

ROLE OF MEDIA IN PROTECTING JUSTICE

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ABSTRACT

The research paper aims to understand the effects and impact of media in the process of securing justice. The author aims to analyze the present scenario with respect to use of media in various manners through various mediums to and how it can be used to the benefit of the people in the process of administration of justice. Media is said to be the fourth pillar of democracy. It has great influence on the opinions formulated by people regarding various issues in the country and around the world. Media, in its various forms, portrays these issues which affect the perception of the events. Such powerful influence must be used for the betterment of the society. This can be done by using media in the administration of justice. This paper analyzes the effects of media and its intervention in the process of administration of justice. The author aims to understand this relationship with the help of various cases with inter alia respect to freedom of press as per the constitutional provisions and also throws light upon the practice of media trials and its effects on the process of administration of justice.

Key Words: media, justice, democracy, media trials, influence.

Media, considered as the fourth pillar of democracy, plays a major role in the operation of democracy¹. For majority of the people the construction of reality is based upon largely on two things – direct experiences and symbolic reality. Direct experiences include all interactions and phenomenon experienced by each individual physically. Symbolic reality includes beliefs, ideas and perceptions built and developed through indirect and secondary experiences. Media plays an important role in conveying information and happenings around the world to the general public. People tend to rely on the information presented by the media in the process of formation of opinions on the basis of which they act. The media holds great power in shaping the opinions of the public at large. For many people, media in the form of newspapers, television serials, shows, movies and music among others is a very strong medium influencing their opinions and perspective about the world. The way an event or activity is reported by the media has a great impact on how we interpret and analyse the event or activity reported. The media plays an important medium in developing symbolic reality with respect to the world around them. It holds great power as people rely on the media for the purpose of gaining information as well as entertainment. Hence it poses a disparity between the objectives that are to be traced and the objectives that are gained. This research aims to understand the nexus between media in its various forms and the system of justice that is followed with emphasis on the system of criminal justice administration and how it affects the public and its perception about the judiciary at large. The author further strives to explain how the media can be of help to assist the working of the judiciary.

The judiciary is the system of courts that administration of justice. It is established to maintain law and order in the society.” It is a set of institutions that enforce the law as per the set procedures by following the established rules and regulations. It is an important part of the legal system which helps society to maintain a discipline. To ensure smooth functioning of the justice system, certain external factors can be helpful. One such external factor is the media. Various cases of wrongful convictions due to the interference of media has resulted in miscarriage of justice². The strong impact of media on its viewers can be used to the advantage of the justice system through various ways as discussed further in the present paper. Another major aspect of the nexus between the media and process of administration of justice is affected by the media trials. This research throws light upon media trials and how it affects the process of administering justice to the aggrieved. The study will include the effects of various types of media including print media, television media and social media and the various forms of mass communication which includes, but not limited to, movies, music, shows and articles.

The research aims to critically analyse the role of media in securing justice, specifically criminal justice by throwing light upon the following issues:

- Whether there is a link between media and justice system?
- Whether media influences the perception of the justice system of a country in a positive or negative manner?
- Whether the justice system of a country can use media to reach out to the citizens and use it to establish confidence in the system?
- Whether the media is successful in shaping and influencing opinions of the public with regard to the system of criminal justice that is followed?
- Whether the media can be useful in achieving justice?

Democracy, known as government by the people, for the people and of the people, is considered to stand on 3 pillars namely, legislative, judiciary and executive. But in this digital age, the media is popularly considered as the fourth pillar of democracy. The term “fourth pillar of democracy” was coined by Thomas Carlyle. A democracy stands strong when it gives the individuals the freedom of speech and expression. Justice Venkataramiah in the case of *Indian Express Newspapers (Bombay) Private Limited and Others V. Union of India and Others*³, stated that the freedom of press is essential for the proper functioning of the democracy. As enshrined in the Indian Constitution, all citizens of the country have freedom of speech and expression as a fundamental right⁴.

