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TRIAL BY MEDIA: WHETHER A BOON OR A BANE TO INDIAN JUDICIAL SYSTEM?

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Abstract:

Media trial, the phenomenon where the media extensively covers legal cases, has become a contentious issue in the Indian judicial system. This article examines the impact of media trials on the Indian judiciary, exploring whether they serve as a beneficial force or pose challenges to the administration of justice.

Drawing on a review of case studies and legal precedents, this article analyzes the role of the media in shaping public opinion, influencing legal proceedings, and ensuring accountability in high-profile cases. It delves into the complexities of balancing freedom of speech with the right to a fair trial, considering the ethical and legal implications of media intervention.

Through a comprehensive examination of the Jessica Lal, Priyadarshini Mattoo, and Nitish Katara murder cases, among others, this article evaluates instances where media scrutiny led to positive outcomes, such as reopening cases and securing convictions. However, it also highlights the risks of sensationalism, prejudice, and interference with due process inherent in media trials. Furthermore, this article discusses the legal framework governing media coverage of legal proceedings in India, including relevant laws, court rulings, and ethical guidelines. It explores the challenges faced by the judiciary in mitigating the influence of media sensationalism and ensuring a fair trial for all parties involved.

Ultimately, this article seeks to provide a nuanced understanding of the role of media trials in the Indian judiciary, weighing their potential benefits against their inherent risks. It underscores the importance of responsible journalism, judicial independence, and the protection of fundamental rights in maintaining the integrity of the legal system amidst the media's growing influence.

History of Medial Trail

While the concept of media influencing legal proceedings is not new, its impact has been significant since the era of the printing press and likely earlier. Beyond state-controlled press used for political persecution, this influence encompasses instances where individuals' reputations are heavily impacted by seemingly non-political media coverage.

In the 20th century, notable cases like that of Roscoe 'Fatty' Arbuckle, despite acquittal in court, demonstrate how media scrutiny can devastate careers and reputations. Similarly, parallels exist between such cases and the highly publicized trial of O.J. Simpson, where media coverage often overshadowed legal proceedings.

The Rodney King incident and subsequent trial of involved police officers in the US highlight the power of amateur video footage in shaping public perception and challenging court decisions. The proliferation of video technology poses challenges to the legal system, as such evidence may not always be admissible but can heavily influence public opinion.

Even after a criminal conviction, media scrutiny can persist, impacting perceptions of guilt and influencing sentences. Examples like Myra Hindley and Maxine Carr illustrate how the press can continue to shape public opinion long after legal verdicts are reached.

The media's role in reflecting public sentiment is acknowledged, though printed material typically holds more credibility than informal gossip. However, there's growing scrutiny over the press's responsibility to verify and report accurately on legal proceedings, especially considering its potential to sway public opinion and affect individuals' lives.

Cases like the impeachment trial of U.S. President Bill Clinton and the investigation into biologist Steven Hatfill's alleged terrorist activities demonstrate the media's power to influence public perception and damage reputations, regardless of legal outcomes.

Furthermore, families and supporters of convicted individuals have successfully utilized media attention to reopen cases, as seen in the Stephen Downing case in Derbyshire, where a local newspaper campaign led to a successful appeal and his eventual release after years of imprisonment.

PROVISIONS OF FAIR TRIAL IN INDIA

Political parties possess a constitutional entitlement to a fair trial within the legal system, presided over by an unbiased tribunal, free from the influence of newspaper editorials or societal trends. Yet, what becomes of this entitlement if the press wields language capable of swaying and controlling the judicial process? It's crucial to remember that democracy hinges on principles of fair play and transparency; if these are compromised on weak grounds, the very essence of democracy is jeopardized.

The term 'denial of a fair trial' has been established through authoritative judicial decrees as a protective measure in criminal trials. But what precisely constitutes this concept?

1. It encompasses actions that impede or meddle with the administration of justice concerning an individual facing trial.
2. Publication of prejudicial material that affects public opinion, subsequently influencing the accused, constitutes a denial of a fair trial.
3. When prejudicial publications impact a judge's mindset, subtly guiding the court on how to proceed with the case.

