

PRESS-FREEDOM IN INDIA: UNFETTERED POWERS OR ECLIPSED LIBERTY?

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Abstract

The press has long been described as the fourth pillar of Indian democracy, yet the constitutional guarantee that protects it Article 19(1)(a) nowhere mentions it by name. This article examines the resulting tension: an implied, judicially expanded freedom that is simultaneously subject to the reasonable-restriction regime under Article 19(2), the contempt jurisdiction of courts, the law of defamation, and sedition law. Using the phenomenon of ‘media trial’ as a case study, the article argues that Indian press freedom does not suffer from a single defect of excess or repression but oscillates between both extremes depending on the political and commercial incentives operating on any given newsroom. It concludes with a set of practical, implementable recommendations addressed to legislators, courts, media self-regulatory bodies, and newsrooms themselves for narrowing this oscillation into a more predictable, rights-respecting equilibrium.

Keywords: Press Freedom; Media Trial; Contempt of Court; Defamation; Sedition; Free Speech

I. Introduction: The Fourth Estate’s Uncertain Constitutional Footing

The press is conventionally described as the ‘fourth pillar’ of Indian democracy, alongside the legislature, executive and judiciary. Whatever the accuracy of that metaphor, the underlying function it captures is real: the press disseminates information about social, political, economic, cultural and legal developments to a public that could not otherwise access it, and in doing so shapes how that public perceives and evaluates the exercise of power.¹ The rapid expansion of vernacular and English-language print

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1 Apoorva Sinha, “Media Trial from the Lens of Indian Constitution and Judiciary”, *Legal Desire*, 14 March 2018, available at: <https://legaldesire.com/article-media-trial-lens-indian-constitution-judiciary/> (Last visited on Aug. 5, 2026).

media, together with television, digital platforms and social media, has multiplied both the reach and the velocity of this influence over the past three decades.

Yet Indian constitutional law affords the press no freestanding guarantee. 'Press freedom' is judicially read into Article 19(1)(a)'s guarantee of speech and expression; the commercial and organisational dimensions of media houses fall instead under Article 19(1)(g)'s freedom of trade and profession, itself qualified by Article 19(6).² Both freedoms are in turn subject to the 'reasonable restrictions' catalogued in Articles 19(2) and 19(6) restrictions that touch privacy, contempt of court, defamation, and the security of the State, among others.³ The result is a freedom constructed almost entirely by implication and by the accretive interpretation of courts, rather than by any dedicated textual guarantee which is itself a source of the instability this article examines.

This implied character has a discernible history. When the Constitution came into force, the Supreme Court twice construed Article 19(1)(a) expansively in favour of the press setting aside a ban on the entry and circulation of a journal in *Romesh Thappar v. State of Madras*,⁴ and a system of pre-censorship in *Brij Bhushan v. State of Delhi*⁵ prompting Parliament to widen the permissible grounds of restriction through the Constitution (First Amendment) Act, 1951.⁶ In the decades that followed, the Court built the freedom of the press almost entirely by inference from that general guarantee: it struck down newsprint controls that penalised the larger papers in *Bennett Coleman & Co. v. Union of India*,⁷ set aside a punitive levy on imported newsprint in *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India*,⁸ and, carrying the principle into the electronic medium, held in *Secretary, Ministry of Information and Broadcasting v. Cricket Association of*

2 Sanatan Deshpande and Priyank Jagawanshi, "A critical analysis of media trial and its effect on Indian judiciary" *International Journal of Research and Analytical Reviews* 2 (2019), available at: http://ijrar.com/upload_issue/ijrar_issue_20543141.pdf (Last visited on Aug. 12, 2026).

3 Anandita Singh, *The Freedom of Press and Trial by Media – A Critical Study from the Perspective of Indian Constitution and Criminal Justice System* (2019) (LL.M Dissertation, National Law University), available at: <http://14.139.58.147:8080/jspui/bitstream/123456789/289/1/18LLM18.pdf> (Last visited on Aug. 18, 2026).

4 *Romesh Thappar v. State of Madras*, AIR 1950 SC 124.

5 *Brij Bhushan v. State of Delhi*, AIR 1950 SC 129.

6 *The Constitution (First Amendment) Act*, 1951.

7 *Bennett Coleman & Co. v. Union of India* (1972) 2 SCC 788.

8 *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India* (1985) 1 SCC 641.

