

***ANALYTICAL STUDY***

**Submitted by: SAKSHI RAWAL**

**B.A. LL.B. (*Hons.*) “B”**

**Submitted to: Prof. MAMTHA**



**Alliance School of Law  
Alliance University, Bangalore**

## CHAPTER 1

### Introduction

“A responsible media is the handmaiden of effective judicial administration.”

In a democracy after Legislature, Executive, and Judiciary Media is known as the “fourth pillar of democracy”. The press or Media is the institution that keeps everyone aware. It has been claimed that maintaining constant vigilance is a value of liberty. The media is one of the most important institutions that cannot be undervalued by any nation. Freedom of the press is the most crucial tool in a democracy. In many cases, the Supreme Court of India held that Article 19(1)(a) of the constitution which gives us freedom of speech and expression also includes freedom of the press. Freedom of speech is generally defined as the liberty of individuals to say or write whatever they feel, without any restraint. This includes the freedom to express themselves in any way without interference from others, to seek out and receive information and opinions, and to do so without regard to boundaries. Freedom of expression encompasses the communication of ideas regardless of the medium used. This generates a perspective for free public discourse.

The term "expression," is used in association with "speech" in Art. 19(1)(a), is broad enough to include the press. Despite of lack of particular mention of the media in the Constitution does not restrain Supreme Court to defend the freedom of the media. In the *Romesh Thapar v. State of Madras* case, the court determined that freedom of expression and the press lay at the core of all democratic organizations. Since then, there has been a noticeable increase in the recognition and enforcement of journalistic freedom in India. The Supreme Court ruled in the *Prabhu Dutt v. Union of India* case that the freedom of the press includes the right to know news and information concerning government-related activities.

But this privilege is not absolute, though, limitations can be put on it for the public interest. In the case of *Indian Express Newspaper v. Union of India*, a precise definition of press freedom was established. In this case, the court stated "press freedom" as the freedom from interference with the newspaper's circulation and content. The fundamental principle of political and social dialogue is press freedom. The court correctly defended press freedom and struck down policies and regulations.

The main purpose of media is to show a mirror to society, no matter how ugly the sight is. The media plays an important role in reducing white-collar crimes, powerful businessmen, dishonest authorities, and celebrities who try to bribe their way out of court cases. The media keeps an eye on this despicable conduct and is crucial in exposing massive frauds performed by officials or the government. It is hard to overlook the influence of the media. In several cases, like the rape and murder of Priyadarshini Mattoo, Jessica Lal, and Nitish Katara murder case, it has done a remarkable job of bringing justice. The media has certainly been effective in these cases.

But, in today's society, the media's function is frequently questioned, particularly when it comes to the reporting of high-profile incidents where the media tries to sensationalize news and distort facts to attract the public's attention to compete in the industry. This compromises the media's credibility and undercuts its true function as the fourth estate. Sometimes media goes out of its domain and act as a judge or jury on the excuse of investigative journalism. As a result, the court's operations are hampered. So, the question arises, whether the media should stop covering cases that directly or indirectly interfere with the power of Judicial Authority. The media these days start acting like a Public court. It runs a trial concurrently with the court and they forgot to distinguish between an accused who is presumed 'innocent until proven guilty and a convict whose crime has been proved beyond any reasonable doubt. The right to a fair trial may be compromised by doing this. As a result, the press must exercise its freedom in a way that doesn't harm others.

The phrase "trial by media" typically refers to a procedure whereby the media launches a separate investigation and shapes the public's perception of the accused before the trial itself ever starts. This affects the case and violates the accused's rights throughout the trial. In recent years, civil rights activists, constitutional attorneys, judges, and researchers have had nearly daily discussions on the subject of "Trial by Media." The amount of media attention that any crime, suspect, or accuser receives has grown to alarming proportions as a result of the increase in internet and social media users. Those who are guilty may not receive a fair trial and receive a sentence that is greater than what is appropriate, while innocent people may be sentenced for no reason at all.

This paper makes an effort to evaluate how such trials, which are frequently turned into public spectacles by the media, have affected society. It aims to highlight the culture of victim shaming fostered by the media, which ridicules the principle of liberty given to them as an institution.

## Research Objectives

1. To determine the role of investigative journalism on public perception of the case and criminal trials.
2. To study the effects of media trials.
3. To suggest a few ways of preventing the media from publishing cases prejudicial.

## Research Methodology

The doctrinal approach of research was used for this research. The study used a variety of secondary sources, including books, journals, newspaper articles, online sources, research articles, statutes, and conventions. To conclude this study, the research will also refer to several statutory legislation and the Law Commission Report of India.

