

## ROLE OF MEDIA IN PROTECTION OF CHILD RIGHTS IN INDIA- A SOCIO-LEGAL PERSPECTIVE

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### Abstract

*Children are one of the most vulnerable categories in the Indian society. Recognising this vulnerability, our constitution has, introduced various provisions for promoting welfare of child. So, it becomes responsibility of every stakeholder of this democratic system to contribute to the protection of children. Media, being such a stakeholder, share the same responsibility. But of late, it has been seen that Indian media has ignored this responsibility and put more focus on selling sensational news. Children are often easy target and it is seen that Indian media is more focussed on issues related to child exploitation rather than covering actual child right matters. In this whole affair, children's privacy, rights, and emotions get neglected. This article is an attempt to analyse from a socio-legal perspective, how children should be represented in Indian media, and how their rights can be protected. The study is limited to print and electronic media only.*

*"Whoever controls the media, controls the mind" - Jim Morrison*

## I. Introduction

The significance of media can be felt from the very fact that media is considered the fourth pillar of democracy. It is the most powerful weapon, which, if used efficiently and ethically, can bring about revolutionary changes in the life of people. But since long Indian media is facing criticism for being non ethical and serving bias content. Generally, the very function of mass media is of a watchdog of the society, but due to growing competition among various media houses or internal and external pressure, media has failed to show the fact as it is, instead it presents that picture which majority love to watch. Children are often easy target and it is seen that Indian media is more focussed on issues related to child exploitation rather than covering actual child right matters. In this whole affair, children's privacy, rights, and emotions get neglected.

From a socio-legal perspective, how children represented in Indian media, and how they should be represented - is being discussed below.

## II. Media Coverage and Privacy of a Child

While lured by sensational incident-based reporting, media tramples the existence, emotion and rights of child. Such an example can be seen in Arushi and Hemraj double murder case (2008), where electronic media has reached the height of irresponsibility by spreading baseless rumours, defamatory stories; presenting hypothetical facts. In a similar incident, in 2007, the National Commission for Protection of Child Rights has received complaints on the use of the name and photographs of an 8-year old boy in Begusarai, Bihar, who is alleged to have killed three children, was referred to by media as a 'serial killer' and a 'tyrant'<sup>1</sup>. In spite of the clear provision under Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 against publishing of name and photograph of children in conflict with law, the reporting of such child has not been stopped.

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<sup>1</sup>*Children and the Media*, [www.indianmediastudies.com](http://www.indianmediastudies.com), available at, <https://www.indianmediastudies.com/children-and-the-media/>, last seen 22/05/2021.

## A. International Law and Guidelines

### ○ UN Convention and Rights of Child

**Article 16 of the UN Convention and Rights of Child** states that no child shall be subject to unlawful and arbitrary interference with his or her privacy, family, or correspondence, nor to unlawful attack on his or her honour and reputation. The child has right to the protection of the law against such interference or attacks.

Again article 40 of the convention states that the privacy of a child accused of infringing penal law should be protected at all stages of the proceedings.

### ○ UNICEF

**UNICEF** has developed six principles and guidelines for media reporting in children,

- Respect the dignity as well as rights of child.
- Pay special attention to child's privacy or confidentiality while interviewing or reporting on child.
- Protect the best interest of child.
- Give due weight to the views of child as per age and maturity.
- Consult those who are closest to child's situation and best to assess it about political, cultural, social ramifications of any reportage.
- Do not publish anything putting the child, his sibling or peer at risk<sup>2</sup>.

## B. Domestic law

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<sup>2</sup>*Guidelines for Journalists Reporting on Children*, www.unicef.org, available at <https://www.unicef.org/eca/media/ethical-guidelines>, last seen 22/05/2021.

○ **Juvenile justice (care and protection of children) Act, 2000**

**Under the juvenile justice (care and protection of children) Act, 2000**, protection of the privacy of a child has been dealt under section 19 and section 21 of the Act. Section 19 of the Act states about removal of disqualification attaching to conviction. Section 21 of the Act lays down the provision regarding prohibition of publication of names etc. of juvenile in conflict with law or child in need of care and protection involved in any proceedings under the Act.

However, press can publish any news concerning the juvenile if only the inquiring authority in the interest of the juvenile permits such disclosure in writing. So, a careful balance is always tried to be maintained when it comes to the right of privacy of a child in one side and the right of the media and public to information in another side<sup>3</sup>.

**The juvenile justice care and protection of children rules, 2007<sup>4</sup>** can be also mentioned while talking about the media in dealing with the right to privacy of a child. The media needs to follow the following Cardinal principles of the rule while publishing the Identity of a child.

