

# Revealing Media Trials in Indian Law: Critical Analysis

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**Abstract:** *This article delves into the intricate phenomenon of media trials in Indian jurisprudence, offering a critical analysis of their impact on the nation's legal landscape and society at large. It explores the evolution of media trials, examining their historical roots and transformation in the digital age. The article investigates the constitutional framework governing media freedom and the delicate balance it strikes with the right to a fair trial. It scrutinizes the ethical considerations and mechanisms of accountability within media trials, highlighting the challenges of sensationalism and ethical lapses. Furthermore, it elucidates the legal constraints imposed on media conduct, encompassing contempt of court, defamation, and privacy rights. The article also evaluates the recommendations put forth in the Law Commission's 200th report and discusses landmark verdicts that have shaped the discourse around media trials. It concludes with concrete suggestions for fostering responsible journalism, mitigating undue media influence, and preserving the principles of justice and democracy in the digital age, while also acknowledging the role of social media in shaping media trials. This article provides a comprehensive overview of media trials in India, shedding light on their complexities and offering insights for a more balanced and equitable legal landscape.*

**Keywords:** Media trials, Indian jurisprudence, Fair trial, Media ethics, Freedom of speech, Accountability mechanisms, Social media influence

## 1. Introduction

In the ever-evolving landscape of contemporary media, the phenomenon of "Media Trial" stands as a compelling and multifaceted subject that intricately weaves together the realms of journalism, ethics, law, and societal impact. The concept of media trials, with its origins deeply rooted in the dissemination of information and the watchdog role of the press, has become an integral facet of Indian jurisprudence. This article, titled "Unveiling the Phenomenon of Media Trial in Indian Jurisprudence: A Critical Analysis," embarks on a comprehensive journey to unravel the intricate tapestry of media trials in India.

In recent years, the term "media trial" has assumed heightened significance as it symbolizes the confluence of media's power and reach with the legal system's quest for justice. It encompasses the extensive coverage of high-profile criminal cases by various media platforms, including newspapers, television, radio, and digital media. Media trials are often characterized by sensationalism, biased commentary, and the potential to sway public opinion, which, in turn, can exert a profound influence on the course and outcome of legal proceedings.

This article delves into the multifaceted nature of media trials, examining their definition, historical evolution, and the complex interplay between media freedom and the right to a fair trial. It explores the constitutional framework that underpins media freedom in India, highlighting the delicate balance between safeguarding freedom of speech and expression, as enshrined in Article 19(1)(a) of the Indian Constitution, and the reasonable restrictions necessary to protect the interests of justice, public order, and national security.

The impact of media trials on the judicial process is a central theme of this article, addressing the potential threats posed by

media sensationalism, undue influence on witnesses and jurors, and the erosion of the presumption of innocence—a cornerstone of criminal justice. It also contemplates the ethical considerations and mechanisms of accountability that must be upheld to ensure responsible journalism in the face of media trials.

As we navigate the labyrinthine landscape of media trials in India, we closely examine the legal constraints and regulatory frameworks designed to strike a balance between the freedom of the press and the rights of individuals undergoing legal scrutiny. The Law Commission of India's pivotal 200th report, recommendations for legal reform, and landmark verdicts on media trials are scrutinized for their insights into addressing the challenges posed by media trials.

Furthermore, this article explores the intricate intersection of media trials and the right to privacy, a contemporary challenge that underscores the need to protect individuals' personal liberties while preserving the vital role of the media in a democratic society. It also takes a closer look at the implications of emerging data protection laws in India on media trials.

In summary, "Unveiling the Phenomenon of Media Trial in Indian Jurisprudence: A Critical Analysis" embarks on a comprehensive journey to unravel the multifaceted dimensions of media trials in India. Through a critical analysis of historical precedents, legal frameworks, ethical considerations, and landmark judgments, this article seeks to illuminate the challenges and opportunities presented by media trials in the context of Indian jurisprudence. It underscores the pressing need for a delicate balance between media freedom and the preservation of the rights and values that form the bedrock of our democracy and legal system.

## 2. Media Trial: Definition and Evolution

In recent years, the term “media trial” has gained prominence, signifying the confluence of journalism, ethics, and the legal domain. It pertains to the coverage of high-profile criminal cases by media outlets, encompassing newspapers, television, radio, and digital platforms, often characterized by sensationalism, biased commentary, and a potential influence on public opinion that can impact the judicial process. The evolution of media trials in India reflects changes in technology, society, and the media landscape.

Media trials in India trace back to the country’s independence movement when newspapers played a pivotal role in shaping public opinion. However, these early instances were more akin to campaigns for justice rather than sensational media trials.

The significant transformation occurred with the rise of television as a dominant medium in the 1990s. The proliferation of 24-hour news channels brought live coverage of high-profile cases to millions of households, marking a shift toward spectacle and dramatization in legal proceedings’ reporting.

