

ROLE OF MEDIA IN HIGHLIGHTING THE CRIME: STRIKING THE BALANCE BETWEEN RIGHTS OF ACCUSED AND VICTIM

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ABSTRACT

The effects of both traditional and online news media on how society looks at crime, how it has shaped the role of people in the criminal justice system, and what impact it has had on the rights of the two main sides, the accused and the victim, are discussed in this paper. It says that strong reporting and open justice can exist together with fair-trial rights and respect for victims, as long as clear limits are set. One useful method suggested to reduce bias and secondary harm caused by newsrooms is the use of a “balance matrix” and decision-making models, which can help in protecting press freedom. In India, media trials have become common, with the media often acting like a court in high-profile cases. This paper looks at how media trials affect the legal process and the basic rights of suspects in India. In this paper, important cases and court decisions will be studied to show the results of media trials on people and the denial of their rights, which are often biased and against their privacy. In this paper, a regulatory method will be suggested to keep both media freedom and the protection of judicial fairness and the rights of people in legal cases, no matter the aim of media trials to improve responsibility. The paper tries to explain the need for responsible media that does not harm democratic values but still ensures fair process and justice.

Keywords: Media Trials, Judicial Process, Public Perception, Ethical Journalism, Privacy.

INTRODUCTION

Many people in India see the media as an important part of society and a strong pillar of democracy, as it acts like a watchdog. This is because the media shows the living conditions of people, the impact of government policies, and the struggles of ordinary citizens, along with social issues and movements for change. Ideally, the media should remain fair, neutral, and not favour any individual or political party. What matters most is its independence, because the smooth working of a democracy depends on it. However, the idea of a free and independent press is often debated, and this fact needs to be recognised. In this context, new trends in India have given rise to what is called media trials or trials by the press. This development affects not only the basic rights of the individuals involved but also society as a whole. In cases of media trials, humiliation and character attacks are often used. Such practices create anger among the public on grounds that cannot be justified. As a result, the way people view the parties involved in ongoing cases changes, and this can affect the justice system.

A media trial is a situation where the press, including print, television, and social media, shapes public opinion and creates bias about a case or a person before or during the court process. In India, public opinion in high-profile cases and even the final outcomes have been heavily influenced by media coverage.

Many people in India consider the media to be a very important part of society and a key support of democracy, as it acts like a watchdog. This can be said because the media highlight people's living conditions, the effects of government policies, and the problems faced by ordinary citizens, as well as social issues and movements for change. Ideally, the media should remain fair, neutral, and not favour any person or political party. It is the autonomy¹ that matters the most above all, because the working of a democracy relies on it. However, the idea of the free and independent press is a subject of debate, and this fact should be acknowledged². In this regard, new developments in India have resulted in the creation of so-called media trials or trials by the news. This phenomenon interferes with the basic rights of the individuals who are affected by it as well as the society itself. In case of a media trial³ humiliation and

¹ S.K. Aggarwal, Freedom of Press in India, 42, (2019)

² Soli J. Sorabjee, Freedom of the Press: Its Contents and Facets, 13 India Int'l Ctr. Q. 173, 174 (1986), available at <https://www.jstor.org/stable/23001444>.

³ Ishan Chhokra, Trial by Media: Free Speech v. Fair Trial, 6 Int'l J. L. Mgmt. & Hum. 3642, 3646 (2023), <https://doi.org/10.10000/IJLMH.116691>.

character assassination are commonplace approaches that are employed. These policies generate outrage amongst the people on grounds that cannot be justified. This, in return, changes the manner in which the masses view the parties involved in the cases that are being litigated and this could impact the legal system.⁴

What has come to be known as a media trial is a phenomenon in which the establishment, which comprises print, broadcast, and social media, influences the opinion and biases of people over a given case or an individual prior to or during the application of a trial. In India, the public perception of high-profile cases and the overall resolution has been greatly affected by the media.