- Principle II: principle of dignity and worth
- Principle IV: of best interest
- Principle VII: positive measures
- Principle IX: non waiver of rights.

○ **Press council of India Act, 1978**

Under section 13(2)(b) of the press council of India Act the norms of journalistic conduct 2010 edition was developed which encompasses the norms on best journalistic practice.

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<sup>3</sup>Namita Anne Minj, *Media and Child Protection: Indian Scenario*, [www.legalserviceindia.com](http://www.legalserviceindia.com), available at, [http://www.legalserviceindia.com/article/1160-Media-and-Child-Protection.html#:~:text=The%20Juvenile%20Justice%20\(Care%20and,under%20consideration%20by%20the%20Standing](http://www.legalserviceindia.com/article/1160-Media-and-Child-Protection.html#:~:text=The%20Juvenile%20Justice%20(Care%20and,under%20consideration%20by%20the%20Standing), last seen 22/05/2021.

<sup>4</sup>*Juvenile Justice Rules 2007*, 26<sup>th</sup> Oct, 2007, [www.megpolice.gov.in](http://www.megpolice.gov.in), available at [https://megpolice.gov.in/sites/default/files/Juvenile\\_Justice\\_Rules\\_2007.pdf](https://megpolice.gov.in/sites/default/files/Juvenile_Justice_Rules_2007.pdf), last seen 22/05/2021.

- The press has been prevented to include or invade the privacy of individual, unless outweighed by genuine overriding public interest. But, once the matter become a matter of public record, the press shall get legitimate right to comment on it.
- In case of any crime involving rape, abduction or kidnap of women or sexual assault on children, or raising doubts and questions touching the chastity, personal character and privacy of women, the names, photographs of the victims or other particulars which may lead to their identity shall not be published.
- It is also prohibited to identify or take photograph of any minor or infant who is the offspring of sexual abuse or forcible marriage or illicit sexual union.
- The Identity of children including orphans and children living in orphanages or juvenile homes etc who are infected by HIV shall not be revealed nor will they be photographed<sup>5</sup>.

- **The Indian penal code, 1860 the criminal procedure code, 1973**

In order to prevent the social victimization and stigmatization of the victims of sexual offence section 228 A of IPC was introduced. This provision penalizes the disclosure of Identity of victim of certain offences with imprisonment up to 2 years or fine or both. However this restriction does not cover the printing and publication of judgement of High Court or Supreme Court. Similar restrictions are also mentioned under section 327 (3) of the code of criminal procedure concerning publication of court proceedings dealing with sexual exploitation of the child.

- **The Cable Television Networks (Regulations) Act, 1995 and Rules, 1994**

The Programming and Advertising Codes as per Rule 6 and 7 any program or advertisement which denigrates children should not be carried in cable services<sup>6</sup>.

- **Guidelines for media reporting on children**

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<sup>5</sup>*Norms of journalistic conduct*, 2010, [www.presscouncil.nic.in](http://www.presscouncil.nic.in), available at <https://presscouncil.nic.in/OldWebsite/NORMS-2010.pdf>, last seen 22/05/2021.

<sup>6</sup>*Media Guidelines Reporting On Children*, [www.it.delhigovt.nic.in](http://it.delhigovt.nic.in), available at <http://it.delhigovt.nic.in/writereaddata/odr201684481.pdf>, last seen 21/05/2021.

Guidelines for media reporting on children approved by the Hon'ble High Court of Delhi on 8.8.2012 in Writ Petition (Civil) NO787 of 2012 titled "A.K. Asthana VIS DOI and Anr." adopted by the Council in its meeting held on 27.8.2012 at New Delhi are summed up as under,

- The Involvement of children in news/programs/documentaries must evidently be editorially justified including from a child rights' perspective.
- It shall be ensured by media that child victims of rape, other sexual offences, trafficking, drug/substance abuse, elopement, organized crimes, and children used in armed conflicts, children in conflict with law and child witnesses etc. are automatically guaranteed anonymity for life.
- It will also be ensured by media that due consideration is given to a child's right to privacy and the child should be from being exposed to anxiety, trauma, stigma, risk to life & safety in relation to media depiction of children.
- Media shall ensure that a child's identity like personal information, photograph, school, and locality are not revealed in any manner.
- Any visual showing the face of the child must be completely morphed in cases where privacy /anonymity is required
- Media shall not sensationalize issues or stories, relating to children
- While interviewing a child, the media shall hold such interview at the child's best interest; obtain the consent of the child as per his age or maturity; duly inform the child about the purpose of interview; and most importantly media shall not invade the right to privacy of a child.
- Media needs to balance its responsibility to protect children from unsuitable content with the right to freedom of expression and right to know.
- Media shall promote child's right to information and freedom of expression.
- The compliance with regulations, law, guidelines on reporting of child shall be monitored by bodies like Press Council of India, regulatory mechanisms of Ministry of Information and Broadcasting<sup>7</sup>.

