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Influence of Public Opinion on Criminal Justice System in India

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In this article, the meaning and definition of public opinion have been discussed and how this public opinion affects the whole criminal justice system of India. Various causes have been discussed that give an elaborated idea of how public opinion influences police investigation and then the court's decision. The role of media in moulding public opinion has also been discussed in this article. The criminal justice system needs to be reorganized to inspire public confidence by treating everyone fairly and to provide systematically high standards of service for the victims and the witnesses, and to provide more justice through a modern and efficient justice system in compliance with the rule of law. The criminal justice system should focus more on actual evidence and witnesses while delivering justice and less on public opinion. It is by ensuring justice for everyone, we can assure peace for all.

Keywords: *criminal justice, opinion, influence.*

INTRODUCTION

As Aristotle had said, "It is an injustice that ordering of society is centred." The criminal justice system upholds the Rule of Law which is the fundamental principle of our democracy and hence plays an important role in maintaining order in the society. The Indian courts are staggering with a lot of pending cases. It is important to note that, delay in justice is justice denied and denial of justice is justice buried. Even in this digital era, the delays in proceedings of the courts are unpardonable. Effective use of e-governance tools for accelerating the process of solving

criminal cases in all regions of India is highly in need. In a court of law, legal technicalities must not prevail over the fundamental requisite of providing justice. Although the conviction rate for the crimes under the Indian Penal Code, has been improved marginally in recent years, still there are many cases where Public Opinion has influenced the police investigation and affected the Criminal justice system of India. A recent case of high court where police, on a protest raised by public removed a suspect from the array of accused and ultimately resulted in the acquittal of the accused in the case, is been discussed in this article. Since the media and public are always obsessed with crimes, there is a popular culture of news coverage of criminal issues that happen in the country. Therefore, the media plays a crucial role in shaping up the social perspectives of criminal justice through moulding public opinion. It sometimes pushes people to prejudge the verdict of criminal proceedings. As media affect the public preferences regarding a particular criminal matter, the judges and jurors are also likely to give their judgments in ways that allow them to favour the media. So, how far does this public opinion influence the decisions of the court and end up affecting the criminal justice system of India is discussed in this article?

WHAT IS MEANT BY PUBLIC OPINION?

As said by Anderson and Parker, *"A public is that form of collectivity which includes a number of dispersed and non-organized individuals who are faced with an issue about which there may be differences of opinion."* Kimball young defined opinion as, *"A belief somewhat stronger or more intense than a mere notion or impression but less strong than positive knowledge based on complete or adequate proof. Actually, opinions are beliefs about a controversial topic."* After defining these two terms 'Public' and 'Opinion', let's move towards the definition and meaning of Public Opinion.¹

According to Morris Ginsberg, *"By public opinion is meant the mass of ideas and judgments operative in a community which is more or less definitely formulated and have a certain stability and are felt by people, who entertain or hold them to be social in the sense that they are a result of many minds acting in common."* Hence, we can say that "public opinion is said to be the opinion of the people held by

¹ Negi Mohita, 'Public Opinion: it's meaning and characteristics' (Your Article Library)
<<https://www.yourarticlelibrary.com/essay/public-opinion-its-meaning-and-characteristics-of-public-opinion/24307>> accessed 23 July 2021

them on any issue which is for the welfare of the whole community and it is a collective product. Public Opinion is an opinion in which the public finds itself for any reason constrained to accede. It is a kind of synthetic average formed out of all the different opinions, which are held by the public.”²

INFLUENCE OF THE PUBLIC OPINION ON POLICE INVESTIGATION

In the case of *Mani & Anr vs State of Kerala*,³ the High court of Kerala delivered the judgment on 19th, July 2021. “The Division Bench comprising of Justice K Vinod Chandran and Justice Ziyad Rahman AA has acquitted two non-tribal persons who were accused in the case relating to the rape and murder of a Tribal woman that occurred on 30th May 2005.⁴ The accused were Mani and Rajan from Agali in Palakkad.”⁵ The Bench observed that “*When public opinion influences an investigation, its very course gets diverted with exasperating results*”.⁶

