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ABSTRACT

Title- Media coverage of sensitive issues involving religious and sexual offences: an analysis of laws and ethics in media reporting

The importance of free speech and the freedom of broadcasters to inform their viewing and listening public require that only the barest minimum restrictions are imposed. However, much will depend on the nature of the society in question and the circumstances prevailing at the time the restrictions are sought to be imposed. This research has focused on how the media frames sensitive issues and what are the laws and restriction imposed on media while covering of sensitive issues such as coverage of legal proceedings involving sexual offences, coverage of, or comment on, issues or events involving religious, or other similar overtones in circumstances where they would lead to public disorder etc. This study sought to explore how journalists in India select and shape news on sexual offences and religious matter. The research examines the existing media norms (governed by Press Council of India, the Cable Television Networks Regulation Act, 1995 and the Code of Ethics drafted by the News Broadcasting Standard Authority), the constitutional protection guaranteed to an individual's right to privacy upheld by the courts. It also covers relevant case laws and India's legal framework regarding media freedom. This research provides an insight to the important legal and ethical aspects that a journalist, media professional.

Key words- restrictions, media, broadcasting, coverage, sexual offences.

TABLE OF CONTENTS

- 1. INTRODUCTION**
- 2. MEDIA AND THE LAW**
- 3. MEDIA REPORTING OF SEXUAL OFFENCES**
 - ❖ **SAFEGUARDING IDENTITY OF RAPE VICTIMS IN INDIA**
 - ❖ **MEDIA'S RESPONSIBILITY TOWARDS THE VICTIM**
- 4. MEDIA COVERAGE OF ISSUES CONCERNING RELIGIOUS MATTERS**
- 5. RELIGIOUS REPRESENTATION IN THE MEDIA**
 - ❖ **UNDER CONSTITUTIONAL LAW**
 - ❖ **UNDER CRIMINAL LAW**
- 6. MEDIA ETHICS**
- 7. PURPOSE AND IMPORTANCE OF MEDIA LAW AND ETHICS:**
- 8. CONCLUSION**

MEDIA COVERAGE OF SENSITIVE ISSUE INVOLVING RELIGIOUS AND SEXUAL OFFENCES: AN ANALYSIS OF LAWS AND ETHICS IN MEDIA REPORTING

1. INTRODUCTION

The Constitution of India is the grand norm. Any law derogation of the provisions of the constitution is consider void. Constitution is based on justice which is social justice, economic justice and political justice, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation. Right to know, freedom of assembly, freedom of speech and freedom of the press are consider as conditional. Laws and ethics are for everyone, also for journalists and media. For several years, globally the media has playing important role as a legitimate reflection of public interest and opinion. The power and apparent influence of the media was long realized. However the law in the area of media change more rapidly comparative the laws in others area. It is basic that professionals in any field have a sound working information on the legitimate and moral contemplations that apply to their occupation. This is particularly evident with media associations and writers, who guarantee to give and scattering data and critique for the public great and in light of a legitimate concern for general society. Research will cover the laws and restriction imposed on media while covering of sensitive issues such as coverage of legal proceedings involving sexual offences, offences committed by children, coverage of, or comment on, issues or events involving racial, religious, or other similar overtones in circumstances where they would lead to public disorder etc. present scenario where media play very important role to represent any case or matter there should be some ethics followed by the media before broadcasting any sensitive issue.

Freedom of press is not separately given under constitution but it has been interpreted under article 19¹ of the constitution. Article 19(1) (a) guarantees freedom of speech and expression. Freedom of press is essential to freedom of expression. Press is consider as individual or group of individuals

¹ Bennett Coleman v. Union of India, AIR 1973 SC 106; Divisional Forest Officer v. Bishwanath Tea Co., AIR 1981 SC 1368; D.C.G.M. v. Union of India, AIR 1983 SC 937.

and they are free to express their opinion. However there are limitation to the freedom of expression. Article 19(2) to 19(6) talk about these limitation which controls the freedom. The state has the power to restrict it for maintaining the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence. The grounds under which restrictions may be placed are exhaustive, however, and restrictions cannot be placed under any other ground². The research also examines the existing media norms which are governed by Press Council of India, the Cable Television Networks Regulation Act, 1995 and the Code of Ethics drafted by the News Broadcasting Standard Authority. In will also cover relevant case laws and India's legal framework regarding media freedom.

