

# JUDGING JUSTICE: CAN MEDIA INFLUENCE UNDERMINE THE COURTS?

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## **Abstract:**

The media have a crucial role in influencing public debate and maintaining transparency in governance. In the domain of criminal justice, the occurrence of trial by media has elicited significant apprehensions regarding its influence on the presumption of innocence, the rights of the defence, and the autonomy of the judiciary. This study examines the intricate relationship between media sensationalism and legal integrity, investigating how broad and biased media coverage affects judicial decisions, undermines public trust in the judiciary, and jeopardises the rights of the accused. This qualitative analysis of prominent cases and legal precedents reveals occasions when media narratives have influenced judicial outcomes, coerced courts into issuing rulings that reflect public opinion, and compromised the impartiality of judges and witnesses. The research article assesses the constitutional and legal protections established to govern media involvement, contrasting methodologies from several jurisdictions, including Nepal, India, the United States, and the United Kingdom. It additionally exposes deficiencies in current regulatory frameworks and suggests legislative proposals to reconcile media freedom with the ideals of fair trial and due process. The results highlight the necessity for ethical media, enhanced judicial safeguards, and informed public dialogue to avert the transformation of the court system into a spectacle fuelled by sensationalism instead of evidence-based decision-making. The article enhances the conversation on criminal justice reforms by proposing a systematic regulatory framework to alleviate the detrimental impacts of media trials on the administration of criminal justice in the modern context.

**Keywords:** Media Trial, Fair Trial, Judicial Independence, Sensationalism, Criminal Justice System.

## **INTRODUCTION**

In modern democratic cultures, the media is regarded as the fourth pillar of democracy<sup>1</sup>, tasked with the responsibility of serving as a watchdog<sup>2</sup> to ensure openness, accountability, and to enlighten the citizenry. The increasing phenomenon of trial by media has prompted significant concerns over its impact on judicial integrity, the right to a fair trial, and the administration of criminal justice in recent years. The criminal justice system encompasses the laws, procedures, institutions, and policies that address crime, ensuring that the rights of suspects, victims, and offenders are upheld, and that illegal acts are prosecuted and penalised by the state in accordance with established legal protocols.<sup>3</sup> The principles of "presumption of innocence until proven guilty," "right against self-incrimination," and "right to a fair trial" constitute the foundation of

<sup>1</sup> Thejaswini C.B., Media – The Fourth Pillar of Democracy, 7(1) IJRAR 135, 135 (2020).

<sup>2</sup> *Id.* at 138.

<sup>3</sup> Criminal Justice, Legal Info. Inst., [https://www.law.cornell.edu/wex/criminal\\_justice](https://www.law.cornell.edu/wex/criminal_justice) (last visited Apr. 25, 2025).

criminal law.<sup>4</sup>

The aim of the research is to examine the inappropriate effect exerted by the media on judicial decision-making. The media significantly contributes to highlighting injustices and ensuring accountability; however, its intrusion into active legal proceedings may jeopardise trial fairness, erode public trust in the judiciary, and impair judges' capacity to render decisions free from external influence. In a democratic society, bolstering judicial independence and guaranteeing impartial verdicts are essential for preserving the judiciary's status as a cornerstone of democracy.<sup>5</sup> The conflict between media freedom and judicial impartiality is a significant problem warranting academic and policy attention.

A multitude of studies has examined the media's constructive role in bolstering democracy. The media serves as a formidable entity, crucial in revealing and addressing concerns through public awareness, investigative efforts, and reporting on corrupt activities.<sup>6</sup> Nevertheless, academics have highlighted the adverse implications of media participation in the judicial process. Media trials and prejudiced reporting frequently compromise the presumption of innocence by depicting the accused as guilty prior to the court's ruling.<sup>7</sup> There remains a deficiency in studies about the influence of media narratives on judicial judgements, particularly in jurisdictions where safeguards against external pressures on judges are inadequate or inconsistently enforced. The conflict between the standards of traditional journalism and the rapid, emotive nature of social media presents a novel and inadequately researched issue that could significantly impact the impartiality of court proceedings.

This study is grounded in theories regarding media influence on individuals, the significance of judicial independence, and the entitlement to a fair trial. A just trial is a vital cornerstone of a democratic society.<sup>8</sup> Every individual has the right to have their civil or criminal cases adjudicated openly and within a reasonable timeframe by an independent and impartial tribunal established by law.<sup>9</sup> The study examines how media narratives can jeopardise the right. This research seeks to examine the influence of media trials and dramatic news narratives on judicial outcomes and the broader justice system. It examines how extensive media attention can undermine the presumption of innocence.<sup>10</sup> This article is a comparative examination of legislation and case law pertaining to media trials. The report offers recommendations for mitigating the adverse impacts of media trials while preserving the media's crucial function in a democracy. It seeks to integrate concepts from both legal and media studies to illustrate how unregulated media narratives can undermine justice and the necessity for a more equitable balance between media liberty and equitable trials.

