

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 8 | Issue 4
2025

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Public Perception vs Legal Process: Media Trials and their Effects on Judges

V.S. SASANK¹ AND DR. M. SANTHOSHRAJU²

ABSTRACT

This research paper critically investigates the growing phenomenon of media trials in India and their influence on the judicial process, particularly on judges' impartiality. In an era where the media wields significant power in shaping public opinion, the line between informed reporting and prejudicial commentary has increasingly blurred. Media trials often result in pre-judgments that not only violate the principle of "innocent until proven guilty" but also exert psychological pressure on judges who despite their training are not immune to societal influence.

*Grounded in a constitutional and doctrinal analysis, the study evaluates the impact of media sensationalism through the lens of Articles 19, 20, and 21 of the Indian Constitution. It further discusses the limitations imposed by the Contempt of Courts Act, 1971, and references key Law Commission reports, particularly the 200th Report, which addresses the harmful effects of sensationalist reporting on the administration of justice. The paper also incorporates comparative insights from jurisdictions such as the United Kingdom and the United States to highlight how other democracies balance freedom of the press with judicial integrity. Through landmark Indian cases like *RK Anand v. Registrar*, *Vinod Dua v. Union of India*, and *Sanjay Dutt v. State through CBI*, it becomes evident that media overreach can distort public perception and compromise the judiciary's credibility.*

Ultimately, the research emphasizes the urgent need for robust policy reforms, stricter enforcement of journalistic ethics, and the establishment of an independent regulatory body. The media, as the fourth pillar of democracy, must support and not undermine the legal system.

I. INTRODUCTION

The media plays a crucial role in society. It touches many life's problems of people across the world. The media is also known as the fourth pillar of democracy. Unfortunately, the media in our country believes in fake reports which will hamper and threaten the citizens. The media

¹ Author is a Student at Vignan Institute of Law, Vignan University, Vadlamudi, Guntur, Andhra Pradesh, India.

² Author is an Assistant Professor at Vignan Institute of Law, Vignan's Foundation for Science, Technology & Research, Vadlamudi, Guntur, Andhra Pradesh, India.

replicates the values of democracy but in the current situation the media is under tremendous pressure by the government authorities or influential people's hands. Debates and discussions in media houses merely run on speculative and emotional purposes, unfortunately these debates create unnecessary confusion among the people. Media houses often add emotional quotient to their content in their channels this will create violence in the society

Those who support the rule of law can afford for such a situation to persist. We would want to voice our serious disapproval of the growing trend of media trials and investigative breaches pertaining to subjudice cases.

Trial media as a term refers to the role of media acting as a judge overriding the official justice delivery system thereby distorting, prejudicing, sensationalizing, instigating the public and steamrolling the right to fair trial of the accused.³

The constitution is extremely solicitous regarding free and just trials of persons facing accusation. The judiciary cannot function properly if what the press does is calculated to disturb the judiciary in the performance of its duty. This is so even in a country like ours where witnesses from going to the court sometimes from speaking the truth may affect the proper just and truthful investigation.

I detest the day when a member of the judiciary must make decisions while keeping one eye on the media headline the next morning. The decision-making process and the person who must be bound by it only to his own conscience and the law.

II. HISTORICAL PERSPECTIVE

Trial by media as a term refers to the role of media acting as a judge overriding the official justice delivery system thereby distorting, prejudicing sensationalizing, instigating the public derailing and the justice delivery process and steamrolling it the right to fair trial of the accused, the other hand freedom of speech and expression and consequently freedom of press also part and parcel of Indian constitution.

Some International charters, like Article 6 of UN Basic Principles on the independence of the judiciary, state that the judiciary is entitled and required to ensure that judicial proceedings are conducted fairly civil and political rights. Also provides that everyone shall be entitled to fair public hearing by a competent independent determination of any criminal charge in a suit of

³ International Human Rights, Media, and Education, Stanford Law School, <https://law.stanford.edu/courses/international-human-rights-media-and-education/> (last visited Dec. 4, 2024).

law.⁴

A. Impact of Media Trial

It was elaborated in the law commission's 200th report. Amendments to contempt of court act 1971 that made recommendations to address detrimental impact sensationalized. Media coverage on the administration of justice. The 17th. The law commission report has also made similar recommendations to the center.

