



INDIAN PARLIAMENT

Study Guide

Agenda: Reviewing the status of freedom of press and expression in India.

ANNUAL WORLD SUMMIT 2024



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Letter from the Executive Board

The Indian Parliament holds a special place for each member of our Executive Board. In India, aspirations for success in any field inevitably cross paths with politics. Therefore, refining skills in diplomacy, critical thinking, and managing high-pressure situations is crucial for our future. Delegating in the Indian Parliament offers a valuable opportunity to cultivate these skills, deepen your understanding of the Indian political landscape, and gain insight into how you can shape your country.

The Indian Parliament is a committee that has its own rules and conventions which make for a thrilling escapade where passion and diplomacy are tested to their limits. We look forward to dynamic engagement in addressing pressing issues in the country, echoing the spirit of cooperation and diplomacy that resonates within the hallowed halls of our democratic institution. We trust your discussions will reflect the spirit of cooperation and pragmatism that characterises our parliamentary processes as you all are in charge of preserving the principles of inclusivity and advancement as you negotiate the complexities of the Indian parliament on this diplomatic stage.

We hope to see intellectual, confrontational debate, akin to that of the Lok Sabha in real life. Using the powers vested in you by the Indian Constitution, with solution-oriented debate, we hope to see a glimpse of a new India.

Best regards,

IP Executive Board

Chairperson: Myra Dwivedi

Vice-Chairperson: Dev Vora

Moderator: Dhyaan Parekh

Rapporteur: Aayana Tandon

Introduction to the Committee

The Indian Parliament Committee is a versatile committee that mimics the workings of the Lok Sabha in India.

Delegates representing members of the lower house of the parliament must present their views on the agenda. Members must debate on controversial issues within the agenda that hamper India's development and freedom that must be resolved. Discussions must be solution-oriented and realistic.

They must appropriately put forward their respective party's and persona's stance on the issues at hand.

We will be following a modified UNAUSA procedure which shall include guidelines as given by the GreenBook of the Lok Sabha. The exact procedure will be explained at a later date.

Committee Mandate

Within the committee, delegates have the same powers as vested in the Elected Members of parliament by the Indian Constitution. They will deliberate upon matters of importance before laws or resolutions are passed, to legislate on the same, exercise judicial, financial, and other powers as outlined.

The Parliament exercises its legislative functions primarily over matters outlined in the Union List and the Concurrent List.

Regarding the Concurrent List, where both the state legislatures and the Parliament hold jurisdiction, laws enacted by the Parliament take precedence over those of the states unless a state law has previously received presidential assent. Moreover, the Parliament retains the authority to introduce, modify, or annul laws established by state legislatures at any point.

Additionally, under specific circumstances, the Parliament can legislate on subjects listed in the State List as mentioned in Articles 356, 249, 253, and 252.



Introduction to the Agenda

Freedom of the press in India has seen both advancements and challenges. While there are laws protecting freedom of speech and expression, including the press, there have been instances of censorship, intimidation, and attacks on journalists, and hindering investigative journalism. Despite these obstacles, many journalists and media outlets continue to pursue investigative reporting, uncovering stories of corruption, human rights abuses, and societal issues. However, there's ongoing debate and concern about the extent to which the government influences media narratives and restricts press freedom, especially in sensitive political or social contexts. It's considered as one of the basic Human Rights under Article 19 of the Universal Declaration of Human Rights (UDHR).

What does the term "Press Freedom" mean?

Press freedom is a fundamental principle that allows journalists and media organisations to operate without censorship or government interference. It is a core component of freedom of expression and is essential for a democratic society. Press freedom encompasses the following key aspects:

Freedom from Censorship: Journalists and media outlets should be able to publish or broadcast news and information without government-imposed censorship.

Access to Information: A free press should have access to information and sources to investigate and report on matters of public interest.

Editorial Independence: Editorial independence ensures that news reporting is based on facts and not influenced by outside interests and funding.

Protection of Sources: Journalists should be able to protect their sources to encourage whistleblowers and informants to come forward with information without fear of exposure or reprisal.

Pluralism and Diversity: A free press should encompass a diverse range of viewpoints and opinions, allowing for open debate and discussion in society.

