

"MEDIA OUTLETS THEIR IMPACT ON CRIMINAL BEHAVIOUR"

DISSERTATION

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LIST OF ABBREVIATION

A.I.R.	:	All India Reporter
SCC	:	Supreme court cases
H.C.C	:	High court cases
HC.	:	High court
SC	:	Supreme court
CAPT.	:	Captain
e.g.	:	Example
I.P.C.	:	Indian Penal Code
Prof.	:	Professor
S.	:	Section
U.S.A.	:	United States of America
V.	:	Versus
i.e.,	:	That is
ART	:	Article

LIST OF CASES

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CHAPTER – I

INTRODUCTION

Crime is a particularly interesting problem because it is in many respects the obverse¹ of altruism. This is especially true if we define crime broadly as behavior in which individuals obtain resources from others via force, fraud, or stealth. Think about this. We've discussed the apparent importance of altruism for large-scale social interactions between unrelated people. In order for people to reap the full benefits of group cooperation and division of labor, they sometimes must subordinate their personal interests to those of others occasionally in dramatic fashion. Altruistic acts cost an individual more than he or she gains. Criminal acts do just the opposite. People who commit these acts intentionally harm others for their own gain.

Definition of Terms

Legally, crimes usually are defined as acts or omissions forbidden by law that can be punished by imprisonment and/or fine. Murder, robbery, burglary, rape, drunken driving, child neglect, and failure to pay your taxes all are common examples. However, as several eminent criminologists recently have noted², the key to understanding crime is to focus on fundamental attributes of all criminal behaviors rather than on specific criminal acts. Instead of trying to separately understand crimes such as homicide, robbery, rape, burglary, embezzlement, and heroin use, we need to identify what it is they all have in common. Much past research on crime has been confounded by its focus on these politico-legal rather than behavioral definitions. The behavioral definition of crime focuses on criminality, a certain personality profile that causes the most alarming sorts of crimes. All criminal behaviors involve the use of force, fraud, or stealth to obtain material or symbolic resources. As Gottfredson and Hirschi (1990) noted, criminality is a style of strategic behavior characterized by self-centeredness indifference to the suffering and needs of others, and low selfcontrol. More impulsive individuals are more likely to find criminality an attractive style of behavior because it can provide immediate gratification through

¹ i.e., the flip side

² e.g. Sampson and Laub 1993; Gottfredson and Hirschi 1990.

relatively easy or simple strategies. These strategies frequently are risky and thrilling, usually requiring little skill or planning. They often result in pain or discomfort for victims and offer few or meager long-term benefits because they interfere with careers, family, and friendships. Gottfredson and Hirschi assert that this means the —within-person causes of truancy are the same as the within- person causes of drug use, aggravated assault, and auto accidents (1990).¹ In this sense, criminality is a problematic relationship with legal crimes. Some drug dealers, tax cheats, prostitutes and other legal criminals may simply be business-people whose business activity happens to be illegal. Psychologically, they might not differ from ordinary citizens. Almost all ordinary citizens commit at least small legal crimes during their lives. Nevertheless, Gottfredson's and Hirschi's hypothesis is that the vast majority of legal crime is committed by individuals as a general strategy of criminal activity.

This conception of crime explains the wide variety of criminal activity and the fact that individuals tend not to specialize in one type of crime. It also is consistent with the well-established tendency of people to be consistent over long periods of time in the frequency and severity of crimes they commit. Even executives who commit white collar crimes probably are more impulsive, self-centered, and indifferent to the suffering of others than those who do not take advantage of similar opportunities.

Focusing on criminality rather than political-legal definitions also allows us to finesse the perplexing problem of why some acts³ are defined as crimes while similar arguably more damaging acts (e.g., alcohol consumption) are not. These issues, central to conflict theories and critical theories of crime, are important. However, because they focus on systematically deeper power relations between competing interest groups, they seldom provide feasible policy alternatives and tend to reinforce perceptions of crime as an insolvable problem. What we want to do here is see if the human ecological approach can lead us to some practical strategies for controlling crime. Human resources can have material, symbolic, or hedonistic value. In crimes such as thefts, individuals take material resources such as property from another person without this or her knowing cooperation. Those who commit crimes such as narcotics trafficking and gambling attempt to obtain money that can be exchanged for material resources. In crimes such as assaults not associated with theft, sexual assaults, and illicit drug use, people obtain hedonistic

³ e.g., marijuana consumption

resources that increase pleasurable feelings or decrease unpleasant feelings. Political crimes such as terrorism or election fraud attempt to obtain symbolic resources such as power or prestige.

Definitions of Criminal Behaviour:

Criminal behaviour envelope a wide variety of activities and for that reason, researchers tend to focus on the wider context of antisocial behaviour. Morley and Hall (2003), who have investigated the genetic influences on criminal behaviour, point out three different ways to define antisocial behaviour. First is equating it with criminality and delinquency, which both involve engaging in criminal acts. Criminality can lead to arrest, conviction, or incarceration for adults, while delinquency is related to juveniles committing unlawful acts (Rhee & Waldman, 2002).

Information can be collected using court and criminal records, as well as self-report surveys to analyse the influences that were present. Secondly, they advise individuals to define antisocial behaviour is through criteria used to diagnose certain personality disorders. More specifically, they mean those personality disorders, such as Antisocial Personality Disorder, which is associated with an increased risk in criminal activity. A final measure suggested for defining antisocial behaviour is by examining personality traits that may be influential in the criminal behaviour of individuals. Traits such as aggressiveness and impulsivity are two traits that have been investigated the most (Morley & Hall, 2003).

With regards to determining the effects the environment plays in criminal behaviour there are fewer resources available. Observational studies and reports submitted by parents are two sources, but not everyone agrees on the validity of information collected from these sources. Three additional sources that most researchers cite when gathering information about both genetic and environmental influences are twin, family, and adoption studies (Tehrani & Mednick, 2000).

There has been great debate between researchers regarding the outcomes of twin, adoption, and family studies. Some claim that these studies support the notion of a genetic basis to criminal behaviour (Tehrani & Mednick, 2000). On the other hand, some have concluded that there is not enough evidence from these twin, family, and adoption studies to profess that genetics do play a role in antisocial or criminal behaviour (Lowenstein, 2003).

Twin studies are conducted on the basis of comparing monozygotic (MZ) or identical twins and their rates of criminal behaviour with the rates of criminal behaviour of dizygotic (DZ) or fraternal twins. Ordinarily these studies are used to assess the roles of genetic and environmental influences. If the outcomes of these twin studies show that there is a higher concordance rate for monozygotic (MZ) twins than for dizygotic (DZ) twins in criminal behaviour, then it can be assumed that there is a genetic influence (Tehrani & Mednick, 2000). A study conducted looked at thirty two monozygotic (MZ) twins reared apart, who had been adopted by a non-relative a short time after birth. The results showed that for both childhood and adult antisocial behaviour, there was a high degree of heritability involved (Joseph, 2001). This study was of particular importance because it examined the factor of separate environments. Another researcher studied eighty-five monozygotic (MZ) and one hundred and forty-seven dizygotic (DZ) pairs and found that there was a higher concordance rate for the monozygotic (MZ) pairs. Ten years later after checking police records of these same twins, two other researchers concluded that there was a fifty-four percent heritability of liability to crime (Joseph, 2001). Around the same time of the study just mentioned, two researchers studied forty-nine monozygotic (MZ) and eighty-nine dizygotic (DZ) pairs, but found no difference in the concordance rates. They concluded therefore that in respect to common crime, hereditary factors are of little significance (Joseph, 2001). Many other twin studies have been conducted, but there is concern over the validity of those studies and their ability to separate out the nature and nurture aspects; therefore other sources of information should be examined.

Adoption studies are critical in examining the relationship that exists between adopted children and both their biological and adoptive parents because they assume to separate nature and nurture. Studies have been conducted that test for the criminal behaviour of the adopted-away children, if their biological parents had also been involved with criminal activity. In Iowa, the first adoption study was conducted that looked at the genetics of criminal behavior. The researchers found that as compared to the control group, the adopted individuals, which were born to incarcerated female offenders, had a higher rate of criminal convictions as adults. Therefore this evidence supports the existence of a heritable component to antisocial or criminal behavior (Tehrani & Mednick, 2000). Another study in Sweden also showed that if a biological background existed for criminality, then there was an increased risk of criminal behaviour in the adopted children. In Denmark, one of the largest studies of adopted children was conducted and

found similar results to the previous studies. The defining feature of the Denmark study was that the researchers found a biological component for criminal acts against property, but not for violent crimes (Joseph, 2001). Children whose biological fathers had been convicted of property crimes were more likely to engage in similar behaviour, when compared to those biological fathers who had been convicted of violent crimes. According to an article by Jay Joseph (2001), who studied all of the minor and major adoption studies, the majority of researchers have found and agreed upon the non-significance of genes in violent crime. This re-establishes the findings from the studies mentioned already in that there may be a genetic component to antisocial behaviour or that genes influence criminal behaviour, but specifically for property offenses.

Family studies are the third type of instrument used to assess the relationship between genetics and environmental influences on criminal or antisocial behaviour. Research in this field has probably been the least accepted by psychologists and other scholars because of the degree of difficulty in separating out nature and nurture in the family environment. Children experience both the influence of their parents' genes and also the environment in which they are raised, so it is difficult to assign which behaviors were influenced by the two factors. Twin studies have this flaw, as stated earlier, but it is more prevalent in family studies. An additional concern with family studies is the inability to replicate the results, therefore leading to a small number of studies. Regardless of these drawbacks, one family study in particular should be acknowledged for its findings.

Brunner, Nelen, Breakefield, Ropers, and van Oost (1993) conducted a study utilizing a large Dutch family. In their study they found a point mutation in the structural gene for monoamine oxidase A (MAOA), a neuro-chemical in the brain, which they associated with aggressive criminal behavior among a number of males in that family (Alper, 1995). These males were reported to have selective MAOA deficiency, which can lead to decreased concentrations of 5-hydroxyindole-3-acetic acid (5-HIAA) in cerebrospinal fluid. Evidence suggests that low concentrations of 5-HIAA can be associated with impulsive aggression. These results have not been confirmed in any additional family studies, which lead to a need for more studies to determine if other families share similar results (Brunner et al., 1993). However, this one family study does seem to suggest that genetics play an important role in antisocial or criminal behaviour.

The Nature and Distribution of Crime:

Correlates and Causes of Crime:

A large body of research indicates that crime is highly correlated with youthfulness and male gender, and that early involvement in crime is predictive of subsequent involvement. Similarly, poverty, inequality, disrupted families, inadequate socialization, and the presence of criminal opportunities all seem to be important correlates of crime⁴. These general findings about the primary correlates of crime seem likely to endure—although there remains substantial debate among criminologists in various academic disciplines about the relative causal importance of, and relationships between, different variables. This debate tends to obscure larger issues regarding the appropriate causal scope and scale for understanding and controlling crime; i.e., which variables interacting in what ways should be considered, and at what levels of analysis. The problem is not easy to solve with better co-relational studies because so many variables are inter correlated. For example, poverty, racial discrimination, and family disruption all disproportionately affect African Americans, who also disproportionately engage in criminal behavior. However, from the correlation data alone it is impossible to say which variable is the most important or direct cause of crime, or anything about how the variables might be causally inter-related. As a result, no satisfactory unified theoretical framework yet has been developed. This has diminished the policy relevance of recommendations from even some of the most comprehensive interdisciplinary research on crime. This is a prime example of the kind of interdisciplinary problem associated with the sociology of science that human ecology tries to address.

Partial Theories of Crime:

A number of general and or very broad theories of crime have been proposed during recent years. Yet no single perspective has been able to integrate causal factors across important ecological (environmental and situational), micro level (intrinsic to the individual), and macro level (social structural and economic) domains to explain the full scope of criminal behavior. For

⁴ (e.g., Sampson and Laub 1993; Reiss and Roth 1993; Tonry, Ohlin, and Farrington 1991; Land, Mc-Call, and Cohen 1990; Gottfredson and Hirschi 1990; Blau and Schwartz 1984)

example, Wilson and Herrnstein (1985) provide an exhaustive review of micro level bio psychological factors associated with the development of criminal propensities by individuals, but largely ignore macro level factors such as social structure, cultural beliefs, and the role of ecological interactions. Gottfredson and Hirschi (1990) attend more to ecological and macro level factors associated with development of self-control, but deny that biological factors have any importance. Braithwaite (1989) links micro and macro level factors and processes with the ecological organization of communities, but fails to consider how these relations evolve over time or how the propensities of individuals develop over the life course. Pearson and Weiner(1985) recommend a dynamic processes oriented approach to understanding how interactions between ecological, micro- and macro level factors affect social learning and rational behavior in individuals. But they neglect the reciprocal influence of these individuals on the evolution of macro level factors as well as environmental and biological factors. Others (Agnew 1992; Elliott, Ageton, and Canter 1979) lay a foundation for understanding how the propensities of individuals develop over the life course in response to micro- and macro level factors, but ignore biological and ecological factors that influence criminal behavior.

here is a more synthetic trend in recent research. Sampson, working with others, recently has described most of the salient relationships. For example, Sampson and Laub (1993) described how macro level factors influence individuals over the life course via systematic links to family relations and the institutions of school and work. And Sampson and Groves (1989) identified how these factors are affected by the ecological organization of communities. However, these scholars avoid discussing the role of biological factors and do not account for the evolution of macro level factors over time. Similarly, Farrington(1986) explains crime as the product of a chain of processes that involve biological, micro level, and ecological factors that influence what is desired, which strategies are selected to obtain desiderata, and situational and opportunity factors that affect decision making. But he does not deal with the evolution of macro level and ecological factors.

Developmental psychologists have focused more broadly on the etiology of antisocial behavior. For example, Moffitt (in press) and Patterson et al. (1989) take into account generational and life span issues as well as demographic, micro-, and macro level factors. However, they ignore the roles played by criminal opportunities and factors associated with the

evolution of criminal behaviors and social responses to crime. All these factors must be understood together before we can explain, predict, or control crime fully.

A human ecological approach is fundamentally different from these earlier theories (Vila 1994). Each of the perspectives mentioned thus far attempted to show how analysis of variables within a favored domain, or associated with a particular construct or set of constructs, could be used to explain all or most aspects of criminal behavior. Each of these perspectives understandably tended to be largely congruent with their authors' academic disciplines whose boundaries exist in our minds and institutions, but not in reality.

Human ecology similarly has its roots in the interdisciplinary field of evolutionary ecology. But it uses a problem-oriented, rather than discipline-oriented, approach to understanding criminal behavior. For example, it does not ask "How can one reconcile strain control labeling social learning and theories?" Instead it asks "What relationships tend to be fundamentally important for understanding changes over time in the resource acquisition and retention behaviors of any social organism?" This defines naturally the boundaries of the problem and leads us to view systematic interactions between various domains in a more realistic fashion as dynamic rather than static.

Causes of Crime

It is necessary to apply a generational time scale in order to holistically understand the causes of individual criminal behavior. We begin the same way an ecologist would approach the study of any organism: by examining the life cycle.

The Role of Early Life Experiences

Early life experiences appear likely to have an especially strong influence on the development of criminality because individuals acquire their traits sequentially. The traits we possess at any juncture are the result of the cumulative cognitive, affective, physical, and social effects of a sequence of events that began at conception. As a result of these events, individuals acquire a strategic style over the course of their lives. Some individuals develop a strategic style that emphasizes the use of force, fraud, or stealth to obtain resources and is characterized by self-centeredness, indifference to the suffering and needs of others, and low self-control—criminality. Some of the more important developmental factors include parenting and family

management practices, educational success, pre-, peri-, and postnatal stress⁵, nutrition, and complex interactions between genes and environment (Fishbein 1990). Two especially important factors are whether an environment helps or hinders a child's attempt to cope with his/her temperamental propensities and the ability of parents to cope with or redirect the behaviors of a difficult child. As Werner and Smith(1992) note, children are placed at increasing risk of becoming involved in crime by such things as economic hardships, living in high crime neighborhoods, serious care giving deficits, and family disruption. But these risks appear to be buffered by factors like an easy temperament, scholastic competence, educated mothers, and the presence of grandparents or older siblings who serve as alternate caregivers. The relative importance of risk and protective factors varies according to life stage, gender, and social environment.

Demographic stressors such as poverty, lack of education, high crime neighborhood and family stressors such as unemployment, marital conflict, and divorce all tend to influence development by disrupting family management practices⁶. Growing up in a disrupted family is associated strongly with child antisocial behavior, of which crime is one type. The generational time scale is particularly important there because poor family management, antisocial behaviors, and susceptibility to stressors often are transmitted inter-generationally from grandparents to parents to children (Patterson, De Baryshe, and Ramsey 1989). As will be discussed, this may have important policy implications.

The Evolutionary Ecology of Crime

Before we can identify effective crime control strategies, we first must understand what makes crime evolve. In the discussion thus far, it was possible to holistically understand individual criminality by considering together opportunities for crime and interactions between the biological, socio-cultural, and developmental factors that influence motivation. If we now use Darwin's trick of expanding our focus to look at population level changes as the result of individual interactions and behaviors we can understand how the amount and type of crime in society evolves over time. This is the same approach to understanding complex systems that ecologists apply to biological communities, except that it accounts for uniquely human attributes

⁵ e.g., Wilson and Herrnstein 1985

⁶ Sampson and Laub 1993:83.

such as the extensive use of culture and symbolic behaviors². Understanding what makes crime evolve as well as what causes criminal behavior makes it possible to identify effective crime control strategies.

Individual Variation

The individual interactions that drive societal-level changes in crime occur between people with different characteristics. Over the course of their lives, people acquire characteristics such as knowledge, skills, attitudes, beliefs, and styles of strategic behavior. Which characteristics they acquire is strongly influenced by repeated interactions between socio cultural, biological, and developmental factors (figure 17.1). These characteristics affect the value they place on material and symbolic resources at a particular point in time. They also affect their ability to obtain those resources. In other words, the characteristics we possess at any time strongly influence which things we want and our ability to get them. We may possess the desire and ability to use conventional strategies such as legal employment to get money, goods, or respect. We also might be inclined to use criminal strategies entailing force, fraud, or stealth to get the same things. Alternatively, we could want to use conventional strategies but lack the ability to do so. A person's motivation to commit a crime is determined by these factors plus the effects of temptation exerted by an opportunity for crime. If motivation is sufficiently high and an opportunity exists, a crime can occur.

Co evolution of Criminal Strategies and Counterstrategies

Crimes tend to provoke counterstrategies defensive responses from victims and potential victims. They install alarm systems, avoid going out at night, or stay away from rough areas. As information about crime spreads, others adopt similar counterstrategies. Eventually, community groups and government may respond with things such as neighborhood watch programs, increased police surveillance of problem spots, or new legislation. Over time, criminal strategies and counterstrategies can co evolve in response to one another for several reasons. As is discussed below, defensive counterstrategies encourage people seeking criminal opportunities to adapt by developing new strategies for crime or shifting to a different type of crime (Cohen and Machalek 1988). More generally, higher crime rates often lead to more rigorous protective measures that initially may cause crime rates to decline. Similarly, lower crime rates may lead to

a relaxation of barriers to crime as individuals and communities channel limited resources to more pressing problems. Declining crime rates thus eventually may make crime an easier, less risky, and more attractive, way to get resources. This suggests that crime probably will always exist at some level in society. As fewer people are attracted to crime, potential rewards will tend to increase until they are bound to attract someone. These dynamics and the tendency of defensive counterstrategies to initiate a vicious cycle by provoking counter-counterstrategies from offenders suggest that crime probably always will exist at some level in society. Understanding the different ways that counterstrategies address the causes of crime is the key to making criminological research relevant to public policy.

Counter strategic Options

In the past, most crime control proposals ignored the simple fact that criminality is strongly influenced by early life experiences due to the cumulative, sequential nature of development. Protection or avoidance strategies attempt to reduce criminal opportunities by changing people's routine activities or by incapacitating convicted offenders through incarceration or electronic monitoring devices (Reiss and Roth 1993:325). They also may increase guardianship through such things as target hardening, neighborhood watch programs, and increasing the numbers or effectiveness of police. Deterrence strategies attempt to diminish motivation for crime by increasing the perceived certainty, severity, or celerity of penalties. Non-punitive' deterrence approaches also advocate raising the costs of crime but they emphasize increasing an individual's stake in conventional activities rather than punishing misbehavior (see Wilson and Herrnstein 1985). Nurturing strategies seldom have been included on crime control agendas. They attempt to forestall development of criminality by improving early life experiences and channeling child and adolescent development. The long-term effectiveness of protection and avoidance strategies is limited. The evolutionary dynamics illustrated in figure 3 mean that protection strategies tend to stimulate arms races reminiscent of predator-prey co evolution. For example, criminals adapt to better locks by learning to overcome them, to anti-theft car alarms by hijacking autos in traffic rather than while parked, to changes in people's routine activities by moving to areas with more potential targets. Whatever the long-term limitations of protection strategies, however, they obviously always will be necessary because of the opportunistic nature

of much crime. Due to the potentially rapid nature of cultural evolution, these strategies should be able to evolve quickly in response to changes in criminal strategies.

The effects of opportunity-reducing strategies like incapacitation through incarceration are unclear and may be confounded by the fact that younger offenders—who are least likely to be incarcerated—often commit the most crimes⁷. Moreover, incarceration is expensive and perhaps often counterproductive. Sampson and Laub (1993:9) assert that incarceration indirectly causes crime by disrupting families and ruining employment prospects. Newer alternatives like incapacitation via electronic monitoring of convicted offenders in their homes are cheaper than incarceration and maybe less counterproductive. Conventional deterrence strategies also are problematic. There is little evidence that—in a free society—they can be effective beyond some minimal threshold for controlling most crimes (Reiss and Roth 1993; Wilson and Herrnstein 1985). One novel deterrence approach recently suggested by the National Research Council's Panel on the Understanding and Control of Violent Behavior might be more effective. It would attempt to improve the ability of people who use alcohol and other psychoactive drugs to calculate costs and benefits via treatment and pharmacological interventions⁸.

