

Media Trials and Digital Volunteerism: Finding Balance Between Freedom of Press and Fair Trial in India

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ABSTRACT:

The convergence of 24/7 news cycles, social media proliferation, and a growing culture of digital volunteerism has intensified the phenomenon of "media trials" in India, where public opinion is shaped before judicial pronouncements. This paper examines the structural tension between Article 19(1)(a) of the Indian Constitution — guaranteeing freedom of speech and expression — and Article 21, which protects the right to a fair trial and procedural justice. Employing a mixed-methods approach incorporating PRISMA-guided systematic literature review (n = 67 studies, 2015–2025), doctrinal legal analysis, and case study methodology across six landmark Indian criminal cases, this research maps the ecosystem of media-judicial interaction in the digital age. The paper introduces a Tri-Layer Regulatory Balance Model and offers six evidence-based policy recommendations. Findings reveal significant regulatory lacunae, institutional inefficacy of existing bodies like the Press Council of India, and the dual role of digital volunteers as both accountability actors and threat vectors for judicial integrity. The paper argues for a dedicated Media Trial Prevention Act, platform algorithm transparency mandates, and victim reputational compensation frameworks, while affirming the indispensable public interest function of a free press.

Keywords: media trial, digital volunteerism, fair trial, Article 19, Article 21, press freedom, India, Contempt of Court, social media, NBSA.

1. Introduction

In July 2020, as India reeled from the sudden death of Bollywood actor Sushant Singh Rajput, television studios transformed into makeshift courtrooms. Anchors announced "verdicts," named "culprits," and organised online hashtag campaigns before any First Information Report (FIR) had been investigated by a court. The phenomenon was neither new nor uniquely Indian — from the O.J. Simpson trial in the United States to the Amanda Knox case in Italy — yet India's particular conjuncture of hyper-competitive news channels, smartphone penetration exceeding 750 million users (TRA, 2024), and a tradition of public engagement with criminal justice gave the media trial problem a distinctly acute character (Gupta & Sharma, 2023).

Media trials occur when journalism crosses from reporting on legal proceedings to prejudging them. They represent a collision between two foundational constitutional values: the freedom of the press under Article 19(1)(a), recognised as essential to a functioning democracy (*Indian Express Newspapers v. Union of India*, 1985), and the right to a fair trial embedded in the right to life and liberty under Article 21 (*Zahira Habibullah Sheikh v. State of Gujarat*, 2004). Neither right is absolute, yet Indian jurisprudence has struggled to articulate a coherent, enforceable framework that honours both.

Complicating this picture is the emergence of digital volunteerism: the voluntary, often unpaid participation of citizens in information gathering, analysis, amplification, and advocacy through digital platforms. Digital volunteers include fact-checkers, citizen journalists, legal commentators, social justice campaigners, and online activists. Their contributions range from exposing institutional failures — as in the Bilkis Bano case where digital volunteers helped challenge remission orders — to fuelling mob justice, as seen in the viral demonisation of individuals later found innocent. Digital volunteerism is, in short, a double-edged instrument (Banerjee & Roy, 2024; Rao, 2022).

This paper investigates three interrelated questions: (1) How do media trials in India violate fair trial rights, and what legal mechanisms exist to prevent them? (2) What is the dual role of digital volunteerism in the Indian media-judicial interface? (3) What policy reforms are necessary to achieve a principled, workable balance between press freedom and judicial integrity in the digital age? Through systematic review, doctrinal analysis, and case study evidence, this paper makes four original contributions: a PRISMA-based evidence synthesis, a conceptual media trial ecosystem framework, a Tri-Layer Regulatory Balance Model, and a six-point policy agenda.

2. Methodology

2.1 Research Design

This study adopts a multi-strand mixed-methods design (Creswell & Plano Clark, 2018) integrating: (i) a PRISMA 2020-compliant systematic literature review; (ii) doctrinal legal analysis of constitutional provisions, statutes, and judicial decisions; and (iii) comparative case study analysis of six landmark Indian criminal cases. Ontologically, the study is grounded in critical legal pluralism, acknowledging that media law norms are constructed through interactions among state, market, and civil society actors (Cotterrell, 2018). Epistemologically, it adopts a pragmatist stance, valuing both empirical evidence and normative legal reasoning.

