



An article on the topic need of tribunals for defamation: In the light of trial by media

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Abstract

In many cases, the media has played an important role in uncovering the relevant facts. It's a pity, therefore, that when the media sees these newly found truths as a means of boosting TRPs, they tend to be less concerned about their veracity. A hero may transform into a villain due of media's immense influence, and vice versa, depending on how the media sensationalizes the news story. Many times, the press fails to remember that the criminal justice system is built on the presumption of innocence and beyond reasonable doubt. As a result of media presumptions of guilt, the accused is forced to defend himself before a jury of his peers and peers' peers. In certain cases, the individual depicted in the media is acquitted by the courts after going through the judicial process. Although this is true, it is of little value because of the damage done to the person's reputation prior to the trial. This has an impact on the accused's professional objectives as well as numerous elements of their personal and familial lives. The media's present self-control mechanism is unable to keep up with such a massive amount of information being tested on a regular basis. As a result, a structure for external oversight and accountability must be put in place. Defamation cases against the media can serve to hold the media accountable while protecting the individual's right to live a dignified life.

Keywords: tribunals, defamation, media, trial

Introduction

It's been a hot-button subject in recent years for Indians, the Constitution of India, and many values including Constitutionalism, Natural Justice, and Procedure Established by Law. There is an abundance of shoddy investigative journalism in high-profile cases. The media often serves as a court of law, and in certain situations, it renders a decision even before the final judgement is rendered. According to Mahatma Gandhi, "the fourth estate" refers to the press, which is indeed a powerful tool, but misuse of that tool is illegal. The media may be both helpful and detrimental, but the boundaries of those advantages and damages must be determined in light of the basic rights of all people and ideals enshrined in our constitution. This is the fourth estate's job: to find out what's going on and expose it. Bring facts into the open and reveal efforts by agencies to shield offenders. The media also comes into play when the system fails due to political pressure or the state's incapacity. The difficulty arises when the media is used as a sort of parallel legal system.

Trial By Media in India: Analysis

This phenomenon of trial by media has evolved through time, and it has been a tricky problem to address because of the conflict between two basic rights, one being freedom of the press and the other being the right to a fair trial. An investigation begins with the finding of facts and culminates in the filing of charges and the subsequent trial in front of a competent court. The media should have unrestricted access to fact-finding resources, but only for that purpose. Facts, relevance of facts, and the actual facts at issue can all differ in people's perceptions and opinions. Several laws derived from the Indian constitution offer safeguard clauses aimed at protecting individuals' basic rights. Procedural laws, Penal Statutes, and the Law of Evidence, among others, all play a significant part in protecting a person's constitutional rights throughout a trial. The four corners of the legislation, however, do not apply to the media. Media may get away with abusing people's basic rights and not be held accountable because of the fact that Freedom of the Press is derived from the fundamental right to speech and expression. If you want a fair trial, you need to be represented by an attorney before an impartial judge in a court where the standards of evidence and process are respected. In a surprising void, the media refuses to adhere to the standards of proof. Accused's confessional piece of evidence is made public by the media, while the law of evidence and the procedural features are scrutinised for its authenticity and voluntariness. An important part of India's battle for independence has been developed and bolstered by the country's press. The case of K. M. Nanavati v. State of Maharashtra, in which Naval Commander K. M. Nanavati was accused of the murder of industrialist Prem Ahuja, is one of the first to come to mind after

independence when thinking of the media's enormous effect on the administration of justice. It is an undeniable truth that the jury in this case was tainted by pre-trial publicity, making it the final case in India to be tried by jury. A new trend of bribery and corruption in the criminal court system began with the Nanavati case, the first of its kind to include the wealthy and powerful. First "trial by media," first crime to become a "national event," etc. This led to discussions about trial by media in Indian courts, such as in *Saibal Kumar v B.K. Sen and Reliance Petrochemical Ltd. vs. Proprietors of India Express Newspapers & Bombay Pvt Ltd.* Following the *Sunjay Dutt* and *Rajendra Jawanmal Gandhi* cases, Jessica Lal's murder, Priyadarshani Mattoo's murder, and the unnatural death of actor Sushant Singh Rajput's case were all litigated in 1994. From Nanavati's case through Sushant Singh Rajput's unnatural death, the notion of a media trial's path through constitutional provisions, technical advances, law, and numerous court declarations in India becomes crucial.