Literature Review

Arnab Basu in *Revealing Media Trial in Indian Law: Critical Analysis*, gives an exhaustive summary of media trials in India. It tracks their evolution over time, weighs them in terms of their constitutional underpinnings (free speech vs. fair trial), and questions unethical activities such as sensationalism and irresponsible behaviour. With recommendations of the Law Commission and the historic judgements, it presents the challenges mired in media trials and offers ethical journalism solutions⁵. Rohan Singh Lodhi and Dr. Pooja Agarwal in the impact and ethical dimensions of media trials under the Constitution of India talk about how media coverage of court cases in India can affect justice and public opinion. Cases like Arushi Talwar, Sushant Singh Rajput, Nirbhaya, and Sunanda Pushkar show that the media can create bias, pressurise authorities, and sometimes harm the right to a fair trial of the accused. Media trials can influence judges, influence the public in forming an opinion, and spread unverified information. Journalists should report carefully by avoiding sensationalism and should follow ethical rules. Moreover, stronger regulations, training, and cooperation between courts and media are needed to balance press freedom and fair trials. When reporting is done responsibly, it helps in protecting the rights of all individuals who are involved and helps in maintaining public trust in the legal system⁶.

⁴ BBC News, Disha Ravi: India Activist Arrest Decried as “Attack on Democracy” (Feb. 16, 2021), <https://www.bbc.com/news/world-asia-india-56083081>.

⁵ Arnab Basu, *Revealing Media Trials in Indian Law: Critical Analysis*, J. Soc. Sci. & Human. 173 (2024).

⁶ Rohan Singh Lodhi & Pooja Agarwal, *The Impact and Ethical Dimensions of Media Trials Under the Constitution of India*, 27 Afr. J. Biomed. Res. 3347 (2024).

Nabee Khan and Dr. Venudhar Routiya in *A case study of media trial in india: With special reference to Ad-Judicature of Supreme Court and High Court* stated that by looking at cases like R.K. Anand and Sahara India, it examines how the courts have dealt with the tension between press freedom Article 19(1)(a)⁷ and fair trial Article 21⁸ via the use of contempt orders, prior restriction, and recommendations⁹.

Deepti Khubalkar, Shilpa Sharma, Sukhvinder Singh in *Rights of Accused and Victim Against Media Victimization: A Critical Examination*, we looked at how the media's coverage violates the privacy and rights of the victims and the accused. Legal safeguards against slander and unjustified publication are investigated, drawing on constitutional precedent (e.g., *R. Rajagopal v. State of Tamil Nadu*) that upholds privacy as having its basis in Article 21. Expanding the concept of "press" in the digital age, the research also discusses moral obligations in digital media¹⁰.

Research Gap

A lot of research has been done on how media trials affect public opinion, judicial impartiality, and individual rights, but there are still big gaps in our knowledge of how to balance press freedom with the rights of the accused and victims. Most current studies look at important instances and ethical issues, but they don't look at how well present regulatory systems and self-regulatory organizations stop media bias and violation of privacy. There is little study about the developing issues presented by digital and social media platforms, which exacerbate sensationalism and affect judicial procedures. The legal system is also insufficient as there is no safeguard for digital reputation, no pre-trial media blackout, no mandate for trauma sensitive reporting certification, and no mechanism such as victim controlled media access, media impact assessment, a victim media ombudsman or rehabilitation funds. This research is an attempt to fill in the gaps by carefully looking at legal frameworks, case studies, and ethical practices.

Research Objectives

⁷ India Const. art. 19(1)(a).

⁸ India Const. art. 21.

⁹Venudhar Routiya, *A Case Study of Media Trial in India: With Reference to Ad-Judicature of Supreme Court and High Court*, ResearchGate (2025).

¹⁰ Deepti Khubalkar, Shilpa Sharma & Sukhvinder Singh Dari, *Rights of Accused and Victim Against Media Victimization: A Critical Examination*, 15 Med. L. & Soc'y 357 (2022).

- 1) Examine the impacts, as reported in the media, of crime coverage on the rights of the accused, and specifically to the presumption of innocence and the right to a fair trial.
- 2) In order to study how media reporting has an effect on crime victims, in terms of privacy, dignity, and being shielded against secondary victimization.
- 3) To determine how well current legal, regulatory, and ethical systems apportion freedom of the media and the rights of the accused and the victim.

