



A COLLECTIVE IMPACT OF MEDIA AND NIRBHAYA'S CASE ON LAW-MAKING IN INDIA: AN OVERVIEW*

INTRODUCTION

Media is the sword arm of democracy. Media of today is playing an outstanding role in creating and shaping of public opinion and strengthening of society. Media acts as a watchdog to protect public interest against malpractice and create public awareness. That is why, it is considered as the fourth pillar of democracy along with judiciary, executive and legislature and today it has an all embracing role to act against the injustice, oppression, misdeeds and partiality of our society. Despite the fact that the debates are ongoing about the role the media which it plays in democracies, still there is little research on its role in lawmaking. Democracy in India has been stinking since long and patience of the citizens is been tested with the Delhi gang rape case which is known as Nirbhaya's rape case as well. So, no one can forget the crusade taken by Indian media in the Nirbhaya's rape case and shaping the public opinion in one of the most heinous crimes the world has ever witnessed. This case narrates the changing scenario in media industry and also highlights how media has formulated a new type of journalism for the demanding youth in today's Indian democratic scenario. Thus, in this paper, a brief analysis on the role of media in law-making is being done.

MEANING AND VARIOUS TYPES OF MEDIA:

The word 'media' is derived from the word medium, signifying mode or carrier. Media is intended to reach and address a large target group or audience. The word was first used in respect of books and newspapers i.e. print media and with the advent of technology, media now encompasses television, movies, radio and internet.¹ In today's world, media becomes as essential as our daily needs. Modern media comes in many different formats, including print media like books, magazines, and newspapers, television, movies, video games, music, cell phones, various kinds of software and the Internet.² Each type of media involves both content and also a device or object through which that content is delivered.³

There are many benefits of modern media, including the Internet and the digital video, audio, and text formats that are part of the Internet like:

- Teaching and Learning become easier;
- Research becomes easier;
- Communications become easier;

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¹ <https://eokharhahreview.wordpress.com/2015/02/13/the-pen-is-mightie>

² http://www.communitycounselingservices.org/poc/view_doc.php?type=doc&id=37583&cn=66

³ *Ibid.*

- Entertainment becomes easier;
- Helpful in bringing changes;
- The World becomes smaller and closer;
- Distribution of Goods promotes, etc.

ROLE OF MEDIA:

Generally, “democracy” is defined as a government of the people, by the people and for the people. Freedom and democracy walk hand in hand. Media has helped to make our society a democracy by placing emphasis on issues that at one point of time, these would have been considered strictly private such as child birth, homosexuality, child care, domestic violence, and sexual harassment. Media of today is playing an outstanding role in creating and shaping of public opinion and strengthening of society. Thus, it is a very powerful tool with the ability to make and break the opinion of people. It plays a pivotal role in how we see the world, and how our opinions are formed, whether it is from what we watch on television or what we gather from newspapers. One can easily understand the role of media by the fact that if media tells the public that this picture is being demanded as one of the most wanted terrorists; people would regard him as one blindly. It has the capacity to swing perceptions or evoke emotions. This is what it has gained “faith of public”. The media is all around us. From the shows we watch on TV, the music we listen to on the radio, to the books, magazines, and newspapers we read each day.⁴ Without the media, people in societies would be isolated, not only from the rest of the world, but from governments, law-makers, and neighbouring towns and cities.⁵ New media is changing the way citizens and the media relate. Social networking sites such as Twitter and Face book, for example, have played a significant role as sources of news and information in repressive countries.

IMPACT OF MEDIA ON LAW-MAKING IN INDIA:

The impact of media on society is felt in two broad forms: collectively and individually. Collectively, it expresses itself through public opinion, sometimes fostering change in governmental policy, whilst individually, it happens when informed people voice their opinion to their elected representatives. If a democratic government wants to make its presence larger in the digital world, it has to analyse certain questions like:

- Upto what extent does the news media specifically contribute to national policy-making?
- What are the key issues that determine its influence on government policy?

The news media is a significant contributor to the process of government policy-making. It is a parallel medium that provides debate on public issues whilst being an effective forum for political participation. There are several issues with regard to the effects of news media on national policy and strategy. The four major facets in the relationship between the two critical institutions (media and government) in India are being discussed hereunder as:

1. Governmental accountability and its responsiveness towards the public policy preferences is comparatively found greater in areas where news media circulation is high than in areas where it is low or negligible. Thus, the government takes action on several socio-economic and political issues amidst public pressure e.g. studies and researches show that a substantial number of sexual assaults and rapes take place in the rural areas of India. However, legal action is often missing due to negligible media coverage and social stigmas that hinder the victims from filing an FIR. As a result, governmental outreach and the ability to reflect on reforms remain limited and trivial.
2. The media also has an indirect influence on national policy agenda. This is by influencing public opinion thereby shaping the policy agenda. Consequently, the government also

⁴ <http://isis.uwimona.edu.jm/jct/documents/scott.pdf>

⁵ *Ibid.*

influences public opinion via media coverage that eventually feeds back to the government, leaving the government as the key player in the end. Since India is yet to have a cogent national media policy, the government is the sole authority in the policy-making process.

