

ROLE OF MEDIA IN INDIAN DEMOCRACY

“If it were left on me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter.”

– Thomas Jefferson

5.1 Introduction

Democracy is commonly defined as a government of the people, by the people and for the people. Freedom and democracy walk hand in hand so Indian society is accepted democracy where the media plays a pivotal role in the Indian democracy. Media is being considered as the fourth pillar of democratic society after executive, legislature, and judiciary. Beyond the control and limitation of the government's vital organ in large interest of the masses, media sometimes raise over or above. The last few years witnessed an enhanced interface between the media and common man. It is the media (print or electronic) has become a part of the life of the people of India, who are largely dependent on the media coverage for various needs including entertainment and information. Starting from the issues relating to common man, their feelings, their necessities, their expectations and every aspects of their life closely associated with the media. Media keeps the peoples awakened and there is no denying the fact that it has become one of the major instruments of social change. In a democratic set up, it is media which strengthens the democratic norms and values and also accelerates the pace of development.

During the British period, the media scenario was quite different and in the beginning of twentieth century in the name of security of the State, people were denied the basic information and transparency in the process of governance was a distant dream. During the freedom struggle the print media played a major role and it got a morale booster it is well know that most of the freedom fighters were well acquainted with journalisticknowledge and many of

them were said to be journalists. It greatly influenced the freedom movement. Subsequently with the attainment of independence, the role and responsibility of the media was enhanced and although it was controlled and owned by the State such as the people got a natural freedom to express their own ideas. But during the emergency of 1976, the activities of media were strongly regulated and harsh orders were issued against the media houses and their independence was completely shattered. In the post emergency period the media came out stronger as well as the passage of each day it came much closer to the hearts of the common people and become their mouthpiece. The social, political, cultural and economic scenarios of the country were reflected in the newspapers which ultimately paved the way for strengthening the democracy and the government of the people of India. In aftermath of emergency the media along with providing information to the people started educating them. Nowadays, besides the print media, the electronic media, particularly, the television programs telecast through cable network via satellite links has brought revolutionary changes in the field of news reporting and analysis. In the process new development and dimension of news reporting is emerge and India is being considered as one of the leading countries which have advanced to a great extent so far as information and technological development is considered.

The media works as a watchdog of the government and carry every report of the action of administration thereby keeping the people informed about the day to day happenings taking place around them. Extensive liberty has been granted to the media people by the Constitution and in fact an awakened and free media is essential for smooth functioning of the government. Not only the economic developments but also the man-society relationship and other aspects that affect the people, are being covered by the media. That is why the people got habituated to media and the Indian democracy and its effective functions cannot be thought without an independent media.

Media acts as a bridge between the people and the government and also a very powerful tool with the ability to make and break the opinion of the people. It has the capacity to swing perceptions or evoke emotions. This is why it has gained faith of the public. Media, through its various means of newspapers, television and cinema is what rules the heart and mind of people.

The media has helped to shape the democratic society by giving emphasis to issues that are at one point in time, would have been considered strictly private such as child birth, child care, domestic violence, and sexual harassment.

Transparency and accountability are most proper functioning of a democratic system. The nexus between corruption and administration intertwined by politics seems to snatch the serenity and peace of the country.

Democracy cannot be successful without free press. Free press is very essential, as it is the voice of the people but media shall not fall as a victim to some monetary or any other temptations, and shall keep on honestly serving the people the people. Media is playing a vital role in shaping human minds. The media is considered as fourth pillar of democracy. It makes us aware of various activities like politics, sports, economic social and cultural activities etc. It is also like a mirror which shows the bare truth and sometimes it may be harsh. However, it plays a crucial role in shaping the public minds. Media plays an important role in shaping the democracy. It is called as backbone of democracy. It empowers the citizens through information. Media arranges the debate on current affairs and contradicting policies so that different views regarding the same issues could be put forth.

5.2. Constitutional Status of Freedom of Media in India: Historical Prospective

The Constitution of India recognize certain fundamental to the citizens of India such rights consider as fundamental because without individual cannot develop his personality, originally Constitution contain seven category of fundamental rights, due to these fundamental rights Indian democracy helps to

make more workable and meaningful. Among these fundamental rights fundamental freedom guaranteed in Art. 19 (1). Out of six freedoms Article 19(1)(a) provided freedom of speech and expression is very unique one, freedom of speech must include freedom of press or media intention of Constitutional maker practically implemented while interpreting such provision on various occasions by the Indian judiciary. But this freedom of speech and expression is not absolute. It means in the Constitution of India itself provided the ground for the states to impose reasonable restriction logic behind it that one can be absolutely free only when all others are absolute, slaves Individual freedom to be real must be social and hence must be limited.

The Constitutional provision about freedom of speech and expression and limitations which would be imposed by state, discussed as following

5.2.1. Freedom of Media and Indian Constitution.

Constitution is said to be the basic or the fundamental document of a country and it is living document. The Indian Constitution considered to be the lengthiest Constitution of the world confers certain rights of its individual and on its individual. Freedom of speech and expression is one such right which the citizens are entitled to. In a broader analysis, the freedom of speech and expression also included freedom media. Before going to details of freedom of media as guaranteed under the Constitution of India it is necessary to understand right to freedom of speech and expression.

The citizen enjoys certain rights as mentioned above in democratic system. Freedom of speech and expression is considered as sacred right and is to be the prized privilege of the citizens. Art. 19(1)(a) of the Constitution protect and guarantees right of freedom of speech and expression to all citizens. However this right is not an absolute right and certain restrictions are also imposed. Indian Constitution by guarantees freedom of speech and expression has given the people of India the liberty to express their opinion because it is cherished goal of every individual in a civilized society. Indian polity has chosen the 'democracy' as the basis of their governance and the will of the

people is paramount of consideration in the democratic society. That is why, our preamble starts with the word “we the people of India” which go on specify certain objectives. Liberty of thought and expression is one such objective which is contained in the preamble and Art. 19(1)(a) contains in detail that noble objective, thereby providing the citizens one of their important right i.e. Article not only guarantees the right to speak but also express their opinion in any form. It is to express one’s convictions and opinions or ideas freely, through any communicable medium or visible representation, such as gesture, signs and the like. Therefore it include the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

In the words of Justice A.N. Sen these rights are instinctive and natural right of every human being. According to him, “this freedom of speech and expression, which is indeed a natural right as expressed in different ways under different circumstances, various in its nature. The freedom of expression is the birth right of every living creature and is indeed a gift of nature.”

Indian Constitution guarantees freedom of speech and expression includes freedom of media. In a democratic country media plays an important role so far as communication of information is concerned which keeps the society vibrant. For healthy society have got sharing of views, free flow of information, free communication and expression plays a crucial role and media, print and electronic being powerful and important instruments of expression have got a lot to contribute.

Lord Mansfield has defined the liberty of press to mean “printing without previous license, subject to consequences of law.” The freedom of press not confined to newspaper and periodicals, but also includes pamphlets leaflets, circulars and every sort of publication which affords a vehicle of information and opinion. Therein lies the importance of a free presses and that is why it is so important and essential in a modern democracy. In the last couple of years we have witnessed the role of the press in presenting

information before as in beautiful manner, thereby providing a proper platform for the people to debate over such issues. In this process the press also plays an educative role by performing its duties freely. As it has been rightly pointed out by A.D. Gorwala: “The press educates in two ways mainly, by giving the latest news along with its background and an analysis. Its duty is to give whole news without bias, selectivity or distortion. But the real glory of any press is to be found in its most educative part that is to provide sound comments upon public life in all its aspects. This should be ‘task of the press, source of its power’”

Justice Patanjali Shastri also expressed the same view when he observed that “freedom of speech and of the press laid the foundation of all democratic organization, for without free political discussion, no public education, so essential for the proper functioning of the processes of popular government, is possible.”

The Indian Constitution, unlike the American Constitution, does not expressly mention in Article 19(1) (a) the liberty of press i.e. the freedom to print and publish what one pleases without previous permission. Since the Constitution was adopted, the Supreme Court through various decisions conformed that the freedom of press is implicit in freedom of speech and expression as guaranteed under Art. 19(1) (a) of the Constitution. However, the non inclusion of the freedom press in the above Article came up for discussion in the constituent Assembly. The question before constituent Assembly was whether or not to insert in the Indian Constitution a separate right for the press as distinct from that of the ordinary citizen. Dr. B.R. Ambedkar, Chairman of the drafting committee explained the omission in the following words:

“The press is merely another way of stating an individual or a citizen. The press has no special rights which are not to be given or which are not to be exercised by the citizen in his individual capacity. The editor of press or the manager is all citizens therefore, when they choose to write in news paper, they are merely exercising their right of freedom of speech and expression. Therefore, in my judgment, no special mention is necessary to the freedom of

press at all. Hence the right to press was included in freedom of speech and expression i.e., Article 19(1) (a) of the Indian Constitution. Independent press and control free press is pre requisite of a democracy. The need for a free press is more in a country like India. In the absence of any specific article in the Indian Constitution for press or media, it was the judiciary who safeguarded and promoted the independence of press. At times, it also restricted the same in the interest of justice.