## THE MEDIA'S ROLE IN SHAPING CRIMINAL TRIALS

In today's criminal justice system, the media serves as both a guardian of public interest and a potential disruptor of judicial integrity. While the media is important for ensuring transparency and keeping

<sup>4</sup> ASHMIT KHURANA, Media Trials: An Antithesis to Sub-Judice, 7(3) Int'l J.L. Mgmt. & Human. 1206, 1206-1217 (2024).

<sup>5</sup> SHASHVAT TIWAR The Role of the Judiciary in Upholding Democratic Principles, 7 INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES 539,554 (2024).

<sup>6</sup> Maria Astolfi, The Role of Media in Exposing Political Corruption and Its Impact on Democratic Governance and Societal Development (2023) (Tesi di Laurea, Luiss Guido Carli University).

<sup>7</sup> Sree Lekshmi B, Impact of Media Trial on Rights of Accused and Victim, XXV ISSN 3494, 3497 (2024).

<sup>8</sup> International Comm'n of Jurists, International Principles on the Independence and Accountability of Judges, Lawyers and Prosecutors: Practitioners Guide No. 1 4 (José Zeitune, ed., 2007).

<sup>9</sup> European Convention on Human Rights, art. 6 (Nov. 4, 1950).

<sup>10</sup> Universal Declaration of Human Rights, art. 11, G.A. Res. 217A (III), U.N. Doc. A/810 (Dec. 10, 1948).

democracy in check, uncontrolled reporting, especially in sensitive or political cases, can harm an accused person's right to a fair trial. Judges, although professionally trained to be impartial, are not immune to the influence of pervasive media narratives. Repeated exposure to prejudicial reporting can subconsciously affect judicial reasoning, while witnesses may alter or embellish their testimonies due to public pressure and fear of scrutiny.

In jurisdictions with jury systems, like the United States and the United Kingdom, the impact of the media is even more pronounced. Jurors, who are often laypersons, may be exposed to pretrial publicity that shapes their opinions before evidence is even presented in court. A landmark American case, *Sheppard v. Maxwell* (1966), exemplifies the dangers of excessive media influence. The U.S. Supreme Court overturned the conviction of Dr. Sam Sheppard because there was overwhelming and unfair media coverage that influenced the case.<sup>11</sup> The Court ruled that the trial judge did not do enough to make sure Sheppard got a fair trial, which violated his rights under the Sixth Amendment of the U.S. Constitution.<sup>12</sup> India also faced serious challenges in keeping juries unbiased, as seen in the famous K.M. Nanavati case. The case involved a naval officer, K.M. Nanavati, who got angry and shot his wife's boyfriend, Prem Ahuja. The public largely sympathized with Nanavati, and a jury initially acquitted him.<sup>13</sup> However, the High Court and later the Supreme Court overturned the verdict and found him guilty.<sup>14</sup> The media's role in the Nanavati case had several implications for contemporary India, such as the abolition of the jury system and the emergence of trial by media.<sup>15</sup> These cases underscore the importance of maintaining the sanctity of legal proceedings against the tide of media sensationalism.

The impact of media on criminal trials is particularly severe when it comes to the treatment of both the accused and the victims. Sensationalist media reporting, often driven by the need for higher viewership or social media engagement, can lead to serious consequences. The accused may suffer irreparable reputational damage, social isolation, and psychological trauma, even if they are ultimately found innocent. Victims, especially in cases involving sexual assault, may experience further emotional harm due to invasive media scrutiny. The publication of personal details, images, or videos without consent, which is common in social media trials, violates the right to privacy and can expose both victims and the accused to harassment, online abuse, and mental health challenges.

Moreover, media trials often give rise to trials by public opinion, where the accused is judged by the public before the court delivers its verdict. Media ignores the vital gap between the accused and a convict and puts the golden principle of law 'Presumption of innocence until proven guilty' and "guilt beyond a reasonable doubt" at stake.<sup>16</sup> Additionally, the rise of digital platforms has created new concerns, such as the manipulation or misinterpretation of digital evidence, which may not always be authentic or admissible. Media coverage of such evidence can give people the wrong idea and make the trial unfair. There is also the risk of witness tampering and intimidation, as media exposure may discourage witnesses from testifying truthfully due to fear of retaliation or public backlash.

While the media serves a crucial role in democratic oversight, its overreach into the judicial domain can distort legal processes, compromise impartiality, and violate fundamental rights. Media should adhere to

<sup>11</sup> *Sheppard v. Maxwell*, 384 U.S. 333 (1966).

