

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

“CONSTITUTIONAL FRAMEWORK AND EVOLUTION OF BROADCASTING LAWS IN INDIA”

AUTHORED BY - ASHOK KUMAR SINGH

Department of Law, N.R.E.C. College, Khurja

Chaudhary Charan Singh, University, Meerut

1. INTRODUCTION

In contemporary democratic societies, broadcasting has become one of the most important aspects of communication and passing of information. Broadcasting has traditionally been significant in India to inform citizens, to promote education and culture, to enable public debate and enhance democratic participation. The nature and extent of broadcasting has dramatically changed alongside the evolution of radio, television, satellite communication, private broadcasting and, most recently, digital broadcasting platforms. The legal framework within which broadcasting in India occurs has thus changed to become more diverse and tech-driven regulation framework rather than a State dominated one. This development has brought about some constitutional challenges with regard to freedom of speech and expression, right of access to information, public interest, and national security and reasonable restrictions.

Broadcasting regulation in India is mainly based on constitutional grounds, which is primarily set out of Article 19(1)(a) of the Constitution, which provides the basic right of freedom of speech and expression. The Constitution does not directly acknowledge the existence of a separate right to broadcast, but through judicial interpretation the right to communicate and share ideas using any of the available media has been acknowledged as a right under the freedom of speech and expression. Simultaneously, broadcasting cannot be considered as an activity without any restrictions, as Article 19(2) allows the State to put some reasonable restrictions on given constitutional grounds. Indian broadcasting law is therefore an ongoing endeavor to balance between the freedom of expression of individuals and other conflicting interests like public order, morality, national security, sovereignty and integrity of India.

The evolution of broadcasting law in India can be vaguely explained in various stages. In the early years, broadcasting was still under the control of the government especially, All India Radio and Doordarshan. The formation of a separate statutory position by the Prasar

Bharati Act, 1990 was a significant step in the process of attaining increased institutional autonomy in state broadcasting. This was then followed by the liberalization of the broadcasting industry, the rise of privately owned TV stations and the increase of the broadcasting through satellites which essentially changed the face of the Indian media. The Cable Television Networks (Regulation) Act, 1995 and the regulatory stance of other organizations like the Telecom Regulatory Authority of India also helped in the formation of a systematic regulatory framework.¹

In the modern digital age, the line between the traditional broadcasting and the digital communication is becoming more and more distorted. Online news services, artificial intelligence and deep fake technologies, and OTT platforms have posed new challenges to the old regulatory mechanisms. It is against this backdrop that this current study explores the constitutional aspects and history of broadcasting law in India through the prism of judicial developments, statutory regulation and new technological issues.²

2. CONCEPT AND MEANING OF BROADCASTING IN INDIA

Broadcasting is a systematic transmission and dissemination of audio, visual or audio-visual content to a large and widely spread audience by the means of electronic communication technologies. Until recently, broadcasting has been thought of only in terms of radio and television, via which news, education, entertainment, culture and public information were broadcast from one source to many at the same time. In India, TV broadcasting is slowly evolving from a government-monitored medium to a vast and technologically sophisticated industry with private television companies, satellite TV and digital TV. This means that broadcasting is not limited to radio and TV, but also new ways of electronic content distribution are becoming part of it.

The legal concept of broadcasting has grown over time in line with the technological development. The Cable Television Networks (Regulation) Act, 1995 is an important piece of legislation for the regulation of cable television networks and the transmission of television programmes by cable services. Likewise the Prasar Bharati Act, 1990 is the statute governing public broadcasting as it exists in Prasar Bharati (All India Radio and Doordarshan). These changes in the law illustrate what broadcasting is more than just a technical operation: it's a

¹ Prasar Bharati Act, 1990, No. 25 of 1990; Cable Television Networks (Regulation) Act, 1995, No. 7 of 1995.