Media can be like a two-sided sword weapon with one side being accountable media and another being unaccountable media. One can uplift the nation to great heights and provide strong support and the other can cause major destruction to democracy and cause a downfall of the nation. For a democratic nation like India to function at its full potential, the support and participation of the people is important and for their participation, they need to know what is happening in the country. Such information reaches the individuals through mass media⁵. The law of the media is like the Indian Constitution, i.e., both solid and dynamic. The greatest support for the media is Article 19(1)(a) of the Constitution of India as it guarantees the right to freedom of speech and expression and it is supported by Article 19(2) which lays down certain reasonable restrictions on the exercise of the right to freedom of speech and expression so as to eliminate misuse of the fundamental right and cause irreparable damage to an individual's life or to the society at large. Article 19(2) states that “Nothing in subclause (a) of clause (1) shall affect the operation of any existing law or prevent the State from making any law in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence”⁶. According to the 200th report of Law Commission of India on Trial by media, publications that interfere or tend to interfere with the justice administration amount to criminal contempt under Contempt of Courts Act, 1971 and to preclude such acts, reasonable restrictions imposed on freedom of speech would be valid⁷. The Law report recommended changes to be made to the Contempt of Courts Act to make media accountable for interfering with the process of administration of justice. The Contempt of Courts Act, 1971 provides that innocent publication and distribution of matter does not amount to contempt of Court⁸. It provided that such publications would amount to contempt of court only when the court proceedings of the said published matter is still pending. In the case of *A.K. Gopalan V. Noordeen*, it was held by the Apex Court that a publication made post ‘arrest’ of a person would be a contemptuous act if such publication is prejudicial to the accused or the suspect. The law provides regulations and also puts restrictions on the media and the manner in which they portray the various events happening. But such portrayal must not cause hindrance to the administration of justice. The justice system and the media have a relationship of dependency and each cannot function optimally without the other.

The way media showcases the justice system can be either in positive or negative manner. Due to the vast reach of the media through its various forms of print media, social media, entertainment media and many others, such portrayal can leave a deep impact on the minds of the consumers of such media. A major player in this league is social media. Sites like Facebook, Instagram and Twitter among others, are used by thousands of people to connect with one another as well as express views online, be it political, religious or personal. Such social media platforms also act as an excellent medium of spreading news and making various kinds of information available to the masses. The information broadcasted in these platforms act as a starting point for discussion among the people. Social media, through such discussions helps to encourage the active participation of the people of the country in the politics¹⁰. Such discussions help in the development of a democracy. But the information that is being broadcasted through the various forms of media is such that it either inclines towards showing a positive image or a negative image altogether. These are various instances where false news is spread in order to shape and influence the opinions of the people consuming such news. The great power in the hand of the media must be used in a way that helps the people to know the truth which in turn helps them to form their own opinions. In respect to the portrayal of the justice system of the country by the media, it should not be inclined to be either positive or negative. Showing just one side of the coin is unfair and can create a bias in the minds of the people who consume such information. Classifying the representation of the justice system in just black or white, i.e., negative or positive, is not possible. It can never be completely positive or completely negative. It is usually grey, a mix of positive

and negative in this case. Each pillar of democracy on which the country stands strong has its own positive and negative acts. Portrayal of just one of those types of acts would be deceptive and can cause false and uninformed opinions. The media has the responsibility to showcase the truth, not exaggerate and not spread false news. It also has the responsibility to showcase only credible news. Mark Twain once said “stupid people- who constitute the overwhelming majority of this and all other nations – believe and are convinced by what they get out of the newspaper, and there is where the harm lies.”¹¹ When the media has such great power and strength to shape the opinions of the public at large, they should focus upon sharing only the truth, helping the people to understand the reality rather than showing a distorted image of the nation in order to increase their sales. The media should show reality, not fairy-tale. Hence, the media cannot and must not show a purely positive or a purely negative image, it must convey the truth and must influence the minds in the right way by showcasing only the reality. It must focus on the achievements of the justice system as well as showcase where the system is a loose end. Such criticism is not only helpful for the public, but it can also act as constructive criticism, thus improving the justice system of the nation. Not only should the achievements be celebrated, but the shortcomings must also be pointed out to improve the functioning of the judiciary.

