



PUNISHMENT WITHOUT JUDGMENT: MEDIA-DRIVEN CRIMINALISATION AS COMMUNICATION POLICY AND ITS SYSTEMIC CHILLING EFFECTS ON FREEDOM OF EXPRESSION

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Abstrak - Contemporary criminal law increasingly operates beyond formal adjudication and enters the public sphere through media exposure and communicative practices. As criminal cases are framed and circulated through public narratives, criminalisation functions not only as a legal process but also as a mechanism of social meaning-making with regulatory consequences for behaviour and expression. This study aims to reconceptualise media-driven criminalisation as a form of communication policy that produces informal and reputational punishment outside judicial control. Employing a qualitative doctrinal–normative approach with conceptual and analytical orientation, the research examines criminalisation as a communicative legal construct and analyses its regulatory effects on freedom of expression through publicity, narrative framing, and reputational harm. The study finds that criminal law increasingly governs through symbolic and anticipatory mechanisms rather than through formal sanctions alone. Media exposure operates as an informal punitive process that shapes public judgment, normalises stigma, and induces anticipatory self-censorship, thereby generating systemic chilling effects on expressive freedom. These effects emerge even in the absence of judicial decisions and remain largely unaddressed by legal doctrines centred on direct state coercion. The originality of this research lies in its integration of criminal law, communication governance, and freedom of expression by positioning reputational harm and chilling effects as constitutive dimensions of criminalisation itself. The study contributes theoretically by extending the concept of punishment beyond coercive sanctions, and practically by highlighting the regulatory risks posed by media-driven criminalisation for procedural legitimacy, democratic participation, and expressive freedom.

Keywords: Media-Driven Criminalisation, Communication Policy, Informal Punishment, Reputational Harm, Chilling Effect.

INTRODUCTION

In contemporary criminal justice systems, the operation of criminal law can no longer be understood solely as a neutral, self-contained judicial process. Criminalization increasingly unfolds within the public sphere through mass communication and media exposure, where criminal cases are not only procedurally adjudicated but also symbolically constructed through circulating narratives about crime, offenders, victims, and public demands for justice. As a result, public opinion often crystallizes prior to formal adjudication, while social judgments regarding suspects or defendants emerge independently of—if not in tension with—legal standards of proof. This condition raises a fundamental normative concern: when public narratives function as an alternative arena for determining culpability, the presumption of innocence and the integrity of judicial proceedings are vulnerable to displacement by reputational pressures lacking procedural safeguards.

Recent scholarship confirms that media framing operates not as a passive conduit of information but as an active force shaping public perception and the broader social environment in which legal institutions function. Sensationalized reporting on criminal cases has been shown to foster forms of “public forum adjudication” that encourage premature conclusions regarding guilt or innocence, thereby undermining procedural protections that ought to attach to any individual subject to criminal allegations (Cruz, 2024). Moreover, emotionally charged crime coverage amplifies social fear and strengthens public support for increasingly punitive crime-control policies, expanding the political

legitimacy of repressive responses (Zakir, 2025). In this sense, media produces social expectations of “justice” that often diverge from the evidentiary discipline and institutional restraint demanded by criminal procedure.

The downstream consequences of this dynamic manifest in two interrelated risks. First, pervasive publicity generates social pressure for swift certainty, creating a climate conducive to distortions of the judicial process—not through direct institutional interference, but through the premature fixation of interpretive outcomes. Second, narrative bias and informational asymmetry erode confidence in courts: when cases are assessed through fragmented or sensational narratives, judicial procedures may be perceived as opaque or unsatisfactory, weakening procedural legitimacy from outside the courtroom. In this context, institutional transparency is not merely a rhetorical aspiration but a functional necessity. Strengthening communicative channels between the judiciary and civil society may enhance accountability while reducing the space for distortion created by partial or prejudicial framing (Cherpovytska, 2022).

