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Fake News, Paid News, and Trial by Media: Examining Press Freedom Boundaries in India's Electronic and Social Media Landscape

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ABSTRACT

The expansion of social and electronic media in India has brought with it a set of deeply troubling speech-related practices that sit at the intersection of press freedom, democratic accountability, and constitutional rights. Fake news spreads through private messaging networks and amplifies communal tensions. Paid news corrupts electoral communication by disguising commercially purchased content as independent journalism. Trial by media convicts accused persons in the court of public opinion before any judicial determination. Sting operations, though sometimes vital for exposing corruption, can cross into entrapment and invasion of privacy. Each of these phenomena raises distinct constitutional questions, but they also share a common feature: they each involve the misuse of the freedom guaranteed under Article 19(1)(a) of the Constitution of India in ways that damage democratic discourse, individual rights, and public trust.

This article examines these four phenomena as constitutional and regulatory problems. It analyses their nature, their harms, and the legal responses available under Indian constitutional law, criminal law, and media regulation. It draws on landmark judicial decisions, Law Commission reports, and Press Council findings to evaluate whether the existing framework is adequate and constitutionally coherent. The article argues that while Indian jurisprudence has developed important protective doctrines, significant regulatory gaps remain. These gaps are particularly sharp in the digital environment, where each of these practices is amplified by the speed, scale, and anonymity of online communication. The article concludes by outlining the principles that should guide a constitutionally sound regulatory response, one that addresses genuine harm without suppressing legitimate investigative journalism, political criticism, and public interest speech.

Keywords: *fake news, paid news, media trial, press freedom, media regulation, constitutional law*

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I. INTRODUCTION

Freedom of the press is one of the most celebrated features of Indian constitutional democracy. Even though the Constitution does not explicitly name it as a separate fundamental right, decades of judicial interpretation have made clear that press freedom is an essential component of the right to freedom of speech and expression under Article 19(1)(a) of the Constitution of India (1950). The press performs a democratic function by enabling citizens to receive information, scrutinise public institutions, and participate in public debate. Courts have described this function as vital to constitutional governance and have protected it even against indirect restrictions imposed through economic or administrative means (*Sakal Papers (P) Ltd. v. Union of India*, 1962; *Bennett Coleman and Co. v. Union of India*, 1973; *Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India*, 1985).

Yet press freedom carries within it a potential for misuse that is not simply a matter of occasional journalistic error. Some of the most damaging forms of media practice are not accidental lapses. They are structural features of how media operates under commercial pressure, political influence, and the incentive to attract audiences. Fake news or deliberate misinformation spreads because emotional and sensational content attracts more engagement than careful reporting. Paid news persists because it is profitable for media owners and useful for political actors. Trial by media happens because accusation and controversy attract viewership far better than nuanced legal reporting. Sting operations sometimes cross from legitimate investigation into entrapment and privacy violation because the dramatic exposé is a strong commercial product.

These practices are not new, but the digital age has given them new reach and new consequences. A fabricated story can now spread through millions of WhatsApp groups within hours of being created. A paid political advertisement can be dressed as breaking news on a digital channel without any disclosure requirement. A media trial can continue across television debates and social media threads simultaneously, creating a cumulative prejudicial effect on an accused person that no court can easily undo. A sting video can be leaked and shared before any editorial verification has occurred, permanently damaging a reputation on the basis of footage whose authenticity has not been established.

The constitutional and regulatory question this article addresses is whether Indian law adequately responds to these practices. The question is not simple. Too little regulation allows serious harm to democratic discourse, individual rights, and public order. Too much regulation creates censorship and suppresses the legitimate investigative journalism and political

commentary on which democracy depends. The balance required is one that is constitutionally principled, practically effective, and sensitive to the genuine democratic value of a free press.

This article proceeds in the following structure. Section two provides the constitutional framework through which these practices must be evaluated, focusing on the interaction between press freedom under Article 19(1)(a) and the rights and values that competing claims invoke, including fair trial under Article 21, privacy, reputation, and public order. Section three examines fake news as a constitutional and regulatory problem. Section four analyses paid news. Section five studies trial by media. Section six looks at sting operations. Section seven evaluates the adequacy of the regulatory framework. Section eight offers a comparative perspective. Section nine discusses the main findings and Section ten concludes.