<sup>12</sup> *Sheppard v. Maxwell*, 384 U.S. 333 (1966).

<sup>13</sup> *K.M. Nanavati v. State of Maharashtra*, AIR 1962 SC 605 (India).

<sup>14</sup> *K.M. Nanavati v. State of Maharashtra*, AIR 1962 SC 605 (India).

<sup>15</sup> S. Srinidhi, *Media's Role in the K.M. Nanavati Case: An Analysis of Influence and Implications for Contemporary India*, Institute of Legal Education 541, 547 (n.d.).

<sup>16</sup> Maninder Gill Sudhiir & Rhea Sudhiir, *Fair and Free Trial vs Media Trial*, 4(5) ISSN 21, 24 (2016).

ethical standards and journalistic principles while reporting on any case or issue.<sup>17</sup> Courts around the world have repeatedly stressed the need to strike a balance between press freedom and fair trial rights. Measures such as postponement orders, contempt proceedings, and media ethics guidelines must be effectively enforced to preserve the integrity of criminal trials and ensure that justice is not just done, but is also seen to be done.

### • **The Rise of Social Media Trial**

In the era of globalization, social media is one of the most important tools for communicating, spreading information, and entertaining.<sup>18</sup> The rise of social media has changed human life drastically<sup>19</sup>, especially the way the public engages with criminal trials. Social media has turned platforms like Twitter, Facebook, YouTube, and TikTok into virtual courtrooms, where trials unfold not in traditional courtrooms but in the virtual realm of online platforms. These digital trials have become a contentious subject, blurring the boundaries between public opinion, media coverage, and the legal process.<sup>20</sup> These platforms now shape public narratives in real time, without legal accuracy or due process, and spread instantaneously.

The democratization of content creation means that virtually anyone can become a media personality. This shift has led to the emergence of 'digital courts,' where public sentiment, amplified by social media, can exert undue influence on legal proceedings. Digital Courts have become a global issue, as public judgment unfolds online before any courtroom proceedings. In India, for example, the Nirbhaya rape case (2012), the Aarushi Talwar murder case (2008), and the Sushant Singh Rajput case (2020) exemplify how social media can sway public sentiment, damaging due process for legal fairness. Due to online discussions and social media influence, before the jury delivered a unanimous decision in favor of actor Johnny Depp in his defamation case against his ex-wife, Amber Heard, she had already lost.<sup>21</sup>

What was once a space for social connectivity has now shifted towards platforms of public conviction. People often share their opinions about ongoing court cases on social media without knowing all the facts, which can affect the accused person's right to be presumed innocent and to have a fair trial. Hashtags like #JusticeForSushant or #AmberHeardIsALiar have the power to create parallel judicial ecosystems where collective outrage determines guilt or innocence.

These trends raise serious challenges for the justice system. As phones transformed into smartphones, social media sites became more accessible and transportable, making it easier for people to stay constantly connected. According to a detailed analysis by Kepios, there were 5.31 billion social media users worldwide as of April 2025, representing 64.7 percent of the global population<sup>22</sup> which highlights just how pervasive these platforms have become. As a result, jurors and court personnel are now more frequently exposed to pretrial publicity via social media, increasing the risk of biased judgments and potential mistrials.

The rise of social media blurred the boundaries of news, entertainment,<sup>23</sup> and the justice process. As the

<sup>17</sup> Entman, R. M., Framing: Toward clarification of a fractured paradigm, 43(4) J. of Comm. 51, 51-58 (1993).

<sup>18</sup> Jordan Gruce, Social Media and the Court: Exploring Impacts, Challenges, and Legal Considerations in the Digital Age, University Honors College 1, 3 (2024).

<sup>19</sup> The Rise of Social Media and its Impact, 5(8) IJRAR 882, 885-886 (Aug. 2018).

<sup>20</sup> Mr. Saif Hussain, Social Media Trials in India: A Comprehensive Analysis of Legal Implications and Societal Impact, 3(5) Indian J. of Integrated Research in Law 1, 2 (n.d.).

<sup>21</sup> Mariah Espada, *Netflix's Depp v Heard Documentary Examines How Social Media Took Over the Trial*, Time (Aug. 16, 2023, 2:27 PM EDT), <https://time.com/6305480/depp-v-heard-netflix-documentary/>.

<sup>22</sup> Datareportal, Global Social Media Statistics, DATAREPORTAL (2024), <https://datareportal.com/social-media-users>.