The suspect of this rape and murder case was the confidant of the tribal woman from the same community. He was suspected by the immediate family member of the deceased at the stage of the investigation; conducted himself in a very suspicious manner after the death. He deposed that he had slept the entire night in the forest, leaving the corpse as such and informing his brother only on the next day morning. He also went into hiding when the police came to the scene.⁷ However, the court noted that the community reacted angrily to the implication of one of their own, prompting the police to remove him from the list of suspects. The inquiry was also carried out against the other two suspects, who were from a separate upper caste group. As a result, the complaint was filed under the Indian Penal Code of 1860 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

² *Ibid*

³ *Mani & Anr v State of Kerala* Crim App No 1237 of 2016

⁴ Hannah M Varghese, ‘When Public Opinion Influences Investigation Its Very Course Gets Diverted With Exasperating Results’: Kerala HC Acquits Accused In Rape And Murder Of Tribal woman’ (*Live Law*, 23 July 2021) <<https://www.livelaw.in/news-updates/kerala-high-court-acquits-accused-in-rape-and-murder-case-of-tribal-woman-178034>> accessed 24 July 2021

⁵ *Ibid*

⁶ *Mani* (n 3)

⁷ *Varghese* (n 4)

The case was allegedly constructed on the evidence of Jungan (suspect), who had apparently surrendered himself to the police and stated that he had killed her, according to the Public Prosecutor. The court, on the other hand, considered his account of the event to be extremely weak and full of contradictions. The High Court while acquitting the accused of this case made the following observation:

*"We find nothing to connect the accused to the crime other than the testimony of Jungian, whom we suspect, as being interested in either saving himself or covering up the facts. The incident happened more than a decade and a half back and that alone inhibits us from ordering a further investigation, which would be futile especially in the absence of any scientific evidence. Again, a woman is molested and murdered and the perpetrators are roaming free; the poor soul is not avenged. We see absolutely no other way other than to acquit the accused."*⁸

Thus, from this case, it is seen that how public opinion influences the investigation of the Police and consequently led to the acquittal of the accused by our criminal justice system.

ROLE OF MEDIA IN MOLDING PUBLIC OPINION

Since the 1950s, television has been the primary tool for shaping public opinion. The media use a variety of advertising methods to disseminate information and alter people's perceptions. The notion that the messages conveyed by the media have a significant effect on specific populations, such as changes in reinforcing or weakening of beliefs held by those particular groups, is a general definition of media influence on human behaviour, thoughts, and attitudes. Various research on the impact of media on the public has been conducted throughout the years. It is determined by a number of variables, including the demography of populations and the psychological moods of those people. Media effects may be good or negative, gradual or immediate, long-term or transient. Some of them confirm pre-existing beliefs, while others challenge them.⁹

⁸ *Ibid*

⁹ VVLN Sastry, *Influence by Trial Media on Criminal Justice System of India* (Walden University 2019)

<<https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?article=8084&context=dissertations> > accessed 25 July 2021

The media affects the public in the following ways:

“They use it to make out patterns, infer information into novel behaviours, and compound various sources of information, first cognitively by conveying new information or messages through news coverage, and then behaviorally by using it to make out patterns, infer information into novel behaviours, and compounding various sources of information.” Second, through influencing people's beliefs. People may choose to trust certain sets of information, even knowledge about occurrences they have yet to see. Third, through influencing people's attitudes by sending signals that cause them to form particular conclusions about connected subjects. Fourth, the media is successful in terms of persons because media material affects people emotionally when they are exposed to it. Fifth, through influencing the public physiologically, that is, by displaying information that causes people to respond physically and instinctively. Finally, at the micro-level, through influencing individual behaviours.¹⁰

In India, the media is considered the fourth pillar of democracy. Its function in a democratic democracy is to promote transparency, accountability, and public knowledge, as well as to provide a forum for public debate.¹¹ However, as the media becomes more corporatized, it is overstepping its bounds by announcing its judgement before the court trial starts, thus breaching the norms of a fair trial.¹² The media has an impact on public opinion by pronouncing an accused person guilty in the eyes of the public before the court renders a decision.¹³

INFLUENCE OF PUBLIC OPINION ON THE DECISION OF COURTS

The media create a public opinion and judges of the courts are affected by them. A victory of public opinion can shake a fast-track court into action, in a country where justice is delayed or sometimes even denied. A public opinion many times dominates over the rule of law.¹⁴ Astonishingly, the courts are also getting influenced by public opinion. “The Nirbhaya case

¹⁰ *Ibid*

¹¹ Varghese (n 4)

¹² Sastry (n 9)