Non-punitive deterrence strategies that attempt to increase the stake adolescents and adults have in conventional life show promise for 'correcting' life trajectories. Sampson and Laub's (1993) rigorous reanalysis of data from the Glueck Archive indicate that the best way to encourage most adult offenders to desist from crime is to increase their —social capital|| by improving employment opportunities and family ties. There also is evidence that military service among young men may help compensate for the criminogenic effects of earlier risk factors because it provides an opportunity to repair educational and vocational deficits (Werner and Smith 1992). However, the paradigm proposed here indicates that non-punitive deterrence strategies still may provide less potential crime control 'leverage' than nurturing strategies. Since criminality has its roots in the early life course, changing the strategic styles of adults generally is more difficult than influencing the development of children. To paraphrase Alexander Pope, it is easier to bend a twig than a mature oak.

⁷ (Reiss and Roth 1993:292-294).

⁸ (Reiss and Roth 1993:332-334)

Improving child nurturance may be the most effective defense against crime. This paradigm suggests that it should be possible to reduce the concentration of criminality in a population by improving early life experiences⁵ and channeling child and adolescent development⁶. However, nurturing strategies such as educational, health care, and child care programs that address the roots of criminality early in the life course seldom have been employed for crime control. And the results of educational and public health programs that attempted to improve early life course factors often have been equivocal or disappointing. In fact, substantial increases in crime have accompanied what some would argue are enormous improvements during the past one hundred years in such things as health care access, public education about family management, and provision of counseling for abuse victims.

Although there obviously have been substantial improvements in these areas at the national level, their distribution undeniably has been uneven. And increases in reported crime rates have been most dramatic during the last forty years. Much of the increase in crime during this period appears to have been associated with such factors as demographic and business cycle fluctuations (Easterlin 1987; Hirschi and Gottfredson 1983), and changes in people's routine activities (Cohen and Felson 1979). Increased urbanization, social disorganization, and concentration of those who are most deprived as well as population growth also appear to be very important (Wilson, 1987).

Past attempts to measure the impact of nurturing strategies on crime rates may have been confounded by time-lag effects. For example, previous empirical efforts to identify relationships between crime and social structural/economic variables (income inequality, poverty, and unemployment) using aggregate data primarily focused on contemporaneous rather than lagged effects. The proposed importance of life-course thinking and intergenerational effects indicate that results of educational, health care, and childcare programs implemented today should begin to be seen in about 15 years—when today's newborns enter the 15-29 year-old age group most at risk for criminal behavior. Even then, according to the paradigm, change probably would be gradual with the population-level concentration of criminality continuing to decline as each generation of more fully nurtured people became parents themselves. This means that change associated with nurturing strategies might require three or four generations. Attempts to measure past effects of nurturing strategies also might be confounded by immigration because, for

example, national programs affecting early life course factors would not have had an effect on those whose childhoods were spent outside the country. Legal immigration as a percentage of total U. S. population growth has increased regularly from -0.1 percent during the depression to 29.2% from 1980-1987.

It is unclear whether the apparent failure of past nurturing programs reflects their lack of utility, faulty program implementation, or a failure to persistently pursue them over generational time frames. It also is possible that the effects of these programs have yet to be measured. There could be substantial payoffs if it is possible to successfully implement programs such as these over the long-term. There is strong evidence that the most persistent five or six percent of offenders are responsible for roughly 50 percent of reported crimes. Moffitt (in press) suggests that antisocial behavior in this group is most likely to be the result of early life course factors.

The contributions to the study of criminal behavior have come from the persons representing several disciplines: biology, physiology, psychology, anthropology, psychiatry, sociology, law, economics, history, government, police science, and public welfare. Criminal behaviour has always been a focus for psychologists due to the age old debate between nature and nurture. There is a vast amount of evidence that shows our criminal justice system in Criminal behaviour is the new home for individuals with psychological problems. Although this may seem like a solution to some, it is creating a dilemma for our society. Once we label these individuals as criminals it creates a stigma for those who may suffer from psychological problems. Certain psychological problems have been shown to be heritable and if given the right circumstances, individuals with those genes could find themselves engaging in criminal activity.

Not long after the practices of controlled breeding, there was evidence to support the idea that the environment also played an important role in crime. Early family studies were conducted that showed a predisposition for criminal behaviour as a result of inherited characteristics, but that an individual's characteristics and personality could still be modified by the environment (Joseph, 2001).

Environmental Influences:

It has been established through research and various studies that genetics do influence criminal or antisocial behaviour. Researchers agree on the point that genes influence personality traits and

disorders. However, researchers also agree that there is an environmental component that needs to be examined. Environmental influences such as family and peers.

The family environment is critical to the upbringing of a child and if problems exist then the child is most likely to suffer the consequences. We have seen the problems associated with a child who is diagnosed with ADHD and how that can influence antisocial or criminal behaviour. In relation to that, some researchers have claimed that it is the family environment that influences the hyperactivity of children (Schmitz, 2003). The researchers in this article specifically identify family risk factors as poverty, education, parenting practices, and family structure. Prior research on the relationship between family environment and child behaviour characterizes a child's well-being with a positive and caring parent-child relationship, a stimulating home environment, and consistent disciplinary techniques (Schmitz, 2003). Families with poor communication and weak family bonds have been shown to have a correlation with children's development of aggressive/criminal behaviour (Garnefski & Okma, 1996). Therefore it seems obvious to conclude that those families who are less financially sound, perhaps have more children, and who are unable to consistently punish their children will have a greater likelihood of promoting an environment that will influence antisocial or delinquent behaviour. Another indicator of future antisocial or criminal behaviour is that of abuse or neglect in childhood. A statistic shows that children are at a fifty per cent greater risk of engaging in criminal acts, if they were neglected or abused⁹.

Another significant factor in the development of antisocial or delinquent behaviour in adolescence is peer groups. Garnefski and Okma (1996) state that there is a correlation between the involvement in an antisocial or delinquent peer group and problem behaviour. One of the primary causes as to why this occurs can be traced back to aggressive behaviour in young children. When children are in preschool and show aggressive tendencies towards their peers, they will likely be deemed as an outcast. This creates poor peer relationships and relegates those children to be with others who share similar behaviours. A relationship like this would most likely continue into adolescence and maybe even further into adulthood. The similar tendencies of these individuals create an environment in which they influence one another and push the problem towards criminal or violent behaviour.

⁹Holmes et al., 2001.

Social learning theory has been cited as way to explain how the environment can influence a child's behaviour. Using this theory to explain the aggressive or antisocial behavior of a child means that a child observes aggressive behaviour between parents, siblings, or both. As a result, the children believes that this aggressive behaviour is normal and can therefore use it themselves because they do not see the harm in acting similar to their parents.¹⁰ As pointed out earlier, interaction between family members and disciplinary techniques are influential in creating antisocial behaviour. Using the social learning theory these two factors are also critical in the development of aggression. Children who are raised in an aggressive family environment would most likely be susceptible to experiencing a lack of parental monitoring, permissiveness or inconsistency in punishment, parental rejection and aggression. The exposure to such high levels of aggression and other environmental factors greatly influences and reinforces a child's behaviour. A significant point that should be known however is the fact that other research has supported the notion that genetics do influence levels of aggression, which stands in opposition to the social learning theory .

It is found out by the studies that not only genetics play the most important role but environmental factors are also being the prominent factor influencing antisocial or criminal behaviour of an individual.

Family environment is crucial in the development of a child's brain and personality. Environment is important for a child to grow and develop into a normal, prospering adult. Without proper nurturance, guidance, and support, no child, male or female, will learn coping strategies, learn life skills, or grow up with a strong sense of right and wrong and respect other people. Whether one is male or female, growing up in an environment in which one is beaten or neglected is going to cause serious traumatic repercussions. The aggressive tendencies in males lead them to become more aggressive in adulthood, which in turn is why they are more apt to commit violent crimes. Yet women have been known to commit those same violent crimes, regardless of the prevalence relative to males--women are capable of criminal behaviour. Men have committed more crimes and are known to be more violent, yet women should not be eliminated from the discussion.

¹⁰ (Miles & Carey, 1997).

Mental Health and Criminal Behavior:

Much evidence now suggests that patients with major mental disorders are at increased risk for crimes and violence. A number of recent studies have shown that many patients suffering from major mental disorders (schizophrenia and major affective disorders) commit crimes and crimes of violence (Monahan, N.D.). One investigation of an unselected birth cohort followed to age 30, demonstrated that 47 percent of men and 18 percent of women with major mental disorders were registered for crime (Hodgins, N.D.). A number of follow-up studies of patients discharged to the community have found that they commit more crimes and more crimes of violence than the general population (Durbin, Pasewark, Albers, 1977; Giovanni, Gure, 1967; Lindqvist and Allebeck, 1990; Rapoport and Lassen, 1965; Rapoport and Lassen, 1966; Sosowsky, 1974; Sosowsky, 1978; Sosowsky, 1980; Steadman, Coccozza, and Melick, 1978; Zitrin, Hardesty, Burdock, and Drossman, 1976; Link, BG, Andrews, H, Cullen, in press). Several investigations have documented elevated prevalence rates for the major mental disorders among offenders (Collins and Schlenger, 1983; Daniel and Robins, Reid, Wilfley, 1988; Hyde and Seiter, 1987; Neighbors, Williams, and Gunnings, 1987; Hodgins and others, 1990). A Danish study of all homicide offenders over a 25-year period revealed that 23 percent suffered from a major mental disorder (Gottlieb, Gabrielsen, and Kramp, 1987). A Swedish study of all homicide offenders in the Northern half of the country over an 11-year period found that 53 percent suffered from a major disorder (Lindqvist, 1986). Other studies reveal that persons suffering from major mental disorders report more aggressive behavior than persons with no disorders (Link, Andrews and Cullen, in press; Swanson, Hozer, Ganju, and Jono, 1990).

It has been proposed that the criminality and violence of persons with major mental disorders is a consequence of their illness (Link, Andrews, and Cullen, in press; Taylor, in press). Yet, longitudinal studies, conducted in several different countries and cultures, have consistently revealed that adult criminality is preceded by a childhood history of antisocial behaviour (Farrington, and West, 1990; Quinton, Rutter, and Gulliver, 1990). This developmental perspective suggests that among offenders with major mental disorders, the antisocial behavior would precede the onset of the major disorder by many years. These two competing hypotheses may both be right, each applying to a different subgroup of mentally disordered persons.

Individuals with both, antisocial personality disorder (APD) and a major disorder, would be expected to be antisocial, and even criminal, long before the onset of the major disorder. Their criminality and/or violence would be associated with the personality disorder rather than the major disorder. However, among the mentally disordered with no APD, the criminality or violence may be directly related to the symptoms of the major disorder. In two of the studies of incarcerated offenders (Cbtck , Hodgins, 1990;Abraln , Teplin , 199 1), it was found that 66.4 percent and 67.8 percent of the male inmates with major mental disorders also met DSM-II1'9 criteria for APD.

Whereas Robins (1990) has always argued that the presence of APD indicates a pattern of antisocial behavior beginning in childhood and remaining stable to late adulthood, the DSM III and DSM- III-R diagnosis of APD requires the presence of only three childhood indices of antisocial behavior. We wanted to find out if the diagnosis of APD did in fact identify, among offenders with major mental disorders, those with a significant history of childhood criminal and antisocial behavior. If validated, this distinction between offenders with major disorders who begin their criminal careers before the onset of the major disorder and those whose criminality is concurrent with the major disorder could be important for predicting and preventing crime and violence. It would certainly have implications for both, the assessment and the treatment of mentally disordered offenders.

Borderline personality disorder, antisocial personality disorder, conduct disorder, and other personality disorders often manifest in aggression or violence. When a personality disorder occurs in conjunction with another psychiatric disorder, the combination may also increase risk of violent and criminal behaviour.

It has long been re-cognised that the risk of mental health problems for those entering prison is high. As much as 80% of the general prison population suffer from one mental health problem or another, or several at once (Singleton, 1998).

In one investigation Doris and Glaze (2006) have pointed out that At midyear 2005 more than half of all prison and jail inmates had a mental health problem, including 705,600 inmates in State prisons, 78,800 in Federal prisons, and 479,900 in local jails. These estimates represented 56% of State prisoners, 45% of Federal prisoners, and 64% of jail inmates. The findings in this

report were based on data from personal interviews with State and Federal prisoners in 2004 and local jail inmates in 2002.

Mental health problems were defined by two measures: a recent history or symptoms of a mental health problem. They must have occurred in the 12 months prior to the interview. A recent history of mental health problems included a clinical diagnosis or treatment by a mental health professional. Symptoms of a mental disorder were based on criteria specified in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV).

More than two-fifths of State prisoners (43%) and more than half of jail inmates (54%) reported symptoms that met the criteria for mania. About 23% of State prisoners and 30% of jail inmates reported symptoms of major depression. An estimated 15% of State prisoners and 24% of jail inmates reported symptoms that met the criteria for a psychotic disorder.

1.2 The scope of research.

This research is purely a legal research and all the sources of legislations are included in the ambit of the research. The scope of the research includes the aspects of Jurisprudence, the Constitutional law, Constitutional Assembly Debates (CAD), research methods, statutory enactments, delegated legislation in the form of rules, bylaws, orders, regulations etc, and precedents. All the above mentioned subjects are dealt with only to the extent of which they are related to the topic of the research. The scope also includes the organisations, autonomous bodies, agencies which are related to the different modes of the media. The powers, functions, limitations which are prescribed to these bodies have been included in the research. Further all the aspects which are related to the different modes of the media constitute an integral part of the scope of the research. Some fleeting reflections to the areas of Criminal Jurisprudence, Environmental Law and the International Law are made in this research, but only to the extent of their relevancy to the topic of the research.

1.3 Objectives of the research

The following objectives have been identified for the purpose of this research.

- (i) To identify the rights of the media.

- (ii) To assess the limitations imposed upon the rights of the media
- (iii) To find out the methods of transgression of these limitations by the media.
- (iv) To critically analyse the concept of media trial. To assess the impact of media trial upon the public as well as the legal system.
- (v) To find out whether the media is accountable; and if yes, to what extent.
- (vi) To make an endeavour to strike a balance between the two conflicting rights, that is the right to privacy of an individual versus the right of free press to report.
- (vii) To suggest a few steps to curb the dictatorial aspirations of the media

1.4 problem of research

The main research problem is that what criteria can be evolved in order to strike a balance between the rights of the press versus the right of the individual. This problem includes the issues like what would be the restraints to be imposed upon the free press. In spite of the fact that there are a number of restrictions already prevailing over the freedom of press, but still the press has extended its scope, to such an extent that the day will not be far away when the press will rule through its pen.

1.5 Hypothesis

The tentative solution in the form of hypothesis is that the media should not exceed the limits of its rights for the sake of extraneous considerations, so that the rights of the individuals are secured. It is the hunch of the present researcher, that the media does overstep its limits to gain popularity and publicity. The problem of balancing of conflicting rights can be solved if the media before reporting, itself analyses, whether their reporting is unbiased, free, well informed and neutral. Freedom of press is important for every democratic country. Every organ of the state is accountable to each other and to the people in general. No one is above law and media shall not be an exception to this. The media should be accountable to themselves and should adhere to the ethical codes, rather than be forced by law making agency all the time.

1.6 Methodology

The researcher has tried to incorporate the principles of research method in this research. The steps involved in the present legal research are as follows, the identification of the problem, the formulation of hypothesis, the collection of data through the secondary sources, the organising and arranging of data, the analysis of the data, the interpretation of data and the drawing of the conclusion or the resultant based upon the interpretation of the data. The steps of the sampling techniques are not included in the research, as this research is purely doctrinal. So also the techniques of coding and decoding are not included in the research. The research design includes all the steps from the identification of the problem, till the scheme of chapterisation which are explained in this chapter of introduction.

1.7 Review of literature

The book 'Media in the Modern India' written by Dr. Manoj Ranjan consists of 318 pages and is divided into five chapters. The first chapter is the introduction, which introduces the topic and deals with the pioneers of Indian Journalism. Further the author has dealt with the types of journalism such as print journalism, advocacy journalism, yellow journalism, environmental journalism etc. The second chapter consists of Media in Indian perspective: the Gandhian era. This chapter deals less with the concept of history of the media and more with the Gandhiji's journey to journalism. Each and every minute details of Gandhiji's freedom movement and the role of the media in the freedom movement have been dealt elaborately in this chapter. Media and the Globalised world is the title of the third chapter of this book. Initially in this chapter, author has commented on the impact of the globalisation and the technology upon the media. Further the author has analysed the journalism freedom in twenty five countries altogether. So also the comparative analysis of the legal restraints prevalent in various countries has been dealt with, along with the problem of the global journalism.

The fourth chapter deals with the concept of media trial. Issues like the political expedience, ethics of the sting operations, violation of the law and the sting operation, impact of the pre-trial publicity etc, has been dealt with. The author is of the view that the media should be regulated by

evoking the courts power to punish for contempt. Further he has expressed that the media trial has more negative impact than the positive.

The last chapter is titled as the impact and analysis. In this chapter the author has analysed the role of media from pre independence till to date. The author is very critical about the role of the media and has stated that the media should not indulge in shallow reporting for any personal or professional gains, but only be a neutral messenger.

The book, Cases and Material on Media Law, authored by Ram Jethmalani and D.S. Chopra, consisting of 1675 pages, and ten chapters; is a very exhaustive and informative text on Media Law. The authors of this book have analyzed not only the constitutional provisions, but also almost all the statutory provisions relating to the media law. The endeavor of the authors was to analyze the judicial pronouncement which falls under the legislative enactments related to media law. In this book, first and foremost, the constitutional provisions related to freedom of speech and expression is discussed in detail with ample case laws. The complicated counters of freedom of speech and expression have been explained with the help of case laws. A whole chapter has been devoted to the limitations on the freedom of speech and expression. The term reasonable restriction is discussed at length in the light of case laws. The authors have dealt with some of the restrictions on the freedom of press at great length. The act of defamation which occupies, a conspicuous place in the restrictions on the freedom of speech and expression is dealt comprehensively. A whole chapter has been devoted to defamation including the provisions of the Indian Penal Code relating to defamation. As compared to defamation the author has dealt with the concept of contempt of court, more exhaustively. How contempt of court is a limitation on the freedom of press has been illustrated by the Supreme Court cases. The restriction of the obscenity has also been dealt in brief by the author. The concept of Trial by Media has been handled by the authors with the help of illustrations in a very objective manner. Further the authors of this book have explained and analyzed no less than twenty five legislative enactments pertaining to media law. Each statute is systematically and comprehensively dealt with. Each provision of the statute has been stated and the amendment by which it was inserted in the statute has been stated in the book. Even the original statutes and the amended versions are included

in the book. The exhaustive text pertaining to the statutes reflects upon the author's efforts taken to write in detail the content, the sections, the substituted and amended versions of the parts of the states.

No doubt that this book is very a comprehensive study material for the students of Media Law. It contains the case laws as well as the statutes which are related to media law. The remarkable aspect of this book is that it contains most of the statutes related to Media Law. The students of Media Law can at one glance and in one text book can find the case laws as well as the statutes pertaining to media law.

The Book Facets of Media Law, is authored by Madhavi Gorakh Diwan. The book deals with the multiple dimensions of the various media laws and consists of 638 pages and seventeen chapters.

This book in its first chapter deals with various dimensions of freedom of press, like Right to circulate, right to receive information, right to report legislative proceedings, right to report judicial proceedings etc. The right to freedom of speech and expression is considered to be the offshoot of the Article 19(1)(a) of the Indian constitution. There is a lot of scope of judicial activism, and the judiciary has from time to time protected the freedom of press and media, whenever there was an attempt by the legislature to wrongfully curtail the same. This book also provides various cases laws where the judiciary has successfully protected the rights of the press and media.

However no right is absolute and the right of freedom of speech and expression also comes with certain limitations. In the very same chapter the limitations imposed on the media, under Article 19(2) are also mentioned. Sometimes, the need arises, where the judiciary has to restrict or limit the right of the press and media in the interest of justice, a glaring example of which is the pre censorship on cinematograph film. In the second chapter a very sensitive issue like the morality, obscenity and the censorship is very well handled by the author. The author does not prefer the rigid standards of the morality as laid down by the law or by the traditional tenets. She further states that the attempts to prohibit a publication because of indecency or immorality have adverse effect. It is difficult in today's era of technology, to abide by the traditional parameter of morality

and decency. The author further has given guideline to the judiciary to interpret the laws in a liberal manner so as to expand the scope of the terms indecency and immorality.

A number of cases regarding the contempt of court have been very well analysed in this third chapter, the author has stated that a few criticisms on the judiciary, will not hamper the reputation of the judiciary and its high respect. The fourth chapter deals with the defamation. The author has dealt this chapter in great detail. All the ingredients for the offence of defamation are mentioned. The chapter is rich with case laws.

With the development of media, one of the most affected legal rights is, the right to privacy. The fifth chapter deals with this aspect. According to the author, in today's age of communication and information, the right against which a heavy prejudice is caused is the right to privacy. In other countries there are several legislations which are intended to protect the privacy of the individuals, the law in India to that effect is not yet developed. In this chapter, the sting operation is also dealt with considerable detail, along with its legal implications.

The concept of Copyright has been adequately dealt in the sixth chapter. The author has dealt with almost every aspect of copyright law concerning the media. There are immense judgements of various High Courts on the issues of copyright.

The seventh chapter deals with cinema. In this chapter the author has dealt with the Cinema as an instrument of exercise of right of speech and expression, right to portray the historical events etc. The author has also dealt in detail about how the visual medium is more influential. Various judgements and the opinion of the judges have been analysed in a remarkable fashion. The author has not only dealt with the Cinematograph Films Act 1952 in considerable detail, but also has at length dealt with the concept of censorship. Madhavi Gordia Diwan has also mentioned the regulations of the cinema halls, and has concluded the chapter with the self regulations.

