

Moral Panic déjà vu

**A qualitative study to understand the adoption of new juvenile laws in India
after *Nirbhaya* gang rape case**

By

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ABSTRACT

The existing literature suggests that India took a regressive step when it introduced a new juvenile law after the Nirbhaya rape case, which allows treatment of youth offenders committing heinous crimes as adults. This study investigates whether there was a genuine and pressing need to enact the new law to curb the youth menace or whether it was a political move to appease public outrage. To explore this question, a qualitative discourse analysis was conducted on newspaper articles published in two widely circulated English dailies in India, covering the period from the date of the rape incident to the date of pronouncement of judgment by the Sessions Court in this matter. The analysis, guided by the theory of moral panic and relevant literature on moral panics involving youth offenders, reveals that India, like several countries around the world, enacted the new punitive law in response to public demand rather than empirical evidence. The enacted law has failed to achieve the desired outcomes, and India continues to wait for comprehensive legal, institutional, and cultural reforms to ensure a safer and more inclusive society for women.

Key words: youth offenders, juvenile justice, moral panic, Nirbhaya case, media discourse, gender-based violence, folk hero

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CHAPTER 1: INTRODUCTION

Significant research exists to substantiate why children should be treated differently than adults in the criminal justice system (Cauffman and Steinberg, 2000; Zimring, 1998; Elliott, 2011; Pillai & Upadhyay, 2017; Singh, 2019). Despite this, the government of India followed a similar approach seen in other countries. It passed a punitive new juvenile law to curb the youth “menace,” and they did so in response to public outrage that demanded harsh punishment for the youth offender in the infamous Delhi gang rape case.¹ Under the new law, youth offenders between the ages of 16 and 18 who commit heinous offenses are tried as adults.² This law thus contradicts existing criminological knowledge about the needs of young offenders, and illustrates the recurring cycle of moral panics impacting juvenile justice policy. The existing literature provides strong support for this argument.

Moral panics could be understood as (dis)proportionate reactions to specific incidents by society at large, wherein media plays a crucial role in shaping the opinion of the people and constructing a perceived threat. Society often finds comfort in attributing blame to a particular group – typically portrayed as ‘the other’ – and believes this group can be corrected through hostility. Such responses tend to reinforce temporary, punitive measures, rather than long-term, evidence-based solutions.

My thesis explains how a moral panic regarding youth crime arose in India and ultimately influenced the adoption of a new juvenile law replacing the old one. For this, I conduct a qualitative analysis of newspaper articles related to the Delhi gang rape published in

¹ Commonly known as the ‘*Nirbhaya*’ gang rape case.

² According to Section 2(33) of the Juvenile Justice (Care & Protection of Children) Act, 2015 heinous offenses are those offenses for which the Indian Penal Code or any other criminal law for the time being in force prescribes a term of imprisonment of 7 years or more.

two prominent English dailies between the date of incidence to the date of the pronouncement of the judgement by the district court in this matter.

The “Nirbhaya” case

On the night of December 16, 2012, in the capital city of India, New Delhi, a horrific rape took place that shook not only the nation but people around the world. A 23-year-old woman named Jyoti Singh, more commonly known by the pseudonym “*Nirbhaya*,” which means “fearless,”³ was a college student who was brutally gang raped on a moving private bus. According to a *Times of India* report (December 18, 2019), at around 9 p.m., when the young woman and her male friend were unable to find public transportation to return them home after watching a movie, they boarded a private bus that had six men in it. Soon after they boarded, the driver moved the bus off route, and the men on board started molesting the woman. This resulted in an argument between her male friend and the other men on the bus. These men hit him with a rod and held him captive. They then assaulted the woman and raped her repeatedly, one after another, for an hour. As she protested, the youngest of these men (the juvenile, who was only a few months short of becoming an adult) inserted an iron rod in her vagina and pulled and ripped her intestines apart. The woman and her friend were then thrown out of the moving bus and onto the road. After some time, the two victims were spotted by a passer-by, and the police were informed.

Both the victims were rushed to Safdarjung Hospital in critical condition and were admitted to the Intensive Care Unit (ICU). After the story was reported on the news, it created outrage and led to large-scale country-wide protests in which not only women but also men

³ According to a report of *Times of India* (December 18, 2019) “The rape laws in India do not permit using a victim’s name in media. Hence, various publications gave her different names, out of which ‘*Nirbhaya*’ which means ‘fearless’ was widely used.

participated. Jyoti (the victim) remained in hospital for a few days and was later airlifted to Mount Elizabeth Hospital in Singapore for better treatment, where she died from her injuries on December 29, 2012.

Her death caused a huge commotion, and people demanded harsh punishments for all the rapists and a change in national laws to better address safety concerns of women. Responding to public demands on December 22, 2012, the then-government appointed the Justice Verma Committee to recommend amendments to the criminal justice system to curb sexual offenses against women (Kumar, 2019). Later, the recommendations given by the Committee were passed by the Legislature in the form of the Criminal Law (Amendment) Act, 2013.

However, in their report, the Committee reported that it was against the idea of treating youth offenders as adults (*The Hindu*, January 24, 2013). Furthermore, in its Two Hundred Sixty Four Report: The Juvenile Justice (Care and Protection of Children Bill, 2014), the Parliamentary Standing Committee held a similar view and mentioned that there is no point in reducing the age and argued that new act contravenes the provisions as contained in the Convention on the Rights of Children (1992) and the Constitution of India, the supreme law of the country (Singh, 2019). However, the government ignored these recommendations and relented to the popular demand for stronger youth punishments (Pillai & Upadhyay, 2017).

Tracing the History of Juvenile Justice Law in India

The history of laws dealing with youth in India can be traced back to the mid-19th century. The first juvenile law, The Apprentices Act of 1850, was passed during the period of colonization to govern children from age ten to eighteen who were in conflict with law (Kumar, 2019; Nirmal, 2016). Later, the Reformatory Schools Act (1897) was passed. Under this law, juveniles were sent to reformatory schools instead of jails with an aim to reform them (Nirmal,

2016). Further, by the beginning of the 20th century, every state drafted and had its own law dealing with cases of juvenile offenders. However, the approach of every state remained the same and the welfare of juveniles was the primary consideration (Singh, 2019).

In the post-independence period, the government of India passed the Children Act of 1960 – the first law that formulated separate provisions from the country’s criminal justice system to tackle cases of youth in conflict with the law. However, this act was applicable only in the Union Territories⁴ and acted as a model law for states to follow. The states were not obliged to adhere to the provisions of this act and each state could draft its own provisions and follow procedures to handle cases of children in conflict with law (Singh, 2019). This inconsistency among the different states was brought to the Supreme Court in the case of *Sheela Basre v. Union of India*,⁵ resulting in a decision requiring a uniform youth law for all of India (Singh, 2019; Pillai & Upadhyay, 2017).

As a result, the government of India drafted and adopted The Juvenile Justice (Care and Protection) Act of 1986, which laid down pan-India provisions for the “care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, juvenile delinquents.”⁶ The act defines juveniles as those under 16 years of age for boys and 18 for girls. Later, the United Nations adopted the Convention on the Rights of Child 1989, which India ratified in 1992.

As per the definition given in the Convention, a child is “every human being below the age of eighteen.” Thus, to apply the provisions as contained in the Convention, the Government

⁴According to India Today (2019), “Union Territories are ruled directly by the Central Government has a Lieutenant Governor as an administrator, who is the representative of the President of India and appointed by the Central Government.”

⁵ 1986 SCC (3) 596.

⁶ Preamble to the Act.

of India in 2000 passed a new juvenile law, which replaced the previous act of 1986. Every child below the age of 18 years is treated as a child irrespective of gender, in contrast to the 1986 act (Kumar, 2019; Pillai & Upadhyay, 2017). Apart from this, the main emphasis of the act is to adopt a child-centric approach and child-friendly procedures to handle youth cases.

However, the reality on the ground was different as there was a huge gap between what was codified in law and what was being practiced. The officials involved in dealing with cases of children were still adjusting to and adopting this new juvenile justice mechanism, when the *Nirbhaya* gang rape shook the foundation of the entire juvenile law system. The aftermaths of this case led government to adopt a new law replacing the act of 2000. This move was criticized by several groups, especially for its adoption of the provision to treat as adults those juveniles between the ages of 16 and 18 years who are accused of committing heinous offenses. It was said that India has taken a step backward and turned its back to all the progress it had made in adopting a progressive justice system for treating its young offenders.

Socio-legal context

Aries (as cited in Taylor, 2010) states that considering children as separate from adults is a relatively new concept. Only a few centuries ago, no such distinction existed. It was Rousseau, who for the first time in the eighteenth-century associated children with “innocence” and “free from corruption” thus making them “pure and perfect like nature” (Taylor, 2010, p. 52; James & Jenks, 1996, p. 319). This ideology about children continues to dominate contemporary times. However, contrary to this, there was another viewpoint associated with Locke. He stated that children are “wild and savage and need to be civilized and disciplined” (Taylor, 2010, p. 52). James and Jenks (1996, p. 317) assert that childhood is a socially constructed phenomenon, and the definition of the term “child” is subject to “social-cultural contexts” at any given point in

time. They also suggest that the experiences of childhood vary by “class, age, gender, ethnicity, location, and even by health condition.” Thus, this suggests that there exists a “plurality of childhoods” across cultures (James & Jenks, 1996, p. 317; Taylor, 2010).

Despite the existence of multiple childhood cultures, present-day Western ideology is dominated by the idea that every childhood is marked as a “protectionist experience” (James & Jenks, 1996, p. 318). It is the obligation of parents to protect their children and raise and train them free of responsibility. Therefore, parents who fail to provide such an environment for their children are considered a “failure”; likewise, children who do not meet these expectations of being innocent, dependent, and pure- free from evil- are considered as “childhood’s failure” (James & Jenks, 1996, p. 318). Thus, when any child indulges in a deviant act, especially in the commission of heinous offenses, it shatters this typical image of childhood. In fact, it is seen as “the moral decline of society” itself (James and Jenks, 1996, p. 322). The commission of heinous offenses by children thus blurs the line between children who are considered innocent and adults who are seen as corrupt (James & Jenks, 1996, p. 322).

Consequently, society can be seen to be divided on the issue of treatment of deviant children. Those who consider children to be evil believe that such children should be met with harsher punishment and be removed from the category of children. While those who oppose this approach are inclined towards a more liberal approach. They place the blame on society for the commission of offenses by children rather than the children themselves. This debate brings into light the apprehension posed by Woodhead (cited in James and Jenks, 1996, p. 327), who states that children are “steadily slipping from our conceptual grasp, and because we no longer know what children are, we can neither understand nor articulate their needs.”

Nevertheless, questions remain unanswered as to how to deal with these young offenders. Existing studies in the field of criminology put a lot of emphasis on the fact that juveniles should be treated differently than adults in the criminal justice system. What is the basis of this argument? Zimring (1998, p. 478) states two reasons for treating youth offenders differently than adults: “diminished responsibility” due to lack of maturity, and “higher chances of reformation.” Similarly, Cauffman and Steinberg (2000) provide a framework in which they employ two justifications similar to Zimring’s (1998) for this differential treatment. They state that juveniles are: “1. less capable of mature judgement than adults and are therefore less culpable for any offence that they commit; and 2. that they are more amenable to treatment than adults, and therefore are more likely to profit from rehabilitation.”

It is therefore important to talk about these two aspects in detail, yet distinctly, to understand the entire framework better. First, Cauffman and Steinberg (2000, p.743) use the term “maturity of judgement” “to refer to the complexity and sophistication of the process of individual decision-making as it is affected by a range of cognitive, emotional and social factors.” Thus, they contend that judgement is influenced both by cognitive as well as psychosocial factors.

The point which needs to be highlighted here is that it cannot be denied that studies of cognitive development provide evidence that once a child turns 16 years of age they are no less culpable than adults (Cauffman & Steinberg, 2000; Cauffman et. al., 2018). Yet, the contention remains unchanged which is that the children should be treated differently than adults in the criminal justice system. Providing support to this argument, Cauffman and Steinberg (2000) claim that the justification for this comes from when one explores how psychosocial factors affect maturity of judgement.

Maturity of judgement is based not only upon cognitive factors but also psychosocial reasons. These two components collaboratively influence the judgement and the decision-making power of an individual. While adolescents may develop cognitive abilities just like adults, they still take time to develop “psychosocial maturity” (Cauffman et. al., 2018, p.23). This difference is what leads to variation in decision making between adults and adolescents, and ultimately justifies why there should be variability in fixing culpability. Cauffman and colleagues (2018, p.23) refer to this difference as the “immaturity gap.”

Furthermore, to judge the maturity of a person, Cauffman and Steinberg (2000), provide a model that broadly focuses upon three broad categories of psychosocial factors which impacts all the decisions an individual makes, including deviant and anti-social decisions. These three categories, as given by Cauffman and Steinberg (2000, p.745) are: “1. Responsibility, which encompasses such characteristics as self-reliance, clarity of identity, and independence; 2. Perspective, which refers to one’s likelihood of considering situations from different viewpoints and placing them in broader social temporal contexts; 3. Temperance, which refers to tendencies to limit impulsivity and to evaluate situations before acting. These categories are not mutually exclusive, nor are they without some cognitive elements.”

Cauffman and Steinberg (2000) further stress that “systematic data” on each category, as well as their compatibility with one another, and their collective effect on decision making, is limited. However, they emphasize that the crucial theories on adolescents’ psychosocial development stresses that there are significant changes in all these three categories during adolescence. Thus, it is of great importance that these factors are considered to understand the process of decision making of an individual and in determining culpability.

Second, Cauffman and Steinberg (2000, p.742) state that adolescents should be treated different than adult offenders because “they are more amenable to treatment than adults, and therefore are more likely to profit from rehabilitation” (Pillai & Upadhya, 2017). Moreover, evidence from studies suggests that imprisonment of juvenile delinquents merely leads to increases in the likelihood of recidivism (Pillai & Upadhya, 2017). Similarly, Zimring (1998, p.491) states that adolescence is a learning period where individuals “learn by doing.” Therefore, even if youth offenders make big mistakes, they should still have a chance to mend and shift into adulthood and lead a largely law-abiding life. He further stresses the logic that we as society should not label certain individuals and then deprive them of any “protective features” they are entitled to just by distinguishing between good and bad. Thus, emphasis should be on the rehabilitation of juveniles rather than resorting to punitive measures (Zimring, 1998, p.483).

