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## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **FREEDOM OF SPEECH AND EXPRESSION: ANALYZING THE IMPACT OF MEDIA TRIALS ON PUBLIC DISCOURSE AND JUSTICE**

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**AUTHORED BY - MRS. RAVNISH BECTOR  
ASSISTANT PROFESSOR,  
BHAGUBAI CHANGU THAKUR COLLEGE OF LAW, NEW PANVEL**

## **FREEDOM OF SPEECH AND EXPRESSION: ANALYZING THE IMPACT OF MEDIA TRIALS ON PUBLIC DISCOURSE AND JUSTICE**

As rightly said, "Freedom of speech is the cornerstone of democracy, but when it clashes with the pursuit of justice, the media's role should be a guardian, not a judge."

Justice Hugo Black said, "The press was to serve the governed, not the governors."

### **ABSTRACT**

This study examines the intricate connection between the right to free speech and expression and the increasing impact of media trials on public transparency and the quest for justice. The study critically analyzes how sensationalized media coverage impacts the legal system, frequently causing public bias and affecting the verdicts of high-profile cases in a time when the media has enormous influence on public opinion. The study illustrates the conflict between the right to free expression and the possible harm resulting from media interference in court cases by examining a number of case studies of media trials. It also assesses how the media affects due process, the presumption of innocence, and the general integrity of the legal system. This study calls for a more responsible approach to media reporting in the context of ongoing legal processes while offering a balanced viewpoint on how the media can either help or impede the proper administration of justice.



KEYWORDS: Freedom of Speech, media trials, justice, public opinion, sensationalism

## INTRODUCTION

Our collective right to self-expression as given under Article 19(1)(a) is known as freedom of speech and expression. It is the right to engage in social, cultural, and political life as well as the right to speak and be heard. It also encompasses the "right to know," which is the freedom to look for, obtain, and disseminate knowledge via any media.

When you share your views or seek out information, online or offline, or when you criticise your government for not living up to its promises, or when you question or debate religious, political, social, or cultural practices, or when you attend a peaceful protest, or organise one, or when you comment on a news article – whether you're supporting it or criticising it – you're exercising your right to freedom of expression. And when the journalist publishes some article in the newspaper, he too exercises this same right.

Freedom of expression promotes understanding, fosters discourse, and broadens public awareness. Our knowledge grows when we are able to freely share ideas and information. We can hold our governments accountable by using our freedom of expression to challenge them. Even the UDHR's Article 19 acknowledges freedom of expression and opinion as a fundamental human right. The International Covenant on Civil and Political Rights also upholds freedom of speech.

For a democratic country like India, the freedom of speech and expression is the foundation of all rights. It is the lifeblood of democracy. The people can safeguard themselves from the worst atrocities only through this freedom of speech and expression.

This freedom is essential for the vibrant exchange of ideas, the protection of minority views, and the promotion of transparency in governance and society. But this freedom is subject to "reasonable restrictions" under Article 19(2) for reasons like sovereign integrity and public order. However, one of the most pressing challenges in contemporary media landscapes is the phenomenon of *media trials*. Media trials refer to the practice of the media acting as both the accuser and the judge, often prejudging individuals or groups before a fair trial or due process has occurred.



The relationship between freedom of speech and media trials is complex. On one hand, the media has the right to report and comment on matters of public interest, including ongoing legal proceedings. On the other hand, when media outlets cross the line from responsible reporting to sensationalism or trial by media, they can undermine the very essence of justice, eroding public trust and potentially harming the right of the accused to a fair trial.

The purpose of this study is to investigate the conflicts between the ideas of media trials and freedom of speech, as well as the effects these conflicts have on the judicial system, public debate, and the defence of individual rights.

## **LEGAL FRAMEWORK ON FREEDOM OF SPEECH AND EXPRESSION**

In India, **freedom of speech and expression** is a fundamental right guaranteed under **Article 19(1)(a)** of the **Constitution of India**. However, this right is not absolute, and certain restrictions can be imposed under **Article 19(2)**. The Supreme Court of India has consistently interpreted the law to strike a balance between the right to free speech and the requirements of justice, security, and public order.

