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A Critical Evaluation of Social Media Regulations in India

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ABSTRACT

Social media has become an integral part of modern society, transforming communication, information sharing, and public discourse. However, the rapid rise of social media has raised concerns about issues such as misinformation, cyberbullying, hate speech, and political manipulation. In response to these concerns, governments, including India, have implemented regulations to govern social media platforms.

This research paper critically evaluates the social media regulations in India, examining the evolution of social media regulations in the country from the Information Technology Act, 2000 to recent amendments and guidelines introduced by the Indian government. The paper explores the legal framework and provisions governing social media platforms, including requirements for content moderation, user data protection, and intermediary liability. It further analyzes the effectiveness of social media regulations in India, discussing challenges and criticisms associated with the current regulatory framework, such as concerns about censorship, lack of transparency, and potential violations of privacy and free speech rights.

The impact of social media regulations on the functioning of social media platforms, online discourse, and digital rights in India is also assessed. Utilizing a critical approach, the research paper draws on relevant literature, legal documents, and case studies to provide an in-depth analysis of social media regulations in India, offering insights into the strengths and weaknesses of the current regulatory framework and highlighting the need for a balanced approach that protects user rights while addressing the challenges posed by social media.

In conclusion, this research paper provides a critical evaluation of social media regulations in India, including their legal framework, effectiveness, and impact on society, along with suggestions for improvement. The findings of this research can contribute to the ongoing discourse on social media regulations in India and inform policymakers, stakeholders, and scholars in developing a robust regulatory framework that balances the protection of user rights with the need to address the challenges posed by social media in the country.

Keywords: *social media regulations. social networking, media sharing.*

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I. INTRODUCTION

The growth of social media in recent years has sparked debate about freedom of expression and the degree of media regulation. A controversial issue that pervades all of this debate is the fine line between what media can and should be regulated. On the one hand, there is a section of society that fully supports freedom of expression and opposes government restrictions on speech and expression. On the other hand, there is another group that prefers reasonable casting limits. Recently, NDTV Hindi² was banned from broadcasting for a day, drawing national attention as an attack on freedom of expression. The Supreme Court is currently dealing with this issue. More recently, governments have started a trend of shutting down the internet to prevent media from reporting live from riot-affected areas. Against this background, a well-defined regulatory mechanism for the media is needed.

In this age of survival, all three pillars of the state, i.e., The legislative, the Executive, and the Judiciary have played their respective roles effectively and efficiently with little overlap. But what is proudly referred to as the fourth pillar of democracy Media has brought together the three national institutions and has acted as a watchdog to ensure accountability and fulfillment of their respective constitutional obligations.

Media can be broadly categorized into broadcast media, print media, and the emerging social media. Broadcast media is primarily concerned with television broadcasts and other electronic devices capable of engaging large numbers of people at once, while print media is essentially newspapers, magazines and magazines, and social media is Youtube, Facebook, Instagram, Whatsapp, Twitter, etc. Youtube channels are now used as both social and broadcast media, newspapers and magazines deliver news online and nowadays e-paper are also prevalent which helps watching latest news and live TV broadcasts of sports games and TV series.

The broadcasting sector is thereof regulated by the Telecommunications Regulatory Authority of India (TRAI), which is empowered to issue regulations on various matters from time to time. The Ministry of Information and Broadcasting (MIB) has established an Electronic Media Monitoring Center to monitor compliance with programming and advertising codes for all television and FM radio channels. A self-regulatory body, the News Broadcasters Association (NBA), is established for channels broadcasting news and current events, which in turn establishes the News Broadcasting Standards Authority (NBSA), which hears complaints and decides to broadcast content. gave permission to do so. Broadcast on such channels. The NBA

² Smriti Kak Ramachandran.2016."NDTV India ban : First time a news channel barred over national security". Hindustan Times

is made up of member organizations that voluntarily follow the rules. Therefore, NBSA powers are also limited to members only. The NBA mandates a code of ethics for regulating television content and the NBSA is empowered to impose fines upto Rs. 1,00,000 on broadcasters who violate this code³.

