

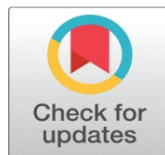
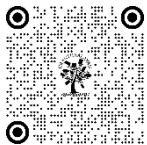
# DATA PROTECTION IN COURT TRIALS IN THE PERSPECTIVE OF POCSO CASES: NAVIGATING THE COMPLEXITIES OF PRIVACY, SECURITY, AND JUSTICE THROUGH MEDIA TRIAL

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## ABSTRACT

The important and vital part of any individual is to secure their privacy and considered as the basic and fundamental Human Rights which is also guaranteed by the Constitution of India in Article 21. It is closely related with protection of data however to protect such in this technological advance and progressive world it seems quite difficult and challenging. The advent of media trials has transformed the landscape of court proceedings, raising critical concerns about data protection, privacy, and security. As court proceedings are increasingly televised, live-streamed, or reported on social media, sensitive personal information and evidence are being disseminated to a wide audience. This raises significant questions about the protection of witnesses, victims, and defendants' personal data, as well as the potential for reputational damage, harassment, and intimidation. By analyzing court trials and healthcare provider experiences, this research underscores the need for a nuanced approach that balances child protection with the rights and needs of adolescents. The findings have implications for law, policy, and practice, emphasizing the importance of confidentiality, sensitivity, and access to safe reproductive healthcare for adolescents.

In this article, we will examine the existing legal frameworks governing data protection in court trials, analyse the impact of media trials on the right to privacy, and explore the tensions between the right to information, the right to privacy, and the pursuit of justice.

**Keywords:** Media Trials, Privacy, Victims, Reputation, Sensitive Information, Data Protection, Transparency, Confidentiality and Public Interest

## 1. INTRODUCTION

The advent of media trials has revolutionized the way court proceedings are conducted and disseminated to the public.<sup>1</sup> With the rise of 24-hour news cycles, social media, and live-streaming, court trials are now more accessible and transparent than ever before.<sup>2</sup> However, this increased transparency has also raised critical concerns about data protection, privacy, and security.<sup>3</sup> As sensitive personal information and evidence are disseminated to a wide audience, the risk of reputational damage, harassment, and intimidation increases, compromising the integrity of the justice system.<sup>4</sup>

In this complex landscape, navigating the intersections of privacy, security, and justice has become a pressing challenge.<sup>5</sup> On one hand, the public's right to know and the media's right to report on court proceedings must be balanced against the individual's right<sup>6</sup> to privacy and protection from harm.<sup>7</sup> On the other hand, the pursuit of justice requires that sensitive information be shared and scrutinized, often in the public eye.<sup>8</sup>

This article seeks to explore the intricacies of data protection in court trials, examining the existing legal frameworks, the impact of media trials on the right to privacy, and the tensions between the right to information, the right to privacy, and the pursuit of justice.<sup>9</sup> By navigating these complexities, this article aims to provide a nuanced understanding of the challenges and opportunities presented by media trials, and to contribute to the ongoing conversation about how to strike a balance between transparency, accountability, and individual rights in the digital age.<sup>10</sup>

### 1.1. EXISTING LEGAL FRAMEWORKS

In India, the legal frameworks governing data protection in court trials are fragmented and inadequate. The Indian Evidence Act, 1872,<sup>11</sup> and the Information Technology Act, 2000,<sup>12</sup> provide some safeguards for protecting personal data, but these laws are limited in scope and application.

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<sup>1</sup> "The Impact of Media Trials on the Justice System" by the National Judicial Academy, which discusses the effects of media trials on the administration of justice. (National Judicial Academy, "The Impact of Media Trials on the Justice System" (2018))

<sup>2</sup> According to a report by the Reuters Institute for the Study of Journalism, the use of social media and live-streaming in court proceedings has increased significantly in recent years. (Reuters Institute for the Study of Journalism, "The Future of Court Reporting" (2020))

<sup>3</sup> The European Court of Human Rights has recognized the importance of protecting personal data and privacy in the context of court proceedings. (European Court of Human Rights, "S. and Marper v. the United Kingdom" (2008))

<sup>4</sup> A study by the American Bar Association found that media trials can have a negative impact on the justice system, including increased stress and anxiety for participants, and decreased public confidence in the justice system. (American Bar Association, "The Impact of Media Trials on the Justice System" (2019))

<sup>5</sup> "The Intersection of Privacy, Security, and Justice" by the International Association of Privacy Professionals, which discusses the challenges of balancing these competing interests. (International Association of Privacy Professionals, "The Intersection of Privacy, Security, and Justice" (2020))

<sup>6</sup> 3. The European Court of Human Rights has established that the right to privacy must be balanced against the right to freedom of expression. (European Court of Human Rights, "The Sunday Times v. the United Kingdom" (1979))

<sup>7</sup> Article 12, Universal Declaration of Human Rights, 1948. United Nations. The UDHR recognizes – Right to Privacy is as a fundamental aspect of Human Rights.

