

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

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**Volume 4 | Issue 3**

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**2021**

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# Media Trial: An Analysis and its Latest Judicial Trends

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## ABSTRACT

*We live in an admirable nation, India and what governs our nation is our Constitution which is that the supreme law of the land. Right to freedom of speech and expression is guaranteed under art. 19(1)(a) is one among the significant rights enjoyed by our citizen. Media, which is one among the influencing organizations have enough intelligence to utilize these rights. Thus, Media is taken into account to be the backbone of a democratic country like India. Trial by Media is one the foremost indescribable attempt made by the Media by declaring the accused guilty far before the decision of the court. Hence, Media has personified itself into a “Public Court” which is popularly referred to as “JantaAdalat”.*

**Keywords:** trial, right to freedom, constitution.

## I. GENERAL OVERVIEW

Media, the 4th pillar of democracy, is commonly credited with providing political contribution to citizens, bridging the gap between the state, its political leaders, and society. News generates political discourses. These discourses shape popular opinion. And public opinions consecutively influence law and policy. But this rectilinear relationship is usually an oversimplification rooted in ignoring heaps of things that compels the press into making astonishing news out of a problem within the first place. These factors revolve around certifying ad revenues, interests of personal sponsors, government influence, and company benefits that come from preservation of established order. the connection between government and thus the media is accordingly a sensitive one that needs frequent parameter from both ends.

The current trend of media on reporting cases commonly referred to as “Trial by media” has witnessed the feeling of self- manifested stories, half- baked truth leading to the violation of right of people, resulting media reporting transforming into media circus.

Trial by media may be a phrase popular within the previous couple of decades to explain the impact of television and medium coverage on a case by creating a good spread perception of

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guilt on a part of accuse no matter any verdict during a court of law and hence the accuse is held guilty even before his trial. The blatantly violate the code is sell their story and boost their TRP, leaving far reaching injury to the reputation of the accused. The media involves itself so intensely and through such high publicity lawsuits the media sensationalizes the case and provokes atmosphere of public hysteria which not only makes a free and fair trial impossible but also maligns within the reputations of the accused to such degraded level that their remainder of life comes under public- hatred and had scrutiny.

## **II. FREEDOM OF MEDIA VIS A VIS ACCOUNTABLE JOURNALISM**

The strength and importance of media during a democracy is well recognized. Article 19(1)(a) of the Indian Constitution, which provides freedom of speech and expression includes within its ambit, freedom of press. The existence of a free, independent and powerful media is that the cornerstone of a democracy, especially of a highly mixed society like India. Media isn't only a medium to precise once feelings, opinions and views, but it's also responsible and instrumental for building opinions and views on various topics of regional, national and international agenda. The pivotal role of the media is its ability to mobilize the thinking process of millions. The increased role of the media in today's globalized and tech-savvy world was aptly put within the words of Justice Hand of the us Supreme Court when he said, "The hand that rules the press, the radio, the screen and therefore the far spread magazine, rules the country".

Democracy is that the rule of the people. A system which has three strong pillars. But as Indian society today has become somewhat unstable on its 3 legs- the chief, the legislature and therefore the judiciary, the guarantee of Article 19 (1)(a) has given rise to a fourth pillar- media. It plays the role of an aware keeper, an ombudsman of the bureaucrats of society and attempts to attend to the damages in our system, by bringing them to the knowledge of all, hoping for correction. it's indisputable that in many dimensions the extraordinary media revolution has resulted in great gains for the overall public. The criminal justice system during this country has many lacunae which are employed by the rich and powerful to travel scot-free. Figures represent themselves during this case as does the conviction rate in our country which is abysmally low at 4 percent. In such circumstances the media plays an important role in not only mobilizing popular opinion but bringing to light injustices which presumably would have gone unnoticed otherwise.

