

# Trial by media

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## Manifest Pedagogy:

Media was once a boon for enlightened people and made them aware of what is going around in the world. But it has now transformed itself into Janata Adalats or 'public court' and started intervening in the proceedings of the court. Now what is being observed is a separate investigation done by the media itself which is called a media trial. The excessive publicity of the accused or the suspect in the media before the trial in a court of law, either incriminates a fair trial or results in characterising the accused or suspect as the one who has certainly committed the crime. The rules that have been designed to regulate the journalism and journalism conduct are unfortunately inadequate to prevent the encroachment upon civil rights.

In News: Chief Justice of India N.V. Ramana recently said that the media is running "kangaroo courts" (trial by media) on issues even experienced judges find difficult to decide.

Placing it in Syllabus: Polity and Governance

## Static Dimensions

- About Media Trial

## Current Dimensions

- Media as a watchdog
- Issue with Media trial
- Media regulation in India

## Content

### About Media Trial

- Any sensitive case that comes to be tried before the

court, then among the people there is an anticipated upsurge in curiosity.

- Always looking forward to sensational news, Media including newspapers, television channels, news websites, etc. start publishing their own interpretation of facts.
- It is called **investigative journalism** and is not prohibited in India.
- However, the influence of media coverage via newspapers and television on an individual by creating a perception of innocence or guilt even before the Court of law announces its judgement, is called a “Media Trial” or “Trial by Media”.
- **Article 19** of the Constitution of India provides freedom of speech to each and every person.
- Media had overstepped upon the sanctity of the judiciary in high-profile criminal cases like the Indrani Mukerjee case, Jessica Lal case etc. Some of the accused are set free due to the media intervention.
- Social media, with its enormous reach among all levels of society and largely unregulated and unmoderated universe, remains the bigger offender in this respect.

### **Media as a watchdog**

- Media acts as a mirror and puts forward those facts in front of the public, which they must know.
- Media acts as a voice to society.
- In **Kishori Mohan v. State of West Bengal** case it was mentioned that the media has a good impact that due to this, common people are able to raise their voice against the injustice done and too he can check upon all the activities of the government.
- In several instances it has disclosed several scams, scandals and cases of fraud and corruption.
- Media has a huge role in putting end to many bad practices like that of Child labor and child marriages.

## Issues with Media trial

- **Judiciary**-Concerted campaigns against judges, particularly on social media, and media trials affect judicial functioning.
  - Ill-informed, biased and agenda-driven debates in the media on issues pending in courts are affecting justice delivery.
  - In the case of State of Maharashtra v. Rajendra Jawanmal Gandhi, 1997, the Supreme Court held that a trial by electronic media, press or by way of public agitation is anti-thesis to the rule of law and can lead to a miscarriage of justice.
  - **Contempt of Court**-Trial by Media comes under a Contempt of Court and needs to be punished as it leads to Interference or prejudice with the judicial process.
- **Difference between right and wrong** – New media tools have enormous amplifying ability but appear to be incapable of distinguishing between the right and the wrong, the good and the bad and the real and the fake.
  - Media trials cannot be a guiding factor in deciding cases.
- **Affects Democracy**-Media has breached its responsibility, taking democracy two steps backwards, affecting people and harming the system.
- **Influence of media on the accused**-If a suspect or an accused has already been projected by the media as guilty even before the trial in the Court, then there are possibilities of serious prejudice to the accused.
- **Influence of media on the witness**– If the identity of the witness is revealed, then there is a possibility that the witness will be under pressure from the police as well as the accused or his associates. The witness might at an early stage want to withdraw and get out of chaos soon.
- **Affect the principle of fair trial**– A Fair trial

includes a trial, in which bias or prejudice for or against the witnesses, accused or the cause which is being tried is eliminated. This becomes difficult due to the prejudice created by the media thus violating article 21.

- **Violates Right to Privacy** under Art 21.
- **Instigate Violence**– Fake news can manipulate public perception and can instigate hatred, violence, and disharmony among the various communities within society.

### Media Regulation in India

- The body that regulates and governs the media and entertainment sector in India is enshrined in the **Cable Networks Act, 1995 and the Prasar Bharti Act, 1990**. These are regulated by the Ministry of Information and Broadcasting and Prasar Bharti.
- There are **four bodies in India for media regulation**.
  - **Press Council of India**: Its mandate is to preserve the freedom of the press and to maintain and improve the standards of newspapers and news agencies in India.
  - **News Broadcasting Standards Authority**: It is an Industry Body created by the News Broadcasters Association (NBA).
  - **Broadcasting Content Complaints Council**: This is to deal with complaints against entertainment and general segment television programmes.
  - **News Broadcasters Federation**: It was created by those who left the NBA, called the News Broadcasters Federation.

### Way Forward

- **Law Commission 200th Report**
  - To prohibit the publication of anything that is prejudicial to the reputation of the accused- a restriction which shall be from the time of the

arrest.

- The starting point of a criminal case should not be from the filing of the charge sheet but from the time of arrest of an accused. This would prevent prejudicing or prejudging the case.
  - To address the damaging effect on the administration of justice of the sensationalised news reports.
  - The High Court is empowered to direct the postponement of the telecast or the publication in criminal cases and to prevent the media from restoring to such a telecast or publication.
- **Need for accountability**– Print media still has a certain degree of accountability. Whereas, electronic media has zero accountability as to what it shows vanishes in thin air. Still worse is social media. Owing to the frequent transgressions and consequent social unrests, there is a growing demand for stricter media regulations and accountability.
  - **Self Regulation**-Media to self-regulate and “measure their words.”
    - Media has the right to discuss and comment on the case judgments but they have no right or freedom to start a trial on sub-judice matters.
  - **Role of legislature**-The legislature has a great responsibility to perform while drafting laws on media, ensuring that their freedom is not curtailed
  - **Media responsibility**– The media should be aware of its responsibility to bring up concerns that the public is facing and should provide individuals who are unable to speak for themselves a voice. But the media should refrain from rendering judgement as India has a judiciary that serves this function.
  - **Court regulation**-The Courts should properly regulate the media and should not grant free hand to the media in the Court proceedings.

- The most favourable way for legislating the media is by exercising the contempt of court to penalise the ones who interfere with the basic code of conduct
- **Role of citizens**– The public should also not trust all the media news blindly. They must objectively analyse what is being presented to them.

### **Mould your thoughts**

1. “Media trials are not only a threat to the judiciary but also violate fundamental rights”. Evaluate. (250 words)

### **Approach to the answer-**

- Introduce about ‘Trial by media’
- Issues it has created with judicial functions and fundamental rights
- Probable solutions
- Way Forward and conclusion