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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

DISSENT IN DEMOCRACY

Authored By - Ashutosh Tripathi

An effective functioning of Democracy can only exist if there exists Freedom to express dissent. Dissent is any opinion that one forms as a part of non agreement of any policy that is imposed by any government or political party or any individual or entity. Justice D Y Chandrachud very rightly said that “Dissent is the safety valve of democracy”. But in recent times we see that this principal of dissent is clashing with the media ethics as nowadays we see of lot of recurring instances of media violating their right to Freedom of Press. Also we see that a lot of Journalists are being arrested just because they have expressed their dissent over the policies of the government and so on. Therefore a Constitutional Approach should be maintained in order to make space for both the Democracy and Dissent in order to have an effective functioning of the nation. There is a need to indulge dissent in democratic discussion as democracy and dissent are inseparable. Also the fact that democracy is incomplete if there is no free press cannot be ignored. It is an unimaginable situation if the ruling party of every country starts controlling and regulating media, then that is the end of democracy. There is the need to make the press structurally independent of both government and private economic power.¹

Media freedom has deteriorated worldwide over the past decade. While the threats to global media freedom are real and worrying in and of themselves, their implications for the state of democracy which makes it all the way more truly dangerous. In what is perhaps the most worrying development is that freedom of press has come under unusual pressure in the recent years. In a democratic nation, on one side the populist leaders aim to secure and expand their achievements by controlling the press, whereas on the other side the established autocratic governments continue to use the powers suppress the dissenting voices, as any violation of their dominance in the media threatens to expose official misconduct or discredit the media. official narratives.²

¹ The Recent History of Digital Media and Dissent, Philip N. Howard, Muzammil M. Hussain, Oxford University Press, DOI:10.1093/acprof:oso/9780199936953.003.0002

² Politics, Protest, Emotion: Interdisciplinary Roleplay, by Paul Reilly, Anastasia Veneti and Dimitrinka Atanasova (eds) is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/), except where otherwise noted. Chapter- Digital media and the politics of protest, Arne Hintz, Cardiff University, Published on January, 2017

Right now the need of the hour is that media sector should work freely and independently and only then they can do complete justice to their job which is keeping its citizens informed about everything happening and to expose the leaders of the wrongdoings by holding them accountable. The free and independent media sector is as important and crucial as the free and fair elections for the democracy to sustain. Absence of this will lead to citizens not being informed of the decisions about how they are being governed, and the abuse of power and also this will keep happening and it will never be expose the wrongdoings, hence it will never be corrected.³ The Indian Constitution guarantees Freedom of Speech and Expression under Article 19. So there is no loophole in the Constitution. Problem arises because this right can be easily silenced and is overrides by the inefficiency of the criminal justice system and also there is a lot of inconsistency of jurisprudence.⁴ India's legal system is known to be bogged down and overwhelmed, causing long and costly delays that can deter even innocent people from fighting for their right to freedom of expression. Dissent is the lifeline of any democratic nation. It is the sign of a variety of perspectives and a variety of competing although sometimes there is conflict of interest. Also without free press democracy can never be a success. Free press is the backbone of democracy, since it is way by which people of the country can channelize their voice and put their concerns across. But In the recent years we have seen media houses falling a victim to monetary temptations for which they spread agendas of the political parties in order to influence the minds of the people. These media houses should understand that they have a huge burden on their shoulders as being the fourth pillar of democracy. They cannot comprise with their ethics and spread fake news or other news just to influence the masses. Media has a very important role as it moulds the minds of the citizens. Media's role in dissent and Freedom of Press is two parts of the same coin and absence of one will create havoc in the society. Dissent expressed by the media is an integral part of their right under Article 19 of the Constitution i.e Freedom of Speech and Expression and also is a very important part of their profession, and to stop this is against their right.⁵ The freedom of press mentioned under Article 19 of the Constitution of India is in line with the concept of dissent in democracy, therefore it becomes integral to maintain a balance between the two.

³ Jeffery Scheuer, "Media, Democracy, and the Left: Seeing the Bigger Picture" , Dissent Magazine, <https://www.dissentmagazine.org/article/media-democracy-and-the-left-seeing-the-bigger-picture>

⁴ Cohen, J. (1998). "Democracy and Liberty", in Elster, J. (ed). Deliberative Democracy, Cambridge University Press, p.187.