These institutional and normative concerns are increasingly reflected in contemporary scholarship on punishment. Punishment is no longer confined to institutionally bounded sanctions but increasingly operates through communicative, symbolic, and reputational mechanisms structured by public visibility. Extensive media exposure may function as an informal punitive process—punishment without judgment—through stigma, social exclusion, and reputational harm that precede and exceed adjudication (Milton & Petray, 2020). This dynamic is intensified by the rise of punitive populism, in which criminal policy

becomes increasingly responsive to public sentiment and political marketability rather than rational correction (Kadir, 2025). Digital environments further magnify these effects by accelerating the circulation of affective judgment, enabling “social media courts,” and facilitating digital vigilantism that produces reputational destruction without proportionality or meaningful avenues for repair (Dunsby & Howes, 2018; Syarofi, 2025).

Despite growing recognition of these phenomena, the existing literature reveals a persistent conceptual gap. Criminal law scholarship continues to prioritize formal sanctions and state coercion, leaving the communicative effects of publicity—particularly reputational punishment—under-theorized as a constitutive dimension of criminalization itself (Saxena, 2025). Conversely, media and communication studies foreground framing, discourse, and ethics, yet often lack systematic engagement with doctrinal questions concerning criminalization boundaries, due process, and the architecture of freedom of expression (Tarsheva, 2025). This asymmetry indicates the absence of an integrated analytical framework capable of explaining how criminalization operates as a form of communication policy—producing informal punishment and generating systemic chilling effects on freedom of expression.

Taken together, existing studies have extensively examined media framing, punitive populism, reputational harm, and chilling effects, yet they tend to approach these phenomena within fragmented analytical domains. Criminal law scholarship largely confines criminalization to formal sanctions and state coercion, while treating publicity

and reputational damage as collateral social effects rather than constitutive mechanisms of governance. Conversely, media and communication research analyzes discourse power and ethical risks but seldom anchors these insights within doctrinal debates on criminalization, due process, and freedom of expression. This separation results in a clear research gap: the absence of an integrated legal-analytical framework capable of explaining how media-driven criminalization operates as a form of communication policy that produces informal expressive punishment and systemic chilling effects. Accordingly, the central problem addressed by this study concerns how criminal law, operating through exposure, framing, and reputational harm, functions beyond adjudication to regulate behavior, suppress expression, and reshape the normative boundaries of lawful public participation without direct reliance on formal sanctions.

The novelty of this study lies in its conceptual and analytical integration of criminal law, communication governance, and freedom of expression doctrine by reconceptualizing media-driven criminalization as a form of communicative regulation with punitive effects. Rather than treating reputational harm and chilling effects as secondary consequences, this study positions them as structurally embedded outcomes of expressive punishment operating through public meaning-making processes. This approach directly addresses the identified research gap by extending the doctrinal understanding of criminalization beyond coercive sanctions to include informal, media-generated mechanisms of social control. The urgency of this inquiry is both theoretical and practical: theoretically, it contributes to the

refinement of criminal law and freedom of expression frameworks by incorporating communicative forms of punishment; practically, it responds to growing risks faced by journalists, academics, and public actors whose expressive freedoms are constrained by anticipatory self-censorship. Without such analytical recalibration, media-driven criminalization risks normalizing informal punishment in ways that erode democratic discourse, procedural legitimacy, and the foundational guarantees of expressive freedom.

MAIN PROBLEM

The core problem examined in this article lies in the transformation of criminalisation from a legally bounded process of adjudication into a media-driven communicative practice that produces informal and reputational punishment outside judicial control. Through public exposure and narrative framing, criminal law increasingly operates as a form of communication policy that regulates behaviour and expression by shaping social meaning and anticipatory self-censorship, even in the absence of formal sanctions. This development generates systemic chilling effects on freedom of expression while existing legal doctrines still centred on direct state coercion fail to recognise and constrain such communicative forms of punishment. Consequently, the normalisation of media-driven criminalisation undermines fundamental legal principles, including the presumption of innocence, and reveals an urgent need for doctrinal recalibration to safeguard freedom of expression and democratic legitimacy.

METHOD OF RESEARCH

This study employs a qualitative

doctrinal–normative legal research design with a conceptual and theory-building orientation. The research adopts a non-empirical analytical approach, focusing on the interpretation, systematization, and critical evaluation of legal norms rather than the collection of primary empirical data. Criminalization is examined as a normative and communicative legal construct, allowing the analysis to move beyond adjudicative outcomes toward the regulatory effects produced through publicity, framing, and reputational consequences. Accordingly, the study situates itself within doctrinal legal scholarship while engaging critically with broader theoretical debates on governance, punishment, and freedom of expression.

