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Freedom of Press

Introduction ::

Freedom of the press is the guarantee by a government of free public press for its citizens and their associations, extended to members of news gathering organizations, and their published reporting. It also extends to news gathering and processes involved in obtaining information for public distribution. Not all countries are protected by a bill of rights or the constitutional provision pertaining to Freedom of the Press.

With respect to governmental information, a government distinguishes which materials are public and which are protected from disclosure to the public based on classification of information as sensitive, classified, or secret and being otherwise protected from disclosure due to relevance of the information to protecting the national interest. Many governments are also subject to sunshine laws or freedom of information legislation that are used to define the ambit of national interest.

Freedom of the press, like freedom of speech, is not absolute; some limitations are always present both in principle and in practice. The press exercises enormous power and influence over society, and has commensurate responsibility. Journalists have access to more information than the average individual, thus the press has become the eyes, ears, and voice of the public. In this sense it has been suggested that the press functions as the "Fourth Estate," an important force in the democratic system of checks and balances. Thus, freedom of the press is seen as an advance in achieving human rights for all, and contributing to the development of a world of peace and prosperity for all. The caveat is that those who work in the media are themselves in need of ethical guidelines to ensure that this freedom is not abused

Basic principles and criteria ::

In developed countries, freedom of the press implies that all people should have the right to express themselves in writing or in any other way of expression of personal opinion or creativity. The Universal Declaration of Human Rights adopted December 10, 1948, states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers." The concept of freedom of speech is often covered by the same laws as freedom of the press, thereby giving equal treatment to media and individuals.

There are a number of non-governmental organizations that judge the level of press freedom around the world according to various criteria. Reporters Without Borders considers the number of journalists murdered, expelled, or harassed, and the existence of a state monopoly on television and radio, as well as the existence of censorship and self-censorship in the media, and the overall independence of media as well as the difficulties that foreign reporters may face. Freedom House likewise studies the more general political and economic environments of each nation in order to determine whether relationships of dependence exist that limit in practice the level of press freedom that might exist in theory.

Coming with these press freedoms is a sense of responsibility. People look to the media as a bulwark against tyranny, corruption, and other ill forces within the public sphere. The media can be seen as the public's voice of reason to counter the powerful mechanisms of government and business. The responsibilities of the press also include an untiring adherence to the truth. Part of what makes the press so important is its potential for disseminating information, which if false can have hugely detrimental impacts on society. For this reason, the press is counted on to uphold ideals of dogged fact checking and some sense of decency, rather than publishing lurid, half-true stories.

The media as a necessity for the government ::

The notion of the press as the fourth branch of government is sometimes used to compare the press (or media) with Montesquieu's three branches of government, namely an addition to the legislative, the executive, and the judiciary branches. Edmund Burke is quoted to have said: "Three Estates in Parliament; but in the Reporters' Gallery yonder, there sat a Fourth estate more important far than they all."

History ::

World history has a number of notable moments for the freedom of the press. Some examples are outlined below. Before freedom of the press became commonplace, however, journalists relied on different authorities for their right to practice. In some countries, such as England, the press relied on a license of the king. Even today, many countries do not have established freedom of the press. In some countries, such as China, media are official outlets of the government and must not stray too far from accepted government doctrine. Other press outlets are religious mouthpieces and likewise hold views close to those of their sponsoring religions.

India ::

The Indian Constitution, while not mentioning the word "press," provides for "the right to freedom of speech and expression" (Article 19(1) a). However this right is subject to restrictions under subclause (2), whereby this freedom can be restricted for reasons of "sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, preserving decency, preserving morality, in relation to contempt of court, defamation, or incitement to an offence." Laws such as the Official Secrets Act and Prevention of Terrorism Act (PoTA) have been used to limit press freedom. Under PoTA, a person could be detained for up to six months for being in contact with a terrorist or terrorist group. PoTA was repealed in 2006, but the Official Secrets Act 1923 continues.

For the first half-century of independence, media control by the state was the major constraint on press freedom. Indira Gandhi famously stated in 1975, that All India Radio is "a Government organ, it is going to remain a Government organ...." With the liberalization starting in the 1990s, private control of media has burgeoned, leading to increasing independence and greater scrutiny of government. Organizations like Tehelka and NDTV have been particularly influential, for example in bringing about the resignation of powerful Haryana minister Venod Sharma.

