone involvedthe victim, the Talwars, and their dead servantthe bench of Justices Altamas Kabir and A K Patnaik issued the ruling. Can press freedom become a license to disparage the reputation of a deceased person, as Surat Singh questioned correctly in his PIL? Does our Constitution not protect everyone, including those who are deceased, the right to privacy?He had asked for a directive to prevent the media from reporting on the Aarushi case until the crime's investigation was over. Aarushi Talwar's father, Rajesh Talwar, filed a petition with the Supreme Court in an effort to prevent the media from covering the issue in a careless and irresponsible manner. In his motion, Talwar claimed that the coverage by the print and electronic media was hurting their reputation and undermining their argument.

On August 10, 2010, the Supreme Court issued the following statement: "We not only reaffirm our temporary injunction of July 22, 2008, but also prohibit the respondents from releasing any information that might obstruct the investigation of any case. Justices Kabir and Markandey Katju made up the bench that made the following statement on July 22, 2008: "We will only observe that both the print and electronic media should exercise caution in publishing any news regarding the case which may prejudice the case or damage reputations." On August 18, 2008, the same bench made the following statement: "We are not worried about ourselves." We have wide enough shoulders, but we worry about people's reputations, like in the instance of Dr. Talwar. The media's participation is limited when the trial court is involved, or when the issue is sub judice. Extreme caution and care had to be used when reporting such situations, the court said, since it not only damages a person's

image but also causes them to be presumed guilty before their case has even gone to trial. In this instance, what is the concrete proof against them?

The top court recently added the following clarification: "We however clarify that this would not prohibit publication of information which will not interfere with investigation, damage reputation, or prejudice the accused." The press is crucial to a democracy. But it has to exercise restraint. What can be done if it is unable to control itself. Nobody advises not to report. But be sure to do it in a way that won't damage the reputation of any of the parties. Here, a young girl's reputation is at stake. Use common sense while reporting. A portion of the media referred to it as a "gag order" or a "new set of restrictions on media reporting on crime." In a decision that might change the journalistic landscape, the SC has essentially banned source-based news coverage in cases that are under investigation, according to the Times of India.

In actuality, the Supreme Court was just advising against breaking a particular ruling in the Aarushi murder case. Even if there is a gag order, it is not a blanket prohibition since the order is unique to the Aarushi-murder-report. The media reports were submitted before the SC, which thought that they violated a two-year-old order from the high court directing newspapers and TV networks to show restraint in covering the Aarushi Talwar murder investigation. The distinction between a general order and a specific directive in a particular situation must be understood by the news media. The SC also said that generally speaking, the media shouldn't publish a story if it has the potential to obstruct the investigation, damage people's reputations, or disadvantage the accused in court. This "restriction" is not brand-new. The constitutionally granted freedom that served as the justification for establishing appropriate legal restrictions on press freedom is adequately safeguarded by the rights of the accused to a fair trial, the right to privacy and reputation as part of the right to life of a victim, or family of the victim. As part of their freedom of speech and legitimate criticism, the media may continue to look into the evidence of the true perpetrator, any collaboration between the prosecution and the accused, or any other component of corruption, etc., impacting the justice in any criminal incidence.

The public's interest supports the media trial

In its ruling in RK Anand v. Registrar of Delhi High Court on July 29, 2009, the Supreme Court affirmed the sting operation that exposed the connection between criminal prosecution and top attorneys' interference with the administration of justice. An analytical court ruling in favour of the sincere, open, and in the public interest media "trial" has been made for the first time in the history of the media and judiciary. With this momentous ruling by the top court in the BMW hit-and-run case, respect for "justice" has revived. Six lives were lost in Delhi a decade ago as a result of Sanjeev Nanda, the son of an arms dealer, driving while intoxicated. An NDTV sting operation exposed the affluent and prominent accused of trying to obstruct justice. The "media trial" verdict served as a morale lift for productive sting operations, however it did come with certain caveats and restrictions. In the sake of a free press and an independent judiciary, the top court refrained to "regulate" media while applauding the TV station for exposing a well-known criminal lawyer's crime of buying a witness. The 100-page ruling written by Justices Agrawal, G. S. Singhvi, and Aftab Ali is a trial-by-media essay that evaluates the benefits and drawbacks of sting operations.

The media was enticed to deploy the hidden camera because of the drawn-out and complicated trial of this high-profile crime. The Supreme Court explained the context of the NDTV sting and the media's participation in the BMW trial and said that, even after eight years, the trial was still going nowhere satisfactorily. The primary accused's standing and the

contradictory testimony of the prosecution witnesses attracted a lot of media attention and public curiosity. For those who read newspapers and watch TV, this was just another case that was certain to fail. On May 30, 2007, NDTV aired a segment in which Sunil Kulkarni was shown haggling about a highly expensive sell-out to the defense with IU Khan and RK Anand. Kulkarni was previously dismissed by the prosecution but was called in following the broadcast. TV station said in court that the broadcast was based on a covert operation using a hidden camera, with Kulkarni serving as the mole.

The court declared that what was broadcast "was outrageous and tended to confirm the cynical but widely held belief that in this country the rich and the powerful enjoyed some kind of corrupt and extra-constitutional immunity that put them beyond the reach of the criminal justice system." The Apex court referred to this "sting" as the beginning of another trial. The whole incident has been well captured by NDTV, which is crucial to catching culprits. Witness Kulkarni was motivated to collaborate with the TV channel to reveal the prosecution-defence connection after seeing their half-hour broadcast on trial delays.

He served as a ruse for Pooja Agarwal, a reporter. Kulkarni was fitted with a concealed camera before being sent to speak with attorneys. Formatting the first microchip was done after making a backup copy. As formatted or modified material loses its "originality" character and value as proof, this led to a legal issue. Overall, the media outlet ran four rounds of sting operations to verify the "nexus." Poonam made sure the decoy was in her line of sight and that she was hidden from their view. Channel made use of four unmodified microchips. After the procedure, Kulkarni appeared on another broadcast and described how they documented the criminal-prosecution "nexus". Despite Kulkarni withdrawing his approval for the broadcast, the channel nonetheless went forward with the expose after seeking legal counsel. Program included remarks from corrupt attorneys Anand and Khan. The judge for the trial court saw the show and formally obtained from the managing director of the TV station the whole unedited original record of the sting operation with identities of personnel engaged. Anand, a lawyer, was incensed about the disclosure and wrote a legal letter threatening to sue for defamation for Rs. 50 crore if future broadcasts were not halted. The criminal attorney remained mute after a stern response from NDTV. So, the "media trial" record made it to the courtroom. The channel and reporter Poonam submitted thorough affidavits as instructed by the court. It was said that the channel made possible what Kulkarni planned and carried out. Then the attorneys for the two accused attorneys argued that the TV station had interfered with the court's proceedings. The court rejected it and penalized the attorneys with contempt of court, stating: "We are, at least in theory, convinced that counsel R.K. Anand, I. U. Khan, Sri Bhagwan, the attorney, and Mr. Lovely made a conscious decision to try to obstruct the proper conduct of the legal procedures and the administration of justice by the courts. It seems from their actions and behaviour that they wanted to tamper with the course of justice in the ongoing case, namely to affect the verdict.

Another NDTV broadcast from December 2007 revealed the relationship between witness Kulkarni and attorney Anand as old acquaintances and revealed Kulkarni's criminal history. Anand requested that the court regulate the media's coverage of court issues, particularly live cases that were under adjudication before the court, when the case reached Delhi High Court and he was personally defending himself. He brought up the age-old defense of media trials, claiming that media coverage would shape public opinion and tend to encourage the court to adopt an incorrect position. He requested that the court establish the rules and regulations governing media stings and undercover operations. All of these arguments were rejected by the court, which then examined five microchips before finding the counsel in contempt.

The media sting has progressed to the appeals stage of the trial in the Delhi High Court. For the media trial at this point, possibly for the first time in India's history of press freedom, it was a true victory. Never before has a media trial gone all the way to the top court, the high court, and the trial court as it did in the BMW case. The Supreme Court addressed the question of NDTV's participation in conjunction with the sting's focus on the "declining standards of the legal profession." The aimless BMW case trial was seen as the main contributor to the mess. The SC listened to Anand and Kulkarni's whole chat. The Supreme Court explicitly noted that Anand never disputed the veracity of the sting, despite the fact that Anand raised technical objections to the authenticity of the microchip recordings.

It covered the specifics of the dialogue and discovered confirmations in their later declarations. Another attorney Khan questioned the formatting of one microchip, casting doubt on the veracity of the information. The court determined that only the first chip was formatted, and it too did not allude to a major change in position, although agreeing that there were obvious errors that Channel should have avoided.In relation to an ongoing case involving a court witness, the prosecutor Khan's attorney questioned the legitimacy of the stings and the repeat airing of the sting show. He stated that the TV station should have notified and gotten authorization from the trial court before beginning the sting operations, which were packed with very grave consequences. Additionally, he said that trial by media had no place in our system since it was a matter under investigation.

By rejecting the request to establish rules for sting operations, the top court has politely indicated that it is not interested in meddling with the freedom of speech of the media. The argument that media could not conduct a sting without the court's prior approval was rejected by the Supreme Court. It correctly stated: "Such a course would not be an exercise in journalism, but in that case, the media would be acting as some kind of special vigilance agency for the court." After some thought, the concept seems to be fairly abhorrent from the perspectives of the court and the media. It would be a sad day if the court used the media to organize its own affairs; the media, on the other hand, would not like playing the role of court snoopers. Furthermore, it would constitute precensorship of reporting of court proceedings to require that a report about a current trial may be published or a sting operation about a trial may be conducted only with the previous agreement and authorization of the court. And this would clearly be a violation of Article 19 of the Constitution's protection of the freedom of speech and expression of the media. This is not to mean, however, that the media is allowed to publish any form of article about a case that is still pending or to conduct an undercover investigation into a case that is still being tried. A report or remark on a case that is still pending is only permitted within certain legal limitations, and doing so would be illegal and subject to repercussions. A sting operation is an immeasurably riskier and perilous thing to conduct than regular reporting. This is the core of the decision on "free press and fair trial," which states that since a sting is founded on deceit, it would be subject to significantly stricter legal constraints and any infringement would result in harsher penalties.

The media trial shouldn't turn into a "lynch mob"

The Supreme Court made an effort to define media trial while responding to arguments made by a senior attorney who had intervened as an amicus: "the impact of television and newspaper coverage on a person's reputation by creating a widespread perception of guilt regardless of any verdict in a court of law." In high-profile court cases, the media is frequently accused of igniting a climate of public hysteria akin to a lynch mob, which not only renders a fair trial nearly impossible but also creates the perception that, regardless of the outcome of the trial, the accused is already guilty and will be subject to intense public scrutiny for the rest of their lives. However, the apex court ruled that NDTV's sting operation

was not a media trial because The focus of the show was on two attorneys who represented the two sides in the case as well as one of the witnesses, not the accused.

The "essence," or the public interest

The court upheld the "public interest" in the NDTV sting, saying: "Looking at the situation from a slightly different angle, we ask the straightforward question: What would have been in the greater public interest: to let the attempt to suborn a witness with the goal of undermining a criminal trial lie quietly behind the veil of secrecy or to bring out the mischief in full public view?" In our opinion, the solution is clear-cut. The NDTV sting show was in fact of more public interest and furthered a significant social purpose.

However, the Supreme Court's ruling comes with a warning. If the "trial by media" or "sting" renders a biased pre-judgment as to the guilt or innocence of the accused, it may be in violation of the contempt of court rules. The public interest is yet another significant barrier to media stings and trials. The media loses its credibility and provokes the fury of the court if there is a lack of public interest and the appearance of self- or manipulative interests. The court said, "We have categorically upheld the fundamental legality of the stings and the sting program broadcast by NDTV." However, we must also draw attention to the broadcast's flaws at the same time. Another amicus described the telecast's "slant" as "regret overreach." However, there are numerous cases in the program that are more complex than simple slants. The court objected to certain of the anchor's opening words because they were either without cause or unjustified, and they were subsequently repeated. The court determined that certain material mentioned was not included in the script provided to the court. The channel found Khan guilty, but the court highlighted the lack of evidence necessary to find Khan likewise guilty. The court questioned sensationalism before raising its objection to stridency. It said that the channel tolerated divisive tendencies, passionate statements, and biased remarks without offering any helpful advice on how to enhance the administration of justice. The court also found evidence of danger in Pooja's planning for the sting. In order to draw attention to a loose end, the court said that one sting discussed a potential meeting that may have taken place but was not notified or told to the court. Another issue raised was the refusal to provide all information or the restriction of releasing to information that might lead to a conviction.

In the end, the court was appreciative of the sting because, despite their flaws, the stings and the NDTV broadcast of the sting program served an essential public purpose by preserving the integrity of the legal system. We admire the young reporter Poonam Agarwal's professional initiative and bravery, and we are astounded by the careful research done by NDTV to discover the relationship between Kulkarni and RK Anand in Shimla.As the court correctly noted, the television networks would benefit from understanding the dos and don'ts in order to avoid them and zealously protect the public interest. The Supreme Court bench was aware that the Indian electronic media was just 18 to 20 years old and that it "had a very broad spectrum ranging from very good to unspeakably bad" much like "almost every other sphere of human activity in the country." The court advised the media that business interests, conflicts of interest, and TRP excursions should not take precedence above higher standards of professionalism.

The media had enormous relief when the "media trial" was declared to have violated the statute against contempt of court by interfering with the administration of justice. The verdict also served as a morale booster for the successful "media trial." The supreme court said that the NDTV sting program served a significant public purpose. Even though the program only slightly tended to affect the BMW trial's processes, it nonetheless served a greater public

interest. In the sting operation on May 30, 2007, both Anand and Khan were allegedly shown as working together to influence Kulkarni in the BMW hit-and-run case by promising him money. Without the fourth estate intervening to create a campaign, victims like Jessica Lal or Priyadarshini Mattoo, or dead victims of BMW crime, would have suffered the consequences. Those who advocated using the British colonial concept of "contempt of court" for jailing journalists for writing anything related to a crime under trial should now realize what would have happened to them.

CONCLUSION

In conclusion, using blogs to attack the reputations of sexual assault victims causes further pain, reinforces victimization, and impedes the pursuit of justice. In order to stop this harmful practice, responsible journalism, moral online conduct, and social support for survivors are essential. We may build a setting that emphasizes the rights and well-being of survivors while proactively working to stop character assassination in any form by encouraging empathy, critiquing damaging myths, and encouraging a culture of support and responsibility. It is crucial to believe in and support sexual assault survivors. Access to therapy, legal aid, and support services may aid survivors in coping with the terrible effects of an attack. It is also crucial to provide safe places where survivors may speak about their experiences without worrying about punishment or character assassination.

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CHAPTER 7

MEDIA AND OTHER CONSTITUTIONAL ESTATES: A REVIEW STUDY

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ABSTRACT:

The media and other constitutional estates, such as the executive, legislature, and judiciary, are essential components of democratic governance. This paper explores the interplay between the media and these constitutional estates, examining their roles, responsibilities, and interactions within a democratic system. It delves into the media's function as a watchdog, providing oversight and accountability to the other estates, as well as the responsibilities of the other estates in upholding freedom of the press and facilitating a vibrant and independent media. By understanding the dynamics between the media and other constitutional estates, we can appreciate the crucial role they play in maintaining a healthy democracy. This review study explores the power and significance of the media in democratic society, its functions as the fourth estate, and the implications of media ownership concentration on freedom of expression. It also delves into the ongoing debate surrounding the media's role as the fourth estate and its potential impact on democracy. The study draws from various sources, including scholarly articles and publications, to provide a comprehensive analysis of the media's position as an estate within the constitutional framework.

KEYWORDS:

Executive, Judiciary, Legislature, Media, Political Parties, Press.

INTRODUCTION

Reporting on parliamentary and state legislative sessions is required in both print and electronic media. They could run afoul of the legislators' privileges in the process. Any disregard for legislative authority or scandalizing of legislative behavior may be considered a kind of contempt of the House, which the House has the power to punish. The Constitution grants lawmakers a number of privileges. According to the definition of privilege in the Black's Law Dictionary, it is "a special legal right, exemption or immunity granted to a person or a class of persons, an exception to a duty[1], [2].Parliamentary privileges are described as "the sum of the peculiar rights enjoyed by each house collectively is a constituent part of the High Court of Parliament, and by members of each house individually, without which they cannot discharge their functions, and which exceed those possessed by other bodies or individuals," by Sir Thomas Erskine May. It is to some degree an exception from the conventional law of the nation, yet being a part of it. The Joint Committee on Parliamentary Privileges' report in the United Kingdom, which states that "parliamentary privilege consists of the rights and immunities which the two Houses of Parliament and their members possess to enable them to carry out their parliamentary functions effectively," provides a more modern definition of parliamentary privilege. Without this security, members would have difficulty carrying out their legislative responsibilities, and Parliament's capacity to challenge the government and serve as a platform for people' concerns would be proportionally reduced[3], [4].

Even if what was stated was unrelated to the work of the House, Article 105 guarantees that there won't be any legal action for defamation in Parliament. He won't be held accountable for whatever he says or votes in the Parliament or any of its committees. According to Article 105, neither House shall be held liable for the publishing of any report, document, votes, or actions made by or authorized by either House. Without permission, a publication is not protected and may be held in contempt. State Assembly lawmakers have comparable rights under Article 194. The Constitution's provisions apply to speech rights in the legislative branch[5], [6].Paragraphs 208 and 211 The norms of procedure for the legislature are outlined in Article 208, and it is prohibited for a member to bring up the behavior of the judges in Article 211. The rights, privileges, and immunities of the House, its members, and committees immediately prior to the effective date of Section 15 of the 42nd Amendment Act 1976 may be specified by Parliament.List of Privileges derived from House of Commons precedents:

1. The right to free speech. According to Article 121, debates on the behavior of Supreme Court or High Court judges are not allowed in parliament unless there is a proposal to send a letter to the president requesting the judge's dismissal.