Research Methodology

In order to investigate the influence that media trials have on the legal system and the basic rights of persons in India, this research makes use of a qualitative case study methodology. For the purpose of determining the extent to which media coverage affects public perception, judicial impartiality, and individual rights, key cases, especially those involving important public personalities, are analysed. Moreover to better understand the parameters of the media to cover the matters that its currently being judged in the court, it studies legislative enactments like the Contempt of Courts Act or the legal traditions. This approach opens up the confluence of moral superiority in the media; the limits the law can wield on the subject matter; and the exception, which must be sought between revelation and the independence of the court system.¹¹

POSITIVE AND NEGATIVE ROLES OF THE MEDIA IN CRIME PATROLLING

Media can shape the opinion of the audience as it can carry both negative and positive after effects to the accused, victims as well as to the administration system. The media plays a vital role in a democratic society since it serves as a watchdog¹² and accountability in high places. Despite that, there had also been cases where sensationalism, biased journalism and media trial have all exceeded the line of what is considered to be morally¹³ acceptable. The ethical actions that have been adopted can destroy the integrity of the judicial system¹⁴ and breach the right of the accused to a fair trial¹⁵.

MEDIA AS A LAW ENFORCEMENT AGENCY

¹¹ Y. Azad, *A Tale of the Failure of the Media, Police Forces*, Hindustan Times (2020).

¹² G. Sudharsana, Bontala Someswara Rao & S. Naidu, *The Role of Media Influence on the Judicial Process in India: An Analysis*, 5 ShodhKosh: J. Visual & Performing Arts (2024), <https://doi.org/10.29121/shodhkosh.v5.i1.2024.1791>.

¹³ Tim Crook, *Comparative Media Law and Ethics* (1st ed. 2009).

¹⁴ *R.K. Anand v. Registrar, Delhi High Court*, (2009) 8 S.C.C. 106 (India).

¹⁵ *Maneka Gandhi v. Union of India*, A.I.R. 1978 S.C. 597 (India).

The broadcasting of criminal trials in recent times has introduced a new dimension of transparency in the justice delivery system. Today, live streaming of proceedings of the supreme court and the several high courts is available on their official website and YouTube channels. This has enabled ordinary citizens to witness how the courts function in reality. Earlier, due to portrayals in movies and television serials, court proceedings were often seen as dramatic, undignified, or even comical. Live broadcasts have corrected this misconception by providing the public with an accurate picture of the courtroom environment. The media also acts as a tool of law enforcement in society. When communities are informed about crime-related issues, encouraged to adopt target-hardening measures, or warned about increased police patrols, it leads to greater self-protection and a reduction in offences. Through such initiatives, law enforcement agencies can use media to reach two critical groups who are potential victims and potential offenders.

MEDIA TRIAL V. JUDICIAL TRIAL

Over time, the term trial by media became popular in the late 20th and early 21st century to describe the impact of television and newspaper coverage on a person's reputation of creating a widespread perception of guilt or innocence even before or after the court has delivered its verdict. In recent times, there have been several instances where the media has conducted its own trial of an accused and pronounced a verdict before the court's judgment. Some well known criminal cases that highlight this include the Priyadarshini Mattoo case¹⁶, Jessica Lal case¹⁷, Nitish Katara murder case¹⁸, Bijal Joshi rape case, Shushant Singh Rajput case¹⁹, Aryan Khan drug case²⁰, among others.

LEGAL AND REGULATORY FRAMEWORK

When it came to the notice of the Indian court, it started taking measures to settle the matter. The courts have at times issued restrictions on the extent of media exposure to the extent of providing a fair trial²¹ to the accused. The India Supreme Court has

¹⁶ Santosh Kumar Singh v. State (Through CBI), (2010) 9 S.C.C. 747 (India).

¹⁷ Manu Sharma v. State (NCT of Delhi), (2010) 6 S.C.C. 1 (India).

¹⁸ Nupur Talwar v. C.B.I., (2012) 11 S.C.C. 465 (India).

¹⁹ Vishal Yadav v. State of U.P., Crim. App. Nos. 910 of 2008 & 145 of 2012 (India).

²⁰ Harishankar Gayaprasad Jaiswal v. State of Gujarat, (2018) (India).

²¹ Aryan Shah Rukh Khan v. Union of India & Anr., (2021) (India).

also made guidelines²² restricting the media attention of the ongoing cases. One may view these guidelines here.

