Role of Media for the Protection of Human Rights

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INTRODUCTION

Media has a vital role to play in the protection of human rights and has been playing this role throughout in every corner of the world. It is the responsibility of the media that it should bring the cases of violation of human rights to the notice of the government and also to public at large. But at the time of doing it, the media must take it into account that the way it reports the matter must have no adverse effect as the greatest influence on the societal harmony and at the same time reporting must also be objective[1]. Access to information is essential to the health of the democracy. The rule of law may be further institutionalized by support for an independent media that keeps a check on the judiciary, reports on the courts and promotes a legal enabling environment suitable for press freedoms.

The public interest is defined as representing a plurality of voices both through a greater number of outlets and through the diversity of views and voices. The press and media have been recognized as the greatest influencing factors. The power with them carries with it an obligation to act with responsibility and creativity[2]. Communication needs in a democratic society should be met by the extension of specific rights such as the right to be informed, the right to inform, the right to primary, right to participate in public communication, the right to communicate,etc.

In today's free world freedom of press is the heart of social and political intercourse. The press has now assumed the role of public educator making formal and non-formal education possible in large scale particularly in the developing world, where the television and other kind of modern communication are not still available for all section of society.The freedom of press therefore a necessary concomitant of the freedom of expression which involves a right to receive and impart information, without which democracy becomes an empty slogan. The prime purpose of the free press guarantee is regarded as creating a fourth institution outside the government as an additional check on the three official branches- executives, legislative and judiciary.

[1]AmuntaQuimkhwaja, Protection of Human Rights: National And International Perspectives, Law Publishers (India) Pvt.Ltd. Allahabad, 2004.
[2] Dr. Sobha Ram Sharma, Judicial Activism of Media, Nyaya deep, Vol XI issue 1

MEANING AND DEFINITION

As a concept, human rights are complex and contradictory. The most striking feature of the concept of human rights is that they may be difficult to define but impossible to ignore. Hence, it is necessary to go through some of the slandered definitions given by different scholars from time to time to get familiar with the meaning and nature of human rights.

According to Aristotle," rights are two dimensional: they should help in the development of individual's own powers and should help in creating condition for the development of power of action of others also[3].

According to Harold J. Laski," in fact, are those condition of social life without which no man can seek, in general, to be himself at his best.[4]

ROLE OF MEDIA IN DEMOCRACY AND GOOD GOVERNANCE

The freedom of speech and expression has been characterized as "the very life of civil liberty" in the Constituent Assembly Debates[5].The freedom of the press, while not recognized as a separate freedom under Fundamental Rights, is folded into the freedom of speech and expression[6].The Supreme Court has described this freedom as the "ark of the covenant of democracy"[7].Good governance is an indeterminate term used to describe how public institutions conduct public affairs and manage public resources. Governance is the process of decision making and the process by which decisions are implemented (or not implemented)". Good governance is about the processes for making and implementing decisions. It's not about making 'correct' decisions but about the best possible process for making those decisions. The concept of "good governance" centers on the responsibility of governments and governing bodies to meet the needs of the masses as opposed to select groups in society.

[3]Gukulesh Sharma, Human Rights and Legal Remedies, Deep and Deep Publication, New Delhi 2000
[4]S.C Saxena, Political Science for Civil Service Examination, Macmillan Publication New Delhi,
[5]Constituent Assembly Debates: Official Report, (Delhi, 1946-1950), VII,
[6] BrijBhushan and Another vs. the State of Delhi, AIR 1950 SC 129; Sakal Papers (P) Ltd vs. Union of India, AIR 1962 SC 305.
[7]AmartyaSen, "The Glory and The Blemishes of the Indian News media", The Hindu, April 25, 2012

Media usually refers to mass media, which is any medium that provides citizens with information regarding all the current affairs of any area at a large scale. It is unbiased reporting of facts through print, television, radio or Internet. Traditionally and constitutionally, the media has no defined role in governance. It doesn't have the power to change any decisions made by the various arms of a state the legislature, executive and the judiciary. Yet, the media plays one of the most important roles in the functioning of any society. It amplifies the voice of citizens and communicates their opinions to the lawmakers.