2. Release of the proceedings.

3. The ability to avoid arrest in civil disputes. The Magistrate is required to promptly notify the Speaker of any arrests.

4. The right to reject outsiders

5. The authority to forbid the publishing of disputes.

6. The authority to control its own Constitution.

7. The right to control one's own actions.

8. The authority to punish disrespect.

Immunity

Do the privileges include immunity and cover all of the activities that legislators engage in? Does the media have the right to publish investigative findings that implicate corrupt MPs, or might bribery charges be brought against them in court?

In 1993, the Central Bureau of Investigation accused MPs of participating in a criminal conspiracy and being bought off with bribes. The CBI filed first information reports in March 1996 against four Jharkhand Mukti Morcha MPs. In May 1996, in response to a complaint, the Delhi High Court instructed the CBI to file a new FIR that included the name of former Prime Minister P V Narasimha Rao. No member of Parliament shall be subject to any proceedings in any court with respect to anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so subject with respect to the publication by or under the authority of either House of Parliament of any document[7], [8]. The former Prime Minister and others who are accused of bribing the four members filed leave petitions in the Supreme Court seeking constitutional immunity under Article 105.

The Supreme Court ruled in P.V. Narasimha Rao v. State on a three-to-two vote that the bribe-takers MPs who voted against the motion of no-confidence in Parliament are entitled to protection under Article 105 and are not subject to legal repercussions for any alleged conspiracy or agreement. Additionally, it decided that MPs who took bribes were ineligible for Article 105 protection. According to the supreme court, the Prevention of Corruption Act

also applies to MPs. The Supreme Court ruled that Parliament should identify the responsible authority with reasonable haste since no prosecution could be initiated under the Act without the approval of the competent authority, and because there was no such authority in the case of MPs. However, Parliament did not move in this respect[9], [10].

Therefore, it was determined in this instance that the privilege of immunity from court proceedings provided by Article 105 includes payments received by Members of Parliament in order for them to cast a certain vote in Parliament. The majority disagreed with the minority's interpretation of the meaning of the phrases "in respect of" and "arising out of" in Article 105, holding that these terms do not apply to behavior that occurred before speaking or voting in Parliament. However, the court unanimously decided that members of Parliament could not use Article 105 to claim immunity from criminal proceedings if they paid or accepted bribes but did not participate in voting.

Article 105 should be changed to make clear that "immunity enjoyed by Members of Parliament under parliamentary privileges does not cover corrupt acts committed by them in connection with their duties in the House or otherwise," as suggested by the National Commission for Review of the Working of the Constitution in 2002. Accepting cash or any other valued incentive in exchange for speaking or voting a certain way would be considered corrupt. They would be subject to legal action for such actions under the common law of the nation.A media sting that resulted in the removal of MPs.

On December 12, 2005, eleven MPs from mainstream political partiesthree from the Bahujan Samaj Party, one from the Congress, and one from the Rashtriya Janata Dalwere exposed in a sting operation on a private TV channel as receiving payment for bringing up a matter in parliament. Such a member appealed the expulsion by the Lok Sabha to the Supreme Court, which sent a notice to the speaker of the Lok Sabha on January 16, 2006. The court also sent the case to a five-judge constitutional panel. On January 20, 2006, Somnath Chatterjee, the speaker of the Lok Sabha at the time, held a meeting of all parties. The meeting came to the unanimous conclusion that the house had the right to punish a member who belonged to it. Expulsion from the home fit squarely within the range of consequences. The speaker of the Lok Sabha was also believed to be the only custodian of the house's rights and privileges, and as such, was exempt from legal accountability. The Supreme Court upheld179 in January 2007 that the Parliament had the right to dismiss the members for their improper behavior. The five-judge panel led by Chief Justice Y K Sabharwal rejected the argument that Parliament lacked the authority to dismiss its members under the Constitution.

DISCUSSION

Media and Privilege Issues

Om Puri, a film actor, said India's Parliament is mostly made up of "uneducated bumpkins" during Anna Hazare's anti-corruption campaign in September 2011. Kiran Bedi, a former member of the Indian Police Service, addressed the hypocrisy of politicians in a way that would have made a stand-up comedian happy. News outlets extensively aired both addresses. Some enraged MPs asked that Puri and Bedi be prosecuted with breach of privilege—a potentially criminal offense where Parliament serves as both the accuser and the judge—under the authority granted to Parliament by Article 105 of the Constitution. Swapan Das Gupta, MP, has described a number of prior instances of harsh statements made against lawmakers in opposition to this proposal. The Times of India was referred to the Privileges Committee in 1981 for an article that claimed "Dacoits, smugglers, and bootleggers are now honored members of legislatures." The publication avoided criticism and potential punishment because the Rajya Sabha Chairman shrewdly noted that the claim was "a libel in

gross" rather than a libel of any particular MP or any House. MPs were upset by Acharya Rajneesh's claim that they were intellectually underdeveloped in August 1986. If more examination is done, it will be discovered that they have a mental age of 14. In an attempt to sidestep the issue, the Rajya Sabha Chairman remarked, "God men should leave good men alone. It is inconsistent with our dignity to attach any importance to the vituperative outbursts or irresponsible statements of a frustrated person."

The legislature's weapons against any intrusion from any estate, especially the fourth estate, are the privileges. The press and media are impacted by the law of privileges. Either violation of privilege or contempt of the House may be brought against them. The following issues might arise for media professionals.

1. any infraction of the house's established procedural norms.

2. violation of any legislative privileges

3. Publication of remarks or other things that defame the House or damage the public's faith in the legislative branch is punishable as house contempt.

The power to forbid or expunge any words or the publishing of proceedings belongs to the parliament. The Presiding Officers have the authority to strike out offensive language or unparliamentary statements in accordance with Rules 380-1 of the House of People and Rules 221-2 of the Council of States.Legislators have unlimited immunity under Article 105, as was stated above, and the media has a limited right to report on or publish the same under the protection of Article 361A, which was adopted in 1978. This Article protects the reporting of parliamentary proceedings if it is fair and truthful, even if it is short. Prior to the Emergency, the Parliamentary Proceedings Act of 1956, which provided this protection, was in effect. This Act offered protection in the event that a report on legislative proceedings was for the public good, substantially truthful, and unintentionally inaccurate. By virtue of a 1960 Act, Orissa State offered such protection. The safeguard was eliminated when Mrs. Indira Gandhi revoked the 1956 Act. In order to provide publishing of Parliamentary or state legislative proceedings with constitutional protection, the Janata Party government revised the Constitution and created Article 361A. Even if the speech or other materials used in the House's proceedings are guilty of sedition, a violation of the Official Secrets Act, a conspiracy to commit perjury, libel, or any other offense under the Indian Penal Code, the press would still be eligible for the immunity provided by Article 361A. Because the phrase "any proceedings in any court" in Article 105 or 194 would confer immunity from "proceeding" for contempt of court as well, no proceedings for contempt of court may be brought by the Supreme Court or High Court if a member's speech in the legislature scandalizes the operation of a court of law. In the event that such a speech is published outside of the House, such protection cannot be granted.

Article 361A grants the media a qualified privilege in exchange for providing a concise, accurate, and fair account of the proceedings, but it does not exclude the media from penalties for contempt of the House in the event that the media violates the privilege. The immunity afforded to lawmakers by Articles 105 and 194 is not waived by Article 361A.In MSM Sharma v. S. K. Sinha, the editor of Search Light daily published a statement that had been deleted from the Bihar Assembly's proceedings for which a notice for violation of privilege was issued. The Editor filed a petition with the Supreme Court under Article 32, arguing that the notice of action for breach of privilege breaches his basic right under Article 19 and also limits his personal freedom under Article 21 if he is detained in response to the privilege move. According to the Supreme Court's majority ruling, the Assembly had the same constitutional right to assert the aforementioned privilege as the House of Commons

had under Article 194 of the Constitution. The Supreme Court also ruled that the freedom of speech alluded to in clause of Article 194 is distinct from the freedom of speech and expression provided by Article 19. Since neither Article 105 nor Article 194 was created by the Parliament or State legislatures as regular legislation, they both have the same supremacy as the provisions under the Fundamental Rights. Article 19 is subject to the later part of Articles 105 or 194 in the event that Part III and those articles contradict. The specific provisions of the Constitution under Articles 105 and 194 must take precedence over the general requirements of Article 19, which are of a general character.

As a result, the Editor lost the lawsuit and it was determined that parliamentary privileges were superior to a citizen's basic rights. In his dissenting opinion in this case, Justice Subbarao claimed that the House of Commons had no right to prevent the publication of accurate and faithful reports of its proceedings, with the exception of secret sessions held in exceptional cases, and that it only had a limited right to prevent the false publication of reports that had been garbled, unfaithful, or had been expunged. As a result, in the Searchlight case, the privilege power won out against Justice Subba Rao's strong dissent.

A breach of privilege and contempt of house may result from statements the press makes that reflect poorly on a house's members or its procedures. The Hindi newspaper The Hindustan made an editorial remark about the Hazari Report debate that took place in the Rajya Sabha in its edition from June 2, 1967. "Baseless, Meaningless, and Improper" was the editorial's caption. While discussing the Hazari Report on the floor of the house, the Editorial objected to several claims made about the Birlas. "The question is whether the absurdity, venom, character assassination, and thoughtlessness which was given vent to on the floor of Parliament by making Hazari Report as the basis thereof, was in accordance with the dignity of the Parliament and its members," the editorial's comment in question reads. The Privilege Committee of Parliament believed that the aforementioned editorial included observations on the nature and behavior of the House as well as the activities of the Parliament. The editor offered an unequivocal declaration of sorrow; therefore, the Committee did nothing.

It is also possible to be charged with House contempt for making disparaging remarks about a House committee. It was determined that The Financial Express, Bombay's article criticizing the Lok Sabha's Public Undertakings Committee violated the House's privilege.The Blitz was embroiled in a Breach case because of statements it made in the newsweekly on April 15, 1961, mocking Sri J. B. Kripalani's address as a member of the Lok Sabha. A picture of Kripalani with the title "Kripaloony" was released with the remark. He was described as "senile" and a "bazar baffoon" in the report. The "lousiest and cheapest speech ever made since he was elected to Parliament," according to the Delhi Correspondent of the Newsweek Mr. A Raghavan, was Kripalani's address. These remarks were seriously noted by the Committee on Privileges, who then informed the Editor and Delhi reporter. The reporters did not show up. The Editor claimed in a letter to the Committee that the statement was "fair." The Committee disagreed with the claim that it was a fair statement, seeing it as a personal attack on the particular member and the casting of aspersions on the member based on his speech and behavior in the house. The Editor and the Correspondent were both found guilty by the Committee of violating editorial privilege and disobeying the House.There may be some further examples of privilege violations. As follows:

1. Any criticism of a member that relates to his role as a House member should be published.

2. Early release of motions before the house

3. premature release of a committee of a house's proceedings.

4. publication of a committee presentation's paper or document before the committee's report is sent to the House.

5. Before being submitted to the relevant house, a report or the findings reached by a committee shouldn't be published, divulged, or referred to the press.

6. distorting or exaggerating the House's proceedings

7. erroneously reporting or distorting a member of the house's remarks.

8. Comments that weaken the House's respectability or undermine the legislative system's core values.

9. putting the speaker's objectivity in doubt.

10. Reporting on the legislative body's private session

11. publication of speech that has been deleted.

When members bring concerns or notifications to the attention of the Speaker or Chairman through notices, the Privilege Committee meets and decides on them. If the Speaker or Chairman accepts the notifications, they are then sent to the Privileges Committee, which conducts an investigation and renders a report of determination. Newspapers often criticize the lack of adherence to natural justice standards when determining whether a violation of privilege has occurred or not. For privilege violations and acts of contempt of the House, the Privilege Committee has the authority to impose a variety of sanctions.

1. Admonition and Reprimand: In an admonition, the offender is called to appear before the House's bar, after which the speaker reprimands him. Reprimand involves bringing the culprit before the House and reprimanding them. Editor of Blitz Karanzia received criticism.

2. Apologies: The Committee may be persuaded by the offender's unqualified apologies and exonerate the offender from contempt.

3. Exclusion from Press Gallery: The critic may be denied access to the press gallery if he is an authorized journalist with a press credential.

4. Prison sentences may be imposed by the Committee if the offenders refuse to provide an unqualified apology or fail to appear when called before the House Bar. Both Keshav Singh and Ramoji Rao received jail sentences in 1965 and 1984, respectively. However, the Supreme Court stepped in and stood up for these "offenders," who were charged with violating their privileges and being in contempt of the House, by defending their basic rights.

The Press Council of India and the Second Press Commission recommended that the House use its power to punish members of the media or the public who criticize lawmakers sparingly, only when it is certain that the comment in question interfered with the house's business and deems it necessary to afford members reasonable protection.

Decent Defense

In determining whether or whether a specific individual or his opinion would be understood as contempt of the House, the Committee of Privileges and, on its advice, the legislative House exercise an adjudicatory role. Thus, it follows that due process and other natural justice standards must be observed anytime a criminal authority is used. Because the committee is functioning as a judge in its own matter, it has a specific duty to carry out its duties in a judicial way and without regard to politics or partisanship. The committee's

process should follow the rules of natural justice. Giving the individual who is accused of violating parliamentary privilege before the committee a full and fair chance to explain himself is crucial. Such choices cannot be made at the mentors' request or based on their whims and fancy. The courts have the authority to determine whether or not the inherent standards of justice were upheld before inflicting a sentence of imprisonment.

Reasonable Chance

In its very thoughtful statement, the Second Press Commission stated: "We are of the opinion that the rules of business of the House of Parliament and State Legislature in India dealing with the procedure for taking action against alleged breaches of privilege etc., should be reviewed and necessary provisions incorporated therein to provide for a reasonable opportunity to alleged contemners to defend themselves in the proceedings for breach of privilege." In cases analogous to the current sentencing procedure in the Tamil Nadu Assembly, such defenses are not accessible to journalists and political competitors since privileges have not been codified.It's common to refer to the press as an extension of parliament. It informs the public on the substance of legislative debate and legislation and keeps them up to date on parliamentary business.

Although what emerges in the press may impact Members and provide them the background information they need, the information itself does not constitute an accurate record of the facts, and a Member of Parliament cannot rely only on the issue as reported. Therefore, inquiries, motions, and other notifications that are solely based on press reports may not be allowed, according to consecutive presiding officers. The Member may be asked to provide more primary evidence to support the notification he has filed.

The basic right to "freedom of speech and expression" that the Constitution guarantees to its inhabitants under Article 19 is implied in the freedom of the press, which is not officially mentioned in the document. Legal rulings have established that freedom of the press is a component of freedom of speech and expression. The disadvantage is that no journalist, whether they are editors, reporters, or columnists, can work alone. There is always political backing. The media has evolved into a political party's spokesperson and a tool for gaining the upper hand against rivals. The Supreme Court imposed an injunction against Homi Mistry of the Blitz after the legislature sought his detention. The Court determined that this case did not follow constitutional due process.

Tamil Nadu Assembly's Order to Imprison Journalists

An significant case on this topic is one from Tamil Nadu. The Tamil Nadu legislative assembly accepted the findings of its privileges committee that the newspaper's editorial from April 25, 2003, affected the entirety of the assembly and amounted to contempt of the House, and as a result, on November 7, 2003, it sentenced the editorial's author as well as its editor, executive editor, publisher, chief of bureau, and publisher to 15 days of simple imprisonment. For criticizing the Chief Minister and members of the governing party, the editor of the publication "Murasoli" and others were also similarly accused and given jail sentences. The journalists' detention was delayed by the Supreme Court on November 10, 2003.

Supreme Court

Due to the Tamil Nadu Assembly's divisive stance, compelling arguments have been made before the Supreme Court. Senior Advocate Harish Salve made the case that the issue in this case concerned whether the legislative authority under Article 194 could be greater than the powers granted to citizens under Article 19 and whether the legislature could enforce penal

powers on the citizens without providing them with an adequate opportunity to be heard. He noted many Supreme Court rulings that made it apparent that the Legislature's power of privilege must be balanced with people' basic rights. He stated that Article 194 of the Constitution's State Legislative Powers must be interpreted in accordance with the basic rights envisioned in Articles 19 and 21 and cannot be interpreted to authorize any State authority to arrest and imprison a person.

No matter how broadly one interpreted the House's privilege, Mr. Salve argued that the resolution was founded on a total misinterpretation of the law and the facts by the House. He said that no one who had properly comprehended constitutional law could possibly have concluded that the articles and the editorial were impolite and amounted to a degrading of the House's dignity or a violation of its privilege. He stated that the articles just reported Chief Minister Jayalalithaa's statements made within the House and that these statements did not in any way affect the procedures of the House, making it inappropriate to penalize the journalists. The adjectives employed by the media, according to Mr. Salve, could not constitute a violation of privilege. Senior attorney Kapil Sibal argued on behalf of Murasoli Selvam that his client's publication had just published the editorial that appeared in The Hindu and that this could not be seen as interfering with the House's business.