II. CONSTITUTIONAL FRAMEWORK: PRESS FREEDOM, ITS LIMITS, AND COMPETING RIGHTS

A. Press Freedom as a Democratic Requirement

The Supreme Court has repeatedly affirmed that press freedom is not a privilege of media institutions but a democratic requirement. In *Indian Express Newspapers v. Union of India* (1985), the Court described the press as a powerful vehicle for public information and as a check on the exercise of power by the executive and other institutions. This checking function is what gives press freedom its constitutional importance. It is not about the commercial interests of newspaper proprietors or broadcasting companies. It is about the citizen's right to know and the democratic community's need for accountability.

Press freedom in India includes the freedom to publish, disseminate, and circulate content without prior restraint and without indirect governmental control that effectively stifles communication. Courts have been clear that economic measures can violate Article 19(1)(a) if they substantially impair a newspaper's ability to circulate and reach its audience (*Sakal Papers (P) Ltd. v. Union of India*, 1962). By analogy, regulatory measures that effectively silence digital news publishers or create structural incentives for self-censorship raise similar constitutional concerns.

At the same time, Indian constitutional law has never treated press freedom as absolute. The same Article 19(2) that limits a citizen's right to speak also limits the press. The press can be restricted on grounds of public order, defamation, contempt of court, incitement, and decency or morality. What constitutional law insists upon is that these restrictions must be reasonable, connected with the permitted grounds, and must not be so broad or vague that they create

chilling effects on lawful journalism (*Shreya Singhal v. Union of India*, 2015). This dual structure, press freedom as a constitutional value subject to structured limitation, provides the framework within which each of the four practices examined in this article must be assessed.

B. Fair Trial, Privacy, and Reputation as Competing Constitutional Values

The practices examined in this article collide most directly with three other constitutional values. The first is the right to a fair trial. This right is protected under Article 21 as part of the right to life and personal liberty. A fair trial requires that an accused person's guilt or innocence be determined by a court of law through proper procedure, without undue external pressure or pre-existing public prejudice. When media creates a narrative of guilt before a court has determined the facts, the fairness of the eventual trial may be compromised. The Law Commission of India examined this concern in its 200th Report, noting that trial by media can prejudice witnesses, influence juries in systems that use them, create pressure on investigation, and generate public opinion that no court can simply ignore (*Law Commission of India*, 2006).

The second competing value is privacy. The Supreme Court in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) recognised privacy as a fundamental right under Article 21, rooted in dignity and autonomy. This recognition has direct implications for sting operations and for certain forms of investigative journalism. When media gathers information through covert recording, identity deception, or access to private spaces and communications, it may invade privacy. The constitutional question is whether the public interest in disclosure justifies the privacy cost. This is a matter of proportionality, and the answer will vary depending on the nature of the information sought, the identity of the subject, and the degree of intrusion involved.

The third competing value is reputation. Defamation is explicitly listed as a permissible ground of restriction under Article 19(2) of the Constitution of India (1950). The Supreme Court upheld criminal defamation in *Subramanian Swamy v. Union of India* (2016), holding that reputation is part of the right to life and dignity under Article 21. For media law, this means that publications that make false statements damaging a person's reputation without justification are not constitutionally protected. However, courts have also recognised that public figures must tolerate a higher degree of scrutiny and criticism, and that good faith opinion and fair comment on matters of public interest are legitimate (*Indian Penal Code*, 1860, sections 499-500; *Bharatiya Nyaya Sanhita*, 2023, section 356).

III. FAKE NEWS AND DISINFORMATION: THE CONSTITUTIONAL AND REGULATORY CHALLENGE

A. The Nature of the Problem in the Indian Context

The term fake news covers a range of practices that differ in intent and form. Scholars distinguish between misinformation, which is false content shared without deliberate intent to harm, and disinformation, which is false content created or shared with intent to mislead or cause harm (Wardle and Derakhshan, 2017). This distinction matters for legal analysis because intent is often a relevant element in speech offences. Not every person who forwards a false message has acted with criminal intent. Not every error in reporting constitutes a punishable falsehood. The legal system must be sensitive to this range.

In India, information disorder in the digital space takes several forms. It includes fabricated news reports circulated as legitimate journalism, old photographs or videos presented with false captions implying recent events, forged government notifications, manipulated audio clips attributing statements to public figures, and coordinated campaigns using networks of accounts to amplify particular narratives. Many of these tactics have been linked to communal incidents. Research on WhatsApp-linked violence has documented cases where false content, shared within trusted community networks, triggered mob attacks (Banaji and Bhat, 2019). These cases demonstrate that digital misinformation in India is not merely a nuisance. It can be a direct threat to public order and individual safety.

