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Impact of Media Trial on Right to Privacy: Constitutional and Judicial Perspective

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The media trials' effect on the right to privacy is a big topic in today's society. People are worried about how to balance freedom of the press with people's constitutional rights. Media trials often lead to biased public opinion, which puts the right to privacy at risk and goes against the idea that someone is innocent until proven guilty. This balance between media freedom and individual privacy rights makes it hard for the courts to interpret and enforce the law. Article 21 of the Constitution provides the right to privacy as part of the right to life and personal freedom. However, media trials regularly violate this right, creating a discrepancy between what the Constitution states and what the media does. Judicial interventions, through landmark judgements, have tried to ease this tension by stressing the need for responsible reporting and shielding people from unnecessary media attention. This study examines the constitutional and judicial perspectives on media trials and how courts have sought to strike a balance between protecting individuals' privacy and upholding press freedom. We need stronger rules to stop the exploitation of media power and protect people's right to privacy as media practices change.

Keywords: *media, privacy, trial, constitution.*

INTRODUCTION

A free, independent, and robust media or press is the most crucial aspect of democracy, especially in a welfare state like India. It is not only a means to share your views and opinions,

but it's also a great method to learn about other people's opinions on a wide range of local, national, and international issues. So, the media shapes the thoughts of millions of people and makes them aware of the right information. It is the main tool where people get a free flow of ideas and information, which is important for democracy or self-governance. The public benefits from freedom of the press and access to information because they help society grow. You could argue that empowerment is a complicated social and political process that gives people the tools they need to take command of their own lives. They can only be active members of their communities if they have access to reliable, fair, and unbiased information that includes a variety of points of view and allows them to talk to each other both vertically and horizontally. The media's major function in society is to research and share information and ideas, especially about matters that are essential to the public welfare. This helps people understand and take part in civilised, social, economic, and cultural life.

Before we can adequately talk about the Right to Privacy, we need to understand phrases like Life, Personal Liberty, and Privacy. The right to life is the most essential fundamental human right. The Fifth and Fourteenth amendments to the U.S. Constitution provide, "*No State shall deprive any person of life, liberty, or property without due process of law.*" In the case of *Munn v Illinois*,¹ Justice Field comments on the right to life that which denotes more than only the existence of living things. The lack of a barrier impacts all the limbs and abilities that life has. The condition also says that you can't injure the body by taking away an arm, leg, eye, or any other organ that the soul uses to talk to the outer world. We are talking about taking away not just life, but everything that God has given each person to help them grow, develop, and enjoy life. It was made to protect everyone and provide them with what they need to be happy.²

CONCEPT AND ELEMENTS OF PRESS OR MEDIA FREEDOM

The expression 'freedom of the press' is not entirely accurate in its strictest sense. The media cannot operate with absolute independence, as certain restrictions invariably exist. As a result, the press has historically functioned within limited freedoms and has continually

¹ *Munn v Illinois* [1876] 94 U S 113

² S.K. Aggarwal, *Media Credibility* (1st edn, Mittal Publications 1989)

navigated challenges concerning its autonomy. The relationship between the press and regulatory authorities has reflected this tension since the very inception of the press.

Additionally, some individuals and organisations impose restrictions, limitations, or oversight on the media's autonomy.³ International organisations have exerted considerable effort to preserve and protect media freedom, which is of paramount importance. In a democracy, the press should be able to conduct its duties without any complications. This is because a free press is not only a fundamental component of democracy, but it is also essential for the proper functioning of a democratic society. To underscore the press's autonomy, the Supreme Court of India once remarked.⁴ The Covenant of Democracy is predicated on the idea that journalists should have the ability to express their dissatisfaction with the government. The present moment is the most critical time to speak out against lies, as half-truths are both powerful and silent.

