

# **MEDIA TRIALS AND REPORTING STANDARDS REGARDING VICTIMS OF RAPE AND SEXUAL ASSAULT**

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### **ABSTRACT**

*The news media play a significant role in public safety by means of supplying important information about the nature and intensity of crime taking place in the community and efforts to prevent crime and help sufferers. However, this coverage every so often increases legitimate concerns about the rights of crime victims to privateness within the inclined aftermath of victimisation, particularly in high profile instances. In a few instances, victims understand aggressive, insensitive reporting as the right way risk to their capacity to grieve with dignity and to their privacy protection. There are many pieces of research that indicate that offences faced by women, especially sexual assault victims, would have come forward to highlight their issue to the state and criminal justice system if the media trials were fair and would be respectful towards their privacy. The article highlights the issues that victims go through when they face media reporters, photographers, camerapersons, editors and their unethical behaviour. The violation of the right to privacy in the state has become a threat for the victims. The standard of reporting needs to be a noticeable topic for the justice system and also for the government. The negligence of media had lead to an insecure life of victims. Various cases in the article reflect the trauma that has been neglected by authorities previously. It is a question that needs to be raised that why the victims, their families and friends often find themselves the subject of media coverage, regardless of whether they are willing to participate directly. The challenge and pressure on the news media are to highlight crime victims in trauma without re-victimising them. But at the same time, they need to give space to the victim to come forward themselves so that they can give a chance to the media and to the criminal justice system to help them in their recovery. Victims are often still in shock; reporters need to understand that trauma inflicts a toll even when there is no physical injury.*

## INTRODUCTION

Media plays a prominent role in order to aware people around the world of issues like gender inequality at workplaces, problems faced by the transgender community in our society, trade business of prostitution, human trafficking, victims and survivors of rape and sexual assault. Media has the potential to mould the opinions and perspectives of the general public and is its ultimate power. Media is undoubtedly known to be the most powerful tool that might affect the general perception of one's life. There is a deep connection between the media and the reputation of women from the past few years. It portrays the actual and original nature of women to the rest of the world, but at the very same time, it showcases fake imagery of sexual assault survivors. Print and electronic media need to develop new strategies to come up with an authentic coverage of victims' stories, while an understanding from both sides should be adopted on a balanced scale in order to avoid weak statements, unauthentic coverage and an insensitive framework. As the media holds power to show the story and fight for justice of a victim on an international scale, they should rethink in what context they portray the victim's story to the world.

From the previous years until now, the media's insensitive framework regarding rape and sexual assault survivors has been a topic of discussion. It's shameful how it has been ignored continuously. The fact remains that Pakistan is known to be one of the most unsafe and unreliable countries, not just for women but transgender people and children also. Many laws are silent as they do not hold the sources accountable when they report a victims story without their consent, revealing their identity, and by not coming up with the authentic check and balances of the trials about the incidents. The article provides an understanding of how bluntly spreading information about a rape victim or sexual assault can raise difficulties for people to understand the difference between truth and misconception.

We live in a society where people have a weak calibre, which hinders them from looking at both sides of an incident picture. They come up with judgmental, sick views and false statements. It is common talk in the general public that in the past years, the media has been rapidly reporting rape cases across the country. "Coverage of Rape" was never in the limelight before as it was not considered to be a topic open for discussion on news channels. This article will focus on the pertinent question of why the press is not legally restricted to exhibit insensitive coverage regarding victims' incidents.

It should be held legally accountable for disclosing the identity of rape victims at any point without the consent of the victim and should not be given any leverage on compromising at the focus of the real incident. Why the language used by the local media regarding rape and sexual assault has become a problem considered by the majority? What are the legal parameters governing the freedom of expression and freedom to hold any opinion? If it is considered to be an advancement of democracy, then media should be legally obliged to justify their homework on most talked rape cases. There should be an awareness in journalists, anchors and media professionals about the importance of broadcasting authentic information about cases that have a weak intensity of investigation under the criminal justice system.

## **I. REGULATING THE RIGHT TO INFORMATION AND FREEDOM OF EXPRESSION IN PAKISTAN**

Following are some of the laws which govern the right of Freedom of expression and Freedom of speech;

- Article 19 of the Constitution of the Islamic Republic of Pakistan, 1973

- Article 204 of the Constitution of the Islamic Republic of Pakistan, 1973
- Contempt of Courts Ordinance, 2003
- Defamation Ordinance, 2002
- The Press Council Ordinance, 2002
- Motion Pictures Ordinance, 1979
- West Pakistan Use of Loudspeakers (Prohibition) Ordinance, 1963
- West Pakistan Maintenance of Public Order Ordinance, 1961
- West Pakistan Press and Publications Ordinance (XXX of 1963)
- Censorship of Films Act (XVIII of 1963)
- Pakistan Electronic Media Regulatory Authority Ordinance (XIII of 2002)
- 295-A & 295-C of the Pakistan Penal Code, 1860
- Chapter XXI (Defamation) of the Pakistan Penal Code, 1860
- Sedition (S. 124-A) of the Pakistan Penal Code, 1860
- S. 12, Security of Pakistan Act, 1952
- Prohibition of Expressing Matters on Walls Act, 1995 (Punjab)
- Prohibition Of Expressing Matters On Walls Ordinance, 2001 (Balochistan)

The concept of freedom of speech is considered to be an absolute right in many advanced communities. It helps an individual of a state to distinguish between wrong and right, as it successfully bestows a sense of responsibility and capacity to improve decision making power in every gender. In Pakistan, media is considered as a "watchdog" to the main key source of information of all categories as it has a wide range of access towards crimes, sexual assault, domestic violence, rape etc., for the understanding of the general public.

