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Evolution of press laws in India: A historical perspective

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Abstract
The evolution of press law in India reflects a long struggle between state control and the democratic ideal of free expression. From the colonial era's "gagging" regulations and sedition laws to constitutional guarantees under Article 19(1)(a) and the challenges of digital censorship, India's press has continually negotiated its space within shifting political and legal landscapes. Early measures such as the 1799 Censorship Regulations, the 1823 Licensing Regulations, and the 1878 Vernacular Press Act established a regime of pre-publication control and surveillance, while later enactments like the Press and Registration of Books Act 1867 created a structured but enduring bureaucratic oversight. With Independence, constitutional jurisprudence, beginning with *Romesh Thapar* and *Brij Bhushan*, redefined press freedom as an essential facet of democracy, though fiscal and administrative levers continued to influence its operation. The post-Emergency period deepened judicial scrutiny of indirect restrictions, culminating in landmark decisions on taxation, proportionality, and digital rights. Contemporary debates spanning the Information Technology Rules 2021, internet shutdowns, and fact-checking regimes illustrate that the tension between state authority and journalistic autonomy persists, albeit in new technological forms. The historical trajectory of India's press law thus mirrors the broader evolution of the Indian republic's commitment to liberty, accountability, and public reason.

Keywords: Press law, freedom of speech, colonial censorship, article 19(1)(a), vernacular press act 1878, press and registration of books act 1867, sedition, Indian constitution

Introduction
The history of press law in India is inseparable from the subcontinent's constitutional and political transformations, from early colonial "gagging" regulations and preventive censorship to the constitutionalising of free expression in 1950, and from analogue-era newsprint controls to today's algorithmic governance of speech under information-technology regulations. "Press" itself has continually evolved: from pamphleteering and lithographic sheets in the late eighteenth century to cable news, online portals, and platformed journalism. Yet across these technological epochs, the legal problem has remained strikingly constant: where to draw the line between the State's claims to security, order, and reputation, on the one hand, and the democratic need for robust criticism, investigation, and circulation of ideas, on the other.

Indian press law thus developed along three long arcs. The first arc (c. 1799-1930s) was colonial: it experimented with licensing, pre-publication restraints, forfeiture of presses, and sedition to contain emergent Indian public spheres. The second arc (1950-1990s) transplanted freedom of speech into a written Constitution and, through case law, converted "freedom of the press" into a subset of Article 19(1)(a), while the State continued to experiment with economic levers (newsprint quotas, tax) and administrative devices (registration, defamation, contempt, official secrets). The third arc (2000-present) shifted the centre of gravity to networks and intermediaries: State power migrated into blocking rules, safe-harbour conditions, and fact-checking architectures, while courts negotiated proportionality, transparency, and due process for a digitally mediated press.

This paper reconstructs these arcs chronologically, while emphasizing doctrinal pivots and regulatory continuities. It shows that although statutory techniques have changed, from vernacular censorship to platform takedowns, the underlying dialectic between control and public reason persists.

Colonial Beginnings: Licensing, Censorship, and Early Controls (c. 1799-1867)
The first decisive turn toward systematic control of printing in British India arrived with Lord Wellesley's Censorship of the Press Regulations, 1799, promulgated amid Napoleonic

anxieties and frontier wars. The regulations required prior scrutiny of all material relating to politics or the military, effectively introducing pre-publication review into a fledgling press ecology cantered in Calcutta, Madras, and Bombay [1].

After a brief liberal interlude under Lord Hastings, press controls returned sharply with the Licensing Regulations of 1823 under Acting Governor-General John Adam. These "Adam's Regulations" required licenses for presses and penalized unlicensed printing. Indian-edited newspapers, most famously *Mirat-ul-Akhbar*, associated with Raja Rammohun Roy, were chilled or shuttered in protest [2, 3].

The pendulum swung back under Sir Charles Metcalfe, whose Press Act of 1835 dismantled prior restraint in favour of a registration model. Metcalfe's reform replaced the licensing regime with a declaratory obligation: printers and publishers had to file a verified statement of premises and imprints but did not require prior permission to publish. His ordinance earned him the enduring epithet "Liberator of the Indian Press [4, 5]."