2. MEDIA AND THE LAWS

The National Broadcasting Standard Authority (NSBA) has strict guidelines in regards to filming and interviewing any depressed person. If we look into the Press Council Guidelines and the NSBA, they have provided a list of rules and regulation on various topics which includes guidelines on covering cases of sexual assault and also rules to prevent communal colour in reporting crimes or riots. Today, entertainers and influencers are burdened with the expectations of public to provide their views and stance about every topic trending in the nation. Does this mean that they do not have the right to Privacy and live a life with basic human dignity? Irresponsible media coverage only adds up to the issues in the country and with time and again it is seen that media have been highly insensitive towards victims of offences and instead of blurring the images of the victims, changing their names, camouflaging their voices, and their identities are openly revealed. Thus, the need of setting journalistic guidelines cannot be emphasized enough. Where India needs to adopt a code of ethics for Journalism practices and it needs to develop a checking mechanism as well, as they need to think something more than the TRPs by being human at the first place. Though, Indian Media Houses are self-regulated, but it is high time now to have a solid law which would create at least a deterrent effect.

² O. K. Ghosh v. E. Joseph, AIR 1963 SC 812; Sakal Papers v. Union of India, AIR 1962 SC 305.

There is no such right to information in the Constitution of India. However Right to Information has been guaranteed as the Fundamental Right. The Right to Equality before the Law, Right to Freedom of Speech and Expression, Right to Life and Personal Liberty and the Right to Constitutional Remedies are in connection to the Right to Information, but indirectly. In the case of U.P. Vs. Raj Narain³, Supreme Court held that Right to Information is constitutionally protected fundamental right and in a Government Democracy like India, where each and every agents of the public must be responsible for their act. The people of India have a right to know each and every public act, everything that is done in a public way by their public functionaries.

Now, discussing about the Laws that deal with the identity of victims according to Section 228A of Indian Penal Code, which states that “Whoever prints or publishes the name or if in any case which may make known the identity of any person against whom an offence under Section 376, Section 376A, Section 376B, Section 376C or Section 376 D is found to have been committed shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.” Where under the JJ Act, 2015 disclosing the identity of the Juvenile is also prohibited. Further, as far as suggestion are considered the media should follow the norms of trigger warnings very strictly. Section 153A and Section 295A of the Indian Penal Code (IPC), which criminalize, respectively, speech that seeks to promote enmity between different groups and speech/acts that outrage/s religious feelings, are no more than a poor imitation of what hate speech laws ought to be. They are vaguely worded, and they are frequently invoked to quell speech that so much as offends a person’s belief. As a result, they militate against the permissible grounds for limiting free speech enumerated in Article 19(2) of the Constitution, and, in particular, the restrictions allowed on considerations of public order and morality.

3. MEDIA REPORTING OF SEXUAL OFFENCES

In most countries has granted, victims of sexual offences the right to remain anonymous. This means that victim cannot be named or otherwise identified by the media in any of its reports. The reasoning for this restriction is that there is still a stigma attached in most societies to being subjected to a sexual attack. There are many countries where no law prohibit the media from identifying the alleged perpetrator of a sexual offence. This has led to complaints of unfairness

³ AIR 1975 SC 865.

from equality campaigners and defendants in sexual cases who argue that, even where a person is eventually acquitted of all charges, his reputation suffers most and , irreparable, damage while his accuser continues to enjoy anonymity for life. Such complaints have frequently led to calls for reform of the law, with the preferred option being to allow both the accuser and the accused anonymity until the end of the criminal trial and, in the event of an acquittal, for the rest of their lives. However, in the absence of new law regarding this issue, the media are left with the choice of either it acting in conformity with the existing provisions or, refraining from naming or otherwise identifying suspects in sexual cases on a voluntary basis until they have been formally charged in a court of law.

The media would be allowed to name or otherwise identify victims of sexual offences in certain circumstances:

I. ***Where the person himself or herself allowed for the anonymity to be lifted:***

Sometimes the victim of a sexual offence herself or himself want to have their identity revealed, for example to lend their names to a public campaign against rape or other evils. In such circumstances, the media can name the victim. In UK the consent of victim is required while reveling his or her identity and consent must be reasonable no person involved in obtaining consent unreasonably interferes with the peace or security o f the victim if consent to be identified is requested by the media.

II. ***Where the court orders the anonymity to be lifted:*** Sometimes court also order the anonymity to be lifted on an application by the defense council, to impose a substantial and unreasonable restriction on the reporting of the criminal trial for the sexual offence in question. for example on the basis that only by disclosing the complainant's identity can certain witness who are important to the prosecution come forward to provide testimony in court . It is always a good idea for journalists to check with the court whether, and to what extent, the anonymity of a victim has been removed before he or she is named or otherwise identified.