² *Secretary, Ministry of Information & Broadcasting, Government of India v. Cricket Association of Bengal*, (1995) 2 SCC 161.

regulated activity with important implications for public interest, cultural development and democratic communication.³

The freedom of speech and expression is constitutionally protected under Article 19(1)(a) of the Indian Constitution and the broadcasting is closely related to it. The right of communication and the dissemination of information is an important part of this freedom and has been recognised by the Supreme Court. The right to freedom of expression entails the right to use electronic media of communication as well as the airwaves are public property, as per the observation by the Court in *Secretary, Ministry of Information & Broadcasting v. Cricket Association of Bengal*. So broadcasting has a personal dimension of freedom of expression and a public dimension of community's right to receive a variety of information.⁴

Today, broadcasting has evolved beyond this, with the digitalisation of broadcasting systems, internet-based broadcasting, streaming and convergence between broadcasting and telecommunication. This technological convergence has posed novel regulatory issues on content regulation, accessibility, privacy, misinformation, national security and accountability. The idea of broadcasting in India must therefore be seen as a dynamic legal, constitutional and technological process and not just as the transmission of programmes in the traditional electronic media.

3. CONSTITUTIONAL FRAMEWORK GOVERNING BROADCASTING IN INDIA

The Constitution of India dealing with broadcasting is largely influenced by the fundamental rights provided under Part III of the Constitution, namely, Article 14, Article 19 and Article 21 of the Constitution. Although there is no separate constitutional right to broadcast, freedom of speech and expression has been interpreted as a right to broadcast. The constitutional framework for broadcasting has to be balanced between the freedom of media and the legitimate interests of the State and society. The main constitutional basis for broadcasting freedom is found in Article 19(1)(a) and reasonable restrictions are in accordance with Article 19(2) on specific grounds. Meanwhile, Article 14 and 21 have applicable constitutional duties to regulatory bodies, which include fairness, non-arbitrariness and dignity and protection of personal liberty. The judiciary has therefore been a significant force in

³ The Prasar Bharati Act, 1990, No. 25 of 1990; Cable Television Networks (Regulation) Act, 1995, No. 7 of 1995.

⁴ *Secretary, Ministry of Information & Broadcasting, Government of India v. Cricket Association of Bengal*, (1995) 2 SCC 161.

shaping the boundaries of broadcasting regulation in terms of the constitution, and has also provided a safeguard against unnecessary limitations on democratic communication through regulatory mechanisms. Constitutional role is growing in importance due to the spread of private television, satellite, digital news sites, and online content. Therefore the Indian broadcasting regime is a balance between freedom of communication, public interest and the regulation as well as the individual rights as provided in the constitution.⁵

i. Article 19(1)(A) And Freedom Of Speech And Expression

According to Article 19(1)(a) of the Constitution, every citizen has the basic right to freedom of speech and expression. It is the most significant constitutional provision in favour of freedom of broadcasting in India as it is a vital medium by which information, opinions, ideas and viewpoints are conveyed to the public. The constitutional protection does not only apply to the right of an individual to express opinion, it goes further to the dissemination and communication of information via technological media available. For the purposes of broadcasting, then, the right to speak freely is the right to communicate via radio, television and other electronic media, with the constitutional limits. The Supreme Court has shown a gracious recognition that Electronic Media has enormous reach to masses hence it cannot be excluded from the ambit of freedom of expression. The growing significance of private TV and radio has also accentuated the role of Article 19(1)(a) in fostering plurality of opinion and democratic debate. The right does not, however, guarantee access to any frequencies or spectrum in the channel, but only to the frequencies or spectrum that are necessary. The allocation and regulation of airwaves are considered public goods and this should be based on constitutional principles. Freedom of broadcasting, therefore, is an interplay between individual freedom and plurality or public interest of media.⁶

ii. Reasonable Restrictions Under Article 19(2)

The right guaranteed by Article 19(1)(a) is subject to the restrictions laid down in Article 19(2) of the Constitution. The provision allows reasonable restrictions on the freedom of speech and expression for the sake of the sovereignty and integrity of India, security of the State, friendly relations with the foreign States, public order, decency or morality, contempt of court, defamation and incitement to an offence. These constitutional restrictions are especially

⁵ M.P. Jain, *Indian Constitutional Law*, 8th ed., LexisNexis, Gurgaon, 2018.