⁵ Almond, G., Verba, S. (1989): The Civic Culture: Political Attitudes and Democracy in Five Nations; Sage

India's Press not so free anymore

Media critics are of the opinion that mass media generally encourage scandals and gossips and for that matter even violence. They believe the media houses play a major catalyst in order to sensationalize even a small rumour and interpret information eventually creating a whole drama out of any news or event. The media critics also go on to claim that today's media is influenced more by the lives of the celebrities rather than events of public interest and national importance. The media industry has become competitive not in the sense of which news channel shows original and unbiased opinion but their major concern is generating the highest TRPs. And because of all these frequent instances one cannot rely on these media houses and it makes us question the worthiness of the content. But the fact that there are some journalists who risk their lives just to report the actual news and information cannot be denied or ignored. There are journalists who raise concern and express their dissent but the powerful and people with political connections try all that they can to curb their right to dissent.

I am of this opinion which is strongly believe that in today's era the Indian Press is not so free anymore and more they are puppets in the hands of powerful people. And when we see that there is a journalist working in these media houses who does not want to be one, they are harassed and their rights are violated. Lot of Journalists are arrested and put in jail just because they try to find out the real information. There are various instances which happened recently and has been happening in our country which proves that whenever these people try to show their dissent, they are punished for the same. Some of the very recent ones are mentioned below:

- On 5th October, a Malyali Jornalist was arrested by the UP police under the UAPA just because he was on his way to cover the recent controvertial case of the Hathras case where a Dalit girl was burnt alive overnight.⁶
- 8th october, a journalist from Manipur was arrested under Sedition charges only because he had expressed his dissent via facebook post and had responded to a post by the wife of a BJP Politican.⁷

⁶ Mahtab Alam, "Hathras Case: Malayalam Journalist and Three Others Booked Under Sedition, UAPA", *The Wire*, October 7, 2020 <https://thewire.in/media/hathras-case-malayalam-journalist-siddique-kappan-booked-under-sedition-uapa> (last accessed November, 2020)

⁷ Abdul Gani, "Journalist Languishes in Jail Over Facebook Posts In Manipur", *Outlook* magazine, November 4, 2020 <https://www.outlookindia.com/website/story/india-news-journalist-continues-to-be-jailed-facebook-posts-in-bjp-ruled-manipur/363615> (Last accessed November, 2020)

- 18th Aug 2020- A freelance journalist was arrested by the UP Police in relation to a tweet where he had expressed his dissent.⁸
- 16th July, 2020 when a journalist from Assam, was arrested because he wanted to conduct investigation related to cattle smuggling.⁹
- 11th may, 2020 when a journalist was arrested in Gujrat by the police on charge of sedition only because he expressed his dissent by criticizing the CM and thus this was a violation of his freedom of Speech.¹⁰
- 3rd Sept, 2020 when a journalist was arrested after he had exposed a mid day meal scam and had prepared a report stating that the children in these schools were being fed rotis with salt. He was put in jail under charges of sedition.¹¹
- 23rd Sept 2020 a journalist was arrested in Gujrat by the police because he expressed his dissent via tweet regarding PM modi.¹²

In the case of Sushant Singh Rajput, there was no evidence that Rhea had played an important role in his suicide. The AIIMS doctors in their final report stated that this was a case of suicide and not murder but despite this the media houses formulated various conspiracy theories and fanned them and for a very long time media trials went on where Rhea was blamed for the entire incident. Republic Tv was served a notice by the High Court and was accused for spreading fake news in order to increase its TRP. The Bombay High Court also reprimanded the Republic TV and said that the coverage of SSR case was not an investigative journalism. These media houses just just news because they have been told to show news in order to keep the people engaged and to do anything to generate TRP.

The recent arrest of Arnab Goswami, Editor in Chief of Republic Tv in the month of November, 2020 became very controvertial and polarizing news. On one hand while some people celebrated

⁸ “UP: Journalist Prashant Kanojia arrested over ‘tweets’”, *The Week*, August 18, 2020 <https://www.theweek.in/news/india/2020/08/18/up-journalist-prashant-kanojia-arrested-over-tweets.html> (last accessed November 2020)

⁹Gaurav Das, “Assam Journalist Arrested After Reports on Smuggling, Channel to Move HC”, *The Wire*, July 17, 2020 <https://thewire.in/media/assam-journalist-arrested-rajib-sarma-dy365> (last accessed November,2020)