❖ **SAFEGUARDING IDENTITY OF RAPE VICTIMS IN INDIA**

Section 228 A (1) of the Indian Penal Code states:

Any person who prints or publishes a name or any matter which may make known the identity of any person against whom [an offense pursuant to section 376, section 376A, section 376B, section 376C, section 370D] is alleged or found to have been committed (hereinafter referred to as the victim in this section) shall be punished by imprisonment of either description for a period of two years or more.

Section 228 A (2) provides three exceptions under which the victim's name can be published:

- a. By/under the written order of the police officer acting in good conscience for the investigation purposes;
- b. When victim has been given the written consent for revealing the identity.
- c. Unless the victim is dead, minor, of unsound mind, with the written consent of the victim's family.

Third sub section of Section 228 A, It states: "The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section."

Protection of children from sexual offences act (POCSO)-

- This act forbids the media from revealing the identity of a minor victim of rape, including his name, address, photograph, family details, school, neighborhood or any other information, and from making it a prison crime for a period of not less than six months that may be extended to one year or with a fine or with both.
- No one can print or publish the victim's name in print, electronic, social media, etc. or even reveal any information in a remote manner that can lead to the victim being identified and that can make her identity known to the general public. "The bar applies to anything that can even be used remotely to identify the victim," the rule was set out in their judgment by the Bench of Justices Madan B. Lokur and Deepak Gupta.
- Only Special Courts under POCSO can permit the disclosure of the identity of a minor victim, that too, only if such divulgence were in the interest of the child.

In 2003, Justice Arijit Pasayat and Justice Doraiswamy Raju, gave judgment on the case of ***Bhupinder Sharma v. State of Himachal Pradesh***⁴, in which a 16 year old girl had been gang-raped by a group of strangers, decided not to disclose the name of the victim, reasoning thus: "*True it is, the restriction does not relate to printing or publishing of judgment by High Court or Supreme Court. But keeping in view the social object of preventing social victimization or ostracism of the victim of a sexual offence for which Section 228-A has been enacted, it would be appropriate that in the judgments, be it of this Court, High Court or lower Court, the name of the victim should not be indicated. We have chosen to describe her as 'victim' in the judgment.*" This judgment could have set a precedent for the rest of the higher judiciary. But it has not - as is amply evident from the order of July 2013 that quoted the name of the victim 62 times.

Karhi @ Karthick v. State of Tamil Nadu 2013, in this case Supreme Court bench of justice P Sathasivam and justice Jagdish Khosla delivered a judgment, where a man named Karthick was held guilty of repeatedly raping his young neighbour in a village in Tamil Nadu. But it will be considered the ideal example of judicial laxity as it revealed the identity of the victim of rape 62 times in a nine-page judgment that if there were others would invariably have attracted the offence under Section 228A of the Indian Penal Code.

Section 228A of the Indian Penal Code makes disclosure of the identity of a rape victim punishable. In the ***Aarushi Talwar murder case***⁵ and the rape of an international student who was studying at the Tata Institute of Social Sciences (TISS) the media frenzy compromised the privacy of the TISS victim and besmirched the character of the dead person. In the TISS case, the media did not disclose the identity of the girl in the TISS case, but disclosed the name of the university and the course she was pursuing, which breached the principles of the PCI. In addition to disclosing people's names, the PCI guidelines explicitly state that visual representation should be avoided in moments of personal sorrow. The media consistently breached this norm in the Aarushi murder case. In both examples, the media spent ample newspapers speculating about the crimes. It is not possible to disclose the identities of victims of sexual crime. In fact, as they could be easily identified, the place of stay and any college affiliation can also be avoided in certain cases, as they could be easily identified. Explicit descriptions of the crime obtained from the victim's statement

⁴ Bhupinder Sharma v. State of Himachal Pradesh, A.I.R. 2003 S.C. 4684

⁵ 2013 (82) ACC 303.

to the police are meaningless to the investigation or to the general public. Similarly, names of minors and photographs, including those of minors and images⁶.

Kathua gangrape-and- murder case 2018⁷

An eight-year old girl who was belong to a minority nomadic community, was gang raped and murdered in Kathua district of Jammu and Kashmir on 10 January. Her body was found in the same place a week later even before the charge sheet was filed in the court, the media had pronounced the decision that some of the suspects that they were innocent and not guilty of the offences. the provisions of the Indian Penal Code (IPC) and the Protection of Children from Sexual Offences (POCSO) Act, which deals with disclosure of identity of victims of such offences as well as the procedure to be followed by the media in covering such cases, as also consider the Contempt of Courts Act.