⁶ *Secretary, Ministry of Information & Broadcasting, Government of India v. Cricket Association of Bengal*, (1995) 2 SCC 161.

applicable to the field of broadcasting, where the television and radio, and now also digital broadcasting, can reach large numbers of people at a stroke of a button and have far-reaching social and political effects. These grounds must thus be interpreted in the light of the grounds explicitly mentioned in Article 19(2) in regard to broadcasting in respect of objectionable content, hate speech, public order, national security or defamatory material. The presence of regulatory power, however, does not justify unlimited powers for governments over the content of broadcasts. Restrictions must have a legitimate basis, must have a valid objective in accordance with the constitution and must be reasonable. Unnecessary, unjustifiable and disproportionate limitations can jeopardise the freedom guaranteed by Article 19(1)(a). So the constitutional method must strike a balance between the free expression and the prevention of legitimate social harms. This balance is complicated in the digital age, as broadcasting and online communication are becoming more and more technologically and geographically ubiquitous.⁷

iii. Right To Receive And Disseminate Information

The concept of free speech and freedom of expression in the constitution covers not only the right to express and transmit information but also the right of the citizens to receive information. In a democratic society, it is important that people have access to a variety of sources of information and opinions, in order to be able to take part in public affairs. The function of broadcasting is a constitutional one because it is important to enable the communication between the institutions, the media and the citizens. The right to disseminate information allows broadcasters and journalists to share news, opinions and ideas and the right to receive information, to ensure that audiences who rely on media have access to information to help them understand issues that are of public concern. The Supreme Court has consistently held that the First Amendment's protection of free speech also encompasses the right to communicate, and the interest of the public in receiving information. This is especially important in the broadcast arena where electronic media can reach millions of people at a time and can help to educate an informed electorate. Therefore, pluralism and diversity of opinion is an important aspect in terms of democratic media. The right to receive information is not a right to access all information: a legitimate constitutional restriction on access to information can apply, where such a restriction is justified by one of the constitutional interests recognised at present. The constitutional protection of information aims to ensure a balance between free

⁷ The Constitution of India, art. 19(2); H.M. Seervai, *Constitutional Law of India*, Vol. 2, 4th ed., Universal Law Publishing, Delhi, 1996.

communication and free expression and competing public interests, all of which have a legitimate claim to information.⁸

iv. BROADCASTING AND THE RIGHT TO INFORMATION

The right to information is closely related to broadcasting as it is one of the avenues whereby citizens are able to acquire knowledge about the policies of the government, public affairs and social issues of significance. The Supreme Court has been elaborating on a general fundamental right to information in freedom of speech and expression under Article 19(1)(a) of the Constitution, although this right is not expressly stated in the Constitution. Media thus plays an important role for facilitating the informed participation in society and transparency in democratic governance in the hands of broadcasting organisations, especially the public broadcasting organisations. With the implementation of the Right to Information Act, 2005, that gave a legal framework to access information from public authorities, broadcasting became more relevant to the right to information. However, broadcasting does not mean the same as the statutory right to information. Although broadcasting is mainly about the sharing of information with a wider audience via electronic communications, the latter is largely about information made available by public bodies. However, both principles have a bearing on the issue of transparency, accountability and informed citizenship. Public broadcasting can play a special role in achieving this goal by broadcasting information that is accurate about government programs, public welfare, elections, disaster and other issues of public interest. Broadcasters also have a constitutional duty to ensure information is accurate, diverse and not unnecessarily restricted in any way that could stop citizens from accessing legitimate public-interest information.⁹