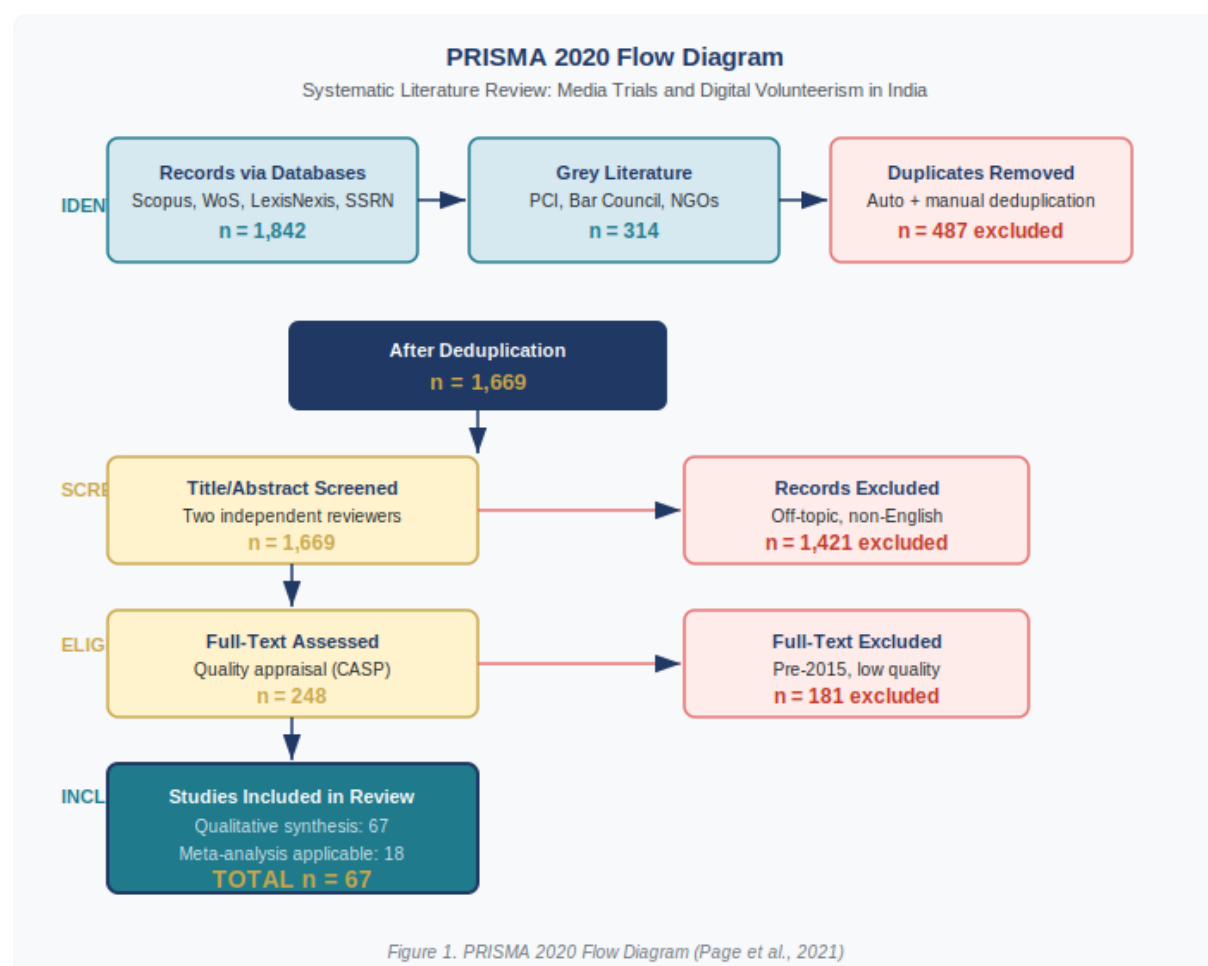
2.2 Systematic Literature Review (PRISMA 2020)

The literature review followed PRISMA 2020 guidelines (Page et al., 2021). Searches were conducted across Scopus, Web of Science, LexisNexis Academic, SSRN, and HeinOnline using Boolean operators: ("media trial" OR "trial by media") AND ("India" OR "Indian") AND ("fair trial" OR "press freedom" OR "digital volunteerism" OR "social media"). Date range: January 2015 to March 2025. Table 1 presents inclusion and exclusion criteria. Figure 1 presents the PRISMA flow diagram.