*Bengal*⁹ that the airwaves are public property to be regulated in the interest of a plurality of voices. Each decision enlarged the working content of press freedom without ever anchoring it to a dedicated textual clause a mode of protection that is generous in expansive times and correspondingly exposed in restrictive ones, and which sets up the very oscillation this article traces.

This article's central claim is that Indian press freedom does not suffer from one defect but from two, pulling in opposite directions at different times: an under-use of the ordinary legal tools available to check media excess (Part II), and an over-use of the State's restrictive powers once the press turns critical of government (Part IV) with the constitutional doctrine on prior restraint and contempt sitting uneasily in between (Part III). Part V hereof translates this diagnosis into practical recommendations, since doctrinal critique alone rarely moves underlying practice.

II. When Reporting Becomes Adjudication: The Problem of Media Trial

Crime reporting supplies the clearest illustration of press excess. Journalists frequently construct a pre-determined narrative of guilt around an accused well before a court has pronounced on the matter, a phenomenon that has acquired its own vocabulary: 'trial by media'.¹⁰ The expression captures a specific institutional failure the press assuming the roles of judge, jury and, rhetorically at least, executioner, often in parallel with an ongoing police investigation, and typically before either party has had a fair opportunity to test the evidence.

The Law Commission of India recognised this problem as early as 2006. Its 200th Report proposed restraining the media from publishing material prejudicial to an accused's rights between the point of arrest and the conclusion of trial, observing that "the extensive use of television and cable services" had changed "the whole pattern of publication of news", with a corresponding risk of prejudice to "suspects, accused, witnesses and even

9 *Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal* (1995) 2 SCC 161.

10 Nikita Das, "Media trials in India: An unwritten carve-out to the right", <https://iapp.org/news/a/media-trials-in-india-an-unwritten-carve-out-to-the-right-to-privacy/> (Last visited on Aug. 24, 2026).

judges” and, more broadly, to the administration of justice.¹¹ Two decades on, the underlying diagnosis remains largely unaddressed by legislation, even as the platforms involved have multiplied.

The pattern recurs across some of India’s most closely-watched criminal trials the *Jessica Lal murder case*,¹² the *Priyadarshini Mattoo case*,¹³ and the *Nitish Katara case*¹⁴ each drew saturation coverage that arguably shaped public expectations of the outcome well before the courts had ruled, as did the more recent coverage of Sushant Singh Rajput’s death, where the accused directly raised media trial as a ground of prejudice. What unites these cases is not merely the intensity of coverage but its editorial framing verdicts announced in headlines before they were pronounced in court.

Media trial is not merely bad journalistic practice; where it prejudices a pending proceeding, it constitutes contempt of court, and it independently undermines the accused’s right to a fair trial under Article 21. The doctrinal tools to address it principally the Contempt of Courts Act, 1971, discussed in Part III already exist. What is largely missing is the institutional will, on the part of both courts and media self-regulatory bodies, to invoke them consistently.

The deeper objection to media trial is that it inverts a foundational premise of the criminal process. The presumption of innocence requires that guilt be established by admissible evidence, tested through cross-examination, before an impartial tribunal; a televised verdict reverses that sequence, fixing culpability in the public mind on the strength of leaked case diaries, selective disclosures and reconstructed ‘sting’ footage. Where the resulting prejudice reaches the tribunal itself, it engages not only the accused’s fair-trial guarantee under Article 21¹⁵ but also the cognate protections that the law of evidence builds around that presumption. The Supreme Court has more than once had to correct convictions and acquittals against the backdrop of precisely such publicity, in the very cases that had earlier been conducted in the press.¹⁶

11 Law Commission of India, “200th Report on Trial by Media: Free Speech v. Fair Trial under Criminal Procedure (amendments to the Contempt of Court Act, 1971)” (August, 2006), available at <https://lawcommissionofindia.nic.in/reports/rep200.pdf> (Last visited on Aug. 28, 2026).

12 *Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi)* 2010 (6) SCC 1.

13 *Santosh Kumar Singh v. State through CBI* (2010) 9 SCC 747.

14 *Vikas Yadav v. State of U.P.* (2016) 9 SCC 541.

15 The Constitution of India, art. 21.

16 *Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi)* (2010) 6 SCC 1; *Santosh Kumar Singh v. State through CBI* (2010) 9 SCC 747.

