

Media Trial and Right to Fair Trail: A Critical Study Under Indian Jurisprudence

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Abstract

Media plays a vital role in a democratic society by promoting transparency, accountability, and dissemination of information to the public. Freedom of speech and expression, including freedom of press, is guaranteed under Article 19(1)(a) of the Constitution of India and is regarded as one of the fundamental pillars of democracy. However, with the rapid growth of electronic and digital media, the phenomenon of “media trial” has emerged as a serious challenge to the administration of justice and protection of fair trial rights. Media trials frequently involve extensive publicity, sensational reporting, and public discussions regarding pending criminal matters, which often create prejudice against accused persons before judicial determination by courts of law. This paper examines the jurisprudential aspects of media trial and fair trial from both philosophical and constitutional perspectives. The study primarily focuses upon Natural Law Theory and Positivist Theory and their relevance in regulating media activities. Natural Law Theory emphasizes justice, fairness, morality, equity, human dignity, and presumption of innocence, whereas Positivist Theory emphasizes sovereign authority, legal obligation, constitutional regulation, and enforcement of law. The paper further discusses the principles of natural justice, namely Audi Alteram Partem and Nemo Judex in Causa Sua, and explains how prejudicial media reporting may violate these principles by interfering with impartial judicial proceedings. The paper also analyses the constitutional framework relating to freedom of speech and fair trial under Articles 19 and 21 of the Constitution of India. While Article 19(1)(a) guarantees freedom of speech and expression, Article 19(2) permits reasonable restrictions in the interests of public order, contempt of court, defamation, decency, morality, and security of the State. Similarly, Article 21 guarantees the right to life and personal liberty, which includes the right to fair trial and protection of human dignity. The study further highlights the role of judiciary in balancing media freedom with judicial fairness through constitutional interpretation, contempt jurisdiction, and protection of fair trial rights. Therefore, responsible journalism, ethical reporting, judicial safeguards, and constitutional regulation are necessary for maintaining a balance between freedom of press and administration of justice.

Keywords: Freedom of speech and expression, media trial, Fair Trail, Natural Law Theory, Positivist Theory.

1. Introduction

Freedom of speech and expression is one of the most fundamental pillars of a democratic society¹. It enables individuals to express their thoughts, opinions, and ideas freely and ensures the continuous flow of information necessary for informed public participation in governance. In a democracy, this freedom is essential not only for individual development but also for maintaining transparency, accountability, and responsiveness in public institutions.

The media, often described as the “fourth pillar of democracy,”² plays a crucial role in this framework. It acts as a bridge between the government and the public by disseminating information, highlighting issues of public importance, exposing corruption and maladministration, and ensuring that those in power remain accountable. Through newspapers, television, radio, and increasingly digital and social media platforms, the media has become a powerful tool in shaping public opinion and strengthening democratic discourse. In India, the right to freedom of speech and expression is guaranteed under Article 19(1)(a) of the Constitution³. Although the freedom of the press is not explicitly mentioned, the judiciary has consistently interpreted it as an integral part of this constitutional right⁴. However, this freedom is not absolute. Article 19(2) imposes reasonable restrictions on its exercise in the interests of the sovereignty and integrity of India, security of the State, public order, decency, morality, contempt of court, defamation, and incitement to an offence⁵. These limitations are intended to ensure that the exercise of free expression does not harm broader societal and constitutional interests.

Alongside this, the Constitution also guarantees the right to life and personal liberty under Article 21, which the judiciary has interpreted to include the right to a fair trial⁶. A fair trial is a cornerstone of criminal justice and is based on the principle that every accused person is presumed innocent until proven guilty by a competent court. It requires that judicial decisions be made solely on the basis of evidence presented in court, free from external influence, bias, or public pressure.

In recent times, the concept of “media trial” has emerged as a serious concern within the Indian legal system⁷. Media trial refers to situations where media organizations conduct parallel investigations or public discussions of ongoing criminal cases, often presenting suspects as guilty even before the courts deliver a verdict⁸. Such reporting may include sensational headlines, speculative commentary, leaked or unverified information, and repeated public debates that shape public perception in a manner that can prejudice the accused.

The expansion of electronic media and the rapid growth of digital platforms have further intensified this phenomenon⁹. In the competitive environment driven by Television Rating Points (TRPs), online engagement, and readership numbers, media outlets may sometimes prioritize sensationalism over responsible reporting. This has led to situations where media coverage appears to resemble a parallel judicial process, influencing public sentiment and potentially affecting witnesses, investigators, and even the fairness of the trial itself.