Publishers of such contentious articles cannot justify their actions by claiming that the trial in question is not yet underway or imminent; the law of contempt does not prohibit commentary before legal proceedings commence or after their conclusion.

Article 19(1)(a)¹ of the Indian Constitution guarantees every citizen the right to freedom of speech and expression, encompassing the freedom of the press. To underscore the significance of press freedom, the judiciary has affirmed that freedom of speech and expression includes the dissemination of ideas, safeguarded by the freedom of circulation.²

The matter of 'trial by media' or bias resulting from pre-trial media publications is intricately linked with Article 19(1)(a), which safeguards the fundamental right to freedom of speech and expression. This raises questions about the extent to which this right can be reasonably curtailed under Article 19(2)³ for the purpose of Contempt of Court and upholding due process to protect liberty. Balancing freedom of expression with the need to prevent undue interference with the

¹ INDIA CONST. art. 19, cl. 1(a).

² Romesh Thapper v. State of Madras (1950) AIR 1950 124.

³ INDIA CONST. art. 19, cl. 2.

administration of justice under the Contempt of Courts Act, 1971, is crucial without unduly infringing upon the rights of suspects/accused under Article 21⁴ for a fair trial.

While the Constitution allows for the restriction of freedom of speech and expression for contempt of court purposes, such restrictions must be reasonable and imposed by legislative enactment. Any restriction deemed unreasonable by the courts may be invalidated on the grounds that it is disproportionate to its intended objective.

Section 3 of the Contempt of Courts Act, 1971, limits freedom of speech and expression, including media freedom, if publications interfere with ongoing civil or criminal proceedings. However, Section 3(1) offers protection if the publisher had no reasonable grounds to believe that proceedings were pending. The 200th Law Commission Report highlights concerns over Section 3(2), suggesting it grants overly broad immunity even for publications that interfere with criminal proceedings not yet pending in court.

INTERNATIONAL CONVENTIONS ON FAIR TRIAL

In the international arena, the UN Basic Principles on the Independence of the Judiciary, articulated in Article 6, mandate that the judiciary is empowered and obligated to ensure the fair conduct of judicial proceedings while upholding the rights of all parties involved.⁵ Similar sentiments are echoed in the International Covenant on Civil and Political Rights (ICCPR)⁶, which affirms that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal" in both criminal and civil matters.⁷

Acknowledging that the right to a public trial is subject to limitations, the ICCPR recognizes the necessity of certain restrictions on public access.

Article 19 of the ICCPR⁸ underscores the right to freedom of expression, stating:

1. Every individual has the right to hold opinions without interference.
2. Every individual has the right to freedom of expression, encompassing the freedom to

⁴ INDIA CONST. art. 21.

⁵ UN Basic Principles on the Independence of the Judiciary, G.A. Res.146, U.N. GAOR, 40th Sess(1985) art.6.

⁶ Adopted and opened for signature, ratification and accession by General Assembly Resolution 2200 A (XXI) of 16 December 1966. Entered into force on 23 March 1976 in accordance with article 49.

⁷ INDIA CONST. Art. 14 Cl. 1., ICCPR, (1966) 999 UNTS 171, 1976 Can. T.S. No. 47, in force, including Canada, 1976.

⁸ International Covenant on Civil and Political Rights, art.19 (1966).

seek, receive, and disseminate information and ideas through various mediums without boundaries, including orally, in writing, in print, through art, or any other chosen medium.⁹

This article confirms that freedom of expression, including freedom of the press, is integral to democratic societies.

Under Article 10 of the European Convention on Human Rights¹⁰, to which the UK and other signatories are ethically committed, press freedom is paramount. Any exceptions to this freedom must be deemed "necessary in a democratic society," addressing a "pressing social need," and proportionate to the intended outcome.¹¹

Article 9 of the African Charter on Human and Peoples' Rights also safeguards the right to freedom of expression, affirming:

1. Every individual has the right to receive information.
2. Every individual has the right to express and disseminate their opinions within the confines of the law.

