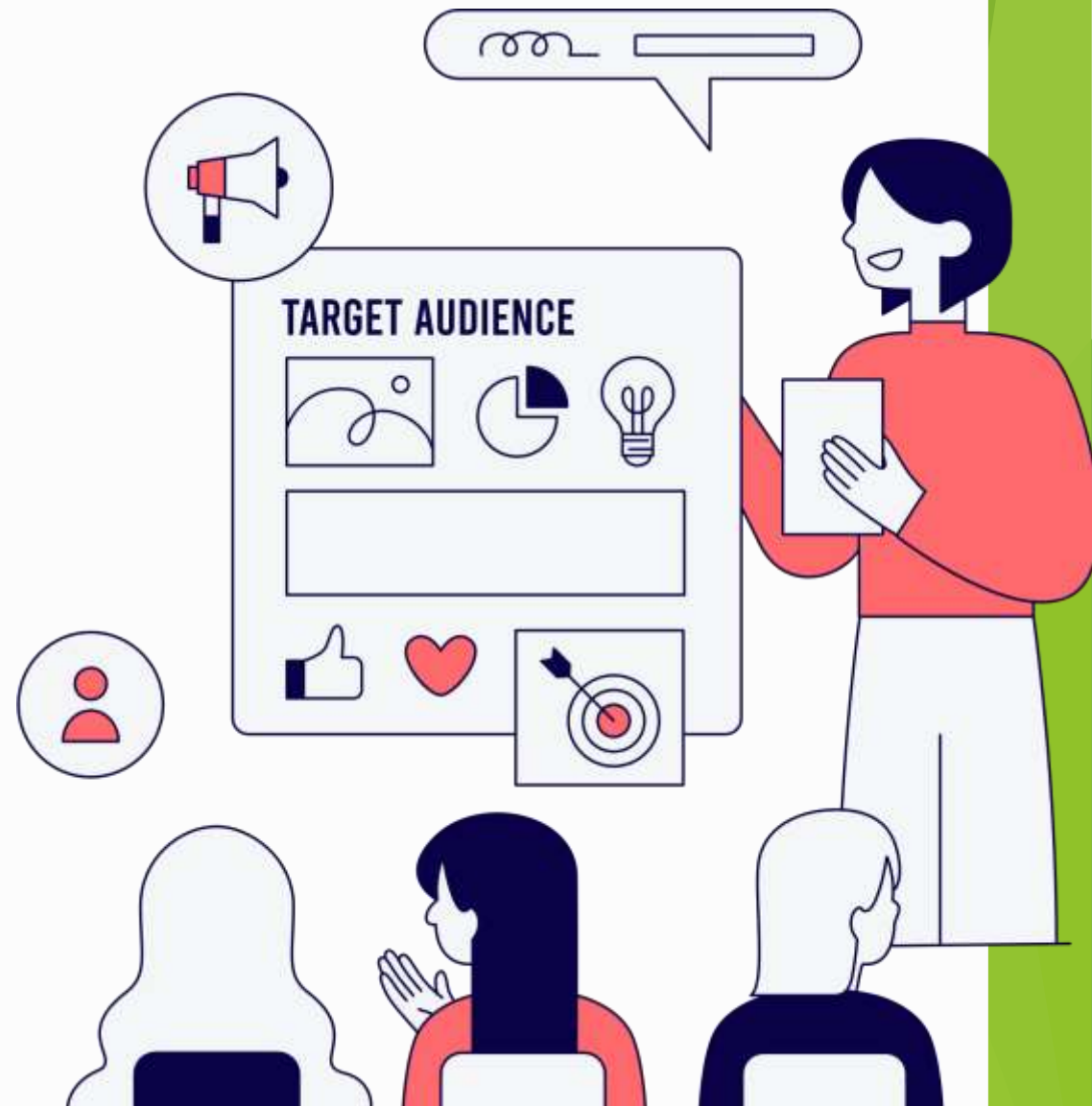


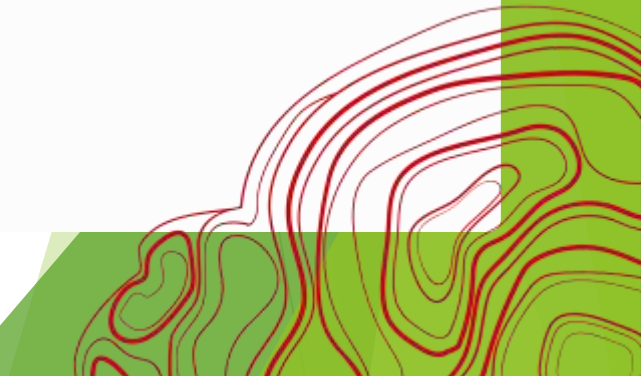
Trial by Media: Legal & Constitutional Framework

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Introduction

- "Trial by media" refers to the impact of television, print, and online coverage on a person's reputation by creating a widespread perception of guilt or innocence before or during legal proceedings.
 - Such a social phenomenon creates a Conflict between media freedom and fair trial rights.
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The background features abstract, overlapping green geometric shapes, primarily triangles and polygons, in various shades of green, creating a modern and dynamic visual effect. The shapes are layered, with some appearing more prominent than others, and they extend towards the corners of the frame.

