

FIR, Media, and the Criminal Justice System: Case Studies from India

Twinkle Siwach

Abstract

The paper attempts to understand an aspect of the intersections of the media and the criminal justice system by examining the relationship of a first-hand information report (FIR) of an occurrence of crime to the larger web of institutions that are legal, social, and political. This paper studies the processes of investigation, inquiry, and trial through which a FIR report first, is processed in the criminal justice system, and second, colours the boundaries of information to be transmitted in the society via media. The selected cases, Bhateri gang rape case (1992) and Delhi gang rape case (2012) are significant for the study given their legal history and the course of social movement. The case studies selected in two different periods allows for a critical analysis of, one, the FIR as a depository of crime reports and a system of reporting that has evolved; two, the media practices that have gone through a major transformation; and three, how the public's sense of informational universe has emerged around the cases of crime and violence in contemporary India.

Keywords: FIR, Media, Criminal Justice System, Bhateri, Delhi, Gang-rape, Crime Reporting, Trial, Informational Universe

Introduction

In contemporary times, we live in a society that is heavy on information due to the availability of huge amounts of data easily accessible through different forms of media. However, there is a very thin line between information and misinformation, particularly in a context where information is circulated without providing an authentic source of the information. For instance, the information circulated over social media platforms like WhatsApp about the Ganesha idols drinking milk has no single authentic source (BBC 2016). And yet, the information is amplified once it reaches the public. The presence of global positioning system (GPS) chip and radioactive ink in the 2,000-

rupee note was another such misinformation circulated over social media without verifying the source (Bhaskaran & others 2017). The information in such cases is personalised along the lines of particular perspectives, ideologies, and beliefs (patriarchal, religious, gendered, and caste-based), with an objective to influence rational and scientific temperament, especially since there is an unchecked flow of information over technology-enabled digital platforms.

Jurgen Habermas, a German philosopher and sociologist, in his concept of “lifeworld”, suggests that in a “linguistically organised stock of interpretative patterns” (Habermas 1987), we reproduce meanings situated in a particular cultural context. He calls it a “politics of meanings” and the production of these meanings arise from the common experiences “in the objective, social or subjective world” (*ibid*). In this context, Manuel Castells, a social scientist examining communication theories and the emergence of the new public sphere, talks about “multiple nodes of communication” (Castells 1996) that are made available through social media platforms that generate and share content, images, and videos overtly.

Source, therefore, is important to trace. Thus, a first information report (FIR), becomes an important source to study cases of crime and violence. A FIR is a report recorded with the local police about a cognisable offence. The criminal investigation process, as is widely understood, is a significant set of procedures that require deeper inquiries into the details of the offence, identifies the culprit, and based on the evidence, brings the accused before the trial. In this process, official documentation of the first information report remains a locus point in selecting or rejecting the discourse set otherwise by the court or the media.

In the processes of the criminal justice system, because of the ways in which the information is gathered and documented, the journey of the case involves piling up of papers and files (Cornelia 2008). These files are the variables in the universe of writing the law and trial of a case. The files are processed as important records as they are the stock of all the information. The people heading the case or the officer investigating the case may change but the files remain archived, documented bound to produce evidence in the court of law. It is in this sense that the files function as recording devices and carry truth claims as independent sources of information. As these files traverse or transact the information further in institutions of legal and social importance. However, the information that they contain is often studied differently.

The files are filled up with information in the forms of charge sheets, witness statements, forensic and medical certificates, other objects identified, and so on. These files also have a life cycle as they are “copied, transcribed, translated and reorganised” (Motha and Rijswijk 2016). The trial only adds information to the existing set of data, and yet no judgment can ever provide a just decision as the files cannot contain all the information necessary to understand a situation. Scholars like Carlo Ginzburg (1999) insist that language cannot give us a satisfactory image of reality and, therefore, reading the source and understanding the micro-histories in which the document or the source is located is a necessary methodology. Otherwise, everything that is written can be interpreted differently given subjective understandings of the subject matter.

The criminal justice system therefore, requires analysis to see whether justice is easily attainable. Many a time, speaking objectively, the victim or their relatives stand clear chances of demanding and getting the legal and judicial confirmations of their need for justice and yet keep awaiting. The quest for justice is natural and yet presents a serious battle from the filing of primary report to court trial. Simultaneously, Indian law has developed with the emergence of human rights and constitutional rights (Kannabiran and Menon 2007). However, the relationship between the two has not been clearly defined except that violence prevents one from anchoring justice in a social setup. For instance, the cases of Mathura and Rameeza brought human rights campaigns into the central discourse of women’s movement. Yet, both cases illustrate biases shown by the judges.