Part of the difficulty is structural rather than ethical. Competition for television rating points rewards the newsroom that reaches a verdict first, not the one that reaches it last and correctly; the commercial logic of the twenty-four-hour cycle is therefore in standing tension with the deliberative pace of a criminal trial. India's self-regulatory architecture has struggled to counteract that incentive. The Press Council of India, a statutory body constituted under the Press Council Act, 1978,¹⁷ may admonish or censure but cannot fine or suspend, and its writ does not reach broadcast media at all; the News Broadcasting and Digital Standards Authority, a voluntary body, binds only its member channels and imposes penalties too modest to alter conduct. The institutions best placed to discipline pre-trial reporting are thus precisely the two with the weakest enforcement powers.

Comparative practice underscores how far the Indian position has drifted. In the United Kingdom, the *sub judice* rule, codified in the Contempt of Court Act, 1981,¹⁸ imposes a strict-liability contempt on publications that create a substantial risk of serious prejudice to active proceedings, and it is enforced with a regularity that has no counterpart in Indian practice. The doctrinal tools are broadly similar; their consistent invocation is not. The contrast suggests that the Indian deficit is one of enforcement culture rather than of legal design, and it points to a modest but underused corrective: a newsroom required to publish a prominent, time-stamped retraction whenever its pre-trial reporting is later falsified faces a reputational cost that private settlement does not impose a discipline that operates prospectively on the incentive to rush to judgment, rather than only punitively after the damage is done.

III. Constitutional Boundaries: Prior Restraint, Contempt and Defamation

Any regulation of press conduct must reckon with the Supreme Court's early and firm rejection of prior restraint. In *Sakal Papers (P) Ltd. v. Union of India*, the Court held that executive orders cannot restrict the Article 19(1) (a) guarantee by invoking Article 19(2); any restriction must have express legislative authority, and its reasonableness must be assessed case-by-case rather than by a general standard.¹⁹

17 The Press Council Act, 1978 (Act 37 of 1978), s. 14.

18 The Contempt of Court Act, 1981 (United Kingdom), s. 2.

19 *Sakal Papers (P) Ltd. v. Union of India* AIR 1962 SC 305.

This position was reaffirmed in *R. Rajagopal v. State of T.N.*, where the Court held that pre-publication censorship of a newspaper itself infringes freedom of speech and expression; the State has no power to impose prior restraint on publication, however defamatory the material, though an action for damages may lie afterward if the publication is shown to rest on false facts.²⁰

The doctrinal position is, on its own terms, a strong one. Yet India's performance on independent press-freedom indices has not reflected it: the country was ranked 140th of 180 countries on the RSF World Press Freedom Index in 2019, falling to 142nd in 2020.²¹ Whatever methodological caveats attach to any single index, the persistence of a low ranking alongside strong doctrine suggests that the gap lies less in constitutional text than in its enforcement, and in the informal pressures operating outside the courtroom.

Where formal prior restraint is unavailable, courts have instead relied on their contempt jurisdiction as an after-the-fact check. The scope of that jurisdiction was described, in restrained terms, by the Privy Council as early as 1914: "the freedom of the journalist is an ordinary part of the freedom of the subject... his privilege is no other and no higher. The range of his assertions, his criticisms or his comments is as wide as, and no wider than, that of any other subject."²² The framing is instructive: press freedom, on this view, is not a special privilege but ordinary civil liberty exercised at scale which is precisely why its excesses attract the same remedies, contempt and defamation, available against any other citizen.

The domestic vehicle for enforcing this boundary is the Contempt of Courts Act, 1971. Courts have been careful, however, to calibrate its use against the competing public interest in open reporting of judicial proceedings: in *Narmada Bachao Andolan v. Union of India*, the Supreme Court observed that freedom of speech and expression is the "life blood of democracy", even as it remains "subject to certain qualifications."²³ The operative test courts have since applied is whether an inaccuracy in reporting is, on the facts of the particular case, likely to have a real and substantial connection with the administration of justice mere inaccuracy, without that connection, does not by itself amount to contempt.

20 *R. Rajagopal v. State of T.N.* (1994) 6 SCC 632.

21 Index Details, available at: https://rsf.org/en/ranking_table (Last visited on Sept. 4, 2026).

22 *Channing Arnold v. King Emperor* AIR 1914 PC 116.

23 *Narmada Bachao Andolan v. Union of India* (1999) 8 SCC 308.

