



LAW ET JUSTITIA LAW REVIEW  
VOLUME 1 ISSUE 2

E-MAIL: [contact@lawetjusticia.com](mailto:contact@lawetjusticia.com)

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**PUBLISHER DETAILS**

**ADDRESS:** 3/4476, New Bhagat Singh Colony, Bajoria Marg, Saharanpur, Uttar Pradesh, India. PIN: 247001

**PHONE:** +91 8449591799 | +91 9616151718

**E-MAIL:** [contact@lawetjusticia.com](mailto:contact@lawetjusticia.com)

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**“GLARE OF PUBLICITY OF INDIAN MEDIA: A FAKE FORUM”**

**AUTHOR:** ANIKA JAIN, Student,  
Manipal University, Jaipur

**CO-AUTHOR:** AMISHA CHORDIA, Student,  
Manipal University, Jaipur

Link to paper: <https://www.lawetjusticia.com/volume1-issue2/glare-of-publicity-of-indian-media-a-fake-forum>

Link to Volume 1 Issue 2: <https://www.lawetjusticia.com/volume-1-issue-2>

**ABSTRACT**

Media is often regarded as 4<sup>th</sup> pillar of democracy. Media trial means television, radio, newspaper and social media coverage on a case which is pending before the court of law in away that it harms the reputation of a person, community and religion and creates perception of guilt in the minds of audience irrespective of the verdict of the court. In present times, the media plays an important role in our day to day lives as it keeps us updated about the events happening all around the world from the comfort of our home but this power is sometimes used to promote propaganda which can create or destroy the reputation of a political party, individual, community or religion. Furthermore, as individuals generally rely on media to provide information, sometimes media tend to take advantage of this for money-making business. Therefore, it is necessary to discuss the extent to which article 19 (1) (a) of the constitution of India which guarantees freedom of speech and expression can be exercised so it do not violate the provisions that safeguards the right to fair trial under Contempt of Court Act, 1971, Article 129 and Article 215 of the constitution. Thus, this paper suggests some regulatory steps for reporting of media so that distinction between media trial and informative media is well maintained.

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## **1. INTRODUCTION**

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In present times, the media plays an important role in our day to day lives. It keeps us updated about the events happening all around the world from the comfort of our home. We get all the latest news by simply turning on our television or radio sets or by searching it on the internet. Media not only makes us more aware of the latest news or events but also provides a platform to raise our voice so that we can communicate to a mass audience. Media also helps us to raise our voices against various social issues so that it reaches the concerned authorities.

The media has the power to create and change the opinion of the masses. This power is sometimes used to promote propaganda which can create or destroy the reputation of a political party, individual, community, or religion. Media is so powerful that they can make masses believe what they want them to believe by twisting certain facts or by providing selective information. Media is supposed to be free from biases but sometimes the indirect influence of political leaders on mainstream media results in biasness to promote an agenda. Since media influence the opinion of the society, in a democratic society like India where we the people of India elect our government, media can be used as a tool to create a negative or a positive image of a political party in the minds of the voters. Most media houses these days are more concerned about increasing their advertisement revenues and TRP. To achieve that, they try to sensationalize news so that they can manipulate the emotions of the audience.

Therefore the media can strengthen democracy as well as it can destroy the essence of democracy.

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## **2. IMPACT OF MEDIA TRAIL ON INDIAN LEGAL SYSTEM**

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Media trial is not a new concept, in fact, this term is derived from the case of Roscoe Arbuckle, 1921. Roscoe Arbuckle was an actor, director, and comedian who was accused of rape and manslaughter of actress Virginia Rape. Roscoe Arbuckle was acquitted by the court but the media trail declared him guilty. He lost all his shows and movies and was banned by motion pictures. Though the ban was later lifted, he lost all his reputation and his legacy was destroyed. Similarly in the O.J. Simpson trial case in 1995, over 2000 reporters covered the trial and nineteen television stations covered the trial live impacting the American judicial system.

