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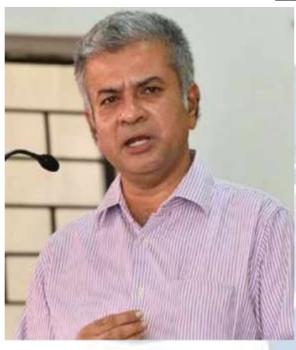
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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and

refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

EXAMINING JOURNALISTS' HUMAN RIGHTS VIOLATIONS FROM A LEGAL STANDPOINT.

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Abstract

This article provides a comprehensive legal analysis of the numerous human rights violations that journalists face in India. Despite the important role that journalists play in promoting transparency, accountability, and good governance, they often confront various forms of harassment and intimidation, including legal action, which poses significant threats to media freedom in the country.

The article delves into the history and context of press freedom in India, highlighting the legal framework that exists to protect journalists' rights. However, it reveals that these constitutionally established protections face numerous challenges, such as illegal surveillance, online harassment, cyberbullying, a lack of accountability for attacks against journalists, and misuse of laws to suppress dissent. Particular focus is placed on the struggles faced by civil society groups and advocacy organizations that work to protect journalists' rights. They often operate under restrictive laws and face various forms of retaliation, highlighting the significant hurdles in place for those striving to uphold media freedom in India. The article applauds efforts by certain Indian states, such as Maharashtra and Chhattisgarh, to enact laws for journalists' protection, yet underlines the shortcomings and limitations of these measures. It explores broader systemic issues that persist in India's media landscape, like media ownership and control, the impact of restrictive laws on free speech, and the inconsistent response to violence against journalists. It further acknowledges the role of the international community, noting that support from international organizations is pivotal for bolstering programs, resources, and training for Indian journalists. However, despite these efforts, it is clear that a stronger international response is needed to foster change.

The article is concluded by offering possible solutions, including legal reforms, swift accountability for attacks on journalists, increased transparency in media ownership, enhancing

digital literacy, and a greater push from the international community. It emphasizes the urgency of protecting journalists' rights in India to ensure the robustness of Indian democracy by maintaining media freedom and citizens' access to vital information.

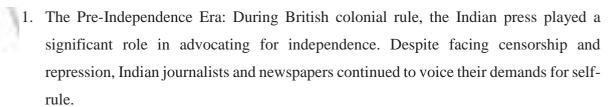
Introduction:

India has been facing alarming increase in human rights violations an against journalists. Journalists are the medium through which the public receives information and knowledge about the happenings around the world. However, while doing their job, they including threats, attacks, legal face several challenges, challenges, surveillance, censorship, online harassment, and cyberbullying. Journalists are critical to maintaining a free and informed society. Their work is essential in holding public officials and institutions accountable and promoting transparency and democracy. The violation of their human rights poses a significant threat to media freedom and the right to access information.

Key Takeaways:

- Journalists in India face an alarming increase in human rights violations.
- Journalists play a crucial role in maintaining a free and informed society.
- The violation of journalists' human rights poses a significant threat to media freedom and the right to access information.
- I. Press Freedom in India: A Historical Perspective

To understand the current challenges faced by journalists in India, it is essential to examine the historical context of press freedom in the country.



2. Post-Independence Growth: After gaining independence in 1947, India's vibrant and diverse media landscape flourished. The country adopted a liberal approach to press freedom, enshrining it as a fundamental right in the Constitution.

Legal Framework for Press Freedom in India

India's legal framework has been instrumental in upholding press freedom. However, recent legislative developments have raised concerns about the potential misuse of laws to curb

journalistic independence.

