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Impact of Media Trial on Right to Privacy: A Critical Analysis

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ABSTRACT

In the modern world and at present, the media is an essential and vital source of information that shapes public attitudes and activities. Media has evolved from a tool for conveying information and sharing information to an active way of being involved and partaking. Due to the frequent prevalence of technology, automation breakthroughs, technological advancements, and headway, the print and electronic media rostrum have changed and highly developed over time, stressing the importance and magnetism of freedom of the press. The media plays a substantial role in determining the perception and awareness of society. Media platforms have the power to completely alter how people view several events. The phrase media trial often refers to a process where the media platforms conduct their independent investigation of instances before the beginning of the legal trial in court. The accused person's judicial trial is not fairly represented by this approach. This research paper's goal is to provide a thorough study of media trials. In this research paper, we will discuss the effects of media trials on an individual's privacy. Furthermore, the goal of the study is to interpret how media trials affect the judicial system. This piece of writing provides a thorough review of the advantages and disadvantages of media trials in society.

Keywords: *Media Trial, Constitution, Freedom of speech & expression, Democracy, Judiciary.*

I. INTRODUCTION

The press is counted as the fourth pillar of the state. The general public is dependent on the media for information and it has such immense influence that it can make or eliminate a government. People's perceptions are heavily influenced by media platforms. This stemmed from the formation of a media trial and posed a challenge to the court of law. Media trial is a subject of debate nowadays because various instances indicate that through media trial the media platforms pronounce their own findings related to any issue before the judgment of the court. The accountability of media is called into ambiguity and dubiety as the result of such acts by media platforms. Article 19(1)(a) of the Constitution of India recognizes freedom of the press as a fundamental right. Media is vital & essential to the public interest because it

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disseminates information and exposes corruption and fraud cases.

The media has a major influence and impact on how society perceives things and has the immense power to change the way that people interpret certain situations and incidents. The previous two decades have seen a significant expansion in the reach and vast effect of news media due to the growth and development of community radio, cable television, and the Internet. Moreover the number of English and other vernacular language newspapers and publications in circulation have steadily increased in our country.

Apart from the use of digital technologies for news gathering the growing and increasing viewership and audience have given media platform outlets a remarkable opportunity to shape public opinion. However media independence also entails a certain amount of accountability and responsibility. The press's freedom is enshrined in the Article 19(1) of the Indian Constitution. Which guarantees freedom of speech and freedom of expression. An independent and free press is necessary for a healthy democracy.

(A) Research Methodology

The doctrinal approach is used to conduct this study. The study will make use of a wide range of secondary materials that are accessible on the subject, including books, journals, newspaper articles, law websites, online articles, research papers, legislation, etc.

II. MEDIA TRIAL

The media trial is a threat to human dignity and life. Furthermore the unjust media trial hampers the privacy of human beings. The media often renders a verdict on the matter before the court. This choice and decision are majorly based on the popular emotions of the masses and running such a type of story helps in increasing television rating points and enhancing viewership. Media trials are conducted by those types of media outlets that are suffering from a lack of journalistic ethics and principles.

Media trial is a phrase that is widely used in late 20th and the early 21st century to describe the impact and influence of newspaper and television reporting on an individual's or an institution's reputation by forming a widespread perception of guilt or innocence before the final verdict of the court.

The phrase media trial could be very clearly understood from one of the famous cases in the United States named Roscoe “Fatty” Arbuckle (1921).² The catchphrase media trial generally

² Nair.Shivani, *Constitutionality of Media Trials*, I Pleaders, 29 June 2020, <https://blog.ipleaders.in/constitutional-ity-of-media-trials-and-landmark-cases/>

refers to the attempt by the media to hold the accused blameworthy even before his actual trial takes place.

Media is extremely significant in shaping not only public viewpoint but also the community's overall mindset and the prism through which it views any scenario. Furthermore the extraordinary growth & development of the media particularly in the past 20 years can be ascribed to increased global internet connectivity, online media and global social media boom which have blurred geographical boundaries and exposed every event to direct public scrutiny. The media institutions now play the crucial role in shaping the public outlook due to the mass media's ever-expanding reach & use of modern & trending technologies for news broadcasting. Ideas, thoughts are exchanged & community communication is facilitated by the media outlets. These concepts form the foundation for conversation & the social interaction.