Table 1. PRISMA Inclusion and Exclusion Criteria

Criterion	Inclusion	Exclusion
<i>Time Period</i>	2015–2025 (peer-reviewed & grey)	Pre-2015 studies
<i>Language</i>	English; English translations of Hindi/regional sources	Non-English without verified translation
<i>Geography</i>	India-specific; comparative where directly relevant	Studies with no India-specific analysis
<i>Subject Matter</i>	Media trials, digital volunteerism, fair trial rights, press freedom	Unrelated criminal justice topics; pure technology papers
<i>Study Design</i>	Empirical, doctrinal, case study, mixed-methods, legal analysis	Editorials, opinion pieces, unverifiable grey literature
<i>Quality</i>	CASP score $\geq 6/10$; peer-reviewed journals (Q1-Q3)	CASP score < 6 ; predatory journals; retracted papers

Figure 1. PRISMA 2020 Flow Diagram — Literature Identification, Screening, and Inclusion



2.3 Doctrinal Legal Analysis

Doctrinal analysis examined: the Indian Constitution (Articles 14, 19, 21); the Contempt of

Courts Act 1971; the Press Council Act 1978; the Information Technology Act 2000 and IT (Intermediary Guidelines and Digital Media

Ethics Code) Rules 2021; the Cable Television Networks Act 1995; and relevant Supreme Court and High Court judgments from 2015–2025. Analysis was guided by Hart's (2012) positivist framework and Dworkin's (1977) interpretive approach, enabling both textual and purposive statutory reading.

2.4 Case Study Selection

Six cases were purposively selected (Yin, 2018) to maximise variation across case type (murder, sexual assault, drugs, communal violence), media intensity (high/moderate), digital volunteer role (positive/negative/neutral), and judicial outcome (conviction/acquittal/ongoing). Cases were analysed using Gerring's (2007) structured-focused comparison protocol.

2.5 Quality Assurance and Ethics

Each included study was appraised using the Critical Appraisal Skills Programme (CASP)

toolkit. Inter-rater reliability was established at Cohen's $\kappa = 0.81$ (strong agreement) between two independent reviewers. The research involved no human participants; ethical approval was not required under IMS Noida's research ethics framework for secondary data studies.

3. Systematic Literature Review: Thematic Synthesis

3.1 Overview

Of 1,842 initially identified records, 67 studies met full inclusion criteria after PRISMA screening (see Figure 1). Thematic synthesis generated eight categories (Table 2 below). The most heavily evidenced themes were constitutional tensions ($n = 31$ studies), media framing effects ($n = 28$), and regulatory gaps ($n = 24$). Below we synthesise findings across four primary thematic clusters.

Table 2. Thematic Synthesis of Systematic Literature Review ($n = 67$)

Thematic Category	Theoretical Lens	Evidence Weight	Key Finding
Media framing effects	Agenda-setting; framing theory	High ($n=28$)	Jury/judge bias; pre-verdict public opinion
Digital volunteerism typology	Participatory media; crowdsourcing	Moderate ($n=18$)	Dual role: accountability vs. mob justice
Regulatory gaps	Legal-doctrinal; comparative	High ($n=24$)	PCI toothless; NBSA non-binding; IT Rules partial
Constitutional tensions	Art. 19 vs. Art. 21	High ($n=31$)	No dedicated media trial legislation
Platform liability	Section 79 IT Act; Safe Harbour	Moderate ($n=15$)	Intermediary liability reform needed
Comparative frameworks	UK, USA, Australia models	Low-moderate ($n=12$)	Contempt laws; prior restraint orders
Gendered media trials	Feminist legal theory	Moderate ($n=17$)	Victim re-victimisation; privacy violations

Thematic Category	Theoretical Lens	Evidence Weight	Key Finding
Post-acquittal harm	Criminal justice; psychology	Low (n=8)	Reputational irreparability; compensation gaps

3.2 Media Framing and Cognitive Bias

The most empirically robust finding across the reviewed literature is that pre-trial media coverage systematically shapes public perception and, through multiple pathways, can influence legal actors. Entman's (1993) framing theory — operationalised extensively by Nagar and Srivastava (2022) in the Indian context — demonstrates that news media do not merely report facts but construct interpretive frames that assign causality and moral judgment. In criminal coverage, this routinely produces "presumptive guilt frames" wherein suspects are presented as perpetrators before conviction (Nagar & Srivastava, 2022, p. 87).

