
BALANCING PRIVACY RIGHTS AND LAW ENFORCEMENT ON STING OPERATIONS IN INDIA

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ABSTRACT

As stated in Article 19(1)(a) of the Indian Constitution, the media's significance in a democracy cannot be overstated. It is essential in shaping public opinion and offering a platform for discussing a variety of issues, so affecting the conversation in society. The quote from Justice Acquired Hand emphasizes how much of an impact the media has on today's interconnected society. The media has arisen as a fourth pillar in India, where the classic pillars of democracy appear somewhat weak, guarding vigilantly against political excesses and social injustices. The media must follow the law and strike a careful balance between the right to privacy and freedom of speech even as it exposes wrongdoing. Sensationalized reporting and contentious methods like media trials and sting operations have become more common in the media's growth, especially in television journalism. These strategies could draw attention, but they also carry hazards and have the potential to compromise the fairness of the legal system. To handle these difficulties and make sure that the media performs its watchdog function without going too far, responsible journalism is crucial.

The right to privacy has been included in Article 21 by the Indian court, which views it as an essential aspect of individual liberty. Media sting operations give rise to worries about invasions of privacy. In addition to having the freedom of the press, the media is required by Article 21 of the Indian Constitution to respect people's right to privacy. But there's a growing trend of commercially motivated media overreach; the media's obsessive pursuit of sensational stories frequently disregards people's right to privacy; courts have condemned this behaviour, pointing out that it subverts the legal system by influencing public opinion ahead of time; the abuse of sophisticated technology and fierce competition in the journalism industry compound these problems, resulting in a disregard for professional ethics; and finally, although freedom of speech is essential to journalism, it must be used responsibly.

Keywords: Media, Democracy, Privacy Journalism Constitution

INTRODUCTION

Sting operations, which include well-thought-out strategies intended to help law enforcement organizations capture criminals, are becoming more and more prevalent in today's society. These operations sometimes entail substantial clandestine operations, employing cutting-edge surveillance technologies to monitor people without their awareness, including satellites, remote control cameras, and high-fidelity sound equipment. When supposedly private intelligence services perform this invasion of personal privacy, it is even more concerning. The limits of personal privacy have become hazier due to the widespread use of electronic surveillance. Smaller audio and video equipment makes it possible to record covertly in a variety of contexts. Watergate is only one example of how this technology has been abused for political espionage. In the US, there are few exceptions for law enforcement and certified private investigators; nonetheless, strict guidelines control their usage, usually for acquiring evidence rather than Sting operations, which include well-thought-out strategies intended to help law enforcement organizations capture criminals, are becoming more and more prevalent in today's society.¹

These operations sometimes entail substantial clandestine operations, employing cutting-edge surveillance technologies to monitor people without their awareness, including satellites, remote control cameras, and high-fidelity sound equipment. This infringement on private sting operations is a carefully thought-out strategy used to apprehend people who are using deception to commit crimes. This word, which first appeared in American use, describes undercover police operations that aim to catch criminals in the act. Sting operations are essentially the same as laying up a trap to catch criminals. It also goes by the name of investigative journalism and undercover journalism, and it involves efforts to get information that is either hard to gain via traditional means or that is purposefully withheld, misrepresented, or obscured.²

To vote and actively engage in holding the government responsible, citizens in a democracy must be educated. This method includes investigative journalism since it guarantees the equitable dissemination of knowledge. Many subjects of investigative reporting would want to remain anonymous, however, some of India's most-watched television programs concentrate on exposing political corruption and government misconduct. These shows frequently include

¹ Pramod Nair, *A Sting in the Tale*, (2014) 49(22) E.P.W.

² The Constitution of India, art 19(2) (1950)

actual cases of bribery and corruption. However, using covert techniques to conduct research creates moral conundrums and makes it harder to distinguish between right and wrong. When obtaining the truth is the ultimate aim, concerns about the morality of lying surface. There are also questions concerning how far the media should go in educating the public, particularly in light of journalists' use of covert cameras and fictitious identities.