Media trials have caused issues because they include a clash between two contradictory principles; free trial and free press. The public's right to participate in the day-to-day issues that impact them is the foundation of press freedom in a democracy. This is the explanation in favor of campaign and investigative journalism. Simultaneously the fundamental principle of justice is the right to a fair trial which refers to a judicial trial free from outside influences. This right and privilege are protected by provisions included in the Contempt of Courts Act 1971 and under the Indian Constitution's Articles 129 and 215 (Contempt Jurisdiction, Power of the Supreme Court and Power of the High Court to punish for contempt of itself respectfully)³

The independent press is permitted to operate freely under Article 19(1)(a) which guarantees freedom of speech. The Constitution does not precisely address press freedom; instead it is the part of freedom of speech and expression that is granted beneath Article 19(1) of the Indian Constitution. However no freedom can be absolute or unlimited which is why the Indian Constitution's Article 19(2) sets forth some restrictions.

III. MEDIA TRIAL & IT'S EFFECTS ON RIGHT TO PRIVACY

Theoretically, privacy is still a developing field of law but in practical terms it dates back to human existence. A certain degree of privacy is necessary for each individual to be able to work freely and contribute to society. A person's right to privacy basically gives them the freedom to enjoy their own privacy and secrecy.

The Constitution of India provides the right to privacy in the provisions pertaining to the right to life and personal liberty. The right to privacy is also provided under the International

³ Prakash. Om, *Right to Privacy in Sting Operations of Media*, Odisha Review , May 2013, <https://magazines.odisha.gov.in/Orissareview/2013/may/engpdf/57-61.pdf>

Convention on Human Rights. Presently in the era of technological advancement the notion of privacy has received greater attention. Lack of privacy legislation, enactments, policies or guidelines is the main concern faced today.

The right to privacy is recognized by recently developed legislation which grants everyone the right to privacy and is considered an individual's intrinsic right. This right encompasses not only his physical self and belongings but also his mental space. Since the majority of people were ignorant. Newspapers had little effect on privacy issues prior to the emergence of visual and electronic media. However the significance of privacy has increased with the rise of social media and modern media. The current digital era has brought a revolution in information distribution that has never been seen before and current regulatory systems are not enough to control the media's overstepping. Prevailing regulatory norms are not adequate to restrict the unethical media trial conducted by the media. In the wave of recent technological advancement in the media industry there is the possibility that it might be mishandled in the midst of globalization and technological progress. The most prevalent abuse of personal information especially by the media has occurred recently. This covers all types of media including social media, television media, print media and digital media platforms. Our constitution guarantees both freedom of the press and the right to privacy. It is crucial that these two rights coexist in a proper way.

R. Rajagopal v. State of Tamil Nadu.

The case of *R. Rajagopal vs. State of Tamil Nadu*⁴ is a watershed in the arena of the right to privacy. The Apex Court of India discussed the issue of privacy in reference to media platforms. It has to do with the magazine's publisher's entitlement to publish the autobiography of a condemned prisoner named Autoshanker. The state said that it revealed some of the striking connections between the police and the criminal. Therefore it should be disregarded as it likely amounted to defamatory statements. The issue of privacy was brought up in this context. The Supreme Court stated that the press is free to publish an autoshanker's autobiography. The press has every right to publish an autoshanker's autobiography as long as it can be found in public documents without obtaining permission. In this particular case the court considered privacy from two angles:

1. As a tortious responsibility that allows an action for damages for a privacy violation.
2. 'A right to be left alone' Inherently and implicitly, it should be read with respect to

⁴ R. Rajagopal v. State of TamilNadu, 1995 AIR264

Article 21 of the Constitution.

The public's right to know and an individual's right to privacy must be balanced, even though media platforms play a critical role in educating the public at large and bringing to light issues of public importance. Media trials may result in invasive reporting, dramatic headlines and the public release of private information that isn't always pertinent to the legal process. A person's right to privacy may be violated by this type of unethical reporting which may also hurt the person's reputation and cause them psychological grief. The privacy of victims and witnesses may also be impacted by unethical media trials; their names and delicate personal data may be made public, putting them at risk of harassment, intimidation or social disgrace. Ensuring the secrecy and confidentiality of these persons is very crucial in order to foster their cooperation and uphold the integrity of the legal system.