According to Article 21, no one may be deprived of their life unless it is done in accordance with the legal process. This means that every individual has the right to live, and their life cannot be taken away except in accordance with the prescribed legal procedures. The right to a healthy environment, the right to livelihood, and the right to live with dignity are all included in the concept of the right to life. Individual liberty is likewise protected under Article 21. It declares that no one's personal freedom can be taken away from them until the legal process is followed. Personal liberty includes the freedom to travel about, the ability to choose where to live, and the freedom to pursue any legal career or vocation.

The media should reflect the people's views and their problems. But unfortunately, it turned out to be a major grasper of TRP. Media houses are fighting for number 1 place but they are forgetting to reciprocate the values of democracy.

After determining the actual facts, a judge's responsibility in administering justice is unquestionably extremely challenging. In a pious process of unravelling the truth as to achieve the ultimate goal dispensing between the parties. It is the duty of the judiciary to do the job. But the media is intervening with their roles.

Under the 1971 Contempt of Courts Act, media contempt is a crime. On the freedom of speech and expression, the law of contempt imposes significant limitations by prohibiting publication of any matter which prejudices a fair trial and a reckless and scurrilous attack against a judge imputing oblique motive amounts to criminal contempt of the court. The law of contempt aims to prevent interference with administration of justice. Under the guise of free expression, criticism that compromises the dignity of the court cannot be allowed.

The powers of contempt conferred on the Supreme Court and high courts by articles 129 and 215 are constitutional powers. In addition, we have section 15(1) of the contempt of courts act, 1971 which provides that the power is of a court. Of record to punish for contempt of itself is to prevent any unlawfulness.

⁴ International Trial Monitoring, Stanford Human Rights Center, <https://humanrights.stanford.edu/programs/rule-law-and-accountability/international-trial-monitoring> (last visited Dec. 4, 2024).

State of Maharashtra vs Jalgaon municipal council. The Apex court observed that an accused cannot be convicted merely because any including press to desire. The press has the right to publish. But this right is not absolute. The accused should not be prejudiced or treated with disdain.

Therefore, Lord Denning 1 stated in the court appeal that judges will not influence media publicity, a view which was not accepted.

According to the Hauptmann case and others, a lot of American newspapers present crime stories in such an unjust and dramatic way that they deny the accused a fair trial. Thus, the American view appears to be that jurors and Judges are influenced by media publication, while the Anglo-Saxon 1 view that judges are subconsciously influenced and members publish under such a situation. In such cases the accused is without adequate means of combat.

III. EXCEPTIONS VS RIGHTS

Aristotle said that man is a social animal it means man must rely on others to live his life. In a vibrant democracy freedom of speech is an important aspect. Without freedom of speech it is not a democracy it looks like a dictatorship. India is considered as the world's biggest democracy. All Indians will profoundly say this word. In pre pre-independence era Britishers maim plundered India for 200 years without having any right to form the associations or any trading. After drafting worlds lengthiest and written constitution freedom of speech and expression was part and parcel of Indian constitution citizens of India can equally fight for their rights and justice they can form associations.

Article 19⁵ of Indian constitution sets forth several rights for its citizens, which are subject to certain reasonable restrictions.

Article 19(1)⁶ of the constitution of India guarantees six fundamental freedoms:

- Freedom of speech and expression 19 (1)(a)
- Freedom to assemble peacefully without arms article 19 (1)b
- Freedom to form associations cooperative societies article 19 (1) (c)
- Freedom to move freely throughout territory article 19 (1) (d)
- Freedom to reside and settle the territory of India Article 19
- Freedom to practice any profession article 19 (1) (g)

⁵ India Const. art. 19.

⁶ India Const. art. 19(1).