## Significance of Research

In the present scenario, it is seen that media is taking too much interest in the administration of justice through media trials which in turn infringes on the right to a fair trial of an individual envisaged under Article 21 of the Indian Constitution. The study emphasizes the grey areas of the media trials and the intrusion into the administration of justice caused by the same. Hence, the research would facilitate different end users including students, academicians, lawyers, and the legal fraternity to have a critical understanding of the said topic.

## Research Questions

1. How do court trials affect by media coverage?
2. How do media outlets influence public opinion?
3. How does the media trial harm the accused's rights?

## Hypothesis

1. Media trials obstruct the fair handling of cases and the rights of the accused.

2. To lessen media interference in criminal cases, the present regulatory system has to be modified.

### Literature Review

- Prerna Priyanshu, “Media Trial: Freedom of Speech v. Fair Trial”, 3 IJLLJS 284 2015.

The author of this writing draws attention to the media's impact on public opinion as well as its abuse of free speech. The author goes into greater information regarding media trials and fair trials. The author also emphasized the effect of media trials on the accused and judges' unconsciousness and looked into the arguments made by the media. The author briefly summarises the proposals of the 17th Law Commission. As a result of this article's comprehension, the researcher will carry out more investigations into media trials and Law Commission recommendations, which will be useful for the study project.

- M. Neelamalar, “Media Law and Ethics”, Prentice Hall India Learning Private Limited

The author starts by discussing the background of media law in India before discussing the specific Constitutional provisions that every journalist needs to be aware of. She continues by outlining what media freedom, libel, and intellectual property rights are. The author also talks about IPC and CrPC provisions that are pertinent to the media. The author then discusses media law as it relates to women and children. The book also contains many significant cases that allowed the researcher to relate various laws and regulations to actual circumstances.

- M.P. Jain, “Indian Constitutional Law”, 7th edition, LexisNexis India

In this book, the author went into great detail about how the Indian Constitution guarantees "freedom of speech and expression." He also talked about press freedom, which comes from freedom of speech and expression. The author went on to discuss the elements that constitute press freedom restrictions. Additionally, he addressed the issue of interference with justice

administration. To better address the topic of the study, the researcher places a high value on these aspects of press freedom.

## CHAPTER 2

In 1895 Constitution of India Bill was passed which contemplates the first Indian articulation of a constitutional vision. This act says that every citizen has freedom of speech and expression. They can exercise this right without any restrictions or censorship, but they should be accountable for abuses that they may commit while they exercise this right. After getting independence, when the constituent assembly was formed, most of the members agreed to the enclosure of the freedom of speech and expression right in the constitution.

But there was a conflict on the part of imposing restrictions on this right some members said that there should not be any restriction on the freedom of speech and expression right because there is no benefit of this right if restrictions will be imposed on it. According to their point of view imposing restrictions is a colonial practice. People who supported restrictions argued that it is good to have reasonable restrictions on this right is fine as the government now was not colonial. They also argued that state law and order and security must not be compromised and also in any other country in the world the right of freedom of speech is not unrestricted. Finally, the assembly voted in the favor of restrictions on the right to free speech.

During the constitutional debates, Damodar S. Seth proposed an amendment to include "freedom of the press" among the other freedoms. Even while one would contend that freedom of speech and expression and press freedom are inextricably linked, he observed that "the press is becoming more and more powerful nowadays." Thus, it seems appropriate and desirable that the freedom of the press be mentioned specifically and independently. K.T Shah and Mohan Roy also agreed with him. But Dr. B.R. Ambedker says that freedom of media comes under Article 19(1). Because media is also expressing the view of any individual and groups of individuals. So, there is no need for a separate law for media freedom.

To describe the range of the right to freedom of speech and expression ." The belief came to light in the case of Maneka Gandhi v. Union of India. Every person has a right to engage in the democratic process because democracy is the government of the people, by the people, and for the people. In order for him to exercise this right in a reasoned manner, free and open

discussion of public issues is crucial. Justice Bhagwati believed that "Democracy rests essentially on free debate and open conversations, for that is the only corrective of government action in a democratic setup."

No freedom, however, can be unrestricted or absolute. Because of this, it is important to retain and protect the right to free speech and expression in a democracy, but it is also crucial to impose some limitations on this right in order to uphold the rule of law and maintain social order. So Article 19(2) provides that the state can put some reasonable restrictions on this right to freedom of speech and expression. There are some grounds on which the basis restrictions can impose :

### SECURITY OF THE STATE AND PUBLIC ORDER

"Security of the state" primarily refers to extreme and irritable types of public order. For example, if there are some rebels who don't like the current government and they give hate speech to promote violence and hate among people to fulfill their purpose to dissolve that government. So, this will not come under the freedom of speech and expression, because it affects the security of the state and public order.