¹ Universal Declaration of Human Rights, 1948, Art. 19.

² Edmund Burke is traditionally credited with referring to the press as the “Fourth Estate” or “fourth pillar of democracy.”

³ Constitution of India, Art. 19(1)(a).

⁴ *Indian Express Newspapers v. Union of India*, (1985) 1 SCC 641

⁵ Constitution of India, Art. 19(2).

⁶ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁷ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 SCC 603

⁸ Dr. S. R. Myneni, *Media Law* (Asia Law House, Hyderabad, 2018).

⁹ Justice Markandey Katju, “Trial by Media: Freedom of Speech vs. Fair Trial,” *The Hindu* (2011).

This situation creates a significant constitutional tension between two important values: the freedom of speech and expression and the right to a fair trial¹⁰. While media freedom is essential for democracy and accountability, it must operate within limits so that it does not interfere with the administration of justice or undermine the dignity of courts. Excessive or prejudicial reporting may even raise issues of contempt of court and can obstruct the proper course of justice.

From a jurisprudential perspective, this issue raises important questions about the relationship between law, morality, justice, and social responsibility¹¹. Natural law theory emphasizes fairness, justice, and the protection of human dignity, suggesting that media practices should align with ethical standards. On the other hand, positivist theory focuses on adherence to established legal rules and institutional authority, highlighting the importance of legal regulation of media conduct. These perspectives together help in understanding the balance between legal freedom and ethical responsibility in journalism.

The judiciary in India has repeatedly addressed concerns related to media trials¹². Courts have acknowledged the vital role of the media in ensuring transparency and public awareness but have also cautioned against reporting that interferes with the administration of justice. In various judgments, the Supreme Court and High Courts have emphasized that media freedom must be balanced with the right to a fair trial and that sensational or prejudicial reporting must not influence judicial proceedings¹³.

In this context, there is a growing need to develop a balanced and well-regulated framework that protects both democratic freedoms and judicial integrity. The present study, therefore, examines the constitutional and jurisprudential dimensions of media trials in India, focusing on the scope of freedom of speech and expression, the importance of fair trial rights under Article 21, and the legal restrictions under Article 19(2). It also evaluates the ethical responsibilities of the media, the impact of media intervention on judicial processes, and the role of judicial oversight in maintaining fairness and justice¹⁴.

Ultimately, the issue requires a careful balancing approach that upholds freedom of expression while ensuring that the administration of justice remains fair, impartial, and free from external influence, thereby strengthening the rule of law in a democratic society¹⁵.

2. CONCEPT OF MEDIA TRIAL

Media trial refers to the practice whereby media organizations such as newspapers, television channels, online news portals, and social media platforms report and discuss criminal cases in a manner that influences public opinion regarding the guilt or innocence of an accused person before the court delivers its judgment¹⁶. In many high-profile cases, extensive media coverage creates a parallel trial outside the courtroom, where the accused is often portrayed as guilty even before the judicial process is completed. The growing influence of electronic and digital media has significantly increased the impact of media trials. Television debates, sensational headlines, leaked investigation details, and social media discussions frequently shape public perception and create pressure on investigating agencies and courts. While media

¹⁰ Constitution of India, Arts. 19(1)(a), 19(2), and 21.

¹¹ H.L.A. Hart, *The Concept of Law* (Oxford University Press, 1961); Thomas Aquinas, *Summa Theologica*.

¹² *R.K. Anand v. Registrar, Delhi High Court*, (2009) 8 SCC 106; *Manu Sharma v. State (NCT of Delhi)*, (2010) 6 SCC 1.

¹³ *Supra* 7

¹⁴ *Supra* 10

¹⁵ *A.K. Gopalan v. State of Madras*, A.I.R. 1950 S.C. 27 (India)

¹⁶ *Supra* 12

plays an important role in spreading awareness and promoting transparency, excessive or irresponsible reporting may interfere with the administration of justice¹⁷.

Media trial may include public discussion of pending cases, publication of confessional statements, character assassination of the accused, speculative and biased reporting, sensationalized television debates, and dissemination of unverified information¹⁸.

Such practices may violate the fundamental principle of criminal jurisprudence that every accused person is presumed innocent until proven guilty. Media reporting that prejudices the accused can adversely affect the right to fair trial guaranteed under Article 21 of the Constitution of India¹⁹.

