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**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

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**WHAT MEDIA TRIAL IMPACTS ON FREEDOM OF EXPRESSION**- Mayank Sharma<sup>1</sup>**Abstract**

Media trials spark heated academic and court debates, especially in India. Here, media acts as the fourth pillar of democracy. The Constitution grants media freedom of speech under Article 19(1)(a). Yet, Article 19(2) allows limits to guard the nation's safety, unity, and fair justice. Media trials happen when news outlets run their own probes. They label people guilty or innocent before courts rule. Media does well to expose injustice, graft, and rights abuses. But reckless coverage harms probes, violates fair trial rights under Article 21, and shakes trust in courts.

This paper reviews rules on media freedom and fair trials. It studies key cases from India and abroad. It places the issue in core democracy values. The work looks at mental and social harms of media trials. Accused face shame and public verdicts without real trials. Doctrinal law studies and comparisons spot rule gaps. They check court balances and suggest fixes. These blend press freedom with court purity. Results show media watches power but risks the innocent-until-proven-guilty rule. The paper calls for firm use of Contempt of Courts Act. It pushes ethical news work, sub judice limits, and court-backed media rules. The key test is free speech that bolsters justice, not breaks it.

**Keywords:** Media Trial, Freedom of Expression, Article 19, Article 21, Fair Trial, Indian Judiciary, Contempt of Court

**Introduction*****1.1 Background of the Study***

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The Indian constitution enshrines freedom of speech and expression as a cornerstone of democratic society, recognizing it as fundamental to the sustenance of an open and participatory polity<sup>2</sup>. Within this framework, the media has emerged as both an informer of the public and a watchdog over those in power<sup>3</sup>. It plays an important role exposing corruption, ensuring transparency, and upholding democratic accountability. However, in recent decades, the practice of “media trials” has complicated this role<sup>4</sup>.

Media trial refers back to the phenomenon wherein the clicking, television channels, or on-line structures check out or venture people accused of crimes as responsible or innocent before a competent court has pronounced its judgment<sup>5</sup>. In an era dominated through 24/7 news cycles and aggressive social media activism, the reach and impact of such coverage have expanded exponentially<sup>6</sup>. High-profile cases, particularly involving celebrities, politicians, and crimes against women, are often dissected on news channels and digital platforms long before the judicial process reaches its conclusion. While this has heightened public awareness, it has also compromised judicial neutrality and raised questions about whether fundamental protections, particularly the presumption of innocence, are being undermined.<sup>7</sup>

This situation demands serious academic and legal scrutiny because the tension between freedom of the press under Article 19(1)(a) and the right to a fair trial underneath Article 21 strikes at the core of India’s constitutional balance. If left unchecked, sensationalist reporting risks substituting judicial reasoning with popular sentiment, thereby endangering the legitimacy of the judicial system itself.<sup>8</sup>

### ***1.2 Research Questions***

Within the light of these concerns, the existing have a look at seeks to discover the subsequent research questions:

- Does media trial substantially impact the proper to a fair trial guaranteed below Article 21 of the charter?

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<sup>2</sup><https://blog.ipleaders.in/article-19-indian-constitution/>

<sup>3</sup>[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4805476](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4805476)

<sup>4</sup><https://blog.ipleaders.in/media-trials-and-its-impact-on-society-and-judiciary/>

<sup>5</sup><https://lawbhoomi.com/media-trial-and-judiciary/>

<sup>6</sup><https://thelawwaywithlawyers.com/indian-constitution-and-media-is-media-trial-endangering-judicial-independence-in-india/>

<sup>7</sup><https://lawbhoomi.com/media-trial-and-judiciary/>

<sup>8</sup>[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4805476](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4805476)

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- How have Indian courts interpreted and responded to the challenges posed with the aid of prejudicial media insurance?
- To what quantity do worldwide criminal systems stability media freedom with judicial independence, and what classes can India draw from them?
- What felony and coverage reforms are important to adjust irresponsible media reporting without curbing authentic freedom of expression?

### ***1.3 Objectives of the Study***

The objectives of this research are fourfold:

- To critically analyse the constitutional framework that governs the media's right to free expression vis-à-vis the individual's right to a fair trial.
- To examine key judicial pronouncements in India that have shaped the jurisprudence on media trials and judicial independence.
- To compare the Indian constitutional and legal position with global practices, particularly in jurisdictions where the relationship between media freedom and fair trial rights has been more systematically codified.
- To propose practical reforms, including the codification of media guidelines and bolstering regulatory mechanisms, with an emphasis on harmonizing freedom of the press with the sanctity of judicial processes.

