

Media Law In the Digital Era: Regulatory Transformations, Judicial Safeguards, And Democratic Concerns in India

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Abstract: The digital transformation of mass communication has significantly changed the legal landscape governing freedom of expression and the functioning of the media. Legal frameworks designed for print and broadcast journalism are now grappling with challenges posed by social media platforms, online news portals, algorithm-based content, artificial intelligence, misinformation, deep fakes, and the misuse of personal data. This paper critically examines the current state of media law in India by analyzing constitutional provisions, statutory regulations, and judicial responses affecting digital media governance. The study employs a theoretical and qualitative analytical research methodology, drawing upon constitutional texts, statutes, judicial precedents, and scholarly literature. The analysis reveals that while regulatory mechanisms have expanded to address emerging digital threats, constitutional courts are playing a crucial role in preventing excessive restrictions on freedom of expression. This paper argues that inconsistent regulation can undermine democratic communication and journalistic autonomy. It concludes by advocating for a balanced, transparent, and rights-oriented media law framework that is capable of responding to technological shifts while upholding fundamental democratic principles.

Keywords: Media Law, Fake News, Media Regulatory, Digital Media Governance, Freedom of Expression, Intermediary Regulation; Judicial Review; India.

1. Introduction:

In the 21st century, it's not an exaggeration to view the world as a global village, as the world is now just a click away; information from any side of the world can be accessed from India. However, there is intense global competition for dominance over information. It is now believed that the country that controls information is the most powerful nation. But the biggest question in the current scenario is whether achieving a monopoly on information constitutes victory, and whether morality has become irrelevant in today's world. Because in the current race for information dominance, much of the information disseminated has little to no connection to reality, or it can be said that such information is framed to achieve a specific objective, which is having a very negative impact on society.

In India, before and after independence, many institutions and laws were established to ensure a balanced media, including the Press Council of India, Prasar Bharati, Contempt of Court, Young and Harmful Act, Official Secrets Act, Right to Privacy, Press and Registration of Books Act, etc. But is today's digitized India adhering to these institutions and acts in the dissemination of information?

Media law forms the backbone of democratic communication systems by regulating the dissemination of information while protecting the right to freedom of expression. In the Indian context, this right is constitutionally guaranteed under Article 19(1)(a) of the Constitution, which has historically enabled the press to act as a watchdog over state power. However, the rapid expansion of digital communication technologies has created complexities that traditional media laws were not designed to address.

Digital platforms, social networking sites, and OTT services have transformed both the scale and speed of information dissemination. Unlike traditional media, these platforms rely heavily on user-generated content, automated moderation systems, and cross-border data flows. Consequently, contemporary media law is now grappling with challenges such as online misinformation, hate speech, privacy violations, algorithmic bias, and intermediary liability.

In response to these changes, the Indian government has introduced new regulatory measures, particularly under the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. While these legal instruments aim to ensure accountability and public order, they have also raised concerns about potential overreach and the suppression of legitimate expression. This paper explores whether India's evolving media law regime effectively balances regulatory objectives with constitutional freedoms.

2. Review of Literature

Academic research on media law consistently highlights the tension between state regulation and freedom of expression. Basu (2021) emphasizes that although press freedom is not explicitly enumerated in the Constitution, it is implicitly protected under Article 19(1)(a). Thakurta (2012) argues that ethical self-regulation within media institutions is essential to prevent excessive governmental interference.

International scholarship points toward increasing regulation of digital platforms. UNESCO (2022) observes that contemporary media governance frameworks focus on content moderation transparency, data protection, and platform accountability. European legal scholars analyzing the Digital Services Act stress the importance of procedural fairness in regulating online speech.

Indian studies on digital media law raise concerns about ambiguous regulatory provisions that may produce a chilling effect on journalism. Judicial scholarship further underscores the role of constitutional courts in interpreting media laws to safeguard democratic values.

3. Digital Media Regulation and Intermediary liability

Intermediaries include a vast array of entities who facilitate the flow of data on internet. These include telecom service providers, internet service providers, search engines, online marketplaces, payment sites, cyber cafes, messaging services, and social media sites. While many intermediaries are mere conduits or storage providers, where they are unaware of the content being transmitted or stored on their platform, other intermediaries may be aware of the user-generated content on their platform. This raises the question that to what extent intermediaries should be held liable for the user-generated content on their platform.