CONSTITUTIONAL STATUS OF MEDIA

The preamble to the Constitution of Indian resolves to secure for the citizens of India, liberty of thought, expression and belief. Article 19(1) (a) of the constitution is also applicable to media along with citizens. The media derives the rights from the right to freedom of speech and expression available to the citizens. Thus, the media have the same right no more and no less than any individual to write, publish, circulate or broadcast. In a case that arose in pre independent India. The Privy Council held that the freedom of the Journalist is an ordinary part of the freedom of the subject and to whatever length the subject in general may go, so also may the journalist, apart from the statute law, his privilege is no other and no higher No privilege attaches to his position[8]. The framework for analyzing media rights remains much the same in Post-Independence India.

In M.S.M. Sharma v. Krishna Sinha[9] the Supreme Court observed: A non-citizen running a newspaper is not entitled to the fundamental right to freedom of speech and expression, and therefore cannot claim, as his fundamental right, the benefit of the liberty of the press. Further being only a right flowing from the freedom of speech and expression, the liberty of the press in India stands on no higher footing than the freedom of speech and expression of the citizen and that no privilege attaches to the press as such, that is to say, as distinct from the freedom of the citizen. In other words, the media enjoy no special immunity or elevated status compared to the citizens and are subject to the general laws of the land. Although no special provision was made to safeguard the rights of the press, courts have time and again confirmed that the rights of the

[8]Channing Arnold v. Emperor, AIR 1914 PC 116.
[9]AIR 1959 SC 395.

press are implicit in the guarantee of freedom of speech and expression under Article 19(1) (a) of the constitution[10].

FREEDOM OF PRESS UNDER INDIAN CONSTITUTION

The Freedom of the Press is nowhere mentioned in the Indian constitution. The Right to Freedom of Speech and Expression is provided in Article 19 of the Indian Constitution. It is believed that Freedom of Speech and Expression in Article 19 of the Indian constitution include freedom of the press. Citizens of India are guaranteed the right of freedom of speech and expression. Every Indian, including press reporters, can express ideas and views freely through press and public platform. Freedom of expression enables one to express one's own voices as well as those of others. But freedom of the press must be subject to those restrictions which apply to the freedom of speech and expression. The restrictions mentioned in Article 19 are defamation, contempt of court, decency or morality, security of the state, friendly relations with other states, incitement to an offence, public order and maintenance of the sovereignty and integrity of India.

The status of freedom of the press is the same as that of an ordinary citizen. The press cannot claim any immunity from taxation, is subject to the same laws regulating industrial relations, and press employees are subject to the same laws regulating industrial employment. Again, the press enjoys normal freedom of expression guaranteed by Article 19 of Indian Constitution. Hence no law can be passed to abridge its freedom of expression, cannot be subjected to excessive or prohibitive burdens to curtail its circulation and cannot be subjected to specific tax deliberately imposed to limit circulation of information. In gist, the constitution does not grant any power to the government to impose arbitrary restrictions on the press. Politicians in power often feel very tempted to pass laws restricting press freedom, to withhold information likely to generate unfavorable reactions among the people.

In 1976, during the emergency, the Parliament enacted the Prevention of Publication of Objectionable Matter Act. The Janata Government in 1978 repealed the Act. However, the 44th

[10] Brij Bhushan v. State of Delhi, AIR 1950 SC 129; Express Newspapers Ltd. v. Union of India, AIR 1958 SC 578; Sakal Papers v. Union of India, AIR 1962 SC 305; Bennett Coleman & Co. v. Union of India, AIR 1973 SC 106; Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

amendment adopted in 1978 has given the Parliament substantial powers to regulate press freedom. A new article, Article 361A has been added to the constitution with this object in view.

The censorship of the Press is a very crucial and sensitive issue in every democracy. In general press censorship is regarded as very unhealthy check on the freedom of free expression of views. In India, the constitution does not specifically forbid press censorship. Hence only check on the state in resorting to censorship is that it should be reasonable. Even this check on the government was not there before the 1st amendment of the constitution in 1951. But in two cases, ***Brij Bhusan vs. the State of Delhi and Ramesh Thapar vs. State of Madras***, the Supreme Court held that censorship imposes obvious restrictions on freedom of speech and expression. After the last amendment, censorship is permitted if it is reasonable and if it is called for in the interest of public order. Thus the present position is censorship is valid in times of emergency if it is reasonable and if in the interest of public order. In times of emergency under Article 352 censorship is valid when Article 19 itself stands suspended under Article 358 of the constitution.