3. Another noteworthy issue is that the government pays more attention to issues that are covered in the press. Policy-makers base their decisions on what they perceive as the mood of the nation. Indirectly, the effects of news media may be difficult to disentangle from other factors that shape policy-making, but there are substantial reasons to believe that it plays a pivotal role in it.
4. In India, as elsewhere, the media garners mass attention on specific issues that interest the common man. This, at times, skips some of the most pertinent issues that need immediate reformation by the government e.g. there is a high probability that the new government provisions for the safety, protection and justice for women in India would not have been institutionalised if the Delhi gang rape had not received the media coverage that it received. The media's tendency is to give prominence to the most newsworthy or sensational story.

As this paper is related to “impact of media on law-making with a special reference to Nirbhaya’s case”, so a brief discussion over the case is required here.

IMPACT OF “NIRBHAYA” RAPE CASE:

A 23-year-old girl (physiotherapy intern) who was first beaten and then gang raped in a bus in which she was travelling with her male companion on 16 December 2012 in Munirka, New Delhi, there were only six others in the bus, including the driver, all of whom raped the girl. The girl was admitted at Safdarjung Hospital and was placed on mechanical ventilation. She since had a number of surgeries performed. On 26 December 2012, she was moved to Singapore for further treatment. The victim continued to be in a critical condition and died on 29 December 2012 at 4:45 am at the Singapore hospital after suffering severe organ failure.

“This incident generated widespread national and international coverage and was condemned by various women’s groups both in India and abroad. Subsequently, public protests against the Government of India and the Government of Delhi for not providing adequate security for women took place in New Delhi. Similar mass protests took place in major cities throughout the country. Delhi gang rape case 16/12/2012 made Indian government and Indian Judiciary conscious about their lacunas as media here ensured to make the society and masses aware of the changes needed in law and order. The police framed murder charges against all the six accused. The sixth accused was a juvenile. Delhi magistrate ordered the trial of five men accused in a fast-track sessions court. The proceedings of the session's court began January 21. The trial of the five men opened on February 5. Sixth accused was found to be a minor and was described as the most brutal of the six accused. This became the concern for the whole country as well as main agenda while framing the laws for rape cases especially when the criminal is juvenile because a juvenile can only be kept at a reform home till he attains 18 years of age and he cannot be sent to jail thereafter, which in effect would result in his release as soon as he attains age of 18. In response to this outrage Government initiated to reduce the age of juvenile, from 18 to 16.”⁶

IMPACT OF ROLE PLAYED BY MEDIA IN “NIRBHAYA” RAPE CASE:

All over the world, the impact of media social media has been witnessed in recent years, with online platforms becoming increasingly powerful mechanisms for mobilizing popular support. India is also no exception, and the media coverage of this particularly horrific case and the online response had applied pressure to the authorities to deliver justice as soon as possible. Mindsets had been changed and it

⁶ Dr. Shefali Tiwari & Prof. Ruchita Shandilya, “Media Efforts Flushed by Sunken Judiciary: Damini Case Juvenile Verdict”, Pacific Business Review International Vol. 6, Issue 5, November 2013, at.p.77.

seemed that people are no longer willing to accept rape and sexual assault as “a simple fact of life.”⁷ People in India started demanding change, and they are harnessing the power of modern media to make their voices heard. In a way media has been successful in bringing the change in the mindset of the people for better. Having suffered decades of discrimination and violence often justified in the name of religion or culture, apathy of the police and government, Nirbhaya was the last straw and this was a volcano waiting to erupt.⁸ Change is the rule of nature, the concept of continuous changes in the strategies and the way of working has been very successfully adopted by media of this country. But on the other hand judiciary is becoming stagnant on the face of which the crime, crime rate, criminal psychology as well as brutality is ascending, so why not judicial system should be changed. Delhi gang rape case has involved the public, the media, the politics, and the law to an extent of “point of no return”.⁹ Because, this case although had shocked the nation and became the focus of television, newspapers and online media coverage, and for the first time, the Indian media had made a concerted effort to bring this issue to the forefront of the national agenda, yet good intentions and constructive efforts of media in this case were diluted by sunken Indian Judiciary. The efforts of media in this case couldn't prove to be as successful as it was in Jessica murder case and Aarushi murder case. This paper investigates whether the passion and action exhibited by the Indian public as well as the federal government, is a true reflection of role of media as indicated by changing attitudes towards women in India.

Positive Impact:

The governmental response to the Delhi rape case seemed to be an appropriate message to suggest that violence against women would no longer be tolerated. One of the major responses to the Nirbhaya rape was the Indian federal Government's decision to pass the Criminal Law (Amendment) Act, 2013 three months after the case happened. While legislative action was certainly a step in the right direction for social change seeing as federal anti-rape laws had not been amended for nearly one hundred years. Strong local movements bring home the value of global norms on women's rights and can prove to be more effective than rapid legislation. Women's movements have pushed forward legislation and policymaking to advance the rights of the subordinate gender, and the same can be done for India following the Nirbhaya case, as well. It is only because of the role played by media in this case. Governmental response to movements and petitions for legislative or political action is paramount to assess positive impact of media on law-making.

