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THE CRACKED FOUNDATION: MEDIA LAWS, MISINFORMATION AND THE UNMAKING OF FREE SPEECH IN INDIA

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INTRODUCTION

India, the world's largest democracy, is constitutionally built on a foundation that includes the freedom of speech and expression, a right enshrined in Article 19(1)(a) of the Indian Constitution.[1] At the heart of this democratic framework lies the media, often referred to as the "Fourth Pillar" of democracy, charged with holding power to account, informing the public, and protecting truth in public discourse.[2]

Yet in recent years, that foundation has begun to crack. A combination of stringent media laws, rising misinformation, and state-sponsored legal intimidation is slowly unmaking this foundational right. Far from being a passive erosion, this is a conscious unravelling, a slow, deliberate dismantling of the press's ability to function freely and fearlessly.

I. MEDIA LAWS: THE DOUBLE-EDGED SWORD

India's legal framework for media is not inherently flawed. It is intended to balance freedom with responsibility. However, laws designed to protect the public are increasingly being weaponized to control the narrative.

KEY LEGISLATIONS:

- Information Technology Act, 2000 (especially Section 69A)[3]

[1] INDIA CONST. art. 19, cl. 1(a).
[2] GAUTAM BHATIA, OFFEND, SHOCK OR DISTURB: FREE SPEECH UNDER THE INDIAN CONSTITUTION (Oxford Univ. Press 2015).
[3] Information Technology Act, No. 21 of 2000, § 69A, INDIA CODE (2000).

- Cable Television Networks (Regulation) Act, 1995[4]
- Press Council of India Act, 1978[5]
- Defamation laws (civil and criminal)
- IT Rules, 2021 (amended in 2023)
- These laws enable the government to block content, shut down internet access, issue takedown notices, and prosecute journalists, often with limited transparency or due process.[6]

The IT Rules 2021, for instance, empower the Ministry of Information and Broadcasting to direct digital platforms to remove news content deemed "fake" by a government-appointed fact-checking unit.[7] Critics argue this blurs the line between regulation and censorship[8], creating a chilling effect on media freedom.

II. MISINFORMATION: THE PERFECT SMOKESCREEN

While the government frames many of these legal interventions as necessary to combat fake news and social disharmony, the irony lies in how misinformation itself is often state-enabled or unchecked in partisan media.

THE MISINFORMATION MACHINERY:

- Mainstream TV channels push one-sided narratives without verifying facts.
- Anonymous social media handles spread hate speech and fake videos.
- Deepfakes and propaganda tools are increasingly used during elections.[9]

What should be a battle against misinformation has instead become a convenient justification to suppress independent voices.[10] The crackdown is usually selective, with critical,

[4] Cable Television Networks (Regulation) Act, No. 7 of 1995, INDIA CODE (1995).
[5] Press Council of India Act, No. 37 of 1978, INDIA CODE (1978).
[6] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E) (Feb. 25, 2021) (India).
[7] Internet Freedom Foundation, The IT Rules Explained (2023), https://internetfreedom.in.
[8] Press Trust of India, Explained: New IT Rules and Why They Raise Concerns About Press Freedom, THE WIRE (Feb. 26, 2021), https://thewire.in.

[9] How WhatsApp and TV Channels Became Conduits of Propaganda, THE CARAVAN (Oct. 2022), https://caravanmagazine.in.
[10] Reuters Institute, Digital News Report: India 2023, https://reutersinstitute.politics.ox.ac.uk.

investigative, [11]or dissenting journalism facing legal action, while aligned propaganda runs free.[12]

III. CASE STUDIES: CRACKS IN REAL TIME

The unmaking of free speech is not theoretical but it is visible in several real and recent events that have exposed the fragility of press freedom in India.

1. MANIPUR INTERNET SHUTDOWNS (2023–2024)

During the ethnic violence in Manipur, the government imposed one of the longest internet shutdowns in India's recent history. Independent reporters were blocked from accessing the region, and the media vacuum was quickly filled with rumours, propaganda, and disinformation.[13]

This violated the Supreme Court's ruling in *Anuradha Bhasin v. Union of India (2020)*, which stated that the right to internet access is integral to the right to free speech.[14]

2. THE PEGASUS SURVEILLANCE SCANDAL

In 2021, global investigative reports revealed that Indian journalists were among those allegedly targeted using Pegasus spyware.[15] This military-grade surveillance software was reportedly used against editors, opposition politicians, and activists.