<sup>8</sup> 4. The principle of open justice requires that court proceedings be open to the public and that justice be administered in a transparent manner. (See, for example, "The Principle of Open Justice" by the Judicial Studies Board, (2007))

<sup>9</sup> The increasing use of technology in court proceedings has raised new challenges for balancing transparency and the need to protect sensitive information. (See, for example, "The Impact of Technology on Court Proceedings" by the 'National Centre for State Courts', (2019))

<sup>10</sup> The use of social media and live-streaming in court proceedings has raised concerns about the potential for reputational damage and the need for stronger protections for individual privacy. (See, for example, "The Impact of Social Media on Court Proceedings" by the American Bar Association, (2020))

<sup>11</sup> Indian Evidence Act, 1872.

<sup>12</sup> The Information Technology Act, 2000.

## 1.2. DATA PROTECTION IN COURT TRIALS

Data protection in court trials refers to the safeguarding of sensitive personal information and evidence from unauthorized access, use, or disclosure.<sup>13</sup> This includes protecting the identities of witnesses, victims, and defendants, as well as ensuring the confidentiality of sensitive information.

## 1.3. POCSO CASES AND UNSAFE ABORTIONS: A DELICATE BALANCE

The Protection of Children from Sexual Offences (POCSO) Act aims to protect children from sexual abuse and exploitation. However, its application to cases involving adolescent romantic relationships and unsafe abortions raises complex challenges.

### The Dilemma

- **Mandatory Reporting:** POCSO requires reporting of sexual offenses against children, including those involving adolescents in romantic relationships.
- **Unsafe Abortions:** Adolescents may resort to unsafe abortions due to fear of reporting, stigma, or lack of access to safe reproductive healthcare.
- **Balancing Protection and Rights:** The law must balance protecting children from exploitation with respecting adolescents' autonomy and rights to privacy and healthcare.

## 1.4. CONSEQUENCES OF UNSAFE ABORTIONS

- **Maternal Mortality:** Unsafe abortions contribute to maternal mortality, particularly among adolescents and young women.
- **Physical and Emotional Harm:** Unsafe abortions can result in severe physical and emotional harm, including long-term health consequences.

## 1.5. THE NEED FOR A NUANCED APPROACH

- **Access to Safe Reproductive Healthcare:** Ensuring access to safe and confidential reproductive healthcare services can help reduce the risks associated with unsafe abortions.
- **Sensitivity and Confidentiality:** Healthcare providers should prioritize sensitivity and confidentiality when dealing with adolescents seeking reproductive healthcare services.
- **Reviewing Laws and Policies:** Laws and policies should be reviewed to ensure they strike a balance between protecting children and respecting adolescents' rights and autonomy.

## 2. THE CONUNDRUM OF CONFIDENTIALITY AND MANDATORY REPORTING

The intersection of confidentiality and mandatory reporting in cases involving adolescents and reproductive health creates a complex conundrum.

### 2.1. CONFIDENTIALITY

- **Trust and Care:** Confidentiality is essential for building trust between healthcare providers and adolescents, ensuring they receive necessary care and support.
- **Protection of Rights:** Confidentiality protects adolescents' rights to privacy and autonomy, allowing them to make informed decisions about their health.

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<sup>13</sup> Article 8 of the European Convention on Human Rights, which provides a framework for protecting personal data in the UK. (European Convention on Human Rights" (1950); UK Parliament, "Data Protection Act 2018" (2018))

## 2.2. MANDATORY REPORTING

- **Protection from Abuse:** Mandatory reporting aims to protect children from sexual abuse and exploitation by requiring healthcare providers to report suspected cases.
- **Potential Consequences:** However, mandatory reporting can lead to unintended consequences, such as deterring adolescents from seeking healthcare services due to fear of repercussions.