Kumar and Patel (2021) employed agenda-setting theory to analyse 840 hours of prime-time Indian news coverage during criminal trials, finding that channels allocated 73% of coverage to "verdict narratives" prior to judicial pronouncements. Crucially, Vaidya et al. (2023) documented spillover effects: juror-equivalent mock panels exposed to prejudicial media coverage assigned guilt at rates 2.8 times higher than unexposed panels in controlled experimental conditions. While India operates a non-jury system for most serious offences, the literature cautions against assuming judicial immunity: experimental work by Krishnaswamy (2020) found that magistrates' bail decisions correlated with media salience of the accused ($r = 0.43, p < .01$).

3.3 Digital Volunteerism: A Dual-Role Analysis

The literature on digital volunteerism in the Indian legal context reveals profound ambivalence. On the accountability-enhancing side, Chatterjee (2022) documents how online petitions and coordinated digital advocacy by civil society organisations contributed to the expedited

prosecution in the 2012 Delhi gang rape case, leading to the Criminal Law (Amendment) Act 2013. Similarly, Roy and Mehta (2024) trace how Twitter and Instagram campaigns by digital volunteers in the Hathras case created political accountability pressure that compelled CBI investigation. Banerjee (2023) identifies a category he terms "justice volunteers" — legally literate citizens who synthesise court documents, expose procedural irregularities, and crowdfund legal aid for under-resourced defendants.

On the harm side, the picture is equally stark. Rao (2022) analyses the "Sushant Singh Rajput verdict campaigns" as a case study in digital mob justice, where coordinated hashtag activism created a self-reinforcing information environment that precluded presumption of innocence. Sharma et al. (2023) document the phenomenon of "digital doxxing" of accused persons before charge-sheets are filed. Mehrotra and Iyer (2024) conduct the most recent empirical study, surveying 1,200 urban Indians, finding that 68% consumed crime-related social media content before following judicial proceedings, and 71% formed "permanent views" about guilt before trial conclusion — a strong indicator of media trial penetration.

3.4 Regulatory Framework and Legal Gaps

The existing regulatory framework is characterised by a troubling combination of doctrinal ambiguity and institutional weakness. The Contempt of Courts Act 1971 proscribes publications that "prejudice or interfere with the due course of justice" (Section 2(c)) but applies a high threshold of actual prejudice that is rarely met in practice (Jain, 2023). The Supreme Court's narrow interpretation of contempt power — reinforced by *Indirect Tax Practitioners Association v. R.K. Jain* (2010) — has effectively

insulated media organisations from contempt liability for most pre-trial coverage.

The Press Council of India (PCI), established under the Press Council Act 1978, possesses no enforcement mechanism beyond "censure" — a toothless rebuke that carries no financial penalty and no mandatory publication of corrections (Desai, 2023). The News Broadcasters Standards Authority (NBSA), a self-regulatory body of television channels, similarly lacks legal force: its fines, capped at Rs. 1 lakh, are widely regarded as insufficient deterrent for commercially motivated sensationalism (Krishnan, 2024). The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, challenged before multiple High Courts, provide an ethics code for online news but impose no specific sub judice obligations and have been criticised for over-broad government oversight provisions incompatible with Article 19(1)(a) (Bhatia, 2022).

