



THE WEST BENGAL NATIONAL
UNIVERSITY OF JURIDICAL SCIENCES

CENTRE REPORTS

CENTRE FOR
ENTERTAINMENT AND
MEDIA LAWS



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**THE WEST BENGAL NATIONAL UNIVERSITY OF
JURIDICAL SCIENCES, KOLKATA**



CENTRE FOR ENTERTAINMENT AND MEDIA LAWS

Director: Dr. Shameek Sen

Associate Professor (Law)

**The West Bengal National University of Juridical
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Contents

About the Centre.....2

Events.....3

Research Project.....13

About the Centre

The Centre for Entertainment and Media Laws (CEML) is a Research Centre that does research, training and advocacy on issues pertaining to Free Speech under the Directorship of Dr. Shameek Sen, Associate Professor, The WBNUJS. In its brief journey, it has organised one Training Programme for Working Journalists and Media Educators in association with the Calcutta Press Club in March 2020. It has organised lectures by eminent personalities like Senior Advocate Aishwarya Bhati, Additional Solicitor General of India Madhavi Goradia Divan, Editor-in-Chief of The Indian Express Mr. Raj Kamal Jha and renowned researchers Arindrajit Basu and Gurshabad Grover. It is currently engaged in a University-funded minor research project titled “Identifying Media Malpractices and Suggesting Recommendations”.

Events

A Training Programme for Working Journalists and Media Educators

Organised By

Centre for Entertainment and Media Laws (CEML), NUJS in Association with

Kolkata Press Club

Date: 8th to 10th March, 2020

Venue: Kolkata Press Club

The very first event of the newly established Centre for Entertainment and Media Laws (CEML) was a training programme for working journalists and media educators organized in association with the Kolkata Press Club, at the Club premises, between 8th and 10th March 2020 from 10 AM to 2 PM. About 30 journalists including some very senior ones attended the programme. It was inaugurated jointly by Mr. Snehasis Sur, President, Kolkata Press Club and Dr. Shameek Sen, Director, CEML. The different sessions dealt with Constitution and the Freedom of Press, Contempt of Court, Defamation, Reporting of Court Proceedings, Crime Reporting, Gender-sensitive Reporting etc. The valedictory session was graced by Prof. Dr. Nirmal Kanti Chakrabarti, Vice Chancellor, NUJS. In his valedictory address, he emphasized the need for the media to follow the tenets of law while articulating its views on contentious issues. At the culmination of the programme, certificates were distributed to the successful participants of the programme.

NUJS Centre for Entertainment and Media Law



Aishwarya Bhati
Additional Solicitor General of India

Topic - Effects of the regulation of OTT platforms and other areas under the prospective threat of regulation.

Saturday, January 9, 2021 | 11am on Zoom

Webinar ID: 979 0744 9075 Passcode: 148631

TOPIC: Effects of the regulation of OTT platforms and other areas under the prospective threat of regulation

Speaker: Ms. Aishwarya Bhati, Additional Solicitor General of India

Venue: Online (Zoom)

Date: 9th January, 2021 (11 AM)

As a part of a Lecture Series organised by the Centre for Entertainment and Media Laws (CEML), Ms. Aishwarya Bhati, the Additional Solicitor General of India addressed the students on the topic ‘Effects of the regulation of OTT platforms and other areas under the prospective threat of regulation.’ The session was moderated by Prof. Shameek Sen.

Ms. Aishwarya Bhati has been a trailblazer in many ways. With a professional standing of over 22 years in the Bar, she is the youngest woman advocate to have been designated as a senior advocate by the Supreme Court of India. She also holds the distinction of being one of the youngest Additional Solicitor Generals of India and the fourth woman ever to occupy this coveted position. Before this, she was one of the Additional Advocate Generals for Uttar Pradesh and the counsel for the High Court of Delhi in the Supreme Court. She has passionately fought for women’s rights, children’s rights, rights of persons with disabilities. She has been instrumental in leading the battle against the mighty tobacco industry on issues of larger pictorial warning, plain packaging, and stronger tobacco regulation. She has led from the front while advocating for the rights of women officers of the Indian Air Force, Indian Army, and Indian Navy for at-par consideration for permanent commission and command positions.