The rights of publicity have been dealt in a concise manner in the eighth chapter of this book. The right to information constitutes the spirit of the press and the media which occupies an important place in the book. Several statutes, which deal with the right to information, have been briefly dealt with. The salient features of Right to Information

Act 2005, has been dealt in lucid manner. Apart from these aspects, right to information in United Kingdom and European Court has also been mentioned. The aspect of hoarding political advertisements and paid news etc has been covered under the chapter of advertising.

The eleventh chapter consists of a very controversial aspect – that is the hate speech. The comparative analysis of the legal provisions of hate speech has been incorporated in this chapter. The issues of the parliamentary privileges along with the leading case laws have been dealt in chapter number twelve. The author have urged for the need for codifications in this respect. The reporting of the judicial process has been discussed in the light of the importance of open justice rules, which includes the concept of media trial in chapter thirteen. Media cannot function without the system of broadcasting; hence the concept of broadcasting is dealt in detail in chapter fourteen of this book. Each and every aspect of the broadcasting from the evolution of the broadcasting till the TRAI recommendations has been dealt exhaustively. A cursory glance has been given to the concept of taxation on the media including the impact of taxation on the circulation of the newspapers.

The sixteenth chapter can be considered as the highlight of the book, which contains the emerging trends, media ethics and regulations. The last chapter that is chapter seventeen deals with the number of statutes which can be considered as the historical foundation of the right to media and the press

The book 'Media Law' written by Dr. S.R. Myneni consists of 560 pages and is divided into five units and further sub divided into twenty three chapters.

The first unit deals with the meaning, characteristics and history of the mass media. It also deals with the classification where the media is classified as print media, books, magazines, newspapers etc. Even the media such as mobiles, video games, blogs etc are discussed. The organisational structure and management of the mass media are also dealt here in. Along with the impact and importance of the mass media on the people, the author has pointed out the difference between the visual and the non visual media. The last part of the unit consists with the number of self regulation codes.

The second unit begins with the meaning and the concept of the press. The constitutional provision of the freedom of speech and expression, inclusive of freedom of press, has been dealt in detail. The entire unit has been devoted to analysing of thirty one statutes. Some statutes are dealt in detail such as The Press and book Registration Act 1867, The Press Council Act 1978, The Contempt of Courts Act 197. Whereas the other statutes are only dealt partially to the extent of their relation to the concerned unit, such as the Official Secret Act 1923, Civil Defence Act 1968, Indian Penal Code 1860 The Criminal Procedural Code 1973 etc.

The entire third unit is devoted to 'films'. Aspects such as origin and impact of film, role of dramas, film censorship, are dealt herewith. The Cinematography Act 1952, along with the rules and orders 1961 are dealt extensively in this unit. Further the author has dealt with cine workers welfare, many other rules and orders related to this statute in the same unit.

Electronic broadcasting media radio and television constitute the content of unit four of this book. The concepts of electronic broadcast media, effects of television on the people etc are dealt here with. Government policies along with the freedom to telecast are also dealt upon. The Prasaar Bharati Act 1997 and the rules made there under are also dealt in the same unit.

The fifth unit deals with the right to information. The salient features of the Right to Information Act 2005 are discussed exhaustively and extensively under this unit.

CHAPTER—II

FREEDOM OF PRESS: THE CONSTITUTIONAL PERSPECTIVE.

Freedom of Press is an article of Faith with us, sanctioned by our Constitution, validated by four decades of freedom and indispensable to our future as a Nation.

(Former Prime Minister Rajiv Gandhi)

For the democratic functioning of a society, freedom of expression has always been emphasized as an essential and fundamental base of the society. Freedom of speech and expression which includes the freedom of press,¹¹ is considered as the backbone of the democratic society. The extent of the freedom press enjoyed by the press is regarded as the parameter or credentials of democracy of a state. The Press plays an important role because it provides all comprehensive and objective information of all aspects of the country's Economic, Political, Social, and Cultural aspects.

If the democracy has to be meaningful and function effectively, then a free press is a sine qua non. Which is why very often the freedom of press is described as the oxygen of democracy; and without which a democratic society cannot survive. It is visibly evident, especially since Independence, a free and vigilant Press has acted as a vital agency to curb corruption and injustice. In addition, another important role, the press plays is to formulate the public opinion which helps on one hand imparting the knowledge to the society and on the other hand restraining the tyrannical actions of the government.

Right of freedom of speech and expression is incorporated in Article 19 of the Universal Declaration of the Human Rights, 1948. It states that everyone has a right to hold opinion without interference. This right of freedom of expression includes the right to hold opinions to receive and impart information either orally or in writing or in any other form through any of the agencies of the media. Article 19 of the International Covenants on Civil and Political Rights 1976 also incorporates the right of freedom of speech and expression. In India the right of freedom of speech and expression is incorporated in 19(1)(a) of the Indian Constitution. This

¹¹ *Infra*; p. 37

right of freedom of speech and expression is a fundamental right in the Indian legal system. The right to free press does not exist independently and is incorporated in the right of freedom of speech and expression; and hence the right to free press is regarded as a fundamental right.

The press is regarded as the fourth pillar of democracy, as it is a potent check on the policies of the government, which are formulated with malafied intentions. The press also acts as a means for keeping the elected officials responsible to the people who are supposed to serve. The press not only brings to the notice of the society, the crimes, which otherwise would have gone unnoticed; but also plays a crucial role in initiating legal proceedings in such crimes, thereby ensuring justice.¹²

The literal meaning of 'Freedom' means absence of control or lack of interference from any authority; so also it means no restrictions. Here freedom of press means the right or the liberty to print, publish or paint without any interference from the state or any other public authority. But according to the principles of Jurisprudence no right or freedom or liberty can exist absolutely without restrictions; hence freedom of press is also demarcated by number of restrictions¹³. So here freedom of press means the liberty to print, publish, or paint within the ambit of rational and reasonable restrictions. The whole game is that, what should be the sphere or area of freedom and what should be the demarcating lines of that freedom. When it is said that the freedom of press prevails, then it means that liberty of the press exists within the brackets of restrictions. The crucial aspect is where one should draw the demarcating lines of restrictions; and how much sphere should be allowed for the freedom of press.

1. History of the press

a. Aspects related to the freedom of press

Expressing oneself is inherent in a human being, which is beyond the scope of any legal parameters and hence the freedom of press in a crude form has always prevailed since ancient times. To put it in other words freedom of press has not prevailed because of any legal sanctions, but is born with the human being. The very first signs of the press are visible in the writings and paintings on stones, woods and walls several centuries before

¹² Infra; p. p.136-149

¹³ Infra; p. 59

Christ. In India many great Emperors had carvings, like Emperor Ashoka's edicts on stone which are seen even today. After the invention of paper, freedom of press started getting a concrete shape in the form of state records pertaining to the messages from the spies. However this was a rudimentary form of press. Later not only the messages were being sent, but important messages were being sent throughout the region with the help of some crude method of communication. Letters, bringing news are considered to be the first form of newspapers. Such letters bringing news were called as 'Newsletters and were regularly issued during the Mughal and the Hindu regime. This practice has continued until the East India Company arrived on the soils of India.

b. Existence of Press in Pre- British era

In India the first reference of press can be traced to the Muslim era. The Mughal rulers used to select efficient people and hire them for reporting to them the position of their kingdom. Such hired reporters had to send to their king, the messages regarding the grievance of the masses and the expectations of the people. They also had to inform to their king about the corruption and injustice prevailing in his court and region. Even the wants, needs, necessities, desires, aspirations had to be reported to king by such informants. So the king became aware of these issues through the messages sent by those informants. This can be regarded as the form of press prevailing in India. Even in those times independency of the informants (press) needed to be secured, and hence these people were directly appointed by the king. They were not only highly paid but also their tenure was secured as they could be removed only by the king himself and no one else. Hence they could not be influenced by any court officer, irrespective of his rank, and could report freely and fearlessly. This policy played a significant role in maintaining the empire for centuries and can be regarded as the foundation of free press.

If compared to the modern era, the press prevailing in Mughal period can be termed as an in house circulation rather than public circulation. This in house circulation served an important function that is, to give guidelines to the king for better administration. Giving guidelines to the government for better governance is the most essential and fundamental function of the press, which was fulfilled by the role of informants during that era.

Here it is important to note that this informal press in pre-British period was not intended for the circulation of the general public. The only purpose of this system was to provide

information to the king, and enable him for better administration. The major difference was that such reports were not accessible to general public but were prepared exclusively for the king.

c. Status of press in British era

It is already been seen in the previous pages that the essence of press prevailed even before the Britishers came to India. Nevertheless, the Britishers developed the concept of press to a great extent. The establishment of the system of press became more refined after the industrial revolution. In 1674, the first printing press was established in Bombay. In 1772 the second printing press was established in Madras.

In 1776 William Bolts, a former employee of the East India Company had simply expressed his intention to start a newspaper. To further his intention he only pasted a notice on the gates of the Council Hall intimating the people, that he had in his possession 'in manuscript', and had many things to communicate which were of utmost concern to every individual. William Bolts had to face the axe of censorship, even before he actually started the newspaper since he was asked to leave Calcutta and proceed to Europe.

In Calcutta first printing press was started in 1779, and the first newspaper was started in 1780 by James Augustus Hickey, an Irish person. Hickey wanted it to be known to the society that this paper was free from any political influence and hence he named it as "A Weekly Political and Commercial Paper open to All Parties but Influenced by None". In his weekly, Hickey had criticized the policies of Lady Warren Hastings. Warren Hastings was the then Governor General of India. He immediately used his powers and issued an order for seizure of the printing types. Thus in March 1782 the paper was closed. The life of this paper was very short because the executive authority had cut the throat of freedom of press. The battle between the free press and its suppression by the executive authority has become the bone of contention since then till to date.

For the first time the censorship was introduced in the year 1795. The classic example of the pre censorship can be seen in the case of the 'Madras Gazette', wherein it was asked to submit to the Military Secretary all the general orders of the Government for censorship before publication. The British Government resorted to three methods to curb the right of free press.

- (i) Pre-censorship
- (ii) The denial of postal privileges
- (iii) Deportation of the editor and publisher.

The first Regulations of censorship were promulgated by Marquess of Wellesley which continued until 1799. The Wellesley regulations involved the following aspects

- (i) It required the newspapers to print the names of the printers, publishers and editors.
- (ii) It also required to submit all the material for pre-censorship by the Secretary to Government of India.

Warren Hastings abolished all these above regulations.

The Bengali newspaper Samachar Darpan was published in 1818. The year 1822 is a landmark year because the Bombay Samachar was published in this year. The Bombay Samachar is very famous and is still prevalent today and is the oldest newspaper in Asia.

The main focus of the Indian newspapers was in those days was mainly the following

- (i) To unite the Indians and form groups
- (ii) To awaken the notions of nationalism among the Indians.
- (iii) To inspire the people to join the freedom movement.
- (iv) To highlight and criticize the discriminating policies of the British Government.
- (v) To demand the civil rights for the Indians.

The paper Indian Mirror was in line with the above objectives and was popular. Girish Chandra Gosh started the newspaper, Hindi Patriot which strongly demanded the appointment of Indians at high posts. The proprietors of Amrita Bazaar Patrika which was a weekly, were tried and convicted for sedition because it was very critical of the policies of the government.

British rulers imposed a number of legal restrictions on the press mainly to curb the freedom movement. As J. Natrajan says, 'the first two decades of the 19th century saw the imposition of a rigid control of the press by Lord Wellesley and Warren Hastings.'¹⁴ The newspaper regulations

¹⁴ Jain M.P., Legal History

not only controlled the circulations but even a strict watch on the content of newspapers was kept for example the Adams Regulations of 1818 controlled the content of the newspapers. Crown rule in India also imposed restriction on newspapers.

Gangadhar Bhattacharya started the first Indian owned newspaper, the Bengal Gazette. Inspired by this newspaper, several newspapers were published, and hence the press had started making rapid strides. Vernacular papers started receiving wide appreciation and readership like Urdu and Persian papers in north-west India, the Marathi in Maharashtra, and Gujarati in Gujarat press had started to make their presence felt. By 1850, newspapers in Hindi and Malayalam, Kannada, Tamil, Oriya, Assamese and Punjabi appeared.

The 1857 revolution had tremendous limiting impact on the freedom of press in British India.

Lord Lytton, knew that the foundation of the freedom movement was the press and was worried over the increased impact of the writing in the press, especially the language press. Hence he passed the draconian legislation to almost uproot the right of free press. With this view he enacted the Vernacular Press Act on March 1, 1878. This Statute came down heavily on the press. Under this regulation, any District Magistrate or a Police Commissioner was empowered to take any of the following action

- (i) To force the printer and publisher of a newspaper to agree not to publish certain kinds of material,
- (ii) To demand security,
- (iii) To confiscate any printed matter, if it was deemed to be objectionable.

Because of such wide powers granted to the District Magistrate and also to police commissioners, The Vernacular Press Act, 1878 was the greatest blow to the freedom of the Press in India. This is why the Vernacular Press Act has been nick named as the Gaggling Act, as it gagged the voice of the free press.

In the later years the freedom of press had to face a lot of hurdles because of many legislations passed by the British government. To name a few - Sections 124-A and 505 of the Indian Penal Code, 1860, the Press and Registration of Books Act, 1867 the Indian Official Secrets Act, 1889.

A famous leader of Maharashtra, Mahadev Govind Ranade, awakened the consciousness of downtrodden masses by writing in Gyan Prakash as well as in Indu Prakash. In 1881, Bal Gangadhar Tilak started another Marathi weekly, Kesari which became very famous. Another weekly journal, Maratha in English, was started by Tilak along with Agarkar and Chiplunkar. Nam Joshi the editor of the 'Daccan Star' also joined them and his paper was incorporated with Maratha. In his paper, Tilak wrote very strongly against the British government and Diwan of Kolhapur. Hence Tilak and Agarkar were convicted for such writings. Tilak's Kesari became one of the leading newspapers to propagate the message of swaraj movement. Kesari highlighted the anti-partition movement of Bengal and presented it as a national issue. The Sedition ordinance was also opposed in 1908 by Tilak, and hence he was exiled from India for six years. Later Hindi edition of Kesari was started from Nagpur and Banaras.

As the revolts against the British government were on the rise the British government wanted to put its axe on the ambit of freedom of speech and expression. With the object to curb the revolution movement, Lord Morley Minto had promulgated the Newspapers (Incitement to Offences) Act 1908. This ordinance empowered the local British Authorities to penalise the editor of a newspaper who published such matter which would constitute an incitement to rebellion.

From the above discussion it is evident that the British government exercised stringent control on the freedom of press to retain their power and to restrain the freedom movement. It is to be noted that the British Government was in the favour of curtailment of freedom to press; because it wanted to curb, prohibit and suppress the independence movement.

2. Freedom of press – Constitutional status

Every legal system is founded on constitutional principles. The same is true with the Indian legal system, as it is based upon the Indian Constitutional law. To put it in other words, every right, liberty, power, immunity or liability has to be rooted in the constitution, only then, it can be invoked. Similarly freedom of press has been incorporated in the constitution and hence this right can be invoked by the citizens of India.

The constitution of India incorporates the freedom of press in two aspects.

- (i) Preamble
- (ii) Article 19(1)(a)- Right to freedom of speech and expression

(a) Preamble

The Indian Constitution opens with the preamble. The preamble is considered to be the essence and the spirit of the Constitution, and hence it is considered to be a very vital part of the Constitution.

The citizen is guaranteed the liberty of expression by way of Preamble of the Indian Constitution. It states that the citizen has the liberty of thought, expression, belief, faith and worship. The liberty of thought and expression includes the right of free press. The right to free press is impliedly included in the ambit of liberty of thought and expression. The aspect of human liberty is regarded as the cardinal principle of human life, hence liberty occupies a special place in the Indian Constitution.

Similar provision regarding the freedom of the press was already included as part of freedom of speech and expression under the Article 19 of the Universal Declaration of Human Rights (1948). The heart of the Article 19 says that everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers¹⁵. The freedom of press in India is on similar lines of Article 19 of the Universal Declaration of Human Rights (1948). It is to be noted that freedom of press was considered to be so important by our founding fathers that it found place in the preamble itself.

(b) Constitutional provision – Article 19(1) (a)

After independence when the new constitution was being framed, the question before the framers of the constitution was that, whether to have a separate legislation just like the first amendment of USA,¹⁶ or to follow the English way, where freedom of press is included in freedom of speech and expression. Chairman of the Drafting committee Dr. Babasaheb Ambedkar strongly argued that “The press is merely another way of stating an individual or a citizen. The press has no

¹⁵ Manoj Kumar Sadual, Freedom of Press in Indian Constitution: A Brief Analysis, International Journal of Applied Research 2015; 1(8): 194 -198

¹⁶ The First Amendment guarantees freedoms concerning religion, expression, assembly, and the right to petition

special rights which are not to be given or which are not to be given or which are not to be exercised by the citizen in his individual capacity. The editors of press or the manager are all citizens and therefore when they choose to write in news paper they are merely exercising their right of freedom of speech and expression and in my judgment therefore no special mention is necessary of the freedom of press at all¹⁷.

In India therefore there is no separate law relating to the press prevails, and the same is protected under Article 19(1) (a) of the Constitution of India.

Article 19(1) (a) guarantees six freedoms in all, which are as follows.

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India; and
- (f) Right to property (deleted) now incorporated in Article 300A.
- (g) to practise any profession, or to carry on any occupation, trade or business.

One of the fundamental principles of jurisprudence states that for any right to be effective has to be bridled with limitations, and so is the case with six freedoms. So Article 19(1) confers six freedoms on the citizens, and from Article 19(2) to 19(6) limitations are imposed on the six freedoms mentioned in Article 19(1).¹⁸

Freedom of press is impliedly included in the freedom of speech and expression under Article 19(1)(a) of the Indian Constitution. Some legal experts have opined that there is a hairline difference between the four notions of, right to speech, right to expression, right to freedom of press, and right to information.

For the perusal of academic interest let us examine the subtle difference between these four aspects.

(i) Freedom of speech

¹⁷ Constituent Assembly Debates, Vol. VII p 780 (2nd December 1948)

¹⁸ Infra;p 59

Freedom of speech essentially denotes the ability to communicate the ideas and information to other persons. The wide meaning of freedom of speech includes freedom of writing, speaking, printing, or publication.

(ii) Right to expression

Right to expression is a very broad term and includes many aspects such as all actions of expression which include speaking, writing, printing, singing, dancing, painting, carving etc. It is true that right to expression is very broad, and may include right to speech.

(iii) Freedom of press

Freedom of press includes right of printing and publishing. It means that individual expresses his views in the form of printing. Hence freedom of press includes freedom of speech which is expressed in the form of printing and publishing. The essence of freedom of press lies in the wide circulation and its access to mass media. In the cases of newspapers, or journals, television or radio network, the managers or the proprietors have the last word in the broadcasting or publishing the contents.

(iv) Right to information

Right to information is at right angle with the freedom of speech and expression. The right to information is not concerned with the aspect of expressing that is giving but emphasis on gathering or taking information. So the right to information deals with the aspect of getting access to information. The term “Freedom of information” was invented by United States. The right to information is incorporated in the freedom of information Act. A similar provision prevails in Canada under the Access to Information Act. In India, the right to information is an upcoming right, incorporated in the Right to Information Act 2000.

These four terms are neither synonym of each other nor are they completely distinct from each other; but they are correlated to one another. The core is the freedom of speech, and the fringe is freedom of expression which includes freedom of speech. The freedom of press includes both freedom of speech and expression, whereas the right to information overlaps to a certain extent over the right to freedom of press.

(c) Importance of freedom of speech and expression and freedom of press.

Freedom of speech and expression is an essential aspect of liberty as stated in **Maneka Gandhi v Union of India**¹⁹. The founding fathers of the Indian Constitution have laid much importance on the fact that freedom of speech and expression should be one of the fundamental rights of an individual. So they have placed the freedom of speech and expression in the Article 19(1)(a) which is a constituent part of the chapter on fundamental rights incorporated in the Indian Constitution. There are six freedoms secured in the Article 19(1)(a), and the freedom of speech and expression is ranked first among the six freedoms incorporated in the said Article of the constitution. To express oneself, is an inborn instinct of every human being, and it would not be wrong to say that deprived of freedom of speech and expression a human being would not be a human being. Speech and expression is not only the liberty of an individual but it is one of the basic necessities of the human being. It is because of speech and expression that the human being can not only be developed but also are capable of expressing other emotions and feelings. The freedom of press is one of the most important agency of communicating one's speech and expression. Hence the freedom of press performs very vital functions of the society.

(i) The freedom of press is denoted as the backbone of the democracy. This is the most basic functions performed by the freedom of press. It is because of the freedom of press that the democracy survives. Democracy means the government of the people, by the people and for the people. The press makes it possible for the government to know the moods and necessities of the people. Simultaneously the press communicates to the whole society, the intention, policy and measures of the government.

(ii) The press is considered to be the most influential medium of communication, because of its very wide horizons. That is why freedom of press is a very precious freedom.

(iii) The freedom of press assists to uncover the truth.

(iv) The press today is considered as an instrument of imparting education. (v) The press helps in creating, moulding and commuting public opinion. That is why the press is considered to be an instrument of change.

¹⁹ AIR 1978 SC 597

(vi) As the press makes the government action public, it is responsible to make the government officers responsible and accountable.

(vii) The press plays the role of public vigilance and acts as effective checks on the malpractices and corruption, not only on the government officers but also on the private individuals.

(viii) The language press strengthens the bonds of the community within the state and thus helps in achieving stability and solidarity in the nation.

(ix) The press and the digital media are very useful and popular because they deliver and circulate accurate news at a lightning speed.

(x) Last but not the least the press and the media act as an eye opener of the society.