RIGHT TO A FAIR TRIAL

UNIVERSAL DECLARATION OF HUMAN RIGHTS

- ▶ INTERNATIONAL DOCUMENT ADOPTED BY THE UNITED NATIONS GENERAL ASSEMBLY THAT ENSHRINES THE RIGHTS AND FREEDOMS OF ALL HUMAN BEINGS.
- ▶ **is not a legally binding treaty in itself.** However, its principles have been widely adopted and integrated into the legal frameworks of numerous countries.

Note - India is a signatory

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

CONSTITUTION OF INDIA

ARTICLE 21 –

No person shall be deprived of his life or personal liberty except according to procedure established by law

- ▶ **20. Protection in respect of conviction for offences**
- ▶ (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
- ▶ (2) No person shall be prosecuted and punished for the same offence more than once.
- ▶ (3) No person accused of any offence shall be compelled to be a witness against himself.

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

- ▶ The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the [United Nations General Assembly](#) on 16 December 1966.
- ▶ It came into force on 23 March 1976. The treaty commits its parties to respect the civil and political rights of individuals including, freedom of religion, right to life, freedom of assembly, electoral rights and rights to due process and a fair trial.

Note - India is a signatory.

Article 14 (ICCPR)

all persons shall be equal before the courts and that in the determination of any criminal charge or of rights and obligations in a suit at law, everyone shall be entitled, without undue delay, to a fair and public hearing by a competent, independent and impartial tribunal established by law,

Bangalore Principles of Judicial Conduct 2002

OBJECT - are intended to establish standards for ethical conduct of judges.

They are designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct.

They are also intended to assist members of the executive and the legislature, and lawyers and the public in general, to better understand and support the judiciary.

These principles presuppose that judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct that bind the judge

VALUE NO.1 INDEPENDENCE

Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

VALUE NO.2 IMPARTIALITY

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

PRINCIPLES OF A FAIR TRIAL

1. ADVERSARY TRIAL SYSTEM:

In adversarial system responsibility for the production of evidence is placed on the prosecution with the judge acting as a neutral referee. This system of criminal trial assumes that the state, on one hand, by using its investigative agencies and government counsels will prosecute the wrongdoer who, on the other hand, will also take recourse of best counsels to challenge and counter the evidences of the prosecution

CASE LAW

Himanshu Singh Sabharwa v. State of M.P. and Ors.,

the apex court observed that if fair trial envisaged under the Code is not imparted to the parties and court has reasons to believe that prosecuting agency or prosecutor is not acting in the requisite manner the court can exercise its power under section 311 of the Code or under section 165 of the Indian Evidence Act, 1872 to call in for the material witness and procure the relevant documents so as to sub serve the cause of justice.

2. Presumption of innocence:

- ▶ Every criminal trial begins with the presumption of innocence in favour of the accused.
- ▶ The burden of proving the guilt of the accused is upon the prosecution and unless it relieves itself of that burden, the courts cannot record a finding of the guilt of the accused.
- ▶ This presumption is seen to flow from the Latin legal principle *ei incumbit probatio qui dicit, non qui negat*, that is, the burden of proof rests on who asserts, not on who denies.

Case Law

State of U.P. v. Naresh and Ors.

the Supreme Court observed

“every accused is presumed to be innocent unless his guilt is proved. The presumption of innocence is a human right subject to the statutory exceptions.
The said principle forms the basis of criminal jurisprudence in India.”

3. INDEPENDENT, IMPARTIAL AND COMPETENT JUDGES:

- ▶ The basic principle of the right to a fair trial is that proceedings in any criminal case are to be conducted by a competent, independent and impartial court.
- ▶ In a criminal trial, as the state is the prosecuting party and the police is also an agency of the state, it is important that the judiciary is unchained of all suspicion of executive influence and control, direct or indirect.
- ▶ The whole burden of fair and impartial trial thus rests on the shoulders of the judiciary in India

Case Law

Shyam Singh v. State of Rajasthan

the court observed that the question is not whether a bias has actually affected the judgement.

The real test is whether there exists a circumstance according to which a litigant could reasonably apprehend that a bias attributable to a judicial officer must have operated against him in the final decision of the case.

4. Autrefois Acquit and Autrefois Convict:

- ▶ According to this doctrine, if a person is tried and acquitted or convicted of an offence he cannot be tried again for the same offence or on the same facts for any other offence.
- ▶ This doctrine has been substantially incorporated in the article 20(2) of the Constitution and is also embodied in section 300 of the Cr. P.C.
- ▶ Popularly known as double jeopardy

CASE LAW

Kolla Veera Raghav Rao vs Gorantla Venkateswara Rao

the Supreme Court observed that Section 300(1) of Cr.P.C. is wider than Article 20(2) of the Constitution. While, Article 20(2) of the Constitution only states that 'no one can be prosecuted and punished for the same offence more than once', Section 300(1) of Cr.P.C. states that no one can be tried and convicted for the same offence or even for a different offence but on the same facts. In the present case, although the offences are different but the facts are the same. Hence, Section 300(1) of Cr.P.C. applies. Consequently, the prosecution under Section 420, IPC was barred by Section 300(1) of Cr.P.C. The impugned judgment of the High Court was set aside.