### FRIENDLY RELATIONS WITH FOREIGN STATES

Forcible and persistent or malicious propaganda against a foreign power that has good relations with India may seriously affect its foreign policies, which may disgrace India on a global scale. This is why the freedom of speech about friendly relations with foreign nations is restricted. That might eventually impact India's Foreign relations

### Defamation

Defamation comes under a criminal offense as well as a tort. However, we have the right to freedom of speech and expression, but at the same time we also have the "right to reputation". No matter what freedom is given to a person, He/She can enjoy their freedom, but it must not affect the reputation or status of any other person. So, on this ground freedom of speech and expression is restricted.

## Incitement to an offense

The Constitution (First Amendment) Act of 1951 added this ground. Being able to express oneself freely does not give one the right to offend others. According to the general ideas of criminal law, inciting a crime is illegal. The term "offense" is not specifically defined in the Indian Constitution, but the General Clauses Act of 1897 defines it as "any act or omission made punishable by any legislation for the time being in force." Consequently, this justification can be used to limit someone's freedom of speech.

## CHAPTER - 3

### **Trial by Media and its Effects**

In this chapter, We try to find out the impact of that freedom in the reporting of high-profile cases. This chapter will describe media trials and provide insight into the function of the media in a democracy. This chapter will also cover the different effects of media coverage of the trial on the accused's rights.

In a democracy, Conflict occurs when the media oversteps its boundaries and engages in unethical and irresponsible journalism. Press freedom should be used for the benefit of the general public. Instead of influencing people's opinions and usurping the authority of the judiciary.

### **Concept of Open Court in India**

The open court concept is present in the Indian legal system. According to Article 145(4) of the Indian Constitution, the decision given by the supreme court shall be delivered in an open court only. The C.P.C., 1908's Order 18 Rule 4 further stresses the idea of open court by requiring that oral testimony from witnesses must be taken in an open setting under the judge's or the commissioner's supervision, as applicable, and in their presence. Criminal law also emphasizes the same idea. It is fundamental to open court that the administration of justice must be transparent but exceptions can be there.



"Long ago, Plato recognized in his laws that the citizen should attend and listen carefully to the trials. Hegel argued in his Philosophy of Rights that court hearings must be accessible to the public since the goal of the court is justice, which is a universal right that belongs to everyone unless in rare circumstances. Based on the open court principle, supporters of press freedom contend that the media cannot be prohibited from covering court hearings since doing so ensures that the legal system is accessible to public inspection. Every norm, including the idea of an open court, has exceptions, though. In some situations, a court in India has the authority to hold a trial "in camera," impose a ban on media coverage of the proceedings, and withhold the names of the witnesses and defendants. If the court is convinced beyond a reasonable doubt and there are concerns that the goals of justice would be compromised if the case is heard in open court, the court may also limit the publicity of a procedure in the interests of justice. In accordance with Articles 129 and 215 of the Constitution, the Supreme Court and the High Courts may, if required, exercise their inherent authority. They have the authority to forbid the media from reporting on court proceedings or case evidence outside of the courtroom. As a result, the right to open justice is not absolute and may be limited in special circumstances.

The Supreme Court prohibited the press from publishing stories in a sub-judice proceeding in *Reliance Petrochemicals Limited vs. Proprietors of Indian Express Newspaper Bombay Pvt. Ltd.*, case, prior restraint was ordered by the court on the grounds that it interfered with the administration of justice. Hence, a temporary delay order is acknowledged in India as a power inherent in the court to achieve the goals of justice, and such rulings cannot be deemed to violate press freedom. The media should cease when pressing freedom of expression outweighs the balance of public value, from any publication that would disrupt a fair trial or the administration of justice to resolve the issues, the media must strike a balance between reporting on the court processes and the requirement for a fair trial while respecting the principle of open justice.

### **Media Trial**

Our Indian law believes in the principle of “Innocent until proven Guilty” which provides a guarantee of a right to a fair trial for the accused. The Constitution protects essential rights like press freedom and the right of the accused to a fair trial. But, when they put in opposition to one another, these fundamental protections create one of the most important disputes in the administration of the criminal justice system. The issue is what is currently referred to as

"prejudicial press reporting" or "media trial." Due to its immense power, the media goes a long way to convey the truth and publishes interviews with persons like witnesses, victims' family members, and legal professionals, which is prejudicial to the ongoing criminal processes. Since media may quickly reach the masses, biased news reporting also has an impact on how the population as a whole perceives things. In the last few decades, it has become increasingly common for the media to sensationalize news by covering examples of corruption, rape, murder, and terrorist activity.