Sting Operations are carried out in India to examine how the government is operating and look into any public order infractions. Depending on why they are being performed, these procedures might be classified as positive or negative. Positive sting operations promote transparency and reveal government inefficiencies, which benefits society as a whole. On the other hand, negative sting operations violate people's right to privacy without producing any positive social effects. Permitting such detrimental activities might limit people's rights and freedoms. Positive sting operations can reveal government wrongdoing, whereas bad ones violate privacy and don't serve society. Differentiating between these kinds of activities is crucial to protecting individual rights and advancing accountability and openness in government.

Does the Need for Sting Operations Exist?³

Together with the government, the media is an essential pillar in maintaining democracy. Information may be found through sting operations, which helps the media do their job. Although press freedom is not specifically mentioned in the Indian Constitution, it is impliedly covered by the more general right to free speech and expression provided by Article 19(1)(a). The press is affirmed as a basic right in several constitutions around the world, demonstrating its importance in a democratic society. This freedom is nevertheless constrained in several ways. Media freedom is frequently used as a gauge of a state's commitment to democracy. Furthermore, the freedom of the media to communicate, promote, publish, and spread ideas is part of their right to provide information to the general public. The right to knowledge concerning events, incidents, or occurrences is likewise covered by Article 19(1). Serving the public interest is a fundamental tenet of journalism, and sting operations are considered as a way to achieve this goal. The right to information is associated with the free speech concept in the State of Uttar Pradesh v. Raj Narain case. But it's getting more and harder to tell the

³ Ethics of Media Sting Operations, I.A.S. G.S., (April 5, 2017), www.iasgs.com/2017/04/ethics-of-media-sting-operations.

difference between government activities that are motivated by corporate interests connected to certain political factions, those that are influenced by different political factions, and those that are intended to serve society in the current environment of widespread government corruption.

OBJECTIVES

1. To Examine pertinent legislation, case law, and constitutional provisions in order to investigate the legal frameworks now in place in India that regulate sting operations and privacy rights.
2. To learn how Indian courts have struck a compromise between these conflicting objectives, examine and evaluate court rulings pertaining to sting operations and privacy rights.
3. To Evaluate how strictly law enforcement organizations adhere to the word and spirit of the law while conducting sting operations, with special emphasis to how they meet privacy protection standards.
4. To Make Policy Suggestions In light of the preservation of individual freedoms and the necessity of efficient crime prevention and investigation, formulate policy suggestions based on the results in an effort to strike a balance between private rights and the justifiable objectives of law enforcement.

CONCEPTUAL FRAMEWORK

In India, the term "sting operation" refers to the clandestine collection of data or proof using misleading techniques, frequently incorporating concealed cameras, recording devices, or undercover operations. Although sting operations don't have their own set of laws, they do fall within the general umbrella of Indian law, which includes privacy laws, criminal process regulations, and constitutional requirements. The following are the main guidelines governing sting operations in India:

1. Regulatory Oversight: Although there isn't a specific regulatory body in India that monitors sting operations, the Press Council of India and the News Broadcasting Standards Authority are two bodies that supervise media enterprises. These bodies may investigate complaints

concerning the conduct of sting operations and take appropriate action if it is found that ethical standards have been broken.

2. Constitutional Rights: Sting operations must uphold the fundamental rights outlined in the Indian Constitution, particularly those protected by Article 19 (1) (a), which grants the freedom of speech and expression. This freedom is subject to reasonable restrictions, though, such as those based on privacy issues and public interest.

3. Privacy Laws: In the landmark decision in Justice K.S. Putt swamy (Retd.) v. Union of India, the Supreme Court upheld the fundamental right to privacy protected by Indian law. For this reason, every sting operation must ensure that it upholds individuals' right to privacy. But this right is not unconditional, and it can be limited in some situations, including when it comes to protecting the public interest or stopping crime.

4. Criminal Procedure Code (CrPC): The rules outlined in this code must be followed while conducting sting operations, especially the ones that deal with the admissibility of evidence gathered in this manner. Evidence obtained in violation of the law or morality may not be allowed in court.

5. Media Ethics: Journalistic ethics and codes of conduct also serve as guidelines for sting operations carried out by media companies. When conducting sting operations, journalists are supposed to follow the guidelines of truthfulness, equity, and responsibility. They also have to think about how their decisions could affect the issues at hand as well as the general welfare of the population.

6. Entrapment and Enticement: There's a thin line separating entrapment and investigative journalism. While using undercover techniques to uncover corruption or wrongdoing, journalists are not allowed to entrap people into performing crimes they would not have otherwise committed. The line that separates entrapment from enticement is sometimes up for discussion and interpretation.