Article 19 of the Constitution of Pakistan states

"Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by the law in the interest of Islam, or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court defamation or incitement to an offence."<sup>1</sup>

### ***JUDICIAL APPLICATION OF ARTICLE 19***

Miss Sadia Sumble Butt v. Rafiq Afghan (2006 M L D 1462)

Nadeem Azhar Siddiqi, J. "While publishing any news item, it is necessary for the press not to violate principles of decency and established norms of morality". In the reported case of *Syed Masroor Ehsan v. Cowasji and others* (PLD 1998 SC 823),<sup>2</sup> it has been observed as under: "Freedom of the press is not absolute, unlimited and unfettered. The protective cover of press freedom must not be thrown open for wrongdoings. The press is expected to recognise its duties and responsibilities towards the society and in discharging their duties/functions that should not compromise on public order, decency and morality."<sup>3</sup>

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<sup>1</sup> Mazhar Abbas, 'Article 19 and threat to media' *The News International* (3 May, 2018) < <https://www.thenews.com.pk/print/311886-article-19-and-threat-to-media> > accessed 24 May 2021.

<sup>2</sup> PLD (1998) SC 823.

<sup>3</sup> As Legal Aid Cell, 'Reported Case Law Trends On The Freedom Of Speech' <<http://www.aghslaw.net/wp-content/uploads/2017/03/Reported-Case-Law-Trends-on-the-Freedom-of-Speech-in-the-Islamic-Republic-of-Pakistan-English.pdf>> accessed 24 May 2021.

In *Rases Ghulam Sarwar v. Mansoor Sadiq Zaidi*, Khalid Ali Qazi, J stated:<sup>4</sup>

In respect of the freedom of the press, it would suffice to say that the propagators, printers and publishers are bound by a fundamental duty to establish that whatever they publish is based upon the truth.

The freedom of the press means to "express" your idea, opinion and perspective to other people. Article 19 of the Constitution

of Pakistan 1973 offers the concept of freedom of speech. Freedom of speech comes from the very coronary heart of civilised societies to impart and gather data about their commonplace pursuits. It has always helped an individual in self-accomplishment and brought about the discovery of reality.

It has, in addition, reinforced and enlarged the potential of an individual to take part in choice-making and provided a mechanism to attain an affordable balance among social alternatives. Such freedom of speech is the inspiration for democracy and the unbound authority of a human being.<sup>5</sup>

In Constitutional Petitions No. 77 to 85 & 89 of 2011 and CMA No 5505/2011, Justice Jawwad S Khawaja made some pertinent observations on the right to information with reference to the running of the country's affairs. He laments that "ever since the independence of the country in 1947, people in quest of the truth have mostly been left with conjectures, rumours and half-truths. Concealment of information has, in turn, led to a distorted history of the country and a destabilising division in the policy." Highlighting the significance of Article 19A, he says that it has "enabled every citizen to become independent of power centres which, therefore, have been in control of information on matters of public importance."

Commenting on the "intrinsic worth of information as a stand-alone fundamental right", Justice Khawaja says that the "very essence of a democratic dispensation is an informed choice." Elaborating on

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<sup>4</sup> PLD (2008) Karachi 458.

<sup>5</sup> Ibid.

the value of informed choice in the context of a democratic setup, he says that it is through informed choices that people "acquire the ability to reward or punish their elected representatives or aspirants to the elected office when it is time for the people to exercise their choice."<sup>6</sup> This line of reasoning leads him to conclude that information on matters of public importance is the "foundational bedrock of representative democracy and the accountability of chosen representatives of the people."

## II. PRESS ORDINANCE 2002

The Press Council Ordinance, 2002 by and large offers for the establishment of the Press Council of Pakistan. The motive and main focus of the press council is "to enforce the moral code of ethics, as set out in the timetable to the ordinance." The press council is also mandated to "maintain the highest professional and ethical standards of newspapers and newsgroups so as to make them greater responsive to the problems and issues of the society in Pakistan." The preamble of the ordinance makes a reference to public recognition "and free flow of information". However, it states that the free flow of statistics and freedom of expression "is subject to non-infringement of national interest." The Preamble of the Ordinance states:

"WHEREAS freedom of the press and public awareness is the foundation of democracy and the function of democracy and the principles of accountability depend inter alia upon the free flow of information and freedom of expression without infringing on national interest."<sup>7</sup>

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<sup>6</sup> Jawad S Khwaja, 'Constitution Petitions No.77 To 85 & 89 Of 2011 & Cma No.5505/2011 IN CONST.P.79 OF 2011' < <http://www.cpd-pakistan.org/wp-content/uploads/2014/11/Eloquent-note-by-JUSTICE-JAWWAD-S.-KHAWAJA-on-Right-to-Information-in-Memo-Gate-Case.pdf> > accessed 24 May 2021.

<sup>7</sup> Bhatti Z, 'Press Council Of Pakistan Ordinance 2002 And Its Code Of Ethics' (Slideshare, 2019) <<https://www.slideshare.net/RawahaShah/press-council-of-pakistan-ordinance-2002-and-its-code-of-ethics>> accessed 24 May. 2021.