Legal Changes after Nirbhaya's Case:

The incident brought about awareness, perhaps an attitudinal shift, even a change in the law- it took a crime as horrible as this to get a nation talking about the safety of half of its population only because of media intervention in the matter. There have indisputably been significant changes in the laws of India, many of these are heartening to note. These can be mentioned as under:

- A note of gender inequality, the deep-rooted patriarchal mindset of society, and the general disregard and disrespect that exists for the 'second' gender in our society is now being taken.
- Women in India have decided that now the time has come to stop apologising for themselves; decent men have decided that it is the time to collectively apologise for the existing prejudice and inherent inequality of society.
- Now it has been proved that public outcry can mobilise the judiciary and the legislature alike. Four men were found guilty of their crime and sentenced to death just 9 months after the incident is the live example of this.

⁷ *Ibid*, at.p.78.

⁸ Monika Narang, “Understanding Social and Legal Impacts of Nirbhaya Movement, India” International Journal of Development Research Vol. 4, Issue, 6, pp. 1212-1219, June, 2014, ISSN:2230-9926

⁹ *Supra* note 6, at.p.79.

- Protester's voices are now being heard by the people in power. It is reflected from the Criminal Law Amendment act of 2013 which widened the definition of rape, and set out stricter punishment for the guilty.
- A significant change has been done in the Criminal Procedure Code and Evidence act which mandates that "character of the victim" must not be considered relevant.
- Moreover, violence against women is now widely being reported and discussed in the media today. This doesn't mean crimes will no more be committed; it simply means that more are being reported.
- Help lines have been set up by the authorities and mobile apps designed to help women in danger have been developed.
- On 21st of December, 2015 a demand for expeditious passage of the amendments to the Juvenile Justice Act to allow children between 16-18 years to be tried as adults in heinous crime cases has been made in the Rajya Sabha on Monday, soon after the Supreme Court dismissed a plea against the release of the juvenile offender in the 16 December gang-rape case.
- It was passed on 7 May 2015 by the Lok Sabha amid intense protest by several members of Parliament, which was later on passed by the Rajya Sabha as well on 22 December 2015, after the Nirbhaya case juvenile accused was released.

The above discussion shows that media played a very important and effective role in Law-making process. But many experts and activists viewed Delhi Gang Rape responses as creation of media sensationalisation of the issue, and cautioned against any regressive move to disturb the momentum of Juvenile Justice Legislation in the Country. This law was being criticised on the ground that it would be in contradiction with international standards and that most children who break the law come from poor and illiterate families and they should be educated instead of being punished.¹⁰

CONCLUSION:

The above analysis shows that inspite of the criticism, one cannot deny the importance of role played by media in Nirbhaya's rape case and its impact can be seen in the form of recent amendment which is made in Juvenile Justice Act in 2015. Thus it can be concluded that the stronger the media becomes in a particular country, the better it is able to fulfil its various roles as watchdog, detective, educator, good governance advocate, and even catalyst for democracy and development. The more the press is able to fulfil these roles, the more the public is informed about public interest issues. The more the public is so informed, the more it is able to hold public power accountable and relate to government (through the ballot box, or in consultations or other interactions), the private sector and even civil society in a manner that is informed. The government of an informed citizenry is often able to engage in focused decision-making as there is a free flow of information and ideas that the government can access to improve its operations.

SUGGESTIONS:

- ❖ Politicians should be more accountable for fulfilling their campaign agendas of assertively tackling the issue of violence against women.
- ❖ In a government whose officials are elected as representatives of the people, thus these leaders need to set the tone and path for their constituents.
- ❖ Educational reforms in India need to be implemented that mandate females go to school through high school and that sex education or gender studies be required components of the middle school and high school curricula. Such policies would assist in ensuring that students learn about gender roles, sexual assault prevention, and relationships; additionally, equal access to education would result in greater economic opportunities for women, which would consequently aid to reducing the rate of violence committed against them.

¹⁰ "16-years-old to be tried as Adults in Extreme Crimes, says Lok Sabha". NDTV. 7 May, 2015. Retrieved 10 May, 2015.

- ❖ Implementation of laws should be stricter.
- ❖ We should not put limitation only on girls, but the restrictions should be imposed on boys also. If the mindset of the people will change, then it would be easy to implement the laws.
- ❖ Our Judiciary should take bold steps while dealing with the cases which are exceptional in nature. Because laws should be made keeping in view the future perspectives and our system should not wait for an incident to take place, as happened in case of Nirbhaya's case.
- ❖ No doubt media is playing an important role in law- making, but one thing it should promise to the public at large that come what may, it will never be influenced by any means, only then media can fulfil those commitments which they have made to the people of their country.
- ❖ Time and again amendments should be made in the laws as per the changing needs of the changing society.



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