Different branches of the criminal justice system function differently, often independently, yet in compliance with each other and power is arranged systematically in all these branches. The foundation of the criminal justice system is to ascertain facts about the cases reported. Yet, as the case proceeds to trial, different understanding of the case emerges, enlarging the canvas of the informational universe. As we study the cases, we find the issues become complicated.

Moreover, the phenomenon of violence is deeply rooted in the systematic patterns of socially “gendered” relations. According to Kannabiran and Menon (2007), the collectivised sexual violence by communities (like caste panchayats), agents of the State (like in the cases of Manorama and Kunan-Poshpora) and caste group (like the case of Bhateri) is the most intractable form of violence against women. Moreover, many cases of domestic violence are unreported, and the Indian law does not recognise marital rapes legally. Hence, these cases have grabbed the attention of scholars due to a pattern that has a reoccurring status by the virtue of inherent gender and social

bias. Certain welcoming changes such as amendments around rape laws are also a result of massive insights coming from reflections on previous cases and the issues raised around them by civil and human rights organisations. In this regard, emergence of the judicial order has been crucial, including the coming of *Mahila thanas* (emphasis added) in providing women a space for registering complaints of crime and violence against them to seek justice (Mody 2013).

In this context, Pratiksha Baxi's work on courtroom trials, talks about how rape trials in particular are "privileged sites of the production, negotiation, and management of public secrets" (Baxi 2014). She looks at courts as "public spaces" that destroy evidence, which we explore further in this paper. She suggests that testimonies of rape survivors often suffer as they are silenced; men speak on their behalf, advising them what to do, whether to report, etc. Baxi, who has witnessed some of the trials in the courtroom, shares how every lawyer in the courtroom is aware that testimonies of the survivors are "distorted, disciplined and misrepresented" (*ibid*). Our case studies further provide us the template to study this phenomenon where the law incites power in the socio-legal processes that underlie the making of the testimony of the survivors.

Reporting Crime and the FIR

The information received by the police regarding a cognisable offence—oral or written—constitutes an FIR. Any person who is the first to give information about the offence to the police is the first informant. The police cannot refuse to register an FIR because even if it is out of their jurisdiction; they should register the complaint under ZERO FIR and forward it to the concerned police station. The FIR should have all details about the crime: name of the suspects or the accused, crime description, etc. A police investigation follows, on the basis of which a charge sheet is prepared, and it must ascertain the information in the FIR, collect evidence, examine suspects, search the place of occurrence of crime, and seize objects that may contain fingerprints, blood prints, footprints, etc.

The investigative process is important as it helps in understanding the facts of the case as it evolves in the criminal justice system (Taylors 2016). If the information filed in the charge sheet appears to be parallel to the FIR, then it is favourable for the case. Otherwise, it sets an order against the information reported in the FIR. The purpose of the charge sheet is to enable the trial in the court. Hence, along with it, copies of the FIR, forensic and medical reports, and information about seized evidence are attached for the court proceedings. However, at all these stages, the information is

layered, changing the nature of the information. Therefore, the information that may appear crystal clear in the FIR goes on to change its form while crossing through different spectrums (legal, social, political).

The police file complaints, carry out investigations, and bring cases to court. In the process, in certain cases, they also develop a relationship with the media to report about the case. Likewise, medical practitioners and forensic experts diagnose, analyse, and testify in courts with proper documentation (Baxi 2014). The law retaining its power here annexes all these documents to authorise truth claims and build the universe of information about the case. Meanwhile, courts “sit” and “rise”: they go on to hear multiple cases in a day, determining the element of “truth” as and when it is produced in the court. Because the documentation and evidencing with the support of “documents” is central to the court trial, oral testimonies by themselves do not have any sanctity. Meanwhile, powerful lobbies control the means and mechanisms of the law, influencing the outcome of trials (Taylors 2016).

The FIR as a document of crime reporting thus leaves scope for interpretation with its readers who could be laymen, police, lawyers, journalists, and researchers. One also understands that the information stated in the FIR is not the ultimate truth but a statement to be supported by the corroborating “documents” testifying the same set of information. It is in this process of un-layering the information, primarily filed in the FIR, that the essence of the crime itself as an incident of violence gets to be examined.

Media and the Universe of Information

Media reporting of crime and violence plays a crucial role in building the universe of information. Media, in its representation of criminal activities and law, constitutes social realities of justice and social order. It acts as a major source of dissemination of knowledge about people’s understanding of crime, law, and justice by connecting the public with courtroom proceedings and judgments. Since the public “lack the time, motivation and legal expertise to make required sense of Court’s decisions” (Zilis 2015), they depend on media for legal analysis of any case. Otherwise, the link between the court and the public might be indirect. Media thereby simplifies the legal jargon of the case for the public by giving them direct access to court procedures, but it may also misrepresent the ruling of the Court. Such as it reproduces dominant ideas and hegemony in the ways of mediation and creation of the public opinion. Hence, the ideas of the elite and powerful

are communicated through twisting of facts (Herman and Chomsky 2010). Here, knowledge is often colored by specific agendas serving the majoritarian interests. The representation of a case thus comes with “prior set agendas”, where facts are manipulated and an attempt is made to develop consensus based on dominant paradigms or ideological positions which is often influenced by the ruling class (Saeed 2013).