Hyderabad rape case 2019⁸

On the night of November 27, a 26-year-old doctor was allegedly raped and killed in Shamshabad, Telangana, by four men. The victim died due to suffocation and the accused later burnt her body. The four accused were arrested and sent to judicial custody. They were later killed in an encounter with the police a few days after their arrest. The petition has said the news reports elaborately disclosed the identity of the victim, including her call details, her name, picture, occupation, residence. The plea also sought guidance from the authorities to prevent exposure of her identity on online platforms, either directly or indirectly and to blur the pictures that are being published. HC asks the media house to apologize for revealing the identity of the rape victim in Hyderabad. The Delhi High Court asked a media house to tender "a nicely worded apology" along with an affidavit for revealing the identity of the Hyderabad rape victim. A bench of Chief Justice D N Patel and Justice C Hari Shankar asked the media house whether it revealed the identity of the victim in ignorance or "deliberately" and directed it to put its house in order.

❖ MEDIA'S RESPONSIBILITY TOWARDS THE VICTIM

⁶ Names, identities of victims of rape and sexual assault not to be disclosed: Supreme Court, the Economic times , Dec 11, 2018, 02:00 PM IST.

⁷ Mohd. Akhtar vs The State Of Jammu And Kashmir, A.I.R 2018 SCC Online SC 494.

⁸ G.S.Mani vs Union Of India on 12 December, 2019.

There is a history of insensitive treatment of victims in the media, whether it be newspapers, radio or television. Pictures of the blood of a victim on the pavement, body bag pictures, and TV cameras at funerals attempting to interview mourning parents are all things that happen too frequently. Do we really need these images to be seen? Does it improve our understanding of the story or its larger issues to hear the gory details of a brutal murder? Possibly not, but these are pictures that we are overwhelmed with every day.

Although a positive media experience is reported by some victims, other victims describe a traumatic and exhausting experience. Of course, the sensitivity the victim gets will depend on the individual(s) with which the victim has to deal. The media can exacerbate the feelings of infringement and the lack of power that many victims experience. Some of the most common media grievances from victims are: interviews at inappropriate times, such as at funerals, footage/photographs of crime scenes, interviewing/photographing child victims, identifying and providing access to the victim, aggressive questioning, printing data that would adversely affect the reputation of the victim and also blaming victim for crime. There is no need for any of these things. News reports must print the substantiated facts. There should be some right for the Victims when it comes to contact with the media. In reality, there is no standardized instruction or policy in the media designed to teach reporters and photographers how to better approach victims. During their relations with the media, some of the protections that victims may have open to them include the right to:

- ❖ Grieve in private, and if the victim wants, say no to interview.
- ❖ to deal with the media, select a speaker or advocate
- ❖ Select the particular time and place for any interviews,
- ❖ Victim can Request a specific reporter,
- ❖ Refuse a particular reporter,
- ❖ In lieu of an interview, issue a written statement,
- ❖ Exclude children from interviews or harassment,
- ❖ Refuse to answer any questions or avoid any subject matter,
- ❖ Victim can Demand a correction when a mistake is made and,
- ❖ Ask cameras/reporters not to attend a funeral or the home of the deceased, or display offensive pictures on TV.

4. MEDIA COVERAGE OF ISSUES CONCERNING RELIGIOUS MATTERS

India is a land of multifarious communities where every person has a right to freedom of expressions. This freedom of expression is availed by Indians in many forms. Out of the various such forms two important forms are media and the freedom of joining a particular group and preaching its view points and ideologies. First form has given right to all the media forms to report about the various facts and situations existing in the nation. Numerous forms of hard & soft, audio & visual forms of media have crept into the whole society which makes available to the public at large the minutest information from the remotest places across nation. The second form allows the people to join a particular group with whom these people can identify themselves. Therefore, people unite in a group to manifest their desires and ideologies. Sometimes these groups adopt the fundamentalist approach and become so sensitive to their demands and demonstrations that they adopt violent recourse and often trapped as communal discord.