In some jurisdictions such as European Union and India, intermediaries are regulated through the safe harbour model. Under this model, intermediaries are granted immunity from any liability for any illegal user-generated content provided they comply with certain requirements. The intermediaries remain immune from liability unless they are aware of the illegality and are not acting adequately to stop it. They are subject to 'duties of care' and 'notice and take down' obligations to remove illegal content. (Government of India, Ministry of Electronic and Information Technology, 2021)

In recent years, some online platforms have gained a central role in enabling access, facilitating the exchange of information and sharing of information at scale. Many online platforms have expanded their role from mere hosts of information to that of entities governing how content is displayed and shared online, and undertaking significant actions in the areas of moderation, curation, and recommendation. There are growing concerns around misuse of these platforms for the proliferation of illegal or harmful content such as child sex abuse material, content provoking terrorism, misinformation, hate speech, and voter manipulation. This has raised questions on the role and responsibility of platforms in preventing diffusion, detection, and subsequent removal of such content. Some platforms have been self-regulating the publication of such content. However, this has raised concerns about arbitrary actions taken by these platforms which could affect freedom of speech and

expression. These developments pose an important challenge for the regulatory framework for intermediaries in terms of finding the correct balance between enhancing the role of platforms and governments in detection, moderation, and curation, and protection of individual's rights. The 2021 Rules may address some of these issues. Implications of certain provisions under the Rules are discussed in the following sections.

The central government has framed the 2021 Rules as per the following rule-making powers under the Act: (i) carrying out provisions of the Act, (ii) specifying the safeguards or procedures for blocking information for access by the public, and (iii) specifying due diligence to be observed by intermediaries for exemption from liability for third-party information. The 2021 Rules define new types of entities, state their obligations, and prescribe a new regulatory framework for some of these entities. This may be going beyond the powers delegated to the Executive under the Act. Such instances are discussed below. In various judgements, the Supreme Court has held that Rules cannot alter the scope, or provisions, or principles of the enabling Act. (Government of India, 2000).

4. Framework for regulation of content of online publishers

Content on conventional media including print, TV, film, and radio are regulated under specific laws as well as license agreements (in the case of TV and radio). (Monroe E, 2000). These regulations seek to ensure that community standards are reflected in content easily accessible by the public. They also seek to restrict access to certain content based on its age-appropriateness and if it may be deemed unlawful. Economic costs and certain license requirements for some of these operations mean that their numbers are few. In the past few years, internet has become a more mainstream medium for the publication of news as well as entertainment content. The regulatory framework for content on digital media may not be similar to conventional media as there are certain challenges in terms of: (i) defining who is a publisher; individuals and businesses publishing online may not be regulated in the same manner, (ii) the volume of content to regulate, and (iii) enforcement (cross-border nature of internet means that publishers need not have a physical presence in India). The 2021 Rules under the IT Act prescribe a framework for regulation of content by online publishers of news and current affairs and curated audio-visual content (such as films, series, and podcasts). Certain issues with these Rules are discussed below. (Keller, 2018)

5. Regulation of online publishers under the 2021 Rules may be beyond the scope of the parent Act

The framework provides for norms and oversight mechanism for the regulation of content of online publishers. The press note by the central government on 2021 Rules noted that online publishers are digital platforms which are governed by the IT Act.⁶ The IT Act is aimed at providing legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, and to facilitate electronic filing of documents. (Government of India, 2000) The Act prohibits cybercrime including publishing specified content such as sexually explicit content, child sex abuse material, and content violating other's privacy.

Laws such as the Press Council Act, 1978, the Press and Registration of Books Act, 1867, the Cable Television Networks (Regulation) Act, 1995, and the Cinematograph Act, 1952 are specific laws regulating publishers of news in print, television broadcast of news and audio-visual content, and films, respectively (similar content through other media). Regulation of content of these classes of publishers deals with questions of freedom of press and freedom of artistic expression. It may be questioned whether regulation of online publishers is envisaged under the IT Act and hence, if the 2021 Rules exceed the scope of the Act in this regard.