¹⁰ The Indian Express, Express News Service, HC quashes sedition FIR against Gujarat journalist, <https://indianexpress.com/article/cities/ahmedabad/hc-quashes-sedition-fir-against-gujarat-journalist-7015148/> (last accessed November,2022)

¹¹Omar Rashid, “Journalist who exposed salt-roti meal in school booked by UP govt”, *The Hindu*, September 2, 2019 <https://www.thehindu.com/news/national/other-states/journalist-who-exposed-salt-roti-meal-in-school-booked-by-up-govt/article29320560.ece> (last accessed November, 2022)

¹² Jeevan Prakash Sharma, “Andaman Journalist Arrested For Asking Coronavirus-related Question On Twitter, Released On Bail”, *Outlook* magazine, April 28, 2020 <https://www.outlookindia.com/website/story/india-news-andaman-journalist-arrested-over-tweet-on-coronavirus-gets-bail/351639> (last accessed November,2022)

his arrest while this incident incited the people to say that it can be claimed as an instance of fascism and talking about the freedom of speech being transgressed upon. If people think that the recent arrest of Arnab Goswami is because he expressed dissent against the government, then that may not be so. He had not got arrested because he had raised the issue of the murder of the Sadhus in Palghar which anyways he had tried very hard to communalise neither he got arrested for sensationalizing and carrying out a witch hunt for a lot of female bollywood celebrities. Had he got arrested for doing these things on his channel then it could have been said that Arnab's right to free speech is being violated.¹³

I am not saying all this because of the instances seen where journalists are jailed, instead I am of this opinion because the media has become a substitute for more subtle efforts to limit their independence. Section 124 of the Indian Penal Code which talks about sedition is very arbitrary according to me. It is one of the big obstacles that an individual faces while exercising his/her Right to Dissent. The state uses the Sedition laws in most of the cases (which can also be seen from the above mentioned instances) to put a restriction on this right. In the case of *Kedar Nath vs. State of Bihar*,¹⁴ the Division bench observed that "Section 124 of IPC has a strong deterrent effect on dissent even if it is not used. Sedition law a weapon against constitutional spirit of modern democracy."

In a Democratic nation, the elected leaders should be the most solid advocates of freedom of the press, but it is seen that with clarity they silence the important media voices and strengthen the means to provide favourable coverage. This is a very solid example which proves that there is a huge fall of democracy globally. The freedom of the media has deteriorated around the world over the last decade and new forms of oppression have emerged. In some of the most influential democracies in the world, large segments of the population no longer receive unbiased news and information. The Indian Constitution and various international treaties to which India is a signatory guarantee the Right to Freedom of Expression and protect it. The press has a fundamental right to seek and disseminate information but this right is being attacked, and some of the abuses come from unexpected sources. The erosion of press freedom is a sign and part of the collapse of other democratic institutions and principles, which is a particularly alarming fact. Common methods include state-sponsored property changes, regulatory and financial pressures,

¹³ Shivam Vij, "Arnab Goswami's arrest exposes Right-wing hypocrisy on free speech and political vendetta", *The Print*, November 4, 2022 <https://theprint.in/opinion/arnab-goswamis-arrest-exposes-right-wing-hypocrisy-on-free-speech-and-political-vendetta/537068/> (last accessed November, 2022)

¹⁴ 1962 AIR 955

and public accusations from honest journalists.¹⁵ The government has also chosen to award television licenses, which effectively eliminates unfriendly withdrawals from broadcast waves. The goal is to ensure that the media serve the heads of power rather than the general public. And just as restrictions on media freedom often precede the erosion of other rights, the removal of such restrictions promotes and catalyzes further democratic progress.¹⁶

We have a constitutional statement in India that values freedom of Speech and expression but it is really barely protected. India has body, that is, Press Council of India, which is an action body. The country seems to need more detailed legislation on media and protection and bring certain regulations Not only with regard to freedom of speech and expression but also the security of journalists.¹⁷

Suppression of Dissent- The only way out?

