



Balancing Free Press And Free Trials: Role Of Press In Judicial Proceedings

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Abstract: The media wields significant influence in society. The power of this provision is derived from Article 19(1) of the Constitution, which ensures the fundamental rights of freedom of expression and speech. The responsibility to exercise this privilege prudently is essential, as it serves as the fourth fundamental institution of the state. The weight of this responsibility increases as it possesses the ability to influence public opinion and alter individuals' perception of the justice system. When examining media intervention, we may observe that the issue of unrestrained utilisation of this freedom also affects court proceedings. During the moment of arrest, the media is quick to proclaim the accused as guilty, even in the absence of evidence, and disregarding the principle of presumption of innocence. Therefore, it is imperative to impose acceptable limitations on the media to prevent them from excessively exercising their freedom of speech, and to ensure that they do not exceed their lawful authority. This study aims to thoroughly analyse the function of media in judicial procedures and also to scrutinise the media's excessive interference in subjudice situations.

Keywords: Media, partiality, proceedings, prosecutor, legal reports, Freedom of the Press, Judicial Transparency, Court Reporting, Media Influence, Public Access, Legal Ethics, Confidentiality, Fair Trial, Media Coverage, Judicial Independence

Introduction:

Although Part III of the Indian Constitution does not explicitly mention freedom of the press, the Supreme Court has interpreted that freedom of speech and expression encompasses freedom of the press through several judgements. The media has gained significant importance in a country like India due to its fast evolving socioeconomic conditions, leading to it being referred to as the "fourth pillar." Typically, no one may pass judgement or harm their case until the trial is concluded. However, the media exceeds its scope by providing extensive coverage and publishing interviews with the victim's witness or relative, so biasing the perception of the accused's guilt while the case is still unresolved. This can have an impact on the general public, the public prosecutor, and the mindset of the Court.

According to Article 19(1)(a) of the Constitution, freedom of the press is considered a fundamental right. Additionally, Article 21 of the Constitution, which pertains to the right to life and personal liberty, guarantees the right to a free and fair trial for both accused individuals and civil litigants. Consequently, it is necessary to maintain equilibrium between the two core rights, and it is now imperative for the courts to issue suitable guidelines for reporting items that are under judicial consideration. In the event of a conflict between these two rights of equal importance, the courts are obligated to establish mechanisms that ensure both rights are given equal consideration and protection as mandated by the constitution. The right to privacy is a fundamental, unalienable, and innate right. Article 21 implicitly ensures the right to privacy, which indirectly safeguards the right to life. The media has exceeded its boundaries in providing unbiased reporting, particularly in cases that are still under consideration by the court. Press freedom is an essential component of a functioning democracy, making it impossible to restrict the freedom of the press. Safeguarding the freedom of the press is a shared obligation between the government and journalists. Additional legislative safeguards and protective procedures must be established to ensure the attainment of journalistic freedom. Often, the Supreme Court determined that such media articles would disrupt the operations of the judiciary. In addition, the Supreme Court warned the publisher, editor, and reporter who were responsible for the story that their actions constituted a media trial, which had the potential to harm the reputation of the judiciary and the legal system.

The Relationship Between the Judiciary and Media

The legislature, executive, and judiciary are the three fundamental branches of a state, with the media often referred to as the fourth estate. It is an institution that possesses significant power and influence and is therefore responsible for its actions. The media is widely acknowledged as the most effective means for the public to get knowledge about the judicial process. This can be done through written means, such as in the context of newspapers. Television, recorded videotapes, and radio are essential forms of media that operate at specific frequencies. These media outlets cater to a diverse range of anonymous viewers with varying interests. Some individuals are interested in the case for their personal research, while others are interested in assessing the legal systems of a specific country.

The court proceedings typically garner significant public interest as individuals seek to stay informed about the advancement of the case. Amid these issues, the media plays a crucial role by disseminating information about court proceedings and public opinions on the judge's ruling. The media frequently exert influence over the audience's perception of a certain subject. The media will analyse the bias of the approach to the issue and highlight the unimportant aspects and unachieved justice, which could potentially generate negative emotions among the public against the legal procedure.

Several problems have arisen from the debate on whether to promote both television and electronic broadcasting of the court sessions. The objective of the discussion is to achieve a harmonious equilibrium between the public's ability to obtain information about this court case and the potential negative consequences it may have on the proceedings within the courtroom. Some of the growing challenges encompass democracy, democratic principles, openness, due process, separation of powers, education, security, and integrity in court procedures.