At the same time, investigative journalism remains an essential part of democracy because it exposes corruption, abuse of power, and failures in governance. Therefore, the real challenge lies in maintaining a balance between freedom of speech and expression under Article 19(1)(a) and the right to fair trial under Article 21. Responsible journalism and ethical reporting are necessary to ensure that media freedom does not obstruct judicial fairness and the administration of justice²⁰.

3. JURISPRUDENTIAL ASPECT OF MEDIA TRIAL

3.1 Natural Law Theory and Media Trial

Natural Law Theory occupies a central place in jurisprudence because it connects law with morality, justice, and ethical conduct. In the context of media trial, Natural Law Theory becomes highly significant as it provides moral and philosophical limitations upon the exercise of media freedom. According to the uploaded chapter, natural law is founded upon morality, justice, equity, good conscience, and fairness²¹.

The fundamental idea behind Natural Law Theory is that law is not merely a command of the sovereign but a system guided by universal moral principles. These principles are derived from reason, human conscience, and the inherent dignity of human beings. Therefore, every legal institution, including the media, must function within ethical and moral boundaries²².

There are several principles associated with Natural Law Theory, namely:

- Justice;
- Equity;
- Reasonableness;
- Good conscience;
- Presumption of innocence until proven guilty.

These principles form the moral foundation of modern constitutional democracies and are directly connected with the concept of fair trial.

3.2 Justice and Media Trial

Justice is the primary objective of every legal system. Under Natural Law Theory, justice means fairness, impartiality, and protection of individual rights. Media trial becomes problematic when media

¹⁷ Supra 7

¹⁸ Supra 7

¹⁹ Maneka Gandhi v. Union of India, (1978) 1 S.C.C. 248

²⁰ R. Rajagopal v. State of T.N., (1994) 6 S.C.C. 632

²¹ J.M. FINNIS, NATURAL LAW AND NATURAL RIGHTS 23–30 (1980) (Oxford Univ. Press)

²² A.D.M. Jabalpur v. Shivkant Shukla, (1976) 2 S.C.C. 521

organizations conduct parallel investigations and pronounce an accused person guilty before the judiciary delivers its verdict²³.

Such reporting undermines the administration of justice because it prejudices public opinion, creates social hostility against the accused, exerts indirect pressure on judges, and can cause permanent damage to the reputation of individuals²⁴.

Natural law philosophers believe that no person should be condemned without due process of law. Therefore, media houses must avoid sensational reporting that interferes with judicial proceedings²⁵.

3.3 Equity and Fairness

Equity means fairness in legal treatment and balancing competing interests. The principle of equity requires that every accused person receive equal opportunity to defend himself before an impartial court²⁶. Media trial often destroys this balance because excessive publicity creates an unequal environment where the accused is socially punished before legal adjudication. Under Natural Law Theory, such conduct is contrary to fairness and violates equitable justice²⁷.

3.4 Reasonableness and Media Freedom

Natural Law Theory recognizes freedom of speech and expression but insists that freedom must be exercised reasonably. The chapter explains that natural law principles are connected with reasonableness and good conscience²⁸.

Freedom of press cannot become absolute because unrestricted freedom may harm social order and judicial integrity²⁹.

3.5 Good Conscience and Ethical Journalism

The doctrine of good conscience requires individuals and institutions to act honestly, ethically, and responsibly. Journalism, being a socially responsible profession, carries moral obligations toward society³⁰.

Natural Law Theory expects journalists to verify facts carefully, avoid sensationalism, respect human dignity, protect constitutional values, and promote truth rather than publicity³¹.

Where media organizations prioritize commercial gain over ethical responsibility, they violate the principles of good conscience and natural justice.

3.6 Presumption of Innocence Until Proven Guilty

One of the most important natural law principles discussed in the chapter is the presumption of innocence until proven guilty.

This principle means that every accused person must be treated as innocent unless guilt is established by a competent court through due process of law. It is an essential component of Article 21 and the right to fair trial.

²³ Supra 7

²⁴ Supra 20

²⁵ Supra 19

²⁶ Supra 21

²⁷ *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 S.C.C. 158

²⁸ *Sakal Papers (P) Ltd. v. Union of India*, A.I.R. 1962 S.C. 305 (India).

²⁹ Supra 7

³⁰ Supra 21

³¹ Supra 20

Media trials directly threaten this principle because media channels frequently conduct public debates that portray the accused as guilty, publish prejudicial narratives, reveal selective evidence, and create strong emotional pressure on the public. As a result, the accused may suffer social humiliation, loss of reputation, mental harassment, violation of privacy, and a denial of impartial justice³².