7. Legal Repercussions: People or groups who carry out sting operations need to be conscious of the potential legal repercussions of their activities. If their activities break any laws or damage the rights of persons, they could be held liable in civil or criminal court. Additionally, if sting victims feel their rights have been infringed upon, they may seek legal action.

ISSUES

1. Whether sting operation infringes upon the fundamental right of privacy of an individual
2. Whether the evidence collected is trustworthy and obtained legally
3. Whether the techniques employed by law enforcement adhere to procedural protections.
4. Whether the use of surveillance technology including electronic monitoring, wiretapping, and communication interception gives rise to legal challenges regarding the right to privacy

Indian regulations pertaining to sting operations⁴

There is no particular regulation in India that regulates sting operations. Although there have been rulings from the courts about certain instances, these clandestine activities are not governed by any set rules or legislation. Nonetheless, people can use legal procedures in accordance with a number of laws to defend their autonomy and rights. For example, the 1885 Telegraph Act covers wiretapping, which is commonly employed in sting operations. The Supreme Court declared in the *People's Union for Civil Liberties v. Union of India* (1997) case that wiretaps are a grave invasion of privacy. The Court made orders on government wiretapping, specifying the authorized parties and circumstances that allow for legitimate phone tapping.

In addition, the Supreme Court has emphasized that Article 19(2)'s limitations on the right to free speech are meant to protect public morals and ethics. In accordance with Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty, the Supreme Court has recognized privacy as a fundamental right. The Supreme Court clarified in the famous case of *R. Rajagopal and Others v. State of Tamil Nadu* (1994) that people have the right to protect their own privacy as well as the privacy of their families, spouses, children, pregnancy, and literacy. Publication of these topics without permission would be against the right to privacy of the individual and may be illegal. Nonetheless, there can be an exception if someone chooses

4 P.U.C.L. v. Union of India, A.I.R. 1997 S.C. 568.

R. Rajagopal and Others v. State of Tamil Nadu, [1994] 6 S.C.C. 632

The Telegraph Act (1885)

The Constitution of India, art 19(2) (1950).

to stir up controversy or draws attention from the media.

Media, goal, and scope

Sting operations are employed to track individuals engaged in illegal or anti-national activity and to reveal corruption. Covert audio-video equipment, such as pinhole cameras, is often used in these operations to surreptitiously record suspicious activities or conversations. Numerous everyday objects, such as mobile phones, briefcases, and even eyeglass frames, may include these concealed cameras. However, the Union Information and Broadcasting Ministry is thinking about enacting legislation to protect people's privacy in response to the recent public outrage over the use of hidden cameras in sting operations. The Ministry seeks to distinguish between stories that show wrongdoing or have political ramifications and those that violate private rights, despite the fact that some in the media see sting operations as a valid way of revealing the truth.

A rising number of people agree that privacy invasions are unacceptable, and they want the government to set up procedures for dealing with these kinds of situations. Recent footage of actor Shakti Kapoor conversing with an undercover reporter masquerading as an actress looking for a job in a movie has stirred controversy. The footage was taken by a TV broadcaster. Even if the event is true, these kinds of activities are considered to be blatant invasions of privacy. Although there may be times when the lines separating one's private and public lives become hazier, privacy is acknowledged as a fundamental and legal right. Sting operations, such as the Tehelka ⁵case, have shown national security problems as well as corruption in the Indian administration. The ethical ramifications of such stings are still up for dispute, though, with issues like privacy invasion, deviating from protocol, using women in the sting, and unconventional interview techniques being raised.

Some argue that stings are legitimate investigative journalism techniques, drawing parallels between sting operations and the legal concept of public exposure used in American defamation laws. The Supreme Court's ruling in the 1994 Auto Shankar case, which held that well-known figures should have nothing to hide from the public, which has a right to know the truth, further supports this idea.

⁵ 200th Law Commission Report on Media Trial, 51-57.