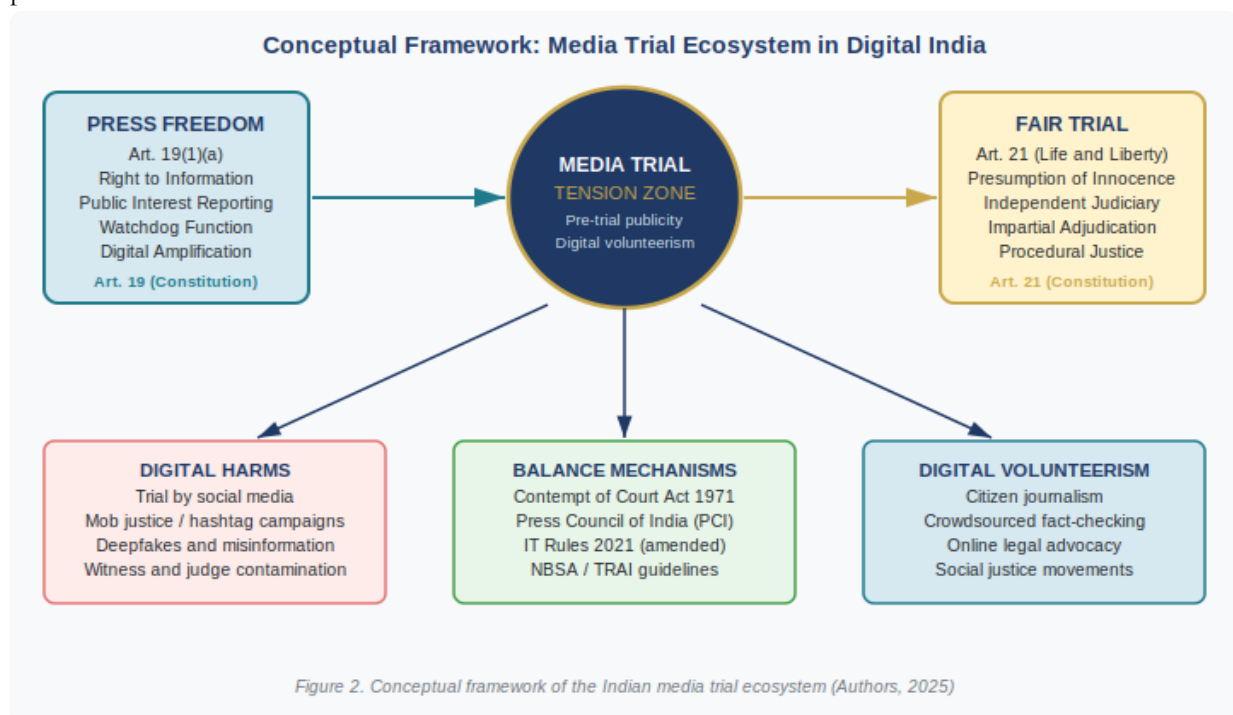
3.5 Comparative Perspectives

International comparison illuminates both the limits of Indian law and possible reform pathways. The United Kingdom's Contempt of Court Act 1981 creates a strict liability rule for publications that create a substantial risk of serious

prejudice once proceedings are "active" — a bright-line standard that produces clear media compliance (Phillipson, 2009). Australia's sub judice contempt doctrine, applied with increasing rigour to social media in *Director of Public Prosecutions v. Hinch* (1987) and adapted for digital platforms by Victoria's Court Suppression and Non-Publication Orders Act 2010, offers a model of judicially managed digital speech suppression. The United States' First Amendment absolutism, while producing press freedom benefits, has been associated with documented jury contamination in high-profile cases, cautioning against uncritical transplantation (Sklansky, 2022).

4. Conceptual Framework: The Media Trial Ecosystem

Drawing on the systematic review findings, we propose an integrated conceptual framework of the Indian media trial ecosystem (Figure 2). The framework maps the structural tension between press freedom and fair trial rights, the intermediating role of digital volunteerism, and the multiple nodes at which regulatory intervention is possible or necessary.



The framework identifies three downstream effects of media trial tension: (1) Digital Harms — trial by social media, mob justice, misinformation, and witness contamination; (2) Balance Mechanisms — existing legislative and regulatory tools; and (3) Digital Volunteerism — the ambivalent citizen-media actor that simultaneously produces accountability gains and justice system threats. The central insight of the framework is that digital volunteerism is not epiphenomenal to the media trial problem but is constitutive of it: the collapse of the distinction between professional media and

citizen participation fundamentally alters the scale, speed, and durability of media trial effects.

5. Case Study Analysis

Table 3 presents cross-case analysis of six landmark Indian criminal cases selected to illustrate the range of media trial dynamics and digital volunteer roles. Analysis draws on court records, NBSA decisions, journalistic self-assessments, and secondary literature.