So it is clear that freedom of press does not require any special mention as it is inherent in the existing provision and the press enjoys the same freedom of speech and expression of individual citizen, neither less nor more. The media enjoy special immunity or elevated status compare to the citizen and is subject to the general laws of the land, including taxation and industrial laws. The immunity which the press enjoys includes and extends to the right to publish, disseminate information and circulation.

Thus, as mentioned earlier, the Supreme Court in its various decisions, while conforming the rights of the press also struck down certain laws which tried to abridge the freedom of the press and these judgments are in tune with the amendment of the American Constitution.

5.2.2 Freedom of Media and Constitutional Restrictions.

It may be recalled here that right to freedom of speech and expression as one of basic fundamental rights guaranteed to the citizens of our country. Freedom of media derives its rights from the right to freedom of speech and expression available to a citizen and it has the same right. Although no special provision was made to safeguard the rights of the press, the court from time to time through various decisions confirmed that the rights of the press are implicit in the guarantee of freedom of speech and expression as provided in the Constitution. But now one question arises whether the freedom guaranteed under Article 19 (1) (a) to the citizens as well as to the press are absolute or subject to certain restrictions. If the freedom are not absolute and to be

exercised subject to certain restrictions, then who can impose restrictions and now these restrictions are to be imposed.

Freedom of media not absolute

The freedom guaranteed under Article 19(1)(a) are considered and recognized as natural rights or common law rights. These rights are clearly distinguished from the rights which are created by a statute. However, these natural rights are not absolute or uncontrolled. Our Constitution in clear terms puts some restrictions on the enjoyments of right to freedom of speech and expression and freedom of media. Clause (2) to (6) of Article 19 mentioned the restrictions can be imposed by laws made or to be made by the State. Where right has been created by a statute, it can be taken away by the legislature and can be subjected to such restrictions only as permitted by the Constitution itself. That is why, our Constitution empowering the State to direct impose restrictions or limitations upon the fundamental freedoms.

As mentioned above clauses (2) to (6) of Article 19 deals with the limitation imposed upon the enjoyment of all the six fundamental freedoms guaranteed under Article 19 (a) to (g) but clause (2) of the Article 19 exclusively provides for the restrictions to be imposed on the exercise of freedom of speech and expression Article 19(2) of the Constitution reads as : “nothing in sub-section (a)of clause (1) all affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-section in interest of the sovereignty and integrity of India, the security of State, friendly relations with foreign States, public order, decency or morality or in relations to contempt court, defamation or incitement to an offence.”

Therefore, as per Article 19 (2) reasonable restriction can be imposed by the State on the exercise of freedom of speech and expression under any of the grounds mentioned above. Hence, a law restricting the exercise of freedom of speech and expression must be for the particular purpose mentioned in clause (2) of Article 19 and also the restriction must be a reasonable restriction.

Test for restrictions to be imposed.

As see above and close reading of the provisions contained in clause (2) to (6) of Article 19 which enable the State to impose restriction on enjoyment of freedoms guarantees under Article 19 (1) (a), such restriction must satisfy the following three broad tests:

- i. Restriction can only be imposed by or under the authority of a law duly enacted by the appropriate legislature, component to enact a law. No restriction can be imposed by executive action alone without the authority of a law to Backup.
- ii. The restriction must be imposed “in the interest of” or “for the particular purpose” mentioned in clause permitting the imposition of the restriction on that particular freedom i.e, there must be reasonable nexus between the restriction imposed and the object enshrined in the respective clause. No restriction can be imposed on the freedom, on the grounds other than those specified in the respective clauses.
- iii. The restriction to be imposed must be reasonable.

Endorsing the above three test the Supreme Court in the famous Ramlila Maidan Case held the view that “no person can be divested of his fundamental rights. They are incapable of being taken away or abridged. All that the State can do, by exercise of its legislative power is to regulate these rights by imposition of reasonable restriction on them”.¹

Thus, it is cleared that the restriction can be imposed only by or under the authority of law and it cannot be imposed by exercise of executive power each restriction must be reasonable and a restriction must be related to the purpose mentioned in Article 19(2).

1. RamlilaMaidan incident case (2012) 5 SCC 1

The press and people connected with media owe a greater responsibility towards the society and the people of this country. In the changed scenario, when we face multiple challenges with machinery and the people at large are required to face the challenges of globalization and international developments, the press, Administrative machinery and the people at large are required to face the challenges with much sincerity. The grounds which have been enumerated above are certainly important when we take in to consideration the interest of the State. Thus smooth functioning of democratic process, vigilant eyes of the legislature is necessary and at the sometime the public opinion and the liberty of the press should be safeguarded of course under the Constitutional boundaries and permissible limits.

In a democratic country like India the media has following responsibilities:

- i. To equip the citizen with unbiased information. Media shall not taint the facts; they shall present them as they are.
- ii. To play vital role in broadening the thinking of citizens, by empowering them with knowledge. In a country like India where there is significant rate of illiteracy, it is the duty of media to impart knowledge and broaden their views.
- iii. To fairly criticize any action it, is against the spirit of justice or essence of democracy.
- iv. To point out the concept practices and play a crucial role in initiating the proper procedure against the people who are accused of any antisocial activities, regardless of any political connection. 5) To foster the spirit of unity and brotherhood among the people, and install faith in democracy and justice. If the media adheres strictly to its duties then the democracy will be enjoyed in true sense by the citizens of India.

5.3 Role of Media in Indian Democracy.

Media is the sword arm of democracy, it playing very significant role in Indian democracy which is as following:

5.3.1. Media as Instrument of Expression

Every individual person is a medium of expression. An individual interacts through the media to reach other individual and institutions. The media constitute the instrument of expression. Media is generally the agency for inter-personal communication. There are two kinds of communications. Personal communication mechanisms are one kind of media, while the other is print and electronic media.

Media in exercise of freedom of expression is essential to communicate the thoughts, views, ideas, philosophy, ideals and activities. Communication keeps society together and cohabitate. For healthy growth of civilization world, the free flow of information and ideas is essential. The right to freedom of expression, though it belong to every individual, institution and organization, becomes imperatively necessary in the media world which serves as the best communicator of information and the best instrument in expression. Exercise of right of freedom of expression is the professional duty and charter of work of media whether it is print media or electronic media. The media act as a mass communicator and have to enjoy this freedom for promoting public good and for informing the people in general as to the State of affairs in every sphere of life and activity throughout the State and indeed throughout the world. When freedom of expression is usually talked of, it is generally understood in the context of the freedom of the media and particularly the print media, though it may be pointed out that the freedom of expression stands, both with regard to its rights and obligations, on the same footing as that of an individual or institution.²

2. Dr. Madhabhusi Sridhar, *The Law of Expression, An Analytical Commentary on Law for Media* 3, 22, Asia Law House, Hyderabad, (2007)

5.3.2 Communicating People

Traditionally, India has many folk forms of communicating with people in rural areas. Harikatha is originally a religious media form in which the stories of Lord Vishnu were propagated. It is collective form of music dance speech and storytelling with comic interludes. It has tremendous effect in communicating the message straight into the hearts of the people. Over period of time, stories of Shiva and Shakti and other Gods were being told in the form of Harikatha. Then, socially relevant messages were passed through this medium. In a remote village, there are neither roads nor any other communication like cable T.V., Harikatha continues to be only medium. The government controlled media like radio and TV, even today use Harikatha through broadcasting or telecasting. The Burra Katha³ is yet another form media for rural people. While principal artiste tells a historical story playing Tanpura, two assistants will support him with rhythm on their BURRAS, Oggukatha⁴ is similar form popularly used in Telangana Area. Mixing message with folk songs and singing them in villagers attire is another popular method, which was brought into effective use by balladeers like gaddar.⁵

Modern Methods of interpersonal Media communication include seminars dramas, public meeting and workshops etc. these are effective media methods to address small and medium gatherings, which can be used as grounds for advocating the Human Rights and building public opinion.

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3. Burrakatha : a traditional folk art form, where principal artiste use prose and poetry to narrate a historic story. He uses veena, a musical instrument. Two supporting artistes accompany with 'Burraa' an instrument appearing like 'dholak'. This is popular form of art in Andhra Pradesh.
 4. Oggukatha : this is a varied form of Burrakatha, prevalent in Telangana villages of Andhra Pradesh. Politicians use forms during election campaign. Government schemes and programs are also published by field publicity wings and public relation department through these form of art. Both these forms can be played either on stage or in street.
 5. Gaddar is famous balladeer in Telegana region, who spreads revolutionary message through folk songs. He writes lyrics composes the music and songs while dancing this effective tool of communications is the down to earth colloquial language.

5.3.3 Media as Fourth Estate in India

As the largest democracy, India considered a role for a large number of developing countries. We have State and central government elected by the people. India have a government run by our own elected representatives, known as Member of Legislature Assembly (MLAs) in the State and Members of Parliament(MPs) at the center Modern democratic governments have the following :

A Legislature, i.e. State Assemblies and Parliament, responsible for framing laws and decide the way we run our affairs.

Executives: the Governor, Chief Ministers who run the State and the president, Prime Minister and the Council of Minister who run the country.

A Judiciary: Supreme Court, High Courts and other courts which decide whether laws and the Constitutional provisions are followed by the elected governments.