The constitutional problem is that the harm from misinformation must be addressed through restrictions that connect with the grounds in Article 19(2). The most relevant grounds are public order, incitement to an offence, and defamation. Yet, public order restrictions require a proximate connection between the speech and the disorder, not a speculative or remote link (*Superintendent, Central Prison v. Ram Manohar Lohia*, 1960). And as the Supreme Court clarified in *Shreya Singhal v. Union of India* (2015), the distinction between discussion, advocacy, and incitement is crucial. Not every false statement creates a public order risk. Not every shared rumour constitutes punishable incitement. The constitutional requirement of proximity and precision cannot be abandoned simply because digital misinformation is genuinely dangerous.

B. Legal Responses and Their Adequacy

India does not have a single statute specifically targeting fake news. Legal responses to misinformation are distributed across multiple provisions. Public order and incitement

provisions in the Bharatiya Nyaya Sanhita, 2023 can be invoked when misinformation creates a likelihood of violence or disorder. Defamation provisions under Section 356 of the Bharatiya Nyaya Sanhita apply where false statements damage reputation. The Information Technology Act, 2000 enables blocking of content under Section 69A when it threatens public order, security, or sovereignty. The IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 impose obligations on platforms to act against misinformation and to label synthetic content.

This layered approach has strengths and weaknesses. The strength is flexibility. Different kinds of false content can be addressed through different legal tools depending on the nature of the harm. The weakness is overreach and inconsistency. When multiple provisions apply to the same content, law enforcement may choose the most punitive path. This creates disproportionate outcomes and increases the chilling effect on legitimate reporting and public commentary.

A further weakness is the absence of clear definitional standards. The phrase 'false information' or 'fake news' is not precisely defined in Indian law, and this vagueness creates constitutional risk. Vague offences invite arbitrary enforcement. Politically motivated authorities can label criticism as misinformation and use vague provisions to silence reporters and activists. The Supreme Court's reasoning in *Shreya Singhal* is directly applicable here. It warns that vague categories create chilling effects that cannot be justified under Article 19(2) (*Shreya Singhal v. Union of India*, 2015). Therefore, any regulatory framework targeting misinformation must define prohibited content precisely, tie it to demonstrable harm, and include safeguards against selective enforcement.

C. Platform Obligations and the Moderation Challenge

In the digital environment, the primary first responders to misinformation are platforms rather than courts or police. Social media companies use combinations of automated detection, user reporting, and human review to identify and address false content. They have developed tools including warning labels on disputed content, reduced recommendation of flagged posts, limits on forwarding in messaging applications, and removal of content that violates community guidelines.

These tools are imperfect. Automated systems are not well-equipped to handle context, satire, or the nuances of regional Indian languages. Mass reporting by coordinated groups can trigger removal of legitimate content. Conversely, sophisticated disinformation designed to mimic legitimate news can evade detection. The result is a combination of over-removal and under-

removal that serves neither speakers nor the public interest well.

The IT Rules, 2021 and their subsequent amendments attempt to address platform obligations in this area, including requirements for handling grievances, disclosing information about content removals, and implementing safeguards for synthetically generated content (Ministry of Electronics and Information Technology, 2026). These are steps in the right direction, but the constitutional challenge is to ensure that platform obligations do not incentivise over-censorship. When platforms face significant liability for hosting misinformation, they may err heavily on the side of removal, silencing legitimate speech in the process. Balancing platform accountability with speaker protection requires careful regulatory design and strong appeal mechanisms.

IV. PAID NEWS: THE CORRUPTION OF DEMOCRATIC DISCOURSE

A. Understanding Paid News as a Constitutional Problem

Paid news refers to the practice of publishing or broadcasting news and editorial content in exchange for money or other benefits, without disclosing to the audience that the content is sponsored. It is, in essence, covert propaganda. A political party pays a media house, and the media house publishes flattering stories about the party's candidates as though they were independent journalistic assessments. A corporation pays for positive coverage of its products or policies. A public figure purchases suppression of a damaging story or promotion of a favourable narrative.

The constitutional problem with paid news is fundamental. Article 19(1)(a) protects speech partly because a free press is supposed to give citizens access to reliable information that enables them to make democratic choices. When news is covertly purchased, this democratic function is betrayed. The audience believes it is receiving independent journalism. In reality, it is receiving paid advocacy. The citizen's right to receive accurate information, which courts have derived from Article 19(1)(a), is directly violated (*State of Uttar Pradesh v. Raj Narain*, 1975). The harm is not only to individual consumers of news. It is to the quality of public deliberation on which democratic governance depends.