6. Oversight mechanism for digital news media lacks the independence accorded to print news

The oversight mechanism for content regulation in case of news in print is under the Press Council of India (PCI), which is an independent statutory body. One of the main objectives of the PCI is to

uphold the freedom of the press. The Council consists of a chairman and 28 other members including working journalists, persons from the management of newspapers, members of Parliament, and domain experts. The Chairman is selected by the Speaker of the Lok Sabha, the Chairman of the Rajya Sabha and a member elected by the PCI. Key functions of the PCI include: (ii) adjudicating upon complaints of violation of standards, (iii) issuing directions upon violation of code of conduct including admonishing, warning, and censuring. For similar functions in case of digital news media, the oversight mechanism will be under the Ministry of Information and Broadcasting. Thus, the oversight mechanism for digital news is not through an independent statutory body unlike that for print publications. (Government of India 2001)

Note that the content of TV news is regulated under the Cable Television Networks (Regulation) Act, 1995 (CTN Act). The CTN Act empowers the central government to prescribe programme code and advertising code to be followed by the publishers. The central government may prohibit the transmission of a programme in the public interest on certain specified grounds if it violates these codes. A three-tier self-regulation mechanism for TV broadcasters, similar to that for online publishers, has been prescribed under the CTN Act in June 2021. (Government of India 1995)

7. The procedure for emergency blocking of content of online publishers lacks certain safeguards

As per the Rules, the Secretary of the Ministry of Information and Broadcasting may pass an order for blocking the content of an online publisher in case of emergency. Such orders may be passed on certain specified grounds including national security and public order, without giving the publisher an opportunity of hearing. Such an order will be examined by the inter-departmental committee for its recommendation on the confirmation or revocation of the order. The Rules do not give the publisher an opportunity for hearing during this entire process. This is in contrast with the process for examination of violation of the code of ethics. Under this process, the concerned publisher will be allowed to appear and submit their reply and clarifications before the committee. (Government of India 2021).

8. Definition of social media intermediary may be too broad

The Rules define a social media intermediary as an intermediary which primarily or solely enables interaction between two or more users and allows them to create, upload, share, disseminate, modify or access information using its services. This definition may include any intermediary that enables interaction among its users. This could include email service providers, e-commerce platforms, video conferencing platforms, and internet telephony service providers. (Government of India, 2021).

9. Constitutional frame work of Media law in India

According to Durga Das Basu, freedom of the press means that the state should not interfere in the workings of the media, except as permitted by the Constitution and established laws, allowing for freedom to write, print, and publish. However, this freedom is not absolute and needs to be balanced with national interests such as public order and security. He considered it an essential part of the broader freedom of speech and expression, which is crucial for democracy, enabling the dissemination of ideas, including dissenting opinions, through various media outlets. (Basu 2018)

Constitution of India was proclaimed in 1950, all Indian citizens were guaranteed some fundamental rights. One of them is the freedom of speech and expression, which includes the freedom of the press. This right is enshrined in Article 19 (1) (a) of our Constitution. Article 19 (1) of the Constitution of India provides that all citizens have the right to freedom of speech and expression, to assemble peaceably and without arms, to form association or union, to move freely throughout the territory of India, to reside and settle in any part of the territory of India, (This part has been omitted by the Constitution's 44th Amendment Act 1978), to practice any occupation, trade or business. Here you should notice that Article 19 (1) provides these freedoms to citizens of India, not to foreigners.

Moreover, Article 19(1) (a) states that the citizens ‘shall have freedom of speech and expression.’ (Basu, 2013) It doesn’t say anything specifically about the ‘freedom of the press’. The reason is that the words ‘speech and expression’ include the freedom of press. All sorts of writings in the press, viz., newspapers, magazines, journals, books, etc., include expression in writing of ideas, stating views, airing opinions, uttering or communicating thinking on a given subject, issue, problem or a proposition.

The fundamental right of speech and expression, which include freedom of the press, is not absolute. The Article 19(2) clearly lays down that the government can impose reasonable restrictions on the freedom of the speech and expression. These restrictions can be in relation to: sovereignty and integrity of India, security of the State, friendly relations with the foreign States, public order, decency or morality, contempt of court, defamation, incitement to an offence. Only a court of law can decide whether a restriction is reasonable or unreasonable. (Constitution of India, 1950) Therefore, reasonableness of a restriction can be decided only on case to case basis. However, no restriction on freedom of speech and expression can be imposed on any other ground except the eight grounds mentioned above.