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<sup>7</sup>Media Guidelines Reporting On Children, [www.it.delhigovt.nic.in](http://it.delhigovt.nic.in/writereaddata/odr201684481.pdf), available at <http://it.delhigovt.nic.in/writereaddata/odr201684481.pdf>, last seen 21/05/2021.

○ **Protection of Children from Sexual Offences Act, 2012**

The Protection of Children from Sexual Offences Act, 2012 has also pointed out the obligations of media concerning reporting on cases on sexual exploitation of child. Section 20 of the Act specifically has provided that any personnel of the media shall, if he comes across any material or object which is sexually exploitative of the child (including pornographic, sexually-related or making obscene representation of child or children) through the use of any medium, shall provide such information to the Special Juvenile Police Unit (Juvenile and Child Welfare Officer), or to the local police as the case may be. Again Section 23 of the Act specifically prohibits the report or comment on any child which may lower his reputation or infringe his privacy, from any form of media or studio or photographic facilities without having complete and authentic information. Further Section 23 (2) prohibits disclosure of identity of child such as name, address, school, family details by any media report. This is a penal provision which provides for punishment with imprisonment for a term not less than six months, and which may extend to one year or with fine or with both<sup>8</sup>.

**III. Case Laws**

**In Dinesh @Buddha vs State of Rajasthan**<sup>9</sup>, the Supreme Court observed “Keeping in view the social object of preventing social victimization or ostracism of the victim of social offence for which Section 228 A has been enacted, it would be appropriate that in the judgements, be it of this Court, High Court or lower Court, the name of the victim should not be indicated. We have chosen to describe her as ‘victim’ in the judgement.

Again, in **Aju Varghese vs State of Kerala**<sup>10</sup>, the Kerala High Court held that the provision of Section 228 A is clear, unambiguous and the consequence of breach of it is inescapable and the question whether the disclosure was intended, bonafide or without knowledge of law has not

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<sup>8</sup>The Protection of Child from Sexual Offences Act, 2012, [www.wcd.nic.in](http://www.wcd.nic.in), available at <https://wcd.nic.in/sites/default/files/POCSO%20Act%2C%202012.pdf>, last seen 22/05/2021

<sup>9</sup>*Dinesh @ Buddha vs State of Rajasthan*, (2006) 3 SCC 771.

<sup>10</sup>*Aju Varghese vs State of Kerala* (CrI.M.C.5247/17).

relevance. So, the provision of Section 228A IPC prohibiting the disclosure of the name by an accused is absolute and cannot be diluted.

In **Nipun Saxena v Union of India**<sup>11</sup>, the Apex Court issued direction that,

- No person can print or publish in print, electronic, social media, etc. the name of the victim or even in a remote manner disclose any facts which can lead to the victim being identified and which should make her identity known to the public at large.
- Where the victim is dead or of unsound mind the name of the victim or her identity should not be disclosed even under the authorization of the next of the kin, unless circumstances justifying the disclosure of her identity exist, which shall be decided by the competent authority, which at present is the Sessions Judge.

In **Sakshi vs Union of India & Ors**<sup>12</sup>, the Supreme Court laid down certain procedural safeguards to be followed for protection of child victim of sexual abuse during the course of trial.

#### **IV. Media and Right to Information of Child**

Another important issue is the low-quality content served to the children. Children form a large population of the society viewing television and accessing other forms of media. But unfortunately, this section of society is neglected as viewers either in news broadcasting or print. It comes under the right to information of child to get proper information suitable to them<sup>13</sup>. Due to the lack of child-oriented news content children or juvenile find very less interest in reading newspaper. FICCI-KPMG, in its report in 2013, points out that failing to engage the child and youth population could be a potential threat to the print industry<sup>14</sup>.

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<sup>11</sup>*Nipun Saxena v Union of India*, 2018 SCC On Line SC decided on 11-12-2018.

<sup>12</sup>*Sakshi vs Union of India & Ors* AIR 2004 SC 3566, 2004 (2) ALD Cri 504.

<sup>13</sup> *Supra* 3.

<sup>14</sup>*Protecting the Rights of Children: The Role of the Media: Lessons from Brazil, India and Kenya*, [www.internews.org](https://internews.org/content/uploads/legacy/resources/InternewsEurope_ChildRightsMedia_Report_2014.pdf), available at [https://internews.org/wp-content/uploads/legacy/resources/InternewsEurope\\_ChildRightsMedia\\_Report\\_2014.pdf](https://internews.org/wp-content/uploads/legacy/resources/InternewsEurope_ChildRightsMedia_Report_2014.pdf), last seen 22/05/2021.



