**LEGAL PROVISIONS FOR ONLINE JOURNALISM: AN OVERVIEW**

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***Abstract:***

In simplicity, a democratic society is an ecosystem wherein power and civic responsibilities are exercised by all citizens directly or through legitimatelyelected representatives, thus media through journalism plays an essential role as the ‘fourth pillar’ of democracy by giving voice to the people and ensuring active and vigilant participation.Journalism has the power to sway, manipulate, and revolutionize the masses either positively or negatively, thus it is essential to have a legal framework to protect ‘journalists’, so they can actively exercise their right to freedom of speech.Free media beingthe sine qua non to democracy[[1]](#footnote-2), online platforms become essential as a medium to not only express one’s opinions and views, but it is also instrumental for building point of views and thoughts on numerous topics of regional, national and international interests, thus, calling for additional safeguards. Through a ‘twin approach’ in this paper, we shall analyze the meritocracy of journalism in an online sphere, legal provisions facilitating such journalism, impediments, case studies, and lastly the move forward for a more democratic society.

**Keywords:** *Online Journalism, Digital, Harass, Media, Democratic society, Social*

**INTRODUCTION**

“The demi-world of journalism is like the funhouse of mirrors that one finds in carnivals. In one reflection you are too fat; in another, you are absurdly thin; in another reflection, you appear to have an elongated neck; in another, a flat head- in still another you have next to nobody. Yet there you are, standing in front of these bizarre reflections, *fully* formed and hearing little resemblance to any of the images before you.*[[2]](#footnote-3)*” –John Hofess

As rightly said by writer John Hofess, one of the fundamental characteristics of journalism is its significant role in shaping a person’s thought process while also giving a voice to the oppressed i.e. Journalists fame issues and present the corresponding side to those issues, in this manner, journalists help provide the public at large with the information needed for intelligent public discourse on various contemporary socio-political and economic predicaments[[3]](#footnote-4).However, with the advent of digitalization and creation of the ‘cyberspace’ as postulated by sociologist Marshal McLuhan, there is a heightened integration and binding of society through the creation of a single community of faith or ‘global village’ which could together see major world events unfold[[4]](#footnote-5). To exemplify- it has become possible to understand the socio-political or economic conditions of any faraway country by the touch of our fingertips through the online sphere. Thus, the online sphere becomes a vast open-space wherein the exchange of information facilitates the exchange of thought. The digital revolution in the post-industrial world gave scope to ‘Digital journalism’, also known as ‘online journalism’, which is considered a contemporary form of journalism where editorial content is distributed via the Internet, as opposed to the traditional publishing medium of print or broadcast[[5]](#footnote-6).Such a form of journalism has become popular amongst ‘GenZ’ or the current youth as it enables them to voice their opinion with minimal resources, does not require stringent educational qualifications, low distribution costs, the minimal barrier of entry, and thedemocratizedflow of information[[6]](#footnote-7). In addition, the hindrance of space does not pose a problem as the online sphere is vast and has limitless space for information unlike newspapers or magazines which have fixed space,the use of multimedia elements make information through online journals more appealing, readable and interactive and lastly, it is quick and convenient- there is no overnight printing and distributing process- any individual can access the information at the top of their fingertips. Especially during the ‘pandemic’ when most individuals are either homeschooling or working from home are always active on social platforms which makes the effectiveness of online journalism another element to its persistence in today’s social world. The major difference between online journalism and traditional journalism lies in the fact that it reconceptualized the role of the reporter in relation to its audiences i.e. through online journalism you no longer physically present yourself but rather share your opinions or report an incident on a real-time basis in open-all access platform like Twitter, Facebook, etc. through the following sections we shall understand the evolution of online journalism and its meritocracy in contemporary India.