In 2012, the PCI⁴ attempted to rectify this shortcoming by passing a resolution calling on the central government to include electronic and social media in its directive framework and rename it the Media Council. The decision was so fiercely opposed that PCI continues to selectively regulate print media agencies like toothless tigers without criminal enforcement powers.

The existing legal frameworks for media regulation are the Constitution of India, 1950, the Indian Press Council Act, 1978, the Cable Television Networks (Regulation) Act, 1995, the Prasar Bharati Act, 1990, the Information Technology Act, 2000, and parliamentary proceedings (protection of publications) Act, 1977, issued by the Ministry with reports and consultation documents prepared by the Legal Commission of India, Telecommunications Regulatory Authority of India (TRAI), Broadcast Content Complaints Council (BCCC), Permanent Parliamentary Committee Information Broadcasting (MoIB).

II. WHAT IS SOCIAL MEDIA?

Social media primarily includes Internet and mobile phone-based tools for sharing information and discussing. It combines technology, telecommunications and social interaction to provide a platform for communication through words, images, movies and music. Social media includes web-based mobile technologies used to transform communications into interactive conversations.

Social media can be defined as web or mobile-based platforms that enable individuals or institutions to communicate interactively and share user-generated content. Andreas Kaplan and Michael Haenlein define social media as "a set of Internet-based applications that build on the philosophical and technological foundations of Web 2.0 and enable the creation and sharing of user-generated content." "Web 2.0" refers to Internet platforms that allow users to participate interactively. "User-generated content" is the name for all the ways people use social media. The Organization for Economic Co-operation and Development (OECD) creates its own criteria for classifying content as "user-generated" i.e., (1) it should be available on a publicly accessible

³ Markandey Katju , Media cannot reject regulation, (May 2,2012), <http://www.thehindu.com/opinion/lead/media-cannot-reject-regulation/article3374529.ece>

⁴ P. Sainath, Paid news undermining democracy: Press Council report (Apr. 21, 2010), <http://www.thehindu.com/opinion/columns/sainath/Paid-news-undermining-democracy-Press-Councilreport/article16371596.ece>

website or on a social networking site that is available to a select group (2) requires minimal creative effort and (3) is created outside of professional routine or practice.

Another variation of social media is mobile social media. When social media is used in conjunction with a mobile device, it is called mobile social media, because mobile social media runs on mobile devices, it differs from traditional social media because in that it takes into account new factors such as the user's current location (location-dependent) and the time delay between sending and receiving messages (time-dependent). different from the media.

III. SOCIAL MEDIA AND ITS TYPES

Social Media is divided into different categories namely:

1. **Social Networking:** Social networking is an online service that allows users to build virtual networks with like-minded people. It offers features such as chat, instant messaging, photo sharing, video sharing, and updates. The most popular ones are Facebook, LinkedIn, etc.
2. **Blogs:** Blogs are descriptive content created and maintained by individual users and may include text, photographs, and links to other websites. The interactive nature of blogs is that readers can leave comments and follow their trail.
3. **Micro Blogs:** Microblogs are similar to blogs, with a general limit of 140 characters or less, and allow users to create and share content. Twitter is a microblogging site that allows users to send and read "tweets".
4. **Wikis:** A wiki is a collaborative website where multiple users can create and update pages about a specific topic or related topics. A single page is called a "wiki page", but all content related to that topic is called a "wiki". These multiple pages are linked by hyperlinks, allowing users to interact in complex and non-linear ways.
5. **Media Sharing:** These services allows you to upload and share photos and videos. Interaction is through sharing and commenting on user posts. The most popular are Instagram, Facebook, etc. There may be some overlap between the types of social media mentioned above. For example, Facebook has a microblogging feature with a "status update" feature.
6. **Social News:** These services allows you to publish various messages and links to external articles. Interaction is done by voting and commenting on items. Voting is important because the articles with the most votes are displayed prominently. The most popular are Digg, Reddit and Propeller.