In the 21st century, the digital era reshaped media trials once more. The internet and social media platforms enabled the rapid dissemination of news, blurring the line between professional journalism and citizen reporting. This digital environment intensified the potential for trial by media as information, both accurate and misleading, circulated at unprecedented speeds.

Several high-profile cases have underscored the impact of media trials in India:

- The *Aarushi Talwar murder case*,<sup>1</sup> where relentless media coverage and public speculation influenced the case’s trajectory and public perception.
- The *Nirbhaya gang rape case*,<sup>2</sup> which saw widespread protests and media attention, sparking debates about the influence of public opinion on legal proceedings.
- The *Sushant Singh Rajput case*,<sup>3</sup> marked by a media frenzy, intense coverage, sensationalism, and conspiracy theories that affected the investigation and public discourse.

In conclusion, media trials in India have evolved significantly, driven by changes in media technology and audience engagement. Balancing the freedom of the press with the right

to a fair trial is essential. Legal and ethical safeguards must be established to ensure that justice is not compromised in the court of public opinion. Media’s power in shaping public perceptions underscores the need for responsible journalism and a nuanced understanding of its role in the criminal justice system.

## 3. India’s Constitutional Framework for Media Freedom

The Indian Constitution, through Article 19(1)(a), grants an invaluable and fundamental right to the media, allowing it to operate freely within the boundaries of the nation. This provision is deeply rooted in the principle of safeguarding freedom of speech and expression for all citizens. Under Article 19(1)(a), it is explicitly stated that “*all citizens shall have the right to freedom of speech and expression.*”<sup>4</sup>

Though the Constitution doesn’t explicitly mention “freedom of the press,” the Indian judiciary, as evidenced in landmark cases such as *Romesh Thapar v. State of Madras*,<sup>5</sup> *Brij Bhushan Sharma v. State of Delhi*,<sup>6</sup> and *Maneka Gandhi v. Union of India*,<sup>7</sup> has unequivocally affirmed that freedom of the press is an integral component of the broader right to freedom of speech and expression. This judicial interpretation underscores the vital role the media plays in fostering a democratic society and keeping the government accountable.

However, it’s important to note that this right, like most rights, is not absolute. Article 19(2) of the Constitution wisely lays down the provision for reasonable restrictions that can be imposed by the State. These restrictions, while necessary at times, must also be justifiable and proportional to protect the larger interests of society. These limitations are not only applicable to the freedom of speech and expression but also extend to the freedom of the press.

In essence, the media operates in a delicate balance between its constitutionally guaranteed freedom and the responsibilities imposed by these reasonable restrictions. This equilibrium ensures that while the media enjoys the liberty to disseminate information and express opinions, it does so responsibly, taking into account the need to maintain public order, protect the sovereignty and integrity of the nation, and respect the rights and reputation of others.

This constitutional framework underscores the pivotal role of the media as a watchdog of democracy, but it also reminds us of the fine line it must tread to uphold the principles of

unless there is a clear and present danger to public order or incitement of violence. *Brij Bhushan and Anr v. The State of Delhi*, 1950 AIR 129, 1950 SCR 605, 1950.

<sup>7</sup> By emphasizing the importance of Article 19(1)(a), Justice Y.V. Bhagwati stated that, “*democracy is based essentially on free debate and open discussion, for that is the only corrective of government action in a democratic set up. If democracy means government of the people by the people, it is obvious that every citizen must be entitled to participate in the democratic process and in order to enable him to intelligently exercise his rights of making a choice, free & general discussion of public matters is absolutely essential.*” *Maneka Gandhi v. Union of India*, 1978 AIR 597, 1978 SCR (2) 621, 1978.

<sup>1</sup> *Dr. Rajesh Talwar v. Central Bureau of Investigation*, 2013 (82) ACC 303, 2013.

<sup>2</sup> *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1, 2017 SCC Online SC 533, 2017.

<sup>3</sup> Sonam Saigal, “Sushant Rajput Case: Media Trial Impacts Investigation, Says HC” *The Hindu* (Mumbai, India, 18 January 2021), Online edition, section Mumbai.

<sup>4</sup> *The Constitution of India, 1949*, Article 19(1)(a).

<sup>5</sup> The right under Art 19(1) (a) includes “*the right to information and the right to disseminate through all types of media, whether print, electronic or audiovisual means*”. *Romesh Thapar v. State of Madras*, 1950 AIR 124, 1950 SCR 594, 1950.

<sup>6</sup> This case established that freedom of speech and expression is a fundamental right in India, encompassing the freedom of the press,

freedom and responsibility in a diverse and vibrant nation like India. The media's adherence to these principles is essential for the healthy functioning of our democracy and the preservation of our constitutional values.