The media is very active these days. Numerous and ever increasing newspaper agencies and news channels attempt to provide coverage to all the incidents occurring in the area. However, this coverage sometimes serves the purpose other than intended. Whatever news is provided to the public creates an image in the minds of people which encourages their actions accordingly. Though there are thousands of different newspapers and magazines available in national and regional languages but the reality is that people tend to read from one or two sources only. This results into formation of people's viewpoint similar to that of the newspaper which they read or the news channel which they listen to. The media persons are also the human being and while analyzing the situations to be reported, they are most likely to be affected by their personal bias and consciousness. The viewpoint of that particular media may not exactly reflect the situation at hand and it tends to be affected by the personal beliefs and thoughts of the person presenting it. In the numerous incidents of communal violence, it has been observed that the media tend to circulate the news in such a manner which preaches the ideology of the religion/ group with which it is attached. They also tend to preach the ideologies of a particular political party and hence the coverage is accordingly modified. In the case of Hindu Muslim conflict in Gujarat, various newspapers published news depicting the dreadful stories about the attack by Hindus or Muslims

on other group. Such news worsened the situation by motivating the various groups to take revenge. Press Council of India took the matter very strictly and advised the newspaper media to restrict its coverage so that the hatred is contained. In such case, no doubt the media not only didn't play the positive role but also disturbed the communal harmony.

Mainstream media is murdering Indian democracy. This is not done by one or two but by several hundred news channels these channels pretend to talk about protecting interests of one religion. Just look at their language. They are working on a plan to spread hatred against one community and to make other community insecure. This is the way the news channel raised their TRP. Media is the 4th pillar of our democracy so Indian media should never be communal and Youngsters who want jobs, good education, want to become doctors are being turned into rioters to support a particular political party. Today's media has become communal media and they don't follow ideals of journalism. In the recent case of Sudarshan TV which freely disseminate toxic content, the industry is not willing to have a regulatory framework. It can be concluded that large section of mainstream media have become bit partial. In a complex multicultural society such as ours, it is important to preserve some semblance of equilibrium.

Generally the attitudinal changes brought about by the regional or national level modes of media are greater and long term in duration. Therefore it should be worthwhile to examine their contribution to the society. Broadly these days, both visual and print media have expanded its role from merely reporting the various incidents happening in the society to promoting the talents existing in the society, social contribution by various segments, creating awareness about the surroundings, spreading education level, presenting various debates and expert reports etc. This all helps into creating a view point in the society which provides to the administration various cues to suitably mould its policies. The constructive steps adopted by various organizations like NGOs, Civil Societies, Residents Welfare Associations (RWAs), Political Parties or any individual are provided sufficient coverage. Such coverage strengthens the harmony in the society. The main reason why such coverage are effective in their attempts and intentions is that such news are neutral and do not particularly highlight any religious or communal group. In the incidents of communal discord, such preoccupied thoughts of concern is the only factor which make the people septic about the news and prefer only those reports which provide them the sense of security or satisfaction. Therefore they read/listen those reports in which they seem themselves towards the

winning side and if the situation in the reports seems otherwise they make an attempt to turn that situation seeming to be in their favors. This attempt is in the form of communal violence only.

Therefore, the impact of media in promoting the communal harmony is beyond doubt. People cheer on the achievement of a kid in the nationwide talent hunt programme irrespective of his religion. People feel dejected about the people affected in flood or earthquake or any other natural disaster irrespective of their belongingness to any religious group. People adopt the practices followed by the progressive RWAs without concerning that the residents are Hindus or Muslims etc. Civil Societies and their main participants give their opinion on the national issues without bias. All these reports and personal viewpoints are duly reflected through the visual, audio or print media only. These days, internet has become very strong media which have many forms of inter group communication like blogging, email, social interaction websites like orkut, facebook etc. These provide the opportunity to develop sentiments on international issues and create harmony. The welfare schemes adopted by the Government of India or state governments are promoted through this media only. These benefits percolate to all the people of a nation and credit goes to media only. Few years back, the Times of India, a national daily English newspaper, started a campaign "Lead India" wherein people were selected from various zones of India and finally a winner at national level was selected as a prospective leader of India. Through this process, each religious and caste community got together and the great deliberation was conducted on various issues concerning the people of nation. Such activities though have not been adopted in past in large number but certainly a new movement has been started and it is hopeful that this will get more momentum in future.

➤ **Palghar mob lynching incident:**

The Palghar mob lynching incident reported by Republic TV attracted a number of FIRs across the country. Three Mumbai residents, two Hindu sadhus and their driver, on their way to Silvassa in the union territory of Dadra & Nagar Haveli, were lynched by local residents in Gadchinchale village of Palghar district of Maharashtra, on the suspicion that they were thieves. The Mumbai Police sent a show cause notice to Arnab Goswami, saying his comments could create communal disharmony and hatred between Hindus and Muslims.