- 1. The Constitution of India: Article 19(1)(a) of the Indian Constitution guarantees the freedom of speech and expression, including freedom of the press. This constitutional provision has historically been a bulwark against censorship and press restrictions.
- 2. Laws Protecting Journalistic Freedom: India has several laws that protect journalistic freedom, including the Press Council Act, which establishes the Press Council of India to safeguard press freedom and uphold journalistic standards.
- 3. Challenges in Legal Framework: Despite constitutional protections and legal safeguards, journalists in India are frequently subjected to harassment, intimidation, and legal action. Laws such as sedition, criminal defamation, and the Unlawful Activities Prevention Act (UAPA) are often misused to target journalists who are critical of the government or reporting on sensitive issues.
- 1. Sakal Papers (P) Ltd. v. Union of India¹, This landmark case dealt with the government's attempt to regulate the size of newspapers and their prices through the Newspaper (Price and Page) Act, 1956. The petitioners argued that this legislation violated their right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Indian Constitution. The Supreme Court held that the law was unconstitutional, as it amounted to indirect censorship by restricting the volume of news that a newspaper could publish. The Court emphasized that freedom of speech and expression includes the freedom of the press and any law curbing such freedom must pass the test of reasonableness under Article 19(2).
- 2. Romesh Thappar v. State of Madras², This case is one of the earliest and most important decisions that reinforced the right to free speech and expression, including the freedom of the press, in India. The Madras government had imposed restrictions on the circulation of a journal critical of government policies. The Supreme Court ruled that any restriction on freedom of speech and expression could only be justified if it met the criteria laid down in Article 19(2). The Court held that the freedom of the press is implicit in the freedom of speech and expression, and unreasonable restrictions on circulation violated this fundamental right.

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¹ AIR 1962 SC 305

² AIR 1950 SC 124

The Importance of a Free Press

A free press is an essential component of a thriving democracy. It serves as a watchdog, providing critical information and holding those in power accountable. Journalists play a vital role in upholding human rights by exposing corruption, injustice, and abuse of power.

Without a free press, people are left in the dark, unable to make informed decisions or hold their leaders accountable. Journalism is essential to maintaining an informed citizenry and promoting transparency and accountability in government.

"Journalism is printing what someone else does not want printed. Everything else is public relations." The ability of journalists to perform their role is dependent on a free press and media freedom. The freedom to report without fear of censorship, intimidation or physical harm is a fundamental human right that must be protected. Journalism is not just a profession, it is a public service that is vital to the functioning of a democracy. It is imperative that we protect the free press, uphold the rights of journalists, and ensure that they are able to report the truth without fear of repercussions.

Media Censorship in India

Media censorship in India continues to have a negative impact on press freedom and freedom of expression. Journalists have faced increasing pressure and censorship from the government, with restrictions on reporting and dissemination of information. The government has employed a range of measures to control media content, including censorship of news stories and strongarm tactics to silence critical voices. This has led to a decline in the quality of reporting and an erosion of public trust in the media.

The government's use of the sedition law and other legal provisions as a means of stifling dissent has also been a major concern. These laws have been used to arrest journalists critical of the government, leading to a climate of fear and self-censorship. The issue of media censorship in India is not limited to censorship from the government; private entities and businesses have also been found to suppress reporting on certain issues. The increasing influence of the corporate sector on media ownership and control has further raised concerns about the independence and objectivity of the media.

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³ George Orwell

Media censorship in India is a major threat to freedom of expression and press freedom. It hinders the ability of journalists to report the truth without fear of retribution and undermines the public's right to information. It is essential that steps are taken to uphold and protect the principles of media freedom and freedom of expression in India, ensuring that journalists can carry out their work without the fear of censorship or retribution.

1. **Bennett Coleman & Co. v. Union of India**⁴ In this landmark case, the Supreme Court struck down government regulations that sought to control the size and circulation of newspapers. The regulations were seen as an indirect way of curbing press freedom by limiting the ability of newspapers to disseminate information. The Court held that any such restrictions violated Article 19(1)(a) of the Constitution, which guarantees freedom of speech and expression, including freedom of the press. The judgment emphasized that the government cannot use its regulatory powers to control or censor the content of the press under the guise of public interest or other objectives.

2. K.A. Abbas v. Union of India⁵

This case involved a challenge to the censorship of films under the Cinematograph Act, 1952, which had implications for media censorship. While the Court upheld the constitutionality of film censorship, it established important guidelines for ensuring that censorship should not arbitrarily infringe upon the freedom of expression guaranteed under Article 19(1)(a). The judgment recognized that censorship must be reasonable and within the bounds of Article 19(2) (reasonable restrictions). The Court also stressed that censorship cannot be used as a tool to suppress dissent or critical views on governmental policies.