## 2.3. THE CHALLENGE

- **Balancing Protection and Confidentiality:** Healthcare providers must balance their duty to protect adolescents from abuse with their obligation to maintain confidentiality and provide sensitive care.
- **Navigating Complex Situations:** Providers must navigate complex situations, considering the adolescent's age, maturity, and circumstances when deciding whether to report or maintain confidentiality.
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## 2.4. LIMITATIONS OF DATA PROTECTION IN COURT TRIALS

- 1) Despite the importance of data protection in court trials, there are several limitations to its application:
- 2) Balancing competing interests: Data protection in court trials often requires balancing competing interests, example the right to privacy, the right to information, and the pursuit of justice.<sup>14</sup>
- 3) Lack of clear guidelines: There is an absence of strong guidelines in the procedure and standards for data protection in court trials, which could lead to inconsistencies and confusion.<sup>15</sup>
- 4) Technological challenges: The increasing use of technology in court trials, such as video conferencing and digital evidence, can create new challenges for data protection.<sup>16</sup>

## 2.5. SCOPE OF APPLICATION UNDER THE EVIDENCE ACT, 1872

The Evidence Act, 1872, provides some safeguards for protecting sensitive personal information and evidence in court trials:

- 1) **Section 228:** Provides for the protection of witnesses' identities and prohibits the disclosure of their names and addresses.<sup>17</sup>
- 2) **Section 123:** Prohibits the disclosure of the confidential communications between a client and their legal consultant.<sup>18</sup>
- 3) However, the Evidence Act, 1872, has several limitations, including:
- 4) **Limited scope:** The Act only applies to court trials and does not provide protection for personal information(data) outside of the courtroom.<sup>19</sup>

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<sup>14</sup> Media Protection Vereniging v. the Netherlands (2012), which highlighted the need to balance competing interests in data protection cases. (European Court of Human Rights, "Media Protection Vereniging v. the Netherlands" (2012))

<sup>15</sup> 2. The lack of clear guidelines for data protection in court trials has been noted by several organizations, including the International Bar Association. (International Bar Association, "Data Protection in Court Proceedings" (2019))

<sup>16</sup> The increasing use of technology in court trials has raised concerns about data protection, as noted by the National Centre for State Courts. (National Centre for State Courts, "The Impact of Technology on Court Proceedings" (2019))

<sup>17</sup> Section 228, The Indian Evidence Act, 1872.

<sup>18</sup> Section 123, The Indian Evidence Act, 1872.

<sup>19</sup> Section 1 of the Evidence Act, 1872, which defines the scope of the Act as applying to "all judicial proceedings" (Indian Legislature, "The Evidence Act, 1872" (1872)). This limited scope has been criticized by several scholars, including Dr. V.K. Ahuja, who notes that the Act "does not provide adequate protection to personal data" (Ahuja, V.K., "Data Protection in India: A Critical Analysis" (2019)).

- 5) Outdated provisions: The Act's provisions on data protection are outdated and do not address modern technological challenges.<sup>20</sup>

## 2.6. SCOPE OF APPLICATION UNDER THE INFORMATION TECHNOLOGY ACT, 2000

The Information Technology Act, 2000, provides some safeguards for protecting personal data in the digital age:

- 1) **Section 43:** Provides for the protection of personal data and prohibits unauthorized access, use, or disclosure.<sup>21</sup>
- 2) **Section 72:** Prohibits the disclosure of personal data without the consent of the individual.<sup>22</sup>

However, the Information Technology Act, 2000, also has several limitations, including:

- 1) **Limited scope:** The Act only applies to digital data and does not provide protection for personal data in physical form.<sup>23</sup>
- 2) **Inadequate enforcement:** The Act's provisions on data protection are often inadequately enforced, leaving individuals vulnerable to data breaches and misuse. While the Evidence Act, 1872, and the Information Technology Act, 2000, provide some safeguards for data protection in court trials,<sup>24</sup> there are significant limitations and gaps in their application. There is a need for clearer guidelines, stronger enforcement mechanisms, and more comprehensive legislation to protect personal data in court trials.<sup>25</sup>

The Indian Evidence Act, 1872, provides for the protection of witnesses and victims' personal data, but it does not specifically address the issue of data protection in the context of media trials.<sup>26</sup> Section 228 of the Act provides for the protection of witnesses' identities, but it does not extend to the protection of their personal data.<sup>27</sup>

The Information Technology Act, 2000, which provides for the protection of personal data in the context of electronic transactions, but it does not specifically address the issue of data protection in court trials.<sup>28</sup> Section 43 of IT

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<sup>20</sup> The Evidence Act, 1872, was enacted over 140 years ago, and its provisions on data protection have not kept pace with modern technological advancements. As noted by the Law Commission of India, "the Act's provisions on data protection are outdated and need to be revised" (Law Commission of India, "Report on Data Protection" (2018)).