Trial by media is a product of a phenomenon known as "Media Activism," in which communication technology and the media are used for a variety of causes, such as social and political movements to raise public awareness and bring about societal change. The issue arises, though, when the media, in acting as an activist, goes beyond the boundaries that are expected from it. The administration of justice to the victim in a way that interferes with the rights of the accused and the course of the case is indirectly pressured by media trials on the judiciary. The main principles of "guilty beyond a reasonable doubt" and "innocent until proven guilty," which are prevalent in India's criminal justice system, are frequently ignored by the media during this procedure. The media has evolved into a "Janta Adalat" or "Public Court" as a result of this process, conducting a parallel inquiry while conveniently ignoring the crucial difference between the "convict" and the "accused." As a result, all of the delicate information pertaining to the case is discussed in public, jeopardizing the ongoing court case. Much earlier before the court trial itself, there is a trial in the media. The media meddles with the court's actual processes in cases involving investigations, arrests, or bail to influence the administration of justice. This places a burden on the trial court, which has a constitutional obligation to limit the case's exposure to damaging publicity. The administration of justice is guaranteed, according to the case for trial by the media. In actuality, though, it makes the job of the courts even more challenging.

The media has occasionally stirred up a commotion, nevertheless, because of its reporting. The media showed a flagrant disregard for the law in the Arushi Talwar murder case. In this instance, media coverage brought up serious legal issues involving invasion of privacy, breach of confidence, and defamation of both living and deceased individuals. The Sheena Bora Murder case also gave rise to the contentious issue of reporting on the accused's legal processes because every element of her life was scrutinized by the media, regardless of how it related to the case or the

wider public. The most recent instance of a media trial in the Sushant Singh Rajput death case serves as a sobering reminder that media trials are bad for everyone involved, not just the accused and their allies.

The process of delivering justice in India proceeds slowly. By that point, there is no practical recourse for a person who is innocent and is given a media trial. Although the accused has some legal options to fight such defamatory statements, the harm has already been done. All courts have a big responsibility to safeguard the reputation and rights of the individual from an unjustified media trial by being more watchful and aggressive

### **Social Media Trial**

A large amount of information can now be accessible and broadcast instantly via the internet in this age of the digital revolution. Social media platforms have altered how individuals engage with one another by allowing users to obtain instant answers and share information fast and effectively. As social media is available on smartphones, computers, and other gadgets, it has become a crucial aspect of everyone's life. The use of social media allows for the unrestricted expression of thoughts by all people. These beliefs or viewpoints have been shared on a global platform, where they may have an impact on how others frame their own opinions.

In the context of a trial's openness, particularly in the case of criminal trials, the growth of the internet and the usage of social media have brought significant obstacles. Social media trials take place when people establish online communities against the accused based on their ideas and opinions about the case before the investigation is finished or the court takes the case under consideration. This can be explained by a phenomenon known as "citizen journalism," often referred to as "guerilla journalism," "street journalism," or "collaborative journalism." The "citizens who are not professionals, taking an increasingly central role in the process of information gathering, news reporting, writing, editing, publication, and distribution." Since the development of the internet and social media, citizen journalism has expanded to encompass blogging, photo, and video sharing, uploading, and real-time comments on news events. In addition to interfering with the administration of justice, citizen journalism also spreads a false message to society, which causes society to base its opinions on that message rather than on the judiciary.

The phenomenon of citizen journalism has grown immensely with the rise in social media use. With only one computer click, regular people may participate in news reporting and the transmission of all types of information. Citizen journalism's major goals are to highlight topics outside of the mainstream and to promote an open discussion in which no one is given an advantage. In general, this type of journalism encourages public involvement in the news rather than focusing on the facts as perceived by the lobby of journalists and editors. As a result, the rise of the internet and particularly of platforms like social media programs and web blogs have encouraged more people to engage in public discourse. Yet, the phenomenon of citizen journalism has brought up serious challenges to traditional journalism, its function, and its limitations. It has also sparked a discussion between traditional and nontraditional journalists. Traditional journalism is linked to those with training and work for reputable news organizations or media outlets under editorial control; as a result, they typically report the news truthfully and impartially. Yet, citizen journalists are unpaid, untrained, and use sloppy, ad hoc techniques of information gathering and dissemination. Unchecked use of this information could seriously harm how justice is administered. The case of the death of well-known Hindi film star Sushant Singh Rajput is the most recent illustration of a social media trial, and it demonstrates how these trials may be harmful to the rights of the accused. Following media reports that the actor's girlfriend (the accused) reportedly encouraged the actor to commit suicide, people leaped to the conclusion that she was, in fact, responsible.