Attacks on Journalists

Journalists in India are facing physical and verbal attacks, jeopardizing their safety and freedom to report objectively. According to a report by Reporters Without Borders, India ranked 142 out of 180 countries in the World Press Freedom Index for 2021. The report stated that India has become a dangerous place for journalists to operate, with an increasing number of attacks and threats against them. Many journalists, particularly those reporting on sensitive issues such as corruption or human rights violations, face threats from criminal elements,

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⁴ AIR 1973 SC 106

⁵ AIR 1971 SC 481

politicians, and even law enforcement agencies. Attacks on journalists can take the form of physical violence, arbitrary detention, intimidation, or harassment. Some journalists have even been killed for their work.

Despite the grave threats faced by journalists, many cases of attacks go unpunished, leading to a culture of impunity. The lack of accountability for perpetrators creates a chilling effect on freedom of expression and the press. It also undermines the trust of the public in the media and the government's ability to protect its citizens.

It is crucial for the government and law enforcement agencies to take strong action against those who harm journalists. This can be done by conducting fair and independent investigations into attacks and threats and holding perpetrators accountable. Additionally, measures such as providing security to journalists reporting on sensitive issues and creating a safe environment for them to perform their duties are essential.

1. Rajdev Ranjan Murder Case⁶

The Supreme Court took suo motu cognizance of the murder of Rajdev Ranjan, a journalist in Bihar, highlighting the increasing violence against journalists in India. Ranjan, who had been reporting on political corruption and criminal activities, was shot dead in 2016. The Court ordered a thorough investigation and underscored the need for stringent action to protect journalists from threats and attacks. This case highlighted the judiciary's awareness of the precarious situation faced by journalists and the importance of upholding their right to safety and freedom of expression.

2. Anuradha Bhasin v. Union of India⁷, In this case, journalist Anuradha Bhasin challenged the communication shutdown and restrictions on media movement in Jammu & Kashmir following the abrogation of Article 370. The Supreme Court ruled that freedom of the press is an essential part of the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution. The Court directed the government to review the restrictions and emphasized the need for maintaining freedom of the press even in areas facing security concerns. This judgment underscored that arbitrary restrictions on the press violate constitutional rights, further highlighting the need to protect journalists.

⁶ (In re Suo Motu Writ Petition (Criminal) No. 1 of 2016)

⁷ AIR 2020 SC 1308

Legal challenges for journalists in India

Journalists in India face a range of legal challenges that impede their ability to report freely. Defamation laws, in particular, have been used to silence journalists and limit their freedom of expression. The legal system in India can be slow and inefficient, which can result in journalists being held in legal limbo for extended periods.

Another obstacle faced by journalists in India is the government's use of restrictive laws, such as the Official Secrets Act. These laws can be used to target journalists who report on sensitive topics, making it difficult for them to do their job without fear of legal repercussions.

"The legal system in India can be slow and inefficient, which can result in journalists being held in legal limbo for extended periods."

There are also concerns that laws such as the Unlawful Activities Prevention Act (UAPA) are being used to stifle dissent and target journalists who report on issues that the government considers to be a threat to national security. The UAPA allows for individuals to be detained for extended periods without bail.

Journalists who report on corruption and other issues that are sensitive to those in positions of power are often the targets of legal harassment. This can include frivolous lawsuits and the use of criminal charges to intimidate and silence journalists. The legal challenges faced by journalists in India are a significant impediment to media freedom and the ability of journalists to report on issues of public importance. Advocacy groups and civil society organizations have been calling for the reform of India's defamation and other restrictive laws to ensure that journalists can report freely without the fear of legal repercussions.

Impunity for perpetrators

The issue of impunity for those who harm journalists is a significant concern in India. Journalists who face attacks or threats often do not receive justice, and their perpetrators go unpunished. This creates a chilling effect on the media and undermines the safety and security of journalists.

According to the Committee to Protect Journalists, India is one of the worst countries for impunity for journalist murders, with only a small percentage of cases resulting in

convictions. In many cases, those responsible for the attacks are linked to powerful individuals or groups, making it difficult for journalists to pursue legal action.

Accountability is essential to address this issue. The Indian government should take steps to ensure that those who harm journalists are held accountable for their actions. This includes a robust investigation process, fair trials, and appropriate punishment for those found guilty.