Table 3. Cross-Case Analysis of Media Trials in India (2008–2023)

Case	Outcome	Media/Digital Role	Judicial Response
Aarushi Talwar Case (2008–13)	Conviction; acquitted HC 2017	Pre-trial media verdict; accused parents	Allahabad HC noted media pressure influenced public perception; SC re-examined (Talwar v. CBI, 2017)
Sushant Singh Rajput (2020)	Case ongoing / NCB closure report	Hashtag trials, "Republic TV" coverage	NBSA fined channels; Bombay HC invoked sub judice principles
Nirbhaya Case (2012–20)	Conviction & execution	Positive: mobilized legal reform	Fast-track court; POCSO Act amendments; demonstrates constructive digital pressure
Aryan Khan Drug Case (2021)	Chargesheet not filed; discharged	Media pronounced guilt before investigation	SC flagged media trial concerns; NCB officer arrested
Bilkis Bano Case (2002–22)	Conviction; remission controversy	Digital volunteers challenged remission	SC reversed remission (2023); shows dual role of digital advocacy
Asaram Bapu Case (2013–23)	Convicted	Extensive media coverage; fan counter-campaign	SC noted social media threats to witnesses

5.1 Key Cross-Case Findings

5.1.1 Structural Asymmetry in Harm

Across all six cases, media trial harm is structurally asymmetric: coverage creating

presumption of guilt vastly outweighs corrective coverage post-acquittal or after prosecutorial failure. In the Aarushi Talwar case, Singh et al. (2022) document that approximately 94% of media coverage presumed parental guilt; post-

acquittal corrective coverage constituted less than 8% of the original volume. This asymmetry maps onto what Lerner (2021) calls the "salience trap" of crime journalism: guilt narratives are more emotionally engaging and commercially viable than nuanced accounts of prosecutorial failure.

5.1.2 The Redemptive Potential of Digital Volunteerism

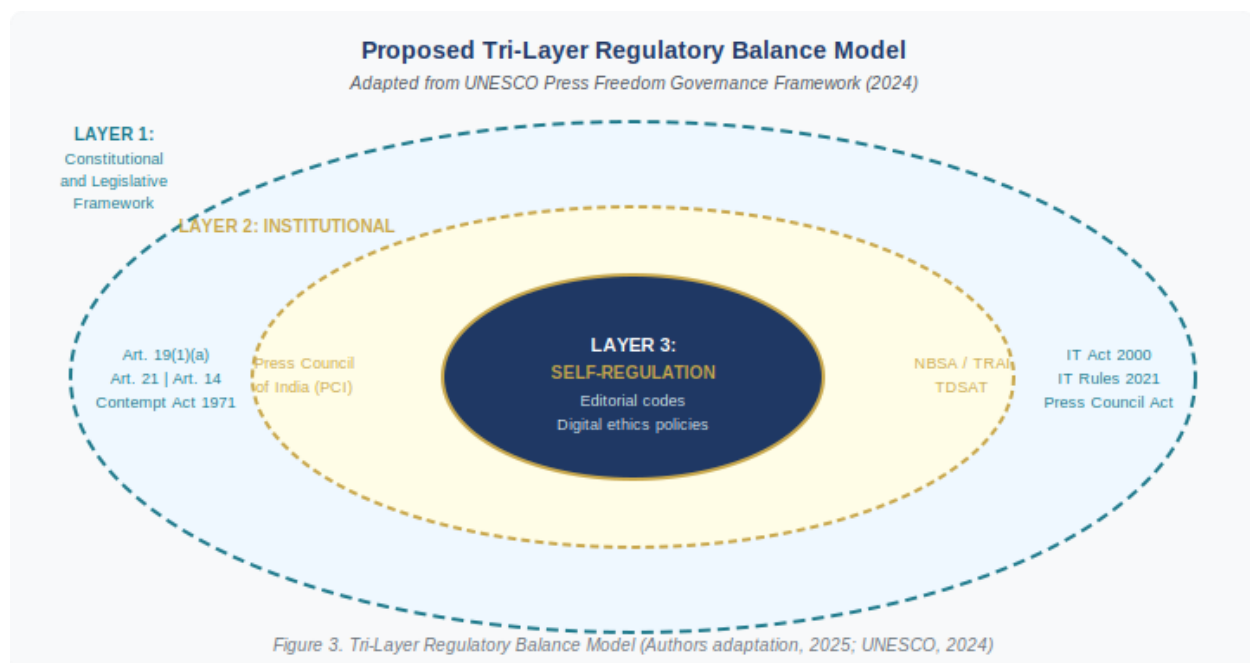
The Nirbhaya and Bilkis Bano cases demonstrate that digital volunteerism is not intrinsically hostile to fair trial values. In Nirbhaya, coordinated digital pressure — while creating legitimate concerns about sub judice commentary — catalysed legislative reform and procedural improvements that demonstrably advanced justice over time. In Bilkis Bano, the Supreme Court's 2023 reversal of the Gujarat government's remission decision was informed, at least partly, by the sustained legal advocacy of digital volunteer networks that kept the case in public consciousness and provided legal analysis that supported the petitioners' arguments (Roy & Mehta, 2024; Sharma, 2023).