Moreover, Cauffman and Steinberg (2000) found that psychosocial maturity improves with age and that antisocial decision making is determined more strongly by maturity than age. Their study further supports the contention that psychosocial attributes continue to develop until early adulthood and lead to a decline in anti-social behaviour and an increase in making mature decisions (Cauffman et. al., 2018).

Thus, the point of this whole theoretical model, as Cauffman and Steinberg (2000) suggest, is not to specify or determine a certain age as to when an adolescent ceases to be a child and gains maturity. It is rather to note that officials involved in the matters regarding juvenile crime, whether as policy-makers, judges, police, custody officials, or probation officers, should focus upon the maturity aspect of the juvenile offender rather than simply the nature of the offence to determine culpability and assign responsibility.

Chapter Summaries

In Chapter 2, I offer an overview of the theory of moral panic, along with a review of the existing literature on moral panics particularly focusing on moral panics around youth offenders. I then elaborate on the research methodology employed in my data analysis.

Drawing on the hybrid model proposed by Klocke and Muschert (2010), I have divided my data analysis into three separate chapters. Chapter 3 focuses on the “cultivation stage,” identifying the conditions, actors, and discourses that facilitated the emergence of the moral panic. Chapter 4 addresses the “operation stage,” which examines what transpired during the moral panic itself. This chapter centres on the aftermath of the Nirbhaya rape incident, detailing the responses from the media, public, government officials, and politicians. This chapter also explores the theme of “folk devils” and “folk heroes” in detail.

Chapter 5 is dedicated to the “regulation stage” – this is a sub-stage of the operation stage, but for ease of analysis and understanding, it is presented as a separate chapter. This chapter examines the measures that were suggested and ultimately adopted to address the perceived threat. This chapter also discusses the counterclaims raised in opposition to the strict measures proposed after this case. Finally, this chapter briefly discusses the “dissipation stage,” focusing on how moral panic eventually subsided and evaluating whether to consider it a success or a failure.

The final chapter, Chapter 6, presents the conclusion of this research. It summarizes and highlights the key findings, reinforcing the central argument - that new law creation to treat youth offenders as adults is a regressive step motivated largely by moral panic rather than evidence-based reasoning. I also highlight some of the limitations of this study and discuss possible future research.

CHAPTER 2: THEORETICAL FRAMEWORK, LITERATURE REVIEW, AND METHODOLOGY

This chapter begins with the discussion of the theory of moral panic and its advancement over time. It then presents a review of key literature on moral panics, with a particular focus on cases involving youth offenders. The literature is organized using Goode and Ben Yehuda's attributional model. Finally, the chapter outlines the research methodology, the source of data, and the methods and analytical approach employed in this study.

The theory of Moral Panic

The theory of "Moral Panic" guides my analysis of newspaper articles. The term moral panic was used for the first time in 1972 by British scholar Stanley Cohen in his dissertation, "Folk Devils and Moral Panics: The Creation of Mods and Rockers." However, prior to Cohen's use of this term in his dissertation, it appeared in a 1971 essay by Jock Young titled "The Role of Police as Amplifiers of Deviance: Negotiations of Drug Control as Seen in Notting Hill" (Burns and Crawford, 1999; Klocke and Muschert, 2010).

We, as a society, observe numerous dramatic incidents that create fear in the minds of the public and generate reactions. Generally, we find comfort in holding a particular group responsible for these perceived threats and desire to do something to resolve the issue. More stringent punishments are commonly accepted as the solution (Goode and Ben-Yehuda, 1994). Explaining the term moral panic in simple terms, Rohloff and Wright (2010, p.404) point out that it is an "overreaction to a perceived social problem." Likewise, Critcher (2008, p.1140) states that moral panics can be defined as "extreme forms of risk discourses integral to the process of moral regulation." However, the most comprehensive and precise definition of the term comes from Cohen. He states that a moral panic occurs when:

A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its (the panic) nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians, and other right-thinking people.... Sometimes the subject of the panic is quite novel and at other times it is something which has been in existence long enough, but suddenly appears in the limelight. Sometimes the panic passes over and is forgotten... at other times it has more serious and long lasting repercussions and might produce such changes as those in legal and society policy or even in the way society conceives itself (Quoted in Goode and Ben-Yehuda, 1994, p.155; Burns and Crawford, 1999, p.148; Critcher, 2008, p.1129).

Cohen's definition gives an account of the key agents, processes, and ultimate results of a moral panic. Critcher (2008, p. 1129) suggests that the most crucial aspect of Cohen's work is the identification of key agents in the development of a moral panic. These include "the mass media, the control agents, the public, and the moral entrepreneurs." Among these agents, Cohen accepts that the media plays the most significant role (Klocke and Muschert, 2010).

Furthermore, Klocke and Muschert (2010, p. 297) identify key stages in a moral panic that are found in the work of Cohen, and which they present as follows:

1. Behaviour by folk devils that threatens societal values and interests
2. Exaggerated representations of the threat by the media
3. Rampant public concern
4. Social agents call for adoption of stringent measures in order to curb the menace
5. The panic diminishes ensuring social and institutional changes

This is the reason that Cohen's work is also commonly referred to as the *processual model* (process-oriented model) of moral panic.

The concept was further advanced in 1994 by Eric Goode and Nachman Ben-Yehuda. In their scholarly work, "Moral Panics: The Social Construction of Deviance," they identify five

defining elements of a moral panic (Goode and Ben-Yehuda, 1994; Klocke & Muschert, 2010; Burns & Crawford, 1999, Critcher, 2008). These are:

1. **Concern:** there is heightened level of concern over the behavior of a certain group and the consequences it has for the rest of society
2. **Consensus:** there is a general consensus that the threat is real, serious and caused by the wrongdoing of group members and their behavior
3. **Hostility:** an increased level of hostility develops toward the deviants whose behavior is seen as threatening to society
4. **Disproportionality:** the public concern is in excess of what is appropriate if concern were directly proportional to objective harm
5. **Volatility:** panics are by their nature fleeting, often subsiding as quickly as they erupt

Critcher (2008, p.1132) points out “that this model can be referred to as the attributional model of moral panic because attributes are the defining characteristics.”

More recently, the concept of moral panic has attracted criticism from scholars. Some believe that the term has been used too loosely to cover diverse forms of fear, anxieties, scandals, and disasters in a risky society, and that it has lost its coherence and the purpose for which it was originally designed. It has become difficult to ascertain its conceptual boundaries (Klocke & Muschert, 2010; Rohloff & Wright, 2010). Rohloff and Wright (2010), quoting Critcher, state that another issue with the theory of moral panic is that it primarily focuses on the incident or episode of moral panic and then tends to study the reaction of the public and the aftermaths of the incident. The problem with this approach is that when the underlying history that feeds the concerns of the public is not considered, it becomes difficult to ascertain whether the reaction of

the people is a mere overreaction or if the fear is justified based upon a broader context of experience.

Despite the criticisms that have emerged with the use of the theory of moral panic, the consensus remains that it cannot be repudiated altogether. It remains useful to understand certain social problems and phenomena (Cricher, 2008; Rohloff & Wright, 2010).

Advancing further and with an aim to address the common criticism generally associated with moral panic, Klocke and Muschert (2010) developed a hybrid model for analysing contemporary moral panics. This model is developed by combining the features of Cohen's processual model and Goode and Ben-Yehuda's attributional model. Additionally, the model aims to focus on not only the incident of moral panic but also the conditions that take place before and after the incident, while also focusing on the role of the media.

The structure of hybrid model given by Klocke and Mushert (2010, p. 302) is:

1. Cultivation: the emergence of conditions, actors, and discourses that make the growth of a moral panic more likely, such as the following:
 - Conflict among competing moral universes and/or rapid social change
 - Economic or political crisis
 - Media attention/ public concern about related social problems
2. Operation: processes that function during a moral panic
 - Episode: coverage of the shocking event or series of events that identify the problem/threat
 - i. Distortion - descriptions of the event and the deviants are exaggerated
 - ii. Prediction - there is a prediction of future deviance

- iii. Symbolization - dramatic images and symbols are attached to the problem behavior
- Magnification: the period of intense attention and prolonged media coverage to the causes and consequences of the threat, represented by a shift from media inventorying the episode to value-laden sense-making activities
 - i. Moralization – identification of the folk devils and why they are a threat to the social order, and a typification of their behavior as representative of the danger they pose/problem they embody
 - ii. Officiation – increasing involvement of police, experts and officials, moral entrepreneurs and community leaders through media interviews, press releases, public statements, etc.
 - iii. Amplification – coverage of the panic becomes themed and re-occurring feature. Media focuses on heightened public concern evidenced by public opinion polls, letters to editor, protests, web pages, blogs etc.
- Regulation: the advocacy of strong measures of social control through the media, to deter, manage, or eradicate the threat often met with varying levels of resistance
 - i. Surveillance – calls for law enforcement, other officials and the public to be vigilant and to report suspicious behavior
 - ii. Mobilization – gathering of personnel and resources for civic, legislative, and law enforcement action to manage the problem, as well as the mobilization of resistance groups countering the action demonization of the folk devils
 - iii. Institutionalization – implementation of new structures of governance or enforcement, creation of social movement organizations and counter-

organizations, passage of new laws or tougher penalties. If resistant groups are successful in critiquing the moral panic, institutionalization will not occur.

3. Dissipation: the receding of a moral panic from the public limelight.

- Normalization – a new hegemony is established (e.g., the new normal – living with the threat)
- Transformation – the panic results in social, ideological, and/or institutional change either in support of moral regulation or in opposition to it
- Dissolution – the moral panic is challenged or debunked, offending behaviour drops off, or another pressing social problems takes its place)
- Re-circulation – aspects of the moral panic are reproduced into the discourse or social dynamics of a new moral panic or become a more permanent feature of prominent discourses of social risks and moral regulation.

For my planned research, this model will serve as the basis for moral panic analysis.

Literature Review

Critcher (2008, p. 1127) points out that the model of moral panic has mainly been applied to seven areas, which include “AIDS, child abuse, drugs, immigration, media violence, street crime, and youth deviance.” For the literature review, I studied the existing research on moral panics concerning youth offenders done in the UK and America. I have organised the reviewed literature using Goode and Ben-Yehuda’s (1994) attributional model.

1. **Concern:** The first and foremost attribute of a moral panic is concern. “Concern” in the words of Goode and Ben-Yehuda (1994, p. 156-157) could be understood as a "heightened level of worriedness over the behavior of a certain group or category and the consequences of such behaviour for the rest of society" (Critcher, 2008; Welch et. al., 2002). Altheide (2009,

p. 86) aptly states about concern that it is so prevalent that even those who are least likely to become victims fear the situation. As well, public opinion polls, media attention, proposed legislation, action groups, and social movements are the indicators of these heightened concerns.

Concern is apparent when we look at the incidents of school shootings in the United States and the media coverage of the events. Burns and Crawford (1999, p. 151) state that the Oregon school shooting, which took place on May 21, 1998, at Thurston High School in Springfield, Oregon, dominated print, television, and radio coverage for days after its occurrence. Later, politicians criticized the entertainment industry for being responsible for the shooting incident in Oregon. The Littleton school shooting, more commonly referred to as the Columbine High School incident, which occurred on April 20, 1999, followed a similar trajectory (Springhall, 1999). Likewise, similar heightened concerns were witnessed in the Central Park trial case when a woman jogger was alleged to be attacked by a group of racialized youngsters in New York. The media introduced the term “wilding” to describe the youth violence in this case. The unfamiliarity with this new term created fear and anxiety among people, and soon it became synonymous with “danger lurking in the dark” (Welch et. al., 2002, p. 8).

Killingbeck (2001) and Davies (2013) assert that it cannot be denied that concern is widely spread through the media. The news is presented in an exaggerated and sensational manner with the aim of increasing sales. These claims are illustrated when we explore the work of Zatz (1987) on moral panic concerning Chicano youth gangs in Phoenix (USA). In this incident, the police provided the raw material to news agencies. The media then

presented news in an exaggerated manner, which created concern among the public.⁷ This supported the motive of the police department, which was to get increased funding by presenting a threat situation that did not exist (Zatz, 1987). According to the director of an agency working with juvenile delinquents referred to it by the justice system, there was not even a single gang operating in Phoenix, which is presented as a threat by the police department. The concern generally results in seeking tougher laws and punishments instead of real, working solutions for the problem backed by research (Altheide, 2009).

2. **Consensus:** In moral panics, concern is pointless if it is only at an individual level.

Therefore, it is essential that this concern be shared by people at large. This implies that there is widespread agreement among a certain segment of society that there exists a real and serious threat that is caused by the wrongdoing of group members who are considered others, and that something needs to be done about it (Goode and Ben-Yehuda, 1994, p. 157; Critcher, 2008, p. 1132). Moreover, it is not necessary that this sentiment be shared universally or even by the absolute majority of people in a society at any given point in time (Welch et. al., 2002). Essential, however, is that this sentiment is shared among social institutions, including “media, social control agencies, moral entrepreneurs, politicians, action groups, and the general public” to a level where their responses are unusual (Klocke & Muschert, 2010, p. 300; Welch et. al., 2002). Critcher (2008, p. 1132) also points out that there can be “counterclaims makers” who challenge this shared opinion.

⁷ Zatz (1987, p. 131) states: “this does not mean that the media collude or conspire with the police, but rather, that police and media interests often operate simultaneously. Since, budgetary constraints limit the media’s abilities to proactively investigate news stories, they rely on the police for news items concerning crime.” For the police, the media becomes a powerful medium through which they can spread concern- and ultimately secure resources- in efforts of eradicate that threat.

