
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

**HASHTAGS, HEADLINES AND HANGINGS: IS PUBLIC OPINION
REPLACING DUE PROCESS?**- Manya Sinha¹**1. Abstract**

The growing role of the mass media and social media in the criminal justice system has sparked many concerns about the future of due process and fair trial rights. Today, all news is breaking news, with hashtags going viral and public opinion reacting instantly; legal proceedings can become subject to intense media and public scrutiny and debate. This is often called the “trial by media” and has resulted in a parallel judicial process whereby the public can formulate its own opinions of guilt or innocence before reaching the conclusion of a judicial process. In the article “Hashtags, Headlines and Hangings: Is Public Opinion Replacing Due Process?”, the author analyses the conflict between Freedom of expression, Public participation and the constitutional right to a fair trial.

This study starts with the discussion on the concept of due process and the presumption of innocence and judicial independence. It then charts the growth of media trials in India with examples of how conventional media, social media and hashtag activism have shaped the investigations of crime and the public debate on offences. The paper explores how far media reports and public anger influence investigative agencies, courts and legislative action using a study of key case studies and judicial decisions. The potential threats of digital vigilantism, misinformation, online shaming and sensationalised reporting are given special attention.

The paper, which applies doctrinal and analytical research methods, examines whether public opinion has now become an alternative to the formal structures of the law. It says that although media can be a valuable instrument for transparency and accountability, the unruly voice of the public poses a threat to the principle of justice and rule of law. The paper

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concludes by calling for higher ethical standards of reporting, better regulation of digital platforms and more robust protections to ensure justice is based on evidence, not popular opinion, and judicial reasoning.

Key words

Due Process; Fair Trial Rights; Trial by Media; Public Opinion; Social Media Activism; Presumption of Innocence; Judicial Independence; Digital Vigilantism; Media Ethics; Rule of Law

1. Introduction

1.1 Background

The concept of trial by media was of great concern in high-profile trials in the late 20th and early 21st centuries, as the media's attention might compromise the fairness of a trial, potentially by influencing how the jury viewed the defendant's reputation. This is a social phenomenon that leads to a conflict between media freedom and fair trial rights. The accused must be afforded sufficient opportunity to defend himself to have a fair trial. However, such an opportunity will be meaningless to the accused person if he is not told what he is being accused of. If a person is brought before court for trial, the particulars of the offence with which he is charged shall be communicated to him². The court shall, in its formality, frame in writing any formal charge in case of serious offences. Give a charge, read it to the accused person, and explain the charge to the accused person. A charge is not an accusation in the abstract but is a concrete accusation of an offence alleged to have been committed by a person. The right to have a precise accusation is contained in section 211, Cr. P.C.

The core idea of media trials is that although they are aware of society's existing legal system, they frequently ignore established laws. Rather than accurately presenting the facts of a case, a media trial serves to propagate media opinion. This behaviour is frequently motivated by the platforms' desire to make a profit, which leads them to structure and deliver emotional or sentimental news to the public. This type of coverage gives the media enormous influence over the public, which in certain instances has led to protests and riots. Ultimately, media

²AnupSurendranath, Trial by Media and Fair Trial Rights in India, 4 NUJS L. Rev. 517 (2011)

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outlets such as newspapers, news media, radio, and television hold significant power because they not only circulate information but also help decide what topics the public will discuss³.

1.2 Research problem

The advent of digital media, social networking and 24-hour news has changed the way criminal cases are talked about and how people view them. In many high-profile cases, the media and then online users will create and share, opinions on the guilt or innocence of the accused long before the trials are even underway. This phenomenon is generally dubbed as “trial by media,” which is bound to give rise to grave concerns on the constitutional principles of due process, presumption of innocence, and the right to a fair trial. When the public is outraged, that outrage can be amplified by way of hashtags, viral campaigns, and sensational reporting, which can have an impact on investigations, prosecutorial decisions, and the public perception of justice. The main question that this study aims to find the answer to is whether the influence of the media and public opinion is harming the existing legal procedures and, instead of judicial decisions, public opinion is deciding the fate of a case. The study aims to analyze the consequences of this change for the administration of justice and the rule of law in modern democratic societies.