Even though the C.B.I., E.D., and N.C.B. were involved in the investigation, she was routinely criticized by news outlets and users of social media. Her virtual character assassination without concrete evidence was caused by the media coverage of her life and hate campaigns against her on the microblogging website "Twitter" and other social media platforms. "Twitter" continued to refer to her as the "witch who drove her boyfriend to suicide" despite the fact that she had been remanded to judicial custody as a result of the F.I.R. filed by the N.C.B.

Trials on social media significantly rising. The majority of Americans believe that peer-to-peer comments are more reliable and have a more significant impact on individuals than information originating from professionals, according to a 2008 Edelman Trust Barometer study. One could argue that peer-to-peer digital networks, which encourage conversation and engagement, are less important than conventional media corporations' primary concentration on profit and advertising.

Nonetheless, it is undeniable that posting information about a pending case on social media is problematic since it may violate the privacy of the accused and damage his or her reputation. Furthermore, no empirical research exists that can demonstrate the success of social media trials.

Thus, it is best to limit or at least regulate the use of social networking sites for posting information about a highly publicized ongoing trial for the time being.

### **Effects of Media Trial**

The legal system is under great threat from media trials because they may result in real bias against the rule of law and possibly deprive the accused of a fair trial. Any inquiry can be hampered by a parallel media investigation that puts excessive and unreasonable pressure on the officials conducting it. The legal process is completely violated when the media goes out of its way to act as a judge, try the case, and pass judgment on the accused before the court has even had a chance to rule. Additionally, as it negates the objective of the establishment of an adjudicatory body, the media is not justified in engaging in such investigative journalism outside the jurisdiction of the appropriate court. When the media sensationalizes a case, millions of individuals who read newspapers or watch news channels begin to build their own opinions about the case based on the facts presented by the media. The accused, victim, witness, and all parties involved in the case can therefore be said to be violated by the practice of media trial.

### **Media trial & rights of the accused**

The problem with the media trial is that it fails to balance 'free speech of the press' and 'the right of the accused to a fair trial.' The justification given by the media in favor of free speech is that this freedom originates from the public's right to know and indulge in the discussion which affects them. But, this freedom should also be consistent with the rights of the accused, and it should not override the justice delivery system by sensationalizing and twisting the facts. To administer justice, the guarantee of a fair trial is of utmost importance. If there is any scope of bias or unfairness in a criminal trial, the criminal justice system would be at risk, and public confidence in the system will be shaken.

India has ratified several international treaties, including the I.C.C.P.R. and U.D.H.R., which guarantee the right to a "fair trial." Articles 20, 21, and 22 of the Indian Constitution contain these

laws and are part of the country's legal system. Our criminal procedure legislation likewise considers these provisions. Independent judges, open hearings, the presumption of innocence, the right to counsel, the right to privacy, and many other elements are all part of the right to a fair trial. The goal here is to ensure that a trial is fair for both the prosecution and the accused and that the accused has a decent chance to present his defense. , According to a statement made by the Supreme Court, the criminal justice system would be in danger and the public's confidence in the system and the rule of law would be shaken. ( K. Anbazhagan v. Superintendent of Police AIR (2004) SC 524)

The charters also include explicit obligations on the press to use caution when distributing information. Aside from this, the media has been shown to consistently go beyond the limits of what is allowed in its publications, which is detrimental to the right of the accused to a fair trial. It tends to trample on the presumption of innocence premise, which underpins the entire criminal justice system. More injustice is done to the accused, the victim, and society as a whole.

The accused's right to privacy is another aspect that is impacted by the media trial. The notion of privacy is protected by Article 12 of the U.D.H.R. and Article 17 of the I.C.C.P.R., and India, as a signatory to these international treaties, is bound by these clauses. Yet, there is no written rule on privacy in India, and Article 19(2) of the Indian Constitution does not even mention it as a

justification for placing reasonable limitations on the right to speech and expression. Furthermore, there is no specific law in India that may defend the right to privacy against unwarranted press attention, including media trials.

The actor Sushant Singh Rajput's case, which received extensive media attention, resulted in violations of both the victim's and the accused's fundamental rights to privacy, the media released information about his health history as well as various details about the suspect, including her bank account information and transactions, a large number of private messages, photos, and videos of various other people, regardless of their relevance to the case. Many of them were even unrelated to the case and were made public. Such unfair reporting violated the privacy of those engaged in the case and flouted the legal maxim "innocent until proven guilty."