**EVOLUTION OF JOURNALISM IN THE ONLINE MEDIUM**

In 1993, after the launch of the first web browser- Mosaic; Florida’s Journalism Department launched the first online journalism website. It was basic, static, and was only updates occasionally when the ‘mosaic’ was not in use by others. Seeing its potentiality, in 1994, UK’s Daily Telegraph launched the ‘electronic telegraph’, which was having a similar interface with articles on top of each other and posts once a day[[7]](#footnote-8). The success of the ‘electronic telegraph’ thus created a rather slow but eventful form of digital or online journalism and in 20 years hence, with rapid technological advancement and shift towards the participatory web and social media, there arose the specific branch of ‘online journalism’. The initial reluctance of consumers to employ journalistic sites was eventually replaced with unfettered enthusiasm, such that these days no individual remains without a Facebook, Twitter, or a social media account. In the contemporary context, with the expanding readership of e-newspapers, e-magazines in English and vernacular languages due to the use of advanced modern technologies like machine learning and artificial intelligence for disseminating news to relevant individuals has given digital journalism an unprecedented role in shaping popular opinion[[8]](#footnote-9).As noted by the Odyssey, journalists are not simply writers, editors, or news anchors. Rather they are essentially the watchdogs of society and are the most visible proponents of the freedom of the press, meaning that journalists are not subject to censorship by the government. This also means that prior restraint, which is an attempt to keep a story from being published or broadcast, is also prohibited. Thus, by their very jobs, journalists are preserving the right to free speech in the country, this makes them prone to threats and harassment for voicing sensitive issues that require the public eye[[9]](#footnote-10).

**ONLINE HARASSMENT FACED BY JOURNALISTS**

*“For a long time, I told myself: it’s the price you have to pay.But that doesn’t mean it has to go unpunished”–Victim of Online Trolls*

The most common form of online harassment is ‘trolling’- starting flame wars or intentionally upsetting people on the internet by posting inflammatory, digressive, extraneous, or off-topic messages in an online communitywith the intent of provoking readers into displaying emotional responses and normalizing tangential discussion to achieve a specific result such as disrupting a rival's online activities or manipulating a political process[[10]](#footnote-11). As per internet statistics, the highest volume of trolls lie in the ‘political’ sphere supporting political ‘ideologies’, In India, trolls who have been dubbed “Yoddhas” by PM Narendra Modithreaten and insult journalists and flaunt their hostility towards women, minorities, anduntouchables. Calling themselves “Proud Hindu,” “Bharat Mata Ki Jai” or “Desh Bhakti to spread rightwing propaganda of ‘Hindutva’, Sadhavi Khosla, a young businesswoman, decided to work for Narendra Modi’scampaign in 2013. Arvind Gupta, who at that time ran the IT unit at Modi’s Bharatiya Janata Party (BJP), received her in his office “surrounded by largescreens displaying data about social network activities and trends in real-time.” He gaveher a “hit list” of journalists to target. For nearly a year, including several months afterModi’s election victory, she spent her days on social networks relaying harassmentmessages under the party’s orders. All this was exposed in *“I am a Troll”*[[11]](#footnote-12), abest-seller by Indian journalist Swati Chaturvedi that described how the authorities usesocial networks to circumvent the media. In the contemporary context, this has become quite a frequent phenomenon, as exposed in the movie *“The Social Dilemma”*, political parties across the world use social media platforms like Pinterest, Facebook, and Twitter to subtly spread their propaganda by manipulating the digital algorithms[[12]](#footnote-13), and in extreme cases to suppress voices use such beleaguer means. A report entitled *“Women’s rights: Forbidden subject”* highlightedthe fact that women journalists are one of the leading targets of trolls[[13]](#footnote-14),in a study of thousands oftweetsthe British think-tank Demos found that journalism was one of the categories in which womenreceived more insults like “Slut”, “Rape” and “Whore” than men. Danielle Keats Citron, a law professor at the Universityof Maryland, says that in gender-based cyber-harassment, the “victims are women” and, in the case of womenjournalists, “the threats are sexual and degrading” this includes sending explicit photos, questionable“jokes,” misogynistic comments, the use of nicknames,and doctored photos along withnon-consensual pornographyused as a tool to intimidate women journalists[[14]](#footnote-15).Online harassment of journalists can be done by various mediums from using social bots to non-consensual pornography and hashtag poisoning or email bombing, Such online harassment upon journalists aren’t only initiated by political parties, big corporations, and common layman but even terrorist organizations, for instance, In 2014, the Islamic State disseminated a video on the web that showedthe beheading of American journalist James Foley who had been kidnapped in Syriawhile covering the uprising against Bashar al-Assad. The propaganda videowas then used to intimidate journalists working in the region, Rukmini Callimachi,a New York Times correspondent and NBC contributor, has been one such target of thisintimidation tactic. The terrorists mentioned her on Twitter while disseminating the Foleyexecution video,she was also being targeted by cyberattacks and doxxing – with herpersonal information pirated in order to threaten and intimidate her[[15]](#footnote-16). According to the “World Press Freedom Index” which is conducted by RSF- Reporters Sans Frontieres uses parameters like pluralism, media independence, self-censorship, transparency, legislative framework, etc. to analyze abuses and acts of violence against journalists and their freedom to carry out ‘journalism’ in countries.The index ranks India at 142nd out of 180 countries dropping 2places from last year (2019), this is due to pressure on media to accept the nationalist governments ‘Hindu line’, coordinated hate campaigns waged on journalists at social networks during the discourse of ‘Hindutva’ and constant press freedom violations by police, political activists and corrupt local officials, furthermore The curfew and lockdown measures imposed by the government during the COVID-19 pandemic has further increased the dependency of people on the internet for workand information, putting many vulnerable groups including women further at risk[[16]](#footnote-17). Instringent governance regimes journalists are harassed through the online medium by an invasion of privacy, in essence, After the military coup d’etat of 2014, the military organization- National Council for Peace and Order (NCPO)invited citizens to becomethe government’s eyes and ears by training students to be‘cyber-scouts’ to monitor and report online behavior capable of threatening nationalsecurity. Ad interim, regime supporters are conducting social media campaigns to identify and denounce users– human rights defenders, dissidents, independentjournalists – who voice the slightest criticism of the regime[[17]](#footnote-18). Lastly, journalists face online harassment by spreading fake news about them, for instance, In 2013, Turks took to the streets to protest againstPresident Recep Tayyip Erdogan, the response by AKP- the rulingparty, included the formation of a 6,000-strong troll army dubbedthe “AK Trolls” or “White Trolls,” from the party’s acronym which alsomeans “white” or “clean” and they would tend to hack accounts of integral journalists and consequently spread fake news and posts influencing the unaware lot and arousing a sense of ‘prejudice’ to a certain thought[[18]](#footnote-19).