Challenges Associated with Media Trials:

1. Adverse Impact on All Parties Involved: Not only suspects and accused individuals, but also victims and witnesses suffer from excessive media exposure, leading to the invasion of their privacy rights.
2. Pressure on Law Enforcement: Media portrayal often casts a negative light on police officials, affecting their morale. Media reports, sometimes speculative, can hinder ongoing investigations and potentially aid suspects in evading capture. This pressure may compel police to make public statements to safeguard their reputation, sometimes prematurely revealing details that can prejudice a fair trial.
3. Compromised Witness Protection: Media exposure of witness identities can subject them to intimidation from both the accused and law enforcement. This pressure may prompt witnesses to retract their statements, jeopardizing witness protection efforts and raising

⁹ Article 14(1) of the ICCPR provides that "the Press and the public may be excluded from all or part of a trial for reasons of morals, public order (order public) or national security in a democratic society, or when the interests of the private lives of the Parties so requires, or to the extent necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice."

¹⁰ Council of Europe, Convention for the Protection of Human Rights (European Convention on Human Rights). Art. 10,(1953).

¹¹ Article 10 of the European Convention on Human Rights (ECHR).

questions about the reliability of witness testimony.

4. **Challenges During Identification Procedures:** Media dissemination of suspect images can complicate identification procedures, such as identification parades, prescribed under criminal procedure codes.
5. **Media's Parallel Investigations:** Media outlets occasionally conduct independent investigations, prematurely implicating individuals who may be innocent. This premature scrutiny undermines confidence in official investigative processes and may cast doubt on their efficiency.
6. **Issues with Suspect Transportation:** Fierce competition among print and electronic media has led to instances where suspects or accused individuals are swarmed by cameras during transportation to and from court proceedings, impeding law enforcement's ability to manage these transfers discreetly and securely.
7. **Inadequate Response from Regulatory Bodies:** While the Press Council of India issues guidelines and occasionally takes action against media misconduct, its effectiveness is questioned. Apologies, when mandated, may lack sincerity or receive insufficient prominence, undermining their impact.

These challenges underscore the need for greater accountability and responsibility within the media industry to uphold the principles of fair and unbiased reporting while respecting the rights and integrity of all parties involved in legal proceedings.

Precedents in Indian Jurisprudence Regarding Media's Freedom of Speech and Expression

In India, there exists a pressing necessity to strike a delicate balance between the media's freedom of speech and expression and the due process rights of suspects and accused individuals. Key constitutional provisions such as Articles 19(1)(a), 19(2), 21, and 14 play pivotal roles in achieving this equilibrium. The current Contempt of Court Act, 1971, is deemed in need of amendments in light of jurisprudence established by the Supreme Court in landmark cases, notably *A.K. Gopalan vs. Noordeen*¹² and *Maneka Gandhi vs. Union of India*¹³. These judicial decisions have effectively harmonized competing fundamental rights, a consideration overlooked during the enactment of the Contempt of Court Act in 1969. Additionally, international legal precedents, including the *Sunday Times* case adjudicated by the European Court and legislations such as the (UK) Contempt of Court Act, 1981, along with reports from Law Commissions in various countries like Canada, Australia, and New Zealand, have contributed to the discourse on

¹² *A.K. Gopalan vs. Noordeen* 1969 (2) SCC 734 (India).

¹³ *Maneka Gandhi vs. Union of India* AIR 1978 SC 597

balancing fundamental rights.

The Supreme Court, in *Brij Bhushan vs. State of Delhi*¹⁴, unequivocally affirmed that pre-censorship on journalism constitutes an infringement upon the freedom of the press, an integral facet of the right to freedom of speech and expression under Article 19(1)(a). The Constitution should be interpreted liberally, not narrowly, to safeguard fundamental rights without undue restriction. The right to freedom of speech and expression inherently encompasses the right to disseminate ideas, opinions, and views through any available medium of publication, subject to permissible restrictions under Article 19(2). Notably, the landmark case *Romesh Thappar vs. State of Madras* recognized that freedom of speech and expression includes the freedom of propagation of ideas, ensuring freedom of circulation. The Supreme Court, in *Printers (Mysore) Ltd. v. CTO*¹⁵, underscored that while freedom of the press is not expressly guaranteed, it is implicit in the broader freedom of speech and expression, rightly regarded as a cornerstone of democracy.