1.3. Scope of the Study

This study explores the interplay of public opinion, media trials, and due process in the context of criminal justice administration. It is based mainly on the Indian legal system, and comparative lessons are taken from other jurisdictions, where the media has a similar impact on the criminal process. The research examines constitutional clauses on freedom of speech, fair trial rights and judicial independence, as well as law and practice on media conduct. It also examines the power of traditional media, social media, and digital activism and public campaigns in influencing the content of the law. Using a range of case studies and landmark judicial statements, the study assesses the effects that media coverage has on investigations, prosecutions and court proceedings. The research is, however, confined to criminal justice issues and will only cover civil dispute and commercial litigation areas to a limited extent. The study is designed to offer a fair perspective on the potential benefits of public

³Middleweek, Belinda (4 May 2017). "Dingo media? The persistence of the 'trial by media' frame in popular, media, and academic evaluations of the Azaria Chamberlain case". *Feminist Media Studies*. 17 (3): 392–411. doi:10.1080/14680777.2016.1235054. hdl:10453/123672. S2CID 15182706

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engagement for holding those in power to account, along with significant threats to fairness, impartiality and integrity of judicial processes.

1.4 Research Objectives

To learn about due process and fair trial rights in the criminal justice system.

2. To analyse the changing scenario of media trials in India and the role of traditional and digital media in the criminal trial process.

3. To examine how social media, hashtag activism and public opinion contribute to perceptions of guilt and innocence.

To assess the effect of media on criminal investigations, prosecutions and judicial proceedings.

5. To learn about the constitutional and legal safeguards of the rights of free speech, freedom of the press and right to a fair trial.

6. To evaluate key court cases concerning the nature, right to and impact of media trials, prejudicial reporting and due process rights.

7. To examine the threats of digital vigilantism, fake news and online public campaigns to the justice administration.

8. Whether public opinion has become more influential, or has supplanted, due process in such high-profile criminal cases?

9. To examine the relationship between accountability of the media and democratic openness in the criminal justice system.

10. To make legal and policy recommendations for protecting freedom of expression (including public participation) and due process.

1.5 Research Questions

1. How do media trials and public opinion shape the investigations, prosecution and trial in India?

2. Is the increasing trend of trial by media a contradiction of the principles of due process, presumption of innocence and the right to a fair trial?

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3. Is the current legal and constitutional protection in place sufficient to strike a balance between freedom of expression and the protection of fair trial rights in the digital world?

1.6 Research methodology

The present study adopts a “doctrinal and analytical research methodology” to examine the relationship between media trials, public opinion, and due process in the criminal justice system. The research primarily relies on both “primary and secondary sources”. Primary sources include constitutional provisions, statutes, judicial decisions, and legal principles relating to fair trial rights, freedom of speech, and media regulation. Important cases decided by the Supreme Court of India have been analysed to understand the judicial approach towards media influence and due process.

Secondary sources include books, journal articles, research papers, government reports, newspaper articles, and credible online legal databases. The study also examines selected high-profile criminal cases that received extensive media attention to assess the impact of public opinion on legal proceedings. A ****critical and comparative approach**** has been adopted to evaluate the balance between media freedom and fair trial rights. The methodology further analyses contemporary issues such as social media activism, digital vigilantism, and online public campaigns to understand their implications for the administration of justice.

2. Understanding due process and fair trial

2.1 Meaning of DueProcess

Due process of law is the application by the state of all legal rules and principles pertaining to a case so all legal rights that are owed to a person are respected. Due process is the balance of the power of law of the land and the protection of the person from it. A violation of due process offends the rule of law when a government harms a person without strictly following the course of the law⁴.

Due process has also been interpreted as barring both laws and legal processes (see substantive due process) and has become the province of judges to determine and ensure fundamental fairness, justice and liberty. This reading has been the subject of dispute. The

⁴Hawkins, Brian (2006). "The Glucksberg Renaissance: Substantive Due Process since Lawrence v. Texas" (PDF). Michigan Law Review. 105 (2): 409. Archived from the original (PDF) on June 15, 2007.

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meaning of due process can be compared to concepts of natural justice and procedural justice that are used in other jurisdictions, and sometimes means that the government must not be unjust to the people or use them physically or mentally.

2.2 Presumption of Innocence

The presumption of innocence is a legal principle that everyone charged with any crime is innocent until proven guilty. In the absence of any proof to the contrary, the prosecution must have strong evidence to present before a judge or a jury of one's peers. If the prosecution cannot establish the charges, then the person will be acquitted of the charges. In most cases, the prosecution has the burden of proving the guilt of the accused beyond a reasonable doubt. When doubt remains, the accused shall be acquitted. The opposite argument is a presumption of guilt⁵.