The audience’s curiosity in cases of crime and violence is for two reasons: to learn about the causes and to learn about ways of prevention. To answer this curiosity, media as an institution interacts and intersects the administrative and the legal administration. Simultaneously, it also operates as a vigilante over state agencies examining the police and the ways of policing. Police performs various tasks such as guarding the process of elections, courts, massive events, as and when it is tasked (Newburn and Peay 2012). However, in obeying state, they also perform unpleasant tasks such as handling the crisis. During the COVID-19 lockdown, various news media outlets reported about the police brutalities on citizens, street vendors, and delivery agents (Purkayastha 2020). Another example could be how on the directions of the state, police often use *lathis* (batons), water cannons and teargas on protesting groups (Shah 2017). In these ways, media brings information about the daily activities of the police (Schultz 2019, Rucman & Mesko 2006). At times, the gaps in reporting are also filled in by the human rights or civil rights organisations. However, now-a-days, police are also using social media platforms to communicate and engage with the broader public.

Crime reporting by media, as we see today in television journalism, is farcical. News stories are spiced up to the extent that entertainment is added to information in reporting of the crime scene. The narration of the crime scene is dramatised; the news story is fictionalised. The coverage of Tablighi Jamaat during the lockdown period in India is one such example (Daniyal 2020, Iyer & Chakravarty 2020 & Kumar 2023). In addition, the news is telecasted in a manner that adds suspense and fear of crime (Cohen 2002). The rational notion of equality and justice becomes elusive in these forms of narratives, given the larger contemporary context of the political economy of the television news media (Herman & Chomsky 2010, Mosco 1996 & Winseck 2011).

As far as crime shows are concerned, the focus is often on accused rather than victims and on how the crime occurred. *Crime Patrol*, for example, uses fictional names and characters while claiming that the cases are based on real-life situations. Sometimes, the crime shows and web series adaptations of real-life cases claim to be based on case files but add fictional description to the

details. For instance, *Delhi Crime* (2019), based on Delhi gang rape case (2012), portrays the story of crime and violence from the police's perspective alone. The BBC documentary based on the same case, *India's Daughter* (2013), covers horrific details of the crime from the perspective of the accused. Therefore, there are certain details that will be left out in the mediated re-creation or representation of the crime. These representations are then only surreal. From the incidence of crime and violence in real space and time, the case becomes a story or an episode, losing its severity.

In each of the trajectories of information across mediums, as the news travel further, the event of the crime itself becomes a myth as layers of meaning maybe attached to it by different agents involved). A prominent example is the Noida double murder case (2008). A 14-year-old girl was murdered in her room while her parents were sleeping in the adjacent room and the body of the house help was discovered by the police a day later, on the rooftop. There were no witnesses in the case, and yet everyone, particularly the media, had theories about how the crime may have occurred. These theories differed across news channels. The victim's father was arrested at first by the Noida police as a suspect in the case but no evidence could be linked to him. The Central Bureau of Investigation (CBI) took over the case and found the suspect innocent. But the trial by media had declared first, the helper as accused. When he was found dead on the roof, the blame was shifted to the father (Sen 2015). Following the case, cinematic adaptations too have been made with different theories of how the murders may have happened.

Media trials in many such cases have become a regular fixture as witnessed also in the case of death by suicide of Sushant Singh Rajput (2020) where media persons had reached outside the house of one of their acclaimed accused persons revealing details of her personal life (Ara 2020). The coverage involved a lot of personal attack maligning her reputation in the public and biased reporting so much so that a particular journalist was booked for manipulating the TRPs (India Today, 2020). In such cases, Media exercises the freedom to dig into the personal lives of the victim, suspects, friends, colleagues, and their family histories and social circles to build opinions in the public imagination about cases and investigations, while also influencing court trials.

The Noida double murder is a case in which insensitive media approach led to the mishandling of the case and evidence (Mehra 2017). Whereas, in the latter case, instead of "puncturing falsehood" or focusing on crucial issues such as pandemic, economic crisis, loss of jobs, crisis of the migrant population, news media stooped to new low "using soundbites from those who had no clue of the

intricacies of the case” (Shukla 2020). Both the cases became high-profile cases covering the details of personal and social lives of women involved in the case bringing minute-to-minute dramatisation on the television screen (Lidhoo 2020). The shocking factors from the reporting of these cases was media’s access to the WhatsApp chats and emails of the victims and the suspects, bank statements and call records. Yet, it is hard to say, if any lessons were learnt or much heed was paid to the violation of one’s privacy.