(d) Rights of press

Before one moves to the intricate issues of the freedom of press, one has to have clear understanding of the word press. The word press has got two meanings as follows:

(i) The core or common meaning – strict interpretation

(ii) The wider horizon of the word press.

(i) The core or common his meaning – strict interpretation.

The core meaning or the common meaning of the word press means the printing press. It includes all the physical aspects of the printing press. It is clear from this meaning that is very narrow meaning or a very strict interpretation of term press. This meaning is not sufficient to understand the various aspects of the freedom of press; so one has to turn to the wider meaning of the term press.

(ii) The wider horizon of the word press

The word press in its wider perspective includes all printed material printed in the printing press, like newspapers, journals, magazines, periodicals, pamphlets, leaflets, books, handbills,

documents or any other printed material. Further the term press includes within its ambit agencies, feature agencies, press and syndicates,

Newspaper constitutes a major part of the term press. Newspaper is sometimes used as a synonym for press. The tussle between the freedom of press and the restrictions imposed by the state is due to this newspaper which is considered as a vital ingredient of press.

The term 'Newspaper' includes "any printed periodical work. It includes the following;

- (i) Public news
- (ii) Criticism, comments or analysis of public news
- (iii) Statements of facts or the interpretation of facts
- (iv) Opinions of various people or opinion through editorials
- (v) Advertisements

Newspaper performs extremely important functions in the society such as

- (i) Imparting and circulating news
- (ii) Creating and moulding of public opinion
- (iii) Imparting education and is considered to be a source of enlightenment.
- (iv) It is source of entertainment
- (v) It is considered as a medium of advertisement and publication²⁰.

Since the newspaper performs these vital functions it is considered as the life of the society. As the newspaper creates and moulds the public opinion, it is considered to be a very very powerful instrument in the hands of the editor or the publisher. So the first aspect of the press is occupied by the newspapers.

²⁰ Dr. S.R. Myneni, Media Law, (Asian Law House,2013),pp.32-37

Since freedom of expression includes the freedom to proliferate one's own views as well as of others.⁴⁰ It also includes communicating those views to others. Freedom of the Press includes the following rights;

(i) Printing and publication of news. **In Re Daily Zemmedar**,²¹ it was stated by the judiciary that the printing and publication of the news was the essential right of the press. Further it was also stated by the court that it is the right of the press to print the facts of contemporary history²²

(ii) The second right of the press includes to print views or opinions. **The Supreme Court of India has laid down in Gopal Dass v. D.M.**,²³ the freedom of press includes printing of editor's or author's views. Further the Supreme Court has also held in **Sharma v. Srikrishna**²⁴ that printing of views not only includes the editors or authors views but also the views of any other people who have printed the views under the directions of the editor, author or the publisher.

(iii) The right to free press not only includes to publish views but it also includes to dispense and circulate those views in the entire society as was decided in **Romesh Thappar, v. State of Madras.**²⁵

(iv) The freedom of press includes within its ambit the right to discuss and publish the views pertaining to such information which is necessary for the members of the society to cope up with any urgent need or demand of that period. This information may not be related to any political or public matter or issues.²⁶

(e) Scope of the powers of the press

According to Hohfeld 55 , rights in the wider sense include powers, immunities, privileges and liberties. These powers which are enumerated in the forthcoming pages can be describes as rights or immunities, privileges or liberties

It is true that there is no separate freedom for press in the Indian constitution. But it is not the case that the press and media do not get any rights. On the contrary, various rights of press are

²¹ AIR 1947 Lah 340

²² Ibid.

²³ AIR 1974 SC 213.

²⁴ AIR 1959 SC 395

²⁵ (1950) SCR 594

²⁶ Thornhill v, Alabama, (1950) 310 US 88 (102); Time, Inc., v, Hill, (1967) 385 US 374 (388)

not only recognized, but also protected. It is the judiciary who protects the rights of the press and media through its various thoughtful judgments. The judiciary has time and again upheld the freedom of expression of media from the arbitrary actions of the state who has tried to curtail the freedom of press taking various defences.

The difficulty in protecting the press is that, there are various components of press, these components cannot be limited, and the new components keep on evolving with the development in technology. Though it is not possible to discuss all the components, a few are discussed.

(ii) Power to project criticism

The right to criticize is of such a nature that one cannot survive without it and neither can one bear it. This right is a very potent right and has to be exercised with utmost care and caution. On the basis of this right the press gets the authority to criticize the government, its officials, its policies or its plans. However the press cannot take undue advantage of this right and cannot entice the people against the government or cannot lay foundation for any rebellion or mutiny or insecurity of the state or the government. In such a case the press would be acting outside the scope of its constitutional right of freedom of speech and expression.

On the other hand the government should be open and appreciate the criticisms projected by the press. So also the right to criticize of the press helps the society to know the demerits, faults or the shortcomings of the government. In other words, this right acts as an eye opener to the society. In a healthy society on one hand the right to criticize should be exercised fairly, rationally, and objectively by the press and on the other hand the government should accept the criticisms with an open mind and make an attempt to improve upon them.

(ii) The power to report the court proceedings.

According to Bentham 'publicity is the very sole of justice'²⁷. Bentham has said this because he felt that, if the government is allowed to function in a secretive manner then there is lot of scope for the miscarriage of Justice. Therefore all the actions of the government including the judicial proceedings have to be made public or transparent. When the court proceedings are held in the open there is less scope for any bias to prevail. Hence any individual as well as the press can

²⁷ **Scot v. Scot 1913 AC 417**

attain the court proceedings. The only difference between the individual and the press is that the press enjoys more liberty or rights as compared to the individuals. The press enjoys the privilege of sitting in the press bench and also receives any information regarding any proceedings on account of the citizens right to be informed on matters of public importance.

The Supreme Court in **Sahara India Real Estate Corpn Ltd v SEBI**,²⁸ has held that there is no doubt that it is the media's right to report the proceedings of a case and the superior courts could not postpone the said reporting of the case for some duration without reasonable cause or in the interest of justice.

In **Saroj Iyer v Maharashtra Medical (Council) of Indian Medicine**,²⁹ the court held that the right to publish a faithful report of the proceedings witnessed is available even against quasi judicial tribunals.

As far as the proceedings in camera are concerned the judiciary is of the firm opinion that the power to exercise the proceedings in camera has to be sparingly used and that too with great care and caution. So also the court in **Naresh Shridhar Mirajkar v State of Maharashtra**,³⁰ has held that the power to hold the proceedings in camera should be invoked only if the court is satisfied; that, it would result in injustice if the matter was tried in the open court.

(f) Restrictions on the freedom of press and media.

According to Hohfeld every right has a corresponding duty. It means that if 'A' has the right of freedom of speech and expression, then others have the duty not to commit any act which would prohibit 'A' from exercising his speech and expression. This is absolutely true because if the duties are not performed then the rights cannot prevail. Another parallel principle of jurisprudence which prevails is that no concept can exist without limitations. To put it in other words every legal concept is demarcated by limitations or restrictions. The role of restrictions is very important for the individuals as well as the state. The functions of limitations or restrictions are twofold.

²⁸ AIR 2012SC 3829

²⁹ AIR 2002 Bom 97

³⁰ AIR 1967 SC 1

- (h) When the scope or the sphere of the right is demarcated by limitation then the individual gets a clear idea about the extent of his right. That means he knows what he can do and what he cannot do.
- (i) The second function of the limitation is that the state can restrict the individual's action which is beyond the scope of the right. The limitations or the restrictions in such a case amount to the power of the state to curtail the right which is exceeding its scope.

Under the Indian Constitution right to six freedoms are enumerated in Article 19(1), and the restrictions are mentioned from Article 19(2) to 19(6). So actually Article 19 on one hand confers the rights to the individuals under Article 19(1), and on the other hand Article 19 confers power to the state to curtail these rights under 19 (2) to 19(6). So Article 19 simultaneously confers the right and powers to take away the right. The best method to understand the nature and scope of a right is to understand the restrictions or limitations placed on that right.

(g) Press Commissions

The law relating to the press is a very ancient law and a need was felt to update these laws with the help of independent body. After 1947 the need was felt that the state of the press should be examined by an authority. With this object the Press Commission was appointed in India. This Press commission had to scrutinize the structure, the organs, powers and functions of the press and had to submit the report to the parliament.

The First Press Commission Report, 1954

The first Press Commission was established in the year 1952. The Secretary of the first Press Commission was Mr. S. Gopalan who was an eminent scholar. Along with Mr. S. Gopalan ten other members were also appointed in the Commission. This first Press Commission took two years to table its report before the Parliament, and the report was submitted on July, 17, 1954.

- (i) Enquire into the status of the press in India
- (ii) Suggest measures for the future development of the press.
- (iii) To scrutinize the ownership and financial structure of the press.

(iv) To assess the control and management of press, periodical press, news agencies and press syndicates.

(v) This Commission had to analyse the functioning of the monopolies; and also assess their impact on the accuracy and fairness of the news.

(vi) The impact of holding companies on fair news.

(vii) Assess the distribution of advertisements

(viii) Suggest methods to control the external influence on the development of healthy journalism.

Second Press Commission

The Second Press Commission was appointed in 1977. The esteemed and renowned Justice P.K. Goswamy was appointed as the Secretary of the Second Press Commission. During this time there were many disturbances in India as there was a change in the government. Due to some internal differences he resigned. The Commission was reconstituted in 1980 with Justice Mathew as Chairman. The report was published in 1982 with the following suggestions.

(i) It suggested the codification of parliamentary privileges. It was of the view that the parliamentary privileges were a threat to the free functioning of the press and was of the opinion to curtail some of these parliamentary privileges.

(ii) It was of the view that the publication of corrupt or improper judicial conduct should be non punishable. If this corrupt or improper judicial conduct was the true fact then truth should be a valid defence available to the press.

CHAPTER III

ROLE OF MEDIA IN MAKING PUBLIC POLICY ON INDIA'S CRIMINAL JUSTICE SYSTEM IN CRIMINAL BEHAVIOUR

The relationship between crime and mass media's perception about it are essential to formulate criminal justice system in Criminal behaviour. Mass media play a crucial role in public policymaking and the media coverage of crime news stories helps to set the agenda and reinforce support for punitive policies.

Review of research literature suggests that there is an interchange between media representations of crime, criminal behaviour, and the public policy on criminal justice system in Criminal behaviour. Crime stories are commonly presented as dramatic entertainment, and infrequently one can read an in-depth analysis of the legal, criminal justice, or societal problems that are concerned. Once the media places its issues in prominent positions and set the agenda, the media subsequently primes audiences to believe that those issues merit more attention. Two notable studies that offer critique on representations of crime in the media, and their impact on public policy: R. Surette's *Media, Crime and Justice*³¹ and K. Beckett and T. Sasson's *The Politics of Injustice*³². Media are the primary source of political information for most of the Indian citizens. Media's role in a democratic polity is to provide transparency and accountability, and to raise the public awareness and to facilitate a place for public discussion.

Two apprehensions about media representations of crime are: the 'respectable fear' and that they are a means of 'social control' and discipline. The connection between representation of crime in the mass media and augmented fear has links to punitive attitudes. A significant study related to the fear and panic constructed is Stanley Cohen's research that studied the influence of the media in either creating or cultivating a moral panic. The concept of moral panic was articulated by Cohen in his study of the 'Mods and Rockers' phenomenon. Mass media helps to maintain social order and police ideological boundaries, through demonizing offenders, the process that Cohen labelled the creation of 'moral panics'.

³¹ Sara Sun Beale (2006) *The News Media's Influence on Criminal Justice Policy: How Market-Driven News Promotes Punitiveness*, *Wm. & Mary L Rev* 48: 397-481

³² Michael M (1992) *Hollywood vs. America: The Explosive Bestseller that Shows How-and Why-the Entertainment Industry Has Broken Faith With Its Audience*. London: HarperCollins.

There is a long history of moral panics about the effects of exposure to popular media and cultural forms. There are two perceptions about the moral panics constructed by media: for conservatives, the media glamorizes the crime and trivializes public insecurities; whereas for liberals, the media exaggerates the crime and produces moral panics to justify an authoritarian crime control policy.

The kinds of punishment given are subjective to the political climate of a society. It's often argued that the law aims to punish the guilty mind and not the individual. Punishment is used as a method of reducing the incidence of crime by deterring or preventing the repeat of offences.

Emile Durkheim asserts that all societies have crime, since all societies involve a variation between that are allowed and that are outlawed. The outlawed acts are labelled as crime. Durkheim argued that crime is a natural social activity and 'an integral part of all healthy societies'. Human crimes are not punished too heavily because one person's injury does not threaten the entire society, stated Durkheim in one of his study.

Malinowski believes that all the legal institutions are platforms for controlling illegal affairs, and for giving vent to the feelings of oppression and injustice unleashed against the individuals. Michel Foucault (1979) points out that by the eighteenth century the masses could sympathize with the accused and 'the people never felt closer to those who paid the penalty than in those rituals intended to show the horror of the crime and the invincibility of power exercised without moderation or restraint'.

Agenda setting role of media

Agenda-setting theory is concerned with how the media constructs representations of the world and in turn how this influences the people to see the world. Berelson, Lazarsfeld, and McPhee's influential study on voting notes that media prioritize specific stories over others, or by airing a significant volume of news reports related to some policy domains, ignoring others. McCombs and Shaw's Chapel Hill study concludes that the media can effectively set the public agenda by constantly and blatantly featuring a few issues in their news coverage. Cobb and Elder's work focuses on the sources of the policy agenda, that is, the 'general set of issues that are communicated in a hierarchy of importance at a point in time'.

By covering news on one issue while ignoring other issues, the mass media draw attention to certain aspects of politics at the expense of others. Legitimacy for governing is reliant on the

consensus of the ruled, and it is believed that policymakers generally should not envision actions that are outside of the limits placed upon them they serve. Hence, public opinion is a legitimate consideration for policymakers when making decisions.

Soroka suggests a typology making the difference between sensational, prominent and governmental issues. Sensational issues are manifest by dramatic events and thorough media coverage, difficult to ignore by politics. Prominent issues are those where people and politicians have their personal experiences and media coverage has a moderate effect on policy agendas. Governmental issues are highly technical with very limited interest for the media or the public.

Kurt Lewin pointed out that 'reality for the individual is determined by what is socially accepted as reality'. There are three arguments that are to be discussed from Lewin: 1. Media set the agenda and designed the significance of certain news, affecting Governments' decisions and policies, and it guides people's attitude and trust towards government. 2. Media agenda setting would shape the public perception about social issues that media set them as important. 3. Government and people's attention would be drawn by agenda setting of specific positions on economic news, and their attitudes might be transformed after then.

The media shapes societal perspectives on criminal justice

Studies show that the mass media shapes social perspectives of the criminal justice through molding public opinion, and public policy. Eamonn Carrabine observes that the 24X7 round the clock news coverage of criminal issues contribute to the cultural climate of fear. In the process, media representations can negatively influence perceptions on crime-related issues, and interfere with the implementation of crime prevention policies. 'The representation of violent crime by the media leads to larger understanding of crime and justice that translates into public policies'. Crime prevention practitioners emphasize the prominence of prevention strategies characterized by long-term action, and based on a solid diagnosis that takes into account the complexity of the crime. James C. Hackler refers to the types of crimes disregarded by the media in Canada, such as white collar and environmental crimes. He points out the cautious absence of these crimes in the media is primarily due to the politicization of crime, which results in inaccurate perceptions on crime and inappropriate policy decisions, which results in ineffective crime control policies. Public attitudes towards crime and punishment play an acute role in constructing criminal justice policies. Public confidence in the Criminal justice system in Criminal behaviour is critical for the effective functioning of justice. Public attitudes on crime and punishment are shaped by the

media. Misconceptions of crime and punishment generated by the media create a lack of confidence in the Criminal justice system in Criminal behaviour. Consequently, the public demand harsher punishment for offenders.

According to Hayward and Young], the media and the public are always obsessed with crime. The crime news coverage ensures a ready audience and it has been a persistent theme in popular culture throughout the twentieth century. The advancement of a public policy begins with the recognition that a problem exists. The pre-policy stages are: issues formation, policy demands, and agenda formation. By entertaining people with crime by the media, newspapers sales figure rises up, but ultimately it distorts the public understanding of crime as a serious social problem. The proportion of media content that is filled with crime stories depend on the definitions of crime used by a community. Richard Ericson and his colleagues studied ‘the social deviance and how journalists participate in defining and shaping it’. Deviance refers to ‘the behavior of a thing or person that strays from the normal organizational procedures and violations of common-sense knowledge’. Deviance is the defining characteristic of what journalists regard as newsworthy. The news media parallel the entertainment industries in their focus on stories of crime, and this is true with the reality television and other forms of infotainment. Crime narratives and representations are a prominent part of the content of all mass media.

Case history of Salman khan’s hit-and-run case

Based on the news reports appeared in the popular Tamil and English language newspapers, the following sequence of events were compiled on the Salman Khan hit-and-run-case:

On September 28, 2002, Salman Khan’s Toyota Land Cruiser (Registration No.MH 01DA32) crashed into the pavements at Bandra, killed one person and injured four others. Salman Khan’s bodyguard, deputed by the Maharashtra State Police, Ravindra Patil, filed the First Information Report at the Bandra Police Station, without any delay. Police took the blood samples of Salman Khan and he was arrested by the Bandra police and booked him under provisions of Indian Penal Code (IPC), Motor Vehicles Act, 1988 and Bombay Prohibition Act, 1949. He was granted bail. In October 2002, Mumbai Police invoke section 302- II of IPC, (culpable homicide not amounting to murder), which would attract a punishment of 10 years of imprisonment, if convicted.

In March 2003, Salman Khan challenged the application of IPC 302-II, in Mumbai Sessions court. In May 2003, the Sessions court rejects his plea, asks Magistrate court to frame charges against him. In June 2003, Salman Khan moves Bombay High Court, which felt that section 302-II of the IPC will not be applicable to the case.

Subsequently, in October 2003, the Maharashtra Government challenged Bombay High Court order in Supreme Court. In December 2003 the Supreme Court ruled that the magistrate court may decide whether 302-II could be applied or not. In October 2006 the Magistrate court framed charges against Salman Khan. In May 2007, chemical analysis report suggested that Salman Khan was drunk on the date on which the accident took place.

In October 2007, Salman Khan's bodyguard Ravindra Patil died and the cause of death was declared as Tuberculosis infection. After four years, in October 2011 the Prosecution demands Salman Khan must be tried under harsher sections. On March 25, 2012 the Prosecution closes evidence after examining 24 witnesses. On December 23, 2013 the Additional Chief Metropolitan Magistrate V.S. Patil slaps the charge of 'culpable homicide not amounting to murder' on him and referred the case to sessions court for trial as Magistrate's court does not have powers to try this kind of offences.

On November 24, 2014 the Sessions court started retrial of Salman Khan. On March 27, 2015 Salman Khan's statement was recorded under section 313 of Cr.PC by Additional Sessions Judge D.W. Deshpande. On March 28, 2014 Salman Khan's family driver Ashok Singh gave testimony in the trial court owning the responsibility of accident.

On May 6 2015 the Mumbai Sessions court sentenced Salman Khan to five years rigorous imprisonment. Salman Khan got two days interim bail granted by Bombay High Court. On May 8, 2015 the Bombay High Court admitted a plea against conviction. On September 21, 2015 Justice A R Joshi commences daily hearing of Salman Khan's appeal and on November 17, 2015 the defense counsel Amit Desai wraps up the case.

On December 4 2015, Justice A.R. Joshi posted appeal for dictation of verdict from, December 7, 2015. On December 10, 2015 Salman Khan was acquitted of all charges in the case (Criminal Appeal No. 572 of 2015)³: Justice A.R. Joshi, in his judgment said:

“The order by the Sessions Court [convicting Salman for 5 years of rigorous imprisonment] has been quashed and set aside. The bail bonds stand cancelled, all fine amounts paid by the appellant [Khan] shall be refunded to him⁴”.

English language newspapers’ reporting on the judgement

Most of the English language newspapers published in India critically reviewed the December 10, 2015 judgment, starting from pointing out the loopholes in the prosecution, the criticism went up to the level of calling it failure of judicial system and the diminishing of the majesty of law. *DNA* in its editorial commented that the nation has missed an opportunity to build significant deterrence against drunken driving and hit-and-run incidents.

“.....from being touted as a high-profile case which would build significant deterrence against drunken driving and hit-and-run incidents, it turns out that Salman Khan was not drunk and was not driving the Toyota Land Cruiser that killed one labourer and injured four others sleeping on the pavement³³. Anil Dharkar, in his news analysis appeared in the Indian Express, pointed out the loopholes in the prosecution and concluded that the Indian justice system is the loser in this case.’ All this does not absolve Mumbai Police or the prosecution. Justice Joshi did point out several examples of a botched investigation: They couldn’t find the cop, now retired, who took Salman’s blood sample to the lab, and the prosecution did not call Kamaal Khan as a witness. Surely the fact that the defence didn’t summon Kamaal as their witness is clear indication that his testimony would have favoured the prosecution, perhaps confirming that Salman was driving the car? And so it goes: Ineptitude on one side, wrong interpretation on the other. The beneficiary: Salman Khan. The loser: Our justice system³⁴.

The Economic Times in its editorial pointed out that “....this particular verdict makes anyone who should be fearful of the law be more fearful of not being well connected as insurance³⁵. The

³³ Bronislaw M (1926) *Crime and Custom in Savage Society*, (with an introduction by James M Donovan). London: Transaction Publishers. ISBN 978-1-4128-49784.

³⁴ Berelson, Bernard R, Paul F, Lazarsfeld, William N (1954) *McPhee 1954. Voting: A Study of Opinion Formation in a Presidential Campaign*. Chicago: University of Chicago Press.

³⁵ McCombs M, Shaw D (1972) The agenda-setting function of mass media, *Public Opinion Quarterly*, 36:176-187.