As discussed in the preceding paragraph, the media sets a narrative that the perceived threat is real and serious, and it is then believed by the public unquestionably as they depend upon the media for information. Glassman (cited in Burns and Crawford, 1999) states that the media presents facts in an exaggerated way so they can benefit from the fears of people. This whole situation benefits not just the media but also the politicians. Instead of providing the public with factually correct information, they prey on the widespread fears of people. The anxious public looks for easy solutions and seeks harsher punishments that legislators and politicians promise to deliver to gain votes. Moreover, this helps them to shift the concerns of the public from the real issues underlying society (Welch et. al., 2002). This can be seen when we observe the American school shooting cases. In the Oregon shooting, poll results demonstrated that a majority of Americans (63%) opined that there should be stringent gun control laws (Springhall, 1999). Similarly, another public poll depicted that 85% of Oklahomans reported that they were really worried about school violence incidents (Killingbeck, 2001, p. 6). All these shared public fears ultimately became the reason for the implementation of harsher punishments.

3. **Hostility:** Another essential element of any moral panic is increased hostility. This hostility is towards the people who are seen engaged in activities and behaviours that are seen as threatening to the order and moral boundaries of society. Hall and colleagues (cited in Hay 1995, p. 198) state that “societal reaction to the incidence of crime is not about the crime per se but instead perception of the disintegration of the social order itself.” Thus, people who consider themselves law-abiding citizens make it a debate of “them” versus “us.” Moreover, they believe that these “others” can be corrected only through hostility.

Therefore, this fight for morality between good and evil ultimately leads to the establishment of stereotypes and the recognition of folk devils and folk heroes (Goode and Ben-Yehuda, p. 157; Critcher, 2008; Nijjar, 2015). Welch and colleagues (2002, p. 11) claim that in most cases of moral panic, this hostility is targeted at groups that are already seen as social outcasts, are disliked, and mistrusted. Likewise, Zatz (1987, p. 147) points out that it is these stereotypes and deep-rooted structural factors that give power to agents to control the less powerful in ways that would otherwise be seen as illegitimate.

These assertions become clearer when we see the example of the use of hostility by police against Spanish-origin youth in Phoenix. They were considered “others” in comparison to their white middle-class peers. While these white youngsters may be considered deviant, they were not considered to be “different” as Zatz (1987, p. 153) points out. It was portrayed that the violence by these dark-skinned Spanish young men was posing worrisome threats, but factually, it was not true. Zatz (1987) concludes that this whole scenario resulted in increased police funding, demand for the establishment of law and order, and increased harassment of the Chicano community.

Likewise, the school shootings in America were met with increased hostility towards youth. The surveillance was increased, more police officials were deployed, stringent laws regarding gun and ammunition possession were passed, and the death penalty for young offenders was proposed (Killingbeck, 2001; Burns & Crawford, 1999; Springhall, 1999). Schissel (1997) states that a similar approach was followed by Canada when its fight against crime became synonymous with harsher punishments for youth offenders.

Another prominent point is raised by Dagistani and Milivojevic (2013) in their work. They establish that in cases of moral panic involving sexual offenses, the stringent laws do

not actually benefit or establish the rights of the victims. Rather, they reinforce stereotypes already existing in society. For instance, certain agents get the right to interfere with the rights of women in the name of their security and safety. Furthermore, it establishes the notions of “ideal victim” and “others.” In their same research, Dagistani and Milivojevic (2013) point out how, despite initial findings pointing out no racial elements in sexual offense cases in Australia, the moral panic still resulted in increased fears of the entire Muslim and Lebanese population. This magnified stereotype resulted in the imposition of harsher punishments and marginalization of the community.

4. **Disproportionality:** Goode and Ben-Yehuda (1994, p. 158) explain that disproportionality can be understood when “the concern is out of proportion to the nature of the threat, that it is in fact considerably greater than that which a sober empirical evaluation could support.” Likewise, Welch and colleagues (2002, p. 16) make the assertion that “the claim-makers create public fear by presenting misleading and exaggerated facts and figures that, upon careful examination, make them susceptible.” Disproportionality could also be commonly referred to as exaggeration, sensationalization, and dramatization.

Furthermore, in order to answer the common criticism as to how one ascertains whether the concern is disproportional or not, Goode and Ben-Yehuda (1994, p. 158) further give criteria to determine this. They state that disproportionality occurs firstly when the presented figures are exaggerated, secondly if the fear itself is non-existent, and lastly if similar conditions have happened in the past but have not produced the same kind of reaction.

When we scrutinize the existing literature on moral panic, it would not be wrong to suggest that disproportionality is the most essential element. Take the example of the 2011

English riots that took place in Tottenham, North London. Nijjar (2015, p. 6) states that there is no doubt there were acts of crime and people were affected, but the media presented the situation as a war zone. However, factually, the rate of deaths was not so high that it could be referred to as “mass slaughter.”

Similarly, in America, the school shootings were presented on a magnified scale,⁸ which suggested they posed a great threat and created fear and anxiety among the public. While, factually, the number of crimes being committed by youth were decreasing. Thus, researchers asserted that it was not actually the frequency of school shootings but rather the uncommon and new nature of crime that garnered it unwarranted attention (Killingbeck, 2001; Springhall, 1999; Burns & Crawford, 1999). In like manner, Zatz (1987, p. 130) also points out that the police claims about “the increase in the number of gangs of Spanish-origin male gang members in the years 1997 and 1983” in Phoenix were highly distorted from reality and made the claims susceptible.

5. **Volatility:** Goode and Ben-Yehuda (1994, p. 158) mention that moral panics are by nature volatile. Generally, moral panics erupt suddenly and disappear shortly without bringing any meaningful changes to the “cultural, moral, and social fabric of society.” However, exceptionally, they can bring about cultural and institutional changes. Thus, it implies that a moral panic cannot last for long, but it can recur (Cricher, 2008; Davies, 2013). Furthermore, Cohen (cited in Nijjar, 2015, p. 2) notes that “the subject or object of the panic can be new and unexpected or old and pre-existing on the periphery of social relations.”

⁸ According to Killingbeck (2001, p. 6), there were a total of 6146 deaths by firearms for the age group 15-24. Out of these deaths, school shootings account for only 0.5 percent of the total deaths.

Welch and colleagues (2002, p. 18) recognize that the moral panic concerning “wilding”—a term that was for the first time introduced by the news media in the rape case of a jogger in New York Central Park—was volatile in nature. It came into the limelight suddenly, became media and political hyperbole, and its usage diminished as years passed. However, references to the word were still made later, but as Cohen suggests, these were nostalgic references.

Likewise, when we look at the school shooting cases in the United States, they generated public anxiety, resulted in the adoption of some strict measures, proposed new laws, and then vanished (Springhall, 1999; Burns & Crawford, 1999). Similarly, Dagistanli and Milvojevic (2013) provide that accelerated sex trafficking emerged as a threat before the 2006 World Cup in Germany and the 2012 London Olympics. While none of the organizations that made such claims could validate the exaggerated numbers, the claims resulted in the adoption of strict measures.

Research Methodology

For my current research, I have used qualitative research methodologies because qualitative methods are more flexible when compared to quantitative methods. Moreover, qualitative methods do not require the researcher to maintain distance from the research and research data. The subjective element of the qualitative methods gave me a chance to interpret and describe my data rather than seeking an objective description and explanation by way of figures and numbers, as is often the case for quantitative methodologies. The exploratory properties of the qualitative research allowed me to engage in an in-depth investigation and obtain richer knowledge about the research topic.

Furthermore, the topic of my research, which is essentially the examination of modifications to juvenile justice law via the lens of moral panic sparked by the media, requires more exploration than just an explanation. Even though the body of research already indicates (Pillai & Upadhyay, 2017; Kumar, 2019; Kabra and Panigrahi, 2020; Pande, 2014) that changes in juvenile law came in the aftermath of the Nirbhaya case, there is still a literature gap that needs to be filled. Namely, it should be asked: were there pressing reasons to pass the new juvenile law? Or was it just the product of a furious public outcry?

Data Collection

As my research is based on newspaper articles, it was difficult to retrieve all the articles regarding the incident, as the incident happened more than a decade ago. Thus, for my research, I rely upon a database of newspaper articles titled ‘*Nirbhaya*’ that has been compiled by the Centre for Women’s Development Studies, New Delhi. As the bio reads on the official site of the organisation, it is “a research and advocacy institution engaged with and committed to women’s rights and to the discipline of women’s and gender studies.” The institute is supported by the Indian Council of Social Science Research.

The database for the *Nirbhaya* case consists of an index of newspaper articles that were published in the prominent English newspapers circulated daily. The database consists of a total of 1700 articles that were published in seven newspapers: *The Times of India*, *The Hindustan Times*, *The Hindu*, *The Asian Age*, *The Indian Express*, *The Telegraph*, and *The Deccan Herald*. These articles were published from the date the incident happened (December 16, 2012) until September 14, 2013, the day on which the judgement of the District Court came. For convenience, the 1700 entries are further organised into five sections:

1. The Incident

2. Protests
3. Recommendations/Suggestions
4. The Criminal Law (Amendment) Act, 2013
5. Court Proceedings

For my present research, I am focusing on the articles published in “*The Hindu*” and “*The Times of India*” newspapers. My selection of these newspapers for my research work is for several reasons. First, these two newspapers are the most widely circulated English newspapers in the whole country. Second, both are the oldest English newspapers being published in the country, dating back to the 19th century. Lastly, with their reader base in millions it can be concluded that both these newspapers play a significant role in India’s media landscape.

Thus, when I focused on the entries related to both the newspapers in the Nirbhaya Index, there were a total of 572 entries in the record. Out of these, 233 were related to *The Hindu* and 339 were related to *The Times of India*. Out of these 233 entries, I was able to access 138 entries with an online link, and from 339 total entries, I was able to retrieve 192 entries with an online link. These are the articles that I used in my study. The organization of these links, as per the five categories, is as follows:

Table 1 Active and Inactive links from selected newspapers across five categories

| Sr.no. | Particulars | <i>The Hindu</i> | | <i>The Times of India</i> | |
|--------|--------------|------------------|------------------|---------------------------|-----------------|
| | | Active Links | In- active Links | Active Links | In-active Links |
| 1. | The Incident | 44 | 21 | 56 | 52 |
| 2. | Protests | 32 | 23 | 27 | 33 |

| | | | | | |
|----|--|----|----|----|----|
| 3. | Recommendations/Suggestions | 15 | 14 | 18 | 18 |
| 4. | The Criminal Law (Amendment) Act, 2013 | 19 | 9 | 17 | 9 |
| 5. | Court Proceedings | 28 | 28 | 74 | 35 |

Alongside these articles, I have used other secondary sources as well. These include the already existing literature in the field, the legal statutes, and the speeches given in Parliament when the new juvenile law was introduced in the house.

Research Methods

For my current research, I have used discourse analysis to interpret the data and thematic analysis to organise it. I began with downloading all the news items which I was able to retrieve using the active links. Then I read all these news articles to get familiar with and form a general understanding of the text. In my next reading, I extracted the important information and organised it in table format. The tables were prepared for each section viz The Incident, The Protests, The Court Proceedings, The Criminal Law (Amendment) Act, 2013, and Recommendations and Suggestions, and for both the newspapers separately. The extracted information was organised corresponding to the date and title of the news article from which it was extracted. This was done to keep track of what information was extracted from which article.

For my next step, I read the extracted information again to look for the emerging themes. Upon reading, it became clear that the information could be meaningfully categorised according to the themes and sub-themes of the hybrid model. I decided to use the following codes to organise the information:

1. Cultivation stage: Culti 1, Culti 2, Culti 3

2. Operation stage: Opera A1, Opera A2, Opera A3, Opera B1, Opera B2, Opera B3, Opera C1, Opera C2 and Opera C3.

In these codes, Opera denotes the Operation Stage, A, B, and C stand for three sub-stages: episode, magnification, and regulation. While the numbers 1, 2, and 3 denotes the sub-themes in the sub-stages in the hybrid model.

Moving forward, these codes were assigned to the extracted news excerpts. For this exercise, the excerpts that clearly fit within a specific theme or sub-theme of the hybrid model were assigned the corresponding code. The excerpts which were relevant to multiple codes were assigned all applicable codes. At this point there was some information which did not fit neatly into any specific code. That information was not discarded but instead a theme was assigned to it based on the information that it provided.

In the following step, I organised all the news excerpts from both the newspapers related to a particular stage in a single table. Each excerpt was still organised by date and news title ensuring that the original source could still be traced. The news excerpts with multiple codes were included in every relevant stage. The news abstracts without codes were separated and organised in a separate table.

Lastly, I reread the organized information applying the theoretical lens of moral panic to analyse the discourse it conveyed. Excerpts with multiple codes were included in the stage where they contributed most meaningfully to the analysis. Furthermore, the emerging theme of “folk hero” was drawn from the news excerpts without codes and is discussed as a subsection within the operation stage, contributing to the enhanced conceptualization of moral panics.

Discussion

In sum, the foundational work on the development of moral panic theory was initiated by British scholar Stanley Cohen (1972); his work identifies the key agents and provides the key stages of a moral panic. Next, important work on the advancement of theory was done by Eric Goode and Nahman Ben-Yehuda (1994). Their work identified five defining elements of moral panic, which are briefly discussed in this chapter. Both the processual model and the attributional model have common features.

The latest advancements in the theory have been made by Klocke and Muschert (2010), who developed a hybrid model integrating the features of both previous models. Their work tries to address the criticism that the theory of moral panic only focuses on the incident and studies the reaction of the society to it without understanding the history that feeds the concerns of the public. The hybrid model provides a more holistic framework that not only studies the incident and the public reaction to it but also focuses on the conditions and actors that contributed to the development of a moral crusade, as well as to the demise of a moral panic.

In the chapters that follow, I apply this hybrid model to my collected data to conduct a comprehensive analysis and answer my research question.