5. Knowledge of the accusation:

- ▶ Fair trial requires that the accused person is given adequate opportunity to defend himself. But this opportunity will have no meaning if the accused person is not informed of the accusation against him
- ▶ when an accused person is brought before the court for trial, the particulars of the offense of which he is accused shall be stated to him.
- ▶ In case of serious offenses, the court is required to frame in writing a formal charge and then read and explain the charge to the accused person. A charge is not an accusation in abstract, but a concrete accusation of an offense alleged to have been committed by a person. The right to have precise and specific accusation is contained in section 211, Cr. P.C.

6. Right to open trial:

- ▶ Fair trial also requires public hearing in an open court.
- ▶ The right to a public hearing means that the hearing should as a rule is conducted orally and publicly, without a specific request by the parties to that effect.

Caselaw

Naresh Sridhar Mirajkar v. State of Maharashtra

the apex court observed that the right to open trial must not be denied except in exceptional circumstances. High court has inherent jurisdiction to hold trials or part of a trial in camera or to prohibit publication of a part of its proceedings..

In *State of Punjab v. Gurmit*,

the court held that the undue publicity is evidently harmful to the unfortunate women victims of rape and such other sexual offenses. Such publicity would mar their future in many ways and may make their life miserable in society. Section 327(2) provides that the inquiry into and trial of rape or an offense under Section 376, 376-A, 376-B, 376-C or 376-D of the Indian Penal Code shall be conducted in camera

7. AID OF COUNSEL

- ▶ The requirement of fair trial involves two things:
 - a) an opportunity to the accused to secure a counsel of his own choice, and
 - b) the duty of the state to provide a counsel to the accused in certain cases.
- ▶ In India, right to counsel is recognized as fundamental right of an arrested person under article 22(1) which provides, inter alia, no person shall be denied the right to consult, and to be defended by, a legal practitioner of his choice. Sections 303 and 304 of the Code are manifestation of this constitutional mandate.

CASE LAW

Khatri v. State of Bihar

the court held that the accused is entitled to free legal services not only at the stage of trial but also when first produced before the Magistrate and also when remanded.

8. EXPEDITIOUS TRIAL

- ▶ Delayed justice leads to unnecessary harassment.
- ▶ The concept of speedy trial is an integral part of article 21 of the Constitution.
- ▶ The right to speedy trial begins with actual restraint imposed by arrest and consequent incarceration, and continues at all stages namely, the stage of investigation, inquiry, trial, appeal and revision.

Caselaw :

Hussainara Khatoon (IV) v. State of Bihar

the Supreme Court declared that speedy trial is an essential ingredient of 'reasonable just and fair' procedure guaranteed by article 21 and it is the constitutional obligation of the state to set up such a procedure as would ensure speedy trial to the accused. The state cannot avoid its constitutional obligation by pleading financial or administrative inadequacy.

Legislations shaping media law



IPC Sections:

- 124A: Sedition
- 153A/153B: Hate speech, disrupting public harmony
- 295A: Insulting religious beliefs
- 499: Defamation

Broadcast and Electronic Media Regulation

Information Technology Act, 2000:

- Section 66A: Sending offensive messages (struck down in *Shreya Singhal v. Union of India*)
- Sections 66E, 67, 67A, 67B: Privacy, obscenity, child exploitation.

Children & Media Coverage

- POCSO Act, 2012:
 - Ensures child-friendly procedures, protects identity
- JJ Act, 2015:
 - Right to privacy and confidentiality of children in conflict with law
- Prohibition on publishing identity of child victims/accused.

International Instruments

- UDHR (1948), ICCPR (1976):
- Article 19: Freedom of opinion and expression
 - But allows restrictions for protecting rights of others, national security, and public order
- Declaration on Human Rights Defenders (1988)



IPC

SECTIONS

124A: Sedition

153A/153B: Hate speech, disrupting public
harmony

295A: Insulting religious beliefs

499: Defamation

S.124A: Sedition

the act of bringing or attempting to bring into hatred, contempt, or disaffection towards the lawfully established government in India, through words, signs, or any visible representation.

"Disaffection" includes disloyalty and enmity.
Mere criticism of government policies or actions without inciting hatred/disaffection is not sedition.

Punishment are as follows:
Imprisonment for life (with or without fine), or
Imprisonment up to 3 years (with or without fine), or
Fine only.

153-A: Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—

- Promotes hatred or enmity between groups based on religion, race, language, caste, etc., through words, signs, or actions.
 - Disturbs public harmony or is likely to do so.
- Organizes or joins violent activities targeting specific groups, causing fear or insecurity.

Core Idea: Criminalizes hate speech, divisive acts, and group-targeted violence that threaten communal harmony.

153B. Imputations, assertions prejudicial to national integration-

Inciting hatred or questioning loyalty of any group based on religion, caste, language, etc., or denying their citizenship rights, especially in religious places, is punishable with up to 3–5 years' imprisonment and fine.

295A.

Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.—

Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of 7[citizens of India], 8[by words, either spoken or written, or or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to 9[three years], or with fine, or with both.]