7. **Vlogs and Video Sharing Sites:** A video blog (vlog) is a blog site that primarily uses video as the primary form of text-supported content. YouTube is the world's largest video sharing site. YouTube is a video live casting and video sharing site where users can watch, upload, share and comment on videos. Vlogging has now become a profession for some social media influencers, they earn by doing vlogging.
8. **Social Bookmarking:** These services allows you to store, organize, and manage links to various websites and resources on the Internet. Interaction is done by tagging websites or browsing websites bookmarked by others. The most popular are Delicious and Stumble.

IV. THE REGULATION OF SOCIAL MEDIA PLATFORM

The issue of regulation of social media platforms have always been a point of contention for many in mainstream society, because social media operations are large in scale and involve cross-border communication. This is one of the reasons why this platform is difficult to regulate. Different countries have different cultures, so meaning can be subjective in relation to the culture and norms of a society. But most importantly, while electronic media is the most difficult medium to regulate, this difficulty stems from the fact that it relies solely on the use of the public property to emphasize. Therefore, there should be a perfect prototype of social media regulation.

In practice, media professionals and journalists now have a code of ethical conduct that guides their journalistic conduct. Blake therefore, suggests that social media regulation and monitoring be left in the hands of media professionals who can ensure that news that disturbs the peace of the country is avoided. Blake also suggested private governments and higher education institutions should train media personnel and pay the fees they pay to monitor social media messages to ensure the well-being of all and social peace. A well-trained staff is key to attracting the right talent to offer the various ways to regulate the platform. The ability to provide appropriate regulation is achieved when that purpose or need is met. Adjustments are easy for those who own and are comfortable with their own environment.

The majority of social media messages are spread by international organizations like the Western world rather than Africa. Cultural imperialism emerges as a result of this information imbalance, and globalization loses its effectiveness in the process. The first step is for the government to set up a regulator to control social media content flowing into Nigeria (participatory culture).

V. THE NEED TO REGULATE MEDIA

In a system of checks and balances, every organization is held accountable and the media insists on self-regulation⁵ if it is regulated by someone.

Media is considered the fourth pillar of Indian democracy. Since other pillars of democracy, i.e., Legislative, executive and judicial bodies operate within the framework of the Constitution, following a system of checks and counter-checks, but with the lack of specific rules on media regulation, it is very difficult in relation to the media is. Even the Constitution mentions freedom of speech and expression, but does not specifically mention the press/media, leaving room for a wide range of interpretations of freedom of the press.

An important aspect of press freedom is that it runs through Article 19 (1) (a) of the Indian Constitution. Article 19(1)(a) also gives citizens the right to freedom of speech and expression. It can therefore be inferred from the Constitution that members of the press are entitled to freedom of expression as individuals rather than collectively. For example, journalists, editors and presenters individually assert their rights to freedom of speech and expression under Article 19 (1) (a) of the Indian Constitution. In democracies, the media plays a key role in ensuring that the constitutional work is done for the benefit of the general public. Being a mirror of society where members of society are constantly informed about events and developments in the country, the media plays an important role in the public sphere and thus can shape public opinion. Therefore, it is the main reason behind the need for a responsible journalism in a country wide.

Responsible Journalism is important especially when we live in a technologically advanced world where information flows in seconds regardless of distance, misleading/wrong information can harm society and lead to riots and hatred among citizens. Therefore, it is very important for the media to play an active role. In India, where people of different cultures and religions coexist, people spread misleading information and overly sensational stories to gain popularity. It is the duty of the media to show the truth while refraining from publishing wrong information in the greed of getting higher rating and viewerships.

VI. REGULATORY PROBLEMS FACED BY MEDIA

In India, media is regulated by various ordinances and laws. At the same time, as it is considered one of the growing industries, regulation plays a key role as its function encompasses the

⁵ Justice G.N. Ray, *Statutory Regulation: The Indian Experience* (May. 2, 2007), <http://www.presscouncil.nic.in/OldWebsite/speechpdf/Statutory%20Regulation%20the%20Indian%20Experience%20Kenya.pdf>

interests of the people and the state.