CHAPTER 3: DATA ANALYSIS – THE CULTIVATION STAGE

According to the structure of the hybrid model given by Klocke and Muschert (2010 & 2013), the cultivation stage is the first stage that marks the beginning of the study of any moral panic. It is at this stage the researcher tries to investigate “the conditions, actors and discourses that make the growth of a MP more likely” (p. 302). As Klocke and Muschert (2010) suggest, factors like conflicts between two or more competing moral universes or any time of rapid social change that challenges the existing social hegemonies and any time of economic and political crisis can provide suitable conditions for “moral crusades” to develop.

They add that “moral entrepreneurs” creates “public perception about the social problem and sets the stage for development of a MP.” These moral entrepreneurs can come from “elite segments of society, the media, interest groups, or grassroots organizations.” However, they are “more likely to attract media coverage and garner institutional support when they have relative social privilege, status, and capital” (Klocke and Muschert, 2013, p. 420). Additionally, another essential element recognized for a MP to emerge is that the folk-devils are from a marginalized social status in terms of race, class, or gender.

Lastly, Klocke and Muschert (2013, p. 421) recognize that the media plays a vital role in “alerting the public to risks and dangers arising from social problems.”

Jyoti’s case and the cultivation stage

Roy and Dastidar (2018, p. 1438 - 1439) write “there is a consensus in the literature that the root of the problem of sexual crime against women in India lies in the country’s long history of patriarchal hierarchy.” For centuries, women have on one hand been treated as goddesses and worshipped and, on the other, treated as an inferior and submissive. During the period of India’s independence, the people of the country “separated the cultural domain into two spheres – the

material and the spiritual. This implies that while people accepted western science, technology, and modern methods of statecraft, they decided to retain spiritual distinctiveness of its culture to maintain their identity” (Roy and Dastidar, 2018, p. 1439). They claim that this resulted in “emergence of a new form of patriarchy.” Now, women could get education, but they remained true representatives of the “Indian culture” – a culture that still required women to demonstrate “virtues of self-sacrifice, chastity, submission and devotion” (p. 1439).

Quoting Livne, the authors claim, “this new patriarchy is still present in India, which is the underlying reason for the tension between those trying to change the status quo and those who resist any change by invoking cultural and historical tradition” (Roy & Dastidar, 2018, p. 1439). This discord aligns with Klocke and Muschert’s (2010) assertion that competition between two or more competing moral universes provide suitable grounds for moral crusades to develop.

Allan Johnson, a renowned American sociologist, as reported by *CNN* (Anyangwe & Mahtani, August 3, 2023) in a news article, defines “patriarchy not as a reference to any man or collection of men, but a kind of society in which men and women participate... A society is patriarchal to the degree that it promotes male privilege by being male-dominated, male-identified, and male centered. It is also organized around an obsession with control and involves one of its key aspects the oppression of women.”

Thus, how India remains a patriarchal society promoting male privileges can be understood from this news excerpt published in *The Times of India* (December 30, 2012) after the Delhi gang rape case:

Of all the promises made in the Constitution, the most important are the promises of the ‘right to life’, the ‘right to dignity’, the ‘right to personal liberty’, and the ‘right to bodily integrity and health’. However, these promises are yet to be redeemed for women. Rape and other forms of sexual assault, domestic violence,

dowry death, and honor killings—the most brazen violation of these rights—are a real and daily danger for most women.

The Constitution of India, the supreme law of the country, provides that everyone is born equal and shall be subject to equal rights. However, this is not true for women even post-independence, as society has been treating them unfairly. Women and girls are undervalued and are subjected to discrimination and violence daily. Right from birth, in fact even before they are born, women face discrimination based on their assigned sex and gender. They are killed in the womb, and those who survive are often denied equal opportunities to go to school, to work, or to marry willingly as they grow. Some are even killed for not bringing enough dowry or failing to give birth to a baby boy (*ToI*, December 20, 2012; March 8, 2013; Sharma et al., 2014). The prime reason recognized for all this violence and discrimination is the Indian culture of patriarchy that legitimizes the beliefs, behaviours, and practices that perpetuate violence against women (*The Hindu*, December 30, 2012). This culture has resulted in deeply unequal relationships between the two sexes in the private and public spheres (*ToI*, December 30, 2012).

While one hopes that the public system will help women to realize and protect their rights ensured in the legal statutes, the state institutions fail to do so and rather work to cement biases, prejudices, and stereotypes against women. The criminal justice system, which too is built along class and gender lines, subjects women to the worst form of revictimization, making it a constant struggle for women to seek justice (*ToI*, December 23, 2012; December 30, 2012; March 8, 2013). The situation can be summarized from the following lines published in *The Times of India*:

It is so much in front of our noses that we, women and men included, legitimize the presence of sexism in our lives and carry it to the corridors of the court and into the courtrooms and into judgments (*ToI*, December 30, 2012).

This observation was corroborated when *The Times of India* (December 23, 2012) published a series of interviews by *Tehelka*, a magazine, conducted in parts of Delhi with police officials. Their findings show that, except for two exceptions, most police officials blamed victims for the offense. They stated that “women and girls who lodged complaints of rape were either immoral, guilty of loose behavior, or were either blackmailers or prostitutes.” Even in Jyoti’s case, *ToI* published that a policeman doing duty near protesting people was heard saying, “She must have been doing something with her boyfriend that got those young men excited” (*ToI*, December 23, 2012). This establishes that police officials are not free from prejudices. Research shows that police officials have predispositions as to what a “real rape” is, and if a victim fails to meet up any of the features of it her reporting about the offence is not considered genuine (Krahe, 2016; Roy & Dastidar, 2018).

Next, when rape victims encounter the judicial system, “the trials of rape cases in our country have, as a process, subjected rape victims to the worst kind of punishment imaginable” (*ToI*, December 23, 2012). Judges too have been insensitive about women's issues, and some have even blatantly made statements like “women are misusing the law” and that “it is not possible for a man, acting alone, to rape a woman in good health,” thus perpetuating common “rape myths” (*ToI*, December 30, 2012, Roy & Dastidar, 2018). In fact, a “cruel and bizarre idea surfaced after the rape case of Jyoti that prostitution should be legalized because ‘men will be men’ and, if prostitutes exist, girls from ‘good’ families will not be raped,” thus conforming to the ideas of “ideal victim” and “non-ideal victim” (*ToI*, December 30, 2012; Christie, 1986).

These distinctions between victim types contribute to stereotypes about women such as how they should behave, what amounts to appropriate clothes, what is the appropriate time of day for women to be out, the amount of violence that is acceptable, and what they can tolerate

(*ToI*, December 30, 2012). The following excerpts published in *The Hindu* and *The Times of India* bring these stereotypes to the forefront, which put the onus of responsibility for safety on women.

For most of the female residents of the city, the dying glow in the sky marked the temporal limits before which to conclude their share of public activities. An elderly neighbor used to call it ‘*Lakshman Rekha*’—the invisible boundary drawn by Rama’s brother Lakshman to protect Sita—which women must obey for their own safety. It was, as if, an informal state of curfew was imposed daily after sunset on one half of the population.

Thus, far from being an elite preoccupation, the struggle for something as basic as having equal access to public spaces as men at all hours is an everyday struggle that women without resources feel more acutely than their privileged counterparts (*The Hindu*, January 4, 2013).

In similar manner, *The Times of India* (December 23, 2012) published a statement said by a protesting engineering student as follows:

Asking women to wear less provocatively is like presuming a man's natural instinct is to be a rapist. We are fighting the character of this city which stinks of feudalism. Of course we demand justice for the girl, but it's also time the police and government change their ways. Girls will go out whenever they like.

These snippets reinforce male superiority over women and points out that if women transgress their limits, they are responsible for their fate. If women dress provocatively and are out late at night, then they invite trouble and fall short of the “ideal victim” (Christie, 1986). Even in the current case, one of the accused asked the victim, “What are you doing out at night?” (*ToI*, December 30, 2012). In fact, in the documentary movie made on this rape, “India’s Daughter,” also has a perpetrator say, “A decent girl does not roam around at night with boys. A girl is more responsible for rape than a boy” (Roberts, 2015 as cited in Dutt, 2018). This illustrates how men take it on them to correct the behavior of women who transgress expected roles and values.

Moreover, as Dagistani and Milivojevic (2013) point out, cases like this legitimize increased control over women under the guise of protecting them. After Jyoti's case also, knowledge process outsourcing (KPO) and business process outsourcing (BPO) companies across Chennai exempted women from night shifts and implemented other safety measures, even though not all female staff were happy with this move (*The Hindu*, December 21, 2012). A 23-year-old woman, N. Rajathi, reported to *The Hindu* (December 21, 2012) that "While I realize this is being done for our safety, I am not sure I want to shift. I am comfortable in my current role and I want to be promoted soon, which might not be possible now."

On the flip side of this moral universe dominated by patriarchal values, however, a competing moral universe was emerging and challenging masculine hegemony. This is notable in the following lines printed in a news report by *The Hindu* (January 1, 2013):

For a young woman of every class, marriage, children, and the kitchen are no longer her only aspirations, but many dream of a job, a career, and a place in society outside the home. Unlike earlier generations, young women today are no longer cowed down by society and are not afraid to speak their minds. Nor do they meekly accept that they are inferior to men and must bear whatever punishment is imposed on them in public or at home.

This points to a degree of social change, as Klocke and Muschert (2010) suggest. In their research, Nayak and Mahanta (2012) mention that the "principle of gender equality is enshrined in the Constitution of India, but the same Constitution also gives power to the State to adopt measures of positive discrimination in favour of women." Realizing their responsibility and exercising the power given by the Constitution of India, the Indian government made "gender their focus and part of public policies" and took some notable steps to uplift the status of women (Goel & Ravishankar, 2022). The government of India "introduced different programmes, identified strategies, established different institutions and made various legal provisions" to achieve this goal (Nayak & Mahanta, 2012, p.11). Some of these notable efforts include: passage

of the statutes like of the 73rd and 74th Amendments to the Constitution, which reserved one-third of the seats for women in Panchayati Raj Institutions and urban local bodies (local self-government); provision of property rights to women by a 2005 amendment to the Hindu Succession Act of 1956; passage of The Protection of Women from Domestic Violence Act (2005); and passage of the Right to Education Act (2009). In addition, the National Commission for Women was established by the government in 1990 to safeguard the rights of women.

But as women challenge their traditional roles, enter the public arena, and as society goes through change, it has seemed to trigger a sense of insecurity among men. Men are often stuck, unable to embrace this change. Seeing women getting better jobs and sharing the limited economic pie is in contradiction to what patriarchy has taught men until now—that the world belongs to them (*The Hindu*, December 19, 2012 & December 23, 2012). Their entitlement to be superior and to hold power in society is threatened. Men feel a “sense of emasculation and aggrievement” when women do not show them their vulnerability (*The Hindu*, December 19, 2012 & December 25, 2012). Hence, “the emergence of women in public spaces, an essential part of social emancipation, was accompanied by growing threats to their safety” (*The Hindu*, December 27, 2012).

The Times of India (August 25, 2013) explains this ordeal through the words of Nirbhaya’s mother:

She tried to give her daughter the best education and the freedom to pursue her dreams but says to always get a raw deal. “If families don’t educate their daughters and marry them off when they are underage, they become victims of domestic violence. When people like us try and break the barriers and educate our daughters to stand up for themselves so that they can live on their own terms, a brutal society does not spare them. Where do we go?”

The Hindu (December 30, 2012 & January 11, 2013) writes in the current case, “Damini⁹ (name changed) was not just raped but monstrously violated with several objects ultimately leading to her death, showing that the rapists’ actions were based on a desire to dominate and violate” because “for men, rape works as drugs do for addicts: it offers at least the illusion of empowerment where none exists, fixing feelings of rage and impotence.” Addressing the protestors after this rape incident, activist Kavita Krishnan said the widespread and growing incidents of rape in Delhi were motivated by the patriarchal urge to “teach women a lesson” for seeking equality and dignity and for asserting their freedom (*The Hindu*, December 20, 2012).

Furthermore, rape culture, “a culture nourished by attitudes and practices that trivialize, tolerate, or even condone violence against women,” has long prevented women from reporting cases of sexual violence. This silence maintained by the victims due to the stigma attached with the rape cases has also encouraged the offenders to commit crime. The impunity for preparators either due to a lack of effective legal mechanisms or apathy to prosecuting crimes against women has also been a contributing factor (*The Hindu*, December 30, 2012; Roy & Dastidar, 2018).

Yet, another harrowing reality about the “status of victimhood” is that it is not for everyone, as victim status is affected by “class bias.” People “turn deaf to so many rapes in remote, overlooked corners of our country” (*The Hindu*, January 5, 2012). Pareena Sawrup, Secretary, Supreme Court Bar Association, writing to the Chief Justice of India (CJI) after this case states that the “ghastly rape incident was not an isolated incident when one takes the crime statistics of the country as a whole. Thousands of tribal girls fall victim to human trafficking in Jharkhand, Assam, and other north-eastern states as well as other parts of the country, which has not attracted the attention of the law makers” (*ToI*, January 1, 2013). Similarly, *The Hindu* reports

⁹ Another name given to the victim by media which means ‘flash of lightning.’

that “most of the rapes that occur in this area are of minors, of poor women daily wage earners, and of women working as domestic help,” though this has failed to have an impact on the lawmakers (*The Hindu*, December 23, 2012). A similar observation is made by Dutt (2018, p. 221) in her article, “legal reform overlooks how caste intersects with violence against women.” She also points out that “violence against women from a privileged background is deemed worthy of action, while violence against lower caste women does not deserve consideration.”

Dutta and Sircar (2013, p. 299) also write that there have been numerous gruesome rape incidents like Jyoti’s case “but were not considered worthy of national outrage and sustained coverage in the media.” In a similar tone, *The Times of India* (December 23, 2012) writes

It takes one incident to galvanize people. Nobody can predict which that (sic) incident could be. Why this particular rape? Newspapers carry worse reports involving equally brutal acts of violence against women on a daily basis. Often, there are as many as six blood-curdling stories on the same day, each one as grisly as what happened to the brave 23-year-old girl in Delhi earlier this week. Yet, it was this gruesome rape that has outraged and shaken up India.