Surveillance and privacy concerns

Journalists in India not only face physical and verbal attacks but also digital surveillance, which threatens their privacy and freedom. The government has been known to use surveillance tactics to monitor journalists who are critical of their policies. This has a chilling effect on freedom of the press and the ability to report without fear of retribution.

In addition to government surveillance, journalists also face surveillance from private individuals and corporations. Online platforms have become a breeding ground for hate speech and fake news, resulting in journalists being targeted with online harassment and cyberbullying. This not only affects their mental well-being but also creates a hostile work environment.

"Journalists in India face not only physical and verbal attacks but also digital surveillance, which poses a threat to their privacy and freedom."

Journalists must be able to protect their sources and work without fear of being monitored. However, the lack of proper regulations and oversight means that surveillance can often be used against them with impunity. The government must take steps to ensure that journalists can report safely and without fear of surveillance or harassment.

Online Harassment and Cyberbullying of Journalists

Journalists in India face increasing instances of online harassment and cyberbullying, leading to serious concerns about their mental well-being and safety. Cyberbullying refers to using the internet or electronic communication to intimidate, harass, or threaten someone. The anonymity of online platforms allows cyberbullies to easily target journalists who report on sensitive topics or express opinions that go against their interests.

Online harassment and cyberbullying can manifest in various forms. They can range from insulting or threatening comments on social media to doxxing, which involves revealing private information online, to revenge porn, which is the distribution of private sexual material without the subject's consent. These acts not only violate the basic human right of freedom of expression but also put journalists' safety at risk.

"The anonymity provided by online platforms enables cyberbullies to effortlessly target journalists who cover sensitive topics or share opinions that oppose their interests."

Studies show that online harassment and cyberbullying can have severe impacts on mental health, leading to anxiety, depression, and other mental health issues. Journalists in India are particularly vulnerable to these effects, given the high levels of stress and pressure they face while reporting in a hostile environment. In response to these threats, some journalists have taken measures to protect themselves online, such as monitoring their social media accounts or using pseudonyms. However, these solutions are not fool proof and may not provide adequate protection against determined cyberbullies.

Overall, online harassment and cyberbullying are serious issues that need to be addressed to protect journalists in India. It is essential to create a safe online environment for journalists to report without fear of intimidation or harassment.

Recent cases and trends

Human rights violations against journalists have become a concerning trend in India. Reporters Without Borders ranked India 142 out of 180 countries in its 2021 World Press Freedom Index, highlighting the precarious situation for journalists.

Recent cases illustrate the threats and dangers journalists face on a regular basis. In May 2021, a freelance journalist was arrested under India's sedition law for reporting on the impact of Covid-19 in a village in Uttar Pradesh. In June 2021, a television journalist was allegedly beaten up by police while reporting on a protest in West Bengal. These incidents of physical violence and legal intimidation are just a few examples of the challenges journalists face in India. Moreover, the use of cyber laws to silence critical voices is on the rise. In August 2021, a journalist was booked under the IT Act for reporting on police violence during a protest in Mumbai.

Few of the most famous cases in this aspect are listed down below,

Gauri Lankesh: The murder of Gauri Lankesh, a prominent journalist and critic of right-wing extremism, in 2017 sent shockwaves through the journalistic community. Her killing remains unsolved, raising questions about the safety of journalists who take on powerful interests.

Arnab Goswami: Arnab Goswami, a well-known television anchor and editor, was arrested in 2020 on charges of abetment to suicide in a case that was widely seen as politically motivated. His arrest sparked a debate on press freedom and the misuse of legal provisions against journalists.

Siddique Kappan: Journalist Siddique Kappan was arrested in 2020 while on his way to report on the Hathras gang-rape case. He was charged under the UAPA and has been in detention ever since, despite calls for his release by human rights organizations.

Rana Ayyub: Investigative journalist Rana Ayyub has faced online harassment, threats, and legal action for her reporting on sensitive issues. Her experiences highlight the challenges faced by journalists who dare to investigate and report on issues of public interest.

The use of vague and broad provisions in cyber laws to target dissenting voices is a growing concern. The trend of human rights violations against journalists is alarming, and urgent action is required to protect their rights and freedom.

International Standards and Obligations

India has a duty to uphold international standards and obligations in protecting the human rights of journalists. The United Nations General Assembly has consistently emphasized the significance of a free and independent press in democratic societies and acknowledged the right of individuals to seek, receive, and share information through any media, across borders.