Operation sting in relation to privacy rights

The freedom of speech and expression, including the press, is protected by the Indian Constitution, specifically Article 19(1)(a), subject to the reasonable constraints listed in Article 19(2). These limitations cover issues including national security, contempt of court, and slander. But as the Romesh Thapar v. The State of Madras (1950)⁶ decision demonstrated, any regulation that places limits on anything other than these express aims is unlawful. It is common knowledge how important the media is to a democratic society and how it protects the freedom of speech and expression that Article 19(1)(a) of the Indian Constitution guarantees. A strong and independent media is essential, particularly in a multicultural country like India where it shapes public conversation on a range of local, national, and global concerns in addition to spreading knowledge and ideas. The Supreme Court Judge Learned Hand's statement that those in charge of journalism and other media essentially run the nation highlights the role that the media plays in influencing public opinion.

The media is a vital fourth pillar in India's democratic system, standing alongside the executive, legislative, and judicial branches. As a diligent watchdog, the media uses its freedom under Article 19(1)(a) to expose systemic faults and injustices in order to advance accountability and transparency. Encouraging public awareness and judicial action in response to rights breaches has been made possible by responsible journalism, especially in situations where the criminal justice system has fallen short of providing adequate justice, but in addition to its advantages, the media's growing power also calls for ethical and responsible reporting. Media freedom must be used responsibly, taking into account the necessity to abide by the law, just like any other freedom guaranteed by the Constitution. Unchecked media sensationalism has the potential to erode the delicate balance between people's right to privacy and freedom of speech, particularly when it comes to tactics like media trials and sting operations. These strategies run the danger of altering the public's image of court procedures and posing ethical conundrums, even while they could uncover crucial truths. Thus, it is critical to guarantee that journalistic methods uphold ethical standards and protect people' rights, striking a careful balance between freedom of speech and private rights, even as we acknowledge the media's critical role in fostering accountability and openness.

⁶ Romesh Thapar v. Union of India, A.I.R. 1950 S.C. 124.

The larger right of freedom of speech is inextricably linked to the idea of "Freedom of the Press". The Constitution stipulates that the press must act within the bounds of morality and decency, even if it enjoys considerable independence. The condition for limitations to be reasonable, not excessive, and applied equitably was added in 1951 when Article 19(2) was amended. The Supreme Court underlined in the ⁷Sakal Papers case that limitations on the right to free speech and expression must be justified in accordance with Article 19(2).

Even though sting operations frequently violate privacy by surreptitiously recording people, they can be justified in some situations, especially when they reveal illegal actions by public officials abusing their positions. Public servants' actions are scrutinized by the public because they affect the public interest; private citizens' dubious moral behaviour, on the other hand, usually stays outside the public eye unless it breaks the law.

ARTICLE 21 ⁸

An officer or a civilian acting as a criminal accomplice or possible victim is usually used in sting operations, which are tactics used by law enforcement to trick a criminal actor and get proof of illicit action by a suspect. But the question of whether the media should play similar responsibilities to law enforcement organizations emerges. Successful sting operations pose questions about the media's need to protect people's privacy even while they may serve as a testament to press freedom. Following media exposure, the main goal of newspapers or TV shows might result in people's identities, reputations, and professions being tarnished. Every person has the basic right to live a life marked by equality, respect, and dignity. This right includes the right to privacy, which is protected by Article 21 of the Indian Constitution.

According to Subba Rao J., Article 21 of the Indian Constitution implicitly protects the right to privacy. In this article, "liberty" is defined broadly to include privacy, even if it isn't stated clearly as a basic right. Although accepted as essential to individual liberty, privacy may be restricted in situations when there is a strong public interest. The judiciary has generally limited privacy to areas about individual family affairs, marriage, parenthood, conception, and childrearing. The public's need for openness justifies media coverage in India that frequently

⁷ Sakal Papers Ltd v. Union of India, A.I.R. 1962 S.C. 305

Madhubhushi Sridhar, A Sting Without Public Interest is a Crime, THE HOOT, (July 30, 2014), <http://www.thehoot.org/media-watch/law-and-policy/a-sting-without-public-interest-is-a-crime-7672>.

⁸ The Constitution of India, art 21 (1950).

concentrates on sting operations conducted by public officials to expose their internal activities. Nonetheless, these administrative responsibilities are not covered by the judicial interpretation of the right to privacy. Sting operations have turned into sensationalism from their original goal of exposing wrongdoing.