As discussed in the earlier section of this paper, the author has discussed the way in which the media portrays the justice system of the country and how it should be actually portrayed. But can the judiciary use the media as a medium to interact with the people and restore their faith in judiciary? This can be understood by considering the rare case of judges approaching the media in 2018. 4 Supreme Court judges, namely J. Chelameswar, Madan Lokur, Kurian Joseph and Ranjan Gogoi approached the media through a press conference when their efforts of persuading the then Chief Justice Deepak Mishra, to hear their concerns or even respond to their letter mentioning their concerns regarding the style and functioning of the judiciary, went in vain. It was a rare occasion when the judges had to seek refuge in the media to get their concerns addressed. Transparency is a hallmark of a good democracy¹². To maintain such transparency, the judiciary can take help of the media. The people seeking justice expect the judiciary to be transparent and responsible and not turn into a secret society. A democracy stands strong not only on the 3 pillars but also on the ethics and standards that evoke a sense of deep respect for the institution. Transparency is one such ethic that is to be maintained and followed in order to keep the people's faith in the judiciary strong. A common man looks up to the judiciary to ensure checks and balances in the functioning of democracy. To make sure that this process is followed properly, transparency has to be maintained. To do so, the courts may use the media by giving out relevant information to be passed on to people. In doing so, the court must take utmost precaution so as to not violate the rules and regulations in place regarding the disclosure of information to the media. Only such information must be disclosed which is necessary and nothing of confidential nature must be made available to the media. In a similar case, the Apex Court held that disclosure of information to media is acceptable if public interest outweighs harm. Only documents or information that is confidential or information with respect to national security can be kept secret but disclosure of information that helps the common man understand the process of administration of justice through the media can be facilitated to uphold or restore the faith of people in judiciary.

Media has a strong influence on the minds of people. The author has discussed this in detail in the previous sections. In this section, the author throws light upon the practice of media trials and how it influences the people's perception of the case and affects the process of administration of justice as well. Media trial is an investigation conducted by the media before, during or after the trial takes place in the court of law. This has such a great impact on the people's minds that it acts as an obstruction in the process of administration of justice to the case at hand. One such early case of media trial is K.M. Nanavati case¹⁴. This was the first case of media trial. The 'open and shut' case was reported by the media in such a manner that victimised the accused which led to the guilty going scot-free for the murder of a person by shooting three bullets. The naval officer was portrayed in such great heights that the people believed he was innocent which affected the jury trial in the present case. The practice of jury trial was abolished after this case as the evidence pointed the guilt of the naval officer but it was ignored by the jury due to the trial by media and portrayal of the accused in a victimised manner in order to gain sympathy. This case is a perfect example of when the media influence is used in a wrong way to deny justice to the victim. Another case is Aarushi Talwar murder case where the parents of the deceased 13-year-old girl were accused of murdering their daughter and the 45 year old house help who were dragged through mud and were victims of media trial and were convicted by the court. They were later acquitted due to sloppy evidence. On the other hand, media trials have also helped the judiciary to know the true facts of cases. One such is the Jessica Lal case where the murderer who was acquitted on the first instance by the trial court was later convicted by the Delhi High Court due to intense pressure from the media. The most recent case of media trial is the case of death of actor Sushant Singh Rajput where an actress has been a victim of media trial where her name has been dragged through mud and dirt even though the investigation was ongoing. Such media trials lead to tampering of process of administration of justice and acts as an obstacle by influencing the judiciary, the accused, the witnesses and the public at large. Such media trials act as a barrier in the exercise of the fundamental right to fair trial as enshrined in the Indian Constitution. In the case of *Zahira Habibullah Sheikh and ors. V. State of Gujarat and ors.*, the Apex Court held that the denial of fair trial is injustice to the accused as much as it is to the victim and society. Fair trial means a trial before an impartial judge, with a fair prosecutor and judicially calm atmosphere without any prejudice or bias against the accused or the victim. Though judges are to be unbiased, they are only human. There is possibility of them to be influenced by the portrayal of the case in the media. Such media trials often forego the principles of presumption of innocence and guilty beyond reasonable doubt and jump to conclusions even before a court of law can give its decision. This affects the process of administration of justice and can gravely affect the accused and the victim and also break the trust in the very institution of judiciary. Such media trials are a big threat to the judiciary and its process of administering justice as it hampers with all the elements involved and affects the minds so deeply that it

can lead to denial of the fundamental right to fair trial.