On the other hand, it may be a challenging task for media houses to access crime scenes. While chasing crime news, they manage to catch a few. These few criminal incidents are then filtered and certain criminal incidents are selected based on their newsworthiness. For instance, cases closer to threats to the collective consciousness or moral integrity of the community become news (Katz 1987). White-collar crimes involving names of big politicians and businessmen trapped in cases of fraud and corruption charges; rape and murder, which raise the issue of moral pressure; organised crime; and reputational damage: all these become breaking news. However, in the presentation of news, there are certain “media ethics” as discussed by media practitioner and scholar Paranjoy Guha Thakurta (2009), like “truth, fairness, and objectivity”. He brings into discussion three theories: *correspondence*, which holds our notions of what is true; *coherence*, the determination of truth in coherence with our world views; and *consensus*, the truth that is affirmed by other people. Another scholar, Stephen J.A. Ward too has published on media ethics and the disinformation age. He argues that, “media ethics is not anti-thetical to the freedom to publish” (Ward 2020) Therefore, though press freedom is a necessary condition for a democracy, yet the ground shall be set for responsible and ethical reporting.

In the next section, the paper makes an attempt to argue for the challenges and loopholes in the criminal justice system, particularly in the cases of crime and violence against women wherein delayed, defective and biased investigations often impact the trials and the judgments.

Loopholes in the Criminal Justice System

Case trials act as laboratories for judicial reform, and when it comes to rape trials, we see a repetition of unfair forms that appear extraordinary but similar. For instance, “consent” is still misunderstood in many cases. The blame is often put on women. The restrictions around mobility are imposed upon them. Besides, the violence is also embedded in formal mechanisms and structures of hierarchy. These biases get implicated in the processes of investigation, in the trial

itself, and in how justice is either delayed and/or denied. In such cases, the judgment is often inclined towards the dominant social and/or political group.

In addition, the attitude and behaviour of police and administrative bodies create situations that are not encouraging for women to approach them and report the incidence of sexual violence committed against them (Shukla and Bhattacharya 2021). Moreover, certain women have their fears, beliefs, reluctance, patterns of ignorance, tolerance, lack of legal knowledge, and limited access to institutional support. Out of the total proportion of crime cases reported, the crimes inflicted by strangers are reported more than the ones inflicted within the homes or by known persons (Williams 1984). The reasoning for the same is that women are encouraged to remain silent and not report. They become further discouraged by the already pending trials in courts. For instance, the case of Bhatari gang rape (1992) which forms the backbone of the Supreme Court's landmark 1997 Vishaka guidelines (later modified as Workplace Harassment Act) has not yet reached to any conclusion in three decades (Siwach 2022, Saini 2021, Pandey 2017).

In their study of evidencing during rape trials, Durba Mitra and Mrinal Satish (2014) have made suggestions about the “systematic disbelief” that occurs in women's reporting of crime. The lack of cohesiveness in their statement is often taken into doubt. Different effects of power and knowledge coalesce to disqualify the testimony of rape victims at various sites, including the police station, forensic science laboratory, hospital, and court, as also suggested by Baxi (2014). For instance, in the Bhatari gang rape case, while reporting the FIR, the emphasis was put on what “rape” meant. The complainant was asked to explain the meaning of rape multiple times (FIR No. 399/92).¹ In the case of the Delhi gang rape, the FIR was collated in three rounds as the victim underwent multiple surgeries and her condition was too unstable to be able to report the details of the crime (FIR No. 413/2012).² Yet, the names of the accused and content filed in the FIR were contested in the courtroom.³ The defence counsel accused the police of “interpolating the

¹ Available in the Archive Section, Jagori: Women's Research and Documentation Centre, Malviya Nagar, New Delhi.

² The author had approached the concerned police station to get an access to the copy of FIR in the Delhi gang rape case. The author was denied citing, “the details of the FIR are too sensitive and therefore cannot be revealed to the public” unless a request is issued by the Magistrate. However, the FIR number and other details could be accessed from the cited excerpts in the respective court judgments.

³ In the Supreme Court of India, Criminal Appellate Jurisdiction, Criminal Appeal No. 607-608/2017, Mukesh & Ors Vs. State with Criminal Appeal No. 5027-5028/2014. <https://indiankanoon.org/doc/68696327/> [Accessed 12th December 2021]

document” as the names of one of the accused was spelt wrong in the testimony of the victim (*ibid*). The other accusation raised by the defence counsel was the inconsistency in description of the crime scene by the victim. It is obvious that due to the brutality unleashed on the victim of the case, medical treatment was given priority, and the statements were gathered only when she was medically stable. Otherwise, as the details of the crime were unfolded, it appeared like an open and shut case. The judgment, in this case, notifies how an FIR cannot be “an encyclopaedia of facts” but an initial statement provided to collect the details of the crime (Supreme Court of India 2017). It further adds how an FIR is the “voluntary narrative of the informant” and the first statement about the crime and can possibly miss on some information about the crime even in ordinary circumstances (*ibid*). The Supreme Court had concluded that the presence or absence of a name alone cannot declare an FIR as “fabricated” or “implicated” information. The statement of the only witness, the victim’s friend, becomes important as he was the prime witness who had provided important leads in the case before the victim’s statement to the police. This reflects the importance of the FIR and the sanctity it holds during the trial.