The Press Council of India examined paid news extensively and published a significant report in 2010 identifying multiple forms of the practice, its widespread occurrence particularly during election periods, and its damaging effects on electoral fairness and journalistic integrity (Press Council of India, 2010). The report described paid news as a phenomenon that distorted electoral communication and undermined the voter's ability to make an informed choice. This is not only an ethical failure. It is, as the report recognised, a structural problem with the political

economy of media in India, where advertising dependence, ownership concentration, and political pressure create incentives for media houses to monetise their editorial space.

B. The Electoral Dimension and Legal Inadequacy

Paid news is particularly damaging in the electoral context. The Representation of the People Act, 1951 regulates election expenditure and requires transparency in campaign communication. If paid news is counted as a campaign expense, it must be disclosed and reported. If it is disguised as journalism, it escapes this scrutiny and distorts the level playing field that election law attempts to create. The Election Commission of India has attempted to address paid news through monitoring mechanisms during election periods, but enforcement has been inconsistent and the problem persists (Election Commission of India, 2014).

The legal treatment of paid news as a corrupt practice under election law is still contested. There is no comprehensive statutory definition of paid news for electoral purposes, and the evidentiary challenges of proving that a particular piece of content was purchased rather than independently reported are considerable. Media houses routinely deny that editorial and commercial decisions are conflated. The gap between observable practice and legal proof creates a zone of effective impunity.

Beyond election law, paid news also has implications under consumer protection and fair trade principles. An audience misled about the nature of the content it is receiving has been deceived. Regulatory frameworks governing advertising and commercial communication generally require disclosure of paid content. The Advertising Standards Council of India maintains guidelines on disclosure, but these voluntary norms are not uniformly enforced, particularly in digital contexts where the boundaries between content and advertising are already blurred by native advertising, sponsored content, and influencer marketing.

C. Regulatory Framework and the Path Forward

The existing regulatory response to paid news is fragmented and largely inadequate. The Press Council of India lacks statutory enforcement powers against newspapers that publish paid news. It can censure but not sanction. The News Broadcasting and Digital Standards Authority can address complaints about television content but again relies on voluntary compliance. The Election Commission's powers are significant during election periods but time-limited.

A constitutionally coherent response to paid news must focus on transparency rather than content restriction. Requiring clear disclosure that content is sponsored does not restrict speech. It ensures that the audience has accurate information about the nature of the communication. This is less restrictive than banning the practice, and it serves the citizen's constitutional interest

in receiving accurate information. Disclosure requirements are constitutionally defensible because they address a genuine harm, the deception of the audience, through the least restrictive means available. They preserve the economic model of media sponsorship while preventing the deception that makes paid news constitutionally objectionable.

Digital platforms should also be required to enforce disclosure for sponsored political content. Many jurisdictions have introduced requirements for political advertisement labelling. India's IT Rules touch on disinformation and synthetic content but do not yet comprehensively address paid political content on digital platforms. As digital spending on political communication grows, this gap becomes increasingly significant. A framework that addresses transparency in digital political advertising, combined with meaningful enforcement of disclosure requirements in print and broadcasting, would represent a significant improvement on the current position.

V. TRIAL BY MEDIA: PRESS FREEDOM AGAINST THE RIGHT TO A FAIR TRIAL

A. The Nature and Harm of Trial by Media

Trial by media describes a situation in which the media conducts a de facto adjudication of a criminal matter, declaring the accused guilty or innocent through sustained reporting, debate, and commentary, before the court has had the opportunity to hear evidence and apply the law. This is not simply a matter of reporting on criminal cases. Reporting on matters of public concern, including serious crimes, is a legitimate and important democratic function of the press. The problem arises when reporting crosses into prejudgment, when accusation is treated as established fact, when evidence is presented out of context, when private information is disclosed before trial, and when the intensity of media attention creates pressure on investigators, prosecutors, witnesses, and even judges.

India's electronic media, particularly 24-hour television news channels, has been a prominent site of trial by media. The competitive pressure of round-the-clock news creates an incentive to treat every significant criminal case as a dramatic ongoing narrative. Prominent cases involving celebrities, politicians, or unusual circumstances attract particularly intense coverage. Prime-time debates are conducted in which panellists pronounce on guilt, motivation, and character without being subject to any evidentiary standard. Chyrons and graphics assert conclusions. Repeated coverage creates familiarity effects, where the audience comes to feel that what has been reported must be true, even when the content is speculative or simply wrong.