Sting operations are commonly used to apprehend unscrupulous officials, criminals, and spies; damning footage is usually captured by the media. Due to courts' unwillingness to recognize audio or video recordings as reliable evidence, the media often does not pursue legal action or disclose the results to authorities, even when they obtain evidence in the public interest. Furthermore, bureaucratic inefficiencies make it more difficult to disclose such misbehaviour. Public awareness is increased when misbehaviour in the government apparatus is made public, yet structural shortcomings in the administration and legal restrictions prevent much action from being taken to remedy the problem.

CASE LAWS

In the case of Kharak Singh v. Uttar Pradesh⁹ State, the Supreme Court of India ruled that, although if the "Right to Privacy" is not expressly recognized as a basic right by the Constitution, it is still regarded as a crucial component of individual liberties. The Indian legal case of Kharak Singh v. Uttar Pradesh State (1962) gave rise to activities in support of the right to privacy recognition. The Supreme Court included the right to privacy within the larger humanistic framework of Article 21 of the Constitution, which includes the rights to life and personal liberty, after carefully examining this issue in Gobind v. Madhya Pradesh State and Others (1975)

Station House Officer v. PN Swamy Labor Liberation Front: The media is violating people's right to privacy in the modern day by going too far in examining people's lives. This is frequently the result of strong financial pressure to go beyond what is acceptable and violate personal rights. A significant ruling by the courts in the case of PN Swamy Labor Liberation Front v. Station House Officer (1997) addressed this problem of privacy breach. The court noted that following instances involving notable people or organizations, the press frequently takes activities that public prosecutors or courts need to conduct. The amount of

⁹ Kharak Singh v. State of U.P., A.I.R. 1963 S.C. 1295

Govind v. State of M.P., A.I.R. 1975 S.C. 1378

Labour Liberation Front v. State of A.P., (2005) 1 A.L.T. 740

competitiveness within the sector has led to the exploitation of technology breakthroughs and a violation of journalistic standards, resulting in a worrying trend.

Mr. X v. Hospital Z¹⁰

In this 1998 case, the Supreme Court acknowledged that in addition to written contracts, certain relationships—such as those based on marital, commercial, or political affiliations—may also give birth to a right to privacy. If disclosed to the public without authorization, even accurate personal information might be considered a privacy violation. In *R. Rajagopal and Others v. State of Tamil Nadu and Others* (1994), the court highlighted the constraints on press freedom with regard to privacy, stating that people have the right to protect their private affairs, such as their family, marriage, parenting, and education. Whether or not the information is disclosed without authorization, it can violate someone's right to privacy and result in consequences for the offender.

Which basic right is more crucial?

Press freedom is derived from Article 19(1)(a) of the Indian Constitution, which protects freedom of speech and expression. Similarly, The preservation of individual liberty and life as protected by Article 21 is the cornerstone of the right to privacy. Both of these rights are recognized as Fundamental Rights under Part III of the Constitution. This leads to a conflict between two crucial Fundamental Rights mentioned in the Indian Constitution. However, it's crucial to keep in mind that, as mentioned in Article 19(2), these Fundamental Rights are not absolute and may be subject to suitable restrictions. The puzzle poses a contentious issue that the framers of the Constitution may not have foreseen.

An additional facet of the entity

The recent landmark decision by a nine-judge Supreme Court majority to recognize the right to privacy as a fundamental right under Article 21 of the Constitution is unlikely to have a significant impact on sting operations that journalists and other individuals routinely carry out, according to legal experts. This is because individuals who violate fundamental rights are not able to be held legally responsible through writ petitions; instead, they are required to pursue

¹⁰ Shoma Chatterjee, *Sting Operations and the Ethics of Journalism*, KERALA MEDIA ACADEMY, <<http://mediamagazine.in/content/sting-operations-and-ethics-journalism>

other legal options that are available to them under the Indian Penal Code (IPC). The limitation on the application of fundamental rights against "State" institutions found in Article 12 of the Constitution is the cause of hence the verdict will directly violate people's fundamental rights, it is anticipated that government and police monitoring and phone tapping will become more difficult. Legal experts emphasize that while individual conflicts are subject to different rules under the IPC, IT Act, Contract Acts, etc., basic rights primarily pertain to activities taken by the state. Although the latest ruling by the Supreme Court upholds the right to privacy, it is unlikely to have an impact on sting operations carried out by non-state actors. Experts explain that the state is usually held accountable for violations of basic rights, and that other people's violations would be dealt with under current legislation such the IT Act or the IPC.¹¹

It's crucial to remember that no basic right is unassailable and that, in certain situations, the state may legitimately restrict them by following the proper legal procedures and taking into consideration the compelling social, moral, and public interests. As long as the State stays within the bounds of the basic rights specified in Articles 14, 19, and 21 of the Constitution, it is permitted to undertake surveillance, as long as Article 19(2) specifies appropriate limitations. There haven't seems to be any legislative changes concerning the invasion of privacy by sting operations, therefore the debate about the implications of the Right to Privacy ruling on sting operations is still open and convoluted.