S. 499

Defamation occurs when a person, through spoken or written words, signs, or visual representations, makes or publishes any imputation about another person with the intention to harm their reputation, or knowing or having reason to believe that it will cause such harm. The key is the intent or knowledge of possible harm to another's reputation. This act becomes criminal unless it falls under certain exceptions..

Exceptions of Defamation

Exceptions 1: Defaming the Dead

Even a deceased person can be defamed if the imputation would have harmed their reputation had they been alive and if it's intended to hurt the feelings of their family or close relatives. This ensures that respect for the dead and their family's dignity is protected.

❖ Exception 2: Defaming Groups or Institutions

Defamation isn't limited to individuals. It also includes making imputations about a company, association, or group of people as a collective entity. For example, saying "All doctors in this hospital are corrupt" could be considered defamation of that group.

❖ Exception 3: Irony and Indirect Speech

Imputations don't need to be direct. Even sarcastic, ironic, or implied statements can amount to defamation. For example, saying, "Oh, he's so honest, he probably files fake receipts just for fun," could be defamatory.

❖ Exception 4: What Harms a Reputation

To be defamatory, the imputation must be one that lowers the person's standing in the eyes of others. It could affect their moral or intellectual image, social status (such as caste or profession), financial credit, or suggest that the person is in a disgraceful or disgusting physical condition. It's not about the speaker's opinion—it's about how others perceive the person after hearing or reading the statement.

THE INDIAN TELEGRAPH ACT,

1885
3(1AA)] “telegraph” means any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, visual or other electro-magnetic emissions, Radio waves or Hertzian waves, galvanic, electric or magnetic means;

This Act defined "telegraph" broadly to include any device capable of transmitting or receiving signals, sounds, images, or data via wired or wireless, electromagnetic, or radio-based means.

It granted the Government of India exclusive control over all telecommunication systems—giving it the power to establish, operate, license, and regulate telegraph and communication services across the country.

Under Section 5, during public emergencies or in the interest of public safety, the government could:

Take possession of telegraphs operated under license.

Intercept, detain, or prohibit messages if necessary for sovereignty, security, public order, or to prevent incitement of offences.

However, press messages from accredited journalists could only be intercepted if explicitly prohibited.

The law formed the legal backbone for wiretapping, message interception, and government control

THE OFFICIAL SECRETS ACT,

5. WRONGFUL COMMUNICATION, ETC. OF INFORMATION.— 1923

5(1):

If a person possesses or controls secret official material (code, password, sketch, plan, model, article, document, or information) that:

Relates to a prohibited place,

Can assist an enemy,

Affects sovereignty, security, or foreign relations, or

Was entrusted in confidence by the government or obtained due to a government position or contract,
and that person:

(a) Wilfully communicates such information to unauthorized persons or fails to follow lawful directions regarding it;

(b) Uses the information to benefit a foreign power or harms state safety;

(c) Retains the material unlawfully or against duty;

- **S. 5 (2),(3),(4)**

5(2):

If a person knowingly receives such secret material, knowing or having reason to believe it was communicated illegally—

5(3):

If someone possesses information related to munitions of war and communicates it to a foreign power or uses it in a way prejudicial to state safety or interest—

5(4):

**Anyone guilty under Section 5 is punishable with:
Imprisonment up to 3 years,
Or fine,
Or both.**

The Universal Declaration of Human Rights (UDHR), 10.12.1948

It is an international document adopted by the United Nations General Assembly that enshrines the rights and freedoms of all human beings. Drafted by a UN committee chaired by Eleanor Roosevelt, it was accepted by the General Assembly as Resolution 217 during its third session on 10 December 1948 at the Palais de Chaillot in Paris, France. Of the 58 members of the United Nations at the time, 48 voted in favour, none against, eight abstained, and two did not vote.

Constitution of India Article A19(1)(a)

Article 19 *Everyone has the right to freedom of opinion and expression; this right*

REPRESENTATION OF PEOPLE ACT, 1951

[126. Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll.—

126A. Restriction on publication and dissemination of result of exit polls, etc

Contempt of Court Act, 1971

Section 2 (c) defines, "Criminal contempt" any act or publication (spoken, written, visual, etc.) that:

Scandalises or tends to scandalise the authority of any court;

Prejudices or interferes (or tends to interfere) with a judicial proceeding;

Obstructs or tends to obstruct the administration of justice in any way.

Section 3 – Innocent Publication Not Contempt

3(1): If a person publishes something that may interfere with a pending case, but had no reasonable knowledge that it was pending, it is not contempt.

3(2): If the publication relates to a case that was not pending at the time, it is not contempt.

3(3): Distribution of such material is not contempt if the distributor had no reason to believe it was objectionable.

◆ Proviso: This protection does not apply if the material:

Was published against Press and Registration of Books Act (Sec 3 for books, Sec 5 for newspapers).

◆ **Section 4 – Fair & Accurate Report**

Publishing a fair and accurate report of any judicial proceeding or part of it is not contempt, subject to Sec 7.

◆ **Section 5 – Fair Criticism**

Fair comment on the merits of a decided case is allowed and is not contempt.