IV. STATUTORY PROVISION

Though the Constitution of India does not explicitly assure privacy. The nation's courts have construed other rights. Specifically Article 21 of the Constitution, which gives birth to a right to privacy via a number of rulings over the years. One of the famous case is *People's Union of Civil Liberties vs. Union of India*. In this case the apex court of India stated that the right to privacy is a fundamental right. The Indian Constitution's Part III provides several rights and liberties including the right to privacy which is an essential component of the right to life and personal liberty under Article 21. The Supreme Court has recognized the right to privacy as a basic right. However as of yet India has no proper law pertaining to this particular right. The Information Technology Act 2000 protects the user's privacy against crimes involving data under sections 43, 66, 66F, and 67. Offences like slander and libel are under the purview of the Indian Penal Code.

According to tort law, if there is an unauthorized breach of privacy a personal action for damages may be taken. The broadcaster, as well as the publisher and printer of a journal, magazine or book, would be held accountable and liable for damages in these situations. These would mostly relate to issues pertaining to the person's private life which includes children, marriage, parenting, family and sexual activities.

V. FREEDOM OF PRESS & RIGHT TO PRIVACY

Press freedom and privacy legislation are two significantly competing democratic ideals. In fact maintaining democracy and defending the right to free speech depend heavily on the core idea of press freedom. Through press freedom media outlets and journalists function without

worrying about censorship or excessive government intervention allowing them to carry out their job as society's watchdog, inform the general public and hold those in positions of authority responsible for their actions. On the flip side privacy regulations and laws are required to safeguard people from unauthorized access to and publication of their personal data. Finding the ideal balance in a democratic society between resolving privacy concerns and preserving press freedom is complex but it is crucial for the good health of democracy.⁵

Striking a proper balance among freedom of press & right to privacy becomes very challenging for the judiciary. Although the media has a primary duty to serve the public interest by exposing the truth and informing the public about a range of issues and events. As a mirror to the broader public the media should act sensibly and responsibly. The media should maintain a comprehensive check on the information it disseminates in order to protect the public interest.⁶

VI. SOME LANDMARK JUDGMENTS

ISRO espionage case

Nambi Narayanan is a famous Indian scientist and aerospace engineer. Nambi Narayanan was in charge of the cryogenics division at ISRO. In 1994, Kerala police officials arrested two Maldivian nationals following a meticulous and methodical investigation by Kerala Police and Investigation Bureau members. This was the starting point of the entire situation. Two Maldivians were charged under the Official Secrets Act, alleging that both were responsible and accountable for disclosing official information and official documents related to ISRO. They were held accountable for selling the classified rocket designs and blueprints to Pakistan. The Kerala police said that Maldivian nationals contacted the ISRO scientists who were suspected of transferring the cryogenic engine technology to Pakistan through Maldivian nationals.⁷

The subsequent month Kerala police registered another case against the ISRO scientists Nambi Narayanan, D. Sasikumar, the Russian Space Organization's India representative Chandrasekhar and the Bangalore based contractor S. K. Sharma.

The Special Investigation Team was notified of the crime through the Kerala Police officers

⁵ Freedom of Press v. Privacy Laws: Striking a Balance, Vis Legis Law Practice Advocates , 27 October 2023, <https://www.linkedin.com/pulse/freedom-press-v-privacy-laws-striking-balance-vllp2017-oktvf>

⁶ Bhuyan. Jeshika, *Media Trial vis-a-vis Right To Privacy In India*, 01 November 2023 , <https://www.intolegalworld.com/article?title=media-trial-vis-a-vis-right-to-privacy-in-india#:~:text=Privacy%20of%20an%20individual%20though,protect%20their%20right%20to%20privacy.>

⁷ Kumar. Shiwani, *The 1994 espionage case that led to Isro scientist Nambi Narayanan's arrest*, Hindustan Times, 16 April 2021 , <https://www.hindustantimes.com/india-news/the-1994-espionage-case-that-led-to-isro-scientist-nambi-narayanan-s-arrest-10161855565896.html>

and they came to the conclusion that ISRO scientists were behind the spying and espionage activities. As a result Nambi Narayanan, the ISRO cryogenic project director, and other associates related to the case were taken into custody by Kerala police officials.