In her address, Ms. Bhati analysed the uniqueness of the OTT platforms and the deficiencies faced by the conventional regulatory models in dealing with this medium. The Session was followed by a stimulating question-and-answer session where she answered the intuitive questions posed by the students.

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MADHAVI DIVAN
Additional Solicitor General of India

'Film Censorship: Issues and Challenges'

Saturday, March 20, 2021 | 4 PM | Google Meet

TOPIC: Film Censorship: Issues and Challenges

Speaker: Ms. Madhavi Goradia Divan, Additional Solicitor General of India

Venue: Online (Google Meet)

Date: 20th March, 2021 (4 PM)

As a part of the Lecture Series organised by the Centre for Entertainment and Media Law (CEML), Ms. Madhavi Goradia Divan, the Additional Solicitor General of India, spoke on the topic ‘Film Censorship: Issues and Challenges’. The session was moderated by the Director of CEML, Dr. Shameek Sen. Ms. Madhavi Divan is a household name in the Media Law fraternity. She obtained a degree in English at St. Stephen’s College, Delhi University, and then went on to pursue law at Pembroke College, University of Cambridge, UK. After starting her practice at the Bombay High Court, Ms. Divan moved to the Supreme Court, where she has represented two state governments – Gujarat and Madhya Pradesh. In December 2018, she became only the third woman to be appointed as an Additional Solicitor General. She is also an accomplished author. In 2018, her book titled “Facets of Media Law” was published by the Eastern Book Company (EBC), and it is the primary resource for the subject across the country.

Ms. Divan addressed this crucial issue pertaining to Censorship and how different models of Censorship have evolved in different jurisdictions. She also touched upon judicial decisions and policy recommendations to make the film certification mechanism more foolproof and less controversial. In doing so, she touched upon the contemporary issues and challenges faced by the Film Censorship regime, especially with the advent of the internet and OTT platforms. The Session was followed by a stimulating question-and-answer session where she answered the intuitive questions posed by the students.

Centre for Entertainment and Media
Law

Media Perspectives on Media Malpractices

Mr. Raj Kamal Jha,
Editor-in-Chief,
Indian Express



8th September, 2021 | 12.30 PM | <https://meet.google.com/jet-cvpj-dwj>

TOPIC: Media Perspectives on Media Malpractices

Speaker: Mr. Raj Kamal Jha, Editor-in-Chief, Indian Express

Venue: Online (Google Meet)

Date: 8th September, 2021 (12.30 PM)

As a part of the Lecture Series organised by the Centre for Entertainment and Media Law (CEML), Mr. Raj Kamal Jha, the Editor in Chief of Indian Express Newspaper and a prolific author, spoke on the topic 'Media Perspectives on Media Malpractices'. The session was moderated by the Director of CEML, Dr. Shameek Sen. Mr. Raj Kamal Jha is the Editor in Chief of The Indian Express. He is a 1988 graduate of the Indian Institute of Technology, Kharagpur, where he studied Mechanical Engineering. He did his Master's in Journalism at the University of Southern California, Los Angeles. Since 1990, Mr. Jha has been working full-time in the newsrooms. He was an Assistant Editor (News) at The Statesman in Kolkata between 1992 and 1994, a Senior Associate Editor at India Today, New Delhi (1994–1996), and since 1996, he has been with The Indian Express.

The newspaper and its journalists have won the Excellence in Journalism Award from the India chapter of the Vienna-based International Press Institute five times. These are for investigative work by the newspaper related to the Gujarat riots of 2002 and their aftermath; the Bihar flood scam in which relief was siphoned off by officers; the disappearance of tigers from India's national parks and questions regarding the role of the Election Commission of India.

Mr. Jha was also a visiting professor at the University of California, Berkeley, in the international journalism programme where he taught a course on Reporting on India after 9/11. Mr. Jha is the author of three novels that have been published in more than a dozen foreign languages: 'The Blue Bedspread' (1999-2000), won the Commonwealth Writers' Prize for Best First Book (Eurasia region) and was a New York Times Notable Book of the Year; his second novel 'If You Are Afraid of Heights' was shortlisted for the Crossword Book Award 2003. His third novel, 'Fireproof,' was published in 2006.