In the previous sections Media, through its power, can enable a system where the judiciary can be criticised in a way that it helps in improving the functioning of the entire system. By giving the people to criticise the judiciary, the system can benefit with the help of the opinion of the commonman. Unlike the case of Prashant Bhushan where he was held in contempt for 2 of his tweets that criticised the Apex Court. In the case of *In Re. Arundhati Roy*, the Apex Court held that fair criticism with regard to the conduct of a judge or the Judiciary as an institution and its functioning may not amount to contempt of court if it is made in good faith and in the interest of public. A platform must be created by the media which is accessible by the public at any given time where they can voice their opinions which can be considered by the judiciary depending upon its importance to the country and its well-being or with regard to the reformation or amendments of laws for better discipline in the country. Such platform must be made accessible to the judiciary who can filter the opinions and consider the one causing the most impact and take cognizance of the same. The judiciary must welcome constructive criticism and take it in the right spirit. The media can act as a middle-man in delivering such opinions to the judiciary. As discussed in the previous sections, the media can also bring into notice various points in cases that the judiciary may have overlooked which can help upholding the principles of natural justice and help in the victory of truth. The media can also focus on bringing to light the cases that require attention of the judiciary which it can then take up suo moto to provide justice to the ones who cannot approach the court of law. The powerful media can assist the judiciary by means as mentioned above and help in strengthening the judiciary of the country from the district to the national level which can cause a huge positive impact and help to restore and uphold the faith of the common man in the judiciary and ensure him that justice will be served.

Key takeaways from this discussion would be that the media, having such a great impact on the thinking, opinions and perceptions of the public at large also has an impact on the justice system and its functioning. The justice system and the media have a relationship of dependency and function best when they are in harmony with each other. For the benefit of not only the judiciary but also the public, the media must portray the truth about process of administration of justice and also shortcomings in the process of doing so, if any. This will help the public to form an informed opinion and also act as constructive criticism for the judiciary to optimise their functioning. The judiciary can further use the media to disclose information of public interest and engage the public with the functioning of the system to uphold the faith the common has in the justice system of the nation. Media trials influence the opinions of the common man to such an extent that the justice system is also affected due to it. Such media trials act as an obstacle and must be banned; if this continues, strict action must be taken against the persons involved in the same. Use of media to provide criticism which would help to improve functioning of judiciary must be facilitated in an organised manner as well as to point out the facts overlooked by the judiciary which may help in serving justice in the right manner and upholding the truth.

The author would like to make some recommendations with regard to the media's interference in the process of justice administration. The various laws in place to regulate the media are in existence just on paper. It is not followed practically. Such regulations must be formulated in manner that is easy for a layman to understand and follow. It should also include regulations to make the media accountable if and when they cause an obstruction in the administration of justice. Media trials must not be allowed and immediate and strong action must be taken against the persons and the organisations engaging in such practices as it affects the process of administration of justice. Formulation of a system where the suggestions, opinions and criticisms of the commonman can be considered by the judiciary in order to improve its functioning and come up with a more efficient system.

CONCLUSION

Throughout the course of this paper, the author has extensively discussed how the media has a strong influence in shaping the opinions of the public at large, generally and with respect to the Indian justice system. The media is both a boon and a bane, in respect to its involvement in the process of administration of justice. As stated by Benjamin Franklin, it is better 100 guilty persons should escape than that one innocent person should suffer. Many times, due to the hype given by media, an innocent is pronounced guilty or even the guilty may go scot-free because of the way he has been portrayed by the media. Using the media in an effective manner and as a helping hand in the process of administration of justice is a difficult task but it is also the need of the hour. An effective relationship between the two systems of justice and media must be that of harmony, great communication and dependency. The freedom of the press must not be hampered but must be regulated so as to bring out the optimum results from the coverage or depiction or broadcasting done by the media. When an industry has such a great impact on the country and its people, the power must be directed in the right way and such power must be used to show the truth and reality to the persons. Media houses must rise beyond their thirst for TRP and must focus upon delivering the reality or the truth to every person. This will not only help the democracy at large, but more specifically it will help the judiciary in strengthening the functioning of its system as such coverage will lead to unravelling of the truth which will help to ease the process of administration of justice. Media and justice must go hand in hand to uphold the democracy that is India.

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