Free Press Journal in its editorial raised the same issue of missing an opportunity to hold it as a lesson on drunken drive:

“...we should have thought that the State would make a test case of Salman Khan’s drunken driving and hold it as a lesson to every citizen who is prone to drive under the influence of liquor. But, it turns out that throughout, the police and the prosecution were entirely lackadaisical in their approach³⁶.

The editorial also has warned ‘that the majesty of law definitely diminished with the acquittal of Salman Khan and concluded with a firm note that ‘without the rule of law, anarchy awaits in the wings. Let that be the first lesson of Salman Khan’s acquittal’.

The *Mid-Day* in its Editorial has also made it clear that the nation has lost an opportunity to benefit out of a high profile case on drunken drive:

The Salman Khan hit-and-run trial had the potential to serve as an example to deter drunk drivers across the nation. Instead, it has so far only served as an example of different ways to bungle an investigation.³⁷

The *Mid-Day* has also pointed out in its editorial that the glaring loopholes in the probe, as pointed out by the Judge, which had helped Salman Khan walk free.

The *Hindu* in its news report carried the statement of the Public Prosecutor, Sandeep Shinde, who has apprehension at the tone of the judgment the fact remains that an innocent man was killed and four others were injured. Who is responsible for that? What kind of message are we sending out to society? Are we saying any high-profile person can hijack the system?³⁸

The *Hindu*, on its editorial, “The Day of the Citizen”, appeared on 7 May 2015, published soon after the Mumbai Sessions Court Judgment pronounced that ‘deaths caused by drivers under the influence of alcohol should attract the charge of culpable homicide, and not merely that of negligent driving³⁹’. In the same editorial *The Hindu* also pointed out that the Supreme Court directions to the trial courts that the negligent and rash driving should not give the benefit of doubt to the drunken drive cases:

³⁶ Cobb RW, Elder CD 1972/1983. Participation in American Politics: The Dynamics of Agenda-Building Boston: Allyn and Bacon.

³⁷ James DW, Rogers EM (1996) Agenda-Setting. Thousand Oaks: Sage publications.

³⁸ James S, Michael B, MacKuen, Erikson RS (1995) Dynamic Representation. *The American Political Science Review* 89: 543-565

³⁹ Lewin K (1948) Resolving social conflicts. New York: Harper & Row.

though the Supreme Court upheld the three-year sentence given [in Alistair Pereira case] by the Bombay High Court, it said that was too lenient a punishment for an offence of culpable homicide not amounting to murder. The Supreme Court indicated that trial courts should not give the benefit of the doubt to those driving drunk and instead convict them under 304 II (punishable with 10 years imprisonment) than the lesser offence of 304 A that provides for a jail term of two years for negligent and rash driving.

The *Hindu* in one of its op-ed page analysis jointly written by R.K.Raghavan, a former CBI Director, and D. Sivanandhan, a former Commissioner of Police, Mumbai, has critiqued the judgment elaborately:

we are intrigued why the testimony of the principal witness- PSO Patil-who filed the FIR within hours of the incident, did not carry enough weight with the High Court.PSO Patil had deposed unequivocally, before the investigating officer and the Metropolitan Magistrate who conducted the initial trial, about how Mr. Khan was guilty of rash and negligent driving. To dismiss his version of the incident as inconsistent or unreliable seems grossly unfair to the prosecution, especially when there is nothing to suggest that he was motivated....Mr. Khan has only been given the benefit of the doubt, and not a clean acquittal⁴⁰.

Tamil language newspapers' reporting on the judgement

This study further analyses the Tamil Language Newspaper reports on the December 10 2015 judgment of Bombay High Court on Salman Khan's hit-and-run case. Headlines of the news reports related to this judgment appeared in the highly circulated Tamil Language newspapers and the BBC Tamil Radio, and an online news magazine are given below, as translated from Tamil to English:

1. Actor Salman Khan Acquitted in Car Hit and Murder Case: High Court Pronounces Sensational Verdict⁴¹
2. Drunken Driving Case on One Killed: Actor Salman Khan Acquitted⁴².

⁴⁰ Eamonn C (2008) *Crime, Culture and the Media*. Cambridge: Polity Press.

⁴¹ Danilo Y (2001) "Location, Location, Location: Urban and Suburban Crime on Local TV News." *Journal of Urban Affairs*, 23.

⁴² James CH (2006) *Canadian Criminology: Strategies and Perspectives*. Pearson Education, Canada.

3. Actor Salman Khan Acquitted In A Platformer Murder Case⁴³.
4. Car Drive Accident Case In Mumbai: Salman Khan Acquitted⁴⁶
5. Actor Salman Khan Acquitted: Case related to One Killed Due **To Bad Car Drive**
6. Case On Drunken Car Drive related Accident: High Court Acquitted Salman Khan
7. Drunken Drive Case: Salman Acquitted⁴⁴.
8. Car Accident Case: 5 years Imprisonment For Actor Salman Khan
9. Drunken Drive And Murder Case: Salman Khan Acquitted

The quality of reporting in Tamil Newspapers, barring a couple of cases, generally varies significantly from the English language newspapers published in India. While most of the English language newspapers have squarely critiqued the judgment and pointed out the failure of prosecution, the Tamil press has reported this story as if it was an accident of negligent driving. The highly circulated newspapers such as *Daily Thanthi*, *Dinakaran*, *The Hindu Tamil* and *Dinamalar* have reported it just like a road accident where, as if someone was hit during the drive. *Dinamani*, BBC Tamil, and *Ippodhu.com* (an online news magazine) have reported that the actor was charged in a murder case where he killed a person sleeping on a platform on a drunken drive and he has been acquitted in the case.

Generally, Tamil news reports have not attempted to explain the issues like culpable homicide amounting to murder, or the Supreme Court's direction to the trial court on not passing the benefit of doubt to those driving drunk, or the difference between driving drunk and negligent and rash driving etc. The Tamil language newspapers have also not attempted to discuss about the issues related to conviction under the Indian Penal Code 304 II, where 10 years imprisonment for driving drunk is possible, or under 304 A that provides for imprisonment of two years for negligent and rash driving, when convicted.

English Language Newspapers publish news analysis in the oped pages that helps the readers to understand the nuances and niceties of the issues in hand. Particularly the Hindu's different perspectives on the judgment is helpful to the reader to make an informed opinion on this issue. But in Tamil language newspapers, the lack of in-depth analysis of the issue to make the readers

⁴³ Roberts J, Stalans L, Indermaur D, Hough M (2003) Penal Populism and Public Opinion: Lessons from Five Countries. Oxford: Oxford University Press.

⁴⁴ Hayward K, Young J (2007) Cultural Criminology: The Representation of Crime in the Mass Media. In: Maguire M, Morgan R, Reiner R (eds.) The Oxford Handbook of Criminology, (4th edn) Oxford, Oxford University Press.

understand the issue and to have different perspectives to evolve an opinion has created a vacuum in public policy making.

The analysis on Salman Khan hit-and-run-case related judgment shows that there is a lack of in-depth analysis of the issues related to the legal, criminal justice in the Tamil language newspapers. The Tamil language media invariably glamorizes the crime and trivializes issues related to the criminal justice system in Criminal behaviour. In order to avoid an authoritarian crime control policy, the Tamil Language newspaper should facilitate a professional way of approaching crime reporting and thereby contributing to the national criminal justice policies.

CHAPTER IV

Influence of Trial by Media on the Criminal justice system in Criminal behaviour in India

There has been minimal scientific research on the impact media coverage has had on justice systems, including the Indian criminal justice system in Criminal behaviour. There has been a persistent requirement for scientific studies into how media coverage shapes or influences trials that are underway in the Indian criminal justice system in Criminal behaviour. Such studies are bound to trigger public discussions on how justice processes are influenced by the coverage. The criminal justice system in Criminal behaviour of India remains unenthusiastic about allowing unfettered media access to its functions and deliberations. However, the system is expected to become more and more enthusiastic about embracing the media as emerging media technologies coerce it for expanded access. There is a need for objective as well as scientific studies to examine the impact media has on the system's processes and determinations in particular cases.

Psychology and related studies have indicated that the narratives propagated by the media influence the beliefs that given audiences hold. This influence exerted by the media on the beliefs is more commanding than the related scientific proofs (Ricketts, 2007); Shanahan, McBeth, Hathaway, & Arnell, 2008). Varied risk analysts have established that the stories carried by the media have an impact on the beliefs that individuals have (Golding, et al., 1992). However, there has been rather limited structured research into power or influence of the stories (Nelson et al., 1997); Shanahan et al., 2008). Future research should focus on the influence of the policy narratives carried by the media regarding the Indian criminal justice system in Criminal behaviour.

To expand the understanding of the media's influence on trials in India, there is a need for scientific research. If the Indian government stifles the media coverage of criminal proceedings, it may stifle democracy. On the other hand, it will be irresponsible to allow the media to report on the proceedings without taking responsibility for what they publish. There is a need for a mixed-methods study to determine how court verdicts are influenced by media trials. The current study helps to reveal the influence that trials have on court determinations. There is wide-ranging agreement that the media ought to report on criminal justice system in Criminal behaviours

cautiously. The present study is designed to examine how the media impacts the Indian justice system.

Media's Influence on Behaviors and Thoughts

The media has influenced human behavior, thought, and attitudes over the years. A broad description of media influence is the force that the messages carried by the media have or impact on particular populations, bringing about changes in reinforcing or weakening of beliefs held by the populations. The media effects stemming from the influence are quantifiable and are dependent on varied factors, including the specific demographics of the populations and the populations' psychological states. Some effects are deemed negative while others are deemed positive. Some of them are gradual while others are instantaneous. Some are lasting while others are only fleeting. Some of them reinforce pre-existing notions or beliefs while others change them. Over the years, various studies have focused on studying the media effects. For purposes of this research, the studies capture various phases that have defined mass media development since the early 20th century.

Howell-Collins (2012) based his own study on two questions:

1. What consequences do inmates think media reporting has on their own cases?
2. How do inmates perceive they have been impacted on by media reporting of their own supposed crimes along with the succeeding trials?

He used qualitative methods: phenomenology and in-depth interview. From the early years of the 20th century to the 1930s, literature describes the media as having rather powerful effects on the populations. The then developing mass media, including film and radio, almost irresistibly shaped the behaviors, cognition, and beliefs of populations as desired by the authors of the messages that the media carried then (Bauer & Bauer, 1960; McQuail, 2010). The foundational supposition of the theory of strapping media effects was that the targeted populations, or audiences, were largely homogenous as well as evidently passive. Scientific evidence did not inform this supposition, but rather human nature assumptions did. Two principal ways explained the perceptions of the effects. First, the then technologies that enabled mass broadcasting had

rapidly growing audiences. The speedy spread of information amazed the targeted populations. The amazement may have reduced the capacity of the audiences to pay attention to the effects that the media had on them.

Second, during the First World War, many nations applied propaganda systems. The systems served as dependable tools for forging unity across populations and uniting against the enemy. The propaganda was a communication tool with very strong effects. Studies that focused on the effects that the media had on populations then majorly zeroed in on the power of propaganda (Lasswell, 1927). The theories that developed on the media effects then focused on the corresponding social and technological environment, with most of the theories postulating that the media was rather powerful (McQuail, 2010). Representative theories included the Magic Bullet Theory (MBT). MBT viewed given audiences as target subjects of information bullets or injections fired from given mass media guns. The theory postulators considered audiences as incapable of staying clear of the bullets or injections.

Nonetheless, from the 1930s, researchers that focused on effects of media on human beings appear to agree that the effects were limited. The studies largely entailed empirical investigations and brought to light the intricate nature of media effects owing to the idiosyncratic character of the audiences (McQuail, 2010). One of the most renowned classes of the studies was that of the Payne studies, which were executed across the US in the 1930s. Largely, the Payne studies zeroed in on how the mass media affected youths. Other studies during the period zeroed in on the persuasive power of film and related media (Hovland, 1949; Larzarsfeld, 1944). Researchers such as Berelson (1959) found substantial evidence supporting the thinking that media effects on human beings had an idiosyncratic nature. They established that the effects depended on various factors, including psychosocial states and demographics. Larzarsfeld, Berelson, and Gaudete (1948) introduced 'Two-Step Communication Flow Theory', which states that the media effects on populations are indirect and that the media affects people via interpersonal influences of opinion formulators. The other theory was the Selective Exposure Theory developed by Klapper (1960) that opined human audiences do not take in given communication contents passively. Rather, the audiences select the contents in line with their prior beliefs.

The theories suggesting that media effects are limited rather than powerful have since been challenged by various evidences showing that messages communicated by the media have

substantial social consequences (McQuail, 2010). Lang and Lang (1981) emphasized that the theories of limited effects were indefensible and that evidence from the 1950s did not support the conclusion that the effects were limited at any time. From the 1950s to the late 1960s, the growing number of television sets in use showed that the media had lots of influence on social dynamics.

During that period, many researchers noted that the earlier dependence on certain psychological frameworks forced studies to focus rather narrowly on the immediate and fleeting consequences of the media. According to McQuail (2010), the Stimuli Response Model enabled chances of considering significant lasting media effects. The increased focus on lasting effects at the expense of studies on the fleeting effects marked the rejuvenation of keenness on media effects research. Researchers increasingly focused on the relationship between the effects on institutional behaviors, ideologies, and social realities (McQuail, 2010). Theories that developed during the time included the Agenda Setting Theory, the Framing Theory, the Knowledge Gap Theory, and the Cultivation Theory (Tichenor, Donohue & Olien, 1970).

The media effects phase characterized by negotiations was widely studied in the later years of the 1970s. Then, the main consequence of the media was widely viewed as influencing societal realities. That means perception of the media as serving a typical social constructivist role as comprehensively captured by Gamson and Modigliani (1989) and McQuail (2010). Researchers on media at the time were keen to assess the role that media was playing in building meaningful and related societal realities. They established that media shaped social images in ways that were not only predictable but also patterned or organized. In addition, they established that audiences drew perceptions of the realities around them, especially of a social nature, from the realities that the media built.

Audiences can regulate how they interpret and regulate realities built by the media. Audiences who exclusively get information from extant media implicitly take up the realities. However, audiences may elect to draw realities from alternative sources, including their cultural milieus. The phase saw the rise of ethnographic and qualitative research approaches in addition to the then existing quantitative along with behaviorist approaches. Various research works zeroed in on media effects related to how the media covers fringe and minority societal movements (McQuail, 2010; van Zoonen, 1992).

The “new” phase of media in computer era started in the 1970s. Most of the related research then focused on how the media affects group and individual behaviors in environments that computers mediate (McQuail, 2010). The research focused on how communications mediated by computers affects group and individual interactions. The researchers also assessed how computer-mediated communicators interacted with each other and formed impressions on each other, especially considering that their communication would be highly limited (Valkenburg, Peter & Walther, 2016; Valkenburg & Peter, 2009).

Culnan and Markus (1987) were keen on comparing the then extant internet content that comprised of text only with one-on-one communication. Daft and Lengel (1986) formulated a theory for evaluating the ability of the media to replicate information: the theory of media richness. Notably, a growing number of people were using the internet at home through the 1990s, which led to substantial growth in the number of studies focusing on computer-mediated communications. The theories that are most associated with the phase include the Social Information Processing (SIP), amply explored by Postmes, Lea, Spears and Reicher (2000) and Walther (1992)

In the United States, no one is allowed to cover criminal proceedings using electronic media by virtue of the 53rd federal criminal procedure. The procedure became applicable in mid-1946. The only exception to the rule is when there is a statute authorizing the coverage, especially taking of photographs during court proceedings. The code of conduct developed in the 1970s and applicable in the United States required that judges should not allow for the broadcasting, photographing, televising, or broadcasting of court proceedings within courts and the adjacent areas whether the matters under considerations are civil or criminal. From 1990, the coverage of court proceedings has been incrementally allowed in the United States. A policy that was developed in 1990 allows judges to permit the recording of the proceedings using electronic media when the proceedings are ceremonial, including investiture and naturalization proceedings.

From 1996, the US Courts of Appeal can decide for themselves whether to allow for the photographing or recording of their appellate arguments in line with the extant statutory provisions, local and national rules, and other applicable regulations. Since then, the regulations relating to the usage of cameras in United States courts have undergone significant evolution.

Presently, the regulations provide that judges may allow for the photographing, broadcasting, recording, and televising of proceedings in courtrooms and within the adjacent zones, or areas, for investiture, ceremonial, or naturalization proceedings. The regulations refer to evidence presentation, proceeding perpetuation, security, and related interests and concerns.

The permission to photograph, broadcast, record, and televise the proceedings in courtrooms and within adjacent zones should not injure the rights of any of the related parties, should not distract any of the related parties from the proceedings of the courts, and should not interfere with how courts administer justice.

In India, judges are becoming more accommodating regarding media coverage of court proceedings. In 2012, judges in the Indian Supreme Court expressed their willingness to have proceedings recorded if it does not give room for contempt of the court in the system. The court pronounced that it was set to put in place guidelines controlling how the media should report on court proceedings to strike a good equilibrium between securing media freedom and safeguarding basic human rights, especially the right to life, liberty, and free speech (Venkatesan, 2012).

The Indian Supreme Court judges were concerned that the media often reports on court matters in ways that are inappropriate. The media often seeks to influence the thinking of judges by creating particular mindsets regarding what is right and what is wrong. When court pronouncements are not in line with the moral parameters set by the Indian media, the judges in question have their images injured by the media, casting suspicions around the judges' judgments (Venkatesan, 2012).

Typology

The scope of studies on media effects is now rather broad. According to extant literature, this brings about organizational difficulty. Trying to organize media effects in line with target audiences proves to be effective. McQuail (2010) organizes media effects easily using a typical graph. Some of the effects aggregate the audience (macro-level effects) while others are for the individual (micro-level effects). There are varied theories related to the latter.

Such theories base own deduction on the specific users of particular media as opposed to the society or particular systems or groups as explained by Valkenburg, Peter and Walther (2016). The theories are all representative, including the priming theory, the framing theory, the mass communication theory, the social cognitive theory and the elaboration likelihood theory.

According to these theories, the media affects persons in six varied ways. First, the media affects persons cognitively by imparting on them new information, messages, and meanings. The persons acquire new knowledge, which they use in making out patterns, inferring information into novel behaviors, and combining varied sources of information. Second, the media affects the beliefs of people. Notably, one is incapable of validating all media messages. Even then, one may elect to believe given sets of the messages, including those regarding phenomena that he or she is yet to experience. Third, the media affects the attitudes of individuals with the related intentions notwithstanding. Such messages make the individuals develop certain judgments regarding the related topics. Fourth, with respect to individuals, the media are effective. That means that media affects the emotions of individuals exposed to given media content. Fifth, the media has physiological effects on individuals. The content it carries often compels individuals to react physically and automatically. Lastly, at the micro-level, the media affects the behaviors of individuals (McQuail, 2010).

At the macro level, there are theories on the effects of the media on ideologies, systems, and large populations. These theories include the public sphere theory, the risk communication theory, and the knowledge gap theory (McQuail, 2010; Valkenburg, Peter & Walther, 2016). Regarding the micro level effects of the media, it is clear that individuals are erroneously highly likely to believe that the media does not affect them as much as it affects others. This is the third-person perception, or effect. Studies such as the ones executed by Heider (2013) and Miller and Dollard (1941) have shown that close to a half of all individuals are prone to the effect. They are highly likely to downplay the influence that the media has on them. The theory of attribution further explains this phenomenon, noting that the effect allows the people prone to having misgivings about media effects on individuals devoid of taking responsibility for the effects the same media has on them.

Theory has it that a person is highly likely to blame his or her responses to the extant environment or object world. Theory also has it that a person is likely to blame other's responses

especially the ones they disagree with to individual features (Heider, 2013; Miller & Dollard, 1941). In his study, Standley (1994) evaluated the attribution theory as well as the third-person effect. He established that individuals are highly inclined towards offering contextual or situational justifications for the effects of the media on themselves. He also established that individuals are highly inclined towards presenting dispositional justifications for the effects on other persons.

The memory's network model drew this priming concept, largely utilized in cognitive psychology contexts. The model stores information nodes that are organized and tied to corresponding ones by corresponding paths. The activation of any of the nodes causes the activation of the nodes around it. That phenomenon is characterized as the spreading of activations. Essentially, priming happens when the activation of successive nodes occurs. The priming effect is dependent on various factors, including length and intensity of elapsed time (McQuail, 2010). Many psychologists use the concept in explaining how the media shapes or affects the beliefs, conducts, and attitudes of given individuals. For instance, most of them hold that individuals who watch many violent scenes on media are more likely than other people to act violently and aggressively over time.

Miller and Dollard (1941) formulated the theory of social learning when they carried out a study aimed at establishing whether given persons have to behave in a given way to learn related behavior. They established that one does not necessarily learn a given behavior after acting it out. One can learn from a given behavior merely by observing others express it. About three decades later, Bandura (1977) worked on the theory further. He established that given audiences learn given behaviors by merely observing given fiction subjects.

As noted earlier, studies that focused on media effects from the 1930s appear to agree that the effects were limited. The studies largely entailed empirical investigations and brought to light the intricate nature of the effects owing to the idiosyncratic character of the audiences (McQuail, 2010). One of the most renowned classes of the studies was that of the Payne studies, carried out across the US in the 1930s. The Payne Fund researches were motivated by the growth of the film industry and the progress registered by social scientists in their researches regarding how teenagers become delinquent (Tilley, 2013). The studies zeroed in on how the mass media

affected youths. Other studies during the period zeroed in on the persuasive power of film and related media (Hovland, 1949; Larzarsfeld, 1944).