2.3 Constitutional Framework

Adopted in 1950, the Constitution of India is the supreme, written law which lays out a quasi-federal parliamentary democracy with separation of powers between the Legislature, Executive and Judiciary and declares India to be a sovereign, socialist, secular, democratic republic while ensuring citizens have enforceable Fundamental Rights and giving guidance to policy through non-justiciable Directive Principles and Fundamental Duties⁶. It bifurcates the subjects of legislatures between the Centre and States through the Seventh Schedule, but has a high degree of centralising aspects (single constitution, single citizenship, All India services, emergency powers) and gives a bicameral Parliament a ceremonial President and an executive responsible to the Parliament. Judicial review is vested in an independent judiciary headed by the Supreme Court, which safeguards the Constitution as well as the Basic Structure doctrine, which curtails the initiative of Parliament to amend the Constitution; institutions like the Election Commission, CAG, UPSC, etc. provide checks and safeguards, and there are special provisions for disadvantaged groups⁷.

2.4 International Standards for Fair Trials

The international standards of a fair trial come from Article 10 of the Universal Declaration of Human Rights and Article 14 of the legally binding International Covenant on Civil and

⁵ Judicial and Statutory Definitions of Words and Phrases". St. Paul, MN: West Publishing Co. 1914.

⁶V.N. Shukla, Constitution of India 240–275 (13th ed. 2017).

⁷V.N. Shukla, Constitution of India 240–275 (13th ed. 2017).

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Political Rights (ICCPR), which provide that everyone has the right to a fair and public hearing before a competent, independent and impartial body in the determination of criminal charges or civil rights. The rights and civil liberties encompassed by these minimum standards are that the accused is presumed innocent until proven guilty, has the right to legal counsel, the right to be heard within a reasonable time, the right to free interpretation if the accused cannot understand the language⁸, the right to have his conviction or sentence reviewed by a higher court, and protection against being tried twice for the same offense (double jeopardy). These guarantees are also found in regional human rights instruments such as the European Convention on Human Rights (Article 6), the American Convention on Human Rights, and the African Charter on Human and Peoples' Rights, which constitute customary international law, and thus are binding on all countries, whether or not they have signed certain treaties. The general principle is to make sure justice is done, and people are not convicted or punished in an unlawful manner⁹.

3.1 Evolution of Media and Media Trials in India

In a democratic society, the media is especially important as it gives citizens the platform to voice their opinions and highlight their concerns with the government. Freedom of speech and expression has allowed the media to contribute information, influence opinion and foster transparency in India. Media trials originated from the media's duty to educate the public, but in recent years it has developed to become an activity in which the media also plays a role in shaping the public attitude on legal issues¹⁰.

Communication in ancient India was mostly oral, through manuscripts and inscriptions, and scholarly debates. There was no official legislation concerning the media; however, there were social norms and religious attitudes that regulated information communication. In the colonial era, the advent of the printing press changed the way people communicated. James Augustus Hickey started publishing the first Indian newspaper, the Bengal Gazette, in 1780. The British government took away several privileges, such as the Licensing Act, 1857, Vernacular Press Act, 1878, and the Censorship of Press Act, 1799, as newspapers began to play an important role in political awareness and in the development of the national

⁸ Law Commission of India, *200th Report on Trial by Media: Free Speech and Fair Trial Under Criminal Procedure Code, 1973* (2006)

⁹ Law Commission of India, *200th Report on Trial by Media: Free Speech and Fair Trial Under Criminal Procedure Code, 1973* (2006)

¹⁰ Arghya Sengupta, *Free Speech, Fair Trial and the Media*, 25 Nat'l L. Sch. India Rev. 95 (2013).

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movement. These were legislations to regulate publications and to stifle criticism of colonial rule. Nevertheless, the press was an important force that inspired public opinion and helped to build the backbone of the Indian independence movement, which eventually led to a modern media system and modern media trials¹¹.

3.2 24x7 News Culture and Sensationalism

The 24-hour news cycle (or 24/7 news cycle) is the 24-hour investigation and reporting of news, concomitant with fast-paced lifestyles. The vast news resources available in recent decades have increased competition for audience and advertiser attention, prompting media providers to deliver the latest news most compellingly in order to remain ahead of competitors. Television, radio, print, online and mobile app news media all have many suppliers that want to be relevant to their audiences and deliver news first¹².

A complete news cycle consists of the media reporting on some event, followed by the media reporting on public and other reactions to the earlier reports. The advent of 24-hour cable and satellite television news channels and, in more recent times, of news sources on the World Wide Web (including blogs), considerably shortened this process.