Examples of the Nithari murders, the Sheena Bora murder case, the Jessica Lal murder case, the Sunanda Pushkar case, the Sushanth Singh Rajput case, and the actor Dileep case are mere specimens of scenarios that have taken place in India, where media trials have influenced²³ the opinion of the same to a great extent. Evidence of these cases shows that media coverage can affect how people perceive the matter and shape the story, and even affect court cases. In spite of the fact that media coverage is essential for public education and transparency, it is of the utmost importance to respect ethical²⁴ standards and protect the rights of those who have been accused. When reporting on ongoing cases, the media is obligated to conduct themselves in an ethical manner and uphold their journalistic integrity. While at the same time ensuring that the accused receives a fair trial, which is free from the influence of the media, the courts must concurrently do this duty.²⁵

THE FREEDOM OF THE MEDIA TO SPREAD INFORMATION AND THE RIGHT OF INDIVIDUALS TO PRIVACY

Invoking the fact of good journalists and looking at high-profile cases, ethical²⁶ journalism can be seen to be a necessity that upholds the rights of people as well as the sanctity of the law system²⁷. To avoid the bias of the news outlets affecting people in an unfair manner, the media outlets must conform to professional norms and lay great stress on balanced reporting, as opposed to sensationalism²⁸. In order to uphold the rights of the people to get fair and just information, the court may put restraints on media coverage that may jeopardize the judicial neutrality, as per the Contempt of Courts Act and under other constitutional stipulations. The Indian Constitution recognizes that the "Freedom of Speech and Expression" is not unlimited but is subject

²² Suchita Shukla, Police Disclosure to Media Not Consist of Subjective Opinion Pre-Judging Guilt of Accused: SC Directs MHA to Frame Guidelines, Verdictum: The Dictum of Truth (2023), <https://www.verdictum.in/court-updates/supreme-court/prepare-a-comprehensive-manual-on-media-briefings-by-police-personnel-supreme-court-to-union-ministry-of-home-affairs>.

²³ Supra Note 14.

²⁴ Varsha Sisodia & Ashish Sharma, *Media Trials and the State of Journalism in India: Ethical and Legal Implications*, 38 J. Media Ethics 288 (2023).

²⁵ N. Alvi, *Media Raising Probe Bar: HC*, Hindustan Times (2007).

²⁶ Supra Note 12.

²⁷ Supra Note 4.

²⁸ *Ethical Dilemmas in Indian Media: A Reflection on Notable Breaches*, Media, Ethics & Laws (2023).

to constraints, as stated in Article 19(2), even if Article 19(1) protects this right.²⁹ Chat logs, financial transactions, and private images were leaked by the media while a parallel trial was underway. Activists said in a motion filed with the Bombay High Court that investigators examining a high-profile death case had leaked confidential information to the media. The court expresses concern about the absence of state regulation of electronic media and asks the federal government to clarify its authority over news broadcasts with major implications. Despite not having a thorough privacy regulation, India's constitution does recognize the right to privacy. But the forthcoming Personal Data Protection Bill (PDPB)³⁰ has exemptions for processing personal data for journalistic purposes, so journalists may still publish what they think is in the public interest. Concerns over potential invasions of privacy have arisen. Instead of a legal framework for media regulation, India depends on self-regulatory groups that members join voluntarily. These organizations include the News Broadcast Federation, the Broadcast Editors Association, and the News Broadcasters Association, which make regulations and take care of complaints about violations. The question is whether these self-regulatory groups succeed or not.³¹

THE ROLE OF THE MEDIA IN TRIALS AND THEIR IMPACT ON THE JUDGMENT AFFECTING THE RIGHTS OF AN ACCUSED AND THE VICTIMS

Media trials can cause a big impact on the justice of judgments and the productivity of the justice system. This trend raises a question of the resiliency of the judiciary, which can be easily manipulated in its decision in high-profile cases where the perspective of a victim is widely influenced by media focus. Media trials affect the court system and come up with, in a lot of ways:

Judges and judicial objectivity: The theory is that judges are expected to possess an unbiased attitude in order to have a just legal system, and hence can only determine the outcome of cases through facts of the case and the law. In the meantime, when someone is accused and the press reports him/her as either guilty or not, it may simply

²⁹ E. Bharat, *SC Cites SSR Case, Says "Fine Against TV Channels Must Be Proportionate to Profits Made from Show"*, ETV News (2023).