Law enforcement and sting operations

For the time being, sting operations are not governed by any specific court-imposed regulations. The legal system generally sees sting operations as valid investigation techniques, despite the concerns of some individuals that they might violate people's private rights and encourage criminal action. In the 2007 case of Sri Bhardwaj Media Pvt Ltd v. State, For example, the Delhi High Court decided that it was in the public interest to release a video that showed MPs accepting cash during a sting operation. However, the Supreme Court has determined that wiretaps constitute a serious invasion of privacy, as evidenced by previous decisions. In People's Union for Civil Liberties v. Union of India, the Supreme Court established detailed guidelines for the use of wiretaps by the government. On the other hand, the Indian Evidence Act permits the admission of illegally obtained evidence into court

¹¹ Sri Bhardwaj Media Pvt Ltd v. State, W.P. (CrI.) Nos. 1125 and 126/2007. P.U.C.L. v. Union of India, A.I.R. 1997 S.C. 568

proceedings provided it is determined to be relevant to the case and does not violate the Constitution or other laws. The admissibility of a phone call tape recording was upheld by the Supreme Court in the case of RM Malkani v. State of Maharashtra¹². However, the Indian Evidence Act has no provision allowing courts to ignore evidence that was obtained unlawfully or dishonestly. The 94th Report of the Law Commission of India states that judges should have the power to reject evidence that was obtained dishonestly or illegally if admitting it will compromise the integrity of the legal system. But as of yet, no such law has received support or acceptance from the legal community.

Anyone accused of a crime cannot argue that the person who disclosed the crime was guilty of anything, even when revealing such information may result in conviction for crimes committed in order to get it. In the event that a sting operation violates the rights of its subjects, this should be handled independently, and individuals impacted may choose to file a lawsuit in either civil or criminal court. Individuals, organizations, and investigative teams may conduct sting operations and acquire evidence as long as they are willing to accept responsibility for their actions and deal with any legal fallout because law enforcement organizations' role in criminal detection and evidence collecting has not been completely acknowledged, the validity of sting operations as evidence is still up for question in Indian law. In India, compliance activities are still not officially assessed or acknowledged by the legal system.

Some contend that this kind of evidence, no matter how it was gathered, ought to be allowed in court, particularly if there is substantial proof against the suspect or accused. Nonetheless, there remains confusion since Indian courts have come to different findings about this issue. In the past, courts have not given much thought to how contested evidence was obtained and have accepted it as legitimate even when it does not follow the civil procedure code's prescribed steps. The possibility of privacy rights being violated by sting operations has come under legal examination recently. Nonetheless, the courts took into account the public interest served by the evidence obtained through sting operations in cases like Sri Bhardwaj Media Pvt. Ltd. vs. State. Extrajudicial confessions are often not accepted unless they are supported by additional evidence that indicates the accused's involvement, even though evidence gathered through undercover operations has occasionally been found valid. The Supreme Court decided in the

12 RM Malkani v. State of Maharashtra, [1973] 1 S.C.R. 471 (India).
State of Haryana v. Ved Prakash, 1994 Cr.L.J. 140 (S.C. India).
Pramod Nair, A Sting in the Tale, (2014) 49(22) E.P.W.

State of Haryana v. Ved Prakash that recorded statements that constituted inducement were not admissible. However, the Supreme Court acknowledged and endorsed sting operations by television networks as a way to uncover illegal behaviour in Rajat Prasad v. CBI.¹³ It is not possible to attribute to journalists or individuals conducting sting operations without any link to the alleged wrongdoing the intention to press accusations of abetment under the Prevention of Corruption Act or Section 120B of the IPC because to Rajat Kumar, journalists and other people who are driven to reveal wrongdoing in public may carry out sting operations without asking for Favors.