The Indian judiciary, particularly the **Supreme Court of India**, has played a key role in defining the scope and limitations of freedom of speech. Some landmark judgments like **Romesh Thapar v. State of Madras (1950)**; where the Court emphasized the censorship laws to be subject to strict scrutiny. In yet another case, **Indian Express Newspapers v. Union of India (1985)**; where it was affirmed that the press has the right to report news and express opinions, but this right can be reasonably restricted in the interests of national security and public order. In yet another case, **R. Rajagopal v. State of Tamil Nadu (1994)**; Supreme Court ruled the right of the press to publish matters of public concern, provided they are not defamatory or harmful. In cases like **Nupur Sharma v. State of Delhi (2022)** and **S. Khushboo v. Kanniammal (2010)**, the Supreme Court has reiterated that media outlets should exercise caution and refrain from reporting in ways that interfere with the fairness of legal proceedings or harm the reputation of individuals without evidence.

In order to preserve people's freedom of expression and prevent its abuse in ways that could jeopardize justice or the public interest, the judiciary has been instrumental in interpreting and

defining the parameters of these liberties.

Several laws regulate or place restrictions on this right to maintain public order, national security, and protect individual reputations. We have provisions under the BNS, 2023 that criminalize the acts of *sedition*, *obscenity*, *defamation* which offences incites violence against the government, or which violate public decency or morality.

The Information Technology Act, 2000 (IT Act) regulates electronic communication and cyber activities, addressing certain issues related to freedom of speech, particularly in the digital domain

The Contempt of Courts Act, 1971 seeks to regulate actions that may interfere with the judicial process and undermine the dignity of the courts. This includes media trials, where media coverage prejudices a case before a verdict is delivered.

The Press Council Act established the Press Council of India (PCI), which regulates the press and ensures the ethical conduct of journalists in India.

The Cinematograph Act, 1952 governs the certification of films in India. It regulates the content of films to ensure that it does not violate public decency or morality.

The POCSO Act, 2012 prohibits the creation, distribution, and possession of child pornography, particularly in media.

The Right to Information (RTI) Act, 2005 promotes transparency and accountability in government by ensuring the public's right to access information under the control of public authorities.

Although the Indian legal system offers a strong basis for the regulation and preservation of free speech and expression, it also provides limitations where necessary to maintain public order, national security, morality, and decency. Important restrictions on this right are imposed by laws like the Indian Penal Code, the Information Technology Act, and the Contempt of Courts Act to guarantee that the right to free speech is balanced with the requirements of society and the rights of individuals. In order to prevent injury, false information, or civil unrest that may arise from freedom of speech, these rules also control the media, cyberspace, movies, and

public conversations.

### **MEDIA TRIALS AND THEIR GROWING INFLUENCE:**

Media trials have become a defining aspect of public debate in recent years, especially in high-profile instances involving politicians, celebrities, and criminal investigations. What started out as a means of public education has steadily changed into a forum where media organizations report on cases and render decisions, frequently with little respect for the law or due process. This phenomenon is especially evident in cases where the media sensationalizes details of a case, publicly branding individuals guilty or innocent based on incomplete or biased information.

A media trial usually includes an overt display of judgment together with extensive media coverage of a person or group facing criminal charges or major controversy. The public is encouraged to create opinions or judgments about the accused through the repetitious nature of news cycles, social media campaigns, or televised discussions—often long before the issue is decided in a court of law. On news networks, social media sites, and talk programs, journalists, commentators, and occasionally even members of the public themselves serve as judges and juries in these media trials.

The problem is made more difficult by the media's function as a public forum for free speech and expression. A constitutional right in many democracies, freedom of expression safeguards the media's capacity to communicate information, offer comments, and voice opinions on subjects of public interest, including criminal proceedings. However, when media coverage shifts into an area that jeopardizes the legal system, this freedom can be used as a weapon. Some media agencies indulge in speculation, sensationalism, and scandal-mongering instead of just reporting facts or providing analysis. This influences the public's perception of the accused in addition to distorting the facts.

Media trials have become increasingly rigorous and extensive because of the rise of 24-hour news cycles, the spread of social media platforms, and the severe rivalry for viewers. The border between responsible journalism and subjective commentary has become more hazy due to the ease with which anyone may express their opinions on internet platforms. As a result, views are now formed more quickly and widely, and occasionally this has even resulted in a person's reputation or character being "tried" before their case even makes it to the court.