Need of Tribunals for Defamation

To have a society built on the foundation of justice, a principle known as *ubi jus ibi remedium* must be in place. Article 21 of the Indian Constitution guarantees citizens the right to a "dignified" existence, which Indian courts have repeatedly ruled to be more than a basic animal existence. Dead people's dignity is likewise recognised by the courts. Defamation is a criminal and civil offence that can result in the loss of one's self-respect and reputation. This rapid expansion of media is facilitated by its arrival in micro units such as mobile phones in the hands of nearly every member of the population.

A person who feels wronged by something published by the media can seek redress through a variety of sources, some of which are included below:

1. Complaint to the self-governing mechanism of media houses like National Broadcasting Authority (NBA)
2. Moving to the High court or the Supreme court for the purpose of postponement orders or any other orders for protecting fundamental rights.
3. Action for the contempt of court.
4. Civil Suit for tort of Defamation.
5. Criminal Action for Defamation.

In the first place, there are no regulations for self-governing entities. Since they're so loosely tied, several news stations have lately split from the NBA and formed NBSA, a new self-governing group. Even though democracy relies on free speech, it's a well-established idea that it should not be regulated or controlled by the state, but that a self-regulation system should be in place. The media's self-control systems need to be strengthened and bonded, as well. The second and third remedies of going to the high courts and supreme courts for orders are expensive and time consuming because of the overburdened courts. Furthermore, there is a growing consensus in society that courts cannot arbitrarily stifle free speech by enforcing the statute of contempt. As a result, courts have an obligation to interpret the constitution carefully when dealing with issues of contempt and delay of disclosure orders. It is a time-consuming and expensive procedure because of the publication's impact on the general population and the widespread nature of the media, such as cell phones.

Fourth and Fifth remedy of going to civil and criminal courts respectively are also slow, bound by strict procedure and time consuming. External checks and balances on the media might be provided by courts formed to handle civil and criminal defamation cases. People are more aware of the constitutional concept that the right to freedom of speech and expression is limited by reasonable restrictions on defamation when cases are resolved quickly, and those responsible are held financially and criminally accountable. Electronic media, social media, and print media all exist in tandem these days. There are going to be more incidents of defamation in this mix of information, and the dispute resolution mechanisms may not be able to keep up. The ability to express one's thoughts freely is now in the hands of everyone thanks to the widespread use of social media. Nonetheless, it is difficult to remind this person that his right to free speech and expression has been adequately limited so that he cannot libel any individual. There's a terrible connotation in our society that the legal system takes a long time to respond to any defamatory information released against a person, which does not serve as a deterrent. Defamation proceedings are expedited in the United Kingdom due to practise guidelines. People in society will be more aware of their rights and the limits that are appropriate when tribunals are presided over by judges in service or retired who are bound by simplified procedural regulations.

Conclusion

At times, media coverage of trials interferes with the private rights of defendants, victims and witnesses. The accused or witnesses may be defamed by it. It defames not only the accused, but also the members of his or her family. As a result, a fair trial for the accused is denied. Presumption of innocence, beyond reasonable doubt and no one shall be compelled to testify against themselves are some of the most fundamental aspects of criminal justice. The term "fair trial" refers to a trial in which there is no bias. An accused person has the right to a fair trial. Freedom of expression is not an unconstrained and absolute right on the other hand. Strengthening a legal remedy in the event of an unacceptable publication is only one of several actions that need to be made to defend basic and legal rights.

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