Subsequently in 1996, the CBI was tasked with conducting a reasonable investigation of the case. The CBI probed the case after the whole investigation. The central bureau of investigation stated in its report that allegations of spying and espionage against scientists of ISRO, including the appellant, were not proved and the allegations were found to be false. The report of the CBI was accepted by the court and all accused persons were discharged.

The CBI stated that Siby Mathew (who was one of the members of the investigation team) had indiscriminately made the order to arrest the scientists and his associates without carrying out a proper interrogation or properly verifying disclosures. The agency precisely claimed that neither the money purportedly transferred to the accused by their international contacts nor any proof or evidence had been retrieved from the ISRO. The Intelligence Bureau was also criticized and blamed in the CBI report for handling the investigation in an unprofessional and improper way.⁸

People's Union of Civil Liberties (PUCL) Vs. Union of India

In the case of *People's Union of Civil Liberties (PUCL) vs. Union of India*,⁹ the Supreme Court ruled that listening to an individual's phone without the proper protections and without obeying the law is a violation of an individual's basic right to privacy.

In this famous case the Supreme Court of India ruled that tapping someone's phone without following the legal procedure established by law or any relevant legal preventative measures is a violation of that person's fundamental right to privacy. The petitioner through a public interest petition challenged the constitutionality of Section 5(2) of the Indian Telegraph Act 1885, which violated people's right to privacy and was thus unconstitutional. This was in consideration of a report on the issue of the politician's phone tapping which was published by the Central Bureau of Investigation. A report by the CBI exposed many procedural flaws and errors in the phone tapping that Mahanagar Telephone Nigam Limited (MTNL) carried out at government officials' request. The Court upheld the right to privacy in its consideration of the matter. The court cited international accords, international jurisprudence and Indian jurisprudence to affirm the right to privacy. Moreover the court also said in its verdict that the right to privacy could not be infringed upon or violated except through procedures established by the law. The court also contemplated the axiom that Section 5(2) of the Indian Telegraph Act laid down specific, distinct situations

⁸ ibid

⁹ *People's Union of Civil Liberties (PUCL) VS. Union of India*, AIR 1997 SC 568

in which tapping of the phone could be carried out but the court also found that the proper procedural and legal safeguards for the reasonable and fair exercise of power were missing. The court did invalidate Section 5(2) of the Indian Telegraph. The court laid down thorough guidelines for exercise of the surveillance powers through executive with respect to putting a check on misuse of substantive powers and protecting the right to privacy. The court criticised the negligent attitude of the government which failed to provide sufficient safeguards despite the prior criticism.

Justice K.S. Puttaswamy (Retd.) & Anr. vs. UOI & Ors.

In the case of *K.S. Puttaswamy (Retd.) & Anr. vs. UOI*¹⁰, The Supreme Court unanimously determined that the right to privacy is a fundamental right that is assured by the Constitution of India. The court expanded the application of Article 21 and mentioned that the right to privacy is a part of the life and liberty rights protected by that clause. After the verdict the right to privacy became an inalienable fundamental right, while Article 21 is incorporated by Part III of the Constitution which explicitly deals with fundamental rights. In this particular case the Apex Court of India stated that according to Article 21 of the Indian Constitution the right to privacy is a fundamental right.

Jasleen kaur controversy case

The Delhi woman Jasleen Kaur brought attention to this matter in 2015 when she shared a photo of Sarvjeet Singh on Facebook and accused him of harassing her. The matter gained extensive attention after the social media post went viral. Many politicians, celebrities and other people supported Jasleen Kaur when she spoke out against harassment and abuse on social media. Due to the uproar on social media, sarvjeet was detained the next day and released on bail the day after. Sarvjeet was labeled as Delhi ka Darinda and a national pervert on a number of national news stations during the media trial. A few days after the incident, an eyewitness spoke in favour of Sarvjeet, stating that he was innocent. This gave Sarvjeet a greater degree of credibility. After four years, the court of justice cleared him of all allegations and declared him innocent.¹¹