Accountability: The media should hold those in power accountable by investigating and reporting on their actions and decisions.



Introduction to the Agenda

What are the threats to Freedom of Media?

The influence of social media and continuous attacks of fake news (especially with the rise of Artificial Intelligence and Deepfakes) act as a hindrance to the freedom of media. There are safety concerns for journalists against targeted groups, governments, and parties due to inadequate whistleblower protection. Hate speech shared and amplified on social networks is targeted against journalists using social media. Corporate and political power overwhelms large sections of the media, both print and visual, leading to vested interests and destroying freedom. Misinformation and paid news cause misguidance of the populace, in direct contradiction with the fundamentals of democracy which form the bedrock of our existence. The alleged abuse of power of ruling parties over media broadcasting and excessive censorship as observed in recent years.

Threats of charges like sedition, defamation, terrorism, contempt of court, etc.

Corruption, Bribery, Abuse of Power, Lack of Accountability, remain rampant. Thus, it is important to maintain a delicate balance between safeguarding the interests of India from anti-national agencies of misinformation and hateful/divisive publications while allowing the propagation of free unbiased media and promoting freedom of thought and expression. Allowing a diverse culture of public opinion in a safe environment is crucial for India's future as a true democratic nation.

In a democracy, the free media is an essential agency. It is the most important medium of public opinion in the democratic system of government. The freedom of media in pursuance of that is firmly set in the constitutional structure of India and is guaranteed. Dr. Ambedkar's draft proposed that "no law shall be made abridging the freedom of speech, of the press, of association, and of assembly, except for considerations of public order and morality"

Introduction to the Agenda

Freedom of speech and expression are vital to democracy. It is guaranteed by Indian Constitution as well as by the Universal Declaration of Human Rights, and by various other international documents adopted to ensure the protection of human rights and fundamental freedoms. It flows from these guarantees that the people are entitled to receive news and views, without interference and to disseminate it regardless of the frontiers, and that is an integral part of the democratic process. In practice, it is the media which exercises this right daily.

Thus, two fundamental rights are involved in the right to free speech and expression, namely,

- The right to receive news and views
- The right to communicate news, information, and views.

These rights depend largely on the freedom of all those involved in the media to exercise their role as collectors and communicators of news and views, without interference.

Hate speech has affected freedom of speech and expression extensively in recent times.

Hate speeches that are spread by media channels, as discussed earlier in the paper, have resulted in public unrest and violence which has even endangered the life of the accused individual. Few prominent media figures abuse the power of the press. Their biased reporting that promotes a particular political party or ideology has resulted in a lack of public debate and fair criticism. The Media nowadays targets a specific group and individual, and labels them as "anti-national" or "Naxalites". The media is believed to create a cynical narrative, it distorts the facts and presents sensational news to gain viewership.



Background Information

India is a Sovereign Socialist Secular Democratic Republic with a Parliamentary form of government which is federal in structure with unitary features. Parliament is the supreme legislative body of India. The Indian Parliament comprises the President and the two Houses - Rajya Sabha (Council of States) and Lok Sabha (House of the People). The President has the power to summon and prorogue either House of Parliament or to dissolve Lok Sabha. The Constitution of India came into force on January 26, 1950. The first general elections under the new Constitution were held during the year 1951-52 and the first elected Parliament came into existence in April 1952.



History and Fundamentals

Ancient India is known for its scepticism towards religion and its tolerance to opposing views. However, the rise of Hindu religious nationalism and Islamic fundamentalism, and consequently, increasing conflict between freedom of expression and religion, have been well noted by both academic (Thapar 2015) and public intellectuals (Sorabjee 2018; Dhavan 2008).

Since the start of the Indian battle against British Colonialism for autonomy, particularly

During the nineteenth and twentieth centuries, 'Freedom of Expression' or 'Freedom of Press' has constantly had an essential influence. We are on the whole mindful of the job that the 'Indian Press' played to create nationalistic judgments among the general population so as to get independence. Regardless of being blue-pencilled and precluded, not once but rather multiple times, the press figured out how to influence individuals everywhere throughout the country, which in the long run drove us to Independence.