But mishandling of the evidence is revealed only at the stages of the trial in the court. For instance, the lower court in the trial of the Bhatari gang rape case indicated that the semen sample of neither the husband nor the accused men matched with the semen sample collected from the complainant’s clothes. The court, instead of focusing on such a lapse, blamed the complainant for reporting a “false case”. Later, it is due to the intervention of civil and human rights groups that information regarding the loose handling of the samples comes out in public domain.⁴

The court’s statement in the Bhatari gang rape case takes us back to Mathura rape case of 1972, where a policeman raped an Adivasi teenager while another sexually assaulted her under the influence of alcohol. Due to the lack of evidence and older ruptures in the hymen, the court questioned the survivor’s virginity and character. The loopholes were again highlighted with the

⁴ Twenty-four doctors had signed a statement supporting Bhanwari Devi, who argued that the medical examination report is flawed, subsequent delay in the case's proceedings, and arrest of the accused persons. The statement was also circulated in Hindi, signed by doctors, physicians, Orthopaedic surgeons, faculty members (Dr. Mohan Rao & Dr Imrana Qadeer at Centre for Social Medicine and Community Health at the School of Social Sciences, Jawaharlal Nehru University, at New Delhi. A statement (1993, March 3) by concerned doctors on the gang rape of Bhanwari Bai, “A *saathin* of the Women Development Programme of Government of Rajasthan,” (September 22, 1992

intervention of civil and human rights activists.⁵ The court suggested the complainant was a “liar” and the act was “consensual” instead of a “forced one” given the “absence of physical injuries” (*Tukaram and Anr v. State of Maharashtra*).⁶ The flawed interpretation of the two-finger test (used to determine the elasticity of survivor’s vagina and rupture of the hymen) was highlighted in the case by the feminists and civil rights organisations.

However, in 2003, Indian Parliament repealed section 155 (4) of the Indian Evidence Act (which asked a rape survivor about her past sexual history), declaring it as “illegal”. In this context, Baxi’s insistence that in a rape trial, the judges “seek to determine” the occurrence of present and past sexual intercourse, the intactness of the hymen, and the how’s of the penetration, bringing the whole episode of trial closer to the scrutiny of the female body is relevant. Besides, during the medico-legal examination, the female body or the body of the complainant/victim is put under scrutiny to extract evidence for the court trial. This is done in a manner, as already discussed, to give prima facie advantage to the oral testimony because “documents” carry weightage over oral testimonies. (Engage n.d.).

The information order, in the Bhateri case, had replicated the social and the political order that, on one hand, promoted moral values and, on the other, prepared alternative information to hide the caste-based discrimination that remains a dark reality in our society. Different versions of the incident were provided by the villagers to the media persons and civil rights activists who went to the village to prepare case documents. In the first version, a reporter was told that Bhanwari and the two prime accused men were not in the village on the day of the rape incident.⁷ In another version, Mohan had met Sharvan Sharma and Ram Karan in the field where they all took their cattle for grazing, where an exchange of some comments led to a fight between them and Mohan had slapped Sharvan. The FIR mentions that Mohan had gone to relieve himself in the open field where the other men had objected over some dispute of land and beaten him up, hearing his screams, the wife had rushed to the spot where she was gang-raped in front of the husband.

⁵ Upendra Baxi, Vasudha Dhagamwar, Raghunath Kelkar and Lotika Sarkar (1979, 16 September) An Open Letter to the Chief Justice of India. <https://aud.ac.in/uploads/1/admission/admissions2014/open%20letter.pdf>

⁶ The rape of a rural lower-caste woman by upper-caste man is normalised under social and political pressure. Also, a woman’s rape is considered as a matter to be kept secret rather than be exposed to a legal fight.

⁷ As per FIR No. 399/92 filed on 23rd September 1992 at 2.30 p.m., the accused in the Bhateri gang rape case were: Gyarsa Gurjar (60 years old), Badri Gurjar (40 years old), Ram Karan Gurjar (55 years old), Ram Sukh Gurjar (50 years old), and Shrawan Pandit (55 years old).

Apart from the documents presented in the court, there is also a parallel informational universe that media or alternative media platforms create with the help of civil and human rights organisations, as was the case with this episode. For instance, women’s organisations based in Jaipur and Delhi coordinated to release information matching with the contents of the FIR through press reports, pamphlets, slogans, street theatre, and public meetings.