v. Role Of Article 14 And Article 21 In Broadcasting Regulation

The regulatory framework of broadcasting in India has important constitutional provisions as per Article 14 and Article 21. Article 14 establishes equality before the law and equal protection of the laws, which implies that the regulatory powers exercised by the broadcasting authorities must be fair, non-arbitrary and reasonable. The right to licences, allocation of broadcasting resources, permission, penalties, content regulation must thus be determined by objective and legally sustainable criteria, rather than by arbitrary decisions taken by the Government. Article 21 (right to life and personal liberty) has been given a wide

⁸ *Cricket Association of Bengal v. Union of India*, (1995) 2 SCC 161.

⁹ Right to Information Act, 2005, No. 22 of 2005; *State of U.P. v. Raj Narain*, (1975) 4 SCC 428.

meaning and various facets of dignity, privacy and personal autonomy are included. The principles are applicable to broadcasting as media content can have a direct impact on a person's reputation, privacy and dignity. The regulation of broadcasting, therefore, has to be in a position to reconcile freedom of expression with the protection of individual rights. Meanwhile, any limits placed on freedom of the press in the name of privacy or dignity should not be used as a way to illegitimately curtail legitimate public interest reporting. Basically, if we take all three of these articles together, there is a constitutional dimension in which broadcasting regulation should be 'legality', 'fairness', 'reasonableness' and 'proportionality'. This integrated constitutional method is especially relevant in the modern digital world where the broadcast of content can quickly spread from television to internet and social media.¹⁰

5. JUDICIAL DEVELOPMENT OF BROADCASTING FREEDOM IN INDIA

i. *Madhyamam Broadcasting Ltd. v. Union of India (2023)*

The Supreme Court concluded that it was an unreasonable restriction on freedom of speech and expression under Article 19(1)(a) for the broadcasting permission of Media One to have been withdrawn. The Court also found that the national security and material covered under the seal of the court was used too much and lacked adequate procedural safeguards.¹¹

ii. *Bloomberg Television Production Services India Pvt. Ltd. v. Zee Entertainment Enterprises Ltd. (2024).*

Supreme Court considered the safeguarding of freedom of media in respect of publishing and internet posting of journalism. It highlighted the need to find a balance between freedom of expression and claims for restraint on publication.¹²

iii. *Next Radio Ltd. v. Union of India (2025)*

Supreme Court discussed statutory licensing of copyright law on broadcasters. The problem was with Rule 29(4) of the Copyright Rules; namely, the duties of the broadcasters with regard to taking advantage of the "statutory broadcasting licence".¹³

¹⁰ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹¹ **2023 SCC OnLine SC 366; 2023 INSC 324.**

¹² **2024 INSC 255.**

¹³ **2025 SCC OnLine SC 1101.**

iv. *Wikimedia Foundation Inc. v. ANI Media Pvt. Ltd. (2025)*

In reaffirming the right to know and to receive information, the Supreme Court emphasized that it is an important dimension of Article 19(1) (a). It found that the principle of necessity must be satisfied when restricting a media item and that the principle of proportionality must be satisfied when removing a media item.¹⁴

v. *Madhyamam Broadcasting Ltd. v. Union of India*

The Supreme Court reiterated that such right to know and obtain information is a crucial element in Article 19(1)(a). It put forward the necessity and proportionality conditions for publishing or removing media content. The aspects of the judgment contained in the Media One case are of special relevance to current broadcasting regulation, including the principle of licensing, national security, proportionality and procedural fairness. The judgment expands the constitutional duty for regulations to be justifiable under Article 19 and not based on vague general claims from the government.¹⁵

6. STATUTORY AND REGULATORY FRAMEWORK OF BROADCASTING IN INDIA

The broadcasting industry in India is regulated by a mix of statutes, rules and regulatory institutions relating to public broadcasting, cable television, telecommunications and digital media. The framework has gradually developed from State-controlled broadcasting towards a liberalised and technologically diverse media system. These laws aim to strike a balance between freedom of broadcasting and the public interest, consumer protection and constitutional restrictions.

i. The Telegraph Act And Broadcasting Regulation

Historically, State control of communication infrastructure and licensing has been based on the Indian Telegraph Act, 1885. It was more applicable to wireless communication and broadcasting than to specialised legislation. It marks a significant milestone in the broadcasting law in India.¹⁶

¹⁴ 2025 INSC 656.