The conflict between freedom of expression and religion in India is well known. The censoring of books and films by the State and the victimisation of writers, film directors, and academics by religious groups are well noted. In this context, the Indian Constitution aims not only to empower media and free thinkers but also those who are religiously hurt.

The desire among many people to prohibit religiously hurtful speech (or expression) has become a focal point of conflict between religious fundamentalist groups and free thinkers.

Hindu Fundamentalism

The main objective of Hindu religious extremists is to establish Hindu-influenced rule in India: To spread Hindu values and to defend Hindu society from other cultures, and ideologies. Among prominent Hindu fundamentalist groups are, R.S.S. (Rashtriya Swayamsevak Sangh), V.H.P. (Vishva Hindu Parishad), and Shiv Sena. Since the early 1980s, these groups, to a certain extent, have been responsible for inciting communal violence against religious minorities in India.



History and Fundamentals

Hindu extremism has been accused of threatening publishers to withdraw publications, exerted pressure to censor films deemed offensive to their political agenda, and silenced critical voices contesting the Hindu religious views (Thapar 2015; Sorabjee 2018; Dhavan 2008). The killing of journalist Gauri Lankesh in 2017, who was critical of the right-wing and of Hindu nationalism, and of violence in the wake of the controversial movie, *Padmavati*, shows that such forces could restrict free expression by creating a climate of fear.

The fear of the mob is so palpable that even after a court order lifted restrictions on James W. Laine's book on Shivaji, bookshops are still unwilling to stock it (Tripathi 2015). Thus, such forces could pose serious challenges to the freedom of expression and liberal voices in India.

Islamic Fundamentalism

British rule over India was a setback to the Mughal empire, leading to a loss of power among its elites. Consequently, Muslim backwardness and the political reassertion of Hindus in India, to a certain extent, led to Muslim nationalism (Rodriguez 2017, p. 55). Later, the rise of Deoband (Conservative Islamic seminary) and the Aligarh school played an important role in Islamic nationalism and affirmation of Islamic religious ideas. The extremist ideas regarding Islam and Muslims in India (through vigorous preaching and holy war) was formulated by men like Shariatullah and Syed Ahmad and expressed some of the fears haunting the local Muslims. This generated in India's Muslim elites a preoccupation with the "revival of Islam's lost glory".

The foundations of the Indian National Congress in 1885 and fear of Hindu domination led the establishment of the Muslim League, which demanded a separate state for Muslim-Pakistan. Through the rise of Hindu revivalist movements, Arya Samaj and Braham Samaj crystallised Hindu nationalism and Muslim fundamentalism. After Indian Independence in 1947, Muslims remained backward economically and politically (Sachar 2006). However, for this small group of extremist Muslims, the ideal has remained for an Islamic state and a universal Islamic revolution.



History and Fundamentals

Insurgency in Kashmir and the Babri mosque demolition further alienated Muslims in India. According to Ashutosh Varshney (1992); Pakistan, the Indian state, religious nationalism, and Kashmiri Muslim ethno-religious nationalism all contributed to the polarisation of the Hindu-Muslim population. As a result, mutual suspicion helped strengthen fundamentalist forces in Muslim society.

Usually, fundamentalist Islamic groups such as Deoband and All India Muslim Personal Board allegedly resort to mob violence, religious and public condemnation, or filing cases in the court if they deem anything to be offensive to their religion. India banned the book Satanic verses in 1988 due to pressure from Muslim political groups. A book by Bangladeshi author Taslima Nasrin, 'Dwikhandita', was also banned in India for offending religious sensibilities of Muslims. Under pressure from Islamic fundamentalists, the Indian government even refused to grant Nasrin citizenship.

Shirin Dalvi, editor of an Urdu newspaper, was arrested for printing a controversial cover of French satirical magazine Charlie Hebdo. Dalvi was booked and charged with outraging religious feelings by insulting its religion with malicious intent under Section 295A of the Indian Penal Code. Similarly, Hindu Mahasabha activist, Kamlesh Tiwari earned the wrath of Muslims for making derogatory remarks against the Prophet Mohammed. As a result, thousands of Muslims demanded the death penalty for Tiwari.

