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AN ANALYTICAL STUDY OF MEDIA TRIAL AND ITS IMPACT ON JUDICIARY AND SOCIETY IN INDIA

AUTHORED BY - AKANKSHA AWASTHI

INTRODUCTION

As a result, every citizen has the freedom to write, talk, and publish. However, they also have responsibility for any misuse of this freedom that is specified by law. There are several ways to grant 'Freedom of Speech and Expression,' but as was previously said, there are some 'reasonable restrictions' that can be placed on this freedom. similar to how "freedom of speech and expression" must be preserved in a democracy. In order to preserve the social order, it is also crucial to impose certain limitations on such freedom.

It is better for the media to stay away from conducting trials that could interfere with a fair trial and instead confine their coverage to neutral information dissemination to the public. The most detrimental component of the procedure occurs when the media extensively covers the subjects being considered and publishes information and viewpoints that clearly prejudice the parties involved in a legal dispute. The judiciary as an institution is capable of conducting fair trials, hence media trials ought to be avoided to prevent interference with the judiciary's operations. There is cause for alarm regarding this 'media trial' situation, and it must be handled. The press shouldn't be allowed to operate in a way that harms people or society as a whole. Since the media should behave responsibly, its freedom—like other freedoms—cannot be unrestricted.

CONCEPT OF MEDIA TRIAL

The term "trial by media" was introduced very recently, and its applicability to a specific aspect of media activism remains debatable. These are frequently characterized as local or national news articles that employ the CJS (Criminal Justice System) to create an exciting and dramatic effect. Both a free press as well as an independent judiciary are important for constitutional democracy.

The reach and scope of the media have greatly increased as a result of the rising popularity of local radio, cable television, and newspapers. Due to our news media organizers' consistently increasing readership and viewership, they currently have an unparalleled influence on popular opinions as well as preferences. The term 'trial by media' is misleading in and of itself. Nothing in the Criminal Procedure Code or the Civil Procedure Code defines 'trial.' A trial is essentially a process that the courts have to adhere to. The media trial is an excessive interference with the way

justice is being administered. Prior to investigating the matter, of whether a media trial is appropriate, it might be prudent to try and define the term 'trial by media'. The term 'trial' refers to any aspect of the judicial system. A fundamental component of any judicial system is the accused's right to a fair trial.

On July 26, 2015, Honorable Justice Kurian Joseph of the SC of India spoke about media trials in ongoing cases at the Bar Council of India Meet in Chennai. Citing the strain this had on the court in the Nirbhaya rape case, he proposed sparing judges from the extreme strain these trials inflict. Please do not attempt cases in the media until they have been settled. Avoid attempting a case in front of the media; judges are human beings with personal struggles. He recounted an experience he had with a case judge who told him that if he had not imposed that sentence, they would have hung him—a reference to the degree of pressure that is created. 'They would have hung me if I hadn't given that punishment; the media had already rendered its judgment, so it's going to be this only,' the judge declared. He went on to say, "It wasn't because the media said it; it was because he (the judge who heard the Nirbhaya case) had reasons to give the punishment."

In *R.K. Anand versus Delhi High Court*¹, The impact of media coverage on the reputation of a person—which can occur even in the absence of a court ruling—was understood by the Honorable Supreme Court as the trial by media. In high-profile cases, it is unlikely that there will be a fair trial because the media is usually accused of inciting mass rage that resembles a lynch mob. This guarantees that the accused will always be seen as guilty and will live his entire life under public scrutiny, even if the trial's verdict is not upheld.

When prominent celebrities are involved, the media's influence can significantly alter how these celebrities' 'fans' see them. One such case is *Rhea Chakraborty versus the State of Bihar, 2020* (the death case of Sushant Singh Rajput), in which the accused brought up the topic of media trials and the media played a significant role.