On the other hand, in the Delhi gang rape case, the normativity of the circumstances in which the woman was raped was itself shocking as compared to the brutality with which the crime had occurred. The chauvinistic understanding that for a woman to be safe, a man should accompany her if she is outside, wear a salwar suit (fully covered clothes), and travel in public transport in the prime hours was busted as the affected woman in this case had fulfilled all these conditions and yet had faced horrific brutalisation.

However, the media had carefully maintained its updates on the medical condition of the rape victim along with the positive reportage of the case. Visual and social media played quite an active role in spreading the news and creating public sentiment about the case and the victim as “a medical, middle-class student”.⁸ As it was noticed in the case, the media was quick to report much prior to even the reporting of the FIR. Moreover, the police mediated updates about case proceedings using press interviews and used social media platforms in particular to update the public on relevant information through their official handles. Media, likewise, given the massive public outrage, was careful and sensitive in responding to the case and overall projection of case details. However, one can argue that the informational universe in this case was building up independent of the FIR due to media’s active interest.

⁸ Many pictorial and animated styles of representation were used other than verbal and visual forms to depict the story. See <https://i.ytimg.com/vi/alW8O7CODas/hqdefault.jpg> [Accessed: 17th October 2021]; http://media2.intoday.in/indiatoday/images/stories//2012december/gangrape_660_122912095616.jpg [Accessed: 17th October 2021]; <http://indiatoday.intoday.in/story/delhi-gangrape-victim-dies-in-singapore-mount-elizabeth-hospital/1/239921.html> [Accessed: 17th October 2021]; <https://userscontent2.emaze.com/images/3cd42e2b-c164-439e-9370-32c94911e7aa/9f6ec614e405e2587130fd78625e3152.jpg> [Accessed: 17th October 2021]; and <https://i.ytimg.com/vi/bDnLz5jgx3s/hqdefault.jpg> [Accessed: 17th October 2021].

The role of hospitals is also very significant in the ways the cases of crime and violence are handled, particularly cases of violence against women (Chopra 2022). As discussed before, the medico-legal reports are important documents of the case. Thus, delayed results or examinations can affect the process of evidencing. In the Bhatari gang rape case, as per the fact sheet filed on 13th November 1992, the complainant had to run around a lot to get the medical examination done. At first, she refused to be examined in Bhatari in the absence of a female staff member. Then, she travelled to Jaipur to be examined in a government hospital but by the time she reached, the hospital was closed. Additionally, she had to take a permission from the magistrate who, instead of the rape examination, recommended an age determination test. This reflects the apathy of institutions, where immediate care was not provided to the victim. By the time the samples were taken, it is possible that the semen on her body was interfered with by sweat due to humid weather conditions, due to which the medical report could have concluded that the semen did not match either of the accused men or her husband. Moreover, the Medical-Legical Certificate (MLC) records the history of strangulation marks alone, which does not measure the cost of affect in the real sense. For instance, the signs of force, fear, pain, etc. are not recorded on papers, instead the survivors are asked to verbally narrate it at multiple stages in order to prove that a case of crime and violence has occurred – in the police stations, in the judicial trials, in the media, in the public forums, however it does not become a recorded evidence unless supported through documentation.

However, in the case of the Delhi gang rape, the victim was taken to one of the best government hospitals in proximity to the crime scene to avoid any delays in her medical examination. She was handled with sensitivity by the hospital staff wherein her medical treatment had taken off immediately, given the severity of the case. Unfortunately, almost a week later, due to internal organ failure, the victim succumbed to death. However, we do acknowledge that such support mechanisms and a safe and conducive environment are not always available for the survivors. Here, the geographical location, infrastructure (rural or urban), access to material and technological resources, and the knowledge of procedures play a critical role. In the latter case, the location of the case made the difference along with the sensitive approach of the people included at this stage, especially since proper protocols were followed to take in the statement of the victim, so that in case of any casualty, the case still stands in court and gets a fair trial.

However, the judgment in the former case was based on caste-based discrimination, in contrast to the information reported by the complainant in the FIR, while in the latter case, the judgment was influenced by the larger informational universe in which the massive protests had occurred. The judgments in both cases, thus, cannot be seen in isolation but must be located within the larger paradigm of issues and concerns that were raised in the public sphere.

Conclusion

This paper presents a general analysis of crime and violence against women but also particular cases. Some of the cases were cross-referenced besides our two case studies to build a context in which the arguments are presented. The case studies give us a historical and social background about the evolving nature of FIR, media, and the criminal justice system. It also gives us a hint about the changing nature of public discourse and how the informational universe is shaped.