Some people believe it has become vital for the newly liberated Indian State to be seen as neutral, thus, 'political neutrality' has become the guiding principle, which to a certain extent, has led to Indian secularism.

Noteworthy Developments

- **Economic Times (2019) reports that according to press freedom index 2019 records, India has collapsed down to two positions globally and is ranked 140th out of 180 countries, according to Reporters Without Borders (RSF). The study found that there has been an increase in the attacks against the Indian journalists by supporters of the ruling party BJP, especially before the general elections. The index also found brutality toward Indian journalists that include police violence, assaults by Maoist Rivals and retaliation by wicked groups. These have displayed one of the most unusual features of the present status of the press of India. In 2018, 6 Indian journalists were killed in association with their work. The murders have revealed vulnerabilities under which Indian journalists are working right now, particularly non-English writers serving in provincial and primitive regions, the report says. The writers/reporters who attempt to express or communicate concerning subjects that disturb Hindutva are being subjected to hate campaigns on social media. The report also mentions, 'it is difficult for Indian journalists to work under regimes which are very unstable, for instance, Kashmir. Internet services are frequently shut and foreign reporters are also stopped in such a regime'. Consequently, journalism can't be sustained under this condition.**
- **Azam Khan, a politician from the Samajwadi Party, disagreed with Union finance minister Arun Jaitley's support for decriminalising homosexuality. In response, Khan labelled members of the Rashtriya Swayamsevak Sangh as "homosexuals." This sparked retaliation from Kamlesh Tiwari, founder of the Hindu Samaj Party, who made derogatory comments about Islam's prophet Muhammad.**

Noteworthy Developments

- **Tiwari's remarks offended Indian Muslims, leading to protests, with some even calling for Tiwari's execution. Subsequently, Tiwari was arrested and charged under the National Security Act by the Uttar Pradesh Police. He spent a few months in jail before being released, only to later be murdered. The Uttar Pradesh Police have charged thirteen individuals in connection with Tiwari's killing: eight for murder and conspiracy, and five for aiding the killers and concealing evidence.**
- **In July, a government pre-university college lecturer, Hulikante Murthy, was served notice by the government for his criticism of Indian Space Research Organisation (ISRO) scientists offering prayer at Tirupati temple in Andhra Pradesh with a miniature model of Chandrayaan 3. He called out scientists' lack of scientific temperament. While the right-wing social media army trolled him for his post, he was issued a notice by the State government after former education minister Suresh Kumar wrote to the government seeking action. Sources close to Mr. Murthy said he was flabbergasted at the government's moves as Mr. Siddaramaiah has always been known for his loyalty to rationalism and socialist thought. Multiple FIRs were also filed against Mr. Murthy**
- **The use of AI to spread disinformation entry of artificial intelligence (AI) in newsrooms and its rapid advances in the digital space have been posing new risks to the media's credibility. "Disinformation that has been 'scaled up and weaponized' on social networking platforms presents a major challenge and threat to democracy and media credibility," said N. Ram, director, The Hindu Group of Publications, at a media summit in December 2023, according to the report. Ram added that AI and disinformation were "two key areas in which major and potentially disruptive challenges could become opportunities for the media to do well, empower themselves in new ways, and pursue a path of sustained development."**
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Noteworthy Developments

- A government school teacher from Chitradurga, Shantala Murthy, was suspended for her post on Facebook criticising Siddaramaiah and the guarantee scheme. The state also ordered an inquiry stating that the teacher allegedly violated Karnataka Civil Services (Conduct) Rules.
- In the South Asia Press Freedom Report 2023-2024, the International Federation of Journalists (IFJ) has painted a bleak picture of media freedom in the region. According to the report, the appearance of democracy faded under autocratic regimes amid political polarisation, economic turmoil, and digital disruption, with journalists increasingly facing wage threats, job losses, shuttering of media houses, and precarious working conditions. The report titled “Artificial Independence: The Fight to Save Media and Democracy” was released on May 3, commemorated as World Press Freedom Day. It studies the intersections of democracy, media economies, and the fundamental freedoms of the press across the eight nations of South Asia from May 1, 2023, to April 30, 2024. With six nations in South Asia and over two billion people globally participating in elections in 2023 and 2024, the period was characterized by threats to democracy across the region, including physical violence, misinformation, political, religious, and ethnic divides, and polarised media coverage, according to the report. “Democracy may have been the most successful political idea of the 20th century, but across South Asia as multiple countries headed to the polls, it became increasingly apparent that its progress in this part of the world has at the very least, stalled,” said Jane Worthington, IFJ’s Asia-Pacific director. Worthington, however, lauded “a determined network of media workers” in the region for its pushback.