3.3 Social Media and Hashtag Activism

Hashtag activism and social media have gained influence to help shape public opinion and discussion about criminal cases. Social media platforms like X (formerly Twitter), Facebook, Instagram and YouTube can enable information to be shared almost instantaneously, allowing users to voice opinions, share content, and engage in discussions about current investigations and trials¹³. The use of hashtags like #JusticeForNirbhaya, #JusticeForSSR, and #MeToo has shown the power of online campaigns behind mobilising public support and making issues visible for discussion and action.

Hashtag activism can help to increase transparency, accountability and public knowledge, but it also can add to the process of "media trials. Internet opinion generated by viral posts and discussions can put pressure on investigative bodies, the judiciary and policymakers. In many cases, people have been found guilty in the eyes of the public before going to trial, which is not allowed by the rule of the presumption of innocence. Thus, while social media can improve democratic engagement, it needs to be tempered with the rule of law, due process,

¹¹ Arghya Sengupta, Free Speech, Fair Trial and the Media, 25 Nat'l L. Sch. India Rev. 95 (2013).

¹² Silvia, Tony (2001). "2. CNN: The Origins of the 24-Hour, International News Cycle". Global News: Perspectives on the Information Age. Blackwell. pp. 45f. ISBN 0-8138-0256-3.

¹³ Aparna Chandra, Media Reporting and Criminal Justice Administration, 8 Indian J. Const. L. 112 (2014).

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and fair trial rights.

3.4 Citizen Journalism and Digital Revolution

The media landscape is completely different today, due to the digital revolution, where citizens have the ability to make news and to distribute it. This is called citizen journalism, and is the ability of anyone to report on events, comment on issues, post photographs and videos and make real-time updates via social media, blogs and online forums. One important distinction between citizen and traditional journalism is that there is no institutional control over the latter, meaning that information is more readily available and more precise¹⁴.

Citizen journalism has a major role when it comes to media trials and how they influence public opinion of criminal cases. Digital participation allows citizens to communicate about current investigations, give condolences to victims and hold authorities responsible. Rumours spread through viral posts, online petitions, and public campaigns can command a great deal of public attention and shape the course of public discussion. Citizen-led campaigns have been successful in pushing for increased transparency and efficiency in law enforcement and policymaking in a few well-known instances.

But there are serious concerns as well, because these articles don't benefit from a professional editor.¹⁵ Misinformation and prejudicial narratives can quickly become widespread due to unverified information and rumours, selective reporting, and personal opinions. Such content can shape public perceptions and potentially jeopardise the presumption of innocence and the right to a fair trial. So, while citizen journalism can facilitate citizens' participation and transparency, responsible digital engagement is necessary so that citizens' involvement does not affect the administration of justice.

3.5 How does Media Trial shape public opinion

Media trial is the process of the extensive use of print, electronic and digital media reporting and commenting on criminal cases, court proceedings, or individuals suspected of crime before the judicial findings are rendered. The media's sensational reporting, debates and continual reporting can develop a public narrative about guilt or innocence, which can influence public opinion.¹⁶ In numerous high-profile cases, the media acts as an alternative forum in which decisions are made without the benefit of a court.

Media trials not only impact the public, but also witness testimony, legal representation,

¹⁴ Aparna Chandra, Media Reporting and Criminal Justice Administration, 8 Indian J. Const. L. 112 (2014).

¹⁵ Nandita Lakshmanan, Media Trials and the Right to Fair Trial, 6 Indian J.L. & Legal Rsch. 1 (2022).

¹⁶ Nandita Lakshmanan, Media Trials and the Right to Fair Trial, 6 Indian J.L. & Legal Rsch. 1 (2022).

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investigative agencies and even court trials. People are always made aware of media coverage and news reports during a trial, so they may be influenced by media reports or television debates, which may not reflect factual evidence. Research has demonstrated that the media can create public pressure for harsh punishment, especially when it comes to high-profile cases involving the rich and powerful accused.¹⁷The media's role in holding government accountable and transparent can lead to a decline in the principles of due process, fairness, and presumption of innocence in the case of excessive or biased coverage.

4. Public Opinion V. Due Process

4.1 Media Trials V Courtroom Trials

There cannot be a media trial. It is completely antithetical to our Constitution. It goes against Article 21 and 14." — Supreme Court of India.

While media trials create instant public verdicts based on emotion and incomplete information, courtroom trials follow due process to ensure truth emerges through evidence, legal safeguards, and impartial judgment. The Supreme Court has held that media trials are "the very antithesis of rule of law" and can lead to a miscarriage of justice¹⁸.