SERVICE BY MEDIA

Legal literacy is the pre-condition to maintain the rule of law. The media has been rendering significant service to educate the people about the laws, their rights and benefits flowing out of the various schemes and measures programmes such as know your rights law for laymen, serials and cinemas featuring on legal concept apart from being education, created legal awareness.[11] Globalization and economic liberalization have further contributed to destroying negative attitude of the media towards the society. Global completion profit motive made the media forget about its social responsibility. Money ruled over morals instead it is busy transforming citizens into spectators' by offering them entertainment, education, knowledge and information[12].

CRITICAL EVALUATION OF MEDIA

The media while making any report regarding a matter involving human rights violation must keep in mind that they will be subject of the criticism. Some individuals is presumed to be

[11]Dr.S.K. Awasthi and R.P.Kataria, Law Relating to Human rights, Orient publishing Company, New Delhi,2005
[12]Anil.K.Dixit, Press Law and Media Ethics, Reference, New Delhi, 2006.

innocent till it is proved before the court that such a violation has really taken place. The media should not present anyone like a convict unless the accusation made against him is proved. An accused cannot be treated as a convict.[13] There is unnecessary sensationalisation in rape cases, where in the media try to doing into the victim's sexual history. There are rape shield statutes in the United States which prohibit disclosure of information about victim's sexual history during trial and victims' rights statutes to privacy and claim heavy damages in case of violation of such rights.

ROLE OF JUDICIARY IN THE PROTECTION OF HUMAN RIGHTS IN INDIA

Of course, all legal rights are human rights but it is unfortunate that all human rights have not become legal rights as on date. This is because the law fellows the action, as a consequence, it is not possible to codify all probable laws in anticipation for protection of human rights, and this is when the due procedure of law or the principle of natural justice plays an active role in protecting the human rights of the people when there is no legislation available.

The judiciary with no doubt has played a vital role in protection of human rights over the decades. Some of the most unpleasant violation of human rights like sati, child marriage, honor killing, slavery, child labour etc, Have been abolished wholly owing to widespread awareness and strict implementation measures taken by the judiciary.

The status of the human rights is fairly high under the constitution of India which makes provision for fundamental rights and empowers Supreme Court of India and high court to enforce these rights. Equally important is the fact that India is a signatory to international conventions on economic, social, cultural, civil and political rights, with certain conditions. These rights are partly contained in part 3 of the constitution of India including the right to equality in article 14, right to freedom of speech and expression in article 19(1), the right to protection of life and personal liberty in article 21 and the right to religious freedom in article 25 and so on.

[13]A.Muntaquim,khwaja, protection of Human Rights, Law Publisher,Allahabad,2004.

Some of the important decisions regarding the protection of human rights

In Prem Shankar Shukla v Delhi Administration[14]

The Supreme Court found the practice of using handcuffs and fetter on prisoners violating the guaranteeing of basic human dignity, which is part of the constitutional culture in India and thus not standing the test of equality before the law, fundamental freedoms and right to life and personal liberty. It observer that" to bind a man hand and foot" fetter his limbs with hoops of steel shuffle him along in the streets, and to stand him for hours in the courts, is to torture him, defile his dignity, vulgarize, society and foul the soul of our constitutional culture". Strongly denouncing handcuffing of prisoners as a matter of routine, the Supreme Court said that to manacle a man is more than to mortify him, it is to dehumanize him, and therefore to violate his personhood.

Jogindar Kumar v State of Up[15]

In this case the court held that "the law of arrest is one of the balancing individuals liberties and privileges on the one hand and individual duties, obligation and responsibilities on the other of weighing and balancing rights, liberties of single individuals and those individuals collectively

In people's union for civil liberties v union of India and others[16]

The dicta in article 17 of the international covenant on civil and political rights,1966 was treated as part of the domestic law prohibiting arbitrary interference with privacy, family, home or correspondence and stipulating that everyone has the right to protection of the law against such intrusion.

In D.K. Basu v State of Best Bengal[17]

The court found custodial torture a naked violation of human dignity and ruled that law does not permit the use of third degree method or torture on an accused person since action of the state must be right, just and fair, torture for extracting any kind of confession would neither be right nor just nor fair.