<sup>23</sup> Ray Surette & Charles Otto, A Test of a Crime and Justice Infotainment Measure, 30 J. Crim. Just. 443,



mainstream media had its ethics, uncontrolled social media spreads biased or erroneous information untrammelled. This system poses a test for fair trials as public sentiment, influenced by social media headlines, can mount pressure on justice institutions. The advent of social media in media trials requires a reexamination of existing legal frameworks and ethical principles. With social media further influencing public perception and, consequently, the judicial process, it is essential to implement safeguards that ensure the integrity of the legal system without sacrificing freedom of expression.

### **CASE STUDIES ON MEDIA INFLUENCE IN CRIMINAL TRIALS**

The media has a significant power to positively and negatively influence justice. While the media plays a crucial role in ensuring and promoting transparency, accountability, and public awareness, excessive media coverage can undermine judicial integrity, compromise the fairness of the proceedings, and pressurize the judiciary. The following case studies highlight how media trial adversely affects criminal justice administration:

1. Sheppard v. Maxwell (US, 1966): Dr. Sheppard was convicted of murder in 1954 in Ohio, and his conviction was upheld by both the state appeals court and the Ohio Supreme Court. The U.S. Supreme Court initially denied review. However, the trial was marked by serious issues, including prejudicial media coverage and judicial misconduct. Notable problems included a televised inquest without defense participation, widespread media focus on alleged affairs as motive, public exposure of juror identities, and intrusive press presence in the courtroom. The judge also failed to question jurors about media exposure or to sequester them, contributing to an unfair trial environment.<sup>24</sup>
2. OJ Simpson Trial (1995, US): According to criminologist Gregg Barak, the O.J. Simpson case was a true “spectacle” – essentially a nine-month live news broadcast.<sup>25</sup> The trial, which began in 1994, drew immense global attention and featured the first- ever use of live TV cameras in a courtroom, making it a “Trial of the Century”. Based on a survey administered during the criminal trial of O.J. Simpson, those who exhibited a stronger psychological involvement with Simpson developed through repeated media exposure were more likely to believe his innocence.<sup>26</sup>
3. Aarushi Talwar Murder Case (2008, India)<sup>27</sup>: In the Aarushi Talwar case, the media declared the parents guilty before the court did, spreading false and intrusive claims. This violated their privacy and disrupted the investigation. Though later cleared by the Supreme Court, the media's actions raised concerns about lasting damage to the parents' lives.
4. Nirmala Panta Rape and Murder Case (2018, Nepal): In 2018, the rape and murder of a teenage girl received widespread media coverage, sparking public outrage and demands for justice. However, the media prematurely focused on certain suspects without sufficient evidence, resulting in a “trial by media.” This led to the harassment of innocent individuals and the permanent damage to their reputations.<sup>28</sup> Umesh Shrestha,

453 (2002).

<sup>24</sup> Robert Kopple, “Constitutional Law – Balancing of Free Press and Fair Trial – Inherent Prejudice from Mass Publicity,” 16 DePaul L. Rev. 203 (1966), available at <https://via.library.depaul.edu/law-review/vol16/iss1/13> (last visited Apr. 24, 2025).

<sup>25</sup> Frankie Bailey, “Has the Media Learned Anything Since the O.J. Simpson Trial?,” The Conversation (Apr. 12, 2024, 1:27 PM), <https://theconversation.com/has-the-media-learned-anything-since-the-o-j-simpson-trial-227748> (last visited Apr. 25, 2025).

<sup>26</sup> Brown, W.J., Duane, J.J., & Fraser, B.P., “Media Coverage and Public Opinion of the O. J. Simpson Trial: Implications for the Criminal Justice System,” 2 Communication L. & Pol’y 261, 261–87 (1997), <https://doi.org/10.1080/10811689709368625>.

<sup>27</sup> Dr. Mrs. Nupur Talwar v. State of UP & Anr., (2017) 2 SCC 627.

<sup>28</sup> Ankit Raj Pandey, “Presumption of Guilt Until Proven Innocent: The Erosion of a Fundamental Right in Nepal,” *my Republica* (Mar. 10, 2025), <https://myrepublica.nagariknetwork.com/news/presumption-of-guilt-until-proven-innocent-the-erosion-of-a-fundamental-rig-35-21.html> (last visited Apr. 24, 2025).

who produced a 30-part series on the Nirmala Pant case, noted that fake news spreads quickly through YouTubers and online media, as many prioritize views and profit over accuracy, often gaining public support despite sharing unverified content.