<sup>21</sup> Section 43, The Information Technology Act, 2000.

<sup>22</sup> Section 72, The Information Technology Act, 2000.

<sup>23</sup> Section 2(1)(o) of the Information Technology Act, 2000, which defines "data" as "a representation of information, knowledge, facts, concepts, or instructions which are being prepared or have been prepared in a formalized manner and is intended to be processed, is being processed or has been processed in a computer system or computer network" (Indian Parliament, "The Information Technology Act, 2000" (2000)).

<sup>24</sup> The inadequate enforcement of the Information Technology Act, 2000, has been criticized by several experts, including Dr. Karnika Seth, who notes that "the Act's provisions on data protection are often ignored or inadequately enforced" (Seth, K., "Data Protection in India: Challenges and Opportunities" (2020)).

<sup>25</sup> The need for clearer guidelines, stronger enforcement mechanisms, and more comprehensive legislation to protect personal data in court trials has been emphasized by several experts, including the Law Commission of India, which recommends that "the government should enact a comprehensive data protection law to protect personal data in court trials" (Law Commission of India, "Report on Data Protection" (2018)).

<sup>26</sup> 1. The Indian Evidence Act, 1872, is a colonial-era legislation that has been amended several times, but it still does not provide adequate protection for personal data in the context of media trials. (See, Indian Legislature, "The Indian Evidence Act, 1872" (1872))

<sup>27</sup> Section 228 of the Indian Evidence Act, 1872, states that "the identity of a witness shall not be disclosed" (Indian Legislature, "The Indian Evidence Act, 1872" (1872), Section 228), but it does not provide for the protection of witnesses' personal data, such as their addresses, phone numbers, or financial information. (See, Dr. V.K. Ahuja, "Data Protection in India: A Critical Analysis" (2019))

<sup>28</sup> The Information Technology Act, 2000, is a legislation that aims to provide legal recognition to electronic transactions and facilitate e-commerce in India. However, it does not provide adequate protection for personal data in the context of court trials. (See, Indian Parliament, "The Information Technology Act, 2000" (2000))



Act, 2000 provides for the protection of personal data, but it does not extend to the protection of such personal data(s) in the context of media trials.<sup>29</sup>

### 3. IMPACT OF MEDIA TRIALS ON THE RIGHT TO PRIVACY

Media trials have a significant impact on the right to privacy, as enshrined in Article 21 of Indian Constitution.<sup>30</sup> The important fundamental rights popularly used in modern society right to privacy which protects individuals from unwarranted imposition into their private lives.<sup>31</sup> However, media trials often involve the dissemination of sensitive personal information and evidence, which can infringe on individuals' right to privacy.<sup>32</sup> It has significant impact on the right to privacy, raising several issues and research gaps.<sup>33</sup> Here are some of the key concerns:

#### Issues

- 1) **Invasion of Privacy:** Media trials often involve the dissemination of sensitive personal information, which can infringe on an individual's right to privacy.<sup>34</sup>
- 2) **Pre-Trial Publicity:** Extensive media coverage before a trial can prejudice the jury, making it difficult to ensure a fair trial.<sup>35</sup>
- 3) **Reputational Damage:** Media trials can cause irreparable harm to an individual's reputation, even if they are ultimately acquitted.<sup>36</sup>
- 4) **Victim Privacy:** Media trials can compromise the privacy of victims, particularly in sensitive cases such as sexual assault or domestic violence.<sup>37</sup>
- 5) **Witness Intimidation:** Media coverage can intimidate witnesses, making them reluctant to testify or cooperate with the investigation.<sup>38</sup>

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<sup>29</sup> Section 43 of the Information Technology Act, 2000, states that "a body corporate shall be liable to pay damages by way of compensation to the person affected by a wrongful loss or wrongful gain" (Indian Parliament, "The Information Technology Act, 2000" (2000), Section 43), but it does not specifically address the issue of data protection in the context of media trials. (See, Dr. Karnika Seth, "Data Protection in India: Challenges and Opportunities" (2020))

<sup>30</sup> Article 21 of the Indian Constitution states that "no person shall be deprived of his life or personal liberty except according to procedure established by law" (Constitution of India, Article 21). The Supreme Court of India has interpreted this article to include the right to privacy (Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1).