Mr. Jha dealt with this crucial topic as a media veteran with years of experience and innumerable accolades, his perspective on media malpractices was both highly informed and insightful. He dealt with issues of media malpractices, the crisis faced by the print media with the advent of 24x7 News channels, the blurring of the line between information and opinion, and a host of other relevant issues. The Session was followed by a stimulating question-and-answer session where he answered the intuitive questions posed by the students.

Centre for Entertainment and Media Law, NUJS



Gurshabad Grover



Arindrajit Basu

(Centre for Internet and Society)

TOPIC- INTERMEDIARY LIABILITY

September 7 & 10, 2021 | 12:30 PM

TOPIC: Intermediary Liability

Speaker: Mr. Arindrajit Basu and Mr. Gurshabad Grover (Centre for Internet and Society)

Venue: Online (Google Meet)

Date: 7th and 10th September, 2021 (12:30 PM)

As a part of the Lecture Series organised by the Centre for Entertainment and Media Law (CEML), Mr. Arindrajit Basu and Mr. Gurshabad Grover spoke on the topic 'Intermediary Liability'. The session was moderated by the Director of CEML, Dr. Shameek Sen.

Mr. Arindrajit Basu is the Research Lead at the Centre for Internet & Society, India, where he focuses on the geopolitics and constitutionality of emerging technologies. He is a lawyer by training and holds a BA, LLB (Hons) degree from the National University of Juridical Sciences, Kolkata, and an LLM in public international law from the University of Cambridge, U.K.

Mr. Gurshabad Grover is a technologist and legal researcher, writing on network security & privacy, internet governance, and censorship & surveillance in India. He is a senior policy officer at the Centre for Internet and Society, Bangalore.

Both the speakers dealt with this contemporary topic that has captured the public imagination for the past few months. With vast experience in the field of internet and technology, they provided a fulfilling experience to the attendees on both days. Thoroughly discussing the Intermediary Guidelines introduced recently, the speakers drew comparative analogies from other jurisdictions and provided meaningful recommendations to streamline the liability regime in India. The Session was followed by a stimulating question-and-answer session where they answered the intuitive questions posed by the students.

Research Project

THE WEST BENGAL NATIONAL UNIVERSITY OF JURIDICAL SCIENCES, KOLKATA



CENTRE FOR ENTERTAINMENT AND MEDIA LAWS

REPORT ON MALPRACTICES IN INDIAN MEDIA

A Study of News Media, Entertainment Media and Social-Media

Principal Investigator: Dr. Shameek Sen

Student Coordinators:

Arshia Roy

Aatmik Jain

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August 2022

EXECUTIVE SUMMARY

The role of free press in enabling open exchange of information, holding public officials accountable and creating an informed citizenry for effective democratic governance, cannot be overstated. Since the media is hailed as the cornerstone of a strong democracy, it is imperative to analyse its status-quo functioning in carrying out its responsibility as the Fourth Pillar. In this backdrop, this research project aims to ascertain the current state of news media, entertainment media and social media, from the perspective of upholding press freedom and strengthening democracy in India. In this regard, it aims to identify the various malpractices afflicting the three sectors listed above, ranging from private media treaties and paid news to intermediary liability for social media platforms and issues of censorship.

The project is geared towards carrying out analytical, critical, and empirical research into the manner of functioning of the media sector, under the existing overarching legal framework that regulates the verticals of print, broadcasting, advertising, and social media. The project aims to supplement its findings of malpractices from doctrinal primary and secondary data sources, with the information collected from public stakeholders, media professionals and policy makers. These findings shall together be analysed to suggest recommendations and devise a model framework for the operation and regulation of news, entertainment and social media in India. Conclusively, the project is geared towards setting achievable, realistic and measurable goals of identifying media malpractices and suggesting recommendations that shall be beneficial for policy-making.

RESEARCH OVERVIEW

Background of the Research

Media has consistently played a significant role in the history of societies, in transforming, modernising and enabling the creation of an informed citizenry, for effective democratic governance. As India continues to grow, it has had to grapple with newer challenges posed by the digitisation and commercialisation of media. These challenges have unfortunately led Indian media to face an unprecedented crisis of credibility as a result of diminishing accountability and dereliction of constitutional duty. In lieu of the same, this project has been embarked upon in the overarching context of declining journalistic standards, widespread flouting of norms of journalistic conduct and dissemination of misinformation, among other malpractices observed to subsequently result in the erosion of public faith in the media. The aforementioned context highlighting the crisis of credibility currently being faced by the print, broadcasting, advertising and social media, brings to light the urgency of the need to conduct an analytical and empirical study into its functioning. It further establishes the essentiality of consolidating findings of malpractices inhibiting the function of free press in India, in order to effectively rework the legal system by accounting for such deficiencies.