India is a signatory to international treaties that protect the freedom of expression and press freedom, such as the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights. These agreements require the government to create an enabling environment for journalists to report independently and without fear of reprisals.

"Journalists play a crucial role in promoting transparency, accountability, and good governance. The government of India should respect the rights of journalists to report freely and refrain from imposing any illegal restrictions on their work."

The United Nations Special Rapporteur on Freedom of Expression called on the Indian

government to ensure that journalists are protected from violence and intimidation, and to review any laws or practices that may restrict journalists' activities. The government must also hold accountable those who violate journalists' rights, particularly state officials responsible for attacks, harassment, and intimidation.

- 1. The Indian government should promote and protect the freedom of expression and press freedom in accordance with international human rights law.
- 2. The government must ensure that journalists can report independently and without fear of reprisals.
- 3. The government should review existing laws and practices that may restrict journalists' activities.
- 4. The government must hold accountable those who violate journalists' rights, including state officials responsible for attacks, harassment, and intimidation.

India's duty to uphold international standards and obligations requires a concerted effort to promote and protect the human rights of journalists. By respecting the freedom of expression and press freedom, India can create a conducive environment for journalists to work without fear of reprisals and contribute to the country's democratic ideals.

Role of civil society and advocacy groups

Civil society organizations and advocacy groups play a critical role in promoting and protecting media freedom and the human rights of journalists in India. They act as watchdogs, monitoring violations, and advocating for policy changes that prioritize the safety and well-being of journalists. These groups also provide legal and emotional support to journalists facing threats, harassment, or attacks. They organize solidarity campaigns and protests, draw attention to specific cases of violations, and work to increase public awareness about the importance of media freedom in a democratic society.

"Civil society and advocacy groups can act as a bridge between journalists and the government, highlighting the challenges faced by journalists and advocating for necessary reforms," says Priya Pillai, a human rights activist and journalist based in Delhi.

They also work with international organizations to lobby for change and push for greater accountability for perpetrators of violations. These efforts help to create an environment where journalists can work without fear of reprisal and contribute to the development of a more

vibrant and democratic media landscape in India.

- Civil society and advocacy groups provide legal and emotional support to journalists facing threats, harassment, or attacks.
- They organize solidarity campaigns and protests, draw attention to specific cases of violations, and work to increase public awareness about the importance of media freedom in a democratic society.
- These groups also work with international organizations to lobby for change and push for greater accountability for perpetrators of violations.

However, these groups often face significant challenges in their work. They are frequently targeted by the government and pushed to operate under restrictive laws and regulations. Some groups have also faced legal challenges and harassment, which have hindered their ability to work effectively.

Despite these challenges, civil society and advocacy groups continue to play a crucial role in protecting the rights of journalists in India. Their efforts serve as a reminder of the importance of media freedom in a democratic society and the need to defend it at all costs.

Government initiatives and challenges

The Indian government has taken some steps to address the issue of human rights violations against journalists. The Ministry of Information and Broadcasting has set up a committee to look into the safety of journalists and the issue of impunity for perpetrators. The government has also made efforts to decriminalize defamation, which has been used to silence critical reporting.

However, there remain significant challenges in implementing these initiatives effectively. The issue of media ownership and control continues to pose a threat to the independence of journalism. The government has also been criticized for using restrictive laws such as the Unlawful Activities Prevention Act and the sedition law to target journalists.

Furthermore, the government's response to attacks on journalists has been inadequate. In many cases, perpetrators of violence against journalists have enjoyed impunity, while journalists face legal action for their reporting. The lack of accountability has created a climate of fear and intimidation, impacting the ability of journalists to report freely.

The government must take stronger measures to protect journalists' human rights and ensure freedom of expression. This includes addressing the issue of media ownership and control, repealing restrictive laws, and improving the response to attacks on journalists. The challenges are significant, but the importance of media freedom in a democracy cannot be overstated.

Laws enacted by States for the protection of Journalists

The Maharashtra becomes the first state in the country to pass a bill for the protection of journalists. With an objective to defend journalists "on account of rampant instances of violence's and attack against media persons and damage or loss to the property of media institutions, it was passed in the assembly by the both the houses of Maharashtra State Legislature in the year 2017 and received Presidential Assent in 2019. The basic underlying object of the Act is to safeguard any "movable or immovable" property, as well as "equipment or apparatus," that belongs to a media person or institution in Maharashtra. However, despite the step in the right direction, there are certain lacunas present in the Act.