³⁰ *The DPDP Act: Implications for Journalist Free Speech in India*, Daily News Analysis (2023).

³¹ Rahul Bharti, *Media Trial in India: Legal Issues and Challenges*, 5 J. Emerging Techs. & Innovative Res. 241 (2018).

ease the court to reach judgments that reflect the mass judgment. The murder trial of Sushil Sharma v. The State³² (Delhi Administration and Ors), for example, had extensive media coverage, which prematurely cast the defendant in a guilty light. The judges were already under a lot of pressure to make a biased ruling due to the public's already lopsided view, and this representation just made matters worse. Therefore, media biases might endanger both due process rights and the independence of the judiciary³³.

Witnesses, whose evidence is crucial to the judicial process, are also affected by trials covered by the media. Media coverage of certain stories may scare away potential witnesses.

The decline of public faith in the judicial system: Trials covered by the media may distort public perception of the judicial system and cultivate scepticism towards judicial judgments and processes. When a case is blown out of proportion in the media and the court rules in a way that goes against public opinion, it may make the public see the courts in a negative light. It is especially evident when the accused people are powerful or when the court does not agree with the way a story is presented by the media.

CASE LAW ANALYSIS

The Aarushi Talwar case described the way the media³⁴ can affect the court verdicts in most cases at the cost of the innocence principle or the law norms due to popularity. Media trials can be unfair as they can mislead society, interfere with court proceedings, and violate human rights.

The Sheena Bora case raised valuable issues of media ethics and the right to a fair trial. Its neutrality would be damaged by mass media coverage and popular opinion, according to the representatives of the legal community. The media's obsession with dramatic details as opposed to clear and established facts risked compromising the legal issues that arose in relation to the case. The rush to judgment through pre-emptive actions taken in front of the cameras posed a challenge to the legal defence of Indrani and Peter Mukerjee, showing how such reporting makes it all the more

³² Sushil Sharma v. State (Delhi Administration), Crim. App. No. 3944 (1996) (India).

³³ Ishita Singh & Harsh Bhargava, *Hampering Judicial Independence: Media Trials in India, Its History and a Fresh Perspective*, Academike — Legal Service India (2021).

³⁴ Aarushi Talwar to Rhea Chakraborty: A Tale of Two Media Trials and Zero Lessons Learnt, *The Wire* (2020).

challenging to ensure that a fair trial will be accessible to the accused when present in the media in such volumes.

Cases like the Sanjay Dutt trial of a much-sought-after bollywood actor believed to have been involved with the 1993 bombings in Mumbai were regularly featured in the media. Since the case gained much publicity, the media put Dutt in the limelight as either an experienced criminal or a gullible actor. Rather than focusing solely on the legality of the charges against Dutt, the media coverage of the same divided the populace and raised the question regarding his character. There was also the belief that the media had conducted a trial on the side that affected the perception of the individual and the judicial minds in respect to the case. Even after his conviction and imprisonment on charges of violating the Arms Act, Dutt was still regarded by some as a symbol of how the Indian judicial system despised the no-holds-barredness of celebrities in the country. The society keenly followed his requests to have the sentence reduced through the media trial causing further anxiety over the equal treatment by the courts.³⁵

One of the most publicized cases in India in the media was the case of the murder of Jessica Lal in 1999 and consequent acquittal of the main accused, Manu Sharma. Model and a bartender Jessica was shot and killed because she had refused to serve drinks after closing time in a closed party including famous individualities. Manu Sharma, son of a big-time Indian politician, was exonerated as there was no concrete evidence and the suspicion that, the evidence was destroyed through intimidation of stops. Following the acquittal of Jessica, it was a media driven campaign to have her justice done and outraged citizens.

FINDINGS AND DISCUSSION

Media trials have a big impact on how people think about crime. They can make the accused seem guilty before the courts make a decision as well as sensational reporting puts pressure on judges, investigators, and witnesses, which makes the court system less fair and less likely to follow due process. Both the accused and the victims have their privacy invaded, and the media frequently reveals private information that leads to secondary victimization, self regulatory agencies in India do not have the capacity to enforce rules, which lets reckless and biased reporting go on without any consequences. Moreover, the desire of ratings and profit leads to

³⁵ Reuters Institute for the Study of Journalism, *Digital News Report* (2021).

sensationalism, which hurts ethical journalism and people's faith in democratic institutions.

