

About the Book

The Book *Headlines v. Law* explores the growing conflict between media narratives and the realities of the legal system in contemporary society. The book critically examines how sensational headlines often shape public opinion, influence judicial processes, and sometimes undermine the principles of fair trial and justice. Through interdisciplinary insights from law, journalism, and public policy, it highlights the impact of media trials, misinformation, and public outrage on legal outcomes. It also addresses the ethical responsibilities of the media and the need for accountability in reporting. By analysing real cases and evolving media practices, the book emphasizes the importance of balancing press freedom with judicial integrity. Ultimately, it calls for a more informed, responsible, and legally conscious media ecosystem.

Message from the Desk of Chief Editors



Prof. (Dr.) Nirmal Kanti Chakrabarti
Chief Advisor, School of Legal Studies
Swami Vivekananda University

It is a matter of great pride to present *Headlines v. Law*, a scholarly work that critically examines the growing influence of media narratives on the justice system. This book thoughtfully highlights the delicate balance between press freedom and legal accountability. The contributions reflect strong academic insight and a commitment to ethical discourse. I commend the authors and editors for their dedicated efforts and believe this work will significantly enrich contemporary legal scholarship.



Prof. (Dr.) Paresh Kumar Acharya
Dean, School of Legal Studies
Swami Vivekananda University

It is with great pleasure that I present *Headlines v. Law*, a scholarly work that critically examines the intersection of media influence and the justice delivery system. The book offers valuable insights into how public narratives shape legal understanding and accountability. It reflects the intellectual rigor and commitment of the contributors toward responsible legal scholarship. I am confident that this work will serve as an important resource for academicians, practitioners, and students alike.

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HEADLINES VS. LAW

When Media Narratives Clash with Legal Truth

HEADLINES VS. LAW 2025



Editor-in-chief

Prof. (Dr.) Nirmal Kanti Chakrabarti
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HEADLINES VS. LAW

When Media Narratives Clash with Legal Truth



SWAMI VIVEKANANDA UNIVERSITY

SCHOOL OF LEGAL STUDIES

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PREFACE

In an era marked by rapid technological advancement, instantaneous communication, and expanding digital spaces, the relationship between media, law, and society has undergone a profound transformation. The growing influence of traditional and digital media on public opinion, judicial processes, and democratic institutions has given rise to complex legal and ethical challenges. This book, *Headlines v. Law*, seeks to critically examine these evolving dynamics by exploring how media narratives, digital platforms, and emerging technologies interact with established principles of justice, fairness, and the rule of law.

The chapters compiled in this volume offer a multidisciplinary and contemporary analysis of issues such as media trials, misinformation, digital surveillance, political microtargeting, and the erosion of procedural safeguards in the age of instant communication. Each contribution reflects rigorous academic inquiry, drawing from constitutional law, criminal jurisprudence, media studies, and digital governance.

This book aims to serve as a valuable academic resource for students, researchers, legal professionals, policymakers, and anyone interested in understanding how media-driven narratives increasingly shape legal outcomes and public consciousness. By engaging with both doctrinal analysis and socio-legal perspectives, the contributors collectively seek to foster informed dialogue on safeguarding democratic values in an era of unprecedented informational power.

It is hoped that *Headlines V. Law* will encourage deeper reflection on the responsibilities of media, the resilience of legal institutions, and the need for balanced regulatory frameworks that uphold justice without stifling free expression

ACKNOWLEDEMENT

We express our deepest gratitude to **Swami Vivekananda University, Kolkata, India** for its unwavering support and academic encouragement in the creation of '*Headlines v. Law*'. The University's steadfast commitment to academic excellence, interdisciplinary research, and social responsibility has provided a strong foundation for this scholarly endeavor. Its vision of nurturing critical inquiry and intellectual independence has played a pivotal role in shaping the direction and purpose of this work.

We are sincerely thankful for the intellectually stimulating environment fostered by the University, which enabled meaningful engagement with complex issues at the intersection of law and media. The emphasis placed on inclusive scholarship, ethical reflection, and academic freedom has significantly influenced the depth and perspective of the discussions presented in this volume.

Our heartfelt appreciation is extended to the School of Legal Studies for its continuous guidance, institutional support, and encouragement throughout the research and editorial process. The mentorship, collaborative spirit, and access to academic resources provided by the faculty and administration have been invaluable in bringing this collective scholarly effort to fruition.

We also express our sincere gratitude to all the contributors whose rigorous research, insightful analyses, and scholarly dedication have enriched this work. Their commitment to academic excellence has been instrumental in shaping the intellectual depth of the book. It is our earnest hope that '*Headlines v. Law*' will serve as a meaningful academic contribution, fostering critical dialogue on the relationship between media, justice, and democratic accountability.

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Chapter - I

CONFLICT BETWEEN MEDIA TRIAL AND FAIR TRIAL

BY

Sudhamoy Bhowmick & Payel Talukder

Abstract

Freedom of speech and expression is recognised as a fundamental right under the Indian constitution as well as many international laws. This right includes the freedom of press and media as unenumerated rights under Indian constitution, which empowers the media to disseminate information to the public. Media through investigative journalism, televised debate, panel discussion and newspaper articles informs the public about social, political and economic issues. The investigative journalism extends to reporting crimes also. However, sometimes these right crosses its boundaries and makes conflicts with others enumerated right. Sometimes this right portrays the person as guilty without any investigation, where law considered an individual innocent until proved as guilty. Such unjustified news changes perception of general public as a result they post their own opinion targeting the suspected person which affects his personal life as well as the fundamental rights like right to live with dignity and right to get fair and trial. The expansion of print, electronic, and social media in India has transformed the public sphere, strengthening democratic participation and transparency. While the judiciary recognises the essential role of a free press under Article 19(1)(a), it insists on maintaining boundaries that prevent interference with due process, the right to privacy, and the dignity of courts. However, the judiciary in this matter tries to balance between this competing rights. In light of the above discussion, this chapter seeks to explore the concept of media trial and its adverse effect on the right to a free and fair trial. Lastly examining the approach adopted by Indian courts in balancing these intersecting constitutional rights.

Keywords: Media trial, Fair trial, Freedom of speech, Freedom of press, Censorship

Freedom of Speech and Media freedom:

Freedom of speech and expression is recognised as an important human right, as well the first condition of democracy. The idea develops on the idea of free dialect, the necessity of discussion and debate, that create informed citizens. The right includes the authority of individuals to speak freely even against the power and the majority. In this philosophical aspect this right is hazardous as this freedom allows all kind of expression even those are false, hateful or destabilizing. It is a socially constructed right, that sense two approaches-

The first is individual cantered approach where freedom of speech and expression is considered as personal right which emphasize the idea of self-expression means every person has the right to express their own opinion.

The second approach can be society cantered approach where freedom of speech and expression considered as collective right which focuses on how the open debate allows the exchange of idea which may convince public to take decision. Therefore, sometime the reasonable restriction is needed for the interest of society.

Internationally this right has been recognised under *Universal Declaration of Human Rights, 1948* as:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

UN human right committee in general comment no 34(2011) interprets article 19 of *International Convention of Civil and Political Rights, 1966* also ensures freedom of speech and expression as an essential part of human right.

In Indian constitution has recognised and protects freedom of speech and expression under the part III of constitution, i.e. fundamental rights. Article 19 recognised six freedoms as fundamental right of freedom, “*freedom of speech and expression*” is first among them however “*freedom of press*” is not directly mentioned under the text of the constitution. However, judges always ruled for the free media in India. Freedom of Press is thus recognised by judiciary as unenumerated right under Article 19(1)(a). In *Ramesh Thappar vs. State of Madras, 1950*¹ case *Justice Patanjali Sastri* (as he was then) observed that “*Freedom of speech lay at the foundation of all democratic organisation*”.

¹ *Romesh Thappar v State of Madras* [1950] SCR 594

While discussing about the utility of “freedom of press”, in *Indian Express Newspapers V. Union of India* (1985)², supreme court observes follows:

“The expression ‘freedom of press’ has not been used in Article 19 of the Constitution but, as declared by this Court, it is included in Article 19 (1) (a) which guarantees freedom of speech and expression.”

Again, in *Indian express Newspapers V. Union of India* (supra), also provide that “Press not only to satisfy the public interest by throwing up a broad spectrum of views but also to fulfil the individual interest by enabling virtually everyone with a distinctive opinion to find some place to express it”. Hence where in democracy people have right to know. Press has the duty to inform people to satisfy their interest to know. Press and media satisfy such interest by providing news about social, political, economic, and other issues. Such news can include news about occasion of crimes and investigation of the same, as well updates about the trail. Media through investigative journalism produce news about crimes and which in many cases are under trial or even pre-trial stage. However, such news needs authenticate, biasfree, and responsible reporting.

What is Media Trial:

The term “*Media Trial*” is a portmanteau of ‘*Media*’ and ‘*Trial*’. Where the term *media* refers to, mass communication including broadcasting, publishing, and internet, while *trial* refers to a formal meeting in a law court, at which judge and jury listen to evidence and decide whether a person is guilty of a crime. Hence, together it means exercise of trial by media.

From previous several decades, the phrase “Media trial” has been used to suggest the large and bias news reporting of under trial and pre-trial matters by the news organizations such as Newspaper, T.V. Channels, etc. Statutory definition of the term media trial is not possible, as it is not a legal procedure or principle. However, supreme court in *R.K. Anand v. Delhi High Court*³, tries to define it in following words:

“The impact of television and newspaper coverage on a person's reputation by creating a widespread perception of guilt regardless of any verdict in a court of law. During high publicity court cases, the media are often accused of provoking an atmosphere of public hysteria akin to a lynch mob which not only makes a fair trial nearly impossible but means that, regardless of the result of the trial, in

² *Indian Express Newspapers (Bombay) Pvt Ltd v Union of India* [1985] 2 SCR 287

³ *RK Anand v Registrar, Delhi High Court* (2009) 8 SCC 106

public perception the accused is already held guilty and would not be able to live the rest of their life without intense public scrutiny....”

Though the court and Media both has duty to bring truth before the public, both working of institute is not same. Judiciary functions on due process of law also, where the both the parties in conflicts presents evidence before the court, other party get a chance to cross-examine the evidence which are produced against him and finally the adjudicator pronounce the judgement, which can again be reviewed and challenged before higher authority through appeal. The press and media bring the truth before people through news article, televised debate, discussions. so media in search of sensational news can interpret and presents one-sided option as truth.

It is important to mention here that the media plays an important and responsible role reporting to interpret judiciary in many cases. Indian courts have often taken *suo moto* cognizance of news reports to uphold justice and protect fundamental rights. For instance, *Sheela Barse V. State of Maharashtra*⁴, the supreme court acted on report about women prisoners. Again, in *Bandua Mukti Morcha V. Union of India*⁵ and *People's Union for Democratic Rights V. Union of India*⁶, court intervened after media exposed bonded labour and worker exploitation. While media and press have the duty to inform people about various news, including crime.

Hence, reporting of crime is different from media trial in many aspects. Media and press have the duty to inform people about various news, including crime. While crime reporting is factual, neutral informing to the public about commission of crime with journalist ethics. One the other side in media trial, media replace the role of judge without any knowledge or experience about functioning or nature of judicial proceedings. Such reporting functions solely on speculation and emotion to sensitize the issue to get more views, including declare someone guilty or innocent to an accused whose case is under trial or pretrial before a court, and by this influencing public opinion. So the discussion on the conflict between free media and fair trial, and the adverse effect of the irresponsible reporting on individuals' dignity and administration of justice.

Conflict Between Freedom of Speech and Free Trial:

*Zahira Habibullah Sheikh v. State of Gujarat*⁷, the Supreme Court explained that a “*fair trial obviously would mean a trial before an impartial Judge, a fair prosecutor and atmosphere of judicial*

⁴ *Sheela Barse v State of Maharashtra* (1983) 2 SCC 96.

⁵ *Bandhua Mukti Morcha v Union of India* (1984) 3 SCC 161

⁶ *Bandhua Mukti Morcha v Union of India* (1984) 3 SCC 161.

⁷ *Zahira Habibullah Sheikh v State of Gujarat* (2004) 4 SCC 158.

calm. Fair trial means a trial in which bias or prejudice for or against the accused, the witnesses, or the cause which is being tried is eliminated.”

Exercising the adjudicating function by the media results a huge number of problems regarding justice system. In our country judiciary functions on the established procedural function and passing judgement which mandates the principles of natural justice and constitutional mandates. The determination of guilty and innocence is based on legally accepted evidence not on emotion. But when the media assumes the role of a judge by publishing anything without any evidence this affects the structured judicial process.

Press and media in often publish news emotionally charged and one-sided narrative, which can hide the truth. In *M.P. Lohia v. State of West Bengal*⁸, the Supreme Court strongly criticised one-sided media reporting in a dowry death case and observed that such articles, which publish only the prosecution’s allegations while ignoring the defence material, stated following:

“These types of articles appearing in the media would certainly interfere with the course of administration of justice”.

However, as fundamental principal of criminal law works on the presumption of innocence, individual’s guilt needs to be proved beyond reasonable doubt before declaring such individual as guilty. This principle is internationally recognised under article 11(1) of the *Universal Declaration of Human Right* as *“Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”*

In the case of *State of Maharashtra v. Rajendra Jawanmal Gandhi*⁹, the supreme court held that *“There is procedure established by law governing the conduct criminal trial of a person accused of an offence. A trial conducted by press, electronic media or public agitation is very antithesis of rule of law. It can well lead to miscarriage of justice”.*

Despite of this the media is observed to have habitually overlooked the legal presumption of innocence until proven guilty by indulging in media trials or parallel investigations, thereby negatively impacting the serious prejudice accused in the case.

Article 21 of the constitution also mentioned that No person shall be deprived of his life or personal liberty except according to procedure established by law. Which enumerated fair trial as fundamental

⁸ MP Lohia v State of West Bengal (2005) 2 SCC 686

⁹ State of Maharashtra v. Rajendra Jawanmal Gandhi is (1997) 8 SCC 624

right. *Sidhartha Vashisth @ Manu Sharma V. State (Nct of Delhi)*¹⁰ the Hon'ble Supreme Court emphasized that trial by media must not prejudice the accused's right to a fair defence or compromise the presumption of innocence, particularly during an ongoing investigation.

The impact of the media trial went further when a court of law pronounces a verdict contrary to what already decided by the media, it creates doubts in the mind of layman, who already assumes the guilt influenced by the media coverage, about the impartiality of the judiciary. It resulted in suspension of corruption and biasness about judiciary in the public. Such presumption can thereby undermine the public confidence and prejudice the fair administration of the criminal justice system.

Trial by media apart from adversely affecting the Fair Trial, prejudice to the individuals' right to privacy and human dignity, which are recognised fundamental right under article 21. Fundamental rights do not flee the person as he enters the prison.(sunil bharat).Hon'ble Supreme Court in *R. Rajagopal and Another v. State of Tamil Nadu and Others*¹¹ reminiscence of the limits of freedom of the press with respect to the right to privacy held, *"A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters. None can publish anything concerning the above matters without his consent - whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy."*

Hon'ble Andhra Pradesh High Court in *Labour Liberation Front v. State of Andhra Pradesh*¹². The Hon'ble Court observed, *"14. ...Once an incident involving prominent person or institution takes place, the media is swinging into action and virtually leaving very little for the prosecution or the Courts to examine the matter. Recently, it has assumed dangerous proportions, to the extent of intruding into the very privacy of individuals. Gross misuse of technological advancements and the unhealthy competition in the field of journalism resulted in obliteration of norms or commitment to the noble profession. The freedom of speech and expression, which is the bedrock of journalism, is subjected to gross misuse. It must not be forgotten that only those who maintain restraint can exercise rights and freedoms effectively."*

¹⁰ *Sidhartha Vashisht @ Manu Sharma v State (NCT of Delhi)* (2010) 6 SCC 1

¹¹ *R Rajagopal v State of Tamil Nadu* (1994) 6 SCC 632

¹² *Labour Liberation Front v State of Andhra Pradesh* (2005) 1 ALT 740 (AP)

Trial by media also prejudicial with the identity of victims, which is protected by the authority of the law, In *Nipun Saxena v. Union of India*¹³, the court held *“In one case, which made the headlines recently, though the name of the victim was not given, it was stated that she had topped the State Board Examination and the name of the State was given. It would not require rocket science to find out and establish her identity. In another instance, footage is shown on the electronic media where the face of the victim is blurred but the faces of her relatives, her neighbours, the name of the village, etc. is clearly visible. This also amounts to disclosing the identity of the victim.”*

It is clear from the above discussion that media trial has serious consequences on free and trial, on one hand such reporting habitually overlooked the presumption of innocence, vitiates the judicial authority, on the other hand it frequently undermines the individual dignity and privacy. Hence some precautionary measures need to be introduced to control such media trial while upholding free and authenticate media reporting.

Censorship and Freedom of Press:

Censorship: Censorship means suppression, restrict or control over publishing or expressing any Idea, news or expression by government, organization and judiciary also to give sensitive, objectionable matter to the society. The censorship can be both pre censorship and post censorship.

Types:

- I. Pre censorship is restriction on publishing something before publishing the news for the first time. During the time of emergency in 1975-77 the newspapers were required to submit the news to the government before publishing. The government had the power to impose restrictions on publishing such news.
- II. Post censorship means ban or prohibits the news after publishing. Contents which are defaming or having sensitive content that can be restricted publishing after publication
- III. Self-censorship where the journalists himself refrain from publishing such issues due to the fear of political pressure, legal consequences or any other reason.

Constitutional provisions:

As the freedom of press is not directly mentioned in the Indian constitution but such right is unenumerated right under Indian constitution. The Freedom of press is recognized under article 19(1)(a) but this right is not the ultimate right. This right can be restricted by imposing article 19(2)

¹³ *Nipun Saxena v Union of India* (2019) 2 SCC 703

of the constitution in the interest of sovereignty and integrity of India, friendly relationship with foreign state, security of the state, defamation, contempt of court etc. but the censorship is constitutionally permissible when they satisfy the test of reasonableness. Judicial perspective: for defining the term censorship the court played an important role on the tow case that is *Brij Bhushan vs State of Delhi*¹⁴ and *Ramesh Thappar vs. state of Madras*¹⁵ the supreme court held that the pre censorship of newspapers violates the right of press it infringe the freedom of press. The pre censorship is only permissible only under exceptional circumstances and reasonably under article 19(2). In the case of *KA Abbas vs. union of India*¹⁶ the court mandates the validity of censorship of the film. But the court also emphasized that the censorship must be reasonable and transparent when the court by order restrict any fundamental rights, the restriction should be reasonable, justified with the legitimate aim. The restriction should be justified by the test of proportionality. This test is important to safeguard the arbitrary state action to restrict fundamental rights. For the essence of the proportionality test the state must not adopt any disproportionate measures that harm individual rights when less restrictive or other alternatives are available. The doctrine of proportionality is deeply rooted in the European jurisprudence and international human rights law and the Indian judiciary adopted such doctrine evaluate the reasonableness of restrictions of fundamental rights.

The rest of reasonableness contains four requirements.

1. Legitimate aim
2. Rational connection
3. Necessity/ least restrictive means
4. Balancing

in the case of *Modern Dental and Research Centre vs. state of Madhya Pradesh* (2016)¹⁷ the supreme court held that four steps proportionality test in important to restrict any fundamental rights. This concept was reaffirmed in the case of *K.S puttaswami vs. union of India* (2017)¹⁸. The steps include legitimate aim is the first requirement which requires the restriction should be lawful, valid and the aim should be constitutionally permissible ground such as public order, national security, morality, protection of right etc. in *K.S puttaswami vs union of India* (2017). The court mandate that the legitimate aim should be fulfill in such restrictions. Rational connection is suitability test which

¹⁴ *Brij Bhushan v State of Delhi* [1950] SCR 605

¹⁵ *Romesh Thappar v State of Madras* [1950] SCR 594

¹⁶ *KA Abbas v Union of India* [1971] 2 SCR 446

¹⁷ *Modern Dental College & Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353

¹⁸ *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1

mandates There must be a logical and reasonable nexus between the restrictive measure adopted and the objective sought to be achieved. In modern dental college case the court held, the means adopted should be suitable to achieve the legitimate object. The necessity or least restrictive means that there is no least restrictive means available on the object the restoration should confirm that. In case of *Anuradha Basin vs union of India* (2020)¹⁹ the court use this principle and held that the restriction should be temporary, proportionate and least instructive. The balancing is the final step of this stage where the court balance between the sovereignty of restrictions and the public right here the benefit of the society must overweigh the harm cause to the individual. In the case of *Sahara India estate corporation Ltd. Vs security and exchange board of India* (2012)²⁰ the supreme court saw the conflict between article 19(1)(a) which is freedom of trial and the article 21 that is right to a fair trial. Here the issue arises whether the unrestricted Media reporting infringe the right to fair trial and whether the court can impose the temporary restriction on such media reporting. The supreme court found that though the freedom of press is pillar of democracy but this is not absolute. The court introduced “doctrine of postponement” and held that the court may impose temporary restriction on publishing of aspects of ongoing proceedings to keep fair trial.

In *Vidyadhar v Multiscreen media pvt.Ltd* (2013)²¹ where the petitioner was convicted in a corruption case but his appeal was pending. The court restricted to telecast because fair trial includes the appeal proceedings also. In *Swatenter Kumar vs. The Indian express*²² where the court impose the temporary restriction to protect reputational right under article 21.

Conclusion:

The conflict between the media trial and the fair trial reflects the continuous effort to balance between the individual rights with the interest of the society and the democratic rights as freedom of speech and expression of the media. The balancing derives the constitutional protections of 19(a)(1) at the same time it protects the personal liberty under article 21 of the constitution by imposing reasonable restrictions under article 19(2). The judicial scrutiny of state restrictions of media has evolved through the test of reasonableness and test of proportionality. The cases like K.S Puttaswami, Shahara India , Anuradha Bhasin the supreme court affirmed such tests to balance between media trials and fair trials.

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¹⁹ *Anuradha Bhasin v Union of India* (2020) 3 SCC 637

²⁰ *Sahara India Real Estate Corp Ltd v Securities and Exchange Board of India* (2012) 10 SCC 603

²¹ *Vidya Dhar v Multi Screen Media Pvt Ltd* (2013) 10 SCC 145.

²² *Justice Swatanter Kumar v The Indian Express Ltd* (2014) 207 DLT 221

Chapter - II

THE POLITICS YOU NEVER SAW: MICROTARGETING AND THE MANUFACTURE OF MISINFORMED VOTERS

BY

Soham Gupta & Prabhas Kumar

Abstract

In today's information economy, fake news takes many forms. One of its less discussed but structurally most destructive forms is electoral misinformation driven by microtargeting. This practice has transformed political communication from a public contest of ideas into a fragmented marketplace of personalised promises. Campaigns abuse behavioural and psychographic data to selectively present conflicting versions of their manifesto—promising welfare to one community while assuring fiscal restraint to another. This selective disclosure shapes multiple political realities, leading to widely misinformed citizens.

Our chapter analyses this practice, emphasising that the harm done by strategic omission manipulates electoral choice while remaining legally invisible. Existing Indian frameworks—the Model Code of Conduct, the Representation of the People Act, and the newly enacted DPDP Act—are architecturally designed for the "visible spectacle" of public campaigning and fail to address persuasion in the private digital domain. Drawing from the structural failures of US transparency models and EU content regulations, the chapter warns of a "regulatory blind spot." We propose that rather than policing truth, the law must enforce procedural safeguards to restore the shared field of contestation essential for democratic legitimacy.

Keywords: Electoral Microtargeting, Strategic Omission, Indian Election Law, Algorithmic Persuasion, Digital Undue Influence

Electoral Harm Without Falsehood: Reframing “Fake News” in the Age of Microtargeting

In the Indian democracy, while legal discourse focuses on public debates and rallies, a more damning possibility unfolds on the personal screens of over 500 million Indian WhatsApp and Facebook users¹. Due to growing digitisation and the addictive nature of these channels, the broader public discourse has been silently overshadowed by private, invisible feeds. Today, the loudest campaigns are run on these personalised channels, yet no one else hears them.² To understand this silent noise, we must first define the engine driving it: “microtargeting”.

At the simplest level, microtargeting utilises vast aggregates of personal data, such as browsing history, location patterns, and purchasing habits, to categorise audiences and serve them hyper-personalised ads to influence consumer behaviour. If you search for shoes, your algorithm will serve you with ads for discounts on sneakers. However, Electoral Microtargeting weaponises this commercial tool for voter manipulation.³ By processing thousands of data points, sourced from an already digitally illiterate populace, from electricity bills to caste affiliation, even to “likes” on social media, political actors then capitalise and build psychometric profiles that, to a reasonable degree, predict a voter’s fears, prejudices, and triggers⁴. Once these profiles are established, the campaign no longer needs to make anodyne unified promises to the public through the regulated mainstream media. Instead, it can now generate thousands of unique ad variations, each calibrated to a specific individual’s psychological profile, capitalising on their fears and prejudices, providing far greater penetration within vulnerable voter bases, due to these bolder, unregulated campaigns.

This marks a stark divergence from the “traditional methods” of campaigning and outreach. Within the contours of these traditional methods, a candidate cannot promise industrial development in corporate lobbies while simultaneously promising forest protection to tribal communities in the same campaign without being exposed. But within the unregulated digital realm, electoral microtargeting allows for “strategic omission”. A young gig-worker sees a promise about digital labour rights, while a rural landowner in the same constituency sees a promise about protecting land banks. Neither knows what the other has been shown.

¹ WANotifier, ‘WhatsApp Statistics 2025: Usage Trends and Demographics’ (WANotifier, 8 December 2025) accessed 20 December 2025; DemandSage, ‘WhatsApp User Base Report 2025’ (DemandSage, December 2025) accessed 20 December 2025.

² Shoshana Zuboff, *The Age of Surveillance Capitalism* (PublicAffairs 2019).

³ Frederik Zuiderveen Borgesius and others, ‘Online Political Microtargeting: Promises and Threats for Democracy’ (2018) 14(1) *Utrecht Law Review* 82.

⁴ Divij Joshi, ‘Data Privacy and Elections in India: Microtargeting the Unseen Collective’ (2022) 18(2) *Indian Journal of Law and Technology* 115.