These rights were the important pillars of Indian democracy which required the right to form the associations and the rights of the citizens. These rights were help us to maintain fostering the socio and economic policies in India. But these rights are not absolute rights in these they have reasonable restrictions imposed in constitution. Article 19(1) (a) secures to every citizen the freedom of speech and expression and should be read with clause (2) which empowers the state to put reasonable restrictions on the following grounds:

- a) Security of the state
- b) Friendly relationship with foreign states
- c) public order
- d) Decency and morality
- e) Contempt of court
- f) Defamation
- g) Indictment to an offence
- h) Integrity and sovereignty of India

Constitutional aspect:

Article 19(1)⁷ of the Indian constitution mentions the right to freedom of expression. This fundamental right plays a key and pivotal role in establishing free and fair speech in the Indian constitution. But an extreme right is a malignant thing any right which is given to the citizens is backed by some reasonable restrictions as mentioned in Indian constitution.⁸

The media should publish the real truth and real scenarios. The news which they need to share is to be truthful but not based on assumptions. Assumptions were only to create unnecessary conflicts in India small things impact at a bigger level. Means assume a situation where a riot is going if we go and ask them personally that riot is based on a small reason which will create a huge impact. In that situation, the judiciary is under pressure to determine the cases with lakhs of pending litigations which will create discrepancies because of trial by media. Without manifesting the truth the media is manifesting TRP related content which will cause delay of justice. Delayed justice cannot be denied justice.

The Council has often urged the media to report with prudence and restraint. It concurs that an effort should be made to establish a setting where the press can exercise its freedom and

⁷ India Const. art. 19(1).

⁸William T. Dickens, *Crime and Punishment Again: The Economic Approach with a Psychological Twist*, 9 J. PUB. ECON. 47, 49 (1989), <https://www.sciencedirect.com/science/article/abs/pii/0047235289900342>.

responsibility in the best possible way by regulating itself. That is the primary goal that the Press Council aims to uphold and advance.

Section 13(b) of the Press Council Act of 1978⁹ mandates that the Council create a code of conduct for journalists, news organizations, and publications in order to meet the high requirements. Accordingly, the Council has developed over the years, based on its rulings and other declarations, standards that journalists are required to apply with appropriate judgment and adaptability to govern their own behavior while doing their professional duties. Towards this it has brought out following:

Though this press council of India didn't get the sufficient backing even standards are placed in particular statute or law but that standards cannot reach the correct path where there is a clear cut of ambiguity in this particular situation. Journalistic ethics have vanished nowadays. They aren't even following rules and regulations of journalist's ethics; they were in a stage prejudice the media and other related information.

IV. PUBLIC PERCEPTION V TRUE REALITY

According to Dicey, a written constitution cannot be said to be a safeguard to individual liberty because a government having a majority in the parliament may repeal the liberty clauses or even constitution itself. This may lead to dictatorship. In England the safeguard against the dictatorship is a strong public opinion so strong that no ruler can take away any right of the individual.

Institutional independence

In judicial independence there are two types of things substantive independence means in this particular aspect of independence judiciary judges are not subordinate to themselves the law declared them are final in nature

Decisional independence

The idea of independence refers to judicial officers who must act as impartial in nature. They are neutral from deciding a case. Other organs cannot intervene in the shoes of the judiciary; this concept is solely based on the separation of powers. The Indian constitution provides for a parliamentary form of government parliament is the union legislature. Which enact laws. At the same time the president has legislative power he can promulgate ordinances during recess of parliament under article 123¹⁰ of Indian constitution The house of people can be

⁹ Press Council Act, No. 37 of 1978, § 13(b) (India).

¹⁰ India Const. art. 123.

dissolved by the president article 85¹¹ the president may address either house or parliament assembled together. Article 86¹² A bill an act passed by the parliament or both houses of the president gives assent to it. Article 111¹³ Certain bills cannot be introduced in parliament, unless the recommendation of the president has been received.