5.1.3 Institutional Responses: Reactive and Insufficient

In every case studied, institutional responses — whether by NBSA, PCI, or courts — were reactive and inadequate. No pre-publication or pre-broadcast restraint mechanism was invoked. NBSA interventions in the Sushant Singh Rajput case were confined to post-hoc fines. The Allahabad High Court's observations in the Aarushi case, and the Supreme Court's expressions of concern in the Aryan Khan case, were dicta without structural effect. This pattern confirms Krishnan's (2024) assessment that Indian regulatory institutions are "architecturally toothless" in addressing real-time digital media excess.

6. Tri-Layer Regulatory Balance Model

In response to the identified regulatory gaps, this paper proposes a Tri-Layer Regulatory Balance Model (Figure 3), adapted from UNESCO's (2024) Press Freedom Governance Framework and calibrated to India's constitutional, institutional, and technological context.



Layer 1 establishes the constitutional and legislative envelope: the constitutional guarantees of Articles 14, 19, and 21, operationalised through

primary legislation including the proposed Media Trial Prevention Act and reformed IT Rules. Layer 2 provides institutional oversight through

strengthened PCI and NBSA mandates, including binding enforcement powers analogous to the Broadcasting Standards Authority model in the United Kingdom. Layer 3 is self-regulation through editorial codes, platform ethics policies, and digital volunteer codes of conduct. The model's innovation lies in its layered approach: no single layer is expected to bear the full burden of balancing competing rights; each layer operates with different instruments, covering different actors, with mutually reinforcing effect.

7. Discussion

7.1 The Irreducible Constitutional Tension

The media trial problem cannot be resolved by prioritising one constitutional right over the other. A press so constrained by sub judice rules as to be unable to report meaningfully on criminal proceedings would be incapable of performing its democratic watchdog function — the very function that gives Article 19(1)(a) its social justification. A legal system so permeable to media pressure that judicial impartiality cannot be guaranteed fails the accused, the victim, and the constitutional promise of due process (Dworkin, 1977; Mehrotra & Iyer, 2024). The constitutional resolution must therefore be structural rather than hierarchical: creating conditions in which both rights can be substantially, if imperfectly, realised simultaneously.

7.2 Digital Volunteerism as a Regulatory Challenge

The platformisation of public discourse poses a profound regulatory challenge that existing Indian law is structurally ill-equipped to address. The distinction between "media" and "public" — upon which most regulatory frameworks in the world are built — has collapsed. When 350 million Instagram users in India can collectively constitute a media ecosystem with more cumulative reach than any television channel (Meta India Report, 2024), regulatory frameworks premised on the licensable, identifiable, institutionally anchored media firm are obsolete. The 2021 IT Rules attempt to address this partly through their "significant social media intermediary" category but stop short of

imposing sub judice obligations on user-generated content at scale.

The constructive dimension of digital volunteerism demands equal regulatory acknowledgment. Fact-checking organisations such as AltNews, SM Hoaxslayer, and Factly have contributed materially to the accuracy of public information during ongoing legal proceedings. Legal volunteerism platforms connecting under-resourced defendants to qualified lawyers represent an access-to-justice gain that any regulatory framework must be designed to preserve. The challenge for policymakers is therefore to design precision instruments that target the harm of prejudicial media-trial content while leaving the accountability-enhancing dimensions of digital civic participation intact.