These concerns indicate that both opponents and proponents presented their reasons and justifications. Proponents assert that the media will facilitate convenient public access to the lawsuit. They assert that it is constitutionally permissible to provide a just trial to every individual, including the right to appeal. Considering this, it is imperative to ensure that judicial hearings are accessible to the general public. This can only be accomplished if the press is granted the freedom to gather and disseminate information through diverse media outlets. In addition, there are some who argue that open processes not only ensure fair trials but also contribute to the advancement of democracy in society. Adversaries possess a series of reservations regarding the dissemination of the judicial proceedings. Court proceedings advertising has the potential to raise several rights concerns that could impact the privacy of certain circumstances.

The phrase "media trial" has gained popularity as a way to describe a specific aspect of media activism. "It refers to the influence of television and newspaper coverage on a person's reputation, which can create a widely held belief of guilt regardless of any official verdict from the Court of Justice." On high-profile court cases, the media frequently create an atmosphere of public excitement akin to a lynch mob. This not only prevents a fair trial from taking place but also ensures that regardless of the trial's outcome, the accused is already considered guilty and cannot live the rest of their life without intense public scrutiny. The media does not possess the legal authority to preside over a trial in any judicial system. The trial is fundamentally a judicial procedure that is intricately connected to the administration of justice. Ensuring that the accused is granted a fair trial is an indispensable element of every legal system.

Media trials in India have reached significant magnitudes. Media outlets have frequently been accused of prematurely conducting the trial of individuals and issuing a "verdict" before the court has made its official judgement. If there is no active media, the pleas of the victims in the Manoj-Babli honour killing case in Haryana may go unnoticed. The persistence of this barbarous ritual was enabled by the fear of khap, as well as the support of law enforcement and politicians, until it was exposed to the global audience through the media. The media and press played a crucial role in bringing some high-profile cases, such as the Arushi Murder Case, Jessica Lal Murder Case, Ruchika Girhotra Case, and the controversies surrounding the IPL Row, to the attention of the public. Undoubtedly, this may be seen as a highly favourable and appreciated action on the part of the media.

From a different perspective, the act of reporting by the press can generate both sensationalism and unwanted advertising simultaneously. Occasionally, journalists may have a poor comprehension of the legal system, leading to inadequate or incorrect reporting. This cannot be regarded as a public service. Concurrent trials can also have an impact on the mental state of individuals who may observe the case at a later time. During the entire legal process, it is imperative for the media to guarantee impartial and precise coverage, both during the investigative phase, in court sessions, and ultimately when the judgement or order is delivered. This is a significant issue since it is frequently seen that reports often misquote statements made by investigators or fail to provide the necessary context when quoting exchanges between judges and lawyers in the courtroom. This press action significantly affects the credibility of the judiciary.

In certain instances, it is imperative to safeguard the anonymity and confidentiality of individuals. Generally, legal proceedings should be transparent to public observation, however there are exceptions. Judicial procedures should generally be subject to examination, but there may be certain extraordinary circumstances when this scrutiny must be limited. For instance, the identities of victims of sexual offences should not be revealed. Moreover, our procedural regulations empower judges in closed-door hearings to issue orders in cases involving family-related disputes and rape prosecutions, with the aim of safeguarding victims and witnesses against unwarranted coercion. Advertising for legal procedures is not always definitive. Several legislations impose limitations or grant authority to the court to regulate, allow, or make public specific proceedings held before the court. Below are some of the specific statutory prohibitions. Section 228A of the Indian Penal Code, introduced by the Criminal Law Amendment Act, 1983, pertains to the disclosure of the name of a victim of specific sexual offences or any information related to court proceedings concerning such offences, without the court's authorization.

(a) Section 53 of the Indian Divorce Act, 1869 allows for the possibility of conducting the full or a portion of the procedures under the Act in private, depending on specific circumstances. Contrary to its title, this Act does not encompass the entirety of Indian divorce law. Instead, it specifically focuses on marital cases involving individuals who are teachers of the Christian religion.

- Section 14 of the Official Secrets Act, 1923 allows a court conducting a trial under the Act to prohibit the public from attending the proceedings if it is determined that the disclosure of any evidence or statement during the trial would harm the public. However, it is imperative that the court's verdict be pronounced in a public setting. "
- According to Section 33 of the Special Marriage Act, 1954, hearings under the Act are usually conducted privately (in camera) if either party requests it or if the District Court deems it necessary.
- Section 43 of the Parsi Marriage and Divorce Act, 1936, stipulates that a suit filed under the Act can be tried in private if either party desires it.
- Section 22 of the Hindu Marriage Act, 1955 states that a court proceeding under this Act can be conducted privately if either party requests it or if the court deems it appropriate. It is illegal for anyone to print or publish any information

about such a proceeding without prior permission from the court. According to subsection (2), anybody who prints or publishes any material in violation of the conditions stated in subsection (1) would be subject to a fine of up to one thousand rupees. (g) Section 17 of the Monopolies and Restrictive Trade Practices Act, 1969, states that although hearings before a commission established under the Act are generally open to the public, the Commission has the authority to hold private hearings and determine who may attend if it deems it necessary due to certain circumstances.