A. Public Perception vs Judges

Section 205 of BNS¹⁴

(1) Unless otherwise specified in this Act or any other law, a contempt of court offense carries a maximum sentence of six months in simple imprisonment, a maximum fine of two thousand rupees, or both. The accused may be released from custody or the punishment may be returned upon the court's satisfaction with an apology.

Explanation:

If the accused makes a sincere apology, it cannot be denied on the grounds that it is conditional or qualified.

- 1) for any contempt perhaps in reference to a court beneath it or to itself.
- 2) Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section

Section 12 of contempt of court act 1971¹⁵

In the event that the summons, notice, order, or proclamation requires the recipient to appear in person or through an agent, or to produce a document or electronic record in court, the offender faces simple imprisonment for six months, a fine of ten thousand rupees, or both. This punishment is imposed on anyone who willfully removes any such summons, willfully prevents the lawful making of any proclamation of summons, or will intentionally prevent the serving of any summons on himself.

Section 2(b) in The Contempt of Courts Act, 1971¹⁶

(b) "Civil contempt" refers to willful disregard for any court order, judgment, decree, writ, or other process, as well as willful violation of a court-issued undertaking;

¹¹ India Const. art. 85.

¹² India Const. art. 86.

¹³ India Const. art. 111.

¹⁴ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 205 (India).

¹⁵ Contempt of Courts Act, No. 70 of 1971, § 12 (India).

¹⁶ Contempt of Courts Act, No. 70 of 1971, § 2(b) (India).

Section 2(c) in The Contempt of Courts Act, 1971¹⁷

“Criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which

- (i) Scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court; or
- (ii) Prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
- (iii) Interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

V. MEDIA LAWS IN INDIA

The Media and entertainment industry in India can be broadly classified into print, cinematographic films broadcasting and digital media. This category is regulated by the ministry of information and broadcasting digital media involves technology further Telecom regulatory authority of India. Has dedicated broadcasting cable services m division which is responsible for laying down the overall regulatory framework for tv sector in interconnection quality service tariff aspects.

The Cinematograph Act 1952¹⁸ regulates the certification of cinematograph films for exhibition. The Cinematograph Act, read with the Cinematograph (Certification) Rules 1983, stipulates the principles guiding certification of films and categories of certification. The Cinematograph Act also established the Censor Board for Film Certification (CBFC) for the purpose of sanctioning films. By way of the Tribunal Reforms Ordinance 2021, the central government abolished the appellate tribunal (the Film Certification Appellate Tribunal) established under the Cinematograph Act MIB (the Films Wing) administers cinematograph films and allied activities.

Media laws are self-regulating in India for example the press council of India is the organization which has the statutory body. News broadcasting and standard authority all these are self-regulating authorities.

A. Defamation Laws

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules,

¹⁷ Contempt of Courts Act, No. 70 of 1971, § 2(c) (India).

¹⁸ Cinematograph Act, No. 37 of 1952 (India).

2021. These rules were introduced to regulate social media platforms and digital news media. They mandate that social media platforms appoint grievance redressal officers, ensure transparency in content moderation, and comply with local laws.

The rules also impose a code of ethics for digital news publishers, aiming to ensure accountability and prevent the spread of fake news. According to *Bhartiya Nyaya Sanhita* section 356¹⁹ talks about defamatory content means who ever prints any matter regarding²⁰ Any particular which he thinks it is defamatory there can be liable under section 356 of BNS: *Pritam Chand vs Kamal Sain]* Sasank: In this instant case Jammu and Ladakh held that the way the headlines were drafted in the newspaper articles clearly reflected the intention of the petitioner which was to defame the respondent. This cannot be protected under article 19 of the Indian constitution.

VI. JUDICIAL PRECEDENTS

1. Benett Colman vs Union of India²¹

Facts:

The petitioners are involved in the publication of newspaper challenged restrictions on the imports of newspapers on total number of pages may not be more than 20 percent that are under and finally no interchangeability of newspaper.

Issues:

1. whether the imposition of a news page is valid?
2. Whether the appeal is maintainable?