Freedom of the press or media is comprised of three primary components:

1. The Freedom to Print;
2. The Right to Share;
3. The Right to Obtain Information from any Source.

The Supreme Court, in *Romesh Thappar v State of Madras*⁵, addressed one of the earliest cases concerning press freedom soon after the Constitution came into effect. The Government of Madras, invoking its powers under Section 9(1A) of the Madras Maintenance of Public Order Act, 1949, sought to prohibit the circulation of the periodical *Cross Roads* within the state. The Court observed that the right to freedom of speech and expression necessarily includes the right to disseminate and publish one's views and ideas, and that the freedom of circulation is essential to this right. It further held that a publication would be rendered meaningless if it were denied the ability to reach its readers.⁶

³ *Ibid*

⁴ Zechariah Chafee Jr, 'Freedom of Speech In War Time' (1919) 32(8) Harvard Law Review <<https://www.jstor.org/stable/pdf/1327107.pdf>> accessed 24 June 2025

⁵ *Romesh Thappar v State of Madras* (1950) 1 SCR 594

⁶ Bir Bala Aggarwal, *Media and Society: Challenges and Opportunities* (Concept Publishing 2002)

The Chief Commissioner of Delhi requested that a weekly Organiser provide him with all news and comments regarding Pakistan, as well as photos and publications about cartoons, in the case of *Brij Bhushan v State of Delhi*.⁷⁸ This was done to peruse the information pre-publication. The authority to issue the order that is being challenged was granted by Section 7(1)(e) of the East Punjab Safety Act 1949. The court ruled that the prohibition of the publication of a periodical is not covered by Article 19(2).

As a result, the order was not only illegal but also null and void. The Supreme Court had to evaluate the constitutional fabric of the laws that enabled the president's actions in the aforementioned cases, in addition to determining whether the president's actions were lawful. In the case of *Express Newspapers v Union of India*, the Supreme Court defined freedom of speech as the ability to express not only one's own views and beliefs, but also those of others. It also held that any law that unduly restricts the right to circulate would be invalid.

NEED FOR PEOPLE FOR PRIVACY

People across all social classes require privacy; however, the demand is often strongest in circumstances where privacy is difficult to secure, such as at the intersection between law enforcement authorities and individuals accused of crimes. Respecting individual interests constitutes the most essential aspect of privacy. The right to privacy must not be curtailed or disregarded without reasonable justification.

Privacy serves as a check on the power exercised by both governments and private entities. Personal information plays a critical role in shaping our lives – it influences our reputation, the decisions we make, and even our behaviour. However, this same information can be weaponised to exert control over others, and if misused or accessed by the wrong parties, it can cause significant harm.

In today's digital age, privacy has become even more vital. Our daily activities generate vast amounts of data: in the morning, we watch YouTube; during lunch, we use cards for payments; in the afternoon, we rely on search engines for personalised information; and in

⁷ *Brij Bhushan v State of Delhi* (1950) 1 SCR 605

⁸ B.N. Ahuja, *History of Press, Press Laws and Communication* (Surjeet Publications 1993)

the evening, we engage in online shopping and streaming. While the consequences of these interactions may seem trivial, companies constantly collect this data in exchange for the services they provide. These data points are then used to enhance user experience and deliver targeted advertisements, which can be beneficial at times but intrusive at others.

The problem lies in the deeper implications of such practices. Data has often been described as more valuable than oil, given its scarcity and the immense power it confers upon those who can collect and interpret it. The digital ecosystem can be likened to a limitless gold mine, where only those equipped with the right tools – “lightning strikes” – can extract value. This invisible world of data allows businesses and individuals to acquire extensive information without detection. More importantly, it enables the exploitation of personal actions and information in ways that are neither transparent nor easily understood, posing significant risks to individual autonomy and security.

RIGHT TO PRIVACY A BASIC RIGHT

Human beings naturally value their privacy. It is instinctive for individuals to establish boundaries and exclude others from certain aspects of their lives. Everyone experiences moments when they do not wish to be disturbed and prefer solitude. Independence is a vital component of human development, and certain aspects of life—such as family, marriage, sexuality, and other intimate matters—require protection behind closed doors. In these spheres, individuals should have the freedom to act as they choose.