**COMBATING ONLINE HARASSMENT OF JOURNALISTS**

At an institutional level strengthening laws and expanding the legal realm into the online sphere remains crucial along with the systematic implementation of these laws by the executive with the impartial and unprejudiced investigation and trial. The government must integrate the system of platform responsibility- the curation of content shared on social media platforms, transparent algorithms, and moderation policies that are in line with the freedoms of speech and expression must be implemented. On social media, in case of harassment, we can ‘report’ and ‘block’ a user, however, the user can make a different account and continue harassing anonymously with ease thus, there must be a robust system such that perpetrators are stopped and recovery procedure to cyber-harassment victims are provided be it psychological aid, restitution or removal of content from the internet. After the ‘boys locker room’ incident, there is a clear need to strengthen digital education and enlighten potential ‘trollers’ about the legal liability of their acts. At the International level, as the menace of online harassment especially against journalists, persists across the globe countries must encourage multidisciplinary international research on operating methods and responses to cyber-harassment. Likewise, conventions like *“Additional Protocol to the Council of Europe’s Convention on cyber criminality”* must be signed and ratified[[19]](#footnote-20). At times to prevent online harassment there would be encroachment into the sphere of ‘freedom of speech’ thus, organizations must urge governments to uphold the principle that “the same rights that people have offline must also be protected online”. Online platforms must be transparent in moderating the content on their socials and establish a victim-centered emergency alert system for journalists who are targeted by online threats and lastly must develop communication and awareness campaigns concerningonline violence.

**LEGAL PROVISIONS TO PROTECT THE VOICE OF JOURNALISTS**

The role of journalism in a democracy is well acknowledged and its importance has been increased in this tech-savvy globalized world wherein there is free access to ‘cyberspace’. Despite the downfalls of digital journalism and the hurdles faced, online journalism plays an irrefutably positive for bringing the accused to the hook and ensuring there is an accountable system. To exemplify- The active role of the media through its online platforms spreading the gross miscarriage of justice and people actively re-sharing such articles, posts and threadsbrought limelight to the PriyadarshiniMattoo rape case thereby overturning the trial court decision and ensuring a free and fair trial.The media’s strong criticismof online platforms over the decision of the court mounted pressure on the administration where it was later found that vital evidence had been overlooked while deciding the case. An appeal filed by the CBI resulted in the reversal of the earlier judgment and the culprit- Santosh Kumar, son of a going to be Additional Commissioner of Police who harassed a law student, raped and murdered her at her residence was sentenced to life imprisonment[[20]](#footnote-21). This was possible due to the robust legal provisions available to the press in our country like:

1. Article 19(1)(A) of the Indian Constitution[[21]](#footnote-22) proved for the freedom of speech and expression, despite ‘media’ or ‘press’ not specifically states by the precedents of case laws like *Romesh Thaper vs the State of Madras[[22]](#footnote-23)*,*Brij Bhushan vs The State of Delhi[[23]](#footnote-24)*, and *Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India[[24]](#footnote-25)*the Supreme Court interpreted the fact that the freedom of the press was an essential part of the right to freedom of speech and expression, by being of the view that media freedom is the heart of political and social intercourse as it takes the role of a ‘public educator’ and the motive of the press is to advance the public interest by disseminating facts and opinions withoutwhich a democratic electoratecannot make accountable judgments. Thus, providers of news and views having relevance on public administration very often carry substance which would not be flavorful to governments and other authorities- to prevent any backlash they must be protected with a strong legal framework. Every citizen is entitled to participate in the democratic procedure andin order to enable an individual to intelligently exercise his freedom of choice, free and public discussion with regards to public matters it's absolutely essential for him to have the right to voice his opinions without being suppressed.
2. The Maharashtra Media Persons and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017 became one of the first laws in the country which ensures the protection of journalists by making violence against journalists on duty a cognizable and non-bailable offense. This comes after the murder of journalist-activist Gauri Lankesh in 2017, the union home ministry had asked all states to ensure the safety of journalists in exercising freedom of speech and expression[[25]](#footnote-26). This reformative law enables journalists to carry out their duty and engage in discourse without being at risk of endangering their lives.
3. The Indecent Representation of Women (Prohibition) Act, 1986 prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner and for matters connected therewith or incidental thereto, and this ‘indecent representation’ could be any depiction of the feminine body in an indecent, derogatory denigrating manner which is likely to corrupt or injure public morals[[26]](#footnote-27). The act plays an essential role in ensuring there is no outraging the modesty of women in ‘advertisements’ or any other digital medium. The law is often enforced to tackle ‘deepfake’ videos used by trolls to harass individuals in the online sphere or when newspaper/journal publications highlight ‘oops or wardrobe malfunction moments’ of celebrities.
4. Sections of the Indian Penal Code (IPC), 1862[[27]](#footnote-28) such as Section 354D which punishes ‘stalking’ i.e “following a woman and contacting or attempts to contact such a woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman” and “monitors the use by a woman of the internet, email or any other form of electronic communication”, this protects journalists who often voice their opinions and highlight the blemishes of contemporary governance from an unintended invasion of privacy.In the case of*Shubham Bansal v. The State (Govt of NCT Delhi),[[28]](#footnote-29)* the accused created a false Facebook account in the name of Nidhi Taneja and included the telephone number of the victim, which caused her annoyance, insult, and harassment and, therefore an FIR was registered against the accused and the court held in favor of the petitioner.Section 507 of the IPC deals with criminal intimidation or threatening by anonymous communication. However, a shortcoming from the IPC lies in the fact that the vast digital spectrum does not adequately come within its ambit.
5. Information Technology Act, 2000[[29]](#footnote-30) is the primary law dealing with cybercrime andprovides a legal framework for electronic governance by giving recognition to electronic records and digital signatures.Section 66E penalizes the violation of a person’s privacy by intentionally capturing and publishing images of a private area of any person without his or her consent, while Section 67 penalizes a person publishing in electronic form, any material which is lascivious or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.In the case of *Sazzadur Rahman v. The State of Assam and Ors*[[30]](#footnote-31), the accused created a fake Facebook profile of a 15-year-old victim. In the fake profile, the accused mentioned the victim's name, uploaded obscene pictures, and posted some derogatory remarks against her, which caused her to be mentally unstable and hampered her academic growth- the accused was charged under Section 67B (child pornography).

Our country has one of the largest and fastest-growing presence on various social media platformscreating a vast audience for online journalism, these provisions play a significant role in protecting the freedom of speech as well as protecting the dignity and modesty of journalists in the toxic online sphere which can at times be filled with ‘trolls’ and unnecessary ‘hatred’. It should be important to note that such provisions should be utilized by journalists as a safeguard when-in their rights are violated, they mustn’t use these rights and provisions as a sword to stray down the wrong path. In the following sections, we shall perceive how these legislative provisions are used as a ‘sword’ instead of a ‘shield’ in the online sphere.