➤ **Migrant workers' gathering in Bandra:**

On 14 April, under the first nationwide Covid-19 lockdown, a crowd of migrant workers gathered outside Mumbai's Bandra railway station to demand transportation arrangements to return to their homes. Goswami, in his show, allegedly questioned the need for a large gathering near a mosque, breaking all norms of physical distancing, and hinted that the incident was a conspiracy by the Muslim community. The Mumbai Police lodged a FIR against Goswami for attempting to spread hate against the Muslim community on the basis of a complaint, and booked him under different parts of the Indian Penal Code.

➤ **The Sudarshan News case:**

On September 15, the **Supreme Court of India** **injunctioned a Hindi-language television channel, Sudarshan News**, from continuing its broadcast of a series titled "Bindas Bol". This decision marked a departure from an order delivered on August 28, when the Court said that it must be circumspect in imposing any prior restraint on speech, especially since statutory authorities were vested with powers to ensure compliance of the law. But circumstances changed — following the Court's original order, four episodes in the series were aired, portraying what the channel described as a **jihadi conspiracy by Muslims to infiltrate India's civil services**⁹.

The show added a number of apparently false claims to this allegation. It stated, for instance, that the upper age limit for Hindus undertaking a civil service examination was 32 years, whereas the age limit for Muslims was 35 years; that Muslims were entitled to nine examination attempts while Hindus were only entitled to six. These claims were not only "insidious" but were also made in "wanton disregard of the truth," the Court noted. Therefore the episodes brought the entire Muslim community into "public hatred and disrepute" even on the face of it and in the process, violated the Program Code governing cable television.

➤ **CAA PROTEST IN DELHI:**

On December 12, 2019, Citizenship (Amendment) Act (CAA) came into the picture. Under the act, for the first time in India, religion is a basis for granting citizenship. The legislation expressly expedites asylum requests of non-Muslim illegal immigrants from Afghanistan, Bangladesh, and

⁹ Suvrith Parthasarathy, Define the contours of hate in speech, THE HINDU, SEPTEMBER 21, 2020 00:02 IST.

Pakistan's neighboring Muslim-majority countries. Through a National Population Registry (NPR) and a proposed National Register of People (NRC), the amended citizenship law, combined with the government's drive for a national citizenship verification process aimed at identifying "illegal migrants," has led to concerns that millions of Indian Muslims, including many families who have lived in the country for decades, could be deprived of their rights. Indians of all religions have protested peacefully against the law throughout the world, singing songs, reciting poetry, and reading aloud from the constitution, which is committed to secularism and equality. This protest has been reported by different news channel differently some have given the factual based information and some of these news channel use it for TRP.

5. RELIGIOUS REPRESENTATION IN THE MEDIA

There are many well-known failures, about how religion is portrayed in the mainstream media. For example false reports about particular religious group. Media must be held to account for false reports or incorrect stories about particular religion. The independent press standards organization need to be tougher and make sure that corrections and restrictions are given weight to the original erroneous article.

Section 153A and Section 295A of the Indian Penal Code (IPC), which criminalize, respectively, speech that seeks to promote enmity between different groups and speech/acts that outrage/s religious feelings, are no more than a bad imitation of what should be hate speech laws. They are vaguely worded, and they are frequently invoked to quell speech that so much as offends a person's belief. Consequently, they compete against the appropriate grounds for restricting the freedom of expression referred to in Article 19(2) of the Constitution and in particular, against the restrictions permitted on considerations of public order and morality.

There are some ground for criminalization first the speech must reach a level of incitement, That is, the utterance in dispute must go beyond advocacy. The second ground requires a re-imagination of our hate speech laws. It allows one to read morality as constitutional morality, not as social morality. Seen in this way, speech that merely causes offense and is nothing more than dismissive or unpleasant will continue to be shielded But speech that treats communities with disparate concern, by creating in them a sense of dread, a sense of exclusion from civic life, will go unprotected.

❖ Under Constitutional law-

Religious speech in the media, as part of the religious freedom of an individual granted pursuant to Article 25, is also protected. It guarantees all persons the right to freely practice, profess and propagate religion, subject to public order, morality, health and the other provisions of Part III of the Constitution. However, the State may also impose restrictions regulating the non-religious activities of religious practices, for social welfare and reform, and for throwing open Hindu religious institutions of a public character to all classes of Hindus. What may be culled from a joint reading of Article 19 (1) (a) and Article 25 is that in professing, practicing or propagating a religion, a person may make use of his right to freedom of speech and expression, but that the same would be subject to certain reasonable restrictions that the State may impose.