5. **Sushant Singh Rajput Case (2020, India):** Rhea Chakraborty was arrested in the Sushant Singh Rajput case and was widely singled out by the media, which painted her as a member of a drug ring and gave her derogatory names. Her family was under tremendous pressure, and her privacy was violated. The Bombay High Court, however, later granted her bail after concluding that there was no proof of her participation in a drug syndicate.<sup>29</sup>

6. **Paul Shah Rape Case (2022, Nepal):** In the case involving Nepalese actor Paul Shah, accused of rape by a minor, the Cyber Bureau had to intervene due to the spread of false information and widespread victim-blaming on social media platforms. Nepal's Cyber Bureau issued a warning due to the spread of unverified information and rumors on platforms like YouTube. Since Shah's custody, numerous videos have been uploaded, many of which disclose the minor's identity, violating her rights and legal protections. Public figures like Pooja Sharma and Jaya Kishan Basnet have publicly supported the accused, raising concerns among experts that such narratives could hinder the investigation. According to Nepal Police spokesperson Bishnu Kumar KC, the fast-paced and demanding nature of social media often obstructs investigations.<sup>30</sup>

7. Several high-profile cases in Nepal, including that of cricketer Sandip Lamichhane—who was sentenced to eight years in prison for rape—demonstrate how public opinion and media influence can shape perceptions of guilt and fuel victim-blaming. In Lamichhane's case, the alleged victim, known by the pseudonym Gaushala-26, was subjected to media-driven character attacks, with some accusing her of "honey- trapping" him. Social media further polarized the narrative, with some prematurely labeling the accused as guilty even before the investigation concluded.<sup>31</sup>

## **MEDIA TRIALS AND LEGAL BOUNDARIES IN GLOBAL PERSPECTIVE**

### **• International Instruments Governing Media Trial**

By balancing press freedom and judicial integrity, international conventions are essential to maintaining the right to a fair trial everywhere. Important documents like the International Covenant on Civil and Political Rights<sup>32</sup> and the Universal Declaration of Human Rights<sup>33</sup> place a strong emphasis on legal protections, fair trials, and the presumption of innocence. These rights are further safeguarded by regional frameworks like the European Convention on Human Rights and Canada's Charter of Rights<sup>34</sup>. The right to a fair trial is affirmed in the 1985 UN Basic Principles on the Independence of the Judiciary, which mandates that the judiciary must ensure fair judicial proceedings and respect the rights of all parties involved<sup>35</sup>. Conventions

<sup>29</sup> Rhea Chakraborty on 'media trial' after Bollywood star's death, BBC News (Aug. 28, 2020), <https://www.bbc.com/news/world-asia-india-53932725> (last visited Apr. 23, 2025).

<sup>30</sup> Shuvam Dhungana, "Misinformation, Disinformation, False News and Trial by Social Media," *The Kathmandu Post* (Mar. 7, 2022), <https://kathmandupost.com/national/2022/03/07/misinformation-disinformation-false-news-and-trial-by-social-media> (last visited Apr. 25, 2025).

<sup>31</sup> Diwakar Dhakal, "Media Trials and Their Impact on the Judiciary," *myRepublica* (Feb. 17, 2024), <https://myrepublica.nagariknetwork.com/news/media-trials-and-their-impact-on-the-judiciary> (last visited Apr. 24, 2025).

<sup>32</sup> International Covenant on Civil and Political Rights, art. 14(1), Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>33</sup> Universal Declaration of Human Rights, art. 10, G.A. Res. 217A (III), U.N. Doc. A/810, at 71 (Dec. 10, 1948); Universal Declaration of Human Rights, art. 11, G.A. Res. 217A (III), U.N. Doc. A/810, at 71 (Dec. 10, 1948).

<sup>34</sup> "The Canadian Charter of Rights and Freedoms is a bill of rights entrenched in the Constitution of Canada, forming the first part of the Constitution Act, 1982," Justice.gc.ca (Apr. 25, 2025), <https://www.justice.gc.ca>.

<sup>35</sup> U.N. Basic Principles on the Independence of the Judiciary, G.A. Res. 40/146, U.N. GAOR, 40th Sess.,

emphasise protecting people from defamation and improper influence in reaction to media trials. Events such as the UNESCO conferences and the Madrid Principles<sup>36</sup> also emphasise how important it is to limit media meddling to uphold justice.<sup>37</sup>

- **United States<sup>38</sup>**

The First Amendment in the United States guarantees press freedom, which means that there are no legal limitations on media coverage, even while a case is still pending. But occasionally, this can clash with a defendant's right to a fair trial under the Sixth Amendment. As a result, the legal system tends to take a permissive approach<sup>39</sup>, giving the media considerable leeway in reporting on criminal cases. Although the judiciary may use safeguards such as jury sequestration and gag orders to reduce the impact of publicity, the general stance favours media freedom. They generally believe that jurors can disregard what they have heard in the news and focus solely on the evidence presented in court.<sup>40</sup> So, the press is allowed to freely report on crimes and trials.