Media trials and courtroom trials are very different in their aims, in their practice and in their effects upon the administration of justice. A media trial is an extended coverage and analysis of a criminal case in the media, including news, newspapers and social media, that may include opinions on the guilt or innocence of the accused before a trial in court. A trial is a legal proceeding conducted according to constitutional principles, laws and rules of evidence in which guilt is decided by an impartial judge (judges) upon the evidence admitted.

The presumption of innocence is one of the key differences. Media trials often result in the perception of guilt prior to investigations. However, the concept of courtroom trials is that every person is innocent until they are found guilty beyond a reasonable doubt. Media trials are conducted without a procedure to defend the accused, in contrast to an actual court, which guarantees the accused the right to a lawyer, cross-examination, and safeguards¹⁹.

A further distinction is in the process of opinion formation. Media stories are frequently sensationalist and driven by public interest and emotional responses that make premature judgments. Conversely, rulings in court are made after a thorough review of evidence,

¹⁷MadhaviGoradia Divan, *Facets of Media Law* 85–114 (2d ed. 2016).

¹⁸<https://www.studyiq.com/articles/trial-by-social-media/>

¹⁹Judicial and Statutory Definitions of Words and Phrases". St. Paul, MN: West Publishing Co. 1914.

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testimony, and legal arguments. Court proceedings call for legally admissible and tested evidence, while media reports might be based on leaks, speculations, and unverified evidence.

Media trials may also put pressure on investigating agencies, the witnesses and even the judicial institutions by setting the expectations of the public about the resolution of a case. Courtroom trials are intended to be free from such influences and errors; in the event of error, they can be appealed. In addition, although media judgments do not have legal consequences, they can have serious repercussions for an individual's reputation that can be irreparable. Judicial decisions, by contrast, have legal force, and can be appealed or revised in accordance with the legal processes.

Thus, while the media has helped to inform the public and to hold public officials accountable, the trial in court is still the proper method for securing truth and justice. In a society that upholds the rule of law, a person must be convicted, not by popular opinion, but by the law, and the media should not demonise

4.2 Impact of Public pressure on trials

Public pressure contradicts a trial by undermining the fundamental right to a fair trial, which requires that judgment be based solely on admissible evidence and legal principles rather than outside opinions or emotions. While a fair trial presumes the accused is innocent until proven guilty and relies on an impartial judge or jury, public pressure—often fueled by sensational media coverage—creates a prejudicial "court of public opinion" where people are declared guilty before the trial even begins, forming preconceived notions that cloud judicial judgment.²⁰ This conflict is particularly damaging because the public forms opinions on unverified claims and speculation rather than legally valid evidence, and media trials often portray the accused as guilty, influencing jurors, judges, and even witnesses who may face coercion or intimidation. Ultimately, public pressure prejudices the entire legal process by replacing objective legal reasoning with emotional reaction, violating the accused's right to justice and potentially ruining their reputation permanently even if they are later acquitted in court.

4.3 The victim-centric storytelling

²⁰Law Commission of India, *200th Report on Trial by Media: Free Speech and Fair Trial Under Criminal Procedure Code, 1973* (2006).

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Victim-centred storytelling is a deliberate choice to build your narrative around the person who was harmed, not just the crime committed against them. It asks different questions than traditional true crime²¹.

Traditional approach: How was the crime committed?

- **Victim-centred approach:** Who was this person before the crime occurred?
- **Traditional approach:** What made the perpetrator do this?
- **Victim-centred approach:** What did this loss mean to the people left behind?
- **Traditional approach:** What were the gruesome details?
- **Victim-centred approach:** What details serve the story without exploiting the suffering?
This doesn't mean ignoring the crime or the criminal. It means maintaining proportion. The victim's life deserves at least as much attention as their death.

4.4 Impact Of Digital Vigilantism On Media Trials

The impact of digital vigilantism on media trials can best be understood as it fundamentally alters their nature from being mere media trials to instant and crowd-sourced forms of extrajudicial punishments that eschew any legal process of due procedure and justice. The virality of information on social media platforms helps to spread unverified accusations rapidly and creates outrage even before the investigation of the matter is complete. The media trial becomes an attack on the very premise of 'innocent until proven guilty' and ensures that people get permanently ruined on social media without any form of investigation or due process being meted out to them.²² The example of the 2024 suicide of U. Deepak in Kerala on account of the spreading of his name via social media as one who sexually harasses women highlights this issue where justice takes on an emotional and brutal aspect. The trial itself is virality and crowdsourced outrage replaces the role of the judges, while the Indian courts have been cautious about it not being beyond the scope of freedom of expression.