These institutions run the government of the country for the welfare and development of all the people. In a democracy, the people should know what the three institutions, namely the Legislature, the Executive and the Judiciary is doing for the welfare of the people. These institutions in turn need to know how the people reacting, what are they doing? The main role of mass media is to act as bridge between the people and the government. So, in that sense, media can be considered as the fourth institution in a democracy.

Every democratic set up in the present day social texture should have been implicated with a special inseparable part i.e. the press which now expended to include electronic media also. The executive, Legislature and judiciary are no doubt, three pillar of democracy in India. The media is another equally important pillar to lend its valuable support to the system and hence is regarded as “fourth Estate” the word “Estate” has been criticized for its seeming connection with dynastic hierarchy. But in fact it does not reflect any such imperialistic symptoms because of its multi- pronged functions in linking

the three main systems and correlating them with the social needs to bridge the gulf between the governors and the governed.

The Governor General of India, Mr. C. Rajagopalachari, , emphasizing the importance of the Fourth Estate, state,

“A free press is as a parliamentary freely elected by the people or an independent judiciary⁶”.

Justice Krishna Iyer in his article “free press in a hungry Republic “State:

“The philosophical basis for the freedom of publication and circulation is the social purpose of supplying unadulterated information without tendentious presentation, readily and at the right time. And Constitutional rights stem from political Philosophy.”⁷

The press performs some socially purposeful role. It is inherent in human nature to have desire to communicate, to exchange ideas, to learn about changes in the environment and finally to seek the truth. Without such mutual interaction society cannot function in order. The press enlightens the public by reporting and interpreting what is happening in the world around them. Since the newspaper is an eyes for a citizen in the Democracy.⁸

Newspapers have been described as first rough drafts of history. Speaking about the importance of a free press in democracy, a noted writer and politician Mr. M.R. Masani, (Former President of Swatantra Party) says,

“There are various institutions in a free society, which we cherish as essential preconditions to the maintenance of freedom. The first of these is the government, because without the government there is anarchy in which life is nasty, brutish and short. We sometimes forget this, but government comes first. Next comes the opposition, because without an effective functioning opposition

6. (1971), klr p, 12

7. Justice V, R. Krishna Iyer, Law Freedom and Change, New Delhi ; affiliated East West Press Pvt.Ltd. 1975 p. 68

8. SubirGhosh, “Mass Media” Today, Calcutta, p, 42.(1991)

there is no democracy, whatever a paper Constitution might say. Third comes the judiciary, an independent judiciary free from the executive and the legislature of the day. And fourth, though not the least important is the press.....”⁹

The press is an instrument of opposition amongst other things. In fact, there have been period in India and in other countries when the press became an extra parliamentary opposition, Freedom of press is not an end in itself but means to the end of a free society,

S.K. Ghosh says that the press has to diffuse liberal sentiments on the administration of Government, and that the press is the mouth piece and ears of citizens. He says:

....the press is often in real sense the individual’s mouth piece and ears. The importance of freedom of the press consists, besides the advancement of truth, science, morality, and art in general, in its diffusion of liberal sentiments on the administration of government its ready communication of thoughts between subjects and its consequential promotion of union among them, where by oppressive officers are shamed or compelled into more honorable and just modes of conducting affairs.¹⁰

5.3.4 Educating People through Media

The media and the media have an educating role, which gives the institution of the press, a very high influence and the power. The press can be most important educative factor.

The press educates two ways mainly, by giving the new and making clear the background to the news and by comment. Its duty to give the news and the whole news, without bias, selectivity or distortion. But the real glory of the press is to fund in its most educative part, comment. This is to provide

9. M.R. Masani, “The Importance of Free Press in a Democracy.” Freedom of the press in India, Edited by, A.G. Noorani, Bombay, Nachiketha Publications, P. 69). (1979)

10. S.K. Ghosh, Freedom is not free, (Calcutta, 1975), pp. 57-8.

sound comment upon public life in all its aspects. This should be the ‘task’ of the press, source of its power”.¹¹

..... The educative power of the press being admitted, and the special position of comment in it being recognized, follows that the State of the country is often an indication of the extent to which comment has been used effectively.¹²

Finally, the press in India certainly has the capacity to educate. If it is left free and has a will to perform the duty of educating the people in general, it is within its reach.

The success of the democracy entirely rests on mass enlistment. Without educated people it cannot survive. Educating the ignorant masses on large scale is a tough task. Only press or the mass media can achieve this goal.

The human society is undergoing tremors of communication revolution. The flood of information has opened new vistas of generation and dissemination of ideas. The press is a power for beneficent social control. Communication has become a vital need for collective entities and communities. If they are not properly informed, society as a whole today cannot survive. Self-reliance, culture identity, freedom, independence, respect for human dignity, mutual aid, participation in the reshaping of environment, these are some of the non- material aspirations which all seek through communication.

It has become the symbol of progress. Print media i.e., press and newspapers have been referred to as Peoples University because they perform the role of public informer, educate and custodian of public interest. They are called as the gatekeepers and watchdog of social interest.

11. A.D. Gorwala. “The Press as an Educative Factor, Freedom of the Press in India Edited” by, A.G. Noorani, Bombay, P. 36.

12. Ibid

Mass media is a tremendous source of information for individuals as well as society. In the previous section, you have learnt about the role of mass media in a democracy. Let us now see how the media perform their functions to bring about changes.

5.3.5 Mass Media Can Help in Change

Using mass media, people's attitudes and habits can be changed. For example, all of us have mistaken or wrong notions about various diseases like leprosy or HIV/AIDS. Mostly people think that by touching people suffering from these diseases would be infected. You might have heard on radio or watched television programs or read messages which tell us that by touching an HIV/AIDS patient, we do not get infected. Similarly, for eradicating polio there are special programs and messages disseminated through the media. They inform people about the need for giving polio drops to children and about the day that is declared a 'polio day.' Special arrangements are made to give polio drops to as many children as possible on polio day. Change would also mean things for the better. The concept of development of a country is again a matter of change, when old practices and equipment are changed and new, better and more efficient means are being used. The mass media play an important role in communicating this change. By giving the necessary information, and sometimes skills, the media can help bring about this change. You may ask how media can impart skills. A mass media like television can demonstrate and show how things work. You would have seen on television how a certain dish is cooked using modern kitchen equipment.

When behavior pattern change in large numbers and is visible and sustained, it results in a social change. Once there is a deviation from culturally inherited values, it may result in a rebellion against the establishment system, causing a change in social order.

Media technology has got a crucial role in everyone's life today. Media has got a great job of bringing social change in whatever the topic covers from entertainment to all the ongoing issues. Currently there exists revolution in

fighting against corruption in the country. People started realizing the corruption is the element to be eradicated. Internet and social networking sites like Facebook and Twitter, along with traditional media like print and electronic are powerful weapons that curb the menace of corruption and lead to greater transparency in public life by policing India's situation vis-a vis economic and governance, highlighting ongoing corruption cases and applying pressure on corrupt organization and individuals. The free distribution and wide reach of the internet and social media channels is critical in the fight to reduce corruption and renew the social fabric. This can give rise to virtuous cycle of transparent policy making, clean government and faster economic growth.

Since today we have better platform to showcase our opinions, all these forms of Medias put together can help in generating positive interaction and by being agents of social change.

Making people more aware of their right and entitlements, Enabling people to have access to government programs, schemes and benefits, Educating the people more aware of political issues and options and helping to stimulate debate, Educating the public on social, economic and environmental issues, Drawing attention to institutional failing corruption, fraud, waste, inefficiency, cronyism, nepotism, abuse of power and the like, Fostering exchange of best practices, knowledge resources, access to better technology, and better choices. Creating pressure for improvement performance, accountability and quality, for example in service delivery, and providing a discursive space for citizens to dialogue with other actors in the governance process. Rise in transparency and accountability Right to be informed and aware. Encourage people to participate in decision making process. Building trust among people and State Limited opportunities to indulge into corruption.

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HIV/AIDS. Many of us think that by touching people suffering from these diseases we would be infected. You might have heard on radio or watched television programs or read messages which tell us that by touching an HIV/AIDS patient we do not get infected. Similarly, for eradicating polio there are special programs and messages disseminated through the media. They inform people about the need for giving polio drops to children and about the day that is declared a 'Polio Day.' Special arrangement is made to give polio drops to as many children as possible on polio day.

Change would also mean things for the better. The concept of development of a country is again a matter of change, when old practices and equipment are changed and new, better and more efficient means are being used. The mass media play an important role in communicating this change by giving the necessary information, and sometimes skills, the media can help bring about this change, media like television can demonstrate and show how things work. You would have seen on television how a certain dish is cooked modern kitchen equipment.

5.3.6 Mass Media have made the World Smaller and Closer

The speed of media has resulted in bringing people across the world closer. Let us take an example. When you watch live cricket match between India and England or Australia or New Zealand on television, you feel you are part of the crowd in that stadium. Events, happy or sad, happening anywhere can be seen live because of media. Sometimes we feel that the entire world is one big family. You might have heard the term "global village". It means that the whole world is shrinking and becoming a village. Wherever we go to any part of the world, we see the same products such as soft drinks, television, washing machine, refrigerator etc. and the same type of advertisements. Such as, the World Wide Web and internet have brought people and countries much closer.