The materials analyzed consist of criminal law doctrines concerning criminalization and punishment, jurisprudence relating to freedom of expression and communication law, and constitutional as well as human rights principles relevant to expressive protection. These legal sources are examined alongside foundational theoretical literature, including expressive theories of law, communication policy theory, and socio-legal governance theory. The analytical strategy combines doctrinal interpretation with conceptual reconstruction to clarify how existing legal doctrines implicitly accommodate—or fail to address—communicative and reputational forms of punishment. Normative evaluation is employed to assess the expressive and regulatory effects of media-driven criminalization, while cross-disciplinary synthesis between legal analysis and communication studies is used to develop an integrated framework capable of explaining informal expressive punishment and its implications for freedom of expression.

RESEARCH RESULT AND DISCUSSION

1. Media-Driven Criminalisation as a Form of Communication Policy

Criminalisation increasingly operates beyond the confines of formal adjudication and penetrates public consciousness through media narratives and social interaction. Legal norms no longer function solely through judicial enforcement but are mediated by processes of publicity that shape how criminality is understood, anticipated, and responded to in society. Within this environment, criminal law acquires a communicative dimension, transmitting meanings of deviance and social danger that frequently precede judicial determination. As a result, criminalisation must be analysed not only as a legal classification of conduct but also as a regulatory practice embedded in public communication. This shift provides the analytical starting point for understanding media-driven criminalisation as a form of communication policy.

At the doctrinal level, criminalisation denotes the formal designation of conduct as criminal through legislative and judicial processes. In contemporary security governance, however, this designation is increasingly influenced by sociopolitical dynamics in which media framing amplifies perceived threats and consolidates public anxiety (Dinesson & Soliman, 2025). Narrow constructions of public interest, when reinforced by security-oriented narratives, legitimate preventive criminalisation that operates ahead of concrete wrongdoing. Media

narratives in such contexts function as anticipatory signals that normalize exceptional legal measures. Consequently, criminalisation becomes responsive not merely to demonstrable harm, but to socially constructed perceptions of risk.

A similar dynamic is observable in the convergence of criminal law and migration control. Media narratives that associate migration with criminality shape public opinion and subsequently influence legislative agendas, producing expansive criminalisation of mobility (Kim, 2025). Through persistent framing of migrants as security threats, public meaning-making precedes and legitimises legal intervention even where empirical foundations remain weak. This intertwining of criminal and administrative regimes reveals how criminalisation expands through communicative channels rather than evidentiary necessity. Media thus operates as a catalyst that translates political narratives into legal categories.

The regulatory force of media narratives is further evident in their capacity to shape policing and enforcement strategies. Recurrent portrayals of particular groups as criminally inclined reinforce public fears and stereotypes, which in turn justify intensified surveillance and law enforcement scrutiny. Once such portrayals are normalized, they generate expectations that indirectly pressure institutions to align operational priorities with dominant narratives. In this way, media exposure does not merely reflect crime policy but actively structures it. Criminalisation therefore emerges from a reciprocal interaction between legal authority and communicative power.

Episodes of moral panic provide a particularly clear illustration of this process. During periods of crisis, heightened media-driven fear accelerates the adoption of punitive legal measures that exceed demonstrable public safety needs. Criminalisation in these contexts is driven less by proportional risk assessment than by the urgency of reassuring public sentiment. Media narratives transform uncertainty into demands for decisive legal action, thereby lowering thresholds for criminal intervention. The resulting expansion of criminal law underscores its communicative responsiveness to public anxiety.

Public opinion shaped by sustained media exposure also reinforces penal populism, whereby punitive legal responses gain legitimacy through emotional resonance rather than doctrinal coherence. Media framing of violent incidents as existential threats consolidates public support for exceptional state action, including expansive security classifications (Taskarina & Veronika, 2021). Once embedded within dominant narratives of danger, criminalisation becomes politically insulated from critical scrutiny. Penal policy thus reflects communicative validation rather than principled limitation.