The Hindu (December 30, 2012 & January 4, 2013) reports, “Nirbhaya hailed from a Kurmi backward-class community; however, it was the class confusion that did help turn personal empathy into public protests—the kind of public outpouring that remains missing in the rapes of tribals, *dalits*, and poor women.” This explicitly refers to what Klocke and Muschert (2010) point to, arguing “that relative social privilege and status garner media coverage and institutional support and sets the stage for development of a moral panic.”

Kaur (2017, p. 7) recognises three main factors that, according to her, contributed to the Nirbhaya effect. These were: the brutal nature of the case; the rape committed by men from a lower socio-economic position sparking wide-spread concern among the aspirational middle class; and the role played by market-driven media. My analysis of the data also reveals similar as

well as other contentions explaining why Jyoti's case became a "tipping point India has been waiting for" (*ToI*, January 6, 2013). These points are as follows:

1. **Jyoti was an "ideal victim"**: According to Christie (1986, p. 12), "an ideal victim refers to a person or a category of individual who – when hit by crime – most readily are given the complete and legitimate status of being a victim." Christie (1986, p. 12) elaborates that there are five characteristics that identify ideal victims: a weak victim; a victim doing a respectable job; the victim was at a place where she could not be blamed for being; the offender is big and perceived as bad; and the offender is unknown to victim.

The following statement by a 26-year-old fashion stylist from Delhi printed by *The Times of India* (December 23, 2012) after Nirbhaya's rape reflects how Nirbhaya matched the characteristics of an ideal victim:

When the Dhaula Kuan rape happened, I told myself she was out on the road at two in the morning. So I won't ever do that and I'll be safe. When a girl was recently gang-raped in Gurgaon, I told myself that I would just never go to Gurgaon. But this time, the girl got into a bus at 9.30 in the evening. She had a male friend with her. She had broken no rules, but she was still raped. Now there's nothing left to tell myself... apart from maybe I should stop living in Delhi.

Sharma and colleagues (2014, p. 371) write that Jyoti was an educated, hard-working 23-year-old victim who personified India's respected woman. She made sure she followed safety guidelines by being accompanied by a male friend during the night-time. Authors also write that there were no reports claiming that Jyoti was dressed inappropriately to draw any attention to herself. Moreover, the cinema complex they went to is in South Delhi, which is considered to be an affluent area compared to the rest of Delhi. Jyoti and her male friend boarded the bus that day because they were deceived by the accused to think that it is a passenger bus that would take them home after they were refused services by several auto

rickshaw drivers. Hence, they were considered not at fault for being in this location, nor was this seen as an event that they could have avoided. Upon boarding, Jyoti and her friend were attacked by the men on the bus who were complete strangers to them. Both victims tried to fight the men off, but they were overpowered. For the next twelve days Jyoti struggled and put up a strong fight before she finally succumbed to her brutal injuries in the Singapore hospital on December 29 (*ToI*, December 31, 2012). People were moved by her brave fight and considered her a “true hero” and therefore an “ideal victim” (*The Hindu*, December 30, 2012).

2. **People (especially youth) could relate to the victim:** *The Hindu* writes (December 25, 2012) that “not since the Mathura rape case have there been such widespread protests. The protests in Nirbhaya’s gang rape case have been diverse.” As soon as this case was reported in print and social media people could relate to the pain felt by the victim. They empathized with the victim and were angry and frustrated over the failure of the system (Sharma et al., 2014). This case “touched countless hearts and awakened public consciousness to an important concern that rape and sexual assault are not merely women’s issues; rather, they’re a symbol of the deep-seated violence that women and other marginalized people experience every day in our society” (*The Hindu*, December 25, 2012 & *ToI*, January 6, 2013). *The Hindu* (January 7, 2013) publishes the blog post of Nivedita Menon, a politics professor at Jawaharlal Nehru University that “Nirbhaya was able to galvanize by her courage. She was everywoman.” Sharma and colleagues (2014, p. 371) also state, “Jyoti was a personification of an average Indian woman who is educated, ambitious, professional and brave and does not cower (sic) to crime against her and fights for her life.”

People protested, and there was “uncontrollable outrage among the youth” as they considered the girl to be one of them. This was largely because the bus stop from which the victim boarded the bus is in the heart of South Delhi, and “the stretch of road where the incident took place is near the university, and many students recalled that they had to use the same route in their daily commute. Students were jolted by the fact that something similar may have happened to them” (*The Hindu*, December 19, 2012 & *ToI*, December 23, 2012). Dutta and Sircar (2013, p. 297) suggest it was these “everyday experiences with which middle-class youth in Delhi identified which served as affective impulse, and the brutality of the offence that added to the outrage.”

Similar factors were identified by Ravinder Kaur, Director, Centre of Global South Asian Studies, University of Copenhagen in an opinion piece published in *The Hindu* (January 04, 2013). She states:

the markers that helped associate the couple with ‘us’ or the privileged sections of the middle class were: the upscale cinema complex they had visited; the location of the bus stop in an elite area of Delhi from where they boarded the bus; the very fact that the young couple had been on an ‘evening out’ seeking entertainment and pleasure. The everyday acts of consumption and pleasure-seeking in the city are what define this actual and aspirational class identity to some extent.

Furthermore, the fact that the incident took place in a bus was a deterrent for aspiring sections of society, especially women, and their empowerment, as they depend upon the “use of safe public transportation for daily commuting for various reasons” (*The Hindu*, December 18, 2012). Thus, the protestors furiously demanded justice for victims, equal rights for women, and abolition of morality policing and patriarchy (*ToI*, December 23, 2012).

3. **The public attitude toward gang rapes is different:** According to the National Crime Record Bureau data for 2011, most rapes are not committed by strangers but rather by

offenders known to the victims (*The Hindu*, December 20, 2012).¹⁰ In fact, “in the two-week period before this brutal gang-rape, a number of rapes were reported from Delhi and the neighboring State of Haryana. They included the rape of a five-year-old girl by a local temple priest, the rape of a nine-year-old by a neighbor, the rape of a 20-year-old by her neighbor, and the rape of a 70-year-old woman in Haryana by a young relative. These incidents—women raped by neighbors, relatives, or people who know them—are far more common than the gang rapes, horrifying as those are, that draw intense media scrutiny” (*The Hindu*, December 20, 2012). Krahe (2016, p. 686) also states that “real rape stereotype posits that ‘genuine’ rapes happen between strangers.”

According to Dinkar Gupta, a sociologist, “A gang act is looked at differently from any other rape case. To some extent, such acts are seen separately from women’s issues in general” (*The Hindu*, December 23, 2012). He suggests that the nature of the act in Nirbhaya’s case was so brutal that it moved people deeply, including the urban underclass. This is the reason that the act generated a huge public reaction where even men were seen protesting in large numbers alongside women (*The Hindu*, December 23, 2012). *The Hindu* correspondent Sangeeta Barooah Pisharoty writes, “Sincerely, ask yourself, is it not for the first time in Delhi’s recent history you have seen men in newspaper photographs protesting against rape?” (December 23, 2012). In fact, young male students from universities like Jawarlal Nehru University and Delhi University were even motivating others to join them in protests.

¹⁰ “Offenders were known to the victims in as many as 22,549 (94.2%) [of all cases reported in India in 2011],” says the NCRB report. “Parents/close family members were involved in 1.2% (267 out of 22,549 cases) of these cases, neighbors were involved in 34.7% cases (7,835 out of 22,549 cases), and relatives were involved in 6.9% (1,560 out of 22,549 cases) cases.”

Similarly, Dutta and Sircar (2013, p. 300) make the argument that “the outrage in Nirbhaya’s case suggests the continuing primacy that is placed on sexual violence generally, and on penile-vaginal penetration in particular, as the ultimate form of violation.” They also ask “whether there would have been similar outrage and collective mourning if Nirbhaya was tortured and killed by other means and not penetrated by the penis.”

4. **The power of social media:** Over time, social media has emerged as an effective way for the current generation to communicate their views. *The Times of India* (December 31, 2012) writes that “the unbridling of the power of the social media was undoubtedly at a top, if not no.1, trend of 2012 in India.” Sunil Abraham, executive director of the Bangalore-based Centre for Internet and Society, states:

There are close linkages between the internet, text messages, social media, and mainstream media. “These channels leak into each other, and the causal connection becomes unclear.” Madhuresh Kumar, coordinator of the National Alliance of People’s Movements (NAPM), an umbrella organization of grassroots movements of the marginalized, agrees and states, “We use social media, not so much to mobilize people, but to mobilize the mainstream media” (*ToI*, December 31, 2012).

In many cases, social media is used to “set the agenda of public discourses” and as a means of “social mobilization” (*ToI*, December 31, 2012). In the current case also, “there was surfeit of writing on the incident and the protests on blogs and social media” (Dutta & Sircar, 2013, p. 295). Youth depended on “social media and SMS communication” to express anger, grief, and garner support for protests against the government and police (*The Hindu*, December 22, 2012; *ToI*, December 31, 2012). *The Times of India* (December 30, 2012) reports:

There were outpourings of grief in cyberspace on Saturday. Once Nirbhaya’s death was announced, Facebook and Twitter profiles turned black as a mark of protests against the ‘system’. ‘RIP Nirbhaya’ was the top trending topic on Twitter. “I can’t stop crying after hearing this news... If the government has a little bit of

shame and responsibility, then these criminals should be hanged within a month,” wrote Arizshad from Dubai.

However, Sunil Abraham cautions against being overly technologically deterministic. He states that "technology doesn't have agency; human beings do. Transferring energy from social media onto the streets isn't something that'll happen every time. It depends on whether the message resonates." In Jyoti's case, the message resonated and connected people (*ToI*, December 31, 2012).

Commenting on the power of social media, the then Finance Minister P. Chidambaram said that “social media-driven protests are similar to the flash mob phenomenon... Sometimes they gather to dance and sing. But sometimes they gather to protest... I don't think we are fully prepared to deal with it” (*ToI*, December 31, 2012). However, *ToI* correspondent Javed Anwer writes that the last two weeks bear the testimony that the government has not been able to handle the protests and protestors. Thus, the statement by the Minister is an "understatement,” as the “government did not have a clue, let alone being fully prepared to deal with the situation.” Social media is here to stay, and the government should stay prepared to deal with this new power of the ordinary citizen (*ToI*, December 31, 2012). Thus, it would not be wrong to suggest that social media emerged as a tool of rapid social change – a time which Klocke and Muschert (2010) points out is suitable for a moral panic to develop.

5. **The role of media:** It is widely accepted that media plays a significant role in alerting the public and spreading concern (Killingbeck, 2001; Klocke & Muschert, 2010; Goode and Ben Yehuda, 1994). In Jyoti's case media played a crucial role. For example, *The Hindu* (January 5, 2013) wrote:

Even in the 1970s, when the then nascent autonomous women's movement launched its campaign to change rape laws following the custodial rape of a young tribal girl, Mathura, by two policemen in Chandrapur, Maharashtra, the response was tepid compared to what we have seen today. This was not just because the issue was rape of a tribal girl, far removed from our urban sensibilities, or that the perceived levels of violence on the streets in the cities were lower than they are today. The absence of 24-hour television to amplify the protests could have contributed.

Dutta and Sircar (2013, p. 297) also write that “thirty-four years after the Mathura case, Delhi was witnessing something similar in spirit, but much larger in scale. The open letter and public interest suits were now replaced by around-the-clock news media coverage and a rush of commentary on Facebook and Twitter.” Thus, undoubtedly, media played a crucial role in making the public aware of the problem, justifying what Klocke and Muschert (2010) highlight about the role of media in the development of moral crusades.

When the current gang rape was reported, it was thought that “the hoopla over the tragedy will continue for some time – as long as the media keep it afloat or until some other issue makes the front page” (*The Hindu*, January 5, 2013). However, contrary to this, Jyoti's case became huge news, which dominated the print, TV, and social media for a long time.

The Hindu (January 7, 2013) reports on the incident in the following words:

Days after the young woman was gang raped on a bus in New Delhi, many thought her story would fade along with other, equally brutal crimes. But three weeks have passed, and the 23-year-old student's death continues to inspire protests—and still dominates press coverage, to the surprise of those who thought the media would soon leave the tragedy and the issue of crimes against women behind.

Pamela Philipose¹¹ says, “For perhaps the first time, there has been an undiluted response by the media. It is not lifting its gaze from this story” (*The Hindu*, January 7, 2013). Apart from this domestic coverage, Nirbhaya’s case became huge global news, with some prominent news agencies publishing about the incident. The New York Times, The Guardian, the French Le Monde, Bloomberg, The Washington Post, and Reuters are some of the prominent news agencies that published about the incident and the violence being faced by women in India (*ToI*, December 30, 2012). The incident and the protests in New Delhi also received wide attention in the neighboring country, China, and became a matter of debate there as well. While the Communist Party pointed out the failure of India as a democracy, the pro-reform bloggers for the Chinese government emphasized to learn from India and to allow the public to express its voice (*ToI*, January 1, 2013).

Sharma and colleagues (2014, p. 363) also write that

audio-visual, print and social media played a critical role in covering and continuously reporting the situation, reactions and comments from all sections of people from across the country and abroad. This not only made people aware but also angry and resulted in unprecedented support in the form of mass movement in different parts of the country involving corporate organizations, school and college students (both boys and girls), working professionals, housewives, and common man through candle march, slogan shouting, demand for urgent action against the assailants.

The Nirbhaya index also confirms that the Nirbhaya rape case garnered significant media attention. The database includes links to 1700 news articles published in seven newspapers over a period of ten months. In these reports, news media covered every single detail related to this case, beginning from the incident to the punishments awarded, and

¹¹ Formerly a journalist, researcher and Director and Editor-in-chief of the Women’s Feature Service a Delhi-based women’s news syndicate and the Senior Associate Editor of the Indian Express.

everything in between. It became possible for the media to write and report about the court case because Justice Rajiv Shaktiher of the Delhi High Court lifted the publication ban imposed by the fast-track court on the Nirbhaya trial, appeasing journalists who had sought an open trial instead of an in-camera proceeding because of the huge public interest involved in the case (*ToI*, March 26, 2013).

