

The historical perspective of mass media laws media essay



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Mass Media laws in subcontinent have a long history and are deeply rooted in the country's colonial experience under British rule. The earliest regulatory measures can be traced back to 1799 when Lord Wellesley promulgated the Press Regulations, which had the effect of imposing pre-censorship on an infant newspaper publishing industry. The onset of 1835 saw the promulgation of the Press Act, which undid most of, the repressive features of earlier legislations on the subject.

Thereafter on 18th June 1857, the government passed the 'Gagging Act', which among various other things, introduced compulsory licensing for the owning or running of printing presses; empowered the government to prohibit the publication or circulation of any newspaper, book or other printed material and banned the publication or dissemination of statements or news stories which had a tendency to cause a furore against the government, thereby weakening its authority.

Then followed the 'Press and Registration of Books Act' in 1867. Governor General Lord Lytton promulgated the 'Vernacular Press Act' of 1878 allowing the government to clamp down on the publication of writings deemed seditious and to impose punitive sanctions on printers and publishers who failed to fall in line. In 1908, Lord Minto promulgated the 'Newspapers (Incitement to Offences) Act, 1908 which authorized local authorities to take action against the editor of any newspaper that published matter deemed to constitute an incitement to rebellion.

Thus, although the freedom of the press is guaranteed as a fundamental right, it is necessary for us to deal with the various laws governing the different areas of media so as to appreciate the vast expanse of media laws.

Media laws in Pakistan through different regimes:

Political instability in Pakistan affected the Media tremendously. All branches of media were affected but print media suffered badly. Although, it was declared many times in constitution that “ freedom of speech and expression” would be provided to the media. However, this rule was never truly implemented and many political leaders banned the press during their regime. In the constitution of 1956, an article specifically devoted to freedom of speech was included. The 1956 Constitution lasted less than three years and was abrogated by the imposition of martial law in October 1958. In 1962, with the removal of Martial law a new constitution was enforced which continued the recognition of an initial concept of freedom of expression. But in reality, a military ruler imposed the constitution, which was completely devoid of laws of freedom. However, the strong reaction of press and the public resulted in Constitutional Amendment No. 1 to the 1962 Constitution and in 1963; the Press and Publications Ordinance (PPO) came into being. PPO contained the harshest of laws curtailing freedom of expression and the progressive development of the media. But soon in March 1969, General Yahya Khan imposed martial law and relied heavily on one of the measures of this ordinance, the system of “ press advice” given out by the Ministry of Information and Broadcasting in order to avoid publication of news and reports deemed unsuitable for public consumption. During this period, newspapers and magazines known for their independent and progressive

views were taken over by the government. Eventually the National Press Trust, created in 1964, took over these journals and acted as a front to control a section of the press.

Promulgation of the Western Pakistan Maintenance of Public Order Ordinance had the aim was to consolidate into one law different provisions for “preventive detention of persons” and “control of persons and publications for reasons connected with the maintenance of public order” and refine and reinforce the mechanism of repression. With amendments in 1963 and 1964, this law empowered the government to ban the printing of publications, to enter and search premises, and to prohibit import of newspapers, among other measures. These powers have been used by succeeding governments’ right up until the government of Musharraf.

In 1961, the government also took over the principal news agency of the country, the APP, to get a strong grasp of media, arguing that “administrative and economical breakdown” justified such a move. Instead of giving permission to private enterprise to improve the quality of the news agency, the government saw this as an opportunity to suppress the news that were supplied to the print media, to radio, and to the outside world.

In spite of such repressive times, the press took a bold stand by providing alternative sources of news through an independent press and in this way press started a rebellion against government.

During the regime of Zulfikar Ali Bhutto, a President and Pakistan’s first civilian Chief, government reacted very strongly to criticism by various

members of the press, and to suppress free voices imprisoned editors and publishers on the pretext of national security.

The next five years represented the beginnings of democracy; however, they were spoiled by repressive actions toward the press. The new constitution, although formulated on the principles of democracy, human rights, and freedom of speech, failed to serve the purpose. The PPO remained, as did the National Press Trust. Moreover, through compulsion and manipulation, the government insured that the only other news agency in the country (besides the government-owned APP), the Pakistan Press International (PPI), was brought under its authority.

In 1977, with the implementation of martial law abuse of journalists became public rather than covert. Journalists were flogged in public at government's notion and until August 1988 mass media gone through a stunning oppression. The only positive fact of this era was the restoration of the news agency PPI to its original shareholders. Since then PPI provides a valuable alternative news source to the government-controlled APP.

In December 1985, the new democratic political figure came into power but that relied on the old media laws.

A caretaker government provided transition to a full-fledged democracy, which included repealing the press law that had pressurized the media for so long.

A new law, known as the Registration of Printing Presses and Publications Ordinance was installed in 1988. A key change in this law was enforced to

stop government from intrusion in media. District Magistrate was supposed to issue a receipt to an applicant for the issuance of a declaration for the keeping of a printing press or the publication of a journal to provide the applicant with proof that would help avoid government interference.