◆ **Section 7 – In Camera/Chamber Proceedings**

Publishing a fair and accurate report of in-camera/chamber proceedings is not contempt, except when:

- (a) It violates another law, or
- (b) The court prohibits publication on public policy grounds.

◆ **Section 12 – Punishment for Contempt**

Punishment: Simple imprisonment up to 6 months or fine up to ₹2000, or both.

Exception: If the person apologizes sincerely and the court is satisfied, the punishment may be remitted or waived.

◆ **Section 14 – Contempt in the Face of Court**

Applies when contempt is committed in the direct presence or hearing of the Supreme Court or High Court.

In such cases, the court can:

Detain the person immediately.

Inform them in writing of the charges.

Give them a chance to defend themselves.

Take evidence and decide the matter quickly.

Punish or discharge the person as appropriate.

It's a summary trial, but with due process ensured.

◆ **Section 15 – Cognizance of Criminal Contempt in Other Cases**

For criminal contempt not committed in court, action can be taken:

Suo motu by the court,

On a motion by the Advocate-General, or

By any person with the AG's written consent.

For Delhi High Court, a designated Law Officer (notified by the Central Govt) can also act.

This ensures checks on private misuse of contempt proceedings while allowing judicial oversight.

In cases like the Aarushi Talwar murder, Sushant Singh Rajput's death, or Aryan Khan's arrest, media coverage led to public pressure and parallel narratives, forcing courts to issue cautionary statements about media restraint.

International Covenant on Civil and Political Rights, 1976

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order , or of public health or morals.

THE PARLIAMENTARY PROCEEDINGS (PROTECTION OF PUBLICATION) ACT, 1977

An Act to protect the publication of reports of proceedings of Parliament.

3. Publication of reports of Parliamentary proceedings privileged.—

(1) Save as otherwise provided in sub-section (2), no person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament, unless the publication is proved to have been made with malice. (2) Nothing in sub-section (1) shall be construed as protecting the publication of any matter, the publication of which is not for the public good.

4. Act also to apply to Parliamentary proceedings broadcast by wireless telegraphy.—This Act shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station situate within the territories to which this Act extends as it applies in relation to reports or matters published in a newspaper

THE PRESS COUNCIL ACT, 1978

3. Rule of construction respecting enactments not extending to *the State of Jammu and Kashmir or Sikkim

13. Objects and functions of the Council

14. Power to censure.—

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986

Prohibition of Advertisements Containing Indecent Representation of Women

No person shall publish, cause to publish, arrange, or participate in any advertisement containing indecent representation of women in any form.

4. Prohibition of Publication or Sending by Post of Materials Containing Indecent Representation of Women

No person shall produce, sell, hire, distribute, circulate, or send by post any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation, or figure containing indecent representation of women.

Exceptions:

(a) Material justified as being for public good on grounds of:

- (i) Science, literature, art, learning, or general concern; or
- (ii) Bona fide religious purposes.

(b) Representations on or in:

- (i) Ancient monuments under the Ancient Monument and Archaeological Sites and Remains Act, 1958;
- (ii) Any temple, car used for idols, or kept for religious use.
- (c) Any film regulated under Part II of the Cinematograph Act, 1952.

Declaration on Human Rights Defenders, 1988

OBJECT

The Declaration aimed to give recognition and legitimacy to human rights activists worldwide, including lawyers, journalists, or trade unionists. The declaration of a right to defend human rights, and a right to protection when doing so, was meant to strengthen these activities.

Background

The Declaration on Human Rights Defenders was passed in the context of the 50th anniversary of the Universal Declaration of Human Rights and was the result of almost two decades of strenuous negotiations. The subject was first mentioned in a 1980 resolution of the United Nations Commission on Human Rights, the predecessor of today's Human Rights Council. It was called Resolution 1980/23 and it appealed to all governments to “encourage and support individuals and organs of society exercising their rights and responsibilities to promote the effective observance of human rights.” This move should be read in the context of a period when human rights discourse had become increasingly important in the Cold War confrontation between East and West

The Prasar Bharati (Broadcasting Corporation of India, 1990)

Act to provide for the establishment of a Broadcasting Corporation for India, to be known as Prasar Bharati, to define its composition, functions and powers and to provide for matters connected therewith or incidental thereto.

Section 23. Power of Central Government to Give Directions

The Central Government can issue directions to the Corporation when necessary for:

Sovereignty, unity, and integrity of India

Security of the State

Preservation of public order

These directions may:

Prohibit the Corporation from broadcasting on specified matters

Require the Corporation to broadcast on specified matters of public importance

If the Corporation follows such a direction, it may announce that the broadcast is made pursuant to the Government's direction.

Every direction issued by the Central Government must be laid before both Houses of Parliament.

THE CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995

20. Power to prohibit operation of cable television network in public interest.—

[1] Where the Central Government thinks it necessary or expedient so to do in public interest, it may prohibit the operation of any cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

[(2) Where the Central Government thinks it necessary or expedient so to do in the interest of the—

(i) sovereignty or integrity of India; or

(ii) security of India; or

(iii) friendly relations of India with any foreign State; or

(iv) public order, decency or morality, it may, by order, regulate or prohibit the transmission or re-transmission of any channel or programme. (3) Where the Central Government considers that

any programme of any channel is not in conformity with the prescribed programme code referred to in section 5 or the prescribed advertisement code referred to in section 6, it may by order, regulate or prohibit the transmission or re-transmission of such programme]

Information Technology Act, 2000

The Act legally recognizes electronic transactions and communications, replacing paper methods, facilitates e-filing with government, and amends related laws like the IPC and Evidence Act to support e-commerce.