Natural Law Theory strongly condemns such conduct because punishment before conviction violates both morality and justice.

3.7 Human Dignity and Fundamental Rights

Natural Law Theory considers human dignity to be supreme, and the chapter explains that natural law principles form the foundation of fundamental rights such as liberty, equality, justice, and freedom of the press.

The dignity of an accused person cannot be sacrificed merely to satisfy public curiosity or increase media ratings. Even a person accused of a serious offence retains constitutional and human rights.

4. PRINCIPLES OF NATURAL JUSTICE AND MEDIA TRIAL

The principles of natural justice constitute the foundation of every fair legal system. These principles are not merely procedural rules but are deeply rooted in jurisprudential philosophy and the idea of fairness. In the context of media trials, natural justice becomes highly relevant because excessive media intervention may prejudice judicial proceedings and compromise impartial adjudication³³.

The two primary principles of natural justice are:

4.1 Nemo Judex in Causa Sua

This Latin maxim means “*no person shall be a judge in his own cause.*” It emphasizes the requirement of impartiality in judicial decision-making. A judge must remain unbiased and free from external pressure while deciding a case³⁴.

Media trials often violate this principle indirectly by creating an atmosphere of public outrage and emotional pressure. Continuous sensational reporting may influence public opinion so strongly that even judicial authorities may face indirect social or political pressure. In highly publicized criminal cases, media channels frequently conduct debates, present speculative evidence, and portray accused persons as criminals before the court reaches a conclusion. Such actions disturb the neutrality required in judicial proceedings³⁵.

For example, television discussions, social media campaigns, and public narratives can create a “collective judgment” before the actual trial begins. This weakens the independence of the judiciary and undermines the objective evaluation of evidence³⁶.

4.2 Audi Alteram Partem

This principle means “*hear the other side*” or “*no person should be condemned unheard.*” It guarantees every accused individual the right to defend themselves before punishment or condemnation³⁷.

³² State of Maharashtra v. Rajendra Jawanmal Gandhi, (1997) 8 S.C.C. 386

³³ State of Punjab v. Gurmit Singh, (1996) 2 S.C.C. 384 (India)

³⁴ A.K. Kraipak v. Union of India, (1969) 2 S.C.C. 262 (India)

³⁵ Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 S.C.C. 158

³⁶ Supra 7

³⁷ Supra 32

Media trials often violate this doctrine because the accused may not receive equal opportunity to present their side of the story. News reports are frequently based on incomplete facts, police leaks, or speculative assumptions. As a result, the accused is portrayed negatively without a proper hearing in a court of law³⁸. The jurisprudential importance of this principle lies in protecting human dignity and procedural fairness. Every legal system based on rule of law requires that guilt must be established through lawful evidence and judicial examination rather than media narratives. When media channels pronounce moral judgments before legal adjudication, they effectively deny the accused a fair opportunity to defend themselves³⁹.

4.3. Speaking or Reasoned Decision

The principle of “Speaking Order” or “Reasoned Decision” is regarded as one of the most important components of modern natural justice and administrative law. A speaking order refers to a decision that contains clear, logical, and intelligible reasons explaining why a particular conclusion has been reached by a judicial, quasi-judicial, or administrative authority. The authority must disclose the grounds, facts, evidence, and reasoning upon which the decision is based.

In earlier times, the principles of natural justice mainly consisted of two rules: *Nemo Judex in Causa Sua* (rule against bias) and *Audi Alteram Partem* (right to fair hearing). However, with the growth of welfare administration and expansion of administrative powers, courts recognized that fairness cannot be achieved merely by hearing parties unless the authority also explains the reasons for its decision. Consequently, the requirement of recording reasons evolved into the third important principle of natural justice.

The doctrine of speaking orders promotes transparency, fairness, accountability, and public confidence in the administration of justice. It prevents arbitrary exercise of power and enables affected persons to understand why a decision has been made against them.

5. VIOLATION OF PROCEDURAL FAIRNESS

Media trials undermine procedural fairness in several ways:

- By influencing witnesses through public discussions and media narratives;
- By affecting the mental neutrality of judges and investigators;
- By creating social hostility against the accused;
- By spreading misinformation before evidence is properly tested in court.

