

# Media Trial' Through 'sting Operation : Ethical and Legal Issues

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## ABSTRACT

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Article 19(1) (a) of the Indian Constitution, which guarantees the right to freedom of speech and expression, also encompasses the right to freedom of the press. Undercover operations conducted by the media have grown commonplace in contemporary society. A sting operation is a well orchestrated scheme used by law enforcement to apprehend a wrongdoer. In contemporary times, the media use this strategy as a means of exercising freedom of the press in order to enhance its Television Rating Points (TRP). However, sting operations raise significant concerns about the protection of an individual's right to privacy, as guaranteed by the Indian Constitution. Privacy is an essential need for every individual in their personal life. Privacy entails maintaining a certain level of distance from society on some aspects of one's personal life. However, the issue at hand is whether sting operations may compromise this privacy and expose it to the public. The answer to that is evident and transparent, but with some constraints, since the activities do infringe upon the Right to Privacy. However, one may argue that the ends justify the methods. However, the infringement upon their rights occurs when the media get involved, since here is when the restrictions are insufficient but also necessary. The influence and significance of the media in a democratic society are well recognised. Press freedom, along with freedom of speech and expression, is guaranteed under Article 19(1)(a) of the Indian Constitution. The author of this article has tried to provide a harmonious strategy that considers both the freedom of the press and the right to privacy of citizens.

**Keywords :** Press freedom, Trial by media, Privacy rights, Undercover operation, Constitutional rights

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Media is widely seen as a fundamental cornerstone of democracy. The media plays diverse and significant functions in society. The media has a crucial influence on shaping societal opinions and has the power to completely alter the perspective through which individuals experience different events. The media should be praised for initiating a trend in which they actively participate in exposing and apprehending the accused. Media trial refers to the scrutiny and coverage of legal proceedings that are still pending in courts. The courts have not yet delivered judgements on these cases, but the

media extensively covers them, often adding sensationalism in an attempt to sway the opinions of the participating judges. This is just a media-led pre-trial process that relies on materials gathered by the media, without properly examining their legal significance for admissibility, and making judgements before the legal process unfolds.

According to Wikipedia, 'Trial by Media' refers to the influence of television and newspaper coverage on a person's reputation, which may create a widely held belief of guilt, independent

of the court's ruling. As per the encyclopaedia, in highly publicised court cases, the media is frequently criticised for inciting a climate of public hysteria similar to a lynch mob. This not only prevents a fair trial from taking place but also ensures that regardless of the trial's outcome, the accused will be subjected to intense public scrutiny for the rest of their life.

## Sting Operation

A 'sting operation' in law enforcement refers to a misleading operation aimed at apprehending individuals engaged in criminal activities, as stated by Wikipedia. In a typical sting operation, a law enforcement official or a willing member of the public assumes the role of either a criminal partner or a possible victim. They cooperate with the suspect's conduct in order to collect evidence of the suspect's illegal activities.

A Sting Operation is a covert operation specifically devised to apprehend an individual engaging in criminal activities via the use of deceit. An intricately orchestrated confidence scheme devised and performed with meticulous precision. The term "sting" originates from American use, referring to a covert police operation intended to trap criminals. The term "sting" is a lexical equivalent to the phrase "establish a snare to apprehend a criminal". More precisely, it might be referred to as Investigative Journalism or Undercover Journalism. A sting operation is a method of acquiring information that aims to uncover facts that are difficult to get via ordinary requests and searches, or that are intentionally hidden, repressed, or misinterpreted.

The development of compact audio and video technologies, particularly the pin-hole camera technology, allows for discreetly capturing video or audio recordings of conversations and activities of persons. In India, the media has been quick to use this advanced technology to carry out 'sting operations' in order to reveal a crime

before it is officially recognised by the police or the judiciary. The news media, especially television channels, heavily promote the coverage in order to increase their ratings and showcase novelty and distinctiveness. This technology is the focus of scrutiny in the context of 'Trial by Media'. The term 'Trial by Media' highlights the influence of media portrayal on an individual's reputation, leading to a general sense of guilt, irrespective of the court's ruling. Hence, the media, which is often seen as the fourth pillar of our democracy, encroaches onto the functions of the administration and the judiciary. This act not only blatantly violates the substantive and procedural criminal rules of the state, but also undermines the whole Constitutional structure.

## Significant Sting Operations In India

### Aaj Tak

- Rihar prison Bani Ghos Mahal - An official at Tihar prison is involved in accepting bribes.
- Goos Mahal- 82 workers of the Delhi sales tax office are involved in accepting bribes.
- Operation Duryodhan: 11 Members of Parliament apprehended for accepting payments in exchange for posing questions in Parliament.

### Stellar Bulletin

- Ayaash IG, an officer from Jharkhand IG, has been suspended for engaging in sexual exploitation of a tribal lady.
- A physician engaging in the illicit sale of newborns from a medical facility.
- Operation Chakravayuh reveals the misuse of MPLAD funding by Members of Parliament in Madhya Pradesh.
- A video recording captured a wife physically assaulting her husband.