This allows for fragmentation among voters based not on differing opinions but on differing versions of facts and reality as portrayed by these curated channels. Past instances like the Cambridge Analytica scandal demonstrate how actors harvest data to suppress turnouts and fan polarisation. This fear is further exacerbated by the current unprecedented growth in the utilisation of AI tools by these campaigns. During the 2024 general elections, more than 50 million AI-generated calls, which utilised voice clones to simulate personal relationships with voters, were made during the 2024 election cycle⁵. Research highlights how this “unawareness”, voters' inability to see the conflicting messages sent to others, is an essential condition for effective voter manipulation.⁶

The Existing Indian legal framework, from the Model Code of Conduct to the Representation of the People Act, is built on the presumption of visibility. This chapter argues that unchecked microtargeting is not just a privacy violation but a fundamental breach of democratic legitimacy. It manufactures misinformed voters not by lying to them, but by denying them the shared informational baseline necessary to make a meaningful choice.⁷

What Is Structurally New? From Targeted Politics to Uncontestable Persuasion

To regulate a harm, the law must first distinguish it from standard accepted practice. A common, often cynical objection to regulating microtargeting is the claim that “politics has always been targeted”. Critics, and indeed, legal defences for big tech often argue that political parties have effectively “microtargeted” Indian voters for decades, not with algorithms or AI, but simply through local intermediaries, caste associations, and regional manifestos. If a candidate speaks about crop prices in a rural APMC mandi and urban infrastructure in a city hall, are they not “segmenting” the electorate? This section argues that while the *intent* to segment has been continuous, the existing *structure* of digital persuasion represents a far more dangerous break from the past.⁸ We must distinguish between Traditional Political Targeting and Algorithmic Microtargeting.

Historically, Indian elections have been fought based on distinct community appeals. It should be considered as a feature, not a bug, of our diverse democracy that a candidate speaks one language to a weaver’s colony in Varanasi and another to a trader’s association in Mumbai. However, this

⁵ TechPolicy Press, ‘India’s Experiments with AI in the 2024 Elections’ (TechPolicy, 25 September 2024); The Hindu, ‘Deepfakes and Democracy: The 50 Million Call Benchmark’ (The Hindu, 29 March 2024).

⁶ Freek van Gils, Wieland Müller and Jens Prüfer, ‘Microtargeting, Voters’ Unawareness, and Democracy’ (2025) 41(2) Journal of Law, Economics, and Organization 634; Internet Freedom Foundation, ‘The Privacy Deficit in Indian Elections’ (IFF Working Papers, 2024).

⁷ Ujjwala Uppaluri and Dharmaraj Pal, ‘Electoral Democracy and the Right to Know: A Judicial Review’ (2019) 12 NUJS L Rev 1.

⁸ Philip N Howard and others, ‘The Political Economy of Social Media in India’ (2023) 15(3) Oxford Journal of Legal Studies.

traditional form of political targeting operated under a crucial structural constraint: “Audibility/Visibility”. When a politician stands on a podium at a rally, irrespective of whether he is addressing 500 people or 50,000, his speech enters the, as Habermas would put it, the “public sphere”.⁹ Even if the message is tailored to a specific caste or region, it is delivered within a public forum, accessible to all.

This form of physical targeting is automatically constrained by three layers of democratic accountability that microtargeting destroys.

First is “Visibility”. The Election Commission’s videographers, the press, and the general public witness and record these promises¹⁰. If a candidate makes an inflammatory statement or a legally actionable promise (such as bribery), it becomes a “Headline.” The law can see it because the medium is public. The discourse regarding it also operates in the Public Sphere. The second constraint is the “Reputational Constraint”. Since the message is public, it implicitly carries a cost. A party cannot promise *total* prohibition of alcohol to one group and *subsidized* liquor licenses to another in the same district without running the risk of the contradiction being exposed by the media or the opposition. The fear of being called a hypocrite and losing credibility among the voter base, a key factor within democratic setups, acts as a regulatory deterrent.¹¹

Third, and most vitally for our analysis, is “Contestability”. In traditional campaigning, the Opposition hears what the Incumbent says.¹² If Party A makes a false claim in a rally, Party B has the opportunity to rebut it in the next news cycle. The democratic process is essentially then a “clash of narratives” where the voter judges the winner of the argument. Therefore, traditional targeting, no matter how divisive, remained “contestable”. It existed within a shared reality where contradictions could be flagged, and lies could be challenged. A form of objectivity could be established.¹³ The black letter of law, specifically in context of Indian electoral setup, the Model Code of Conduct, was designed for this world. It served its purpose sufficiently well. It polices the “noise” of the rally and the “ink” of the pamphlet. It assumes that if a harm occurs, it will occur in the open, generating a headline that the law can then address. But what happens when the campaign moves from the podium to the pocket? What happens when the “Headline” disappears?

⁹ Jürgen Habermas, *The Structural Transformation of the Public Sphere* (MIT Press 1989)

¹⁰ Election Commission of India, ‘Manual on Model Code of Conduct’ (ECI 2019) Document 21/MCC/2019.

¹¹ Frederik Zuiderveen Borgesius and others, ‘Online Political Microtargeting: Promises and Threats for Democracy’ (2018) 14(1) *Utrecht Law Review* 82.

¹² Cass Sunstein, *#Republic: Divided Democracy in the Age of Social Media* (Princeton University Press 2017).

¹³ Burkhard Schipper and Hee Yeul Woo, ‘Political Awareness, Microtargeting of Voters, and Negative Electoral Campaigning’ (2019) 14(1) *Quarterly Journal of Political Science* 41.

This is where Political Microtargeting (referred to as PTMC hereon) steps in. PTMC is fundamentally differentiated from the traditional practices, and to understand this, we need to first understand what actually happens in a scenario containing PTMC. Thus, we look at the hypothetical town of “Rajneeti”. Now, Rajneeti has two main parties competing for electoral seats, where party ‘A’ holds traditional targeted campaigns to be superior, while party ‘B’ is ready to innovate and try out new methods. So, in the elections of 2025, A starts by analysing the demographics through surveys and voter profiles. It drafts a district-wise manifesto, schedules rallies calibrated to caste and occupational composition, and trains its local leaders to emphasise different issues in different constituencies. Every promise is spoken aloud, every speech is recorded, every slogan is repeatable by the Opposition and reportable by the press. Party A’s strategy is segmented, but it is *legible*.

On the other hand, Party B takes a new mode. Party B begins not with districts or communities, but with *data exhaust*.¹⁴ It purchases voter datasets from data brokers, harvests engagement metrics from social media platforms, scrapes WhatsApp group memberships, analyses language preferences, browsing histories, consumer behaviour, religious content consumption, grievance posts, and past voting cues. Each voter in Rajneeti is no longer primarily a member of a caste, ward, or profession, but a probabilistic profile. Then, using machines, messages are drafted for each voter, students are sent the promise of a new education scheme, employees are sent the promise of higher pensions, businesses are sent the promise of easier and cheaper employee procurement, tribals are sent the promise of stronger land rights, industries are promised more area to mine and set up machinery, while a staunch supporter of the party is served no message, just silence. These clusters are continuously updated as voters scroll, like, pause, or forward content. Unlike Party A’s static segmentation, Party B’s targeting is adaptive, iterative, and opaque.

The first political idea that collapses with this practice is visibility. None of these messages became headlines. No videographer records them. No journalist sees the full picture. Each message is privately delivered to a pocket, disappears after 24 hours, and leaves no public trace. Even if a message is inflammatory, false, or legally impermissible, it is structurally invisible to regulators. This in itself makes these messages dangerous, eroding away the political accountability as each promise shifts from the public sphere to the personalised bubble of each person. Contradiction no longer is a threat to the political party as it weaponises it to be agreeable to more people. Contradictions and promises are never subject to public judgment, and reputation, a variable of this judgment of the

¹⁴ Philip N Howard, ‘The Political Economy of Social Media in India’ (2023) 15(3) Oxford Journal of Legal Studies 45.

shared exposure, becomes fragmented into millions of private impressions. No voter can tell if they are being lied to, as they no longer know what the other person has been told.

Most dangerously, PTMC destroys contestability. Party A never hears Party B's messages. There is nothing to rebut. No false claim can be challenged if it is never publicly made. The democratic process ceases to be a contest of ideas and becomes a contest of influence operations, where success is measured not by persuasion in public debate but by behavioural nudges executed in private. Party B observes voters continuously, while voters observe Party B only through curated, personalised fragments. The epistemic playing field collapses.¹⁵ In Rajneeti, voters no longer deliberate within a shared reality. They pass through parallel informational worlds, each one quietly calibrated to their fears, prejudices, and emotional triggers. Elections are no longer fought in the public sphere but inside millions of sealed private psychological spaces. The story of Rajneeti is not merely hypothetical; it mirrors documented realities. The Cambridge Analytica scandal demonstrated the scale of psychographic profiling, while the 2019 and 2024 Indian elections highlighted how WhatsApp moves political messaging into encrypted networks entirely outside public scrutiny.

Political microtargeting thus dismantles the structural conditions for democratic accountability. It eliminates visibility by relocating persuasion to private feeds and fragments reputation by allowing contradictory promises to coexist without judgment. Most dangerously, it destroys contestability. When regulators, the press, and opponents cannot see the message, there is nothing to rebut. Elections cease to be a public contest of ideas, devolving into isolated influence operations where voters respond to curated narratives engineered to remain unseen and unaccountable.

Strategic Omission as Electoral Misinformation: How Parallel Political Realities Are Manufactured

If visibility was the first democratic casualty of political microtargeting, omission is what finishes the job. Unlike false claims or inflammatory speeches, omission leaves nothing behind. It generates no headline.¹⁶ It invites no rebuttal. It triggers no immediate legal response. And yet, it is through this carefully engineered silence that political microtargeting manufactures electoral misinformation without ever having to speak an untruth.

¹⁵ Md Ishtiaq Hossain, 'The Algorithmic Public Sphere: Rethinking Journalism, Communication, and Democracy in the Digital Era' (2025) ResearchGate.

¹⁶ Tom Dobber and others, 'Political Microtargeting: Towards a Pragmatic Approach' (2023) 12(1) Internet Policy Review.

Strategic omission must therefore be understood not as accidental silence or mere rhetorical discretion, but as a deliberate form of electoral communication. It involves the targeted withholding of issue positions, trade-offs, or priorities from particular segments of the electorate, even as those same positions are openly disclosed to others. The defining feature of this practice is not falsity, but selective visibility.¹⁷ The harm does not lie in voters being told something wrong. It lies in voters being shown only a fragment of the political reality they are being asked to choose from.

This distinguishes strategic omission from deception: deception relies on falsehoods; omission uses truthful fragments made misleading by design. A voter may receive only accurate messages and yet remain fundamentally misinformed about the political project they are endorsing.¹⁸ A campaign may truthfully promise welfare expansion to one segment, infrastructure growth to another, and fiscal restraint to a third, while never disclosing the trade-offs that make these commitments mutually incompatible.

It is equally distinct from persuasion. Traditional persuasion operates within a shared communicative field. Different audiences may hear different emphases, but the underlying content remains broadly common and publicly contestable. Strategic omission fractures this field itself. The electorate no longer encounters one political programme interpreted differently, but multiple versions of reality, each insulated from the others.¹⁹ Nor is this merely a matter of framing. Framing selects interpretive lenses over common facts. Strategic omission removes facts from shared circulation altogether.

This is how omission becomes misinformation without falsehood. Conventional accounts of misinformation focus on error: voters are misled because they are induced to believe something untrue. Strategic omission produces harm through informational incompleteness under conditions of asymmetry. Voters cannot know what has been omitted, nor can they infer it through ordinary political engagement, because the missing information exists only in parallel, inaccessible channels.²⁰

The consequence is a sharp divergence between individual accuracy and collective intelligibility. Individually, voters may form reasonable beliefs based on the information presented to them. Collectively, however, the electorate loses the capacity to evaluate trade-offs, detect contradictions,

¹⁷ Ellen P Goodman, 'Digital Information Fidelity and Friction' (2020) Knight First Amendment Institute.

¹⁸ Claes de Vreese and others, 'The Datafication of Campaigning' in *Digital Democracy, Analogue Politics* (Oxford University Press 2018).

¹⁹ Michael Bennett and Shanto Iyengar, 'A New Era of Minimal Effects? The Changing Foundations of Political Communication' (2008) 58(4) *Journal of Communication* 707

²⁰ S Nageeb Ali and others, 'Electoral Competition with Strategic Disclosure' (2019) 10(3) *Games* 29.

or assign responsibility. Elections cease to aggregate preferences over a shared political offer and instead aggregate reactions to fragmented narratives.

This harm is not reducible to voter manipulation or autonomy loss. It is a structural failure of electoral aggregation itself. Electoral law has historically assumed that political promises are publicly observable, that voters can compare competing claims across the electorate, and that elections aggregate preferences over a common set of representations. These assumptions tolerate exaggeration and rhetoric, but they require comparability.

Strategic omission undermines these assumptions without violating any explicit rule. The conduct may remain formally lawful, yet it defeats the functional premises upon which electoral accountability depends. Traditional targeting differentiated audiences within a public sphere. Microtargeting, through omission, insulates audiences from one another.

The cumulative effect is the manufacture of parallel political realities. Different voters encounter different issue hierarchies, different silences around costs, and different implied priorities. No single voter sees the full political programme, and no institution can reconstruct it in real time. Accountability collapses because promises cannot be collectively evaluated.²¹ Mandates become indeterminate because it is unclear which version of the political project has been endorsed.

Elections, in such a system, no longer aggregate preferences over a common set of claims; they aggregate responses to fragmented, privately curated political narratives that are individually truthful yet collectively unintelligible.

Existing electoral law does not know how to see this harm. Strategic omission triggers none of its traditional categories. It is therefore rendered legally invisible, even as it corrodes the conditions of electoral accountability. The next section shows how Indian electoral doctrine inherits this blindness, treating microtargeted communication as benign speech differentiation rather than as a failure of electoral integrity.

The Indian Regulatory Blind Spot: Why Electoral Law Cannot See Private Persuasion

Electoral microtargeting represents a clear structural break from traditional politics, yet our legal framework remains stuck in the past. Despite *prima facie* comprehensiveness, the Indian electoral regime still remains architecturally designed only for regulating the “visible spectacles” of electoral

²¹ W Lance Bennett and Shanto Iyengar, ‘A New Era of Minimal Effects? The Changing Foundations of Political Communication’ (2008) 58(4) *Journal of Communication* 707.

campaigning.²² It assumes that this political persuasion generally occurs through public, verifiable mediums such as rallies or newspapers. Consequently, when this persuasion shifts to the private, infinite scrolls of smartphones, a evident "regulatory blind spot" emerges. This is not due to any regulatory oversight or flaws in the enforcement of statutes, but rather it exists due to a fundamental design failure within our laws, which are still stuck in the past.

As visible from the Model Code of Conduct (MCC) suffers from a fatal "category error" because it mistakenly correlates visibility with persuasion. Its provisions, such as the ban on casteist and communal appeals or the mandatory "Silence Period" (48 hours before polling), depend heavily on the physical visibility of these offences²³. In the physical world, violations are public events recorded by the Election Commission, even visible to the opposition. However, In the digital realm, microtargeting creates a "verification vacuum."²⁴ For instance, a "dark ad" which incites fear within a specific demographic on WhatsApp is wholly invisible to the regulator, seen only by the voters who are already primed to accept it as true. Furthermore, modern algorithmic delivery mechanisms render the Silence Period infructuous, as programmatic ads continue running on personal feeds via remote servers, thereby bypassing the ban. This opacity violates the voter's fundamental Right to know by reducing the entire electorate to mere passive recipients of these politically curated realities.²⁵ By regulating only the *noise* of the election while leaving the *signal* unchecked, the MCC effectively nullifies the informed consent essential for a valid democratic mandate.

The "hard law" doesn't fare any better. *Section 123(2)* of the RPA defines "undue influence" as interference with electoral rights²⁶. However, the Supreme Court in *Shiv Kirpal Singh v. V.V. Giri* has restricted this definition to visible threats like physical injury or spiritual censure.²⁷ However, the modern emerging variant, "Digital undue influence", operates through informational distortion, through targeted suppression campaigns using false polling data rather than physical coercion, thereby not being within the definition's ambit. This blindness extends to hate speech regulation, namely *Section 196* of the Bharatiya Nyaya Sanhita, 2023 (formerly *IPC 153A*), which criminalises promoting enmity between groups. The law presupposes a public element within the act of hate speech²⁸. However, in the age of microtargeting, hatred is seeded through encrypted, curated channels

²² Ujjwala Uppaluri and Dharmaraj Pal, 'Electoral Democracy and the Right to Know: A Judicial Review' (2019) 12 NUJS L Rev 1.

²³ *Abhiram Singh v CD Commachen* [2017] 2 SCC 629 (SC).

²⁴ Nathaniel Persily, 'The Internet's Challenge to Democracy: Framing the Problem and Assessing Reforms' (2019) Kofi Annan Commission on Elections and Democracy in the Digital Age.

²⁵ *Shreya Singhal v Union of India* [2015] 5 SCC 1; Constitution of India 1950, art 19(1)(a).

²⁶ Representation of the People Act 1951, s 123(2).

²⁷ *Shiv Kirpal Singh v VV Giri* [1970] 2 SCC 567 (SC).

²⁸ Bharatiya Nyaya Sanhita 2023, s 196.

like WhatsApp and Facebook. The State cannot regulate or prosecute what it cannot witness. Similarly, Section 127A of the RPA, originally designed to prevent anonymous pamphleteering, has been rendered obsolete by "shadow committees" and programmatic exchanges that leave no clear financial or evidentiary trace²⁹, leaving the statute regulating *paper* while elections unfold on *pixels*. Even if it is caught in time, due to anonymity, the attribution of responsibility becomes almost impossible.

Nonetheless, the most critical failure by far lies within the text of the Digital Personal Data Protection (DPDP) Act, 2023. Instead of shielding voters as intended, it contrarily empowers microtargeters. Section 17(2)(a) of the Act exempts "publicly available personal data" entirely from any protection, effectively legalising the scraping of social media profiles by these entities³⁰. Allowing them to treat a public tweet as consent for psychometric profiling. This aspect of legislation clearly violates the principle of informational self-determination as established by the bench in *Justice K.S. Puttaswamy v. Union of India*. Privacy, the Court held, follows the *individual*, not the *platform*.³¹

Further, the Act fails to explicitly protect "inferences," the subjective profiles derived from raw data. The core harm of microtargeting lies not in raw data but in predictive labels like "neurotic" or "susceptible to communal triggers."³² While early drafts of the act recognised inferences as personal data, the final Act omits them.³³ This allows political strategists to shield manipulative profiles as "trade secrets," protecting the *input* while leaving the *output* unregulated. Finally, the Act ignores "collective privacy." By treating data as a transactional asset between individuals and fiduciaries, it fails to address how microtargeting fragments the *demos* into incompatible realities.³⁴ India risks creating a regulatory scarecrow: visible enough to claim authority, but hollow enough for manipulation to pass through. Until the law forces persuasion back into the public sphere and recognizes inferences as protected data, the democratic mandate remains compromised at the point of formation.

Regulating Invisible Persuasion: Comparative Failures and Procedural Remedies

When the law attempts to regulate political microtargeting, it does so using instincts developed in a very different democratic environment. These instincts are not misguided. They are inherited. They

²⁹ Representation of the People Act 1951, s 127A.

³⁰ Digital Personal Data Protection Act 2023, s 17(2)(a).

³¹ Justice KS Puttaswamy (Retd) v Union of India [2017] 10 SCC 1

³² Vidhi Centre for Legal Policy, 'Securing Neuro-Privacy: Regulating the Mental Commons' (Vidhi 2024).

³³ Committee of Experts under the Chairmanship of Justice B N Srikrishna, A Free and Fair Digital Economy: Protecting Privacy, Empowering Indians (Ministry of Electronics and Information Technology 2018) 24.

³⁴ Balakrishnan Rajagopal, 'The Architecture of Invisibility: Digital Influence in the Global South' (2023) 34 European Journal of International Law 789.

come from a time when persuasion was loud, public, and contestable. The problem is not that the law has responded too slowly. It is that the law has responded to the wrong thing.

Across jurisdictions, three regulatory responses repeat themselves. The first is transparency. In the US, post-2016, platforms introduced ad libraries to reveal funding and targeting. The hope was that visibility would ensure accountability. During the 2020 and 2024 elections, journalists relied heavily on these tools. And yet, something crucial was missing. The libraries showed ads one by one. They never showed the whole campaign.³⁵ A welfare promise shown to one community and a fiscal restraint promise shown to another never appeared side by side. Nothing looked contradictory because nothing was ever visible together. India is already moving in this direction. The Election Commission's recent emphasis on platform cooperation, voluntary disclosures, and advertising transparency mirrors this American instinct. It creates visibility. It does not create comparability. The harm remains untouched.

The second instinct is restraint. In the United States, the constitutional free speech doctrine has made regulators deeply cautious.³⁶ Political targeting is treated as political expression. Segmentation is viewed as a strategy. Courts intervene only when the content is clearly unlawful. This has allowed microtargeting to flourish while remaining legally invisible.³⁷ India is not bound by the First Amendment, but the hesitation is familiar. Courts are wary of regulating political speech. Regulators step back. And the most powerful form of persuasion quietly fills the space.

The third instinct is content control. The European Union has gone furthest here. Through the Digital Services Act, the EU attempted to regulate misinformation, restrict sensitive data use, and force disclosure.³⁸ On paper, this looks decisive. In practice, it produced an unexpected result. Faced with compliance burdens, Meta and Google chose to withdraw paid political advertising from the EU entirely. Political persuasion did not stop. It simply moved to unregulated spaces like influencers and encrypted messaging.³⁹

Across these systems, the failure is consistent. Transparency assumes harm lies in secrecy. Restraint assumes segmentation is benign. Content regulation assumes harm lies in falsity. Strategic omission fits none of these categories. It operates through selective truth. Through silence. Through fragmentation. Even perfect enforcement of existing rules cannot surface what was never disclosed.

³⁵ Paddy Leerssen and others, 'Platform Ad Archives: Promises and Pitfalls' (2019) 8(4) Internet Policy Review.

³⁶ *Washington Post v McManus*, 944 F 3d 506 (4th Cir 2019).

³⁷ *Citizens United v Federal Election Commission* 558 US 310 (2010)

³⁸ Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024 on the transparency and targeting of political advertising [2024] OJ L.

³⁹ Catalina Goanta and Sofia Ranchordás, *The Regulation of Social Media Influencers* (Edward Elgar Publishing 2020).

For India, this comparative experience matters deeply. Our electoral law is built around visibility. The Model Code of Conduct regulates rallies, speeches, posters, pamphlets, wall writing. It regulates what can be seen, heard, photographed, and reported. It assumes that persuasion happens in public. It assumes that if something goes wrong, it will happen loudly. It will spill into the newspapers. It will become a headline. Political microtargeting breaks this assumption completely, and yet it does so without breaking a single black-letter rule.

This means the regulatory question itself has to change. The question is not what political actors are saying. It is not even whether they are lying. Those are questions the law knows how to ask. The harder question is whether elections are still taking place within a shared field of contestation. Indian election law already understands this logic, even if it has never had to apply it here. Spending limits exist not to judge content, but to preserve fairness. Silence periods exist not to censor speech, but to protect deliberation. The law intervenes not because speech is dangerous, but because elections are fragile.⁴⁰

The same logic must apply now. Procedural safeguards must ensure that political persuasion does not dissolve into millions of untraceable fragments. Oversight bodies must be able to see the informational terrain on which elections are actually fought. Rival campaigns must be able to hear what is being promised elsewhere, even if it is not being promised to them. This is not about saving voters from manipulation. That is a weaker claim. It is about preserving the structure within which political disagreement can still occur. The harm, then, is not privacy. It is not persuasion. It is not falsity. It is the slow, quiet collapse of shared political reality. Where political persuasion becomes invisible and non-comparable, Indian electoral law is entitled to intervene. Not to police truth. But to restore the conditions under which democracy can still recognise itself.

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⁴⁰ Secretary, Ministry of Information and Broadcasting v Cricket Association of Bengal (1995) 2 SCC 161

Chapter - III

FROM HASHTAGS TO VERDICTS: HOW SOCIAL MEDIA ACTS AS A COURT WITHOUT JUDGES

BY

Avishek Mukherjee & Tanaya Kansabanik

Abstract

The rapid growth of social media has significantly influenced the public perception. Viral trending hashtags are influencing the collective emotions. Social media like Facebook, Instagram, Twitter, and YouTube are informally taking up a huge space to shape the public opinion. On one hand, social media acts as a voice of justice, exposing the wrongdoing, and it is also a place to demand the right; on the other hand, due to a lack of proper investigation and information, social media leads to misinformation. In this era of trending hashtags, people don't cross-verify the facts and only go with the trend. As a result of that, misleading information spreads easily, overshadowing the truth. Thus, social media's point of view influences the human mind like judges to make impulsive judgments. Social media often has a significant influence during the process of delivering judicial verdicts. Analysing the phenomenon through a socio-legal lens, this study emphasized how the rise of online collective decision-making impacts individual rights and harms reputations. This paper concludes with the proposal for implementing a regulatory measure and ethical structure to protect the freedom of speech along with necessary protection against the new challenges.

Keywords: Social media, hashtags, misinformation, justice, decision making.

Introduction

The justice system has traditionally rested upon institutional structures governed by established rules of procedure, evidentiary standards, and judicial impartiality. Courts of law are designed to adjudicate disputes through reasoned analysis, guided by statutory frameworks and constitutional principles. However, the digital revolution has fundamentally altered this paradigm. Social media platforms have emerged as influential spaces where narratives of guilt and innocence are constructed, disseminated, and reinforced at unprecedented speed.

In the age of hashtags, justice is no longer confined to courtrooms. Viral campaigns such as #MeToo, #JusticeFor..., and #Boycott... demonstrate how public opinion is mobilized to demand accountability. While such movements have played a crucial role in exposing systemic injustices and institutional failures, they also raise serious concerns regarding misinformation, reputational harm, and the erosion of legal due process. Social media increasingly functions as a parallel adjudicatory space—one without judges, lawyers, or rules of evidence.

This paper explores the phenomenon of social media acting as a “court without judges,” where collective emotions and digital activism often result in instantaneous public verdicts. By adopting a socio-legal lens, the study examines how online discourse interacts with legal institutions, influences judicial proceedings, and challenges fundamental legal principles such as the presumption of innocence and the right to a fair trial.