India is a signatory to Convention on Right of Child, 1989. Article 17 of the Convention has specifically acknowledged the importance of mass media in upholding the right to information of a child. Article 17 provides that media should ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. The provision also directs the state parties to encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18<sup>15</sup>.

The provision of Article 17 suggests two aspects. On one hand it recognises the importance of educational role played by mass media; on the other hand, it encourages issuing guidelines for protecting child from unhealthy and injurious information<sup>16</sup>.

Guidelines for media reporting' on children approved by the Hon'ble High Court of Delhi on 8.8.2012 in Writ Petition (Civil) NO787 of 2012 titled "A.K. Asthana VIS DOI and Anr." adopted by the Council in its meeting held on 27.8.2012 at New Delhi also mentioned that the media should promote the right to information and freedom of expression of a child<sup>17</sup>.

Section 292 of the Indian Penal Code prohibits the sale, public distribution and exhibition of any obscene material.

In **Ajay Goswami vs Union of India**<sup>18</sup>, though the petition of the complainant was dismissed by the Supreme Court for being failed to establish his case, yet the matter was raised before the Apex Court that under Article 21 of the Constitution of India a child has right to proper education and newspapers cannot be allowed to disturb that, by their indeterminately access of the offending article to the minors regardless of their age.

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<sup>15</sup> Convention on The Rights of The Child, [www.ohchr.org](http://www.ohchr.org), available at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>, last seen 22/05/2021.

<sup>16</sup>Supra 3

<sup>17</sup>Supra 6

<sup>18</sup>*Ajay Goswami vs Union of India* (2017) 1 SCC 143.

## V. Low Coverage on Child Centred News

An important issue concerning attitude of media towards child is low coverage of child centred news. The focus of media has always been on consumer's choice, rather than on interest of child. Therefore, incidents like child rape, child sexual abuse are readily picked up by media, whereas, stories of the rehabilitation of children freed in child labour raids, is sorely lacking. There may be two reasons behind low child right coverage: firstly, lack of demand from viewers or readers which defuse the 'child beat' in Indian media; secondly, very limited media understanding of child right sector<sup>19</sup>.

## VI. Media as a Promoter of Child Right

Setting apart all sorts of criticism against media, we should acknowledge and appreciate some of the initiatives taken by media for promoting child right.

- Ministry of Broadcasting, Ministry of Home Affairs has taken an initiative to examine and follow the provisions of Convention on Rights of Child in their programs and activities<sup>20</sup>.
- In 2001, Gyan Vani began operations as a collaborative media initiative of Human Resource Development and Information and Broadcasting ministries.
- Ministry of Human Resource Development, Information & Broadcasting, the Prasar Bharti and IGNOU launched Gyan Darshan (GD) jointly on 26th January 2000 as the exclusive Educational TV Channel of India.
- Children programs are broadcasted from all Regional and Local Radio Stations of All India Radio on weekly basis in their respective regional languages. These are specially designated for age group 5-7 years and 8-14 years. Broadcast of special programs for rural children are also made from AIR stations. Plays, short stories, features, choral singing, interviews, stories from epics etc are included in these broadcasts.

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<sup>19</sup>Supra 14

<sup>20</sup>Supra 3

- In metros and other centres of All India Radio programs for school students are broadcast. Many teachers are part of this broadcast<sup>21</sup>.

## VII. Suggestion

- Indian media should try to develop international media cooperation to discuss child related matters under its platform.
- Since very little practical researches been taken place focusing on actual risk of media on children, such research should be encouraged where children can express their views.
- Agencies monitoring on implementation of the law and guidelines relating to reporting on child should be provided with more powers to take quick action and penalise the media invading the privacy without consent of child.
- Media agency should arrange in house training to journalist, and specially train them to deal with children.
- Competitions among children on developing child related content needs to be arranged and broadcasted on regular basis.

## VIII. Conclusion

In India, media has a good grip on the minds of the people. It is the media which played a vital role in attaining independence of India. By exerting pressure on the Government, media can compel it to implement the child right activities and by educating children it can make them aware of their rights. However, media is expected to be more cautious and ethical in presenting content affecting child right. Children should not be treated as ‘silent audience’; rather, they should be treated as ‘target audience’ by media.

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<sup>21</sup> Dr. Tanu Dang, *Role of Media in Development Communication*, [www.uafulucknow.ac.in](http://www.uafulucknow.ac.in), available at <http://uafulucknow.ac.in/wp-content/uploads/2017/10/BA-JMC-2nd-year-2.pdf,last> seen 22/05/2021.