5.3.7 Mass Media Promotes Distribution of Goods

Mass media are used by the consumer industry to inform people about their products and services through advertising. Without advertising, the public will not be aware about various products (ranging from soap to oil, television sets to cars) and services (banking, insurance, hospitals etc.) which are available in the market as well as their prices. Thus mass media help the industries and consumers.

5.3.8 Role of Media in Nation Building

In any democratic country the media plays a vital role in creating molding and refracting public opinion. Over the years the media became so powerful that it soon acquires the status of fourth state as it was aptly described by the British politician Edmund Burke. It is become so indispensable for the democratic functioning that Thomas Jefferson who was the third US president (1801-1809) said, "Were it left to me to decide whether we should have a government without newspapers or newspapers, without a government. I should not hesitate for a moment to prefer the latter". For the same reason our first prime minister, Jawaharlal Nehru declared, "I would rather have a completely free press with all danger involved in the wrong use of that freedom, than a suppressed or regulated press", in fact media touches almost every aspect of our public life. Media plays a very important and crucial role in enlisting and educating the people. The media can aid public involvement through advocating issues and transferring knowledge, skill and technologies to the people. Awareness about various rural development programs, propagation of family planning could be spread by using the media. It made farmers aware of the new and improved methods of agriculture and protection of the crops. Media plays very emphatic role in awakening people against many evils prevailed in the society like child marriage, killing of female unborn child, the evil practice of child labor etc. through educational programs, it can cover many students in a single platform. The university Grant Commission telecast educational programs for the benefit of the school and college students all over

India. Media can ignite scientific temper among the students for development of science. The government can use the media more effectively to make it an instrument of social change. Media has exposed a number of corrupt practices, hidden deals, thus putting a check on the cancer in the form of corruption in the society.

The various news channels keep the vigilant citizens updated. They organized debates and group discussions about the current political issues in order to enlighten the people about the democratic process. Media serves as a bridge between the government and people. The government policies and action are conveyed to the people, and the latter forcefully expressed to make the authorities aware of the public feelings. It makes policy maker aware of the wrongs that may otherwise escape attention. During the election period, the media can play very important role publishing the bio-data of the candidate. Which makes the general public aware about the vote? An impartial and fearless media is the basic requirement for the success of democracy. Now a day's media has become so powerful that it is in a position to make or break governments, it is usually conceded that John F. Kennedy might never have been the American president, were it not for his brilliant performance on television. The same is true about Barak Obama who led his democratic party to victory because of dynamic confidence by projected over the internet. Heavy media emphasis on news about excess of Emergency brought about a change in government in India. Even a powerful president like Richard Nixon was forced to leave the white house due to the exposure by media in the notorious Watergate scandal. The media has a distinctive role to play in bringing communal harmony which in turn will preserve the secular fabric of democratic country. It also serves to highlight those issues which violate human rights media led to the promotion of business through advertisements. The telecasting of latest updates about techniques of economy management are providing fruitful to trade and commerce.

In the present era of IT revolution, globalization and liberalization, the advent of internet and email, has shrunken the globe to such an extent that the world can now be called a global village. Media is helping global culture to be evolved. We journey across the globe in instants through T V. see the people; their way of living, their fashion and testes without own eyes. Thus, emerging on the horizon the concept of global village. Two serious issues confront the media. First, the media is ushering in a cultural revolution, which is threatening the social and cultural integrity of the nation. The vulgarity displayed in the advertisements, the serials and the music videos should be checked because they reach the audience directly in home. The perverse depiction of women as glamorous props and objects of titillation and portrayal of rape as an exciting and adventurous act is considered in no small way to be responsible for the increasing atrocities against women. The present day goondaism, falling in love affairs by college and school boys and girls are some of the perverse effects of the present day movies. These are something which the media has to guard against. Second, there is an increasing tendency in a section of media to protect trivial things in life, fashions of the rich and the over privileged, and to aggressively advertise a consumerist lifestyle beyond the reach of the majority. This happens to the exclusion of the attention paid to the problems of the masses, their sufferings and aspirations. A re-look at the role of the fourth estate is the need of the hour. The media should work towards stories that generate confidence about creative potential of the grassroots. The media should be a partner in national development.

Despite all these aberrations one may conclude that, the media do play in nation building. The owners and managers of the media must realize their responsibility towards society and aim to provide information that is clean, transparent and reliable. There are many things that are wrong with the society, and the media should engage itself in the betterment of society and the nation as a whole. By addressing itself to needs of the people, it can strengthen the very root of democracy.

5.3.9 Positive Effect of Electronic Media on Society and Culture

The Media like television, radio and internet an overall awareness of the masses. They enhance the general knowledge by providing us with information from all over the world. News broadcast through different media helps us know about the day to day events in the world.

News, telefilms and documentaries revolving around social issues increase a social awareness in children and develop their concern towards society. They also contribute to the enhancement of our knowledge, language and vacabury.

Quiz-based TV programs and radio shows, and the many programs on history, literature, science philosophy and art and culture on channels like discovery, BBC and the National Geography contribute to development of peoples mind and attitudes, widening knowledge and culture.

Research has revealed that media are responsible for influencing a major part of our daily life. Media contribute to transformation in the cultural and social values of the masses. Media bring about a transformation in the attitude and benefit of the people.

The persuasive nature of the content presented over media influences the thought and behavior of the general public helps in molding ideas and attitudes It influences lifestyle and culture.

Media has brought about a major transformation in the way people think. Media has given them an excellent platform to present themselves before the world and contribute in their own way to the changing world scenario. Media has been responsible for making the world a smaller place to live in. the resent advent of blogging in the media world and practices like public polls and citizen journalism have led to the achievement of social control.

These concepts have strengthened the relationship between the media and the common man and contributed to the development of public opinion on national and social issues. The media has played a major role in positive

development like the fight against racism gender bias, world poverty, and spreading awareness about the need for world peace.

There have been important identity transformations, sparking by the engagement in television concerns with women. Viewers of Indian film and television have witnessed a shift from portrayals of females a innocent and subordinate in nature, into independent sexual beings in resent year.

While India's strong traditional heritage has always been significantly characterized by the traditional role of women as homemakers and mothers, the portrayal of women on television has challenged this ideal, and therefore cultivated a new perception of womanhood for the Indian woman.

The development efforts taken by radio and television in the context of rural India need to be mentioned. Some recent experiments in television have successfully helped in transforming lives of the rural people. For instance, TV programs on health, agriculture, employment especially those produced by Doordarshan, have created awareness among people and motivated efforts for uplift men of the deprived in society. Programs have inspired people to tackled illness and disease and other problems in society.

Some talk shows on TV have had a similar impact, for instance, talk shows, and serials that deal with the ill-effects of practices like dowry, sati, child marriage, and drug abuse in society.

5.3.10 Media and Woman Empowerment

Growth of women's education and their entry into employment has contributed to women empowerment. Media has an important role to play to create awakening in women to achieve their potential. In today's world, print and electronic media play a vital role in effectively conveying message that needs to be conveyed.

Communication is extremely important for women's empowerment and mass media play a significant role. Effective informative communication is one of the most important channels for the growth and development of women in

the informal or unorganized sector. Without information regarding services and benefits available through legislation, government schemes, banks and voluntary organizations, women can hardly take advantage of them. The distance between women and media not only deprives the women of their right to information and knowledge, but it can also keep the women in dark regarding the blatant misuse of the female and distortion of the truth.

Limited Coverage of Women Empowerment Content by Media

Media is covering the women aspects such as adverse sex ratio, infant and maternal mortality, crime against women and effects of poverty on women and their families. But this coverage is very limited with the rest of the TV programs as compare to time occupied by cinema actresses, models, video jockeys (veejays), fashion, glamour, beauty tips, weight reduction, cookery etc. Very less time is devoted to programs on career opportunities, health awareness, entrepreneurship, legal aid, counseling services, childcare services and financial management etc. Programs like income generating schemes for women are telecasted very less.

Depiction of Women in TV Serials

Sheer duplication of the dark side of life of women can often lead to apathy and passivity and also negativity. It can be avoid by depicting the positive images or success stories of women in whatever sphere they happen.

In television serials women are the central characters. But they are portrayed largely as tormentors on the victims. It is only desirable that serials (daily soaps) should be close to reality and give message to the viewers where and how the society is going wrong. This portrayal of women has led the National Commission for Women (NCW) to recommend amendment in the Indecent Representation of Women (Prohibition) Act, 1986. National Commission for Women wants to include new technologies like MMS and the electronic media (TV serials) which perpetuate stereotype of women in the provisions of Act.

National Commission for Women has Stated that —Women are either being portrayed as Sita (Ramayana) or as Kaikeyee (Ramayana) and there seems to be nothing in between the two extreme characters being shown in soaps. Divorces, adultery, extra-marital affairs are highlighted frequently in soaps where characters break the law without repercussion.

Press Council of India Chairman J. G.N. Ray emphasized that media should work for empowering women as:

1. The media must project the working women in the unorganized sector as worker and not merely as performing the duties of wife/daughter.
2. The media should be made deliberate attempts to not only project the problems of women in poverty but should monitor it such a way that conflicting role models are neither depicted nor derogatory references to be given to their work.
3. To improve content and coverage, coordinated efforts for increasing interaction between NGO's, women's social action group, research organizations, institutes of mass communication and the media personnel should be developed.