Perhaps during the most dreaded development in recent years, freedom of the press has been under extraordinary pressure. Attacks on media independence are often associated with the takeover of new or existing leaders or attempts by established administrations to crush perceived threats to their control.¹⁸In the year 2019, when the government introduced the CAA-NRC bill, a lot of people have expressed their dissent over the bill.¹⁹ During that time one of the Justice of the Supreme court, Justice Deepak Mishra had stated- “A dissenter is not an Anti-national”. This simply means that any person who shows his unwillingness to accept any state action cannot be termed as an anti national. Expressing Dissent is recognised as one of the aspect of the right of Freedom of Speech and Expression guaranteed by the Indian Constitution. Since those who do so enjoy the right to freedom of expression and expression, it may have its own opinion, which means that he can clarify his thoughts and opinions without fear of retaliation.²⁰ But here in India we see

¹⁵ Cassey Newton, *The Verge*, November 14, 2017 <https://www.theverge.com/2017/11/14/16646192/freedom-on-the-net-2017-freedom-house-facebook-social-media> (last accessed 16th November, 2020)

¹⁶ Reeta Trembley and Michelle D. Bonner, “In India, Modi’s nationalism quashes dissent with help from the media”, *The Conversation*, October 29, 2019 <https://theconversation.com/in-india-modis-nationalism-quashes-dissent-with-help-from-the-media-125700> (last accessed September, 2020)

¹⁷ Committee to Protect Journalists (2015b), Journalist covering sensitive rural issues in India jailed, Committee to Protect Journalists. [Online] Available at: <https://cpj.org/2015/12/journalist-coveringsensitive-rural-issues-in-indi.php>

¹⁸ 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)

¹⁹ “Anti-CAA protests: Persecution of peaceful dissenters must be stopped”, *The National Herald*, October 14, 2020 <https://www.nationalheraldindia.com/india/anti-kaa-protests-persecution-of-peaceful-dissenters-must-be-stopped-says-mahila-ekta-yatra> (last accessed November, 2022)

²⁰ Jones, A. S. (2010), *Losing the news : the uncertain future of the news that feeds democracy*. New York; Oxford: Oxford University Press.

instances of suppressing the dissent as its believed that it's the only way out. We live in a democracy and Dissent is very important for the democracy to function.

Democracy is generally experiencing a decline in political rights and also civil liberties. It has become painfully clear that freedom of press cannot be taken for granted ever. India being one of the most populous democratic country in the world, has also signalled that it is part of the media's responsibility to hold the government accountable by expressing their dissent.²¹ There have been lot of cases mentioned herein wherein people who have expressed their dissent are generally termed as being an anti-national. It is the right of every citizen of our country to criticize, demand for clarification and verification and to hold the government accountable, therefore it cannot be termed as being anti-national. We can notice a clear tension between journalists who try to carry out proper democratic functions and those whose anti-democratic regimes are determined towards power retention. When we see the independent reporters doing innovative and courageous act of in disseminating information for the public good, it gives us immense hope that democracy is still alive. But we need to understand the fact that these journalist cannot will not be able to meet the need of millions of people who only have access to government reports and with their own instincts to judge claims by corrupt and abusive leaders.

The International Covenant on Civil and Political Rights (“ICCPR”),²² to which India became a member in the year 1979, states:

- A. Firstly, everybody has equal right to express their opinion without any interference.
- B. Secondly, everybody will have the right to expression, which will include within its ambit the liberty to share or receive information or any other ideas irrespective of oral, written or printed boundaries, in the form of art or any other means of your choosing.
- C. Thirdly, the right to Freedom of Expression carries with itself certain restructions. Therefore it has certain responsibilities and duties but these are only specified and required by law. These are (a) Out of respect for the rights or reputation of others in the society ; (b) To protect national security or public order or public health or morality.

²¹ Zhenqui Jessie Leiu, “China is controlling social media – by allowing a bit of dissent”, *The Print*, February 4, 2020, <https://theprint.in/opinion/chinas-safety-valve-to-control-social-media-allowing-a-wee-bit-of-dissent/359216/> (Last accessed November, 2022)

²² International Covenant on Civil and Political Rights, adopted December 16, 1966, entered Thirdly, into force March 23, 1976 (except art. 41, which entered into force March 28, 1979), 999 U.N.T.S. 171, reprinted in 6 ILM 368 (1967), <http://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf> and <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCCPR1.aspx> (accessed September 1, 2022). 2

The International Covenant on Civil and Political Rights is a consequence of the Universal Declaration of Human Rights ("UDHR"), which was adopted by the General Assembly of the United Nations in 1948²³ and provides in Article 19 as follows :

Everybody has the liberty to express their opinions freely. This right includes the freedom to have opinions without interference and to seek, receive and pass on information and ideas through any medium and regardless of borders.²⁴

One of the first cases that was decided by the Supreme Court with regard to Freedom of Speech as an aspect of part of the right of Freedom of Speech and Expression was the case of Romesh Thappar vs. State of Madras²⁵. In this case the court had stated that Freedom of press is a part of Article 19 of the Constitution. It observed that “Freedom of Speech and Press lay at the foundation of all democratic organizations, for without free political discussion, no public education, so essential for the proper functioning of the process of Government, is possible”. Similarly in the case of Indian Express v. Union of India²⁶ it was stated that “the Press plays a very significant role in the democratic machinery of the country.” It upheld the freedom of press and invalidated all the laws and the administrative actions that were abridging the Freedom of Press.