Judgement:

The Court observed that freedom of the press had both quantitative and qualitative elements and, therefore, the quantitative controls constituted restrictions on freedom of expression. Since they were not justified on the basis of shortage of newsprint, they could not be considered to be reasonable restrictions. The Court held that the Newsprint Policy of 1972-73 was unconstitutional. However, the Newsprint Order and Import Control Order were considered not to be the source of these restrictions and were not struck down.

In this instant case the court opined that imposing restrictions to the newspaper's will violate

¹⁹ *Bharatiya Nyaya Sanhita*, No. 45 of 2023, § 356 (India).

²⁰ Media, Technology, and the First Amendment, Stanford Law School, <https://law.stanford.edu/courses/media-technology-and-the-first-amendment/> (last visited Dec. 4, 2024).

²¹ *Bennett Coleman & Co. v. Union of India*, (1973) 2 S.C.C. 788 (India).

article 19 of Indian constitution imposing restrictions is a severe threat to the democracy and its institutions. These restrictions can be reasonable and not exceed their rights. Threat to democracy as well as freedom of press in our country. Although in our country freedom of press was exceeding and indulging into the steps into the shoe's different organizations. That is why this freedom of press is having limitations. Democracy thrives when there is a valuable enjoying freedom press institutions were needed to protect their identities. Values are degrading in society. If the press writes different stories regarding politicians, will it create impact on the investments as well as states development whom we are criticizing? politicians are any minister press forgetting the minister is representing the states that is why if any one need to invest if they heard of different stories through media they may get confused to invest or not.

2. Ramesh Thapar vs state of Madras²²

Facts:

In this instant case the state of madras has banned the publication of a journal named the crossroads. This is because the section 9(1) A of madras maintained a public order act 1949 therefore my petitioner went to file the petition in the court for violation of right to speech.

Issues raised:

1. Whether the petitioner directly approaches the Supreme Court article 32²³ of the constitution.
2. Whether the order issued by the Madras government violated petitioners fundamental right to freedom of speech.

Judgement:

The court also opined that removing the term sedition from article 13²⁴ draft constitution which later directly threatened state security under article 19(2) hence the provision was declared under invalid.

Security of the State is a reasonable restriction under Article 19 (2) of the Constitution. However, the words used in the impugned section of the Act are 'public safety and public order'. The Court considered that the 2 terms have to be read together. The purpose for which restrictions were allowed under the Act for the wider purpose of public order. It drew parallels with the Indian Penal Code and other texts to show that public order has a very wide

²² Ramesh Thapar v. State of Madras, A.I.R. 1950 S.C. 124 (India).

²³ India Const. art. 32.

²⁴ India Const. art. 13.

interpretation- including acts like rash driving. On the other hand, security of the State referred to extreme acts of violence that would threaten to overthrow the State. Therefore, the restriction under the Act was wider than what was Constitutionally permissible as a restriction on freedom of expression.

Further, where an Act may be used within the constitutional limits as well as outside the scope of these limits, it must be considered void. The impugned section was accordingly considered to be void for unconstitutionality, because it gave the State wide powers to restrict freedom of expression. The Court also quashed the order of the Government whereby the newspaper was banned.

3. RK Anand vs Registrar²⁵

The apex court opined that concurrent trial by media doesn't even have impact in the legal standing. It creates conflict between freedom of speech and expression and right to free and fair then primacy given to rhetoric rights which are involved in a larger public interest. Primacy must be given to the right to free and fair trial because without giving to the right to free and fair trial it will hamper the whole judicial process in our country. The country needs stringent laws for prejudicing the media cannot blame some persons for their assumptions and stories. Free and fair trial is a part and parcel of fundamental rights. If that right has been violated then the whole structure of the judiciary is at stake.

4. Vinod Dua vs Union of India²⁶

In 2020 veteran journalist Vinod dua published a YouTube video for in his program he criticized the government for lack of PPE kits N 95 masks was accused of disseminating harmful and untrue information towards the prime minister.