Every institution is susceptible to be abused, and each liberty, if left unbridled, has the tendency to become a license which might cause disorder and anarchy. this is often the edge on which we are standing today. Television channels during a bid to extend their TRP ratings are

resorting to sensationalized journalism with a view to earn a competitive edge over the others. they're a neighborhood of the hectic pace at which the media is evolving, carrying with every sting the maximum amount promise as risk. However, though technology can't be thwarted but it's its limits. It can't be denied that it's of practical importance that a precarious balance between the elemental right to expression and therefore the right to one's privacy be maintained. The second practice which has become more of a daily occurrence now's that of Media trials. Something which was began to show to the general public at large the reality about cases has now become a practice interfering dangerously with the justice delivery system. Both are tools frequented by the media. And both highlight the big need of what's called 'responsible journalism'

### **III. LEGAL IMPACTS ON MEDIA 'ACTIVIST ROLE'**

The media reports bringing offence of sexual nature focused of the overall public to debate. To give a face to the story, intricate details are added within the report, which reveals the identity of the victim albeit actual? Name isn't revealed. Though after Anti-Rape law, position has changed during this respect by amendments in Criminal Procedural Code and evidence Act. it's going to be possible, that victim may not be willing to debate or see the small print of the incident again thanks to physical also as mental trauma. thanks to debate by public at large, she may never be ready to advance in her life.

Many times media trial is based on leaked information from anonymous source. Like, in the latest Tehelka case, an e-mail of the complaint was leaked in the media which thanks to the sensationalism took suemotto cognizance of the incident. The mail was for the aim for an internal complaint purpose and therefore the victim didn't want to initiate a criminal case. But thanks to widespread coverage of the incident in media. Police took sue motto cognizance of the event and registered a FIR against Mr. Tarun Tejpal for sexual assault. within the instant case, victim personal choice has been violated. For the sake of TRPs, victim has got to unwittingly be part of the trial as a key prosecuting evidence. Also, there are cases in victim wants to require alterative course of action

and doesn't want to file a criminal case. The victim might want to file for a harassment case or a civil case. By over reporting, women's agency is violated by not letting her chose from the available course of actions.

#### **IV. JUDICIAL TRENDS ON MEDIA TRIAL**

##### **Jessica Lal murder case<sup>2</sup>**

In 1999, Jessica Lal (model turned barmaid) working during a restaurant owned by socialite Bona Ramani in Mehrauli, South Delhi's, was shot dead by Manu Sharma (alias Siddharth Vashisth), son of Congress former Union Minister, Vinod Sharma after Jessica refused to serve liquor to him and his friends. This case immediately gained media coverage after the murder when the accused was acquitted by the court. This case became one among the highest cases where the general public pressure and media compelled the justice system to require a re-evaluation at this case. Though Manu Sharma was acquitted initially within the year 2006 because the Delhi police did not sustain the grounds on which that they had built up their case after public outcry thanks to the media coverage of the case, the Delhi supreme court sentenced him to captivity.

##### **The Delhi rape case<sup>3</sup>**

The brutal gang rape on the night of 16 December 2012 of a 23-year-old physiotherapy intern who besides being raped was tortured and beaten during a private bus during which she was travelling together with her male friend. Including the driving force, six men on the bus who raped her and beat her friend. She was admitted to the hospital and after eleven days she was shifted for an emergency to the hospital in Singapore but died after two days.

Since the laws in India don't permit the press to reveal the name of the sport victim, the victim has become widely referred to as Nirbhaya, meaning "fearless", and therefore the girl's struggle against the incident and her death has become a logo of resistance by the ladies within the world.

This incident inflamed extensive national and international coverage. The incident was criticized widely, both in India also as abroad. Thereafter, there have been multiple protests in several parts of the country against the central and state governments for failing to supply proper security for ladies.

##### **Arushi- Hemraj murder case<sup>4</sup>**

This case gained tons of media attention and was within the news for a really while. Arushi was murdered alongside her household worker Hemraj in May, 2008. Initially, tons of names occurred on the suspect list. The sensational media coverage was criticized by many as an

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<sup>2</sup>Sidharthavashisht alias manusharma vs. State (NCT of Delhi) (2010) 6 SCC 1

<sup>3</sup>Mukesh and Anrs vs. NCT Delhi (2017) 6 SCC 1

<sup>4</sup>NupurTalwar vs CBI, (2012) 11 SCC 465

attempt by the media, which involved salacious allegations against Aarushi and suspects. The media raised questions on Arushi's character as her affair with Hemraj, though no provident evidence had been found for an equivalent. The oldsters were convicted for the murder and sentenced to captivity in November, 2013. But it had been argued by many critics that the case was supported very weak evidence, the evidence wasn't strong enough to completely blame parents for the murder, there have been other suspects too but due to media trial interference, it raised questions in minds of the people. Within the Allahabad supreme court, the choice was challenged by the Talwar's, which later in 2017 acquitted them as giving them advantage of doubt and calling the evidence as unsatisfactory.