5. Legal framework governing media and fair trials

²¹<https://truecrimeunheard.com/victim-centered-storytelling-framework/>

²²<https://truecrimeunheard.com/victim-centered-storytelling-framework/>

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5.1 Freedom of Speech and Expression under Article 19(1)(a)

The right to freedom of speech and expression granted by Article 19(1)(a) allows the media to cover and carry out journalistic investigations into judicial proceedings to increase transparency. But at the same time, freedom of speech and expression can adversely affect the conduct of fair trials through "trial by media," where the media investigates the case in parallel to judicial authorities, pronounces guilt against the suspect, sensationalises facts, distorts them to increase viewer ratings, and intrudes into the privacy of suspects before the court decides the case. This would harm the guarantee provided to the accused under Article 21 for fair trial proceedings, prejudice witnesses, intimidate the persons involved in the case proceedings, put undue pressure on the judges, and deny the accused the presumption of innocence. The apex court in landmark cases like *Sahara India Real Estate Corp. Ltd. v. SEBI* (2012)²³ and *R.K. Anand v. Registrar, Delhi High Court* (2009)²⁴ recognised this conflict and authorised courts to issue postponement orders in case media trials hamper fair judicial proceedings.

5.2 Right to Fair Trial under Article 21

Right to a Fair Trial is one of the essential rights provided under "Article 21 of the Constitution of India", which ensures the protection of life and personal liberty. The Supreme Court of India has interpreted Article 21 to say that in case any proceedings affect the person concerned, then those proceedings should be done in a fair, just, and reasonable manner²⁵. The right to a fair trial makes sure that everyone who is accused of anything gets treated equally and is given the chance to defend himself/herself properly. Important elements of a right to a fair trial include presumption of innocence, a fair trial by an independent and impartial judiciary, provision of legal representation, right against self-incrimination, and judgment strictly based on the facts brought out in the case.

5.3 Contempt of Court and Media Reporting

²³*Sahara India Real Estate Corp. Ltd. v. Sec. & Exch. Bd. of India*, (2012) 10 SCC 603.

²⁴*R.K. Anand v. Registrar, Delhi High Court*, (2009) 8 SCC 106.

²⁵The Constitution of India, arts. 19(1)(a), 21.

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Contempt of court implies any act or publication that obstructs the process of justice, challenges the authority of the court, or obstructs its operations. According to Indian law, Contempt of Court is regulated by the Contempt of Courts Act of 1971²⁶, which identifies both civil and criminal contempt. The act of criminal contempt involves any publication which tends to scandalise the court, prejudices the judicial process, and obstructs the process of justice. The problem of contempt occurs in the sphere of media reporting due to the publication of such information that can create influence on the judges, witnesses, and people in a particular case before it reaches the court. Sensational reporting, announcing one's guilt before their trial, publication of unacceptable evidence for trial, and other actions can prejudice the judicial process and affect the fair trial of a person. Media reporting is guaranteed by Article 19(1)(a) of freedom of speech and expression in India; however, this right is limited by certain conditions.

5.4 Press Council and ethical journalism

The Press Council of India is a statutory body that was formed under the Press Council Act, 1978, aimed at safeguarding freedom of the press and maintaining high journalistic ethics. The PCI encourages responsible reporting while handling issues of ethical breach among journalists and the press in general. In case of proceedings related to any criminal charge, PCI stresses the importance of accuracy, objectivity, fairness, and presumption of innocence among other principles of journalism. The Norms of Journalistic Conduct issued by the PCI prohibits sensationalization, speculation, and publication that might prejudice a pending trial or legal proceeding.

5.5 Regulation of Digital and Social Media Platforms

Digital and social media platforms have made more information available to people but have also posed some challenges, including the dissemination of misinformation, violation of privacy rights, and media trials. In India, digital and social media platforms are regulated through the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021²⁷. Under these provisions, intermediaries are expected to practice due diligence, grievance redressal, and

²⁶Contempt of Courts Act, No. 70 of 1971, INDIA CODE (1971).

²⁷Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Gazette of India, Extraordinary, pt. II, sec. 3(i) (Feb. 25, 2021).

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adherence to journalistic ethics and professionalism. Nonetheless, information dissemination continues to affect opinions and judicial proceedings.