Furthermore, in *Life Insurance Corporation of India v. Manubhai D Shah*¹⁶, the Supreme Court clarified that "freedom of speech and expression" in Article 19(1)(a) encompasses the right to express convictions and opinions through various mediums, including electronic media.

However, alongside the media's expanded role comes a heightened need for accountability and professionalism in reporting. In a civilized society, no freedom, however invaluable, can be absolute or unlimited in all circumstances. Therefore, the freedom of the media, like any other constitutional freedom, must be exercised within reasonable bounds.

Media Trial and the Right to Privacy

The evolution of civilization is intertwined with the progression towards a society that values privacy¹⁷. As articulated in Article 12 of the Universal Declaration of Human Rights (1948), privacy encompasses protection against arbitrary interference in personal matters and attacks on one's honor and reputation. The concept of privacy acknowledges an individual's right to solitude and the inviolability of personal space, reflecting the shift towards individualism in modern societies.

¹⁴ *Brij Bhushan vs State of Delhi* AIR 1950 SC 129

¹⁵ *Printers (Mysore) Ltd. v. CTO* (1994) 2 SCC 434 (India).

¹⁶ *Life Insurance Corporation of India v. Manubhai D Shah* Printers (1993) AIR1993 SC 171 (India).

¹⁷ Ayn Rand, *For the Soul of an Individualist, The New Intellectual*, (1943).

The right to freedom of speech and expression and the right to privacy are inherently connected, representing two facets of the same principle. While one person's right to information may clash with another's right to privacy, the proliferation of media, particularly electronic media, has underscored the complexities surrounding privacy issues. Media outlets now have the capacity to expose individuals' private lives to public scrutiny, risking intrusion into their personal space and privacy.

In India, although the right to privacy is not explicitly enumerated as a fundamental right, it has gained constitutional recognition. Despite its absence from the list of reasonable restrictions under Article 19(2) concerning freedom of speech and expression, the judiciary has construed a constitutional right to privacy through an expansive interpretation of the right to life under Article 21 and the right to freedom of movement under Article 19(1)(d).

The judiciary's engagement with privacy rights began with the *Kharak Singh vs. State of U.P.*¹⁸ case, where the majority initially rejected the notion of a right to privacy. However, subsequent cases, such as *Govind v. State of M.P.*¹⁹, recognized a limited right to privacy. In cases like *Sheela Barse v. Union of India*²⁰, *Prabha Dutt v. Union of India*²¹, and *State v. Charulata Joshi*²², the Supreme Court addressed privacy concerns regarding journalists' access to prisoners, implicitly affirming the right to privacy by emphasizing the need for consent in such situations.

The media's role in high-profile cases, such as the Aarushi Talwar murder case, has raised significant ethical and legal questions. Media trials often blur the distinction between innocence until proven guilty and guilt beyond reasonable doubt, potentially prejudicing ongoing legal proceedings. The lack of legislation akin to the American practice of sequestering the jury and judge during trials exacerbates these challenges in India.

Media's extensive coverage of legal matters, often termed as 'Janta ki Adalat' (the people's court), not only influences public opinion but also exerts pressure on courts to align their judgments with media narratives. The phenomenon of parallel trials by media undermines judicial independence and compromises the administration of justice.

¹⁸ *Kharak Singh vs. State of U.P.* 1963 AIR 1295 (India).

¹⁹ 1975) 2 SCC 148; 1975 SCC (Cri) 468 (India).

²⁰ (1987) 4 SCC 373.

²¹ *Prabha Dutt v. Union of India* (1982) 1 SCC 1.

²² *State v. Charulata Joshi* (1999) 4 SCC 65 (India).

The media's unchecked power to influence judges through its coverage of sub judice matters poses a significant threat to the impartiality of judicial proceedings. The constant scrutiny and commentary on legal cases create an environment where judges may be inadvertently influenced by media narratives.

In conclusion, while media plays a crucial role in disseminating information, its influence on legal proceedings must be carefully regulated to uphold the principles of fairness and justice. The media's freedom of speech should be exercised responsibly, with due regard for the privacy rights of individuals and the integrity of the judicial process.