#### 4. Sensationalism and Media Trials

In the realm of media trials, sensationalism stands as a defining characteristic, often exerting a powerful influence on public perception and the trajectory of legal proceedings. Sensationalism in media trials refers to the tendency of media outlets to prioritize dramatic, attention-grabbing narratives over objective reporting. This inclination towards sensationalism can manifest in various ways, such as provocative headlines, emotive language, and the relentless pursuit of sensational angles in high-profile cases. While sensationalism may boost viewership, it has raised significant ethical and legal concerns.<sup>8</sup>

One notable consequence of sensationalism in media trials is its potential to compromise the presumption of innocence, a fundamental principle of criminal justice. By presenting sensationalized narratives that presuppose guilt, the media can exert immense pressure on the accused, effectively subjecting them to trial by public opinion even before legal proceedings have commenced. The impact of such coverage can be profound, influencing public sentiment, potential jurors, and even law enforcement agencies.

Moreover, sensationalism tends to overshadow the objective reporting of facts and evidence. Media outlets, driven by the competition for viewership and readership, may prioritize entertainment value over factual accuracy, leading to incomplete or misleading coverage. This distortion of information can distort public understanding of a case, hindering the ability of the legal system to deliver fair and impartial justice.

The Indian media landscape has witnessed numerous instances of sensationalism in media trials, particularly in high-profile criminal cases involving celebrities, political figures, or sensational crimes. These cases often attract extensive media attention and are accompanied by sensationalized narratives that can prejudice the legal proceedings. The media's role in shaping public opinion, coupled with the amplification of sensational content through digital and social media platforms, has exacerbated the issue.

In response to concerns about sensationalism, ethical standards and guidelines for responsible reporting have been established by media watchdogs and professional bodies.<sup>9</sup> However, their enforcement remains a challenge, and sensationalism continues to be a prevalent aspect of media trials.

Thus, it is fair to say that, the relationship between sensationalism and media trials in India is complex and multifaceted. While the media plays a crucial role in informing the public and serving as a watchdog, the temptation to sensationalize coverage in pursuit of higher viewership can undermine the principles of fairness and justice. Recognizing the ethical and legal implications of sensationalism is essential for fostering responsible journalism and ensuring that media trials contribute positively to the legal process rather than detracting from it.

#### 5. Impact of Media Trials on the Judicial Process

The impact of media trials on the judicial process is a subject of profound significance and debate, with far-reaching implications for the fairness and impartiality of legal proceedings. In an adversarial system like that of India, where the accused is presumed innocent until proven guilty, the role of the media takes on particular importance. Media trials often occur when high-profile or sensational cases garner extensive coverage, enabling them to shape public opinion and perceptions of guilt or innocence. This influence extends not only to the general public but also to potential jurors, who may have already formed biased opinions before the trial begins. This prejudgment can erode the core principle of a fair trial, jeopardizing justice.

One concerning consequence of media trials is the potential for witness tampering and intimidation, particularly in cases under intense media scrutiny. Witnesses may fear public exposure and backlash, leading them to withhold information or testify inaccurately, thereby hindering the gathering of reliable evidence. The influence of media narratives on witnesses can undermine the integrity of the legal process and cast doubts on the pursuit of truth.

Moreover, the constant media attention and scrutiny can place immense pressure on judges and legal professionals involved in high-profile cases. This pressure can make it challenging for them to make impartial decisions and maintain the appearance of fairness, ultimately impacting the direction and pace of legal proceedings. The convergence of politics and media coverage in cases involving prominent political figures further complicates the pursuit of justice, raising concerns about the impartiality of legal proceedings.

Media trials also raise ethical questions about privacy and the protection of individuals involved in legal cases. In an era of 24-hour news cycles and pervasive digital media, individuals, including victims, witnesses, and defendants, may find their personal lives exposed to the public in distressing and harmful ways. Violations of legal restrictions, such as Section 228A of the Indian Penal Code, which protects the identities of victims, only exacerbate the problem.<sup>10</sup>

<sup>8</sup> K.A.Y. Dodhiya, "Media trial in Sushant Singh Rajput case: Bombay high court says journalists have lost their neutrality" *Hindustan Times*, 23 October 2020.

<sup>9</sup> Justice Ranjana Prakash Desai, "Norms of Journalistic Conduct" (Press Council of India, 2022) available at: <https://presscouncil.nic.in/WriteReadData/Pdf/Norms2022.pdf>.

<sup>10</sup> *The Indian Penal Code, 1860*, Section 228A: "Disclosure of identity of the victim of certain offences", (particularly in the identity of victims of sexual abuse case).

While the media serves as a crucial means of public information and accountability, the influence of media trials demands careful consideration. Striking a balance between the right to free speech and the right to a fair trial remains a pressing challenge. Real-world examples, such as the case of Roscoe Arbuckle in the United States and the Aarushi Talwar case in India, demonstrate the devastating consequences of media trials, where reputations are ruined, and lives are forever altered. The responsibility of journalists to adhere to ethical reporting standards and refrain from prejudging cases before court verdicts is paramount to upholding the principles of justice, ensuring that individuals are treated fairly, and preserving the integrity of the judicial process.