CONCLUSION AND RECOMMENDATIONS

One of the key issues that is the foremost concern to the Indian judicial system is the effects of media trials that threaten the fair trial provision in the Indian Constitution, since the media is capable of shaping the opinion of the citizenry, and as a result, could form biased and hostile environments. Other numerous human rights, based on which the media trials can infringe, include the rights to privacy, dignity, and reputation. The tabloid exposure and one-sided media coverage that may be a part of such cases are not only serving to influence the general opinion, exerting inappropriate pressure³⁶ on the system, but may also serve as an uncomfortable environment for the defendant. Also, excessive media coverage may intimidate the witnesses, which means that they may not speak the truth and eventually challenge the fair and just postulate.³⁷ Among the ethical issues of bias, invasion of privacy, and misinformation, media trials bring to the fore the ethical interest that requires the practice of good journalism that is careful in its coverage and focuses on authenticity, fairness and absence of sensationalism. Laws and regulations have been laid out to deal with these, and media trials have continued to take place, especially in high-profile cases, underscoring the dire requirement to apply and enforce existing laws. The media should be held accountable when they do make mistakes and place more importance on transparency, fairness, and accuracy as opposed to sensationalism. These kinds of moral acts are required to gain the trust of the people and ensure that the media serve the interests of the population.

As media trials often destroy their reputation even before a judgment is made, a digital reputation safeguard mechanism could be developed, where all online stories about ongoing cases are automatically marked as 'sub judice'. A pre trial media blackout period can also be initiated during the early investigation stage which can prevent speculation and false narratives from spreading. To ensure fairness, journalists who have trauma sensitive reporting certification should be allowed to cover ongoing criminal trials. Victims are equally at risk as they often lose their privacy and face repeated trauma due to the irresponsibility of media reporting. Victim-controlled media access portal could be initiated, where survivors themselves can decide how much

³⁶ *Supra* Note 19.

³⁷ *Famous Cases of Media Trial*. (n.d.).

information can be shared. A media Impact Assessment should be done before publishing sensitive details in high-profile cases. A Victim Media Ombudsman can act as a quick response body to order apologies, compensation when any kind of harmful coverage is reported. Moreover, a media rehabilitation fund which are supported by profits earned from sensational crime reporting can put a good use of the monetary value in financing victim counselling and relocation.

The ban on speculative reporting imposed by the Calcutta High Court³⁸ and the briefing rules of police-media imposed by the Supreme Court are examples of such current court interventions with the intention of harmonizing media freedom and the integrity of the legal system. A more reinforced framework of regulation is obligatory so that such standards³⁹ can be maintained uniformly across the media. The success of media trials in India in the future depends on people being literate, critical thinkers, and committed to doing ethical⁴⁰ journalism. Finding a middle ground between press freedom and the right to a fair trial would need ongoing collaboration between media outlets, supervisory bodies, and the judicial system. By addressing ethical concerns, enacting stricter legislation, and promoting media responsibility, India may create a more equitable system of reporting criminal cases that will improve its media landscape and judicial system. Maintaining public trust in the judicial system, protecting individual rights, and ensuring that the media fulfils its democratic duty without compromising the integrity of justice all call for a balanced approach.⁴¹

³⁸ Rajyavardhan Singh, *On Calcutta High Court's Refusal to Restrain Media (Trials): A Case for Limiting Article 19(1)(a)*, LiveLaw (2023).

³⁹ SC: Give Cops SOP on Press Briefings, Stop Media Trials, The Times of India (2023).

⁴⁰ *Supra* Note 12.

⁴¹ *Freedom of the Press and Fair Trial*, The Hindu (2010).

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- 10) *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1 (India).
- 11) *The Contempt of Courts Act*, No. 70 of 1971, India Code (1971).
- 12) Constitution of India, arts. 19(1)(a), 19(2), 21.
- 13) Law Commission of India, *Report on Trial by Media and Freedom of Expression* (2014).
- 14) *Personal Data Protection Bill*, Bill No. 373 of 2019 (India).
- 15) Calcutta High Court, *Order on Ban of Speculative Reporting* (2023).