An invasion of privacy endangers individual liberty and freedom. Protection from intrusions is essential not only for personal well-being but also for the functioning of a free and democratic society. The right to privacy encompasses the right to maintain a personal space that includes one’s body, mind, home, emotions, thoughts, sentiments, secrets, and identity, whether personal or professional. This right enables individuals to decide which aspects of their lives may be accessed, used, or disclosed by others, and to regulate how, when, and to what extent such information is shared.

At the same time, certain circumstances allow for a lawful invasion of privacy, including:

- Legislative enactments,
- Executive or administrative orders, and

- Judicial directives.

In this regard, the following principles apply:

Legislative Actions must be tested against the constitutional standard of reasonableness. Courts may evaluate whether the extent of intrusion is proportionate to the objective sought to be achieved.

Administrative or Executive Actions must be justified based on the facts and circumstances of each case.

Judicial Authorisations, such as warrants, must be supported by valid reasons demonstrating that the search or seizure is necessary. Courts must also assess whether the degree of intrusion is proportionate to the public interest being protected.

In addition to these, common law recognises limited exceptions where searches may be conducted without a warrant. However, such searches are valid only if undertaken in good faith for the purpose of collecting evidence or preventing unforeseen harm or risk to individuals or property.⁹

CONSTITUTIONAL MANDATE

The press in India has a long history, tracing back to the colonial period under British rule. The British sought to regulate and suppress the press through restrictive legislation such as the **Indian Press Act 1910** and the **Indian Press (Emergency Powers) Act 1931–1932**. During World War II (1939–1945), the **Defence of India Act** further expanded governmental control, making it increasingly difficult for the press to function independently. At that time, most newspapers were prohibited from publishing reports on the activities of the Indian National Congress, reflecting the extent of censorship imposed by the colonial regime.

The situation, however, changed with the adoption of the **Constitution of India in 1950**. The framers of the Constitution recognised that the survival of India's nascent democracy depended on a guiding light – one that would enable the free exchange of ideas and facilitate intellectual growth. They envisioned **Bharat** as a democratic republic, neither a monarchy

⁹ P.M. Bakshi, *The Constitution of India* (7th edn, Universal Lexis Nexis 2006)

nor a state of anarchy. The Constituent Assembly firmly believed that **freedom of speech and expression, including freedom of the press, was indispensable for the functioning of democracy.**

As Pandit Jawaharlal Nehru aptly remarked: *“I would rather have a completely free press, with all the dangers involved in that freedom, than a suppressed or regulated press.”*

There is little doubt that the leaders of the Indian national movement under British rule consistently advocated for constitutional safeguards to ensure press freedom. After independence, when the Constitution of India was being drafted, the framers of the Constitution placed significant emphasis on the importance of a free press in the functioning of democracy.

Surprisingly, however, the Constitution did not expressly enumerate **freedom of the press** as a separate Fundamental Right. Instead, the framers subsumed it under the broader guarantee of **freedom of speech and expression** enshrined in **Article 19(1)(a)**. Dr. B.R. Ambedkar, the Chairman of the Drafting Committee—often regarded as the chief architect of the Indian Constitution—clarified during the Constituent Assembly debates that freedom of the press is an essential part of the right to freedom of speech and expression.¹⁰

To safeguard a democratic way of life, individuals must have the freedom to express their beliefs, emotions, and opinions, and to communicate them openly. The media, as a powerful medium of communication, plays a crucial role in strengthening and sustaining society, and therefore must be free to perform this role without undue interference.

Like the U.S. Constitution, the **Constitution of India does not expressly confer a distinct right to media freedom.** Instead, freedom of the press is derived from the broader guarantee of **freedom of speech and expression under Article 19(1)(a)**. However, this freedom is not absolute, as it is subject to the reasonable restrictions enumerated in **Article 19(2)**. Every citizen of India enjoys the right to free speech and expression, including journalists, who, despite their professional role, are essentially citizens exercising the same constitutional right. Thus, while the media enjoys freedom of expression, it remains bound by the same limitations that apply to all citizens.