Therefore, in a democratic country like India, it becomes very important to have the right to express disagreement and to understand their right to dissent with peaceful means for our country's overall and healthy development. So in my opinion for a democracy to function without any hindrance there is very important to understand the three Ds. The first being Discussion, second being Dissent and lastly Dialogue. Right to Dissent is one of the Constitutional Right of all the citizens of this nation and suppressing that can never be a solution for any problem or protest.²⁷

²³ Universal Declaration of Human Rights, adopted December 10, 1948, G.A. Res. 217A (III), 3 UN GAOR, UN Doc. A/810, p. 71 (1948), <http://www.un.org/e/documents/udhr/> (accessed September 30, 2020).

²⁴ The right to freedom of expression is also protected in regional human rights treaties, including the European Convention on Human Rights (art.10), the African Charter on Human and Peoples' Rights (art. 9), and the American Convention on Human Rights (art. 13), all of which draw upon the Universal Declaration of Human Rights (UDHR). These treaties and the court judgments deriving from them demonstrate the global acceptance of the rights guaranteed by the UDHR, and provide useful perspectives on the appropriate interpretation of those rights.

²⁵ AIR 1950 SC 124

²⁶ (1985) 1 SCC 641

²⁷ Chennai Solidarity Group for Koodankulam Struggle, “Fact Finding Report on the Suppression of Democratic Dissent in Anti-Nuclear Protests by Government of Tamil Nadu,” April 2012, http://www.dianuke.org/wpcontent/uploads/2012/04/Fact_Finding_Report_Sam_Rajappa_English.pdf (last accessed November, 2020)

Striking a balance between Freedom of Press and Media's Right to Dissent

It is very important to have a balance between the freedom of press and Media's right to dissent the absence of this can endanger the working machinery of democracy.²⁸ The right to dissent is crucial for a society that upholds and encourages the exercise of freedom of research, inquiry, objection and association, whether science or other creative activity is prosperous, educational or not. It is a necessity. Science, literature and politics are not abstractions or luxuries, but the first preconditions for the survival of a democratic society. Drawing a line between the exercise of freedom and the restriction of freedom is one of the most sensitive tasks of political spirit and philosophy. "A society that attempts to put freedom of press and right to dissent in strait jackets will find that in strait jackets there can be no movement and that the result will be intellectual atrophy." In the case of *Maneka Gandhi vs. Union of India*²⁹, It was stated that "Democracy is based essentially on free debate and open discussion, for that, is the only corrective of government action in a democratic setup. If democracy means the government of the people by the people, it is obvious that every citizen must be entitled to participate in the democratic process and to enable him to intelligently exercise his rights of making a choice, free & general discussion of public matters is essential."

The constitution gives the media a wide range of freedoms, and in fact, free media is essential for the government to function well. Not only economic development but also aspects that affect people, such as the relationship between people and society, are covered by the media. Justice Patanjali Shastri while delivering a judgement 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 media mainly teaches two methods. First is about providing new things, revealing the background to the news and commenting. Second is the Obligation to provide the whole news without any bias or selectivity. The most important thing here is that it educates the masses and what will be the biggest honour is when they analyse the entire news and deliver a comment on it. In the *Kedar Nath case*³⁰, the court made an attempt to draw a balance between freedom of speech and expression and the restricting power of the legislature. It observed that "the security of the State, which depends upon the maintenance of law and order is the very basic consideration

²⁸ Mass Media and Dissent, George Gerbner, Temple University, Encyclopedia of Violence, Peace and Conflict. Volume 2

²⁹ 1978 AIR 597

³⁰ Supra 14

upon which legislation, with view to punishing offences against the State, is undertaken. Such legislation has on other hand, fully to protect and guarantee the freedom of expression, which is the sine quo non of a democratic form of the Government that our Constitution has established. A citizen has a right to say or write whatever he likes about the Government, or its measures, by way of criticism or comment, so long as he does not incite people to violence against the Government established by law or with the intention of creating public disorder.”