**Rulings Of Us Courts On Media Trial:** In *Toledo Newspaper Co. v. United States*<sup>41</sup>, the Supreme Court allowed punishing press coverage that had a reasonable tendency to obstruct justice. Later, in *Bridges v. California*<sup>42</sup>, the Court rejected this and held that only publications posing a clear and present danger to justice could be punished as contempt. The Supreme Court ruled in *Pennekamp v. Florida*<sup>43</sup> that there are restrictions on the right to free expression. It clarified that we must strike a balance between the right to free speech and the right of an accused person to a fair and impartial trial.

These days, restrictions on press freedom are only allowed if the publications pose "a serious and imminent threat to the administration of justice."<sup>44</sup> In *Marshall v. United States*<sup>45</sup>, the Supreme Court ordered a new trial because news reports revealed the defendant's prior convictions, a highly prejudicial type of publicity, even though most jurors claimed they could remain impartial. To eliminate any possibility of injustice, the US Supreme Court decided in *Rideau v. Louisiana*<sup>46</sup> that airing a defendant's confession on television was a violation of due process, even in the absence of evidence of real bias. The Court later concluded in *Estes v. Texas*<sup>47</sup> that broadcasting a criminal trial was an inherent denial of due process. In *Sheppard v. Maxwell*<sup>48</sup>,

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Supp. No. 53, art. 6, at 229 (Nov. 29, 1985).

<sup>36</sup> Madrid Principles on the Relationship between the Media and Judicial Independence § 10 (Centre for the Independence of Judges and Lawyers).

<sup>37</sup> Parmeet Kaur, *From Headlines to Verdicts: Examining the Influence of Media Coverage on the Right to a Fair Trial*, 6 Int'l J. of Legal Sci. & Innovation 1 (2024).

<sup>38</sup> Nimisha Jha, *Media Trials in India*, Lawctopus (Nov. 13, 2015), <https://www.lawctopus.com/academike/media-trials-india/> (last visited Apr. 22, 2025).

<sup>39</sup> *Trial by Media: The Risks to Defendants of Differing US and UK Approaches*, Kramer Levin, <https://www.kramerlevin.com/en/perspectives-search/trial-by-media-the-risks-to-defendants-of-differing-us-and-uk-approaches.html> (Mar. 3, 2022) (last visited Apr. 22, 2025).

<sup>40</sup> Aasia Hassan, *Media Trials: Investigative Journalism Vs. Right to Fair Trial*, 2 Indian J. Integr. Res. L. 10 (2023).

<sup>41</sup> *Toledo Newspaper Co. v. United States*, 247 U.S. 402 (1918).

<sup>42</sup> *Bridges v. California*, 314 U.S. 252 (1941).

<sup>43</sup> *Pennekamp v. Florida*, 328 U.S. 331, 354-355 (1946).

<sup>44</sup> *Craig v. Harney*, 331 U.S. 367, 373 (1947).

<sup>45</sup> *Marshall v. United States*, 360 U.S. 310 (1959).

<sup>46</sup> *Rideau v. Louisiana*, 373 U.S. 723 (1963).

<sup>47</sup> *Estes v. Texas*, 381 U.S. 532 passim (1965).

<sup>48</sup> *Sheppard v. Maxwell*, 384 U.S. 333, 334 (1966).

the Supreme Court held that the failure of the trial judge to protect the trial from inherent prejudicial publicity deprived Sheppard of a fair trial consistent with due process.

### • India

In India, media trials are regulated by various laws to balance press freedom with fair judicial processes. Article 19(1)(a) of the Constitution guarantees freedom of speech, but Article 19(2) allows reasonable restrictions to protect national security, public order, and the judiciary's integrity. The Contempt of Courts Act, 1971, particularly Section 2(c), treats media interference that affects court proceedings as criminal contempt. The Press Council of India regulates ethical conduct, handling complaints against newspapers, editors, and journalists. Similarly, the Bharatiya Nyaya Sanhita (2023) adds the following safeguards:

1. **Section 356** prohibits defamation,
2. **Sections 72 & 73** protect victim identities and restrict publication of trial information,
3. **Section 353** punishes provocative statements,
4. **Section 196** penalizes hate speech.

The 200th Law Commission Report (2006) also identified that pre-trial media publications affect judicial neutrality, leading to wrongful convictions or acquittals.<sup>49</sup>

Rulings Of Indian Courts On Media Trial: In *Rao Harnarain v. Gumani Ram*<sup>50</sup>, the Court criticised "trial by media," emphasising that reporters are not allowed to conduct investigations or have an impact on ongoing legal procedures. In *Leo Roy Frey v. R. Prasad*<sup>51</sup>, the court ruled that if an article is offensive, the publisher cannot claim protection because the case is at the pre-trial stage. Also, in *A.K. Gopalan v. Noordeen*<sup>52</sup>, the Supreme Court held that a prejudicial publication made after the arrest of the accused or suspect would amount to contempt of court. As the Court noted in *Re: P. C. Sen*<sup>53</sup>, biased newspaper comments have the potential to unfairly sway judges or witnesses, endangering the principles of a fair trial. In *Y.V. Hanumantha Rao v. K.R. Pattavhiram*<sup>54</sup>, the Andhra Pradesh High Court held that commenting on a pending case in a way that may influence the judge, witness, or public is contempt of court—even if the comment is honest. In *Subhash Chandra v. S.M. Agarwal*<sup>55</sup>, the court held that making comments or abusing a party in a pending case before a judge amounts to contempt of court.