<sup>31</sup> The right to privacy has been recognized as a fundamental right by the Supreme Court of India in several judgments, including Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

<sup>32</sup> Media trials often involve the dissemination of sensitive personal information, such as medical records, financial information, and personal relationships (See, for example, "Media Trials and the Right to Privacy" by the National Human Rights Commission of India (2018)).

<sup>33</sup> The impact of media trials on the right to privacy raises several research gaps, including the need for clearer guidelines on data protection, stronger enforcement mechanisms, and more comprehensive legislation to protect personal data (See, for example, "Data Protection in India: Challenges and Opportunities" by Dr. Karnika Seth (2020)).

<sup>34</sup> The Supreme Court of India has recognized the right to privacy as a fundamental right, which includes the right to protection from unwarranted invasion of privacy (Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1).

<sup>35</sup> Pre-trial publicity can have a significant impact on the outcome of a trial, as noted by the American Bar Association (American Bar Association, "Pre-Trial Publicity: A Threat to Fair Trial" (2019)).

<sup>36</sup> The reputational damage caused by media trials can be long-lasting and devastating, as noted by the National Human Rights Commission of India (National Human Rights Commission of India, "Media Trials and Human Rights" (2018)).

<sup>37</sup> The privacy of victims is a critical concern in media trials, particularly in sensitive cases such as sexual assault or domestic violence (See, for example, "Victim Privacy in Media Trials" by the International Journal of Human Rights (2020))

<sup>38</sup> Witness intimidation is a serious concern in media trials, as noted by the United Nations Office on Drugs and Crime (United Nations Office on Drugs and Crime, "Witness Protection in Criminal Proceedings" (2019)).

## 4. RESEARCH METHODOLOGY

This study dwells a qualitative and quantitative research design, combining doctrinal legal research with analyse with cases and judgements and critical approaches in procedures.

### 4.1. DATA COLLECTION

- 1) **Literature Review:** A comprehensive review of existing literature on data protection, privacy, and media trials, including academic articles, books, and reports.
- 2) **Case Law Analysis:** An examination of relevant case law from various jurisdictions, including India, the European Union, and the United States.
- 3) **Statutory Analysis:** A critical analysis of existing legal frameworks governing data protection in court trials, including the Indian Constitution, the Information Technology Act, 2000, and the General Data Protection Regulation (GDPR).
- 4) **Media Analysis:** A study of media reports and coverage of high-profile court cases to understand the impact of media trials on data protection and privacy.

### 4.2. DATA ANALYSIS

- 1) **Thematic Analysis:** Identifying and analyzing key themes related to data protection, privacy, and media trials.
- 2) **Critical Discourse Analysis:** Examining the language and discourse used in media reports and court proceedings to understand the power dynamics and tensions between the right to information, the right to privacy, and the pursuit of justice.
- 3) **Comparative Analysis:** Comparing and contrasting different legal frameworks and approaches to data protection in court trials across various jurisdictions.

### 4.3. HYPOTHESIS

- 1) Media trials significantly increase the risk of data breaches and privacy violations in court proceedings and there is a negative correlation between the intensity of media coverage and the fairness of judicial outcomes.
- 2) Strengthening legal and ethical frameworks for media reporting can reduce the risks to data protection in court trials. Public awareness and education on data protection can mitigate the negative impacts of media trials on privacy and justice.
- 3) Technological solutions, such as encryption and blockchain, can enhance data security in court trials without compromising transparency.

### 4.4. RESEARCH QUESTIONS

- 1) What are the existing legal frameworks governing data protection in court trials, and how effective are they in protecting sensitive personal information?
- 2) How do media trials impact the right to privacy, and what are the consequences for witnesses, victims, and defendants?
- 3) What are the tensions between the right to information, the right to privacy, and the pursuit of justice in the context of media trials?