If it is criticism of a political party, then it does not amount to a breach of privilege, he stated. Mr. Sibal said that the House could not revoke permission for the publication to cover the Assembly's proceedings as a whole since doing so would violate their Article 14-guaranteed basic right to equality.The Chief Minister, Jayalalitha, has launched a defamation lawsuit against The Hindu for an item that said "People's Court only way out for Opposition" which featured in its issue dated April 13, 2003. The Assembly voiced a privilege concern about this particular item. Even though the Privileges Committee recommended seven days of simple incarceration, the subject was not pursued because Ms. Jayalalithaa informed the Assembly that she did not wish to insist on any action since the situation directly affected her.

Analysis by Rajiv Dhavan

In 1966, one Lok Sabha member attended meetings of the Maha Moorkh Mandal. Some in the group thought it was offensive. The Loksabha declined when they requested to issue a privilege notice. According to senior attorney and columnist Rajiv Dhavan, the Constitution of 1950 grants legislatures virtually unrestricted speech rights and immunity from anything said or done during legislative proceedings, including—in the wake of the Supreme Court's ruling in the Jharkhand MPs' casethe right to accept bribes in exchange for voting privileges from the 1976 election. Theoretically, unrestricted, uncodified rights fall under the third category of privileges. Courts stay out of privilege cases and, in any case, refrain from passing judgment on any irregularities when the legislature uses its powerful authority while disregarding even its own rules. Parliament must be able to independently conduct its own business internally, defend its own right to free expression, and have the authority to punish members and those who obstruct its operations. The issue emerges when legislators unjustly retaliate against outsiders who question what is said and done in the legislatures, including the press and other media. Scenes like the ones that occurred in the Uttar Pradesh Assembly and other legislatures, when microphones were hurled about, are a sad testament to what truly occurs. What transpires in India's legislatures cannot be disregarded by any rational citizenry. These legislative developments must be discussed and commented on by responsible media.

He said that the idea of privilege came into existence when Sir John Eliot was punished by the Court of King's Bench in the 17th century for making seditious remarks in the House of Commons. The House of Lords overturned the conviction, arguing, among other things, that

statements made in Parliament should be evaluated there. In the historic period of the rule of law's development in Great Britain, the fight for dominance between the royal dynasty and the people's representative houses was the setting in which privilege first emerged.

The sociocultural context in India is very different. In order for a free nation where the struggle for independence from foreign domination was the main issue, the Nationalist movement battled against British rule. The privilege that was required in the UK made its way into the Constitution under Article 105 as a temporary solution, pending the codification of the privileges by the Parliament. Prior to the implementation of section 15 of the Constitution Act of 1978, the privileges "shall be those of that House and of its members and committees" until such time as they are otherwise specified. Looking back to 1950, when the Constitution made reference to the privileges of the House of Commons in the UK at the time, may help us grasp what precisely the privileges in effect at the time of the 44th Amendment was. Even if this interim clause, which was meant to last until the parliament determined its privileges solely should apply, is rigorously interpreted, the privileges in effect in the UK at the time would still be applicable. In 1880, the House of Commons ceased exercising its authority to imprison individuals for contempt of the House. The Joint Parliamentary Committee suggested in 1999 that the ability of Parliament to jail individuals be removed. Through the use of Article 105, a power not employed in the House of Commons for more than 123 years was used against a newspaper founded 125 years before. It is completely irrational, undemocratic, and hence unacceptableespecially given that the current attitude in England is against even keeping the term "privilege" in the dictionary.

The NCRWC advises restricting privileges:

Parliamentarians should enjoy the same rights and benefits as regular citizens, with the exception of while they are doing their parliamentary responsibilities, according to a 2002 recommendation by the National Commission to Review the Working of the Constitution. Members are nonetheless subject to their regular societal duties notwithstanding the advantages. The privileges and immunities of Parliament were not codified into law because of a lack of time. When this was discussed in 1994, the majority of MPs were against codification. Legislation establishing parliamentary privilege has been passed in Canada, Australia, and New Zealand, whose parliamentary privileges may also have their roots in the Bill of Rights. The de facto guideline on the matter in the United Kingdom is found in the report of the Joint Parliamentary Committee on Parliamentary Privilege, which is presided over by Lord Nicholls of Birkenhead. According to the Nicholls Report, parliamentary privilege refers to the privileges and immunities that the two Houses of Parliament and their members have in order to successfully carry out their legislative duties. It lacked a list of privileges. Instead, it listed the goals that legislative privilege aimed to accomplish: enacting legislation, holding the administration to account, and raising common people's concerns. The list does not include safeguarding Parliament's honor and reputation. It is important to remember that the Nicholls Report recommended eliminating the House's ability to penalize non-members. It implied that cases might be considered by the High Court in accordance with current libel and defamation legislation. The UK ceased abusing its parliamentary privileges against journalists and other common people long before this report was made public. The last time it was used was in 1880 when the Commons sentenced a non-MP to prison.As long as ambiguity and uncertainty trump legislative privileges, there will be a clash between the court and the legislature. The media and their freedom will suffer as a result, however in cases when the editor or publisher's claims or arguments are valid, the court has stepped in to protect press freedom by utilizing its power of judicial review. Interference with

a citizen's right to freedom of speech, whether it be criticism or opinion, should be kept to a minimal. Freedoms are more basic than parliamentary privileges.

CONCLUSION

In conclusion, in a democratic society, the media and other constitutional estates are linked. The other estates are subject to monitoring and accountability from the media in their capacity as watchdogs, while the other estates are obligated to uphold and defend press freedom. We can secure the smooth operation of democratic government, defend the values of openness and accountability, and retain an educated populace by encouraging a relationship of mutual respect, cooperation, and support. It is essential that the public support a free and independent media. The public watchdog function of the media should be valued by society, and advocacy for its defense should be strong. As individuals learn to analyze media material critically and identify trustworthy sources of information, media literacy education may also have a substantial impact on their ability to do so.

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CHAPTER 8

MEDIA AND JUDICIARY CONTEMPT OF COURT: A COMPREHENSIVE REVIEW

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ABSTRACT:

The relationship between the media and the judiciary, particularly in the context of contempt of court, is a complex and sensitive topic. This paper examines the concept of contempt of court, the role of the media in reporting on judicial proceedings, and the challenges and implications of media contempt. It explores the balance between the freedom of the press and the need to protect the integrity and authority of the judiciary. By analyzing the legal framework and case studies, this paper sheds light on the complexities and considerations surrounding media contempt of court.Actions that impede or obstruct the administration of justice or demonstrate disdain for the court are considered to be in contempt of court. In order to ensure that the legal system is transparent and that judicial procedures are reported on, the media is essential. However, there are some situations in which media coverage has the potential to obstruct the fair trial process or interfere with the administration of justice, giving rise to accusations of contempt of court.

KEYWORDS:

Judicial Independence, Judicial Process, Media Ethics, Media Coverage, Open Justice, Press Freedom.

INTRODUCTION

The freedom of the media may be restricted when it tends to insult the state in violation of the I.P.C. crime of sedition, when it damages someone's character (defamation), and when it leads to judicial discourtesy (contempt of court). Thus, the Constitution included justifications for imposing reasonable limitations on citizen's basic rights Article 19, including contempt of court. The editors, reporters or writers, publishers, and printers of newspapers are among the many types of contemnors who routinely break the law. It is important to understand that the press does not have any right to scandalize someone in any way without first complying with the law. According to Lord Mansfield, 192 "the liberty of the press" is the ability to publish materials without a prior permit as long as it doesn't violate the law. The Division Bench of the Oudh Chief Court made this observation in the case of District Magistrate, Kheri v. M. Hamid Ali Gardish: "The special privilege of the press is a time-worn fallacy and the sooner the misconception that the press is not subject to the law is removed, the better it will be." No editor has the authority to act as an investigator or attempt to influence the outcome of a case.We could add that, rather than any special privilege of the press, we believe that there is, on the other hand, a special responsibility affecting the editor of a newspaper, namely, that he is required to always keep in mind the danger of obstructing the administration of justice by publishing articles in his newspaper that, despite appearing innocent, may easily be read by readers in such a way as to obstruct the administration of justice[1], [2].

The media should be able to express their criticism of public figures who support one political party or the other. However, it would still be unclear how far the courts might go to

limit the freedom of speech at the quick contempt hearing. If there is a freedom of criticism, it must be genuine and encouragedof course, within the bounds of fairness. It should unavoidably be done in this way to discourage political levity.The freedom of the media to critique a system is without question. One of the best means of communication between the people and the government is a free press. However, the press cannot disobey a court while disguising its disapproval[3], [4].

Contempt is defined in law as an offense against the honor of a court or legislative body. Its basic literal meaning is dishonor, disdain, or disobedience. The defense of the court's honor and the administration of justice are the goals of the contempt proceedings. Its nature is almost criminal. It may also be considered to be somewhat civil, where the goal is to make the contemnor do something for the advantage of the other party, and partially criminal, when the goal is to punish the contemnor for a wrong committed against the general public rather than an individual by interfering with the majesty of the court. In relation to judicial activities, the public or journalists are also entitled to the following[5], [6].

1. The right to judicial proceedings information.

2. The right to speak out on things and concerns that are being litigated.

3. The freedom of expression, regardless of legal processes.

4. The freedom to assess and criticize how the courts operate.

A journalist may not have been aware of doing the wrong for which he might be held accountable. Accidental errors and innocent dissemination might potentially result in a contempt of court conviction. The use of the law of contempt against careless journalists and innocent distributors who had no reason to suspect that the material constituting contempt of court was concealed in some of the magazines and newspapers they distributed could be convincingly shown by a pressure group in England[7], [8].

In general, journalists believe that they can keep their sources anonymous while yet protecting them. Simply professional propriety and necessity apply. A journalist is not permitted by law to keep the sources of information a secret. Because they refused to provide courts of inquiry the source of their information, journalists were also penalized for contempt. In actuality, the Code of Criminal Procedure imposes an obligation to tell others of any cognizable crimes they may be aware of and to cooperate with law enforcement.The Sunday Times article highlighted the challenges faced by kids born with congenital defects as a result of their mothers' use of the dangerous medication thalidomide during pregnancy. The courts and contempt power saw it as suppressing debate on issues of public concern when the newspaper perceived it as a matter of public interest, particularly when courts were seized of that topic[9], [10].

DISCUSSION

Kinds of Contempt

Contempt comes in many different forms. The most common types of contempt include insulting judges, making personal attacks on them, making comments about ongoing cases that could jeopardize a fair trial, obstructing court personnel, witnesses, or parties, abusing the court's process, violating court employees' obligations, and scandalizing judges or the courts. Generally speaking, a person is considered to be in contempt when their actions have a tendency to defame or insult the legal system and those in charge of enforcing it. All behaviors that defame or discredit the court, which violate its honor, insult its grandeur, or

impair its power are covered under this conduct. While it is possible to commit such contempt against a single judge or court, it is also possible, under certain conditions, to commit it against the whole legal system.

Scandalizing

The press or media often gets into controversy for their remarks that embarrass the court or the judicial official. Numerous rulings have clarified the media's obligation to understand the contempt of scandalization in order to prevent it. The notion of scandalization's beginnings were traced by eminent attorney Fali S. Nariman. Both the beginning and the entry into British India of the field of law known as "scandalising the court" were contentious. It was derived from a famous quote said by Justice Wilmot in his 1765 ruling in the Wilkes Case, which was never given but was intended to be delivered. His son eventually published the ruling after editing his father's writings. The writ against John Wilkes was improperly named when the decision was reserved after debate, and because at that point an alteration of the writ, unless approved to, could not be authorized, the case had to be abandoned! This is where the portion of the statute of contempt known as "scandalising the court" today has its rather questionable pedigree. It is based on a decision that was never made in a case that was already over! And keep in mind that the case included a journalist, who is the judge's archenemy everywhere in the globe. The law of contempt, not just any law of contempt, but only justifiable limits in the public interest in such a legislation, is the exception to our Constitution's declaration that freedom of speech and expression are essential rights. Although the truth is not expressly prohibited under the Contempt of Courts Act, courts have definitely stated that it is not. Who or what "scandals" judges is ultimately up to them.They are noted in Justice Roy's book on contempt of court.

1. Implying dishonesty on the part of a judge by claiming that he oversaw the hearing and used his influence to persuade another judge on the same bench to issue an incorrect judgment.

2. Publishing embarrassing information about the court after a ruling with the intention of undermining its authority and the public's faith in the administration of justice.

3. The claim that justice is "sold" or "auctioned."

4. Declaring a judge to be biased.

5. In response to a show-cause notice, the respondent claims that his experience with Indian courts has been worse and that the court should instead look into whether it followed a "abnormal" path of justice.

6. Notice accusing the judge of having malice, partiality, and dishonesty.

7. A criticism of a judge that implies favoritism on his part in his official or judicial role.

8. A newspaper article that, among other things, accuses the justices of acting improperly, with an evident propensity to lower the court's standing.

9. The claim that a certain judge consistently rules in favor of the clients of a specific attorney.

10. The magistrate was criticized in a transfer application for conspiring to frame the defendant for stealing and accepting bribes.

12. False and malicious claims made against the judge's character or competence in a request for the transfer of a civil case.

13. Scandalous, slanderous, and produced with a purpose to undermine the authority of the court in the transfer application.

14. False charges made in an affidavit against Supreme Court justices.

15. Calling the judiciary "an instrument of oppression" and accusing judges of being "guided by class hatred, class interests, and class prejudices, instinctively favoring the rich and against the poor" was particularly offensive because it was obvious that the attack was intended to undermine confidence in all judicial decisions and the legitimacy of the legal system as a whole.

Regarding civil contempt, a single act of willfulness would likewise be penalised. Unless it is done intentionally, mere disobedience of a court order would not be considered contempt. In a decision by the Calcutta High Court in the case of Dulal Chandra bher v. Sukumar Banerji, a division bench held that while contempt is only a civil wrong when an order made for the benefit of one party is disobeyed, it becomes a public and criminal offense when it has the potential to undermine the effectiveness of the machinery maintained by the State for the administration of justice. In this instance, a clear difference between civil and criminal contempt was drawn as follows:

Both a wide and a small border may separate civil contempt from criminal contempt. When the violation of a court order issued for a private party's advantage is all that constitutes contempt. It has been stated that the proceeding is merely a means of execution when the party in whose interest the order was made asks the Court to take action in contempt against the contemnor with a view to enforcement against the contemnor with a view to enforcement of his right. In this situation, disobedience is not illegal and the contempt, if any, is not unlawful. However, if the contemnor combines defiance of the Court with disobedience of the order and acts in a way that obstructs or interferes with the administration of justice, his act of contempt is mixed in nature and takes on the characteristics of a criminal contempt as between him and the State's Court. There is a third type of contempt that is purely criminal and consists of conduct that tends to discredit the administration of justice and interfere with the course of justice as it is administered by the courts, even though there is no clear distinction between civil and criminal contempt in a case of this kind and the contempt committed cannot be broadly classified as either civil or criminal contempt. Contrary to contempt consisting of disobeying an order given for the advantage of a private person, which solely results in a private hurt, contempt of this sort results in an offense or a public wrong.

Contempt of court-related constitutional issues

The ability to penalize contempt has long been a part of the Courts of Record. Articles 129 and 215 of the Indian Constitution acknowledge this ability. In Vijay Kumar v. D.I.G. of Police216, it is said that superior courts have the inherent authority to punish in contempt actions because to the very nature of how the court itself operates. The adage that every court of record has the inherent authority to punish contempt of it reflects this idea. Since the beginning of time, the English common law has strictly and consistently acknowledged and applied this concept. Sukhdev Singh v. Chief Justice S. Teja Singh and Judges of Pepsu High Court217, another significant case, stated: "Contempt jurisdiction springs not from any enactment as such nor from the provisions of the Contempt of Courts Act, 1971, but is a necessary adjunct of all the Courts of Records which has consistently been so held by judicial precedents and finally recognized by the constitutional provision in Article 215 and the statutory provision in Contempt."

Entry 77 of List I and Entry 14 of List III of Schedule VII of the Constitution both address contempt of court. The format of Entry 77 is as follows:

77: The Supreme Court's constitution, structure, scope of authority, and fees; those qualified to represent clients before the Supreme Court. This is how entry 14 is written: 14: Contempt of Court, excluding Supreme Court Contempt The state of Jammu and Kashmir, over which only the Supreme Court has jurisdiction, is not affected by this.

According to Article 129, the Supreme Court is a court of record and has all the authority of one, including the authority to penalize for self-inflicted contempt.The goal of this power to punish is to protect the public from harm they will suffer if the authority of the tribunal is compromised, even on the basis of interfering with the proper administration of justice, rather than to protect the judges personally from imputations to which they may be subject personally. When compared to a simple matter of appropriateness, the Court does not pursue contempt "unless there is real prejudice that can be regarded as substantial interference."

Every High Court must be a court of record and must have the authority to penalize for contempt of itself, according to Article 215.No debate of the behavior of my Supreme Court judge in the performance of his duties may be had in the Legislature of a State, according to Article 211.Any purported procedural irregularity must not be used to challenge the legality of any legislative process in a State. 2. No officer or member of a State's legislature who has been given authority by or pursuant to this Constitution to regulate procedure or the conduct of business or to maintain order in the Legislature shall be subject to the jurisdiction of any court with respect to the exercise by him of such authority.

The provisions of Article 211 are to the effect that no discussion shall take place in the Legislature of a State with respect to the conduct of any judge of the Supreme Court or of a High Court in the discharge of his official duty, as the independence of the judiciary is a fundamental feature of the constitutional structure in India.The Press Commission's comment is pertinent here.The Indian Press as a whole has been concerned to respect the dignity of courts, and the crimes have been committed more out of ignorance of the law pertaining to contempt than out of any intentional attempt to impede justice or insult the dignity of courts. As previously stated, instances in which it might be argued that the High Courts' contempt of court jurisdiction has been exercised arbitrarily or capriciously have been incredibly rare, and we do not believe that either the procedure or the practice of this jurisdiction should be changed.