Similarly, in *Sheela Barse v. State of Maharashtra*<sup>56</sup>, the Supreme Court held that while victim interviews are important, they must be regulated to protect the victim's dignity, and the press has no absolute right to conduct such interviews. In *Ajai Kumar Goyal v. Anil Kumar Sharma*<sup>57</sup>, the Supreme Court held that the media is permitted to criticize the functioning of the subordinate judiciary fairly, provided such criticism does not compromise the judiciary's integrity or dignity.

The Supreme Court in *State of Maharashtra v. Rajendra Jawanmal Gandhi*<sup>58</sup> emphasized the importance of maintaining the integrity of trials, stating that external influences such as media coverage or public agitation can undermine the judicial process. It stressed that trials must be conducted following established legal

<sup>49</sup> Law Commission of India, 200th Report on Trial by Media, Free Speech and Fair Trial under Cr.P.C, 1973, at 8 (Aug. 2006).

<sup>50</sup> *Rao Harnarain v. Gumani Ram*, AIR 1958 P H 273.

<sup>51</sup> *Leo Roy Frey v. R. Prasad & Ors.*, AIR 1958 P&H 377.

<sup>52</sup> *A.K. Gopalan v. Noordeen*, (1969) 2 SCC 734.

<sup>53</sup> *Re: P. C. Sen*, AIR 1970 SC 1821.

<sup>54</sup> *Y.V. Hanumantha Rao v. K.R. Pattavhiram & Anr.*, AIR 1975 AP 30.

<sup>55</sup> *Subhash Chandra v. S.M. Agarwal*, (1984) Cri LJ (Del) 481.

<sup>56</sup> *Sheela Barse v. State of Maharashtra*, (1988) 1 SCR 210.

<sup>57</sup> *Ajai Kumar Goyal v. Anil Kumar Sharma*, (1995) 6 SCC 527.

<sup>58</sup> *State of Maharashtra v. Rajendra Jawanmal Gandhi*, AIR 1997 SC 3986.



procedures, free from any external pressures that could lead to a miscarriage of justice. In addition to these, in *Siddhartha Vashist v. State (NCT of Delhi)*<sup>59</sup>, the Supreme Court held that Article 19(1)(a) does not allow the media to interfere with the administration of justice in sub-judice matters. The court ruled in *Anil Kumar v. M/S. I Sky B & Ors.*<sup>60</sup> that the right to a fair trial prevails over the freedom of the press when the two are in conflict.

### • **Nepal**

The right to a fair trial is protected by Article 20(9) of the 2015 Constitution of Nepal, which guarantees that each person has the right to a fair trial by an impartial and independent court. Additionally, courts have the authority to start contempt proceedings against people who obstruct justice or disobey court orders under Article 128(4). In addition to these constitutional protections, Section 3 of the National Broadcasting Act of 1993 gives the government the authority to regulate media activities, including making sure that broadcasters use sensitive language. Furthermore, the posting of information online that incites hate or disrupts public harmony is punishable under Section 47 of the Electronic Transactions Act of 2008.

Furthermore, to strengthen the judiciary's authority and preserve the integrity of judicial procedures, Section 17 of the Administration of Justice Act, 2073, allows for legal action against acts of contempt that interfere with or disregard court orders or judgments, thereby reinforcing the judiciary's authority and upholding the sanctity of judicial processes. Clause 11 of the Online Media Operation Directive 2016 prohibits the publication or broadcasting of any news that shows contempt of court.<sup>61</sup>

**Rulings Of Nepalese Court On Media Trial:** In the case of *Santosh Bhattarai v. Himal Media Pvt. Ltd.*<sup>62</sup>, the Supreme Court held that any act such as spreading misleading rumors to scandalize the court, interfering in court proceedings, obstructing the administration of justice, or commenting on ongoing cases in a way that affects fair and impartial justice—all through speech, writing, or publication—is considered contempt of court.