ANALYSIS

The study "Balancing Privacy Rights and Law Enforcement on Sting Operations in India" provides a critical analysis of the complex interplay between law enforcement procedures and privacy safeguards in the context of sting operations carried out in India. This subject is a critical issue in modern society, where civil liberties and constitutional rights are frequently in conflict with the development of investigation methods and monitoring technologies. The right to privacy has been more prominent in Indian society, especially after the Supreme Court's historic ruling in the Putt Swamy case, which upheld privacy as a basic right guaranteed by Article 21 of the Indian Constitution. This acknowledgment emphasizes how crucial it is to protect people's privacy against unauthorized access, especially those resulting from sting operations conducted by law enforcement.

Law enforcement agencies and investigative journalists use sting operations, which are known for their clandestine nature and frequently involve deceit or subterfuge, as a method to discover illegal acts, corruption, or wrongdoing. These activities involve difficult ethical and legal issues, especially in light of their possible impact on private rights, even while they can be helpful in exposing crime and preserving public confidence in the judicial system. A balanced strategy that balances the legitimate demands of law enforcement with the preservation of individual privacy is necessary to strike a balance between privacy rights and law enforcement imperatives. This entails giving due regard to legislative frameworks, judicial supervision

¹³ Rajat Prasad v. C.B.I., (2014) 6 S.C.C. 495 (India)
Prevention of Corruption Act (1988)
Indian Penal Code 120B (1860).

systems, and ethical norms in order to guarantee that sting operations are carried out in a way that promotes the rule of law and protects basic rights.

Examining the legitimacy and proportionality of sting operations can provide insight into how well privacy rights are actually protected in real-world scenarios. Furthermore, how the general public views and perceives sting operations greatly influences the conversation about police enforcement tactics and privacy rights. Policies that provide a suitable balance between the effectiveness of investigations and individual rights can be informed by knowledge of ethical standards, societal expectations, and concerns about the use of deceit and covert techniques.

CONCLUSION

To control sting operations in India, a thorough set of rules and efficient regulations are desperately needed. In order to tackle this issue, it is suggested that a sovereign quasi-judicial body be established, whose responsibility would be to supervise enforcement actions and guarantee efficiency. It is also recommended that laws be put in place to forbid media companies from violating people's privacy while posing as sting operations.

Courts should be cautious and restrict the recognition and exposure of evidence gathered through sting operations since there are no explicit regulations governing its acceptance. This indicates that while assessing a defendant's guilt, less weight should be given to evidence that was collected by questionable means. Additionally, the focus should be on proving that the claimed act would have probably happened irrespective of the audio-visual recordings from sting operations should be made public to maintain transparency and prevent undue influence on ongoing cases, provided that they do not become part of media trials. While protecting the rights and dignity of everyone involved in these types of activity, courts must proceed with the utmost care. Furthermore, before a sting operation is carried out, authorization from a qualified authority should be required. In the absence of such authority, private individuals or organizations conducting sting operations should get authorization from a court with jurisdiction in order to guarantee that legal boundaries are respected and maintained.

RECOMMENDATION

1. Legislative Reform: Entire laws pertaining to the management and supervision of sting operations in India are required. This law ought to include clauses that specify the acceptable

range of sting operations, set requirements for gaining approval, and delineate measures to preserve people's right to privacy.

2. **Creation of Oversight Body:** The creation of an independent quasi-judicial body with the responsibility of supervising sting operations needs to be taken into consideration. This organization would be in charge of authorizing, overseeing, and controlling the execution of sting operations to guarantee compliance with the law and moral principles.

3. **Regulation of Media Conduct:** In order to stop media companies from violating people's privacy while pretending to be conducting sting operations, regulations should be put in place. To guarantee that journalistic investigations do not infringe upon private rights or transgress ethical norms, guidelines ought to be set.

4. **Admissibility of Evidence:** Precise guidelines pertaining to the admissibility of evidence obtained by sting operations in legal proceedings have to be formulated. Courts must use caution when evaluating such evidence, considering its reliability, validity, and potential impact on privacy rights.

5. **Accountability and Transparency:** It's critical to hold the public, media, and law enforcement agencies responsible for their conduct during sting operations. The mandatory disclosure of information on sting operations, including their specifics and outcomes, is one of the steps being taken to encourage accountability and public trust.