**ONLINE JOURNALISM AS A TOOL OF ‘MEDIA TRIAL’**

In many cases, the media has been justified in calling for the perpetrators to be punished in accordance with the law. However, recently the media has been taking over the functions of the judiciary and is deviating from its main role of unbiased reporting. The implications of the unaccountability of journalism are proving to be unhealthy for the democratic society. In contemporary times, instead of journalists being ‘public educators’ they have reincarnated into ‘JantaAdalat’ and to a great extent has started its interference into court proceedings. They have completely forgotten the principle of ‘presumption of innocence until proven guilty beyond reasonable doubt’ but rather follow ‘presumed guilty until proven innocent beyond reasonable doubt’. Reports and views of investigative journalistsreach the public at large swiftly through the online medium andmake forms a prejudiced opinion against or for a person much before the court takes cognizance of the case.. The pursuit of commercial interests motivates the use of intrusive newsgathering practices which tend to impede the privacy of the people who are the subject of such coverage, be it during the iconic car-chase scene asking actress ‘Deepika Padukone’ if she takes drugs or invading the privacy of accused individuals at their residence to get a ‘statement’. The same laws which are to protect journalists from stalking, harassment, etc. are abused to their advantage and in this manner, online journalism has resulted in the happening of ‘media trials’ or 'trial by media' which is a phrase that has been used widely in the last few decades to narrate the impact of television and print media coverage on a case, and its attempt in holding the accused guilty even before to his trial and regardless of any verdict passed by the court of law[[31]](#footnote-32). For instance, in the case of Sushant Singh Rajput, journalism ethics have been in controversy again,the tormenting eyes of the media have spiked the personal life of the main accused Rhea Chakraborty which has kicked in a fresh debate on the issue of the media trial. Every facet of her personal life and character which has no relation with the investigation of the case legally is under the public lens of scrutiny via online journalism, and the abuse, trolling, online harassment, etc. borne by her is inhumane[[32]](#footnote-33).In *R. Rajagopal v. State of T.N[[33]](#footnote-34)* case, the Supreme Court of India stated that freedom of the press has a wider scope to engage in uninhabited debate about the involvement of public figures in public issues and events. A proper balance of freedom of the press with the right of privacy, maintained with defamation has to be performed in terms of the democratic way of life and reiterated that ‘freedom of speech’ is not absolute and reasonable restrictions can be enforced.Online journalism has begun to stir a new menace, the issue of- ‘Fake News’, in lieu of getting more amount of ‘shares’, ‘likes’ or ‘retweets’ there is often exaggeration and sensationalization of information whichmiscommunicates the essenceand distorts reality thereby influencing the reader to think in a particular tailored manner. This results in the creation of the so-called ‘high court of Whatsapp’ and ‘supreme court of Twitter’ which have discourse based on incorrect facts. Another intrinsic flaw of online journalism is the underlying factor of encouraging ‘plagiarism’, as one cannot copyright his ‘tweets’ per se, individuals usually re-manufacture old popular ‘tweets’ to gain impressions. Lastly, there is no regulative and abiding ‘Code of Ethics’ in online journalism which makes the following of the principles of theHutchins commission out of the question[[34]](#footnote-35).

**SUGGESTIONS FORMOVING FORWARD**

*“Journalism can never be silent: that is its greatest virtue and its greatest fault. It must speak, and speak immediately, while the echoes of wonder, the claims of triumph, and the signs of horror are still in the air.” –* Henry Anatole

With rapid digitalization and technological advancements, online journalism has become a necessary evil and despite its drawbacks it irrefutably has positives like convenient and easy dissemination of information, the capability of influencing perspectives, heightening the integration and binding of society by way establishing anonymous relationships and strengthening citizen participation in public affairs and upholding the democratic spirit. To ensure the hurdles are overcome there must be an established and stringent ‘Ethical Code of Conduct’ which prevents yellow journalism[[35]](#footnote-36) i.e.a style of newspaper reporting that emphasizes sensationalism over facts, rather there must be clear-cut rules of transparency and accountability for publishes, high level of professionalism even on social platforms, impartial and accurate reporting and self-regulation.

**CONCLUSION**

Online Journalism plays a key role as a gatekeeper and in revealing corruption or inadequacies in government workings and exposing out the government's inaction on many occasions to the limelight. It is indisputable that in many dimensions the unprecedented digitalization that has resulted in online journalism has brought about great gains for the general public. Even the judiciary has benefited from the ethical and fearless journalism at times which enabledthe taking of Suo-moto cognizance of the matters in various cases like that in PriyadarshiniMattoo rape case. As we review online journalism in a twin approach, we understand that there is online harassment faced by journalists online however, robust legislations have been drawn and established to ensure justice and remedy against such harassment, but at times journalists take advantage of such legislations to leverage themselves to a point wherein they begin to harass in the veil of ‘journalism’ online. The need of the hour is to establish an effective ethical code of conduct, deviate from ‘yellow journalism’,and not exploit the fundamental freedom of speech and expression as an absolute right.

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