There has always been a debate over the relative importance of privacy versus the public interest when weighing the tension between the freedom of the media to broadcast information and the

right to privacy. The Personal Data Protection Bill was drafted in 2019, India does not have codified legislation on the right to privacy. Regrettably, this bill does not offer protection from media invasion of privacy. Exemptions for processing personal data for journalistic purposes are permitted by P.D.B.P. Article 36(e). It states that journalists, who operate as data fiduciaries, are free to share their opinions about whatever material they believe the general public would find interesting. The government's justification for granting such complete freedom is to make sure that media outlets and the press are free to operate without impractical limitations.

Last but not least, the media trial has even begun to put pressure on the attorneys who take on the case of the accused, pressuring them to appear in court without a sufficient defense, which is against the natural justice principles. For instance, when renowned attorney Ram Jethmalani defended Manu Sharma, a key defendant in the Jessica Lal murder case, in the trial court, he was the target of mocking derision, and widespread humiliation. "Defending the indefensible" was one of the headlines that media outlets came up with. Ajmal Kasab, the primary suspect in the 26/11 trial, was represented by a lawyer by the name of Abbas Kazmi, who said that he had endured mental harassment by the media and the Public Prosecutor, which deeply upset him. These situations bring up the important problem of the lawyers being under greater pressure once they choose to represent the accused in a high-profile case, and at the same time, their reputation is also on the line. The "media decision" of guilty immediately violates the fundamental right to a fair trial, and there is a chance that lawyers will be intimidated and decline to embark on such cases.

### **Media Trial & Potential Effect on Judges**

After reviewing some English instances, the Indian Supreme Court decided to adopt Anglo-Saxon law. It is sometimes claimed that no judge will be influenced in his judgment by anything said by the media, and as a result, the need to prevent the publication of matter prejudicial to the hearing of a case only exists where the decision rests with laymen, according to Lord Dilhorne, who was quoted by the Supreme Court in the Reliance Petrochemicals case. I have some trouble understanding this assertion that the judiciary is beyond human imperfection. Every judge makes every effort not to let whatever they have seen, heard, or read outside of court affect their judgment. And neither he nor, in my opinion, any layman with no experience in performing judicial duties, will deliberately allow themselves to be swayed in any way by the media. But, I believe it should be acknowledged that a guy may not be able to completely block out what he has seen, heard, or

read and that he may still be affected by it subliminally. It is the law, and it will remain the law until Parliament changes it, that publishing information that could jeopardize a court's ability to hear a case is considered contempt of court and is punishable by a fine, incarceration, or both.

The N.S.W. Law Commission cited a study that concluded that there is no empirical evidence to back up or contradict the claim that media coverage won't likely have a substantial impact on judicial decisions. The Canadian Law Commission similarly held the position that, though judges may ordinarily be resistant to influence, it was not possible to completely rule out the potential of such influence.

Dr. V.V.L.N. Sastry of Walden University conducted a study that produced some intriguing findings. The study's participants, active attorneys in India, were asked if they thought the public media may affect how judges viewed a case that was in the court of the 450 advocates, 430 "strongly agreed" and 12 "agreed" that the public media can affect how judges view a matter that is in court. 7 advocates "disagreed" with the proposition, while 1 "strongly disagreed," in contrast. Another important finding from the study is that, of the 450 advocates, 312 "strongly agreed" and 82 "agreed" that they had seen a criminal receive a heavier penalty than the law called for because of excessive exposure from the Indian public. However, 50 supporters of the concept "strongly disagreed," and 6 supporters "disagreed."

A poll carried out in the UK in 2010 also produced some intriguing findings. 688 jurors from 62 cases, including both routine cases with little media coverage and high-profile cases with extensive publicity that lasted longer than two weeks, were included in the study. In high-profile instances, recollection of media coverage was 70%, compared to 11% in normal cases. In high-profile cases that received media attention, 89% of the jurors recognized the defendant as guilty, and 20% said that it was challenging for them to block out these stories while serving on the jury. Moreover, in high-profile cases, 26% of the jurors admitted that they saw information on the Internet about the trial, and 12% admitted to looking for information online. In standard cases, the proportion was 12% and 5%, respectively. These studies thus show that media frequently penetrates the courts' thick walls and that they may not be as impenetrable as they are thought to be.