## 6. Ethical Considerations and Accountability:

Ethical considerations and accountability within the realm of media trials are of paramount importance. In the context of India, where media trials can exert significant influence on public opinion and the judicial process, understanding and addressing ethical concerns is essential.

The role of media ethics is a foundational aspect of responsible journalism. Media outlets are expected to adhere to ethical principles such as accuracy, fairness, impartiality, and balance in their reporting. However, the intense competition for viewership and the pressure to capture sensational headlines can sometimes lead to lapses in ethical standards. Sensationalism, the distortion of facts, and the rush to judgment can all undermine the credibility of media reporting during high-profile cases. Striking a balance between the need for compelling storytelling and ethical reporting is a persistent challenge.<sup>11</sup>

Media accountability mechanisms play a critical role in addressing ethical lapses and ensuring responsible journalism. These mechanisms include self-regulation by media organizations, external oversight by bodies like the Press Council of India, and public scrutiny. Self-regulation involves media outlets adopting and enforcing their own ethical codes of conduct. The Press Council of India serves as a quasi-judicial body that hears complaints against the media and has the authority to issue advisories or censure media organizations for ethical violations. Public scrutiny, driven by social media and vigilant citizens, has also become a significant force in holding the media accountable for ethical transgressions.

Instances of media accountability in India have varied in their effectiveness. While media outlets are often quick to apologize or correct inaccuracies, there have been cases

where accountability mechanisms have faced criticism for being slow or inadequate. The effectiveness of external oversight and regulatory bodies can be influenced by the political and commercial interests that may intersect with media coverage.

Nevertheless, there have been instances where media accountability in India has yielded positive outcomes. Public backlash against sensationalism or unethical reporting has prompted media organizations to introspect and make corrections. Legal actions, such as defamation suits or contempt of court proceedings, have also been initiated in response to egregious ethical violations.

To sum up this, ethical considerations and accountability mechanisms are vital components of responsible media coverage, especially in the context of media trials in India. As media continues to play a pivotal role in shaping public opinion and influencing the judicial process, it is imperative that ethical standards are upheld and that mechanisms for accountability are effective and transparent. Striving for responsible journalism that balances the right to information with the duty to report ethically is essential for preserving the integrity of media trials and ensuring justice is served impartially.

## 7. Legal Constraints on Media Trials:

Freedom of the press is recognized as a fundamental right under Article 19(1)(a) of the Indian Constitution, encompassing the right to freedom of speech and expression.<sup>12</sup> However, this freedom is not absolute and is subject to reasonable restrictions as specified in Article 19(2). These restrictions allow the government to intervene when necessary to protect the sovereignty and integrity of India, the security of the state, friendly relations with foreign states, public order, decency, morality, contempt of court, defamation, or incitement to an offense.<sup>13</sup>

One of the significant legal instruments regulating media conduct in India is the Contempt of Courts Act, 1971.<sup>14</sup> This act addresses both civil<sup>15</sup> and criminal contempt.<sup>16</sup> Civil contempt refers to willful disobedience to court orders, while criminal contempt pertains to actions that scandalize or lower the authority of the court, interfere with judicial proceedings, or obstruct the administration of justice. Media trials often walk a fine line, and when they overstep their bounds by interfering with ongoing legal proceedings, they can be held in contempt of court.

<sup>11</sup> Matthew Kieran, *Media Ethics: A Philosophical Approach*, 1st ed. (Praeger, Westport, Conn., 1999).

<sup>12</sup> *The Constitution of India, 1949*, Article 19(1)(a) *All citizens shall have the right to freedom of speech and expression.*

<sup>13</sup> *Ibid.* Article 19(2) *“Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.”*

<sup>14</sup> *The Contempt of Courts Act, 1971*, Preamble: *The aim of this Act is to “define and limit the powers of certain courts in punishing contempt of courts and to regulate their procedure in relation thereto.”*

<sup>15</sup> *Ibid.* Section 2(b) *“Civil contempt means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court.”*

<sup>16</sup> *Ibid.* Section 2(c) *Criminal contempt involves actions or statements that undermine the authority of the court, disrupt ongoing legal proceedings, or obstruct the overall administration of justice.*

Furthermore, the Indian Penal Code, 1860, plays a crucial role in regulating media behavior. Defamation, as defined in sections 499-502 of the Code, deals with false statements that harm an individual's reputation. Media outlets may be liable under these sections when publishing unfounded or rumor-based stories that tarnish someone's character.<sup>17</sup> Section 228 of the Code pertains to causing interruptions or insults during judicial proceedings, which media interference can potentially trigger.<sup>18</sup> Additionally, Section 228A prohibits disclosing the name of a victim in certain cases, a violation that media organizations have been found guilty of.<sup>19</sup>

Apart from these legal provisions, the Press Council Act, 1978,<sup>20</sup> and the Cable Television Networks (Regulation) Act, 1995,<sup>21</sup> contribute to the regulation of media conduct. The Press Council of India, established under the Press Council Act, aims to preserve press freedom while maintaining journalistic ethics. The Cable Television Networks Act sets standards and regulations for television content and empowers the government to take action against channels that violate broadcasting norms.