The Rebellion of 1857 catalysed a re-tightening of controls. In the revolt's aftermath, the colonial state experimented with new emergency restrictions often described as the "Gagging Act" of 1857, measures designed to deter "seditious" writings and fortify surveillance over periodicals [6].

A more durable framework emerged through the Press and Registration of Books Act, 1867 (PRB Act). This statute, largely administrative in architecture, codified declarations by printers and publishers, required imprints, and mandated deposit/ delivery of copies to government. It created a bibliographic discipline around printing while sitting alongside criminal laws (defamation, obscenity, sedition) to create a composite regulatory environment [7].

From Vernacular Surveillance to Sedition and Forfeiture (1867-1930s)

Two late-colonial instruments shaped the press: a language-targeted censorship statute and a capacious offense against the State. The first, Vernacular Press Act, 1878, sought to control "native" language newspapers believed to stoke disaffection. It authorized the seizure of presses and forfeiture of security deposits for publications deemed seditious, notoriously exempting English newspapers and sharpening racialized asymmetries in speech governance. Though repealed in 1881, it left an enduring imprint of differential control [8].

The second was Section 124A IPC (sedition), added in 1870 by amendment (it was not in the 1860 IPC). Drafted to penalize "disaffection" against the Government established by law, it became the go-to instrument against nationalist leaders, including B.G. Tilak and M.K. Gandhi [9]. The provision's capacious wording, amplified in 1898, blurred the line between criticism and incitement and normalized the preventive prosecution of political speech [10].

As mass politics intensified during the Swadeshi and revolutionary phases, the Raj layered new press-control laws. The Newspapers (Incitement to Offences) Act, 1908 empowered magistrates to seize presses and forfeit materials "calculated to incite" crimes [11]; the Indian Press Act, 1910 added securities, customs/postal detention, and broad forfeiture powers for specified "press offences," operationalizing a preventive, financialized model of censorship [12].

Further, the Press (Emergency Powers) Act, 1931 hardened this toolkit by enabling forfeiture of securities and cancellation of declarations upon repeated "offences." Through these overlapping statutes, colonial governance perfected the art of indirect, content-neutral seeming, yet outcome-determinative press control: heavy securities, forfeitures, and postal seizures that strangled circulation without always issuing frontal bans [13].

Assembly Debates and the Constitutionalization of Press Freedom (1946-1950)

India's Constituent Assembly deliberately refused to carve out a separate, free-standing "freedom of the press," instead nesting it within Article 19(1)(a), "freedom of speech and expression." This choice tethered press freedom to a broader civil liberty while authorizing reasonable restrictions under Article 19(2) on grounds such as security, public order, decency/morality, contempt of court, defamation, incitement to an offence (and later, sovereignty and integrity). The press thus entered the Republic as a privileged *application* of speech, not a special corporate right.

The Supreme Court's earliest free-press decisions quickly shaped the doctrine. In Romesh Thapar v. State of Madras (1950), a ban on the entry and circulation of *Cross Roads* was invalidated; the Court insisted that "public order" could not be used as a catch-all beyond the text of Article 19(2) [14]. On the same day in Brij Bhushan v. State of Delhi (1950), the Court struck down pre-censorship imposed on *Organizer*. These cases cemented two baselines: prior restraint is presumptively unconstitutional; and restrictions on press circulation are scrutinized as restrictions on expression itself [15].

The Administrative State and Economic Levers (1950s-1970s)

Post-Independence press law blended administrative registration with industrial labour protections and economic regulation. The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions) Act, 1955 recognized the industrial character of newsrooms, provided wage boards, and regulated service conditions. This labour lens saw journalists as workers within a public-interest industry [16].

In the 1960s-1970s, conflicts shifted to newsprint, a scarce input used (and sometimes abused) as a gatekeeping lever. Two landmark cases, Sakal Papers Ltd. v. Union of India (1962) and Bennett Coleman & Co. v. Union of India (1973), rejected page-price controls and quantitative ceilings that curtailed circulation. The Court held that quantitative and economic restraints that reduce circulation or content volume may be qualitatively speech-restrictive [17]. Together, *Sakal* and *Bennett Coleman* constitutionalized the insight that press freedom includes the right to reach readers and to maintain economic viability against state-imposed scarcity-allocations masquerading as neutral policy [18].