Noteworthy Developments

- The IFJ also recorded a total of 232 media rights violations last year, which included the targeted killings of eight journalists and media practitioners. In India, it stated that some journalists paid the ultimate price for performing their professional duties. The report noted the deaths of journalists Abdul Rauf Alamgir of Assam (June 2023), Shivam Arya of Madhya Pradesh (July 2023), and Vimal Kumar Yadav (August 2023). It also cited the incident when cops roughed up some photojournalists covering the arrest of Delhi Chief Minister Arvind Kejriwal on March 21, 2024.
- The 2019 General Election was fought on social media. A majority of campaigns by leading parties “incorporated online misinformation into their campaign strategies, which included both lies about their opponents as well as propaganda,” according to a 2022 paper. The researchers identified sophisticated campaigns using forwarded WhatsApp messages and the mass deployment of IT bots on Facebook to disseminate doctored photos, publish coordinated content, and post fake videos. The vast majority of erroneous information came from the Bharatiya Janata Party (BJP) and the Indian National Congress (INC); “both parties were also sources and targets of misinformation.” Another report by the Digital Forensic Research Lab showed automated ‘bots’ were boosting hashtags and trying to manipulate traffic on Twitter in February 2019.
- India’s score in the World Press Freedom Index fell over the last year, from 36.62 to 31.28, according to Reporters Without Borders (RSF for Reporters sans Frontières), which puts together an annual index of freedom enjoyed by journalists in 180 jurisdictions. India’s rank improved from 161 in 2023 to 159 in 2024, but this was because other countries had slipped in their rankings. The government has in the past dismissed international rankings of freedoms in India as propaganda.

Rights of The Press in India

(<https://nyaaya.org/guest-blog/what-are-the-rights-of-press-in-india/>)

The right to free speech and expression which the press has includes the right not only to publish but also to circulate information and opinions. Many cases including Romesh Thappar v State of Madras (1950) have held the freedom of circulation to be as essential as the freedom of publication. The Supreme Court in the case Bennet Coleman and Co. v Union of India (1972) held that newspapers should be left to determine their pages and their circulation. The same principle was upheld in Sakal Papers v Union of India (1962) where the Supreme Court stated that States cannot make laws that directly violate the freedom of speech and expression guaranteed under the Constitution. They also stated that the curtailment of advertisements is a violation of the freedom of speech and expression under Article 19(1)(a) of the Constitution of India, 1950 as it would have a direct impact on the circulation of newspapers.

Right to conduct Interviews- The right to conduct interviews is a limited right of the press and can only be exercised if there is willing consent from the person being interviewed. There are several cases of the Supreme Court where the right of the press to interview convicts or undertrials has been examined.

In Prabha Dutt v Union of India (1982) the press was seeking to interview prisoners in jail. The Court held that the press does not have an absolute or unrestricted right to information and an interview may be conducted only if the prisoners give their consent.

So, in summary-

- The following rights can be exercised by the Media in India:
- Right to free speech and expression
- Right to receive and publish information
- Right to circulate and broadcast
- Right to conduct interviews
- Right to criticise
- Right to report court proceedings
- Right to advertisements

Involvement of organisations/ Important stakeholders

Press Council Of India: The Press Council of India is a statutory, adjudicating organisation in India formed in 1966 by its parliament. It is the self-regulatory watchdog of the press, for the press and by the press, that operates under the Press Council Act of 1978.