When dealing with sexual assault and rape cases: The trauma that sexual attack and rape inflict on victims, as well as the stigma nonetheless related to the crime, makes reporting on sufferers of sexual violence extremely daunting. It is important for reporters and editors to remember the fact that sexual attack is not a criminal offence but a crime of violence, power and control. Reporters must avoid reporting details about the assault in approaches that suggest that the sufferer's conduct triggered the crime (such as details like they were on foot by themselves at night time, drinking alcohol etc.). The important point is that news articles no longer treat acquaintance rape as less serious than so-called "stranger danger" cases. Also, it is taken into account that acquaintance rape is favoured as opposed to date rape because the latter implies a romantic relationship that may not have existed in the former. The life of the victim and the sort of relationship they had with the abuser is also irrelevant to the point of the crime. There are usually few instances in which a news corporation will attempt to interview a sexual assault sufferer immediately following the crime. Most news corporations also have a policy of refusing to reveal a sufferer's call without express permission. Some sufferers may also conform to an interview if their real call isn't used or if an alias is furnished in lieu of their actual name; it's crucial to remember that that is the victim's preference. However, there are situations in which it can be more complicated to hold the victim's name confidential.

*Abductions:* Sometimes, information received about a disappearance can turn into a case of sexual assault or rape at some point of breaking the news to the public. The case in February 2007 involving the young boy kidnapped in Missouri, later located at the house of a convicted child molester along with a boy who had been missing for years, highlights the problem of keeping identities private. It is also an excellent measure to stop the usage of the victim's name

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once the sexual attack becomes the focal point of the news unless the victims and their households grant permission.<sup>8</sup>

*Incest:* News corporations need to exercise special care so that reporting the call of the perpetrator and the character of the crime in incest instances does not end up revealing the identity of the victim. A few editors forget about such concerns because they insist that humans in smaller communities know the names anyhow, so the newspaper no longer takes special precautions to protect the victim's privacy. Editors need to take into account that, especially today, when online information becomes international, archived information may be accessed via people outside and inside that network in future.

Rape and sexual assault experienced by both victims can cause psychological, moral, and emotional devastation. Post-traumatic stress disorder, in most cases, is a traumatic experience faced by the victim, and anyone who has been abused will experience severe depression, which can be traumatic. Sexual harassment and rape are common concerns in our society, with at least 11 rape cases reported in Pakistan each day. Six years ago, according to official statistics, 23,000 rape cases were reported to police across the country, with total convictions of 77 per cent containing 0.3% of the total percentage.<sup>9</sup> Laura Palumbo, communications director at the National Sexual Violence Resource Center in the United States, says there can be a long-term healing plan to overcome the damage done to the victim with the victim taking long-term emotional, physical and mental health care. She said: “there is a lot of discrimination and

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<sup>8</sup> Bucqueroux B, and Seymour A, 'A Guide For Journalists Who Report On Crime And Crime Victims' (2009) <<http://file:///C:/Users/Computer/Downloads/Documents/journalistguide.pdf>> accessed 24 May 2021

<sup>9</sup> '11 rape incidents reported in Pakistan every day, official statistics reveal' *The News* (13 November 2020) < <https://www.thenews.com.pk/latest/743328-about-11-rape-cases-reported-in-pakistan-every-day-official-statistics-reveal> > accessed 14 May 2021.

barriers to those who are sexually abused, and most survivors never report this thing for fear that they will not be believed or supported."<sup>10</sup>

Palumbo says that when victims report that attempts have been made to rape and sexually abuse them, they are often misinterpreted. Their actions are scrutinised, and the authorities do not understand or provide them protection. Victims rarely appear subject to this fear, and common delays in reporting such crimes are common in the community due to post-traumatic stress disorder faced by them. It is also difficult for the victim to recall memories of the incident due to PTSD. The media does not understand what behaviours can be expected of victims of trauma. She says that if rape is found in the news without proper context, it can contribute to the victim's suspicions and myths, such as false reporting.

Media has made the entire world a global village. Individuals in society trust various sources from which they get aware of current affairs while the general public relies on mass media for the know-how of their surroundings. It changes one's way of thinking and shapes the perspectives of the public on different issues. Media, through their framing techniques, present rape and sexual assault to the audience. "Framing Technique" is the way to compose facts of the incident and then present it to the audience, and thus, various framing choices of media channels usually get distracted from the reality of rape and sexual assault issue.

### III. CULTURAL BIASES AGAINST WOMEN

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<sup>10</sup> Farooq Tirmizi, 'Mukhtaran Mai: A story of extraordinary courage' *The Express Tribune* (22 April 2011) < <https://tribune.com.pk/story/154316/mukhtaran-mai-a-story-of-extraordinary-courage> > accessed 14 May 2021.

The media collects information on a wide range of topics tied to various sources around the world. Joanna Jolly, who works at the BBC Washington Bureau as a feature journalist, has an extensive work experience in South Asia. She recently published a report in which she wrote about inclusion in the Indian English Press. Her paper points to the problem that the concept of "fake rape" is popular in South Asia. One example from a million would be Mukhtara Mai, a criminal case in Pakistan.<sup>11</sup> fought for her case to be made public by the media. She also received accolades for the administration of justice in the courts of Pakistan, and she also received assistance from national and international organisations. Pointing to the status of celebrity Mai, the former President of Pakistan, in an interview with the Washington Post, said,

"you have to understand the nature of Pakistan as this has become a financial problem. A lot of people have made it a money-making concern. Many people say that if you want to go abroad and get a visa for Canada or citizenship and be a millionaire, get yourself raped."

The undeniable fact is that we have divided the structure of society. Such divisions are present in the social setup where authorities come up with harsh statements regarding the rape and sexual assault victim. It has been a disgusting experience to investigate the media trial role and debates in the Mukhtara Mai case. So much is written about the TV host's insensitive and unnecessary attack on her reputation. Unfortunately, the participants of the show, recalling the mentality of Urdu Press, the activists who had championed Mai's case were targeted with inappropriate language, and abusive words were used for them. The media trial over Mai's case was labelled as a money and fame game, while the activists were labelled as greedy for money and NGO based opportunities.<sup>12</sup> The

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<sup>11</sup>Sahar Majid, 'Rape Stories In Pakistan The Flaws In The Tv Coverage: Reasons And Solutions' (MA Thesis University of Missouri-Columbia 2016).