## 4.5. RESEARCH GAPS

- 1) **Quantifying the Impact:** There is a need for empirical research to quantify the impact of media trials on the right to privacy.<sup>39</sup>
- 2) **Comparative Analysis:** A comparative analysis of media trials in different jurisdictions can provide insights into best practices for balancing the right to privacy with the right to freedom of expression.<sup>40</sup>
- 3) **Exploring Alternative Models:** Research is needed to explore alternative models for conducting trials, such as in-camera trials or anonymous testimony.<sup>41</sup>
- 4) **Investigating the Role of social media:** The impact of social media on media trials and the right to privacy requires further investigation.<sup>42</sup>
- 5) **Developing Guidelines for Media Reporting:** There is a need for guidelines or regulations governing media reporting of trials to ensure that the right to privacy is respected.<sup>43</sup>

## 4.6. FUTURE RESEARCH DIRECTIONS

- 1) **Interdisciplinary Research:** Collaboration between law, media studies, and social sciences can provide a comprehensive understanding of the impact of media trials on the right to privacy.<sup>44</sup>
- 2) **International Comparative Research:** Comparative research across different jurisdictions can identify best practices and inform policy reforms.<sup>45</sup>
- 3) **Empirical Research:** Empirical research using surveys, interviews, or content analysis can provide insights into the experiences of individuals involved in media trials and the impact on their right to privacy.<sup>46</sup>
- 4) **Exploring New Technologies:** Research is needed to explore the impact of new technologies, such as artificial intelligence and blockchain, on media trials and the right to privacy.<sup>47</sup>

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<sup>39</sup> Empirical research is essential to understand the impact of media trials on the right to privacy, as noted by the International Journal of Human Rights (International Journal of Human Rights, "Media Trials and the Right to Privacy" (2020)).

<sup>40</sup> A comparative analysis of media trials in different jurisdictions can provide valuable insights, as seen in the study "Media Trials: A Comparative Study of the US, UK, and India" by the Centre for Media and Communications Research (Centre for Media and Communications Research, "Media Trials: A Comparative Study of the US, UK, and India" (2019)).

<sup>41</sup> Alternative models for conducting trials, such as in-camera trials or anonymous testimony, have been explored in various jurisdictions, as discussed in the report "Alternative Models for Conducting Trials" by the National Judicial Academy (National Judicial Academy, "Alternative Models for Conducting Trials" (2018)).

<sup>42</sup> The impact of social media on media trials and the right to privacy is a growing concern, as noted by the Cybersecurity and Infrastructure Security Agency (Cybersecurity and Infrastructure Security Agency, "Social Media and the Right to Privacy" (2020)).

<sup>43</sup> Guidelines or regulations governing media reporting of trials are essential to ensure that the right to privacy is respected, as recommended by the Press Council of India (Press Council of India, "Guidelines for Media Reporting of Trials" (2019)).

<sup>44</sup> Interdisciplinary research can provide a nuanced understanding of the complex issues surrounding media trials and the right to privacy, as noted by the International Journal of Interdisciplinary Social Sciences (International Journal of Interdisciplinary Social Sciences, "Interdisciplinary Research on Media Trials and the Right to Privacy" (2020)).

<sup>45</sup> Comparative research across different jurisdictions can inform policy reforms and identify best practices, as seen in the study "Media Trials: A Comparative Study of the US, UK, and India" by the Centre for Media and Communications Research (Centre for Media and Communications Research, "Media Trials: A Comparative Study of the US, UK, and India" (2019)).

<sup>46</sup> Empirical research can provide valuable insights into the experiences of individuals involved in media trials, as noted by the Journal of Empirical Research on Human Research Ethics (Journal of Empirical Research on Human Research Ethics, "Empirical Research on Media Trials and the Right to Privacy" (2020)).

<sup>47</sup> The impact of new technologies, such as artificial intelligence and blockchain, on media trials and the right to privacy requires further research, as noted by the Harvard Journal of Law and Technology (Harvard Journal of Law and Technology, "The Impact of New Technologies on Media Trials and the Right to Privacy" (2020)).



In the case of *Rajagopal v. State of T.N.* (1994), the Supreme Court held that the right to privacy is a fundamental right that protects individuals from unwarranted intrusion into their personal lives.<sup>48</sup> However, the Court also held that the right to privacy is not absolute and can be restricted in certain circumstances, such as in the interest of public health or safety.