The Indian judiciary has consistently acted as a guardian of media freedom. Through various judgments, the courts have emphasized the importance of press freedom for a democracy, while also acknowledging the need for reasonable restrictions.

However, existing literature rarely integrates constitutional analysis, statutory regulation, judicial trends, and visual data interpretation in a single study. This research seeks to fill that gap.

10. Objectives of the Study

- To examine the constitutional basis of media law in India.
- To analyze the regulatory challenges arising in the digital media ecosystem.
- To assess the role of the judiciary in protecting freedom of expression.
- To evaluate the balance between media regulation and democratic freedoms.

11. Methodology

This research adopts a doctrinal legal research approach supported by qualitative analytical methods. The study is based entirely on secondary sources, including constitutional provisions, statutory acts, judicial decisions, government publications, and peer-reviewed academic literature. Landmark judgments of the Supreme Court of India and selected High Courts have been analyzed to identify judicial trends in media regulation. Comparative references to international regulatory models have been used to contextualize the Indian legal framework. This study is limited by the absence of primary empirical data, as it focuses on legal and theoretical analysis.

12. Constitutional and legal framework

Table 1: Constitutional Provisions Governing Media Law

Constitutional Article	Scope	Media Implications
Article 19 (1) (A)	Freedom of Expression	Basis of Media Freedom
Article 19 (2)	Reasonable Restrictions	Defamation, Public Order
Article 21	Privacy and Dignity	Ethical Reporting
Article 32	Legal Remedies	Judicial Protection

Media regulation in India is further shaped by laws such as the Information Technology Act, 2000; the IT Rules, 2021; the Press and Registration of Books Act, 1867; the Cinematograph Act, 1952; and the Digital Personal Data Protection Act, 2023.

13. Judicial Interpretation of Media Law

• Shreya Singhal v. Union of India (2015)

Facts: Police arrested two women for posting allegedly offensive and objectionable comments on Facebook about the propriety of shutting down the city of Mumbai after the death of a political leader. The police made the arrests under Section 66A of the Information Technology Act of 2000 (ITA), which punishes any person who sends through a computer resource or communication device any information that is grossly offensive, or with the knowledge of its falsity, the information is transmitted for the purpose of causing annoyance, inconvenience, danger, insult, injury, hatred, or ill will.

Although the police later released the women and dismissed their prosecution, the incident invoked substantial media attention and criticism. The women then filed a petition, challenging the constitutional validity of Section 66A on the ground that it violates the right to freedom of expression. The Supreme Court of India initially issued an interim measure in *Singhal v. Union of India*, (2013) 12 S.C.C. 73, prohibiting any arrest pursuant to Section 66A unless such arrest is approved by senior police officers. In the case in hand, the Court addressed the constitutionality of the provision. (*Shreya Singhal v. Union of India*, 2015)

Summary: The Supreme Court of India invalidated Section 66A of the Information Technology Act of 2000 in its entirety. The Petitioners argued that Section 66A was unconstitutionally vague and its intended protection against annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, or ill-will were beyond the scope of permissible restrictions under Article 19(2) of the Indian Constitution. The Court agreed that the prohibition against the dissemination of information by means of a computer resource or a communication device intended to cause annoyance, inconvenience or insult did not fall within any reasonable exceptions to the exercise of the right to freedom of expression. It further found that because the provision failed to define terms, such as inconvenience or annoyance, “a very large amount of protected and innocent speech” could be curtailed and hence its sweep was overly broad and vague.

• Anuradha Bhasin v. Union of India (2020)

Facts: The issue arose after the Civil Secretariat, Home Department of Jammu and Kashmir issued a security advisory instructing people to cut short their stay and arrange for a safe return. Educational institutions and offices were closed indefinitely. On August 4, 2019, internet, mobile, and landline services were suspended.