Beyond influencing legislation and enforcement, media exposure functions as a regulatory signal that shapes social behaviour even in the absence of judicial decisions. Repeated media portrayals influence individual conduct by normalising certain behaviours as risky or deviant, despite the presence of formal regulatory frameworks (Arora et al., 2020; Yadav & Glantz, 2021).

These findings indicate that regulation increasingly operates through symbolic signalling rather than formal sanction. Media therefore performs a quasi-regulatory role by orienting behaviour through reputational cues and social expectations. Criminalisation, in this sense, acquires behavioural effects without adjudication.

Media influence also extends into institutional decision-making by shaping legislative and judicial agendas. Heightened media attention elevates particular issues within deliberative bodies, affecting both the timing and framing of legal responses (Badas & Justus, 2022). Extensive public exposure of criminal suspects further shapes expectations regarding legal outcomes, narrowing the range of socially acceptable judicial responses (Lee, 2025). Public discourse structured by media coverage indirectly constrains institutional autonomy. Criminal law, under such conditions, responds to communicative salience rather than doctrinal necessity.

Taken together, these findings demonstrate that criminal law increasingly performs a communicative governance function. Through exposure, framing, and repetition, media narratives construct shared meanings of deviance that guide legal interpretation, enforcement priorities, and public compliance. This expansion reflects a broader shift toward governing security and behaviour through regulatory communication rather than direct coercion alone (Gurinskaya & Nalla, 2018). Criminalisation thus operates simultaneously as legal classification and symbolic

regulation, producing effects that exceed formal sanctioning mechanisms.

In summary, media-driven criminalisation illustrates how criminal law governs not only through coercion but through meaning-making processes that shape social expectations and behavioural norms. By functioning as a communication policy, criminalisation extends its reach beyond adjudication into the realm of reputational signalling and anticipatory regulation. This reconceptualisation clarifies the structural conditions under which informal and expressive forms of punishment emerge. It also provides a coherent analytical bridge to the following section, which examines how these communicative mechanisms generate informal punitive effects and systemic chilling effects on freedom of expression.

2. Informal Expressive Punishment and the Expansion of the Chilling Effect

The transformation of criminalization into a communicative process has generated forms of punishment that operate informally through public exposure and reputational harm. In this configuration, sanctioning no longer depends on judicial determination but emerges through the circulation of narratives that assign blame, deviance, and moral condemnation. Individuals and groups are constituted as subjects of punishment through visibility rather than adjudication. This form of punishment is expressive because it communicates social disapproval while simultaneously regulating conduct. Its regulatory

force lies in its capacity to shape expectations and behavior prior to any formal legal intervention.

Media functions as the primary infrastructure enabling informal expressive punishment. In competitive media environments, the dissemination of speculative or inaccurate information has been shown to inflict substantial reputational damage on public figures without procedural safeguards (Wilczek & Thurman, 2021). Public exposure transforms allegations into socially operative judgments that resemble sanctions in their practical effects. Through repetition and amplification, media narratives stabilize perceptions of guilt, risk, and moral blame. Punitive authority is thus partially displaced from judicial institutions to communicative arenas.

Informal sanctions such as stigma, ostracism, and delegitimation generate consequences comparable to those produced by formal punishment. Social exclusion affects professional opportunities, psychological well-being, and long-term social positioning (Henry, 2020). These effects frequently persist even when legal responsibility is unproven or subsequently negated. In digital environments, the permanence and searchability of information intensify reputational harm. Informal punishment therefore operates with durability and depth that cannot be dismissed as merely symbolic.

The deterrent capacity of reputational harm further illustrates the regulatory strength of expressive punishment. Empirical findings indicate that fear of reputational loss can motivate compliance more effectively than the threat of formal legal sanctions

(Guan et al., 2022). Anticipation of public evaluation becomes a central mechanism of behavioral governance. Individuals internalize reputational risk as a continuous constraint on action. Regulation thus operates through social visibility rather than legal coercion alone.