Social Media and the Formation of Public Opinion

Public opinion has always played a role in shaping law and governance, but social media has radically transformed its scope and intensity. Unlike traditional media, which is subject to editorial oversight and professional accountability, social media enables unfiltered participation by millions of users. Algorithms amplify sensational content, prioritizing engagement over accuracy, thereby reinforcing emotional and polarizing narratives. Hashtags function as digital symbols of collective sentiment. They simplify complex legal and factual issues into emotionally charged slogans, encouraging binary thinking—guilty or innocent, victim or perpetrator. In doing so, they often obscure nuance and discourage critical evaluation. Scholars argue that this phenomenon contributes to the “emotionalization of justice,” where feelings replace facts as the basis of judgment.¹ Moreover, the rapid circulation of unverified information blurs the distinction between allegation and proof. Once a narrative gains traction, it becomes resistant to correction, even in the face of contradictory

¹ Cass R. Sunstein, *#Republic: Divided Democracy in the Age of Social Media* (Princeton University Press 2017).

evidence. This dynamic poses serious risks to individual rights, particularly in criminal cases where reputational damage can be irreversible.

Social Media as a Parallel Justice System

The concept of social media as a parallel justice system is rooted in its ability to perform functions traditionally associated with courts: accusation, evaluation, and judgment. Online users assume the roles of complainants, investigators, prosecutors, and judges, often without accountability. Digital “verdicts” are delivered through likes, shares, comments, and trending hashtags.

Unlike formal legal systems, social media trials lack procedural safeguards. There is no right to be heard, no standard of proof, and no impartial arbiter. Accused individuals are often subjected to public shaming, harassment, and social ostracism, regardless of the eventual outcome of legal proceedings.² This phenomenon has been described as “trial by media” or “digital vigilantism,” where collective outrage substitutes for legal process. While social media can bring attention to cases ignored by authorities, it can also pressure investigative agencies and courts, potentially compromising their independence. Judicial decisions influenced by public sentiment risk undermining the rule of law and the credibility of the justice system.

Impact on Criminal Justice and Fair Trial Rights

One of the most significant legal concerns arising from social media adjudication is its impact on the right to a fair trial. Article 21 of the Indian Constitution guarantees the right to life and personal liberty, which includes the right to a fair and impartial trial.³ Excessive media coverage and online commentary can prejudice judicial proceedings by shaping public and institutional perceptions of guilt. Indian courts have repeatedly cautioned against media trials. In *R.K. Anand v. Delhi High Court*, the Supreme Court emphasized that media should not conduct parallel trials that interfere with the administration of justice.⁴ Similarly, in *Sahara India Real Estate Corp. Ltd. v. SEBI*, the Court recognized the need to balance freedom of speech with fair trial rights.⁵ Social media intensifies these concerns by enabling continuous, decentralized commentary that is difficult to regulate. Judges, jurors (in jurisdictions where applicable), and witnesses are not immune to the influence of pervasive online narratives. The resulting pressure can distort judicial reasoning and undermine public confidence in the fairness of verdicts.

² Daniel Solove, “The Future of Reputation: Gossip, Rumor, and Privacy on the Internet” (Yale University Press 2007).

³ Constitution of India, art. 21.

⁴ *R.K. Anand v. Delhi High Court*, (2009) 8 SCC 106.

⁵ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 SCC 603.

Misinformation, Virality, and Reputational Harm

Misinformation is a defining feature of social media justice. False or misleading information spreads rapidly due to algorithmic amplification and confirmation bias. Users are more likely to share content that aligns with their beliefs, reinforcing echo chambers and distorting reality.⁶ Reputational harm caused by viral allegations can be devastating. Even if an individual is later acquitted, the digital footprint of accusations often persists indefinitely. This raises important questions about the right to reputation, which Indian courts have recognized as an integral part of the right to life under Article 21.⁷ The absence of effective remedies for online defamation further exacerbates the problem. Legal processes are often slow and inadequate to address the speed and scale of digital harm. As a result, social media verdicts frequently outlast legal judgments, creating a form of extrajudicial punishment.

Freedom of Speech versus Regulation

Freedom of speech is a cornerstone of democratic society, protected under Article 19(1)(a) of the Indian Constitution. Social media platforms have expanded the scope of this freedom by enabling widespread participation in public discourse. However, this freedom is not absolute. Article 19(2) permits reasonable restrictions in the interests of public order, defamation, and the administration of justice. The challenge lies in regulating harmful content without stifling legitimate expression. Overregulation risks censorship and authoritarian control, while underregulation allows digital vigilantism to flourish. Scholars advocate for a nuanced approach that combines platform accountability, legal safeguards, and digital literacy.⁸ Internationally, regulatory models such as the EU's Digital Services Act emphasize transparency and responsibility of intermediaries. India's Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, represent an attempt to address these challenges, though concerns remain regarding implementation and safeguards for free speech.

Socio-Legal Implications and Ethical Concerns

From a socio-legal perspective, social media justice reflects broader transformations in power, communication, and authority. The democratization of expression empowers marginalized voices but also redistributes adjudicatory power to the masses. This raises ethical concerns about mob justice, accountability, and the erosion of institutional trust. The psychological impact on accused individuals is often severe, including anxiety, depression, and social isolation. Victims, too, may face

⁶ Eli Pariser, *The Filter Bubble* (Penguin 2011).

⁷ *Subramanian Swamy v. Union of India*, (2016) 7 SCC 221.

⁸ Lawrence Lessig, *Code and Other Laws of Cyberspace* (Basic Books 1999).

traumatization through invasive scrutiny and online harassment. Ethical frameworks emphasizing empathy, accuracy, and restraint are essential to mitigate these harms. Legal institutions must engage with these socio-cultural dynamics rather than dismissing them. Failure to do so risks widening the gap between law and society, undermining the legitimacy of formal justice systems.

Recommendations and Way Forward

To address the challenges posed by social media as a court without judges, this paper proposes the following measures:

1. **Strengthening Legal Frameworks:** Clear guidelines on media and social media reporting of sub judice matters should be enforced to protect fair trial rights.
2. **Platform Accountability:** Social media companies must implement robust mechanisms to curb misinformation, including fact-checking, content moderation, and transparency in algorithms.
3. **Judicial Sensitization:** Judges and legal practitioners should be trained to recognize and mitigate the influence of online narratives on judicial decision-making.
4. **Digital Literacy:** Public education initiatives should promote critical thinking and responsible online behaviour.
5. **Ethical Codes:** Development of ethical standards for digital activism and online discourse, emphasizing due process and human dignity.

Conclusion

Social media has unquestionably transformed the landscape of justice by changing how stories are used to establish a person's legal or moral standing. While it serves as insight, knowledge or perception, its role as a parallel adjudicatory space poses serious threats to legal principles and individual rights. The event of hashtags functioning as verdicts underscores the need for a balanced approach that preserves democratic expression while safeguarding due process and fairness. In traversing of this difficult ground, the law must develop in dialogue with society and technology. Only through thoughtful regulation, ethical engagement, and institutional resilience can justice withstand the pressures of the digital age.

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Chapter - IV

THE RISE OF MEDIA TRIALS IN INDIA

BY

Ankita Chattopadhyay

Abstract

The enhancement of 'media trials' on the legal landscape in India has posed a problematic issue, reshaping the relationship between public opinion and court room. Media attention in high-profile criminal cases, in particular, extends beyond merely collecting facts to framing narratives that shape perceptions of guilt and innocence. In this chapter, we explore how media trials have evolved and developed consciousness in India specifically with a reference to its impact on public perception and legal proceedings. Investigating the impact of sensationalist reporting, 24-hour news cycles, and social media amplifications on the presumption of innocence and the impartiality of legal proceedings are important areas of focus. The chapter discusses situations where media narratives have influenced public opinion, preceded court rulings, and occasionally impacted legal outcomes, citing case studies from recent decades. The chapter also emphasizes the conflict between media freedom and the right to a fair trial by going over the ethical and legal frameworks governing journalism. Additionally, it examines social media's function as a "new court" that can affect judicial impartiality, change public opinion, and undermine the presumption of innocence.

Additionally, the chapter offers a comparative overview by examining legislative frameworks from countries such as the United States and the United Kingdom, where judicial actions and codified laws establish distinct boundaries between the rights to a fair trial and media freedom. The study promotes the implementation of updated media regulations, institutional safeguards, and digital content monitoring systems that effectively balance press freedom and judicial objectivity. The chapter ends with recommendations for responsible reporting tactics and legislative frameworks to lessen the negative effects of media trials.

Keywords: Media Trials, Judicial Integrity, Fair Trial, Public Perception, Freedom of Press.

Introduction

In any nation, its strength as a democracy relies on how stable and well-balanced the four main pillars are. Known as India's fourth pillar and frequently regarded as the nation's face, the media supports the legislative, judicial, and executive branches by educating the public and upholding institutional accountability. However, this pillar has started to erode in recent years due to the increase in media trials. The media's function has changed from reporting objective, unambiguous facts to functioning as courts and rendering decisions. When a case attracts a lot of public attention, the tendency to turn news coverage into a show becomes even more prevalent instead of concentrating on ethical journalism.

As the result of this shift, purpose of media coverage has changed a lot. Media as the “new court” usually begins its trail before the courts get the chance to look into the case, by conducting its own investigation and broadcasts the outcomes that impact the public perception to support or oppose the alleged accused before the trial even occurs.¹ Moreover, sensationalism in the media harms public trust and threatens the fairness of judicial process that risk the entire democratic system. As, the growing influence of media trials has created serious challenges in India, and their damaging impact on society makes immediate action necessary.

Media Trial: Concept and Development

The term "media trials" describes the practice of media outlets, particularly newspapers and television networks, providing extensive coverage of court cases while frequently serving as the investigator, prosecutor, and judge. "Trial by media is an individual's public image, which is created through media, and their public perception of that individual's guilt; irrespective of their actual guilt or innocence as determined by the court process." In high-profile court cases, the media is often held accountable for creating such a sensationalized atmosphere that it resembles a mob lynch, making it nearly impossible for the defendant to receive a fair trial. Even in cases where the accused is found not guilty, the public will continue to perceive them as guilty, and they will be under continual public scrutiny.”²

This broad media coverage frequently affects the perception of public on accused's presumption of guilt or innocence even before the court rendered a judgement. The trend of the media trial developed

¹ Saif Hussain, 'Indian Journal of Integrated Research in Law SOCIAL MEDIA TRIALS in INDIA: A COMPREHENSIVE ANALYSIS of LEGAL IMPLICATIONS and SOCIETAL IMPACT INTRODUCTION' <<https://ijirl.com/wp-content/uploads/2023/09/SOCIAL-MEDIA-TRIALS-IN-INDIA-A-COMPREHENSIVE-ANALYSIS-OF-LEGAL-IMPLICATIONS-AND-SOCIETAL-IMPACT.pdf>> accessed 20 December 2025.

² R.K. Anand v. Delhi High Court, (2009) 8 SCC 106

with the emergence of sensational media reporting and growth of publicizing journalism in the late 20th century.³ The steady expansion in India's media sector including development of private news channels, real-time reporting and social media platforms has significantly increased the sensational treatment of legal matters. The pursuit of Television Rating Points (TRPs), digital engagement, and virality has driven many media channels to act as a “kangaroo court”⁴ and prioritize emotional sensationalism over factual accuracy. The protection of an accused person's right to a fair trial, responsible reporting, and journalist ethics have all been called into question by media trials in recent years.

Constitutional Freedom of Media Trial

The framework of the right to speech and expression protected by Article 19(1)(a) of the Indian Constitution gives birth to constitutional freedom of media trials.⁵ This provision has explicitly stated that “all citizens shall have the right to freedom of speech and expression”, which allows every individual including media to express opinions, disseminate information, and report on matters of public importance.⁶ The freedom under Article 19(1)(a) of Indian Constitution forms the backbone of a free press, enabling it to act as the “fourth pillar” of democracy, responsible for informing the public, shaping disclosure, and holding authorities accountable. However, the Constitution of India does not provide an absolute freedom to media as it restrains it through reasonable limitation under Article 19(2), which includes restrictions in the interest of contempt of court, public order, defamation, morality, decency and the integrity of judicial process that can be imposed by state.⁷

Moreover, Article 21 of the Indian Constitution provides a provision for a fair trial, in that order the judiciary in several occasions attempted to balance the two fundamental constitutional values of freedom of the press and the right to a fair trial by directing media houses against speculative reporting, parallel investigations, or revealing sensitive data prematurely. Although, the term “freedom of press” is not particularly mentioned in the provisions of the Indian Constitution, the development of media freedom has been recognised through some prominent cases including *Brij*

³ Ritesh Chaudhary and Praveen Kumar Rathi, ‘Legal Frameworks and Ethical Journalism in India Defamation, Privacy, and the Public's Right to Know’ (*ResearchGate* 6 July 2025) 44
<https://www.researchgate.net/publication/393448647_Legal_frameworks_and_ethical_journalism_in_india_Defamation_privacy_and_the_public> accessed 11 December 2025.

⁴ Self-appointed mock court where the judgement against the accused is predetermined.

⁵ Kushwaha B, ‘Unveiling the Phenomenon of Media Trial in Indian Jurisprudence: A Critical Analysis’ (2024) 9 *IJNRD.ORG* 288 <<https://www.ijnrd.org/papers/IJNRD2409135.pdf>> accessed 20 December 2025

⁶ Arnab Bose, ‘Violation of Constitutional Values and Democratic Institutions’ (*Rgics.org* 24 December 2024) <<https://www.rgics.org/democracy/violation-of-constitutional-values-and-democratic-institutions/>> accessed 11 December 2025.

⁷ Supra note 6

*Bhusan Sharma v. State of Delhi*⁸, *Bennett Coleman & Co. v. Union of India*⁹, *Maneka Gandhi v. Union of India*¹⁰ and *Romesh Thapar v. State of Madras*¹¹ where the Supreme court has acknowledged the significance of free press in democratic functioning. Yet in judgements like *Sahara India Real Estate Corp. v. SEBI*¹², the apex court has emphasised that the media must not obstruct justice or create a “trial by media” situation that could influence witnesses, bias courts or shape public perception in negative manner.

Media Trials and Judicial Fairness

Media trials create intense public scrutiny that can challenge judicial impartiality. In many cases, media coverage of a suspect creates negative public opinions (“assumptions of guilt”) towards that person. As a result, this creates an environment of social pressure within which judges may not be able to remain objective. If the media drives public sentiment through sensationalistic means, it creates a greater likelihood that judges will have preconceived notions about the case before the trial, thereby making it impossible for them to offer a fair trial that is free of personal bias.

Media trials may restrict an individual's ability to pursue justice through the courts and also undermine the relationship between media outlets and those who utilize them. As an example, during the coverage of high-profile incidents, such as the terrorist acts committed against Mumbai in 2008, news outlets speculated on guilt and sentencing, which limited the courts' ability to act as the only entity with the ability to resolve disputes between individuals. News reports that speculate on guilt and sentencing before all evidence is presented can cause people to lose faith in their ability to receive a fair hearing from the court system and call into question the fundamental tenet that courts are the final authority on justice, whereas media outlets should not be viewed as such.¹³

When the media's interference extends beyond their reporting duties into the realm of speculation and morality, this has a detrimental impact on the proper administration of justice. An accused person has the right to a fair trial under the Constitution regardless of the seriousness of the crime. However,

⁸ Brij Bhushan and Anr v. The State of Delhi, (1950) AIR 129, 1950 SCR 605, 1950. This case established that freedom of speech and expression is a fundamental right in India, encompassing the freedom of the press, unless there is a clear and present danger to public order or incitement of violence.

⁹ Bennett Coleman vs Union of India, AIR 1973 SC106

¹⁰ Maneka Gandhi vs Union Of India, 1978 AIR 597, 1978 SCR (2) 621

¹¹ Romesh Thappar vs The State Of Madras, AIR 1950 SC 124

¹² Sahara India Real Estate Corp.Ltd.& Ors vs Securities & Exch.Board Of India & Anr, AIR 2012 SUPREME COURT 3829, 2012 (10) SCC 603

¹³ Vignesh Iyer, ‘Media Can Report 26/11 Trial | India News’ (*Hindustan Times* 23 March 2009)
<<https://www.hindustantimes.com/india/media-can-report-26-11-trial/story-AZyAfmyDmDOYvKzX4hVLhI.html>>
accessed 20 December 2025.

the sensationalized media coverage creates an unfair environment for each case that violates the principle of fairness that governs the administration of justice and hinders ongoing trials. In *Sahara India Real Estate Corporation Ltd. v. SEBI, 2012*¹⁴, the Supreme Court noted that excessive publicity by various media about pending judicial matters may also have an adverse effect on impartiality in terms of justice as well as outcomes. The Court stated that at times it may be prudent to withhold certain information from public disclosure for a limited period of time, in order to allow protection for the Judiciary against media interference through public pressure and to continue protecting judicial decision processes. Also, media trials produce a tremendous impact on witnesses through intimidation, fear of the media and intense public pressure. In order to prevent negative publicity witnesses often may feel pressured to change their statements once their identities are revealed. As seen in the *Jessica Lal murder case*¹⁵, excessive media coverage can also put pressure on investigative agencies to expedite investigations or align findings with public opinion. Although the public's demand for justice is legitimate, such pressure may result in tainted evidence and compromise the trial's fairness.

Landmark cases of Media Trials

- ***K.M Nanavati v. State of Maharashtra, (AIR 1962)***¹⁶

The starting of the media trial in India can be traced to *K.M. Nanavati v. State of Maharashtra*, in which a naval officer was tried for the murder of Prem Bhagwan Ahuja. Despite ample evidence, the jury's decision to acquit Nanavati was influenced by the case's exclusive media coverage. The trial's controversy revealed dangers of media involvement in court cases and was a major factor in India's decision to eliminate the jury system. The case continues to be a landmark example of a media trial, emphasizing the conflict between the right to a fair trial and press freedom.

- ***Sanjay Dutt v. State Through C.B.I Bombay, (1994)***¹⁷

In relation to the 1993 Mumbai serial blasts, Sanjay Dutt- a well know Bollywood celebrity, was detained on allegations of possessing an AK-56 rifle that he received from underworld associates. Media narratives primarily portrayed him as a terrorist, despite his claims that the weapon was meant for self-defence in the wake of the 1992 Babri Masjid riots. Even though Dutt was found guilty only under the Arms Act and exonerated of terrorism charges by the TADA Court, his public image was

¹⁴ *Sahara India Real Estate Corp.Ltd.& Ors vs Securities & Exch.Board Of India & Anr* on 11 September, 2012 SCC 603

¹⁵ *State vs Siddarth Vashisth & Manu Sharma And ...* on 13 March, 2000 (DELHI)829

¹⁶ *K.M Nanavati v. State of Maharashtra, AIR 1962 SUPREME COURT 605*

¹⁷ *Sanjay Dutt v. State Through C.B.I Bombay, SPL (crl.) 1834-35 of 1994*

severely damaged by ongoing media coverage, which also resulted in widespread social condemnation. This case illustrates how media trials have a lasting impact that goes beyond court decisions.

- ***State (National Capital Territory Of Delhi) v. Sidhartha Vashisht @ Manu Sharma, (2010)*¹⁸**

The media trial has a mixed but largely problematic effect on this case, popularly known as Jesica Lal murder case, especially of the fairness of the judicial process. Too extensive coverage in the press put a lot of pressure on the public and made the case more sensational, which made witnesses turn against the prosecution because witnesses felt scared, intimidated, and under public scrutiny during the first trial. Ongoing media debates also risked shifting public opinion and weakening the presumption of innocence. Moreover, the media-driven demand for speedy justice placed pressure on investigating agencies and the judiciary, generating concerns about rushed proceedings and undermined due process.

- ***Nilesh Navlakha v. Union of India, (2021)*¹⁹**

The famous case of Sushant Singh Rajput's suicide demonstrates the important influence of the media on court cases. With spectacular headlines and derogatory labels, the media focused on Rajput's ex-girlfriend Rhea Chakraborty after his untimely demise. Chakraborty was called a "murderer" and a member of a "drug racket" on social internet after Rajput's father accused her of encouraging suicide. This resulted to a number of Public Interest Litigations (PILs) before the Bombay High Court, which raised questions about the media's potential to sway current investigations. Observing the lack of official control over electronic media and the potential to impede impartial investigations, the case emphasizes the necessity of controlling media reporting during legal proceedings.

- ***Aryan Shah Rukh Khan vs The Union Of India And Anr, (2021)*²⁰**

This case is the notable example of a media trial in India in the present era. Even though no direct recovery of narcotics from the accused has been made after his arrest by the Narcotics Control Bureau, the accused was depicted as guilty in widespread and dramatic media coverage. Parallel television discussions, selective revelation of private communications, and media conjecture significantly influenced public opinion and caused significant harm to one's reputation. Although the

¹⁸ State (Nct Of Delhi) v. Sidhartha Vashisht @ Manu Sharma, (2010) 6 SCC 1

¹⁹ Nilesh Navlakha v. Union of India (2021) 2 AIR BOM R 179

²⁰ Aryan Shah Rukh Khan vs The Union Of India And Anr, CRIMINAL BAIL APPLICATION NO. 3624 OF 2021

Bombay High Court later granted bail, the case serves as a reminder of how media trials can undermine the presumption of innocent and compromise the impartiality and integrity of criminal procedures.

Judicial Interventions in Media Trial

The judiciary frequently raises concerns about media overreach, stressing that although the media is essential to promoting accountability and transparency, it must use caution when covering sub-judice issues. Indian courts have long acknowledged that media trials can undermine the assumption of innocence, impact public opinion, and influence witnesses, all of which can impede the right to a fair trial.²¹ Many important judicial pronouncements have determined that the media should not act as a rival court or replace judicial decisions with its own narrative. The following significant rulings serve as examples of this judicial balancing act:

- ***R. Rajagopal v. State of Tamil Nadu, (1994)***²²

While deciding this case, also known as “Auto Shankar Case”, the Court pronounced that the right to protect one’s marriage, family and personal information are the essential component part of right to privacy provided by Indian Constitution, unless the media reports are relied on public records. This landmark decision has made a clear difference between a valid media reporting in interest of public and unwanted interference in personal life.

- ***R.K. Anand v. Registrar, Delhi High Court, (2009)***²³

The Court ruled in a case of sting operation that while investigative reporting is crucial in reporting corruption and misconduct, it should be carried out responsibly and with appropriate restraint. The Court advised against interfering with ongoing legal processes or promoting public rage that might affect a trial's verdict or jeopardize the justice system's fairness.

- ***Custodial Leak PILs, Order dated Sept. (2023)***

While considering petitions regarding media briefings and custodial leaks in September 2023, the apex court of India recommended that the Union Home Ministry develop precise rules regarding how police officers should communicate with the media. The Court noted that disclosing information too early in an investigation can erode the presumption of innocence and influence public opinion prior

²¹ Helan Jesus, ‘An In-Depth Analysis of the Effects of Media Trials on the Criminal Justice Administration’ (2025) 10 © 2025 IJRTI | 562 <<https://ijrti.org/papers/IJRTI2502056.pdf>> accessed 20 December 2025.

²² R. Rajagopal v. State of Tamil Nadu, (1995) AIR 264 SCC (6)

²³ R.K. Anand v. Registrar, Delhi High Court, (2009) 8 S.C.C. 106

to the start of a trial. This approach was generally viewed as a step in the right direction toward establishing moral guidelines for reporting crimes and safeguarding the justice system's impartiality.²⁴

- ***Rujira Banerjee v. Union Of India & Ors, (2023)***²⁵

In response to the intense media coverage of the alleged school jobs-for-cash scam in which prominent Trinamool Congress leader Abhishek Banerjee was identified as an accused, the Calcutta High Court issued thorough recommendations. In response to a petition from Rujira Banerjee, Justice Sabyasachi Bhattacharyya stressed that media outlets must refrain from disseminating unconfirmed information or linking people to criminal investigations prior to the filing of formal charges.

The Enforcement Directorate (ED) was also ordered by the Court to refrain from disclosing information to the media regarding ongoing investigations. The judiciary's efforts to stop investigative agencies from influencing public opinion through selective disclosures and its acknowledgement of the entitled to a fair trial in a setting where media attention is constant are reflected in these directives.²⁶

- ***Apex Court's view on need for Self- Regulation of media***

Former Chief Justice of India, D.Y. Chandrachud has expressed his concerns over pre- or post-censorship of media channels. He pointed that the self- regulatory framework which was primarily established to safeguard the freedom of press has become insufficient because of increasing sensationalist reporting.²⁷ Furthermore, in response to petition filed by the People's Union for Civil Liberties (PUCL) and others, the Supreme Court on 14th September, 2023 had given a deadline of three- months to the Union Home Ministry to provide guidelines for police briefings on continuing proceedings.

The Apex court had also mentioned that media trials are potential enough to provoke prejudice against the accused, victims and their family.

²⁴ Supreme Court Directive in Custodial Leak PILs, Order dated Sept. 2023

²⁵ Rujira Banerjee v. Union Of India & Ors (2003) 7180 Cal

²⁶ Ms Jain, Patel Subharti and Sarika Tyagi, 'Indian Journal of Integrated Research in Law MEDIA TRIALS and the RIGHT to FAIR TRIAL in INDIA: A LEGAL REVIEW' <<https://ijirl.com/wp-content/uploads/2025/07/MEDIA-TRIALS-AND-THE-RIGHT-TO-FAIR-TRIAL-IN-INDIA-A-LEGAL-REVIEW.pdf>> accessed 20 December 2025.

²⁷ Utkarsh Anand, 'Can't Have Media Censorship, but Effective Self-Regulation Must: SC | India News' (*Hindustan Times* 14 August 2023) <<https://www.hindustantimes.com/india-news/supreme-court-wary-of-government-regulating-media-calls-for-strong-self-regulatory-mechanisms-101692034782470.html>> accessed 20 December 2025.

International Approach toward Media Trials

Legal system in various international countries have adopted various approaches in order to regulate the balance between administration of justice and media freedom:

- **United States:**

The US adheres to a model that prioritize First Amendment Rights. Even though media freedom is generally protected, to maintain the impartiality of the legal proceedings the judiciary adopted measures like change of venue of trial, jury sequestration, and voir dire (jury vetting). The court recognized the judiciary's responsibility to protect fair trials from media influence after landmark cases such as *Sheppard v. Maxwell* (1966)²⁸ recognized that excessive media coverage could compromise due process. These models represent a range of pre-publication limitations and post-publication penalties. Likewise, India could approach towards hybrid regulatory framework that uphold judicial restraint, enforce ethical self-regulation by the press, and improve public education.