¹⁵ 2023 SCC OnLine SC 366; 2023 INSC 324.

¹⁶ Indian Telegraph Act, 1885, No. 13 of 1885, s. 4.

ii. The Prasar Bharati Act, 1990

The Prasar Bharati Act, 1990 set up a statutory public broadcasting corporation for All India Radio and Doordarshan. It aims to inform, educate and entertain the citizens, to promote national unity and cultural diversity to provide public-service-broadcasting. The Act is an important step towards institutional autonomy in public broadcasting.¹⁷

iii. Role Of The Ministry Of Information And Broadcasting

India has a central government agency called the Ministry of Information and Broadcasting that is primarily charged with policy and administration relating to broadcasting. It is concerned with television, radio, cable, satellite television and public broadcasting institutions. Its regulatory duties need to be performed in compliance with the constitution's safeguards of media freedom.¹⁸

iv. Role Of Trai In Broadcasting Regulation

The Telecom Regulatory Authority of India (TRAI) was formed under Telecom Regulatory Authority of India Act, 1997, and plays a significant role in the regulation of telecommunication and broadcasting services. It addresses issues relating to tariffs, interconnection, quality of service and customer interests. It is also assumed a regulatory function in times of convergence of broadcasting and telecommunications.¹⁹

v. Cable Television Networks (Regulation) Act, 1995

The Cable Television Networks (Registration) Act, 1995 is an Act of Parliament that regulates cable television networks and prescribes provisions on registration and programme transmission. It also offers Programme and Advertising Codes for the control of objectionable material. The Act is still significant in controlling the conventional television broadcasting in India.²⁰

vi. Information Technology Rules, 2021 And Digital Media

The Information Technology Rules, 2021 have ushered in a regulatory regime for digital news publishers and online curated content. They have a Code of Ethics and three-stage

¹⁷ Prasar Bharati Act, 1990, No. 25 of 1990, ss. 12–13.

¹⁸ Government of India, *Allocation of Business Rules, Ministry of Information and Broadcasting*.

¹⁹ Telecom Regulatory Authority of India Act, 1997, No. 24 of 1997, s. 11.

²⁰ Cable Television Networks (Regulation) Act, 1995, No. 7 of 1995, ss. 3–6.

grievance redressal process for digital media. This is because of the growing convergence of traditional media and Internet based media which have made the Rules of relevance.²¹

7. LIBERALISATION AND COMMERCIALISATION OF BROADCASTING IN INDIA

Liberalisation of the broadcasting sector in India was a pivotal development in the transition from the State-controlled broadcasting structure to the present competitive and commercial broadcasting structure. Prior to liberalisation, All India Radio and the Doordarshan were the major players in the broadcast industry, which were run by government. Satellite television and the economic liberalisation of the 1990s made the Indian broadcasting industry open for private and foreign participation and foreign programmes. Private television grew quickly, offering viewers more options in news, entertainment, sporting and educational programming. This change also spurred investment, technological innovation and competition in the broadcast sector. But as it became commercialised it faced new regulatory issues around advertising, ownership, sensationalism and the quality of the news content. To regulate the rapidly growing sector of cable television and lay down guidelines for programme and advertisement content, the Cable Television Networks (Regulation) Act, 1995 was introduced. In parallel, the judicial decisions acknowledged the constitutional freedom of the media under Article 19(1) (a) of the Constitution, and at the same time, granted the possibility for reasonable regulation in the public interest. As such, liberalisation has promoted diversity in and competition among broadcasting firms, along with a need for good regulation to ensure that no broadcasting firm dominates and public interest is safeguarded.²²