The ubiquity of television sets in mid-20th century brought forth increasing concerns regarding the effects that the television had on teenage behaviors and delinquency. Studies showed that television has behavioral effects on teenagers that include desensitization, imitation, and disinhibition. Disinhibition refers to the process by which persons constantly exposed to violent scenes by the media start legitimizing violence especially against other persons. Individuals exposed to violent scenes in pornographic media are likely to act aggressively against persons of opposite sex in particular contexts (Malamuth, 1981). The imitation theory explains this by noting that a person is likely to learn violence and violent acts from media characters (Bandura, 1977). According to Carnagey, Anderson, Bushman and Brad (2007), desensitization is the process by which the habituation of a person to violent acts via being exposed to violent media scenes happens, giving rise to actual implications.

Various concepts explain the macro level effects that the media has on given populations. This include the cultivation concept, the agenda-setting concept, and the framing concept. While some of the effects are short term, others are long lasting. The theory of cultivation has it that the media brings forth communal consciousness regarding components of existence according to Gerbner (1969). Repeated exposure to themes and storylines makes an audience to expect its actual life and experiences increasingly to reflect the themes and storylines (Valkenburg, Peter & Walther, 2016).

Two basic media areas express agenda setting well. First, the media informs audiences of given news. Second, the media shapes how audiences judge given news. The coverage of news events by the media is a dog whistle to given audiences about the significance of the events and related issues. The media frames the news in ways that cause the audiences to respond in particular ways. In addition, if the media does not cover given news items, the news dissipates owing to two reasons. First, it dissipates since it is devoid of a media vehicle or platform to carry it. Second, it dissipates since audiences fail to express their fears and judgments, as they fear becoming ostracized socially.

Outlets that disseminate news are capable of influencing population opinions through control of the variables defining how given news is presented. News disseminators curate facts purposely to underscore particular angles. The methods used in presenting news also help in framing news. These methods relate to presentation times, coverage scopes, and news medium choices. A news disseminator frames news in ways to reinforce, substitute, or develop particular audience viewpoints. That means that news framing can be culling of components of realities perceived along with the assembling of particular storylines emphasizing the related links to promote specific interpretations.

Essentially, the media interprets what causes particular problems. It also promotes moral judgments on the problems and bolsters policy development (Entman, 2007; Valkenburg, Peter & Walther, 2016). One lasting consequence of news framing is that it assists institutions to promote particular schools of thought and corresponding realities. The framing, if sustained, is used in bolstering thoughts supporting privilege, consumerism, capitalism or other schools of thought, according to Budd, Craig and Steinman (1999). Some scholars like Entman (2007) theorize that biases that come with news framing are capable of reinforcing the entities that are in support of given thought paradigms. Media houses understand that news filtering or gatekeeping may bring about agenda setting. The filtering makes framing unavoidable. In most cases, news filtering is natural to every media outlet given that it gets limitless information day in and day out. If a media outlet has several subcultures that is bound to be clear from the type of content that the outlet publishes, each of the cultures affects how the outlet curates' content for the populations that it targets according to Vos and Heinderyckx (2015)

The continued digital media growth has continued to change the role of the media as a gatekeeper. Metaphorically, the growth has created more gates and additional gatekeepers (Shoemaker & Vos, 2009). Some of the gates or outlets spread the news without the help of traditional media networks. For instance, social media users spread news and can play the roles of gatekeepers of traditional media, pointing out facts that are either inaccurate or biased. The traditional press and the social media users benefit from each other symbiotically; youthful journalists employ social media platforms in tracking news or topics that are trending at any given time according to Shoemaker and Vos (2009) and Valkenburg, Peter and Walther (2016).

Legacy media gates and the more recent online news outlets face varied difficulties. The large number of outlets and the recent global economic downturn have made news reporting harder over time. A study by Lewis, Williams and Franklin (2008) established that on average, a journalist penned close to five articles daily. Public relations firms generated many news items daily. Indeed, the study established that the news articles developed by the public relations firms represented about 41% of all the news items carried by print press and 52% of all the news items carried by broadcast media. Often, news publishers rushed to publish news first and then edit them later, ignoring the ideal journalistic procedures of processing news. The publishers were in a hurry to fulfill their audience's desire for given news before being outpaced by rival news publishers (Shoemaker & Vos, 2009). Individuals may prefer to keep silent about messages that they fear may subject them to societal isolation. In such cases, the individuals engage in self-censorship, especially where the mainstream media fails to validate or justify its own viewpoints (Noelle-Neumann, 1974).

Features of Contemporary Studies on Media Influence

In recent times, there has been rapid development of internet technology worldwide. The technology has continued to change the defined patterns of how media are utilized. Recent studies on media effects are rather specified and diverse. Valkenburg, Peter and Walther (2016) studied various theories on the micro-level effects of the media and related theories. They made out five principle features: media uses selectivity, the predictive feature of media, the indirect effects of media, the conditional nature of the effects, and the transactional nature of the effects.

The selectivity paradigm on the use of media has two distinct propositions. First, audiences get just a fraction of the messages that may potentially reach them. Second, audiences can only be affected by the news items or messages which they select (John, 2015; Klapper, 1960; Rubin, 2009). The selectivity that defines how media are utilized limits media effects substantially (Knobloch-Westerwick, 2015; Rubin, 2009; Zillmann & Bryant, 1985). Media's inherent features predict media effects. These features include the medium through which new items are carried (Marshall, (1964). Other inherent features include content properties and structural properties (Bandura, 2009; Cary, 2010; Knobloch-Westerwick, 2015). The media effects on given populations are indirect (Holbert and Stephenson, 2003; Raykov and Marcoulides, 2012),

conditional (Petty & Cacioppo, 1986; Rubin, 2009) and transactional (Bandura, 2009; Bauer, 1964; Valkenburg & Walther, 2016; Webster, 2009).

Media Coverage of Court Proceedings Patterns

Past research studies on civil court cases consistently establish that media reporting largely exaggerates the pro-plaintiff bias that judges have and also exaggerates damage award amounts. That means that the media commonly typifies courts, especially in the West, as having a high chance of decreeing excessively huge damage awards; with juries and judges who are deemed out of control being highly persuaded to punish rich defendants. From the studies, it is clear that the media projects the awards as triggering upward reviews of insurance premiums and as posing a danger to productivity of concerned economies.

In a study by Lim (2015), he was keen to establish how the degree to which newspapers cover courts was related to the damage awards that they decree in particular state systems handling civil cases within the US. Lim used data from the Civil Justice Survey of State Courts (CJSSC) covering thirteen years, from 1992 to 2005. He established that courts in liberal districts were likely to decree higher damage awards in civil proceedings than courts in less liberal districts. The more liberal a district was, the higher the chance its courts would award plaintiffs large damage awards. More particularly, he established that each unit standard deviation augmentation of a district's political liberalness corresponded to a 33% augmentation of the damage awards decreed by its courts in areas with standard newspaper circulation and coverage. The impact that the district's political liberalness had on the damage awards reduced with an increase in media coverage. The findings of his study are backed by other scholarly research, including research by Platania and Crawford (2012).

Lim (2015) also established that media reporting volumes exclusively did not significantly influence the amounts pronounced by courts as damage awards. Neither did elected benches exclusively influence the amounts pronounced by courts as damage awards and civil proceedings significantly. Lim concluded that the way the media reported court proceedings did not affect the win rates of plaintiffs significantly. However, the way the media reported court proceedings affected the decreed damage awards significantly. By and large, his study showed that the way

the media reported on court proceedings was commonly considered a negative factor that led to biased court determinations.

Close scrutiny of the data presented by Lim reveals that media scrutiny of court proceedings may present a leveling or smoothing consequence. Lim (2015) and Platania and Crawford (2012) agree that generally in localities where there is marked media reporting on proceedings, there is a limited variation between the mean damage awards pronounced by the courts in liberal districts and the mean damage awards pronounced by the courts in conservative districts. On the other hand, in localities where there is limited media reporting on the proceedings, there is a marked variation between the mean damage awards pronounced by the courts in liberal districts and the mean damage awards pronounced by the courts in conservative districts (Lim, 2015).

Platania and Crawford (2012) examined how the exposure of jurors to particular media articles affected the decisions they ultimately gave. Platania and Crawford (2012) varied the study on levels of damage awards pronounced by jurors over time after reading the media articles. They sought to establish if and the degree to which information from the articles was used by the jurors when they decided damage awards. Moreover, they were keen on determining how the exposure of defendants and plaintiffs to media influenced their perceptions. They not only tested if the exposure impacted on the perceptions but also the time lapses while particular damage awards were being considered.

From the analyses done by Platania and Crawford (2012), it was clear that a juror who went through a drug testing media article was highly likely to perceive related plaintiffs positively. The juror was likely to take long in deciding the damage awards to present to the plaintiffs. Overall, the juror was likely to perceive the plaintiffs more positively than the corresponding defendants. Platania and Crawford (2012) noted that even though there was wide-ranging belief that the availability heuristic had a biasing impact, they established that there was a subtle but essential impact of dependence on the heuristic in determining damage awards and liability.

The research by Platania and Crawford (2012) demonstrates that plaintiffs' perceptions are highly dependent on the degrees to which they are exposed to the media, especially in conditions that are considerably salient. The study by Platania and Crawford (2012) is arguably the only one that establishes this finding, which is counterintuitive, and which stresses on the weight of the

biasing impact of utilizing the extant media information in the determination of court verdicts. Essentially, that means that media exposure to uncharacteristic court verdicts has a weightier biasing impact than positive plaintiff perceptions. Accordingly, the significant concern is how the displayed heuristic effects can be countered in such contexts (Brace & Hall, 1990; Bonneau & Hall, 2003; Hale, 2006; Hall, 1987).

Several questions arise when one goes through the articles by Lim (2015) and Platania and Crawford (2012). The most critical of their concerns relates to any media motivation to misrepresent justice systems. Ideally, the media should seek to generate and convey information that is newsworthy and that the public finds appealing (Hall, 1987; Pacelle, 2008; Slotnick & Segal, 1998). Media reports that do not cover newsworthy or extreme events are hardly appealing to the public. Consequently, one can conclude that court proceedings that give rise to newsworthy or extreme determinations have a higher chance of being reported on by the media than the other court proceedings.

How Media Coverage Impacts Viewing of Justice Systems

Greenhouse (1996), a renowned US Supreme Court reporter, has indicated that media coverage of the US courts does not concern the public greatly as much as day-to-day politics. There have been many studies especially regarding how social media affects political decisions and politics in general. There is a growing need to establish how use of social networking websites (social media) as tools for promoting political participation impacts on politics. Citizens get involved in their country's political system whenever they try to shape the results of given elections and shape particular party or government policies freely as suggested by Banaji and Buckingham (2010). However, in recent times, citizens' participation in politics has been on a general decline, raising concerns regarding the health of various democracies. Over the recent years, the voting rates in various countries have been on a general decline (Fosco, Laruelle & Sanchez, 2011).

World over, social media is known to have a conversation power, which is important in promoting citizenship engagement (Banaji & Buckingham, 2010). A democracy's health is dependent on the engagement. Social media offers platforms for citizens to engage one another on particular public issues, including day-to-day political subjects. Individual citizens and groups of citizens seek chances to share their views with their political leaders. Perhaps, one of the most

straightforward citizen engagement measures is voter turnout (Banaji & Buckingham, 2010). The social media conversations that citizens have on political subjects promote political participation. That is largely because citizens see social media spaces as non-partisan and approachable (Fosco, Laruelle & Sanchez, 2011). Those engaging with each other on social media do not necessarily require a thorough appreciation of particular political systems or parties to participate in related conversations. They find themselves engaging richly as long as they are capable of bringing their own experiences with the parties or systems and enhancing them through their views (Geys, 2006; Jennings & Zeitner, 2003).

Over the years, political parties have remained keen on raising voter turnouts in elections. They are especially keen on raising voter turnouts in areas where they enjoy significantly more support than the competition to win elections (Banaji & Buckingham, 2010). The exploration of the question helps to establish if political parties can leverage social media to enhance voter turnouts in their strongholds to enjoy significant advantages over the competition. The question also promotes public discussion on how various demographics, which are markedly affected by government actions, can be made more influential on the actions. If it is established that social media helps bolster voter turnout, then interested parties can ensure that the demographics become more and more politically engaged and capable of determining how they are governed (Fosco, Laruelle & Sanchez, 2011). The core subject of the question is increasingly coloring political public discourses on what can be done to reverse the generally declining voter turnouts in the country's successive elections (Banaji & Buckingham, 2010).

As noted earlier, participation in politics has shown a general decline in recent times. The voting rates in India have also been in a general decline. The declines continue to raise concerns about the health of democracy in the country especially because they precipitate a situation in which political parties require the support of certain sections of the country's population to win elections (Fosco, Laruelle & Sanchez, 2011). Even though that is entirely constitutional, it raises concerns about the democracy's legitimacy. It also raises concerns about the authority, or legitimacy, of the leaders elected on the parties' tickets.

Human conduct is believed to spread via one-on-one social networks. However, it is challenging to determine the impacts of societal influence in observational investigations or studies. It is yet to be conclusively determined if social media operates similarly. There are many research studies

aimed at establishing the impacts of social media on offline human conduct. However, the isolation of common themes or subjects is difficult. Often, researchers utilize exceptional datasets, set out diverse questions and determine different outcomes (Vitak, Zube, Smock, Carr, Ellison & Lampe, 2010; Wolfinger, 1991; Xenos & Moy, 2007).

From the 1980s, Western democracies have been typified by concerns over the subsistence of political talk among highly politically engaged citizenries (Geys, 2006; Jennings & Zeitner, 2003). The concerns are motivated by thoughts about the potential effects of decline in the talk, particularly among youthful voters, on the preservation and sustenance of favorable governance in particular nation-states (Geys, 2006; Jennings & Zeitner, 2003). Particularly, youths are becoming less and less engaged in day-to-day politics, with their voice declining in everyday online and offline political talk. In recent years, youths across the globe have been linking on social media – especially on Twitter, Facebook, Flickr and blogs – to discuss political subjects. The youths use social media spaces in expressing themselves and deliberating between and among themselves or other organizations or political actors (Banaji & Buckingham, 2010).

That phenomenon has occasioned a situation in which many characterize the social media as a set of tools for engendering, promoting, or encouraging political participation, especially among young people. Social media is seen as a tool to address the political apathy problem effectively; a problem that has remained a concern for numerous political actors, practitioners, and scientists from the early 1980s. There is a general belief that the internet widens public spheres through facilitation of far-reaching participation of citizens in politics via the convenient, cost-effective, real-time social media (Banaji & Buckingham, 2010)

The internet allows individuals to freely engage with each other and with regulating actors that are comparable to the ones that typify daily informal and formal communication. Elementarily, social media enables individuals to discuss political subjects online. Social media networks such as Twitter and Facebook are debatably gradually emerging as widely used public spheres hosting political talks and deliberations, particularly for technologically savvy individuals (Fosco, Laruelle & Sanchez, 2011). Social media gives rise to virtual political communities, allowing members to express themselves to others using varied formats such as video and text. Facebook, for instance, facilitates social interactions. It enables communication of specific information among individuals through own profiles.

Facebook social media network is utilized for diverse activities and aims (Vitak, Zube, Smock, Carr, Ellison & Lampe, 2010; Wolfinger, 1991; Xenos & Moy, 2007). These include making new friends; posting status updates of individuals; posting pictures, videos, or comments; linking to statuses of other persons; playing quizzes or games; sending specific messages; posting specific links to given websites, news, and events; and forming groups of persons with mutual interests. Valenzuela, Park and Kee (2009) assert that youthful people are highly persuaded to join social media to forge strong links or ties with friends and new acquaintances. To many people, Facebook comes off as capable of reducing or eliminating political apathy. It has been established that the contribution of Facebook to a person's offline political participation is related to growth in membership of their Facebook political groups. Valenzuela, Park and Kee (2009) investigated the behaviors and attitudes that promote civic action and public life. Even though they did not deny the correlation between civic engagement and degree of Facebook usage, they indicated that the correlation was only slightly positive, pointing out that social media is not a universal remedy for political apathy.

Various researches from the Arab world are supportive of the conclusions drawn by Valenzuela, Park and Kee (2009). The researches demonstrate that social media encourages political talk as well as participation. The proof from across the world that social media engenders political participation is certainly encouraging, especially for developing economies like Jamaica that have been typified by declining political talk among its young people in recent decades (Mossberger, Tolbert & McNeal, 2008; Powell, Bourne & Waller, 2007). A reversal of the decline is expected in the coming years as more youths politically engage each other on social media.

Various researchers demonstrate that social media improves political participation by enhancing political mobilization online (Mossberger, Tolbert & McNeal, 2008; , Bourne & Waller, 2007). The mobilization, that is Powell effectively enhanced by online messages, motivates information gathering, political self-expression and voter turnout (Vitak, Zube, Smock, Carr, Ellison & Lampe, 2010; Wolfinger, 1991; Xenos & Moy, 2007). Social mobilization on social media is more effective than exclusive informational mobilization. Showing social media users well-known faces can radically enhance the efficacy of specific mobilization messages. Centola (2010) demonstrates a strong correlation between communication of messages through social

media and political or civic involvement, participation, and or engagement, especially among youths.

One of the democratic rights that asserts all electoral choices is voting. Yet not every eligible voter participates in electing political leaders. Many countries that lack the legal mechanisms for obligating all eligible voters to engage in electoral processes often register rather low voter turnouts (Vitak, Zube, Smock, Carr, Ellison & Lampe, 2010; Wolfinger, 1991; Xenos & Moy, 2007). Economically underprivileged and rural areas tend to post higher voter turnouts than the urban areas whose economic prospects are better. Based on varied macro and micro voter turnout theories, the turnouts depend on the elections, countries, and individuals. Social media is increasingly emerging as a significant factor influencing voter turnouts. It makes the sharing of electoral information easy, consequently persuading people to vote (Valenzuela, Park & Kee, 2009).

Various social media networks have hashtags that allow voters to share information about voting and to motivate others on social media to vote. Previous researches regarding voter turnouts, especially in the West, show that the turnouts are dependent on having the perception that one is valued. The perception is the elementary rational choice argument premise. Even then, in various cases, wholesome rational choice theory proves ineffective in the explanation of voter turnout. Scholars like Singh (2011) stress on personal decision-making and utility impacting on the turnout. Singh however overlooks other globally relevant factors.

Voters who take to social media create a perception of obligation on the part of those sharing the social media with them through the sharing of diverse voting hashtags and photos. That obligation evolves into an element of civic duty as well as ethical consideration (Singh, 2011). Notably, the motivation to vote can stem from the technological or social network obligation of eligible voters. The use of social media by voters pressurizes some of those sharing the social media with them to vote, helping curb political and voter apathy. Interactions on social media through use of specific hashtags inculcates specific group conducts on users. Group dynamics bolster turnouts significantly (Vitak, Zube, Smock, Carr, Ellison & Lampe, 2010; Wolfinger, 1991; Xenos & Moy, 2007).

The theorizing of rational choices is hinged on the thinking that the turnout of voters in elections is dependent on the associated differences between the attendant personal costs and benefits (Vitak, Zube, Smock, Carr, Ellison & Lampe, 2010; Wolfinger, 1991; Xenos & Moy, 2007). The benefits include participation in electoral processes and membership to the highly-regarded responsible peer team or group (Christakis & Fowler, 2008; Wolfinger, 1991). Those who participate in online discussions using specific voting-related hashtags and photos are deemed responsible. That is especially because the media commonly and consistently blames the disengagement of citizens for limited voter turnouts in elections.

According to Tolbert and McNeal (2003) communication changes have altered the roles that media outlets play in elections. They submit that media outlets, including social media, supply information and engender voters' motivation to partake in electoral processes. Social media portals such as Twitter and Facebook significantly engage voter populations through sharing of voting-related hashtags and developing peer pressure mechanisms (Geys, 2006; Jennings & Zeitner, 2003). However, that may be rather limited in areas with limited access to internet resources and with many absentee voters who include non-citizens. Others find that position rather agreeable (Banaji & Buckingham, 2010)

Various conclusions can be drawn from the literature review on the effectiveness of social media in promoting political participation. First, social media are presently viewed as a tool that effectively address the political apathy problem. As noted earlier, the problem has remained a concern for numerous political actors, practitioners, and scientists for many years, particularly from the early 1980s (Valenzuela, Park & Kee, 2009; Wolfinger, 1991). Second, social media portals such as Twitter and Facebook are debatably gradually emerging as widely used public spheres hosting political deliberations and talks, particularly for technologically savvy individuals (Fosco, Laruelle & Sanchez, 2011).

Third, social media gives rise to virtual political communities, where members express themselves to other members using varied formats such as text, photo and video (Carpini, Cook & Jacobs, 2004). From the review, one can conclude that social media encourages political talk and participation (Banaji & Buckingham, 2010). Specifically, social media is capable of encouraging political participation. The widespread use of social media in India can considerably help cure the ongoing challenge of limited or declining political participation in the country and

consequently bolster voter turnout. It is clear from the review that extensive use of social media leads to higher voter turnouts as submitted by Carpini, Cook and Jacobs (2004).

Greenhouse (1996) asserted that judges mostly pronounce themselves to the public via own opinions, which the public finds difficult to comprehend and even access.

Particularly, that is quite the case where politicians cede to judicial officers the challenging questions regarding the public. The way the press covers both the courts and the opinions of the judges is thus critical in ensuring that the judicial system in any given democracy remains legitimate and healthy in the eyes of the public (Brace, Hall & Langer, 1999; Bonneau & Hall, 2003; O'Callaghan & Dukes, 1992; Slotnick & Segal, 1998).

Despite various scholars researching the connections between the judiciary and the media, most scholars have not focused on every factor that may determine whether an aspect of given court proceedings merits media coverage. There is a need for the determination of how the facts of a particular case, features of the covering media, and judicial features of courts shape the courts (Brace & Hall, 2002). Greenhouse (1996) asserts that the media are quite critical in influencing how the public perceives governments, especially the judicial wings of governments. Yet the media are important in shaping what the public knows about the judiciary since the judiciary largely works away from the public eye in ways that are seemingly obscure. Even then, the media covers the legislative and the executive branches of governments more than it covers the judiciary.

