
FAKE NEWS, MEDIA TRIAL AND ETHICAL CONCERNS: AN ANALYSIS OF INDIAN MEDIA

Dr. M. Santhoshraju, Assistant Professor, Vignan Institute of Law, Vignan's Foundation
for Science, Technology & Research, Vadlamudi, Guntur

Hitesh Narisetty, BBA LLB (Hons.), Vignan Institute of Law, Vignan University,
Vadlamudi

ABSTRACT

This research paper critically explores the growing threats posed by fake news and media trials in the Indian media landscape, particularly in the digital era. The widespread use of social media and digital platforms has intensified the spread of misinformation, leading to distorted public perception, social unrest, and declining trust in credible journalism. Equally alarming is the rise of media trials, where media outlets take on a quasi-judicial role, prematurely passing judgment before courts, thereby undermining the right to a fair trial and interfering with the legal process.

Adopting a doctrinal and analytical methodology, supported by both qualitative and quantitative data, the study examines the evolution of Indian media, its constitutional guarantees under Article 19(1)(a), and its ethical responsibilities in a democracy. Landmark case studies such as the Aarushi Talwar, Jessica Lal, and Sushant Singh Rajput cases are analyzed to illustrate the negative consequences of sensationalist reporting and media overreach. The research highlights the gaps in current legal and ethical frameworks and the challenges faced by regulatory bodies like the Press Council of India in curbing the spread of fake news and unethical media practices. It advocates for systemic reforms, including stricter regulatory oversight, ethical journalism training, and public awareness initiatives to enhance media accountability.

Ultimately, the paper argues for a balanced and responsible media that respects journalistic ethics while upholding democratic values and judicial integrity. In a time where information is abundant but credibility is scarce, safeguarding the principles of truth, justice, and freedom of expression is essential for preserving the democratic fabric of India.

1. INTRODUCTION

In recent years, the rapid increase of fake news and media trials has raised significant ethical concerns, particularly in the context of Indian media. Fake news, which refers to misinformation or false information presented as news, has become a universal issue due to the widespread use of social media and digital platforms. The phenomenon of media trials, where the media essentially takes on the role of the Judiciary by pronouncing judgment on individuals before a court verdict.

The impact of fake news and media trials on public perception and the judicial process is significant. Fake news can mislead public opinion, cause violence and make people stop believing real news. For example, the spread of misinformation during the COVID-19 pandemic led to widespread panic and misinformation regarding health measures and treatments.¹ Similarly, media trials can compromise the fairness of judicial proceedings and violate the principle of ‘Innocent until proven guilty’. This is often in high profile cases where the media’s portrayal has significantly influenced public opinion and potentially the outcomes of legal proceedings.

In the Indian context, the role of the media is enshrined in the Indian Constitution, which guarantees the ‘Freedom of Press’ under Article 19(1)(a). However, this freedom comes with the responsibility to uphold ethical standards and ensure accurate reporting. The Press Council of India (PCI) and other regulatory bodies have established guidelines² to prevent fake news and practice of media trials, but challenges remain in enforcement.

The term Media is derived from the Latin word “*Medius*” which means “*middle*” or “*intermediate*”.³ Media is defined as a means of communication as radio, television, newspapers, magazines and the internet that reach or influence people widely.⁴ These mediums cover a wide range of information from different verticals like education, healthcare and global or national news.

¹ NCBI, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9114791/> (last visited Aug. 15, 2024).

² PRESSCOUNCIL, <https://presscouncil.nic.in/WriteReadData/Pdf/Norms2022.pdf> (last visited Aug. 15, 2024).

³ IGU, <https://jgu.edu.in/blog/2024/02/22/what-are-the-different-types-of-media/#:~:text=career%20in%20media.,Meaning%20and%20Definitions%20of%20Media,marketing%2C%20public%20relations%2C%20etc.,> (last visited Aug. 22, 2024).

⁴ DICTIONARY, <https://www.dictionary.com/browse/media>, (last visited Aug. 22, 2024).

Democracy is fundamental for good governance, and the media is often referred to as the fourth pillar of democracy. Thomas Jefferson highlighted its importance by stating that he would prefer newspapers without a government rather than a government without newspapers⁵. This underscores the indispensable role of media in democratic societies. Media raises awareness, fosters social change, and accelerates development by upholding democratic norms and values.

1.1 HYPOTHESIS

The hypothesis of stricter regulations, enhanced accountability mechanisms, and continuous ethical education for journalists can mitigate the adverse effects of fake news and media trials. By strengthening the role of regulatory bodies and fostering a culture of ethical journalism, the media can better balance its duty to inform the public with its responsibility to uphold justice and democratic values.