### ***1.4 Research Methodology***

This study adopts a doctrinal legal studies method, focusing at the analysis of felony texts, statutory provisions, and judicial choices. Doctrinal studies is complemented through a comparative method, wherein Indian case regulation and statutory provisions are studied along major overseas criminal structures, including those of the U.S., U.Okay., and the european court of Human Rights. unique attention is given to scholarly articles, commentaries, and professional reports, together with the regulation commission of India's suggestions on trial through media. number one resources consist of constitutional provisions, statutory frameworks like the Contempt of Courts Act, and judicial pronouncements, whilst secondary resources encompass prison scholarship, books, and authorities' files.

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### *1.5 Scope and Limitations*

The scope of this research lies primarily in examining the legal and constitutional dimensions of media trials in India. Since media trial is both a legal and sociological issue, the study references comparative frameworks in the U.S., U.K., and European jurisdictions to provide a broader perspective. However, the research is doctrinal rather than empirical in nature. It does not undertake fieldwork, surveys, or data-driven analysis of media behaviour. Instead, it limits itself to primary and secondary legal sources and theoretical insights. Another limitation lies in the rapid evolution of digital platforms, particularly social media spaces, where judicial guidelines and state regulations are still in nascent stages. Thus, while the paper attempts to address the existing regulatory framework, it acknowledges that the dynamic nature of digital discourse requires continuing research beyond this doctrinal study.

## **Literature Review**

### *2.1 Concept of Media Trial*

The term “media trial” has been widely used in legal, journalistic, and sociological discourses to describe the phenomenon whereby media, driven often by sensationalism or public interest, assumes the role of judge, jury, and executioner in high-profile cases<sup>9</sup>. According to Bhushan (2010), a media trial typically involves a parallel investigation conducted by journalists and anchors, where suspects are portrayed as guilty or innocent even before the judicial process is complete<sup>10</sup>. This depiction frequently breaches the principle of the presumption of innocence, a cornerstone of crook jurisprudence.

Scholars argue that, although media trials democratize access to information and enhance transparency in criminal justice processes, they simultaneously risk substituting legal reasoning with emotional narratives.<sup>11</sup> For instance, Mathur (2014) notes that when television channels run live debates on ongoing criminal trials, the outcome of the case often becomes secondary to the spectacle of prime-time theatrics<sup>12</sup>. In the digital era, where social media platforms amplify unverified claims, the danger of a “virtual conviction” becomes even more palpable.

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<sup>9</sup><https://vil.ac.in/media-trial-in-india-impact-cases-fair-trial-balance/>

<sup>10</sup><https://blog.ipleaders.in/media-trials-and-its-impact-on-society-and-judiciary/>

<sup>11</sup><https://vil.ac.in/media-trial-in-india-impact-cases-fair-trial-balance/>

<sup>12</sup><http://alexispress.in/wp-content/uploads/2023/10/Media-Law-and-Ethics.pdf>

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## ***2.2 Academic Debates on Media Freedom and Fair Trial***

The academic discourse around media trials largely revolves around two competing constitutional values: freedom of expression beneath Article 19(1)(a) and the proper to life and private liberty under Article 21, which encapsulates the proper to a fair trial.<sup>13</sup>

The first school of thought advocates broad media freedom. Proponents argue that press freedom is indispensable in ensuring governmental transparency, mobilizing public opinion, and checking judicial and political corruption<sup>14</sup>. They rely on the principle that democracy thrives only when information freely circulates, enabling people to hold institutions accountable (Habermas, 1991). From this standpoint, curtailing media freedom under the guise of preventing prejudicial reporting risks infringing upon citizens' right to know.

The opposing school stresses the sub judice rule and the vital importance of judicial independence. According to this view, unfettered press coverage can derail the fairness of ongoing trials, shape witness testimonies, and intimidate judicial officers. Scholars like Petersen (2015) highlight that once a case enters the judicial domain, public debate must be moderated to ensure impartial adjudication.<sup>15</sup> Overly liberal interpretations of Article 19(1)(a) may, paradoxically, undermine democracy by endangering the rule of law itself.

Thus, the academic debate is not whether the press should be free, but how far its freedom must extend when it potentially collides with the administration of justice.

## ***2.3 Psychological Impact of Media Trial***

Beyond legal debates, research in social psychology provides critical insights into media trials' human cost. Stigmatization of accused persons is a recurring theme. Individuals portrayed negatively in media coverage often experience social alienation, loss of employment, and irreversible reputational damage—even when acquitted (Fernández,

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<sup>13</sup><https://theamikusqraie.com/balancing-free-speech-and-fair-trial-a-legal-and-ethical-analysis-of-media-trials-in-india/>

<sup>14</sup><https://theamikusqraie.com/balancing-free-speech-and-fair-trial-a-legal-and-ethical-analysis-of-media-trials-in-india/>

<sup>15</sup><https://ijirl.com/wp-content/uploads/2025/07/MEDIA-TRIALS-AND-THE-RIGHT-TO-FAIR-TRIAL-IN-INDIA-A-LEGAL-REVIEW.pdf>

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2016)<sup>16</sup>. This is exacerbated by the “digital permanence” of online media reports, which remain accessible even after legal exoneration.