It is clear that whenever regulation is introduced, the approach to regulation will be a mixture of social, political and economic concerns, especially in areas of greater public impact. In this technologically advanced age, where the influence of electronic media far exceeds that of print media, the regulatory frameworks for print and electronic media are different. But there was a strong demand to unite print and electronic media under one umbrella which is called the Media Council of India.

The biggest problem Indian media is facing is that multiple authorities are involved in formulating and implementing media policy. In addition, government agencies often forget powers and restrictions on intervention and abuse. When it comes to regulating electronic media content, agencies often have overlapping roles. Many intellectuals believe that India is lagging behind in regulating broadcast content. Even India's Legal Commission has expressed concern about the issue in its advisory document on media regulation⁶.

Ministry of Information and Broadcasting is Indian media regulator especially electronic media regulator, covered by authorities dealt by Organizations in India. The ministry's main mandate is to regulate content and act as a policy maker. In *Deepak Maini v Star Plus (2009)*, the court ruled that the Ministry of Information and Broadcasting was better placed to evaluate television content and that judicial interference was not necessary. A problem arose related to the reality show where the host of the show called the contestant impotence and later became the reason for his suicide. The Allahabad Supreme Court ruled that the moderator's language was uncivilized and offensive in the case.

VII. REGULATORY FRAMEWORK OF PRINT AND ELECTRONIC MEDIA

Print media in India is regulated by the Indian Press Council established by the Indian Press Council Act, 1978. The council consists of a chairman and its 28 members. The committee consists of persons elected by members of the Council who will appoint Chairman Rajya Sabha, Chairman Lok Sabha, and PCI.

The law authorizes PCI to notify Suomotu of any newspaper or journalist accused of violating the Code or journalistic conduct. She can summon witnesses, gather evidence, and has the power to warn and admonish newspapers/journalists. Although the Council does not have the power to punish violators of its policies.

⁶ Saumya Ramakrishnan, Can the watchdog watch itself? Indian media and self-regulation, First Post (Aug. 27, 2012), <http://www.firstpost.com/politics/can-the-watchdog-watch-itself-indian-media-and-self-regulation431499.html>

The Cable Television Networks (Regulation) Act 1995 currently applies to broadcast media. There is no regulatory body based on law, but there are program codes and advertising codes that prohibit the broadcasting of programs and advertisements that are not based on the law. The Telecommunications Regulatory Authority of India (TRAI) regulates the Indian broadcasting sector and sets rules on issues such as rationalization of distribution. In addition, the Ministry of Information and Broadcasting established the Electronic Media Monitoring Center (EMMC)⁷. It monitors the content of private FM radio channels and investigates violations of TV channel programming and advertising codes.

For news and current affairs channels, the News Broadcasters Association (NBA) is a self-regulatory body that created the News Broadcasting Standards Authority (NBSA) to arbitrate claims against news channels about broadcast content. The jurisdiction of the NBSA is limited to members only. Only NBSA member organizations comply with NBA rules. The NBA also regulates television content through a code of ethics and has the power to censor, reprimand, fine, and warn any broadcast that violates the rules.

VIII. SELF REGULATION AND ITS ADVANTAGES

Formal and mandatory guidelines for media content, structure and behavior are part of media regulation. As we all know, freedom of speech is an important factor in a democratic society. This freedom in itself is important, but it also protects other liberties and rights. Freedom of expression⁸ requires a public dimension and the need has been felt to include it at the international level. The importance of their freedom is reflected in its extensive protection in international conventions and treaties. For example, it is protected by Article 19 of the International Covenant on Civil and Political Rights (ICCPR), Article 19 of the Universal Declaration of Human Rights (UDHR), Article 13 of the American Convention on Human Rights, Article 9 of the Africa Convention. Charter and Article 11 of the European Convention on Human Rights (ECHR).