<sup>12</sup> 'Mukhtar Mai case: all but one freed' *The Dawn* (21 April 2011) <<https://www.dawn.com/news/622846/mukhtar-mai-case-all-but-one-freed>> accessed 14 May. 2021.

struggle for justice was under threat for over a decade. Her reputation was yet again damaged.

There are various strategies to close a rape case. Journalists can focus on the people involved in the story (rape victim or suspects), crime statistics in that city, state or country or the whole issue. There is no set rule for this, and we cannot say for sure which strategy will have a positive impact on society. Experts have differing opinions, but the purpose is to make intentional reporting that can be updated in any way. However, Jolly believes that it is important to focus on the factors that lead to rape and not on the isolated issues that are often heard as shocking stories of high moral standards.<sup>13</sup>

In 2010, the case of a nurse who was raped by police officers recorded her statement that the sexual assault was done by more than one person.<sup>14</sup> A journalist in a newsgroup showed the victim on TV while she was in the hospital ward. In another case in 2013, in which a five-year-old girl was raped in Lahore, not only had her identity been revealed so that her face was shown to the public, but her father was later interviewed on TV. With regard to disclosing the identity of the victim, there are two different and conflicting opinions. One based on media rules and the other on ethics. In 2002, the Pakistan Media Council launched a 17-point code of conduct, which states, "In the case of sexual offences and serious crimes against children, juvenile and women, the names and images identifying the victim shall not be published."

Naming rape victims or interviewing a family is not a crime. This is about ethics and not the law, said Kamal Siddiqi, Director of the

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<sup>13</sup> Joanna Jolly, Uzra Khan, 'Rape Culture in India: The Role of the English-Language Press' *Harvard Kennedy School Shorenstein Centre* (20 July 2016) < <https://shorensteincenter.org/rape-culture-india-english-language-press/> > accessed 14 May. 2021.

<sup>14</sup> 'JPMC nurse rape case suspects still at large' *The Express Tribune* (23 July 2010) < <https://tribune.com.pk/story/30344/jpmc-nurse-rape-case-suspects-still-at-large> > accessed 14 May. 2021.

Center for Excellence (CEJ) in Karachi, Pakistan.<sup>15</sup> Sexual assault is an act of violence and use of physical force which reflects the inequality and imbalance of power between men and women. Media is the main and basic source of information with respect to crime and sexual assault for the general public. It creates a wide and broad range of understanding of what physical force is in society and why it is an untouchable issue and also deemed unacceptable. On the other side, this encourages failure and inability to understand the trauma of sexual assault victim through its thoughtless tales and behaviour of violence. Sexual assault is a complicated, complex and sensitive issue, and the leak of incorrect information about this issue can cause problems in understanding the intensity of these cases.

Revictimisation, also referred to as secondary victimisation, occurs when news carriers subjugate the needs and mental boundaries of rape sufferers to organisational wishes, which leaves the sufferer feeling violated. Revictimization is related to higher distress and psychiatric issues. People that have been victimised show problems in interpersonal relationships, coping, self-representations and blame themselves for the incident. This may, in all likelihood, result in disordered eating, sleep problems, melancholy and problems in entering into trusting relationships with significant others. The long term extreme psychological issues may include post-traumatic stress disorder (PTSD), rape trauma syndrome, standard tension disease, panic attacks and phobias. Media re-victimisation consequently refers to the usage of words and shapes them to create an effect that the rape survivor brought the incident of rape upon herself through indecent dressing or being at the wrong place at the wrong time.<sup>16</sup>

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<sup>15</sup> 'Press Council to implement 17-point ethical code of practice' *The Dawn* (29 October 2002) <<https://www.dawn.com/news/63999/press-council-to-implement-17-point-ethical-code-of-practice> > accessed 14 May 2021.

<sup>16</sup> Nwabueze C, and Oduah F, 'Media Re-Victimization Of Rape Victims In A Shame Culture? Exploring The Framing And Representation Of Rape Cases In Nigerian Dailies' (Global Media Journal Vol 13), <<https://www.globalmediajournal.com/open-access/media-revictimization-of-rape-victims-in-a-shame-culture-exploring-the-framing-and-representation-of-rape-cases-in-nigerian-dailies.pdf>> accessed 24 May 2021

Reporting a rape incident from this perspective includes victimising the victim. Such reviews could possibly result in an increase in the victim's problems, causing trouble in interpersonal relationships, coping, self-representations and an increase in self-blame and shame.<sup>17</sup> Pumla Dineo Gqola wrote a report about the media re-victimising women who've been raped by the selection of words used in telling the case. According to Pumla Dineo Gqola, the concept that the girl shouldn't be wearing a form of provocative dressing or shouldn't be walking on her own beyond a particular time is frequently used to justify some of the media's bias in terms of representations of women who've been victims of gender-based violence.<sup>18</sup>

### ***WORLD REPORT ON VIOLENCE AND HEALTH***

Sexual violence against women and men is a serious problem. With the Pakistani media not paying enough attention to these issues, the rape of boys and girls have taken place in many ways. For example, at work, in schools, in public places, on public roads, in police stations and in hospitals wards. Only 24% of headlines are women, 76% are men. Gender representation in the media is associated with a relationship of domination and submission, with men represented as athletes, politicians and businessmen and women represented as vox populi (the voice of the people); that is, they were often alone and powerless.<sup>19</sup>

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<sup>17</sup> Classen CC, Palesh OG, Aggarwal R, 'Sexual victimisation: a review of the empirical literature (6 April 2005) 103-129 <<https://europepmc.org/article/med/15753196>> Accessed 14 May. 2021.