ROLE OF MEDIA IN DEMOCRATIC SOCIETY

The fundamental principle of 'freedom of the press' is the people's right to information, as the Indian SC made clear. According to the Supreme Court, the press's main duty is to give accurate

¹ SC row: Four dissenting judges attend court, Bar Council says 'issue resolved', India TV (15/01/2024), available at: <https://www.indiatvnews.com/news/india-sc-row-issue-settled-says-ag-kk-venugopal-all-four-judges-attend-court-422248>

and thorough coverage of every facet of the nation's political, social, economic, and cultural life. It can serve as a tool for mobilization and education. It has a major influence on how the public perceives it.

By granting the public access to all information sources, the "freedom of the press" advances the "right to know." It keeps the public informed about all the concerns so that they are prepared to make rational decisions about issues pertaining to society as a whole when the time comes. The two most important components of investigative journalism are: (1) For the reader to understand the subject, it must be widely relevant; and (2) an attempt is being made to keep the truth from the public. In a democracy, the media's job is to encourage openness. The people can voice their opinions on matters of public concern due to the media.

MEDIA TRIALS VS JUDICIARY

In India, media trials are becoming more significant. In certain cases, the media has acted independently and decided against defendants in defiance of their right to a fair trial by a judge. A few very well-known cases that shocked the public and had an effect on the judiciary include the 2010 Jessica Lal case, in which the trial court cleared the accused of all charges, and the media celebrated their efforts to deliver justice to Jessica Lal. In the Priyadarshini Mattoo case from 2006, a law student was sexually assaulted and killed. It was considered that the media trial had an impact on the case's verdict. The media was given praise in the Bijal Joshi rape case and the Nitish Katara murder case, where the culprits would not have been prosecuted if the media had not stepped in. However, the media also identified innocent parties in the Maria Susairaj and Malegaon bomb cases, disregarding the significance of accuracy.

The Delhi HC noted in a suo motu case that the Indian legal system operates very slowly and that, in the interim, there is no effective remedy available to someone who is 'innocent' and is put through a media trial. Consequently, it is uncommon to find someone requesting settlement from a court of law in the form of a 'damages' or 'injunction' in a case of 'trial by media.' In addition, the Court acknowledged that all courts have a primary responsibility to protect people's rights as well as reputations against an unwarranted 'trial by media' by being more attentive and aggressive. The courts have to, in a way, revitalize the 'rule of law.' Protecting citizens from media abuse is crucial, even though it puts more work on the CJS. In the unlikely event that someone is detained on suspicion of committing a crime, the media should refrain from calling them guilty or innocent since that is not their place. The judiciary is responsible for this function. Consequently, the 'trial by media' damages the accused as well as the court's decision because, up until his guilt is established, the accused should always be believed to be innocent.

Not even the judiciary is without problems. Because they are human, judges and other judicial officials cannot be considered to be faultless. Media trials and exposure can also ‘subconsciously influence’ them. Regulations pertaining to media coverage during the course of or pending a trial must therefore be passed.

MEDIA TRIALS VS FREEDOM OF SPEECH AND EXPRESSION

During the debates in the Constituent Assembly, Dr. B. R. Ambedkar stated:

“Press has no special rights which are not to be given or which are not to be exercised by the citizens in his individual capacity. The editor of a press or the manager is merely exercising the right of the expression, and therefore, no special mention is necessary of the freedom of the press.”²

There is no mention of media freedom in Part III of the Indian Constitution. The Indian Constitution makes no such express guarantees on media freedom. Article 19 (1) (a) of the Indian Constitution, which guarantees ‘freedom of speech and expression,’ implies this freedom. Even in the absence of any explicit reference to this principle, Indian courts have never had any trouble upholding media freedom.

MEDIA TRIAL VS. FAIR TRIAL

The UDHR's Article 10 reads as follows. "Everyone has an equal right to a fair and public hearing before an independent and impartial tribunal to determine their rights and obligations regarding any criminal charges that may be brought against them." Article 11 of the UDHR states that every person accused of a crime has the right to be assumed innocent until proven guilty as defined by law in a public trial where he has had all the safeguards required for his defense. The ‘right to a fair trial’ is likewise safeguarded by Articles 14 and 16 of the ‘International Covenant on Civil and Political Rights,’ which is mandatory for all member nations.