6. Landmark cases

6.1 *Manu Sharma v. State (NCT of Delhi)* (2010)

The case is based on the murder of Jessica Lal in the year 1999, who was allegedly denied service of alcohol by Manu Sharma. Though several witnesses had been there, the trial court had acquitted Manu Sharma, as it was difficult to prove his guilt with hostile witnesses and insufficient evidence. This led to public outrage and subsequent scrutiny of the case by the press. Manu Sharma was later found guilty of murder by the High Court of Delhi, and it was affirmed by the Supreme Court. In this case, the Supreme Court observed that the determination of guilt must always be made on the basis of legal evidence and never through public opinions. While appreciating the role played by media in bringing out the shortcomings in investigation and prosecution, the Court also warned of the negative effects of media trials²⁸.

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

The origins of this case lie in the BMW hit-and-run incident; here, a sting operation carried out via television revealed how lawyers and witnesses had sought to tamper with evidence. Such behavior was deemed to amount to an interference in the process of dispensing justice and raised ethical questions about the nature of the trial. In light of the evidence from the sting operation, the Delhi High Court instituted a case for contempt, a ruling subsequently upheld by the Supreme Court. Here, the Supreme Court affirmed the admissibility of the sting operation and found that the activities described were tantamount to a criminal contempt of court. On the other hand, the court was emphatic that journalism needs to be practiced responsibly without interfering with any ongoing judicial processes. This decision is important since it recognizes that the media can play a positive role in exposing corrupt elements within the justice system²⁹.

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

²⁸*Manu Sharma v. State (NCT of Delhi)*, (2010) 6 SCC 1.

²⁹*R.K. Anand v. Registrar, Delhi High Court*, (2009) 8 SCC 106.

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In this case, extensive coverage by the press of judicial proceedings relating to Sahara India Real Estate Corporation was noted, and questions were asked about the effect of prejudicial media coverage on the administration of justice. The question before the Supreme Court was whether courts could limit the publication of such information when it threatened the administration of justice. The Court ruled that whereas Article 19(1)(a) guaranteed freedom of speech and expression, which would include media coverage, the court had the power to pass orders for temporary postponement in some cases. This power was to be exercised in cases where there was a genuine threat to the process of administration of justice due to prejudicial reporting in the press. This was an effort by the Court to strike a balance between the rights of press freedom and right to fair trial under Article 21 of the Constitution. This decision was viewed as a landmark decision³⁰.

6.4 RomilaThapar v. Union of India (2018)

The matter was filed after the arrest of certain individuals in connection with the BhimaKoregaon violence case. There were reports in the media about the same, resulting in considerable debate among the people on whether or not the accused were guilty of the charge. The petitioners contended that the investigation was unjust and prayed for appointing a SIT to conduct the investigation. While the Supreme Court dismissed their plea for a SIT, it was emphatic that the investigation should take place in consonance with legal procedures while respecting constitutional rights. This is important since a judicial result cannot be based on presumptions made in the light of media reports, public debates or political issues. Even though the case is not technically a media trial case, the judgment does show how dangerous the situation becomes if the media takes up any matter for trial.³¹

6.5 Important Judicial Principles from the Cases

Taken together, these judgments set out important principles concerning the interface between freedom of expression and a right to a fair trial. It is clear that although freedom of the press is a crucial element of democratic governance, this right is subordinate to the right to a fair trial as guaranteed by Article 21 of the constitution. First, all of these judgments reiterate the principle of the presumption of innocence. This is important insofar as they affirm that one cannot be presumed to be guilty just because he or she received negative

³⁰*Sahara India Real Estate Corp. Ltd. v. Sec. & Exch. Bd. of India*, (2012) 10 SCC 603.

³¹*RomilaThapar v. Union of India*, (2018) 10 SCC 753.

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attention in the media. Second, there is recognition that investigative journalism serves an important purpose of exposing corruption. However, this must not come at the expense of judicial impartiality. Using powers such as contempt jurisdiction, courts are empowered to take preventive measures against prejudicial publicity that would influence judicial proceedings.

7. Challenges to due process in the digital era

7.1 Misinformation and Fake News

The advent of digital media has also led to the widespread prevalence of misinformation in the form of fake news. Such fake reports, altered content, and misreported news articles tend to propagate widely via news sites and social media sites before the truth is known. In the case of media trials, this may contribute to prejudices about the individual being accused. It may cause false stories and rumours to become entrenched in the minds of witnesses. Misleading statements could also interfere with investigations and even lead to the creation of societal pressure for instant action. Media trials differ from judicial hearings since they are fast but not necessarily factual. Therefore, erroneous information may be spread widely before any clarifications are provided. This makes fake news very damaging to the right to a fair trial since it contributes to hasty conclusions being drawn without the benefit of facts.

