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## Social Media's Impact on Judiciary and Society

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*The communication methods are evolving at a faster pace than earlier. Availability of internet and emerging social media sites like facebook, instagram, twitter, koo, whatsapp and many more have changed the style and efficacy of the communication. This has increased the strength of the media by many times. Where it used to print in earlier times now with one click news gets shared with millions of people. This expansion of media sometimes breaches its boundary and comes in direct conflict with the judiciary. Effective judiciary, which is another important organ of democracy, is the basis of the people's belief in equality and justice. These cases are, now, increasing and giving serious challenges to the judiciary. Trolling media, TRP media, sensational news interfere in the working of judiciary which seriously impairs the deliverance of justice. The judgments and some cases which have been in the limelight years before have been discussed in this article. How these media affects the people psychologically and how they make the mindset of the people will also be explained.*

**Keywords:** *social media, judiciary, society.*

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### INTRODUCTION

Social Media platforms when formed raised one hope with many that people will be more interconnected in this world. Indeed, it served this purpose. Now, it has reached more to “social-media-ness” where people are more connected to these platforms instead of society. To

check the credibility and efficacy of the social media platforms is not the purpose of this article here. Everything remains good when it remains in its area. Social media was formed to bring society together. That's the different thing it created a society in itself for some people. Not beating around the bush, let's come to the main aim of this article. Prosecution and justice delivery is not the purpose or work of social media. If it is done so then the consequences are drastic for the social media trial "victim". Victims of social media trials are not decided on the basis of the facts and law in real life. Not discussed in the bits and pieces, discuss in a more organized manner. One foremost thing to remember is that ensuring the proper justice deliverance can be one of the purposes of social media. But ensuring justice and delivering justice are two different areas.

The media is regarded as the 4<sup>th</sup> pillar of Democracy along with the Judiciary, Legislature, and Executive. These institutions are not supposed to overcome and interrupt the work of the other. There should be a separation of power between these organs. **Justice deliverance cannot be done by the media** otherwise some fundamental principle of justice deliverance will be breached.

**How are media trials prejudiced against the justice system?** This is not the current issue. The publication of prejudicial matters is regarded as contempt of court. The Supreme Court held in *A.K. Gopalan v. Noordeen*<sup>1</sup> that publication can be prejudicial to the suspect or accused if it is published after the "arrest". This judgment settled the contentious question "What should be the point after which any publication which prejudices the suspect can be labelled as the contempt of court." The 200<sup>th</sup> report of the Law Commission (Trial by Media: Free Speech and Fair Trial under Criminal Procedure (Amendments to the Contempt of Court Act, 1971) is a comprehensive report which talks about the media trial.

There are a number of cases that talk about the intervention of the media in the free trial. *Maneka Gandhi v Union of India*<sup>2</sup>, *M.P Lohia v State of West Bengal*<sup>3</sup>, *Ram Dayal Markarha v State of*

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<sup>1</sup> *AK Gopalan v Noordeen* 1970 SCR (2) 410

<sup>2</sup> *Maneka Gandhi v Union of India* 1978 SCR (2) 621

<sup>3</sup> *MP Lohia v State of West Bengal* (2005) 2 SCC 686

M.P<sup>4</sup>. are few cases to be named. In *R.K Anand v Delhi High Court*<sup>5</sup>, the Supreme Court defined media trial as the “*Impact of extensive pre-trial publicity and coverage on a person's reputation thereby creating a widespread perception of guilt regardless of the verdict given in the court of law*”. The 200<sup>th</sup> report of the Law Commission also discusses what kind of publications can be prejudicial. The fair distinction between the right to free trial and right to free speech, section 3 of the Contempt of Courts Act, judgments discusses and prohibits prejudice publication. WHY?

### **EFFECTS ON JUDICIARY**

The media is considered as the fourth pillar of democracy and keeps check on all other three pillars. The role of media in justice can be understood by the lines of Jeremy Bentham. “*Where there is no publicity there is no justice. Publicity is the very soul of justice.*” When this publicity is not for justice but for the sensation and TRP then the matter worsens. The act of the media for ensuring justice is approvable even then it should be non-derogatory to the established judicial principles and system. The Supreme Court itself has validated that sting operation done in the bonafide and public interest and it does not come under the purview of contempt of the court. The moot point is the reporting/publications done not in the bona fide or public interest but for TRP, “*breaking news*” or any other reason. These types of reporting/publications leave a dark impression not only on the judiciary but also on the social structure of the society.

The established principles of the right to fair trial, innocent until proven guilty and other principles of natural justice enshrined in the Constitution of India scatters in the pieces. The famous case “*BMW hit and run case*<sup>6</sup>” is evidence of bona fide reporting. In this, the instances were recorded when the lawyer of the accused was seen meeting the prime accused and witness becoming hostile. In this, no interferences were caused in the justice but done for ensuring the justice. There are other instances where the reporter acted as the investigative agency and provided sensational news. What it ensures is not justice but injustice to the accused and blow to the justice system. There are cases like the Aarushi Talwar murder case,

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<sup>4</sup> *Ram Dayal Markarha v State of MP* (1978) 2 SCC 630

<sup>5</sup> *RK Anand v Delhi High Court* (2013) 1 SCC 218

<sup>6</sup> *State v Sanjeev Nanda* (2012) 8 SCC 450

SSR case where the accused are declared guilty before the court declaration, tamper the news to make it sensational.