Section 66A – Punishment for sending offensive messages through communication service

Scope: Applies to messages sent via computer resources or communication devices (e.g., email, social media, messages).

Punishable Acts:

- (a) Sending grossly offensive or menacing messages.
- (b) Sending false information, knowingly, to cause:
Annoyance, inconvenience, danger, obstruction,
Insult, injury, criminal intimidation,
Enmity, hatred, or ill will.
- (c) Sending emails with intent to:
Annoy or inconvenience,
Deceive or mislead the recipient about the origin of the message.

Punishment:

Up to 3 years of imprisonment,
And a fine.

Explanation:

“Electronic mail/message” includes any digital message transmitted or received through a computer or communication device, including attachments.

Note: *This section was declared unconstitutional in 2015 for violating Article 19(1)(a) (freedom of speech) and being vague and arbitrary. It is no longer valid law.*

66E. Punishment for violation of privacy.—



Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both. Explanation.—For the purposes of this section—

- (a) —transmitll means to electronically send a visual image with the intent that it be viewed by a person or persons;
- (b) —capturell, with respect to an image, means to videotape, photograph, film or record by any means;
- (c) —private areall means the naked or undergarment clad genitals, public area, buttocks or female breast;
- (d) —publishesll means reproduction in the printed or electronic form and making it available for public

67. Punishment for publishing or transmitting obscene material in electronic form.



Section 67 – Obscene Material in Electronic Form

Publishing or transmitting any lascivious or prurient content in electronic form that can corrupt or deprave the minds of viewers is punishable.

Punishment:

First offence: Up to 3 years imprisonment + fine up to ₹5 lakh.

Repeat offence: Up to 5 years imprisonment + fine up to ₹10 lakh.

Section 67A – Sexually Explicit Content

Publishing or transmitting material that shows sexually explicit acts or conduct in electronic form is a graver offence.

Punishment:

First offence: Up to 5 years imprisonment + fine up to ₹10 lakh.

Repeat offence: Up to 7 years imprisonment + fine up to ₹10 lakh.

Section 67B – Child Pornography and Related Offences

Covers all acts involving children in sexually explicit material:

- (a) Publishing or transmitting content showing children in sexual acts.
- (b) Creating, collecting, seeking, browsing, downloading, advertising, or distributing such content even in text or image form.

Punishment:

Strict penalties including up to 7 years imprisonment and fines, depending on the gravity and repetition of the offence.

POCSO, 2012

Section 24. Recording of statement of a child—

- (1) The statement of the child shall be recorded at the residence of the child or at a place where he usually resides or at the place of his choice and as far as practicable by a woman police officer not below the rank of sub-inspector.
- (2) The police officer while recording the statement of the child shall not be in uniform.
- (3) The police officer making the investigation, shall, while examining the child, ensure that at no point of time the child come in the contact in any way with the accused.
- (4) No child shall be detained in the police station in the night for any reason.
- (5) The police officer shall ensure that the identity of the child is protected from the public media, unless otherwise directed by the Special Court in the interest of the child

Juvenile Justice Act, 2015

3(xi). Principle of Right to Privacy and Confidentiality

Every child has the right to privacy and confidentiality throughout the judicial process.

This applies at all stages — apprehension, inquiry, investigation, and trial.

Section 6 – Placement of Person Who Committed Offence Below Age of 18

Applies to persons now over 18, but who committed the offence as a child.

Such persons shall be treated as children during inquiry.

If not granted bail:

They must be placed in a "place of safety".

Procedure under the JJ Act shall be followed, not adult criminal law.

Section 12 – Bail to Child Alleged to Be in Conflict With Law

Bail is the default rule for all children, even in non-bailable offences.

Bail can be denied only if:

- There's a risk of association with known criminals,
- There's danger to the child (moral, physical, or psychological),
- Or if it would defeat the ends of justice.

If denied, child must be kept in observation home/place of safety, not jail.

If bail conditions not met within 7 days, child must be produced before Board for modification.

Section 74 – Prohibition on Disclosure of Child's Identity

No media (print, TV, online) can reveal identity of:

- Child in conflict with law,
- Child victim/witness,
- Child in need of care and protection.

Includes: name, address, photo, school, or any identifiable detail.

Exception: Disclosure allowed only if Board/Committee records reasons in writing and finds it in the child's best interest.

Police barred from disclosing such records for character certificate or otherwise, post-disposal.

Violation = imprisonment up to 6 months or ₹2 lakh fine or both.

Section 108 – Public Awareness

Central and State Governments must ensure widespread publicity of the JJ Act.

Through TV, radio, print media, at regular intervals.

Aimed at public, children, parents/guardians.