Journalists faced movement restrictions, leading to challenges under Article 19 of the Indian Constitution, which protects freedom of speech, expression, and the right to carry on a profession. The legality of the internet shutdown and movement restrictions was brought before the Supreme Court under Article 32, which addresses constitutional remedies for rights violations. (Government of Jammu and Kashmir, 2019).

Summary: the case of *Anuradha Bhasin v. Union of India* underscores the pivotal role of the Internet in enabling modern communication, publishing, and other online engagements. The judgment effectively established that accessing the Internet for exercising the rights of Freedom of Speech and Expression, as well as the right to carry out trade, business, or any profession, is protected as a Fundamental Right under Article 19 of the Indian Constitution. This decision sets a significant precedent in affirming the constitutional guarantee of these rights in the digital age.

The Court recognized access to the internet as integral to freedom of expression and ruled that indefinite internet shutdowns violate constitutional standards.

• Sahara India Real Estate Corp. v. SEBI (2012)

Facts: Sahara India Real Estate Corporation Limited (SIRECL) and Sahara Housing Investment Corporation Limited (SHICL) raised over ₹24,000 crore from more than 3 crore investors through Optionally Fully Convertible Debentures (OFCDs) during 2008-2011. The company termed this a private placement, but SEBI declared it a public offering under Section 67(3) of the Companies Act because the offer was made to more than 50 people.

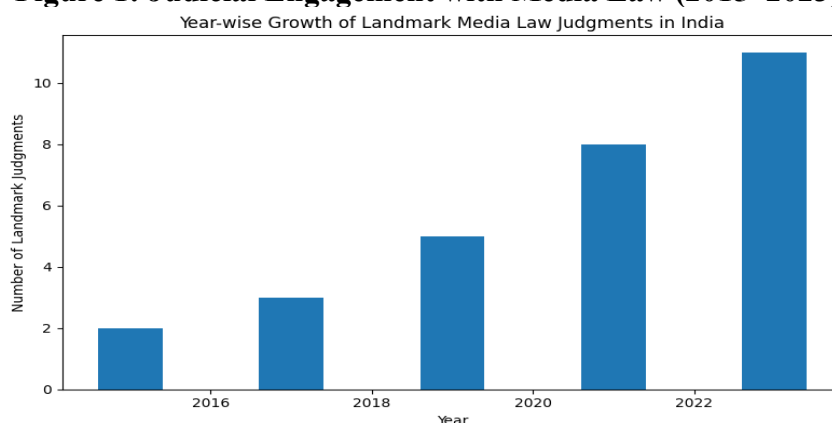
The petitioner in Sahara v SEBI argued that according to Section 55A of The Companies Act, 1956, SEBI's authority is limited to seeking information and investigating companies listed on the stock market. Since the Sahara companies' applications for listing were still pending during the investigation, the petitioner contended that SEBI had no authority to request information from these companies. (Sahara India Real Estate Corp. Ltd. v. Securities and Exchange Board of India. 2012. *Supreme Court of India*, 2012 10 SCC 603.)

Summary: Sahara India Pariwar was ordered by the Supreme Court to refund the entire amount of deposits it had collected, along with an interest rate of 15% applied until the date of the refund. This ruling aimed to protect the interests of the investors who had been affected by the OFCD issue.

This decision introduced injunctions to strike a balance between freedom of the press and the right to a fair trial. Overall, these cases illustrate the judiciary's role in mediating between regulatory authorities and media freedom.

14. Graphical Interpretation

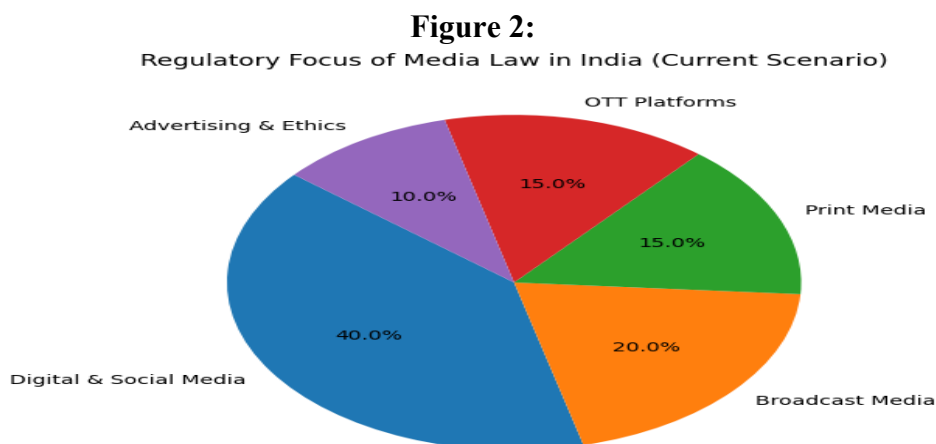
Figure 1: Judicial Engagement with Media Law (2015–2023)