<sup>18</sup>Nwabueze C, and Oduah F, 'Media Re-Victimization Of Rape Victims In A Shame Culture? Exploring The Framing And Representation Of Rape Cases In Nigerian Dailies' (Global Media Journal Vol 13), <<https://www.globalmediajournal.com/open-access/media-revictimization-of-rape-victims-in-a-shame-culture-exploring-the-framing-and-representation-of-rape-cases-in-nigerian-dailies.pdf>> accessed 24 May 2021

<sup>19</sup> World Health Organization, 'World report on violence and health' (Report, 2000) <[https://www.who.int/violence\\_injury\\_prevention/violence/world\\_report/chapters/en/](https://www.who.int/violence_injury_prevention/violence/world_report/chapters/en/)> accessed 14 May 2021.

The question is, who is the media answerable to according to its rules? Many countries are of the view that if the media violates laws and regulations, it is a concern for the government and its work. The media in all its forms played a major role in disrupting the dictatorship of this country in its history by standing up against all injustices against citizens and educating society as a whole about the history of the political arena while highlighting the government's approach to issues such as rape, sexual abuse, child marriage and transgender rights.<sup>20</sup> So, right now, the role of the media in Pakistan is what Noam Chomsky comment as:

"It would not be surprising if the image of the country they are displaying would reflect the vision and interest of the seller, consumers and product: a product that the audience is willing and able to use."<sup>21</sup>

We cannot deny the truth that the aim and approach of media in Pakistan is more like a profession, as well as a business where drama, emotion and empathy are presented as headlines, and rating culture has become a method of earning money as it eventually develops the interest of financiers and buyers.

### ***RESEARCH REGARDING MEDIA COVERAGE OF SEXUAL ASSAULT VICTIMS***

Different studies and sources indicate that crime survivors, specifically sexual attack survivors, would be more likely to take part within the criminal justice system if the media had been more respectful towards their privacy. Information from "The National Women Study" done on rape in the United States: a report of the country determined that 84 per cent of rape victims in the United States no longer report the crime to police. It states that:

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<sup>20</sup> Noam Chomsky, 'The 5 Filters of the Mass Media Machine' Al Jazeera English (2 March 2017) <<https://www.youtube.com/watch?v=34LGPIXvU5M>> accessed 14 May. 2021.

<sup>21</sup> Edward Herman, Naom Chomsky, 'A Propaganda Model' (Excerpted from Manufacturing Consent 1988) <<https://chomsky.info/consent01/>> accessed 14 May 2021.



- 1/2 of rape victims (50 per cent) could be "more likely to document" to police if there had been a regulation prohibiting the media and news from disclosing their identity; 16 per cent indicated that they would be "quite much more likely to record" rapes to the police.
- Nearly 9 out of 10 women (86 per cent) felt survivors would be "less probable" to report rapes if they feel that their names might be disclosed through the news and media.
- An overwhelming majority of women (75 percentage), rape sufferers (78 percentage), and rape carrier corporations (91 percentage) preferred law that might restrict media disclosure of rape victims' names. Recent surveys of newspaper editors have shown that, as the current rule, many do not print the names of rape sufferers. In 1982, a survey classified that 68 per cent of the editors believed that names of rape victims should no longer be revealed.<sup>22</sup>

#### **IV. THE DIFFERENT USE OF THE TERM RAPE IN MEDIA**

When the media reports on rape cases with their collective knowledge of the victim, it highlights the issue of rape culture in the community. In 2018 a number of observations and analysis of the so-called rape culture was made. There were many questions, such as whether rape culture predicts the concept of public rape? Evidence from the US newspaper 2000-2013,<sup>23</sup> Trained journalists and investigators have written that the language and choice of words

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<sup>22</sup> 'Sexual Assault and the Media' INSPQ < <https://www.inspq.qc.ca/en/sexual-assault/media/sexual-assault-and-media>> accessed 14 May. 2021.

<sup>23</sup> Maria Amir, 'In Pakistan, rape culture is not only systemic but it is also reinforced at every level' *The Dawn* (16 September 2020) <<https://www.dawn.com/news/1580011>> accessed 14 May 2021.

indicate that there is an emotional attachment to the respondent, and there is a game of alleged victim abuse, which eventually emerges as a result of public rape. For the past ten years, the media has been printing, and electronic media has been making a habit of not using the word "rape" as rape. According to Tasneem Ahmar, founder and director of UK's Research Centre on Women said, 'The media has been trying to change the culture for more than a decade. Since 2005, in the media training, we have been teaching journalists to use the word rape instead of phrases like "izzat lutt Janna" or "ziyadati" or "zabardasti".'