7.2 Online Shaming and Cancel Culture

Cancellation and online shaming have become the most significant impacts of media trials in the digital era. With the use of social media, people who are accused of wrongdoing or involvement in criminal behavior can suffer from severe public criticism, humiliation, and ostracism without a court ruling about their guilt. Public opinion can significantly influence the accused's reputation, career prospects, and personal life without proving that all these negative statements are true. Moreover, public censure of people involved in some controversies can occur simply on account of accusations, without proving the validity of these accusations. Hence, the principle of presumption of innocence is contradicted in such cases since one is presumed guilty prior to a judgment made by the court. Often, cancellation and online shaming can lead to irreparable damage even after the accused is acquitted. Public responsibility for the wrongdoings committed is a crucial factor; however, excessive online shaming may turn into public punishment of the guilty.

7.3 Commercialisation of Crime Reporting

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The increasing commercialisation of the media industry has been one of the major reasons behind the growth of media trials. In such a competitive business environment, the primary consideration for any news company would be the number of audiences viewing its content. Cases that relate to crimes committed by celebrities or political leaders are often treated as a form of entertainment and not real news. This is because the primary intention behind news companies is to attract more audiences. Thus, the use of exaggeration and dramatisation of news stories becomes common. Complex legal proceedings become very simple, and accusations made against any person are often portrayed as facts. In this way, the media trial makes a mockery of the legal process. The media does have an important part to play in the dissemination of news, but when the motive is nothing but earning profit, then ethics takes a back seat.

7.4 Influence on Judicial Neutrality and Justice

Media trials can be detrimental to the cause of judicial neutrality and justice delivery by establishing a climate of public coercion and preconception about guilt. With continued media focus, social media activism, and calls from the public for punitive actions, perceptions about a particular case may already have been formed prior to the analysis of evidence in the courtroom. While judges are expected to be impartial and deliver their verdicts basing on laws and evidence only, heavy media involvement may lead to indirect coercion of judicial bodies. Additionally, witnesses, investigators, and prosecutors in the case may be swayed by the mood of the general public. Expectations formed by continued media focus on the case may interfere with the independence of judicial decisions. In such instances, the constitutional provision of a fair trial and justice dispensation becomes questionable, as the administration of justice would not have been free from the influence of the public.

8. Conclusion and Recommendations

8.1 Closing Statements

The media trials debate is indicative of a wider issue related to justice in the future age of technology. With information getting more immediate and participation by the citizenry broadening through social media, the likelihood that there will be an attempt to replace law with mob justice increases. However, what gives a democratic judicial process its authority is neither the most vocal individuals nor populism; rather, it is based on upholding

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constitutionality, fairness, and impartiality. There needs to be harmony between freedom of the press and the right to a fair trial.

8.2 Conclusion

Indeed, the connection between media freedom and the administration of justice is among the most serious constitutional dilemmas in modern democracies. The media, which acts as the fourth pillar of democracy through its informative, transparent, and monitoring nature, has gradually started taking up space in the criminal justice system. By way of constant reporting, social media campaigns, and debate, the media has managed to shape opinions about the guilt or innocence of suspects even before the end of the process in the judicial forum.

In this regard, this paper seeks to show that media trials clash with some of the key elements of law like presumption of innocence, due process, and fair trial, which are provided for under Article 21 of the Indian Constitution. In addition, issues arising from digital media, hashtag activism, citizen journalism, misinformation, and online shaming have only served to make the problem even more urgent than before. Although the media has contributed immensely in many landmark cases in helping bring to light lapses in the investigation and bringing accountability, over-reporting could lead to prejudice in investigations.

Recommendations

1. Upholding ethics in media by having accurate, unbiased, and non-sensationalised reporting in regard to crimes and criminal trials.
2. Responsible journalism by engaging in fact checking of information prior to its publication.
3. Strengthening the capacity of regulators to effectively handle prejudiced and unethical media practices.
4. Providing prompt and necessary judicial intervention, such as delaying trials where there is a possibility of prejudice due to media reports.
5. Dealing with false information and fake news.
6. Ensuring the right to privacy of the parties in dispute until their matter has been determined by the courts.

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7. Increasing the legal consciousness among citizens in terms of due process, presumption of innocence, and judicial autonomy.
8. Regulating social media platforms in order to control digital vigilantism and trial by social media.
9. Judicial autonomy from outside interference to protect courts and investigative agencies from external pressures.
10. Balanced reporting that prioritizes facts and constitutionally relevant considerations.

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