*In Virendra v. State of Punjab*¹⁰ There had been an agitation in the State of Punjab, in relation to the division of the State among linguistic and communal lines. This was supported by the Akali Party, but opposed by Hindus, who were Hindi-speaking. The situation escalated when another agitation, termed the “Save Hindi” agitation, was launched as a counter to the Akalis. Because of the disagreement in the State some laws were enacted for the restrictions on newspapers. These restrictions were in the nature of a suspension of certain kinds of matter or of a newspaper itself, and could be imposed if the matter or the newspaper would threaten communal harmony on publication. Similarly, restrictions could also be placed on bringing into Punjab any newspaper or publication that threatened to disturb the communal harmony. The petitioners’ newspapers were subjected to restrictions under these provisions, and they consequently attacked them for being unconstitutional and violate Articles 19(1) (a) and 19(1)(g), without being saved by Article 19(2) or 19(6).

The following contentions were raised against the restrictions sought to be imposed:

- That the restrictions amounted to a total prohibition, which was impermissible under Articles 19(2) and/or 19(6);
- Even if the restrictions are not total prohibitions, they were unreasonable and hence impermissible under Articles 19(2) and/or 19(6).

¹⁰ Virendra v. State of Punjab, AIR 1957 SC 896.

Secondly, the reasonableness of the restrictions imposed must be considered with regard to the test of reasonableness laid down in *State of Madras v. V.G. Row*¹¹, and the ruling in *Ramji Lal Modi v. State of U.P.*¹², where it was stated that the scope of the expression “in the interests of” used in Article 19(2) was very wide. Finding that such censorship of the media due to communal reasons was indeed reasonable, the Supreme Court went on to remark:

*It is admitted that serious tension had arisen between the Hindus and the Akalis over the issue of the partition of the State on linguistic and communal basis. The individuals were divided into two groups, one in the support of the agitation and the other was opposing it. The agitation and the counter agitation were being carried on in the Press and from other platforms. Quite conceivably this agitation might at any time assume a nasty communal turn and flare up into a communal frenzy and factious fight disturbing the public order of the State which is on the border of a foreign State and where consequently the public order and tranquility is essential in the interest of the safety of the State. It was for preserving the safety of the State and for maintaining public order that the Legislature enacted this impugned Statute*¹³.

❖ Under Criminal law-

There are certain provisions of the Indian Penal Code relate to restrictions on expression in the media on the grounds of religion. Section 153A penalizes the promoting of enmity between different groups on grounds of religion, race, place of birth, residence, language, etc. Section 295A penalizes deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs. Section 298 criminalizes any expression made with deliberate intent to hurt the religious feelings of any person. The intent behind these provisions is evidently to prevent hurt to the religious sentiments of one group by another. However, these provisions, though originally enacted to uphold the secular fabric of the nation and preserve public order, can also be used to place unreasonable or unwarranted checks on the right of expression. Censorship of the written media on religious grounds is generally carried out by invoking these provisions of the Indian Penal Code.

¹¹ State of Madras v. V.G. Row, [1952] S.C.R. 597, 607.

¹² Ramji Lal Modi v. State of U.P., AIR 1957 SC 620.

¹³ Virendra, AIR 1957 SC 896. para12.

In *Babu Rao Patel v. State (Delhi Administration)*¹⁴ the appellant was the editor, printer and publisher of a monthly called ‘Mother India’. He published two articles titled “A Tale of Two Communalisms” and “Lingering Disgrace of History”, on the basis of which he was prosecuted under Section 153A. Another landmark case was that of *Ramji Lal Modi v. State of U.P.*¹⁵, which involved Section 295A of the Indian Penal Code. The petitioner in this case was the editor, printer and publisher of a magazine titled “Gaurakshak” devoted to the protection of cows. He was charged under Section 153A and Section 295A for an article in the magazine that allegedly hurt the religious sentiments of Muslims, and ultimately convicted under Section 295A. Hence, he filed a writ under Article 32 challenging the constitutionality of Section 295A under Article 19(1)(a). These arguments were rejected by the Court which pointed out that since the freedom of religion was itself subject to public order under Articles 25 and 26, it could not be said that there was no association between religion and public order, and that this categorization would not by itself render the law invalid.