## **V. CRITICAL ANALYSIS OF MEDIA TRIAL**

Media has an important role during a democratic country. All the pillars of the democracy must purpose individually deprived of prevailing upon the occupations of others. Broadcasting had overstepped upon the sanctity of the judiciary in high-profile criminal cases just like the arushi-hemraj murder case, Jessica Lal case etc. a number of the accused are let loose thanks to the media intervention.

A three-judge bench led by judge of India R M Lodha described the difficulty as very serious and stated that to place in situ the Court would consider few guidelines so as to balance the interest and rights of the stakeholders. The rules observed by the Court are as follows:

In the wake of growing instances of media trials, there's a requirement that the Supreme Court should delve into the difficulty because it results in public condemnation of the accused on the idea of data provided by prosecutors and police, though the trial before the court of law has still not been initiated.

The Courts have taken a significant note on the reports of a media briefing by the police and other investigating agencies. Nothing should be wiped out order to hamper the investigation process and secrecy of the inquiry. All of those need certain checks as all of them fall within the purview of Article 21 of the Constitution.

When an attempt is already happening within the Court, the parallel process of trial by media shouldn't be allowed. It's now expected that the Supreme Court will concede to frame guidelines for the media over covering criminal cases and briefing by the investigating agencies.

The purpose of media has eventually changed with the progression of time. There is interference by the media in the role of the judiciary in most of the cases instead of just stating

the case facts. The underlying foundation of the judicial system has been eaten by the termite of corruption in the largest democratic set-up. Immoral steps are followed by the litigants in order to save the accused from conviction through bribing the public authorities to distort the evidence, pressurize the defence to withdraw the case, etc. Due to this enormous institutional imbalance, there has been pre-emptive media coverage of criminal trials. Media has been successful in making a prejudicial stance in the minds of the public by their sensational style of journalism.

### **Law Commission 200th Report<sup>5</sup>**

In this report under the Chairmanship of Justice M. Jagannath a Rao in August, 2006, the subsequent recommendations had been made:

To prohibit the publication of anything that's prejudicial to the reputation if accused- a restriction which shall from the mine of the arrest.

The start line of a criminal case shouldn't be from the filing of the blotter but from the time of arrest of an accused. The perception behind such an amendment is that it might prevent prejudicing or prejudging the case.

To address the damaging effect on the administration of justice of the sensationalised news reports.

The supreme court is empowered to direct the postponement of the telecast or the publication in criminal cases and to stop the media from restoring to such a telecast or publication.

## **VI. CONCLUSION AND SUGGESTIONS**

There are numerous instances where the media has been blamed and accused of conducting the trial of the accused by passing the "Verdict" consistent with their investigation before the judgement is gone by the Court. it's essential that the trial must be administered by the Court and not the media. The trial by the media is certainly an undue interference within the procedure of delivery of justice.

The legislature features a great responsibility to perform while drafting laws on media, ensuring that their freedom isn't curtailed. Media has the proper to debate and discuss the case judgments but they need no right or freedom to start out an attempt on sub-judice matters. the proper of the accused to possess a good trial is usually more important than the liberty of media before starting the trial of the pending case. Media trial hinders the aim of justice.

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<sup>5</sup><https://lawcommissionofindia.nic.in/reports/rep200>

It becomes clear that the influence of the media had a more negative effect instead of a positive effect (except for a couple of exceptions). The Courts should properly regulate the media. The Courts shouldn't grant blank check to the media within the Court proceedings as they're not some event of the game.

The most favourable way for legislating the media is by exercising the contempt of court to penalize those who interfere with the essential code of conduct. The Supreme Court has approved during a number of cases the utilization of contempt powers by the Courts against the newspapers and media channels. Freedom of speech and expression can't be allowed to the media to an extent to prejudice the trial itself.

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