1.2 OBJECTIVES

1. To explore the mechanisms through which fake news spreads in the Indian media.
2. To understand the reasons behind the media's engagement in trials and the impact on judicial proceedings.
3. To analyze case studies and legal theories to propose better ways to handle these issues.
4. To advocate for a regulatory framework that ensures ethical media practices and accountability.

2. HISTORICAL PERSPECTIVE

The arrival of the British marked a significant change in the role of Indian media in educating people and spreading information about different parties' agendas. The Bengal Gazette, the first Indian newspaper, was published by James Hickey in the 1780s. In the 17th century, the British used newspapers to communicate with Indians. By the 19th century, Indian media began supporting social reform movements by publishing newspapers in regional languages. Freedom fighters used these newspapers to raise awareness about the oppressive practices of

⁵LIBERTYFUND, <https://oll.libertyfund.org/quotes/jefferson-s-preference-for-newspapers-without-government-over-government-without-newspapers-1787>, (last visited Aug. 22, 2024).

the British government helping to unite people of different religions. Before Independence, the Indian press played a crucial role in shaping a negative image of the British government among Indians.

After independence the Indian government established the Press Council of India to protect media freedom and maintain ethical standards. Radio broadcasting started in 1927, and television began in 1959 with the launch of Doordarshan, the first TV channel by the Indian government. These media channels provided information about entertainment for a time. With technological advancements in liberalization, the Indian media saw the rise of various private news and radio channels after 2000. Today online news portals and social media platforms are popular due to increased Internet access and technology awareness. Political parties now use modern media channels and platforms to spread election propaganda especially targeting young people.⁶

The history of journalism in India dates back to the late 18th century. The first newspaper, The Bengal Gazette, also known as the Calcutta General Advertiser⁷, was launched by James Augustus Hickey⁸ in 1780. Although it lasted only two years before being seized by the British administration for its critical stance against the British Raj, it marked the team of journalists in India. Following this, several other newspapers such as The Bengal Journal, Calcutta Chronicle, Madras Courier and Bombay Herald emerged, but they too faced strict censorship measures imposed by the British East India Company.

Throughout the late 18th and early 19th centuries, the British colonial administration enacted several laws to regulate the press in India. Key among these were the press regulations of 1799, 1818 and 1823 which imposed significant restrictions. However, the Press Act of 1835, also known as the Metcalfe Act, introduced a more liberal press policy allowing for some degree of press freedom until the revolt of 1857. The mutiny led to the introduction of the Licencing Act of 1857, granting the colonial administration powers to stop the publication and circulation of printed material. In 1867, the Registration Act was enacted, requiring every book or newspaper to bear the name of the printer, publisher and place of publication and to be submitted to the

⁶ IPLEADERS, <https://blog.ipleaders.in/role-of-media-in-indian-elections/>, (last visited Aug. 15, 2024).

⁷ AMRITMAHOTSAV, <https://cmsadmin.amritmahotsav.nic.in/district-repository-detail.htm?10986>, (last visited Aug. 16, 2024).

⁸ LEVERAGEEDU, <https://leverageedu.com/discover/general-knowledge/famous-personalities/indian-history-james-augustus-hicky/>, (last visited Aug. 16, 2024).

local government within a month of publication.

One of the most stringent regulations on press freedom is the Vernacular Press Act of 1878, introduced by Viceroy Lord Lytton⁹. This Act allowed the government to censor reports and editorials in the vernacular press to prevent criticism of British policies. In response, newspapers like Bengal's Amrita Bazar Patrikas adapted by publishing in English, as the Act did not cover English-language newspapers. The spirit of resistance exemplified by such publications highlighted the press's role in opposite colonial rule.

Between 1908 and 1912, four significant measures were enacted: The Newspapers (Incitement to Offences) Act and the Criminal Law Amendment Act of 1908¹⁰, The Press Act of 1910 and The Prevention of Seditious Meetings Act of 1911. These laws further curtailed press freedom, particularly The Press Act of 1910, which allowed the government to demand security fees for any content deemed offensive. Nearly 1000 newspapers faced prosecution under this Act.

The Indian press played a crucial role in the freedom struggle, especially during Mahatma Gandhi's Salt Satyagraha, which used the press to mobilize the masses against British Rule. The tension between the press and the government intensified, leading to the Press (Emergency Powers) Act of 1931, which gave provincial governments extensive censorship powers. During World War II, further restrictions were imposed with the government controlling and filtering international news. In the midst of these repressive measures, the All-India Newspapers Editors' Conference was formed to protect press rights and advocate for better relations with the government. This organization fought against British censorship and restrictions, laying the groundwork for a free press post-independence.