The Law Commission of India examined this problem in its 200th Report, titled 'Trial by Media: Free Speech and Fair Trial,' and identified how media coverage that presumes guilt can affect different actors in the criminal justice process (Law Commission of India, 2006). Witnesses

may be influenced by published accounts. Public opinion may create a climate that makes dispassionate adjudication difficult. The accused may be deprived of the presumption of innocence in practice, even if it technically remains available in law. In some cases, media coverage has been linked to changes in investigative direction, suggesting that reporting can influence state action as well as public perception.

B. Judicial Responses: Balancing Free Reporting and Fair Trial

Indian courts have attempted to address trial by media through contempt of court powers and through the doctrine of postponement orders. The Contempt of Courts Act, 1971 permits the court to treat media publications that substantially interfere with pending proceedings as contempt. However, courts have generally been restrained in using this power, recognising that open reporting on judicial proceedings is itself a democratic value and that contempt law cannot become a mechanism for shielding the administration of justice from public scrutiny.

The Supreme Court's decision in *Sahara India Real Estate Corp. Ltd. v. SEBI* (2012) established that courts may, in exceptional circumstances, issue postponement orders requiring media to defer publication of certain information to protect the fairness of ongoing proceedings. The Court was careful to emphasise that such orders resemble prior restraint, which is generally disfavoured, and must therefore be used rarely and narrowly. A postponement order must be necessary to prevent real and substantial prejudice to the fairness of the proceedings. It should be limited in scope and duration. It should be the least restrictive means of achieving its purpose. The Court's reasoning reflects a sensitive balance: press freedom is a constitutional value, fair trial is a constitutional right, and neither can simply override the other.

In practice, postponement orders have been exceptional. The courts have preferred to rely on the media's own restraint, on the general contempt jurisdiction as a deterrent, and on the good sense of judicial officers to distinguish between external noise and legal evidence. Whether this reliance is always adequate is a matter of debate. High-profile cases suggest that media coverage can create an environment in which it is genuinely difficult for a fair and dispassionate trial to proceed, even if no formal contempt is identified and no postponement order is issued.

C. The Digital Dimension

The problem of trial by media has been significantly complicated by social media. In the older model, the relevant actors were a manageable number of television channels and newspapers whose outputs could, in principle, be tracked and subjected to legal discipline. In the digital environment, trial by media occurs across a vastly larger and more diffuse set of actors. Citizens post opinions, share clips of television debates, create memes, and circulate accusations across

platforms simultaneously. This creates a cumulative prejudicial effect that no individual media organisation has created and that no individual takedown order can effectively reverse.

A social media trial can develop extraordinary momentum when public sentiment is engaged. The accused becomes the subject of trending hashtags, petitions, organised boycotts, and coordinated harassment campaigns. These activities have real consequences beyond the courtroom. Employment can be lost. Family members can be targeted. Physical safety can be threatened. The harm inflicted through this kind of digital mob justice is sometimes irreversible even when the accused is ultimately acquitted or when the original allegations prove to be false.

Legal responses to social media-based trial by media are currently inadequate. Contempt jurisdiction technically extends to online publications, but enforcement against thousands of individual users is practically impossible. Platform takedown mechanisms are not designed to address the cumulative prejudice created by mass public discussion of ongoing criminal cases. There is no legal framework requiring social media platforms to implement specific protections for accused persons whose cases are sub judice. This regulatory gap requires serious attention, particularly in light of constitutional obligations to protect both press freedom and the right to fair trial under Article 21

VI. STING OPERATIONS: INVESTIGATIVE JOURNALISM AND THE PRIVACY BOUNDARY

A. The Democratic Value and Constitutional Justification

Sting operations occupy a unique and contested place in Indian journalism. At their best, they represent investigative journalism at its most powerful: exposing corruption, wrongdoing, and abuse of power that would otherwise remain hidden from public view. Politicians accepting bribes, police officers facilitating crime, officials taking kickbacks, and judges compromised by personal interest have all been exposed through sting operations. In each such case, there is a genuine public interest that justifies some degree of intrusion into the private conduct of the subject. The press freedom guarantee under Article 19(1)(a) supports such investigation because it is precisely in these situations that the press performs its democratic function as a check on power.

Indian courts have recognised, at least in principle, that investigative journalism including covert recording can serve a legitimate public interest. The approach is contextual. If the subject of the investigation is a public official acting in a public capacity, and if the methods used are proportionate to the public interest served, the constitutional balance may favour publication.

This reasoning draws from the same tradition that recognises whistleblowing, public interest disclosure, and transparency as democratic values connected with Article 19(1)(a) and the broader constitutional commitment to accountability.