In essence, while the Indian Constitution upholds the vital role of media in a democracy, it also recognizes the need for restrictions to maintain law and order, protect individuals' rights, and ensure a fair and impartial judicial process. Media organizations must navigate these legal constraints carefully to strike a balance between freedom of expression and responsible journalism, especially when reporting on ongoing legal cases.

## 8. Balancing Freedom of Speech and Fair Trial Rights

Balancing Freedom of Speech and Fair Trial Rights is a complex and critical challenge that lies at the heart of media trials in India. This delicate equilibrium hinges on the tension between two fundamental rights enshrined in the Indian Constitution: the right to freedom of speech and expression<sup>22</sup> and the right to a fair trial (under Article 21).<sup>23</sup> While freedom of speech is indispensable for a robust democracy and an uninhibited press, it is not an absolute right and must be weighed against the imperative of ensuring that individuals facing legal proceedings receive a fair and impartial trial.

In the case of *Zahira Habibullah Sheikh v. State of Gujarat*,<sup>24</sup> the Supreme Court of India made a profound observation. It stated that “each one has an inbuilt right to be dealt with fairly in a criminal trial. Denial of a fair trial is as much injustice

to the accused as it is to the victim and to society. Fair trial obviously would mean a trial before an impartial judge, a fair prosecutor, and an atmosphere of judicial calm. It means a trial in which bias or prejudice for or against the accused, the witness, or the cause which is being tried is eliminated.” This underscores that fair trial rights are a fundamental part of justice.

Media trials undoubtedly affect the process of free trial. When media constructs its narrative from half-baked stories and rumors, it not only influences public opinion but may also impact the judicial process. Lawyers may be hesitant to take cases where guilt is perceived in the public eye, as it could tarnish their reputation. The Supreme Court, in the case of *State of Maharashtra v. Rajendra Jawanmal Gandhi*,<sup>25</sup> recognized the influence media trials can have on the judiciary. It cautioned judges to guard against such influences and be strictly guided by the rule of law. The Court asserted that “a trial by press, electronic media, or public agitation is the very antithesis of the rule of law. This may very well lead to a miscarriage of justice.”

Even more recently, in the case related to media coverage of actor *Sushant Singh Rajput's* death, the Court pointed out that journalists have lost their neutrality, and the media has become polarized. This case was heard after a Public Interest Litigation<sup>26</sup> was filed against the harsh media trial following the actor's demise. These observations underline the pressing need to address the challenges posed by sensational and biased media reporting during legal proceedings.

Recommendations for legal reform have surfaced in response to these challenges. These proposals center on establishing a legal framework that strikes a balance between the freedom of the press and fair trial rights. Key reforms include the need for clearer guidelines governing media coverage of ongoing trials, stricter enforcement of contempt of court laws to deter sensationalism, and penalties for unethical reporting that can prejudice legal proceedings. Furthermore, proponents advocate for voluntary codes of ethics within the media industry, emphasizing responsible and unbiased reporting as a priority.

Looking beyond India, the global perspective on media trials provides valuable insights into addressing similar challenges. Different nations have adopted diverse approaches to manage this issue, reflective of their unique legal and cultural contexts. Some have instituted regulatory bodies to monitor media coverage during legal proceedings, while others rely on

*freedom of the Press and of maintaining and improving the standards of newspapers and news agencies in India.”*

<sup>21</sup> *The Cable Television Networks (Regulation) Act, 1995*, Preamble: The aim of this Act is “to regulate the operation of cable television networks in the country and for matters connected therewith or incidental thereto.”

<sup>22</sup> *The Constitution of India, 1949*, Article 19(1)(a).

<sup>23</sup> *Ibid.* Article 21.

<sup>24</sup> *Zahira Habibullah Sheikh v. State of Gujarat*, (2005) 2 SCC (Jour) 75, 2006.

<sup>25</sup> *State of Maharashtra v. Rajendra Jawanmal Gandhi*, (1997) 8 SCC 386, 1997.

<sup>26</sup> *Nilesh Navalakha v. Union of India*, PIL No. 92252 of 2020, Decided on January 18, 2021.

<sup>17</sup> *The Indian Penal Code, 1860*, Sections 499-502. These sections in the Indian Penal Code pertain to defamation, a legal offense involving harming someone's reputation through false statements. Section 499 defines defamation, Section 500 outlines the punishment for defamation, and Sections 501 and 502 deal with related offenses like printing or selling defamatory material. Together, these provisions aim to protect individuals from unjust harm to their reputation and hold those responsible for spreading defamatory information accountable under the law.

<sup>18</sup> *Ibid.* Section 228.

<sup>19</sup> *Ibid.* Section 228A.