After Independence, the Indian government recognized the importance of a free press and initiated several reforms. The Press Enquiry Committee was established in 1947 to examine press laws in light of the fundamental rights being formulated by the Constituent Assembly. In 1951, the Press (Objectionable Matter) Act was passed, along with an amendment to Article 19(2)¹¹, empowering the government to demand and forfeit security for the publication of "objectionable matter". This Act remained in force until 1956.

⁹ BYJUS, <https://byjus.com/free-ias-prep/viceroy-india-lord-lytton-1831-1891/>, (last visited Aug. 17, 2024).

¹⁰ Newspapers (Incitements to Offences) Act, 1908, No. 14, 1908 (India).

¹¹ INDIA CONST. art. 19(2).

In 1954, a Press Commission under Justice Rajadhyaksha¹² was set up, which recommended the establishment of the All India Press Council. Formally established on July 4, 1966, with Justice J.R. Mudholkar as its chairman, the Press Council of India was designed as an autonomous, statutory, quasi-judicial body to maintain press standards and protect press freedom. Several other acts were passed to support journalism, including the Delivery of Books and Newspapers (Public Libraries) Act of 1954¹³, the Working Journalists (Conditions of Services) and Miscellaneous Provisions Act of 1955¹⁴, the Newspaper (Price and Page) Act of 1956¹⁵ and the Parliamentary Proceedings (Protection of Publications) Act of 1960¹⁶. These laws aimed to regulate the industry and protect the rights of journalists.

Today, there is no formal body exclusively dealing with press freedom in India. All matters concerning press freedom fall under Article 19(1)(a)¹⁷ of the Indian Constitution, which guarantees the right to freedom of speech and expression. However, these freedoms are subject to restrictions under Article 19(2)¹⁸ to prevent absolute power. Self-regulatory organizations such as the News Broadcasters Association (NBA)¹⁹ and the Broadcast Editors Association (BEA)²⁰ have been established to oversee content aired on television. These organizations ensure that media houses adhere to ethical standards and maintain journalists integrity.

The electronic media operated under the guidelines of the Central News Media Accreditation Guidelines of 1999²¹, administered by the Central Press Accreditation Committee. This committee grants accreditation to representatives of media organizations, ensuring that electronic media maintains high standards of news reporting. The evolution of journalism in India reflects the country's struggle for freedom, the quest for a free press and the ongoing efforts to balance press freedom with responsible journalism. From colonial censorship to

¹² BOMBAYHIGHCOURT, <https://bombayhighcourt.nic.in/jshowpuiisne.php?bhcp=amdldGlkPTEwNCZwYWdlbm89Ng==>, (last visited Aug. 16, 2024).

¹³ The Delivery of Books and Newspapers (Public Libraries) Act, 1954, No. 27, Acts of Parliament, 1954 (India).

¹⁴ The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, No. 45, Acts of Parliament, 1955 (India).

¹⁵ The Newspaper (Price and Page) Act, 1956, No. 45, Union of India, 1956 (India).

¹⁶ The Parliament Proceedings (Protection of Publication) Act, 1977, No. 15, Acts of Parliament, 1977 (India).

¹⁷ INDIA CONST. art. 19(1)(a).

¹⁸ INDIA CONST. art. 19(2).

¹⁹ NBDA, <https://www.nbdanewdelhi.com/>, (last visited Aug. 17, 2024).

²⁰ BAE, <https://www.beaweb.org/wp/>, (last visited Aug. 17, 2024).

²¹ MIB, <https://mib.gov.in/codesguidelinespolicies/central-newsmedia-acredition-guidelines-1999>, (last visited Aug. 20, 2024).

modern self-regulation, the Indian press has played a vital role in shaping public opinion and supporting democratic processes.²²

3. FAKE NEWS

Fake news means “false stories that appear to be news, spread on the internet or using other media, usually created to influence political views or as a joke”.²³ Fake news often characterized by deliberately misleading or false information spread via traditional news media or online platforms, has become a significant issue worldwide. In India, the proliferation of fake news has had considerable socio-political implications, affecting public opinion, communal harmony and even influencing elections. In today’s world, it is very easy to create, modify, fabricate and widely share different messages. Even if the information itself is genuine, it might be misused and distorted to serve specific agendas, turning it into a tool for propaganda. Fake news can be broadly defined as false or misleading information presented as news with the intent to deceive. The characteristics of fake news include:²⁴

3.1 IMPACT OF FAKE NEWS ON PUBLIC OPINION AND BEHAVIOR²⁵

1. Political Polarization

Fake news significantly contributes to political polarization, driving a wedge deeper between opposing political factions. By spreading misinformation and false narratives, fake news can intensify existing political divides, leading to increased partisanship. This often results in an electorate that is more entrenched in its views, less willing to engage in constructive dialogue, and more susceptible to manipulation. Electoral processes can be heavily influenced by fake news, as misleading information about candidates or parties can sway voter opinions and outcomes, undermining the democratic process.