Individuals who claim what may be unpopular with the silence of power are still entitled to the freedom guaranteed by the Indian constitution. Expressing dissent is a living symbol of democracy and can not be deviated from by prosecuting those who have raised the unpopular causes. Today, as we address the individual's right to disagree with democracy, it is inevitable that discussions will be involved in the ways and methods of expressing dissenting views. However, in this whole process the main precondition for that discussion is forgotten. Statements of dissent should not be seen as an obstacle to policy, but as a critique of better, more informed decisions. The right to freedom of press cannot be seen in a different context, instead it is a part of the Media's right to dissent which is a virtue of democracy.

Constitutional Right of Media/Press

Here we can remember the right to freedom of speech and expression is one of the fundamental rights guaranteed to the citizens of our country. Media freedom also derives this right from the same right guaranteed to the citizen of India. As we know that there isn't any specific provision provided in the Constitution of India to protect the rights and freedom of media/press, therefore the judiciary in the different judgements delivered over the period of time has stated that right of the press can be inferred from the Freedom of Speech and Expression guaranteed under Article 19 of the Constitution of India. But this right guaranteed under the Constitution is not an absolute right and this right is subject to restrictions and it is regarded as a natural right. The restriction regarding the right to freedom of speech and expression is clearly mentioned in clause of Article 19 of the Constitution of India. Article 19(2) to Article 19(6) states that restrictions can be imposed by law made or to be made by the State. If a right is created by legislation, it can be deprived of by the legislator and can only be subject to such restrictions if it is permitted in the constitution itself. That is why our constitution allows the state to put restrictions and limitations on fundamental rights and freedoms.

As above mentioned, Article 19 (2) to Article 19(6) deals with the restrictions imposed to enjoy all the six fundamental rights guaranteed under Article 19 (a) to 19(g). However, Article 19 (2) is exclusively provided as regards to the restrictions on the exercise of freedom of speech and expression. Article 19 (2) of the Constitution provides: “nothing in sub-section (a) of clause (1) shall 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 subsection 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.”³¹

So, in accordance with Article 19 (2) of the Constitution of India, the State may impose reasonable restrictions on the exercise of freedom of speech and expression for any of the above reasons. Therefore, the law restricting the exercise of freedom of expression must be for the specific purpose set out in Article 19 (2), and the restriction must be a reasonable one. The Supreme Court in one of the cases stated 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”³²

In this era the media industry and the citizens together have a very important and huge responsibility on their shoulders which is to keep a balance with the growing society and the people of the nation. In a changing scenario, when we face several challenges with machines and the public needs to meet the challenges of globalization and international development and that too with much sincerity.³³ The rationale outlined above is really important when considering national interests. That is why the smooth functioning of the democratic process, the vigilance of the legislator and sometimes, under constitutional limits and tolerances, public opinion and the press works. India, being one of the most popular democracy, the media industry has to keep the following points in their minds as their most important responsibility:-

- To provide the public with fair information. The media must not pollute facts. They must present them as they are.
- To perform the important task of expanding the horizon how people perceive by giving them knowledge. In some states in India the literacy rate is not so good therefore it is their

³¹ Article 19(2) of the Indian Constitution.

³² Ramlila Maidan incident case (2012) 5 SCC 1

³³ OSCE Representative on Freedom of the Media, International Conference: Journalists under Attack: A Threat to Media Freedom, Vienna, Austria (Apr. 12, 2019), <https://perma.cc/27FV-89BF>

responsibility to broaden their thinking. t rate of illiteracy, it is the duty of media to impart knowledge and broaden and their views.

- To express their dissent over any action in a fair manner which should not be contrary to the spirit of democracy or essence of justice.
- To point out the practice of the concept and play an important role in initiating an appropriate procedures for those accused of antisocial activities, regardless of political affiliation.
- To promote unity and brotherhood and to create a belief in democracy and justice. If the media and the press industry follows this obligation, the Indian people will truly enjoy democracy and will understand the value of it.