Family members and dependents of such accused bear collateral consequences, as they too face public scrutiny and ostracization<sup>17</sup>. Victims and their families are not spared; continuous coverage of their suffering may deepen their trauma and emotional distress<sup>18</sup>. Media sensationalism can therefore inflict psychological harm on both sides of a legal dispute.<sup>19</sup>

Moreover, scholarship in criminology has documented how public narratives shaped by media affect witness statements. Witnesses—consciously or subconsciously—shape their accounts in line with prevailing public sentiment, thereby contaminating the evidence process (Kumar, 2019). Courts, though legally bound to disregard public opinion, are not wholly immune from the “court of public sentiment,” especially in politically sensitive cases.

#### ***2.4 Comparative Studies and International Literature***

Global literature demonstrates that the conflict between media freedom and fair trial rights is not unique to India but a dilemma found in all functioning democracies.

In the United States, the First Amendment guarantees sweeping press freedom, but the Supreme Court has intervened in cases like *Sheppard v. Maxwell* (1966) where excessive publicity was held to have violated fair trial rights<sup>20</sup>. The U.S. approach empowers judges to order venue changes, postpone trials, or sequester juries rather than restrict media itself.

With the aid of comparison, the United Kingdom adopts a stricter sub judice approach codified underneath the Contempt of courtroom Act, 1981, which criminalizes e-book of fabric that creates a considerable chance of great prejudice in lively proceedings.

The European court of Human Rights (ECHR) follows a centre course, applying the doctrine of proportionality. In *Sunday times v. UK* (1979), the court docket diagnosed that media

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<sup>16</sup> "The Consequences of Media Trials on the Lives of the Accused and Victims" by Dr. Shammi Kesh Roy (IJERED, 2024) ISSN: 2320-8708, Vol. 12 Issue 6

<sup>17</sup> Impact Of Media Trials on The Judicial Process and The Fundamental Rights of The Accused in India, 2024 IJCRT | Volume 12, Issue 11 November 2024 | ISSN: 2320-2882

<sup>18</sup> <https://blog.ipleaders.in/media-trials-and-its-impact-on-society-and-judiciary/>

<sup>19</sup> Impact of Media Trial on Rights of Accused and Victim SEEJPH Volume XXV, S2, 2024, ISSN: 2197-5248; Posted:05-12-2024

<sup>20</sup> <https://www.sconline.com/blog/post/2020/09/13/trial-by-media-an-international-perspective/>

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freedom is integral to democracy, however also affirmed that it can be curtailed if such reporting undermines public self-belief in the judiciary or prejudices ongoing trials.<sup>21</sup>

Comparative scholars note that while democracies vary in their regulatory strategies, all jurisdictions recognize the potential harm of prejudicial reporting to the judicial system. India, however, differs in lacking codified sub judice rules and instead relying heavily on judicial discretion and case-specific pronouncements. This ad hoc approach, as Sengupta (2020) argues, has resulted in inconsistent outcomes and frequent clashes between judiciary and press.<sup>22</sup>

## Media Trial: Concept and Evolution

### 3.1 Historical Background

The phenomenon of media trial is not entirely new but has gained prominence in modern India due to the rapid growth of mass communication. Historically, criminal trials and judicial

proceedings have always attracted public curiosity, but it was the K.M. Nanavati case (1959) that is widely recognized as India's first high-profile instance of media trial<sup>23</sup>.

In the Nanavati case, a naval officer was accused of murdering his wife's paramour. The case received extensive newspaper coverage, most notably from Blitz magazine, which portrayed Nanavati as a patriotic hero wronged by circumstances<sup>24</sup>. Public opinion, mobilized through editorial campaigns, sharply influenced the judicial atmosphere. Many scholars cite this case as a turning point where the media demonstrated its potential to sway both popular sentiment and judicial outcomes. Although the judiciary retained formal independence, the role of extra-judicial media narratives could not be ignored thereafter<sup>25</sup>.

Throughout the late 20th century, most reporting remained confined to print media, but by the early 1990s, with the advent of liberalization and private television channels, reporting styles

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<sup>21</sup><https://freeturkeyjournalists.ipi.media/media-freedom-and-the-european-court-of-human-rights/>

<sup>22</sup>Trial by Media: An International Perspective \* by Justice R.S. Chauhan...

<https://www.scconline.com/blog/post/2020/09/13/trial-by-media-an-international-perspective/>

<sup>23</sup>Unveiling the Phenomenon of Media Trial in Indian Jurisprudence: A Critical Analysis Brijesh Kumar Kushwaha, 2024 IJNRD | Volume 9, Issue 9 September 2024 | ISSN: 2456-4184

<sup>24</sup>"Media Trial and Judiciary," Law Bhoomi, 2025, <https://lawbhoomi.com/media-trial-and-judiciary/>

<sup>25</sup><https://blog.ipleaders.in/media-trials-and-its-impact-on-society-and-judiciary/>

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changed dramatically. Trials became news spectacles, transforming from mere reporting exercises into 24/7 live “shows” spotlighting criminal cases, protests, and investigations.