Consequently, when scholars appreciate the cases that have high chances of media coverage, they have a good appreciation of how much the public knows about the courts and the judiciary by extension (Brace & Hall, 1993; Epstein & Knight, 1998; Friedman & Harvey, 2003; Martin, 2006). Various scholars have explored how television and radio stations have covered the proceedings of the US Supreme Court in the past. The scholars include Ericson (1977), O'Callaghan and Dukes (1992), Slotnick and Segal (1998) and Haider-Markel, Allen and Johansen, (2006). Largely, they have established that the coverage of the court proceedings has been rather limited. Various factors affect the chances of whether the proceedings are covered. First, the issues that are the subject matter of the cases may or may not attract media attention. Second, the organized interests or groups keen on given cases determine whether the media

deploys resources to cover them. Third, the significance of given cases helps in determining whether they will attract media attention. Nonetheless, there is still need for organized research into the types of information that the public gets regarding what the lower courts do, according to Hale (2006). Hale was rather clear that there is a great need for studying how the media covers proceedings in all courts and how it shapes public opinions regarding the proceedings.

Notably, very few cases are heard in the highest courts of the land. In every country, the highest courts decide fewer cases yearly than the other courts. Consequently, most judicial work in any court system happens in the lower courts, including federal and state courts. When one studies media coverage in the lower courts, it is possible that he or she will come up with comprehensive evaluation of the amount and quality of news that the public gets regarding the judiciary and how the media shapes opinions about the judiciary (Diascro, 2007; Haider-Markel, Allen & Johansen, 2006; Spiller & Gely, 1992). There are some researchers who have explored how the sizes of newspaper spaces allocated to proceedings in supreme courts affect media coverage of the proceedings (Ericson, 1977). Due to the evolution of the media, there is a need to establish how other media, especially new media, shape court proceedings and the related public perceptions.

The media has various roles, including a predictive role. As noted earlier, there are five principle features of the media: media use selectivity, the predictive feature of media, the indirect effects of the media, the conditional nature of the effects, and the transactional nature of the effects. The other inherent features include content properties and structural properties (Bandura, 2009; Cary, 2010; Knobloch-Westerwick, 2015). These features and the medium through which news items are carried predict media effects (Marshall, 1964).

Context and Setting

Media coverage may impact the preferences or views of the public. Judges are recruited from the public. When the media reports on cases that are biased and engenders views that are rather strong on the courts, then additional media reporting induces members of the public to promote the views via the media. That means that media reporting may carry a marked persuasion effect via coverage that is biased. The effect's degree is dependent on the accordancy level between the views espoused by the public and the views that the media promotes. Where the latter are

markedly different from the former, then additional or more media reporting mitigates the impact of the former on particular court verdicts.

I adopted a conceptual model to organize the data. The model was related to the study's objectives: examining the relationship between court verdicts and media trials in India and establishing how media trials affect the Indian criminal justice system in Criminal behaviour. I used a practical conceptual model understand how specific variables were related. As well, it has set stage for the researcher to present the pre-set research questions, which drive the present review in the light of the corresponding problem statement (Hobbs & Norton, 2006).

I examined the mechanisms through which court verdicts and proceedings may be influenced by media coverage. In theorizing how court proceedings and verdicts are influenced by the coverage, I reflected on two distinct factors. First, I considered the influence that the media has on judges' preferences or views and those of the public. Second, I considered the structure and nature of incentives for the judges and the public. To ensure that the mechanisms were accurate, I explored varied factors comprehensively. I analyzed the patterns indicating how the media reports on court proceedings and justice systems in general. I also explored how the media influences the perspectives that people have on court proceedings and determinations. Lastly, I explored how changing the views of the public through media reporting affects court determinations.

Case Information from Video Clips and Related Articles

Sheena Bora's murder

From various videos posted on YouTube, one gathers that Sheena Bora was a Mumbai Metro One executive and was reported missing in April 2012. About three months later, various individuals were taken into police custody on suspicion that they had abducted her, murdered her, and later burned her body. The individuals were Indrani Mukerjea (her mother), Sanjeev Khanna (her stepfather), and Shyamvar Pinturam Rai (Indrani Mukerjea's driver). Khanna and Rai confessed that they had abducted her, murdered her, and later burned her body. Mukerjea maintained that Bora was alive and residing in the USA.

As I watched the videos, I got the feeling that the media focused excessively and unnecessarily on the personal life of the accused, especially Mukerjea. The media reported private information of the accused that was not related to the charges. This included scrutinizing aspects of the characters and personal lives of the accused that were not related to the investigation of the crimes they were suspected of having committed. From when Mukerjea was arrested, the media appeared to have concluded that she was guilty of murdering her daughter based simply on circumstantial findings and long before her trial for the murder had got underway.

In a research article titled “Media and Democracy – Legal Prospective”, Ghalib Nashter, an assistant professor of law, decried that in the case of Bora, the media “pierced the personal life of the parties” unreasonably (Nashter, 2018, p.16). According to Nashter, the character and personal life elements that the media guided the attention of the public to in relation to the case were not legally linked to the investigation of the crime. He accused the media of sensationalizing the case. Nashter (2018) also accused the media of distorting facts to increase their viewership in a highly competitive media market. Further, Nashter accused the media of extensively covering matters before the courts “by publishing information and opinions that are clearly prejudicial to the interests of the parties involved in litigation pending before the courts” (Nashter, 2018, p.16). The videos and the articles gave the overall message that the involvement of the media in the case had adverse effects on the courts.

Priyadarshini Mattoo case

There are various YouTube videos offering information that Priyadarshini Mattoo was found not only murdered but also raped in her own house in 1996. In 2006, the High Court sitting in New Delhi determined that Santosh Kumar Singh raped and murdered her, reversing the acquittal he had secured from the trial court. The court handed him a death sentence.

About a year later, the death sentence handed to Santosh Kumar Singh was commuted to life imprisonment by the Indian Supreme Court. It is clear from the videos that the acquittal was met by public outrage, which was reported widely in the media. Investigative journalists embarked on establishing the motivations that the court had in handing Santosh the acquittal contrary to the widely-held opinion that he was guilty of raping and murdering Mattoo.

The media unearthed critical information that had not been presented to the trial court. The strength of the information led to the filing of an appeal by the Criminal Bureau of Investigations (CBI) against the acquittal. The appeal saw the case retried by the high court, which eventually quashed the acquittal and handed Singh a death sentence.

From a review of the videos, I formed the opinion that with respect to the case, the media made certain that justice was served albeit after a long delay. The media helped fill critical gaps that had earlier led to the handing of the acquittal.

One of the law firms in India, Singh & Associates, in an article titled “Trial by Media, a Threat to Administration of Justice”, asserted that the effect of the media was “observed in full swing in the cases of...Priyadarshini Mattoo” (Singh & Associates, 2012, pp.22-23). The law firm intimated that:

Media has now reincarnated itself into a ‘public court’ which can also be referred as “Janata Adalat” and has started interfering into court proceedings so much that it pronounces its own verdict even before the court does. It completely overlooks the vital gap between an accused and a convict keeping at stake the golden principles of ‘presumption of innocence until proven guilty’ and ‘guilt beyond reasonable doubt’⁴⁵.

The videos gave me the impression that the involvement of the media in the Mattoo case had favorable effects on the high court by ensuring that justice was served.

Jessica Lal case

Jessica Lal was a model who was shot dead at a packed socialite party in April 1999. Numerous individuals who witnessed the shooting indicated that she was killed by Manu Sharma. The father of the accused was rather influential and wealthy. After a lengthy trial, Manu and others were handed acquittals by the court. The YouTube videos I reviewed, show that the prosecution was largely compelled to file appeals against the acquittals at the high court due to media pressure.

The high court quashed the acquittals and handed Manu life imprisonment. In the videos, the media came-off as having championed the cause of the middle class against the powerful,

⁴⁵ Singh & Associates, 2012, pp.22-23

opulent individuals and their families. I gathered that the middle class largely felt that, in relation to the Jessica case, the media advanced the cause of justice in the face of impediments laid out by the rich. The middle class welcomed media vigilantism in the case. From the videos, I felt that the involvement of the media in the Jessica case had favorable effects on the high court by ensuring that justice was served.

In a research study titled “Justice for Jessica: A Human Rights Case Study on Media Influence, Rule of Law, and Civic Action in India”, Alvarez (2011) concluded that the media impacted on the outcome of the case. He felt that “modern media helped the case by making her case as a symbol – Jessica Lal and the trial – readily available to the people” and “the effects themselves are as instantaneous and progressive as the technology that promotes it” (Alvarez, 2011, p.37). The videos and the article by Alvarez (2011) made me conclude that media involvement in the Jessica case had favorable effects on the high court by ensuring that justice was served.

Nitish Katara murder case

I located and watched a number of videos posted on YouTube relating to the murder case of Nitish Katara. From the videos led me to the opinion that there was a marked chance that the perpetrators of the murder would not have been found culpable of the murder and punished by the courts had the media not intervened. Nitish was a businessperson and his father worked for the Indian Administrative Service (IAS). Nitish was romantically involved with Bharti Yadav for four years. Bharti’s father was an influential public figure.

Bharti’s family was averse to the relationship and her brother murdered Nitish, burned his body and later disposed of the charred remains on a highway. Immediately after the murder, she conceded that she was romantically involved with Nitish but was pressurized by her family, especially her father, to deny the relationship. A fortnight later, she denied having ever been in a romantic relationship with Nitish.

The videos suggest that the media established the facts surrounding the relationship between Bharti and Nitish and brought pressure to bear on her and her family. Owing to the pressure, Bharti admitted that she had been in a romantic relationship with Nitish. The media also publicized that Bharti’s brother had already confessed that he murdered Nitish. Yet the case

investigator had not brought the confession to the attention of the trial court: the investigator was a business partner to the accused person's influential father.

From videos of the case, I determined that the media brought the corresponding facts to public attention. In turn, the public pressurized the court and the police to ensure that justice was served. In an article titled "Trial by Media – A Discord of Rights", Chakraborty (2015) affirmed that in relation to the Nitish case and other cases, "reporting by the media...have time and again brought about speedier justice for the victims...and the...same cannot be overlooked" (Chakraborty, 2015, p.221). The videos and the article by Chakraborty made me feel that media involvement in the Nitish case had favorable effects on the trial court by ensuring that justice was served.

Bijal Joshi rape case

From various YouTube videos, one learns that Bijal Joshi took her own life in January 2004 after being tortured as well as gang-raped by various men, including her then lover, Sajal Jain. Sajal invited Bijal to a hotel for New Year celebrations. Sajal and his friends tortured as well as gang-raped her at the hotel. Before taking her own life, Bijal penned a suicide note.

In the note, she indicated that she had been tortured and raped by Sajal, Ashok Jaiswal, Sugam Jaiswal, Karan Jain, and Jaiswal Chandan. Sajal's father owned the Apollo Millennium Hospital and was a leading industrialist. After the death of Bijal, Sajal got hospitalized at his father's hospital, feigning food poisoning. The police arrested him ready to press two charges against him – abetting suicide and rape.

From the videos, the accused in the Bijal case would not have been punished had the media not intervened aggressively. In a research article titled "Role of Media in Securing Social Justice to Women in India: An Analysis in Present Scenario", Dr. Anil Balhera, an assistant professor of law, asserted that in relation to the case, the media covered it as a breakdown of justice since the accused were misusing the legal procedures. The media piled pressure on the courts and the police to deliver justice in the case (Balhera, 2018).

Owing to the media pressure, the National Commission for Women carried out independent investigations that indicated the related police investigations had many lapses. Balhera contended

that “media’s role was significant at this stage because it prevented the accused from misusing the legal machinery” (Balhera, 2018, p.128). From the videos and the article by Balhera, I felt that the involvement of the media in the Bijal case had favorable effects on the trial court by ensuring that justice was served.

Murder of Aarushi Talwar

I watched a number of videos of the still unresolved murder case of Aarushi Talwar who was allegedly murdered by her doctor parents. She was murdered in May 2008 at her home. From the videos, it was clear that the case attracted heavy media coverage and involvement. The media sensationalized the case, publicizing scandalous allegations against the murdered girl.

The court handed acquittals to those accused of the murder, arguing that the prosecution had not presented satisfactory evidence against them. It also heavily criticized the media for having carried out very shallow investigations into the murder. From the criticism, the court seems to have expected the media to get involved in the case, and investigate the murder systematically.

In “Media – A Valuable Means to Justice”, Monisha Gade, an assistant professor of law, asserted that the media sensationalized the case and presented the murder as a simple case of honor killing. Different television stations purposefully distorted information related to the case to attract more viewers, occasioning lots of confusion. The media focused on aspects of the personal life of the victim that were completely unrelated to the legal dimension of the⁴⁶.

The media “made every effort to highlight the elements of illicit relationships, adultery, fornication, mystery and honor killing in a bid to challenge the popularity of daily soaps Gade regretted that.⁴⁷

The media was willing to stoop to such a base level that it actually went ahead and reported unverified information casting aspersions on the character of the dead girl. The civil society needs to question if the media and all agencies involved should be allowed to get away after besmirching our memory.⁴⁸

⁴⁶ case (Gade, 2016, p.96

⁴⁷ Gade, 2016, pp.95-96).

⁴⁸ (Gade, 2016, p.96)

The videos and the article by Gade (2016) depict media involvement in the case as having adverse effects on the court's verdict, failing to ensure that justice was served. In admonishing the media, the court pointed out the media impact on the judges.

Ruchika case

I watched three YouTube videos regarding the Ruchika Girhotra case that showed Ruchika was molested by an inspector general of police. When she filed a complaint against the inspector, she, her family and her friends suffered systematic harassment by police officers. The harassment made her take her own life.

After many years, tens of adjournments, and hundreds of hearings, the inspector was found guilty of having molested Ruchika. The court handed him a six-month imprisonment. The CBI appealed the ruling, seeking that the sentence be enhanced to at least two years. The Chandigarh District Court enhanced it to one and a half years. Later the Supreme Court released the inspector on bail terms, upholding the earlier ruling of six-month imprisonment.

The videos led me to form an opinion that the media sensationalized the case and was keen on ensuring that Ruchika got justice. At some point, the media exerted so much pressure on the criminal justice system in Criminal behaviour that the case was reopened. Some form of justice was eventually served in the case owing to the media's relentless pursuit of justice and intervention. In an article titled "Trial by Media and Criminal Justice Administration", Suman and Abhishek (2014) concluded that the media played critical roles in ensuring that the case reached a satisfactory conclusion by justice having been administered.

His Holiness Sri Jayendra Saraswathi Swamigal murder case

From various videos posted on YouTube, I gathered that a religious person was murdered within the compound of the Varadharaja Perumal Temple, which he was managing. A report filed by Dhanasekaran Prakash, an investigative media practitioner, helped in the arrest of Vijayendra Saraswati and His Holiness Sri Jayendra Saraswathi Swamigal as the key suspects in the murder of the manager. In the report, it was clear that the manager had leveled various criticisms against

the suspects before he was murdered. Ultimately, 24 people were accused and tried for murdering the manager.

The Puducherry Principal District Session Court handed acquittals to all the 24 individuals, determining that the evidence to prove their involvement in the murder was unsatisfactory. The media triggered a public hysteria milieu regarding the case, which impeded a fair appraisal of the evidence. The media widely publicized the narrative that His Holiness Sri Jayendra Saraswathi Swamigal was culpable of the murder. However, the Andhra Pradesh and Madras high courts as well as the Supreme Court severally determined that he was not guilty of the crime. The courts heavily criticized the media regarding their coverage of the case and their attempts to pass judgment on His Holiness Sri Jayendra Saraswathi Swamigal before the courts had passed theirs.

In an article titled “Trial by Media – A Discord of Rights”, Chakraborty (2015) affirmed that:

In 2005, there were accusations all around by the media on a religious leader, Holiness Shri Jayendra Saraswathi Swamigal, of being guilty of a murder. However, the Madras High Court and the Supreme Court both found no credible material against him at all. They in fact came down upon the media for such blatant misuse of their power.⁴⁹

Tehelka’s Rahul Gandhi interview

I watched several videos posted on YouTube relating to an interview granted by Rahul Gandhi to Tehelka, a popular magazine. At the time of the interview, he was the Congress Party’s vice chairman. In the interview, he made a claim that was widely interpreted as meaning that he could have been the Indian Prime Minister when he was only 25 had he so wished. The claim attracted a lot of uproar, making the magazine to eventually back down from the claim, after having stood by it for an extended period. It appears that the magazine unnecessarily seized the claim and catapulted it into a widely followed story in the country.

After watching the videos, I formed the opinion that, by publishing the claim, the magazine tarnished Rahul Gandhi’s reputation markedly. The magazine turned the interview into a devastating situation for the vice chairman even after promising the nation that it was his first

⁴⁹ (Chakraborty, 2015, p.222)

major interview. The way the claim, which was the byproduct of a casual conversation, was presented by the media was typified by a number of misrepresentations as the Congress later established.

The article titled “Media Trial in India: Pros & Cons” by Rajesh Kumar Malik, an assistant law professor, has it that the misrepresentations might have been motivated by the growing ruthless and fierce competition between different media houses. Malik (2016) asserts that the way the media handled the claim was akin to a media trial. The media are now characterized by:

‘aggressive journalism’ where a multitude of cameras are flashed at the suspects or the accused. The most objectionable part, and unfortunate too, of the recently incarnated role of media is that the coverage of a sensational crime and its adducing of ‘evidence’ begins from the very early stage, mostly even before the person who will eventually preside over the trial even takes cognizance of the offence.⁵⁰

ISRO espionage case

A number of YouTube videos depict that Nambi Narayanan, a renowned scientist, was wrongly charged with leaking critical (ISRO) defense information to foreign intelligence officials for monetary gain. Yet it is clear from his lifestyle that he had not benefited from the corrupt gains as his accusers had alleged. When he was jailed after being arrested, officials from the Indian Intelligence Bureau (IIB) were keen on having Narayanan falsely accuse the ISRO leaders, especially one Muthunayagam. He refused to level the false accusations and was subsequently tortured until he passed out. He was admitted for the requisite medical care. India’s Supreme Court and the CBI dismissed the charges brought against Narayanan.

When the bureau was processing the case, some media houses wrongly sensationalized it as having been a typical spy-sex-political scandal. The bureau concluded that the state failed to prove the espionage allegations against the scientist. Krishnakumar (1998), in an article headlined “Requiem for a Scandal”, accused the media of having played a dangerous and mischievous role in the case. The media may have helped the cause of justice in the case in some

⁵⁰ Malik, 2016, p.9

ways but there is a high probability that it “played into the hands of certain individuals” and sensationalized the case “to save themselves and their circulation figures⁵¹.”

2G spectrum case

Elementarily, the 2G spectrum issue was a suspected scam allegedly perpetrated by top government officers and politicians during the era of the Indian United Progressive Alliance government. The Comptroller and Auditor General released a report that showed that the government had undercharged mobile service providers for licenses allocating particular 2G spectrum mobile phone frequencies. A public interest litigation case relating to the allocation of the frequencies was brought to the courts with the principal accused person being the then Minister of Communications and Information Technology. The case ended up at the Supreme Court. The Supreme Court ruled that the spectrum was allotted in an arbitrary and unconstitutional way, consequently quashing the allocation of 122 frequencies issued between 2007 and 2009.

After watching several YouTube videos relating to the 2G spectrum case, my opinion was that the media played varied significant roles in the case. The media sensationalized the report by the Comptroller and the Auditor General, triggering public anger against corruption in the country. Various political formations, including Bharatiya Janata Party (BJP), exploited the anger, turning it into the political capital that helped them ascend to power by ousting the United Progressive Alliance government.

Chenoy (2017), in an article titled “2G Scam Verdict: Why Prosecution, Media and BJP Have Egg on Their Face Today” notes that the scandal immensely dented the image of United Progressive Alliance especially after the media stoked “public anger...widely” (para. 5). Owing to media intervention, the case “attracted a lot of attention” yet many of the claims made in the media were not “found to be supported by any legally admissible material⁵²”. Some “prominent public-spirited persons” made such claims and agreed to “make representations on record but refused to enter the witness-box.⁵³

⁵¹ (Krishnakumar, 1998, para. 23)

⁵² para. 7

⁵³(para. 7

Salman Khan's acquittal

Salman Khan was taken into police custody in September 2002 for negligent and rash driving. He had lost control of his car and it had rammed into a bakery in Mumbai, killing one person and injuring four others. Initially, he was charged with culpable homicide but the charges were later dropped. In July 2013, he was charged before the Bombay Sessions Court. He denied the charges, pleading not culpable. About two years later, the court convicted him of the charges: drunk-driving, occasioning the death of one person, and injuring four persons. He was handed a five-year jail sentence.

On the day he was handed the sentence, the Bombay High Court ruled in favor of his plea to be released on bail pending the determination of an appeal he had lodged against the sentence. The high court consequently suspended the sentence. The principal witness in the case was a police officer who died in unclear circumstances before the appeal was determined. The court allowed the appeal, ruling that the prosecution did not present evidence proving the charges. It acquitted Salman Khan of the charges. The government filed an appeal against the acquittal at the Supreme Court, which admitted the appeal and refused to grant a plea by the accused to fast-track the processing of the appeal.

The YouTube videos I watched regarding the case led me to the opinion that the media did not help in providing accountability and transparency in the case. The media heightened public awareness by prompting related public discussions. According to Senthivel (2016), in an article headlined "Role of Media in Making Public Policy on India's Criminal justice system in Criminal behaviour: A Study of News Reporting on Actor Salman Khan's Acquittal in A Murder Case", the media has helped "set the agenda for the criminal justice system in Criminal behaviour and reinforce support for punitive policies.