The most significant change or difference made by press law of 1988 was that governmental influence on media was reduced to a minimum limit and appeals were also now allowed. In addition, newspapers were given freedom and no longer obligated to publish in full the press notes issued by the government authorities.

However, as representative bodies of the press wanted to revise the law of 1988 for a variety of reasons, so this press law continued to be re-promulgated as a decree through 1997, even though the Supreme Court ruled such re-promulgation illegal.

The November 1988 elections brought with them a new phase of liberalism toward the mass media laws and regulations. During the rule of Prime Minister Benazir Bhutto, freedom of Expression and thought was uprising. But due to enormous political pressure and stress, media returned to the old, one-sided coverage after only four months. The free press grew stronger during this phase; and exhibited a new spirit in reporting the news and in analyzing the current affairs. Ministry of Information allowed a free and open system of importing newsprint at market prices.

In 1990, with the dissolution of Benazir, s government, the new Prime Minister, Nawaz Sharif, took over and restored the issuance of permits system for news-print import for some unknown reasons.

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During this phase, government put sensational pressure on independent journalists, using both covert and overt means of revenge. To be honest, media was truly oppressed and tyrannized.

In May 2000 Musharraf's regime was strengthened by a unanimous decision by the Supreme Court to validate the October 1999 coup as having been necessary; at the same time the Court announced that the Chief Executive should name a date not later than 90 days before the expiry of the three-year period from

In 1999, Musharraf's administration seemed to follow a more open minded policy towards the press with fewer restrictions and much less exploitation. However, some sources reported continued harassment of and dangers to journalists.

Mile stones:

1997: Nawaz Sharif overpowered Benazir Bhutto in the elections and activated a two-and-a half year reign of terror against the press.

1999: General Pervez Musharraf brought down Sharif, suspended the constitution, and declared martial law; Press harassment was reported and government agents raid the country's most influential newspaper, Jang, because it was too critical of the government.

2001: Government introduced legislation to create a Press Council and new press laws.

2002: Journalists supported idea that the freedom of Information Ordinance Act allowed access to public records and details of decisions made by superior courts, armed forces, financial institutions, and intelligence agencies.

2010: Government could not check media outburst due to globalization. Many media officials and experts have now decided to suppress ' media terrorism' by banning the display of bloodshed and massacre.

Current situation:

Presently, government has failed to check or ban media from spreading information because of intense technological advancements. Now nothing can remain hidden because of vast network of internet. Every person has free excess to the news around the globe.

Requirement of media laws:

As far as the question that ' is it necessary to call for media laws?' is concerned we can easily say that ' laws' absolutely necessary for the proper functioning of any organization as they help to maintain check and balance. Following arguments prove the significance of media laws:

- 1) Media sometimes crosses the limits and does more than enough, in order to stop this there should be a check/law.
- 2) We often hear much about fundamental human rights on media, but by exhibiting violation of these rights media itself violates human rights. That thing also needs to be suppressed.

3) Personal and communal privacy is highly affected by media. No secret remains secret because of media globalization. Some things happen to worth keeping private so to protect privacy law is essential.

4) The owner of the product is responsible that in case the product is provided to be used by somebody else, that this user is in compliance with the above rules and regulations and agrees to not mention, comment, state or otherwise discuss anything about the respective product.

A corresponding law may need to govern import restrictions so that ANYTHING, product or service or even visitors to the respective country need to sign when entering the respective country to obey to this law.

Media legislative bodies in Pakistan:

The Authority or government is responsible for assisting and regulating the establishment and operation of all private broadcast media and distribution services in Pakistan established for the purpose of international, national, provincial, district, and local or special target audiences.

Government has made special organizations to deal with media. New legislation has been planned for the formation of Press Council. Pakistan Electronic Media Regulatory Authority and Ministry of information are two famous lawmaking bodies in this country.

CENSORSHIP:

Censorship is considered very important in perspective of media. It holds same significance for media as a bridle for a horse. It keeps media in limits. A governmental organization censors anything that is considered morally corrupt. But as an old latin phrase states “ WHO WILL GUARD THE GUARDS”, here comes a point that who will suggest that something is ‘ morally’ crooked?

Code of ethics is one thing which will help here. All laws of censorship are meaningless without the code of ethics.

Government of Pakistan has tried very hard to implement laws of censorship. But this is crystal clear that Pakistani censor board has awfully failed to do so. The reason definitely is the stark absence of code of ethics.

Censorship saturates journalism history in Pakistan; certainly, the blackest censorship period came during General Zia’s 10-year military regime. Almost all journalists recall that as an era of thorough control. Government used most subtle means of censorship. It specified that whoever “ contravenes any provision of this regulation shall be punished with rigorous imprisonment which may extend to ten years, and shall be liable to fine or stripes not to exceed twenty-five.” Sharif used additional means to ensure press observance. He used intelligence operatives to penetrate newsrooms and press unions and sent many spies doubling as reporters, and journalists moonlighting as government agents, trust became difficult for all.

PRESS LAWS:

“ Our freedom depends in large part, on the continuation of a free press, which is the strongest guarantee of a free society.”