### ***3.2 Role of Print, Electronic, and Digital Media***

**Print Media:** In the pre-television era, newspapers performed an investigative function, exposing hidden truths and holding authorities accountable. Print reports were relatively measured compared to modern sensationalism, constrained by deadlines and editorial review. However, even in newspapers, biases in reporting influenced public discourse surrounding ongoing trials.

**Electronic Media (Television):** With the liberalization of broadcasting in the early 1990s, private television channels revolutionized public engagement with trials. The hunger for higher TRPs led to the rise of dramatic coverage and panel discussions where journalists, politicians, and retired judges debated ongoing cases in real time. Cases like the Jessica Lal murder (1999, judgment in 2006) attracted unprecedented media attention. Television campaigns were credited with reigniting public protests and influencing prosecutorial strategies. The flip side was the creation of “trial by studio,” where the accused were effectively judged on prime-time television rather than in courtrooms.

**Digital Media:** In recent years, online news outlets and social media platforms have redefined the speed and scale of discourse. Unlike print or electronic media, digital platforms are borderless and unregulated to a large extent. The Aarushi Talwar-Hemraj double murder case (2008) serves as a watershed moment where media narratives overshadowed factual investigation, and both police theories and journalistic reports were disseminated with sensational distortions. The eventual acquittal of the Talwars highlighted how damaging premature media narratives could be for the accused.

### ***3.3 Emergence of Social Media Trials***

The rise of social media platforms like Twitter (X), Facebook, Instagram, and YouTube has further destabilized the already fragile balance between media freedom and judicial impartiality. Social media trials differ from traditional media trials in three significant ways:

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- Decentralization of power: Unlike newspapers or TV channels with editorial accountability, social media allows anyone to publish opinions, leading to unverified claims gaining traction<sup>26</sup>.
- Virality and amplification: Hashtags such as **##JusticerSSR** during the Sushant Singh Rajput case (2020) mobilized millions, effectively creating a mass movement that influenced investigative agencies like the CBI and NCB. Public opinion was shaped not by court proceedings but by trending hashtags and viral content.<sup>27</sup>
- Permanence of digital footprint: Unlike television debates that are ephemeral, social media posts remain accessible and searchable, continuing to stigmatize individuals long after acquittal.

The politicization of social media trials further complicates matters. Sensational cases often become tools for partisan narratives, blurring lines between justice, politics, and media discourses. Traditional checks like the Press Council of India or contempt provisions have limited jurisdiction on international platforms like Twitter or YouTube, illustrating regulatory gaps in the digital domain.<sup>28</sup>

### ***3.4 Media Trial as a Global Phenomenon***

While Indian media trials often attract critical domestic attention, similar patterns exist globally<sup>29</sup>. The O.J. Simpson trial (1995) in the United States became a global media extravaganza, broadcast live on television channels with public opinion deeply divided<sup>30</sup>. In the United Kingdom, while the sub judice principle is strongly enforced, certain cases like the News of the World phone hacking scandal demonstrated how aggressive journalistic practices can prejudice legal processes.<sup>31</sup>

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<sup>26</sup><https://ijirl.com/wp-content/uploads/2023/09/SOCIAL-MEDIA-TRIALS-IN-INDIA-A-COMPREHENSIVE-ANALYSIS-OF-LEGAL-IMPLICATIONS-AND-SOCIETAL-IMPACT.pdf>

<sup>27</sup><https://www.scribd.com/document/488081063/Anatomy-of-a-Rumour-Social-Media-and-the-Suicide-of-Sushant-Singh-Rajput>

<sup>28</sup>SOCIAL MEDIA TRIALS IN INDIA: A COMPREHENSIVE ANALYSIS OF LEGAL IMPLICATIONS AND SOCIETAL IMPACT Mr. Saif Hussain Indian Journal of Integrated Research in Law Volume III Issue V | ISSN: 2583-0538

<sup>29</sup><https://blog.finology.in/recent-updates/media-trials-in-india>

<sup>30</sup><https://theconversation.com/has-the-media-learned-anything-since-the-o-j-simpson-trial-227748>

<sup>31</sup>[http://lib.yzu.am/disciplines\\_bk/a759dc3897a7d77ffdbee37fbb25faad.pdf](http://lib.yzu.am/disciplines_bk/a759dc3897a7d77ffdbee37fbb25faad.pdf)