¹⁰ Durga Das Basu, *Law of the Press* (Prentice Hall of India Pvt. Ltd. 1980)

The Indian judiciary, including the Supreme Court, has consistently upheld this interpretation. Notably, the Constitution does not explicitly mention the word “media.” Nevertheless, media freedom has been recognised as an indispensable element of democracy, forming part of the broader principle of free expression. The press is often described as the “**fourth estate**” of democracy, complementing the legislature, executive, and judiciary in serving the public interest.

The framers of the Constitution acknowledged the significance of a free press, but they also cautioned that media freedom must not encroach upon the independence of the judiciary. Accordingly, while the press may exercise its freedom of expression, it must do so within ethical and legal boundaries. The **Press Council of India** regulates print media and prescribes minimum ethical standards that journalists are expected to observe. Beyond this, the media is also bound by constitutional provisions and other laws that safeguard public interest, thereby ensuring that freedom of expression is exercised responsibly.

Dr. B.R. Ambedkar, Chairman of the Drafting Committee, expressed this principle clearly: *“The press has no special rights which are not to be given or which are not to be exercised by the citizen in his individual capacity. The editor of a newspaper, the manager, the proprietor, or the reporter are merely exercising the right of free speech and expression, and therefore, no special mention is necessary of the freedom of the press.”*

The **First Press Commission (1954)** reinforced this understanding, noting that freedom of speech and expression is a wide concept that extends not only to speaking, but also to writing, reading, and publishing. Under **Article 19(1)(a)**, every citizen has the freedom to speak and write freely, while **Article 19(2)** authorises the State to impose restrictions in the interests of sovereignty and integrity, security of the State, friendly relations with foreign States, public order, decency, morality, contempt of court, defamation, or incitement to an offence.

Freedom of expression, however, is not confined to political or journalistic activity. As Chafee explained in the context of the First Amendment in the United States, the law creates a “fence” within which individuals may speak freely. This freedom covers a wide range of expressive activities—whether it is a teacher lecturing, a playwright staging a performance, an artist painting on canvas, a sculptor working in clay or marble, a poet sharing verses, a

musician composing scores, or a guide, priest, parent, or professor advising others. Regardless of the size of the audience, each act of expression falls within the scope of this essential democratic freedom.¹¹

NO SEPARATE PROVISION FOR FREEDOM OF THE PRESS OR MEDIA

Unlike the United States Constitution, the Constitution of India does not contain a separate provision specifically guaranteeing the freedom of the press. The **First Amendment to the U.S. Constitution** explicitly declares: *"Congress shall make no law... abridging the freedom of speech, or of the press."* While the framers of the Indian Constitution were aware of the First and Fourteenth Amendments, as well as the jurisprudence of the American Supreme Court, they chose not to incorporate a distinct clause for press freedom.

Instead, they subsumed it under the broader guarantee of **freedom of speech and expression** under **Article 19(1)(a)** of the Indian Constitution. This right encompasses all possible modes of expression through which individuals convey their thoughts, beliefs, and emotions—whether by writing, printing, drawing, or other means, including the press.

During the Constituent Assembly debates, several members advocated for a specific mention of press freedom. However, these proposals were not accepted. **Dr. B.R. Ambedkar**, Chairman of the Drafting Committee, clarified that freedom of the press was inherently included within the right to freedom of speech and expression. He further emphasised that the press, as an institution, does not enjoy any rights over and above those available to ordinary citizens: *"The press has no special rights which are not available to the citizen in his individual capacity."*¹²

The Supreme Court of India has consistently held that freedom of the press does not require a separate constitutional guarantee, since it is already encompassed within the broader right to freedom of speech and expression under **Article 19(1)(a)**. While demands for an explicit constitutional provision for press freedom have been raised from time to time, the Court has made it clear that elevating press freedom above the freedom of expression available to every individual citizen would be inappropriate.

¹¹ *Ibid*

¹² Government of India, *Report of the First Press Commission* (1954)

The **Mathew Commission** also examined this issue and concluded that a separate constitutional provision on press freedom was unnecessary, as Article 19(1)(a) already affords such protection. Moreover, introducing an explicit provision would not confer additional rights on non-citizens, such as corporations or firms, who are not entitled to claim rights under Article 19(1)(a). Thus, freedom of the press is firmly established as a fundamental right within the ambit of free speech and expression.