IMPLICATIONS OF MEDIA TRIAL

Effect on rights of the accused

- ▶ Need for balance of rights of the accused to a fair trial and freedom of press
- ▶ Freedom must be consistent with the rights of the accused and must not interfere with the administration of justice by sensationalizing or distorting the truth
- ▶ It is equally unfair to the accused as it is to the victim and society to deny the accused a fair trial and to preserve the presumption of innocence.

Effect on the Public Opinion

- ▶ Media has a tremendous amount of capacity to shape or sway public opinion, and as technology has advanced, it is now even capable of polarizing people's opinions.
- ▶ Regular exposure to the media alters how its users view the world and act. By portraying the legal system as defective or prejudiced in favor of the accused, media trials can further polarize public opinion against how the legal system functions. Thus, media trials have a significant impact on public perception and erode public confidence in the legal system.

FIRST KNOWN MEDIA TRIAL - K.M NANVATI

- ▶ landmark in Indian legal history, centered around naval officer K.M. Nanavati's trial for the murder of Prem Ahuja, his wife Sylvia's lover. Nanavati was initially acquitted by a jury, but the Bombay High Court, in a bench trial, found him guilty of murder and sentenced him to life imprisonment.
- ▶ This case sparked significant debate about the role of the jury system and the interpretation of "grave and sudden provocation" in Indian law

- ▶ **The Incident:**
- ▶ After discovering his wife's affair with Prem Ahuja, Nanavati, in a fit of rage, shot Ahuja dead.
- ▶ **Initial Trial:**
- ▶ Nanavati was charged under Section 302 (murder) and 304, Part I (culpable homicide) of the Indian Penal Code. He was initially acquitted by a jury.

► **Retrial and High Court Verdict:**

- The Sessions Judge, dissatisfied with the jury's verdict, referred the case to the Bombay High Court. The High Court found Nanavati guilty of murder and sentenced him to life imprisonment.

► **Supreme Court Appeal:**

- Nanavati appealed to the Supreme Court, arguing for "grave and sudden provocation" as a mitigating factor.

► **Supreme Court Decision:**

- The Supreme Court upheld the High Court's verdict, finding that Nanavati had ample time to regain his composure after discovering the affair and that his actions were premeditated, not a result of sudden rage.

► **Governor's Pardon:**

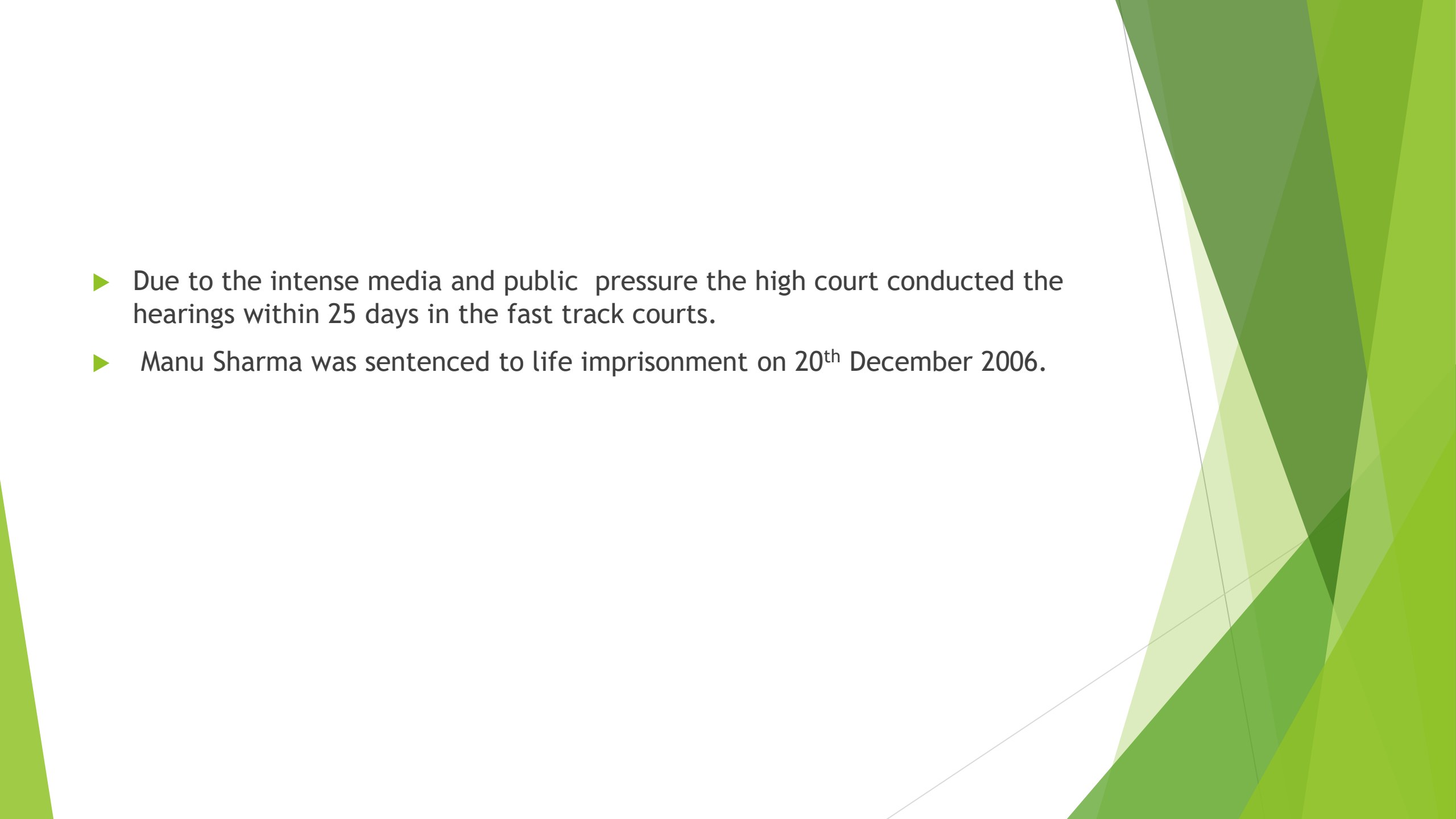
- Nanavati was later pardoned by the Governor of Maharashtra in 1964.