The impact of media trials frequently goes beyond public opinion and has the potential to directly affect court cases. For instance, media portrayals of someone as guilty might influence the public and foster a biased environment that hinders the accused's right to a fair trial. This is particularly true if prospective judges have seen provocative or prejudiced media representations of the case.

Furthermore, media trials frequently lead to a risky feedback cycle in which the public's feelings are exploited for amusement or financial gain. For instance, in order to capitalize on heightened emotions and social outrage, networks may embellish or misrepresent facts of a case in order to arouse pity or resentment. This can spread false information and compromise the fairness of the legal system, particularly in cases where media outlets have a significant impact on public opinion.

The idea of freedom of expression itself is threatened by the unbridled power of media trials, even while it is imperative to preserve the media's function in promoting accountability and openness. It is difficult to strike a compromise between the right to free speech and the right to a fair trial. The media must continue to be aware of their obligation to refrain from reporting in a way that could prejudice a case, as this could jeopardize the basis of democratic justice in addition to violating the rights of the accused. In order to prevent freedom of speech from impairing the justice system's impartiality, it is imperative to evaluate the moral and legal

### **RIGHTS, RESPONSIBILITIES AND LIMITATIONS OF THE MEDIA** **WHILE EXERCISING THE FREEDOM OF SPEECH AND** **EXPRESSION**

A democratic society depends heavily on the media, which serves as a crucial conduit for information sharing and the advancement of public opinion. The Indian Constitution's Article 19(1)(a) guarantees the media the fundamental right to freedom of speech and expression, allowing them to publish, broadcast, and share news, ideas, and opinions without excessive intervention from the government or other authorities. To guarantee that the media serves the public interest while upholding morality, public order, national security, and individual rights, this privilege is nevertheless subject to specific obligations and restrictions.

The freedom of expression, which permits the media to freely print or broadcast news,



opinions, and ideas, is the main component of the media's rights. Subject to some restrictions, this freedom also includes the ability to obtain and disseminate information about public affairs, governmental actions, and social issues. Furthermore, the freedom of the press to critique public leaders, programs, and the government is crucial for encouraging openness and keeping the government accountable to the people.

These privileges come with a lot of obligations. It is the responsibility of the media to make sure that the information they spread is accurate. This duty is essential to stopping the spread of false information, or fake news, which threatens social stability and public confidence. Furthermore, the media should avoid disseminating anything that can instigate violence, hatred, or discrimination on the basis of gender, caste, race, or religion in order to foster societal harmony. Additionally, it has an ethical obligation to follow responsible, fair, and unbiased reporting that protects people's privacy and dignity.

Another restriction that guarantees people's dignity is shielded from unjustified assaults is defamation, which is the publication of untrue comments that damage someone's reputation. Additionally, the media is not allowed to publish anything that could impede the judiciary's ability to function, such as information that could sway ongoing legal processes. Furthermore, unless there is a compelling public interest, content that breaches people's privacy or violates public morals is prohibited.

The fragile balance between press freedom and individual rights has been highlighted by recent court rulings that have had a substantial impact on the media's exercise of freedom of speech and expression in India.

The Supreme Court declared Section 66A of the Information Technology Act, which made offensive internet content illegal, unconstitutional in *Shreya Singhal v. Union of India* (2015) because it infringed upon the basic right to free speech.

In the 2021 case of *Vinod Dua v. Union of India*, the Supreme Court dismissed a formal complaint against journalist Vinod Dua, highlighting the fact that criminal charges shouldn't be brought against journalists just because their works are thought to be critical of the government. The Court reaffirmed that without legislation passed by an appropriate legislative authority, the media's fundamental right to freedom of speech and expression cannot be

restricted. In *Deccan Herald v. Dejo Kappan (2023)*: The Kerala High Court ruled that an individual's right to dignity and reputation under Article 21 must be weighed against the media's right to freedom of speech and expression under Article 19(1)(a). The Court underlined that the media has an obligation to report with accuracy and context, particularly when it comes to criminal investigations and ongoing court cases.

Democracy depends on the freedom of speech and expression of the media, but exercise of this right must be done responsibly. The media must respect public order, national security, and individual rights while also being aware of its limitations, striking a balance between its liberties and its societal obligations.