The period also witnessed institution-building. The Press Council of India (PCI), first constituted in 1966 and re-established under the Press Council Act, 1978, was designed as a quasi-judicial self-regulator to "preserve the freedom of the Press and maintain and improve its standards." The PCI issues norms of journalistic conduct, hears complaints, and generates soft-law discipline, complementing constitutional doctrine with ethical self-regulation [19, 20].

The Emergency and Its Lessons (1975-1977)

The Internal Emergency (1975-77) was a stress test for the constitutional press model. Pre-censorship, seizure of editions, and a thick web of "guidelines" and ad-withdrawals produced the Republic's most sustained episode of press suppression. Editors were required to seek clearance before publishing news, editorials, and even photographs; regional censors monitored content, and foreign correspondents' communications were screened. Institutional memory of this trauma influenced the judiciary's post-Emergency sensitivity to indirect controls and underwrote later scepticism toward administrative discretion [21, 22].

The Post-Emergency Settlement: Taxes, Contempt, Secrets, and Access (1980s-2000s)

Three clusters of legal instruments defined the post-Emergency order. First, fiscal measures: in Indian Express Newspapers v. Union of India (1985/86), the Court warned that tax incidence cannot be so burdensome as to stifle press freedom, though taxation per se is permissible; it demanded sensitivity to the press's democratic function in fiscal design [23].

Second, speech-limiting laws of general application: Contempt of Courts Act, 1971 (criminal contempt through "scandalizing" the court), Official Secrets Act, 1923 (criminalizing disclosure of "official secrets"), and criminal defamation continued to interact with the press in complex ways. Each serves non-press aims (judicial independence, state secrecy, reputation), yet cumulatively they pose chill risks, especially when deployed expansively [24, 25].

Third, access laws: the Right to Information Act, 2005 operationalized a statutory right of access to information from public authorities, arming journalists with enforceable discovery tools and fostering a culture of proactive disclosure. RTI did not create press privilege; it democratized access, indirectly empowering the press to scrutinize the State with documents rather than leaks alone [26].

Digital Convergence and Platform Governance (2000s-present)

The migration of journalism to networked environments reconfigured regulation. Under the Information Technology Act, 2000, two frameworks became pivotal: (i) Section 69A and its blocking rules enabling takedowns of online content through confidential orders; and (ii) intermediary liability and safe-harbour conditions. In Shreya Singhal v. Union of India (2015), the Supreme Court struck down Section 66A (criminalizing "offensive" online messages) as unconstitutional for vagueness and overbreadth, while upholding Section 69A (subject to procedural safeguards) and calibrating intermediary duties. The decision established that online speech enjoys equal constitutional protection; vagueness cannot be cured by executive assurances [27].

Regulatory density deepened with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, updated in 2022 and 2023. The Rules extend due-diligence obligations on intermediaries, prescribe grievance processes, and, controversially, sought to authorize a government Fact-Check Unit (FCU) to label online content relating to "business of the government" as "fake/false/misleading," with knock-on compliance obligations [28]. This FCU amendment faced constitutional challenges; the Bombay High Court (2024) struck it down, and the Supreme Court (March 2024) separately stayed operationalization of the FCU pending scrutiny, underscoring the judiciary's concern for chilling effects on online press activity [29].

In a parallel line, the Supreme Court sharpened due-process constraints on executive opacity. In Anuradha Bhasin v. Union of India (2020), the Court held that indefinite internet shutdowns are impermissible, and all suspension orders must satisfy necessity and proportionality and be published. The case foregrounded the press's dependence on connectivity and set procedural guardrails for network restrictions [30].

Likewise, in Madhyama Broadcasting (Media One) v. Union of India (2023), the Court rejected "sealed cover" justifications for denying security clearance to a TV channel, insisting that press rights cannot be defeated by secret reasons; where confidentiality is claimed, public-interest-immunity and neutral assistance (e.g., court-appointed amici) must be considered to reconcile secrecy with fairness. The judgment framed a structural principle against executive truth-policing without adversarial testing [31].

Registration Reform and Sectoral Codes

For over a century and a half, the PRB Act, 1867 provided the press's administrative backbone. In 2023, Parliament enacted the Press and Registration of Periodicals Act (PRP Act), 2023, modernizing declarations, digitizing processes, and replacing colonial-era constructs [32]. While primarily administrative, PRP reflects a broader effort to retire colonial scaffolding and align registration with contemporary industry practices [32].