Violence against Women: Media Coverage and Representation

Media Advocacy Group made the following recommendations on reporting violence against the women.

Media need to take an extended, broader view of crimes against women. It has to be instrumental in conducting a social audit on factors responsible for increasing crime, particularly against women and children, including different investigative procedures, miscarriage of justice and growing social impunity of the perpetrators of crime.

It has to be instrumental in creating awareness among civil society of the cause and nature of the crime itself and the preventive measures.

When treating these issues, media has to be extremely factual and empirical.

5.3.11 Corruption in Public Life and Media

Corruption in public life is a very serious problem. The world's largest functioning democracy is facing today. Every walk of public life is badly infected with this deadly anti-poor, anti-people virus. From elected representatives to the Ministers, from Prime Minister to Chief Ministers, from top bureaucrats to a simple peon, from top defense officials to top police officers, from High Court judges to lower judiciary, almost every second person associated with governance is under the allegation of corruption. However, it does not mean that people other than those who are associated with governance, are free from corruption. Corporate world, film industry and even media person are deeply involved in some forms of corrupt practices. Neera Radia's CD episode has exposed many of the so called high profiled people associated with corporate world and media. Therefore, it's not untrue to say that we all, in general, have accepted corruption as the way either to do things or to get things is done in public life. Corruption that can be defined in simple term as a form of human behavior which in general departs from ethics, morality, and tradition of a society, and clearly violates the law of the State, is not as if a new thing in India, however, the matter of serious societal concern is the quantum and the extent of corruption in public life found in the last thirty years and so which were definitely unknown previously. Bofors scandal during the late Rajiv Gandhi regime, and Fodder scam in Bihar during the chief ministership of Lalu Prasad Yadav, Jain brothers Hawala scam exposed by 'Kalchakra' in which, except left parties, leaders of every major parties were involved, Bangaru Laxman's involvement in bribery case as the president of BJP during the NDA regime, PF scam in UP, Commonwealth game scam, Aadarsh apartment scam, and the biggest one, the 2-G spectrum scam... are some of the few that completely shaken the faith of the common people in the political class and the bureaucracy of the country. As a matter of fact, the corruption is not just robbing the pocket of the common people and it ultimately deprives them of their right to development, but it also starts eroding

the legitimacy of the democratic political system of the country which has far more serious ramifications for the parliamentary democracy.

There are already laws against corruption and governmental agencies; CVC, CBI, Anti-Corruption Bureau, ECI, Lokayukta in many States, to take action against corrupts, but unfortunately these have been proved futile so far, and the amount of corruption has increased many folds in public life. As a result, a strong anti-corruption law and investigating as well as executing agency have become the common demand of the people and the civil society groups. Country wide demand for JAN LOKPAL and unprecedented public support for civil society movement 'India against Corruption' under the leadership of social activist, Anna Hazare is merely the reflection of the feeling and anger of the people.

Though existing laws, investigating agencies and judicial system despite their honest or dishonest efforts could not generate enough positive results. Corruption spread unchecked anything like from top to bottom in public life. However, the mass media, on the contrary, have succeeded to a great extent in highlighting the scale and gravity of corruption and in exposing corrupts through its investigative journalism and organized sting operations. The role of the mass media as the watchdog of democracy, therefore, is very important and crucial in the battle against corruption. It was the print media, for instance The Hindu that exposed Bofors scandal which ultimately had proved politically fatal for the then government in the next national election. The role of Tehelka magazine is well known in exposing bribery episode of then president of BJP, Bangaru Laxman, who is finally convicted recently by the court, the sting operations against some of the MPs asking money for raising questions in the Parliament by the media people is another example of media's sustained crusade against corruption at high places. Later, as a result of these sting operations 11 MPs belonging to Congress, BJP and other parties were dismissed from the membership of the Parliament by the respective presiding officers. Rob Jenkins, referring corruption as a very common practice among these days' politicians, observes: "...the bribe-taking politicians has become

the preeminent symbol of India's democratic malaise. The persistence of corruption is a constant reminder that democracy is deepening in some respects but not others that inclusiveness and accountability does not necessarily accompany one another".

The mass media is the fourth estate of democracy and it is supposed to play a vital role in a democracy. Therefore, a free, fair and fearless media is a functional necessity of a democratic polity because it informs people and provides public space for open debate on any of the issues that matter for public, and it helps to build public opinion on any matter of public concern including corruption in public life.

The media fights against corruption through different angles that include investigative journalism, sting operation, holding public debates against corruption and conducting opinion polls against corruption in public life. Hence media can be a very crucial instrument in highlighting the issue of corruption and subsequently exposing the corrupts that may finally help the legal investigating agencies to bring the corrupt to book. Corruption was not invented in the 1990s. It is invented when the first of two succeeding waves of anti-corruption activism was unleashed. Allegations of scandal plagued the 17-year tenure of India's first Prime Minister, Jawaharlal Nehru. Two of Nehru's ministers resigned under an ethical cloud. During the reign of Nehru's daughter, Indira Gandhi, corruption began to become more extortionate, a development largely attributable to the wholesale induction of organized crime figures into Indian Politics by Sanjay Gandhi, Indira Gandhi's son and presumed political heir until his death in a 1980 plane crash.

Little has changed in the three decades since the Bofors affairs. Corruption remains a staple of political discussion. Print, broadcast and telecast media are filled with charges of corruption and heated discussion about how best to combat it. Throughout the 1990s, the country witnessed a seemingly endless procession of 'scams', 'as the media labeled them – the stock-market scam, the telecom scam, sugar scam, the fodder scam and others too numerous

to mention. Jenkins interestingly mentions about Jain Brother's Hawala scams in which politicians from many parties including ministers and chief minister's name were found in the diary. Jenkins writes, "There was also the 1996 discovery of an industrialist's diary that was alleged to show payments to politicians, whose names were indicated by the use of initials. The Jain Diaries were captivating both because they appeared to be convincing primary source documents and also they revealed how readily an entrepreneur could come to see corruption as just another business expense to be recoded".

5.4 Freedom of Press and the Right to Information

Information is regarded as the oxygen of democracy. It invigorates where it percolates. If people do not know what is happening in their society, the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of the society. Freedom of expression, free dissemination of ideas and access to information are vital to the functioning of a democratic government.

The major characteristics of good governance are participation, rule of law, transparency, responsiveness, equity, inclusiveness, effectiveness, efficiency, accountability, strategic vision and consensus-orientation. Transparency means that decisions are taken openly and enforced as per rules and regulations. It requires that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided to all the stakeholders in easily understandable forms and media should be able to facilitate their meaningful participation in decision-making processes. Accountability means that institutions and functionaries are answerable to the people and to their institutional stakeholders.

In fact, mass media is the most important vehicle for information, knowledge and communication in a democratic polity:

- a) They are pervasive and play a significant role in shaping societies; they provide the public sphere of information and debate that enables social and cultural discourse, participation and accountability.
- b) They are the most accessible, cost-effective and widespread source of information and platform for expression.

Information is power. The media can play a crucial role in building an inclusive information Society based on knowledge, power its distribution. Fulfillment of its potential action for media are required in three key areas:

1. To protect and extend media freedom and independence, and rights of access to information;
2. To actively develop the potential of media to provide information, a forum for debate on topics of public interest, cultural expression and opportunity to communicate, especially to the poor and marginalized;
3. To strengthen the capacity of media to promote and help to build an information Society – raising awareness, channeling civil society concerns, debating policies and holding government, private sector and civil society accountable.

Traditional systems of information access in India have made journalists dependent on sources which they must cultivate. Whether bureaucrats or politicians, much depends on the privilege and patronage of the individual source. Such relationships of patronage not only make journalists depend on very feudal relationships but also it often makes them use the information regardless of its veracity.

A Right to Information (RTI) regime can enable credible, evidence-based and factual reporting on key issues of public interest. It can enable the media to expose mal-administration, corruption and inefficiency and to propagate stories and instances relating to accountability, transparency, effective administration and good governance. By using the Right to Information Act, the media can play an important role in highlighting the issues

relating to service delivery and the efficacy and accountability of public officials.

Under the Right to Information Act, 2005 the journalists and reporters, like citizens, can:¹³

- Demand from the Government, information pertaining to any of its departments.
- Demand photocopies of Government contracts, payment, estimates, measurements of engineering works etc.
- Demand from the Government certified samples of material used in the construction of roads, drains, buildings etc.
- Demand to inspect any public development work that may be still under construction or completed.
- Demand to inspect Government documents – constructions drawings, records books, registers, quality control reports etc.
- Demand status of requests or complains, details of time delays and actions taken on Information Commission's decisions etc.

The media can play a constructive role in the governance process by:¹⁴

- Catalyzing Effective Implementation of the RTI Act, 2005 As the 'fourth pillar of democracy', the media not only has an important stake in what the RTI Act purpose to provide and achieve, but also in catalyzing and entrenching the implementation and enforcement of this significant piece of legislation.
- Providing Information to the Citizens and Building Awareness on the Act: Despite the provisions that have been made to access information, citizens resort to media like newspapers, radio, television etc. for day to day information about public authorities and their activities. The media

13. Available at: edaa.in/download.php filename RTIguideformedia.pdf

14. Supra n, 166.

provides a link between the citizens and their government. The media's right to information or right to sell is not a special privilege but rather, an aspect of the public's right to know. The media should fulfill this obligation.