A bill with the title "Chhattisgarh State Commission for Protection of Journalists and Human Rights Defenders" has been introduced by the People's Union for Civil Liberties Chhattisgarh. This is the first bill in India which has received massive support from politician for the protection of journalists. The main objective of this bill is to form an autonomous body to make sure that person who experience difficulty exercising their right to free expression are given legal and financial support. The bill has also provided the definition of journalists and media for better understanding of who are covered within this Act. Despite receiving high plaudits from the journalists for bringing in safeguards to protect them, the Bill has its own shortcomings. However, the biggest hurdle would be to pass this Bill on the legislative floor, which consists of politicians who often have conflicting interest. Furthermore, there is a good chance that the legislators will eliminate the Bill's defining and safeguarding provisions. In the end, the state's intention determines how well this Bill would safeguard journalists.

Thus, it is abundantly evident that there are numerous laws and regulations that impose restrictions on and limit the free speech of journalists. However, only Maharashtra and Chhattisgarh have taken action to provide a legal framework for journalists, despite the fact that their Act and Bill, respectively, have a number of flaws.

International support and solidarity

The issue of human rights violations against journalists in India has garnered international attention and support. Various global organizations such as Amnesty International, Reporters Without Borders, and the Committee to Protect Journalists have highlighted the situation and advocated for journalists' rights in India.

International solidarity can be a powerful tool in promoting and protecting the rights of journalists and ensuring that those who violate those rights are held accountable. Journalists in India can benefit from the support of their peers and colleagues all over the world who face similar challenges in their line of work.

International organizations have also provided valuable resources and training for journalists in India to help them navigate the legal and physical challenges they face. By fostering international partnerships and alliances, journalists in India can build a stronger, more resilient community that can better withstand attacks on their hum

"The support of the international community gives us hope and motivation to continue our work in the face of adversity," said a journalist who wished to remain anonymous for safety concerns.

an rights.

International support and solidarity will continue to play a crucial role in promoting and protecting the human rights of journalists in India. It is imperative that the global community stands with journalists in India and demands that their human rights are respected and protected.

Solutions to Safeguard Journalists' Human Rights in India

Addressing the challenges faced by journalists in India requires a multi-pronged approach involving government, civil society, and international organizations:

- Legal Reforms: India must reform or repeal laws that are frequently misused to target journalists, such as the UAPA and sedition laws. Legal safeguards should be strengthened to protect journalistic freedom.
- 2. Swift Accountability: The government must ensure swift and impartial investigations into attacks on journalists, including murders. Perpetrators must be brought to justice to send a clear message that violence against journalists will not be tolerated.

- 3. Media Ownership Transparency: Promoting transparency in media ownership can help counter undue influence and protect editorial independence.
- 4. Digital Literacy: Promoting digital literacy among journalists and the general public can help combat online harassment and misinformation.
- 5. International Pressure: The international community should continue to raise concerns about press freedom in India and call for the protection of journalists' rights.
- 6. Solidarity Among Journalists: Journalists should come together to support each other in the face of threats and harassment. Solidarity networks can provide emotional and professional support.

Conclusion

Journalism is an essential pillar of democracy that upholds the values of transparency, accountability, and freedom of expression. Human rights violations against journalists in India have reached an alarming level, with many cases of harassment, physical violence, and censorship. This threatens the very fabric of Indian democracy and calls for urgent action to protect journalists' rights to report freely and hold the power to account.

The government's initiatives to address these issues have been slow and ineffective, and there is a need for greater support from civil society organizations and international solidarity. Upholding human rights for journalists and media freedom in India requires a concerted effort from all stakeholders.

As India moves towards a more digital future, it is crucial to address issues such as surveillance, privacy concerns, and online harassment that journalists are facing. The government must implement international standards and obligations to ensure the safety and freedom of journalists in the country.

In conclusion, we cannot underestimate the importance of a free press in maintaining a healthy democracy. With rising incidents of human rights violations against journalists in India, it is time to act and advocate for the rights of those who uphold the values of democracy every day.