Objectives of the Study

The primary objective of the research project is to evaluate the role of media in facilitating effective democratic governance in India. For this purpose, the project shall aim to identify malpractices, misconducts and unethical practices presently afflicting the media sector and by corollary, hampering its functioning as the fourth pillar of democracy. The project shall endeavour to study the legal and regulatory framework surrounding print, broadcasting and social media in order to identify lacunae, instances of over-regulation and ambiguities in drafting. Additionally, the project shall aim to collect primary data from public stakeholders, journalists, policy makers and other media professionals, employing empirical research methods of interviews, surveys and questionnaires to understand the industry perspective on regulation. The overarching objective of the project shall be to collate the findings from the analytical as well the empirical research in order to suggest recommendations aimed at devising a comprehensive model framework for the regulation of news, entertainment and social media in India.

Conceptual Framework

The project is focused on identifying the various misuses of media platforms in India. The conceptual basis for the same is founded upon the fundamental principles of free speech and expression, right to information, freedom from misrepresentation and coercion, including in subtle forms, and journalistic ethics. These accumulate into a sense of responsibility that is cast upon not only those who disseminate traditional news and advertisements, such as broadcast anchors or corporations, but also all individuals who have the ability to spread misinformation, disinformation, and manipulated content through social media. A corollary to this is the expectation of governmental integrity in the form of allowing press and media houses to run without interference or personal stake, and to not manipulate generated content for the purpose of electoral politics. Interference can also extend to the imposition of obtrusive self-regulation norms which introduce unrealistic and impractical standards, creating a ‘chilling effect’ or a compliance frenzy amongst those required to comply. Lastly, this subsumes the obligation upon media houses to preserve rectitude by not engaging in viewer-base manipulation, be it through the representation of a biased narrative or the sensationalization of distractions. This project, thus, seeks to identify the most efficient regulatory mechanism which could ensure compliance from all potential threats of media malpractice.

Research Questions

The proposed project aims to address the following research questions:

- a. What is the present role played by news, entertainment and social media in facilitating effective democratic governance?
- b. Are there malpractices and/or unethical conducts inhibiting the function of free press in India?
- c. Is the existing legal framework effective in regulating the media sector? If not, what are the changes that need to be brought about?

Scope of the Research

The research project shall limit its field of critical analysis to the news, entertainment and social media sector in India. It seeks to identify media malpractices that would be assessed on the parameters of journalistic ethics, mandatory legal and legislative requirements and discretionary journalistic standards in India. The scope of analytical research has been limited to scholarly works on the functioning of media in contemporary times and the legal analysis

therein is primarily restricted to the regulatory frameworks devised by the Ministry of Information and Broadcasting, the Ministry of Electronics and Information Technology, the Telecom Regulatory Authority of India and the Press Council of India. Cognisant of empirical research limitations brought about by the COVID-19 Pandemic, the preliminary stages of primary data collection have been carried out through electronic surveys and telephonic interviews with journalists, policy-makers and media professionals affiliated with print, broadcasting, advertising or social media functioning in India.

Methodology

The project predominantly premises its analysis on the primary and secondary data collected from doctrinal research, and is supplemented by the findings from the empirical research carried out by the Research Assistant(s). The analytical component of the research project employs historical, critical and comparative methods of study. It also employs qualitative tools of critical analysis for understanding the current legal framework regulating conduct on news, entertainment and social media platforms. Further, the comparative method has been used for comparing the various existing models of prescribed journalistic ethics and model frameworks for regulation, in order to suggest recommendations aimed at curbing media malpractices. Under the empirical research carried out for the three verticals of news, entertainment and social media, the tools for collection of data that have been employed are electronic and telephonic surveys, questionnaires and interviews. The empirical component includes the collection and analysis of responses from journalists, media law scholars, policy-makers and other media professionals.



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