Impact of Media Trials on Judicial Proceedings

Headlines like "No one killed Jessica," "Dr. Talwar responsible for murdering daughter Aarushi," and "Sen charged for sedition, Ram Jeth Malani may take his case" are not just news; they represent media narratives embellished with interpretation and exaggeration to boost their ratings. However, the responsibility and accountability of the media to the public come into question.

Apart from sensational cases like these, media coverage of scandals such as the 2G scam, Bofors scam, Commonwealth Games scam, and Harshad Mehta stock market scam also significantly influences public opinion and the legal process. This raises the crucial issue of distinguishing between legitimate regulatory oversight and undue interference with judicial proceedings.

The power of the press is evident in its ability to shape public opinion, as seen in cases like the Jessica Lal and Priyadarshini Mattoo murders. These cases garnered widespread public outrage and protests, prompting media intervention to ensure justice was served. Media scrutiny and public pressure ultimately led to the reopening of the cases and subsequent convictions, demonstrating the positive impact of responsible journalism.

The Jessica Lal murder case serves as a prime example of investigative journalism catalyzing legal change. Despite initial setbacks and witness tampering, media pressure forced a review of the case, resulting in the conviction of the perpetrator. Similarly, in the Priyadarshini Mattoo murder case, media intervention prompted a reevaluation of the verdict, leading to a landmark

reversal by the Delhi High Court.²³

In the Nitish Katara murder case, intense media scrutiny played a crucial role in ensuring justice for the victim. Despite witness retractions and powerful defendants, media attention kept the case in the public eye, ultimately leading to convictions. The victim's mother acknowledged the media's support in her six-year legal battle.

However, the judiciary has cautioned against the pitfalls of media trials. In various rulings, the Supreme Court has warned against the dangers of trial by press, emphasizing the need for judges to guard against external pressure. Media interference during ongoing legal proceedings can undermine the rule of law and jeopardize the presumption of innocence.

In conclusion, while media intervention can sometimes facilitate justice, it must be balanced with respect for legal processes and the rights of the accused. The media's role as a watchdog should be exercised responsibly to prevent miscarriages of justice and uphold the principles of a fair trial.²⁴

Conclusion

In conclusion, the debate surrounding media trials in the Indian judiciary is multifaceted, with arguments for both their beneficial and detrimental impacts. While media scrutiny has undoubtedly played a role in raising awareness, promoting accountability, and fostering public engagement with the legal system, it also presents significant challenges to the principles of fair trial, due process, and judicial impartiality.

The analysis of case studies and legal precedents underscores the need for a balanced approach that upholds both freedom of speech and the right to a fair trial. While media intervention has led to positive outcomes in certain cases, such as reopening investigations and securing convictions, it has also raised concerns about sensationalism, prejudice, and interference with judicial proceedings.

²³ Kathakali Nandi, *Investigative Role Of Media: Responsibility To The Society*, Global Media Journal – Indian Edition/ Summer Issue 2 (2011), p1, available at <http://connection.ebscohost.com/c/articles/71947182/investigative-role-media-responsibility-society>, (last visited on March 12, 2024)

²⁴ State of Maharashtra v. Rajendra Jawanmal Gandhi (1997) 8 SCC 386 (India).

In navigating this complex landscape, it is imperative for the Indian judiciary to uphold the principles of judicial independence, impartiality, and fairness. This requires robust legal frameworks, ethical guidelines, and mechanisms for accountability to mitigate the risks posed by media sensationalism and ensure that justice is administered impartially and transparently.

Moreover, there is a pressing need for responsible journalism that adheres to ethical standards, respects the presumption of innocence, and avoids prejudicing ongoing legal proceedings. Media organizations must recognize their role as guardians of public interest and exercise restraint in their coverage of legal cases, while also fulfilling their duty to inform the public and hold power to account.

Ultimately, the challenge lies in striking a delicate balance between the media's role as a watchdog and its responsibility to uphold the principles of justice and fairness. By fostering dialogue, collaboration, and mutual respect between the media and the judiciary, it is possible to harness the potential of media trials as a force for positive change while safeguarding the integrity of the Indian judicial system.

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