## NDTV

- A Delhi police officer accepting a payment in exchange for releasing a deceased man's corpse to his family.
- A railway officer engaging in the illegal practise of extorting money from passengers.

## Indian Television

- Bihar legislators engaging in sexual activities with prostitutes.
- Religious leaders engaging in sexual exploitation of female followers.
- Operation casting couch: Actor Shakti Kapoor makes a sexual offer to a journalist who is pretending to be an actress.
- Operation casting couch: Actor Aman Verma escorts a journalist, who is pretending to be an actor, to his bedroom.

## Sahara Samay

- Corruption inside the Delhi Public Works Department (PWD)

## Cases Where Sting Operation Was Used As Evidence

### 1. Aniruddh Bahal vs State (2010)

In this instance, a sting operation targeted two politicians, offering them money in exchange for asking questions in parliament. Subsequently aired on television, it led to the registration of an FIR against the politicians. The pivotal question revolved around the validity of conducting such a sting operation. The Delhi High Court, in its ruling, acknowledged the sting operation as admissible evidence, citing Article 51A(b) and 51A(j) which emphasized the duty of ordinary citizens to undertake such actions for the public good. It was deemed that public officials involved couldn't claim a right to privacy.

### 2. Courts on its own motion v. State (2020)

In this case, a television news channel conducted a sting operation implicating a school teacher in forcing a girl into prostitution. Upon investigation, it was revealed that Ms. Khurnna, the school teacher, was not involved in any prostitution racket. Consequently, the Information and Broadcasting ministry issued a notice against the channel. The Delhi High Court, prompted by the circumstances, emphasized the need for the Information and Broadcasting ministry to review guidelines, particularly regarding media decency standards.

### 3. Rajan Ram Pal v. The Hon'ble Speaker of Lok Sabha (2007)

A private news telecast alleged the involvement of 10 MPs in bribery, leading to the establishment of a committee to investigate the matter. Subsequently, the MPs were found guilty of misconduct and contempt, resulting in their removal from their positions. The court, upon reviewing the case, upheld the expulsion of the MPs, emphasizing that their removal was based on misconduct findings established by a probe conducted by the respective houses.

### 4. R.K. Anand Case (2009)

In this case, prominent criminal lawyer RK Nanda faced contempt of court charges after being caught attempting to influence a witness in a sting operation. The Supreme Court, upon deliberation, convicted R.K. Anand and suspended his license, affirming that the sting operation was conducted in the public interest.

### 5. Godhra Case (2002)

Journalists from the Tehelka news channel recorded a video of two star witnesses alleging they were paid to provide false statements in court. However, the sessions court rejected this evidence, deeming it inadmissible as it was obtained through a sting operation conducted without proper authorization.

## Ethical and Legal Concerns

The predominant emphasis of issues about ethics in investigative journalism has been on the methods used. What are the legitimate means to expose misconduct? Is it ethically acceptable to use deceit in order to promote the sale of truth? Is any approach morally defensible regardless of the existence of discouraging working circumstances and challenges in obtaining information? Are television reporters permitted to use concealed cameras in order to get a news story? Are journalists permitted to use deceptive personas in order to get access to information?

Operation Westend raised some very pressing issues. There was a significant disparity between enticing individuals into taking bribes or gifts and uncovering corruption related to particular transactions, according to several arguments. Is it morally justifiable to assign culpability to an individual for a criminal offence that would not have occurred had the undercover journalist not instigated the action? Furthermore, what level of ethicality was involved in using prostitutes as a means to uncover corruption in defence agreements?

The ethics of sting operations cannot reach a consensus due to the significant variations in methodology and aims across each operation. Indeed, the legal ramifications of reporters' activities are far more unambiguous than the ethical concerns at hand. Ethics is the branch of philosophy that concerns itself with the differentiation between good and wrong. It employs philosophical ideas to provide a rational basis for justifying a certain path of conduct. Every action may be ethically justified, depending on the framework used to a certain situation, and the media's valued principles are not subject to significant argument. Journalists and editors must ascertain the beneficiaries of the story. If a journalist is dedicated to democratic accountability, the crucial inquiry is whether the public reaps advantages from certain

investigative findings. Does the press effectively satisfy its societal obligation in exposing misconduct? Whose interests are being impacted? Whose rights are being infringed upon? Does the item under consideration pertain to a valid concern of the general public?

The right to privacy is an integral component of the entitlement to individual freedom. In the case of *People's Union for Civil Liberties v. Union of India*, it was clarified that the right to have a private telephone call at one's home or workplace, without any interference, may be seen as a fundamental right to privacy, which is a component of the right to life and personal liberty. The Court determined that telephone tapping would infringe upon the right to privacy.