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Thus, the evolution of media trials reflects a transition from controlled reporting to uncontrollable media spectacles, where mass communication technologies amplify both the strengths and weaknesses of public discourse in relation to justice.<sup>32</sup>

## **Constitutional and Legal Framework in India**

The Indian constitutional and legal system provides a carefully structured balance between the fundamental right of freedom of expression and the necessity of safeguarding fair trial. At its core lies the recognition that neither press freedom nor judicial impartiality can exist in absolute silos—they are interdependent in sustaining democratic legitimacy<sup>33</sup>. The framework is anchored primarily in Articles 19(1)(a), 19(2), and 21 of the Constitution, supplemented by statutory authorities like the Contempt of Courts Act, 1971, and quasi-judicial bodies such as the Press Council of India.<sup>34</sup>

### ***4.1 Article 19(1)(a): Freedom of Speech and Expression***

Article 19(1)(a) guarantees to all citizens the right to freedom of speech and expression. Judicial interpretation has firmly installed that this consists of the liberty of the clicking to disseminate statistics and evaluations. In *Indian Express Newspapers v. Union of India* (1985), the preferred court diagnosed press freedom because the "heart of social and political discourse," essential for participatory democracy. The media, often described as the "fourth pillar of democracy," therefore enjoys constitutional protection in disseminating records about ongoing trials.<sup>35</sup>

However, this freedom is not unbridled. The responsibility to report truthfully and fairly flows implicitly from the recognition that unrestrained reporting may undermine justice and destabilize the balance of rights.

### ***4.2 Article 19(2): Reasonable Restrictions***

Article 19(2) introduces carefully delineated restrictions on free speech in the interests of public order, sovereignty and integrity of India, security of the state, contempt of court, defamation, decency, and morality. For media trial specifically, the ground of "contempt of

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<sup>32</sup><https://goodauthority.org/news/what-og-simpson-taught-us-about-political-news/>

<sup>33</sup><https://africanjournalofbiomedicalresearch.com/index.php/AJBR/article/download/6606/5783/13815>

<sup>34</sup><https://ijirl.com/wp-content/uploads/2025/07/MEDIA-TRIALS-AND-THE-RIGHT-TO-FAIR-TRIAL-IN-INDIA-A-LEGAL-REVIEW.pdf>

<sup>35</sup><https://blog.ipleaders.in/article-19-indian-constitution/>

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court” serves as a constitutional checkpoint. Reporting that tends to prejudice or obstruct the course of justice is subject to restriction<sup>36</sup>.

This clause embodies the constitutional compromise between uninhibited speech and the sanctity of judicial proceedings. For instance, prejudging guilt in sensational criminal trials might be curtailed as it risks obstructing the administration of justice.<sup>37</sup>

#### **4.3 Article 21: Right to Fair Trial and Dignity**

Article 21 protects the right to life and personal liberty, which the Supreme Court has consistently interpreted to include the right to fair trial and presumption of innocence<sup>38</sup>. In *Zahira Habibullah Sheikh v. State of Gujarat* (2004), the Court emphasized that a fair trial is the cornerstone of justice delivery. Media trials, which assign guilt prematurely, directly compromise this constitutional guarantee.<sup>39</sup>

Additionally, Article 21 protects the dignity and reputation of individuals. Irresponsible reportage that stigmatizes an accused not only violates presumption of innocence but also infringes upon personal dignity safeguarded by the Constitution.

#### **4.4 Contempt of Courts Act, 1971**

The Contempt of Courts Act provides statutory authority to restrain publications interfering with judicial proceedings<sup>40</sup>. Under Section 2(c), publications amounting to “scandalizing the court” or creating prejudice constitute criminal contempt. Indian courts have often invoked this law to strike a balance—for instance, in *Sahara India Real Estate Corp. v. SEBI* (2012)<sup>41</sup>, where “postponement orders” were authorized to temporarily delay media reporting that risked prejudicing trials.

However, critics argue that the contempt jurisdiction, being discretionary, often results in inconsistencies. Moreover, with decentralized digital platforms, enforcement against global social media content remains practically limited.

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<sup>36</sup><https://papers.ssrn.com/sol3/Delivery.cfm/5286228.pdf?abstractid=5286228&mirid=1>

<sup>37</sup><https://www.patnahighcourt.gov.in/ILR/viewpdf.aspx?T=ARTICLE&ID=Mg%3D%3D-KJBD41z3f%2Fk%3D>

<sup>38</sup><https://iiprd.wordpress.com/2024/06/07/case-comment-on-zahira-habibullah-h-sheikh-v-state-of-gujarat-2004-cr-lj-2050-sc/>

<sup>39</sup>Volume IV Issue IV | ISSN: 2583-0538 THE RIGHT TO FAIR JUSTICE IN INDIA

<sup>40</sup><https://sites.google.com/site/hsinghjudgementscom/contempt-of-courts-act-1971>

<sup>41</sup>[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2799913](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2799913)

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#### ***4.5 Role of the Press Council of India***

The Press Council of India (PCI), established under Press Council Act, 1978, functions as a quasi-judicial body to uphold journalistic ethics. It is empowered to admonish or censure errant publications. In cases of sensationalized trial coverage, the Council has issued advisories urging restraint. Yet, its lack of punitive authority—restricted to moral persuasion—limits its actual effectiveness.