- **United Kingdom:**

The Contempt of Court Act of 1981 established a strict liability model in the United Kingdom. Regardless of intent, this law makes it illegal to publish any content that could materially jeopardize ongoing legal proceedings. The law has been vigorously enforced, and in high-profile cases, UK courts regularly impose gag orders, or restrictions on reporting. Additionally, a Code of Practice upholding journalistic ethics, including respecting the presumption of innocence, is enforced by the UK's Independent Press Standards Organisation (IPSO).²⁹ To reinforce the idea of open justice and transparency in criminal proceedings, the UK revised its joint Media Protocol in December 2025. The updated protocol, which was created cooperatively by the Crown Prosecution Service, law enforcement agencies, and media outlets, provides precise guidelines for disseminating prosecution materials used in public court, encourages truthful and responsible reporting, and protects the rights of victims, witnesses, and their families.

The update is backed by a new user manual to guarantee uniform communication between police and prosecutors, reflecting changes in the law, court procedures, and the rapidly changing media landscape since 2005.³⁰

²⁸ *Sheppard v. Maxwell*, 384 U.S. 333 (1966)

²⁹ GOV.UK, 'Updated Media Protocol Strengthens Openness in Reporting Criminal Proceedings | the Crown Prosecution Service' (*Cps.gov.uk* 17 December 2025) <<https://www.cps.gov.uk/cps/news/updated-media-protocol-strengthens-openness-reporting-criminal-proceedings>> accessed 20 December 2025.

³⁰ *Ibid.*³⁰

- **Australia:**

In addition to a thriving commercial media industry, Strong public broadcasters like the Australian Broadcasting Corporation (ABC), which is comparable to the BBC, and the government-funded Special Broadcasting Service (SBS), which is devoted to multicultural content, serve as the foundation of Australia's media landscape. Australia has historically enforced some of the strictest cross-media ownership laws in the world, which is indicative of a conscious attempt to limit the influence of major media barons and prevent an excessive concentration of media power.³¹

Conclusion and Recommendations

This study shows how the emergence of media trials in India has significantly altered the interaction between public opinion and the legal system. The presumption of innocence and the right to a fair trial have been increasingly threatened by the abuse of media freedom through sensationalism, speculative reporting, and social media-driven narratives, despite the fact that media freedom is fundamental to democracy and necessary for transparency and accountability. The judiciary has consistently expressed concern about media overreach and its potential to taint investigations, intimidate witnesses, and undermine public trust in courts, as evidenced by recent guidelines on police briefings and landmark rulings. As demonstrated by comparisons with countries like the United States, the United Kingdom, and Australia Through well-defined legal boundaries, ethical standards, and institutional oversight, democratic systems can protect judicial impartiality while preserving press freedom. In the context of this study, it is recommended that India address the issue of media trials in a methodical and balanced manner. To avoid negative publicity, clear and binding rules should be established to govern reporting on sub-judice matters, especially in criminal cases. Sensationalism must be curbed by strengthening media self-regulatory mechanisms with effective accountability and sanctions. To prevent selective briefings and custodial leaks, police and investigative agencies should adhere to uniform protocols for disclosures. Moreover, when media coverage jeopardizes fair trials, courts should actively employ protective measures like contempt powers. Regular training for journalists and public legal awareness campaigns can encourage responsible reporting and informed news consumption.

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³¹ Marcus Maddison, 'News Coverage in Australian Media: A Comprehensive Analysis' (2024) 11 International Journal of Science and Research Archive 1888
<https://www.researchgate.net/publication/380153600_News_coverage_in_Australian_media_A_comprehensive_analysis> accessed 20 December 2025.

Chapter - V

SOCIAL MEDIA TRIALS: A PARALLEL COURT WITHOUT JUDICIAL SAFEGUARDS

BY

Agniva Bhattacharya

Abstract

Democracy consists of three pillars: executive, legislative, and judiciary. There also exists another pillar, which is the media. In the modern age of digitalization, social media has also become an integral part of mainstream media, as it plays a pivotal role in forming public opinion. Social media, as an epitome of free speech, is often weaponized to hold trials that do not follow the principles of justice, equity, and good conscience, operating with minimal restrictions. In the absence of an appropriate authority to adjudicate, it becomes the judge, jury, and executioner. The adverse opinions harbour for an endless time within the internet grid as digital footprints waiting to be reincarnated again, even after proper adjudication. Social media not only poses a great threat to individual dignity but also puts into question the judicial independence and principles of natural justice by forming blatant criticisms of the judicial mechanism of a country. Uninformed public opinion often uses and turns social media into a weapon of destruction, transforming the boon into a curse. The present study undertakes a socio-legal analysis of rising incidents of social media outrage as a threat to justice delivery and public morality. The purpose of the study is to analyse the rising incidents of social media outrage as a threat to the justice system and public morality. Using a cross-sectional analysis, this study relied on secondary evidence and empirical insights to analyse several academic works and recent incidents, along with a judicial approach, in light of the constitutional framework and legal provisions, investigating the problem from a socio-legal perspective. This study concludes that though unchecked social media trials pose significant challenges to the justice system, a balanced framework safeguarding both fundamental rights and democratic discourse of fair trial is necessary.

Keywords: Social media trials, Freedom of Speech, Natural Justice, Right to Fair Trial, Right to Privacy, Judicial dignity

Introduction

The advent of social media and its proliferation have transformed our views and collective thinking through dynamic flow of instantaneous communication, collective deliberation, and formation of mass public opinion. Especially India which has a large and diverse population with easy access to internet services, faces a huge problem of misinformed public opinion resulting from fake news on social media. The widespread acceptance of social media content has given birth to a new and rather a very problematic phenomenon known as “social media trials”. These public adjudications which are held beyond the limits of a traditional court room not only show utter disregard to the ideas of justice, equity and good conscience but also create adverse public opinion regarding the subject matter. Such opinions often taint the character of the person being subjected to such trial which thrives within the web through digital footprints. Along with the other problems there always remains a risk of undue prejudice towards the accused. Judges, though presumed to be impartial in all circumstances, are also humans and are not devoid of social media presence. Adverse public opinion and mass social media campaigns can also contribute tainting the opinion of the judges, which in turn violates the rules of natural justice.

To combat these ill effects of social media it becomes necessary to regulate the flow of information and activity on social media, which often risks the fundamental rights of individuals getting violated. Any form of regulation of social media or on public media for the fact can be viewed as an attempt to restrict individual liberty and curtail free speech enshrined in the constitutional framework. Thus, a multifaceted approach towards regulating social media trials is the need of the hour, where rather than massacring individual freedom and liberty the ill effects of social media trials can be controlled through sensitization, awareness and thorough understanding of public media.

Evolution of media trial and paradigm shift towards social media

Media is used as one of the means of communication of necessary information, news, content etc. It consists several sources which includes news channels, press, and social media platforms. These media outlets enjoy and draw their immunity from article 19(1) of the Indian Constitution which guarantees freedom of speech and expression. Though the text of the constitution does not expressly talk about media freedom specifically, supreme court in the case of **Romesh Thapar v. State of Madras**¹ held that freedom of speech must also be included under freedom of speech and expression under article 19(1) of the Indian constitution. If we critically examine the history and functioning of

¹ Romesh Thapar v. State of Madras [1950] AIR 1950 SC 124 and 1950 SCR 594

state machinery we will come to understand that such protection is necessary to secure a system of checks and balances upon the different organs of the government and holding them accountable for their arbitrary actions. This is what makes the press or media the fourth pillar of democracy. To secure a functioning and democratic state machinery an impartial and sound media framework is of utmost importance.

From the above discussion though it becomes apparent that freedom of press is important certain back logs occur if the shield of protection is used in an irresponsible manner, one of those challenges is the advent of media trial.

Role of media and advent of social media

As mentioned earlier media is the fourth pillar of democracy. It not only passes on information and communicates them but also plays a great role in forming public opinion. It aims to create informed and aware population by uniting public opinions and communicating the same with the individuals at large. In the recent times media has also taken part in exposing various kinds of criminal activities, bringing actual offenders to the doors of justice. It creates a positive pressure on different organs of the state in adjudicating matters which harm public policy at large. In **In Re: Vijay Kumar (decided along with In Re: Harijai Singh, 1996)**,² the Supreme Court of India held that freedom of the press is an essential part of the fundamental right to freedom of speech and expression under Article 19(1)(a). The Court emphasized that press freedom is indispensable in a democracy, calling it “the mother of all other liberties”.

With the advent of electronic media this function has become more efficient. Amongst other means of electronic media social media takes another leap forward by not only letting mass communication more accessible and fluent but also letting these information flow and utilized in an individual level of connection. Along with letting the conventional media outlets acquire and publish information and content social media platforms let their users connect with each other and lets them exchange information. In this way each and every user becomes a publisher and a recipient of information simultaneously.

Though social media has made our lives easy by letting us enjoy our preferred content in our preferred manner irrespective of time and place, it also poses a significant threat because of several reasons such as communication by uninformed or less educated user base, propagation of false or misleading content etc.

² In Re: Vijay Kumar (1996) 6 SCC 466.

Social media use in India has exploded over the past decade — from around 100 million users in 2014 to nearly 491 million users in 2025, representing about 33.7% of the population³. This has happened due to several reasons such as cheap mobile data, smartphone penetration etc. but the social media literacy in India is very low and this poses a serious threat as these sects of population are very easy to manipulate and they very easily fall victim to spreading and communicating misinformation or indulging in generating propagandas. Misuse of social media along with being a threat to functioning of other state actions this becomes very dangerous to the countries judicial system and the privacy of the parties involved therein. The judiciary of the country is bestowed with a significant task i.e. administering swift and efficient justice and in pursuit of doing so it relies heavily on the principles of natural justice and the rules of evidence. Social media having a large user base and easy access to all can easily form generalized opinions regarding a topic and it often results in mass criticisms without any factual bias.

Meaning of media trials and how social media acts as an extension

Media has taken a very active part in shaping the public conscience such as publicly condemning figures like Marie Antoinette and Louis XVI before their actual trials ultimately leading to their execution or the old-bailey trials in the late 1700s where newspapers selectively reported violent crimes, emphasizing cases with sexual intrigue, dramatic struggles, or high-status defendants shaping public perception of justice and creating proto-media trials. The contemporary ‘media trial’ as a concept is not a very old. It has only found its roots in the 20th century in American legal history in Roscoe "Fatty" Arbuckle's 1921 prosecution. In this instant case Arbuckle was accused of rape and manslaughter of actress Virginia Rappe who died during a party at San Francisco's St. Francis Hotel. William Randolph Hearst's newspapers staged a dramatic press campaign in response to the accusations. Despite Arbuckle's three trials—two of which ended in hung juries, the third jury found him not guilty and issued a public apology. Still the public's perception of his guilt had already been cemented by the constant tabloid coverage. The scandal obliterated his career, leading to the prohibition of his films and the cancellation of contracts, despite the lack of legal culpability. This case illustrates the profound tension between judicial outcomes and the “court of public opinion,” highlighting how celebrity status, moral panic, and sensationalist journalism can converge to undermine due process and permanently damage reputations, setting a precedent for later high-profile media trials. Media trials in general refer to the phenomena where the media outlets to gain more popularity or other ulterior object assume the role of an adjudicating authority and convict an

³ Social media usage in India - statistics & facts < <https://www.statista.com>> accessed 18 December, 2025.

individual even before the courts of law declare that he is guilty or the actual trial taking place, but in pursuit of doing so the media often shows complete disregard to the rules of evidence and administration of justice and entirely operates on satisfying the public opinion to gain more popularity. This often leads to complete vindication of the person's character and future career prospects. Later, even if the person is discharged of the allegations or acquitted by the court of law and media outlets just announce a public apology, but they can never completely eradicate the adverse public opinion they had created and the person suffers for a lifetime.

The conventional media outlets have an upper hand because all of their programs and contents go through a thorough scrutiny by the board of editors and they also have to obey by the laws of the land regarding publication of a news. On the other hand, when it comes to social media there are hardly any such restrictions put on the social media platforms. Social media platforms being a mode communication and fairly new in the digital domain lack necessary restrictions and whenever an effort is made to restrict the flow of content or publication of content on social media it often leads to violation of the fundamental rights. Accounts on these platforms are often used by private individuals who do not possess any experience in journalism and without proper education or ethical code of conduct these accounts often publish with the motive of gaining popularity publish “spicy” or “sensational” news. A 2024 study by the Indian School of Business (ISB)⁴ and CyberPeace found that 77.4% of misinformation cases in India originate from social media platforms, making them the primary vector for fake news and deepfakes, nearly half of all fake news stories in India are political in nature, reflecting how misinformation is weaponized in electoral and governance contexts. In another study a January 2024 poll conducted by Social & Media Matters found that a staggering⁵ 78.9% of India's first-time voters have come across fake news on social media. This underscores the susceptibility of younger people to the spread of disinformation.

Why social media trials are a detriment to the traditional justice system

The traditional justice system is largely based on the principles of natural justice which operates with two principles-

- i. Audi Alteram Partem and
- ii. Nemo debet esse judex in propria causa.

⁴ NDTV, ‘Nearly Half Of The Fake News Stories In India Are Political’ < <https://www.ndtv.com> > accessed 18 December, 2025.

⁵ TIMES OF INDIA, < <https://timesofindia.indiatimes.com> > accessed 18 December, 2025.

The first principle means that both the parties should be hard. In another way it means that no one shall be left unheard. While the other one means that no man should be the judge in his own cause. It is also sufficed by two other principles namely, Justice should not only be done but manifestly and undoubtedly be seen to be done; and judges, like Caesar's wife should be above suspicion⁶.

Social media or for the fact any form of media trial shows complete disregard to the rules of natural justice. Here, the majority frames an opinion which is often fuelled by rage, empathy, political motive or other human emotions etc. The person against whom the adverse opinion is made is not given chance to justify or give proper explanations also. Even if in later stages of the trial the person is acquitted by the actual court of law adverse opinion in relation to his character persists in the web and it can be used any time by anyone to stigmatize his career.

Apart from the above-mentioned factors undue pressure from the public might also violate the accused's right of fair trial. Right of fair trial is a cardinal principle of the criminal jurisprudence⁷ and it is enshrined in the part-iii of the constitution of India specifically under article 21 and article 14. The adjudication by the judge must be without any bias and any apprehension of such bias renders the entire trial infructuous. The courts are only to give special considerations in cases where special laws with similar kind of legislative intent is brought forward. For example, laws relating to vulnerable communities such as the SC/ST Prevention of Atrocities Act, 1989 or POCSO act require special considerations in relation to caste or age of the victim, or Juvenile Justice act which brings special provisions for child in conflict with law and child in need of care and protection. Apart from expressed legislative intent the courts should not in general show special considerations.

Undue media pressure or social media outrage always comes with a risk that the adjudicating judge on the matter, being a human may fall victim to such outrage and might show undue bias. The hon'able supreme court has also in the case of Sidharth Vasisht v. NCT of Delhi⁸ held that the media should perform the acts of journalism and not as a special agency for the Court. Recently hon'able Chief Justice of India Surya Kant has remarked fake news, public emotions, and media trials are quietly damaging India's justice system. He stressed that transparency without understanding law is hurting public trust.⁹

In 2022, then-Chief Justice of India N V Ramana had expressed concern over media running "kangaroo courts" and conducting "ill-informed and agenda-driven debates" on issues that

⁶ Lesson v. General Council of Medical Education, (1890) LR 43 Ch D 366.

⁷ Ratiram v. State of Madhya Pradesh (2012), AIR 2012 SC 1485.

⁸ Sidharth Vasisht v. NCT of Delhi (2010) 6 SCC 1.

⁹ < <https://www.barandbench.com> > accessed 18 December, 2025.

even experienced judges find difficult to decide. He said that media trials affect the fair functioning and independence of the judiciary and can weaken democracy. "I urge upon the media, particularly the electronic and social media, to behave responsibly," he said¹⁰. He also stated that news networks regularly air conversations influenced by certain agendas, not facts, making it harder for judges to stay unbiased and damaging the legal system¹¹. He also drew a stark contrast between print and electronic media, stating that the former has "some accountability" while the latter has "zero accountability," where false narratives disappear but the harm to democracy and the judiciary endures. "Self-regulate and measure their words," he counselled the media¹².

Effect on investigation procedure

The investigative process is significantly impacted by social media trials, which frequently skew law enforcement authorities' objectivity and put unnecessary pressure on them to follow popular opinion. The Indian Supreme Court has warned against this tendency on several occasions. In **Sahara India Real Estate Corp. Ltd. v. SEBI**¹³ (2012), the Court noted that "uncontrolled reporting by the media can prejudice the right to a fair trial" and established the postponement order concept to prevent investigations from drawing hasty conclusions. In a similar vein, the Court cautioned that extensive media speculation might "hamper the investigation and prejudice the rights of the accused" in the 2020 Sushant Singh Rajput case. These judicial pronouncements highlight that when social media platforms amplify narratives of guilt or innocence, investigating officers are compelled to pursue lines of inquiry shaped more by public outrage than by evidentiary standards. This undermines the integrity of the investigative process, as agencies risk prioritizing popular narratives over objective fact-finding, thereby weakening the constitutional guarantee of a fair and impartial trial under Article 21.

Effect on right to privacy

It was in the case of **Kharak Singh vs. State of UP**¹⁴ where the apex court held that right to privacy is a fundamental right. In the case of **Sharada vs. Dharampal**¹⁵, the Hon'ble Supreme Court defined the term privacy as "the state of being free from intrusion or disturbance in one's private life or affairs". Further, in the case of **K.S. Puttaswamy vs. Union of India**¹⁶, the court again reaffirmed the

¹⁰ The Indian Express < <https://indianexpress.com> > accessed 18 December, 2025.

¹¹ Ibid.

¹² Ibid.

¹³ Sahara India Real Estate Corp. Ltd. v. SEBI (2012) 10 SCC 603.

¹⁴ Kharak Singh vs. State of UP, AIR 1963 S.C. 1295

¹⁵ Sharada vs. Dharampal (2003) 4 S.C.C. 493.

¹⁶ K.S. Puttaswamy vs. Union of India (2017) 10 S.C.C. 1.

right to privacy as an integral part of life and personal liberty under Article 21 of the Constitution. In **R. Rajagopal v. State of Tamil Nadu**¹⁷, the Supreme Court underscored the limits of press freedom in relation to the right to privacy. It held that every citizen has the right to protect personal aspects of life—such as family, marriage, procreation, motherhood, childbearing, and education—from publication without consent. Any disclosure of such matters, whether positive or negative, truthful or otherwise, would amount to a violation of privacy and could invite liability for damages. However, the Court clarified that the position changes if an individual voluntarily enters public controversy or invites attention, in which case the boundaries of privacy may be narrowed. Social media platforms being easily accessible to the general public gets used to leak or expose private matters of the individuals. Many times, these private matters may not be related to the case entirely, but these affairs are used to fuel public rage. This tantamount to violation of an individual's right to privacy. Very recently in the Sushant Singh Rajput case, name of actress Reha Chakravarty was involved and several private affairs of her were brought to the public domain to which she never agreed to. Such activities not only taint the investigation and the trial process but also puts the individual liberty at risk.

Though it must be noted that involvement of media in judicial proceedings is not entirely bad is done with proper care. The case of **Manu Sharma v. State (NCT of Delhi)/ Jessica Lal Murder**¹⁸ case served as a prime example of how high society, celebrity culture, political power, and media activism interact in India. In this case Manu Sharma, the son of a prominent Congressman, was implicated by several witnesses in the 1999 shooting death of Jessica Lal at a Delhi nightclub. Despite this, the trial court cleared the accused of all charges, purportedly as a result of institutional flaws and witness silencing. Later due to intense public outrage and persistent media pressure the Delhi High Court was forced to reopen the case. This resulted in a fast-track trial where the accused was given a life sentence in 2006. While upholding the conviction, the Supreme Court issued a warning about the perils of media trials, stressing that unrestrained publication during ongoing investigations might jeopardize Article 21's provision of a fair trial and that the presumption of innocence must not be shattered at the threshold. In order to protect judicial dignity and the rule of law, the Court emphasized the necessity of checks and balances in subjudice proceedings. Even while the court has cautioned against its excesses, the case is nonetheless a significant illustration of how investigative journalism may reveal institutional flaws and rally public opinion to uphold justice.

¹⁷ R. Rajagopal v. State of Tamil Nadu, AIR 1995 SC 264.

¹⁸ Manu Sharma v. State (NCT of Delhi) (2010) 6 S.C.C. 1.

Legal Frame work and challenges to combat media trials

India's statutory regulatory framework includes a number of Acts of Parliament that give the government and regulatory bodies the power to stop sensationalist reporting. The primary law governing electronic media in this regard is the Cable Television Networks (Regulation) Act, 1995; under its Programme rule (Rule 6), all cable networks must abide by a strict rule that prohibits programs that are likely to incite violence or disturb law and order, content that amounts to contempt of court, and anything that disparages or slanders the integrity of the courts. Additionally, Section 20 of the Act gives the Central Government the authority to prohibit the transmission of any channel or program if it is deemed necessary for upholding public order, morality, or decency. Furthermore, the Press Council Act of 1978 governs the Press Council of India (PCI). The PCI's "Norms of Journalistic Conduct" state that the media cannot publish anything that could compromise a suspect or accused person's right to a fair trial and that reporting must be based on actual facts rather than conjecture or hearsay. Under Section 14, publications or editors may be warned, reprimanded, or condemned by the PCI. Even though a censure cannot impose sanctions, it has a significant impact on a publication's reputation and advertising opportunities. In reaction to the expansion of digital platforms and viral campaigns, the government passed new legislation to address "YouTube trials" and social media activism. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 now formally regulate social media intermediaries and digital news portals. These rules ensure fair competition by requiring digital publications to follow the same Programme Code (Cable Act) and Norms of Journalistic Conduct (PCI) as traditional media. They also establish a three-tier grievance redressal system: Level I requires publishers to self-regulate by designating a Grievance Officer; Level II requires publishers to self-regulate through an independent body; and Level III provides oversight by the Ministry of Information and Broadcasting, which has the authority to order the removal of content that violates the ethics code.

In addition to media-specific laws, the fundamental criminal framework offers privacy and reputational safeguards against the detrimental consequences of media trials. If media outlets make negligent or deceptive comments that damage someone's reputation before guilt is proven, they may face criminal defamation charges under Sections 499 and 500 of the Indian Penal Code. Another law that protects privacy rights is section 72 of the Bhartiya Nyaya Sanhita (formerly IPC Section 228A), which strictly prohibits disclosing the identities of victims of certain crimes, including sexual assault. This clause, which is often the consequence of careless reporting, is illegal to violate. Furthermore, the majority of state police handbooks now include stringent guidelines for press conferences that

forbid officers from disclosing investigative information or naming individuals in a way that implies guilt prior to the filing of a chargesheet.

Self-regulation or responsible use of social media is another important factor in reducing sensationalism. In order to avoid direct government intervention, private broadcasters have established their own regulating agencies, establishing a system known as "soft law." Complaints against sensationalism and biased reporting on news stations are handled by the News Broadcasting & Digital Standards Authority (NBDSA). If stations are found guilty of holding a media trial, it has the authority to impose fines of up to ₹1 lakh or more and to force them to broadcast public apologies during prime time.

Conclusion

In conclusion it can be stated that although India's regulatory frameworks provide a significant protection against these media trials on a public-adjudications it is not enough in this digital age. The biggest obstacle is the technological complexity of tracking down the IP addresses of anonymous users who propagate offensive information on many sites. Social media, in contrast to conventional media, allows stories to spread quickly and virally, which can evade regulatory monitoring with ease.

Therefore, self-awareness and civic duty must be the foundation of the remedy in addition to legal remedies. The presumption of innocence and the right to a fair trial are important fundamental rights that citizens, journalists, and internet users must understand. Statutory protections are just as important as fostering civic sense refusing to prejudice situations or magnify unsubstantiated accusations. Statutes can never efficiently come into effect if the population is not ready to accept it. Thus, incorporating social-media awareness into the educational framework could also prove to be useful. In this sense, the struggle against social media trials is both a legal issue and a question of shared accountability, guaranteeing that justice is unbiased and unaffected by the court of public opinion.

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Chapter - VI

GENDER, CRIME AND HEADLINES: HOW SENSATIONALISM SHAPES BIAS

BY

Roshmi Paul

Abstract

Gender-based crimes are rising in both visibility and severity, yet public understanding of these offences is shaped less by actual crime patterns and more by how the media frames them. Contemporary coverage particularly in mainstream outlets and digital platforms tends to amplify extreme incidents through sensational headlines, emotionally charged language, and repetitive dramatic framing. While such reporting temporarily mobilises outrage, it simultaneously obscures the systemic, everyday forms of gendered violence that statistical records consistently highlight. This disconnect creates a skewed cognitive map of gender based crime: certain victims become hyper-visible symbols of national shock, while others remain peripheral, normalised, or invisible. This study interrogates the relationship between gender, crime, and headline construction, examining how sensationalism shapes public bias, risk perception, and implicit hierarchies of victimhood. Drawing on crime data, media content analysis, and discourse patterns found in national and international reporting, the research explores how linguistic choices such as episodic framing, victim-blaming cues, moral panic triggers, and crisis-centred headlines distort societal understanding of gender-based violence. The analysis also considers how media sensationalism influences social attitudes, policy expectations, and the public's selective empathy, reinforcing stereotypes around female vulnerability, class, morality, and "ideal victims." By integrating insights from criminology, media psychology, and gender studies, this research identifies the structural gap between crime reality and crime representation. It argues that sensationalised headlines not only shape bias but actively participate in constructing which crimes matter, which victims are heard, and which forms of violence remain unaddressed. The findings aim to contribute to more ethical reporting frameworks and a more grounded public discourse on gender and violence.