### **LIMITATIONS AND LEGAL CHALLENGES IN THE MEDIA TRIALS**

Media trials are instances in which the media, often even before the case has been decided by the courts, expresses an opinion regarding the guilt or innocence of those involved in criminal cases through its coverage. Media trials frequently raise serious questions about the impartiality of the legal system, the preservation of people's rights, and the overall effect on the administration of justice, even if the media has the fundamental right to freedom of speech and expression. This can be discussed in the following points of limitations:

1. **Compromise the impartiality of court processes:** When a case receives a lot of media attention, it might sway public opinion and result in a "trial by media." The judiciary may be affected in taking the correct decision. This can result in bias or prejudgment, especially in high-profile instances.
2. **Contempt of court:** The Contempt of Courts Act, 1971, is used to stop publications that compromise the authority, dignity, or impartiality of the court when media coverage goes against the fairness principle. However, this harmony between the judiciary's obligation to guarantee fair trials and the media's right to report has now become challenging.
3. **Invasion of Privacy:** Another issue with media trials is the right to privacy, particularly when the media releases private information, sensitive data, or disparaging remarks about the victims or the accused. The legal problem is striking a balance between protecting individual privacy and the public's right to know..
4. **Legal Recourse for Defamation:** Media outlets frequently broadcast speculative, false, or unconfirmed content that can damage a person's reputation, sometimes permanently.

It is hard to restore reputations after a media trial even if it qualified as defamation under the criminal laws. In order to protect their

5. Sensationalism: The practice of the media manipulating facts or exaggerating details in an effort to garner more attention—often at the expense of truthfulness and responsible reporting—is another crucial problem in media trials.
6. Enforcing ethical media practices: The media outlets must adhere to set rules that encourage responsible reporting and avoid sensationalizing instances for financial advantage. Although the Press Council of India has established ethical guidelines for the media, it is still difficult to make sure that these guidelines are actually implemented.
7. Right to a Fair Trial: Ongoing trial may be hampered by media trials, particularly when reporters cover elements of a case that can compromise witness testimony or evidence. Media attention can sometimes compel law enforcement to take specific actions, which might speed up or divert investigations.

The legal system has several difficulties as a result of media trials, especially when it comes to the presumption of innocence, the right to a fair trial, privacy, defamation, and the possibility of judicial process bias. The media is crucial for educating the public, but it is important to strike a balance between its right to free speech and its duty to protect people's rights. In order to protect the integrity of the legal system and the parties involved, these legal challenges underscore the necessity of increased regulation, media accountability, and adherence to ethical norms.

### **CONCLUSION AND SUGGESTIONS**

It is a difficult and sensitive task to strike a balance between the freedom of speech and expression of the media and the right to a fair trial. By educating the public, holding elected officials responsible, and offering a forum for discussion and debate, the media is vital to a democracy. However, the media runs the risk of compromising the impartiality of legal proceedings and breaching people's fundamental rights when it participates in sensationalism, holds media trials, or biases the judicial process. However, if media freedom is severely curtailed, it may hinder its role in a democracy.

A fair trial, the assumption of innocence, and the defense of individual rights like privacy and dignity must all be weighed against the essential right to freedom of expression guaranteed by Article 19(1)(a) of the Indian Constitution. Since media trials sway public opinion, exert pressure on judges, and obstruct investigations, they may jeopardize the integrity of court



proceedings. The media must maintain its independence while simultaneously acknowledging its moral and legal duties to avoid infringing on the rights of the victims, accused, or other parties.

Media companies must follow ethical reporting guidelines in order to strike a balance between the freedom of speech and the right to a fair trial. In order to avoid sensationalizing ongoing trials or making speculative remarks that could sway public opinion or impede legal proceedings, media outlets must place a high priority on accuracy, fairness, and impartiality. Maintaining ethical journalism requires adherence to professional rules of ethics, such as those set forth by the Press Council of India.

An other crucial component in maintaining equilibrium is judicial supervision. Courts need to be actively involved in keeping an eye on media coverage, particularly in high-profile cases, and step in when it starts to compromise trial fairness. The integrity of court proceedings can be preserved without violating media freedom by prompt judicial reactions to media wrongdoing. Media bias can be lessened and a more educated public conversation can be promoted by educating the public about the value of a fair trial and the workings of the legal system.

Hence, we need to work upon strengthening the media regulations, learning from the international practices and creating a strong awareness among public who blindly help the media to create public narrative, that diverts the court from granting fair trial in many cases.