Investigator of motorway rape case filed a petition with the ATC seeking a ban on media coverage of the incident of the motorway rape case. The officer appealed that the incident was a serious offence and crime that the media was indifferent to the urgency of the case. He requested the bench of the case to immediately take actions due to the sensitive intensity of the case and was particularly concerned about the evidence that was so far collected by the police officers.<sup>24</sup>

Section 13(2) of the Punjab Witness Protection Act 2018 states

The reporting of the identity of a person connected with an offence of terrorism or a sexual offence or the identity of the members of his family shall be prohibited in print, electronic or other media if the Court is satisfied that the quality or voluntariness of the evidence of the person concerned will diminish thereby.<sup>25</sup>

Presiding Judge Arshad Hussain Bhutta admitted the rivalry of the IO and located that it was an offence regarding sex, and truly due to media coverage, the sufferer and his family may also be disgraced. The Judge additionally mentioned that considering that one of the suspects had been previously shifted to jail for an identification parade and if media houses won't stop from covering the facts of the

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<sup>24</sup> 'Pakistan court orders media regulatory body to stop *coverage*' *New Indian Express* (3 October 2020) <<https://www.newindianexpress.com/world/2020/oct/03/pakistancourt-orders-media-regulatory-body-to-stop-coverage-of-highway-gang-rape-incident-2205398.html>> accessed 14 May 2021.

<sup>25</sup> THE PUNJAB WITNESS PROTECTION ACT 2018 (Act XXI of 2018).

case be, it would absolutely diminish the evidentiary worth of the material gathered by means of the prosecution.

### ***REVELATION OF IDENTITY OF THE RAPE VICTIMS***

Islamabad High Court issued a notice in the Zainab rape case in which the Court demanded an answer to pesky details such as the identification of the victim, intercourse and rape. The petitioner argued before the Court that: "Disclosing the identities of rape sufferers on television stations and in newspapers is illegal and punishable."

Section 14 of the Ethical Code of Practice of the Press Council of Pakistan Ordinance 2002 was read by a professional section reader "(in the case of sexual offences and irritated crimes devoted .... Images indicating that they'll not be posted)."<sup>26</sup>

The media explicitly violates section 14 of the Ethical Code of Practice of the Press Council of Pakistan Ordinance 2002 through its insensitive framework on the rape and sexual assault cases in the country. However, they are not under any accountability or due pressure, which can possibly restrict them under the laws.

Justice Athar Minallah issued a notice to PEMRA and the Interior Ministry to justify to the Court a possible relevant explanation for violating the laws of the Press Council Ordinance 2002 and ordered a fifteen-day cut-off date to clarify to the Court.

Disclosure of the victim's identity is barred and criminalised through Criminal Law Amendment Act, 2016. As per sections 354, 376, 376A, 377 and 377B of the Pakistan Penal Code (PPC), "whoever prints or publishes name or any matter which may make known identity of the victim of an offence, commits a cognisable offence punishable" under 376 A of PPC. The same petition that was submitted to the IHC also stated these facts under PPC "The disclosure of the identity of such victim is provided under subsection

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<sup>26</sup> Press Council of Pakistan Ordinance, 2002.

(2) of section 376A of PPC, with the permission of the parent, guardian, victim or the court.<sup>27</sup>

Furthermore, section 8 of the Electronic Media (Programmes and Advertisements) Code of Conduct, 2015, provides that the TV channels should ensure that greater vigilance shall be exercised in managing themes, sites or scenes depicting crime and violence, including rape and other sexual harassment.

"Subsection 6 of section 8 provides that identity of any victim of rape, sexual abuse, terrorism or kidnapping or such victim's family shall not be revealed without prior permission of the victim or victim's guardian where the victim is a minor."

## **V. INTERNATIONAL STANDARDS OF MEDIA REPORTING**

### ***INDIA***

According to section 228A in the Indian Penal Code by the criminal law amendment act in 1983, which states the following: (Disclosure of identity of the victim of certain offences etc.)

1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under section 376, section 376A, section 376B, section 376C or section 376D is alleged or found to have committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.<sup>28</sup>

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<sup>27</sup> The Criminal Laws (Amendment) Act, 2016

<sup>28</sup> Norms Of Journalistic Conduct - Press Council of India, Available at <<https://presscouncil.nic.in/OldWebsite/NORMS-2010.pdf>> accessed 14 May. 2021.

2) Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the identity of the victim if such printing or publication is

(a) By or under the order in writing of the officer-in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purpose of such investigation or

(b) By, or with the authorisation in writing of, the victim

Besides the fact that IPC has instructed media according to the sections above, it has provided many other recommendations and suggestions to the media house and further emphasised a section from the Press Council of India's "Norms of Journalistic Conduct."<sup>29</sup>

This has instructed and restricted the media reporters to withhold the identity of the rape victims and also to keep the images of the incident site, photographs of the victims and placed restrictions on publishing the statements of the victim without her/his consent.

One of the most talked-about gang rape cases took place on 16 December 2012 in Delhi. The victim was gang-raped in a bus who later died. The ratio given by opinion-based articles was approximately 57%, in which the public at large discussed their views regarding the rape incidents. 56% praised and appreciated her struggle and courage while on the other hand was the ratio voicing victim-blaming and discouraging her effort to fight back. 40% showed disapproval over the rape incident.<sup>30</sup>

The international media houses came forward with their meticulous perceptions regarding the rape incident. Thus, the response of the media across the globe resulted in all concerns about

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<sup>29</sup> Norms Of Journalistic Conduct – UNESCO, Available at <<http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/3.%20Press%20Council%20of%20India%20Norms%20of%20Journalistic%20Conduct.pdf>> accessed 14 May. 2021.

<sup>30</sup> Mark Phillips, 'Media coverage of violence against women in India' (2015) <[https://www.researchgate.net/publication/271214388\\_Media\\_coverage\\_of\\_violence\\_against\\_women\\_in\\_India\\_A\\_systematic\\_study\\_of\\_a\\_high\\_profile\\_rape\\_case](https://www.researchgate.net/publication/271214388_Media_coverage_of_violence_against_women_in_India_A_systematic_study_of_a_high_profile_rape_case)> accessed 14 May 2021.

the victim in abundance. In conclusion of this incident, the media went beyond the normal limit to investigate the matter. The question here is, no matter how fast and forward the role of media plays to convey information to the public, does it have vast control over the sensitive issue and its publications? What limitations it has and to what extent?