<sup>20</sup> *The Press Council Act, 1978*, Preamble: The aim of this Act is “to establish a Press Council for the purpose of preserving the

self-regulation by media organizations. International human rights bodies, such as the European Court of Human Rights, stress the paramount importance of balancing freedom of expression with the right to a fair trial within a democratic society.

Thus, striking the balance between freedom of speech and fair trial rights in the context of media trials is a multifaceted challenge. Legal and ethical considerations, along with recommended reforms, must be meticulously evaluated to ensure that media trials contribute constructively to the legal process rather than undermining it. Drawing from global experiences and best practices can offer valuable insights to navigate this delicate equilibrium, preserving the core principles of democracy and justice in India and beyond.

## 9. Media Trial and Right to Privacy

The intersection of the MEDIA (Mass Electronic Data Interception Analysis) trial and the Right to Privacy represents a significant contemporary challenge, rooted in legal, ethical, and societal dimensions. At its core, Article 21 of the Indian Constitution safeguards the right to life and personal liberty, a fundamental right that has been interpreted to encompass the right to privacy. In the seminal case of *Justice K. S. Puttaswamy (Retd.) v. Union of India*,<sup>27</sup> a unanimous verdict by a 9-judge bench affirmed this, underlining the individual's right to be left alone in personal matters. The right to privacy acts as a safeguard against unwarranted intrusion into aspects such as education, choice of partners, and family matters.

However, the exponential growth of media has given rise to concerns about its infringement upon individuals' rights and liberties. Often, in the pursuit of higher ratings and commercial gains, media outlets unethically collect information without the consent of the individuals involved, subsequently presenting it as news stories. This not only raises ethical questions but also has the potential to escalate into a media trial, significantly impacting the lives of those involved. The Andhra Pradesh High Court, in the case of *Labour Liberation Front v. State of Andhra Pradesh*,<sup>28</sup> decried this violation of privacy by the media as a "gross misuse of technological advancements" and underscored the need for responsible journalism that upholds the freedom of speech effectively.

The need for balance is evident. On one hand, media plays a crucial role in a democratic society by acting as a watchdog, ensuring transparency, and fostering informed public discourse. On the other hand, unchecked media intrusion can lead to undue harm and harassment, violating individuals' privacy rights. This tension necessitates the formulation of clear legal boundaries, robust oversight mechanisms, and stringent ethical guidelines for media outlets.

<sup>27</sup> *Justice K. S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1, AIR 2017 SC 4161, 2017.

<sup>28</sup> *Labour Liberation Front v. State of Andhra Pradesh*, 2005 (1) ALT 740, 2004.

<sup>29</sup> *The Digital Personal Data Protection Act, 2023*.

Moreover, technological advancements have made data collection and dissemination more pervasive, posing additional challenges to privacy. In response to these concerns, the Indian government enacted the Digital Personal Data Protection Act, 2023 to regulate the handling of personal data, aiming to protect individuals' privacy rights in the digital age.<sup>29</sup>

To wrap things up, the convergence of the MEDIA trial and the Right to Privacy underscores the complexity of balancing national security and individual liberties. While recognizing the vital role of media in a democracy, it is essential to ensure that these freedoms are exercised responsibly and ethically. A harmonious coexistence of media freedom and the right to privacy can only be achieved through a careful and considered approach that respects both fundamental principles.

## 10. Law Commission's Report on Media Trials:

The Law Commission of India's 200th report, titled "Trial by Media: Free Speech versus Fair Trial Under Criminal Procedure (Amendments to the Contempt of Courts Act, 1971)," released in April 2006,<sup>30</sup> addresses the complex issue of media trials and their impact on society and the criminal justice system. This report underscores the multifaceted nature of media trials, acknowledging both their positive and negative effects on society. It highlights growing concerns about how media trials can influence criminal proceedings and the lack of effective restraint on media interference in the judicial process.

One of the primary recommendations of this report is the need to amend Section 3(2) of the Contempt of Courts Act. Currently, this provision considers publications as contempt only after the filing of a chargesheet in a criminal case. The Law Commission proposes an amendment to broaden the scope of contempt to include publications that may be prejudicial to the rights of the accused from the moment of arrest. This amendment aims to prevent media reports that could potentially harm the accused's right to a fair trial, recognizing that discussions surrounding a case often begin at the time of arrest and can have irreversible consequences if not regulated.

Furthermore, the report suggests empowering high courts with the authority to direct print or electronic media to delay publication or telecast related to a criminal case. This recommendation seeks to strike a balance between freedom of speech and the right to a fair trial by allowing the judiciary to control the timing of media coverage in sensitive cases.

Former Chief Justice of India, *Y.K. Sabharwal*, expressed concerns about the trend of media conducting "trial by media" before the court pronounces judgments, cautioning that this could undermine the integrity of the judicial process.<sup>31</sup> The report emphasizes the importance of the presumption of innocence until proven guilty in a court of law and the right

<sup>30</sup> *Trial by Media: Free Speech and Fair Trial Under Criminal Procedure Code, 1973*, 240 (The Law Commission of India, New Delhi, India, 31 August 2006).

