

To

University Grants Commission

On

Major Research Project

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**“Media Trial: Role of Media under Indian
Constitution”**

By

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Executive Summary

Law is the king of kings; law is supreme are the cardinal principles in any democratic set up. Rule of Law enshrined in the Constitution of India makes every organ of the state accountable and sublimates them to the settled norms laid down by the Indian judiciary. In the context of this the million dollar question arises: **‘Does freedom of press means freedom from law?’** The impact of technological development and electronic form of media has posed multiple challenges in every aspect of life including administration of justice. With sleepless media coverage in the form of so-called news channels every day there is a fresh victim of media trial.

Freedom of press though missing explicitly in the Constitution of India was read by Indian courts in the flavour of freedom of speech and expression under Article 19(1)(a). This resulted into extra constitutional birth of fourth organ of the state. Initially the role was to protect the democratic principles and make other organs accountable to the people. In this process media gained importance in the world and commercialization of media was the natural consequence. Media houses owned by businessmen took the advantage of technology and absence of relevant laws regulating media. In the name of freedom of press and zero control on it, media became superpower overnight and started interfering in activities of other organs of the state to the extent that judiciary was not spared. This gave rise to the **birth of media trials** which took the role of **peoples’ court** and challenged the authority of **court of law**.

The basic principles of criminal justice of fair trial, impartial investigation, unbiased administration of justice and independence of judiciary were taken to ride and thrown in dust. Everyone is presumed to be innocent unless proved guilty beyond reasonable doubt is reversed and media trial makes everyone presumed guilty even if later proved innocent by the court of law. Media trial is challenging the very existence of criminal justice administration system and has made judiciary a silent spectator and scapegoat under the banner of freedom of unbridled press.

The tyranny and complexity of role of media and media trial is highlighted in this research project which covers the following issues and has explored the possibility of regulating media through rule of law.

The issues are: **1.** Whether there is a need of special law or self-regulation? **2.** How to control media trial and protect independence of judiciary? **3.** What is accountability of media and evaluation of various measures and doctrines to ensure the same? **4.** Exploring the international practices in redefining the role of media. **5.** Regulating the commercial character of media. **6.** Designing comprehensive legislation/self-regulation and suitable amendments in the Constitution of India.

The project report addresses the above issues taking into consideration recent developments, high profile media trials, guidelines of the Supreme Court in landmark judgements, law commission reports, international legislation, doctrine of postponement, neutrality, open justice and taking the opinion of the public by non-doctrinal research method. The prime suggestions are: review of existing laws, adoption of comprehensive self-regulations drafted by judiciary, adoption of best practices in media, amendment in the Constitution under Article 19, introduction of doctrine of right to be forgotten besides doctrine of postponement, beginning of trial from the point of arrest, compensation for illegal media trial, sensitizing media on its role, establishment of Media Council of Peers and special grievance redressal forum, and respect for rule of law.

Media which has become the master of democracy with the support of Constitution and technology need to do self-introspection and sooner the better realise that no one is above law be so ever high. Media which controls the minds of the masses shall not mind control by the masses through Rule of Law.