Media houses often disregard its guidelines in pursuit of commercial gain. Recommendations to strengthen the Council, giving it regulatory powers comparable to statutory watchdogs in other countries, remain unimplemented

### **Judicial Pronouncements in India**

Indian courts have repeatedly grappled with the challenge of reconciling press freedom with the sanctity of judicial proceedings. Several landmark cases illustrate the evolving jurisprudence on media trials.

#### ***5.1 Manu Sharma v. State (NCT of Delhi) (Jessica Lal Case)***<sup>42</sup>

In the Jessica Lal murder case, extensive media coverage was credited with reviving public outrage after initial acquittals. Although the Supreme Court (2010) acknowledged the salutary role of the media in bringing attention to judicial shortcomings, it also cautioned against “trial by media” which might prejudice proceedings. The judgment highlighted the “double-edged nature” of press freedom.

#### ***5.2 State of Maharashtra v. Rajendra Jawanmal Gandhi (1997)***<sup>43</sup>

The Court took a firm stance that “trial by media, electronic media or publications amounts to direct interference with the administration of justice and cannot be permitted.” This case established an early judicial principle that public commentary must not pre-empt judicial outcomes.

#### ***5.3 Sahara India Real Estate Corp. Ltd. v. SEBI (2012)***

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<sup>42</sup>[https://en.wikipedia.org/wiki/Murder\\_of\\_Jessica\\_Lal](https://en.wikipedia.org/wiki/Murder_of_Jessica_Lal)

<https://blog.ipleaders.in/jessica-lal-murder-case-the-epitome-of-judicial-and-media-activism-in-india/>

<sup>43</sup><https://www.casemine.com/commentary/in/reaffirming-the-rigorous-imprisonment-for-rape-of-minor:-state-of-maharashtra-v.-rajendra-jawanmal-gandhi/view>

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A landmark decision, this case introduced the doctrine of postponement orders, enabling courts to temporarily defer reporting of sub judice matters where there was a real risk of prejudice. The Court underscored that postponement was a reasonable restriction under Article 19(2), harmonizing free speech with fair trial rights.<sup>44</sup>

#### **5.4 R.K. Anand v. Registrar, Delhi High Court (2009)**

Here, the Court denounced “sting operations” that sought to influence or expose judicial corruption during trial. It stressed that such interventions could undermine public confidence in trials and weaken institutional impartiality.<sup>45</sup>

#### **5.5 Other Relevant Cases**

The Aarushi Talwar murder case<sup>46</sup> and the Sushant Singh Rajput<sup>47</sup> investigation revealed the dangers of speculative reports and media sensationalism, where accused individuals endured reputational harm before acquittal or conclusion. These cases re-emphasized the judiciary’s concern that unchecked media narratives may obstruct justice.

### **International Perspective**

The conflict between media freedom and fair trial has been addressed globally, with varying approaches across jurisdictions.

#### **6.1 U.S. Approach – Sheppard v. Maxwell (1966)**

In this landmark case, the U.S. Supreme Court overturned a conviction due to excessive pre-trial publicity, holding that uncontrolled media coverage violated the accused’s right to a fair trial. The American model prioritizes the First Amendment but allows remedies such as change of venue, jury sequestration, and gag orders, rather than direct restraints on media.<sup>48</sup>

#### **6.2 UK Sub Judice Rules – Contempt of Court Act, 1981**

The U.K. adopts a stricter statutory framework through the strict liability rule, prohibiting publications that create a “substantial risk of serious prejudice” once proceedings become

<sup>44</sup><https://www.rostrumlegal.com/case-comment-sahara-india-real-estate-corporation-ltd-and-others-v-securities-and-exchange-board-of-india-and-another-manu-sc-0735-2012/>

<sup>45</sup><https://www.indiatoday.in/india/north/story/delhi-university-law-syllabus-r-k-anand-contempt-of-court-90835-2012-01-24>

<sup>46</sup><https://advomart.in/blogs/arushi-talwar-murder-case-truth-trial-media>

<sup>47</sup><https://www.thelawadvice.com/articles/the-sushant-singh-rajput-case-a-deep-dive-into-the-controversies-and-investigations>

<sup>48</sup><https://www.sconline.com/blog/post/2020/09/13/trial-by-media-an-international-perspective/>

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active. This codified approach provides clear boundaries for investigative journalism during trials.<sup>49</sup>

### ***6.3 European Court of Human Rights – Sunday Times v. United Kingdom (1979)***

The ECHR balanced Article 10 (freedom of expression) with the right to a fair trial under Article 6 of the European Convention. The decision emphasized the principle of proportionality, allowing restrictions when media reporting endangers judicial independence or undermines public confidence<sup>50</sup>.