State of Himachal Pradesh v. R.K. Garg, Attorney.

Any text that is claimed to have been confiscated by the court from a newspaper or pamphlet must, in reality, relate to the court or the judge and not the editor, reporter, or author who was accused of doing it. It is not criminal contempt if it doesn't. But when sleuths arrived at Guruvapur, they discovered that the cunning high priest had used his political connections to gain anticipatory bail, according to Pritish Nandy's writing in Guruvayur Devaswom Managing Committee v. Pritish Nandy.It was decided that the passage could not be deemed to relate to a judge or court on a clear and appropriate reading of it. The paragraph definitely paints the crafty priest and his political ties in a negative light, but the court concluded that it did not scandalize the court or a judge. Judge slander is not considered to be contempt. It should be noted that simple defamation of a judge, rather than an assault intended to obstruct the proper administration of justice, is not considered to constitute contempt. Only when a publication is intended to obstruct the fair administration of justice or the law is it punished as contempt.

CONCLUSION

In conclusion, knowledge press freedom and the need to uphold the integrity of the judiciary in the context of contempt of court needs a sophisticated knowledge of the interaction between the media and the judiciary. We can find a balance that protects both the freedom of the press and the authority of the court by encouraging responsible reporting, encouraging collaboration, and assuring a fair and unbiased judicial process, ultimately serving the objectives of justice and democracy. It is important to understand that media contempt of court is not a defining trait of the whole media environment. Cases of disrespect shouldn't obscure the media's vital contribution to defending democratic principles and guaranteeing public accountability via responsible journalism.

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CHAPTER 9

RELATIONSHIP BETWEEN THE PRESS AND CONTEMPT OF COURT

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ABSTRACT:

The relationship between the press and contempt of court is a complex and delicate issue that requires careful consideration. This paper explores the concept of contempt of court and its implications for the press, examining the tension between the freedom of the press and the need to maintain the authority and fairness of judicial proceedings. It delves into the challenges faced by the press in reporting on court cases while avoiding contempt, as well as the potential consequences of media contempt on the administration of justice. By analyzing legal frameworks and case studies, this paper provides insights into the complexities and considerations surrounding the press and contempt of court.It is vital to address the disrespect for press publications since the media regularly reports on, writes about, critiques, and analyzes the operation of every institution, including the court. The freedom of the journalist is a regular component of the freedom of the subject, and he or she is free to go to whatever lengths that the subject in general is willing to, but his or her privilege is not greater or different from that of the statute of limitations.

KEYWORDS:

Judicial Process, Media Coverage, Media Ethics, Open Justice, Press Freedom, Prior Restraint.

INTRODUCTION

It is more cautious because of the duties that come with his authority over the distribution of printed material. However, the scope of his claims, criticisms, or remarks is on par with, and not more than, that of any other topic. His job has no rights. Publications that amount to contempt include publications that scandalize the court, make comments about the proceedings of an ongoing criminal case that reflect negatively on the judge, the parties, or their witnesses, or that have the potential to prejudice the public. They also include publications that criticize the behavior of a judge[1], [2]. These guidelines also apply in circumstances of speeches, sermons, and pictures. In our nation, Surendranath Banerjee, the owner and editor of a newspaper known as "the Bengalee," was the target of one of the first instances of contempt. The following criticisms of Mr. Justice Norris were made in a piece that published in his newspaper: "The judges of the High Court have hitherto commanded the universal respect of the community[3], [4]". Of course, they have often erred and frequently failed miserably in the execution of their tasks, but their mistakes have scarcely ever been brought on by impatience or the disregard for the most basic concerns of prudence or decency. However, we now have a judge among us who, even if he does not actually remember the time of Jeffreys and Scroggs, has done enough in the short time he has served on the High court Bench to demonstrate how unworthy of his high office he is and how, by nature, he is unfit to uphold those traditions of dignity that are inextricably linked to the office of judges of the highest court in the land. The actions of Mr. Justice Norris have sometimes been mentioned in these columns, but now that they have reached their culmination, we dare to draw attention to the facts as they have been published in the

columns of a contemporaneous. Our source of information is the Brahmo Public Opinion, and the following facts are provided:

Mr. Justice Norris is committed to igniting the Hugli. Zubburdusti's last deed while under His Lordship's protection was bringing a Salagram into Court for identification. The custody of Hindu idols has been the subject of several lawsuits in both the former Supreme Court and the current High Court of Calcutta, but the reigning god of a Hindu home has never previously had the honor of being called to testify in court. When our Daniel from Calcutta saw the idol, he said that it could not be more than a century old. Mr. Justice Norris is thus knowledgeable in both law and medicine as well as Hindu deities. It is difficult to define what he is not. It is up to the orthodox Hindus of Calcutta to determine whether they will submit docilely to having their family gods brought into court, but it does seem to us that some public measures should be done to put a stop to the wild idiosyncrasies of this young and unseasoned dispensor of justice[5], [6].

What are we to make of a judge who is so uninformed about the people and so disrespectful of their most cherished beliefs that he drags into court and then inspects a religious object that only Brahmins are permitted to approach after having been purified in accordance with their religious practices? Will the Indian government disregard such a proceeding? The Supreme Government has always taken great care to respect the people's religious sentiments. But in this case, a judge defies such impulses in the name of justice and conducts what devout Hindus would consider to be an act of desecration. We accept the risk of drawing the Government's attention to the facts at hand, and we have no doubt that appropriate notice of the Judge's actions will be taken[7], [8].

It was decided that the assault on Mr. Justice Norris was disgusting and completely unjustifiable. Because he believed that a fine would not be enough punishment, the Chief Justice gave Surendra Nath Banerjee a two-month term of simple jail. The printer was let go because of his poor command of the English language. It was said that the Court may have handed down a more lenient punishment if it weren't for the unsatisfying and circumstantial character of the apology and the lack of an honest admission of guilt[9], [10]. However, journalists like Banerjee and Gandhi wrote in a nationalist vein and in favor of the cause for independence. They purposefully disregarded British law and authority. The contempt statute, which was a component of the colonial legislation, was harsh because it was meant to stifle opposition to the British Raj.

The contentious article, titled "Recommendations of Law Commission," was written by a lawyer and was entitled "Judicial Administration of Patna High Court with Occasional Reference to Law Commission Recommendations." It is clear that the article's tone is everything but courteous. Additionally, remarks about the judge-standard and executive influence on the judiciary were expressed. The process used to administer writ petitions and appeals was referred to as "stultifying justice" and "amusing." The Full Bench determined that the article constituted contempt of court since it was intended to harm the reputation of the judiciary in the public view and to disparage the independence and impartiality of the High Courts, however the editor and printer were released after making an apology.

The High Court of Allahabad found Judicial Officers guilty of contempt for claiming that they were soliciting donations for war effort in response to requests from the new Chief Justice, the Editor, the Printer, the Publisher, and the reporter of the Hindustan Times. The paragraph in question was I have reliable information that the new Chief Justice of the Allahabad High Court, who has reportedly been asked by His Excellency the Governor for cooperation in the war effort, has instructed the judicial officials across the province to gather

donations for the was fun. It is false that the new Chief Justice sent any circulars, as was previously claimed. The newspaper article implied that the Chief Justice had done something unbecoming of a person holding that high office, and the High Court found the respondents guilty of contempt on the grounds that the Chief Justice had engaged in the egregious practice of forcing as the head and representative of the High Court. Even though the granting of donations was apparently optional, litigants were not in a position to reject when judicial authorities asked for war payments from them.

The Privy Council accepted the appeal and determined that there was no contempt of court with the publishing. When the remark in this case is analyzed, it is discovered that there is no criticism of any of the chief justice's judicial acts or any imputing of guilt to him for whatever he did or failed to do in the administration of justice. It is difficult to say that he is being criticized for his administrative work because, as far as their Lordships are aware, the court that the chief justice presides over exercises administrative control over the subordinate courts of the province, whatever that administrative control may be.

Lord Atkin said, It is undoubtedly upsetting for any judicial personage to be publicly criticized for doing something outside of his judicial proceedings that was poorly timed or indiscreet." However, judicial figures can afford to avoid showing too much emotion. An immediate solution to the issue would have been a straightforward public refusal of the stated request. Judges have access to the standard defamation remedies provided their defamation does not interfere with the fair administration of justice. Their Lordships do not concur with the interpretation of the statement made by the court as mentioned above: The inference is not supported by the wording. Their Lordships believe that the contempt proceedings were poorly planned and that the appellants are not responsible for the claimed contempt.

Authorities once again exploited their power of scorn against the freedom fighters in this instance. Gandhi in this instance both remarked on many civil dissent instances and disclosed some papers in an ongoing case. Gandhi made a point of arguing that the media had a right to talk about issues of public concern and to engage in public criticism. Here, the fact that the contempt proceeding was a quick one that offered almost no defenses, started to work in the authorities' favor. Fair remark was not an acceptable plea, and truth was not a defense. Gandhi refused to apologise, and although though the law called for severe punishment, the judge made a "political decision" to let Gandhi go with a warning and the explanation that he likely had no idea what he was doing. The judges were anxious to put a halt to any remarks on active cases. Gandhi favored giving the media the freedom to report on issues of general concern.Gandhi made a wise observation on the power of the government as it is expressed in the courts. It doesn't take much thinking to see that a government develops its clerks and other personnel via schools and establishes its power through courts. When the government in charge of them is generally fair, they are both healthy institutions; yet, when the government is unjust, they become death traps.

The High Court or Supreme Court may take action for criminal contempt of its subordinate courts in accordance with the procedures prescribed in this section. The Supreme Court ruled that the High Court might decline to take cognizance of an appeal on its own initiative based on the facts provided to it in the petition, even if the High Court is directly moved by a petition from a private party feeling aggrieved but not being the Advocate General.

P. Shiv Shankar v. P. N. Duda. Supreme Court attorney Duda called the court's attention to a speech given by P. Shiv Shankar, the minister of law, justice, and corporate affairs. Newspapers reported on the speech given before to a meeting of the Hyderabad Bar Council. Sri Duda claims that statements made during the speech were disrespectful to the Supreme

Court's dignity, attributing to the court a bias toward economically affluent groups of the population and using language that was incredibly impolite, dishonorable, and unworthy of a person of his stature and position. Duda addressed the Attorney General and Solicitor General of India to get their approval for starting a contempt case after reading the remarks in the press. However, this permission was turned down. According to appearances, the court declined to utilize its suo motu authority and denied the motion.Mr. Nambudripad, a non-Congress Chief Minister of Kerala, was fined for contempt of court, and the court disqualified Shivshankar for making remarks that were almost same, though not really offensive, to the judiciary.

Apology: Section 12 covers the penalties for court disobedience. It has a clause stating that if an apology is given to the court's satisfaction, the accused may be released or the sentence may be reduced. According to the explanation for this clause, an apology given by the accused that is legitimate will not be disregarded only because it is qualifying or conditional. Consequently, for an apology to be effective, it must satisfy the court and be bonafide. In Mulk Raj Anand v. State of Punjab, it was decided that because offering an apology is an act of contrition, it should be done so as soon as possible and with grace. It stops being an apology and turns into a cowardly act if it is made after the offender discovers that the court is going to punish them.Vinay Chandra Mishra, a senior attorney expressed his displeasure with the High Court judge's inquiries in open court, insulted him, and threatened to remove and impeach him. The Supreme Court brought him up for contempt of court and convicted him guilty. The defendant's apology was rejected by the court.

Contempt of court is punishable under Section 12 by either simple imprisonment for a period that may not exceed six months, a fine that may not exceed two thousand rupees, or a combination of the two. The Narayanan Nambiar v. E.M.S. Namboodripad case established that each case's facts and circumstances should determine the appropriate level of punishment. The issues of malice, bona fides, and good faith are not relevant when a remark amounts to embarrassing the court itself. All of these situations should be taken into consideration while reducing penalty. The Supreme Court of India was the only institution in the entire nation to express sympathy for mathadhipatis like Keshavananda and zamindars like Golaknath, according to the court's assessment of the overall impact of the speech given by the then-Union Minister for Law and Justice, Mr. Shiv Shankar, at a seminar. The Supreme Court has become a haven for antisocial characters including FERA violators, wedding burners, and a swarm of reactionaries.

The Court said that while being a touch out of control in certain areas, the speech did not undermine the Court's authority or dignity or obstruct the administration of justice. We must acknowledge that things have changed in the previous two decades, and there has been a huge loss of many principles, the Supreme Court said in an attempt to explain and, maybe, separate EMS Nambudripad's conviction from even fewer sharp criticisms of the supreme court.

DISCUSSION

Vasudevan Case: Enforcing the Order

The contempt legislation evolved into a practical way to carry out the court's directives. This fact was made clear by the Vasudevan case. Sixteen top IAS cadre employees were found guilty of contempt in September 1995 by various courts, including three in Tamil Nadu, one in Kerala, and one in the Karnataka Government alone. In the case of T.R. The Vasudevan case Supreme Court handed down a one-month easy sentence to Mr. J. Vasudevan, the Karnataka government's secretary in charge of housing and urban development. Over a 16-year span, a Bangalore City Corporation engineer filed 25 writ lawsuits and contempt

petitions against the government. The State Government's repeated efforts to deny the engineer what the Court ruled to be his lawful right in an order issued two years ago not only infuriated the petitioner but also the Court. He was found guilty of intentional disobedience by the Supreme Court after invoking inherent powers under the Constitution.

Punishing someone in power for not carrying out the court's instructions is one thing, but prosecuting others for making comments about and criticizing the courts is quite another. Other instances of contempt of court include physically interfering with court procedures or using what is known as "trial by the press" to try to sway judges' opinions. The third factor is showing the judges contempt by embarrassing them. Arundhati Roy was found guilty of contempt of court after making comments in an affidavit that she filed to the Supreme Court on her disagreement with the ruling in the Narmada Bachao Andolan case. This case has made the relationship between the media and contempt of court a hot topic of debate. The media attacked the decision, and it was encouraged to have a free debate on the judiciary's performance.

Significant interference

No court may impose a sentence under this Act for a contempt of court unless it is convinced that the contempt is of a nature that it substantially interferes, tends substantially to interfere with the due course of justice, according to Section 13 of the 1971 Contempt of Court Act. This demonstrates the Parliament's purpose to provide accused critics a specific protection at a point when their conduct or criticism constituted "contempt" of court precisely in accordance with Section 2's provisions. This is the standard they must meet before "sentencing." It is extremely clear and detailed that they should not be penalized unless it significantly interferes and does not constitute disrespect. Every time it is suggested that the critics be imprisoned because their remarks "substantially interfered with due process of justice," this issue must be looked at.

Authenticity or Defense

As a result, the Contempt of Courts Act of 1971 does not include any possible justifications for the offender. In Aditya Vikram Birla v. Parmanand Agarwal, a Special Bench of the Calcutta High Court noted that "an impression has gained ground that in matters relating to contempt by scandalizing the court, truth or justification is no defense." But the Supreme Court held in Perspective Publications Ltd. v. State of Maharashtra that there aren't many English or Indian cases where a defense has been acknowledged in terms of the law of contempt. Regarding C.K. Daphtary v. O.P. The deletion of any such information in Gupta was likewise authorized and supported on the grounds that "if evidence was allowed to justify allegations amounting to contempt of court, it would tend to encourage disappointed litigants." In every case, one or both parties seeks to humiliate the judge in an effort to get revenge for their misfortune. However, the Calcutta High Court noted in the aforementioned case that the earlier rule excluding evidence in justification would require serious reconsideration because the Contempt of Courts Act of 1971 expressly provides in Section 17 that the contemner has a right to file an affidavit in support of his defense and the court may determine the matter of the charge either on the basis of the affidavits or after taking such further evidence as may be necessary.

The court said in Baradakanta v. Registrar, Orissa that it is not permissible for anybody to use the defense that the charges are true since it would be an excuse. If the court were to allow the contemner to prove the claim's veracity during the contempt application trial, it would then have to serve as an appellate court and resolve the allegation, which is not the purpose of the court hearing the petition for contempt.

At first, the 1971 Contempt of Court Act did not provide any defenses. However, the Contempt of Courts Act of 2006 added a new Section 13 that reads: "The court may permit, in any proceedings for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is bona fide." According to the Statement of Objects and Reasons to the Bill, the amendment "would introduce fairness in procedure and meet the requirements of Article 21 of the CoP.Law Minister H.R. Bharadwaj said during a discussion of the Bill's provisions in the Lok Sabha, "Suppose there is a corrupt judge and he is engaging in corruption in your presence. Are you not entitled to say that what you are saying is true?" Truth ought to win out. Also of public importance is that.

According to the National Commission to Review the Working of the Constitution's report, "Judicial decisions have been interpreted to mean that the law as it currently stands prohibits even truth from being pleaded as a defense to a charge of contempt of court." M.N. Venkatachaliah, a distinguished former Chief Justice of India, headed the commission. This legal situation is not acceptable. A complete ban on using truth as a defense may be deemed an unfair limitation. It would be comical if the courts could forbid the defense of justification by truth despite the emblems widely displayed in the courtrooms, displaying the mottos "Satyameva Jayate" in the High Courts and "Yatho Dharmas Tatho Jaya" in the Supreme Court. According to the Commission, the legislation in this area has to be changed appropriately.