The impact of this case was such that media started reporting about sexual violence, rape cases, and the issues of safety of women on the streets and in their homes from “all the four corners of India, making a point that what took place in Delhi is what is taking place in India as a whole” (*The Hindu*, January 5, 2013). In fact, every new reported case would find a reference back to Nirbhaya’s case. *The Hindu* (December 23, 2012) reports:

In the last four days, after the incident of rape in a bus that has left much of the nation in a state of shocked horror, two gang rapes, one assault by minor boys on a woman at a Metro station, and the rape of his six-year-old daughter by an alcoholic father have been reported.

In another example, *The Times of India* (August 25, 2013) reports:

Eight months after Nirbhaya died, the Mumbai gang rape has left her family seething. “*Akhir kab tak aise darindon se dar kar jivenge hum? Sirf naye kanun kafi nahin, asar zaroori hai inhein roknein ke liye* (for how long must we live in fear of such monsters?) New laws alone won’t do—punishment should be strict and speedy,” her mother told TOI on Saturday, pressing the demand for the death penalty on her daughter’s rapists.

Furthermore, rather than presenting the facts of the case, the media engaged in sense-making journalism.¹² Dutta and Sircar (2013, p.300) note that “even before the actual trial

¹² Klocke and Muschert (2013) do not define what sense-making journalism is. However, from the articles in the field of journalism sense-making journalism can be understood as “interpretive journalism” (Salgado & Stromback, 2012). According to the literature, media predominantly used to do objective news reporting (in other words descriptive) where the focus was on presenting facts only. However, from the 1980s a new approach was followed – the interpretative approach (McKnight, 2001). Salgado and Stromback (2012) present a precise definition of interpretative journalism in their work. Basically, it could be understood as presenting news

had started, news outlets reported that a majority of viewers demanded that the accused be sent to the gallows.” An example of this can be seen in *The Times of India*, which, in its December 19th edition, suggested a six-point action plan to address such heinous crimes. Among these, one suggestion was “chemical castration.” On this, *The Times of India* (December 23, 2012) wrote:

Chemical castration depresses a man’s libido and leaves him incapable of sexual arousal. In other words, we proposed that a rapist should be made “*namard*” - a powerful deterrent, you will admit, in our society.

A panel discussion including journalists and media experts was organized to evaluate press coverage of the incident. Among these panelists, KTS Tulsi, an attorney and criminal justice expert, gave the press low marks and stated that

The coverage had sparked violent street protests and too much focus on the sentencing of the accused rapists over concrete criminal justice reforms. “Instead of generalizing anger to constructive purpose, media actually fed the frenzy (*The Hindu*, January 7, 2013).

Similarly, Ms. Chaudhury,¹³ another panelist, “took some news outlets to task for using fake names in the absence of a real one—particularly *The Times of India*, which has dubbed the young woman ‘Nirbhaya’ or without fear—calling the pseudonym ‘cheap, abhorrent sentimentality’.” Despite this, *The Hindu* reports that the panelists agreed that “for the first time, crimes against women are on the front burner, and they should not be let to go to the back burner” (*The Hindu*, January 7, 2013).

beyond facts. In this type of news presenting the journalist has more control over news and their voice is prominent.

¹³ Managing Editor of online magazine *Tehelka*.

People from marginalized communities

Klocke and Muschert (2010, 2013) state that moral panics are more likely to flourish if the accused perpetrators hail from marginalized communities, as it is difficult to put people with power behind bars and the moral panic may fade away. Talking to *The Hindu*, Vrinda Grover, a lawyer and women's rights activist, said (December 25, 2012).

In cases of sexual assault where the perpetrator is in a position of power (such as in cases of custodial rape or caste and religious violence), conviction is notoriously difficult.

Furthermore:

Quoting data from countries such as the U.S., Ms. Grover said men from minority communities make up a disproportionate number of death row inmates. In the Indian context, a review of crime that warrants capital punishment reveals the discriminatory way in which such laws are selectively and arbitrarily applied to disadvantaged communities, religious and ethnic minorities.

In Jyoti's case the six identified accused belonged to marginalized communities. They had migrated to Delhi from the states of Uttar Pradesh, Bihar, and Rajasthan and had taken menial jobs and lived in a slum in the capital city. The main accused, Ram Singh (33), was a bus driver, and Mukesh (26) was his brother. While Akshay Thakur (28) and the juvenile (17) were Ram Singh's helpers on the bus. The other two, Pawan Singh (19) and Vinay (20), were a fruit seller and an assistant gym instructor at a local gym. Dutta and Sircar (p. 297) write:

The migrant, working-class identity of the perpetrators resonated with the middle-class anxiety over the enemy other – a sentiment that has been fuelled by, among others, Delhi police advertisements across the city that single out “cooks, drivers, maids, watchmen, nannies” as potential criminals whom employers should guard against.

This passage testifies what Welch and colleagues (2002, p. 11) highlight about hostility being targeted at groups which are already disliked, mistrusted, and seen as social outcasts. This point is elaborated further under the sub-heading “folk-devils” in the operation stage.

Coming back to the main argument, it is further corroborated when we see rape survivors after Nirbhaya's case came out in public to seek justice, which has been denied to them. A 30-year-old rape survivor from the state of Punjab sat on hunger strike at Jantar Mantar, seeking justice for her suffering. She was tormented by the son of a senior police officer in Punjab, and due to this, the administration had been silent on her issue. She stated that she had been running from pillar to post and facing extreme apathy from agencies and said she had "almost lost the hope for justice" (*The Hindu*, January 17, 2013). But Nirbhaya's case encouraged her to come public and seek justice for herself. She has written to the National Human Rights Commission and the Prime Minister's Office informing them about the rape, after which the NHRC (National Human Rights Commission) ordered the Punjab Police to register a First Information Report (*The Hindu*, January 17, 2013).

In another instance, *The Hindu* (January 5, 2013) reports from Chennai that police officials refrained from taking action against a molester because he happened to be the brother-in-law of a judicial officer.

The woe of the country can also be judged from the report of NEW (National Election Watch) and the ADR (The Associations for Democratic Reforms)¹⁴, which states that "six MLAs have declared that they have charges of rape against them in their sworn affidavits submitted with the Election Commission of India at the time of their election." Apart from these, the group said, "36 MLAs have declared that they have other charges of crimes against women, such as outraging the modesty of a woman and assault," registered against them (*The Hindu*, December 21, 2012).

¹⁴ These are NGOs working together to promote electoral and political reforms in India.

Thus, this information supports Klocke and Muschert's (2010) assertion about moral panics involving people from marginalized communities.

Discussion

The cultivation stage begins with the identification and understanding of the conditions that make the growth of moral panic more likely. Klocke and Muschert (2010) identify three such conditions: (1) conflicts between competing moral universes; (2) times of rapid social change challenging existing social hegemonies; and (3) times of economic and political crisis that result in a moral crusade.

Upon analyzing the data and the existing literature, it can be concluded that all three conditions pre-existed the Delhi gang rape case. As has already been stated earlier, India was and until today remains a society dominated by patriarchal values and hegemonic masculinity. However, with the adoption of several measures by the government to uplift the status of women, it not only ensured a time of rapid social change to which Klocke and Muschert (2010) refer but also posed challenges to the existing structures and values of society. Women were now posing questions about traditional values and gender roles in society, pointing to the competition between moral universes. In addition, the introduction of "social media" in the early 2000s also marked an important benchmark of rapid social change.

In my analysis of the data, however, I have not touched upon any conditions of economic or political crisis. Nevertheless, without delving into too much detail, I would like to refer to the "India Against Corruption" movement led by Anna Hazare in 2011. This movement gained momentum and led to countrywide protests against the Congress government, demanding a corruption-free India and a more accountable government. This movement was a great setback

for the Congress government in the 2014 Lok Sabha elections, proving to be a significant example of political crisis.

The next essential element of the cultivation stage stated by Klocke and Muschert (2010) is public perception of the threat created by moral entrepreneurs, which sets the stage for the development of a moral panic. Goode and Ben-Yehuda (1994, p. 154) also state that “crusade requires crusaders who push for a given cause.” This implies that a moral crusade is not possible if there are no moral entrepreneurs. Klocke and Muschert (2013 p. 420) write that these moral entrepreneurs can be from “elite segments of society, the media, interest groups, or grassroots organizations.” Goode and Ben-Yehuda (1994), also in their work, recognize these moral entrepreneurs and recognize three theories of moral panic based on who sets the perception of threats. These three theories of moral panic are “the grassroots model, the elite-engineered model, and interest group theory.”

Out of the three theories, the grassroots theory aptly explains the moral entrepreneur's role at the cultivation stage in our study. According to Goode and Ben-Yehuda's (1994, p. 161) grassroots model, “the panic originates spontaneously when a large segment of society fears that the problem poses a threat to their values, their safety, or even their very existence. This fear is felt organically without requiring actions on the part of any special groups.” The “expressions of concern by other sectors like media, among politicians, action groups, and law enforcement are an expression and manifestation of this widespread concern.” This implies that a concern already exists that the other sectors might stir up later. The politicians give statements and talk about adopting new laws and actions that appeal to the public. Similarly, media also reports in a sensationalized way to increase their sales.

It has already been stated in the preceding paragraphs how Jyoti galvanized people from all segments of the society. The youth, the public, school students, women's organizations, and political figures all were protesting and demanding action against the accused and a safe environment for women. Thus, a perception about the threat was formed organically and spontaneously at the grassroots level. This concern was later stirred up by media and politicians. The media did unprecedented reporting on the matter, while the government also established the Justice Verma Committee to suggest amendments to the existing laws to address the cases of sexual offenses against women in a better way.

The other two essential elements of the cultivation stage, “the folk devils belong to marginalized communities” and “the role of media,” have already been discussed in detail, and thus details are not repeated here.

To summarize, my analysis of data and review of the existing literature reflect that all the essential elements pointed out by Klocke and Muschert (2010) at the cultivation stage were present in this case.

CHAPTER 4: DATA ANALYSIS -- THE OPERATION STAGE

The second stage in the hybrid model is the operation stage. Klocke and Muschert (2013) describe it as containing the “processes that function during a moral panic” (p. 419). This stage has three substages: episode, magnification, and regulation, and about these substages the authors provide a note that states that these “substages are not meant to be discrete or linear steps.” This implies that these substages can occur simultaneously and may even over-lap.

For organizational purposes and to better focus attention on what happens at the episode and magnification substages, these two stages are discussed on their own in this chapter. The regulation sub-stage is discussed in the next chapter.

1. Episode substage: According to Klocke and Muschert (2013, p. 421), a moral panic begins with the occurrence of a “precipitating event that has a strong element of inherent drama.” The media immediately reports about the incident and makes people aware of the social problem while also identifying the suspected or known deviants. It is also at this stage that the incident and the behavior of the troublemakers is presented in an exaggerated and distorted manner by attaching symbols to them, and future predications arising from the problem behaviour are also made.
2. Magnification substage: According to Klocke and Muschert (2013), at this substage the moral threat is magnified by continuously focusing on the problem behaviour of the deviants and how it poses a threat to social order. This prolonged and focused coverage by media at this substage shifts from presenting facts to “sense-making journalism” (p. 421). This is done through media engagement with moral entrepreneurs, experts, and government officials speaking about the problem and behaviour of the folk devils. As well, media may “construct themed taglines or headline frames in their expanded

coverage and present heightened public concern through opinion polls, letters to editors, protests, web pages, blogs, etc.” (Klocke & Muschert, 2013, p. 422).

Jyoti’s case and the operation stage

Jyoti’s rape case was the “precipitating event” which was immediately covered by media. As this case was reported in media it acted as a catalyst for widespread concern about women’s issues and led to a wave of unprecedented and spontaneous protests around the country. People took to the streets to “express their disbelief, anger, and grief over the cold-blooded crime” (*The Hindu*, December 20, 2012; *ToI*, December 20, 2012).

The Times of India (December 31, 2012) reported:

The capital was never deemed a safe city. But 2012 would go down in history as a year that marked a surge in the worst forms of crime that not only blackened the face of the capital but also shamed the nation.

A 23-year-old physiotherapy intern at a city hospital was gang-raped and brutalized by five men and a minor in a chartered bus on December 16.

After this rape the news media made the public aware of the incident, highlighted the issue of sexual harassment, and reported every small detail related to the accused and the case for months. The news media did so by publishing statements of prominent political figures, experts and public figures, focusing on Jyoti’s case and the issue of sexual abuse against women in general.

The then Delhi Chief Minister Sheila Dixit noted that the

“Horrible assault” on the 23-year-old girl was a “most painful” incident for her since she assumed the top post in the capital and said she personally favored the death penalty for rapists (*The Hindu*, December 22, 2012).

Another prominent political figure, Derek O’ Brien of Trinamool Congress, said he is nervous and scared as the father of a 17-year-old daughter as Delhi is becoming a “rape capital”

(*The Hindu*, December 18, 2012). *The Times of India* (December 19, 2012) also published a statement from O'Brien:

This morning, I stand here nervous and scared as the father of a 17-year-old daughter living in India. Delhi has, for long, been the political capital, the administrative capital. But if you look at the track record of the past so many years, it has now become the rape capital of India (*ToI*, December 19, 2012).

The magnification continued with media reports on public protests as a common theme. The print media reported that hundreds of students from Delhi University, Jawaharlal Nehru University, and Jamia Milia Islamia University and other citizens “stormed into the central secretariat at Raisina Hill and forced a meeting with the Union Home Minister seeking an explanation from him over security lapses that led to the assault and the failure of government to ensure women's safety.” They knocked on the doors of *Rashtarapati Bhavan*,¹⁵ seeking justice for the victim (*ToI*, December 20, 2012; *The Hindu*, December 22, 2012). Thus, media provoked what Klocke and Muschert (2013) refer to as “heightened public concern.”