The second ex-post remedy is defamation. Printing matter that harms another's reputation is a criminal offence under Section 501 of the Indian Penal Code (IPC), 1860 (now Section 356 of the Bharatiya Nyaya Sanhita, 2023) punishable with a fine and imprisonment of up to two years. Civil liability in damages runs alongside this criminal provision. Together with contempt, defamation supplies the two principal ex-post tools available against media excess; the doctrinal gap identified in Part II is therefore not an absence of remedies, but their inconsistent invocation.

The criminal limb of defamation has itself become a contested site. In *Subramanian Swamy v. Union of India*,²⁴ the Supreme Court rejected a broad challenge to Sections 499 and 500 of the IPC (now, known as BNS),²⁵ holding that criminal defamation is a reasonable restriction on speech saved by Article 19(2), and that reputation is an intrinsic component of the right to life under Article 21. The decision preserved a remedy of considerable antiquity, but it also left intact a tool that is increasingly deployed not to vindicate genuine reputational injury but to intimidate: the strategic lawsuit against public participation, or SLAPP, in which a well-resourced litigant files a cluster of defamation complaints across scattered jurisdictions, so that the cost and inconvenience of defending them operate as a punishment independent of any eventual verdict. For the working journalist the effect mirrors that of the sedition charge examined in Part IV the process, not the outcome, does the disciplining which is why the mere availability of a remedy says little, by itself, about whether the balance it strikes is a healthy one.

Between the blunt instrument of contempt and the constitutional bar on prior restraint, the Supreme Court has fashioned a narrower, calibrated remedy. In *Sahara India Real Estate Corporation Ltd. v. Securities and Exchange Board of India*,²⁶ a Constitution Bench held that courts of record, exercising their inherent powers under Articles 129 and 215 of the Constitution, may in appropriate cases direct the temporary postponement of the publication of court proceedings where there is a real and substantial risk of prejudice to the fairness of a trial or to the administration of justice. The Court was careful to characterise such an order not as a punitive measure or a species of censorship but as a 'neutralising device' a preventive step of short duration, available only where no reasonable alternative such as change of venue exists, and governed throughout by the twin tests of necessity and

24 *Subramanian Swamy v. Union of India* (2016) 7 SCC 221.

25 IPC, 1860; Ss. 499, 500.

26 *Sahara India Real Estate Corporation Ltd. v. Securities and Exchange Board of India* (2012) 10 SCC 603.

proportionality.²⁷ The significance of the postponement doctrine lies in its middle position: it supplies a targeted answer to the media-trial problem identified in Part II without reviving the general prior-restraint regime that *Sakal Papers* and *R. Rajagopal* had firmly rejected.

The doctrinal picture is further complicated by the migration of the audience from licensed newspapers and broadcasters to digital and social-media platforms, on which the ex-post remedies described above operate weakly if at all. The Court's most consequential intervention in this space came in *Shreya Singhal v. Union of India*,²⁸ which struck down Section 66A of the Information Technology Act, 2000 as an unconstitutionally vague and overbroad restriction on online speech, while reading down the intermediary-liability regime to require actual knowledge, in the form of a court order or a government notification, before content need be taken down. *Shreya Singhal* secured the online citizen's expressive freedom against a vague penal provision; it did not resolve the harder institutional question of who is to restrain the anonymous, algorithmically-amplified pre-trial commentary that now routinely outpaces anything a regulated newsroom can produce a gap to which the recommendations in Part V return.

IV. Sedition and the Chilling of Dissent

If Parts II and III of our Constitution describe restraints on the press that are under-enforced, sedition law illustrates the opposite failure: a restraint enforced with a severity that its constitutional justification struggles to bear. Section 124A of the Indian Penal Code descends in a direct line from the Rowlatt Act, 1919, and criminalises speech "bringing into hatred or contempt" the government established by law. Whatever legitimate interest it protects, its compatibility with Article 19(1)(a) has long been in tension, given that fair criticism of public officials and government action provided it does not incite violence is ordinarily protected speech rather than sedition.

The gap between doctrine and practice widened visibly in 2015–16, when several television channels received show-cause notices over coverage that a serving Cabinet Minister publicly dismissed with a slur ('presstitutes'), and in the years that followed, through a steadier pattern of criminal cases, informal pressure toward self-censorship, and licence-related action against independent outlets.

²⁷ *Ibid.*

²⁸ *Shreya Singhal v. Union of India* (2015) 5 SCC 1.