Such interference weakens the due process of law and may result in miscarriage of justice. Jurisprudentially, justice must not only be done but must also appear to be done. Therefore, any external influence capable of affecting impartial adjudication threatens the legitimacy of the justice system itself.

5.1. Doctrine of Presumption of Innocence

The doctrine of presumption of innocence is one of the oldest and most fundamental principles of criminal jurisprudence. According to this doctrine, every person accused of a crime is presumed innocent until proven guilty beyond reasonable doubt in a court of law⁴⁰.

This principle is closely connected with: - Human dignity, Fair trial, Rule of law, and Protection against arbitrary punishment⁴¹.

³⁸ Supra 15

³⁹ Supra 35

⁴⁰ Coffin v. United States, 156 U.S. 432 (1895)

⁴¹ Supra 7

The burden of proof lies upon the prosecution, not upon the accused. This doctrine prevents wrongful convictions and protects individuals from public prejudice⁴².

From a jurisprudential perspective, the presumption of innocence reflects the moral foundation of justice. Thinkers associated with natural law theory argue that fairness and liberty require protection of individuals against premature condemnation. Similarly, constitutional democracies recognize this principle as essential to civil liberties and human rights.

The principle also supports the idea that criminal law should punish only after legal certainty is established. Mere suspicion, public opinion, or media allegations cannot substitute judicial proof.

5.2. Media Trial and Reversal of Presumption

Media trials often reverse this doctrine by portraying suspects as criminals before the court delivers judgment. Sensational headlines, public debates, and social media campaigns frequently create an assumption of guilt. Terms such as “murderer,” “rapist,” or “criminal mastermind” are sometimes used even during the investigation stage.

This can lead to serious consequences such as harm to a person’s reputation and dignity, social exclusion of the accused, and the possibility of witnesses becoming biased. It may also create psychological pressure on judges and investigators involved in the case. Even when the accused is eventually found not guilty, the stigma generated by media coverage can persist for a long time. In this way, media trials effectively subject individuals to social punishment before their legal guilt is proven.

5.3 Impact on Justice Delivery

When public opinion becomes stronger than judicial reasoning, the administration of justice suffers. Courts are expected to rely solely upon admissible evidence and legal principles, not emotional reactions generated through media publicity.

Therefore, jurisprudence strongly supports the protection of presumption of innocence as an indispensable requirement of fair criminal justice.

5.3.1. Positivist theory and media regulation

Positivist Theory occupies an important position in jurisprudence because it explains law as a command or norm created by a sovereign authority and binding upon all individuals within the State. Unlike Natural Law Theory, which emphasizes morality and justice, positivism focuses upon the authority, validity, and enforceability of law. In the context of media regulation and fair trial, positivist jurisprudence supports the idea that media freedom must operate within the legal framework established by the Constitution and legislative authority. The uploaded chapter extensively discusses the theories of John Austin and Hans Kelsen and explains their relevance to media trial and judicial administration.

5.3.2 John Austin’s theory and media regulation

John Austin, the founder of the Analytical School of Jurisprudence, viewed law as the command of the sovereign backed by sanctions⁴³. According to Austin, every law derives its authority from a competent legislative body, and citizens are legally bound to obey such law. The chapter explains that Austin’s theory emphasizes sovereign authority, legal obligation, enforcement of law, and maintenance of social

⁴² Narendra Singh v. State of M.P., (2004) 10 S.C.C. 699 (India)

⁴³ JOHN AUSTIN, *The Province of Jurisprudence Determined* 1–33 (1832)

discipline⁴⁴. In the context of media regulation, Austin's theory suggests that journalists and media organizations are equally subject to the authority of law and cannot claim unrestricted freedom of press. Since the Constitution and legislature impose reasonable restrictions upon speech and expression, media institutions are legally obligated to comply with such restrictions⁴⁵.

Austin's positivism further emphasizes that law is effective only when it is enforceable through sanctions. Therefore, whenever media organizations violate legal boundaries by interfering with judicial proceedings, publishing defamatory content, or prejudicing an accused person's right to fair trial, the State possesses authority to regulate and punish such conduct. The chapter notes that journalists cannot misuse freedom of press by violating the reasonable restrictions contained under Article 19(2) of the Constitution of India. These restrictions exist in the interests of sovereignty and integrity of India, public order, decency, morality, contempt of court, and defamation. From Austin's perspective, these constitutional limitations are legally binding commands issued by sovereign authority and therefore must be respected by the media⁴⁶.