8. REGULATION OF PRIVATE, SATELLITE AND DIGITAL BROADCASTING

The private and satellite television has significantly changed the Indian media environment. Satellite technology provided new opportunities for television to be distributed beyond local and national media and sparked a proliferation of private television stations. Such an expansion led to the need for licensing, content guidelines, and advertising and public order regulations. The Cable Television Networks (Regulation) Act, 1995 and the rules made under

²¹ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E).

²² Cable Television Networks (Regulation) Act, 1995, No. 7 of 1995.

it constitutes an important regime for the regulation of cable television and programme transmission. The Ministry of Information and Broadcasting has important administrative and policy duties regarding broadcasting and TRAI has important regulatory duties regarding broadcasting and telecommunications services. The regulatory framework has been extended to the digital news publishers and online curated content as the development of internet-based broadcasting has progressed. The Information Technology Rules, 2021 have laid down a Code of Ethics and three-tier grievance redressal mechanism for digital media. But, the regulation should be consistent with constitutional principles of free expression and freedom of speech guaranteed under Article 19(1)(a). The challenge now lies in ensuring a suitable balance among freedom of the media, technological innovation, and consumers' interests and legitimate governmental regulation.²³

9. BROADCASTING, OTT PLATFORMS AND DIGITAL MEDIA

Over-the-Top (OTT) platforms have revolutionized the broadcasting landscape in India, shifting the definition of traditional broadcasting. Unlike the traditional television, OTT platforms bring movies, web series, news and other AV content straight to users via the internet. With the advent of streaming services, consumers are no longer tied to traditional broadcasting networks, allowing them to choose from a wider variety of options. The convergence of broadcasting, telecommunication and digital media has also posed intricate questions of regulation to do with content standards, privacy, misinformation, intellectual property and accountability. The Information Technology Rules, 2021 have made a regulatory framework for news and current affairs publishers and online current affairs providers with a Code of Ethics and a grievance redressal mechanism comprising three tiers. However, the regulation of digital media should take into account the constitutional rights provisions on freedom of speech and expression in Article 19(1)(a). Either extreme of excessive government control or lack of government control can have a negative impact on media freedom, or be potentially dangerous with regard to harmful or misleading content. Thus, Indian regulatory regime aims to strike a balance between freedom and accountability and public interest. The growth of OTT and digital media shows that we need an approach to broadcasting that is technologically neutral and is constitutionally compatible.²⁴

²³ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E).

²⁴ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E), Part III.

10. EMERGING CHALLENGES IN BROADCASTING REGULATION

Digital technologies have brought about a radical shift in the broadcasting world, posing some regulatory issues for India. The traditional broadcasting regulation now must deal with the problems created by the new media, artificial intelligence and cross-platform dissemination of user-generated content. Deepfakes, concentrated media ownership, national security concerns, defamatory content, and privacy violations are all examples of factors that can directly impact democratic discourse and individual rights through the impact of fake news. Meanwhile, undue regulation could also curb freedom of speech and expression under Article 19(1)(a) of the Constitution. Hence, the regulatory regime has to strike a balance between media freedom, media innovation and public interest and public accountability.²⁵

i. Fake News and Misinformation

Misinformation and fake news have become a big problem for responsible broadcasting and democratic communication. It is possible that the dissemination of false or misleading information via television, social media, and digital media news channels can have a quick impact on public opinion and cause social tension. The challenge is to identify the difference between disinformation and real-life reporting mistakes. Ensuring the accuracy, verification and accountability, therefore, requires regulation that does not impose undue limitations on legitimate criticism or dissent. To broadcasters and digital publishers, it's a very important responsibility to verify information before dissemination. The harmful effects of misinformation can be minimised through effective complaints processes, media literacy and clear remedial steps involving correction.²⁶