2. Communal Tensions

The dissemination of fake news can exacerbate communal tensions, often with devastating

²² EDITORSGUILD, <https://editorsguild.in/history-of-journalism/>, (last visited Aug. 20, 2024).

²³ CAMBRIDGE DICTIONARY, <https://dictionary.cambridge.org/dictionary/english/fake-news> (last visited on Oct. 31, 2024).

²⁴ COMMONSLIBRARY, https://commonslibrary.org/disinformation-and-7-common-forms-of-information-disorder/#4_False_Context (last visited on Nov. 5, 2024).

²⁵ MISINFOREVIEW, <https://misinforeview.hks.harvard.edu/article/misinformation-in-action-fake-news-exposure-is-linked-to-lower-trust-in-media-higher-trust-in-government-when-your-side-is-in-power/>, (last visited Nov. 7, 2024).

consequences. In India, there have been numerous instances where misinformation has incited violence between different communities. For example, false reports about communal attacks or fabricated stories about religious figures can inflame existing prejudices and hostilities, leading to riots, lynchings, and other forms of communal violence. The rapid spread of such fake news via social media can quickly escalate tensions, making it difficult for authorities to intervene in time to prevent conflict.

3. Public Health

Fake news has a profound impact on public health, as demonstrated during the COVID-19²⁶ pandemic. Misinformation about the virus, its origins, prevention methods, and treatments spread rapidly, creating confusion and fear. False claims about miracle cures, vaccine safety, and the severity of the virus led many to disregard public health guidelines, hindering efforts to control the spread of the virus. This misinformation not only jeopardized individual health but also strained healthcare systems and impeded the overall public health response.

4. Erosion of Trust

The persistent presence of fake news erodes trust in legitimate news sources and democratic institutions. As people are repeatedly exposed to misinformation, their ability to discern credible information from falsehoods diminishes. This leads to a broader skepticism towards media outlets, government agencies, and other authoritative sources. The resulting cynicism can foster disengagement from civic processes, weakening the foundations of democracy. When trust in these institutions is compromised, it becomes challenging to achieve consensus on important issues, hindering societal progress and cohesion.

4. CASE STUDIES

1. 2016 Uri Attack²⁷

In 2016, the Uri attack, where militants targeted an Indian Army brigade headquarters in Jammu and Kashmir, led to significant tension between India and Pakistan. Following the attack, India conducted surgical strikes across the Line of Control. During this period, fake

²⁶ WHO, https://www.who.int/health-topics/coronavirus#tab=tab_1, (last visited Nov. 8, 2024).

²⁷ NYTIMES, <https://www.nytimes.com/2016/09/30/world/asia/kashmir-india-pakistan.html>, (last visited Nov. 9, 2024).

news proliferated, with both nations accusing each other of spreading misinformation. False reports and exaggerated claims about the nature and success of the strikes were rampant, escalating already high tensions and contributing to a volatile environment. This incident underscores how fake news can exacerbate geopolitical conflicts, potentially leading to severe diplomatic and military consequences.²⁸

2. 2019 Indian General Elections²⁹

The 2019 Indian General Elections saw a dramatic increase in fake news aimed at influencing voter behavior. Social media platforms were flooded with doctored videos, manipulated images, and fabricated stories about political leaders and parties. For instance, false claims about the personal lives of politicians, their policy positions, and even fabricated endorsements circulated widely. This disinformation was often designed to discredit opponents and sway undecided voters, highlighting the role of fake news in undermining democratic processes and the integrity of elections.³⁰

3. COVID-19 Pandemic³¹

The COVID-19 pandemic period saw an explosion of fake news, with misinformation covering various aspects of the crisis. False claims about miracle cures, misleading information about the effectiveness of preventive measures, and conspiracy theories regarding the origin and spread of the virus were rampant. Additionally, misinformation about vaccines, including false reports of side effects and efficacy, led to significant public confusion and resistance to vaccination efforts. This widespread disinformation had real-world consequences, hindering public health efforts, causing panic, and contributing to the spread of the virus.³²

4. 2020 Delhi Riots³³

The 2020 Delhi Riots were fueled by a surge of fake news on social media, exacerbating

²⁸ ORFONLINE, <https://www.orfonline.org/research/32846-india-surgical-strikes-what-they-can-and-cannot-achieve>, (last visited Nov. 9, 2024).