Networked media structures amplify these dynamics by accelerating the diffusion and accumulation of negative narratives. Harmful information circulates rapidly and widely, producing cumulative reputational effects that are difficult to correct or contest (Dothan, 2024). In politically polarized or disinformation-prone contexts, the boundary between legitimate scrutiny and punitive exposure becomes increasingly blurred (Yanchenko et al., 2023). Collective participation in reputational sanctioning transforms individual condemnation into systemic punishment. Expressive sanctions thereby acquire a self-reinforcing structural character.

In digital and cyber contexts, informal punishment operates with particular intensity. The perceived risk of online shaming, harassment, or exclusion has been shown to influence behavior independently of formal enforcement mechanisms (Bossler, 2021). Platform visibility magnifies the social costs of expression, encouraging anticipatory adjustment to perceived norms (Rost & Stahel, 2022). Individuals regulate their conduct to avoid becoming targets of public backlash. Informal punishment thus governs behavior prospectively, shaping decisions before expression occurs.

From these mechanisms emerges anticipatory self-censorship as a rational response to reputational risk. Individuals refrain from expressing opinions not because of direct legal prohibition, but due to fear of social sanction and reputational damage. Perceived risks associated with public visibility encourage systematic self-restraint in expressive practices (Farquhar & Carey, 2018). This form of self-censorship is internally motivated but externally structured. Its cumulative effect is a contraction of expressive space.

Heightened public visibility further intensifies pressure to conform to dominant norms. Media scrutiny incentivizes careful self-presentation, often at the expense of authenticity and critical engagement (Kokkoris & Stavrova, 2024). Over time, these pressures are internalized as self-regulatory strategies. Expression becomes shaped by risk calculation rather than deliberative judgment. Informal punishment is thus embedded within routine communicative practices.

Chilling effects arise even in the absence of direct state coercion. Fear of surveillance, stigma, and social isolation has been shown to influence journalistic and public communication across diverse political contexts (Davis, 2020). These dynamics challenge state-centric conceptions of censorship. Social norms reinforced through media operate as effective constraints on expression. Freedom of expression is therefore limited through indirect but pervasive regulatory forces.

Political polarization exacerbates these conditions by narrowing perceived boundaries of

acceptable speech. Fragmented public spheres intensify sensitivity to reputational risk, encouraging defensive participation (Rahimi et al., 2024). Individuals adapt expression to avoid negative labeling or association. This process reduces the diversity of viewpoints articulated in public debate. Deliberative spaces become structurally constrained rather than openly contested.

Narrative framing plays a decisive role in stabilizing these limits. Dominant frames define which expressions are legitimate and which are marked as deviant. Adaptation to prevailing narratives institutionalizes self-censorship within professional routines, particularly in journalism (Wiebrecht, 2018). Critical perspectives are marginalized in favor of narrative alignment. Framing thus functions as a disciplinary mechanism that normalizes restraint.

Chilling effects also manifest at the collective level through group dynamics. Fear of social exclusion or internal conflict encourages conformity within professional and social groups (Burnett et al., 2022). Minority viewpoints are suppressed through implicit pressure rather than explicit prohibition. Over time, collective self-censorship becomes normalized. Public discourse loses its pluralistic and contestatory character.

These dynamics disproportionately affect journalists, academics, and activists as public-facing actors. Heightened media exposure and reputational vulnerability have been shown to reduce participation in public debate (Ahmed & Masood, 2024). Threats of

harassment and hate speech further discourage critical engagement (Peña-Fernández et al., 2025). The resulting withdrawal undermines the quality and diversity of public information. Knowledge production and democratic deliberation are thereby impaired.

Chilling effects should therefore be understood as systemic outcomes rather than incidental by-products. Self-censorship is structured by communicative environments and power configurations that reward conformity and penalize deviation (Koo, 2022; Bodrunova et al., 2020). Expressive punishment stabilizes expectations of restraint across social fields. Regulation of speech becomes continuous and normalized. Informal punishment thus constitutes a durable mode of governance.