MEDIA TRIAL VS. RIGHT TO BE REPRESENTED

Through the media trial, pressure has begun to build on lawyers to refuse to take on accused clients, attempting to force these individuals to go to trial without a defense. Does this not go against natural justice principles? No one has the authority to prevent someone from appearing before the adjudicating court with a lawyer of their choosing and presenting their case. For example, prominent lawyer Ram Jethmalani faced criticism from the public when he chose to represent Manu Sharma, a primary accused in a murder case. CNN-IBN's senior editor referred

² Dr. Ambedkar's Speech in Constituent Assembly Debates, VII, 980.

to Sharma's legal representation as an effort to 'defend the indefensible.' This was but one instance of the campaign against the accused that the media instigated. As is widely known, the state's attorney, in that case, was none other than Gopal Subramaniam, one of the greatest in the nation, whereas Manu's case was handled by a less-than-exceptional attorney.

MEDIAL TRIAL V SUBCONSCIOUS EFFECT OF THE JUDGE

Prejudicing the judges overseeing a specific case is another concerning aspect and one of the main accusations during the "media trial." There are claims that the judges are impacted by the 'media trials,' which is a severe cause for concern. Regarding this topic, the Anglo-Saxon and American perspectives are different. The prevailing opinion holds that media publications do not have the power to influence judges or jurors. On the other hand, there is a chance that judges may be subtly impacted by media content without realizing it, leading some people to believe that judges are influenced by it.

Any publication that aims to corrupt the judge's thoughts ought to be considered contempt of court. Even though the legal system depends on unbiased and capable judges, media trials should be handled carefully since they could have an unconscious effect on the judges. It is impossible to deny the media's ability to shape behavior and the way prejudices and attitudes are formed. According to In Re: P. C. Sen¹⁸, the real risk of biased remarks made in newspapers or by any other mass media is the impression that the court or even witnesses for a litigant might get from such remarks.

Because judges are human, the judicial system is vulnerable to human error and the rational process of judgment can be distorted by the excessive effect of irresponsible language. The practice of "trial by media" was condemned by the Court in Rao Harnarain versus Gumani Ram¹⁹. The Court noted that journalists cannot act as investigators when a case is pending and then attempt to influence the Court. The Indian judiciary has implicitly rejected media influence over judges. The SC stated that the complaint on the trial by the press would have a different foundation. Judges are not influenced by negative press or propaganda. The judiciary has expressed concern about the potential effect of the media on the ongoing trial before a court, but it has not explicitly acknowledged that the media trial had any influence over the judges.

MEDIA TRIAL VS ITS EFFECT ON THE RIGHT TO PRIVACY

The legal concept of privacy acknowledges a person's inherent right to privacy and the right to be left alone. It's normal to view privacy as both a right and a necessity these days. It's the outcome of a culture that's shifting from emphasizing society to the individual and becoming more individualistic.

The UDHR's Article 12 goes as follows. "No one shall be accused of arbitrary attacks on his honor or reputation, or of meddling with his family, home, or privacy." A legal defense against these kinds of assaults or intrusions is something that everyone is entitled to. The SC of India has recognized the "right to privacy" to be a "fundamental right."

Although it is not a distinct fundamental right in India, the right to privacy has been recognized by the constitution. Article 19(2) lists a number of acceptable constraints on the right to freedom of speech and expression, but 'privacy' is not one of them. This discrepancy hasn't stopped the court from interpreting the rights to life under Article 21 and freedom of movement under Article 19(1)(d) in a novel way, thereby defining a constitutional right to privacy.