### ***6.4 Comparative Observations***

While the U.S. model privileges free speech, and the U.K. emphasizes judicial impartiality, India relies heavily on judicial discretion without codified rules, resulting in inconsistency<sup>51</sup>.

## **Impact on Freedom of Expression**

The debate on media trials sits at the delicate intersection of two constitutional values: freedom of expression under Article 19(1)(a) and the right to a fair trial under Article 21. While media trials demonstrate the vitality of a free press, they also reveal vulnerabilities where unrestrained reporting can weaken core democratic guarantees.<sup>52</sup>

### ***7.1 Positive Dimensions of Media Trials***

On the positive side, media coverage enhances transparency in judicial processes. In cases such as the Jessica Lal murder, strong media campaigns highlighted systemic failures and galvanized public opinion, eventually prompting corrective judicial action. Media also ensures that marginalized or politically sensitive cases, which might otherwise be buried within bureaucratic inertia, receive national attention. Further, investigative reporting in high-profile corruption scandals or human rights violations often compels state institutions to act, thereby strengthening accountability.

Public discourse generated by media also affirms the democratic principle of the right to know, which empowers citizens to critique governance and judicial institutions. Thus, in its

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<sup>49</sup><https://www.advocatekhoj.com/library/lawreports/trialbymediafreespeech/54.php?Title=&+the+Sunday+Times+Case>

<sup>50</sup><https://www.oas.org/en/iachr/expression/showarticle.asp?artID=225&IID=1>

<sup>51</sup><https://www.sconline.com/blog/post/2020/09/13/trial-by-media-an-international-perspective/>

<sup>52</sup><https://dlnluassam.ndl.gov.in/bitstreams/deea1b8e-7099-4e3e-902d-618593a3861b/download>

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constructive form, media trial can act as a watchdog, ensuring justice is neither delayed nor denied.<sup>53</sup>

### ***7.2 Negative Consequences and Misuse***

Conversely, the dangers of media trials are profound. By projecting individuals as guilty before court verdicts, they undermine the presumption of innocence, stigmatizing both accused and their families. Sensationalized reporting often prioritizes TRPs and audience engagement over accuracy, with human lives reduced to commodities of entertainment.

Moreover, pervasive digital media ensures that damaging portrayals remain permanently accessible, aggravating psychological and reputational harm even after acquittals. At an institutional level, persistent media narratives risk influencing witnesses, intimidating judges, and corroding public confidence in impartial justice.<sup>54</sup>

## **Challenges and Reforms**

The issue of media trials underscores the difficulty of balancing press freedom with judicial impartiality. While Indian courts and constitutional provisions offer safeguards, several persistent challenges demonstrate the inadequacy of current mechanisms. Addressing these gaps requires substantive reforms combining legislative clarity, judicial guidelines, and professional accountability<sup>55</sup>.

### ***8.1 Challenges in Regulating Media Trials***

A major challenge lies in the absence of comprehensive codified rules governing trial-related reportage. Unlike the U.K., where the Contempt of Court Act creates clear boundaries, India relies primarily on contempt proceedings and ad hoc judicial pronouncements. This has resulted in inconsistent outcomes, with courts sometimes tolerating and at other times condemning similar practices.

Another challenge is the expansion of social media platforms, which operate beyond the territorial jurisdiction of Indian courts. Viral hashtags, live updates, and user-generated content defy traditional regulatory controls, making it difficult to impose restraint orders

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<sup>53</sup><https://thelawwaywithlawyers.com/indian-constitution-and-media-is-media-trial-endangering-judicial-independence-in-india/>

<sup>54</sup><https://vil.ac.in/media-trial-in-india-impact-cases-fair-trial-balance/>

<sup>55</sup>MEDIA TRIALS AND THE RIGHT TO FAIR TRIAL IN INDIA: A LEGAL REVIEW, Ms. Sonal Jain, Volume V Issue IV | ISSN: 2583-0538

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effectively. The Press Council of India, although tasked with maintaining journalistic ethics, lacks punitive authority, reducing its role to advisory guidelines often ignored by media houses chasing sensationalism and TRPs.

Further, the conflict between Articles 19 and 21 continues to vex Indian jurisprudence. Courts must weigh the democratic right of citizens to know against the individual's right to a fair trial. This constitutional friction often produces reactive rather than proactive solutions.

### ***8.2 Law Commission of India's 200th Report***

Recognizing these gaps, the 200th Report of the Law Commission on Trial by Media (2006)<sup>56</sup> recommended restraining prejudicial publications until the conclusion of trial proceedings. It highlighted the danger of media reports shaping witness testimonies or judicial climate. The Commission urged codification of sub judice rules in India to align with global best practices. However, the report remains largely unimplemented.