ii. Artificial Intelligence and Deepfakes

Artificial Intelligence has posed new challenges with the automation of content creation and synthetic media and deepfake technology. Deepfakes are capable of altering images and videos, as well as voices, to produce very realistic fake images of people. In broadcasting, or digital media, these can damage the reputation, misinform, and influence public opinion. It is difficult to tell if the content is sophisticated because traditional regulatory measures are not effective. Disclosure should thus be encouraged, harm caused by synthetic content should be detected and removed by platform accountability and regulation. Simultaneously, the potential

²⁵ Constitution of India, art. 19(1)(a) & (2).

²⁶ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E).

of AI in the field of journalism, education and creative expression must not be misappropriated. It is important to strike a balance to ensure innovation and public interest are safeguarded.²⁷

iii. Media Ownership and Concentration

The mass media plurality and diversity is a very serious problem pertaining to the concentration of the media. If several different companies own a number of the TV channels, newspaper outlets and digital platforms or distribution networks, there could be an opportunity for undue influence on public discourse. Concentrations may lead to limited variety of opinion and risks of monopoly control or of cross-media control. The regulatory regime in India in the broadcasting sector thus needs to be focused on ownership arrangements, competition and public interest. The goal of the regulation must not only be to foster economic competition but also maintain the plurality of media in a democratic form. Clear indications of ownership and adequate safeguards against competition can help to ensure a diverse, independent and accessible broadcasting sector for the benefit of different parts of society.²⁸

iv. National Security and Broadcasting Freedom

The promotion of freedom of expression can sometimes be at odds with concerns of national security, public order and sovereignty. Information and AV about military operations, terrorism, communal tensions or sensitive security issues could have repercussions other than those of ordinary communication. Under the terms of Article 19(2), the freedom of speech and expression can be subject to reasonable restrictions when these are necessary for the "sovereignty and integrity of India, security of the State and public order. But the restrictions have to meet constitutional conditions and not serve as a tool for banning constitutional criticism. There is therefore a challenge for the broadcasting regulation, to protect national security and at the same time to maintain independent journalism, public debate and democratic accountability.²⁹

v. Privacy, Defamation and Reputation

There may be an impact on an individual's privacy, dignity and reputation, especially when personal information or allegations are broadcasted. Unsavoury reporting, leaking of confidential information and misinformation can have significant reputational consequences.

²⁷ Ministry of Electronics and Information Technology, *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*, as amended.

²⁸ Competition Act, 2002, No. 12 of 2003, ss. 3–4.

²⁹ Constitution of India, art. 19(2).

Responsible journalism is also a valuable public good in revealing the wrongdoing and informing the public. Under Indian constitutional law, privacy is recognized as a fundamental right under Article 21 and defamation could lead to legal liability under the law. It is, therefore, incumbent on the broadcasters to observe the principles of verification, fairness and proportionality. The rules governing such activities should ensure that the rights of individual citizens to dignity are safeguarded, yet not unduly curtail legitimate investigative journalism and public-interest reporting.³⁰

vi. Content Regulation and Platform Accountability

With broadcasting now broadcasted in TV channels, websites, OTT video services and social media services, the regulations have grown more complex. Unlike broadcasting, there is no editorial system when people use digital platforms to share content. The Information Technology Rules, 2021 have mandated obligations for digital news publishers, online curated content with a Code of Ethics and grievance redressal mechanism. Platforms need to have clear regulatory policies and to offer users easy access to reporting systems for unlawful or harmful information. The accountability of the platforms, however, should not infringe upon freedom of speech and should not allow for arbitrary censorship. The regulatory framework should be clear, fair and consistent and should be based on the principles of the Constitution.³¹