- **Giving Voice to the Citizens:** As part of the civil society, the media has an obligation to articulate the needs and aspirations of the people. Using the RTI Act, the media can highlight key issues faced by the citizens, particularly those faced by the poor and voiceless.
- **Acting as a Watchdog on behalf of the Citizens:** The best service that the media can provide to the public, whether in a mature or emerging democracy, is that of a community watchdog. Journalists should be seen and performed and their role keeping in mind public interest. Using Right to Information the media can expose corruption and inefficiency. However, in performing a watchdog role and digging out the truth, journalists should be careful in interpreting facts and evidence.

It is important that the media plays the role of an honest broker of information for its readers without deliberate bias or favoritism. The media must consider this independence to be its most valuable, commercial, editorial and moral asset. Maintaining its independence through professional behavior and a code of conduct that is subscribed to by all journalists, the media can be a powerful user of the RTI Act, 2005 and an agent for the empowerment of people through an Information Society. The objective of the Act to usher in a practical regime of right to information cannot be attained without a proactive role played by the media.

5.5 Media and the Parliamentary Privileges

The Parliamentary privilege is one of the most sensitive areas where a journalist has to tread warily. In democracy people have the right to know what their representatives are doing both inside and outside of the parliament as well as the press with the efforts to keep the people informed about the matters being transacted by parliament, its Committees and its members some times

encroaches upon their privileges. This often leads towards a conflict between the press and the parliamentary privileges.

The concept of parliamentary privileges has been defined by various eminent jurists. May defines the privileges as, "The sum of peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by members of each House individually, without which they could not discharge their functions and which exceed those possessed by other bodies or individuals. Therefore privilege though part of the law of the land, is to a certain extent an exception from the ordinary law".¹⁵

India was ruled by English people for a long time for the proper functioning of the government. They made laws, while adopting their own pattern prevailing in England with certain modifications i.e. they made laws in accordance with situations and circumstances at that time. The system copied or based on English pattern exercised a great influence upon the members of the Constituent Assembly who drafted the Indian Constitution. So, naturally, this Constitution carries with it the British concept of Parliamentary privileges.

In India, the privileges, immunities etc. of Parliament and its members are provided under Article 105¹⁶ and that of State Legislatures under Article 194 of the Constitution¹⁷. The position under clause (1) & (2) of Article 105 is that subject to the provisions of the Constitution and the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in the Parliament. And that no person can be made liable in respect of publication by or under the authority of either House of Parliament of any report, paper, votes or the proceedings of the Parliament or any Committee

15. Erskine May: Parliamentary Practice at p. 67

16. Article -105 Provides - (1) subject to the provisions of this Constitution and to the rules and standing orders Regulating the procedure of Parliament, there shall be freedom of speech in Parliament. (3) In other respect, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and , until so defined shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act, 1978].

17. Article 194 provides for identical provision using the word legislature in place of Parliament.

thereof. Similar provision exists under Article 194 Clause (1) & (2) which is applicable to the House of State Legislatures. Thus it is also clear that under clause (1) & (2) of the aforesaid Articles of the Constitution, full freedom is accorded to the committees and the members of the Parliament as well as State Legislatures. But at the same time it is also clear that such immunities are provided only when anything is said inside the parliament. Secondly nobody can be made liable a proceeding before a court of law in respect of the publication under the authority of either House of Parliament or State Legislature.

In other respects under clause (3) of Article 105 (As it stands today after 44th Amendment of 1978) the powers, privileges and immunities of each House of Parliament and of its members and committees shall be such as may be defined from time to time by Parliament and so defined that, shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (44th Amendment) Act, 1978. Article 194 (3) contains identical provision in respect of State Legislature.¹⁸

Under Article 105(3) of the Constitution, therefore, the privileges of our Parliament are identical with those of the House of Commons as they existed on the Jan 26th 1950. The Supreme Court, however, in special reference no I of 1964 held that the Parliament can not claim all the privileges as enjoyed by the House of Commons at the Commencement of the Constitution. It can exercise

18. In 1976, 42nd Amendment to the Constitution was enacted by which Article 105 (3) and 194(3) were amended. The net result of this amendment was that a House could have "evolved" its own privilege. Before this, it was possible only through a law to define privilege. 42nd Amendment done away with this need of passing any law to define the privilege. Consequently it also done away with the need of president's assent which is necessary, if a law is to be made. Moreover, It also authorized either House of the Parliament, as well as State Legislature, to evolve its privilege and it was no more necessary that both Houses should be agree for evolving a new privilege. Later on in 1978, 44th Amendment was incorporated in the Constitution. This amendment in the first place cancelled the amendments made by the Constitution (42nd Amendment) Act, 1976. It then amended Article 105(3) and 194(3) so as to drop completely any reference to the House of Commons in future. But even this new phraseology did not bring any change in the circumstances.

only those privileges of the House of Commons which are incidental to legislative functions.¹⁹

The parliamentary privileges restrict the freedom of press and while publishing the reports of proceedings of a House of Parliament or of its committees or on a conduct of a member or members inside or outside the House, a lot of caution is required to be undertaken by the press.

The following privileges of the Parliament affect the freedom of press.

- 1) **Right to Exclude Strangers:** The Parliament has the privilege to exclude the stranger's²⁰. The Speaker or Chairman, as the case may be, whenever, thinks fit under the rules of the House, may order the withdrawal of strangers from any part of the House, including the representatives of the press. The Parliament has not yet exercised these rights. However, it may exclude press whenever holding a secret session. Though, such chances are quite rare. The Parliament is also empowered to withdraw press cards of any particular journalist, if any default is committed by him. The Lok Sabha has, in fact, withdrawn press cards twice. Once of a special correspondent of Blitz and on another occasions of a special correspondent of Hindustan New Delhi. Any person including a press representative is excluded from the House under rule 248 of the House when it sits in a secret session.²¹

19. Keshav Singh v Speaker, Legislative Assembly, A.I.R. 1965 S.C. 745

20. The rule 387 - 387 - A made by the House of People provide for the expulsion Rule. 387 Says that the speaker may, whenever he thinks fit order the withdrawal of strangers from any part of the House. Rule.387 - A – An officer of the Secretariat authorized in this behalf by the speaker shall remove from the precincts of the House or take into custody, any stranger whom he may seem or who may be reported to him to be, in any portion of the precincts of the House which is reserved for exclusive use of members, and also any stranger, who having been admitted into any portion of the precincts of the House, misconducts himself or willfully infringes the regulation made by the speaker under rule 386 or does not withdraw when the strangers are directed to withdraw under rule, 387 while the House is sitting.

21. Rule 248 (1) - On a request made by the leader of the House, the speaker shall fix a day or part thereof for Sitting of the House in secret, Rule 248 (2) - When the House sits in secret no stranger shall be permitted to be Present. in the Chamber, Lobby or Galleries provided that members of the

- 2) Right to prohibit the publication of its proceedings: It is another important privilege which has been enforced by the Parliament on various occasions with a specific intention, only to prevent malafide publication of any inaccurate report or expunged portions of any proceeding. Unlike England, in India, there is no rule or standing order of the Parliament prohibiting the publication of its proceedings. In *Searchlight Case*²² the question before the Court was whether the Legislature is empowered to prohibit the publication of expunged portion of the proceeding of the House. The Supreme Court gave the answer in affirmative and held that Article 105 (3) and Article 194(3) confer all those powers and privileges on Parliament and State Legislature.
- 3) Power to Commit for Contempt: One of the most important privileges available to Parliament is the power to commit for its contempt and also defined as the 'keystone of Parliamentary privilege'. The power is identical with The House of Commons in England. The power to punish for contempt was not available to the legislature under the Government of India Act, 1919. For the first time, Government of India Act, 1935 conferred such powers. The question that whether the existence of such punitive powers affects the freedom of press. To answer such question is to be kept in mind the difference between the existence of power and the exercise of that power. In India, like the House of Commons, it has been the practice of each of the House to exercise privilege under great limitations and conditions. In majority of the cases the Parliament, though over sensitive to its privileges did not take any action when the editor or person making the defamatory statements, in the case, expressed his sincere regrets. In the *Blitz case*, the editor of the newspaper was reprimanded by the Lok Sabha but the Privilege

Council may be present in their Gallery: Provided further that persons authorized by the Speaker may be present in the Chamber, Lobby or Galleries

22. *Pandit M.S.M. Sharma v Shri Sri Krishna Sinha and Others*, A.I.R., 1959, 395,

Committee recognized the right of fair comment and observed as following.

"Nobody would deny the Members or a matter of fact any citizen, the right of fair, comments. But if the comments contain personal attack on individual members of Parliament on account of their conduct in Parliament, or if the language of the comment is vulgar or abusive, they cannot be deemed to come within the bounds of fair comment or justifiable criticism "²³

Therefore, It is clear that the privileges of the Parliament as discussed above are of extreme importance for the smooth and proper functioning of the Parliament and State Legislatures and whenever, these privileges are violated by the press, it would be guilty of committing contempt of Parliament or State Legislature.