The Apex court wished the FIR lodged against dua and ruled that he had every right to express his concerns as journalist rights to criticize comment upon the measure undertaken by the government.

5. Manohar Lal Sharma vs Union of India²⁷

On July 18th seventeen media organizations called the Pegasus project leaked a list of 50,000 numbers whose phones had been tapped by the journalists demanding a judicial probe to investigate the spyware.

On October 27th the court passed an interim order constituting a technical committee to

²⁵ R.K. Anand v. Registrar, Delhi High Court, (2009) 8 S.C.C. 106 (India).

²⁶ Vinod Dua v. Union of India, (2021) 1 S.C.C. (Cri) 509 (India).

²⁷ Manohar Lal Sharma v. Union of India, (2014) 9 S.C.C. 516 (India).

conduct the Pegasus the bench. Emphasized that even a lawful encroachment on the right to privacy is proportionally purposeful.

6. Sanjay Dutt vs State through CBI²⁸

Facts:

The petitioner is one of the several accused in case no 1 of 1993 being tried in the designated court for Bombay in connection with Bomb blasts which took place in Bombay huge destruction were caused in property. following Sanjay Dutt's five-year prison judgment from the Supreme Court. because of his participation.

Issues:

1. Whether construction of section 5 of TADA indicating the ingredients of the offence.
2. Whether proper construction of indicating the nature of right of an accused.

Judgement:

This question does not need any additional clarification from us given the Constitution Bench's ruling in Kartar Singh about the definition and application of sub-section (8) of Section 20 of the TADA Act as previously extracted.

The answers to the referred questions are provided above. Like any other bail matter, this case must now be reviewed and adjudicated by the relevant Divisions Bench in order to determine if the petitioner's application for the grant of bail on merits is granted.

We direct, accordingly.

Case Analysis:

The media is broadcasting the Sanjay Dutt photos with terrorist images propagating him as the terrorist leader. This case is glaring example for media trial how media presumed and showcased the hero like a zero. Media trial will be serious concern in the society media stood to be fourth pillar in the society but Media disrespects the courts.

As per section 13 (b) of the Press Council Act, 1978 the Council has been mandated to build a code of conduct for newspapers, news agencies and journalists for achieving the high standards. In pursuit of this, the Council has developed over the years, based on its rulings and other declarations, standards that journalists are expected to apply with appropriate judgment and adaptability to govern their own behavior while performing their professional duties.

²⁸ Sanjay Dutt v. State through C.B.I., (1994) 5 S.C.C. 410 (India).

VII. CONCLUSION

Trial by media is a serious issue which courts need to look into that particular aspect. Courts are adhering to the principles given by the law but the media abide by the ethics and rules mentioned by the press council of. Prejudice against article 21 of Indian constitution. The media needs to respect constitutional morality. Courts also intervened whenever the media rights have been violated. In different cases the media must respect courts verdicts regarding their concurrent trial. The media's job is to project the truth and help to share the information to the people. But countries like India's truthfulness will be in question. Rather than sharing information, the media is making the assumptions. How they can achieve the truthfulness in the society always journalistic values were burnt down these days always the focal point is on the sensationalism it won't even help to the people in our country. Journalism is not a profession of trade, it is a crusade of truth.

Media laws in India are self-regulating laws. There must be a governing body regarding the media law. It must be enforced with stricter and harsher penalties especially when they are prejudiced about the judiciary. It has a huge impact on the future of victims as well as citizens. Their no laws for prejudice for example we can take England they will impose the concept of strict liability if they can make any statements regarding trial proceedings in that particular way we need to stop the media from broadcasting about trial procedure and as well as investigative why because the truth will not come out in the media trial for example two Channels were fighting that's one tv manipulated TRP another channel claiming that another tv manipulated the tv this itself is a clear indication how media is broadcasting in our country at the same time media is fighting TRP rather than fighting for the truth . Prejudice the trial procedure is a serious threat to the independence of the judiciary as well as their functioning.