In the case of *R. Kajgopal v. State of Tamil Nadu*, the Supreme Court determined that the term "right to privacy" included the concept of being free from interference or intrusion. The concept of the "right to privacy" was deemed to be inherent in the right to life and personal freedom protected by Article 21.

Endless debates may arise on the ethics of these matters, without any significant progress towards resolution, until the intent is evident. The sting operation against Dilip Singh Judeo is widely seen as unethical due to its primary motivation being political one-upmanship rather than a genuine desire for enlightening the public. The counter-sting operation against Ajit Jogi and his son might be classified in the same category. It may be necessary to do a detailed examination of each individual instance in order to differentiate between morally sound journalistic practices and unethical ones. However, if one were to transcend ethics and go into the domain of law, the process of determining the legally correct way becomes simpler. This inquiry is also relevant in the context of the highly anticipated Broadcasting Bill.

Under such conditions, how does an ambitious and dedicated journalist respond? He carries a

concealed camera and disseminates nationwide reports of upstanding individuals succumbing to bribery. If there is a lack of documents, receipts, accounts, papers, or files as evidence, the journalist will provide the proof in the following manner. Broadcasted live on a screen The sting operation conducted by Tarun Tejpal and Tehelka, as well as the following imitations by others, have sparked a contentious debate on the ethical appropriateness of this kind of journalism.

### **Consequences of Sting Operations During a Fair Trial**

Occasional inquiries have been made into the media's role in relation to media trials that precede the actual court hearing of a case. Media trials acquire a greater degree of influence, especially when they transpire as a result of an undercover operation. The manner in which undercover operation broadcasts occur creates an impression of prejudice among the general public. The video entity generated through undercover operations is widely disseminated and exerts an impact on numerous spheres, including the judiciary. As soon as an undercover operation commences, the media becomes a public tribunal. A person is presumed innocent under Indian Criminal Law until his culpability is established in a court of law. This ideal is entirely disregarded in media trials, and the individual targeted by the undercover operation is presented as the culpable party. A parallel trial also increases the workload of solicitors, who ultimately decline to accept such cases. A trial conducted by the media not only exacerbates prejudice against the defendant but also inflicts significant harm on his reputation, persisting even after his acquittal.

### **Conclusion**

Employing a trap to apprehend individuals engaged in illicit activities is undoubtedly a recognized technique within the realm of criminal investigation. When it comes to

corruption trials, capturing the individual accepting the bribe as they are in the act is often seen as conclusive proof of their guilt. However, capturing someone on video involved in a sexual act does not automatically produce any evidence or proof. If a sting operation, such as the one conducted by the private channel, indicates anything, it is the proclivity of some authorities and politicians to abuse their positions. This does neither serve as evidence of previous wrongdoing nor as a guarantee of future behaviour. When capturing footage of events, it is important to avoid mistakenly interpreting illegal behaviour as definitive evidence of crime. It is important to consider the following standards while engaging in any kind of undercover operation. Sting operations should only be conducted on individuals who have some evidence of criminal behaviour against them and when it is deemed essential to get conclusive proof. Authorization for covert activities must be acquired from the relevant judiciary or the attorney general. This precautionary measure has been established because individuals who conduct a sting operation themselves are guilty of the crimes of impersonation, criminal trespass, and inducing someone to commit a crime. If there are indications of tampering with cassettes and films, it may be reasonably assumed that the recording is likely not genuine. In case of television channels, the operations should be in strict consonance with the provisions of the Cable Television Networks (Regulation) Act, 1995, the rules, and the NBDSA guidelines.

It is necessary to have contemporaneous documentation of the many phases of the undercover operation. Presently, the majority of television news networks in India often use covert cameras to uncover instances of corruption. However, in a culture that is more conservative and reserved compared to the USA or Europe, the Indian news media have shown hesitancy in covering the personal lives of prominent personalities. As rightly observed by

Justice Nagaprasanna after, analyzing the judgments of the Supreme Court and the Delhi High Court on earlier instances of sting operations across the country “The role and the responsibility of the media in a democratic setup is imperative. But, imperativeness sometimes cannot be stretched for entrapping any person [through sting operations] into a crime or luring any person into a crime which otherwise he would not have committed. Such actions are to be permitted only if they are in consonance with law”.

### References :

- Abhitosh Pratap Singh and Madan Mohan, Media: Facilitating Justice or Hampering Justice? Indian Bar Review, Vol.-XXXIII, 2006, P.239.
- www.wikipedia.org
- India Today, “Media Trial” January 2002
- <https://blog.ipleaders.in/legal-analysis-sting-operation/>
- Manoj Rajan “Media in Modern India”
- AIR 1997 SC 568
- AIR 1995 SC 264
- Ajay Das, “Sting operation by media”
- www.jstor.com
- Cheating by impersonation' is a crime under Section 146 of the Indian Penal Code.