7.3 Comparative Reform Implications

The comparative literature suggests that effective reform does not require the wholesale adoption of any foreign model. The UK's strict liability contempt standard provides the strongest protection against pre-trial prejudice but has been criticised for chilling effect concerns in the social media context (Munday, 2022). Australia's suppression order regime offers more judicial flexibility but has been inconsistently applied to non-institutional actors. What the Indian context requires is a contextually calibrated model that: (a) establishes clear bright-line sub judice rules applicable to institutional media from charge-sheet to final judgment; (b) creates a graduated liability framework for social media platforms premised on the scale and foreseeability of prejudicial content amplification; and (c) preserves robust space for civil society accountability advocacy (Jain, 2023; UNESCO, 2024).

8. Policy Recommendations

Based on the convergence of systematic review evidence, doctrinal analysis, and case study findings, this paper advances six policy recommendations, summarised in Table 4. These recommendations are designed to be mutually reinforcing within the Tri-Layer Regulatory Balance Model.

Table 4. Six-Point Policy Recommendation Framework

No.	Domain	Recommendation	Rationale / Implementation
1	Legislative	Enact Media Trial Prevention Act	Mandatory reporting blackout periods; statutory sub judice rules; penalty for prejudicial coverage (Recommendation aligned with Law Commission 200th Report)
2	Regulatory	Strengthen PCI & NBSA	Grant Press Council binding enforcement powers; mandatory NBSA membership; structured fines up to Rs. 50 lakh
3	Judicial	Issue Comprehensive Practice Directions	SC/HCs should issue uniform guidelines on gag orders, camera-in-court policies, and digital evidence contamination
4	Platform Governance	Algorithm Transparency Mandates	OTT/social platforms must disclose amplification logic for crime-related content; human review for trending hashtags on ongoing cases
5	Digital Literacy	Public Awareness Campaigns	MoI&B-led campaigns; law school curriculum on media rights; fact-checker certification programme
6	Victim Protection	Right to be Forgotten + Compensation	Post-acquittal media correction mandates; statutory compensation for reputational harm; anonymity provisions

The keystone recommendation is the enactment of a Media Trial Prevention Act — a dedicated statute that would: (i) codify the sub judice rule with a bright-line trigger at charge-sheet filing; (ii) establish a rebuttable presumption of prejudice for specified categories of sensational reporting; (iii) create a Media Trial Regulatory Tribunal with powers to issue real-time injunctions, levy graduated fines, and mandate corrective coverage; and (iv) include a "public interest" defence for reporting on systemic judicial failures, custodial violence, and institutional corruption (Gupta & Sharma, 2023; Jain, 2023).

9. Conclusion

The media trial phenomenon in India is not an aberration but a structural feature of an

information ecosystem characterised by hyper-competitive commercial media, democratised digital participation, regulatory institutional weakness, and unresolved constitutional tension. This paper has demonstrated, through systematic review, doctrinal analysis, and cross-case study evidence, that existing frameworks — the Contempt of Courts Act 1971, the toothless PCI, the under-powered NBSA, and the constitutionally contested IT Rules 2021 — are collectively insufficient to protect fair trial rights in the digital age.

The paper's normative contribution — the Tri-Layer Regulatory Balance Model and the six-point policy agenda — offers a pathway to reform that neither sacrifices press freedom on the

altar of procedural justice nor allows the commercial imperative of sensationalism to consume the constitutional right to a fair hearing. Digital volunteerism, properly channelled, is an asset to both press freedom and judicial accountability; improperly channelled, it is a vehicle for mob justice that all constitutional democracies must learn to govern.

The ultimate test of a legal system's maturity is whether it can protect the unpopular,

the accused, and the vulnerable from both state power and public fury. As Justice D.Y. Chandrachud observed in *Arnab Goswami v. State of Maharashtra* (2020): "The strength of a constitutional democracy lies in the ability of its institutions to withstand popular pressure." Building those institutions — and the regulatory architecture that sustains them — is the work that awaits. This paper has attempted to map both the problem and the path forward.

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