These protestors were soon joined by prominent political figures from different parties. The first politician to join the protests was CPI (M)¹⁶ leader Brinda Karat. Other prominent participants were members of the *Aam Aadami* party leadership, including Manish Sisodia, Kumar Vishwas, Shazia Ilmi, and Gopal Rai. As well, in attendance were members of other parties, such as opposition leader Sushma Swaraj and Jaya Bhachchan from the BJP¹⁷; BSP¹⁸ chief Mayawati; Trinamool Congress's leaders Mamta Banerjee and Derek O' Brien; and Lok Sabha speaker Meira Kumar. All joined together in demanding stringent punishment for the accused and amendments to existing laws (*ToI*, December 19, 2012, and December 30, 2012).

¹⁵ Official residence and workplace of the President of India.

¹⁶ Communist Party of India (Marxist).

¹⁷ Bhartiya Janta Party.

¹⁸ Bahujan Samaj Party.

Sensing an opportunity, the local politicians' visits to Jyoti's native home in Uttar Pradesh were also repetitive (*ToI*, December 31, 2012). All this corroborates the argument already pointed out in the literature review. The politicians seek harsher punishments as an easy solution to pacify the fears of the public, gain support, and divert attention from other issues.

Some of these politicians – such as Jaya Bachchan, T.N. Seema, and Jharna Das Baidya – also protested outside Delhi Police Headquarters and demanded an apology from the Police Commissioner for police inefficiency and inability to prevent crimes against women (*The Hindu*, December 20, 2012). A group of women also met police commissioner Neeraj Kumar and submitted their demands that included increased police patrolling on the roads, fast-track courts to deal with rape cases, gender-just protocols for lodging the First Information Reports, standardized investigation procedures for crime against women, increased sensitization of police and immediate relief (legal and medical), and long-term rehabilitation of rape victims (*The Hindu*, December 20, 2012; December 28, 2012, and January 02, 2013).

These protests continued for days after the incident was reported and became more intense with the death of the victim. On the death of the victim, *The Hindu* (January 5, 2013) writes: “The nation hangs its head in shame over the trauma and death of a 23-year-old woman so brutally gang-raped and beaten to pulp.”

Although Jyoti's funeral was hastily arranged with near secrecy amid tight security, the entire nation mourned her death (*The Hindu*, December 29, 2012; *ToI*, December 30, 2012). The entire nation was in anger and grief while also moved by the victim's extraordinary struggle to defy death.

Then Vice President Hamid Ansari “expressed hope that this heartbreaking tragedy would compel Indians to focus on social norms and practices that are violative of human rights and an impediment to progress in the modern world.” He added,

A young, promising life has been brutally snatched away in most tragic circumstances. Not only has the family lost a daughter and a sister, but every Indian today is feeling the sense of loss as we all have come to identify with the braveheart as she fought valiantly for her life (*ToI*, December 30, 2012).

In a similar vein, while expressing his condolences, Mr. Akhilesh Yadav, the then Chief Minister of Uttar Pradesh, the state from which Jyoti hailed, said:

That though the government was making all efforts to extend help to the girl’s family, nothing could compensate for the loss they had suffered. There has been no such case anywhere in the world. There is anger over it in the country, and it is showing. We will take strict measures to prevent anything like this in the future (*The Hindu*, January 12, 2013).

Candlelight marches and prayer meetings were carried out by millions of Indians from all age groups across the nation (*The Hindu*, December 29, 2012; *ToI*, December 30, 2012). Protests continued at Jantar Mantar, India Gate, North Block, South Block, Rail Bhavan, Supreme Court, Vasant Vihar police station (where the case was registered), and Saket Court (where the accused were produced), with protestors demanding the death penalty for rapists who were considered to be “monstrous products of society” by hanging them in public (*ToI*, December 20, 2012; *The Hindu*, December 21, 2012). Jyoti’s uncle from the village even suggested that the “limbs of the accused should be cut, and they should be set on fire!” (*The Hindu*, December 30, 2012). These two statements briefly shed light on what Klocke and Muschert (2013) hints about – the symbolization and moralization. The use of words like monstrous and beasts for offenders and the demand that offenders be tortured to death depicts that the behaviour of offenders is portrayed as so sinister that it calls for the harshest possible punishment. This theme is explored further under the sub-heading folk devils.

Students from schools and universities also participated in a series of planned activities, which included the protests, paintings, signature campaign, and street plays. Students from All India Student Association and Revolutionary Youth Association marched from Central Park to Jantar Mantar and pledged to make the new year “free of sexual violence for women” and to reclaim the public space for women (*ToI*, January 01, 2013; *The Hindu*, January 02, 2013). While two protestors even pledged that they would not move from Jantar Mantar until the time the government announces “public hanging” or “capital punishment” for all six accused (*ToI*, January 7, 2013).

There were several NGOs also protesting and demanding stringent punishments for the accused. Seema Malik, the Director of the organisation ‘*Mirchi Jhonk*’ stated that while we mourn the death of the victim, it is high time that the women take the onus of their safety in their own hands and even distributed free pepper spray among girls (*ToI*, January 5, 2013). Another Jaipur-based NGO named ‘*Chetna Manch*’ on the eve of *Makar Sakranti* distributed about three thousand black kites to people demanding death sentences for the accused with the goal to make more people aware of the horrific incident that shook the entire nation (*ToI*, January 14, 2013). These news reports demonstrate –how the media raises public awareness by engaging moral entrepreneurs (Klocke and Muschert, 2013).

Protesters were often angry about the incident; however, they were not unified in their demands for justice. Some wanted the accused to be tortured and then hanged publicly, some demanded castration, some just wanted speedy disposal of the case, while others wanted justice to be ensured not only in the current case but in all the rape cases in the country (*ToI*, December 22, 2012; December 23, 2012; *The Hindu*, December 28, 2012). Social scientist Anand Kumar argued that “it would be wrong to expect the protestors to protest in a unified way” (*The Hindu*,

January 1, 2013). In like manner, *The Times of India* (December 20, 2012) published sociologist Vishwanathan's words:

The protests are bound to be different because they are an assertion of the individual and not a political group. "It is not a statement of a party but an assertion of an individual. People, particularly women, are angry and articulating this anger. This is not a generalized statement given by a political party. It is a personal statement by citizens for their city. And it is political parties and MPs who look out of place," he said.

The Times of India (December 31, 2012) described the whole situation in the capital city as a "war zone where the protests erupted from everywhere [with] police resorting to violent means to stop them." The police tried to manage the crowds and disperse them with aggression. They used tear gas and water cannons to control the protests but could not break the protestors. With each protest, crowds responded with more aggression to the police actions. The protesters called it "a revolution and climax of all pent-out emotions" (*ToI*, December 23, 2012; December 28, 2012). This is an example of another trait of the operation stage that Klocke and Muschert (2013) refer to as "sense making journalism." The term "war zone" was also used by the media to explain the situation after the riots of 2011 in Tottenham, North London (England) which Nijjar (2015) claims was a distortion of reality. Likewise, in Jyoti's case, comparing the protests to war was an exaggeration.

Jyoti's rape also had a global impact. The UN chief at that time, Ban Ki-Moon, expressed "deep sorrow" at the victim's death and asked the Indian government to "implement reforms to deter such crimes and bring the perpetrators to justice." He also offered technical expertise and other support to the Government of India (*ToI*, December 30, 2012). In addition, there were protests that took place outside India. For instance, protests took place at Cairo's Tahiri Square, also known as Martyr Square, a square that has been the location and focus for political demonstrations in downtown Cairo, Egypt. These protests were unique because the "mass

outrage and mobilization were over a gender crime that too was committed by ordinary criminals and not by some Taliban kind of outfit” (*ToI*, December 30, 2012).

The ruling Congress party’s leadership at this point felt that “changing the law is a political imperative since it can appease the anger and help blunt the hostility of youth directed against the government and the ruling party” (*ToI*, December 31, 2013). Sonia Gandhi, the Congress chief, gave a statement that the “nation’s beloved daughter’s death” would not go in vain, and she promised “swift and fitting punishment” to the perpetrators as well as stringent laws for the protection of women (*The Hindu*, December 30, 2012). For this, the government also appointed a three-member expert committee headed by former Chief Justice of India J.S. Verma on December 23 to suggest amendments to the criminal law.

However, some stated that the government was simply buying time through the formation of these committees (*The Hindu*, December 31, 2012). Likewise, protesting students criticized and called the candlelight march carried out by the Delhi Chief Minister a “political stunt” and booed her (*ToI*, December 30, 2012). However, she later led another march, the ‘*Mahila Suraksha Samman March*,’ which was organized by the Delhi Commission for Women. She “was accompanied by thousands of women from NGOs, the Youth Congress, the Delhi Commission for Women, *Mahila* (women) *panchayat*¹⁹ members, and *anganwaadi* workers, joined by the minister of education and the minister of transport with them. They demanded ‘safety’ and ‘respect’ for women” (*ToI*, January 3, 2013).

Like political parties, the judicial system took notice of the case. Soon after the incident, the Delhi High Court said that “strong signals must be sent to the perpetrators of this ‘unfortunate’ incident” (*ToI*, December 19, 2012). The Chief Justice of India (CJI) also asked the

¹⁹ Elective village council – a form of local self-government.

public to be patient with their demands for justice and not be carried away by emotions; the public was further asked to trust that the judiciary would support them (*ToI*, January 3, 2013). The CJI also stated that they would establish two special benches of the Supreme Court to fast-track rape cases (*ToI*, February 03, 2013). The legal experts also suggested that the rape cases should be tried in dedicated courts to ensure the speedy disposal of cases and reduce the backlog (*ToI*, December 25, 2012).

Fast-tracked courts were later established, but from the existing pool of judges. On this, Advocate Rebecca John commented that these courts were built because of populist demand, ignoring the infrastructural deficiencies, and that other cases would now face delay (*The Hindu*, January 13, 2013). Roy and Dastidar (2018) later pointed out that increasing the number of courts did not help because the understaffed courts defeated the purpose for which these courts were created. They also claimed that increasing the number of courts had not helped in addressing deep-rooted structural issues.

Moving forward, as religious and spiritual leaders hold a prestigious place in Indian culture, the media made sure their views were also circulated. *Shankaracharya*²⁰ of the Puri Peeth demanded harsh punishments, including chemical castration and the death penalty for sexual assaults on women (*The Hindu*, January 3, 2013). In contrast, however, Aasaram Bapu²¹ provoked controversy and attracted criticism when he said that the victim could have prevented the rape if she had called the rapists “*bhaiya*” (brother), cementing gender stereotypes and blaming the victim. However, another spiritual leader, Jaggi Vasudev, the Head of the Isha Foundation, argued these were insensitive comments and said that such “comments should not

²⁰ A spiritual leader and head of a monastery.

²¹ A self-styled guru, who is now serving life sentence in jail for raping a minor girl at his *ashram* (a place of religious retreat).

derail what is happening in the country right now” (*The Hindu*, January 8, 2013). Similarly, in Sikh temples, prayers were done for the victim’s soul, and in the daily discourses from various prominent *Gurdwaras*, Sikhs were encouraged to ‘follow the examples of bravery and chivalry from Sikh history to combat those who assaulted women’ (*ToI*, December 31, 2012).

In addition to these views by influential people in the country, *The Hindu* also made people aware of public opinion by publishing survey results and opinion polls, which is another way of presenting heightened public concern that Klocke and Muschert (2013) identify in their model. *The Hindu* (December 19, 2012) published results of a nationwide survey conducted by the Associated Chambers of Commerce & Industry of India’s Social Development Foundation (ASSOCHAM)²² that suggested “about 92 percent of women working in sectors such as information technology, hospitality, civil aviation, and call centers feel unsafe while traveling to their homes after sunset.”

Further, the survey results presented “a gloomy picture of the national capital," and it revealed that two of every three women in Delhi had faced some form of sexual harassment (*The Hindu*, December 19, 2012).

The Hindu also reported (December 24, 2012) that, “Although arrests have been made after the gang rape incident and the government has promised a speedy trial, women in New Delhi and the rest of India do not feel any safer when stepping out of their homes. This is because they know that the official mindset has not changed.”

A day later, *The Hindu* (December 21, 2012) published results from another public opinion survey carried out in Delhi by a private company, Shyam Vyas MARC Private Limited, and stated that:

²² ASSOCHAM is a New Delhi-based trade non-governmental association and advocacy group.

On the question of who they held most responsible for such crimes, whether “soft courts,” “soft laws,” or a “lazy and inefficient police force,” a whopping 85 percent of the respondents (540 in all) blamed “soft courts,” stating that they let off culprits involved in crimes against women. In all, 75 percent of respondents said “soft laws” failed to create effective deterrence, while 55 percent blamed the police or lack of policing.

Forty percent of respondents blamed the Central Government and its control over the Delhi Police, whereas 35 percent were of the opinion that lack of security was owing to the police preoccupation with and their deployment for guarding VIPs. And 25 percent of respondents held the perpetrators of the crime solely responsible.”

According to the survey, 75 percent of respondents said they would keep such issues in mind while voting in the next elections, stating that they would vote out those presently in power. Asked if it was enough for a Chief Minister, Home Minister, or police authorities to show sympathy for victims or pay some money as compensation to victim(s)—even as they did nothing in concrete terms that actually ensured bringing the crime graph down—100 percent of respondents said it was not enough and that they were fed up of inaction on the part of the authorities. Sixty percent of the respondents favored the death penalty, quicker justice, and tough laws, while 20 percent wanted the rapists to be castrated and tortured, and 95 percent of respondents wanted the harshest possible punishment in cases of crimes against women.

The survey states that 80 percent of respondents wanted CCTV cameras installed in all buses, while an equal number suggested the deployment of two civil defense personnel in buses in the vulnerable areas between 5 p.m. and 11 p.m.

These published survey results support the arguments presented in our literature review—that media constructs a narrative that the perceived threat is real and serious, calling for urgent action to be taken. These exaggerated figures, which, upon careful examination, make them susceptible, contribute to the fears of the public, making them demand quick fixes for the problem rather than addressing the root causes of the problem.