The positivist approach becomes particularly significant in the context of media trial because excessive media intervention may interfere with the administration of justice. Media trials frequently create public prejudice against accused persons even before judicial determination of guilt. Such conduct may influence witnesses, create pressure upon judges, and damage the reputation of individuals irreparably⁴⁷. Austin's theory supports legal regulation in such circumstances because maintaining social order and judicial discipline forms an essential function of law. Thus, restrictions upon media reporting are viewed not as suppression of liberty but as necessary legal measures for preserving fairness and institutional integrity⁴⁸. Positivist jurisprudence therefore recognizes that freedom of speech is not absolute. Every right exists subject to legal duties and obligations. Media organizations may enjoy freedom of press, but they are also accountable for ensuring that their reporting does not obstruct justice or violate constitutional principles⁴⁹.

5.3.3 Hans Kelsen's pure theory of law

Kelsen viewed law as a system of norms arranged in a hierarchical order where every lower norm derives validity from a higher norm. According to Kelsen, legal science should remain free from moral or political considerations and focus only upon the validity and effectiveness of legal norms⁵⁰. In the Indian constitutional system, the Constitution operates as the supreme norm, and all institutions, including media organizations, must function within its framework⁵¹.

From Kelsen's perspective, freedom of press is not an absolute right but a legally regulated freedom subject to constitutional limitations. The chapter explains that legal norms must operate effectively in society to preserve order and discipline. Therefore, if media activities obstruct judicial proceedings or threaten fair trial rights, the State is justified in imposing lawful restrictions. Kelsen's theory strongly

⁴⁴ H.L.A. HART, *The Concept of Law* 18–25 (2d ed. 1994)

⁴⁵ *Bennett Coleman & Co. v. Union of India*, (1972) 2 S.C.C. 788

⁴⁶ *Supra* 7

⁴⁷ JOHN AUSTIN, *The Province of Jurisprudence Determined* 1–33 (1832).

⁴⁸ *Supra* 7

⁴⁹ *Supra* 28

⁵⁰ *Supra* 45

⁵¹ HANS KELSEN, *Pure Theory of Law* 193–205 (Max Knight trans., 1967).

supports the idea that media institutions must respect constitutional provisions, judicial directions, and statutory regulations because such norms form part of the organized legal system⁵².

Kelsen also emphasized the concept of effectiveness of law. According to him, legal order can survive only when rules are obeyed and implemented properly. In the context of media trial, unrestricted reporting that prejudices judicial proceedings weaken the effectiveness of the legal system and undermines public confidence in courts. Therefore, positivist jurisprudence justifies legal mechanisms such as contempt proceedings, reporting restrictions, and defamation laws to ensure that media freedom does not obstruct justice⁵³. The chapter repeatedly highlights that media must function within constitutional and legal boundaries and that every activity of the media should remain within permissible limitations.

Judicial interpretation also reflects positivist principles. Indian courts have consistently held that freedom of speech under Article 19(1)(a) is subject to reasonable restrictions under Article 19(2). Courts possess constitutional authority to regulate prejudicial publications and ensure that judicial proceedings remain fair and impartial. From a positivist viewpoint, judicial decisions become binding legal norms that media institutions must obey.

6. CONSTITUTIONAL DIMENSIONS OF MEDIA TRIAL AND FAIR TRIAL

6.1 Freedom of Speech and Expression Under Article 19(1)(A)

Article 19(1)(a) of the Constitution of India guarantees to every citizen the fundamental right to freedom of speech and expression. These right forms the cornerstone of democratic governance because it enables individuals to express opinions, exchange ideas, and participate in public affairs without fear or censorship. Although the Constitution does not expressly mention “freedom of the press,” the Supreme Court of India has consistently recognized freedom of the press as an essential part of Article 19(1)(a)⁵⁴. The media plays a vital role in strengthening democracy by spreading awareness, exposing corruption, promoting transparency, and ensuring accountability of public authorities. Through newspapers, television, radio, and digital platforms, the media acts as a watchdog over governmental functioning and informs citizens regarding matters of public importance. A free and independent press is therefore considered indispensable for the effective functioning of a democratic society⁵⁵.

The Supreme Court has repeatedly emphasized the significance of press freedom in preserving democratic values. In various decisions, the Court has observed that open discussion and free dissemination of information are essential for public participation and good governance. Investigative journalism has also contributed significantly toward uncovering scandals, protecting human rights, and exposing misuse of power.