The preservation of confidentiality regarding any offence, subject, or proceedings is of utmost importance. These are some of the statutes that ban the publication of judicial proceedings.

The primary issue is the requirement for regulation of sub-judicial reporting. Specifically, criminal cases often present images as evidence, replicate genuine scenarios in a fictional manner, and make assumptions without conducting comprehensive verification, as exemplified by the Aarushi murder probe. The Supreme Court acknowledged this issue several years ago and noted it in the case of Saibal Kumar Gupta v. B.K. It would be inappropriate for a newspaper to deliberately and consistently carry out an impartial investigation into a crime for which a person has been arrested and then publish the findings of that investigation. The reason for this is to prevent the occurrence of media trials, which can interfere with the proceedings of a legitimate court of law. The rationale for this perspective is that when a newspaper takes such action, it has a tendency to disrupt the legal process, regardless of whether the inquiry is biased against the accused or the prosecution.

Indeed, it is a fact that every judicial officer fulfils their responsibility by ensuring that their judgement remains unaffected by other influences, such as information they have encountered outside the courtroom or from media sources. They are committed to not allowing themselves to be knowingly influenced by the media in any manner. Simultaneously, it is important to bear in mind and acknowledge that judges are not exempt from imperfections. Simultaneously, it is important to acknowledge that judges are not exempt from imperfections. It is susceptible to being influenced. Judicial independence is contingent upon the courts' ability to apply the law without being influenced by public sentiment.

In the case of John D. Pennekamp v. the State of Florida, it was noted that a judge of high calibre is unlikely to be consciously influenced by anything other than what is witnessed or heard in the courtroom, as well as what is relevant to their judicial reasoning. Nevertheless, judges, being human, are aware of the profound influence of the unconscious mind and the potential pitfalls of the rational decision-making process... Considering that Judges, despite their strong determination, are human beings, it is important to avoid making the already challenging duty of dispensing justice unnecessarily onerous due to irresponsible printing.

Upon thorough examination, the verdict in the case of Reliance Petrochemicals v. Proprietor of Indian Express, in conjunction with the judgement of P.C., reveals certain insights. The Supreme Court has acknowledged that judges are susceptible to being "subconsciously influenced" by media exposure. The notion of open and public legal processes has been in place for a significant period of time. Nevertheless, the law acknowledges the need to restrict the coverage of legal proceedings in order to uphold justice or safeguard individual rights. This may involve delaying court reporting, withholding the names of specific parties, or imposing restrictions on the type of evidence that can be reported. Additionally, there exist a multitude of diverse regulations that impose limitations on the dissemination of information regarding court procedures. Many people can empathise with child identification and sexual offence victims. Typically, courts would issue an order prohibiting the identification of youngsters involved in legal procedures or who serve as witnesses and are also victims of sexual offences. Given the complexity of this legal field and its early stage of development, it is imperative to get legal counsel before obtaining and disclosing specific information for publication. However, the media often violates reporting limits, which becomes a criminal offence.

The primary legal recourse to address biased reporting on subjects under judicial consideration is through the authority of Judges to impose penalties for contempt. According to Article 19(2) of the Constitution, the court has the authority to impose reasonable limitations on freedom of speech. The Contempt of Courts Act of 1971 grants judges the authority to impose penalties for criminal contempt in cases involving the scandalization of the court, acts of prejudice, and obstruction of justice. Additionally, the legislation empowers judges to take action against harmful reporting. It is crucial to note that the contempt powers provided by this act are intended as a punitive measure rather than a preventive measure. Courts have the authority to bring legal action against journalists and establishments for engaging in irresponsible reporting. However, they do not have the power to reverse the negative consequences of such reporting. Simultaneously, the media has consistently contended that certain judges may abuse their authority of contempt in order to deflect personal criticism. The exercise of contempt powers has been argued to detrimentally affect the freedom of expression. Civil contempt is a legal tool employed in various circumstances to guarantee compliance with court directions and decisions. Similarly, the authority of criminal contempt is employed solely where the character of media coverage is deemed to have or is likely to impact the impartiality of judges. Within our legal framework, the courts lack the power to enforce pre-existing limitations on the dissemination of harmful content while court procedures are ongoing. In our nation, the utilisation of legal measures such as injunction orders and delay orders is infrequent when it comes to media reporting.