In the Pritam Lal case from 1993, the Supreme Court held that no ordinary law, including the Contempt of Court Act, could limit or infringe upon its power of contempt. Despite the one-year time restriction set by the Contempt of Courts Act, the High Courts and the Supreme Court have used their contempt powers, according to the study.If the Act is suitably amended to provide the defense of truth in a contempt action, the same would introduce fairness in procedure and meet the requirement of Article 21, according to the Attorney General, whose opinions were sought by the Parliamentary Committee on the issue of Constitution amendment.The Contempt of Court Act of 1971's definition of "contempt of court" makes even "tendency" to scandalize and interfere with justice system a contempt act; however, there are no norms, guidelines, or criteria for establishing the tendency, which is almost invisible and opinionated. If any court infers "tendency" of scandalisation, the commentator would be liable for contempt of court.

Journalists Case at Midday

Four journalists from Mid Day, including Resident Editor Vitusha Oberoi and City Editor MK Tayal, were sentenced to four months in jail on contempt of court charges on September 20, 2007, as a result of a report they had published with accusations against the former Chief Justice of India, Y. K. Sabharwal. Whether the accusations and critical statements made in the report were true or not, the sentence caused controversy.The High Court, however, sentenced the journalists without considering the veracity of the reports, and this led to considerable controversy. Many in the legal community believe that in the 2006 Delhi sealing drive, Justice Sabharwal may have had a conflict of interest because his sons own a firm with ties to the Delhi real estate. Former Solicitor General K K Sud had called this behavior "the height of indiscretion."

As there was no opportunity to plead and prove truth as a defence, the defence of truth was not available in the case of Mid-day Journalist. Where the court acts on its own, i.e., in suo moto proceedings, the court is the complainant, prosecutor, and adjudicator. It is challenging to eliminate the potential for professional bias in prosecution when the three key players are

not separate.The truth is made a defence, but the allegation can only be proven as true in a full-fledged trial and not in summary proceedings, which is typically used by higher courts to find contemnor guilty. It is made only a qualified defence, i.e., it could be invoked only if it is stated in public interest. The amendment gave wide discretionary powers to the court that hears the complaint of contempt of court. Newly introduced Section 13 says court may pe

Episode in Mysore

The High Court suo motu initiated contempt proceedings against several publications for scandalizing the Court and lowering its authority in 2002. The matter reached the Supreme Court, where an agonized Chief Justice Khare while criticizing the media for not disclosing their sources stated that "I will reward the media if the media if the media if the media if the media if the media if the media if the media if the media if the media if the media if the media if the media if the media if the media if the media if

Fali S. Nariman asserted that the truth is a sufficient defense and said that if the law were to be understood to punish someone for contempt even if they truthfully reported that a judge had accepted bribe in exchange for rendering a favorable decision, the law would be invalid because it placed unreasonable restrictions on the right to free speech. Additionally, the judge who accepted the bribe would have broken his oath to administer justice impartially.

Anil Divan, senior advocate, referred to international standards and laws of other democracies that would be informative and enable us to arrive at the right standards. Professor Michael Addo of the University of Exeter has collected the views of many European experts in Freedom of Expression and the Criticism of Judges. In his article, Anil Divan further said: Truth was treated as a untouchable‘ while exercising contempt jurisdiction for scandalising the Court. Parliament has now opened the doors of the temple of justice for the erstwhile untouchable. In the case of Veeraswami, a former Chief Justice of Madras High Court, the Supreme Court observed: A single dishonest judge not only dishonours himself and disgraces his office but jeopardises the integrity of the entire judicial system.The contest is between truth and its suppression. The choice then is between the plea of truth to expose judicial misconduct and the attempt to stifle such publication by the use of the contempt power. The Delhi High Court through its Mid-dayjudgment has catapulted the issue nationally and internationally.

The English press vigorously criticized the judiciary in the Spy Catcher case, where Peter Wright, a former intelligence officer, wrote his memoirs but the Court of Appeal injuncted the publication of the book in England. The House of Lords, by a majority of three against two, confirmed the interim injunction and enlarged it. The Times of London published a blistering editorial which stated: "Yeste, the offence of scandalizing the court has become obsolete. In the United States, contempt power is used against the press and publication only if there is a clear imminent and present danger to the disposal of a pending case. Criticism, however virulent or scandalous after final disposition of the proceedings, will not be considered as contempt. The Daily Mirror published the photographs of Lords Templeman, Ackner, and Brandon upside down.

This law was made during the British rule. In a democracy, people are superior and have the right to criticise the court as even the judiciary is here to serve the people. The Contempt of Court Act needs to be drastically amended to enable journalists to perform their duties.' Press Council of India Chairman and retired Supreme Court Justice Markandey Katju advocated changes to the Contempt of Court Act, 1971 in April 2012.The Executive in Indian Democracy is shielded by a special power to keep the information secret under the Official Secrets Act. Traditionally the system of governance in India has been opaque, with the state

donning the mantle of colonial secrecy. It is being continued by retaining the Official Secrets Act as well as the administrative structure which was designed to distance the masses from governance. In addition to that there is a traditional feudal mindset which presupposes a distance between the _rulers'and the ruled' and makes the former a privileged class. As a result, this information sharing as a culture was neither consciously developed nor reflected in major legal changes until a few years ago when the requirements for public hearings or mandatory disclosures under laws like the Environment Protection Act or the Consumer Protection Act were put into place. Though the Constitution speaks about freedom of speech and expression, it provides a form of the oath of secrecy imposing an obligation on the constitutional office holders not to reveal information which they come to know during the course of official functioning. The public servants and officers are under a constitutional and contractual obligation to keep administrative affairs as secret, even without taking the aid of Official Secrets Act.

The executive decisions affecting the rights and interests of the public generally are also kept secret as a matter of routine practice and then as a matter of policy too; it is impossible to obtain a copy of GO even, which is normally supposed to be made available; the officers can be prosecuted either for leaking the information or actively assisting in transgressing the law; the information generally does not flow from any administrative office. The Public Servants - the political executives occupying the constitutional positions like Prime Minister, member of Council of Ministers or Member of Legislature -are prevented from revealing information under the threat of breach of Oath of Secrecy which can be treated as an Unconstitutional act of those office holders, who can be even sacked from it for the revelation. The Civil Servants or the bureaucratic personnel are under a contractual and statutory obligation to not reveal according to civil service rules and the Official Secrets Act. In contrast, the press or any other media organization or the people in general need the information and suffer by the secrecy policy as they cannot form any opinion regarding any aspect of public importance and interest. This principle was even more clearly enunciated in a case where the court remarked, —The basic purpose of freedom of speech and expression is that all members should be able to form their beliefs and communicate them freely to others. In sum, the fundamental principle involved here is the people 's right to know.

The problems for the media in accessing information are many. In the absence of an open information regime, balanced reporting is very often not possible. Substantiating facts becomes very difficult and the directive to journalists to double check with a second source is difficult to follow with the source 'very often being some government official who refuses to talk about the issue, howsoever mundane. This has also created a regime of garnering information through illegitimate means such as bribing and pandering to the whims of various government officials to eke out information. Investigative journalism has become nothing but collecting basic information. This syndrome has been aptly termed as coopting and corrupting 'by a senior journalist. The system first co-optsthe media and then corrupts' it, making it fall in with its own requirements for giving necessary slants to news, for suppressing or distorting it and for blunting criticism. For the media, therefore, the right to information will act as a life-giving elixir and will help it to deal with many of its own constraints in acting as the fifth estate '. A former Chairman of the Press Council of India remarked in a seminar organized by the media in 1987, important information is at times sought to be withheld by the authority in power on the plea of the bar of the Official Secrets Act even in matters where the Act may not have any application at all, causing great deal of harassment to journalists and imposing improper curbs on the freedom of the press I feel that appropriate legislative measures should be adopted in our country not only for the right of the Press to information but also for proper implementation of this right.

CONCLUSION

In conclusion, Press freedom and the necessity to safeguard the fairness of legal procedures must be carefully balanced in the context of the press and contempt of court. In order to ensure accountability and openness while avoiding contempt, responsible reporting is essential. The press and the court may cooperate in order to protect the ideals of a fair and impartial judicial system and to retain the public's confidence in the administration of justice. When negotiating the complications of contempt of court, communication and collaboration between the press and the courts are crucial. To encourage responsible reporting and preserve the integrity of current processes, courts should provide the press clear instructions and timely information. The media must also show professionalism, abide by ethical guidelines, and be dedicated to covering news fairly and accurately.

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CHAPTER 10

EXAMINES THE SIGNIFICANCE AND IMPLICATIONS OF THE OFFICIAL SECRETS ACT

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ABSTRACT:

The Official Secrets Act is a legal framework that governs the protection of sensitive information and national security in many countries. This paper examines the significance and implications of the Official Secrets Act, exploring its historical context, provisions, and impact on freedom of expression, whistleblowing, and government transparency. It delves into the balance between national security interests and the need for accountability and public interest disclosures. By analyzing case studies and legal perspectives, this paper sheds light on the complexities and considerations surrounding the Official Secrets Act.The Official Secrets Act (OSA) is a piece of legislation that provides legal protection against espionage and unauthorized disclosure of official information in the UK. The OSA 1989 creates an offense for the unlawful disclosure of information in six specific categories by employees and former employees

KEYWORDS:

Espionage, Freedom of Information, Government Secrecy, National Security, Official Secrets Act.

INTRODUCTION

The primary culprit in establishing the culture of secrecy in the nation is undoubtedly the Official Secrets Act of 1923, a colonial remnant that the new political and bureaucratic elite of independent India easily accepted. One of India's top statesmen and jurists expressed his concerns in the Central Legislative Assembly, saying: "Your provisions are so wide that you will have no difficulty at all in running in anybody who peeps into an office for some, it may be entirely innocent enquiry as to when there is going to be the next meeting of the Assembly or whether a certain report on the census of India has come out and what is the population of India recorded in the th." Experience has confirmed his concerns[1], [2].

The original British Official Secrets Act is mirrored in the Official Secrets Act of 1923. The former has remained almost unchanged, with just minor changes made in 1967, while the latter has been significantly watered down. It makes it quite clear that any behavior that aids an adversary nation against India is illegal. A restricted government site or location is likewise prohibited from being approached, inspected, or even just passed over. This Act states that providing the adversary with a draft, plan, model, or official secret, as well as official codes or passwords, constitutes aiding the enemy state. This legislation makes it illegal to divulge any information that might jeopardize India's sovereignty and integrity, the nation's security, or cordial ties with other countries[3], [4].

The catch-all Section 5 of the OSA is seen to be the driving force for the majority of governmental reactions that have stifled information of all kinds, even to the point of restricting people's basic rights. The application of the Act in the Narmada Valley to stop activists and journalists from visiting is a case in point that is often cited. The combined

impact of the widespread The OSA's Sections 3 and 5 are intended to stifle any information, regardless matter how innocent[5], [6].

The Official Secrets Act of 1923 has the following essential sections. Spying penalties Section 3 If any person for any purpose prejudicial to the safety or interest of the state- approaches, inspects, passes over or is in the vicinity of, or enters any prohibited place; or makes any sketch, plan, model, or note which is calculated to be or or might be or is intended to be, directly or indirectly, useful to an enemy; or obtains, collects, records or publishes or communicates to any other person any secret official code or password, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the state or friendly relations with foreign states; He shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the navel, military or air force affairs of Government or in relation to any secret official code, to fourteen years and in other cases to three years[7], [8].

On a prosecution for an offence punishable under this section it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the state, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interest of the state; and if any sketch, plan, model, article, note, document or information relating to such a place, or any secret official code or password is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or from his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the state, such sketch, plan, model, article, note, document information, code or password shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interest of the state[9], [10].

If any person having in his possession or control any secret official code or password or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or related to anything in such a place, or which is likely to assist, directly or indirectly, an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the state or friendly relations with foreign states or which has been entrusted in confidence to him by any person holding office under government, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Government, or as a person who holds or who has held a contract made on behalf of Government, or as a person who is or has been employed under a person who holds or has held such an office or contract, a) willfully communicates the code or password or any sketch, plan, model, article, note, document or information to any person other than the to whom he is authorized to communicate it, or a court of justice or a person to whom it is, in the interest of the State, his duty to communicate it; or b) uses the information in his possession for the benefit of any foreign power or in any manner prejudicial to the safety of the state; or c) retains the sketch, plan, model, article, note, document or information in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or willfully fails to comply with all directions

issued by lawful authority with regard to the return or disposal thereof; or d) fails to take reasonable care of, or so conducts himself as to endanger the safety of the sketch, plan, model, article, note, document, secret official code or pass word or information; He shall be guilty of an offence under this section.

Any person who voluntarily receives a secret official code or password, as well as any sketches, plans, models, articles, notes, documents, or information, while knowing or having a good faith belief that the communication of the code, password, sketches, plans, models, articles, notes, documents, or information violates this Act, is in violation of this Section and is guilty of an offense.Any person who communicates directly or indirectly with a foreign power or in a way that is detrimental to the safety or interests of the state while in possession or control of any sketch, plan, model, article, note, document, or information relating to munitions of war is in violation of this section.

If found guilty of an offense under this provision, the offender will face a sentence that might last up to three years in jail, a fine, or a combination of the two. The Press Commissions have been the principal opponents of these rules. Their position has evolved through time, however. The First Press Commission did not advocate changing the terms of the Act, it was noted in 1954, "in view of the international tensions and consequent need to ensure that secret policies are not divulged." According to the same body in 1982, however, the Act's provisions "have a chilling effect on the press" and "Section 5 as it stands can prevent any information from being disclosed to the public, and there is widespread public opinion in the country that the Section has to be modified or replaced and replaced by a more liberal one.A. G. Noorani summarizes his criticism of the OSA by stating that it violates the basic rights to life and liberty256, as well as the right to free speech and expression255. A claim of a violation of the Act must be strictly shown, and the public interest defense must be accessible.

Along with the OSA, the Central Civil Service Conduct Rules, 1964 prohibit "unauthorised communication of information" by government employees. Rule 11 states as follows:11. Information sharing without authorization. No government employee may communicate any official document or information, directly or indirectly, to another government employee or to anyone else to whom he is not authorized to communicate such document or information, unless doing so is required by any general or special order of the government or in the course of performing in good faith the duties assigned to him.

Explanation: Quoting a letter, circular, office memo, or note from a file that a government employee is not authorized to access, keep in his personal custody, or use for personal gain constitutes unauthorized communication of information within the meaning of this rule. Additionally, according to the Manual of Office Procedure, only Ministers, Secretaries, and other personnel explicitly approved by the Minister are allowed to meet with members of the press and provide information. The following is from the Manual of Office Procedure:Section 154: Information to the Press: Information to the Press should typically be provided by an official with the appropriate authority through the Press Information Bureau.

Functions of Information Officers: Each ministry of the Indian government has an information officer from the Press Information Bureau. An information officer's duties include ensuring that the operations of the ministry to which he is connected get the proper publicity and informing the ministry of public responses to those efforts. The information officer will have a tight line of communication with the ministry to which he is assigned, and that ministry will provide him with the tools he needs to do his job well.

Section 161. Press Information Communication. Press representatives may only get information from or access from Ministers, Secretaries, or other personnel explicitly

approved by the Minister. Any other official should direct a press representative who approaches him to the Government of India's Principal Information official.Certain categories of government documents are given privilege under the Indian Evidence Act of 1872.

No one may present evidence derived from unpublished official records relating to any State business without the officer in charge of the department in question, who may grant or deny such permission as he sees fit. Section 123. Evidence as to State Business.No public official may be required to reveal communications provided to him in confidence where he believes that doing so would harm the interests of the public, according to Section 124.

DISCUSSION

No Leakage of Official Secrecy

The issues of government information access and official secrecy take on a significant weight. We are still subject to an Act that the colonial masters enacted during the laissez-faire era that governs government secrecy. The Official Secrets Act of 1923 is a statute that, in many ways, is a carbon copy of the English Official Secrets Act of 1911.

The Act is an all-encompassing piece of law that protects any kind of official secret information, regardless of the consequences of revelation, and anybody who violates it faces harsh penalties, including jail. It extends beyond espionage, spying, or other revelations that may have an impact on public safety or interest. It functions as a Damocles sword over the press's head, preventing it from disclosing government secrets that could be in the public interest. Several committees and commissions, including the Press Law Enquiry Committee in 1948, The Press Commission in 1954, The Law Commission in 1971, and The Second Press Commission in 1982, have looked at the issue of modifying the Act. These committees did not investigate the issue more thoroughly. In partnership with the Indian Press Council, the Indian Law Institute produced a thorough investigation. They suggested making several significant changes to the Act. The report suggested that the catch-all clause be removed and that the Act define the types of information that must be safeguarded. The research found that the following categories of information need protection against disclosure:

1. information on the nation's defense or security,

2. foreign affairs.

3. Documents and proceedings in the Cabinet

4. monetary, foreign currency, and economic plans and strategies if early revelation would be detrimental to the interests of the country.

5. preservation of law and order, i.e., knowledge that is

a) Likely to facilitate the commission of crimes,

b) likely to aid in an escape from lawful custody or engage in behavior that compromises prison security; and

b) likely to make it more difficult to apprehend or prosecute criminals or prevent or detect crimes.

6. Confidential information provided to the government.

7. industry secrets.

8. Information that might allow for unfair financial advantage by private interests via early disclosure.

Additionally, the study has made the recommendation that if the government proposes to prosecute the press under the Official Secrets Act, it should only be done with the approval of a committee consisting of the Attorney-General, Chairman of the Press Council of India, and one member of the council nominated by the council. This is to prevent the government from abusing the prosecuting powers under the Act. The committee's authority does not apply to cases brought under S.3 of the Act that include charges of espionage or spying.