However, freedom of speech and expression is not an absolute right. Since unrestricted freedom may sometimes conflict with public order, judicial administration, or the rights of individuals, the Constitution permits the imposition of reasonable restrictions under certain circumstances.

⁵² HANS KELSEN, *Pure Theory of Law* 193–205 (Max Knight trans., 1967).

⁵³ *Contempt of Courts Act, 1971* (India); In Re: Prashant Bhushan, (2020) 3 S.C.C. 734 (India).

⁵⁴ *Romesh Thappar v. State of Madras*, A.I.R. 1950 S.C. 124 (India); *Indian Express Newspapers v. Union of India*, (1985) 1 S.C.C. 641 (India).

⁵⁵ *Secretary, Ministry of I&B v. Cricket Ass’n of Bengal*, (1995) 2 S.C.C. 161 (India)

6.2 Reasonable Restrictions Under Article 19(2)

Article 19(2) empowers the State to impose reasonable restrictions on the exercise of freedom of speech and expression in the interests of:

- Sovereignty and integrity of India;
- Security of the State;
- Friendly relations with foreign States;
- Public order;
- Decency and morality;
- Contempt of court;
- Defamation;
- Incitement to an offence.

These restrictions are intended to ensure that freedom of expression is exercised responsibly and does not harm the interests of society or the administration of justice. In the context of media trial, the restrictions relating to contempt of court, defamation, and public order become particularly relevant.

Media reporting that interferes with judicial proceedings or creates prejudice against an accused person may obstruct the administration of justice. Sensationalized reporting, publication of leaked investigation details, and public declaration of guilt before judicial determination may influence public opinion and indirectly affect court proceedings. Such acts may amount to contempt of court because they interfere with the fair administration of justice.

Similarly, defamatory reporting may damage the reputation and dignity of individuals without proper legal proof. The Constitution therefore attempts to strike a balance between freedom of the press and protection of individual rights and judicial fairness.

6.3 Right to Fair Trial Under Article 21

Article 21 of the Constitution guarantees protection of life and personal liberty and provides that no person shall be deprived of these rights except according to procedure established by law. The Supreme Court has interpreted Article 21 broadly and has held that the right to fair trial is an integral part of the right to life and personal liberty.

A fair trial is one of the basic principles of criminal justice and is essential for maintaining public confidence in the judicial system. It ensures that justice is administered impartially, transparently, and in accordance with law.

The essential elements of a fair trial include:

- An independent and impartial judiciary;
- Presumption of innocence of the accused;
- Freedom from external pressure or influence;
- Equal opportunity to present evidence and arguments;
- Protection against bias and prejudice⁵⁶.

The judiciary must decide cases solely on the basis of evidence presented before the court and not on the basis of public opinion or media narratives. However, excessive media publicity may create social pressure and prejudice that threatens judicial independence and fairness⁵⁷.

⁵⁶ State of Punjab v. Gurmit Singh, (1996) 2 S.C.C. 384

⁵⁷ State of Maharashtra v. Rajendra Jawanmal Gandhi, (1997) 8 S.C.C. 386

Media trial becomes problematic when television debates, social media campaigns, and sensational reporting influence public perception regarding the guilt of an accused person before the completion of judicial proceedings. Such reporting may affect witnesses, investigating agencies, and even the overall atmosphere surrounding the trial. Consequently, media intervention may undermine the constitutional guarantee of fair trial under Article 21.

7. ROLE OF JUDICIARY IN BALANCING MEDIA FREEDOM AND FAIR TRIAL

The judiciary plays a crucial role in protecting constitutional rights, maintaining judicial independence, and ensuring fair administration of justice. In a democratic society, courts act as guardians of the Constitution and balance the competing interests of freedom of press and the right to fair trial. Although freedom of speech and expression is guaranteed under Article 19(1)(a) of the Constitution of India, such freedom cannot override the constitutional guarantee of fair trial under Article 21. Therefore, the judiciary becomes responsible for ensuring that media activities do not interfere with judicial proceedings or prejudice the rights of accused persons.

Media trials often create public hostility against accused persons even before completion of investigation or trial. Such reporting may influence witnesses, investigators, lawyers, judges, and public opinion. Consequently, the judiciary intervenes to preserve the integrity and independence of the judicial process. One of the primary functions of the judiciary is to uphold the principle of fair trial. Fair trial forms an essential part of Article 21 of the Constitution and includes procedural safeguards such as presumption of innocence, impartial adjudication, legal representation, and protection against arbitrary punishment. Courts therefore ensure that accused persons receive justice free from external influence, including prejudicial publicity by the media.