Overall, the findings demonstrate that media-driven criminalization produces expressive forms of punishment that systematically expand chilling effects on freedom of expression. Reputational sanctions regulate behavior through anticipation and internalization rather than coercion. These mechanisms replicate—and in some contexts exceed—the effects of formal legal sanctions. Understanding this dynamic is essential for evaluating how contemporary regulatory systems constrain public participation and expressive freedom through communicative means, providing a necessary foundation for the doctrinal and normative analysis developed in the following section

3. Doctrinal and Normative Implications for Freedom of Expression and Media

Governance

The normalization of communicative and reputational punishment generates profound doctrinal tensions within contemporary legal systems, particularly in relation to freedom of expression and procedural justice. When punishment operates through exposure, narrative framing, and reputational harm, its effects extend beyond formal sanctions and evade conventional legal safeguards. These developments challenge the foundational assumption that coercive state action constitutes the primary threat to expressive freedom. Regulatory pressure increasingly emerges through social and communicative mechanisms that are legally diffuse yet normatively powerful. This shift necessitates a reassessment of how law conceptualizes harm, responsibility, and protection in communicative environments.

Communicative punishment functions by signaling social condemnation rather than by imposing material deprivation, yet its regulatory effects can be equally consequential. Punishment is frequently interpreted as a communicative act that conveys moral judgment and delineates social boundaries, rather than merely inflicting suffering (Sarin et al., 2021). In this context, reputational status becomes a primary medium through which compliance is produced and maintained. Social behavior is regulated through reputational thresholds that operate independently of judicial determination (Zhang et al., 2025). The doctrinal difficulty lies in the fact that such punitive outcomes

arise without activating procedural guarantees traditionally associated with punishment.

The presumption of innocence is particularly vulnerable under conditions of normalized reputational punishment. When media narratives construct guilt prior to adjudication, public judgment effectively precedes and constrains judicial reasoning. Courts are required to operate within a normative environment where culpability has already been socially fixed. Sustained publicity surrounding allegations has been shown to erode constitutional protections by legitimizing punishment through public opinion rather than evidentiary proof (Neto & Santiago, 2024). Innocence, under such conditions, remains procedurally affirmed but socially denied.

This erosion is further intensified by structural inequalities embedded within judicial processes. Socio-economic status, media visibility, and political context shape how reputational narratives are received and institutionalized. Empirical findings indicate that pre-trial detention and early procedural decisions often reflect reputational assumptions rather than individualized assessments of risk (Souza & Silva, 2023). Communicative punishment thus infiltrates formal legal decision-making through indirect normative pressure. The presumption of innocence is weakened not by explicit doctrinal revision, but by cumulative normative saturation.

Comparable dynamics emerge in plural legal contexts, including community-based justice systems. In such settings, collective consensus frequently substitutes for evidentiary standards, allowing

reputational narratives to determine outcomes (Acosta et al., 2024). Although these systems emphasize social harmony, they often lack safeguards against collective bias and narrative escalation. Preventive measures may therefore assume punitive character without formal adjudication (Cheng & Leung, 2018). This demonstrates that reputational punishment is not unique to digital modernity, but is significantly amplified by contemporary media environments.

Digitalization further magnifies these effects by accelerating the circulation and persistence of reputational narratives. Information spreads rapidly across platforms, producing cumulative punitive consequences that resist correction and proportionality. Digital environments extend the temporal and spatial reach of punishment beyond institutional control (Russkevich, 2024). Once reputational harm is established, legal exoneration rarely restores social standing. This asymmetry underscores the inadequacy of existing legal remedies in communicative contexts.

These developments expose a critical limitation within prevailing freedom of expression doctrine. Traditional frameworks prioritize protection against direct state censorship while marginalizing informal expressive sanctions generated through media processes. Power asymmetries within communicative infrastructures enable dominant narratives to suppress dissent without invoking formal restrictions (Bannerman, 2022). Individuals who deviate from hegemonic

frames face reputational retaliation rather than legal prohibition. Expressive freedom is thus curtailed through social mechanisms that remain largely invisible to doctrinal analysis.

The overlap between media processes and legal instruments further intensifies chilling effects. Defamation and misinformation regulations, although formally neutral, are frequently mobilized within media environments that amplify reputational risk (Beebejaun, 2022). Under such conditions, individuals anticipate punitive exposure and adjust expression accordingly. The chilling effect emerges not from legal uncertainty alone, but from the interaction between legal frameworks and communicative amplification. Existing doctrine fails to adequately capture this hybrid regulatory space.