This constitutional position allows individuals, including journalists, to assert their rights against the State. However, it is important to note that the Constitution does not extend protection to press freedom against restrictions imposed by private actors. In cases where freedom of the press is curtailed by a legislative or executive action, **Article 32** before the Supreme Court and **Article 226** before the High Courts enable individuals to seek enforcement of their fundamental rights.¹³ Accordingly, the printer, publisher, or editor of a newspaper may approach the **Supreme Court under Article 32** or the **High Court under Article 226** to seek the removal of an injunction that prevents the circulation of their publication across states or regions. However, if the Court is of the view that certain restrictions are necessary to maintain public order or to safeguard the security of the State, it may issue directions requiring that specific content or issues be subject to prior scrutiny before publication.

Such judicial scrutiny arises when it is alleged that a governmental action—whether legislative, executive, or administrative—has infringed upon the fundamental rights guaranteed under Article 19(1)(a). It is not merely statutory provisions or formal regulations, but also **policies, practices, and administrative measures** that may be challenged if they impose unreasonable restrictions on the freedom of speech and expression, including press freedom.

RELATION BETWEEN FREEDOM OF EXPRESSION AND FREEDOM OF THE PRESS

Freedom of expression encompasses the right to articulate one's thoughts and convictions, as well as the right to seek, collect, and disseminate information and ideas through various means—whether orally, in writing, or through instruments such as radio, television, and

¹³ Bhairav Acharya, 'The Four Parts of Privacy in India' (2015) 50(22) Economic and Political Weekly <<https://www.epw.in/journal/2015/22/insight/four-parts-privacy-india.html>> accessed 24 June 2025

loudspeakers. In essence, it guarantees the liberty to express one's ideas and emotions in any form. Since freedom of the press is a facet of freedom of speech and expression, it is subject to the interpretation and limitations recognised by the courts under **Article 19(1)(a)**.

In **Maneka Gandhi v Union of India (1978)**, the Supreme Court observed that the right to travel abroad, while significant, could not be claimed as part of the fundamental right to freedom of speech and expression under Article 19(1)(a). The Court clarified that it is impermissible to expand the scope of fundamental rights by including every ancillary activity that facilitates or enhances their enjoyment, as this would blur the carefully drawn boundaries of each right and its corresponding restrictions.

Applied to press freedom, this principle means that journalists cannot claim exemption from passport regulations or other statutory requirements merely by invoking Article 19(1)(a). However, if the denial of a passport directly impedes a journalist's ability to exercise free expression—for example, by preventing them from travelling abroad for work, study, or teaching—such an action may amount to an unconstitutional violation of their fundamental right to freedom of speech and expression.

The case of *Nilesh Navlakha v Union of India* stated that the media, particularly television stations, should not be granted excessive latitude. It may become more difficult for individuals to distinguish between facts/news and to halt fair and open investigations if they begin to disseminate falsehoods. Freedom of speech and expression is the most critical component of our democracy, as stated in Article 19(1)(a) of the Constitution. According to Article 19(2), this privilege may be restricted fairly. There is a high probability of prejudice if the media is granted excessive freedom and publishes images of the suspects or the accused prior to the establishment of the identification parades, or if it makes statements that explicitly imply the guilt of the suspect or the accused before the Court has rendered a decision. The media's trial should not impede the police's ability to effectively perform their duties, and it should not impede the accused's ability to defend themselves in any manner.

The Supreme Court stated in *State of Maharashtra v Rajendra Jawanmal Gandhi*¹⁴ that the legitimacy of the media stands valid if it reports accurately and without bias. Someone must be held accountable for this to safeguard the legal system. A trial by the press would be

¹⁴ *State of Maharashtra v Rajendra Jawanmal Gandhi* (1997) 8 SCC 386

unjust.¹⁵ The Supreme Court stated in the case of *Sidhartha Vashist @ Manu Sharma v State (NCT of Delhi)*, (the Jessica Lal murder case)¹⁶ that the media may be highly biased if there were no norms. The right to free speech is safeguarded by Article 19(1)(a), which must be employed with caution and precision to prevent it from impeding the administration of justice or exacerbating the situation in cases that are currently pending before the courts.