Modifications and Army Data

The Official Secrets Act should be changed, according to the Press Council, to allow for more openness about defense-related issues as well. The council said in a recent study that this was not only desirable but also technically feasible without jeopardizing national security. In 1990, the Press Council looked into media reports claiming different types of abuses by Army forces in Jammu and Kashmir at the Army's request. Senior defense journalists then wrote to the Council in 1992 to express concern that the new criteria for defense coverage may stifle the flow of information on military and national security.

The Officials Secrets Act should be revised, and a privacy legislation should be enacted, are the committee's other suggestions. The recommendations made in the Council report "Crisis and Credibility1 on Jammu and Kashmir regarding media-military relations are still relevant today, particularly with regard to low intensity conflict situations and the need to widely publicize the results of court martial proceedings in order to put an end to baseless propaganda and send a clear message that wrongdoing by any member of the armed forces will be swiftly punished.However, the Right to Information Act, 2005 made it possible to reveal the information of the military or protected agencies of the state with reference to corruption and human rights violation. Without amending the Official Secrets Act, the new enactment offers the information in a limited way, which is a significant step toward a more liberal and transparent defense information policy.

In dealing with various aspects of bail, the Supreme Courts stressed the need for free legal aid to the poor and needy who are not either not aware of the procedures or not in a position to afford lawyers, and who, as a result, are unable to obtain lawyers and are, as a result, unable to work for disseminating information. The Hussainara Khatoon cases related to the illegal and prolonged custody of poor undertrials in the state of Bihar.Administrators of Jails typically refuse the media's requests to interview the prisoners on flimsy grounds, according to the Court in this case, which held that there could be no justification for refusing permission for the media to interview prisoners on death row unless there was clear evidence that the prisoners had refused to be interviewed. The right to acquire information includes the right to access sources of information, which are places where the public can obtain information.

Repeated violations of civil rights by the police and other law enforcement agencies have forced the courts to repeatedly issue directives to the concerned agencies for ensuring transparency in their functioning in order to prevent violations like illegal arrests and detention, torture in custody, and the like. The accused must have the right to information regarding his charges. The framing of charges against a person cannot be a secret to that person.In this case Petitioner, a journalist, approached the courts to bring out the condition of women prisoners in jails in the state of Maharashtra. These cases had come to her notice in the course of interviewing women inmates in Bombay Central Jail. The court gave certain directions to the State Government, including that pamphlet on the legal rights of arrested

persons, in English, Hindi and Marathi should be printed in large numbers and circulated as well as affixed in each cell in police lock up. Further, the Legal Aid Committee is to be immediately informed of the arrest. There should be surprise visits to the police lock ups by a City Session Judge. The relative or friend of the arrested person should immediately be informed upon the arrest. The magistrate before whom an arrested person is produced should enquire from the arrested person whether he has any complaint of ill treatment or torture in police custody and inform him of his right under the Criminal Procedure Code, to have a medical examination.

In spite of prior attempts by the Courts to check violation of rights in custody, instances of violations continued. The court reiterated in this case, filed by the Chairperson of the National Human Rights Commission, that information about arrest and custody can no longer be the official secrets. This kind of culture of secrecy makes the jail cells and lock up cells of police stations the centers of torture and violation of civil rights of the people in general, about which the media must write.All state governments in the nation were once again given instructions to prominently display and publicize the instructions on arrest and custody, failure to which would be treated as contempt of the Supreme Court. Most of these instructions translate into the right of the accused or his kin to have access to information regarding his arrest and detention, such as preparation of a memo of arrest to be counter-signed by the arrestee and a relative or neighbor, preparation of a memo of arrest to be counter-signed by the arrestee and a pr

The abolition of the Official Secrets Act of 1923 and the fight for a legally-enshrined right to information have been the two primary tenets of the fight for a right to information.Since 1948, when the Press Laws Enquiry Committee stated that the application of the Act "must be confined, as the recent Geneva Conference on Freedom of Information has recommended, only to matters which must remain secret in the interests of national security," objections to the Official Secrets Act have been raised.

The Government of India established a Working Group in 1977 to examine whether the Official Secrets Act needed to be amended to allow for greater public disclosure of information. This group concluded that no changes were necessary because the Act only served to protect national security and did not obstruct legitimate disclosure of information to the public. In practice, however, the executive predictably continued to revel in this protection under the fig leaf of this Act.

No legislation implemented the recommendations of yet another Committee, which was established in 1989 and recommended limiting the areas where governmental information could be hidden and opening up all other spheres of information. In 1991, sections of the press reported recommendations of a task force on the modification of the Official Secrets Act and the enactment of a Freedom of Information Act. The Prime Minister supported a Right to Information to combat unjustified government surveillance.

The second Administrative Reforms Commission has suggested that the Official Secrets Act of 1923 should be repealed, saying it is incongruous with the regime of transparency in a democratic society. The commission chaired by M. Veerappa Moily submitted its first report on "Right to Information - Master key to good governance" to Prime Minister Manmohan Singh and suggested that sui safeguards for the security of state should be incorporated in the National Security Act. There is a need for clear definition as to what constitutes official secrets and then exempt them from the public domain. Though the Official Secrets Act appears to be a piece of legislation meant to prevent leakage of information that would endanger the security and sovereignty of India, it is in reality a legislative attempt to render

governance opaque. The sweeping generalisations contained in Section 5 of the Act were criticized as an artefact of oppressive colonialism on what comprises official secret bears that out. The government needs to not only abolish the OSA now, but consolidate the post-RTI transparency regime, by bringing in a duty to publish law.

According to Section 6 of the Official Secrets Act, information from any government office is considered official information, so it can be used to preempt the Right to Information Act and prosecute an OSA accused. The inter-ministerial group proposed amending the 1923 Official Secrets Act in 2008 to ensure that prior approval is obtained from the Home Ministry before prosecution of an OSA accused.

It was understood that a majority of the recommendations of the H D Shourie Committee of 1997 on definitions to be included in Section 5 of the OSA will be included in the amendments. The Shourie Committee had criticized the section for its catch-all provisions and absence of a clear definition of official secrets. Recognising the sweeping changes brought about by the RTI Act, the amended OSA will categorize and classify information which is now available in the public arena as against confidential national secrets. From the earlier vague instruction of the Home Department giving an authorization for charge-sheeting an OSA accused, an amendment is proposed wherein prior sanction will be needed for which an application of mind and, thereby, a scrutiny of investigation will be required. The amendments will take into account the availability of confidential/secret documents and information now in electronic format thanks to the use of computers and internet. Several procedural and technical amendments are also proposed, especially in view of the difficulties in investigations highlighted by officials of the CBI and Delhi Police. For instance, OSA provisions will be made compatible with amendments made over the years to the Criminal Procedure Code.

The Officials Secrets Act (OSA) was the only statute on the books that dealt with cases of espionage and the wrongful possession and communication of sensitive information, minister of state for personnel Suresh Pachouri stated in response to written questions to the Rajya Sabha in November 2008; however, the Government rejected this recommendation of the second Administrative Reforms Commission to repeal the OSA. Therefore, repealing this legislation is neither desirable nor essential.

Charged with violation of Official Secrets Act, 1923, a journalist, Iftikhar Gilani, Delhi bureau chief of the Jammu-based daily Kashmir Times was, arrested in June 2002. He was charged under the OSA, along with a case of obscenity. The first military report suggested that the information he was accused of holding was "secret" despite being publicly available. The second military intelligence report contradicted this, stating that there was no "official secret". Even after this, the government denied the opinion of the military and was on the verge of challenging it when the contradictions were exposed in the press. The military reported that, "the information contained in the document is easily available" and "the documents carry no security classified information and the information seems to have been gathered from open sources". On January 13, 2003, the government withdrew its case against him to prevent possibility of two of its ministries giving contradictory opinions. Gilani was released the same month. For seven months, Iftikhar was imprisoned without bail under the draconian and much-abused Official Secrets Act . His crime — possessing out-of-date information on Indian troop deployments in "Indian-held Kashmir" culled from a widely-circulated monograph published by a Pakistani research institute.

Sensing they had at last found something potentially useful, the IB officials searched through his hard drive and came across a file with the title "Fact Sheet on Indian Forces in Indian

Held Kashmir." To make it appear as though the file had been taken from an official Indian document, they manually replaced all references to Indian Held Kashmir with the words "Jammu and Kashmir.The shocking tale that this book tells is not just an indictment of the capriciousness and arbitrariness of power, or a grim chronicle of the sheer viciousness of the Indian State, but it is also a depressing account of how all the so-called estates of society - including the Fourth - came face to face with an obvious injustice and were found wanting.

A Delhi court ruled in 2009 that the publication of a document simply marked "secret" shall not subject the journalist to liability under the Official Secrets Act, despite the fact that the journalist was charged in 1999 for criticizing the divestment policy by publishing the contents of a Cabinet note. Journalist Santanu Saikia was prosecuted by the CBI in a case that was filed against him ten years ago for disclosing the contents of a Cabinet paper on divestment policy; however, Additional Sessions Judge Inder Jeet Singh of the Delhi District Court has now released Saikia from the charges. Because it was typical for the media to report on Cabinet files even if they were a classified secret, the CBI case against Saikia under OSA had drawn attention.

CONCLUSION

In conclusion, The Official Secrets Act is essential for safeguarding sensitive data and national security. However, the ideals of openness, responsibility, and freedom of speech should be taken into consideration while applying and enforcing it. Whistleblowers should be protected, and measures should be taken to guarantee the public's right to know about subjects of public importance. Maintaining public confidence and safeguarding the fundamentals of a democratic society depend on striking a balance between national security and democratic norms. To guarantee that the Official Secrets Act remains relevant in the changing environment of technology, digital information, and national security risks, reforms and modifications should be taken into consideration. It is crucial to strike a balance between national security concerns and the tenets of openness, accountability, and freedom of speech in order to modify the Act to meet the requirements and ideals of a democratic society.

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CHAPTER 11

ISSUES RELATING TO REPORTING COURTS AND LEGISLATURE IN INDIA

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ABSTRACT:

Reporting on courts and the legislature in India presents various challenges and complexities that affect media coverage, transparency, and public understanding of these institutions. This paper explores the issues related to reporting courts and the legislature in India, including access to information, restrictions on reporting, biases, and the role of the media in promoting accountability and democracy. It delves into the tension between the freedom of the press and the need to uphold the integrity of these institutions, as well as the impact of responsible reporting on public trust and informed decision-making. By examining these issues, this paper aims to shed light on the intricacies and considerations surrounding the reporting of courts and the legislature in India.

KEYWORDS:

Court proceedings, Fair and accurate reporting, Freedom of speech, Judiciary, Legislative process, Media coverage.

INTRODUCTION

The rights to reputation and independence and dignity of lawmakers and judges, who are shielded by the ability to penalize for contempt, respectively, place significant restrictions on the freedom of the press. It is necessary to maintain the credibility of the Legislature and the Judiciary as two constitutional institutions or Estates[1], [2].

A. Judiciary & Media

In order to protect the presumption of innocence, legal means for maintaining confidentiality during criminal investigations are specifically permitted under the Madrid principles on the interaction between the media and judicial independence (1994268). All trials should be open to the public until the court orders differently, according to the Siracusa Principles of 1984. The media is not within our control. We only have authority over judicial procedures. In response to CBI Director Ranjit Sinha's request to prevent the media from publishing the contents of the visitors' logbook at his home, which revealed frequent visits by some of the accused in the 2G and coal block cases among others, Justice H. L. Dattu presided over a Supreme Court bench hearing the case. The Bench rejected it, stating that while it agreed that the matter concerned a person's reputation, it also recognized press freedom and would, thus, not make any orders while anticipating responsible behavior from the media[3], [4].

On June 16, 2014, as reported by PTI, the Delhi High Court said that rape cases cannot be influenced by emotions. A Delhi court condemned the uproar over acquittals in rape cases, saying that the judiciary cannot be influenced by feelings or media coverage and must confine itself to the scope of law and witness testimony when making such decisions. In the instance at hand, the girl recanted her previous testimony to the police and informed the court that she had met one of the defendants via a social networking site and had become intimate

with him with her own accord. She further disclosed to the court that her well-wishers had encouraged her to file the lawsuit[5], [6].

On June 4, 2014, the Delhi High Court issued an order prohibiting more than 400 unauthorized websites from airing FIFA World Cup matches in response to a plea submitted by Multi Screen Media, previously known as Sony Entertainment Television India. It is a petition about intellectual property rights. All rights for live, delayed, replay, and online broadcast of 2014 World Cup matches in the Indian subcontinent belong to the MSM. also instructed the different ISPs to prohibit the websites listed in Multi Screen Media's petition as well as any other portals that were subsequently discovered to be breaching the rights of the official FIFA 2014 broadcaster in the Indian subcontinent[7], [8].

TV news outlets are prohibited

A few days before August 5th, 2019, the state of Jammu & Kashmir announced its intention to revoke the provisions of autonomy under Article 370 by blocking all mobile services, networks, and landlines. The ban persisted for more than a month. Due to the severe political unrest of 2010, all cable TV networks' news and current affairs programming had been "banned" in Jammu & Kashmir until after the 2014 elections. In order to "prevent breach of peace and any law-and-order situation," the Chief Minister informed the Assembly that certain text data and communication services had also been halted. He claimed that the Cable Television Network Act had been broken by the private TV stations. The ability to send SMS on pre-paid mobile phones was also banned in order to prevent the spread of "false and pointless rumors that have the potential to incite violence[9], [10].

The CM of UP criticized actors who were "promoting Awadhi culture through their films" and dubbed the media "anti-Urdu" and "Lucknow's tehzeeb" opponents. Two television networks are purportedly being blocked as a result of the enraged Akhilesh Yadav sarkar. In numerous areas of Uttar Pradesh, including Lucknow and Ghaziabad, "Times Now" was taken off the air. The cable companies have not provided a precise justification for why they choose not to transmit two TV channels in the 12 TRP centers of UP.

The channel must be transmitted by the cable TV providers. The rule made it illegal for cable TV providers to broadcast offensive and libelous content. The Cable Television Networks Act, 1995 regulates the operations of these networks to ensure consistency in their operations, prevent undesirable programming, and enable the best possible exploitation of the technology that had the potential to make a vast amount of information and entertainment available to subscribers.

The Act also mandates that cable providers produce data on subscriber totals, subscription prices, and the split of customers between paid and free-to-air channels. If a cable operator breaches an Act requirement, the Act permits the seizure of the cable operator's equipment. The District Judge might extend this seizure term by an additional 10 days if necessary. The period of seizure is unrestricted under the 2011 Amendment Act. If a cable operator breaches the conditions of registration, the amendment will provide the central government the authority to withdraw or suspend the operator's registration. The cable operators themselves are unaware of their rights, responsibilities, and obligations with regard to the technical and content quality of the service, the use of copyrighted materials, the exhibition of uncertified films, the protection of subscribers from anti-national broadcasts from sources hostile to our national interest, responsiveness to the genuine complaints of the subscribers, and perceived willingness to operate within the general parameters of the law.

If a cable operator violates Section 3 by operating illegally, an officer who is not in Group A status may take the cable operator's equipment in accordance with Section 11. The tools might be seized under Section 12 if he doesn't register. If the officer determines that it is necessary or expedient to act in the public interest, he may issue an order prohibiting any cable operator from transmitting or retransmitting any specific program if it is likely to foster discord or feelings of animosity, hatred, or hostility between people on the basis of religion, race, language, caste, or community, among other grounds. This authority is provided by Section 19. A cable television network may not operate in any areas that are specified in a notice published in the Official Gazette under Section 20 if the Central Government determines that doing so is necessary or expedient for the good of the public. However, do not ban a TV station, not even for a day.

DISCUSSION

TRAI guidelines

The legislation gave TRAI the authority to define the basic service tier, a collection of free-to-air channels that must be provided to customers by each cable operator in order to defend their interests. A la carte access to channels in the basic service tier for customers at a price set by TRAI is required by law for cable operators. The cable operators are required to provide a transmission guarantee. The Amendment Act of 2011 gave the federal government the authority to make notifications mandating that all cable providers broadcast any channel, including free-to-air channels, in encrypted form over a digital addressable system.

Telecast offenses

According to Section 5 of the Cable Television Network Regulation Act of 1995, they are prohibited from transmitting or retransmitting any program over a cable service unless that program complies with the established program code. Section 16 of the law stipulates that if this provision is broken, the offender may be sentenced to up to two years in prison, a fine of up to $1,000, or both for the first offense and up to five years in prison and a fine of up to $5,000 for each subsequent offense. This penalty clause could be used if the broadcast breaks the program code.

Software code reads

No program that offends against good taste or decency, contains anything obscene, defamatory, purposefully false and suggestive innuendos and half-truths, criticizes, maligns, or slanders any individual in person or certain groups, segments of social, public, or moral life of the nation, or uses language or images to portray certain ethnic, linguistic, or regional groups in a derogatory, ironic, or snobbish

Any show that violates the aforementioned restrictions may result in a two- to five-year jail sentence, and the TV provider may have to pay up to ten thousand dollars daily. In Hyderabad, private censorship opposes commercial and partisan speech. In both Telugu states, the TV9 and the ABN Andhra Jyothi are well-known and wealthy networks. There was no particular complaint against ABN Andhra Jyothi station, other than their consistent bias in favor of Telugu Desham party and against TRS, however the allegation against TV9 is explicit regarding a rude show that insulted MLAs. Generally speaking, the majority of the electronic media in the two Telugu states is neither impartial nor free. Negative terminology used in tv9 report: What would a man in a loincloth do if given a laptop? Will he hide it somewhere? I wonder whether they sell it elsewhere or stuff it into their loin! But the T-

MLAs grabbed them with both hands, exactly like a drunken pickle need!According to Tv9, MLAs would sell it.