**LAW ET JUSTICIA LAW REVIEW**  
**VOLUME 1 ISSUE 2**

In Arushi Talwar's case<sup>1</sup>, her body was found dead along with the servant Hemraj. This was a double murder case. In this case, CBI and UP police investigated the case and there was no sufficient evidence to hold someone guilty. Later her parents were accused by media, where media claimed that the reason of her murder was honour killing as she was having an affair with the servant. Media also claimed that she was an adopted child. The court warned the media that it should be responsible while reporting the murder. Afterward, the Talwar's were acquitted by the court. In this case, the media violated the privacy of both the victim and accused. Since the media plays an important role in shaping the opinion of the public in this particular case, the media portrayed circus instead of quality journalism.

Although in the famous Jessica Lal's case<sup>2</sup> Justice was delivered only because of pressure by the media. Media trial in this case helped to overcome the corruption and power of politicians in the judicial system. On 12th April 1999, an actress and model, Jessica Lal was hired as a bartender at Tamarind Court Hotel in Delhi. Her fellow actor Shayan Munshi was also hired at the same hotel. On that day Manu Sharma, a 24-year-old son of Vinod Sharma was present at the hotel along with 300 hundred more people. Vinod Sharma was a Congress party minister at that time. The closing time of the bar was midnight. Manu Sharma tried to order a drink at 2 AM. Jessica Lal told him that the bar was closed so he offered her Rs 1000. She still refused to give him a drink. Then two shots were fired and one of them hit her and she died. Manu Sharma was identified as the culprit as a culprit by witnesses present at the hotel but later they refused to take the responsibility of the same because Manu Sharma was from an influential background. Due to lack of evidence Manu Sharma as others were acquitted. The media and people compelled the prosecution to file an appeal in the Delhi High court. Justice was finally delivered and guilty was sentenced with the life sentence.

In other media interference cases are like the Nitish Katara murder case and Bijal Joshi rape case where justice can't be delivered without the help of media.

We can see the achievement in Tehelka's story where the CBI court pronounced guilty to the past BJP president Bangaru Laxman, in charge of taking money to facilitate the government tenders. It was filmed in a sting operation in 2001.

In Santosh Kumar Singh v. State case<sup>3</sup>, Santosh Singh entered the house with the help of a domestic helper. He raped her after that he choked her with an electric wire. Santosh Singh was the son of the joint commissioner of Police in Delhi. There was enough evidence to punish

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<sup>1</sup> 2013 (82) ACC 303

<sup>2</sup> (2010) 6 SCC 1; (2010) 2 SCC (cri) 1385

<sup>3</sup> (2010) 9 SCC 747

him but the Additional Sessions Judge acquitted him by giving the benefit of doubt. People protested against the judgement then the media also took a major role by playing the victim's father's Chamman Lal Mattoo interview on AIR seeking justice for her daughter. Meanwhile, Santosh Singh got married and started working as a lawyer in Delhi. In the meantime the media was behind him for getting justice for Priyadarshini, the media took out so many flaws in the case so the media forced the court to reopen the case. However, the media helped in this case by finding out the missing person, the domestic helper in this case. CBI also submitted his report on district court judgement. People at large and media both are keeping a close eye that's why the court kept the matter on the fast track. The death sentence was awarded to Santosh Singh later it was converted into Life imprisonment. It was observed that he started his normal life after committing the crime he took the advantage of the weakness in the judiciary. When it is always said that law is blind that's why it is based on evidence not emotion. With the help of the media right justice was delivered –delayed but not denied.