This pattern intensified through 2019 and 2020, most visibly in Jammu and Kashmir following the abrogation of Article 370, where reporting restrictions and communications shutdowns drew sustained criticism from press-freedom monitors.²⁹ A study by the Free Speech Collective found that of 154 Indian journalists arrested or facing State action for their work between 2010 and 2020, more than 40% of those cases arose in 2020 alone.³⁰ The resulting climate of antagonism feeds a self-reinforcing polarisation, in which an increasingly divided press oscillates between inflammatory reportage and equally overheated social-media commentary.³¹ Breaking that cycle is a precondition for either side of this article's diagnosis under-enforcement in Part II, or over-enforcement here to be corrected without simply trading one excess for another.

The judicial treatment of sedition supplies the sharpest illustration of the gap between doctrine and enforcement. The constitutional validity of Section 124A was settled as long ago as 1962, when a Constitution Bench in *Kedar Nath Singh v. State of Bihar*³² upheld the provision but read it down decisively: only speech that incites violence, or has a tendency to create public disorder, falls within its reach, and strong or even bitter criticism of governmental measures, unaccompanied by any such incitement, does not. That narrowing construction has, on paper, governed the offence for more than six decades. In practice, prosecutions have persisted against journalists, cartoonists, students and dissenters on facts that come nowhere near the *Kedar Nath* threshold, the charge functioning less as a genuine allegation of incitement than as a mechanism of pre-trial detention and deterrence.

The persistence of these prosecutions is intelligible only if one attends to their procedural life rather than their eventual outcome. Conviction rates under Section 124A were, on every available account, negligible; yet a person charged with sedition faced arrest, opposition to bail on the footing of the offence's gravity, and the slow attrition of a trial that might run for years before ending in acquittal. In such a setting the process is itself the punishment, and the low conviction rate far from vindicating the provision is evidence that the charge was serving a function other than the one it nominally describes.

29 Kavitha Iyer, "India has launched a sharp assault on press freedom — but independent media is determined to resist", Scroll.in, Feb 15, 2021, available at: <https://scroll.in/article/986981/as-more-indians-turn-to-independent-media-for-news-press-freedom-faces-sharp-attacks> (Last visited on Sept. 11, 2026).

30 *Ibid.*

31 *Ibid.*

32 *Kedar Nath Singh v. State of Bihar*, AIR 1962 SC 955.

The accumulated weight of that misuse produced a striking intervention in 2022. In *S.G. Vombatkere v. Union of India*,³³ a three-judge Bench directed that Section 124A be kept in abeyance restraining the Union and the States from registering fresh sedition cases, and staying pending trials, appeals and proceedings under the section pending the Government's reconsideration of the provision. The order was, on any view, an unusual one: an operative penal provision was suspended in its entirety without being struck down. The following year the challenge was referred to a Bench of at least five judges, on the footing that *Kedar Nath* had itself been decided by a Constitution Bench and could not be revisited by a smaller one.³⁴

The reprieve may prove more apparent than real. With the replacement of the IPC by the BNS, 2023, the offence of sedition has not so much been abolished as recast: Section 152 of the new Code penalises acts that excite 'secession', 'armed rebellion' or 'subversive activities', or that encourage 'feelings of separatist activities', and that endanger the sovereignty, unity and integrity of India.³⁵ Critics contend that the reformulation retains and in some aspects broadens the vice of the provision it replaces, substituting a fresh vocabulary of proscribed tendencies for the old language of 'disaffection' while leaving the underlying chilling effect intact.

That chilling effect is measurable in the country's external reputation. India's position on the RSF World Press Freedom Index, having fallen from 140th in 2019 to 142nd in 2020, declined further to 161st of 180 countries in 2023 before recovering marginally to 159th in 2024 and 151st in 2025 a level still classified as a 'very serious situation for press freedom'.³⁶ Whatever the methodological limitations of any single index, a trajectory of this kind, persisting alongside a strong and long-settled doctrinal position, confirms the diagnosis offered throughout this article: the deficit lies not in the constitutional text or its authoritative interpretation, but in the uneven and often politically-inflected manner of its enforcement.

V. Towards a Workable Balance: Practical Recommendations

Diagnosing an oscillation between excess and repression is of limited use unless paired with proposals capable of being implemented by identifiable actors. Four are offered here.

33 *S.G. Vombatkere v. Union of India*, 2022 SCC OnLine SC 609.