The Supreme Court ruled in *Arun Kumar Gyawali vs. Kanak Mani Dixit, Editor/Publisher of Himal Khabar Patrika (Himal Media Pvt. Ltd.)*<sup>63</sup> that it is contemptuous to undermine the dignity of the judiciary or the confidence of the public. Remorse cannot repair the harm caused by false reporting, and press freedom permits fair criticism but not at the expense of judicial independence or accuracy. It cannot be used as an excuse for stories undermining public trust in the legal system. Similarly, the Supreme Court of Nepal ruled in *Advocate Ratna Kumari Shrestha v. Sudhir Sharma*<sup>64</sup> (2073 BS, NKP, Decision No. 10370) that press freedom does not excuse undermining the independence, dignity, or proper operation of the legal system. It may be considered contempt of court for the media to arbitrarily criticize court rulings in a way that undermines public confidence in the legal system.

### • **United Kingdom**

In the United Kingdom, courts take a stricter approach to media coverage of trials compared to the United States. Under the Contempt of Court Act 1981<sup>65</sup>, courts can delay the publication of trial reports if it risks harming the fairness of the proceedings. British courts prioritize the right to a fair trial and recognize that

<sup>59</sup> *Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi)*, AIR 2010 SC 2352.

<sup>60</sup> *Anil Kumar v. M/S. I Sky B & Ors.*, CS No. 323/2013.

<sup>61</sup> Vijay Prasad Jayshwal & Shishir Lamichhane, *Freedom of Expression and 'Trial by Media' in Nepal: An Empirical Study of Linguistic Sensitiveness in Criminal Reporting in Print Media* 10 (Nov. 2016).

<sup>62</sup> *Santosh Bhattarai v. Himal Media Pvt. Ltd.*, N.K.P. 2064, vol. 49, D.N. 7840.

<sup>63</sup> *Arun Kumar Gyawali v. Kanak Mani Dixit, Editor/Publisher of Himal Khabar Patrika (Himal Media Pvt. Ltd.)*, N.K.P. 2068, vol. 53, D.N. 8774.

<sup>64</sup> *Advocate Ratna Kumari Shrestha v. Sudhir Sharma*, N.K.P. 2076, vol. 61, D.N. 10370.

<sup>65</sup> Contempt of Courts Act 1981, § 4(2).

media publicity, especially details like confessions or past convictions, can seriously affect justice. They often assume that such publicity prejudices the trial and may halt proceedings if necessary. Courts assess whether the media content poses an immediate and serious risk and consider how likely it is to influence the jury, regardless of judicial instructions.

**Rulings Of Uk Courts On Media Trial:** The case *Attorney-General v. Times Newspaper Ltd.*<sup>66</sup> highlighted the court's strong opposition to media trials. Lord Diplock emphasized that justice depends on open court access, impartial judges deciding only on legal evidence, and protection from outside influence. Any act that threatens these principles or public confidence in them amounts to contempt of court. In *Attorney General v. Guardian Newspapers Ltd.*<sup>67</sup>, Collins, J. explained that courts must assess whether the risk of prejudice from a publication is both immediate and serious, considering its content, timing, potential impact on jurors, and whether the jury can follow directions to ignore it. In *R v. Lord Chancellor*<sup>68</sup>, Laws, J. emphasized that the right to a fair trial is nearly absolute.

## CONCLUSION

The convergence of media liberty and judicial neutrality constitutes a particularly sensitive equilibrium in democratic nations. This paper has rigorously analysed the increasing occurrence of media trials and their effects on the integrity of the criminal justice system, highlighting how unregulated media narratives can undermine the presumption of innocence, jeopardise fair trial rights, and expose judicial decision-making to external influences. A comparative legal study and thorough review of case studies reveal that, although the media is crucial for fostering transparency and accountability, its intrusion into sub judice concerns can compromise the integrity of justice.

Social media has exacerbated the challenge of media influence by creating public opinion platforms that sometimes disregard due process. At times, both digital and traditional media have influenced witnesses, undermined courtroom integrity, and compelled judges to align with popular opinion. Ethical journalism, public education on judicial independence, and enhanced legal protections are essential for safeguarding justice. International collaboration, technological instruments, stringent judicial processes, and legal reforms should be employed to advance these endeavours.

The objective should be to preserve media freedom while ensuring its harmonic coexistence with the right to a fair trial. Justice must not only be executed but also perceived as executed—unbiased, devoid of populism, and free from hasty judgements rendered outside the courtroom. A responsible media, a diligent judiciary, and an informed public are essential for maintaining the legitimacy and integrity of criminal justice in contemporary society.

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<sup>66</sup> *Attorney-General v. Times Newspapers Ltd.*, [1974] AC 273.

<sup>67</sup> *Attorney General v. Guardian Newspapers Ltd.*, [1987] 1 A.C. 109.

<sup>68</sup> *R (UNISON) v. Lord Chancellor*, [2017] UKSC 51.