²⁹ CARNEGIEENDOWMENT, <https://carnegieendowment.org/research/2019/09/the-dawn-of-indias-fourth-party-system?lang=en>, (last visited Nov. 9, 2024).

³⁰ DW, <https://www.dw.com/en/india-fights-fake-news-on-social-media-ahead-of-election/a-48066548>, (last visited Nov. 9, 2024).

³¹ BMC MEDICINE, <https://bmcmmedicine.biomedcentral.com/articles/10.1186/s12916-020-01556-3>, (last visited Nov. 9, 2024).

³² JPMMPH, <https://jpmph.org/journal/view.php?doi=10.3961/jpmph.20.094>, (last visited Nov. 9, 2024).

³³ Peri, D. (2020). Hate speech, rumour-mongering fuelled violence in Delhi. *The Hindu*

communal tensions between different religious groups. Misinformation included fabricated reports of attacks, doctored images, and videos that were either taken out of context or entirely false. These false narratives inflamed emotions and led to violent confrontations, illustrating how fake news can spark real-world violence and deepen societal divisions.³⁴

5. 2018 Kerala Floods³⁵

During the 2018 Kerala floods, misinformation spread rapidly through social media and messaging platforms. False news about rescue operations, exaggerated death tolls, and misleading information about the cause and extent of the disaster created panic and confusion among the public. In some cases, fake news even hampered rescue and relief efforts by spreading false locations of people in need or misinforming about available resources. This incident highlights the critical need for accurate information during natural disasters to ensure effective crisis management.³⁶

6. 2020 Sushant Singh Rajput Case³⁷

The tragic death of Bollywood actor Sushant Singh Rajput in 2020 led to a media frenzy and a deluge of fake news. Sensationalist coverage by news outlets and widespread speculation on social media led to numerous conspiracy theories about the circumstances of his death. False reports and unverified information were shared widely, often overshadowing factual reporting. This case exemplifies how fake news can exploit personal tragedies, leading to public misinformation and impacting the investigation process.³⁸

5. CONCLUSION

In an era increasingly driven by digital communication, the challenges posed by fake news and media trials have emerged as critical threats to the integrity of journalism, the sanctity of judicial processes, and the democratic fabric of Indian society. This research has demonstrated

³⁴NYTIMES, <https://www.nytimes.com/2020/02/25/world/asia/new-delhi-hindu-muslim-violence.html>, (last visited Nov. 10, 2024).

³⁵TIMESOFINDIA, <https://timesofindia.indiatimes.com/india/kerala-battles-floods-and-fake-news/articleshow/65501377.cms>, (last visited Nov. 10, 2024).

³⁶THEQUINT, <https://www.thequint.com/hotwire-text/kerala-floods-here-s-how-twitter-can-save-you-from-fake-news>, (last visited Nov. 10, 2024).

³⁷SCROLL, <https://scroll.in/article/964845/sushant-singh-rajput-death-when-reporting-suicide-media-should-ensure-headlines-are-anti-clickbait>, (last visited Nov. 10, 2024).

³⁸NEWSLAUNDRY, <https://www.newslaundry.com/2020/06/16/media-most-foul-how-sushant-singh-rajputs-suicide-was-turned-into-a-spectacle>, (last visited Nov. 10, 2024).

how misinformation distorts public perception, fosters social unrest, and undermines trust in credible institutions. Simultaneously, media trials have blurred the lines between reportage and adjudication, often prejudicing public opinion and compromising the right to a fair trial.

While the freedom of the press is constitutionally guaranteed under Article 19(1)(a), it is not absolute and must be balanced with ethical responsibility and accountability. The analysis of case studies such as the Sushant Singh Rajput case, Delhi Riots, and others underscores the urgent need for stronger regulatory frameworks, ethical journalism practices, and digital literacy among the public. Legal provisions and self-regulatory mechanisms must be reinforced and consistently implemented to curb the propagation of false information and the trial by media.

Ultimately, a responsible and ethical media is indispensable to the health of any democracy. Strengthening journalistic standards, ensuring fact-based reporting, and maintaining the neutrality of the press are essential for safeguarding both the freedom of expression and the principles of justice. Only through such concerted efforts can the Indian media reclaim its credibility and fulfill its role as the fourth pillar of democracy.