IN RE: ARUNDHATI ROY¹⁷ -

Facts: The Supreme Court of India initiated *suo motu* contempt proceedings against Arundhati Roy, a Booker Prize-winning author, for her public criticism of the Court's decision permitting the increase in the height of the Narmada Dam, which led to the displacement of numerous villagers. Roy staged a protest outside the Supreme Court premises, alleging that the Court was suppressing dissent and curtailing democratic voices.

Issue: Whether Arundhati Roy's statements and actions amounted to contempt of court under the Contempt of Courts Act, 1971, thereby justifying restrictions on her freedom of speech and expression under Article 19(2) of the Constitution.

Ratio Decidendi: The Supreme Court held that the right to freedom of speech and expression under Article 19(1)(a) is not absolute and is subject to reasonable restrictions, including those under the Contempt of Courts Act. Criticism of judicial decisions is permissible; however, such criticism must be made in good faith, in the public interest, and without undermining the authority or integrity of the judiciary. The Court ruled that Roy's remarks and actions did not meet this standard, as they were neither bona fide nor constructive, but rather intended to lower the Court's dignity.

Decision: Arundhati Roy was held guilty of contempt of court. The Court imposed a token punishment of one day's imprisonment along with a fine, marking the seriousness of the offence while avoiding excessive punishment. The judgment emphasised that while judicial decisions may be criticised, such criticism must be responsible and should not erode public confidence in the judiciary.

¹⁵ Acharya (n 13)

¹⁶ *Sidhartha Vashist @ Manu Sharma v State (NCT of Delhi)* (2010) 6 SCC 1

¹⁷ *In Re: Arundhati Roy* (2002) 3 SCC 343

Principle: The Court underscored the importance of maintaining public faith in the judicial system, which serves as the guardian of the rule of law. Protecting the authority and integrity of the courts is essential for democracy. The Court also referred to the Madrid Principles on the Relationship between the Media and Judicial Independence (1994), which stress that while both the media and the judiciary must remain independent, judicial integrity must be safeguarded from undue influence and disparagement.

CONCLUSION

The adage “*with great power comes great responsibility*” aptly applies to the press. Accordingly, there must be a careful balance between the press’s freedom of speech and expression and an individual’s right to privacy. The scope of these rights must be continually examined, as the judiciary plays a crucial role in maintaining checks and balances, particularly when the media blurs the distinction between public interest and private life. Striking this balance is inherently difficult, and both the press and individuals must remain sensitive to each other’s concerns.

In recent years, the courts have increasingly intervened to prevent newspapers and media outlets from encroaching upon the privacy of individuals. In such cases, the media typically defends itself by invoking the “newsworthiness” of the information and framing it as a matter of public interest. However, this justification often crosses the boundary of fair reporting, especially in relation to sub judice matters, where trial by media risks undermining the due process of law. Judicial pronouncements in this regard demonstrate that the courts have advanced the principles of privacy and freedom of expression to new and unprecedented levels, seeking to give substantive meaning to these rights in contemporary society.

In the digital era, technological advancements have exacerbated the tension between media freedom and privacy. The pervasive nature of online communication makes it exceedingly difficult for individuals to even detect when their rights are being infringed, let alone to seek timely legal remedies. In such circumstances, privacy often suffers a “silent death,” as the harm is already inflicted by the time the matter reaches the judiciary.

While the courts have played a commendable role in delineating the boundary between media freedom and privacy, the responsibility does not rest solely with the judiciary. The

government must also ensure the protection of privacy rights by enacting stronger safeguards, formulating comprehensive regulations, and providing clear guidelines for media conduct in matters implicating personal dignity. Without such preventive measures, individuals are often left with little recourse after the violation has been committed.