Essentially, self-regulation is not about censorship or self-censorship rather than setting minimum standards for accuracy, ethics, etc., while protecting the right to freedom of speech and expression. However, there were a number of incidents after which requests were made for a particular framework when it comes to the media in India. In 2013, the Delhi High Court rejected the idea of self-regulation in a case involving reality TV and recommended the central

⁷ Government of India Law Commission of India, Consultation Paper on Media Law(May,2014),<https://www.lawcommissionofindia.nic.in/.../Consultation%20paper%20on%20media%20law>

⁸ Andrew Puddephatt, The Importance of Self regulation of the Media in upholding Freedom of Expression(Feb. 2011, <http://unesdoc.unesco.org/images/0019/001916/191624e.pdf>)

government to regulate electronic media. However, the Indian media opposed the idea of any regulation and justified it by saying that they are capable of self-regulation, which is also important for independence and autonomy of the media. But on the other hand, the heads of the regulatory bodies, especially electronic media, argue that many channels withdraw from the association if they do not want to pay fines or follow its rules, which ultimately dilutes media intentions.

Self-regulation⁹ refers to the establishment of certain standards or codes of conduct for the media in order to promote freedom of expression and at the same time monitor behavior in accordance with the standards. The argument in favor of media self-regulation is that the media plays an important role in supporting democracy, so it is important to protect the independence and autonomy of the media where self-regulation is needed. necessary, this will also protect the media from government interference. Another point often raised by the media is that in a global environment where jurisdictional issues are complex, self-regulation is the best way to handle the situation.

Furthermore, the concept of self-regulation is less expensive and can also raise professional standards because the organization must analyze and develop its own code of conduct.

IX. THE CONCEPT OF STATE REGULATION

Government control of the media is an idea not widely supported. Even the people who drafted the Constitution were aware of the power of the press during the freedom struggle, which is why they liked freedom of speech and the idea that a free press was so important in the development of a free press development of a democracy.

In April 2003, the Delhi High Court in *Indraprastha People v UOI 1988* rejected the idea of self-regulation and recommended statutory regulation for electronic media. Multimedia ownership issues As many news channels are owned by corporations and politicians, the concept of government statutory regulation can be used as a tool to satisfy their political interests, thereby undermining democracy.

The Mumbai Police Deputy Commissioner passed an order under Section 19 of the Cable Act during the Mumbai terrorist attack due to which many news channels stopped broadcasting for a short time. However, the government stepped in and canceled the order. After the Mumbai attack, the government of Maharashtra decided that in order to protect national security, it would

⁹ Saumya Ramakrishnan, Can the watchdog watch itself? Indian media and self-regulation F.POLITICS (Aug. 27, 2012, 11:27 AM), <http://www.firstpost.com/politics/can-the-watchdog-watch-itself-indian-media-and-selfregulation-431499.html>

pass a law regulating the content of news channels, which created controversy and this statement questioned the independence of freedom of the press media in India.

After the 2008 Mumbai terrorist attacks, the NBA again issued new guidelines on fairness, confidentiality, correctness, and impartiality. In addition, the guidelines covered areas such as coverage of matters of public order, covert operations, national security, depictions of women and children, and supernatural affairs. These developments suggest that the homonymous self-governing body has its own shortcomings such as a lack of punitive powers and that it has failed to achieve its goals because it failed to achieve its objectives when it was established. The arguments in favor of state regulation of the press are to ensure the impartiality of the press, minimize the threat of paid news, and uphold the professional and ethical standards of journalism. However, the idea of state regulation is not supported by the media and intellectuals because it can backfire if power is abused and can create an emergency and can dilute the idea of a liberal democracy.

In 2001, the government tried to introduce the Media Convergence Bill but it failed to pass. This bill has been challenged saying that the government is trying to control the media through this bill, which could affect the independence and autonomy of the media. This bill has been struck off permanently.