Keywords: Sensationalism, Gender-based Crime, Media Framing, Headlines, Public Bias

Introduction

One such societal issue that has become a crisis of visibility in the recent arena is the Gender Based Violence (GBV). It has become a public discussion and the role of media is significant in such. Among all violence, one which has dominated the shadows of private life is the hidden violence against women and girls. In the recent years, persistent reporting of crimes, horrific case studies along with convicting statistics suggests that crimes against women and girls are neither unusual nor unique, thus it has become a topic of public discussion. Assumptions that such violence is uncommon or declining have been challenged by media outlets which have provided striking visualisations and analysis revealing escalating crimes against Indian women in various forms over the years.¹

Today's visibility of gender-based violence is a result of two interrelated dynamics: a real persistence or, in many cases, an increase in reported instances, and increased public awareness driven by media coverage that documents both individual tragedies and statistical trends. As per the official crimes report of 2022, it has been observed that more than 445,000 incidents are the crimes against women which includes rape, assault, mental harassment as well as cruelty by husband and relatives either. This horrible report represents an average of one crime case in every 51 minutes and highlights that the problem of crimes against women are beyond anecdotes. As per the report of the United Nations, intimate partner violence in both ways sexual or physical as well as mental violence affects millions of women worldwide.

Media has a great influence in framing public perception. In addition to such, media plays an important role in communicating factual clarity and logic to the people as well as outlets the individual stories which such as tragic death of a young girl who had made repeated complaints of sexual harassment which went unanswered due to lack of attention and systematic failures as well. Media positively encourages its viewers to view violence as a result of structural inequality rather than as random violence. Emotionally charged reporting is a common journalistic practice that helps humanise abstract statistics and bring systemic injustices to life². However, concerns are raised to bring Sensationalism that positively bring public awareness about Gender Based Violence along with that focuses on the widespread form of Gender Based Violence that occurs worldwide.

¹ Social and Political Research Foundation (SPRF), Crimes Against Women in India: Trends, Challenges and Policy Responses (SPRF)
<https://sprf.in/crimes-against-women-in-india-trends-challenges-and-policy-responses/> accessed 20 December 2025.

² Monika Bastian and others, 'Media Framing of Gender-Based Violence' (2024) Media and Communication
<https://www.cogitatiopress.com/mediaandcommunication/article/download/8964/4226> accessed 20 December 2025.

In fact gender based violence concentration is at high risk as it has become persistent. Systematic form of violence against gender like domestic violence, harassment in public as well as private places, online harassment and discrimination towards gender influences every day crime lives. However, many instances would go unnoticed and public indignation would be subdued in the absence of such media coverage. In the end, media framing both amplifies and complicates public understanding: it calls attention to the seriousness of Gender based Violence while making it difficult for viewers to see that every news conceals a larger pattern of pervasive inequality and normalised violence.

Gender-Based Crime and the Gap Between Reality and Representation

In India as well as throughout the world, gender-based violence (GBV) is widespread and underreported, reflecting profound systemic injustices. Data from India's National Crime Records Bureau (NCRB) shows that 4,45,256 crimes against women were registered in 2022, or about 51 complaints every hour, with a crime rate of 66.4 per 100,000 women. The majority of such incidents are outlets as domestic violence, violence against a women either by the spouse or family members or both. Nowadays the scope of domestic violence have broadened as the dataset includes here also involves a portion of rape, kidnapping or abduction, committing assault, modesty, and new cybercrimes³.

However, according to the data from National Family Health Survey-5(NFHS-5) survey based data indicates that the official statistics often underestimate the actual extent to which the violence is caused to a women. Approximately, one of the three Indian women who have been married, experiences physical, sexual or emotionally they are being subjected to violence as well. The report estimated from UN Women suggests that one in three women who is either the age of 15 or above 15, once had been the victims of either sexual or physical abuse by a partner or not partner. As per the official crimes report and data, less than 40% of the women who are the victims if such violence seek official assistance, and the horrible fact suggests that less than 10% of the women report to the police regarding the violence faced by them which exacerbates the obscurity of these crimes.

Everyday Forms of Gender Based Violence

One such violence that is deeply ingrained in daily life and interpersonal relationships are gender based crimes. One such crimes which is very prevalent in numerous cases are the intimate partner

³ Max H Bazerman and Ann E Tenbrunsel, Ethical Breakdowns (Harvard Business School Working Paper No 11-092, 2011)
https://www.hbs.edu/ris/Publication%20Files/11-092_05eaf393-0012-4d12-9d73-0c07d3f7af46.pdf accessed 20 December 2025.

violence (IPV), which affects millions of the women in everyday lives but these crimes are rarely included in the official statistics. This crimes includes sexual, emotional as well as physical violence by husband or the male partner. Women are also subjected to economic pressure, psychological assault, dowry death , sexual harassment as well as stalking. Within patriarchal social institutions that support male entitlement and restrict women's autonomy, these behaviours are frequently accepted⁴. In-law abuse and dower deaths are two other examples of culturally specific forms of violence that are common in South Asia. The prevalence of cyber-enabled abuses, such as online stalking, digital harassment, and non-consensual sharing of private photos, is rising quickly, demonstrating how gendered violence adapts to new platforms.

Media Emphasis on Extreme Incidents

The most extreme or dramatic instances of gender-based crime, including well-publicized rapes or high-profile killings, are frequently highlighted by the media. Even if these tales garner crucial attention and spur legislative changes (such as the adjustments to the penal code following Nirbhaya), they produce an inaccurate portrayal of commonplace violence⁵. Even though they are significantly more common, routine, pervasive types like workplace harassment, street harassment, and marital abuse receive relatively little notice. This discrepancy adds to the public's belief that only big events "count" as severe, despite the fact that millions of people are harmed by everyday violence.

Understanding Crime Prevalence: Reported vs Reality

The discrepancy between reported offences and lived experience is a fundamental issue in comprehending the incidence of Gender Based Violence (GBV). Only officially registered offences, which make up a tiny portion of actual violence, are reflected in official police records. Reporting is discouraged by institutional impediments, cultural stigma, fear of reprisals, mistrust of the police, and social obligation to "preserve family honour." More concealed prevalence is captured by survey data. For instance, the results of the National Family Health Survey (NFHS) survey on IPV are significantly higher than those of the NCRB register, demonstrating how formal statistics understate the scope. The difference between what is recorded in crime statistics and what survivors go through is fundamental to the gap between reality and representation.

⁴ Asha Bajpai, 'Gender-Based Violence and Media Representation' (2024) Journal of Social Justice <https://pmc.ncbi.nlm.nih.gov/articles/PMC11610212/> accessed 20 December 2025.

United Nations Office on Drugs and Crime (UNODC), Gender-Based Discrimination and Women in Conflict with the Law (E4J Module 9)

⁵ UN Women, Facts and Figures: Ending Violence Against Women

<https://www.unwomen.org/en/articles/facts-and-figures/facts-and-figures-ending-violence-against-women> accessed 20 December 2025.

Normalisation and Invisibility of Gender-Based Violence

There are certain types of violence that are normalised to maintain the cultural standards and often those violence are treated as " private or domestic issues" rather than calling them as "crimes". In situations where marital rape is not legally recognised, patriarchal ideas may minimise or justify economic dominance within families⁶. Victims are silenced by these rules, and their experiences are hidden from statistical visibility and public discourse. Additionally, survivors' mistrust is reinforced and chronic underreporting is exacerbated by the fact that police and legal systems are not always prepared to deal to violence against gender in a compassionate or consistent manner.

Sensationalism in Contemporary Crime Reporting

In today's media landscape, audience engagement requires frequent influence of crime reports rather than rigorous dedication of factual accuracy or ethical responsibility. The concept Sensationalism prioritizes emotion, shock,drama and therefore it has become prevelant in both the mainstream as well as the digital media which positively change public perception as well as the way crimes are portrayed changes.Sensationalism is fundamental in attracting attention. Headlines that are exaggerated and emotionally charged with languages attracts strong responses from the viewers both in traditional as well as digital media.Stories are constructed to emphasise the most dramatic aspects, frequently putting "shock value" ahead of substance, rather than presenting events with objectivity and complexity.⁷

The use of exaggerated imagery and narrative decisions is one characteristic that distinguishes sensational crime reporting. Lurid elements are often emphasised in media reports: vivid personalisation of crime scenes, graphic depictions of violence, and emphasis on the terror or anguish of victims. Instead of encouraging contemplative thought, these components are intended to provoke instantaneous emotional response. This impact is amplified by clickbait titles on digital platforms, which promise dramatic revelations but frequently fall short in terms of factual despthity . Additionally, sensationalism frequently oversimplifies difficult problems. Nuanced features of criminal acts, such as socioeconomic causes, legal context, or systemic concerns, are sometimes

⁶ Ritu Menon, Sensationalism in Crime Reporting (PhD Thesis, West Virginia University 2018)
<https://researchrepository.wvu.edu/cgi/viewcontent.cgi?article=4222&context=etd> accessed 20 December 2025.

⁷ UN Women, Facts and Figures: Ending Violence Against Women
<https://www.unwomen.org/en/articles/facts-and-figures/facts-and-figures-ending-violence-against-women> accessed 20 December 2025.

overlooked or ignored in the haste for dramatic impact. What's left is a stark and limited story that portrays crime as unexpected, frightening, and abrupt.⁸

This trend is largely driven by commercial drivers. Media companies are competing more fiercely for viewers' attention as conventional income models have moved online. Sensational material is very good at generating clicks and increasing ad income, especially when it's about crime. The function of journalism as a trustworthy source of public information may be weakened by this economic pressure, which has the potential to subvert professional standards of fair reporting.

Lastly, ethical values are sometimes marginalised by sensationalism in criminal reporting. The pursuit of dramatic storylines may result in the invasion of victims' privacy, the exploitation of weak people, and the perpetuation of preconceived notions about particular groups. Such reporting can sensationalise misery and generate spectacle around catastrophe rather than teaching or enlightening the audience.

Headline Construction and Linguistic Framing of Gender-Based Crime in Media

In addition to just reporting incidents, media framing of gender-based crime creates meaning through certain language choices, narrative patterns, and headline techniques that influence how viewers view the victims, offenders, and social context of those crimes. These creations are intricately linked to societal power systems and current gender standards. The use of passive language and agent deletion is one of the main characteristics of headlines in gender-based crime reporting. The perpetrators are frequently left out of crime headlines, such as "Woman found strangled," which reduces agency and obscures accountability. This trend normalises violence against women as a background phenomena rather than the consequence of clear misbehaviour and perpetuates the idea that women are helpless victims.⁹

Bias in headline and text framing is also reflected in naming and identification standards.

It has been observed by many reports that male offenders are generally identified with their full names while the female victims are often represented as relational or descriptive titles like "mother of a child" or "wife". This is another form of unequal treatment in headlines which often indicates the presumption which often works as underlying forces that suggests that women identities are

⁸ Ritu Menon, Sensationalism in Crime Reporting (PhD Thesis, West Virginia University 2018) <https://researchrepository.wvu.edu/cgi/viewcontent.cgi?article=4222&context=etd> accessed 20 December 2025.

⁹ S K Verma, 'The Ethics of Reporting: Balancing Truth and Sensationalism in Global Media' (2023) Global Media Journal <https://www.globalmediajournal.com/open-access/the-ethics-of-reporting-balancing-truth-and-sensationalism-in-global-media.php?aid=94551> accessed 20 December 2025.

secondary or derived, this inbuilt the patriarchal standards. The gender marking of occupations and professions in headlines is another noteworthy trend. When a woman is the subject, neutral job terms become gendered (e.g., "female judge," "lady teacher"), indicating surprise or departure from an assumed male standard. By emphasising gender in situations where it is irrelevant, these markers might affect reader interpretation and subtly exoticize female characters.¹⁰

Sensationalist headlines have also drawn a lot of criticism. Sensational language increases the emotional effect of a crime by highlighting its severity, "shock value," or uncommon elements, but it frequently does so at the expense of context. The systematic prevalence of gender-based violence is obscured by headlines that depict offenders as "monsters" or obsess over graphic details, turning complicated social issues into entertainment. Instead of educating viewers about the seriousness of the problem, they may unintentionally titillate or sexualise them. India's feminism Experts advocate for survivor-centered, trauma-sensitive language that avoids victim blaming, honours dignity, and eliminates superfluous graphic information in ethical reporting discourse. Guidelines for ethical communication emphasise that words have a real-world impact, influencing society attitudes, supporting stereotypes, or assisting in their dismantling.

Hierarchies of Victimhood and Selective Visibility in Gender-Based Crime Reporting

Instead of operating on neutral ground, media coverage of gender-based crime creates a hierarchy of victimhood through selective visibility. While the great majority of survivors of gender-based violence remain structurally unseen, some victims become hyper-visible, elevated as symbols of public anger or "national shock." Editorial choices, story framing, and cultural presumptions about morality, class, caste, and respectability all contribute to the construction of this hierarchy. High-profile cases, which frequently involve young, urban, middle-class, or "respectable" women, garner political criticism, dramatic headlines, and prolonged media coverage. Public sorrow and cries for reform are sparked by the framing of these victims as symbols of societal failure. On the other hand, domestic workers, Dalit women, migrant labourers, women affected by war, and those criminalised by the legal system frequently endure everyday violence that is either underreported or rendered statistically abstract.¹¹

¹⁰ Journalism University, The Problem of Sensationalism in the Media
<https://journalism.university/media-information-literacy/problem-sensationalism-media/> accessed 20 December 2025.

¹¹ S Chandra and R Dutta, 'Discourse Constructions of Gender-Based Crimes in Newspaper Reports' (2019)
https://www.researchgate.net/publication/336672543_Discourse_Constructions_of_Gender-Based_Crimes_in_Newspaper_Reports accessed 20 December 2025.

Victims who conform to standards of domestic respectability, chastity, and femininity are highlighted, while those who are seen as deviant are either indirectly blamed or left out of sympathetic framing. Whose suffering is publicly acknowledged and whose is normalised or ignored is determined by this moral filtering of suffering.¹² Furthermore, reporting frequently creates a false antithesis between "gentleman offenders" and "ideal victims," especially when elite or influential males are involved. By using euphemisms, passive constructions, or highlighting their professional accomplishments, perpetrators from powerful social groups may be linguistically softened. By implying that violence is an anomaly rather than a continuation of structural privilege, this framing weakens accountability and perpetuates gender and class power disparities. Selective visibility has two effects. The "everyday ten" the innumerable victims of regular domestic abuse, workplace harassment, prison violence, and conflict-related sexual assault are first marginalised because their experiences seldom qualify as newsworthy. Second, by concentrating reforms on extreme cases rather than tackling long-standing disparities in social protection, legal access, and policing, it limits the policy imagination.

As a result, media coverage intentionally organises public attention by ranking victims according to symbolic worth, rather than just reflecting gender-based violence. Justice and prevention are undermined by this hierarchy, which perpetuates social injustices and hides the structural causes of violence.

Public Risk Perception, Selective Empathy, and the Reinforcement of Gender Stereotypes

The public's sense of risk and the distribution of empathy are strongly influenced by the selective framing of gender-based crime. Media narratives affect audiences' emotions as well as who they fear, who they blame, and whose suffering they accept as justified. A distorted emotional and cognitive map of risk is created when some types of violence are emphasised while others are marginalised due to sensationalism and repetition. While drawing attention away from the most prevalent types of violence intimate relationship abuse, familial coercion, and institutional harm this focus on uncommon but startling occurrences heightens societal fear. Because of this, audiences overestimate external threats and underestimate relational violence that occurs on a daily basis, which results in ineffective preventative measures and societal vigilance.¹³

¹² Bushra Nursuhaila, 'Representation of Gender in Crime News Reports' (2021) *Journal of Gender Studies* <https://pmc.ncbi.nlm.nih.gov/articles/PMC8405979/> accessed 20 December 2025.

¹³ R Anitha, 'Gendered Framing of Crime and Media Bias' (2022) *Cogent Social Sciences* <https://www.tandfonline.com/doi/full/10.1080/23311983.2022.2146927> accessed 20 December 2025.

When viewers are trained to emotionally invest in victims who reflect socially prized identities, selective empathy develops. By consistently linking men with agency, violence, or moral authority and women with vulnerability, this dynamic perpetuates gender stereotypes.¹⁴ While systemic enablers of violence continue to be understudied, women are portrayed as constantly at risk and in charge of ensuring their own safety. Such framing reinforces victim-blaming attitudes by gently shifting accountability from institutions and offenders to the actions of specific women. The media promotes informed empathy rather than reactive indignation when it highlights prevalence, power dynamics, and survivor dignity. Stereotypes are contested, the circle of concern is widened, and structural reform is supported by such reporting.¹⁵

Conclusion

Media portrayals of crime actively create social meanings, affect emotional engagement, and mould public views of gender, power, and justice in addition to just communicating facts. The media frequently reproduces and reinforces gendered preconceptions that deviate greatly from the reality of crime patterns, according to studies on gender and crime reporting. This creates social narratives that uphold uneven power systems.¹⁶

This pattern is amply demonstrated by empirical study on crime news coverage.¹⁷ According to Grabe and colleagues' analysis using the chivalry hypothesis, female offenders who follow traditional gender norms that is, nonviolent, nonthreatening women often receive more lenient or muted coverage, while female offenders who defy gender norms such as those who commit violent crimes or crimes against children—are portrayed more harshly than male offenders for similar acts. Larger headlines, more coverage days, and justifications based on personal shortcomings rather than contextual social causes are used to sensationalise these women. Therefore, this subtle "patriarchal chivalry" is a conditional media framing based on gendered norms of "gentleness" and nurturing rather than universal forbearance.

¹⁴ Arvind Narrain, Media Trials and Gender Justice (SSRN Working Paper No 3677965, 2020)

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3677965 accessed 20 December 2025.

¹⁵ Feminism in India, 'Sensationalist Headlines and the Media's Treatment of Gender-Based Crimes' (2019)

<https://feminisminindia.com/2019/10/31/sensationalist-headlines-media/> accessed 20 December 2025.

¹⁶ Dianova International, Ethical Communication and Media Guidance on Gender-Based and Domestic Violence <https://www.dianova.org/opinion/ethical-communication-and-media-guidance-on-gender-based-and-domestic-violence-speaking-truth-with-dignity/> accessed 20 December 2025.

¹⁷ Nicole M Rader and others, 'Gender in Crime News: A Case Study Test of the Chivalry Hypothesis' (2006) Journal of Criminal Justice

https://www.researchgate.net/publication/233016810_Gender_in_Crime_News_A_Case_Study_Test_of_the_Chivalry_Hypothesis accessed 20 December 2025.

Content and discourse analyses of gender representation in criminal news across several contexts reveal stereotypical and systematic under-representation of women. Women are under-represented in crime reporting compared to men, according to studies on Pakistani English newspapers. When they do appear, headlines and linguistic structures frequently highlight relational identifiers (such as marital status or relationship to men), which diminish women's agency and reinforce patriarchal scripts. Readers' cognitive "mental schemas" are shaped by these depictions, which cause viewers to perceive female victims less as independent actors and more as passive or characterised by gender relations.¹⁸

According to media psychology, crime reporting benefits from emotional engagement, such as drama, menace, and morality plays, which make stories captivating and memorable. However, by favouring dramatic and exceptional incidents over representative statistics, this emotional hook can skew public perception and fuel moral panic and terror. According to the Transform Justice framing guide, default criminal justice ideas like punishment and deterrence are strong but ineffective if they are used blindly. Rather, reorienting communications to emphasise human potential, contextual justice, and societal causes might lessen sensationalism and increase public awareness of crime and justice.¹⁹ From a gender studies standpoint, societal power systems are impacted by women's visibility as both victims and offenders. Women are often portrayed in news media as emotional beings, victims, or outliers to the masculine norm, which perpetuates systemic disparities in power and visibility. Gendered language has an impact on mental representations, according to research that goes beyond direct criminal reports. Using gender-inclusive language makes women more visible in roles that are often assigned to men, indicating that linguistic framing alone can change conceptions of gender roles. When combined, these studies highlight the discrepancy between the reality of crime and how it is portrayed in the media: rather than presenting objective facts, the media frequently reproduces cultural biases that skew public perception²⁰. It is, gender, and justice. crucial to reframe crime and headlines using nuanced, contextual, and inclusive ways in order to dispel preconceptions and promote a more fair and truthful public conversation about crime

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¹⁸ Nursuhaila A Rashid, 'Representation of Gender in Crime News Reports' (2018) <https://www.semanticscholar.org/paper/Representation-of-gender-in-crime-news-reports-in-a-Nursuhaila/111fd71573ecd9698fa7b97c985a4915d3a57ca9> accessed 20 December 2025.

¹⁹ Transform Justice, Reframing Crime and Justice: A Handy Guide (2023) https://www.transformjustice.org.uk/wp-content/uploads/2023/02/Reframing-crime-and-Justice-a-handy-guide_Transform-Justice.pdf accessed 20 December 2025.

²⁰ Temple International & Comparative Law Journal, 'Gender, Crime and Media Narratives' (2020) TICLJ https://sites.temple.edu/ticlj/files/2020/05/34.1_Article-G-Final-Format.pdf accessed 20 December 2025.

Chapter - VII

DEFAMATION AND DEEPPAKES IN THE DIGITAL ERA: LEGAL ACCOUNTABILITY, ETHICAL ISSUES AND PUBLIC GENERAL AWARENESS

BY

Shanmugapriya.V & V. Srividhya

Abstract

The evolution of online communication has significantly changed the origins and distribution of digital information. The recent advancement in artificial intelligence plays a key role in generating text, images, and videos on digital platforms. The capability of creating highly realistic artificial intelligence-generated content that can be misused by users and result in serious damage to individuals, institutions and organizations. The distribution of deepfake or manipulated content has raised the chances of reputational damage, which requires digital literacy and awareness among the public. The existing legal frameworks primarily deal with the cases of human statements and provide limited guidelines on automated or manipulated content. In the era of artificial intelligence, the usage of chatbots such as large language models has led to many problems including defamation under the Indian Laws. The determination of misleading or malicious words became difficult because these chatbots have completely changed the connectivity between automated systems and the Internet. Even these automated systems can interact with the users which makes it more difficult to find the authenticity of the content. This chapter outlines the instructions and responsibilities for both developers and implementer. In this paper, the legal consideration of artificial intelligence-based defamation in India, technical harm with preventive measures, ethical implications, and developer responsibility are presented, to act as a guide to develop the artificial intelligence content. Legal responsibility and preservation of people's digital information will be achieved through these changes.

Keywords: Artificial Intelligence, Defamation, Deepfakes, Indian Law, Legal Accountability

Introduction

The Indian law system identifies protection of reputation as part of human dignity since reputation forms the image of a person in society¹. This social identity affects interpersonal relationships, professional status and individual agency. As a result, the damage to reputation can lead to social rejection, economic and psychological suffering. In Indian constitutional jurisprudence, injury to reputation is considered to be a grave violation of the law because it has a direct impact on the dignity of the individual. The Supreme Court has therefore valued reputation as an inherent part of a right to life under Article 21 of the Constitution of India². The ability of the person to live with dignity will thus be destroyed by any reputational damage. In order to protect this constitutional interest, the Indian law of defamation operates on a criminal and civil basis. Criminal defamation aims to discourage purposeful or willful criminal assault on reputation through punishing them³. Civil defamation is an extension of this aim, which grants damages and injunction to regulate reputational damages to victims⁴. Indian courts are also discovering the importance of freedom of speech as provided in Article 19(1)(a) even though reputation protection is being practised extensively. It creates a delineation of reputational harm and conflicts of interest.

The conventional law of defamation is formulated only for human defamatory contents which includes environments, authorship, intent and publication. For this reason, reputational harm is commonly defined as apology.

Defamation Law in India

This traditional defamation in India was reconstructed as the reputational protection law. Therefore, the organization is primarily structured around criminal law, civil remedies, information technology law, and judicial interpretation which deals with the reputational harm brought about by the traditional communication procedures⁵.

i) Defamation by the Indian Penal Code, 1860

In this context, the existing Sections 499 and 500 of the Indian Penal Code (IPC) 1860 regulated criminal defamation. Section 499 included a definition of defamation and exceptions of truth, public

¹ Yadav, S. C., *AN ANALYSIS of INDIAN CRIMINAL JUSTICE SYSTEM from the PERSPECTIVE of HUMAN RIGHTS* (Socio-Legal Perspective On Law And Changing Dimensions In The Modern Era, 2024)

² Antia D, 'Analysing The Impact Of Judicial Activism On Human Rights Protection: A Comparative Review Of Nigerian And Indian Jurisprudence' [2024] SSRN Electronic Journal

³ Dhakad, M., & Meena, R., 'A Comparative Study of Law Relating to Defamation in India and Commonwealth Countries.' (2024) 37(1) *Sciences of Conservation and Archaeology* 185-194

⁴ Ward, L., & Day, J., *Defamation and Social Media Law. In Research Handbook on Social Media and the Law* (Edward Elgar Publishing 2025) 8-37

⁵ Jaiswal A and Singh S, 'EVOLVING PARADIGMS of CRIMINAL LAW in CONTEMPORARY INDIA: CHALLENGES, REFORMS, and the QUEST for JUSTICE in a DIGITAL AGE' (2025) 3 *LawFoyer International Journal of Doctrinal Legal Research*. 839

good and fair comment in order to balance competing interests. Section 500 supported this equilibrium by directing punishment for intentionally or knowingly about reputational harm.

ii) Bharatiya Nyaya Sanhita Transition, 2023

This fault-based approach to defamation remained in the transition to the Bharatiya Nyaya Sanhita, 2023⁶. Section 356 is mostly a copy of the structure and language of the IPC provisions. As a result, the shift can be viewed as continuity and not actual reform in defamation law.

iii) Role of the Information Technology Act, 2000

Despite this, the rapid growth of digital communication did not directly change the definition of defamation with the Information Technology Act, 2000. Instead, it indirectly acts to counter the harm by controlling intermediary liability and content moderation. This led to the creation of defamatory content between the users, digital platforms, and the service providers. There is no such Indian law that covers the problems due to the AI-generated reputational content. The current legislation only defines the following:

- The accountability of independent AI content.
- Standards of breach or responsibility of AI developers.
- The responsibility for harm caused without the action of humans.

The laws' absence instead of giving protection, creates an irregularity in fulfillment. There is an incomplete coverage of issues of defamation and redress of the contents generated by AI in the Indian laws. It is necessary to achieve accountability without interrupting the developments in technology for which we need judicial regulations and legal adjustments.

Digital and AI Defamation

Transition to digital communication has changed the limited interpersonal damage to a greater social damage. Location and time constraints won't be an obstacle to the digital media to provide the accessibility to online content. The reputation damaging content causes harm by broadcasting it to a large public audience⁷. Through messaging services, social media, and online news sites a large number of defamations have been reported. It is very difficult to find the person who submitted the defamatory content due to the Lack of personal attribution and use of pseudonyms⁸. The hosting or sharing of materials internationally raises jurisdiction problems which makes the enforcement of conventional methods ineffectual. Such elements delay the process of getting answers and cause the

⁶South, S. N., 'Crafting a Liability Regime for AI Systems in India' (2024).