<sup>31</sup> Sudhanshu Ranjan, "Media on Trial" *Times of India* (New Delhi, India, 26 January 2007), Online edition.

to a fair trial, and questions why judges should be swayed by public opinion.

While the Supreme Court of India has consistently upheld the freedom of the press as a fundamental right under Article 19 of the Constitution, the report emphasizes that the right to a fair trial, although not explicitly mentioned as a fundamental right, is a fundamental principle of natural justice. It argues that both rights must be balanced carefully.

To put it concisely, the Law Commission's 200th report on "Trial by Media: Free Speech versus Fair Trial Under Criminal Procedure" addresses the intricate and sensitive issue of media trials in India. It proposes amendments to the Contempt of Courts Act, grants High Courts the authority to control media coverage in criminal cases, and underscores the importance of upholding both freedom of expression and the right to a fair trial in a democratic society. Striking a balance between these rights remains a significant challenge, and the report calls for a careful consideration of these issues to ensure justice is served without compromising the freedom of the press.

## 11. Landmark Verdicts on Media Trial

In this section, we will examine pivotal legal decisions that have shaped the discourse surrounding media trials in India. These landmark verdicts provide critical insights into how the judiciary has addressed the complex interplay between media freedom and the right to a fair trial.

In the case of *Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India*,<sup>32</sup> Justice Venkataramiah emphasized the pivotal role of freedom of the press in society. He stated that the press serves as a vital means of social and political communication, particularly in regions where modern communication tools like television are not universally accessible. The press plays a crucial role in public education, enabling formal and non-formal learning on a large scale. Justice Venkataramiah stressed that the press's purpose is to serve the public interest by disseminating both facts and opinions, even if they may be disagreeable to governments and authorities. This case underscores the significance of a free press in a democratic society, which is essential for informed decision-making by the electorate and ensuring transparency in public administration.

In the case of *Anukul Chandra Pradhan v. Union of India*,<sup>33</sup> the Supreme Court made a significant observation regarding the impact of publicity on trials, specifically in the context of hawala transactions. The Court stressed the importance of ensuring that excessive media attention should not compromise the fundamental principles of a fair trial and jurisprudence, which include upholding the presumption of the accused's innocence until proven guilty at the conclusion of the trial. This case underscores the need to maintain a

balanced and unbiased atmosphere during legal proceedings, even when high-profile cases attract significant public scrutiny.

In the case of *In Re: Harijai Singh v. In Re: Vijay Kumar*,<sup>34</sup> the Supreme Court expounded on the significance of freedom of the press in a democratic society. The Court emphasized that freedom of the press is a fundamental and vital component of democratic governance, often referred to as "the mother of all other liberties." Furthermore, the Supreme Court highlighted the press's essential role in delivering impartial and comprehensive information about various facets of the nation's political, social, economic, and cultural landscape. It was underscored that the press has a dual function of educating and mobilizing the public and plays a pivotal role in shaping public opinion. This case reinforces the critical role the media plays in a democracy and the need to protect its freedom to fulfill its societal functions.

In the case of *State of Maharashtra v. Rajendra Jawanmal Gandhi*,<sup>35</sup> the Supreme Court emphasized the importance of upholding the rule of law in the conduct of trials. The Court sternly asserted that a trial conducted through press, electronic media, or public agitation stands in direct contrast to the principles of justice and could potentially lead to miscarriages of justice. Judges were urged to remain steadfast against any external pressures and adhere strictly to the established legal procedures. The Court reaffirmed that parties have a constitutional right to a fair trial within the confines of a courtroom, free from the influence of media or public sentiments.

In the case of *State of Bihar v. Lal Krishna Advani*,<sup>36</sup> Supreme Court of India is stated that the right to reputation is a part of the right to life. However, in media trials, the accused's rights can be compromised, as the media often exposes every detail of the accused's life, leading to public perception of guilt even if the courts find otherwise. Media sensationalism can override the presumption of innocence and influence public opinion.

In the case of *Kartongen Kemi Och Forvaltning AB v. State through CBI*,<sup>37</sup> commonly known as the *Bofors case*, the courts highlighted the delicate balance between an accused individual's right to a fair trial and the media's role in criminal investigations. While acknowledging the significance of the right to information in raising awareness and fostering public discourse on criminal matters, the courts firmly underscored that the right to a fair trial is equally, if not more, crucial. It serves as the cornerstone in determining an individual's right to life and liberty. The case emphasizes the necessity of upholding a just and equitable society and cautions against excessive media intervention during ongoing legal proceedings, which could potentially erode public confidence in the judicial system's ability to adjudicate legal disputes impartially.

<sup>32</sup> *Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India*, 1986 AIR 515, 1985 SCR (2) 287, 1984.