Media Role -

The K.M. Nanavati case sparked extensive media attention, shaping public opinion and the trial itself. The media portrayed Nanavati as a wronged husband and upright officer, influencing the jury's perception and contributing to the case's eventual impact on India's legal system. This influence prompted discussions about "trial by media" and the jury system's limitations.

Jessica Lal case

- ▶ The incident took place on the night of 29 April 1999 and 30th April 1999 at about 2 a.m.; at a place called the “**Tamarind Cafe**” at Qutus Colonnade; which is also known
- ▶ At about 2 a.m., 6-7 persons came and demanded liquor to which Jessica replied that the bar has been closed; and the liquor could not be served.
- ▶ Hearing this ‘**Manu**’ became arrogant and he took out a pistol and fired two shots; out of which one hit the roof and the other hit Jessica which lead to an injury in her left eye.

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- The background of the slide features abstract, overlapping green geometric shapes, primarily triangles and polygons, in various shades of green, creating a modern and dynamic visual effect.
- ▶ Due to the intense media and public pressure the high court conducted the hearings within 25 days in the fast track courts.
 - ▶ Manu Sharma was sentenced to life imprisonment on 20th December 2006.

IMPACT OF MEDIA IN THIS CASE

▶ **Media Activism:**

- ▶ The case garnered extensive media attention due to its high-profile nature and the shocking circumstances of Jessica Lal's murder.
- ▶ Media outlets, both print and electronic, conducted investigative reporting, exposed lapses in the investigation, and raised questions about witness tampering and judicial integrity.

▶ **Public Outcry:**

- ▶ Media coverage catalyzed public outrage and mobilized support for Jessica Lal's family, demanding accountability for the crime and fairness in legal proceedings.
- ▶ Public campaigns, candlelight vigils, and protests fueled by media narratives created pressure on authorities to ensure a thorough investigation and a just trial.

▶ **Sting Operations:**

- ▶ Media organizations conducted sting operations, exposing attempts to influence witnesses, manipulate evidence, and subvert the course of justice.
- ▶ These undercover operations revealed crucial information that contributed to the reopening of the case and a reevaluation of earlier acquittals.

▶ **Judicial Reassessment:**

- ▶ Media scrutiny prompted a reassessment of the case in legal circles, leading to appeals, retrials, and ultimately, a conviction that reflected public expectations of accountability.
- ▶ The role of media activism showcased the power of investigative journalism in uncovering truths, challenging narratives, and advocating for fairness in legal proceedings.

SUPREME COURT VIEW ON REPORTING OF LEGAL PROCEEDINGS

- ▶ *Nilesh Navalakha v. Union of India*”^[14] was the first occasion when any court established standards on how media publications and networks should report legal proceedings.
- ▶ The Court issued several norms which include the following fundamental directives:
- ▶ The privacy and dignity of the victim must always be respected;
- ▶ The sensitive information related to the case should never be made public.
- ▶ The confession/admission made in front of an investigator cannot be published;
- ▶ The interviews of anyone who is connected to the case may not be undertaken when the matter is *sub-judice*.
- ▶ It stated some other observations at the conclusion of the judgment such as the press must deliver news stories in their genuine and accurate form. It must include the account of the events as it was honestly recorded, without exaggeration or bias, and any form of distortion. The incidence should not be overemphasised for the sake of gaining more and more viewers.

COMPARATIVE ANALYSIS OF LAWS IN OTHER COUNTRIES

UNITED KINGDOM

- ▶ media generally has the right to report on court proceedings, there are restrictions to ensure fairness and protect individuals involved in legal cases. These restrictions can limit what is reported, prevent filming or photographing in court, and even restrict access to certain hearings
- ▶ there are strict criminal laws in place in the UK to address this problem. “Crime and Courts Act, 2013”, “Human Rights Act, 1998”, “U.K. Contempt of Court Act, 1981”, “British Press Council, 1953”, “The General Council of the Press, 1963” that address this issue.

United states of America

- ▶ The First Amendment of the United States Constitution forbids the enactment of any laws that restrict the constitutionally protected right to free expression.
- ▶ . Although the First Amendment is obligatory on the States, its 14th Amendment prohibits them from drafting any legislation that will rob anybody of their rights, including their freedom and liberty, without first ensuring that due process has been followed.

THANK
YOU!