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– Richard M. Schmidt-

Constitutional Provisions & Guarantees

An article in constitution Pakistan provides freedom of speech and fundamental rights, this piece of writing refers especially to press and is given below:

Article 19, Freedom of Speech:

Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offense.

The Constitution ensures the freedom of expression and freedom of the press with “reasonable restrictions” that may be forced by law. Judiciary holds the responsibility to determine parameters of the permissible freedoms and the extent to which media should be restricted. The judiciary can serve its purpose only if it is independent and free of any political, social and communal pressure. It is a general observation that judiciary accommodates the freedom of expression and information, and wants to fortify the mass media. But government officials and big guns often have great influence on judiciary or to be more precise, we can say that the courts are directly controlled by them. The reason perhaps lies in the fact that the president controls the selection, transfer, and tenure of judges. Especially when any military dictator gets control of government, judiciary bears the burnt of

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disturbance. The incident that happened in January 2000, when Musharraf required all judges to take an oath of loyalty to his regime the Supreme Court Justice and five colleagues refused, is the best example of government control on judiciary.

The constitution also sketch outs the power of the president to promulgate decrees and to set aside fundamental rights during an emergency period when his own interest comes in question.

Musharraf's military coup on October 12, 1999, led to such an annihilation of fundamental rights and violation of laws when he suspended constitution and assumed the additional title of Chief Executive, appointed an eight-member National Security Council to function as the supreme governing body of Pakistan and dissolved both the Senate and the National Assembly.

On May 16, 2002, the Minister of Information, along with the Council of Pakistan Newspaper Editors and the All Pakistan Newspaper Society, released drafts for the legislation for comment and debate. Newspaper editors also urged that the Freedom of Information Act and the amended Registration of Printing Press and Publication Ordinance be promulgated by the government, along with the Press Council Ordinance. The International Press Institute (IPI) identified major concerns including the desire to create a quasi-judicial body without proper procedures in place to provide fairness and equity. The IPI also expressed reservations about the proposed composition, financing, and the terminology used in describing the ethical code, and made a number of recommendations for improving the draft ordinance.

The PFUJ and the APNEC reacted in similar ways to the proposed legislation. In a joint statement issued on the eve of World Press Freedom Day, leaders of the two organizations said they regretted that the Press and Publication Ordinance against which the journalists' community had striven for almost two decades had once again been revived and newspapers were being closed down under the same black law. The statement said fresh attempts in the shape of the Press Council were being framed by Musharraf's government to silence the voice of the print media in the country. They said the PFUJ and APNEC had already rejected the idea of setting up the council and that news people were still being subjected to different pressure tactics, including threats to their lives. They demanded that the government repeal more than 16 black laws, including the Press and Publication Ordinance, and to insure implementation of the labor laws by ending exploitation of the working journalists and newspaper workers. They also called for enforcing the Freedom of Information Act to ensure easy access to information.

The only other press laws in effect while the current proposed press laws are under review are general ones prohibiting publication of obscene material, inciting religious, parochial, or ethnic provocations, and anti-defamation provisions.

Foreign Ownership of Domestic Media:

Due to continual foreign intervention previous press laws included provisions restricting foreign ownership in the press. The law specified that a non-inhabitant of Pakistan could hold shares in any newspaper only with the approval of the government and only if such chipping in ownership should not be more than 25 percent of the entire proprietary interest. Currently, <https://assignbuster.com/the-historical-perspective-of-mass-media-laws-media-essay/>

there is no such information on foreign ownership provisions in the proposed new press laws.

Summing up:

Pakistan's chaotic history, coupled with its ongoing political and economic crises, places the press in the position of informing the citizenry while also providing a check on the powers in office. Since its founding in 1947, Pakistan has suffered three periods of martial law and two military dictatorships, nevertheless the press goes on. The freedoms that insure the existence of the press are contained in Pakistan's constitution, which remained suspended in 2002, and yet the press lasts and continues to safeguard those freedoms. Over the years members of the press have been arrested and jailed, have had their offices raided and ransacked, have been publicly flogged, and severely censored, tortured and pained. But the press still persists and has a stronger voice today than ever before.

Members of the Pakistan press must work diligently to have their voices heard in the government's attempt to create a Press Council and new press laws.

Problems facing the Pakistan press are not new, nor are there any quick fixes to them. Recent arrests of respected Pakistani journalists have spurred concern. Pakistan is dependent upon foreign aid, however, and is thus vulnerable to international pressures, which should help the plight of journalists being abused. In addition, a new generation of female editors who are sensitive to the abuses otherwise ignored by their male counterparts will undoubtedly help journalists and human rights victims.

Conclusion:

In this age of media explosion, you cannot simply remain restrained to the boundaries of the traditional media. The media world has expanded its dimensions by encompassing within its orbit, the widening vistas of cyber media etc.

The word 'law' with media reminds us of a ferocious horse who has been forced to follow certain predetermined pathways, but as it seems nearly impossible to control the horse so the case of media is just like that. The more you try to organize the horse the more you get in trouble.

But here are other ways to overcome the trouble; instead of dealing with the problem by force we'd better put it in some sensible hands. It means, we'd control media with code of ethics and morals rather than with laws or force.