The classical chilling effect framework therefore requires doctrinal expansion. Initially developed to address self-censorship induced by state regulation, it must now encompass socially mediated punishment mechanisms. Comparative analyses of hate speech regulation demonstrate that expressive restraint often arises from social condemnation reinforced by media narratives rather than from formal enforcement (Pakšić & Habrat, 2022). Public discourse is narrowed through reputational discipline rather than legal prohibition. This shift demands a reconceptualization of expressive harm within constitutional analysis.

Crisis contexts further expose the fragility of expressive safeguards. During public emergencies, governments and media actors frequently converge in

regulating speech through expansive narratives of risk and responsibility. Measures intended to counter misinformation may inadvertently legitimize expressive suppression (Pomeranz & Schwid, 2021). Communicative punishment becomes normalized under the rhetoric of public protection. Freedom of expression is thereby constrained through moralized narratives rather than explicit bans.

The implications for media governance are equally significant. Journalistic scrutiny performs essential democratic functions, yet its boundary with punitive exposure remains insufficiently defined. Media narratives that prioritize sensationalism and moral judgment can function as informal sanctions that damage reputations and suppress participation (Smokvina & Poler, 2023). Without normative constraints, communicative power risks transforming accountability into punishment. Governance frameworks must therefore distinguish legitimate scrutiny from stigmatizing exposure.

Criminal law's expanding role in speech regulation further complicates this landscape. Broadly framed hate speech and misinformation provisions increasingly operate as indirect speech controls, particularly in digital spaces (Santosa, 2021; Octora, 2022). Ambiguity in legal definitions encourages over-compliance and defensive expression. Journalists and public actors internalize risk, narrowing discourse to avoid liability. Legal regulation thus reinforces communicative punishment rather than mitigating it.

Taken together, these findings demonstrate that media-

driven criminalization produces doctrinal blind spots that threaten freedom of expression and legal legitimacy. Without recalibration, criminal law and media governance frameworks remain ill-equipped to address informal expressive punishment. Normative adaptation is therefore required to recognize reputational harm and communicative sanctions as legally relevant forms of regulation. This reconceptualization provides a necessary analytical foundation for evaluating broader democratic and institutional consequences in the subsequent section.

CONCLUSION

This study demonstrates that criminalisation no longer operates solely as a legally bounded process of formal adjudication, but has increasingly transformed into a communicative practice that functions through media exposure, narrative framing, and the construction of public meaning. Through these mechanisms, criminal law operates as a form of communication policy that generates informal and reputational punishment beyond the procedural control of judicial institutions. This finding directly addresses the research problem by showing that contemporary regulation of behaviour and expression is increasingly shaped by symbolic signalling and reputational pressure, producing systemic chilling effects on freedom of expression even in the absence of formal sanctions. Criminalisation therefore must be understood not merely as an instrument of state coercion, but as a regulatory practice that operates anticipatorily through communicative and expressive means.

The theoretical implication of this research lies in its contribution to the reconceptualisation of criminal law and freedom of expression by incorporating communicative and reputational dimensions as constitutive elements of criminalisation and punishment. This approach expands legal analysis by demonstrating that restrictions on expression often arise not through explicit prohibition, but through the normalisation of exposure, stigma, and anticipatory self-restraint. From a practical perspective, the findings highlight the need for a more reflective reassessment of the relationship between criminal law, media practices, and information governance, particularly in maintaining a balance between public accountability and the protection of the presumption of innocence and democratic participation. Nevertheless, this study is subject to limitations, as it adopts a doctrinal–normative approach without empirical validation and relies on cross-contextual conceptual analysis rather than detailed examination of specific jurisdictions or cases.

In light of these limitations, future research is encouraged to integrate normative legal analysis with empirical investigation into the effects of media exposure on the expressive behaviour of public actors, including journalists, academics, and policymakers. Further studies may also examine more closely how communicative mechanisms of criminalisation operate within particular legal and media contexts, as well as how existing legal frameworks might respond to informal forms of punishment without expanding coercive state control. Such

inquiries would contribute to a more precise understanding of the boundaries between legitimate regulation, public accountability, and the protection of freedom of expression within increasingly mediated and polarised communicative environments.

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