Shreya Singhal vs. Union of India

In the very well-known case of *Shreya Singhal v. Union of India*, the Apex Court struck down Section 66A of the Information Technology Act 2000. Section 66A had been used to criminalise

¹⁰ Justice K.S. Puttaswamy (Retd.) & Anr. v. UOI & Ors (2017) 10 SCC 1

¹¹ Som. Anusuya, Indian media declared Sarvjeet Singh a 'pervert'. Four years later, the court acquitted him, News Laundry, 31 October 2019, <https://www.newslaundry.com/2019/10/31/indian-media-declared-sarvjeet-singh-a-pervert-four-years-later-the-court-acquitted-him>

offensive speech online. Furthermore the court stated that Sec. 66A is unconstitutional and it violates freedom of speech.

Sharada vs. Dharampal

In the case of *Sharada v. Dharampal*¹², the Supreme Court defined privacy as the state of being free from disturbance or intrusion in any one's private life or private affairs. In this particular case the apex court elaborated in detail with respect to privacy rights. In this judicial case the Supreme Court mentioned that to maintain the right to privacy, there should be no disturbance or intrusion into any person's private affairs.

Saibal Kumar vs. B.K. Sen

In the very well-known case of *Saibal Kumar*¹³, the Supreme Court mentioned that it is inappropriate for the newspaper to carry out a parallel investigation of a crime case and then publish the findings. Newspaper trials must be prohibited when the trial is in progress at the country's tribunal.

A.K. Gopalan vs. Noordeen

In the case of *A.K. Gopalan*¹⁴, the apex court of the country stated that a publication made after the arrest of the individual could be in the ambit of contempt if the publication is prejudicial to the accused or suspect and as of right now, this remains the law. It is very well established that publications that prejudice the judicial trial are strictly prohibited during the pendency of the case proceedings.

Rajendra Sail vs. M.P. High Court Bar Association

In the case of *Rajendra Sail v. M.P. High Court Bar Association*¹⁵, the apex court warned media platforms against sensationalising the matter and the Supreme Court stressed that the press and media required a robust internal method of self-regulation. It was stated that the media has a wide audience and that many people take its reporting as factual.

Sunanda Pushkar case

The dead body of Sunanda Pushkar was found in the Delhi area in January 2014 at a renowned hotel Leela Palace. Sunanda Pushkar was the wife of the famous politician Shashi Tharoor. The initial reports related to the case proposed that Sunanda Pushkar had committed suicide but later they indicated that the death of Sunanda Pushkar was a murder. The medical team that looked

¹² Sharada v. Dharampal, (2003) 4 S.C.C. 493

¹³ Saibal Kumar v. B.K. Sen A.I.R. 1961 S.C. 633

¹⁴ A.K. Gopalan v. Noordeen, 1969 (2) S.C.C. 734

¹⁵ Rajendra Sail v. M.P. High Court Bar Association, (2005) 6 S.C.C. 109.

into Sunanda Pushkar's death case in October 2014 discovered that poisoning was the cause of death. Following that, in January 2015, police reported a murder case against an unidentified individual and filed a first information report. The media quickly rushed to the location on the same day where the occurrence took place and blamed Shashi Tharoor for killing his wife Sunanda Pushkar.¹⁶

Subsequently Shashi Tharoor brought a defamation lawsuit against Arnab Goswami and his news channel, Republic TV. Shashi Tharoor claimed compensation and damages in court for allegedly producing defamatory comments about him with respect to the death of his wife. Later the High Court of Delhi cautioned Arnab Goswami to exercise restraint and strictly not conduct an unjust media trial with respect to the Sunanda Pushkar death instance. The High Court of Delhi asked the media outlets to be more responsible in reporting the matter.¹⁷

Sahara India Real Estate Corporation Ltd. vs. SEBI

In the famous case of *Sahara India Real Estate Corporation Ltd.*,¹⁸ the Indian Supreme Court addressed the topic of media trials and their effect on a fair trial in this particular case. The court stressed and stated that in order to prevent swaying public opinion the media should report on ongoing judicial procedures with prudence and constraint.