B. The Constitutional Concerns: Privacy, Dignity, and Entrapment

The constitutional case against unregulated sting operations rests on two distinct foundations. The first is privacy. The recognition of privacy as a fundamental right in Justice K.S. Puttaswamy (Retd.) v. Union of India (2017) has strengthened constitutional protection against intrusion into private spaces and communications. A sting that involves covert recording in a private home, access to private communications, or the creation of a fabricated scenario designed to induce a private person to say or do something they would not otherwise have done raises serious privacy concerns. The proportionality standard developed in Puttaswamy requires that any restriction on privacy must be lawful, necessary, and proportionate to the objective it seeks to achieve. If the sting targets a private individual rather than a public official exercising public power, and if the recorded conduct is genuinely private rather than related to the abuse of public trust, the privacy cost is likely to be disproportionate to any public interest served.

The second foundation is the concern about entrapment and fabrication. A sting that does not capture naturally occurring conduct but rather induces the subject to behave in a particular way through deception, provocation, or manufactured circumstances is not simply investigative reporting. It is, in effect, creating the evidence it purports to reveal. This undermines the evidentiary value of the recording and raises serious questions about journalistic ethics and legal admissibility. Cases in India have involved allegations that sting footage was selectively edited, that subjects were induced through alcohol or social pressure, and that the scenarios constructed bore no relationship to the subjects' actual behaviour in ordinary circumstances. When such allegations are credible, the justification for publication collapses.

The decision in *R.K. Anand v. Delhi High Court* (2009) is instructive in this regard. The case involved a sting operation that raised questions about the conduct of a senior advocate in relation to a high-profile criminal case. The Supreme Court engaged with the complex intersection of press freedom, judicial process, and the admissibility and use of sting footage. The decision highlighted that while investigative journalism is constitutionally protected, its exercise must be governed by both legal constraints and professional ethical standards. A sting that is designed to entrap, that is not accurately represented to the audience, or that is used to prejudice ongoing legal proceedings raises concerns that go beyond the question of whether disclosure serves a public interest.

C. The Need for Principled Standards

Indian law does not currently have a comprehensive statutory or regulatory framework governing sting operations by journalists. There is no equivalent of the detailed guidance that exists in some other jurisdictions. The result is that the constitutionality of any particular sting is determined after the fact, through litigation, with highly variable outcomes depending on the facts of the case and the composition of the bench. This unpredictability is itself a problem because it creates uncertainty for journalists attempting to plan legitimate investigative operations and does not provide meaningful guidance for editors making publication decisions. A principled framework would identify the factors that determine whether a sting operation is constitutionally justifiable. The most important factors are the public interest in disclosure, the public or private status of the subject, the directness of the connection between the recorded conduct and the abuse of public trust or power, the nature and degree of the intrusion used, and whether the footage accurately represents naturally occurring conduct rather than induced behaviour. These factors reflect the proportionality principle from *Puttaswamy* and the accountability rationale for press freedom. They would not eliminate controversy, but they would provide a structured basis for decision-making by journalists, editors, and courts.

VII. REGULATORY FRAMEWORK: ADEQUACY AND GAPS

A. The Institutional Landscape

India's regulatory framework for media is distributed across several institutions, each with different powers and different mandates. The Press Council of India functions as a quasi-judicial body with the authority to censure newspapers that violate journalistic norms, but it has no power to impose financial penalties or to prevent publication. The News Broadcasting and Digital Standards Authority provides a self-regulatory mechanism for television news, operating through a code of ethics and a complaint resolution process. The Election Commission of India plays a significant regulatory role during election periods, monitoring media coverage and taking action against paid news and hate speech in electoral contexts. The courts exercise contempt jurisdiction over publications that interfere with pending proceedings and provide remedies through defamation law and other civil and criminal provisions.

For digital media, the regulatory framework has evolved significantly through the IT Rules, 2021 and their amendments. These rules create obligations for intermediaries and establish a tiered grievance mechanism for publishers of digital news content. They also introduce obligations regarding synthetic and AI-generated content, which has particular relevance for deepfakes that could be used in the context of paid news or to manufacture evidence for a media

trial.

B. The Self-Regulation Problem

The core of India's media regulatory framework is self-regulation, supplemented by judicial intervention through contempt and defamation. Self-regulation works when media institutions have strong internal ethical cultures, when professional norms are widely shared, and when there are reputational costs for violations. These conditions are only partially met in India's current media environment. Competitive pressure, commercial dependence on advertising, and political ownership patterns create structural incentives that work against rigorous self-enforcement.