The Supreme Court of India, *Nipun Saxena vs Union of India Ministry of Home* (2018) unequivocally held that “No person may print or publish by printing, electronics, media, etc. the victim's name nor remotely disclose any facts that could lead to the victim's identity and what should make the public aware of who they are.”<sup>31</sup>

The Court also made it clear that "the lawyers' tension was that the victim of such cases should not be seen so that they would not face discrimination or harassment in the future. "

The Supreme Court also responded to the ban on the disclosure or revealing of the identity of the deceased victim. The Court further stated that: “In the case of the dead, we have to deal with something else. We must face the important issue that even the dead have their dignity. They will not be disgraced simply because they have died.”<sup>32</sup>

This is important and noteworthy that the Supreme Court of India considered the matter explicitly and seriously and further noted that the personal or private concerns of any boy or girl are out of the discussion when it comes to rape cases. This decision of the Supreme Court of India clarifies the reason why the identity and personal details of the victims of sexual offences should not be published, and the dignity of the victims should be protected under any circumstances.

***REPORT OF WORLD HEALTH ORGANIZATION ON TRAINING JOURNALISTS IN AFGHANISTAN AND COVERAGE TRAINING WORKSHOP ON GENDER-BASED VIOLENCE (GBV)***

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<sup>31</sup> *Nipun Saxena vs Union Of India* (2018) Writ Petition(s)(Civil) No(s).565/2012 <<https://indiankanoon.org/doc/133421560/>> accessed 14 May 2021.

<sup>32</sup> *Ibid.*

Gender-based violence, rooted in gender inequality, is a noteworthy issue in Afghanistan. Research shows that more than 80% of ladies face at least one form of domestic violence, and over 60% of ladies experience a couple of types of violence in their lifetime.<sup>33</sup> Within the one-day workshop duration, 20 afghan newshounds from diverse print and broadcast media learned about the key ethical standards around gender-based violence reporting, such as confidentiality, protection and privacy. They practised techniques to conduct safe and ethical interviews with survivors. Participants were also familiarised with the unique forms of complete gender-based violence as well as its health, protection and prison aspects. Reporters play a key function in the prevention and modification of reactions towards it as they can increase public consciousness around the issue while acting as catalysts in provoking wider dialogue and debate around gender-based violence.

"This is a totally vital training because gender-based violence is very common in Afghanistan; however, journalists don't have proper expertise on how to combat these troubles and observe moral guidelines.<sup>34</sup> One fundamental trouble is that reporters regularly don't normally consider 'knowledgeable consent', and they sometimes inform the survivors what to say in the interview," said Ahmad Seyar, who has worked as a reporter at BBC radio for eight years.

Applying ethical concepts in reporting guarantees the safety of gender-based violence survivors and ensures that survivors are not additionally traumatised and put into danger by, for example, exposing their identity. The workshop endorsed reporters to seek distinct angles while reporting on gender-based violence instead of merely relying on interviews of the survivors.

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<sup>33</sup> 'Kabul Declaration on Freedom of Expression in Afghanistan' (30 March 2019)  
<  
<https://ohchr.org/Documents/Countries/KabulDeclarationFreedomExpression.pdf>  
> accessed 14 May. 2021.

<sup>34</sup> 'Declaration on Freedom of expression in Afghanistan' *UNAMA* (31 March 2009)  
<<https://unama.unmissions.org/declaration-freedom-expression-afghanistan> >  
accessed 14 May. 2021.

A key section of the Afghan Mass Media Law is Chapter 2 Article 4, which states:<sup>35</sup>

1. Every person has the right to freedom of thought and speech, which includes the right to seek, obtain and disseminate information and views within the limit of law without any interference, restriction and threat by the government or officials. The right also includes the free activity of means of publication, distribution, and reception of information.

2. Government shall support, strengthen, and guarantee the freedom of mass media. Except as authorised under this law, no real or legal person, including government and government offices, may ban, prohibit, censor or limit the informational activities of mass media or otherwise interfere in their affairs.<sup>36</sup>

The Afghan Mass Media law prohibits the publication of anything that:

- is explicitly prohibited under the law
- is deemed contrary to the principles and provisions of the religion of Islam or to other religions and sects
  - is “defamatory, insulting and offensive” to “real or legal persons” and could cause “damage to their personality and credibility”
  - is “contrary to the Constitution” and could be considered a criminal action under the Penal Code
  - disseminates or promotes any religion other than Islam
  - Reveals the identity of those who have been victims of violent crime or sexual assault in a manner that damages their "social dignity."

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<sup>35</sup> The Mass Media Law of Afghanistan, 2006.

<sup>36</sup> ‘AJEEP Afghan Media Law’ (2012) <<http://www.sjsu.edu/ajeep/docs/Afghan%20Media%20Law.pdf>> accessed 14 May, 2021.



- harms “psychological security and moral well being of people especially children and adolescents”.