Description: Figure 1 shows a year-on-year increase in significant judicial decisions related to media law in India between 2015 and 2023. This data reflects major Supreme Court and High Court judgments concerning freedom of expression, digital speech, intermediary liability, internet shutdowns, and media regulation.

Interpretation: The bar graph clearly shows a consistent increase in judicial involvement in legal cases related to the media. While the number of significant cases was relatively low before 2017, it has increased sharply since 2019. This increase coincides with the expansion of digital platforms, the rise of social media governance, and the introduction of new regulatory frameworks such as the IT Rules, 2021.

Scholarly Implication: This trend shows that courts are becoming increasingly important in resolving conflicts between state regulation and media freedom, highlighting the evolving role of the judiciary as a constitutional safeguard in the digital media environment.



Description: Figure 2 illustrates the distribution of regulatory attention across different media sectors, including digital and social media, broadcast media, print media, OTT platforms, and advertising and media ethics.

Interpretation: The largest portion of regulatory focus is on digital and social media (40%), followed by broadcast media (20%). Print media accounts for a smaller share, reflecting its declining importance in today's media ecosystem. Content standards, audience protection, and commercial impact, particularly concerning OTT platforms and advertising ethics, collectively represent a significant regulatory concern.

Scholarly Implication: This pie chart illustrates a major shift in media law, moving away from traditional print-centric regulation towards platform-based digital governance. This shift is driven by concerns related to misinformation, privacy, algorithmic control, and the cross-border dissemination of content.

15. Finding of the Study

- Digital communication technology has significantly expanded the scope of media regulation.
- Courts play a crucial role in limiting excessive government control over freedom of speech.
- Vague legal provisions risk encouraging self-censorship among journalists.
- Ethical self-regulation mechanisms in the digital environment are still inadequate.

16. Conclusion

This study examines the constitutional foundations of media law in India, situating freedom of the press and expression within the ambit of Article 19(1)(a) of the Constitution, subject to reasonable restrictions outlined in Article 19(2). The analysis confirms that media freedom, while essential for democratic governance, is not absolute and must be interpreted in conjunction with other constitutional interests such as public order, national security, and the administration of justice.

The research highlights the unique regulatory challenges posed by the digital media ecosystem, including the difficulty in defining publishers, regulating the vast volume of online content, and enforcing domestic laws in a borderless digital environment. Unlike traditional media, digital platforms blur the lines between publishers, intermediaries, and individual users, necessitating new regulatory approaches. However, such measures also raise concerns about potential abuses of executive power, procedural fairness, and the weakening of independent oversight mechanisms.

A key contribution of this study is its assessment of the judiciary's role in protecting freedom of expression in the digital age. Judicial scrutiny of legal provisions and executive actions reveals a consistent effort to prevent vague, inconsistent, or arbitrary restrictions on speech. The courts have emphasized principles such as legality, proportionality, and procedural safeguards, thereby strengthening constitutional protections against over-regulation.

Finally, this study evaluates the delicate balance between media regulation and democratic freedoms. While regulation is necessary to address harms stemming from misinformation, national security threats, and market abuses, it must be carefully designed to avoid stifling legitimate expression and journalistic activity. The findings suggest that a rights-oriented, constitutionally grounded regulatory framework—supported by independent oversight and meaningful judicial review—is essential for upholding democratic values in the expanding digital public sphere.

In conclusion, Indian media law is undergoing a significant transformation in response to technological change. The success of this transformation hinges on maintaining constitutional fidelity, strengthening institutional safeguards, and ensuring that regulatory mechanisms enhance, rather than undermine, freedom of expression and democratic discourse.

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