Broadcast regulation proceeds through the Cable Television Networks (Regulation) Act, 1995 and Rules, which include Programme and Advertising Codes for television content. Though broadcast is not "press" in the narrow print sense, the Indian news ecosystem spans print and broadcast; editorial standards for TV news thus intersect with press law's objectives, accuracy, non-incitement, decency, albeit via a different statutory route [34].

Sedition's Long Shadow, and Its Reassessment

Even after 1950, Section 124A IPC persisted. In Kedar Nath Singh v. State of Bihar (1962), the Supreme Court saved sedition by reading it down: only speech that incites violence or has the tendency to create public disorder is punishable. This "incitement to violence" gloss, though protective, left substantial room for prosecution in contentious contexts. In May 2022, the Supreme Court stayed continued use of sedition pending Government reconsideration. In 2024, Parliament replaced the IPC with new criminal codes; the Government signalled the substitution of "sedition" with an "endangering sovereignty, unity, and integrity" offense, although debates continue over whether the new provision simply re-labels sedition [35]. These shifts will redefine the perimeter within which investigative and critical journalism operates, especially around national security [36].

Doctrinal Themes: From Prior Restraint to Proportionality

Across two centuries, certain themes recur. First, the presumption against prior restraint: from *Brij Bhushan* to

Shreya Singhal, Indian courts have preferred post-publication liability over pre-censorship, subject to tailored exceptions (e.g., narrowly drawn blocking orders under s. 69A). Second, scrutiny of indirect controls: *Sakal* and *Bennett Coleman* established that economic/quantitative constraints can be speech-restrictive. Third, proceduralism: *Anuradha Bhasin* demanded published orders, periodic review, and proportionality; *Media One* mandated adversarial fairness even amid security claims. Fourth, institutional pluralism: the PCI, wage boards, and self-regulatory bodies coexist with criminal and regulatory statutes, creating a multilayered ecology rather than a single press law. Fifth, digital due process: the IT Rules era raises fresh questions about state-verified "truth" (FCU), platform liability, and opaque takedown orders; courts have shown increasing willingness to interrogate chilling effects and insist on reason-giving.

The Contemporary Settlement, and Its Fragilities

Today's press law is a hybrid. Constitutional doctrine protects publication and circulation; administrative law (registration, broadcast codes) structures industry entry and conduct; criminal law (defamation, contempt, secrets) polices harms; and platform law conditions visibility, virality, and takedown. High-stakes controversies are increasingly procedural rather than purely substantive: whether blocking orders are published; whether "emergency" powers are time-bounded; whether economic levers (advertising bans, tax raids, security clearances) are deployed with viewpoint neutrality and judicially reviewable reasons. Courts have, at times, moved decisively: *Shreya Singhal* on vagueness; *Media One* on sealed cover; *Bhasin* on shutdowns. At other times, e.g., contempt or official secrets, doctrinal reluctance persists, and chilling effects remain contested.

Conclusion

The Emergency remains a constitutional memory reminding institutions that even a "paper of record" can be silenced when prior clearance becomes the norm. Conversely, RTI shows the power of access to rebalance asymmetries without granting special press privileges. The newsprint cases teach that economics is not external to speech; IT-era challenges teach that code and policy are the new vectors of control.

Going forward, three reform vectors appear: (1) codified transparency for content-blocking and shutdown orders, with structured proportionality tests and public-interest-immunity procedures to reconcile secrecy with fairness; (2) narrow-tailoring of criminal speech offences (official secrets, contempt, criminal defamation) to minimize chill while preserving legitimate aims; and (3) institutional independence, from the PCI's real powers to independent appellate mechanisms for broadcast and digital disputes, so that adjudication of press conflicts is not left to executive departments that are often the very subjects of scrutiny.

In short, while the material press has transformed, from hand presses to digital dashboards, the legal questions are recognizable: who may speak, about what, with what consequences, and under whose procedures? Indian press law answers these questions through a layered settlement that is neither libertarian nor dirigiste. Its evolution suggests a constant: wherever the State's justifications for control have modernized (from sedition to "fake news"), the press's function, to inform the public and scrutinize power, has remained implacably the same.

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