<sup>33</sup> *Anukul Chandra Pradhan v. Union of India*, 1996 (6) SCC 354, 1996.

<sup>34</sup> *In Re: Harijai Singh v. In Re: Vijay Kumar*, (1996) 6 SCC 466, 1996.

<sup>35</sup> *State of Maharashtra v. Rajendra Jawanmal Gandhi*, (1997) 8 SCC 386, 1997.

<sup>36</sup> *State of Bihar v. Lal Krishna Advani*, (2003) 8 S.C.C. 361, 2003.

<sup>37</sup> *Kartongen Kemi Och Forvaltning AB v. State through CBI*, 2004 (72) DRJ 693, 2004.

In the case of *Rajendra Sail v. Madhya Pradesh High Court Bar Association and Others*,<sup>38</sup> it was underscored that in a democratic nation like India, where the judiciary operates independently and the press enjoys the right to freedom of speech and expression, both institutions play indispensable roles in seeking the truth. The harmonious functioning of these two pillars of democracy is in the best interest of the people, ensuring that justice prevails while respecting the principles of the rule of law.

In the case of *Ajay Goswami v. Union of India*,<sup>39</sup> the limitations of the Press Council in curbing media excesses were highlighted. The Court observed that the Press Council's authority was confined to issuing warnings, censorship, or admonishments solely for newspapers and news agencies, with no jurisdiction over electronic media platforms. As a result, it lacked punitive powers and the ability to effectively regulate and control the content published, especially on electronic media outlets. This case underscores the challenges of addressing media trials and inappropriate content dissemination, particularly in the realm of electronic media, within the existing regulatory framework.

In the case of *Manu Sharma v. State (NCT of Delhi)*,<sup>40</sup> popularly known as the *Jessica Lall murder case*, the Indian criminal jurisprudence was underscored as being distinct in its treatment of the accused compared to some other legal systems worldwide. It was emphasized that India's criminal justice system places a significant emphasis on human rights and the dignity of human life. Under Indian jurisprudence, an accused is presumed innocent until proven guilty, and they are entitled to a fair and impartial investigation and trial. The prosecution is expected to maintain a balanced role in criminal proceedings. Investigations should be conducted judiciously, fairly, transparently, and promptly, in accordance with the fundamental principles of the rule of law. These principles align with the constitutional mandates outlined in Articles 20 and 21 of the Indian Constitution.

The *Aarushi Talwar Murder Case of 2008*, officially known as *Dr. Rajesh Talwar v. Central Bureau of Investigation*,<sup>41</sup> became a high-profile example of media trial in India. The case involved the tragic murders of Aarushi Talwar and Hemraj Banjade, garnering immense public interest and widespread media coverage. Unfortunately, the media's handling of the case was heavily criticized for sensationalism and indecent allegations against the victims and suspects. This trial by media not only tarnished the reputation of the deceased but also significantly interfered with the ongoing police investigation, highlighting the detrimental impact of unchecked media sensationalism on legal proceedings and public perception.

*Nilesh Navalakha v. Union of India*,<sup>42</sup> also known as the *Sushant Singh Rajput Suicide Case*, highlights the significant impact of media on legal proceedings. Following Rajput's tragic death, media attention turned towards Rhea Chakraborty, his ex-girlfriend, with sensational headlines and

derogatory labels. Rajput's father accused Chakraborty of abetting suicide, triggering intense social media trolling and labeling her as a "murderer" and part of a "drug racket." This prompted multiple Public Interest Litigations (PILs) in the Bombay High Court, raising concerns about the media's prejudicial influence on ongoing investigations. The case underscores the need for regulating media reporting during legal proceedings, given the absence of state control over electronic media and the potential for prejudicing independent investigations.

## 12. Conclusion

The phenomenon of media trials in Indian jurisprudence is a multifaceted challenge that demands a careful balance between media freedom and the right to a fair trial. It is evident that while the media serves as a vital means of public information and accountability, unchecked sensationalism and unethical reporting can undermine the principles of justice and the presumption of innocence. As media trials have the potential to influence the judicial process and public perception significantly, it is crucial to recognize their impact and take proactive measures.

To address these challenges, it is imperative to promote media self-regulation and adherence to stringent ethical codes of conduct within the industry. Clearer guidelines governing media coverage during ongoing trials should be established to encompass issues such as the publication of names and identities. Moreover, media literacy programs should be encouraged to help the public critically evaluate media content, and the enforcement of legal provisions related to contempt of court and defamation should be stricter.

Additionally, there is a need to consider amendments to the legal framework, as proposed in the Law Commission's 200th report, which includes broadening the scope of contempt and empowering high courts to control media coverage in sensitive cases. Collaboration between legal authorities, media organizations, and social media platforms is essential to regulate and moderate content related to ongoing legal cases, given the role of social media in shaping public perception. By addressing these issues and implementing these suggestions, India can find a harmonious balance that upholds justice while preserving media freedom in a democratic society.

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