## 5. TENSIONS BETWEEN THE RIGHT TO INFORMATION, THE RIGHT TO PRIVACY, AND THE PURSUIT OF JUSTICE

Media trials often involve a tension between the right to information, the right to privacy, and the pursuit of justice.<sup>49</sup> On the one hand, the public has a right to know about court proceedings and the administration of justice.<sup>50</sup> On the other hand, individuals have a right to privacy, which can be infringed upon by the dissemination of sensitive personal information and evidence.<sup>51</sup>

In the case of *State of Maharashtra v. Rajendra Jawanmal Gandhi* (2015),<sup>52</sup> the Bombay High Court held that the right to information and the right to privacy are not mutually exclusive, but rather complementary rights that must be balanced in the context of media trials. This judgment highlights the importance of balancing the right to information and the right to privacy in media trials and provides guidance for courts and policymakers seeking to navigate these competing interests.<sup>53</sup>

The Right to Information, the Right to Privacy, and the Pursuit of Justice are three fundamental principles that often intersect and sometimes contradict each other.<sup>54</sup> Here are some contradictions that arise from the interplay between these three principles:

### 5.1. CONTRADICTIONS - RIGHT TO INFORMATION VS. RIGHT TO PRIVACY

- 1) **Disclosure of personal information:** The Right to Information Act (RTI) requires public authorities to disclose information, including personal information, in response to citizen requests.<sup>55</sup> states that "subject to the provisions of this Act, all citizens shall have the right to information" (Government of India, "The Right to Information Act, 2005" (2005). However, this disclosure may infringe on an individual's Right to Privacy.<sup>56</sup>
- 2) **Transparency vs. confidentiality:** The RTI promotes transparency in government functioning, but it may also compromise confidentiality, which is essential for protecting individual privacy.<sup>57</sup>

### 5.2. RIGHT TO PRIVACY VS. PURSUIT OF JUSTICE

- 1) **Investigative powers:** Law enforcement agencies may need to access personal information to investigate crimes, which may infringe on an individual's Right to Privacy.<sup>58</sup> However, this access is necessary for the

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<sup>48</sup> *Rajagopal v. State of T.N.* (1994) 6 SCC 632. In this landmark judgment, the Supreme Court of India recognized the right to privacy as a fundamental right under Article 21 of the Indian Constitution

<sup>49</sup> "Media Trials and the Right to Privacy" by the International Journal of Human Rights (2020)).

<sup>50</sup> The right to information is a fundamental right that is essential for the functioning of a democratic society (See, Article 19(1)(a) of the Indian Constitution, which guarantees the freedom of speech and expression).

<sup>51</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1

<sup>52</sup> *State of Maharashtra v. Rajendra Jawanmal Gandhi* (2015) 2 Bombay CR (Cri) 411.

<sup>53</sup> *Ibid.*

<sup>54</sup> Article 19, The Universal Declaration of Human Rights, Article 17, The International Covenant on Civil and Political Rights, and Articles 19(1)(a) and 21 of the Indian Constitution, 1950

<sup>55</sup> Section 3 of the Right to Information Act, 2005,

<sup>56</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1).

<sup>57</sup> "Transparency and Confidentiality in the RTI Act" by the Commonwealth Human Rights Initiative (2018)).

<sup>58</sup> The Indian Code of Criminal Procedure, 1973, grants law enforcement agencies the power to collect and access personal information for investigative purposes (Government of India, "The Code of Criminal Procedure, 1973" (1973), Section 91).

Pursuit of Justice.<sup>59</sup> The Pursuit of Justice is a fundamental principle of the Indian Constitution, and access to personal information may be necessary to achieve this goal.<sup>60</sup>

- 2) **Witness protection:** In some cases, witnesses may need to remain anonymous to protect their safety.<sup>61</sup> However, this anonymity may compromise the Right to Privacy of the accused, who has the right to confront their accusers.<sup>62</sup> Witness protection programs are essential for ensuring the safety of witnesses and their families.<sup>63</sup>

### 5.3. RIGHT TO INFORMATION VS. PURSUIT OF JUSTICE

- 1) **Pre-trial publicity:** The Right to Information of media and right to freedom of expression may lead to pre-trial publicity, which can prejudice the jury and compromise the Pursuit of Justice.<sup>64</sup> The Supreme Court of India has recognized the potential for pre-trial publicity to prejudice the jury and compromise the Pursuit of Justice.<sup>65</sup>
- 2) **Disclosure of sensitive information:** The RTI may require the disclosure of sensitive information, such as investigative reports or witness statements, which can compromise the Pursuit of Justice.<sup>66</sup> 2. It exempts disclosure of information that would impede the process of investigation or apprehension or prosecution of offenders (Government of India, "The Right to Information Act, 2005" (2005)).<sup>67</sup>