It contains libellous remarks such as, "What would happen if you showed a Hollywood film to someone who is used to seeing older films in touring theaters in a multiplex? Test this out!Does this imply that peasants who attend traveling talkies for movies should never visit a multiplex or that villagers should never be voted to the Assembly? They are allegedly unworthy because they lack competence.

It has the effect of mocking the governor and lawmakers. A song from a movie is playing when the first Chief Minister, K. Chandrasekhar Rao, is about to take his oath. The pan picture of the television camera while the "wonder" song continues reveals lawmakers from almost all political parties, including the TDP, Congress, and BJP, among others, suggesting that not only the leader but a large number of legislators are inept. On lawmakers, it is "casting libellous reflections."

A commentator delivered cheap material in a deliberately designed Telangana accent while presenting the moments of swearing-in and other images inside and outside the House, utilizing a variety of Telangana idioms and phrases to damage the image of the newly elected. The lack of pictures to accompany the spoken text was a major flaw in this program. All of this resulted from a TV 9 broadcast that was vile and rude. On June 14, the New Assembly approved a motion empowering speaker Madhusudanachary to reprimand News Channel TV9. The speaker asked a special committee to look into the matter. While the media asserts its right to free expression, a furious legislative claim that media manipulation has compromised its dignity.

The privileges of the Constitution provide the legislature the authority to punish people for disobedience. Limitation of the right to free speech and expression, as justified by the reasons specified in Article 19. Citizens and the media have the basic right to criticize the activities of lawmakers, house processes, the budget, speeches, responses, motions for no-confidence votes, and other things. They are permitted to express themselves fairly as part of press freedom, but they are not permitted to disobey a court order or a privilege.

Privilege and contempt laws

According to Halsbury's Laws of England, a statement may be viewed as contempt even if there is no prior instance of the offense if it diminishes the authority or dignity of the House or has the potential to do so. The ability to impose penalties for contempt is seen as the "keystone" of parliamentary privilege. This authority came from the House of Commons' privileges. The penalty may be applied if the remark discredits, mocks, or denigrates the House. The act of criticizing the House, its committees, or its members would be an example of showing disdain for the House.

The Blitz, a weekly news publication, captioned a picture of J. B. Kripalani, an MP, "Kripaloony," stating that the Committee on Privileges had found R. K. Karanjia guilty of "contempt." On August 29, 1961, the Lok Sabha called journalist Karanjia before the House's bar and chastised him. The Committee said that it was "gross contempt of the House" to employ "libellous reflections, contemptuous insults, gross calumny, or foul epithets" against a member of the House because of his speech or behavior in the House.

Prison MISA Rape in Bhopal

A journalist who wrote a news article was accused of defamation, which was an intriguing case. An article about the appellant's enticement of a female detainee who was being held in

the Central Jail with him under the Maintenance of Internal Security Act claimed that she had conceived through him and that, after being released on parole, she had the pregnancy terminated. The respondent was the editor of the Blitz weekly, which published the article. The respondent requested that the report of the enquiry officer be sent for before the magistrate. However, the State Government claimed privilege over the report, making it impossible to access.

RK Karanjia petitioned the High Court to overturn the magistrate's decision in a revision. The State Government provided a copy of the inquiry report to the High Court, reneging on its privilege. According to a single judge of the High Court, the publication had been made honestly in the belief that it was true and also upon reasonable grounds for such belief, after the exercise of such means to verify its truth as would be taken by a man of ordinary prudence under similar circumstances. This judge believed that the respondent's case clearly fell within the ambit of the ninth exception to section 499, I.P.C.

The official report sheds light on how Sobhani is said to have seduced Mrs. Shukla with the assistance of a senior Bhopal Central Jail officer in spite of a restriction against interactions between male and female inmates. The prison administrator, who was also an ardent RSS supporter, gave Sobhani regular access to his office, where they had their love affairs. Yogesh Shukla has complained to the State Government, claiming that Sobhani had an extramarital affair with his wife and demanding that the prison staff be held accountable for allowing his wife to be "raped." According to an investigation by the Deputy Secretary of the Interior, there was no restriction on the mingling of male and female inmates at the Bhopal Central Jail; Shri Sewakram Sobhani took advantage of this and interacted quite freely with Smt. In addition to Smt. Shri Sewak Ram Sobhani helped Uma Shukla become pregnant.

The Ninth Exception's requirements are that the imputation be made in good faith and that it be done so in order to preserve the interests of the person making it, any other person, or the general welfare. According to the SC, the charges should have been returned to the trial court since the HC erred in quashing them.

A new rule established by the Supreme Court allows courts to temporarily prohibit media coverage of a case if doing so will negatively impact the trial, but the special constitutional bench of five justices rejected to establish broader standards for how the media should cover court proceedings. The SC bench of CJI S.H. Kapadia established a test: the court could issue a postponement order, temporarily banning electronic or print media from reporting on the case, if publishing news related to a trial would "create a real and substantial risk of prejudice to the proper administration of justice or to the fairness of the trial." The disclosure must really and significantly put the proper administration of justice or the fairness of the trial at risk. It is crucial to keep in mind that, on occasion, even fair and accurate coverage of the trial might result in a "real and substantial risk of serious prejudice" to the related proceedings. When this occurs, which is rare, there is no other practical way to prevent the real and significant risk of prejudice to the connected trials other than postponement orders. In August 2011, when the Vodafone case was incorrectly reported, Chief Justice of India Justice Kapadia suggested passing directions or guidelines for media coverage of court proceedings. We'll provide a quick order. But you need to control. It has occurred before, so this is not new. Numerous false reports are surfacing everywhere. The judge said that it had also occurred in other courts.

It was said that this order's ambiguity made it simpler to silence the media and, worse still, formalized the procedure by which parties involved in legal disputes may make sure that their cases aren't reported until the order is enacted. It opened the door for courts to impose a

temporary restriction on media coverage of a case if it would negatively impact a trial; the duration of the temporary ban was not specified. It automatically becomes a permanent ban. The parties have adequate time to handle the matter and the media. the press and other news media are already feeling because of other unreasonable restrictions and pressures on what is supposed to be a robust and expansive freedom of speech and expression, which is guaranteed by the constitution as a fundamental right, said renowned journalist N Ram. I am afraid that the latest judgment will have the same effect. Ram, a former The Hindu editor-in-chief.

Senior Supreme Court advocate HKP Salve said that Press Trust of India misquoted him while reporting on the Vodafone Group Plc arguments. fiscal case. Salve was arguing against the Indian income-tax authorities taxing the British telecommunications corporation for purchasing Hutchison Whampoa Ltd.'s Indian business in 2007. Salve was reported in the article as saying that his client had turned to tax avoidance. Actually, he had said that Vodafone had used tax avoidance and planning strategies. The crime of tax evasion has a penalty. Salve's application was met with an unequivocal apology from PTI. The journalist who prepared the story was therefore removed from covering the Supreme Court. The media has internal checks and balances of its own. The editor noted that it is not only in SC. The news organization is "extra careful" when covering Supreme Court cases, he said, "but unfortunately, sometimes errors do happen." He said that if a reporter on any other beat makes a mistake, "he or she will be held accountable." From the bench, CJI Kapadia questioned if he had received 11 to 13 similar complaints regarding inaccurate case reporting from top attorneys. Additionally, he often gets messages from criminal defendants still awaiting trial who claim to have been denounced in publications or on television. Numerous letters expressing concern about our rights are sent to the Chief Justice. How can I continue to ignore? How long may I ignore?He presided over the constitution bench of five justices as they discussed how the media should cover judicial proceedings.

The famed attorney Fali S. Nariman's complaint to Kapadia's court on February 10 was the catalyst for the constitutional bench hearing. The Securities and Exchange Board of India was taking action against two Sahara real estate businesses, and Nariman, who was representing them, protested to the court about a secret proposal that had made it into a business news channel. We are upset that even the petitioners' impartial suggestion, which was filed to Sebi, was broadcast on CNBC-TV18, he said. The frequency of these events is rising daily. The SC said in a written judgement that such information not only impacts business attitudes but also the administration of justice.

Apology

When the P.J. Thomas case, where the government was challenged for nominating an officer to the post of CVC who had a charge sheet against him, occurred in January 2013. While the charge-sheet was in a criminal case under the Prevention of Corruption Act, KKVenugopal argued that his client was a victim of a political conflict in Kerala. Later that evening, Times Now's editor-in-chief Arnab Goswami informed his audience that he thought Venugopal's court statements were "absurd." The next day, lawyer Venugopal complained. He was instructed by CJI to file a case against Mr. Goswami and Times Now. But Mr. Venugopal disregarded Goswami's advice.

The CJI had expressed concern over a news article published in a national newspaper on December 15, 2010, which said that the judiciary planned to keep 1% of the Rs. 2,500 crore deposit Vodafone had deposited in the court's registry in the tax issue. According to the article, a "cash-starved" court was attempting to raise money through such "novel" strategies.

People may write anything they wish, according to CJI Kapadia. However, the court took no action to penalize the reporter or the publication.

Training for court reporters

In order to report from the Supreme Court, senior authorized journalists are essentially need to hold a legal degree. However, they were later reversed in response to complaints made by reporters to the court's press committee that it would be unfair for the court to impose them. According to reports, CJI Kapadia was the focus of a public interest lawsuit after the Vodafone ruling in January, which said that the CJI was biased against Vodafone since his son worked for Ernst & Young. Vodafone received advice from the consulting firm over the deal with Hutchison.

When informed that India has mostly embraced an open justice system, Kapadia said, "We are not on open justice." We are focusing on proceedings in a trial court. An application is made. Press coverage exists. It's examined. Is that not prejudging the matter? Rajeev Dhavan, who represented the Editors Guild of India and the Forum for Media Professionals, was addressed by the court. "And those petitions, no sooner they are filed, you go on attacking the lawyers, you go on attacking the judges," he remarked. Dhavan informed the judges that they lacked the authority to stifle the media with laws that could be implemented, since this was what they were considering doing. He said that this constituted to legislating. Such rules could not be enforced and would not be severe, complained-about attorney Nariman told the court. The constitutional balance between free speech, its restrictions, and an accused person's rights would be disrupted. The court was also informed that the defamation and contempt laws already in place provided enough safeguards against a shaky media.

Citizen Journalism vs. Twitter

Rajeev Dhawan, a prominent lawyer for the Editor's Guild of India, posed a particular question to the court about Twitter and a society in which everyone was a journalist, which Kapadia disregarded as being beyond the purview of the hearing.

Order of hilarity

A prominent media outlet has been forbidden from revealing or spreading the contents of a CD pertaining to attorney and Congress spokesman Abhishek Manu Singhvi by a temporary order from the Delhi High Court. The media outlet and lead defendant Mukesh Kumar Lal were prohibited from sharing or spreading the information on the CD that Justice Reva Khetrapal purportedly had in her custody in her decision dated April 13th. The TV networks Aaj Tak, Headlines Today, and The India Today Group were forbidden by Justice Reva Khetrapal, according to the Indo-Asian News Service, from broadcasting the information on the reportedly produced CD by Manu Singhvi's chauffeur.

On February 27, 2006, the Supreme Court issued an order prohibiting the electronic and print media from airing and publishing the substance of any recorded conversations, including Amar Singh's. On May 12, 2012, the Supreme Court removed its ban on the media from broadcasting recorded talks of Amar Singh, citing Amar Singh's withholding of relevant information. The chats centered on Amar Singh reportedly removing an Allahabad High Court judge from a case involving Mulayam while speaking with Mulayam Singh, the then-chief minister of Uttar Pradesh. The other is about a money exchange with an industrialist looking to open a store in Uttar Pradesh, and the remaining is about his interactions with Bollywood celebrities. Amar Singh's involvement in creating the CDs is alleged in a contempt suit filed by attorneys Shanti Bhushan and Prashant Bhushan. When Asaram Bapu

was accused of sexual assault and was the focus of heavy media coverage in September 2013, his attorneys petitioned the Supreme Court of India to prevent the media from covering his case in a way that would be detrimental to his right to a fair trial. Justice Swatanter Kumar, an ex-SC judge, was accused of sexual harassment on January 16, 2014, and he filed a media complaint. In response to a defamation action brought by the former SC judge, the Delhi High Court issued publishing delay orders to media.

Justice Kumar's lawsuit in yet another contentious issue was likewise based on a Supreme Court precedent set in the highly publicized case of Sahara India Real Estate Corporation Limited and Others vs. Securities and Exchange Board of India & Another, which was resolved in 2012. While the Supreme Court in the Sahara case had very clearly identified the authority to order delay' of media reporting under Articles 129 and 215 of the Constitution of India, which vest in the SC and the High Court's powers to punish for contempt, Justice Kumar filed the complaint as a defamation case. The postponement orders that the Gag Order case established as a remedy, according to Sukumar Muralidharan, might end up in the hands of affluent and powerful litigants who would use them to obstruct the path of open justice. The Law is supposed to support the vulnerable against the powerful. But sadly, it is shifting from being weak versus powerful to being strong against weak.

The Delhi High Court was criticized for issuing this delay order in a situation where it lacked jurisdiction over the legal processes involving Justice Kumar. This criticism is connected to the judgment's inadequacy. The Editors Guild of India expressed grave concern and called the order a "mockery" of the rule of law and an unwarranted intrusion on media freedom a day after the Delhi High Court issued gag orders on the media prohibiting all publications and TV channels from reporting on a law intern's sexual harassment complaint against a former Supreme Court judge. The widespread sensational media coverage of the sexual harassment claims against the retired Supreme Court judge "may also result in creating an atmosphere in the form of public opinion wherein a person may not be able to put forward his defense properly and his likelihood of getting fair trial would be seriously impaired," Justice Manmohan of the Delhi High Court stated in Swatanter Kumar v. Indian Express and Others.

The sons of the then Chief Justice of India were reportedly making money from the sealing push their father started as a sitting Supreme Court judge, according to a 2007 article that the Delhi High Court took suo motu note of. In that instance, 4 journalists were found guilty and given a 4-month prison sentence. The decision was suspended by the Supreme Court awaiting the outcome of the appeal.

Mysore incident

56 journalists from 14 media outlets received a suo motu contempt summons from the Karnataka High Court for their reportage on the behavior of 3 KHC justices. In the end, the Supreme Court suspended the contempt proceedings while denouncing the media for their careless coverage of the situation. Journalist Madhu Trehan, editor of Wah India, and her coworkers were charged with contempt. Senior attorneys in the Delhi High Court were surveyed in this case by Ms. Trehan and her colleagues to gauge their opinions of the judges' timeliness, honesty, expertise, and other qualities. After the survey's findings were published in the magazine, an unprecedented situation occurred in which the Delhi High Court, acting on a petition for contempt filed by the bar, ordered the Delhi Police to seize all copies of the magazine and restrained the media from covering the contempt proceedings.

Guilty of disdain

Only when the editors of the Indian Express, Hindustan Times, Outlook, Times of India, Punjab Kesari & Kuldip Nayar filed court appealing the gag order was the prohibition on publishing the contempt plea removed. The Delhi High Court's five-judge panel held Trehan and her coworkers in contempt of court and pardoned them in exchange for an unequivocal apologya slander lawsuit brought against Times Now by former SC Justice PB Sawant. The trial court concluded in favor of Justice Sawant and granted him the requested damages of Rs. 100 crores. The channel was ordered by the Bombay High Court to deposit with the court, pending appeal, Rs 20 crore in cash and another Rs 80 crore in bank guarantees. The Supreme Court declined to overturn this judgment. In the Uphaar movie theater catastrophe, when 56 people perished, the Supreme Court of India decreased the punitive penalties from Rs 2.5 crore to Rs 25 lakhs on the basis that punitive payments were an exception to the norms. Because the Bombay High Court was presumptively incorrect in its judgment, the Supreme Court ought to have suspended the order requiring Times Now to deposit even Rs 20 crore in cash while an appeal is ongoing.

CONCLUSION

In conclusion, maintaining openness, accountability, and informed public dialogue in India requires resolving concerns relating to reporting courts and the legislature. It's crucial to strike a balance between the freedom of the press and the reliability of these organizations. Media coverage of courts and the legislature may support a strong democracy, faith in institutions, and the defense of people' rights by fostering access to information, responsible reporting, and public comprehension. Access to information must be improved, openness must be encouraged, and ethical reporting must be made easier. Courts and lawmakers may take steps to improve media access, such as giving journalists more access to hearings, ensuring decision-making is transparent, and providing timely and accurate information.

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CHAPTER 12

RULE OF LAW: OBSTRUCTING COURT PROCESS

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ABSTRACT:

Obstructing the court process is a serious offense that undermines the administration of justice and the rule of law. This paper examines the concept of obstructing the court process, exploring the various forms of obstruction, the legal consequences, and the impact on the fair and efficient functioning of courts. It delves into behaviors such as witness tampering, contempt of court, and interference with court proceedings. By analyzing case studies and legal perspectives, this paper sheds light on the significance and implications of obstructing the court process.The Official Secrets Act (OSA) is a piece of legislation that provides legal protection against espionage and unauthorized disclosure of official information in the UK. The Federal Sentencing Guidelines state that a defendant convicted of any crime is subject to a more severe sentence if they are found to have obstructed justice by impeding the investigation or prosecution of their crimes

KEYWORDS:

Accountability, Equality, Fairness, Impartiality, Independence, Judicial Review.