Section 3 of the Act is also relevant as far as interference with the administration of justice is concerned. This section provides that if a person publishes or disseminates any information without



any reasonable ground to believe that the proceeding was pending before the court and if the material published is interfering with or obstructing the course of justice, that person would not be liable for contempt of court. Further, the explanation appended to this section states that the starting point in a pending criminal trial is only after filing of the

The 17th Law Commission, under the chairmanship of M. Jagannadha Rao in its 200th report, recommended that the starting point of a pending trial should be from the time of arrest and not after the filing of charge-sheet so that the publications in the pre-trial stage do not affect the rights of the accused. The logic behind this recommendation was that since such publications subconsciously affect the judges, it may prejudice the case of the accused even during the bail proceeding. Such publications could also affect the trial, which would take place at a later period. The commission substantiated this recommendation by referring to the case of A.K. Gopalan vs. Noordeen which held that a publication made after the 'arrest' of a person could be contempt if it was prejudicial to the suspect or accused. Through this case, the Supreme Court balanced the rights of the accused and the rights of the media for publication.

It may also be noted that the U.K. Contempt of Courts Act, 1981 also considers the date of arrest as the starting point of a pending criminal proceeding. It was asserted in the Bill of 2003 prepared by the New South Wales Law Commission that if a person is arrested, or criminal proceedings are imminent, prejudicial publications will result in criminal contempt.

This view has been upheld by various case laws in Scotland, Ireland, Australia, and the Law Commission Reports of these countries.

### Media Trial & public opinion

The media has a tremendous amount of ability to shape or sway public opinion, and with the advancement of technology, it is now even capable of dividing people's opinions. The polarization of Indian politics is the best illustration of this. The rise of the right-wing and left-wing press has made polarisation a recurrent theme in Indian politics in recent years. The case that the media has an impact on people's opinions and political behavior is getting stronger. It is only natural to wonder whether such pieces of data will have an effect on political polarisation when they are presented. It would be foolish to believe that the media has maintained its status as an impartial body, and it would be ironic to claim that it doesn't exist.

Cultivating ideas and opinions in the public is another method by which the media has an impact on the masses. The "cultivation theory," developed by Prof. George Gerbner, is a sociological and communications paradigm for analyzing the long-term impacts of mass media, particularly television, on individuals. "According to this idea, regular exposure to the media affects how its users see the outside world and behave. According to the cultivation hypothesis, people are more inclined to regard reality as closely resembling how television portrays it the more television they watch. For many people, the skewed and incomplete reality seen on television is representative of how the world is. This notion can be supported by the hit-and-run and blackbuck poaching instances involving Salman Khan.

This notion is also the fundamental underpinning of media trials. Individuals who engage in media trials frequently have their critical reasoning skills targeted since they make assumptions and inferences based on media content. In the last ten years, there have been numerous instances where the media has gone above and beyond to gather and share information. Due to the carelessness of journalists, such hostile and disparaging programming by the mainstream media sometimes degenerates into libel/slander. Trial by media may also polarise public opinion by portraying the legal system as faulty or biased in favor of the accused. This took place in the Jessica Lal murder investigation. The Delhi High Court took action in response to widespread public protests at the trial court's acquittal of the defendants. This demonstrates how media trials can have a significant influence on the public's attitude and can undermine their confidence in the legal system.

### **CONCLUSION AND SUGGESTIONS**

In a democratic society, the question of media independence is very important. To inform the public on governmental affairs, the media must be free from state control. Therefore, it is thought that the self-regulation approach is best. However, the self-regulation approach is no longer effective given the current situation. It has created several issues, including fake news, paid journalism, unethical sting operations, media trials, and privacy violations. A proliferation of online news outlets has also been facilitated by recent technology advancements, an increase in "online journalism," and "citizen journalism." As a result, the current regulatory framework requires change. There are also

many flaws in current media, for example, Increasing the Privatization of Media, Today, private organizations are on a variety of media platforms all around the world. They see it as a tool to exercise influence and power in addition to another way to increase earnings and grow their company. They advance their financial objectives by making investments in media outlets. The majority of the top media companies are owned by enormous conglomerates that are still under the control of the founding families and invest in a wide range of sectors outside of the media. They only think about their profits, and don't take into account what news is provided by their news channels. The sensationalism of News Sensationalism is one of the types of storytelling strategies used in mass media, where events and topics are portrayed in news reports in a style that most readers and viewers find compelling. This method of news reporting encourages emotionally heated or biased interpretations of events and may distort the truth of a story. The media's emphasis on sensationalism is primarily driven by TRP. The Practicality of the Self-Regulation Mechanism When there is no regulatory entity above the media, the self-regulation premise means regulation by itself. In reality, the self-regulation system is not fulfilling its duty. No Legal Powers with the PCI The Council's duties include deciding on press-related complaints. It has the legal authority to take suo motu notice of conduct that violate journalistic norms. It has the authority to invite witnesses, scold the media company, editor, or journalist, and give warnings. The Council's main shortcoming, however, is that it lacks the authority to punish any entity for disobeying the rules. Justice Markandey Katju noted that the Press Council "in its current form has no punitive powers and is therefore akin to a toothless tiger" because of this. Lack of Media Accountability, The term "media accountability" refers to "the widespread conviction that the mass media must be held accountable to the public interest. This means that the media must act in a way that advances society as a whole. India's media industry lacks accountability because the PCI only controls the print media and has little authority. These are the major problems in today's media. As we have seen in this research paper the media have an immense effect on the public and other parts of society. Media should work in a way that will not cause any harm to the rights of the accused and also should not hamper the judicial process. Everybody has been provided with the right to freedom of speech and expression but based on this right, they should not violate the right to the free trial of an accused. Because in India our law is based on the Maxim 'innocent until proven guilty'.