Implications of new technologies ::

Many of the traditional means of delivering information are being slowly superseded by the increasing pace of modern technological advance. Almost every conventional mode of media and information dissemination has a modern counterpart that offers significant potential advantages to journalists seeking to maintain and enhance their freedom of speech. A few simple examples of such phenomena include:

- Terrestrial television versus satellite television: Whilst terrestrial television is relatively easy to manage and manipulate, satellite television is much more difficult to control as journalistic content can easily be broadcast from other jurisdictions beyond the control of individual governments. [PUCI vs. Union of India]¹ An example of this in the Middle East is the satellite broadcaster Al Jazeera. [Tata Press vs. MTNL] ² This Arabic language media channel operates out of the relatively liberal state of Qatar, and often presents views and content that are problematic to a number of governments in the region and beyond. (Virender vs. State of Punjab)³ However, because of the increased affordability and miniaturization of satellite technology (dishes and receivers) it is simply not practicable for most states to control popular access to the channel.
- Web-based publishing (such as blogging) vs. traditional publishing: Traditional magazines and newspapers rely on physical resources (offices, printing presses, and so forth) that can easily be targeted and forced to close down. Web-based publishing systems can be run using ubiquitous and inexpensive equipment and can operate from any jurisdiction. (Dinesh Trivedi, M.P. and Others vs. Union of India and Others)^[4]
- Voice over Internet protocol (VOIP) vs. conventional telephony: Although conventional telephony systems are easily tapped and recorded, modern VOIP technology can employ sophisticated encryption systems to evade central monitoring systems. As VOIP and similar technologies become more widespread they are likely to make the effective monitoring of journalists (and their

contacts and activities) a very difficult task for governments.

Naturally, governments are responding to the challenges posed by new media technologies by deploying increasingly sophisticated technology of their own (a notable example being China's attempts to impose control through a state run internet service provider that controls access to the Internet) but it seems that this will become an ever increasingly difficult task as nimble, highly motivated journalists continue to find ingenious, novel ways to exploit technology and stay one step ahead of the generally slower moving government institutions that they necessarily do battle with.

Worldwide press freedom index ::

Every year, the Reporters Without Borders (RWB) organization establishes a ranking of countries in terms of their freedom of the press. The list is based on responses to surveys sent to journalists that are members of partner organizations of the RWB, as well as related specialists such as researchers, jurists, and human rights activists. The survey asks questions about direct attacks on journalists and the media as well as other indirect sources of pressure against the free press, such as pressure on journalists by non-governmental groups. RWB is careful to note that the index only deals with press freedom, and does not measure the quality of journalism.

Non-democratic states ::

According to Reporters Without Borders, more than a third of the world's people live in countries where there is no press freedom. Overwhelmingly, these people live in countries where there is no system of democracy or where there are serious deficiencies in the democratic process.

Freedom of the press is an extremely problematic concept for most non-democratic systems of government since, in the modern age, strict control of access to information is critical to the existence of most non-democratic governments and their associated control systems and security apparatus. To this end, most non-democratic societies employ state-run news organizations to promote the propaganda critical to maintaining an existing political power base and suppress (often very brutally, through the use of police, military, or intelligence agencies) any significant attempts by the media or individual journalists to challenge the approved "government line" on contentious issues. In such countries, journalists operating on the fringes of what is deemed to be acceptable will very often find themselves the subject of considerable intimidation by agents of the state. This can range from simple threats to their professional careers (firing, professional blacklisting) to death threats, kidnapping, torture, and assassination.

Conclusion ::

In keeping with its affirmation that freedom of expression is "one of the essential foundations of a [democratic] society", the Court has clearly shown a preference for freedom of press. In conclusion, it must be reiterated that the freedom of press and information are fundamental to healthy working of a democracy and therefore, must coexist with the freedom of speech and expression. At the time when the whole world is waking up to the need of the hour India must also rise and join the race of freedom and liberalization. However, as no freedom is absolute, India must put restrictions on these freedoms and must apply contemporary standards rather than international standards in determining the limits. But we must keep in mind that such limits must not be disproportionate with the compelling need. Possibilities for fair comment must be made available by the state and an atmosphere must be created in which neither the informant nor the information seeker has any fear or timidity. Political debates and sharing of ideas must be encouraged because they ensure a healthy government and in turn a healthy society. In the times when India has opened up to the world, it is the right time that she must also re-draft and incorporate provisions in its law to the changing needs - the need to enlarge its fundamental rights. Information does not stop at state borders anymore and therefore, conducive environment for free flow of information and ideas must be built. India should become well equipped to meet every challenge thrown to her in the world of technology and freedoms.

References:-::

1. (1997) 1 S.C.C. 301
2. 1995) 5 S.C.C. 139
3. A.I.R.1958, SC. 986
4. 1997) 4 SCC 306

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