X. CONCLUSION

In the conclusion, the researcher would like to take the liberty to reiterate the point made at the beginning of this article: media regulation is suffering from serious shortcomings and the country's legislature is not well fully equipped with laws in its portfolio to prevent threats and selectively control the media agencies and the free and independent flow of information through the media. As written in the beginning of the article, the three types of media agencies overlap, and no single agency can effectively co-manage these agencies with criminal penalties otherwise. comply with an order or directive of that authority.

Effective regulation of the media is, to the best of my knowledge, perhaps the most vital and important issue the nation is facing today. The tension lies between the fact that the media must remain independent and the state must not exercise control over them to the point where free speech is forced to support a local power. or their allies. The media, on the other hand, must be held accountable and accountable to another independent agency that has the power to pull strings when necessary. Equally important is preventing the media from becoming concentrated in the hands of select giants whose relationships with political elites are constantly changing. The company's control over media outlets presents them with the problem of downsizing as

powerful practitioners see fit.

In a struggle between the lines of free speech and regulated media, Section 19(1)(a) of the Constitution is a precious asset in the hands of media advocates. completely free media, while proponents of the media stipulate fighting using their university's paraphernalia in Article 19(2). The threat posed by the unregulated media is slowly becoming a pandemic in India. It is here that the dilemma between justice and power as highlighted by Blaise Pascal becomes even more important. Pascal wrote: “Justice without power is void; Power without justice is tyranny. A person who resists justice without power, because there are always evil people. Power without justice will soon be tested. Therefore, justice and power must be united, so that what is just may become strong and what is strong may become just.

Electronic media regulation in India is the Self-News Broadcasters Association governing body, but its decisions are binding only on the members of the organization. For many years it was considered an authority with no enforcement powers, as the Association fined India TV for violating the standards, but the channel later withdrew from the organization.

The association later withdrew the decision and the channel later joined the association. This example highlights serious concerns and could be addressed by making all news channels part of a new independent regulator and being able to draw references from the UK. where non-IPSO newspapers must be managed by the Communications Office. This will help regulate news channels to combat unethical and illegal practices.

The only thing we as a researcher can do is to give some suggestions which may or may not help improve media regulations in India:

- There should be different regulatory bodies for each medium, i.e. print, television or radio, because there can be no uniformity of regulation if the form itself can be distinguished.
- The composition of the Press Council of India should be changed in accordance with Article 5 of the Press Indian Council Act, 1978 where editors/journalists and members of Parliament are not allowed to be part of the Council to avoid conflicts of interest and government interference. Prominent former journalists/editors and media law scholars should be members of the Council, which will be selected from a panel elected by news organizations.
- The Press Council of India should be given sufficient authority and conclusions can be drawn from the Insurance Regulatory Authority of India and the Security Exchange of

India, which are the standard bodies in the industry, their fields and are equally effective.

- Section 14 of the Indian Press Council Act 1978 should be amended and should add the power to suspend licenses and impose heavy fines, in addition to the censorship power modeled on the Bar Act 1961.
- Articles 4 and 10 of the Prasar Bharti law should be amended to restrict government members from participating in the company and the board of directors in order to give real autonomy to Prasar Bharti.
- News channels should be required to be part of News Broadcaster Association and the right to suspend licenses and fines should be given to the same.
- The hotline for journalists and the submission of the annual declaration of ethics compliance details to the regulator should be made mandatory as in the UK for safety and promotion responsibility of the press.
- There are no specific rules regarding cross-media ownership and the same should not be done although TRAI recommends that since media houses are owned by multiple companies, it would be unfair to say that another organization, i.e. a religious/political organization, will convey their own views as the same may or may not be true.
- A qualifying exam is required to work as a journalist/media and even should cover the regulatory framework of media in India including guidelines, standards and Ethics must be followed by media professionals in order to obtain a press license. One Inference can be drawn from the open book All India Bar Examination to practice full time in court for advocates.