34 Order dated September 12, 2023 in *S.G. Vombatkere v. Union of India*, W.P. (C) No. 682 of 2021, referring the challenge to a Bench of at least five Judges.

35 S. 152, BNS 2023.

36 World Press Freedom Index, Reporters Without Borders, available at: <https://rsf.org/en/index> (last visited on Sept. 21, 2026).

1. **For legislators:** Codify the Law Commission's 2006 proposal a statutory bar on publishing material prejudicial to an accused between arrest and the conclusion of trial, enforceable through the existing contempt jurisdiction rather than a new licensing regime, so as to avoid recreating the prior-restraint problem the courts have already rejected.
2. **For courts:** Apply the contempt jurisdiction to media-trial coverage with the same consistency shown in *Narmada Bachao Andolan's* 'real and substantial connection' test, rather than reserving it chiefly for exceptional cases predictability of enforcement, not its severity, is what will change newsroom incentives.
3. **For self-regulatory bodies (News Broadcasting & Digital Standards Authority, Press Council of India):** Extend existing codes of conduct to require a formal, time-stamped correction mechanism for pre-trial reporting later shown to be inaccurate, with findings published rather than settled privately visibility, not merely the code's existence, is what disciplines repeat offenders.
4. **For newsrooms:** Separate crime-desk incentives that are linked to television rating points from editorial sign-off on ongoing criminal matters, so that the commercial pressure identified in Part II does not sit with the same individuals responsible for pre-trial accuracy.
5. **For the digital sphere:** Bring the online intermediaries that now carry the bulk of pre-trial commentary within a proportionate, rights-respecting code, building on the framework of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021,³⁷ but calibrated by the standards laid down in *Shreya Singhal* so that the cure for algorithmic prejudice does not itself become an instrument of executive over-reach. Courts, correspondingly, should make fuller use of the *Sahara* postponement device against digital as well as broadcast reportage wherever a real and substantial risk of prejudice is shown, in preference to the blunt alternatives of a blanket takedown or a contempt prosecution.

None of this addresses the parallel and largely unregulated challenge of social media platforms, which increasingly displace licensed broadcasters as the primary vector for both information and disinformation without being subject to any equivalent code of conduct.³⁸ Given that a functioning

37 The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

38 Auqib Javed, "Freedom of Press is in Everybody's Interests", *Article 14.com*, Nov 5, 2020, available at: <https://www.article-14.com/post/freedom-of-press-is-in-everybody-s-interest> (Last visited on Sept. 18, 2026).

press remains indispensable to any modern polity, allowing *bona fide* media to be squeezed between commercial pressure and political retaliation while unregulated platforms absorb the resulting audience would be a considerable failure of policy.³⁹

VI. Conclusion

India's press has moved, within the span of a few decades, from a period in which its excesses went largely unchecked to one in which its critical voices face disproportionate State response with neither extreme serving the public interest that press freedom is meant to protect. The doctrinal architecture required to correct both problems already exists: contempt and defamation law for excess, and the constitutional bar on prior restraint for repression. What is missing is consistent enforcement of the first, and consistent restraint in exercising the second.

Press that neither escapes accountability nor operates under the threat of retaliation is not an utopian outcome; it is the ordinary condition the Constitution's framers appear to have contemplated when they left press freedom to be read into the general guarantee of speech, rather than carved out as a special privilege.

The developments canvassed in this article sharpen rather than soften that conclusion. The postponement doctrine of *Sahara* and the vagueness review of *Shreya Singhal* show that the Court possesses, and is willing to fashion, instruments precise enough to protect both a fair trial and an open internet without resort to blanket censorship; the abeyance of sedition in *Vombatkere* shows an equal willingness to restrain a coercive power that had outgrown its constitutional justification. What remains conspicuously absent is the same precision and restraint at the level of ordinary, day-to-day practice in the prosecutor's decision to charge, the newsroom's decision to broadcast, and the regulator's decision to act. The recast sedition offence in the BNS, together with the continued migration of prejudicial commentary to still-unregulated platforms, ensures that both halves of this article's diagnosis excess and repression will recur in new forms unless that practical deficit is addressed. Doctrine has, for the most part, done its work; the unfinished task belongs to the institutions that must apply it. It may be safely concluded that press-freedoms in India have moved from times of unfettered powers to eclipsed liberties and other nasty extremes in-between with sincere hopes now, of a golden balance coming into operation in the post-pandemic times to come, in the path of progress of the world's largest democracy.

39 *Ibid.*