Television news in particular has experienced a race to the bottom in which sensationalism, allegation, and drama attract audience share in ways that responsible and measured reporting does not. If a channel maintains editorial restraint while its competitors conduct media trials and spread unchecked allegations, the restrained channel loses viewers and advertising revenue. The competitive pressure is therefore strongly in favour of the lower standard. Self-regulation cannot address this collective action problem without either strong industry-wide enforcement of norms or external regulatory pressure.

The Press Council, despite its statutory status, lacks the enforcement tools necessary to discipline print media effectively. Censure is a moral sanction with limited practical consequence for a media organisation that has decided to prioritise commercial or political considerations over journalistic ethics. There is a case for strengthening the Council's powers, but such strengthening must be done carefully. If enforcement authority over content is vested in a body that is susceptible to government influence, the result may be regulation that protects official reputation rather than democratic discourse.

C. Digital Media and the Evolving Framework

Digital media creates particular regulatory challenges because it blurs the boundaries between professional journalism, citizen journalism, and deliberate disinformation. The IT Rules' inclusion of digital news publishers within a regulatory code of ethics is an important recognition of this convergence. However, the inclusion of government oversight mechanisms within this code has raised constitutional concerns about whether the framework adequately insulates editorial decisions from political pressure.

The amendments to the IT Rules have progressively expanded platform obligations in areas relevant to the practices discussed in this article. Requirements for labelling synthetically generated content have direct relevance to deepfakes and fabricated media. Requirements for

removing content related to sexual exploitation and non-consensual intimate imagery have relevance to the misuse of sting-style recordings. Grievance mechanisms have relevance to the individual victims of trial by media and paid news. Whether these provisions are implemented effectively in practice depends on platform compliance, regulatory oversight, and the availability of accessible remedies for individuals harmed by media misuse.

A crucial structural feature of the digital regulatory framework that deserves more attention is the relationship between speed and accuracy. Many of the harms discussed in this article, particularly in the context of fake news and media trials, are caused or compounded by the speed with which digital content spreads. The regulatory instinct is to require platforms to respond quickly. Faster takedown timelines, shorter grievance resolution windows, and quicker compliance with government orders are all being built into the framework. Yet speed and accuracy often pull in opposite directions. A platform that must act within three hours of receiving a notice about content may not have the time to evaluate whether the content is genuinely unlawful or whether it represents legitimate public interest reporting that a complainant finds inconvenient. This tension between the imperative of speed and the requirement of accuracy is a design challenge that India's regulatory framework has not yet resolved satisfactorily. Addressing it requires clear standards for what constitutes unlawful content, strong appeal mechanisms for wrongful removals, and liability frameworks that do not penalise platforms for erring on the side of caution in genuinely ambiguous cases.

VIII. COMPARATIVE PERSPECTIVES

Comparative analysis offers useful perspective on how other democracies have approached the regulatory challenges examined in this article. The United Kingdom provides a particularly instructive comparison because it has grappled extensively with the same set of problems, including misinformation, phone hacking, media trials, and corrupted political communication, and has responded through both judicial development and statutory reform.

The Leveson Inquiry in the United Kingdom, established following the phone hacking scandal, resulted in a comprehensive review of press ethics and regulation (Leveson, 2012). Among its recommendations was the establishment of an independent press regulator with genuine powers, including the ability to adjudicate complaints and impose sanctions, but without government control over editorial content. This model attempts to address the self-regulation failure without creating state censorship. The challenge of implementation, which remains contested in the United Kingdom, reflects the difficulty of designing institutional independence that is credible to both the press and the public.

The European Union's approach through the Digital Services Act provides a framework for addressing online misinformation and platform responsibilities at scale (European Commission, 2024). The DSA imposes risk assessment obligations on very large platforms, requiring them to evaluate and mitigate systemic risks including the amplification of disinformation. This approach focuses on systemic accountability rather than individual content decisions, which is more proportionate and less likely to create chilling effects through over-removal. Transparency reporting requirements under the DSA also provide a basis for public accountability that is largely absent from India's current framework.

Canada and Australia have also developed media-specific regulatory initiatives addressing misinformation and platform accountability that may offer lessons for India, particularly in the areas of news funding transparency and platform reporting obligations. The principle common to these comparative approaches is that effective regulation of the practices examined in this article requires a combination of clear statutory standards, independent institutional oversight, meaningful enforcement powers, and transparency requirements that allow public scrutiny of both media conduct and platform decisions.

IX. DISCUSSION

The four practices examined in this article share important structural features. Each involves a misuse of media freedom in a way that damages either democratic discourse or individual constitutional rights. Each is enabled and amplified by the digital media environment. And each reveals a gap between the constitutional aspirations of press freedom and the institutional conditions of its exercise.