-The PCI has several functions, including:

1. Ensuring compliance with journalistic ethics and standards.
2. Investigating complaints of violation of press freedom and ethical standards.
3. Advising and guiding the press on maintaining high standards of journalism.
4. Upholding the freedom of the press and protecting the rights of journalists.
5. Making recommendations for the growth and development of the press in India.
6. Addressing grievances against the press. Individuals who feel aggrieved by the content published in newspapers or news agencies can approach the PCI with their complaints. The Council may issue warnings, censures, or direct corrections or apologies.

Press Information Bureau- The Press Information Bureau, commonly abbreviated as PIB, is a nodal agency of the Government of India under the Ministry of Information and Broadcasting.

The PBI functions:

- **Information Dissemination:** The primary role of the PIB is to disseminate information about government policies, programs, initiatives, and achievements to the media and the public. It serves as the official source of information for journalists and media organisations seeking updates on government activities.
- **Press Releases and Press Conferences:** The PIB issues press releases, statements, and official communiqués on behalf of various ministries and departments of the government. It organises press conferences and briefings where government officials interact with journalists to provide information and answer queries on important issues.



Involvement of organisations/ Important stakeholders

- **Media Management:** The PIB plays a crucial role in managing the government's interactions with the media. It facilitates media coverage of official events, visits by dignitaries, and other government activities. It also assists in arranging interviews and interactions between government officials and journalists.
- **Fact-checking and Counteracting Misinformation:** In addition to disseminating information, the PIB also plays a role in fact-checking and countering misinformation and rumours. It provides accurate information and clarifications to address any inaccuracies or misconceptions circulating in the media or public domain.
- **Public Relations:** It collaborates with media organisations, journalists, and other stakeholders to promote a positive image of the government and its initiatives.

Central Board of Film Certification- Central Bureau of Communication. The Central Board of Film Certification (CBFC) is a statutory film-certification body in the Ministry of Information and Broadcasting of the Government of India. It is tasked with "regulating the public exhibition of films under the provisions of the Cinematograph Act 1952."

Relevant Rulings-

Abbas vs Union of India 1970

Maneka Gandhi vs Union of India 1978

India Express vs Union of India 1985

Bijoe Emmanuel vs State Kerala 1986

Union Of India vs Assassination for Democratic Reforms

Shaheen Abdulla v. Union of India and Ors, 2022

Case Studies

1. Manohar Lal Sharma v Union of India

On July 18th, an international consortium of 17 media organisations and Amnesty International called the Pegasus Project leaked a list of 50,000 phone numbers which were potentially targeted by the Pegasus Spyware. Multiple petitions were filed by affected journalists, activists, and politicians, demanding a judicial probe to investigate the Indian government's use of the spyware.

On October 27th, the Court passed an interim order in Manohar Lal Sharma v Union of India, constituting a Technical Committee to conduct the Pegasus probe. The Bench emphasised that even a lawful encroachment on the Right to Privacy has to be proportional to the purpose of the law. The Union Government cannot invoke national security to evade accountability. The Bench recognized the link between the Right to Privacy and Freedom of Speech, noting that a breach of privacy can lead to self-censorship. They said that press freedom and privacy were allies and that the fear of surveillance is an 'assault' on the press, which is the fourth pillar of democracy.

The Bench appointed a Technical Committee to be overseen by former Supreme Court Justice R.V. Raveendran. This Committee will determine whether Pegasus was used to surveil Indian citizens and whether it was done lawfully. They must also make recommendations on improving the nation's cybersecurity measures to protect citizen's Right to Privacy and provide grievance redressal mechanisms in cases of illegal surveillance.



Case Studies

2. Vinod Dua v Union Of India

The Supreme Court quashed a sedition FIR filed against journalist Vinod Dua for a video in which he remarked against the Prime Minister on his handling of the COVID crisis. In doing so, the Court reiterated the guidelines laid down in *Kedar Nath Singh v State of Bihar (1962)*, that a sedition charge is attracted only when incitement to violence, or the tendency or intention to create public disorder can be proven.

BJP member Ajay Shyam had filed a complaint of sedition for a YouTube video uploaded by Mr. Dua on COVID mismanagement. Mr. Dua had moved the Court under writ jurisdiction with two prayers – first, the quashing of the FIR and second, a direction that every sedition FIR registered against a journalist of at least 10 years standing should be cleared by a special committee.