⁷Sharma, A., 'The Evolving Landscape of Online Content Regulation in India: Problems, Challenges, and Legal Perspectives.' [2024] International Journal of Law Management & Humanities 2258

⁸Metzler H and Garcia D, 'Social Drivers and Algorithmic Mechanisms on Digital Media' (2023) 19 Perspectives on Psychological Science 735 <<https://journals.sagepub.com/doi/full/10.1177/17456916231185057>>

worst damage to the organization structure of internet platforms. Instead of accuracy, the core areas of automated systems content are engagement, popularity, and virality⁹. Because of the automated amplification method, it repeats the malicious contents without any analysis. Such challenges are increasing along with growing usage of artificial intelligence on digital media. AI systems have become directly involved in content creation and no longer assume the mediation of human speech. It radically changes the terms in which the laws of defamation will be executed and reveals the weak points of the existing legal regulations.

Concept of AI-Generated Defamation

AI-generated defamation is reputational damage that is the result of autonomously produced content in artificial intelligence systems¹⁰. The systems can produce text, images, audio, or video with the help of statistical models trained on large datasets. The results are obtained based on pattern recognition and not factual validation, and this increases the chances of errors and misrepresentation. The process of human authorship dilution is the main characteristic of AI-sourced defamation. Developers create it, and it is prompted by users, yet the outcome is developed by automated mechanisms that are not predictable or controllable. This dilutes the classical connection between speaker, intent and responsibility. The harm is also enhanced by the style of presentation of AI-generated content. The fluency of outputs, well-structured and unemotional in tone, creates an impression of reliability. In case of this type of delivery of incorrect information, there is a higher possibility of this being believed and spread. The damage to reputation may occur even without intentional harm. The Indian law has no present differentiation between human speech and machine-generated speech¹¹. This theoretical void gives ambiguity to the courts, which makes use of fault-based teachings. It is important to acknowledge that AI-generated defamation is a unique phenomenon to create effective reactions to it.

Defamation Risks Arising from Conversational AI Systems

Conversational AI systems like ChatGPT use large language models that are trained on massive amounts of text data collected through books, articles, websites, and other sources of text made

⁹ Meti, M. V., 'Balancing Free Speech with Hate Speech and Defamation: An Indian Perspective' 2 International Journal of Law and Research

¹⁰ Moreno FR, 'Generative AI and Deepfakes: A Human Rights Approach to Tackling Harmful Content' (2024) 38 International review of law computers & technology 1

¹¹ Hindelang S and Moberg A, *YSEC Yearbook of Socio-Economic Constitutions 2021 : Triangulating Freedom of Speech* (Springer 2022)

publicly available¹². Such systems do not scan databases or verify facts in real time. They instead produce responses by forecasting the most likely order of words on the basis of patterns that they have acquired in training. This leads to the generation of language that seems to be coherent, confident and authoritative even when the underlying information is false or missing. This manner of operation presents a particular risk of libel. It is usually achieved in a phenomenon that is referred to as hallucination, wherein the system produces information that lacks factual support. In some other situations, timely sensitivity is involved where minor differences in the queries of the users can prompt the system to establish wrongdoing or relationships that may not be proven. Notably, these defamatory contents can be produced without the bad intention of either the user or the developer.

For example: “A customer requests a chatbot to give a summary of the controversies of a local business proprietor. The chatbot answers that the person was committing financial fraud, although nothing of the kind has been claimed. The user, relying on the answer, adds it to a report that he/she shares online, which imposes reputational damage on the person”.

This case illustrates the harm that can be caused to the reputation in the case of indirect dependence on the AI-generated content. Chatbots use the conversational format, which builds trust when responses are presented in the form of direct answers and not suggestions. The users can hence cite the information as true and replicate it in their scholarly literature, work papers or on the internet. The fact that the traditional law of defamation finds it difficult to cope with this kind of harm is that the laws of fault require intent or knowledge. The chatbots is not legally a person, and the developers are not in direct control of specific outputs in real-time. This issue is complicated by the fact that liability is attributed on the basis of automated predictions and not intentional publication. The popular use of conversational AI systems adds further risk of secondary dispensation¹³. The results of chatbots are easy to copy, share and spread through the internet, prolonging reputational damage even after the initial exchange.

Risks of Deepfakes and AI Misinformation

The falsely produced or manipulated digital content that looks, sounds, or appears very similar to real persons is called deepfakes. Contrary to previous media manipulation, deepfakes depend on artificial intelligence which produces outcomes with more accuracy, so it becomes difficult to differentiate authentic ones from the deep fake content. Because it makes the fraudulent content as authentic proof

¹² Bansal G and others, ‘Transforming Conversations with AI—a Comprehensive Study of ChatGPT’ (2024) 16 Cognitive Computation

¹³ Preininger AM and others, ‘Artificial Intelligence-Based Conversational Agent to Support Medication Prescribing’ (2020) 3 JAMIA Open 225

this has a direct impact on reputation. It represents an example of artificial media, which was generated by machine learning algorithms trained using extensive datasets¹⁴. The Generative models are considered as technological foundations because their outcomes are gradually approaching authenticity such that they not only reproduce the physical appearance but also the observable behaviors such as tone accents and language style.

Consequently, synthetic media can convincingly imitate real people in various formats. This possibility heightens the chances of defamation since deceitful statements can be looked at as valid without question. Deepfakes are presented in several types of forms that pose certain threats to the reputation and confidence of the population. The formats are different, but their commonality lies in the fact that they mislead the viewers by being realistically simulated. They are listed as follows:

i) Video Deepfakes

These are the manipulation of the face expressions or movements of a person in video recordings. Such videos can misrepresent people as saying or doing things they never did. Due to the popular opinion of strong evidence of video, video deepfakes are especially harmful in cases of defamation¹⁵. After being posted on online sources, doctored videos can easily go viral through sharing and algorithmic promotions. Reputational damage can be quite persistent even after the verification because of recurrent circulation and recollection. Video deepfakes are visual, and therefore denial or correction is not as effective as when dealing with text-based allegations.

ii) Audio Deepfakes

It refers to the artificial creation of voice recordings to resemble the speech style of a person. Voice synthesis provides artificial intelligence with the ability to reproduce tone, accent and mannerism accuracy. This type of recording can be used in professional, political or personal conflict. Due to the perceived credibility of voice recordings, reputational damage can be inflicted with no visual verification that it was an audio deepfake¹⁶.

iii) Image Deepfakes

This involves images that consist of altered photographs or fake images of people. Artificial intelligence systems may produce life-like images that represent individuals in a scenario that has never existed. These pictures can be easily shared, but are difficult to trace after being shared. The reputational effects of image-based deepfakes are major, especially when the images depict illegal,

¹⁴ Farid H, 'Creating, Using, Misusing, and Detecting Deep Fakes' (2022) 1 Journal of Online Trust and Safet

¹⁵ Harris, K. R., 'Video on Demand: What Deepfakes Do and How They Harm' (2021) 199 Synthese 13373

¹⁶ Hery, A., Joseph, O., Femi, O., & Luz, H., 'Audio Deepfakes: Threats to Voice Assistants and Voice-Activated Systems.'

offensive or compromising situations of individuals¹⁷. Even temporary circulation may cause long-term damage through repeated copying, reposting and archiving across multiple platforms.

iv) Textual Deepfakes

Through the artificial intelligence language models it includes the development of fake textual content written in authoritative formats which comprises fake news stories, fabricated interviews and deceitful reports. It can developed into realistic or credible texts. The content has a professional structure that is considered to be credible by readers¹⁸. These main four ddeepfakes generate text, audio, and visuals synthetically are real by faking the real. So it can categorised as deception and disinformation. The permit to microblog and network by the social media networks and corporations is the major reason for the rapid spreading of AI generated disinformation. Video-sharing websites, blogs, forums, and other content-hosting platforms play the role of distributors by hosting and recommending audio-visual content, including artificial intelligence-generated videos. There is a greater chance of sharing defamatory information through both individual and group messages. Even the online news aggregators also select and regenerate the digital content automatically.

Technical Risks and Prevention Methods

The technical risk of AI-generated defamation emerges from how conveniently the scalable and realistic AI technologies can be accessed. The mismatch between the content's production rate and its identification rate is one of the threats.

The AI generated defamatory and fraudulent information is more difficult to identify because those defamatory information lack watermarks¹⁹. The AI generated disinformation is untraceable whereas the generation is easier and can be done instantly. The preventive measures to avoid the difficulty in differentiating the authentic and fraudulent content includes content validation, tracking, and simplification.

Some of the tools that would help in the validation process would be digital watermarking, meta-tagging and content-authentication protocols. Detectors based on AI are being used more and more to detect doctored content, although they are not accurate. Indian research emphasizes that all of these need to operate together and under government supervision.

The need for technology-related solutions, on the other hand, is also a function of a governing environment. Risk assessments, security audits, and monitoring before installation, as well as

¹⁷ Shahzad HF and others, 'A Review of Image Processing Techniques for Deepfakes' (2022) 22 Sensors 4556

¹⁸ Blitz, M. J. , 'Lies, Line Drawing, and Deep Fake News' [2018] Okla 71

¹⁹ Vinolia, J. J., 'Unmasking Digital Deception: Legal Accountability of Social Media Platforms for Deep Fake Content.' (2024) 5 Jus Corpus LJ 157

monitoring afterwards, may point to possible misuse²⁰. The integration of a reporting and logging system is a way of accountability. However, technology-related solutions by themselves are inadequate.

Ethical Considerations and Developer Responsibility

The chapter outlines a distinct gap with regard to ethical responsibility pertaining to AI-generated defamatory content. The quick advancement of generative AI systems has raised the threat to reputation and personal identity. The lack of explicitly defined ethical responsibilities of the developers undermines the security against abuse. The implementation The absence of transparency on the information on AI-generated content works against awareness and trust of users²¹. The scarcity of information regarding the limits of the system promotes the dissemination of false information. These lack user instructions, which promote excessive reliance on AI outputs. The existing practice demonstrates poor focus on frequent system audits. The absence of regular inspections postpones the identification of abuse threats. There is a lack of good organisational accountability, which limits a good response once harm is caused. The problem of the imbalance of reputation protection and freedom of expression is still unaddressed. According to the chapter, preventive ethical conditions are still inadequate. The necessity of audit, transparency, and accountability is still underexploited. This lack of cohesive ethical governance brings about uncertainty for victims. Such a weakness justifies the requirement for more ethical considerations in the development and implementation of AI.

Conclusion and Recommendation

This chapter discussed the law of defamation in India concerning the field of digital communication and artificial intelligence. The discussion has started by examining defamation under the Indian Penal Code and whether it persists under the Bharatiya Nyaya Sanhita. The examination also examined the applicability of the Information Technology Act in the resolution of reputational damage in the online space. The evolution of traditional human communication up to AI-generated conversational content dealt with the development of AI-created defamation and its legal implications. It suggested the risks that can be posed by conversational AI systems that produce autonomous textual outputs. The chapter has also discussed deepfake technologies of both video and audio, image and text fabrication. This

²⁰ Javadi, S. A., Cloete, R., Cobbe, J., Lee, M. S. A., & Singh, J., 'Monitoring Misuse for Accountable' Artificial Intelligence as a Service'', *In Proceedings of the AAAI/ACM Conference on AI, Ethics, and Society* (2020)

²¹Prasad, N. L., & Jain, I. D., 'Technological Progress vs. Human Rights: Privacy, Free Expression, and Reputation in the Era of AI and Deepfakes' (2025) 2 *Journal of Legal Research and Polity* 89

analysis thus indicated the increased severity of reputational damage due to realistic and scalable synthetic content. The chapter then evaluated the contribution of platforms and intermediaries to the facilitation of the spread of AI-motivated defamatory content. It identifies the technical weaknesses of algorithmic amplification and automatic content generation. The ethical problem discussed in the chapter is the issue of accountability and responsibility in AI development. The general conclusion is that the current defamation regulations have systemic weaknesses in dealing with AI-assisted reputational damage.

The discussion hence suggests that legal principles should be adapted to new technological realities. The analysis also indicates that an effective enforcement of liability allocation requires clarity. The suggestions assist in the clear legalization of AI-generated defamation in the current systems. The regulating strategy must share responsibility between the developers, deployers, and digital platforms. Future governance of AI defamation should be coordinated through the integration of legal issues, technical issues, and ethical issues.

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Chapter – VIII

HEADLINES VS EVIDENCE – THE GAP BETWEEN FACTS AND PERCEPTION

BY

Soumadeep Biswas

Abstract

Headlines are becoming more important to the general public in the modern information ecosystem, as opposed to the evidence they purport to depict. The accelerated pace of the news consumption through digital media, social media and algorithmic curation has created a critical divide between facts and perceived reality. Headlines, which are usually prepared to capture attention, engagement and be viral, were generally simplistic in nature, focusing on emotional appeals rather than facts. The tendency leads to the proliferation of misinformation, the confirmation bias, and skewed public discourse. With the audience taking information in fragmented forms, their cognitive shortcuts cause them to develop a strong opinion based on minimal or misleading information as opposed to actual evidence. This paper will examine structural, psychological as well as technological conditions that generate and perpetuate the gap between headlines and evidence. It explores the role of economic pressures in media organisations in motivating sensationalism, the cognitive biases of selective exposure and motivated reasoning in distorting interpretation and the role of digital architecture in enhancing polarised or sensational content. The implications of this gap to policy-making, public trust, and democratic decision-making are also examined in the paper and cases of how headline-driven narratives have dominated research-based knowledge are presented. To overcome these challenges, the paper highlights the importance of using evidence-based communication, greater editorial responsibility and the media literacy of consumers. It states that the solution to this gap involves a concerted effort by journalists, technology platforms, educators, and regulators. However, in the end, the realization of how headlines manipulate perception and how evidence can take back its rightful place in informing the society is vital in developing a better-informed and more cohesive society.

Keywords: Headlines, Evidence, Misinformation, Digital Media, Sensationalism, Democratic Discourse.

Introduction

Over the last few decades, there has been a fundamental change in the way the masses of the population consume information. In contrast to the previous time when much of the popular knowledge was formed as a result of the continuous exposure to newspapers, reports and professional commentary, the current information consumption is becoming more of a headline than evidence-based. The emphasised speed, brevity and emotional immediacy of digital media settings encourage readers to read summaries, alerts, and headlines instead of the underlying content that supports those in digital media settings. Consequently, headlines tend to serve as the main meaning generating resources as opposed to points of entry into more intensive factual interpretation.¹

This transformation has been closely connected to the emergence of online platforms and ecosystems of social media. Algorithms used in curation encourage the content that attracts the most attention the most, which strengthens short attention spans and favours sensational or emotionally charged framing. This trend has been further exacerbated by the advent of so-called speed journalism, whereby the news organisations are competing to be first, not to be accurate or all-inclusive in their publication.² Verification, contextualisation and the depth of evidence are often postponed or watered down in such an environment, with headlines getting disproportionately greater sway over the way the public interprets things.

In order to comprehend this phenomenon, one has to conceptually differentiate between facts, evidence, narrative and perception. Facts are discrete and verifiable constituents of reality; evidence is the systematic organisation and interpretation of facts in terms of data, expertise and methodology. As opposed to this, narratives are built structures that assign meaning to facts through the process of selecting, highlighting or excluding facts. The interplay between these stories and personal mental filters results in what is perceived by the population, which in most cases is quite different in relation to the evidence behind the stories.³ Headlines work on a narrative level, creating the impression before a person is exposed to evidence, whether evidence is presented or not.

The main research question to be discussed in this paper is the loss of knowledgeable popular opinion due to the increasing disconnect between news stories and facts. This is a gap that has serious consequences on the trust of the people, the deliberation process in democracy, and the policy making

¹ Jack M Balkin, 'Free Speech in the Algorithmic Society' (2018) 51 *UC Davis Law Review* 1149.

² Tarleton Gillespie, *Custodians of the Internet* (Yale University Press 2018).

³ Virginia Eubanks, *Automating Inequality* (St Martin's Press 2018).

process. Whenever perceptions are made based on incomplete or skewed representations, then evidence-based decision-making is even more challenging and corrective information has a hard time taking root.⁴

The importance of this study lies in the fact that it places the headline-evidence disconnect in the context of more general structural, psychological and technological factors. The paper is a contribution to the current discourses on media accountability, the administration of platforms, and social literacy by examining the forces that give preference to perception over proof. The paper is organized structurally by first providing a conceptual framework that would govern headlines and evidence, then discusses the causes of distortion, and finally evaluates the outcomes and possible solutions.

Conceptual Framework: Headlines, Evidence, and Perception

To comprehend the disparity between reality and perceptions, it is necessary to have a clear conceptual framework that will help to identify the role of headlines, evidence, and cognitive interpretation in the modern media ecosystems. Headlines are not just disinterested summaries of news material, but are narrative framing devices, which influence the initial perception of information. By the use of selective emphasis, tone and language, headlines direct the reader to specific meanings without any interaction with the underlying content taking place.⁵ Within a digital space where most users do not move beyond the headline, such a framing effect is particularly consequential.

In its turn, evidence can be defined as the systematic presentation and explanation of facts, which is based on empirical data, official reports, expert analysis, and methodological reasoning. Evidence is cumulative and contextual in nature and must take time and mental effort to evaluate, unlike headlines. It is not valuable in immediate but in reliability, verifiability and coherence.⁶ The asymmetry of the availability of headlines and the complexity of evidence, however, implies that evidentiary substance tends to be subject to simplified narrative indicators.

The effect of cognitive filtering in which heuristics and mental shortcuts are crucial results in the creation of public perception. They are overwhelmed with information and will rely on emotional

⁴ Daphne Keller, 'Who Do You Sue? State and Platform Hybrid Power over Online Speech' (2021) 49 *Hofstra Law Review* 1.

⁵ Tarleton Gillespie, *Custodians of the Internet* (Yale University Press 2018) 3–15.

⁶ Jeff King, *Judging Social Rights* (Cambridge University Press 2012) 27–34.

resonance, familiarity and ideological alignment to process information in a compressed manner when faced with information overload.⁷ Headlines make use of these shortcuts especially well, since they are intended to be read quickly, and frequently are intended to provoke fear, outrage, or confirmation. Once a perception is created, then later evidence is often selectively construed to support the beliefs that were in place, a fact that is well-reported in cognitive psychology.

This dynamic is centered on the relationship between framing and meaning-making. Media framing theory describes how the way information is presented, what is emphasised, what is not emphasised, how issues are placed in context, affects the way the audience understands them. Agenda-setting theory also implies that although media might not tell people what to think, it has a strong influence on what people think about in the sense that it gives priority to certain issues by being repeatedly aired.⁸ Headlines are at the confluence of these theories and they define the salience as well as the interpretive lens of the way events are perceived.

Therefore, headlines need to be construed not as neutral points of entry to information but as interpretive frames that mediate reality among the audiences. They tend to limit the spectrum of interpretations that readers can have through pre-structuring the meaning before they get to an evidence. This conceptualisation is essential in examining how perception may deviate sharply with reality of fact or evidentiary facts, which is the basis of the wider analysis that has been made in this paper.

Structural Drivers of the Headlines–Evidence Gap

The increase in the distance between headlines and evidence is not the outcome of personal reading patterns or journalistic decisions; it is based on the structural changes in the modern media ecosystem. The pressures of economies, the structures of platforms, and institutional pressures all influence the manner in which information is generated, prioritised and disseminated, usually favouring the immediacy and impact over the depth of evidence.

The change of the media to an attention-based economy is one of the main structural drivers. News organisations are becoming more and more reliant on advertising incomes that relate to the number of clicks, views, and other interaction metrics instead of subscription-based readership that is based

⁷ Virginia Eubanks, *Automating Inequality* (St Martin's Press 2018) 45–55.

⁸ Maxwell McCombs and Donald Shaw, 'The Agenda-Setting Function of Mass Media' (1972) 36 *Public Opinion Quarterly* 176.

on long-form consumption. This economic paradigm encourages headlines that will gain the maximum interest, outrage, or emotion since these attributes can be directly mapped into traffic and monetisation.⁹ Consequently, the headline itself becomes a commercial product itself, one that is geared toward attentiveness regardless of whether it oversimplifies or inflates the evidence behind it. Investigative thoroughness, contextual reporting, and methodological prudence, qualities needed to produce evidence-based journalism, are not prioritised since they are not as immediately lucrative.

Still closely related to these economic reasons is the effect of digital platforms and algorithmic curation. The social media and search engines dictate the appearance of news content under the influence of opaque algorithms that optimise engagement. Information that elicits a high emotional response has much more chances to be amplified, shared and recommended, irrespective of the quality of evidence behind it.¹⁰ Such an algorithmic reasoning supports polarisation and generates echo chambers where users are continuously fed on headline-driven stories that confirm their pre-existing beliefs. The fact that challenges these stories can hardly get the same level of visibility, thus, solidifying perception rather than evidence.

The other structural condition is the emergence of speed journalism and the undermining of the norms of verification. The pressure to post quickly in competitive digital space has decreased the time needed to fact-check, corroborate the sources and analyze the contexts.¹¹ Headlines are written and passed around before any comprehensive information is known, and other corrections are given much less attention than the first framing. This is an imbalance in terms of time, so the initial accounts are often fixed within the minds of the people; even when subsequently found to be confusing and inaccurate.

This issue is also enhanced by institutional constraints. Reduction of newsroom resources, staff cuts and dependency on syndicated news restrict the ability of media organisations to generate original and evidence-based reporting.¹² The situation in which journalists are working is increasingly dominated by the principles of volume over depth and this is a cycle that perpetuates itself, with

⁹ Jack M Balkin, 'Free Speech in the Algorithmic Society' (2018) 51 *UC Davis Law Review* 1149, 1152–1160.

¹⁰ Daphne Keller, 'Who Do You Sue? State and Platform Hybrid Power over Online Speech' (2021) 49 *Hofstra Law Review* 1, 6–15.

¹¹ Tarleton Gillespie, *Custodians of the Internet* (Yale University Press 2018) 75–92.

¹² Virginia Eubanks, *Automating Inequality* (St Martin's Press 2018) 89–102.

headlines becoming a replacement of substantive interaction as opposed to a gateway to substantive interaction.

The combination of these structural drivers forms the environment where the headlines take the upper hand over informational hierarchies, and evidence is simply pushed to the periphery of design and not coincidence. These systemic forces are critical in understanding why there is still a gap between facts and perception and why the responsibility of an individual is not enough to bridge this gap.

Psychological Dimensions: Why Headlines Work

The human cognitive psychology is entrenched in the effectiveness of headlines in forming the perception of the masses. People do not process information as disinterested judges of evidence; they use mental shortcuts to get through complex and information-saturated environments. These cognitive dispositions are exacerbated in digital media ecosystems where updates are constant and the content is overwhelming and thus headlines are the most compelling tools of perception formation.

Cognitive heuristics, or mental shortcuts, which enable people to judge things fast without having to analyse them in detail, is one of the most important psychological processes involved. With little time and focus, the readers tend to draw conclusions about the entire story basing on its headline only.¹³ This dependency is also supported by the availability heuristic in which information that is more readily available or that is more emotionally vivid is seen as more significant or more true than it really is. Headlines, which are made to be quickly consumed, take advantage of this trend and foreground dramatic or striking aspects at the expense of detail.

Similar to the first one is the confirmation bias, which is the tendency of people to find, interpret, and retain information that confirms what they already hold as a belief or identity. Headlines that appear to echo on ideological standpoints or emotive anticipations are easier to accept and countering information discounted or disregarded. When a headline has already proven to a person his or her worldview, there is usually no need to further read the entire article, or even the opposing evidence, on the part of the reader. This is the reason why subsequent corrections, clarifications or retractions seldom carry the same psychological weight as the original headline. There is also central involvement of emotional processing. It has always been found out that emotionally coloured content,

¹³ Daniel Kahneman, *Thinking, Fast and Slow* (Penguin Books 2011) 20–58.

especially one that triggers fear, anger, or moral outrage, is remembered better and processed faster than neutral information.¹⁴ These emotional responses are intentionally designed through the use of headlines in order to elicit greater engagement and shareability. Although such emotional indications are functional in attaining attention, they also inhibit the use of logic, diminishing the chances that the readers might evaluate the evidence behind it. Information overload and cognitive fatigue is another causative factor. Constant news alert, notification and scrolling feeds reduce the ability to focus on one task at a time.¹⁵ In this situation, readers tend to rely more and more on surface-level information, e.g., headline wording, visual information, or familiarity with the source, when making decisions about what to trust. This atmosphere favours perception as opposed to verification and speed as opposed to reflection. Lastly, the identity and social belonging are important factors that determine the interpretation of headlines. People tend to interpret information in terms of group affiliation, political, cultural, or social. The headlines that point to conformity to group discourses are more convincing and those that question group identities can elicit opposition irrespective of their strength of evidence.¹⁶ Therefore, psychological entrapment in identity just increases the divide between headlines and evidence.

Overall, headlines are effective not because they are believed to make people less informed, but because they just fit perfectly with the natural cognitive tendencies. Any concept of bridging the gap between the facts and the perception must hence consider these psychological dimensions understanding that evidence alone cannot be enough unless it interacts with the way the human beings process information.

Consequences of the Headlines–Evidence Gap

The increasing prevalence of headline-driven stories over the basis of evidence has far-reaching implications on the trust of the people, policy making and democratic discourse. The ability of societies to make informed decisions is greatly impaired when perception is influenced mostly by simplified or sensational framing.

One of the main effects is the loss of trust of the population in institutions that have historically been linked to knowledge and authority, such as the media and scientific professionals and governmental

¹⁴ George Loewenstein and others, 'The Psychology of Curiosity: A Review and Reinterpretation' (1994) 116 *Psychological Bulletin* 75.

¹⁵ Herbert A Simon, 'Designing Organizations for an Information-Rich World' in Martin Greenberger (ed), *Computers, Communications, and the Public Interest* (Johns Hopkins Press 1971).

¹⁶ Cass R Sunstein, *#Republic: Divided Democracy in the Age of Social Media* (Princeton University Press 2017) 59–88.

institutions. The recurring misleading headlines, half truths and the subsequent corrections breed scepticism and confusion with the audience members and viewers.¹⁷ Such an environment over time fosters a kind of generalised distrust of journalism and even of evidence itself, since facts are seen as subject to manipulation or political dependency, not being grounded in facts. Trust is gone, and even properly and well-substantiated information will not find a way to be legitimate.