In *Shalibhadra Shah v. Swami Krishna Bharati*¹⁶, an article had been published in a Gujarati weekly, ‘Aaspass’, with the caption “Why Acharya Rajnishji leaves Pune?”. The said piece was alleged to have remarks of a scurrilous and defamatory nature. Devotees of Acharya Rajnishji hence filed a private complaint claiming a violation of S.295A and Section 298 of the IPC

6. MEDIA ETHICS:

Ethics, for both individuals and culture, is the analysis of what is right. This was because, as well as social values, such as democracy, the Greeks were concerned with individual virtues of bravery, justice, temperance and wisdom. Ethics came to mean learning to make rational decisions between what is good and wrong, what is morally justifiable and what is not, two thousand years later. Ethics also suggests that decisions are differentiated, both of which may be morally justifiable, but some more than others. Rationality is the main word here for the Greeks assumed that people should be able to justify their ethical choice to

¹⁴ Babu Rao Patel v. State (Delhi Administration), AIR 1980 SC 763.

¹⁵ Ramji Lal Modi v. State of U.P., AIR 1957 SC 896.

¹⁶ Shalibhadra Shah v. Swami Krishna Bharati, 1981 CriLJ 113.

others and modern philosophers claim. A significant one for journalists is the capacity to clarify ethical decisions.

7. PURPOSE AND IMPORTANCE OF MEDIA LAW AND ETHICS:

The purpose, functions and importance of media law and ethics may be summarized as follows:

- Media law ensure the protection of right to speech and discourages harmful speech. It does so by providing a legal framework for the protection of the right to freedom of expression.
- It offers a framework for resolving conflicts by ensuring equality and removing prejudice of some kind, so that access to remedies is not impeded.
- It encourages an atmosphere in which the mass media can decide their own position by adhering to "high standards of provision of information that meet recognized professional and ethical standards."
- Media law guarantees "the right to be heard and the right to speak" and defends individual rights from unfair government action.

Social Reasoning: Anything that a media agency, media individuals or journalists do to a lesser or greater degree, has ethical repercussions. This is because whatever is spoken, published or even ignored has an effect on individuals. The effect can be good or bad. Because the media has enormous influence, it is vital for media organizations to act in a responsible and accountable way.

When media acts irresponsibly several things happen:

- unnecessary harm is done to people
- the media loses credibility
- it weakens the media's vital role as watch dogs
- the well-being of democracy suffers

Moral Reasoning: Human action has two basic characteristics: damage and mutual assistance. Ethics and moral conduct are important because of the universal aversion of individuals to physical

or psychological harm. The co-existing facts are the factors that demand ethical practice in the media: the fundamental human aversion to harm and the universal inclination to inflict harm.

Professional Reasoning: in whatever way they want, anyone can write or express their views. It's a human right here. Professional contact, however, occurs within a group of individuals who are regarded and accepted as such. Therefore if journalism in the media sector is going to be accepted as a discipline, then it must have ethical principles, professional preparation that allows a prospective practitioner to do so.

Media can a source of conflict: When media workers do their job unprofessionally, their products can potentially affect people, organizations, communities and the environment at large if their work is unprofessional. Harmful media products can provoke hate and violent disputes, damage the image of individuals and organizations, business, and generally disrupt social and economic life. This is why governments come up with various laws to protect the public from the negative consequences of irresponsible media, but not just for this reason. There are also prohibitions against libel, slander, etc., such as those against In short, it allows the media industry and journalists to learn ways to avoid being punished over what is published or disseminated; to learn to be more precise on issues; and to gain awareness and appreciation for constitutional protections and the security they offer.

8. CONCLUSION:

Therefore, now there seems to be some way out where there can be maintained a fair balance between the Fundamental rights of media to report the incidents, fundamental rights of Indian citizens to know about incidents and the moral responsibility of media to report in objective manners. The Constitution of India, provides many conditions in which the reasonable restrictions may be put on the exercise of fundamental rights. Such conditions are like maintaining public order, public decency and maintenance of internal integrity of the nation. Therefore, it would not be gagging if some restrictions are put on the media about the reporting of various reports. The guidelines may be issued for example Press Trust of India has already issued many guidelines about how to handle and publish the news which are communally sensitive. However, mere issuance of some guidelines do not fulfil their objectives. There needs to be a great responsibility on the part of the enforcer and also a greater responsibility

on the media. Unless media is sensitive enough itself, there is not going to be much difference due to any guidelines. The day such will happen, the debates like role of media in promoting communal harmony shall also be stopped automatically. However, despite experiencing the above, it will not be proper to gag the media to cover the incidents in selective manner. As media has freedom to express freely, people have also freedom to get the actual state of the situation irrespective of the dreadfulness involved in those incidents. The access to true information cannot be restricted from the public. Now there emerges a contrast between the exercise of fundamental rights by the people including media and the imposition of restriction on this right by putting the shackles on the limits of media so as to avoid the communal disharmony. To understand this issue, it is urgent to notice about other details of the role media is playing these days.