A division bench of UU Lalit and Vineet Saran JJ held that remarks made by Mr. Dua constituted criticism of the governmental policy and could not be termed seditious. However, the bench rejected the plea of a committee for screening FIRs against journalists saying it would amount to interference in the legislative domain.

Despite holding the remarks made by Mr. Dua to be outside the scope of sedition, the Court discussed the *Kedar Nath* guidelines in detail. In the 1962 case, the Supreme Court upheld the constitutional validity of the sedition provision though it issued guidelines to restrict its scope. The Court had held that unless disaffection against the government is accompanied by incitement to violence, or intention to cause disorder, the offense of sedition is not committed.



Case Studies

Public Law Remedy of Compensation- The plea to constitute a committee for clearing sedition FIRs against journalists of at least 10 years standing was valid rejected. Apart from the stated reason of encroachment in the legislative domain, the 10-year cut-off for protecting journalists seemed arbitrary. However, the Court has the option to grant the compensatory public law remedy as a way to deter the misuse of penal provisions. The favorable factual matrix in this case coupled with wide powers under writ jurisdiction could have been used to entrench the compensatory remedy in cases of malicious or motivated targeting of individuals.

3. Surveillance- A Threat To Democratic Society: An Analysis Of Indian Supreme Court's Order In Pegasus Case.

The Apex Court on 27 October 2021 ordered for the formation of an independent expert committee to investigate the allegations related to surveillance of politicians, activists, journalists, and constitutional authorities using the Pegasus spyware, the committee will be headed by Justice RV Raveendran, former Supreme court judge Pegasus spyware is developed by the Israeli cyber firm NSO, it has targeted hundreds of phones in India, the spyware can enter the device of the targeted person without even their knowledge, this is because it is designed in such way that it can impersonate itself a downloaded application in the phone and transmit itself through the notification via the application's server. There are complaints from different users about the cracking of their mobile phone through this virus The Supreme Court in its October 2021, has led to an effective step to protect the citizens from unlawful; surveillance to protect their fundamental right to privacy, the Supreme Court also stated that protection of Journalistic interventions as it is an essential condition of Freedom of Press, and if this is not followed then there would be a significant loss to the citizens of India as it would hamper the process of providing safe and authorized news to the citizens

Case Studies

4) Romesh Thappar vs The State of Madras

A noted political commentator and communist, Romesh Thappar, who publicly criticised Nehru's policies, published and edited a journal in English called Cross Roads. The journal was banned in the former State of Madras under Section 9 (1-A) of the Madras Maintenance of Public Order Act, 1949. Challenging this ban, Thappar filed a legal petition with the Supreme Court arguing that the powers granted under the Act limited freedom of expression as guaranteed by Article 19 of the Constitution of India. The State argued that the restriction on the journal was necessary for public safety and maintaining public order and the step was towards the state's security, a reasonable limit on freedom of expression according to Article 19(2).

The court ruled that Thappar had the right to directly approach the Supreme Court under Article 32 without first seeking relief from the High Court under Article 226. It also ruled that Section 9(1-A) of the Madras Maintenance of Public Order Act, which allowed the government to impose restrictions in the interest of public safety and order, was unconstitutional as it flouted the permissible limits of restricting freedom of speech and expression.



Case Studies

5) Bennett Coleman vs Union of India

In this landmark case, the Bennett Coleman group and others challenged the Newsprint Policy of 1972-73, which imposed a number of restrictions which included establishments owning more than two newspapers, with at least one being a daily not allowed to launch new newspapers; the total number of pages for any newspaper being limited to ten; newspapers with less than ten pages restricted to a 20% increase in the number of pages; and lastly, no interchangeability of newsprint between different newspapers of the same establishment or between various editions of the same paper.