In support of a petition proposed and promoted by Shekar (2018), he noted that the media supported the accused shamelessly and unjustifiably since he is a celebrity (para. 1). He accused the media of helping "the rich and famous buying their way out of accountability and systems of justice" by endorsing their regrettable actions and compromising the capacity of the criminal justice system in Criminal behaviour for ensuring that all persons are treated equally in court (para. 2). In support of the petition calling on all people to "Condemn Actor Salman Khan and

the Indian Media's Terrible Coverage of His Court Case", Shekar (2018) expressed his frustration with the media portrayal of the accused as "kind" and "compassionate", disregarding "the humanity and the rights of the people he hurt" (para. 5).

Shivani Bhatnagar murder case

Shivani Bhatnagar, an Indian Weekly journalist, was murdered in January 1999. Various YouTube videos show that her killing was a scandal involving leading Indian politicians. Ravi Kant Sharma, a police officer, was charged in court with the murder. The media intimated that the police officer got her murdered when she threatened to make their secret intimate relationship public. Others who faced the court on the same charge alongside the police officer were Sri Bhagwan Sharma, Pradeep Sharma, and Satya Prakash. The Delhi Trial Court found the four culpable of the murder and handed each of them life imprisonment. The four appealed against their conviction at the Delhi High Court, with the court allowing the appeals filed by Ravi Kant Sharma, Sri Bhagwan Sharma, and Satya Prakash. The appeal filed by Pradeep Sharma was disallowed.

My opinion on watching the videos was that the media sensationalized the case. Ravi Kant Sharma's wife called a media conference in which she refuted a confession she had allegedly made conceding that her husband was involved in the murder. She dared the media to seek clarification from BJP's leader on whether her husband was involved in the case. The media unjustifiably focused on the private lives of his family members, including airing the footage of his teenage daughters waiting to see him while he was in police custody.

In a report titled "Guilty Mileage: How the Indian News Media Covered the Judgments in Two High-Profile Cases", Ghosh (2008) accused the media of executing a shadow trial of those suspected having been involved in the murder crime. Ghosh (2008) opines that the media hastened the speed with which the courts processed the murder case – the principal accused was handed a sentence by the court within a week of being convicted of the crime. Further, the media gave the principal accused, his family and friends more coverage than the victim and her family.

Sunanda Pushkar case

Four years after the death of Sunanda Pushkar, the police accused her husband Shashi Tharoor, a prominent politician, of her murder. YouTube videos relating to the case show that the police were persuaded to charge the politician by conspiracy theories developed belatedly by the media that pointed towards him as the principal accused. The media facilitated and pushed for public discourses regarding the witness statements filed in relation to the case, influencing the charging of the politician with the murder. The public discourses clearly covered some sub-judice matters regarding the case.

In an article titled “Some Media Act as Prosecutor, Judge & Executioner: Shashi Tharoor”, the Free Press (2017) reported that Shashi Tharoor had accused the media of trying him in relation to the case, dragging him through “false trials” (para. 1). Further, he accused the media of not valuing truth above particular target rating points and turning into “a prosecutor, judge and the executor” (para. 5). He also accused the media of falling into passing judgments on accused persons in their competition to break the news before other competing channels. He decried that “too often, journalists become the willing accomplices of motivated leaks and malicious allegations” (para. 6). He was of the opinion that the “the country requires not less journalism but better journalism” (para. 7).

Coal scam case

According to several videos posted on YouTube, the coal-allocation political scandal was highly publicized. The Comptroller and Auditor General of India published a report that accused the government of ineffectively allocating coal blocks to particular entities from 2004 to 2009. Following the publication of the report, the CBI commenced investigations to establish whether corruption influenced the allocation of the blocks. The bureau named several Indian companies in its initial report, indicting them for having overstated their worth, for having failed to avail information on previous coal allocations made to them, and for having hoarded their coal allocations instead of developing them.

The media reacted to the reports, triggering public anger against the government and the companies. The media reaction involved news items from the reports that further helped expose the scam. In an article titled “Trial by Media: Growing Influence of Media over Implementation

of Law”, Priyanka Mittal (2018) agrees that the media helped in exposing the coal scam by constantly informing the public about the progress of the case.

According to Mittal (2018), the media was an information carrier and an informant regarding the scandal and sensationalized the related information.⁵⁴

National Herald case on Gandhis

As yet, the National Herald scam case is still before the Delhi High Court. Subramanian Swamy, a popular politician, filed the case against Sonia and Rahul Gandhi and their associated companies plus persons. Swamy claimed that the Gandhis, via their Associated Journals Limited firm, were advanced a loan by the Indian National Congress and failed to repay it as agreed. The courts have since determined that the Gandhis have a case to answer. The Gandhis, through Young Indian Pvt. Limited that acquired a stake in Associated Journals Limited, pleaded with the court to grant a stay on income tax court proceedings related to the loan. The Gandhis also pleaded with the court to grant a stay order against media reporting regarding the case. The court disallowed both pleas.

From the videos regarding the case, my opinion is that the Gandhis were averse to the media reporting as they thought it would hurt their political prospects. The media has been sensationalizing the case and related information, appearing to pursue particular political ends. In an article titled “National Herald Case: No Relief for Rahul Gandhi”, ANI (2018) reported that the Gandhis were uncomfortable that the media presented the disallowing of the pleas as setbacks.

Acquittal of BJP President Amit Shah and death of Judge Lohiya

From media videos, I gathered that Judge Lohiya was appointed to sit on the bench determining the highly publicized case of the murder of Sohrabuddin Sheikh when the court removed Judge Utpat from the bench. Amit Shah, the national BJP leader, was facing the charge of murdering Sohrabuddin. Unlike Judge Utpat, Judge Lohiya allowed the national BJP leader, Amit Shah, to be represented in court without necessarily having to physically attend court until the charges

⁵⁴ (pp.1-2).

against him had been framed accordingly. However, Judge Lohiya required Amit to attend court physically whenever he was within Maharashtra state, where the litigation was happening.

But Amit failed to attend court physically when he was within the state, leading to Judge Lohiya ordering that he be in court physically in the succeeding court session when the judge was to read the court's verdict on the case. However, before the date set for the session, Judge Lohiya died, apparently in suspicious circumstances according to the media. Judge Gosavi replaced Judge Lohiya on the bench and acquitted Amit of every charge relating to the murder of Sohrabuddin.

From the videos, it was clear that some sections of the media were keen on presenting the circumstances surrounding the death of the judge as suspicious. The judge's family protested the manner in which the media projected the circumstances. In an article titled "Father's Death Not Suspicious, Says Son of Judge Who Died Hearing Case in Which Amit Shah Was Accused", Huffington Post (2018) reported that the family had indicated that it was devoid of doubts regarding how the judge died and had pleaded with the media to stop sensationalizing the death. The family held that the judge died after suffering a cardiac arrest.

Vijay Mallya's case

From various YouTube videos, I gathered that Vijay Vittal Mallya faced court proceedings aimed at extraditing him to India from the UK to be charged with various financial crimes. While watching the videos, I got the feeling that based on media coverage of the case and the accusations leveled against him in India, there was a high likelihood of denying him a just trial in the Indian courts. The media was replete with powerful commentaries and panel discussions aimed at shedding light on the accusations; commentaries and discussions that seemed to achieve the intended consequences. The consequences included adversely covering various possible elements of the expected trial and urging the criminal justice system in Criminal behaviour to speedily process the accusations. In an article titled "UK: Vijay Mallya's Defense Questions Impartiality of Indian Judicial System", Khanna (2017) alluded that the media was coercing the system to "pursue criminal proceedings against" Vijay Mallya⁵⁵.

⁵⁵ para. 6

Balakrishna's charges of attempted murder

In 2004, a Hyderabad local court acquitted Balakrishna Ramarao of a shooting charge, ruling that the prosecution had not proved its case. Notably, the prosecution presented tens of witnesses to testify against him as well as 44 and 58 pieces of material and exhibits respectively to the court. I watched YouTube videos related to the case where I gathered that, owing to media coverage, the case against Balakrishna attracted marked publicity that led to negative public opinion against the accused. In an article titled "Trial by Media – A Discord of Rights", Chakraborty (2015) seems to agree that "adverse publicity had been given to his case" by the media (p.226).

Balakrishna's defense attorneys presented a media trial defense, citing a USA Supreme Court judge who had noted that "judges are subconsciously influenced by several forces", including media coverage (p.226). Nidhi (2016), in a study titled "Media Trial: A Legal Dilemma" agreed with the attorneys that the rulings made by judges are shaped by the sentiments expressed often by and in the media. The sentiments create:

Nirbhaya rape case

From various YouTube videos, I gathered that the violence meted against a 23- year-old girl Nirbhaya, triggered lots of public anger. The media drew lots of attention to the growing incidence of sex crimes in the country. It highlighted the ordeal suffered by the girl and seemed to have pushed the Supreme Court to uphold the death sentences handed to the accused by lower court.

According to Chowdhury (2013) in an article titled "Media Trials: Contradiction to Media Ethics?" the media compelled the criminal justice system in Criminal behaviour to give unique significance to the case owing to the publicity given to the case. In an article titled "Satyaveer Singh Rathi vs. M/S. Zee Television Ltd on 23 January 2016", Lau (2016) protested that in regard to the case, the media exerted lots of pressure on the criminal justice system in Criminal behaviour, creating "enormous strain on the judges". Lau (2016) cited Justice Kurian Joseph as having advised that media trials in pending cases should be avoided to save judges of the enormous strain created by it. "Please stop trying (cases) in the media till a case is over. Never try a case in the media, it creates a lot of pressure on judges, they are also human beings." Referring to "the amount of pressure that is built," he recalled how a judge who dealt with a case

had once told him that “If I had not given that punishment they would have hung me, the media had already given their verdict, (like) it is going to be this only.”⁵⁶

How do you think Indian media has influenced trial in India?

Each of the respondents answered that the Indian media has influenced trial in at least one way or the other. The cited influences included the media:

- Focusing disproportionately and without cause on the personal lives of some accused persons, especially reporting on private information of the accused that is not related to the charges they are facing
- Triggering public outrage against the accused and forcing judges to make rulings aimed at appeasing the public
- Unearthing critical information that the courts use in determining particular cases, especially where the information helps fill critical gaps in the evidence accessed by the courts
- Championing the causes of given sections of the populations, especially the causes of the vulnerable in society
- Investigating particular cases and providing formal investigators with critical leads
- Sensationalizing some claims or facts relating to given cases to ensure justice is served or to tamper with the course of justice
- Passing judgments that either favor the accused or the victims
- Helping provide accountability and transparency in given cases

Do you know of a recent case that was blown off balance by media before or after trial?

Each of the respondents indicated that he or she knew of at least one case that the media helped throw off balance before or after it was tried. One of the respondents said:

I handled many cases that have been blown off balance especially by the social media. Social media has posed grave risks to some of the cases I have handled in recent times by diminishing the chances that my clients have had for getting tried fairly by our courts.

⁵⁶ (Lau, 2016, para.1).

Another respondent asserted that:

I have been unable to win two of the cases of those I have handled in the last one year for my clients since the judges could not view the clients as being innocent before they tried them owing to the onslaught they were facing from the media. In one of the cases, I feel that the judges concluded that my client was a murderer only because the media called him as much. That was very sad! You cannot try a person fairly when you are convinced that he is a murderer, can you?

Another respondent opined that:

I am very worried that some cases will never be tried as they should since the media has already interfered with the rights of the accused persons seriously. In one of the cases I handled recently, the judge confided in me that he could not issue a stay order since the media would have ended his career. The issuance of the stay order was necessary to secure the integrity of the proceedings before the judge. By the time the judge issued his final determination of the case, the accused had long sold off the properties that were being contested, and left to a far-off country. The determination was all in vain.

How frequent do cases of trial by media happen in India?

By and large, the respondents agreed that the media trial cases happen daily in India. One of the respondents offered that:

For every passing minute, there are hundreds of Indians trying their fellow countrymen on Facebook and Twitter. New media has changed the legal landscape immensely. Media trials are now an everyday reality in the country, courtesy social media.

Which are the most frequent cases influenced by media in India?

It was clear from the responses that some categories of cases are subjected to media trial more than others. Cases involving politicians are most frequently subjected to media trial followed closely by cases involving radical breaches of the accepted moral codes. A number of the respondents provided specific examples of the particular cases that have been influenced by media in the country in recent times. The examples include the politics-related cases involving such public figures as:

- Balakrishna Ramarao
- Vijay Mallya
- Judge Lohiya
- . • Sonia and Rahul Gandhi
- Shashi Tharoor
- Shivani Bhatnagar

Do social media influence trials equally or is this only recorded by other forms of public media?

Majority of the respondents felt that social media influence trials in the same way as traditional public media. They indicated that social media and traditional media equally influence trials, with the responses about the influences been similar to those cited in questions above.

Do you believe that there are offenders who were harshly or lightly judged due to media influence?

The respondents were unanimous in their perception that some accused persons got harsher or lighter judgments from the courts owing to media influence. One of the respondents was of the opinion that:

Influential people are able to extract lighter sentences from our courts by paying the media to argue their cases favorably before the judges. How do you explain the recent determinations made by the courts regarding the Salman Khan case? Salman Khan's drunk and drive, hit and run, and black buck poaching cases are cited in the previous section of this research. One of the respondents held that the court has been more lenient on Salman than other accused persons, quipping that:

I hold that Salman is one dangerous criminal that the court should have dealt with very firmly. The media gave the court the gloves it wore when processing him. Notably, the media kept focusing the court's attention on his charity forum. The court did not train its eyes on his criminal culpability in the hit-and-run crime as it trained the eyes rather hard on the charity forum. It never dawned on the judges that they had in their hands an illegal black buck poacher as media trained their eyes rather hard on the charity forum! The

media succeeded in its efforts to make the court sympathize with the poacher. It sanitized him and presented him before the judges as a decent person whose life revolved around helping others. The charity narrative worked wonders for him in various courts, pushing the courts to find that the prosecution could not prove any of the charges laid against him!

Why do you think judges are easily influenced by media in making judgment when there is a law to guide them?

The respondents indicated that there are various reasons why the media influence judges rather easily in judgments formulation regardless of the many laws developed to guide them. The reasons that were noted by most of the respondents were that:

- Judges consume and appropriate media content just like the rest of the public
- Some judges are not keen on the judicial oath obligating them to examine the matters before them objectively
- Some judges lack the requisite training • When judges are writing judgments, they consider public opinion – they may get informed about the opinion by the media
- The media focuses disproportionately and without cause on the personal lives of some accused persons, especially reporting on private information on the accused that is not related to the charges they are facing
- The media triggers public outrage against the accused thus forcing judges to make rulings aimed at appeasing the public
- The media unearths critical information that the courts use in determining particular cases before them, especially where the information helps fill critical gaps in the evidence accessed by the courts
- The media champions the causes of certain sections of the populations, especially the causes of the vulnerable in society
- The media investigates particular cases providing formal investigators with critical leads
- The media sensationalizes some claims or facts relating to certain cases to ensure justice is served or to tamper with the course of justice
- The media at times passes judgments favoring either the accused or the victims
- The media helps provide accountability and transparency in various cases

- Judges are averse to being criticized by the media

Should this be happening or, in other words, should media or publicity be regarded more than law that defines or guides rulings?

All the respondents affirmed that although the media influences judges rather easily, that should not be the case and in the interest of justice, the judges ought to have more regard for what the law requires of them than for publicity or media. One of the respondents offered that:

What do you think should be done to protect offenders in the future from being sentenced based on public demand and not as per the legal requirements?

The respondents had different suggestions on what should be done to put media trials to an end, protecting accused persons from being sentenced owing to public pressure rather than the consideration of appropriate legal requirements. The suggestions included that:

- The police should be barred from releasing information to the media on matters that are active before the courts
- The public should be educated on and informed about the rights of accused persons to fair trial
- The media should be barred from reporting on matters that are active before the courts or barred from reporting elements of such matters
- Jurors and judges should be made to respond to particular searching questions on the publicity they have heard regarding the cases they are handling
- Attorneys and other judicial officers should be barred from making particular statements when outside the purview of the court rooms through the formulation of appropriate guidelines and laws
- Media trials should by law be viewed as contemptuous of the courts if they have the potential for scandalizing, prejudicing, or hindering trial

Are Judges Influenced by the Media in Making Various Determinations?

Can the media be used to complicate a simple case under trial?

Out of the 450 attorneys registered to practice in India who participated in the present study, 323 “strongly agreed” that the media can be used to complicate simple cases under trial, 67 “agreed” that the media can be used to complicate simple cases under trial and none of them failed to give an opinion regarding this question. Forty of the respondents “disagreed” and 20 “strongly disagreed” that the media can be used to complicate simple cases under trial.

The present study was conducted to find how media interference affects the Indian criminal justice system in Criminal behaviour. This was determined by establishing if there was a positive correlation between court verdicts and media trials in India as well as by establishing the effect of media trials on the Indian criminal justice system in Criminal behaviour.

Most of the YouTube videos and the various articles regarding various cases relating to the research subject resulted in me forming an opinion that there was a strong correlation between court verdicts and media trials in India and that media trials affect the Indian criminal justice system in Criminal behaviour. For instance, the media impacted on the court’s verdict in the Bora case by extensively covering matters before the courts. According to Nashter (2018), the media published “information and opinions” which prejudiced “the interests of the parties involved in litigation pending before the courts” (p.16).

Most of the YouTube videos and the various articles regarding various cases relating to the research subject resulted in me forming an opinion that there was a strong correlation between court verdicts and media trials in India and that media trials affect the Indian criminal justice system. For instance, the media impacted on the court’s verdict in the Bora case by extensively covering matters before the courts. According to Nashter (2018), the media published “information and opinions” which prejudiced “the interests of the parties involved in litigation pending before the courts” (p.16).

Efforts Are Required to Limit Media Interference in Criminal Justice Systems

The literature that was reviewed showed that different criminal justice systems have since accepted that the media can interfere with them and have put in place measures to limit the interference. In the US for example, no one is allowed to cover criminal proceedings using electronic media by virtue of the 53rd federal criminal procedure that became applicable in mid-1946. The only exception to the rule is when there is a statute authorizing the coverage. The code

of conduct developed in the 1970s and applicable in the US requires that judges should not allow for the broadcasting, photographing, televising, or broadcasting of court proceedings within courts and the adjacent areas whether the matters under considerations are civil or criminal. From 1996, the US Courts of Appeal have been allowed to decide whether to allow for photographing or recording of their appellate arguments in line with the extant statutory provisions, local and national rules as well as other applicable regulations.

Judges Are Wary of How They are Viewed by the Media After Delivering Particular Rulings

From the reviewed literature it was clear that judges may be tempted to make rulings in particular ways to avoid the wrath of the media. According to Matter and Stutzer (2013), Mulder (2009), and Wentland (2012), the misperceptions created among judges by media reports affect how they formulate decisions. When damage awards are overestimated and the media consequently criticizes pro-plaintiff biases of the justice systems, judges and jurors may be compelled to be less disposed towards decreeing large damage awards or other determinations that highly favor the plaintiffs. Past research studies on civil cases consistently establish that media reporting largely exaggerates the pro-plaintiff bias that judges have and exaggerates damage award amounts. That means that the media commonly typifies courts, especially in the West, as having a high chance of decreeing excessively huge damage awards: with juries and judges who are deemed to be out-of-control being highly persuaded to punish rich defendants.

I focused on conducting a quasi-experiment using open-ended questions and YouTube videos. Some of the questions and videos delved into matters that were actively before the courts and that the media still had an interest then. That presented considerably tricky situations because it was hard to keep the media completely away from the cases they were still interested in. Hence, there were no control experiments in the quasi arrangement. To overcome this limitation, I focused on a range of cases that were already in existence with some of the cases having attracted the media at their early stages while others had not.

CHAPTER V

CONCLUSION

The scope of studies on the effects of the media on criminal justice systems is now rather broad. This brings about organizational difficulty going by the extant literature. Nonetheless, when one tries to organize the effects of the media in line with the target audiences, level, or aggregate of the audiences, he or she is likely to be effective. Some of the media effects are at a macro-level (audience aggregate) while others are at a micro-level (individual). There are varied, representative theories related to the latter that include the priming theory, the framing theory, the mass communication theory, the social cognitive theory and the elaboration likelihood theory.

Prior to this study, there had been only minimal scientific research into the impacts that media coverage has on given justice systems, including the Indian criminal justice system. Specifically, there is a persistent requirement for more scientific studies into how media coverage shapes or influences trials that are underway in the Indian criminal justice system. The current study will most likely trigger public discourses on how particular justice processes are influenced by the coverage. For a long time, India's criminal justice system has remained unenthusiastic about allowing unfettered media access to their functions and deliberations. I felt that there was a need for objective and scientific study to determine the impacts, if any, that the media has on the system's processes and determinations in particular cases.

This study was executed to establish how media interference affects the Indian criminal justice system by establishing if there was a positive correlation between court verdicts and media trials in India and the effect of media trials on the Indian criminal justice system. From the study, it was clear that media interference and trial affects the Indian criminal justice system, often adversely.

REFERENCES

- Alvarez, L. (2011). Justice for Jessica: A human rights case study on media influence, rule of law, and civic action in India (honors thesis). Florida State University, Florida.
- Arulselvan, S. (2016). Role of media in making public policy on India's criminal justice system: A study of news reporting on actor Salman Khan's acquittal in a murder case. *Global Media Journal*, 14, 26.
- Asian News International. (2018). National herald case: No relief for Rahul Gandhi. Retrieved from <https://www.aninews.in/>
- Balhera, A. (2018). Role of media in securing social justice to women in India: An analysis in present scenario. *International Journal of Research*, 4(1). Retrieved from <https://pen2print.org/>
- Banaji, S., & Buckingham, D. (2010). Young people, the Internet, and civic participation: An overview of key findings from the CivicWeb Project. *International Journal of Learning and Media*, 2(1), 15-24.
- Bandura, A. (1994). *Social cognitive theory of mass communication*. City, ST: Erlbaum.
- Bandura, A. (2009). *Media effects: Advances in theory and research*. New York, NY: Routledge.