¹³ Arifa Khan, ‘Judiciary, Media and Public Opinion : An overview’ (*Lexquest*, 4 October 2017)

<<https://www.lexquest.in/judiciary-media-public-opinion-overview/>> accessed 26 July 2021

¹⁴ Sastry (n 9)

shocked the conscience of the nation and many amendments were introduced in criminal law to redefine the ambit of offences, providing for effective and speedy investigation and trial.¹⁵ The delay in such matters has, in recent times, create agitation, anxiety, and unrest in the minds of the public. It is one of the cases where agencies have swiftly considering the public outrage, which ensured that the court has to award the death sentence.”¹⁶

In the judgment of Nirbhaya case, Justice Dipak Mishra has said:¹⁷ *“It is manifest that the wanton lust, the servility to absolutely unchained carnal desire and slavery to the loathsome bestiality of passion ruled the mindset of the appellants to commit a crime which can summon with a tsunami of shock in the mind of the collective and destroy the civilized marrows of the milieu in entirety.”*¹⁸

In the case of *Guroail Singh v. the State of Punjab*¹⁹, the apex court took a view that public opinion is a relevant factor that influences the decisions of courts. Though the court in Ayodhya has cleared the path for a straightforward land purchase process in the public domain, the case is much more than a property dispute. The governing Bhartiya Janta Party couldn't help but use it as a political rallying cry.²⁰ It was also sensationalised under the moniker of 'Ram' by the media. As a result, under such situations, public opinion and the resulting pressure on the case are unavoidable.²¹

In the Navtej Sandhu case,²² the apex court stressed the point that the “conscience of the society” will only be satisfied when the convict is sentenced to death. “In the National anthem case of 2016 also, after many public debates, the judgment was diluted to non-mandatory direction from mandatory direction of playing the national anthem before movies at cinema halls. The

¹⁵ *Ibid*

¹⁶ *In Re: Assessment of The Criminal Justice system In Response To Sexual Offences* 2019 SCC OnLine SC 1654

¹⁷ *Ibid*

¹⁸ Khan (n 13)

¹⁹ *Guroail Singh v State of Punjab* (2013) 2 SCC 713

²⁰ *Ibid*

²¹ Pranab Tanwar & Saurabh Pandey, 'Public Opinion and the Ayodhya Case: Breaking the myth of infallibility' (*The Leaflet*, 29 Oct, 2018) <<https://www.theleaflet.in/public-opinion-and-the-ayodhya-case-breaking-the-myth-of-infallibility/>> accessed 27 July 2021

²² *State (NCT of Delhi) v Navjot Sandhu* (2005) 11 SCC 600

Kashinath Mahajan judgment²³ (SC/ST Atrocities Act²⁴) was overturned by the Parliament because of massive agitation and strikes by the community.”²⁵

Therefore, from the aforesaid cases, we can see that influence of public opinion on the decision of courts or on the judiciary is not a novel thing.²⁶ The public's attention is drawn to terrible crimes and even religious conflicts, and the courts have started on a road that goes beyond the rule of law.²⁷

CONCLUSION

Judiciary cannot exist independent of society and public opinion and hence, their interaction is inevitable. But the rule of law is unsurmountable. Throughout the article, we have seen how public opinion influences police investigation, the judiciary, and ultimately the whole criminal justice system. There is no doubt that media publicity and public opinion play a great role in preventing the miscarriage of justice and help in the fast proceeding of the cases of the criminal justice system of India. Jessica Lal, Priyadarshini Mattu, Ruchika Girhotra, and many more like them would never be got justice without public opinion. But the judgments and sentencing should not follow the public opinion always but it should be only based on evidence and the witnesses, otherwise, innocents may be the victims of public outrage or public opinion. Therefore, while dealing with criminal matters, it is necessary to call for the information regarding the status of criminal cases at the ground level from various duty holders like investigating agencies, prosecution, medico-forensic agencies, legal-aid agencies, etc. and then implementation of various provisions of criminal law as well as respective amendments related to those crimes. In sum, an educated, engaged, and cultivated civil society can be the best watchdog and public order and the rule of law should be embedded in the public from childhood itself.

²³ *Dr Subhash Kashinath Mahajan v The State Of Maharashtra* Criminal Appeal No 416 of 2018

²⁴ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989

²⁵ *Navjot* (n 22)

²⁶ *Tanwar* (n 21)

²⁷ *Navjot* (n 22)