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Self-Media Regulation in India: Between Constitutional Freedom and Democratic Accountability

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ABSTRACT :

The principle of media self-regulation in India occupies a complex and contested space within the constitutional framework of free speech, democratic accountability, and the evolving landscape of media technologies. This paper critically examines the normative, legal, and institutional foundations of media self-regulation in India, particularly in light of Article 19(1)(a) of the Constitution and its permissible restrictions under Article 19(2). While the Indian media has historically resisted statutory controls by advocating for voluntary codes of conduct, self-regulatory bodies such as the Press Council of India, the News Broadcasting & Digital Standards Authority (NBDSA), and various OTT content frameworks remain legally weak, often lacking enforceability, independence, or transparency. The paper investigates whether these mechanisms serve as genuine tools for ethical journalism and accountability or merely act as shields against formal regulation. Through an interdisciplinary lens incorporating constitutional theory, media law, and comparative models from liberal democracies, this research explores the challenges of regulatory fragmentation, digital disruption, and state overreach. It further assesses recent legal developments, including the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, and judicial interventions, to evaluate the shifting contours between self-regulation and state control. The study concludes by proposing a reimagined framework for media regulation that balances constitutional freedoms, democratic accountability, and the public interest in a digitally converged environment.

Index terms Media Self-Regulation, Freedom of Speech and Expression, Article 19(1)(a) Constitution of India, Press Council of India, News Broadcasting & Digital Standards Authority (NBDSA)

Introduction

The media, often described as the fourth pillar of democracy, plays a critical role in shaping public opinion, disseminating information, and holding power to account. In a vibrant and pluralistic democracy like India, the freedom of the press is constitutionally protected under Article 19(1)(a) of the Indian Constitution, guaranteeing the right to freedom of speech and expression. However, this right is not absolute and is subject to reasonable restrictions under Article 19(2) in the interest of public order, decency, morality, defamation, and the sovereignty and integrity of the nation. Within this constitutional framework, the question of how media content should be regulated—by the state, the judiciary, or the industry itself—has become increasingly contentious. India has largely followed a non-statutory, self-regulatory model for media oversight, wherein industry-led bodies such as the Press Council of India (PCI), the News Broadcasting & Digital Standards Authority (NBDSA), and self-formulated codes of conduct have attempted to guide ethical journalistic conduct. These bodies, while serving as institutional mechanisms to promote responsible journalism, are limited in their enforcement capabilities and are often criticized for being toothless or lacking true autonomy. In recent years, with the proliferation of digital platforms, social media, and over-the-top (OTT) content providers, the debate over media regulation has become more complex, prompting new governmental interventions such as the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. This paper seeks to critically analyze the concept, scope, and effectiveness of media self-regulation in India from a legal and constitutional perspective. It explores whether self-regulation serves as a sufficient safeguard for journalistic ethics and public accountability or merely acts as a façade to resist legitimate state oversight. The research further examines the tension between the need for regulatory autonomy and the demand for public interest accountability, particularly in an era marked by fake news, sensationalism, and the commercialization of news content. By examining statutory provisions, judicial pronouncements, and the functioning of regulatory bodies, this paper investigates whether India's current model of media self-regulation meets the democratic and constitutional expectations of free yet responsible media. It also includes a comparative analysis with regulatory frameworks in other jurisdictions, such as the United Kingdom, the United States, and select European nations, to propose a nuanced, constitutionally compliant, and future-ready model for media governance in India.

Review of Literature

The scholarly discourse on media freedom, its evolution, and its interplay with societal structures offers a multifaceted understanding of mass communication's role in shaping public life and democratic governance. Dunja Mijatović's *Media Self-Regulation Guide Book* (OSCE, 2013) provides

a foundational understanding of self-regulation as a democratic tool to safeguard press freedom while maintaining accountability. It emphasizes transparency, independence, and inclusivity as essential elements of any credible self-regulatory system.

Rohini Honap (2022) critiques the growing tension between media autonomy and state intervention in India, especially in the context of OTT platforms. She argues that tightening legal controls, while necessary in some cases, risks infringing on creative and journalistic freedom if not balanced with appropriate safeguards.