The headlines-evidence gap also has far reaching consequences on policy formulation and governance. The policymakers are working in the public opinion ecosystems that are being progressively influenced by the headline narratives and not by deep analysis. Political responses in these situations can be more concerned with visibility and symbolic reassurance than with evidence-based solutions in the long term.¹⁸ Complicated policy problems like government health, climate change or economic regulation are simplified into simple communicable frames that mask trade-offs, uncertainties and empirical constraints. The trend is a danger of coming up with reactive governance as a result of perception management instead of informed deliberation.

In addition, accountability is usually distorted through headline-driven policymaking. With sensational framing where the mass media draws attention to the issue, it is the structural or systemic causes of social problems that are less scrutinised than the individualised or dramatic events.¹⁹ Consequently, policy discussions can be based on short-term blame or action, whereas evidence-based institutional changes are postponed or even disregarded. This dynamic undermines the place of expertise in democratic governance and places narrative resonance above analytical rigor.

The implications are also very dire on democratic discourse. Democracy relies on an educated citizenry who are able to assess rival arguments and debate in a rational manner. But when headlines serve as a replacement of evidence, there is a higher degree of polarisation and fragmentation of the discourse of the population.²⁰ Streamlined stories promote binary thinking, lessen tolerance to complexity, and reinforce ideological eco-chambers. In these settings, disagreement is conceptualized as a conflict based on morality or identity as opposed to a battle of evidence and interpretation.

¹⁷ Tarleton Gillespie, *Custodians of the Internet* (Yale University Press 2018) 143–160.

¹⁸ Jeff King, *Judging Social Rights* (Cambridge University Press 2012) 101–120.

¹⁹ Virginia Eubanks, *Automating Inequality* (St Martin's Press 2018) 157–176.

²⁰ Cass R Sunstein, *#Republic: Divided Democracy in the Age of Social Media* (Princeton University Press 2017) 119–145.

There is proliferation of misinformation and disinformation in such circumstances. The fragments of headlines are easily removed out of their context and shared alone over the digital platforms, which increases the misperceptions.²¹ Corrections or subtle explanations seldom reach as deep and far and false beliefs are often left after they are debunked by empirical means. This imbalance delegitimizes the rectifying role of the popular discourse and congeals perception as a leading power.

Lastly, the aggregate impact of these effects is a diminished support of deliberative bases of democracy. Once evidence is stripped of its authority in comparison to narrative appeal, then democratic decision-making in such cases will be performative, not substantive. The headlines-evidence gap is therefore not just a media issue but a structural issue on the sustainability of democracy that needs to be addressed not only through individual media consumption patterns.

Case Illustrations: When Headlines Override Evidence

In order to provide concrete evidence of the fact that headlines determine perception regardless of the content of the evidence, this section conducts an analysis of illustrative areas in which the mismatch between headline stories and empirical facts has been most noticeable. These examples show that framing, speed, and emotional salience regularly overwhelm the process of critical thinking, creating enduring biases in the general perception.

Public health communication is one of the fields that stand out, particularly in times of crisis like pandemic or vaccination. The headlines on health emergencies tend to focus on urgency, fear, or controversy, including individual negative incidents or early results, and minimise the statistical background and scientific uncertainty. Health emergency headlines are usually focused on urgency, fear or controversy, e.g., isolated adverse events or preliminary results, and downplay the statistical background and scientific uncertainty. Consequently, the remote possibilities can seem widespread and the changing scientific direction can be viewed as inconsistency or incompetence instead of methodological reluctance. Empirical research and consensus documents, which are generally challenging to read and need situational interpretation, are hard pressed to compete with dramatic headline framing. This asymmetry has been observed to add to vaccine hesitancy and mistrust in the population, despite where the base of evidence suggests that safety and efficacy is well supported.²²

²¹ Daphne Keller, 'Who Do You Sue? State and Platform Hybrid Power over Online Speech' (2021) 49 *Hofstra Law Review* 1, 18–26.

²² World Health Organization, *Managing the COVID-19 Infodemic: Promoting Healthy Behaviours and Mitigating the Harm from Misinformation and Disinformation* (WHO 2020).

The second example arena is the area of environmental and climate reporting. Climate science is based on longitudinal information, probabilistic modelling and peer-reviewed consensus. Nevertheless, in most cases, the headlines tend to put the climate related developments in the context of an episodic event, such as heatwaves, floods, or cold spots, in ways that do not give sufficient attention to their connection with the larger climatic patterns.²³ There are instances where short-term deviations are pointed out in a manner that undermines long-term scientific discoveries, further convincing people. The sheer amount of evidence about the climate is therefore reduced to simplified narratives either dramatising catastrophe or indicating scientific disagreement that in reality does not exist, which mislead the population on both urgency and causation. Another obvious example is the crime and security reporting. Violent or sensational events are usually spotlighted in the headlines, and most unusual events are disproportionately highlighted.²⁴ Such framing may develop an impression of insecurity increase despite stable or decreasing crime rates. There are much lower levels of attention paid to the empirical data on crime trends, socio-economic correlates, and policy effectiveness than to the individual incidents being framed in the emotional appealing manner. As a result, the urge to punish or make a statement in front of the masses can lead to increased demand, even though there is little evidence about their effectiveness. In these spheres, it is possible to observe a certain pattern: headlines lose the facts of their evidencing context and spread as autonomous accounts. These stories are difficult to refute once internalised, even when they are proven wrong by extensive data or professional interpretation of the data.²⁵ The examples provided in the case reflect the fact that the gap between the headlines and evidence is not an abstract concept but does exist in concrete policy-relevant domains, which influence behaviour, trust and the outcomes of governance. Such examples support the thesis that headline dominance is a systematic bias in favour of immediacy and emotional appeal as opposed to accuracy and proportionality. They also show why corrective measures should not only be developed to counteract misinformation but also precursory structural and cognitive mechanisms that enable headlines to dominate evidence in the first place.

²³ Intergovernmental Panel on Climate Change, *Sixth Assessment Report: Summary for Policymakers* (IPCC 2021).

²⁴ David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford University Press 2001) 131–155.

²⁵ Cass R Sunstein, *On Rumors: How Falsehoods Spread, Why We Believe Them, What Can Be Done* (Princeton University Press 2009) 67–92.

Bridging the Gap: Normative and Practical Responses

The solution to the issue of disconnect between headlines and evidence is a multi-level intervention that would involve journalism, online platforms, and the community at the same time. Since the issue is both structural and psychological, and not just informational, remedial measures should not rely on fact-checking, but instead aim to transform incentives, practices, and abilities of the information ecosystem. One primary normative reaction is the journalistic responsibility and professional ethics. Headlines must be regarded as part of journalistic factuality and not as the marketing instruments that are independent of evidencing information. Proportionality, contextual fidelity and transparency to uncertainty are the ethical headline writing conditions. This does not mean that one should stop engaging, but instead, framing of narratives is synchronized with the power and limitations of available evidence. The editorial procedures of verifying headlines by pushing them to the back burner, giving them prominence through correction, and providing explanatory sub-headlines can all serve to reestablish the headline as an entry point to evidence and not a replacement of evidence. Second, any significant reform is based on platform accountability. Digital platforms wield a lot of control in the visibility of information via the algorithmic ranking and recommendation systems. Although the issue of free expression is valid, proportional responsibility is not censorship. Headline-driven distortions can be reduced by creating more openness in the design of the algorithms, amplifying less content that has been proved to be misleading, and prioritising authoritative sources when high-stakes events are taking place. Notably, platform governance is best seen as infrastructural control instead of content control, as a way of redressing systemic bias against sensationalism. Third, media literacy and education of the people cannot be ignored. The only way to be resilient against being misled by perception in the long run is to provide individuals with the ability to critically read headlines, differentiate between claims and evidence, and be aware of framing techniques. Media literacy efforts ought to leave the category of fake news and emphasize interpretive competence, i.e. teaching readers how stories are formed, why emotional framing is convincing, and how evidence ought to be considered. This literacy is particularly important in democratic societies in which citizens are habitually expected to evaluate rival claims. The modelling of evidence-based communication is also involved in institutional actors such as regulators and public authorities. Sensational narratives can be overcome by official messaging in which clarity, transparency, and consistency are prioritised to build on public trust, and conversely, sensational messages can be undermined by official messages and vice versa (Martin, 2015). In the event the institutions themselves turn to simplifications that headline writers find acceptable, they themselves legitimize discourse based on perception. Lastly, to bridge the gap, it is necessary to realise that evidence is not

enough unless it is conveyed in a manner that is cognizant of cognitive realities. Evidence based stories carefully framed but methodologically truthful are a viable way out of the technocratic abstraction that offers no solution and the sensational distortion that fails to offer any solution. It is not aimed at doing away with narrative, but to match the power of narrative and the power of evidentiary integrity. To conclude, bridging the headlines-evidence gap requires concerted efforts in reforming journalistic norms, platform design, education, and institutional practice. In the absence of such systemic reactions, perception will always be ahead of the proof, which will weaken informed public conversation and democratic debate.

Conclusion

The current paper has discussed the increasing gap between headlines and evidence, which is a characteristic of modern information ecosystems. It has been shown that the prevalence of headline-driven stories is not an accident of contemporary media but rather a result of the overlapping structural, technological and psychological forces. Attention-based economic incentives, amplification by algorithms of digital platforms, and cognitive shortcuts used by audiences as a group all contribute to the rise of perception over fact-finding, and in turn redefine the process of forming popular knowledge. By providing a conceptual explanation of the meaning of headlines, evidence, and perception, the research has demonstrated that headlines are increasingly being used as interpretative prismatic, and not as neutral summaries. The media framing and agenda-setting theories describe the pre-structured nature of the meaning prior to the audiences being exposed to the evidentiary content, and cognitive heuristics explain why these initial frames have such enduring power. The examples of the case based on the public health, environmental reporting, and crime accounts also show that this gap has very concrete implications, which influence the behaviour, trust, and the results of governance on the multi-vital policy areas. Democratic societies are especially prone to the effects of this divide. Under the influence of simplified or sensational framing of the public discourse, the trust in the institutions diminishes, policymaking turns reactive and deliberative processes become weaker. Reasoned arguments are incapable of competing with emotionally appealing stories, and misinformation and polarisation thrive. Under these circumstances, democratic decision making can easily be performative as opposed to substantive which compromises its ability to solve complex social problems. Simultaneously, the paper has contended that to resolve the headlines-evidence gap, there is no need to forego narrative or engagement. Rather, it demands a re-adjustment of journalism standards, platform regulation, and popular literacy to match narrative authority with evidentiary honesty. Ethical headline practices, algorithmic responsibility, and interpretive competence education are not independent solutions but complementary approaches. The

research does not lack limitations. It makes use of theoretical analysis and illustrative cases more than a large-scale empirical measurement of audience behaviour. Future studies may expand on this base by including cross-jurisdictional comparative research, quantitative research on headline impacts, or ethnographic research on news consumption behaviour. The final solution is to make evidence more important than perception in order to maintain an informed public discussion. Closing the gap between headlines and evidence is a media reform agenda and a democratic requirement, which is fundamental to the integrity and safety of modern civic life.

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Chapter – IX

TRIAL BY HASHTAG: SOCIAL MEDIA, FREE SPEECH, AND THE RIGHT TO A FAIR TRIAL IN INDIA

BY

Palak Aggarwal

Abstract

The present paper investigates the emerging forms of media trials conducted by social media through reels, trending hashtags and algorithmic amplification - i.e., ‘Trial by Hashtags’. The paper also engages with several cases occurring in the recent past to understand and analyse how rights enshrined by the Constitution are balanced to ensure peace and justice in society and for the truth to prevail. This paper adopts a qualitative, case-based approach. This study examines a range of publicly documented incidents in India that sparked extensive, hashtag-driven discussion across platforms such as Twitter (X), Instagram, and YouTube. The cases selected span a variety of legal and social contexts, including criminal investigations, constitutional disputes, and instances of online harassment. To situate these examples within a broader legal and societal framework, the analysis draws on secondary sources such as legal scholarship, judicial observations, and media commentary.

Keywords: trial-by-hashtag, social media, digital outrage, India, public opinion, legal process, viral narratives.

Introduction

The media is often called the fourth pillar of Indian democracy because the media is an organ to bring out transparency of the democratic processes and to ensure systematic accountability. The media has the right of freedom and expression guaranteed to citizens under Article 19(1) of the Indian Constitution. The media thus has the power to change perspective, to deeply influence the layman and even to impose ideas in many cases. The media was thus supposed to bring out transparency in the working of the judiciary, legislative and executive and to support them by connecting it with citizens. Even in judicial cases, the media ensured transparency in judicial functioning and how trials are conducted. This highlights the importance of media in a society and the level of trust placed on it. However, over time, the media exceeded its role and began conducting media trials. Media trial refers to phenomena where media channels discuss the facts of a case in public and also deliver their verdict based on prima facie information. In *R.K. Anand v. Delhi High Court* case, media trial is defined as, *“The impact of television and newspaper coverage on a person’s reputation by creating a widespread perception of guilt regardless of any verdict in a court of law. During high publicity court cases, the media are often accused of provoking an atmosphere of public hysteria akin to a lynch mob which not only makes a fair trial nearly impossible but means that, regardless of the result of the trial, in public perception the accused is already held guilty and would not be able to live the rest of their life without intense public scrutiny....”*¹ The media is seen to be taking up the role of judiciary by declaring verdicts without taking in the basic principles of criminal law, like ‘innocence until proven guilty’ and ‘right to fair trial’. Since the verdict of media trials is delivered out in the public with incomplete research and deliberation, it is often false and stirs the public sentiment enormously.

The Supreme Court of India had previously commented on concerns of rising media trials in India. The court has repeatedly stressed on maintaining the delicate balance between press freedom and judicial integrity. The Supreme Courts in *Harijai Singh* and *Anr* case held, *“But it has to be remembered that this freedom of press is not absolute, unlimited and unfettered at all items and in all circumstances as giving an unrestricted freedom of the speech and expression would amount to an uncontrolled license. If it were wholly free even from reasonable restraints it would lead to disorder and anarchy. The freedom is not to be misunderstood as to be a press free to disregard its duty to be responsible. In fact, the element of responsibility must be present in the conscience of the journalists. In an organized society, the rights of the press have to be recognised with its duties and*

¹ R K Anand v Registrar, Delhi High Court (2009) 8 SCC 106 (SC).

responsibilities towards the society. Public order, decency, morality and such other things must be safeguarded. The protective cover of press freedom must not be thrown open for wrong doings.” (Para 10)² Most recently, the Supreme Court in Nilesh Navalakha and ors vs Union of India and ors, disregarded absolute freedom of speech exercised by media and social media and reiterated, *“Notwithstanding that freedom of speech is the bulwark of a democratic government and the role of the press/media to discover the truth and to ensure proper functioning of the democratic process is undoubtedly salutary, at the same time, the press/media must remember that its concern for discovery of truth and maintenance of purity in all streams of good governance by opening up channels of free discussion of issues should stop short of exceeding the permissible legal and Constitutional means.”* (Para 228)³

This case also highlights the increasing use of electronic media (especially social media) in conducting trials. Today with the increasing ease and accessibility of social media to citizens, media trials have transformed into social media trials. Social media trial, or hereby referred to as ‘Trial by Hashtags’ is a phenomenon where individuals use social media to deliver verdicts in judicial cases through the use of hashtags and algorithmic amplification. This worsens the societal conditions because trial by hashtags deeply polarise the society, forcing them to choose sides by conducting partial and biased trials based on incomplete information and lack of judicial competence. This further leads to extreme reactions of citizens, including boycott, cancel culture, physical violence, extremism and in aggravated cases, mob lynching. Social media trials also often violate the right to privacy of individuals to scoop out personal information to create perception and to villainise the person, even though these facts are mostly personal and irrelevant to the case.

In an increasingly digitally connected world, it is extremely complex to separate out issues from intermingling. For instance, it is important to balance both the freedom of speech and expression of individuals and the right to fair trial. The right to privacy is another right enshrined by the Constitution and it should be upheld even in front of the right to speech and expression. It is equally important to maintain judicial integrity but also not unreasonably restrict media liberty. In light of this, the present paper investigates the emerging forms of media trials conducted by social media through reels, trending hashtags and algorithmic amplification - i.e., ‘Trial by Hashtags’. The paper also engages with several cases occurring in the recent past to understand and analyse how rights enshrined by the Constitution are balanced to ensure peace and justice in society and for the truth to prevail. This paper adopts a qualitative, case-based approach. This study examines a range of publicly documented

² In Re: Harijai Singh and Anr; In Re: Vijay Kumar (1996) 6 SCC 466 (SC).

³ Nilesh Navalakha v Union of India (Bombay High Court, 18 January 2021).

incidents in India that sparked extensive, hashtag-driven discussion across platforms such as Twitter (X), Instagram, and YouTube. The cases selected span a variety of legal and social contexts, including criminal investigations, constitutional disputes, and instances of online harassment. To situate these examples within a broader legal and societal framework, the analysis draws on secondary sources such as legal scholarship, judicial observations, and media commentary.

The word of the year for 2025 as declared by Oxford was ‘Ragebait’ - “Online content deliberately designed to elicit anger or outrage by being frustrating, provocative, or offensive, typically posted in order to increase traffic to or engagement with a particular web page or social media account.”⁴ This precisely describes why and how a particular type of content is being circulated - to elicit views which, in turn, generate revenue. But this is not new, hate has always been the driving factor of TRPs and profit. Today, it is easier due to accessibility provided by social media. Social media has provided sophisticated means for spreading misinformation, opinions, and judgements. Driven by emotions, half-baked ideas and the need for performativity and validation, people post unverified information and unsolicited opinions in the digital realm, using the correct hashtags to drive algorithmic amplification. Since they choose negative content, it is bound to get viral. Once this happens, every other creator begins believing that this type of content would sell easily and heavily engages with the same, and floods the market with more and more negative content. This begins an unending cycle where unverified facts and incompetent opinions start polarising the society and creating sides.

Let us understand this through the example of the Sushant Singh Rajput death case. Following the death of Sushant Singh Rajput in June 2022, the entire case turned into a media frenzy - full of scandalous allegations, sensational headlines and the blame game. The media started its trial on the prima facie case, without looking deeply into facts or waiting for the decision of the court. Popular media channels began running and re-running shows on mere speculation around Sushant Singh’s death. This started a string of hateful comments and slurs around Rhea Chakraborty who was villainised beyond limit in this case. Media channels and later on, individuals through social media, conducted a one-sided trial⁵ against Rhea Chakraborty and her personal information, pictures were released as “facts”. Many described her as “manipulative woman”, the one who “performed black magic” and “drove Sushant (Singh) to suicide”. She was also called names such as, “fortune

⁴Oxford University Press, ‘The Oxford Word of the Year 2025 is Rage Bait’ (Oxford University Press, 1 December 2025) <https://corp.oup.com/news/the-oxford-word-of-the-year-2025-is-rage-bait/> accessed 14 December 2025.

⁵ TOI Entertainment Desk, ‘Rhea Chakraborty Cleared in Sushant Singh Rajput Case: A Look Back at the Five-Year Saga’ Times of India (online, 23 March 2025) <https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/rhea-chakraborty-cleared-in-sushant-singh-rajput-case-a-look-back-at-the-five-year-saga/articleshow/119374070.cms> accessed [15 December 2025].

huntress”, “mafia moll”, “sex bait to trap rich men” and much more. The public sentiment against Chakraborty was incited to such levels that she was threatened with rape threats and messages like “commit suicide otherwise I will send people to kill you.”⁶ The polarisation of society was further aggravated by politically motivated groups which inserted religious and political angles into the case without any base. This worsened Rhea’s position, who was constantly trolled, slut-shamed and threatened, to the extent that her career in Bollywood was completely jeopardized to the verge of destruction. While the media had succeeded in conducting a media trial, hitting the TRP charts and earning revenue - people used social media to express their views, further conducting social media trials. This high profile case became the life and blood of every social media creator’s content directory. Hashtags such #ArrestRheaChakraborty #RheaMurderedSushant #JusticeforSSR #JusticeforSushant became trending hashtags, topping the charts for days and weeks at a stretch. However, while the press and the people had already declared Chakraborty guilty, the CBI closure report⁷ effectively cleared all charges on Rhea Chakraborty since there was no evidence of embezzlement or overdose. This becomes a classic case of trial by hashtag where hateful content and algorithmic amplification fuelled by unchecked facts and overriding emotions superseded Rhea Chakraborty’s right to privacy and right to fair trial and the judicial integrity of Indian courts. People, backed by the media, themselves became judges, exceeding their right of free speech and expression.

Something similar happened with Aryan Khan in his drug case. Khan being a Bollywood kid of the superstar Shahrukh Khan was mercilessly trolled and tried by social media for his alleged involvement in drugs. After Aryan Khan’s arrest by the Narcotics Control Bureau (NCB) after a raid on a cruise ship - the media assumed his guilt even before any verification of facts. In fact, in complete lack of evidence where no drugs were found with Aryan Khan, there was no blood test to confirm the drug presence, the media relied solely on some WhatsApp chats to blame Khan. The media frenzy never cared about facts or propriety. Media ethics were violated and issues like nepotism, Bollywood-Drugs mafia, voyeurism traps, etc., were called out in extreme manners. Social media further picked up the story and then hashtags like #RemoveNepotism #NepoKidAryan #DruggieArysan #BollywoodDrugnama #Druggyywood #ArrestAryan were repeatedly used to push fabricated stories. Information and photos from the personal lives of Aryan Khan and his family were put out on display in the name of investigation by common people through social media. Politically motivated groups further tinted the case with a communal angle, furthering their divisive agenda. Once this issue was

⁶ Aryan Khan: Drug Charges Dropped Against Shah Rukh Khan’s Son’ (BBC News, 27 May 2022) <https://www.bbc.com/news/world-asia-india-61548614/> accessed 15 December 2025.

⁷ Central Bureau of Investigation, ‘Clippings dated 24 March 2025’ (PDF, 24 March 2025) <https://cbi.gov.in/assets/files/media/1032909912Clippings%20dt.%2024.03.2025.pdf> accessed 16 December 2025.

picked up and played again and again by the media, social media took its lead further. Creators (Social media creators) started creating conspiracy reels, theories, and memes on the said case. People started posting their unsolicited opinions and conspiracies, calling out Aryan Khand and other Bollywood celebrities on nepotism, drug consumption, intoxication etc. Again in this case, Khan's right to privacy and fair trial were violated by social media trials. Ruby Ahuja, a member of Aryan's legal team rightfully said, "The media must comprehend that they are dealing with someone's life and liberty. We must recognise that the outcome of cases is determined by reasonable court judgments, and any attempt by the media to generate an expectation of a specific conclusion is incorrect. Society may anticipate a certain conclusion that the courts may not deliver. The media's attempt to sway public opinion is not a healthy practice."⁸

While the media has the power to bring transparency and accountability in systems, it also has a greater power of influencing perspectives and creating perception. This great right comes with a greater responsibility of maintaining that trust and showing the truth - a principle highlighted time and again in media ethics and journalistic practices. But when the media of a country begins taking sides and showing biased news or conducting media trials for money or for TRP and revenue gains - it becomes destructive for the social fabric of that country.

This goes a step further with the new kind of trials by social media where people take out their worst from behind their screens. Ragebaits are used to incite human emotions, anger and frustration and to generate views. The more the interaction i.e., likes, shares, comments and views, on a reel, the more revenue generated. Thus, social media becomes a house for unverified facts and conducting trials superseding judicial processes. Additionally, the proximity and multiplicity of reels leads to prejudicing the public opinion to believe the guilt of the accused because of their continuous nature. This public discourse of reels asserts pressure on otherwise impartial judiciary and affects their decision making subconsciously. The reels and their intrusive nature also exposes the witnesses to public scrutiny, threats and trolling, affecting both their testimonies and their privacy. The character assassination imposed by social media is of such permanent nature that even if the accused is acquitted of the charges, the social stigma remains. Such factors of social media trial deeply undermine the principle that "a person is innocent until proven guilty."

⁸ Uday Pratap Singh, 'Unethical, Immoral and Unfair Trials by "Media Court Rooms"' (Khurana & Khurana, 1 October 2024) <https://www.khuranaandkhurana.com/2024/10/01/unethical-immoral-and-unfair-trials-by-media-court-rooms> accessed 29 December 2025.

It is further important to note how ‘Trial by hashtags’ is actually an evolutionary form of traditional media trials. Media trials generally emerged out of intense journalistic scrutiny with a larger team of people working on the same issue. However, in trial by hashtags, speed and engagement is prioritised which eliminates any possibility of meaningful accountability. Complex legal issues are reduced to slogans and hashtags, leaving little or no space for nuance. Social media allows everyone to act as an investigator, prosecutor and judge. This not only spreads misinformation, but also normalises harassment, bias and harm. As a result, established legal standards like evidence, due process, fair trial and burden of proof are frequently undermined by emotions, algorithmic amplification and virality.

Today, social media has allowed a greater exercise of the right to free speech and expression. But the drive of social validation and performativity has simultaneously decreased the conscience of the public at large. While media is taught ethics and journalistic practices, this has not been done for social media so far. The Press Council of India has framed the norms of journalistic conduct for media houses which prohibit the publishing of prejudicial material and directs the media to respect the court and its procedure. The norms further guide journalists to avoid sensationalism and yellow journalism and to prepare factually verified reports. But people posting on social media, or ‘creators’ as we call them, are not bound by such ethics and norms. Thus, with the rise of social media, these norms are ignored, leading to dramatization of legal issues at the sake of truth and justice.

While understanding the delicate balance between freedom and restrictions granted by the Indian constitution is a mushy area when it comes to media, it is even more difficult to analyse the same for social media. Social media often tends to forget the division between freedom and restrictions and thus violates several provisions, leading to severe aftereffects.

Social Media Trial and the Indian Constitution

Article 19(1) of the Indian Constitution guarantees the right to freedom of speech and expression to each citizen which is well-exercised when people express their thoughts and opinions on social media. But when this expression becomes unabridged and violates the rights of others, this becomes problematic. Thus, the Indian Constitution, under Article 19(2) puts reasonable restrictions on the freedom of speech and expression. These reasonable restrictions ensure the protection of the sovereignty and integrity of India, the security of the state, friendly relations with foreign states, public order, decency and morality in relation to contempt of the court, hate speech, defamation or incitement to an offence. Thus it becomes important to understand for everyone using social media

that rights are not absolute; the rights are given to express opinions, not conduct trials. Conducting trials thus becomes a clear violation of other's rights.