The judiciary of any country prevails when there is the belief of the common people on it and what this type of reporting does? Media also assert its influence on the judges. When the media establish the accused as the culprit and then it becomes harder or somewhat challenging to see the accused as accused. Along with this anchoring and adjustment heuristic also plays a role in it. There have been cases where the court found that the jurors got influenced by social media.<sup>7</sup> The threatening of judges and harassing them on social media is also one of the serious issues before the judiciary which was also highlighted by the former CJI Sharad Arvind Bobde. He mentioned that the judiciary could not control such a kind of media as they did not know which steps to be taken.

### **EFFECT ON SOCIETY**

The direct impact of social media also comes on society. Joseph T. Klapper in his article "Mass Media and the Engineering of Consent" wrote that "mass media of communication are so often seen as contributory demons." He wrote in the context of propaganda to manufacture consent. What do these media do by biased reporting? They try to make a common stand of the public on the particular case which can be said to be a form of manufacturing consent. By presenting manipulated facts in a sensational manner, alleging the big people, conspiracy theories, inadmissible evidence, and many other things that can be included they include to give "breaking news" or increase TRP. The common masses do not do any rational or controlled processing, their cognition works on heuristics. Media makes the matter available, although forged content and common masses, again and again, see that and interpret the events in that manner only. Status quo heuristics are added in the availability heuristic. What is established in the society is good, whatever the judgment of the court. The minds of common people are primed in such a manner that even if the contradictory facts are true they will not believe. This hugely impacts society, the judiciary, and the accused.

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<sup>7</sup> *Benbrika v The Queen* [2010] VSCA 281; *A-G v Frail* [2011] ACD 89

Some heavy terms have been used in the above paragraphs and will be difficult for non-psychology background people to understand. To make it understood in a better way, let us understand briefly with an example. Heuristics are some thumb rules by which common human beings process the data in their mind and come to a decision or analyze it. These heuristics can be faulty also. First, take the availability heuristic. When something is asked from any person then he analyses that and thinks of instances and comes to the decision on the basis of such incidents. For instance, out of 10 news reporting channels, 7 or 8 channels declared the accused in a case as the main culprit. Now, when someone asks about the said case then definitely it is going to create influence. When it can create influence on the learned judges then the common people are on the god's grace. Second, take the status quo heuristic. What is prevalent in society is good and change or any kind of alteration will not be liked or will not be digested. This same thing happens when the media wrongly establishes the accused as the culprit then the judgement of the judiciary will not be liked or digested by the people. Similar is the anchoring and adjustment heuristic. The parameter is wrongly moved from accused to culprit in such a high intensity that even after the judgment of the court this parameter does not get balanced and there will be some kind of suspicion in the common masses. When this kind of priming is done to the common masses then it is not going to be evaded without representing itself which we see in the form of Twitter trends, etc. There has been a lot of research done on this field of psychology and the observations based on the results of these reports are discussed here. The media channels also use visual effects to make people believe the accused is the culprit.

Think about the facts of one case after putting aside all the biased facts circulated in or by the media. For once, it will be difficult to think in that manner. Now, ponder upon the Jessica Lal murder case. In that case, when most of the witnesses turned hostile and there was no other conclusive proof against the accused then the media came into the picture. It did sting operations and put out the facts in front of the public. This work of media is appreciable when it helps in enduring justice to anyone. Now, change some facts here. The media did sting operations and did not find any conclusive evidence and the evidence which cannot be accepted in the court. Common people do not know much about the witnesses or evidence

which can be presented in the court. The media takes advantage of it. Now, the media will sensationally present the evidence. Easy example: X and Y are two best friends. X was found dead in their common room. To make it sensational, some media channels will report that doors were closed. They will not tell you about windows. Like this, provide half the facts and make it sensational.

## CONCLUSION

The role of media is very much appreciable and also a need to report the crimes or wrongs being committed. The media completes or fills the gap between the organs of the democracy and the people of the democracy. If the media started to play the role of benefiting itself on the cost of misinformation or creating a wrong environment in the society then there is a need to regulate the media. In this article, an attempt was made to explain the psychological impact of wrong or sensational media on society. How do the media sometimes create an environment against the accused by playing psychologically? Judges also get influenced or pressured by the stand of the public and justice might not be delivered as it should be. Former Chief Justice of India reported about this issue that judges, personally, often get targeted by the trolls instead of their judgement. What it does is restrict the freedom of judges and harassing them. A wholesome body needs equal strength and care of all parts likewise a wholesome democracy needs equal strength and care of all four organs. The result will be the demolition of the body like what happened to the reindeer which often criticised its legs and praised its horns.