OBJECTIVE

Objectives will be specified to facilitate the dissertation's overall purpose:

1. To examine the media's function in a democracy.
2. To crucially scrutinize the concept of media trial, its evolution, development and consider its influence on the people as well as the legal system.
3. To assess the restrictions enforced upon the rights of the media
4. To recognize whether or not the media is responsible for its actions; and up to what extent
5. To find a fair equilibrium between the two fundamental rights, the right to a fair trial of an individual v. the freedom of the press.
6. To propose some steps to curtail the tyrannical and prejudicial reporting of cases by media.

HYPOTHESIS OF THE RESEARCH

1. Media is surpassing the limits of its rights and overblowing the relevance of the news for the sake of attracting viewers to watch their particular news channel to increase TRP.
2. Media is interfering in the work of the judiciary just to gain popularity and publicity.

RESEARCH METHODOLOGY

The study is contemporary in nature, as it depends on the facts of study incidents. Research in

this area of law involves the analysis of statutes, international laws, conventions, and domestic laws. The sources of research include both primary & secondary. 'The statutes are the primary sources while the secondary sources are mostly the case laws, books, and articles in print by renowned authors and electronic data made available on the internet by various websites, periodicals, and newspapers.' The methodology for the present research work can be lined up as follows. The study is doctrinal and is based on a variety of primary and secondary sources which include relevant provisions of the legislative enactments of India. The study is flexible enough to draw lessons from the functioning of the international treaties and conventions.

LITERATURE REVIEW

Durga Das Basu, 'Law of Press' LexisNexis India, this book provides an in-depth analysis of the fundamental concepts underlying Press freedom from constitutional, philosophical, and legal perspectives. In light of parallel provisions in Indian, English, and American law, the book discusses not just broad issues like the magnitude of press freedom and the protection of that freedom in India's Constitution, but also the constraints on that freedom. In this book, important concerns in the developing law on privacy, such as "trial by media," "paid news,"

"contempt of court, government secrecy, and protection of journalistic sources," have already been addressed.

Jain, M.P., 'Indian Constitutional Law,' LexisNexis India, the author expands on the freedom to free speech and expression in the Indian Constitution in this book. In addition to discussing the freedom of speech and expression, he also addressed the freedom of the press. After that, the author proceeded to narrate the factors that comprise press liberty limits. In addition, he responded to the question of interference with the presiding over the judicial process. These features of a free press are essential for the researcher to be able to handle the topic of the study in the most optimal manner.

D. S. Chopra and Ram Jethmalani 'Cases and Materials on Media Law', Thomas Reuters, New Delhi, the book's writer have made an effort to present legal precedent and statutes pertaining to the media. They have looked into a variety of cases affecting the freedom of the press and the appropriate limitations that might be placed on that right. The authors also described the rules pertaining to defamation and court contempt, which are the grounds for restricting press freedom. The book features an entire chapter devoted to the topic of 'media trial,' in which numerous cases and the effect of media trials on those cases are addressed in depth.

Juhi P. Pathak 'Introduction to Media Laws and Ethics' Shipra Publications; New Delhi: The author dug into the times gone by of press legislations in India and compared them to those in the US and the UK. The author went on to explore the significance of press freedom as well as the expansion of it. On the other hand, she criticized the media for allegedly eroding constitutional rights like the right to be free from slander, the right to a fair trial, and the right to privacy. The author provided her opinions on constitutional provisions, press freedom, and the law. Because of this, it is now much simpler for the researcher to appreciate the various takings and drawbacks related to press freedom, which will be of great assistance in the process of formulating an adequate conclusion for the study.

M. Neelamalar, 'Media Law and Ethics', Prentice Hall India Learning Private Limited; The author begins with the history of law relating to the media in India, and it goes over the precise constitutional rules that a journalist absolutely needs to be aware of in order to do their job properly. Then she went on to provide an explanation of the meanings of the terms 'rights of intellectual property,' 'libel' and 'freedom of the press.' Further, the author also talks about the provisions of the IPC and the CrPC relevant to the media. Lastly, the author sheds some light on the laws that govern the media as they pertain to women and children. Also, the book has a number of important cases, which gave the investigator a chance to see how different laws and rules worked in real life.

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