The position of the Parliamentary privileges when they are in conflict with the freedom of press has been settled in re-under Article 143 of the Constitution of India. The advisory opinion of the Supreme Court in this case, however, has made Article 105 (3) quite ambiguous in its approach as if and when a law is made defining the privileges it would be subject to Article 19 (1) (a) but in case if no law is made then the same provision would yield to parliamentary privileges. However, in spite of the fact that freedom of press is subject to privileges of the House, there are certain enactments which give protection to press against a third party if substantial and true report of the proceeding of either House is published. In 1956 Parliamentary Proceedings (Protection of Publication) Act was passed. No liability civil or criminal, under the act attaches to the publication of proceedings of house. It is provided true and without malice and also for public good. This Act was repealed in Dec. 1975 during Emergency but re-enacted in April 1977 and currently it is the law relating to the publication of proceeding both have of parliament or either of them. House of Parliament. The law also extends to the radio broadcasts.

23. Quoted in "Press and Parliament" by, A.N. Grover in J.C.P.S. VXIII 1984 at p 141

The Act of 1977 therefore, provides immunity from any civil or criminal liability for publishing any proceedings either House or Parliament, if the following conditions are fulfilled,

- i) The report of the proceedings is substantially true;
- ii) It is not made with malice; and
- iii) It is made for public good.

5.6 Films, Freedom of Expression and Censorship

The 21st century saw certain scientific and innovations in the field of literature, science, technology and other related fields. In fact, this process of progress in the society has come to be witnessed in the later part of the 20th century. After hard struggles for freedom and in the era of independence, the nation marched side by side with the developed countries and had made a mark for its own self. We have contributed significantly to the all round development of the country in almost all the fields. Art and literature is one such area where perhaps no other country could show the development like India. From the very ancient times, India is known for its own culture, art and literature and for development and contributions. Films which form a very basic part of the art and literature saw dramatic developments. In the meantime, the Indian cinema has completed hundred years of its existence and going strong in spreading the message of rich culture, social, economic and political heritage of this great country. Films is a medium which touches the minds of the millions of people by spreading its base both in rural and urban areas. Contribution of Indian cinema to the growth and development of Indian society is outstanding and unparalleled.

Constitution of India guaranteed a bunch of rights to the citizens. These rights also include certain fundamental freedoms. So far as films are concerned, any individual has a liberty to make a film and exhibit it anywhere in India. But like other freedoms, this freedom is also not absolute. It is also subject to

certain restrictions as mentioned in the Constitution.²⁴ India has a specific law²⁵ to see that the films adhere to the norms prescribed by it before the film gets approval for public viewing.

Films are considered as a great medium of communication with the people. With the development and progress of the society and also with the progress in the field of science and technology, the films have undergone a sea change and by adopting all the available technologies have been able to reach the masses and also significantly contributed to the social and cultural development of the country. In this way the films are equated with the press as the press is also considered as a great medium of communication. Both the films and the press enjoy the same status and right, so as Constitutional freedom relating to expression of ideas and spreading of ideas and messages are concerned. Article 19 (1)(a) of the Indian Constitution guarantees freedom of speech and expression which is extended to the press also. Therefore, both these media are regulated under this provision of the Constitution. Simultaneously as these freedoms are not absolute and subject to Constitutional restrictions, both these media are also to adhere to event and condition..

But as compared to the freedom guaranteed to the films, the press enjoys a bit more because the films are subject to censorship as provided in the Cinematograph Act, 1952. The press is immune from such censorship although immediately after independence and thereafter attempts were made by the government to impose certain restrictions on the press, the Supreme Court negated all such attempts. The films are treated differently from the press so far as pre-censorship or censorship is concerned.

5.7 Decency, Morality and Law of Ethics

In the age of information, media play an important role in educating the people and arouse confidence in them. Therefore, it is expected that the media or press should not publish anything which lead to corrupt the public mind

24. The Constitution of India, Article 19(2).

25. The Cinematograph Act, 1952

particularly the youth. The press should follow certain principles on this connection and should refrain itself from reporting malicious, baseless, misleading, distorted, defamatory or obscene material. It is the responsibility of the person to report such matters with caution and take appropriate and necessary measures while dealing with such matters.

But in the last few decades with the advent of modern technologies, we have noticed degradation of morality to a great extent and obscene material is dominating both in the print media and electronic media. Television, internet and other such electronic media in the name of the entertainment are continuously spreading certain vulgar and obscene material which can not be accepted as proper. The print media are not far behind. Keeping pace with the electronic media, the print media is also reporting obscene material which is sufficient to corrupt the public mind. The songs and dance sequence, the intimate senses and sex related advertisements and television programs have become a regular feature. The vulgar writing and pornographic books with pictures and compact discs are plenty and easily available in the market. The internet and several social network sites are also depicting the vulgar pictures aiming to keep the young minds in a disturbed state. The globalization and open market has widened the market structure and the commoditization of women as the object of sex, obscene visuals and writing and the symbol of advertisement has become a routine feature which challenges the ethical and moral values of the culture. At present more than 800 television channels²⁶ and hundreds of newspapers both regional and national level are operating or the business of functioning in the field of news reporting and doing other commercial activities.

Therefore, to uphold the cultural ethics of this great country, the persons, organizations and others involved or associated with the media are expected to follow certain ethics while presenting news and views before the readers. Obscenity, decency, defamatory Statements, seditions activities are

26. As on December 12, 2012 848 television channels are operating in our country.

some of the important ethical and sensitive aspects which the media people should keep in their mind.

Law of Obscenity in India

Webster's New Intentional Dictionary defines obscene to mean "offensive to chastity or modesty; expressing or presenting to the mind of views something that delicacy, purity, and decency forbid to be expressed impure as language, obscene picture, impure, indecent, unchaste, and lewd"

The definitions provided in Indian laws is somewhat similar to that found in English law. Indian Penal Code defines obscenity as "for the purpose of this Act, an article shall be deemed to be obscene if it effects or (where the article comprise two or more distinct items) the effect of any one its items is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it".²⁷

Constitutional Restriction on Media

Freedom of speech and expressionis also included the right to freedom of press. Although the press and media enjoy the freedom in expressing their views, these freedoms are not absolute and are subject to certain restrictions. Article 19(1) (a) guarantees the freedom of speech and expression as well as Article 19 (2) provided for the exceptions to these freedoms. There are several grounds under which restrictions can be imposed by the State on the exercise of the rights to freedom of speech and expression. Decency and morality is one of the grounds and restriction can be imposed on the enjoyment of these rights on the ground of decency and morality.

According to state Article 19(2) can not be the State cannot be prevented from putting restrictions on the freedom of speech and expression on the ground of decency and morality.

27. Indian Penal Code, 1860, section 292(1)

Indecent presentation of women in any form, particularly in publications and advertisement by media is an offence in India. The Indecent Representation of women Act 1986, clearly states that, “no person shall produce or cause to be produced, sell, let hire, distribute, circulate or send by post any book, pamphlet, paper, slide, films, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any form²⁸ .

In the early years of independent India, with an aim to prevent the media from dissemination of certain publication harmful to youngpersons, The Young Persons (Harmful Publications) Act, 1956 was enacted which states that, “Harmful publication means any “book, magazine, pamphlet, leaflet, newspaper or other like publication which consist of stories told with the aid of pictures or without the aid of pictures or wholly in picture being stories portraying wholly or mainly, the commission of offence, or act of violence, or incidents of a repulsive or horrible nature, in such a way that the publication as whole would tend to corrupt a young person into whose hands it might fall, whether by inciting or encouraging him to commit offences or acts of violence or cruelty or in any other manner whatsoever.”²⁹

In legislation, it is mention that sale, publication, exhibition or transmission any obscene material is not permissible and the persons who are indulged or associated in such activities shall be held guilty and be punished as per the provision of the respective legislation.³⁰

5.8 Media Trial

Trial by ‘Media’ is a phrase popular to describe the impact of television and newspaper coverage on the reputation of a person by creating a widespread perception of guilt regardless of any verdict in a court of law³¹ .

28. The Indecent Representation of Women (Prohibition) Act, 1986 sec. 4(a)(b)(c)

29. The Young Persons (Harmful Publications) Act, 1956 sec. 2(a)

30. The Information Technology Act, 2000

31. Available at: <http://www.answers.com/topic.trialbymedia>

During high-publicity court cases, the media are often accused of provoking an atmosphere of public hysteria akin to a lynch mob which not only makes a fair trial, nearly impossible but means that regardless of the result of the trial the accused will not be able to live the rest of their life without intense public scrutiny.

The counter-argument is that the mob mentality exists independently of the media which merely voices the opinions which the public already has.

Although a recently coined phrase, the idea that popular media can have a strong influence on the legal process goes back certainly to the advent of the printing press and probably much further. This is not including the use of a State controlled press to criminalize political opponents, but in its commonly understood meaning covers all occasions where the reputation of a person has been drastically affected by ostensibly non-political publications.

Often the coverage in the press can be reflected the views of the person in the street. However, more credibility is generally given to printed material than 'water cooler gossip'. The responsibility of the press to confirm reports and leaks about individuals being tried have to come increasing scrutiny and journalists are calling for higher standards.

Incidents of Media Trial

Jawaharlal Nehru University, Delhi, incident

The recent incident of alleged anti-Indian slogans in JNU how some media channels have covered the whole incident without going much into the facts, have brought to forefront the issue of media ethics.