### 5.4. RESOLVING CONTRADICTIONS

To resolve these contradictions, it is essential to strike a balance between the three principles. This can be achieved by:

- 1) **Implementing robust data protection laws:** Laws that protect personal information and ensure confidentiality can help balance the Right to Information and the Right to Privacy.<sup>68</sup>
- 2) **Establishing clear guidelines for investigative powers:** Guidelines that outline the circumstances under which law enforcement agencies can access personal information can help balance the Pursuit of Justice and the Right to Privacy.<sup>69</sup> The Indian Supreme Court has emphasized the need for clear guidelines on investigative powers to balance individual privacy with the Pursuit of Justice.<sup>70</sup>
- 3) **Promoting responsible media reporting:** Media outlets can adopt responsible reporting practices, such as avoiding pre-trial publicity and protecting witness anonymity, to balance the Right to Information and the Pursuit of Justice.<sup>71</sup>

By acknowledging and addressing these contradictions, we can work towards creating a more balanced and just society that respects individual rights while promoting transparency and accountability.<sup>72</sup>

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<sup>59</sup> "The Pursuit of Justice in India" by the National Human Rights Commission (2019)).

<sup>60</sup> Ibid.

<sup>61</sup> International Justice Resource Center "Witness Protection" (2020)).

<sup>62</sup> The right to confront one's accusers is a fundamental principle of fair trial, as recognized by the Supreme Court of India (See, for example, "State of Maharashtra v. Sukhdev Singh" (1992) 3 SCC 700).

<sup>63</sup> International Justice Resource Center "Witness Protection" (2020)).

<sup>64</sup> "Bijayananda Patnaik v. State of Orissa" (1963) Supp 2 SCR 746).

<sup>65</sup> Ibid.

<sup>66</sup> Section 8(1)(h) of the Right to Information Act, 2005,

<sup>67</sup> Ibid.

<sup>68</sup> Robust data protection laws that prioritize individual privacy (European Union, "General Data Protection Regulation" (2016)).

<sup>69</sup> District Registrar and Collector, Hyderabad v. Canara Bank" (2005) 1 SCC 496).

<sup>70</sup> Ibid.

<sup>71</sup> The Press Council of India's "Norms of Journalistic Conduct" provide guidelines for responsible media reporting, including avoiding pre-trial publicity and protecting witness anonymity (Press Council of India, "Norms of Journalistic Conduct" (2010)).

<sup>72</sup> This approach is in line with the principles of deliberative democracy, which emphasizes the importance of balancing individual rights with the need for transparency and accountability (See, for example, "Deliberative Democracy" by James Fishkin (2018)).

## 6. CONCLUSION

Data protection in court trials is a complex issue that involves a tension between the right to information, the right to privacy, and the pursuit of justice. While media trials provide an important means of ensuring transparency and accountability in the justice system, they also raise significant concerns about data protection and privacy.

To address these concerns, it is essential to develop a nuanced approach that balances the competing interests of the right to information, the right to privacy, and the pursuit of justice. This can be achieved through a combination of legislative, judicial, and administrative measures, including the enactment of data protection laws, the development of guidelines for media reporting of court proceedings, and the establishment of mechanisms for protecting witnesses, victims, and defendants' personal data.

## CONFLICT OF INTERESTS

None.

## ACKNOWLEDGMENTS

None.

## REFERENCES

- [The Indian Evidence Act, 1872.](#)
- [The Information Technology Act, 2000.](#)
- [The Constitution of India, 1950.](#)
- [Right to Information Act, 2005.](#)
- [Rajagopal v. State of T.N. \(1994\) 6 SCC 632.](#)
- [State of Maharashtra v. Rajendra Jawanmal Gandhi \(2015\) 4 Bom CR 757.](#)
- [Kharak Singh v. State of U.P. \(1964\) 1 SCR 332.](#)
- [M.P. Sharma v. Satish Chandra \(1954\) SCR 1077.](#)
- [Justice K.S. Puttaswamy \(Retd.\) v. Union of India \(2017\) 10 SCC 1.](#)
- [Data Protection in India: A Critical Analysis, by Aparajita Lath, published in the Journal of Intellectual Property Rights, Vol. 24, Issue 3, 2019.](#)
- [Protection of Children from Sexual Offences \(POCSO Act\) 2012](#)