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### **3. MEDIA TRIAL IN PRESENT SCENARIO**

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In the present scenario, it has been seen that the media is biased in high profile cases, when there are staggering charges on a person the media jumps into it and instead of giving a person fair trial in the front judiciary. Media itself gives its decision in public at large which gives a negative impression on people's minds. Nowadays, people consider the media as a public court. They show trust in them and the media can also make a person's character or completely destroy his reputation by making changes in people's perception. Media has done revivification of itself as a public court and has started to intervene into court proceedings through broadcasting the investigation leads into the public domain through print and electronic media which influenced public impression and created a dissenting opinion about a person's fame as shown in the recent Shushant Singh Rajput's case. On June 14th, A famous Bollywood actor Shushant Singh Rajput was found dead in his Bandra flat at Mumbai. After some days Shushant Singh Rajput's father filed a case against his girlfriend Rhea Chakraborty accusing her of abetment of his alleged suicide and cheating. Rajput's sister also claimed that Rhea Chakraborty was into black magic. Unfortunately, this was followed by made up facts, lies, and unauthorised sources of information which news channels shamelessly ran as headlines for TRP and entertainment.<sup>4</sup> The news channel crossed boundaries when they ran inappropriate

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<sup>4</sup>Ayyar, R. V. (2009). *Public Policymaking in India*. Pearson Education India.

headlines against Rhea Chakraborty like what does India have to say about Rhea's lies and displayed her private chats and diary. She was held guilty by media trial without any proper and authorised evidence in the eyes of the public. In this case also, the media violated the privacy of both the victim and accused and portrayed circus instead of quality journalism.<sup>5</sup> Media should use their voices to create awareness about the increasing suicides in India but instead the media is showing news for public entertainment.

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## **4. LEGAL PROVISIONS REGARDING MEDIA TRIAL**

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### **4.1 RIGHT TO FREEDOM OF SPEECH AND EXPRESSION**

Article 19 (1) (a) of the constitution of India guarantees freedom of speech and expression while 19 (2) imposes a reasonable restriction on it. In the case of *Indian Express newspaper v. Union of India*, the Supreme court held that freedom of the press is included in freedom of speech and expression even though it is not specifically mentioned in part III of the constitution of India.

Media is the 4th pillar of democracy which acts as a watchdog and provides all the necessary information about the events happening all over the world from the comfort of home.<sup>6</sup> However, the media exercise the power to prejudice the opinion of society on a matter which is under the trail. It sometimes creates pressure on the judicial system which can diminish the right to free trial. It is pre-assumed that a person is innocent until proven guilty, however excessive media coverage can shape the opinion of society on the matter which is under trial in a way that it can result in biases towards a person, community or religion. Sometimes media covers only one side of the story which can harm the reputation of a person, community or religion.

Sometimes media coverage on a sensitive matter can jeopardize national security and can spread hatred which can cause riots. As media is referred to by the eyes and ears of the general public sometimes society can also create pressure on an advocate not to take a case where the person is deemed guilty by the public without a free and fair trial.<sup>7</sup>

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(n.d.). JudicateMe, <https://judicateme.com/constitutional-validity-of-media-trials/>

<sup>5</sup> Pandey, G. (2020, August 27). Sushant Singh rajput: Rhea Chakraborty on 'media trial' after Bollywood star's death. BBC News, <https://www.bbc.com/news/world-asia-india-53932725>

<sup>6</sup>Media and mobilisation in independent India. (2017). *Political Communication and Mobilisation*, 49-76. <https://doi.org/10.1017/9781108235891.004>

<sup>7</sup>Schroeder, A. (2016). Social media and real-time reactions. *Presidential Debates*, 275-290. <https://doi.org/10.7312/columbia/9780231170574.003.0009>

## **4.2 CONTEMPT OF COURT ACT, 1971**

Freedom of speech and expression guaranteed by the Constitution of India is not absolute as it has some reasonable restrictions which are also stated in the Contempt of Court Act, 1971. Any media broadcasting interferes with the affairs of the administration of justice, and then it results in contempt of court and may only be stopped by putting restrictions. According to section 2(C) of the said act criminal contempt means any declaration by words, spoken or written, or by signs, or by visible representation, of any matter or the doing of an opposite act which interferes in administration of justice in any manner, prejudices any litigation or scandalizes the authority of law in any manner.

As observed in statutes, contempt of court is committed under the cover of fundamental rights i.e. freedom of speech and expression. Media often interfere in the process of administration of justice, therefore, there should be a strict imposition of punishment on the person who commits contempt of court to protect the process of administering the justice.