The press in particular is the opposite tool. In fact, in India and other countries, there was a time when the press became a particular opposition party in Congress. Violation of freedom of the press is not an end in itself, but an end to a free society.³⁴

The Indian courts have generally protected freedom of expression, but the protocols are uneven. Some of the lower courts still continue to make unfounded, speech-limiting decisions, and the Supreme Court is often a strong advocate for freedom of expression, but it can be inconsistent and therefore lower court is forced to choose in which case what precedent to be emphasized. This inconsistency contributes to the inconsistent terrain of the right to freedom of expression, and local officials and interest groups continue to harass and threaten unpopular and dissenting views. Authorities then increase the risk of violent protests and civil violence and justify restrictions on expression as necessary to protect public order. Although there are situations where speech encourages cross-border violence and requires legal action, authorities have abused or abused criminal law as a way of silencing critical or minority voices, especially at the state level. In the case of Shreya Singhal case³⁵ it was stated that “When it comes to democracy, liberty of thought and expression is a cardinal value that is of paramount significance under our constitutional scheme”.³⁶

³⁴ Straubhaar, J. Larose, R &Davenport, L (2010) Media now: Understanding media, culture and technology, sixth edition. Boston: Wandsworth

³⁵ AIR 2015 SC 1523.

³⁶ Shreya Singhal v. Union of India, AIR 2015 SC 1523.

Conclusion

In a democratic nation while independence is media is like a bulwark likewise right to dissent is also a very crucial element that can never be ignored for the sustainability of media freedom. But the media industry has to keep in mind the media ethics. They have to make sure that their action don't inspire or for that matter excuse violation of freedom of press. Any democratic nation has a very particular role to maintain the freedom of media. A strong and swift action needs to be taken against the violations freedom of media around the world through freedom of the press, telephones, conferences, letters and the imposition of targeted sanctions against any perpetrators. This includes statements against journalists and authorities that violently identify and fail to prosecute attackers, media access should be restricted reasonably, certain websites needs to be blocked and specific topics needs to be censored.³⁷

In today's era it has become very important to understand the value of having a freedom of press that is free from the restriction and only then can a democracy prosper. A country without free press will be a very dangerous one. Freedom of Press is the fourth pillar of our democracy and also one of the fundamental one but media industry has forgotten this and I can say this because recently what we are seeing is totally irresponsible journalism whose only main motive is TRP generation and not providing correct information. A few media houses who have not joined this TRP race and who continue to show dissent towards actions of the government are termed as Anti-national and these media houses are forced to take down the news or the journalists and the Editor in Chief of these channels are molested and threatened for their kind of reporting. All this needs to stop. These people need to understand that India is a democratic nation and the basic foundation of the democracy is the people and we can only benefit from professional journalists who have the ability to explain them. It has been always said that a free press is like a watchdog in a democracy. Given the threats that journalists currently face, there is a particular need for external assistance, with a particular focus on strengthening independent media by providing technical training and emergency assistance.³⁸ In this oppressive environment that we are seeing currently, especially when we talk about the media freedom, there has been an increase in the percentage of people expressing their dissent through various social media platform. People have begun to realize that corruption is an element that should be eradicated. Various social networking sites, along with traditional media industry, have limited the threat of arbitrariness exercised by the

³⁷ Justice V, R. Krishna Iyer, Law Freedom and Change, New Delhi ; affiliated East West Press Pvt.Ltd. 1975 p. 68

³⁸ Rosenberry, J. and B. St. John III (Eds) (2010) Public journalism: the promise and reality of a citizen engaged press, New York: Routledge

government. People express their dissent even when there is fear. It is a very powerful weapon that increases transparency in public life and it builds pressure on corrupt organizations and individuals. 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.³⁹

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” but then nowadays we see frequent instances of malicious reporting by the media houses to generate TRP ratings; baseless, defamatory and malicious news reporting which tends to create a question mark in our minds on what Jawaharlal Nehru once said and we it has created a doubt in all our minds that do media need not be regulated. It is because of all these happenings that the need has been held that the press and the media needs to be regulated in a reasonable manner so as to not violate its right to freedom of press covering within its ambit their right to dissent. The professional environment ensures that journalists act as government guards, report on objections, speak for those left behind and discourage self-censorship. Except in exceptional cases, self-censorship should not completely discourage the media. Just as it is appropriate to restrict freedom of expression in certain cases, such as hate speech and slander, it is appropriate for the media to take reasonable care in their practice.⁴⁰

³⁹ Subir Ghosh, “Mass Media” Today, Calcutta, p, 42.(1991)

⁴⁰ Proffitt, J. (2007) “Challenges to democratic discourse: Media concentration and the marginalization of dissent” The Review of Education, Pedagogy and Cultural Studies, 29: 65-84