Following are some suggestions that may help in reducing trials by media.

- 1) The Contempt of Courts Act of 1971 needs to be amended, as suggested by the 17th Law Commission, to stop the media from publishing defamatory articles. The "date of arrest" rather than the "date of filing of the charge sheet" shall be the starting point of any ongoing criminal prosecution. By doing this, the media will be restrained from publishing any prejudicial publications. Not all media coverage of the case, however, should be prohibited.
- 2) Our system should adhere to the German Press Council's policy in terms of data privacy. In Germany, if someone feels their personal information has not been managed properly, they can file a complaint with the press council. A person's privacy will be protected if the Indian Press Council adopts a policy similar to this. Additionally, the editorial offices should be required to produce a manual outlining data protection safety precautions.
- 3) The present data protection bill, which gives the press and media unrestrained freedom to disclose material they believe the general public would find interesting, has to be amended. Such unbridled freedom is a violation of the right to privacy. A clause mandating that media outlets show "what is in the public interest" rather than "what the public is interested in" should be added by the Parliament to the law.
- 4) There is a need for young journalists to receive professional training. The media outlets themselves could conduct workshops or seminars as a direct extension of the journalism curriculum. New strategies must be created so that students interested in journalism are informed about the rules governing the media, how the press operates, and the standards and ethics expected of professionals.
- 5) There should be a qualifying exam on the Indian media law, covering the standards, norms, and ethics that media practitioners should adhere to, to receive a license to practice the profession. It needs to resemble the All India Bar Examination (AIBE), which allows legal professionals to practice in an Indian court of law. Knowing their obligations, obligations, and restrictions about reporting and transmitting news will assist journalists. All journalists who want to work in the media should be required to take this test.
- 6) The PCI, a legislative agency charged with overseeing print media, needs to be granted more severe sanctions. The Press Council Act's section 14 currently limits the Council's authority to warn, reprimand, or condemn the newspaper, news agency, editor, or journalist. If a newspaper or news organization offended journalistic standards or public taste, or if an editor or working journalist engaged in any improper activity, the Council also has the

authority to disapprove that conduct. The current state of events makes it quite evident that these powers are insufficient to deter the press from engaging in media trials.

Therefore, PCI should be given enough authority to handle these issues.

- 7) Legislative definitions of "digital journalists" and "digital news agencies" are now necessary. It's important to establish and distinguish between "online" and "offline" news sources so that they can be better monitored.
- 8) By amending the Press Council Act of 1978, online news media could be subject to PCI regulation. A proper enforcement and adjudicating mechanism that has the authority to impose criminal penalties on violators is required. The Council should create a unique rule of conduct specifically for online journalists.
- 9) The three main parts of any regulation are the legislation, the enforcement, and the adjudication. The NBA currently exercises self-regulation over each of the three areas. To safeguard the media's independence, the NBA's organizational structure must be updated without the regulation process changing. Even if there is government meddling in any of the three previously mentioned components, self-regulation may still triumph. For instance, the government may set standards for regulations but give the regulatory body control over enforcement. The UK likewise uses this self-regulation strategy.
- 10) To increase the scope of the NBSA's authority, it should become mandatory for all news stations to be members of the NBA. Those who breach the code of conduct should also be subject to license suspension and hefty fines from the NBSA.
- 11) Similar to the UK, the regulator should require media outlets to submit an annual statement regarding their adherence to the code of ethics. As a result, responsible and ethical journalism will be upheld.

Along with these recommendations, the media also has to understand that it should avoid any publications that could obstruct the administration of justice or a fair trial. When voicing its opinions, it should use caution and be aware that media trials are never welcomed. In conclusion, it can be said that media trial interferes with the administration of justice and the rights of the accused based on the findings of this study, and more especially through the analysis of the instances that saw media intervention.