R. K. Anand v. Delhi High Court

In the prominent case of *R.K. Anand vs. Delhi High Court*¹⁹, The Apex Court of India mentioned that if the media trial interferes, obstructs & impedes the administration of the justice then in such situation the court of law can issue the Contempt of Court against media houses as it clearly jeopardizes, menaces the integrity of Judicial Proceedings and it does not maintain & preserve the dignity of the judiciary. Moreover the court of law also highlighted & emphasized the significance and importance of integrity & the dignity of judicature which needs to be properly upheld.

State of Maharashtra vs. Rajendra Jawanmal Gandhi

In this well-known case of *State of Maharashtra vs. Rajendra Jawanmal Gandhi*²⁰, the court perceived that a trial through the press, public agitation or electronic media is very much the

¹⁶ Express Web Desk, Sunanda Pushkar death case against Shashi Tharoor: A timeline, The Indian Express, 19 August 2021, <https://indianexpress.com/article/cities/delhi/sunanda-pushkar-death-case-against-shashi-tharoor-a-timeline-7459376/>

¹⁷ "Delhi HC Cautions TV Anchor against Media Trial in Sunanda Pushkar Death Case." The Times of India, 11 Sept. 2020, timesofindia.indiatimes.com/city/delhi/hc-cautions-tv-anchor-against-media-trial-in-pushkar-case/articleshow/78047949.cms.

¹⁸ Sahara India Ltd. v. SEBI, (2012) 10 SCC 603.

¹⁹ R. K. Anand v. Delhi High Court, (2009) 8 SCC 106

²⁰ State of Maharashtra v. R.J. Gandhi, AIR 1997 S.C. 3986

antithesis of the rule of law. Moreover it can lead to the miscarriage of justice. A judge of the court of law has to properly guard himself against any pressure or compulsion and is to be properly guided by the rules of law.

MP Lohia vs. State of West Bengal

In the case of *MP Lohia vs. State of West Bengal*²¹, the media was sharply criticised by the Supreme Court for releasing and publishing the report and article after speaking with the girl's family, who was thought to have been killed in a dowry death event and making assumptions about the suspect's guilt while the case was still under investigation. The court determined that because media stories may be detrimental to a current trial in court. Sometimes the freedom and liberty of free speech and expression by the media amount to meddling with the administration of justice.

VII. CONCLUSION

It is very clear from the aforementioned narrative and the examples of other cases and incidents that an unethical media trial is detrimental to everyone's right to privacy in society. While media outlets have received recognition for increasing public awareness they have also faced criticism more frequently for their intrusive coverage of some topics and meddling in personal affairs. Since the media has the ability to sway the general population, biased media coverage will have a negative impact on society in many ways. The media trial of the inquiry phase, careless reporting and the exaggeration of the sensitive subjects have now resulted in media platforms crossing the boundaries. The accused person's right to privacy and right to a fair trial are two vital legal matters that are brought up by this predicament.

In summary the entire research study shows that the judiciary and the media are distinct entities with distinct areas of expertise that do not intersect. One cannot and should not use the other to carry out its functions & roles because counter functioning does not open the door to justice for the victim. The media cannot function as a specific agency for the judiciary or the courts; instead they can only report on or conduct mass media and journalistic activities.

It is clear from assessing the case laws that the media trials in our nation have a significant impact on people's privacy, reputation and image. However we must remember that not all media covered trials are just and fair, and they may not always be correct and truthful. Cases ought to be heard in court where the accused is adequately entitled to all democratic rights and to defend himself in the court.

²¹ MP Lohia vs.State of West Bengal, 2005(2) SCC 686,

Media platforms interfering with person's privacy may be detrimental to the continued existence of a healthy democracy. Media outlets have the right to express themselves but at no point should the rights of any individual to privacy and a fair trial be violated. A good balance between the media's right to investigative reporting and journalism and each person's right to a certain degree of privacy must be maintained since balancing interests is the core and spirit of any democracy. Given these intricacies, it is very clear that the ongoing search for a balance between press freedom and privacy legislation needs ongoing analysis and sophisticated solutions. In order to achieve this balance it is imperative that the public's interests be carefully considered. Ethical journalism should be practiced, legal safeguards should be established and conflicts between these indispensable basic rights should be handled with a case-specific approach. Democratic societies must promote open and educated discourse on this issue while respecting people's privacy rights and ensuring the unobstructed distribution of information.