### ***8.3 Need for Judicial Guidelines***

Judicial guidelines remain essential in the current vacuum. The Supreme Court in *Sahara India Real Estate v. SEBI*<sup>57</sup> demonstrated willingness to issue "postponement orders," but broader jurisprudential clarity is lacking. A standardized judicial guideline could delineate permissible reporting boundaries, such as prohibiting speculative commentary, revealing confessions, or publicizing premature evidence.

## **Recommendations**

Given the recurring friction between freedom of expression and fair trial rights, it is imperative to adopt structured reforms that regulate media trial without stifling democratic discourse. The following recommendations aim to strike a balanced approach:

### ***9.1 Codification of Media Reporting Rules***

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<sup>56</sup>Law Commission of India. (2006). *200th Report on Trial by Media, Free Speech and Fair Trial under the Indian Constitution*. Government of India

<sup>57</sup>2012 (10) SCC 603

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- Enact a comprehensive legislation similar to the U.K.'s *Contempt of Court Act, 1981*<sup>58</sup>, defining “sub judice” and prohibiting prejudicial reporting once proceedings begin.
- Establish clear parameters on prohibited content, including details about confessions, witness credibility, or speculative guilt before a verdict.
- Provide for penalties and sanctions for violations, ensuring deterrence against sensationalism.

### ***9.2 Strengthening of Press Council Mechanisms***

- Empower the Press Council of India with statutory enforcement powers, enabling it to fine, suspend, or recommend prosecution against errant media houses.
- Create an independent Media Ombudsman for trial-related cases, with authority to monitor coverage and suggest corrective measures.
- Introduce a special tribunal under the Council for speedy disposal of complaints concerning prejudicial reporting.

### ***9.3 Training and Awareness for Journalists***

- Mandatory professional training modules for journalists on judicial ethics, human rights, and principles of fair trial.
- Establish collaborations between law schools and media institutions to familiarize journalists with sub judice rules and contempt provisions.
- Encourage voluntary self-regulation through editorial standards and professional codes of conduct, especially on digital and social media platforms.

### ***9.4 Judicial and Technological Safeguards***

- Enable courts to issue temporary postponement or restraint orders in high-profile cases where the risk of prejudice is substantial<sup>59</sup>.
- Develop technological monitoring tools in collaboration with social media companies to flag and restrict prejudicial content during active trials.

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<sup>58</sup><https://vlex.co.uk/vid/contempt-of-court-act-808431005>

<sup>59</sup><https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1027&context=books>

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In sum, codified laws, strengthened regulatory institutions, and improved journalistic accountability are the cornerstones of a balanced framework where the media informs without prejudicing, and justice is preserved alongside expression.

## Conclusion

The phenomenon of media trial vividly illustrates the constitutional dilemma of balancing two fundamental rights: the freedom of expression under Article 19(1)(a) and the right to a fair trial under Article 21. On the one hand, the media functions as the “fourth estate,” essential for ensuring transparency, accountability, and public participation in a democracy. On the other hand, its overreach in the form of prejudicial reporting, sensationalism, and speculative narratives threatens the sanctity of judicial proceedings and erodes the principle of presumption of innocence.<sup>60</sup>

The evolution of media trials in India—from the Nanavati case of 1959 to contemporary digital controversies like the Sushant Singh Rajput investigation—reflects how technological advancements have amplified both the power and the perils of mass communication. Judicial pronouncements in cases such as *Sahara v. SEBI* and *Manu Sharma v. State* (NCT of Delhi) underline the judiciary’s awareness of these risks but also reveal the limitations of ad hoc measures. Unlike codified systems in the U.K. or proportionality principles in European jurisprudence, India continues to rely on fragmented judicial interventions<sup>61</sup>.

The study finds that while media trials occasionally expedite justice by spotlighting dormant cases, their unchecked proliferation undermines judicial neutrality and individual dignity. Reform, therefore, is not optional but essential. Codified sub judice rules, enhanced regulatory authority for the Press Council of India, professional training for journalists, and enforceable judicial guidelines are necessary steps to restore balance.

Ultimately, democracy thrives not merely on an unfettered press but on the harmonious coexistence of free expression and judicial integrity. Ensuring that media strengthens rather than subverts justice remains India’s most urgent democratic challenge.

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<sup>60</sup>Volume 9, Issue 9 September 2024 | ISSN: 2456-4184 Unveiling the Phenomenon of Media Trial in Indian Jurisprudence: A Critical Analysis

<sup>61</sup><https://www.rostrumlegal.com/case-comment-sahara-india-real-estate-corporation-ltd-and-others-v-securities-and-exchange-board-of-india-and-another-manu-sc-0735-2012/>

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