Such surveillance undermines press independence and source protection, key pillars of investigative journalism. Although a Supreme Court committee was formed, the report led to no significant legal action or reform.[16]

3. SLAPP SUITS AGAINST JOURNALISTS

Media houses like *The Wire*, *Alt News*, and *Scroll* have been hit with Strategic Lawsuits Against Public Participation (SLAPPs), frivolous defamation or criminal complaints intended to intimidate and exhaust journalists.[17]

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[11] AltNews & BOOM FactCheck Archives, https://www.altnews.in; https://www.boomlive.in.
[12] Why Does Fake News Only Apply to Independent Media?, NEWSLAUNDRY (Mar. 2023), https://www.newslaundry.com.
[13] Manipur's Internet Shutdown and Its Media Fallout, THE HINDU (Sept. 2023), https://www.thehindu.com.
[14] Anuradha Bhasin v. Union of India, (2020) 3 SCC 637 (India).
[15] The Pegasus Project, FORBIDDEN STORIES (2021), https://forbiddenstories.org.
[16] SC Pegasus Committee Criticizes Govt Non-Cooperation, LIVELAW.IN (Aug. 2022), https://www.livelaw.in.
[17] The Wire Hit with Defamation Notice by Adani Group, THE WIRE (Oct. 2022), https://thewire.in.

These legal battles are not meant to win in court but they are meant to silence through cost, delay, and fear.[18]

IV. INVESTIGATIVE JOURNALISM ON LIFE SUPPORT

The space for groundbreaking, high-risk journalism is rapidly shrinking in India. With dwindling resources, legal pressures, and hostile environments, many journalists are choosing silence over risk.[19]

CHALLENGES:

- Financial insecurity in independent media.
- Lack of legal protection for whistleblowers and reporters.
- Targeted harassment, especially of women journalists online.
- Corporate capture of media leading to editorial compromises.

Many legacy media houses have shut down investigative desks[20], replacing fact-finding with clickbait and sensationalism. Journalists who persist face arrests, sedition charges, or smear campaigns.[21]

V. LEGAL CHILL AND JUDICIAL SILENCE

India's judiciary has been both a protector and a passive observer in this unfolding crisis.

POSITIVE INTERVENTIONS:

- *Shreya Singhal v. Union of India*[22] (2015): Struck down Section 66A of the IT Act.
- *Anuradha Bhasin Case* (2020): Upheld the right to internet access.

BUT INCONSISTENCIES PERSIST:

- Delayed or inadequate judicial responses to attacks on journalists.
- Lack of enforcement of media freedom norms in lower courts.
- No robust pushback against IT Rules or Pegasus findings.[23]

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[18] How SLAPP Suits Are Silencing Indian Media, THE LEAFLET (2022), https://theleaflet.in.
[19] Reporters Without Borders, World Press Freedom Index 2024 – India, https://rsf.org/en/country/india.
[20] The Decline of Investigative Journalism in India, THE CARAVAN (2023), https://caravanmagazine.in.
[21] Why Newsroom Budgets Are Shrinking, THE PRINT (Jan. 2022), https://theprint.in.
[22] Shreya Singhal v. Union of India, (2015) 5 SCC 1 (India).
[23] Pegasus Panel Report Not Followed Up, LIVELAW.IN (2022), https://www.livelaw.in.

The net result is a legal environment that enables suppression while offering little protection to those challenging the status quo.[24]

VI. THE PATH FORWARD: REBUILDING WHAT'S CRACKED

The current trajectory is unsustainable. For India to remain a functioning democracy, its Fourth Pillar must be rebuilt with stronger support i.e. both institutionally and culturally.

RECOMMENDATIONS:

- Repeal or amend vague and overly broad media laws.
- Establish an independent media regulatory body, not under executive control.
- Protect whistleblowers and journalists through clear legal safeguards.
- Invest in media literacy and fact-checking, especially at the grassroots.[25]
- Promote independent, subscriber-funded journalism to reduce corporate dependency.[26]

CONCLUSION: BEYOND THE CRACKS LIES COLLAPSE

When a building's foundation begins to crack, ignoring it only accelerates collapse. India's democracy is standing on a wobbly base, held together by a media ecosystem that is under siege, underfunded, and increasingly controlled.[27]

The cracks in the Fourth Pillar are not cosmetic. They signal a deeper, more dangerous reality: that freedom of speech is no longer protected, but conditional. And once truth becomes negotiable, the idea of democracy itself is fundamentally compromised.

If there was ever a time to pay attention, it's now.[28]

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[24] Judiciary's Inconsistency on Free Speech, BAR & BENCH (2023), https://www.barandbench.com.
[25] UN Human Rights Council, Freedom of Expression and Digital Tech, A/HRC/44/49 (2020)
[26] ProPublica, https://www.propublica.org; The Guardian, https://www.theguardian.com.
[27] Hartosh Singh Bal, How the Indian State Is Dismantling Dissent, THE CARAVAN (2022), https://caravanmagazine.in.
[28] Editorial, India's Press Freedom Crisis, THE NEW YORK TIMES (2023), https://www.nytimes.com.