The technologically enabled different forms of media have created new avenues for generating and sharing information. However, in Marxist-feminist framework, we understand that these approaches are rather individualistic than collective. Additionally, the information is presented in the case files in a crystallised form, but once it is unleashed in the public sphere, it is coloured by various factors and inherent social, cultural, religious, economic, and political biases. Likewise, a parallel universe is created, transmitting information from one institution to another in selective cases that are in closer proximity to the spaces of networks and resource mobilisation groups.

The media engagement and reporting of these cases were to some extent positive and sensitive, but we also acknowledge the media's mishandling of the cases and their mistrial in many other cases. In addition, the changing media markets are influencing new media practices, where the source is side-lined and information is twisted to suit majoritarian views. This results in circulation of unverified information. However, the media's democratic nature has much more potential over paid news journalism and yellow journalism. Regarding this, the "media ethics" as also suggested by Thakurta (2009) and identification of the news with the "source" appears to be the way of a mature and responsible reporting of the news.

Moreover, the diverse and intersectional experiences of the women needs to be grounded theoretically in academic discussions, legal debates and the field of law. The documentation of

these experiences allow us to understand the pattern of the violence and analyse judicial responses. It is in these sharing of the experiences, women listening to other women, that a commonality is derived towards strengthening the discourse of equality, movements and development.

Dr Twinkle Siwach teaches Sociology at the University of Delhi. Her research interests are first information reports, crime, policing, judiciary and the media. She has published many research articles, and book reviews in national and international journals.

References

- Ara, I. (2020) "Rhea Chakraborty's Trial by Media Reflects Entrenched Misogyny," *The Wire*. Available from: <https://thewire.in/women/rhea-chakraborty-sushant-singh-rajpoot-trial-by-media> [Accessed on 12 December 2023]
- Author not mentioned (2020) Republic TV, Arnab Goswami in dock for TRP scam: What you need to know, *India Today*. <https://shorturl.at/anG03>
- Baxi, P. (2014) *Public Secrets of Law: Rape Trials in India*. New Delhi: Oxford University Press.
- BBC (2013) *India's Daughter*. Directed by Leslee Udwin. UK: Assassin Films, Tathagat Films. Documentary.
- BBC (2016) "The 'Milk Miracle' that Brought India to Standstill," [Online] 14th December. Available from: <https://www.bbc.com/news/av/magazine-38301718> [Accessed: 17th October 2021].
- Bhaskaran, H., Mishra, H., and Nair, P. (2017) "Contextualising Fake News in Post-Truth Era: Journalism Education in India," *Asia Pacific Media Educator*. 27(1): 41–50.
- Castells, M. (1996) *The Rise of the Network Society*. Malden: Blackwell.
- Chopra, K. (2022) Social Capital and Development Processes: Role of Formal and Informal Institutions, *Economic and Political Weekly*, 37 (28).
- Cohen, S. (2002) *Folk Devils and Moral Panics: The Creation of the Mods and Rockers*, 3rd ed. London: MacGibbon and Kee.

- Cornelia, V. (2008) *Files, Law and Media Technology*. California: Stanford University Press.
- Daniyal, S. (2020) Sampling bias drove sensationalist reporting around Tablighi coronavirus cases, *Scroll.in*. <https://shorturl.at/sDKQS>
- Delhi Crime* (2019). Directed by Richie Mehta. India: Netflix. Web Series.
- Engage (n.d.) “Evidencing Rape: Does the System Believe Women?” *Economic and Political Weekly*. Available from: <https://www.epw.in/engage/article/evidencing-rape-does-system-believe-women> [Accessed: 17th October 2021].
- Ginzburg, C. (1999) *History, Rhetoric and Proof*. Hanover and London: University Press of New England.
- Habermas, J. (1987) *The Theory of Communicative Action*. Boston: Beacon Press.
- Herman, E.S. and Chomsky, N. (eds) (2010) *Manufacturing Consent: Political Economy of Mass Media*. New York: Pantheon.
- Iyer, S. and Chkravarty, S. (2020) “Tablighi Jamaat: Impact of media narratives,” *The Hindu*. Available from: <https://www.thehindubusinessline.com/opinion/tablighi-jamaat-impact-of-media-narratives/article32297022.ece> [Accessed on 12 December 2023]
- Kannabiran, K. and Menon R. (2007) *From Mathura to Manorama: Resisting Violence against Women in India*. New Delhi: Women Unlimited and Kali for Women.
- Katz, J. (1987) “What Makes Crime News,” *Media, Culture and Society*. 9(1): 47–76.
- Kumar, A. (2023) “Virus Jihad: The (Mis)Representation of Muslims during Covid 19 Outbreak in Indian Media, *Howard Journal of Communication*, 34 (5), p. 538-558. DOI: 10.1080/10646175.2023.2213181
- Lidhoo, P. (2020) “Aarushi Talwar to Rhea Chakraborty: A Tale of Two Media Trials and Zero Lessons Learnt,” *The Wire*. Available from: <https://thewire.in/media/rhea-chakraborty-sushant-singh-rajput-aarushi-talwar-media-trial> [Accessed: 15 December 2022].
- Mehra, A. (2017) “Aarushi Talwar-Hemraj Case is a Perfect Example of Why India’s Criminal Justice System Needs Reform,” *The Wire*. Available from:

- <https://thewire.in/government/aarushi-talwar-criminal-justice-system-reform> [Accessed on 14 December 2023]
- Mitra, D. and Satish, M. (2014) "Testing Chastity, Evidencing Rape: Impact of Medical Jurisprudence on Rape Adjudication in India," *Economic and Political Weekly*. 49(41). Available from: <https://www.epw.in/journal/2014/41/special-articles/testing-chastity-evidencing-rape.html> [Accessed: 17th October 2021].
- Mody, Z. (2013) *Ten Judgements that Changed India*. Gurgaon: Penguin Books.
- Motha, S. and Rijswijk, H. (2016) *Law, Memory, Violence: Uncovering the Counter-Archive*. Oxon and New York: Routledge.
- Mosco, V. (1996) *The Political Economy of Communication: Rethinking and Renewal*. London and New Delhi: Sage Publications.
- Newburn, T. and Peay, J. and Reiner, R. (2012). *Policing: Politics, Culture and Control*. Oregon: Hart Publishing.
- Pandey, G. (2017) "Bhanwari Devi: The rape that led to India's sexual harassment law," BBC. Available from: <https://www.bbc.com/news/world-asia-india-39265653> [Accessed on 10 December 2023]
- Purkayastha, S. (2020) "Police Brutality: Citizens, Delivery Agents Harassed Amid Lockdown," *The Quint*. Available from: <https://www.thequint.com/news/india/police-harassing-citizens-delivery-agents-amid-covid-19-lockdown> [Accessed on 12 December 2023].
- Rucman, A.B. & Mesko, G. (2006) *Presentation of Police Activities in the Mass Media*. Available from: https://www.researchgate.net/publication/267268946_Presentation_of_Police_Activities_in_the_Mass_Media [Accessed on 10 December 2023]
- Saeed, S. (2013) *Screening the Public Sphere, Media and Democracy in India*. New Delhi: Routledge.
- Saini, S. (2021) "Bhanwari Devi: Justice eluded her, but she stands resolute for others," *Hindustan Times*. Available from: <https://www.hindustantimes.com/india-news/bhanwari-devi-justice-eluded-her-but-she-stands-resolute-for-others-101631811309362.html> [Accessed on 15 December 2023]

- Schultz, J. (2019) "Media Coverage of Law Enforcement and Effects of the Image Created," *Senior Theses*. DOI: 10.33015/dominican.edu/2019.
- Sen, A. (2015) *Aarushi*. New Delhi: Penguin Random House.
- Shah, K. (2017) "Dealing with Violent Civil Protests in India," ORF Special Report. Available from: https://www.orfonline.org/wp-content/uploads/2017/04/ORF_SpecialReport_34_CivilProtests.pdf [Accessed on 17 December 2023]
- Shashank, S. and Kaushik B. (2021) Violence and Trust in Police in India, *Economic and Political Weekly*, 56 (1).
- Siwach, T. (2022) "First Information Report (FIR) and Media: Informational Universe of Crime and Violence in Contemporary India," Thesis submitted to Jawaharlal Nehru University, New Delhi.
- Taylor, S. (2016) *Crime and Criminality: A Multidisciplinary Approach*. London: Routledge.
- Thakurta, P.G. (2009) *Media Ethics: Truth, Fairness and Objectivity*. New Delhi: Oxford University Press.
- Shukla, A.M. (2020) "Media Trial of Rhea Chakraborty in Sushant Case Plummet to New Low", The Leaflet. Available from: <https://theleaflet.in/media-trial-of-rhea-chakraborty-in-sushant-case-plummet-to-new-low/> [Accessed on 15 December 2022]
- Tukaram and Anr v. State of Maharashtra* 1979 AIR, 1979 SCR (1) 810, Supreme Court of India. Available from: <https://indiankanoon.org/doc/1092711/> [Accessed: 12th December 2021].
- Ward, S. (2020) *Ethics and the Media*. Cambridge: Cambridge University Press.
- Winseck, D. (2021) *The Political Economies of Media and the Transformation of the Global Media Industries*. London: Bloomsbury Academic.
- Williams, L. (1984) "The Classic Rape: When do Victims Report?" *Social Problems*. 31(4): 459–67.
- Zilis, M.A. (2015) *The Limits of Legitimacy: Dissenting Opinions, Media Coverage and Public Responses to Supreme Court Decisions*. Ann Arbor: University of Michigan Press.