The **NBDA's complaint guide (2024)** outlines the procedural framework for audience grievances in broadcast and digital media. While it demonstrates an organized redressal mechanism, its voluntary nature and lack of enforcement raise concerns about its efficacy.

Michael C. Douglas (1995) offers a broader regulatory perspective, analyzing how U.S. federal agencies have experimented with audited self-regulation. His work is relevant for comparative insights, showing how government-supervised self-regulation can enhance credibility.

Omenugha & Oji (2008), focusing on Nigeria, highlight the ethical challenges when commercial interests override journalistic standards. This parallels concerns in Indian media about "paid news" and sensationalism.

Iyer (2002) and **Thakurta (2012)** delve into ethical dilemmas in Asian media, stressing the gap between idealistic codes and on-ground practice. Thakurta, in particular, critiques the Indian media's declining commitment to truth and fairness under corporate and political pressures.

Sivakumar (2015) traces the legal evolution of press freedom in India, warning that the press, once a "watchdog," is increasingly becoming a "guidedog" under commercial and political influence.

Sridhar (2010–2011) provides a legal analysis of Indian media laws, underscoring regulatory ambiguities and the lack of coherence in self-regulatory mechanisms, particularly in the digital space.

Carol Soon (2015) contrasts state and self-regulation in cyberspace, warning against overreach while acknowledging that pure self-regulation often fails to curb harmful content effectively.

Need for Regulation in Self-Media

The regulation of self-media has become critically important in today's digital landscape due to its vast influence and minimal oversight. Self-media platforms YouTube, Instagram, and TikTok empower individuals to produce and disseminate content without traditional editorial filters, leading to a surge in misinformation, hate speech, and sensationalism. The absence of regulation enables the unchecked spread of fake news, deepfakes, and polarizing narratives that can manipulate public opinion and incite social unrest. Self-media often promotes unrealistic lifestyles and consumerism, negatively impacting mental health, especially among youth. Influencers and content creators, unlike professional journalists, are not bound by ethical codes, which allows for biased, misleading, or commercially exploitative content. Algorithmic amplification of such content further intensifies the issue by rewarding engagement over truth. Hence, regulation is essential not to curtail free expression, but to ensure digital accountability, transparency, and the protection of users from harm. A well-balanced regulatory framework can help maintain the integrity of information while respecting the core values of open communication. It is the responsibility of the media to play a crucial role in raising awareness among all members of a society about the state of human affairs. As one of the six freedoms guaranteed by the Constitution of India, the right to freedom, which is outlined in article 19, ensures that individuals are free to speak and express themselves. Despite the fact that article 19 does not specifically address the issue of press freedom, the basic right to freedom of press is implicitly included in the right to freedom of speech and expression. Due to the fact that the media is in the business of collecting and disseminating information, it is expected to occupy a dominating position. This position puts the media in a position where it is extremely responsible and accountable to the general public. As a result, it may be deduced that a number of ethical standards are essential to the proper functioning of journalists and other practitioners in the media. The collecting of information by the media is done on behalf of its people and the general public, and while it is doing so, it has the ultimate obligation to be vigilant against material that is misleading and twisted. As a result, those who work in the media should demonstrate responsibility and adherence to principles when delivering news. It is necessary for the media to be accountable for these reasons. In addition to this, the system of responsibility for the media incorporates a variety of approaches that are not directly connected to the process of deciding complaints from viewers. One example of such a method is the existence of ethics codes in Canada, which serve to direct the behavior of journalists. Additionally, several journalism institutions in Quebec have moral codes. There was a common feeling that the press should not be permitted complete independence since it had the capacity to bring trouble in the present as well as in the future. As a consequence of this, there was a feeling that a process of rectification was absolutely necessary. The idea of regulation stems from this line of reasoning, which led to its development. In general, there are four distinct categories of rules to choose from. In the first place, there is extensive regulation, which means that the government does not allow any independence to the media. Instead, it continues to monitor the content of the media and has the authority to seek revisions to items that are published by the media. Turkey and the United Arab Emirates, in addition to China, are examples of countries that display this phenomenon. The second approach is known as co-regulation, and it is characterized by the establishment of a relationship between a non-state regulatory system and its state regulatory counterpart. The analogy between this system and the one that was constructed in Australia at an earlier period is rather striking. Statutory regulation is the next form of regulation, which is distinguished by the existence of particular laws that are administered and enforced by the state via the utilization of legislation. Statutory regulation is defined by the presence of specific laws. In accordance with the Press Council Act of India, the nation is demonstrating that it is complying with the restrictions that are mandated by legislation. On the other hand, the Press Council of India only performs a limited function, and as a consequence, India is commonly listed on the list of nations that participate in forms of self-regulation. Self-regulation is the fourth form of regulation, and thus gets us to the explanation of the fourth type of regulation. This type of regulation is known as self-regulation, and it is characterized by the fact that the bodies themselves are accountable for the administration and enforcement of regulations through the utilization of internal policies. 30 percent When it comes to the first two examples, there are situations in which the laws that govern reporting are formulated in accordance with the convenience of the governments that are serving.