[14] (1980) 3 SCC 526
[15] (1994) 4 SCC 260
[16] AIR 1997 SC568
[17] AIR 1997 SCC 241

***In Vishaka v State of Rajasthan*[18]**

Supreme Court said that "gender equality includes protection from sexual harassment and right to work with human dignity, which is a universally recognized basic human right. The common minimum requirement of this right has received global acceptance. In the absence of the domestic law occupying the field to formulate effective measures to check the evil of sexual harassment of working women at all workplaces. The contents of international conventions and norms are significant for the purpose of interpretation of the guarantee of the gender equality, right to work with human dignity in article 14, 15, 19(1) (g) and 21 of the constitution and the safeguards against sexual harassment implicit therein and for the formulation of guidelines to achieve this purpose in the absence of the enacted law to provide for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse, more particularly, guidelines and norms are hereby laid down for strict observance at all work place or other institution, until a legislation is enacted for the purpose.

***In Pankaj Kumar v State of Maharashtra*[19]**

The court opined that the right to speedy trial is applicable not only to the actual proceeding in the court but also includes within the sweep of the proceeding and police investigation as well. The direction issued by the hon'ble supreme court seems to be a good beginning in restoring the fundamental rights of the accused and this may be said to be a step in the right direction for making the right of an accused to speedy trial effective and real in true sense.

***In Sukila Abdul Gaffer Khan V/s BasantRagunathDhoble*[20]**

In this particular case recently the Supreme Court awarded one Lakh rupees to the mother and the children of the victims of custodial death who was raped by police in custody on the allegation of causing grievous hurt to a person.

[18] (1977) 6 SCC 241
[19] AIR 2002 SC 3077
[20] AIR 2003 SC 4567

Renu and others v D.S.J Tis Mazari and Another[21]

In this court supreme court held that Article 14 is an integral part of our system each and every state action is to be tested on the touchstone of equality any appointment made in violation of article 14and 16 of the constitution is not only irregularities also illegal and cannot be sustained.

Smt. Shilpa Acharjee v union of India and others[22]

in this case the court held compensation for custodial death in this case the petitioner alleging that her husband was tortured when he was in army custody resulting in his death after his release deceased died on very next day he was released from custody through Assam police autopsy report showing death caused due to shock and hemorrhages certificate issued by doctor considering the fact that the deceased was touted by army while in custody petition held entitled to compensation of Rs 10,00,000/.

National Legal Science Authority v Union of India[23]

In this particular case the Supreme Court held that in case of any gender violation or gender discrimination against transgender community will be consider as a violation of human rights because the human rights of transgender community have to be recognized as a human rights and protect them from any kind of discrimination.

Youth Bar Association of India v Union of India[24] in this case the court has held that every accused in a criminal case has the right to the copy of the FIR registered against them whether from the police or the court.

In ***Riteesh Sihna v State of Uttar Pradesh***[25] in this case the court has held that power of a magistrate to order an accused to give their voice specimen to the police for comparison.

In ***T.T.Antony v State of Kerala***[26] in this case the court has held that only the earliest or the first information in regard to the commission of a cognizable offences should be registered as on FIT,

[21] 2014(2) SCJ 482
[22] AIR 2014 (NOC) 477 (GAU)
[23] AIR 2014 SC 1863
[24] AIR 2016 SC 4136
[25] AIR 2019 SC 3592
[26] AIR 2001 SC 2637

there cannot be a second FIR or a fresh investigation based on every subsequent information in respect of the same cognizable offences or the occurrence or incident giving raise to one or more cognizable offences.

CONCLUSION

In any case of violation of fundamental human rights is pending before the court, the media must try to go into its depth and try to procure as much information as it can through its investigating techniques and present the entire information before the public in an impartial manner. It may also criticize the judiciary of course without the permissible parameters. Media largely becomes mass information rather than mass communication media needs to communicate with the government, NGOs, human rights activist and the public the critical discourse of human rights and the violations. Media increasingly getting concentrated in the hands of few. While such a concentration will reduce media spaces for plural voices, they also make such voices look non-significant. Media has becomes an industry and profit becomes priority. Therefore it can be coined that media's impartial role is very important of democratic Government, because of either to inform the public and Government about the grave violation of human rights or to alert the authorities to take the needs of the people's problems. Media can play active role in protecting all types of human rights of the people. Media may work without having influence of any political party, which can yield good result in present and future scenario.