INTRODUCTION

When asked what constitutes contempt of court, Justice Markandeya Katju said, "If someone calls a judge a fool inside the courtroom and leaves, in my opinion, it is not contempt because he has not stopped the functioning of the court." However, it would be considered contempt if he continued yelling throughout the whole day in court and did not stop after being warned. After all, societal issues must be resolved, and judges must reach decisions in order for their salaries to be justified. Katju explained in great detail how contempt charges against the media function in a newspaper article. Katju said that he had "closely observed the darker side of the legal system." To make everything public would cause a tempest that I may not be able to weather: A former Supreme Court justice Similar accusations were made against Swatanter Kumar, Ganguly's former brother and a judge. The previous head of the West Bengal Human Rights Commission did not, however, explicitly order attorneys to represent him. Of course, Kumar persuaded Karanjawala and nine other renowned attorneys to represent him[1], [2].

However, it never quite reached the fever pitch and pressure surrounding Ganguly immediately before his resignation on the night of a presidential referral to remove him. Media attention around Kumar had been steadily increasing since the news surfaced on January 10, 2014, but it had not yet reached that level. Protesters burned effigies of Ganguly outside of his office in Kolkata, and TV crews followed him on his morning stroll across the park. In Naresh Shridhar Mirajkar v. State of Maharashtrafrom 1966, the Supreme Court ruled that courts have the inherent authority to impose restrictions on media coverage and commentary on ongoing cases in the interest of justice and that such restrictions do not infringe the freedom of speech.The public is often welcome to watch court hearings. This transparency fosters public confidence in the court and acts as a check on the judiciary. Media coverage of significant cases guarantees that judicial processes are indeed open in huge

nations like ours. The openness and transparency of judicial processes are jeopardized when they are kept secret from the public or when media access to information about them is limited[3], [4].

Criticism

In another instance, the Supreme Court made the general statement that access to court proceedings should only be limited in cases when it is absolutely required. The young lady is relatively alone and deprived of all the assistance that media coverage may provide as a result of its suppression. It helped the intern in that instance gather support when Justice Ganguly's second sexual harassment claim received a lot of attention. As a result of the dissemination of information, she received contact from other former interns in similar circumstances as well as from a wider network of attorneys and activists. We defend the freedom of speech in our democracy because it is often essential to whether someone who is relatively weak may exercise her rights against a highly strong person. In his piece on contempt of court and the truth, renowned attorney Anil Divan said that the conflict is between the truth and its concealment[5], [6]. The option therefore is to either utilize the facts to expose judicial malfeasance or the contempt authority to try to prevent such disclosure. According to him, criminal contempt often refers to upsetting the court, interfering with a fair trial, or scandalizing the court. Without taking into account the defense of truth, a Delhi High Court panel sentenced the media to four months in jail in the "Mid-day" case for embarrassing the court. The Supreme Court is now hearing the case, which presents important public law issues. Truth wasn't always a good defense. Following prior instances, the Supreme Court established the rule that when comments were used to scandalize the Court or diminish its authority, justification or truth were inadmissible defenses to quick contempt proceedings. By amending Section 13 of the Contempt of Courts Act, 1971, which reads: "Notwithstanding anything contained in any law for the time being in force... the court may permit, in any proceedings for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is bona fide," Parliament intervened and significantly changed the law. Act 6 of 2006 was the result. Law Minister H.R. Bharadwaj said during a discussion of the Bill's provisions in the Lok Sabha, "Suppose there is a corrupt judge and he is engaging in corruption in your presence. Are you not entitled to say that what you are saying is true?" Truth ought to win out. That's also in the general interest[7], [8].

DISCUSSION

Recommendation of NCRWC

A comprehensive ban on using truth as justification may be seen as an unjust limitation, according to the National Commission for Review of the Working of the Constitution. It would be comical if the courts could forbid the defense of justification by truth despite the emblems widely displayed in the courtrooms, displaying the mottos "Satyameva Jayate" in the High Courts and "Yatho Dharmas Tatho Jaya" in the Supreme Court. According to the Commission, the legislation in this area has to be changed appropriately[9], [10].

On the eve of his retirement, Chief Justice E.S. Venkataramiah, whose opinions on press freedom are liberal and well-known, spoke with journalist Kuldip Nayar. According to him, "the judiciary in India has deteriorated in its standards because such judges appointed as are willing to be "influenced" by lavish parties and whisky bottles in every High Court, there are at least 4 to 5 judges who are practically out every evening, wining and dining either at a lawyers' house or a foreign embassy.

Globally Accepted Norms

We might establish the proper standards with the help of international norms and the legislation of other democracies. The opinions of several European specialists have been compiled by Professor Michael Addo of the University of Exeter in a book titled "Freedom of Expression and the Criticism of Judges."

European democracies like Germany, France, Belgium, Austria, and Italy do not have the authority to sentence someone to prison for contempt for embarrassing the court. A criminal complaint or a libel lawsuit must be filed by the court. Only improper behavior during court hearings is grounds for summary punishment.In a case involving Belgium, Leo De Haes and Hugo Gijsels, the editor and journalist of the weekly magazine Humo, published five articles in which they lambasted the judges of the Antwerp Court of Appeal harshly for giving custody of the children to the father despite serious allegations of incest and child abuse against him. The three judges as well as the Advocate-General filed a lawsuit against Haes and Gijsels to recover damages brought on by the defamatory publications. The journalists lost their case at the primary court, which was upheld by the Brussels Court of Appeal and the Court of Cassation after a second round of appeal. The journalists were successful in their ECHR application. It was decided that even though the public had to have faith in the courts and judges had to be shielded from unjustified attacks, the articles contained in-depth information based on careful research and the press had a responsibility to share information and ideas of public interest with the public, who had a right to do so.

The European Human Rights Convention's Article 10—which guarantees freedom of speech and expressionwas found to have been violated, as did Article 6 since the Tribunal failed to look into the academics' findings that the journalists had cited. Over 964000 Francs in fees and damages were granted to the journalists in their lawsuit against the State. Because the judges pursued libel actions, which eventually failed, the case demonstrates that there is no summary right of committal for contempt.

Case Spycatcher

Spycatcher was widely accessible in America and Europe in July 1987, and as the Thatcherite government decided not to confiscate personal copies at airports, people were free to import them into England. However, on July 30, 1987, the House of Lords upheld the temporary restraining orders that had been placed on the book, its excerpts, reviews, and even testimony related to it before the Australian court. The majority had the final say. Lord Templeman, Lord Ackner, and Lord Brandon were in favor of the prohibition. Lord Bridge and Lord Oliver were the opponents.

Freedom of expression is usually the first casualty in a totalitarian system, according to Bridge's assessment. A big step down that extremely hazardous path is the current endeavor to shield the people in our nation from knowledge that is freely accessible elsewhere. The ban's continued enforcement will look more absurd if more and more copies of the book Spycatcher are brought into the nation and circulate there.

When the British Government filed a lawsuit to prevent the book from being released in Australia, the Spycatcher scandal got underway. In 1987, it lost the conflict. With sales of 400,000 copies by the end of 1987, Spycatcher was the top-selling hardback book in the US. The government was able to restrain the British media for a while, but it was unable to stop the book from being made public anyplace else. The European Court of Human Rights determined that the government's actions had infringed the right to free expression in November 1991. At age 78, Peter Wright passed away rich.

You Dunces

It summoned Bob Alexander QC to court in December 1987 to present yet another chapter in the tale, arguing that there was "simply no room for saying freedom of the Press is important" since free speech and a free press "run headlong into the principle of confidentiality."

The Government's argument does not appear to have impressed Scott. Turnbull states that Scott determined Wright's "duty of confidence was qualified," The Guardian and The Observer "were justified in publishing the allegations in June 1986 because they concerned important matters of public interest," and "thereafter, given the wide circulation of Spycatcher throughout the rest of the world, newspapers were free to report its contents in the United Kingdom." The English Court of Appeal heard an appeal from the government. Government loses the Spycatcher war in 1988.The long-running campaign by the British government to prevent the release of the contentious book Spycatcher, authored by a former secret service operative, has failed. Law Lords determined that excerpts from former MI5 officer Peter Wright's autobiography may be published since any harm to national security has already been done by its international publication. An article titled "You fools" from The Daily Mirror once included photos of three judges sitting in the House of Lords while they were inverted. It was not hauled up for judicial disobedience. It indicates that there is no longer any legitimacy, and as a result, no longer any authority in the courts. Furthermore, it does not imply that a decision made by the courts that is opposed by a newspaper or even the media as a whole is invalid. But it does imply that there is a connection between the media and the credibility of the courts on a more general level.

Current and Immediate Risk

Only when there is a clear, immediate, and present threat to the resolution of an ongoing case is the contempt authority utilized against the press and publications in the United States. After the case has been resolved, criticismno matter how vicious or scandalous—will not be regarded as contempt. According to the US Supreme Court, it is a mistaken assessment of the nature of American public opinion to believe that judges may earn respect by protecting them from public criticism. Because speaking one's mind—even if it isn't always in impeccable taste—about all public institutions is a treasured American prerogative... And a mandated silence, however constrained, merely in the sake of upholding the Bench's dignity is likely to foster animosity, mistrust, and disdain far more than it does respect.

Case of Veeraswamy

The Supreme Court made the following statement in the case of Veeraswami, a former Chief Justice of the Madras High Court: "A single dishonest judge not only dishonors himself and disgraces his office, but also jeopardizes the integrity of the entire judicial system."

When a member of the public sues for libel, the Supreme Court determined in the The New York Times case that they must demonstrate malice or recklessness. This test was rejected by the House of Lords. Lord Nicholls established 10 criteria to determine how severe the accusation is;

1. the kind of information provided and how much the topic is a matter of public attention;

2. the reliability of the information's source;

3. The measures performed to confirm the information; the information's state;

4. It's possible that the claim has previously been the focus of an inquiry;

5. the matter's urgency;

6. Whether the claimant was contacted for comment;

7. if the claimant's perspective was summarized in the article;

8. the article's tenor and the details surrounding its release, such as the time.

Worst actions

The 15th Lok Sabha "statistically proved to be the worst in history in terms of passage of bills... The declining standards of behavior of the MPs was best exemplified by the use of a pepper spray in the house," according to the Asian Age. The chamber "lost 79% of its time to din over various issues," according to the editorial in The Tribune. "Gone are the days when parliament had good orators and wit, repartee, and humor marked the proceedings," the editorial concludes.

Live broadcasts

Live broadcasting offers advantages of its own. Members find it difficult to skip the Question Hour or act in ways that could reflect poorly on them since they are aware that others are observing them. Perhaps they will dress nicer and behave more politely in front of the camera. Other significant discussions must be broadcast live on television for national viewing. The modified version loses its freshness, stops being noteworthy, and continues to raise questions since it left out the events' most 'interesting' details.

LADS MP

Role conflicts and tensions are certain to arise as a result of MPLADS, which gives each Member of Parliament the discretion to spend two crores of rupees annually on local initiatives. Voter-citizens and the media have the right to critically evaluate MPLAD expenditures by MPs without making disparaging statements.

Privileges

With the aim of allowing the house to operate and carry out its high duties successfully without fear or favor, or without any impediment, interference, or obstruction from any quarter, parliamentary privileges are linked to a house of a legislature collectively or to its members. These rights are used by certain members as well. The privileges come in two varieties: External, which prevents outside interference while in operation. The use of privilege by the House restricts the freedom of speech and action for the outsider. Internally prohibiting a member from acting in a way that would represent an abuse of power. Article 105 states that there must be freedom of expression, subject to the provisions of this Constitution and the norms and standing orders governing the proceedings of Parliament. Parliamentary democracy is based on full and open discussion; two rights result from this: 1) the right to conduct meetings in private and bar visitors; and 2) the prohibition on publishing the debates and processes held in the house. No member shall be subject to any action in any court with regard to anything said or a vote cast by him in the Parliament or any committee thereof, according to Article 105.

Bribery Case JMM

State v. PV Narasimha Rao, AIR 1998 SC 210. For their votes in favor, the ruling party handed JMM members significant amounts of money. A motion for no confidence was rejected with 251 votes in favor and 261 votes against. Despite surviving, the government faced legal issues. The question before the court was whether or not a member may claim

immunity under Article 105 from prosecution for receiving a bribe in exchange for voting in favor of the bribe-giver. Speaking for the majority, Bharucha J broadened the definition of immunity and said that Section 105 shields MPs from procedures that are connected to, concern, or have some other link to whatever they have said or voted on in Parliament. Bribery as an incentive or reward for voting has a connection to the House vote. The bribe providers, although being MPs, cannot claim immunity. According to SC Agarwal J, who delivered the minority judgment, "criminal liability incurred by MPs who accepted bribe for speaking or giving vote in a particular manner arises independently of the making speech by MP or giving vote by MP and such liability cannot be regarded as a liability in respect of anything said or any vote given in Parliament."

Case of Keshav Singh

Keshav Singh published certain claims in a booklet against a member and circulated it on March 16, 1964, setting off a historic lawsuit in Uttar Pradesh about parliamentary privileges. The House sentenced him to a week in prison for what they saw as a violation of privilege. On March 19, his attorney Soloman filed a lawsuit in the Lucknow High Court in opposition to the decision, in which Beg and Sehgal JJ ordered Keshav Singh's provisional release. A constitutional crisis and stunning headlines resulted from the Legislative House's angry decision to have Keshava Singh, his attorney Soloman, and two High Court justices arrested on March 21. Through a radio news report, these two judges learned about the judgment. On March 22, they filed a petition under Article 226 with the High Court, arguing that the resolution was against Article 211. The parliamentary resolution was then ordered to be stayed by a full bench of 28 judges. The judges' arrest warrants were dropped by the Assembly, but they were nonetheless told to appear before the House. On March 23, the High Court once again took up the issue and suspended the Legislature's directive requiring justices to be present.

Reference to the President

Invoking the authority granted by Article 143 of the Indian Constitution, the President of India took notice of the constitutional situation and sought the Supreme Court's view on the matter. The Supreme Court was presented with the following questions via this reference: Is the House the only one who decides whether an act of contempt was committed when it occurred outside the House? Is House the only one with the authority to punish? Can the HC consider a WP issued in defiance of a general warrant? Although the legislative House also has the authority to penalize anybody for contempt of House, it was decided that the court had the authority to review an unspeaking warrant in order to determine if a contempt had really been committed. Additionally, it was decided that because Article 194 must give way to Article 21 if not Article 19, the High Court may consider the petition under Article 226 alleging infringement of the right to freedom of expression, personal liberty, and life. Actions against judges are not permitted under Article 194. Discussion of judicial behaviour in the Legislature is prohibited under Article 211. The necessity for the three wings to operate harmoniously was urged by Gajendragadkar CJ. The Supreme Court ruled that the issue of interpreting Article 194 in light of the nature, extent, and implications of the powers of

Since the High Court has the ability to issue any writ against any authority, including the legislature, under Article 226 of the Constitution, the House ultimately lies with the country's judicial system, and this affects the reach of Article 194. Courts are not subject to the restrictions imposed by Article 212, and legislatures are also granted some legal rights. However, these privileges must be defined by legislation, which has not yet been done by the Parliament. The court may review a law's legitimacy in light of fundamental rights if it is

defined by parliament. Indian legislatures are not courts of record with the authority to impose sanctions for contempt, like the House of Commons. They cannot argue that broad warrants are immune from judicial review.

Legitimate privilege 361A

When they cover House proceedings, the media has a limited privilege. As part of their obligation to speak freely, the lawmakers enjoyed complete privilege or protection on how they expressed themselves. A news reporter has the same privilege of immunity from additional legal repercussions if they provide the story succinctly and accurately. However, for such a report to accurately capture the essence of what really happened in the House, it must be a report of proceedings and not just a member's informal discussion. This privilege is known as a qualified privilege because it is subject to a number of restrictions, including the following: the report must be a report and not an "article" or "comment," it must be essentially truthful, it must not be motivated by malice, and the proceedings must be those of a House. Earlier, such protection wasn't offered for journalistic or committee reports, etc. Legislators are not subject to prosecution if their speech violates the IPC's obscenity, official secrets statute, conspiracy to obstruct justice, law of defamation, or any other law. However, the accounts of this speech were not shielded. Article 361A does not, however, shield the press from judicial disobedience. Even when publishing is accurate and a truthful description of events, Article 361A grants protection from judicial actions but not from violation of privilege. Giving with one hand and taking with the other is the old saying.

Expunging

Another restriction is that the speaker has the right to exclude member comments from any discussion, which prevents newspapers or other media from reporting on them. For reasons of defamation, decency, or improper speech, presiding officers may strike words from discussions in accordance with Rule 380-1 LS and Rule 221-2 RS. Expunged material does not constitute a part of the record, hence neither the media nor the parliamentary publishing authority has any right to publish it.

Neutrality and objectivity

Media must avoid publishing unethical, indecent, vulgar, or defamatory news. Hateful and divisive remarks will result in criminal penalties. A constitutional wrong and crime may be committed by engaging in contempt of court or violating a privilege. Additionally, it undermines the trust of media outlets. The media's credibility is derived on its objectivity and neutrality.

CONCLUSION

In conclusion, Undermining the legal system's procedures will violate the values of justice, fairness, and the rule of law. The ability to resolve legal issues is hampered by witness tampering, contempt of court, and interference with court processes. These actions also undermine public confidence in the courts. In order to resist obstruction and maintain the integrity of the court process, a comprehensive strategy comprising judicial vigilance, efficient law enforcement, and public education is crucial. Societies can guarantee a fair and accountable judicial system that serves the interests of everyone by protecting the power and impartiality of the courts. It is essential to educate and raise public knowledge about the dangers and repercussions of interfering with legal proceedings. Understanding the significance of a fair and effective legal system allows people to recognize the seriousness of obstruction and take proactive measures to promote the administration of justice.

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