Efficacy of Self-Regulation in Broadcast and Digital Media

Self-regulation refers to the media industry's ability to monitor and control its own content and practices without direct government interference. In the context of broadcast and digital media, it involves setting ethical standards, content guidelines, and complaint redressal mechanisms through industry bodies or internal codes. Broadcast media in many countries operate under a semi-regulated framework. Industry bodies like the Broadcasting Content Complaints Council (BCCC) in India or Ofcom in the UK (a regulatory authority, though with elements of self-regulation) oversee content standards. Self-regulation in broadcast and digital media offers a flexible, industry-led approach to content oversight. However, its success depends on genuine commitment, transparency, and public trust. Where self-regulation becomes a shield against accountability, it fails. A hybrid model combining self-regulation with independent oversight and legal backup, may be the most effective path forward. Channels often follow codes of conduct set by these bodies.

- **Pros:**
 - Encourages editorial freedom.
 - Avoids state censorship.
 - Enables quick internal response to viewer complaints.
- **Cons:**
 - Lack of enforcement powers leads to token compliance.
 - Conflicts of interest are common when the same industry sets its own rules.
 - Public trust may be low due to perceived inaction.

Digital Media: A Chaotic Frontier

Digital media, including social media platforms, news websites, podcasts, and video channels – is harder to regulate. Platforms like Facebook, YouTube, and Instagram use community guidelines and AI-based moderation. News websites may follow voluntary codes (like the Digital News Publishers Association in India).

- **Pros:**
 - Fast adaptation to new issues (e.g., misinformation, hate speech).
 - Global reach allows shared standards across countries.
 - Reduces risk of authoritarian overreach.
- **Cons:**
 - Algorithms often prioritize engagement over ethics.
 - Transparency in moderation is low.
 - Self-regulation often reacts only under public or legal pressure.

Challenges Across Both Sectors

- **Accountability:** Without legal backing, guidelines often lack teeth.
- **Monetary Pressure:** Ad revenue can conflict with ethical standards.
- **Public Awareness:** Viewers/users often don't know how to file complaints or where.
- **Misinformation:** Especially rampant online, it often bypasses regulation completely.

Conclusion

This study reveals that media self-regulation in India, while rooted in the constitutional ideal of free expression under Article 19(1)(a), remains structurally fragile and often ineffective. Self-regulatory bodies such as the Press Council of India and the NBDSA lack the legal authority, institutional independence, and public transparency required to enforce ethical standards meaningfully. The research underscores that these mechanisms often operate more as symbolic gestures to avoid statutory oversight than as genuine instruments of accountability.

Digital media's rapid evolution, coupled with regulatory fragmentation and overlapping jurisdictions, has further exposed the limitations of existing frameworks. The rise of OTT platforms and social media has outpaced traditional regulatory approaches, leaving significant ethical and legal gaps. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, though a step toward more structured oversight, raise serious concerns about state overreach and press freedom, especially in the absence of robust independent review mechanisms. Comparative insights from liberal democracies show that effective self-regulation requires not just industry-led codes, but also legally backed, independent institutions with real enforcement power and transparency. India's current model falls short on these fronts. The conclusion calls for a reimagined regulatory framework that integrates the strengths of self-regulation with independent statutory oversight. Such a model should prioritize press freedom, ensure democratic accountability, and adapt to the realities of a digitally converged media landscape—where content flows freely across platforms, and the lines between news, entertainment, and user-generated content are increasingly blurred.

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