The Supreme Court, in an important judgment ruled certain provisions of the policy unconstitutional, emphasizing the importance of freedom of the press under Article 19(1)(a) of the Indian Constitution. The ruling emphasised the fact that the free press was a crucial component of freedom of expression in general, mentioning that the Policy imposed quantitative restrictions on the freedom of the press, which was also considered a direct challenge to the freedom of expression. The court acknowledged that tackling a shortage of newsprint could be achieved by fixing quotas and said that direct interference in terms of page limits and other could lead to economic challenges for newspapers, affecting circulation and limiting freedom of expression



Definition of Key Terms

Freedom of Expression- This article implies that all citizens have the right to express their views and opinions freely. This includes not only word of mouth but also a speech by way of writings, pictures, movies, banners, etc.

Sedition- The word sedition has been removed in the new Bharatiya Nyaya Sanhita bill. However, in all relevant contexts, sedition will refer to that provided by the former IPC Section 124A. It defines sedition as an offense committed when "any person by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the government established by law in India".

Secularism- The Supreme Court of India defines secularism as "more than a passive attitude of religious tolerance; it is a positive concept of equal treatment of all religions

Defamation- A person must have made an imputation about another person with either an intention, knowledge, or reason to believe that such an imputation will harm the reputation of the person against whom such an imputation is made. This imputation could be either by words, signs, or visible representation, which could be either made or published.

Blasphemy- Section 295A of IPC lays down the punishment for the deliberate and malicious acts, that are intended to outrage religious feelings of any class by insulting its religion or religious beliefs. It is one of the Hate speech laws in India. This law prohibits blasphemy against all religions in India.

Contempt Of Court - In India, the offence of contempt of court is committed when a person either disobeys a court order (civil contempt) or when a person says or does anything that scandalises, prejudices, or interferes with judicial proceedings and the administration of justice (criminal contempt). Contempt of court can be punished with imprisonment a fine, or both.



QARMA

(Questions a Resolution Must Answer)

- 1. How will grievance redressal systems be provided to whistleblowers who have fallen victim to malicious government persecution?**
- 2. How does censorship impact freedom of expression and press freedom?**
- 3. How do politicians communalize freedom of expression and the press?**
- 4. What protective measures can be taken to ensure the independence of investigative bodies?**
- 5. To what extent can criticisms be expressed on public forums on sensitive topics such as religion, and the economy?**
- 6. Democracy cannot be sustained without a free press. Is the current degree of “freedom” adequate? Resolve.**
- 7. Review the status freedom of press in the past ten years of the NDA government**
- 8. A certain extent of control on freedom of expression and press must be exercised to ensure the stability of a nation. With the existing systems for censorship, sedition, defamation, etc in place, how can the safety of the country be ensured as the public pressed on for unrestrictive civil liberties in the concerned areas?**
- 9. How can the state distinguish between a “whistleblower” and an “enemy of the state”, given the synonymy of the terms in varied media?**
- 10. How should the government value the privacy of an individual against the right of the press to investigate and publish information?**



Relevant Articles

- The Bharatiya Nyaya Sanhita- Section 152, (clauses 150, 195, 297)
- https://www.mha.gov.in/sites/default/files/250883_english_01042024.pdf
- Article 19 of the Indian Constitution
- <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>
- Contempt of Courts Act, 1971.
- https://www.indiacode.nic.in/handle/123456789/1514?sam_handle=123456789/1362#:~:text=India%20Code%3A%20Contempt%20of%20Courts%20Act%2C%201971&text=Long%20Title%3A,their%20procedure%20in%20relation%20thereto.
- Constitution (First Amendment) Act, 1951.
- Right to Information Act
- <https://www.drishtias.com/to-the-points/paper4/right-to-information-1>
- National Security Act and the Unlawful Activities (Prevention) Act
- <https://www.drishtias.com/daily-updates/daily-news-editorials/assessing-the-unlawful-activities-prevention-act#:~:text=National%20Security%3A%20Advocates%20argue%20that,the%20security%20of%20the%20nation.>
- Information Technology Act (2000)
- <https://dhsgsu.edu.in/images/Reading-Material/Law/UNIT-IV-Second.pdf>
- Press Council Act (1978)
- <https://testbook.com/ias-preparation/press-council-of-india>
- Broadcasting Laws-The Cable Television Networks (Regulation) Act, 1995
- <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1964677#:~:text=Section%2016%20of%20the%20Cable,years%20for%20every%20subsequent%20offence.>