The constitutional framework provides clear principles but requires careful application. Press freedom under Article 19(1)(a) is genuine and important. It protects investigative journalism, critical commentary, and the citizen's right to receive information. It does not protect fabrication, covert commercial corruption of editorial content, prejudgment of guilt without evidence, or disproportionate privacy invasion. The constitutional grounds in Article 19(2), together with fair trial and privacy under Article 21, provide the legal basis for addressing each of these forms of misuse. The challenge is to design regulatory responses that are targeted, proportionate, and resistant to political misuse.

A recurring theme in the analysis is the inadequacy of self-regulation in the current competitive media environment. Self-regulation worked better when media was a relatively small industry with strong professional cultures and significant reputational stakes. Digital media has transformed the industry in ways that have weakened these conditions. New entrants with no

professional culture, platforms that monetise any content regardless of its quality or accuracy, and political actors willing to pay for or create favourable coverage have all changed the landscape. This does not mean that self-regulation has no role. It means that self-regulation alone is insufficient and must be supplemented by meaningful institutional oversight.

Another recurring theme is the need for proportionality. Regulatory responses to fake news, paid news, trial by media, and sting operation misuse must be targeted at the specific harm and must not be designed in ways that chill legitimate journalism. Overly broad provisions create chilling effects. Vague definitions invite selective enforcement. Complex compliance obligations favour large established media organisations over smaller independent ones. A well-designed regulatory framework must be precise in its targets, clear in its standards, accessible in its remedies, and resistant to political capture.

The relationship between the State and the press is always potentially adversarial in a democracy, and this is healthy. The press scrutinises the State, and the State attempts to regulate the press within constitutional limits. When this relationship becomes too close, through ownership, advertising dependence, or regulatory capture, the press loses its democratic function. When it becomes too hostile, through misuse of legal provisions and regulatory pressure, press freedom is chilled. The constitutional challenge is to maintain a productive tension that preserves both accountability and freedom. In the digital age, this challenge has become harder but not impossible to meet.

X. CONCLUSION

Fake news, paid news, trial by media, and sting operations are not simply ethical failures of individual journalists or media organisations. They are structural problems that arise from the intersection of commercial pressures, political incentives, technological capabilities, and inadequate regulatory frameworks. They cause real constitutional harm: to the citizen's right to receive accurate information, to the accused person's right to a fair trial, to individual privacy and dignity, and to the quality of democratic discourse.

Indian constitutional law provides the principles necessary to address these harms. Press freedom under Article 19(1)(a) is real and must be protected. The competing values of fair trial, privacy, and reputation under Articles 19(2) and 21 are equally real and must be protected. The constitutional task is not to choose one over the other but to balance them through proportionate, targeted, and transparent regulation. Judicial doctrine, particularly from *Shreya Singhal*, *Anuradha Bhasin*, and *Puttaswamy*, provides the analytical tools for this balance.

What is needed is regulatory reform that translates constitutional principle into institutional

practice. For fake news, the reform should focus on precision in defining prohibited conduct and on platform transparency and accountability rather than broad criminal prohibition. For paid news, the reform should mandate clear disclosure of sponsored content and strengthen enforcement of election law provisions addressing disguised political advertising. For trial by media, the reform should consider graduated judicial intervention mechanisms that protect fair trial in the most serious cases while preserving open reporting in the general. For sting operations, the reform should develop principled standards that identify when covert investigation is constitutionally justified and provide guidance to journalists and courts alike.

None of these reforms is simple, and each involves difficult trade-offs. But the difficulty of the task does not reduce its importance. In a democracy committed to constitutional values, the freedom of the press must coexist with the rule of law, the dignity of persons, and the integrity of democratic institutions. Finding the balance in an age of digital media is the defining challenge of Indian press freedom in the present period. The constitutional resources to meet that challenge exist. The institutional will to use them effectively is what remains to be developed.

There is also a cultural dimension that law alone cannot address. A regulatory framework can set minimum standards and impose accountability. It cannot substitute for a professional culture in which journalists and media organisations take seriously their obligations to truth, fairness, and respect for the rights of those they report on. Media literacy among citizens, strong editorial standards within newsrooms, robust professional associations that enforce ethical codes, and academic institutions that take journalism education seriously as a constitutional as well as a professional calling are all part of the ecosystem on which a healthy press freedom depends. The legal framework discussed in this article provides the constitutional floor. Building on that floor requires sustained effort across institutions, professions, and communities committed to the democratic values that Article 19(1)(a) is designed to serve.

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