The 200th Report of the Law Commission addresses a significant issue about the lack of clarity under the Contempt of Courts Act of 1971 regarding the specific point at which a subject can be regarded sub-judice for the purpose of utilising the power of contempt. It would be beneficial to have clear and definite legislation regarding this matter, as it would

enable media sources to effectively control their coverage when a particular limit is exceeded. According to current legislation, the case officially begins when the court becomes actively involved, specifically when a charge sheet or challan is filed under section 173 of the Criminal Procedure Code. Prior to reaching such a level, however, any detrimental publication does not fall under the jurisdiction of the authority to penalise for contempt.

The Supreme Court has issued a ruling on this matter in the case of A.K. In the case of *Gopalan v. Noordeen*, it was contended that the initiation of criminal proceedings cannot be based solely on the filing of a First Information Report (FIR). Furthermore, it was maintained that any communication made during this stage could not be seen as an act of interfering with or impeding the legal process. According to the ruling, criminal proceedings commence at the moment of arrest. Therefore, it might be argued that the power of contempt should be employed to address prejudiced reporting occurring after the arrest. Nevertheless, this approach will only have a restricted scope and will not be beneficial in civil proceedings where arrests are few.

The orders and judgements of the Supreme Court, as well as those of several high courts and some district courts, are currently accessible on a user-friendly website. JUDIS, also known as the Court Information System, is a computerised system that provides information related to court proceedings. The e-courts initiative is currently developing plans to enhance accessibility to court and tribunal orders and judgements across all levels. Furthermore, there is a persistent advocacy for the integration of technology in the courtroom, including the implementation of audiovisual recording of statements and the establishment of video archives for later consultation by judges, scholars, and journalists. Nevertheless, it is imperative that we remain cognizant of the future implications of technology. For instance, it would not be suitable to broadcast judicial proceedings in a way that resembles those of the legislature, as this could violate the parties' rights to uphold their privacy and get a just trial.

It is imperative for the media agencies that hold significant power and influence to actively endorse and prioritise the implementation of ethical norms in their coverage of judicial matters, while also promoting good practices in news gathering. India's Press Council and Editors Guild have formulated guidelines that focus on key aspects such as fact-checking and verification prior to reporting, refraining from sensationalism, and abstaining from commenting on matters that are under judicial consideration. In the case of *Lohia v. State of W.B.*, the Supreme Court cautioned the media against engaging in public proceedings while the issue is still under consideration by the court. If there is no immediate legislative action, the courts can assume the responsibility of establishing norms for reporting on matters that are under judicial consideration.

Undoubtedly, one method to guarantee a just trial is by providing publicity. In the presence of advertising, the court would exercise caution to ensure impartiality, fairness, and adherence to the law. It is widely acknowledged that the media surrounding criminal cases can potentially bias the trial, leading to the development of hostile sentiments among the public. This might intentionally or unconsciously create pressure on the judge as well. The extensive media coverage can also deter witnesses from appearing in court or from providing truthful testimony on some occasions. It has the potential to impact an inquiry that is conducted in a manner that is fair, equitable, and based on accurate information. The same applies to publicising throughout the pre-trial or investigative phase.

Conclusion :

While the media is considered an important part of Indian democracy and has the right to freedom of speech and expression under Article 19(1)(a) of the Constitution, it cannot disregard its responsibility when it comes to influencing trials. It is necessary to enact legislation to regulate the unchecked power of the media. In contrast to the American Constitution, the Indian Constitution grants extensive authority to limit and regulate media influence, as stated in Article 19(2). The court has recently established standards for the formulation of sub-judice matters, which refer to cases now under consideration by the courts. Without a legal framework, there would be consequences imposed on journalists who make mistakes.

In order to successfully address excessive media coverage, it is necessary to employ suitable methods of control and self-regulation. This will help maintain a balance between the two fundamental rights involved. Individuals who break the established code of behaviour should be subjected to punishment under the 1971 Contempt of Court Act. To summarise, it is imperative to restrict the interference of Indian media and press in the judicial process. Allowing regulated media coverage of cases is a highly favourable proposal, particularly when the media's motives are driven by financial gain and sensationalism. The media should function as a facilitator rather than taking sides for any particular party.

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