11.CONCLUSION

The development of Broadcasting Law in India has been an ongoing phenomenon of interaction between constitutional freedoms, technological development and regulatory needs. In the past, broadcasting was under the control of the state, and today, it has seen a tremendous change with the emergence of private television, satellite communication, OTT platforms and digital media. The constitutional right to freedom of speech and expression guaranteed under Article 19(1)(a) forms the basis for the freedom of broadcasting and Article 19(2) allows reasonable restrictions on the freedom of broadcasting in the interests of sovereignty, security, public order, decency and other constitutionally recognised grounds. Judicial rulings have played a major role in the recognition of broadcasting as an important medium of dissemination and reception of information, such as in the case of *Secretary, Ministry of Information and Broadcasting vs. Cricket Association of Bengal*.

³⁰ *K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

³¹ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Part III.

The statutory framework has also evolved over the years with the Prasar Bharati Act, 1990, Cable Television Networks (Regulation) Act, 1995, Telecom Regulatory Authority of India Act, 1997 and the Information Technology Rules, 2021. The legislative and regulatory measures reflect the State's efforts to strike a balance between media freedom and public interest, consumer protection and responsible dissemination of information. But technological convergence has posed new problems which are not suitably solved with the old broadcasting legislation. A flexible and technologically neutral regulatory response is needed to tackle fake news, misinformation, artificial intelligence, deepfakes, media concentration, privacy breaches, defamation and national security issues.

The balance between freedom and accountability is thus crucial for the future of broadcasting regulation in India. Regulations should not be prescriptive or overly restrictive to legitimate journalism and democratic criticism and broadcasters and digital platforms should be held to account for illegal and harmful content. By enhancing transparency, independent regulation, effective complaints management systems, media education and responsible use of new technologies, the broadcasting system can be reinforced. In sum, a constitutionally acceptable broadcasting regime should ensure plurality, diversity, access to information and responsible communication as well as respect for the rights and values of individuals and democracy. A regulatory framework that allows for innovation, while also maintaining freedom of expression, public interest and the integrity of democratic discourse is needed in India.

BIBLIOGRAPHY

A. BOOKS

1. M.P. Jain, *Indian Constitutional Law*, 8th ed., LexisNexis, Gurgaon, 2018.
2. V.N. Shukla, *Constitution of India*, Eastern Book Company, Lucknow, 2022.
3. D.D. Basu, *Commentary on the Constitution of India*, LexisNexis, New Delhi.
4. Rajeev Dhavan, *Only the Good News: On the Law of the Press in India*, Manohar Publishers, New Delhi, 1992.
5. Keval J. Kumar, *Mass Communication in India*, Jaico Publishing House, Mumbai.
6. Denis McQuail, *McQuail's Mass Communication Theory*, 6th ed., Sage Publications, London, 2010.

B. ARTICLES

1. Rajeev Dhavan, "The Constitution and Freedom of the Press," *Journal of the Indian Law Institute*, Vol. 15, 1973.
2. Soli J. Sorabjee, "Freedom of Speech and Expression and the Press," *Journal of the Indian Law Institute*, Vol. 26, 1984.
3. Monroe E. Price, "The Market for Loyalties: Electronic Media and the Global Competition for Allegiances," *Yale Law Journal*, Vol. 104, 1994.
4. Jack M. Balkin, "Digital Speech and Democratic Culture," *New York University Law Review*, Vol. 79, 2004.

D. STATUTES AND RULES

1. The Constitution of India, 1950.
2. The Prasar Bharati Act, 1990.
3. The Cable Television Networks (Regulation) Act, 1995.
4. The Telecom Regulatory Authority of India Act, 1997.
5. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.
6. The Telecommunications Act, 2023.

E. WEBSITES

1. Ministry of Information and Broadcasting, Government of India.
2. Prasar Bharati.
3. Telecom Regulatory Authority of India (TRAI).
4. India Code.
5. Supreme Court of India.