The judiciary also protects the principles of natural justice. The principle of *Audi Alteram Partem* requires that every person should receive a fair opportunity to be heard before any adverse decision is made⁵⁸. Similarly, the principle of *Nemo Judex in Causa Sua* ensures impartiality and absence of bias in judicial proceedings. Media trials often violate these principles because media organizations pronounce judgments and portray accused persons as guilty before judicial determination. The judiciary therefore acts as a safeguard against such prejudice and protects the fairness of legal proceedings.

Another important role of the judiciary is the interpretation and enforcement of constitutional limitations upon media freedom. Article 19(2) permits reasonable restrictions upon freedom of speech in the interests of public order, contempt of court, decency, morality, and defamation. Courts possess authority to determine whether media reporting exceeds constitutional limits and interferes with administration of justice. Thus, judicial interpretation ensures a balance between democratic freedoms and judicial discipline.

The judiciary also exercises contempt powers to protect the authority and dignity of courts. Contempt of court refers to acts that obstruct judicial proceedings or lower the authority of the judiciary. Sensational reporting, publication of confidential material, and attempts to influence pending cases may amount to contempt of court. Therefore, courts may issue reporting restrictions or punish media organizations where their conduct obstructs fair administration of justice.

Indian courts have delivered several landmark judgments concerning media trial and fair trial rights. In *Sahara India Real Estate Corporation Ltd. v. SEBI*⁵⁹, the Supreme Court recognized the power of courts

⁵⁸ A.K. Kraipak v. Union of India, (1969) 2 S.C.C. 262

⁵⁹ Supra 7

to postpone publication of matters that may prejudice judicial proceedings. The Court held that freedom of press must be balanced with fair trial rights. Similarly, in *R.K. Anand v. Delhi High Court*⁶⁰, the Supreme Court condemned media interference that obstructed administration of justice. In *Manu Sharma v. State*⁶¹ (*Jessica Lal Case*), the Court acknowledged both the positive and negative role of media in criminal justice administration.

The judiciary also acts as protector of human dignity and reputation. Media trials frequently result in social humiliation and damage to the reputation of accused persons even before conviction. Since the right to dignity forms part of Article 21, courts intervene to ensure that media reporting does not destroy the constitutional rights of individuals.

Furthermore, the judiciary promotes constitutional morality by ensuring that democratic freedoms operate within legal and ethical boundaries. Courts recognize that media freedom is essential for democracy, but they also emphasize that such freedom carries duties and responsibilities. Therefore, judicial regulation of prejudicial reporting is not considered suppression of freedom but a necessary step for preserving fairness, impartiality, and rule of law.

8. CONCLUSION

Media plays a vital role in democratic governance by promoting transparency, accountability, and public awareness. Freedom of speech and expression, including freedom of press, forms an essential pillar of democracy. However, unrestricted media intervention in judicial matters may seriously affect the administration of justice and violate the constitutional right to fair trial.

The jurisprudential analysis of media trial demonstrates that both Natural Law Theory and Positivist Theory support reasonable regulation of media activities. Natural Law Theory emphasizes morality, justice, fairness, human dignity, and principles of natural justice, whereas Positivist Theory emphasizes legal authority, constitutional regulation, and enforcement of law. Both theories ultimately recognize that freedom of press cannot become absolute where it interferes with judicial fairness and administration of justice.

The Constitution of India attempts to balance freedom of speech under Article 19(1)(a) with fair trial rights protected under Article 21 and reasonable restrictions under Article 19(2). The judiciary plays a significant role in maintaining this balance by protecting judicial independence, regulating prejudicial reporting, and safeguarding constitutional rights.

Media trials often create public prejudice, influence judicial proceedings, damage reputation, and undermine the principle of presumption of innocence. Therefore, responsible journalism, ethical reporting, and judicial safeguards are essential for preserving constitutional morality and rule of law.

In conclusion, freedom of press and fair trial are equally important constitutional values in a democratic society. Neither can be sacrificed completely for the other. A proper balance between media freedom and judicial fairness is therefore necessary to ensure justice, protection of human dignity, and fair administration of law.

⁶⁰ *R.K. Anand v. Delhi High Court*, (2009) 8 S.C.C. 106

⁶¹ *Manu Sharma v. State (NCT of Delhi)*, (2010) 6 S.C.C. 1

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