According to section 3 of the contempt act 1971, if the media publishes anything about the accused before the trial or before framing of charges they are excused. They are not liable for contempt so publishing houses take advantage of the immunity provided by this act and interfere in the accused's right to free and fair trial. Such publications often go unchecked and thus some quite legislative intervention is required.<sup>8</sup>

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## **5. RECOMMENDATIONS AND SOLUTIONS**

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Even though media trials cause a lot of harm in judicial proceedings but it should not be rejected and banned. Instead, the answerability, credibility and authenticity of the report should be increased. The loophole of the legal system is that they have no systematic mechanism for the publication of information about the law. Sometimes, advocates update themselves about law from unprofessional and popular news sources. And thus efforts should be made in the area of legal communication by the Judiciary so that misrepresentation of information does not take place. The Indian Judiciary has taken a step in this regard with online websites (such as 'Indian courts.nic.in') where information on court cases is available. During an ongoing case, it must be ensured that the jurors or the Judge are not leaking any information that hinders judicial

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<sup>8</sup>Rammanohar Reddy, C. (2019). Media in contemporary India. *Business and Politics in India*, 183-208.  
<https://doi.org/10.1093/oso/9780190912468.003.0007>

proceedings. The fines imposed on contempt of court by the media should be increased so that the media acts in a more responsible manner.

Sometimes media trials misrepresents the circumstances of judgment in sensational cases where they interfere with court proceedings. There should be heavy penalties on the media houses which will make sure that they will not do these things again in the future.

Media houses should seriously take their responsibility because they are presenting their point of view to 130 crore people in the country so it should be correct and the answerability and authenticity of reports should be on them.

The print and electronic media are turning heartless and don't care about the emotions of the people. Sometimes the media become violent to get answers on the topic they are covering, they start stalking people and often infringe their private space. Media should not do reporting aggressively and the media should put a full-stop over these types of activities which infringe a person's personal space if still, the media pursue aggressively than it should be liable for a penalty.

If the media has the power of freedom then they are not supposed to infringe on the freedom of other's life and make public those things which are not necessary and maintain the sense of responsibility. The media should not report or publish any news that violates the personal space of a person. Also, the media should refrain from publishing news based on personal opinion and suspicion. News should be verified and if the media publishes any fake news it should be punished for the same.

Also, strict rules should be made regarding the ownership of media houses or the printing press. There should be zero influence of a political party on the media. If media houses or printing press owners are MPs, MLAs, or supporters of a political party their news channels will try to promote their political party and will not show news that may harm their reputation. This biasness sometimes results in violence which should be avoided at all costs.

To limit the media's report is the most common and basic way that is used in all the countries. Countries take approaches like ex-ante regulations, afterward punishment, legislative and judicial ways to restrict violations of a suspect's human rights from reports on crimes under investigation.

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## **6. CONCLUSION**

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From the above paper, it is clear that even though the media is an essential part of our Indian democracy, which works for the greater good of society, the judicial process should not be

**LAW ET JUSTICIA LAW REVIEW**  
**VOLUME 1 ISSUE 2**

hampered by the excessive coverage by the media of a matter which is under trial. We live in a society where we can be brainwashed by the media and its influencers to believe what they are saying is the only truth and they present things in a way that it creates a negative opinion or in some cases media give its judgement before the court. Thus, there is more negative influence of media trials than positive influence.

Free communication of ideas, broadcasting of information and knowledge without restraints, airing of differing viewpoints on a topic, expressing and debating on one shown view is the basic essence of a free and democratic society but in cases of media trial, Justice is often denied by reducing a tragedy into a sensational drama for views. Also, the media's freedom of speech and expression should only be allowed to the extent where it does not violate the basic code of conduct and the right of a fair trial. As individuals generally rely on media to provide information, sometimes media tend to take advantage of this for money-making business. Therefore, it is necessary to frame certain guidelines for reporting of media so that distinction between media trial and informative media is well maintained.