Questions can be raised concerning sufficient opportunities for young journalists and people related to media platforms to understand Article 4 of The Afghan Mass Media Laws. It is unfortunate that they are not held accountable nor are trained about media ethics. Revealing information and images of the victim can cause major harm to that individual. The insulting behaviour of the media should be held accountable, and for that purpose, the government of Afghanistan needs to work on the mindsets of professional journalists so that they could train the rest of the people affiliated with the media platform.<sup>37</sup>

Sexual violence is one of the most serious problems faced by women on a global level reaching from border to border. It's becoming a harsh reality that is being neglected. A large number of females have been victims of this horrific violence around the world. Even yearly reports inform us about the rising ratio of this problem, despite the fact that the current rate of sexual violence is alarming and should be noted as concerning. Cases of violence have been frequently published in the media without an investigation made about the right and wrong facts of the incident. However, they do not reflect the actual number of these cases because of the sexual nature of these matters in traditional Afghan society. Thus, addressing these issues has been viewed as an abomination and curse to society. Over a decade, issues such as rape, sexual violence, physical violence and marital rape have become taboo for the afghan communities.

Moreover, these issues are related to family honour and reputation. Therefore, their publication is also banned and usually kept confidential. Due to this reason, a large number of sexual violence is targeted towards women because they won't register these issues.

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<sup>37</sup> Ibid.

Sediqa Sherazi has stated that “women don’t want to talk because they are under threat but also because of traditional restrictions including fathers and husbands forbidding them from talking.”<sup>38</sup>The director of Afghanistan Reporters Center, Ahmad Quraishi states:

The middle is working on a mechanism to encourage reporters to observe the code and be higher at their jobs. The code isn’t a hard and fast set of rules, rather a manual that encourages all reporters inside the country to take responsibility for the records they offer. We trust that the codes help make certain the unfastened exchange of accurate, fair, and thorough statistics so that it will allow newshounds to behave with integrity in a society that has suffered loads from an ongoing battle (war).<sup>39</sup>

Media in Afghanistan have had a hard time courting the government. The US Ranks low on the press freedom index, scoring one hundred twenty out of a hundred and eighty nations. In 12 months alone, nine media workers and journalists have been killed.

### ***SENSATIONALISATION OF MEDIA CONTENT IN PAKISTAN***

The cases of rape and sexual assault in Pakistan are often presented with details without checking if they are right or wrong. They are shown to the public in a way as shocking and amusing as possible with the dramatic and humorous aspects of the incident thrown into the light. Rapes in Pakistan are widely used by the media as a source of entertainment. One example of such an emotional display of content can be seen in the Zainab rape case based in Kasur.<sup>40</sup>

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<sup>38</sup> ‘Women journalists in Afghanistan defiant in the face of violence’ *UN News* (2 May 2018) <<https://news.un.org/en/story/2018/05/1008802> > accessed 14 May. 2021.

<sup>39</sup> Valetta Malta, ‘Ahmad Quraishi: Challenges of the media in Afghanistan’ *Afghanistan Journalists Centre* (9 November 2012) < <https://afjc.af/english/a-journalist-a-story/ahmad-quraishi-challenges-of-the-media-in-afghanistan> > accessed 14 May 2021.

<sup>40</sup> Saniya Zainab, Shaista Yasmeen, Shujaat Ali, ‘Media and the Kasur child rape case’ *The Dawn* (1 April 2018) <<https://www.dawn.com/news/1398484> > accessed 14 May. 2021.

The case was presented by journalists and media in a dramatic way. The language and speeches used by them for the victim's family were inappropriate. The details of the case were displayed as 'breaking news' and 'headlines'. According to research, a total of 130 out of 992 reading items were printed, which were presented emotionally to the general public. This results in a total percentage of 13% print content and 76% of print media content that was considered sensationalised.<sup>41</sup>

### ***LACK OF MEDIA TRAINING IN PAKISTAN***

Within the Pakistani media, the foundation at the back of unethical practices such as masking rape instances is the lack of schooling. Maximum practitioners of journalism in Pakistan do not have a diploma, and only a few have any formal training within the career. The courses of media ethics should improve their syllabus standards. We do not have professional reporters who could face the challenge regarding the sensitivity of the rape cases and sexual assault cases. The media houses should improve their interview panel standards and should mainly focus on the writing, speaking and most importantly, ethical, mental behaviour of the fresh graduates. Universities should work on the body language of the degree holders because, in future, they would mostly have to tackle sensitive reporting. The educational system is not designed to groom the personalities of the youth, and that's a sad reality. All media organisations mainly expect journalism schools to improve the communication skills of the journalists before sending them to the professional mass media field. Without improving the standard of the syllabus and students just expressing themselves isn't sufficient for becoming a better journalist or a reporter.

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<sup>41</sup> Zehra Abid, 'In Pakistan's Kasur, child rapes and killings continue unabated' Al Jazeera (28 October 2019) < <https://www.aljazeera.com/features/2019/10/28/in-pakistans-kasur-child-rapes-and-killings-continue-unabated> > accessed 14 May. 2021.

## CONCLUSION

The media must observe the code of ethics carried out through PEMRA and the Press Council of Pakistan in keeping the identification of a rape victim hidden. Even if a victim wants to be identified, she ought to be warned approximately about the long-term consequences of this decision. In the case of a minor, despite the fact that the kid's parents permit newshounds to reveal their youngster's identity, care needs to be taken because revealing a child's identity who has been a sexual assault victim might affect the rest of his/her life.

Schooling shouldn't only be limited for journalists. It's equally essential to train editors as well as they're the ones who are concerned with methods adopted for coverage of any information from an organisation. Hiring a dominant number of females in newsrooms is one of the solutions. However, it's not the most effective solution. The right strategy is to make both women and men newshounds capable enough to cowl rape cases in a morally acceptable way. Education shouldn't be considered as a short-term intention. It ought to be handled as a protracted-term venture, and newshounds ought to be facilitated to take part in an increasing number of training applications. Nevertheless, the media houses should be held accountable for violating the national and international media laws, and the authorities should take possible steps to make that sure.

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