6. **Judicial Oversight:** Courts must take the initiative to oversee sting operations and determine whether they are proper and constitutional. Strengthening judicial review processes is essential to preventing abuses of power and defending individual rights.

7. **Training and Awareness:** Training programs should be developed to educate law enforcement personnel, the media, and other sting operation participants on the ethical and legal standards that should govern their actions. Having a better awareness of privacy rights and legal constraints can help prevent abuses and promote moral conduct.

8. **Public Discussion and Consultation:** The moral and legal ramifications of sting operations in India should be the subject of a larger public discussion and consultation. Involving

stakeholders such as civil society groups, legal professionals, and others can aid in identifying issues, evaluating the efficacy of current laws, and providing input for future policy choices.

LITERATURE REVIEW

1. The TV9 Sting Operation on Planet Romeo: Absent Subjects, Digital Privacy and LGBTQ Activism): Pawan Singh

The Naz ruling brought to light the nuanced character of privacy, which was both upheld and contested in later instances concerning sting operations used for moral policing following the partial legalization of homosexuality. One such instance concerned Aligarh Muslim University professor Dr. Ramchandra Siras, who was revealed by the local media at his residence on campus in 2010. His privacy was breached even though it was in a private area, highlighting the need for spatial privacy. Similar privacy concerns were brought up by the TV9 sting operation, especially about dating services where anonymity is sometimes promised but not always enforced. Research, like that conducted by Ralph Gross and Alessandro Acquits, has demonstrated that social networking sites frequently jeopardize user privacy by making personal information readily available. This accessibility emphasizes how difficult it is to maintain privacy, particularly when doing it online. Daniel J. Solove, a legal professor, recognizes the challenge of defining privacy in the technological era and advocates for better legal protections for it. In the Naz ruling, the Delhi High Court recognized the right to privacy for sexual minorities in India, emphasizing that privacy is a basic right that is linked to people rather than specific locations. The significance of upholding people's right to privacy was highlighted by the TV9 sting operation, which was attacked for violating privacy by Indian LGBT activists. The people whose privacy was breached, however, were mainly invisible and unheard, with their identities being changed to suit popular narratives.

There are moral dilemmas with people being outed by media like TV9; Larry Gross makes a distinction between exposing prominent leaders and private citizens. disclosing famous personalities may have political benefits, but disclosing private people arbitrarily creates privacy infringement problems. Indian LGBT activists correctly highlighted the invasion of privacy in their response to the TV9 sting operation. But the fact that those impacted aren't present in court cases emphasizes how activism can only go so far in addressing privacy concerns. This absence emphasizes the idea that, despite its putative empowerment, privacy

rights might not be able to entirely rehabilitate persons whose privacy has been invaded. In the end, privacy encompasses the right to be invisible and non-disclose, highlighting how complicated privacy rights are in modern society.

2. Transparency, and the Circulation Engine, Ravi Sundaram *Current Anthropology*, pp. S297-S305

Entrapment occurrences, often referred to as media "stings," have increased in India during the early 2000s. In these situations, the public is made aware of concealed ties, events, or acts. Thanks to technological progress and the increasing accessibility to low-cost media devices such as smartphones, sting operations have been conducted by a range of organizations and individuals, including political parties, media outlets, transparency advocates, NGOs, and individuals. The evolution of entrapment from a police strategy to a more general instrument for uncovering concealed information has put pressure on established control systems and disrupted society as a whole. These stings create films that become viral and have an influence on internet, legal, and political spheres. This phenomenon highlights the changing methods for finding the truth in modern society and raises questions about its ramifications for infrastructure, media philosophy, and legislation.

3. Media Sting Source: *Economic and Political Weekly*, Dec. 29, 2007 - Jan. 4, 2008, Vol. 42, No. 52 (Dec. 29, 2007 - Jan. 4, 2008), p. 7

When law enforcement fails, sting operations and media trials are defended as ways to reveal misconduct. However, in the absence of a strong code of behaviour, they run the risk of manipulating people and creating sensationalism for ratings. It is stressed that strict self-regulation is required, maybe under the direction of an independent quasi-judicial authority. Although the Indian media recognizes this requirement, more has to be done to guarantee ethical journalism.

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