Social media due to its accessibility and proximity with the users has a deep impact on society and the mindset of laymen. Thus, misinformation, insightful content or hate speeches often create uncontrollably chaotic situations, often escalating into mob violence. In 2018, Bengaluru witnessed mob violence⁹ occurring out of WhatsApp rumours. However, when social media conducts trials without verified information and eulogises or villainises people, it becomes even more difficult to contain the public sentiment which is easily fuelled by divisive content and deep polarisation. Thus, social media content needs to be regulated and people need to deal with such content sensitively in an informed manner.

Social Media Trial and an Individual

Since social media trials discuss the private lives and facts of a person, they often invade their privacy and disrupt their peace. Trolling, online harassment, abuse hurling, and character assassination through such trials not only affect a person's social image but also their mental peace. This further creates a social stigma around the person and often affects their employment and perception in the society. Continuous social media posts and media trials inflict mental distress on victims and their family members. Since social media is driven by algorithms which are further amplified by hateful content, scandalous posts and sensational slogans are repeatedly used to garner views and higher revenues. This greed often overshadows an individual and their integrity.

Media posts like in the Kathua gang rape case disclosed the identity of victims which was barred for media as per the POCSO act. Social media users often further try to seek the identities of women affected by such crime like in the case of Nirbhaya gang rape - sometimes out of curiosity and sometimes out of apathy. This imposes an adverse impact on the victim's life. Even the reputation of the accused gets destroyed by social media trials even if the accused is later acquitted.

Article 21 of the Indian Constitution guarantees fundamental right to privacy to each individual which is violated by such social media trials where private information is scooped out to heighten sensationalism. Especially in high profile cases, unnecessary facts are scoured out to generate public interest.

⁹ Nadim Asrar, 'In India, WhatsApp Stirs Up Deadly Rumours' (Al Jazeera, 17 July 2018) <https://www.aljazeera.com/features/2018/7/17/in-india-whatsapp-stirs-up-deadly-rumours> accessed 20 December 2025

Social Media Trial and the Judiciary

Judiciary ensures fairness and justice in the country. The court ensures that citizens are protected. The law ensures everyone a fair chance of representing themselves before the courts of justice. The right of fair trial is enshrined under the Indian constitution to every citizen. However, when social media trials are conducted, public opinions are formed, pressure is created on the judicial machinery, eventually affecting the judicial process. Additionally, such trials create a perception around the accused which makes the lawyer hesitate in taking up such cases, thus affecting their right to fair trial. Social media often also scrutinizes lawyers for taking up such cases. Social media trials are also directly contempt of courts because legally the media is not allowed to publish or broadcast any opinions or views of any case that is still under the proceedings of the court. Further, we understand that judges are trained to remain impartial, but social media trials and societal pressure makes it difficult for a judge to conduct a free and fair trial for the accused. It also influences the judgement as an image is already portrayed. Subsequently, social media trials through their impositions and early judgements, reduces the authority of courts by connecting the case with emotions and undermining judicial process. Often in rape cases and terrorist cases, social media declares the guilt of the accused, demanding death penalty - this incites the public sentiment which pressurizes the judiciary and also undermines the judicial power of deciding and declaring any kind of punishment for any accused.

The Way Forward

Media is based on norms and ethics, but social media is much more open and allows greater freedom of speech and opinion. Social media is largely free from any ethics or norms - a lot of things even escape the social media guidelines due to their sophisticated methods and language.

However, trials by hashtags erode the legal principles of fairness, due process and impartiality. Such social media trials reduce justice to the spectacle of public judgement rather than constitutional right. While freedom of speech and expression is necessary for a democracy, it cannot be permitted to override other fundamental rights like fair trial, right to privacy and also judicial integrity. Certain guidelines need to be set in to deal with such social media trial cases, which understand the nuance of the social media realm. In today's digital era, social media is a powerful tool of communication. Social media allows citizen's opinions and true news to come out, ensuring accountability and transparency. Due to its proximity and continuity social media shapes narratives and opinions even faster than traditional media. However, there is little accountability on social media platforms, making trial by hashtags a greater threat to justice.

Social media trials require a clear legal definition, different from traditional media trials, to include the nuance of social media technicalities. It is further important to enforce robust data protection and platform accountability mechanisms. Subsequently, courts should be empowered to proactively curb prejudicial online narratives and specialised training should be provided to judges, prosecutors and law enforcement officials about social media, algorithmic amplification, digital evidence etc.

Further, it is imperative to promote digital literacy to educate users on responsible online conduct and legal consequences of misinformation, harassment and public verdict-making. It is equally essential to mandate stronger ethical obligations for digital media. For a progressive society and stronger social fabric, it is essential to introduce cyber guidelines that hold individuals and platforms accountable for spreading false or prejudicial content related to ongoing cases. It is now required to strike a balance between digital responsibility while also preserving freedom of speech. The ultimate goal should be to create a social platform for dialogue and discourse rather than conducting public trials, thereby safeguarding both democratic values and the integrity of the justice system.

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Chapter – X

WHEN HEADLINES BECOMES THE VERDICT

BY

Shreya Bairagi

Abstract

In today's media landscape, judgment rarely waits for the facts. This chapter, titled "The Headline Becomes the Verdict," explores how news headlines, push notifications, and viral summaries influence public opinion before evidence is examined or context is understood. What once served as the beginning of a story now often becomes its conclusion, shaping beliefs within seconds and leaving little room for doubt. This chapter highlights how speed, competition, and audience attention have transformed the role of headlines—from gateways to information to powerful narrative weapons. It examines how framing, repetition, and emotive language subtly manipulate perception, turning allegations into assumptions and suspicion into confirmed belief. The public often makes up its mind long before courts, investigations, or inquiries reach any conclusion. Beyond the mechanics of media operations, this chapter focuses on the impact. Reputations are reshaped, trust erodes, and the consequences linger even when the facts change. Retractions fail to erase initial impressions, and silence after exoneration rarely carries the same weight as the initial accusation. The damage isn't always legal, but it is deeply personal and lasting. Rather than simply arguing for censorship or restraint, "The Headline Becomes the Verdict" challenges readers to reconsider their own roles as consumers and disseminators of information. It raises questions about our responsibilities in an age where everyone participates in the dissemination of judgment—and whether justice can survive when headlines speak louder than truth.

Keywords: Media, Headlines, Public Opinion, Justice, Viral News, Misinformation, Media Ethics, Digital Media, Social Impact, Due Process.

Introduction

In today's fast-paced media landscape, a headline can feel like a verdict. News spreads at the speed of a click, and social media amplifies it exponentially before the information can be fully verified. What once demanded thorough investigation, context, and patience is now often decided by public opinion in a matter of seconds. An accusation can spread widely, influence public perception, and have lasting consequences even before courts, authorities, or the individuals involved have a chance to respond.¹ This chapter, "The Headline Becomes the Verdict," examines this shift from reporting to judging. Headlines no longer simply summarize events—they construct narratives, imply guilt, and influence how people think and react. Emotional language, selective emphasis, and repetition can transform suspicion into perceived truth, while corrections and clarifications fail to regain attention. The first version of a story often becomes the enduring one in memory, shaping public opinion even when subsequent evidence refutes it. This chapter also explores the human cost of this phenomenon. Lives, reputations, and trust in institutions can be irreparably damaged. Even when the truth emerges, the initial impression often lingers, preserved online and in collective memory. Beyond journalists and editors, audiences also play a role in spreading premature judgments, highlighting the collective responsibility inherent in consuming and sharing information. By examining how headlines function as modern instruments of judgment, this chapter raises a crucial question: In an age where information spreads instantaneously, how can society ensure fairness, accuracy, and justice? It emphasizes the need for caution, critical thinking, and reflection—reminding readers that looking beyond the headline is not only a good practice but an essential civic duty.²

The Accused

In today's rapidly evolving media landscape, the process of being accused often begins long before any investigation is complete. A single headline or social media post can reach thousands—even millions—of people in minutes, shaping perceptions and opinions before the evidence has been fully examined. What used to take days or weeks—gathering information, verifying statements, and considering context—now happens in seconds, as news outlets race to be the first to report.³

¹ Vosoughi, Soroush, Roy, Deb, and Aral, Sinan. "The Spread of True and False News Online." *Science* 359, no. 6380 (2018): 1146–1151.

² Nyhan, Brendan, and Reifler, Jason. "When Corrections Fail: The Persistence of Political Misperceptions." *Political Behaviour* 32, no. 2 (2010): 303–330.

³ Vosoughi, Soroush, Roy, Deb, and Aral, Sinan. "The Spread of True and False News Online." *Science* 359, no. 6380 (2018): 1146–1151.

The speed of digital news has created a new dynamic: immediacy often trumps accuracy. Social media amplifies stories, propelling them far beyond the reach of traditional news audiences. A trending post can spread faster than corrections or clarifications, and the initial version of a story often becomes etched in the public memory. Algorithms prioritize engagement, showing audiences stories they are more likely to click on, comment on, or share.⁴ In this environment, even unverified claims can gain traction, and those accused can face the judgment of public opinion long before any formal investigation begins.

This rapid dissemination transforms how society perceives guilt. Headlines—short, punchy, and emotionally charged—become the first impression, often the most lasting one. Once a story goes viral, controlling its narrative becomes nearly impossible, and the accused can face social, professional, or psychological consequences regardless of the truth. In this sense, digital media and social platforms act simultaneously as amplifiers and judges, influencing public opinion before the actual evidence is even gathered.⁵

Social media amplifies this effect, transforming viewers into participants in the process of spreading judgment. Shares, likes, and comments multiply the reach of an accusation, often at a pace far exceeding that of traditional news media. Every retweet, share, or discussion reinforces the perception of guilt, turning an initial report into a form of public verdict.⁶ In this environment, the consequences of being accused are severe. Beyond legal or formal repercussions, reputation, career, and personal relationships can be damaged in ways that are difficult, sometimes impossible, to repair. The headline, often sensational and immediate, becomes the first and frequently the most lasting impression of guilt. In the digital age, the accusation itself can feel like a conviction.⁷

Convicted by Headlines

Once a story is published, the headline often takes on a life of its own and begins to influence public opinion like a verdict. Headlines are designed to attract attention, but in doing so they can oversimplify complex situations, emphasize doubt, and imply certainty where there is no certainty.

⁴ Tandoc, Edson C., Lim, Zheng Wei, and Ling, Richard. “Defining ‘Fake News.’” *Digital Journalism* 6, no. 2 (2018): 137–153.

⁵ Marwick, Alice E., and Boyd, Danah. “Networked Privacy: How Teenagers Negotiate Context in Social Media.” *New Media & Society* 16, no. 7 (2014): 1051–1067.

⁶ Marwick, Alice E., and Boyd, Danah. “Networked Privacy: How Teenagers Negotiate Context in Social Media.” *New Media & Society* 16, no. 7 (2014): 1051–1067.

⁷ Vosoughi, Soroush, Roy, Deb, and Aral, Sinan. “The Spread of True and False News Online.” *Science* 359, no. 6380 (2018): 1146–1151.

Even when a news article uses cautionary language like “alleged” or “reported,” the headline’s strength and position can still influence the public to assume the story is true.⁸

Digital platforms exacerbate this effect. Stories are quickly shared, retweeted, and commented on, and the initial narrative—no matter how incomplete—often becomes the focus of discussion. Social media users rarely read the entire story beyond the headline, and algorithms prioritize engagement over accuracy, so the most clickable, sensational version reaches the most people.⁹ Repetition reinforces belief, and public opinion begins to take shape before the evidence has been fully examined.¹⁰ The result is a digital courtroom, where headlines act as prosecutors and public attention as judges. Individuals and organizations find themselves “convicted” in the court of public opinion, where their reputations and credibility are at stake. Even when subsequent updates clarify or expose errors, these corrections fail to reach the same number of viewers, leaving the first impression as the dominant narrative.

This piece highlights how headlines, combined with the dynamics of social media, can transform suspicion into presumed guilt. In the modern media system, being newsworthy is no longer neutral; it can determine how the world judges an individual long before any formal investigation is complete.¹¹

Before the Evidence

Even before any formal investigation is complete, public opinion begins to form based on fragmented information. In the digital age, even the slightest or preliminary reports can generate widespread perceptions. People tend to rely on the first information they receive, a phenomenon known as the ‘primacy effect’. This makes it difficult to alter initial impressions, even when subsequent evidence contradicts them.¹² News media and social media play a central role in this process. The pressure to release news quickly can lead to incomplete or decontextualized reporting, while social media algorithms prioritize emotionally charged content over factual accuracy.¹³

⁸ Tandoc, Edson C., Lim, Zheng Wei, and Ling, Richard. “Defining ‘Fake News.’” *Digital Journalism* 6, no. 2 (2018): 137–153.

⁹ Hermida, Alfred. *Tell Everyone: Why We Share and Why It Matters*. Toronto: Doubleday Canada, 2012.

¹⁰ Lazer, David M.J., et al. “The Science of Fake News.” *Science* 359, no. 6380 (2018): 1094–1096.

¹¹ Nyhan, Brendan, and Reifler, Jason. “When Corrections Fail: The Persistence of Political Misperceptions.” *Political Behaviour* 32, no. 2 (2010): 303–330.

¹² Kahneman, Daniel. *Thinking, Fast and Slow*. New York: Farrar, Straus and Giroux, 2011.

¹³ Vosoughi, Soroush, Roy, Deb, and Aral, Sinan. “The Spread of True and False News Online.” *Science* 359, no. 6380 (2018): 1146–1151.

Audiences rarely consider the provisional nature of initial reports, resulting in a collective judgment formed without verified information. Headlines and snippets effectively become evidence in the court of public opinion. This environment transforms suspicion into presumed guilt. Before investigators can even begin their work, the accused may face public outrage, online harassment, and reputational damage.¹⁴ The danger lies not only in misinformation but also in the speed and persistence of its spread. Even when clarity emerges, correcting widespread beliefs becomes a formidable task, as the initial narrative has already become ingrained in the public consciousness. Understanding this phenomenon highlights the fragile boundary between accusation and conviction in the digital age. It underscores the need for caution, critical thinking, and responsible news consumption. The public's tendency for swift judgment, combined with rapid dissemination, can have real and lasting consequences for the accused, regardless of the outcome.¹⁵

In the digital age, the moment an accusation reaches the public, a narrative is formed long before formal evidence is presented. Before investigations are complete, witnesses are interviewed, and documents are verified, public opinion begins to solidify based on initial reports—and in many cases, becomes entrenched. This initial perception can have far-reaching consequences. The primacy effect, a well-established psychological phenomenon, explains why the first information a person receives disproportionately influences subsequent perceptions. Once an initial impression is formed, it is extremely difficult to change, even when more accurate information becomes available.¹⁶

News organizations, under pressure for rapid dissemination, often prioritize speed over accuracy. Breaking stories are frequently incomplete, lacking context, clarification, or verification. Yet, the initial version often sets the tone of the discussion, establishing a narrative that dominates both traditional and digital media. Social media platforms amplify this effect. Algorithms prioritize content that is emotionally engaging to viewers, meaning that posts, tweets, and videos that evoke anger, fear, or curiosity are more likely to be shared and seen by millions.¹⁷ Even unsubstantiated claims or rumours can go viral, gaining perceived credibility simply through widespread dissemination. Audiences play a crucial role in this dynamic. Users often skim headlines, captions, or short snippets without reading the full story, forming opinions based on limited information. These perceptions can become deeply ingrained after being repeatedly shared and amplified across various

¹⁴ Nyhan, Brendan, and Reifler, Jason. "When Corrections Fail: The Persistence of Political Misperceptions." *Political Behaviour* 32, no. 2 (2010): 303–330.

¹⁵ Marwick, Alice E., and Boyd, Danah. "Networked Privacy: How Teenagers Negotiate Context in Social Media." *New Media & Society* 16, no. 7 (2014): 1051–1067.

¹⁶ Kahneman, Daniel. *Thinking, Fast and Slow*. New York: Farrar, Straus and Giroux, 2011.

¹⁷ Vosoughi, Soroush, Roy, Deb, and Aral, Sinan. "The Spread of True and False News Online." *Science* 359, no. 6380 (2018): 1146–1151.

platforms. In some cases, the accused individual faces online harassment, public shaming, and professional repercussions before any formal conviction. Corrections or clarifications rarely reach the same number of people as the original report, leaving the initial impression as the lasting narrative. The consequences of public opinion forming before all the evidence is available extend far beyond damage to personal reputation. When the public perceives bias or unfairness in reporting, social trust in institutions—such as the media, law enforcement agencies, and the justice system—can be eroded. The line between accusation and conviction becomes blurred, creating a digital courtroom where speed, virality, and emotional appeal take precedence over accuracy, context, and due process.¹⁸

Understanding the dangers of premature judgment underscores the need for responsibility from all parties. Journalists must balance speed and verification, media platforms should consider algorithmic accountability, and audiences need media literacy skills to question, verify, and contextualize information. In this rapidly evolving media ecosystem, being first to publish is not synonymous with being right, and premature judgments can cause lasting damage long before the full truth is known.¹⁹

The Viral Verdict

In the digital age, news no longer spreads slowly through newspapers or evening broadcasts. An event can go viral within minutes, spreading across social media platforms, messaging apps, and online communities. This speed transforms public attention into a form of judgment. A "viral verdict" occurs when an event attracts widespread attention so rapidly that the court of public opinion effectively delivers a verdict before any formal investigation or legal process can be completed.

Virality amplifies every aspect of an event. Emotionally charged headlines, provocative images, and sensational claims are more likely to be shared and commented on, creating a feedback loop that reinforces perceived credibility. Each share, like, or retweet acts as a small endorsement, giving the event more momentum and traction. Once an event reaches this stage, it becomes nearly impossible to control or correct. Even minor misinformation is exaggerated and remembered as truth, while clarifications or retractions fail to gain similar traction.

The consequences of this rapid dissemination are far-reaching.²⁰ Individuals and organizations can face reputational damage, social backlash, and professional repercussions long before the facts are

¹⁸ Nyhan, Brendan, and Reifler, Jason. "When Corrections Fail: The Persistence of Political Misperceptions." *Political Behaviour* 32, no. 2 (2010): 303–330.

¹⁹ Marwick, Alice E., and Boyd, Danah. "Networked Privacy: How Teenagers Negotiate Context in Social Media." *New Media & Society* 16, no. 7 (2014): 1051–1067.

²⁰ Vosoughi, Soroush, Roy, Deb, and Aral, Sinan. "The Spread of True and False News Online." *Science* 359, no. 6380 (2018): 1146–1151.

verified. The viral nature of an event creates a collective judgment that often overlooks nuance and complexity. In some cases, people face harassment, threats, or career setbacks, highlighting the real-world impact of online virality.²¹

Social media platforms, designed to maximize user engagement, play a central role in the creation of viral verdicts. Algorithms prioritize content that elicits strong emotional responses, regardless of its accuracy. This incentivizes sensationalism and can blur the lines between news reporting and public shaming. A viral verdict is not merely a digital phenomenon—it is a social and psychological process where repetition, peer influence, and emotional engagement combine to create a collective opinion that can seem irreversible.²²

Understanding viral narratives underscores the importance of responsible journalism, platform accountability, and critical media literacy. In a world where events can go viral in moments, the first version of a story often shapes the narrative, highlighting the tension between speed, engagement, and truth.²³

Human Consequence

The speed and reach of modern mass media not only influence perception but also have far-reaching consequences in real life. When headlines effectively act as verdicts, accused individuals often face profound personal and professional repercussions long before any formal conviction. Reputations can be tarnished, careers disrupted, and personal relationships damaged, sometimes irreparably. The intensity of public scrutiny, amplified by social media, creates pressures rarely experienced by previous generations.²⁴

The emotional and psychological impact on those accused can be severe. Constant judgment, online harassment, and public commentary can lead to anxiety, stress, and feelings of isolation. Even when allegations are proven false, the stigma of public condemnation often lingers, affecting self-confidence and social interactions. Family members, colleagues, and friends may also face collateral consequences, experiencing stigma or pressure due to their association with the accused. Professionally, being the subject of viral allegations can halt career advancement, hinder future

²¹ Tandoc, Edson C., Lim, Zheng Wei, and Ling, Richard. “Defining ‘Fake News.’” *Digital Journalism* 6, no. 2 (2018): 137–153.

²² Marwick, Alice E., and Boyd, Danah. *Networked Privacy: How Teenagers Negotiate Context in Social Media*. *New Media & Society* 16, no. 7 (2014): 1051–1067.

²³ Hermida, Alfred. *Tell Everyone: Why We Share and Why It Matters*. Toronto: Doubleday Canada, 2012.

²⁴ Marwick, Alice E., and Boyd, Danah. *Networked Privacy: How Teenagers Negotiate Context in Social Media*. *New Media & Society* 16, no. 7 (2014): 1051–1067.

opportunities, or even lead to job loss. In some cases, organizations may distance themselves from individuals simply to protect their public image, regardless of the truth. Legal outcomes often take months or years to resolve, but the initial social and reputational damage is immediate and lasting. The permanence of first impressions demonstrates that in the digital age, social judgment can be faster and harsher than formal justice. Even corrective reports or clarifications often fail to reach the same audience, leaving the initial narrative as the dominant memory. This highlights the real-world risks of media virality: headlines are not just words on a screen—they shape people's lives, relationships, and futures.²⁵

Understanding these consequences underscores the ethical responsibility of journalists, social media platforms, and audiences alike. In a world where speed often trumps accuracy, responsible reporting, careful use of information, and critical evaluation of content are essential to mitigate harm.²⁶

After the Headline

The aftermath of a story can be complex, long-lasting, and often unpredictable. Even when investigations clarify the facts, the accused is exonerated, or misinformation is corrected, the initial impression—the headline that captured the public's attention—remains. In the digital age, these initial accounts are preserved in search engines, shared on social media, and referenced in discussions long after the truth has been revealed. This 'permanence' of initial reports demonstrates that news stories have a greater capacity to go viral than verification, leaving lasting social and psychological consequences.²⁷ This aftereffect is not limited to personal reputations. Families, friends, and professional networks often also feel its indirect effects. Organizations may change policies or distance themselves from individuals to protect their public image, while audiences may internalize the initial account, reinforcing perceptions of guilt. The result is a social ecosystem in which the consequences of reporting extend far beyond the newsroom, courtroom, or legal process. In this context, reflection and ethical responsibility become crucial. The media, the platform, and the audience—all are responsible for the long-term consequences of a headline. Corrections and clarifications are needed, but so too must a greater awareness of how initial reports shape perceptions.

²⁵ Nyhan, Brendan, and Reifler, Jason. "When Corrections Fail: The Persistence of Political Misperceptions." *Political Behaviour* 32, no. 2 (2010): 303–330.

²⁶ Tandoc, Edson C., Lim, Zheng Wei, and Ling, Richard. "Defining 'Fake News.'" *Digital Journalism* 6, no. 2 (2018): 137–153.

²⁷ Vosoughi, Soroush, Roy, Deb, and Aral, Sinan. "The Spread of True and False News Online." *Science* 359, no. 6380 (2018): 1146–1151.

Encouraging media literacy, promoting the habit of careful sharing, and emphasizing verification can reduce harm and allow for more nuanced public discourse.²⁸

Ultimately, ‘After the Headline’ is a reminder that words have power and that justice should not be sacrificed for speed. The digital age demands a balance between immediacy and accuracy, virality and verification, emotion and reflection. By instilling a sense of responsibility at every level—from journalists to platforms and audiences—society can address the consequences of reporting in the public domain with greater care, empathy, and critical thinking.²⁹

Conclusion

The digital age has revolutionized how information is disseminated, but it has also amplified the consequences of news reporting and public opinion. Headlines can act as judgments, social media can fuel suspicion, and viral content can shape perceptions before evidence is fully examined. In this context, responsibility and discernment are not optional—they are essential.

Media organizations have a responsibility to report accurately and ethically. Verification should never be sacrificed for speed, and sensationalism must be balanced with relevance. Headlines should inform, not imply unsubstantiated conclusions, and corrections must be issued promptly and clearly. Journalists, editors, and publishers play a crucial role in shaping narratives that impact real lives.³⁰ Social media platforms also bear responsibility. Algorithms that prioritize user engagement over accuracy can inadvertently spread misinformation, and platforms must design systems that mitigate harm while maintaining the free flow of information. Transparency in content moderation, prioritization, and fact-checking processes can help reduce the negative impact of viral stories. Ultimately, responsibility and discernment create a cycle of accountability. When news creators, platforms, and audiences all act consciously, the tendency for snap judgments can be curbed, the negative impact on individuals can be minimized, and the digital world can become more equitable. In a world where headlines travel faster than truth, critical thinking is the safeguard that protects fairness, accuracy, and humanity.³¹ In today's media landscape, headlines no longer simply report events—they shape public opinion and often act as a form of premature judgment. The speed of digital news and the amplification power of social media mean that an event can reach millions within minutes, influencing opinions before the evidence has been fully examined. Families, colleagues, and

²⁸ Nyhan, Brendan, and Reifler, Jason. “When Corrections Fail: The Persistence of Political Misperceptions.” *Political Behaviour* 32, no. 2 (2010): 303–330.

²⁹ Ward, Stephen J.A. *Ethics and the Media: An Introduction*. Cambridge: Cambridge University Press, 2018.

³⁰ Ward, Stephen J.A. *Ethics and the Media: An Introduction*. Cambridge: Cambridge University Press, 2018.

³¹ Tandoc, Edson C., Lim, Zheng Wei, and Ling, Richard. “Defining ‘Fake News.’” *Digital Journalism* 6, no. 2 (2018): 137–153.

communities also bear the brunt of these consequences, demonstrating that the ripple effect of viral news extends far and wide. The psychological and social burden of premature judgment underscores the ethical importance of media coverage in the digital age.

Ultimately, the power of headlines in shaping reputations highlights the need for a conscientious approach to media consumption and news dissemination. In a world where information spreads instantaneously, careful consideration and ethical responsibility are essential to ensure that public discourse remains fair, accurate, and humane.³²

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³² Ward, Stephen J.A. *Ethics and the Media: An Introduction*. Cambridge: Cambridge University Press, 2018.