It is now, said that some of the videos were doctored. But certain media channels without looking into this, kept on showing the video along with so much aggressive anchoring that which appeared to be a media trial³².

Jessica Lal case

32. <http://www.dailyo.in/politics/jnu-row-kanhaiya-kumar-umar-khalid-anti-india-slogans-fake-videos-medias-role-accountability-democracy/story/1/9194.html>

Jessica Lal was a model in New Delhi, who was working as a celebrity barmaid at a crowded socialite party when she was shot dead at around 2 am April 30, 1999. Dozens of witnesses pointed to Siddharth Vashisht, also known as Manu Sharma, the son of Venod Sharma, a wealthy and influential Congress-nominated Member of Parliament from Haryana, as the murderer. In the ensuing trial, Manu Sharma and a number of others were acquitted on 21 February 2006.

Following intense media and public pressure, the prosecution appealed and the Delhi High Court conducted proceedings on a fast track with daily hearings conducted over 25 days. The trial court judgment was overturned, and Manu Sharma was found guilty of having murdered Lal. He was sentenced to life imprisonment on 20 December 2006³³.

Aarushi Murder Case

Aarushi Murder case is the perfect example of how '*Talwars*' were shown as murderers by many media organizations. Style of writing and headlines were such that the readers and viewers were made to believe that the Talwars were guilty of killing their daughter. Even though the case is still pending before the court but many people have already reached their verdicts. Hopefully, the judge of the case isn't one of them.

Another case that comes to mind is that of Salman Khan Accident case where media alleged that Salman was behind the wheels of the car that killed people on the pavement. Salman Khan has even accused media of being the reason, that his case has still not reached the conclusion. He has even opened his own website to ensure that people hear his side of the story.

Media has helped to ensure that it raises its voice whenever justice has been denied. Media played a very significant role in the Jessica Lal murder case, Priyadarshni Mattoo murder case where the accused were powerful and they used their power to influence the judiciary and the witnesses. It

33. https://en.wikipedia.org/wiki/Murder_of_Jessica_Lal

doesn't mean to say that media should not at all discuss court cases, but they should know where to stop. A line should be drawn and they shouldn't go all out after one person as few of the examples have proved. Everyone deserves an equal chance before the law. No one is guilty unless proven and media has no right to project someone guilty before the court.

Sheena Bohra Murder Case

The excruciating eyes of the media have pierced the personal life of the main accused Indrani Mukherji which has kicked in a fresh debate on the issue of media trial of the accused. Every aspect of her personal life and character which have nothing to do legally with the investigation of the murder are under public lens of scrutiny via the media. The ethics of journalism have been trapped again in a controversial area due to their prying eyes on the accused.

In recent times, there have been numerous instances in which media has conducted the trial of an accused and has passed the verdict even before the court passes its judgment. Some famous criminal cases that would have gone unpunished but for the intervention of media, are Priyadarshini Mattoo case, Nitish Katara murder case, Bijal Joshi rape case etc.

Trial by media has created a "problem" because it involves a tug of war between two conflicting principles free press and free trial, in both of which the public are vitally interested. The freedom of the press stems from the right of the public in a democracy to be involved on the issues of the day, which affect them. This is the justification for investigative and campaign journalism.

5.9. Summary

The media work as a watchdog of the government and carry every report of the actions of administration thereby keeping the people informed about the day to day happenings that are taking place around them. The media has helped to make the democratic society by giving emphasis on issues that at one point of time would have been considered strictly private such as child birth, child care, domestic violence, and sexual harassment. For proper functioning of a

democratic system, There must be transparency and accountability. The nexus between corruption and administration intertwined by politics seems to snatch the serenity and peace of the country. The lethal politics played by the politicians, the bureaucrats; criminal is far away from the peak of dexterous politics being played by the media.

Democracy cannot be successful without free press. Free press is inseparable part of democracy as well as it is the voice of the people. Freedom of speech and expression is one such right which the citizens are entitled to. In a democratic country like India the media has duties as, to equip the citizen with unbiased information, to play vital role in broadening the thinking of citizens, by empowering them with knowledge, to fairly criticize any action which is against the spirit of justice or essence of democracy, to point out the concept practices and play a crucial role in initiating the proper procedure against the people who are accused of any antisocial activities, regardless of any political connection, and to foster the spirit of unity and brotherhood among the people, and install faith in democracy and justice. If the media adheres strictly to its duties then the democracy will be enjoyed in true sense by the citizens of India.

Media is the sword arm of democracy, it is playing very significant role in Indian democracy. Every individual is a medium of expression. An individual interacts through the media to reach other individual and institutions.

Media play the role of communicator of ideas. It is collective form of music, dance, speech and storytelling with comic interludes. Modern methods of interpersonal media communication include seminars, dramas, public meeting and workshops etc. These are effective media methods to address small and medium gatherings, which can be used as grounds for advocating the Human Rights and building public opinion. Media is being considered as the fourth pillar of our democratic society after executive, legislature, and judiciary.

In a democracy, the people should know what the three institutions, namely the Legislature, the Executive and the Judiciary are working for the welfare of the people. These institutions in turn need to know how the people reacting to what they are doing. The main role of mass media is to act as bridge between the people and the government. So, in that sense, media can be considered as the fourth institution in a democracy.

The media have an educating role, which gives the institution of the press, a very high influence and the power. The press educates people in two ways, by giving the news and making clear the background to the news or by comment. Finally, the press in India certainly has the capacity to educate. If it is left free and has a will to perform the duty of educating the people in general, it is within its reach.

Using mass media, people's attitudes and habits can be changed. The mass media play an important role in communicating this change. By giving the necessary information, and sometimes skills, the media can help bring about this change.

The speed of media has resulted in bringing people across the world closer. It means that the whole world is shrinking and becoming a village.

Mass media are used by the consumer industry to inform people about their products and services through advertising.

The media play a vital role in democratic system in creating, molding and reflecting public opinion, about various rural development programs, propagation of family planning, new and improvement methods of agriculture and protection of the crops. Media plays very emphatic role in awakening people against many evils prevailing in the society like child marriage, killing of female unborn child, the evil practice of child labor etc. Media can ignite scientific temper among the students for development of science. They organized debates and group discussions about the current political issues in order to enlighten the people about the democratic process. Media serves as a bridge between the government and people.

The persuasive nature of the content presented over media influences the thoughts and behavior of the general public. It helps in molding ideas and attitudes. It influences lifestyle and culture.

The media has played a major role in positive development like the fight against racism, gender bias, world poverty, and spreading awareness about the need for world peace.

Growth of women's education and their entry into employment has contributed to women empowerment and poverty alleviation. Media has an important role to play to create awakening in women to achieve their potential. Without information regarding services and benefits available through legislation, government schemes, banks and voluntary organizations, women can hardly take advantage of them. The distance between women and media not only deprives the women of their right to information and knowledge, but it can also keep the women in dark regarding the blatant misuse of the female and distortion of the truth.

Corruption in public life is a very serious problem where the world's largest functioning democracy is facing today. Therefore, a free, fair and fearless media is a functional necessity of a democratic polity because it informs people and provides public space for open debate on any of the issues that matter for public, as well as helps to build public opinion on any matter of public concern including corruption in public life. The media fights against corruption through different means and ways that include investigative journalism, sting operation, holding public debates against corruption and conducting opinion polls against corruption in public life.

Information is regarded as the oxygen of democracy. In fact, mass media is the most important vehicle for information, knowledge and communication in a democratic polity. They are pervasive and play a significant role in shaping societies; they provide the public sphere of information and debate that enables social and cultural discourse, participation and accountability; they are the most accessible, cost-effective and widespread

source of information and platform for expression. Information is power. The media can play a crucial role in building an inclusive information society based on knowledge power and its distribution.

In India, the privileges, immunities etc. of Parliament and its members are provided under Article 105(1) and (2) and that of State Legislatures under Article 194 (1) and (2) of the Constitution. But at the same time it is also clear that such immunities are provided only when anything is said inside the parliament. Secondly, nobody can be made liable to a proceeding before a court of law in respect of the publication under the authority of either Houses of Parliament or State Legislatures. Privileges of the Parliament affect the freedom of press, Right to Exclude Strangers; Right to prohibit the publication of its proceedings, and Power to Commit for Contempt. The Act of 1977 therefore, provides immunity from any civil or criminal liability for publishing any proceedings of either Houses of Parliament. If the following conditions are fulfilled, the report of the proceedings is substantially true; it is not made with malice but it is made for public good.

The media, in the contemporary world of information and technology place a very significant role in educating the masses. The media should always keep in mind, that it should not publish anything which corrupts the public mind and disturbs social peace. The press should assume role of the responsible person and perform with causation while dealing with public matters.

Trail by media is another important and sensitive weapon of media which affects the reputation and personality of an individual during the sensational public court cases, the media are often accuse of provoking an atmosphere of public hysteria which sometimes disturbs law and order situation.

Modern media i.e. electronic media has enhanced the quality of democratic process by providing a platform for public participation on issues of national or social concern in a manner that is able to influence the Government. Media serves a twofold purpose. It not only carries information to the public

but also carries back public responses to the government, compelling the later to be more receptive to public opinion, the media acts as a repository of public trust for conveying correct and true information to the people. But, when paid information is presented as news content, it would mislead the public and hamper their judgment to form a correct opinion.