Folk Devils

The concept of “folk devils” is credited to Stanley Cohen, who drew on the two concepts “labelling theory” and “deviancy amplification” in his dissertation *Folk Devils and Moral Panics*, published in 1972 (Cooper, 2005). Goode and Ben-Yehuda (1994, p. 156) state that when an exaggerated concern is induced then folk devils are recognized as a source of threat by “the

media, law enforcement, politicians, action groups and the general public.” Cooper (2005, p. 70) writes that “identification of the deviants is a metaphor for all that has gone wrong in the society.” They are basically scapegoats who are held responsible for problems in society, ignoring broader structural issues that produce these problems in the first place. The power holders in society can divert attention from structural problems by shifting focus toward these evils. These deviants are subject to more sanctions and harsh punishments, providing the public a false sense that the issue is resolved. Altheide (2009) asserts the same when they state that concern leads to easy solutions rather than working solutions based on research.

In Jyoti’s case, six accused were identified, and among them one was a juvenile. Out of these six accused, two received the most attention: the main accused, Ram Singh, and the unnamed juvenile.

The Times of India (December 29, 2012) calls Ram Singh the “most infamous man in the country and the prime accused in this gang rape case.” In another report, *The Times of India* (December 30, 2012) writes that neighbours reported that Ram Singh and Mukesh, his brother, were considered notorious and “never had a good reputation in their society.” Ram Singh, who has a disability, was called “mental and sinister” by his friends. He “led a reckless life with no fear of the law” (*ToI*, March 12, 2013).

The neighbours also report that he married a woman named Rekha forcibly, but they remained silent about it because of his tendency to pick fights with others. Rekha died mysteriously within a year of her marriage, and neighbours report that after her death Ram Singh became more violent and was “seldom normal” (*ToI*, March 12, 2013).

On the day of incident *The Times of India* reports that the accused were celebrating the birthday of their friend, Murari, at the house of co-accused Akshay Thakur in Ravidas Camp, RK

Puram, when Ram Singh suggested that the birthday celebrations of their friend would not be complete without a sex worker (*ToI*, January 13, 2013). Therefore, they decided to find a sex-worker, but before that, they would pick up some passengers' mid-way to make some money.

The news reports also revealed that the bus that was being driven by Ram Singh on that fateful day of the ghastly rape case had been *challaned*²³ eight times and impounded six times in the years 2011 and 2012. And Ram Singh “was apprehended by traffic police doing exactly the same violations which he did on the fateful day, namely, picking up passengers unauthorizedly in the same chartered bus (DL 1PC 0149), and the bus was impounded.” Moreover, the permit of the same bus had already expired on March 8 of the year (*ToI*, December 29, 2012).

The Times of India (March 12, 2013) also reported that a police source told them that Ram Singh:

Throughout his interrogation, showed no remorse; his voice remained frosty and emotionless as he narrated his gory deeds. It was so brutal that the policeman jotting down his interrogation report could barely write. His hands shivered.

This continuous reporting about the behaviour of the accused supports Klocke's and Muschert's (2010) contention that moral threat is magnified by continuous focus on the problem behaviour of the deviants. Such coverage ultimately creates an impression that these deviants pose a threat to the social order.

Ram Singh was later found dead in his cell by hanging, but his family claimed it to be a murder rather than suicide. The Special Cell²⁴ had earlier warned the Tihar jail authorities about the threat to the life of the accused, but still no precautions were taken (*ToI*, March 12, 2013).

²³ A challan is an official document issued by traffic authorities to individuals who violate traffic rules and regulations.

²⁴ The Special Cell in Delhi refers to an elite unit of the Delhi Police, responsible for combating terrorism, organized crime, and other high-profile cases.

However, the possibility of murder was ruled out later by the postmortem report. Nevertheless, in the wake of justice, it was decided that electronic surveillance inside the prison complex would be introduced for constant monitoring of the activities of other accused in the case and to ensure their safety.

Juvenile

Another accused highlighted in this case was a juvenile who as per the school records was only a few months short of attaining the age of majority. His case was therefore to be tried in the juvenile board according to the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000, which defines juvenile as anyone below 18 years of age (*ToI*, January 8, 2013). The public sentiment was however clear that “nothing short of stringent punishment will suffice, and that there should be no discrimination in punishment or mercy to the accused even if he is a minor” (*ToI*, January 02, 2013).

In response to all the ongoing protests and public demands of harshest punishments to all the culprits the Ministry of Women and Child Development (MWCD) also announced that it will consider reviewing the Juvenile Justice Act “to treat the juveniles aged 17 or more who are guilty of heinous or violent crimes as adults” (*ToI*, December 31, 2012). The *Times of India* (December 31, 2012) quoted the Minister:

We can have a provision by which six months or a year of the juvenile’s age can be waived if the crime committed is severe in nature, like in this case. If the juvenile has committed a violent or serious crime, he can be tried under law as an adult.

Similarly, *The Hindu* (January 01, 2013) reported the Minister as stating:

“We have sought the intervention of the government to make this an exceptional case and not treat this accused as a juvenile while awarding punishment. The nature of his crime, we feel, is so heinous that there is an urgent need to send a strong, correct, and direct message.” The Ministry had already held meetings with various activists and other stakeholders from the government, non-government,

and private sectors, and “most agreed that in this case an example has to be set, Ms. Tirath said.

These statements by the Minister WCD suggesting the juvenile be treated as an adult for committing heinous crimes is a perfect example of Zimring’s (1998) assertion that it has always been the “severity of crime” that is the prime reason for transferring the cases of juvenile delinquents to the adult courts rather than the maturity of the offender. Zimring (1998, p. 483) also emphasises that “there is certainly no logically necessary reason that protective features of youth policy are only for nice kids.”

In the current case, according to the chargesheet filed by the Delhi police before the board, the juvenile was “an acquaintance of main accused Ram Singh and the most brutal of all the accused in torturing the victim, ultimately leading her to death” (*ToI*, January 29, 2013). This reference to “most brutal,” for a matter of fact, was repeatedly used in news articles (*ToI*, January 8, 2012; August 31, 2013). Therefore, Delhi police did not rely on the documentary evidence and moved an application in the court to conduct a bone test of the juvenile to determine his age. This *Times of India’s* (January 08, 2013) news excerpt gives essence of this unusual demand by the police. The report states:

If tried under the JJ Act, he may be let off within a few months as the maximum punishment under the Act is imprisonment of three years, but the child has to be kept in an observation home and is entitled to get bail. Ranjan²⁵ added police have not relied on the school leaving certificate and instead moved the Juvenile Justice Board for the test.

According to the Juvenile Justice Rules 2009, “a test by a medical board can only be established after there is no verification or unavailability of three documents — school leaving certificate, panchayat or municipal certificate or a matriculation certificate” (*ToI*, January 08,

²⁵ Senior Television Journalist

2013). Raj Mangal Prasad, who was former chairperson of the Delhi Child Welfare Committee also stated, “that in most cases documentary evidence was accepted by JJB till there was reason to believe that it was not forged” (*ToI*, January 08, 2013). In the present case, “the doubts that were raised that he was an adult at the time of the incident were put to rest after the board declared him a juvenile based on his school certificates,” and hence there was no need for the bone test. This test was ultimately denied. The board then tried the accused as a juvenile under the Juvenile Justice Board as it was bound to do by the law (*ToI*, January 25, 2013; August 31, 2013).

However, the family of the victim was not happy with this. The *Times of India* (January 02, 2013) reported the victim’s grandfather’s words:

Demanding equal punishment for the boy who claims to be a minor, he added, “How can we consider him minor when the crime he committed was not child-like?” The law should be amended if need be, Nirbhaya’s grandfather said, adding, “It would be a curse to the society if mercy shown to him in the name of being a minor. After growing up he will be a danger to civil society.”

Similarly, the victim’s brother stated, “How can the family accept that the accused is let off with a mere three-year imprisonment? He added that the accused should have been sent for a medical examination and feared that the school documents had been tampered with” (*Times of India*, January 29, 2013). A petition was also moved by Janata Party president Subramanian Swamy in the High Court that the juvenile should be tried as an adult with other co-accused and that the waiver from prosecution for such a minor was “unreasonable” (*Times of India*, January 25, 2013).

In addition, the media compared the juvenile justice system in India with that in the USA and UK. *The Times of India* (January 30, 2013) writes:

Unlike India, which uses the same yardstick for all kinds of crimes committed by juveniles, other countries like England and the USA have recognized the

culpability in cases of heinous crimes. This was seen in a case in Florida in which a 13-year-old boy who was accused of beating his half-brother to death while sexually abusing another five-year-old half-brother was charged as an adult. In England, too, a juvenile can be tried by the court for exceptional offenses like that of sexual assault, homicide, etc.

It was further reported:

In the USA, around 20 states allow juveniles to be tried and sentenced as adults to life imprisonment in exceptional cases. In 2011, a Colorado boy pleaded guilty to killing his parents when he was 12. He served a 7-year term in a juvenile facility and three years' parole.

Even in France, a separate Juvenile Assize court tries serious offenses committed by minors aged 16-18 years. In 2002, a law was enacted to provide a tougher criminal response to juvenile delinquency.

The *Times of India* reported how some countries execute child offenders for commission of crimes despite it being prohibited under the international human rights law. However, they do note that such executions are few (*ToI*, December 31, 2012).

In response to demands for harsher punishment for juveniles the Chief Justice of India stated:

Someone below 18 years of age comes under the minor category, and the law takes its course as per the law of the land.

It was not yet proven that the juvenile, sixth accused in the Delhi gang-rape case, was the most violent. "Branding the juvenile as the most violent is but a creation of media as of now. At this stage, we don't know who did what in the brutal gang-rape of the student, but everything will become clear soon" (*ToI*, February 3, 2013).

The following lines in the work of Lodhia (2015, p. 92) summarizes the narrative that was being fed to the public about the assailants by the media. He writes:

Several news stories following the rape highlighted the tremendous poverty and hopelessness in which the defendants resided, framing the attack as an almost inevitable outgrowth of a restless and animalistic masculinity. Reporters described the preparators as "monsters" and "beasts" and the slum where they resided as a "fertile breeding ground for criminals."

A range of literature supports the argument that the accused in this case were seen as “others” due to their slum-dwelling and “migrant working class-identity” (Dutta & Sircar, 2013; Roychowdhury, 2013; Lodhia, 2015, Atluri 2013). The dichotomization of “them” vs “us,” which takes place during a moral panic (Goode and Ben Yehuda, 1994), could be seen in two ways in the aftermath of the rape. The first comparison was made between the poor migrants and urban middle class of the city. While the former were seen as rural, economically backward, lacking agency, disposable, and worthy of little protection the latter were considered as sexually progressive and the markers of stable, integrated and orderly society (Atluri, 2013).

Roychowdhury (2013, p. 284) highlights next distinction based on gender. She states that both the victim and the culprits had “similar social backgrounds” in terms of caste and economic status. Yet, she claims, the media represented them in stark contrast. While Jyoti was seen as a representative of modern aspirational Indian women, her assailants were portrayed as representative of traditional misogynist India. The latter were seen as a threat to progressive India and its women. Atluri (2013, p. 373) suggests that urban precarity in India has created a division of gender. In this market driven economy, she writes, the “precarious female is constructed as innocent and victimized, while precarious male labourers are seen as aggressors and psychologized as criminal deviants.”

Atluri (2013) further raises concern about the observation made in the Justice Verma Committee report, which was reiterated by the then Prime Minister Dr. Manmohan Singh, Delhi CM Sheila Dixit, and Hindu nationalist leader Raj Thackrey. The report suggested that “ideal young men,” who hail from neighbouring impoverished states, were responsible for the issues of sexual violence in the affluent urban city of Delhi. Atluri states this observation about youth resonates with the colonial discourse around youth that they are “wild, unstable, infantile, and

potentially dangerous especially when unsupervised” (p. 363). Thus, they are worthy of state intervention and discipline.

Atluri (2013), drawing on Nigam (2013), critiques the portrayal that controlling young men from impoverished states would ensure the safety of women in affluent cities like Delhi. While acknowledging the horrific brutality endured by Jyoti, Atluri reminds us that “most cases of sexual violence are enacted against the bodies of the poor in India” (p. 374). She stresses that attributing gender-based violence solely to migrant workers prevents us from questioning the broader structure of patriarchal values that cuts across all class and caste divisions and reinforces this violence against women in the first place (Atluri, 2013, p. 375). She stresses further that framing migrant workers as a problem prevents us from considering the exploitation that these workers are subjected to in neoliberal capitalist economies. Citing works done by migrant rights activists in the slums of Delhi and Mumbai, she points out the harsh living conditions to which these workers are subjected. Finally, she concludes by saying that drawing attention to migrant men after the Delhi gang rape case is a political strategy that tactfully puts blame on individuals and diverts attention from the broader social structural issues and systemic violence inflicted on poor people and women (Atluri, 2013).

Folk Hero

Goode and Ben-Yehuda (1994) states that when “dichotomization takes place between ‘them’ and ‘us’, it generates ‘folk devils’ on one hand and ‘folk heroes’ on the other hand, in the morality play of evil versus good” (p. 157). However, as Flinders and Wood (2015) state, we have nuanced literature on the concept of “folk devils” but our understanding of its “mirror image phenomenon folk heroes” is limited. The folk devils dominate the moral panic literature.

Even in our current hybrid model of moral panic (Klocke and Muschert, 2010, 2013) the concept of folk heroes is not mentioned.

However, it is pertinent to discuss this concept to better understand the demonization of the accused in this case, and because this was a prominent emerging theme in my analysis.

Working outside the area of moral panics, Flinders and Wood (2015, p. 645) state that “‘folk hero’ is ascribed certain qualities that are deemed so remarkable or exceptional that they immediately assume an almost superhuman or God-like status.” According to them, “the hero is loved by society due to the presumed moral fortitude of its behaviour” (Flinders & Wood, 2015, p. 644). For society the “hero is exceptional.” And these exceptional qualities “generate a degree of ‘awe’ or is linked to the concept of ‘hope’.” A folk hero is “not only accepted for his past achievements but also for future promise as the salvation or cure to certain social ills” (p. 645).

Emergence of Jyoti as a “Folk Hero”

Jyoti, 23, had her family roots in the state of Uttar Pradesh (U.P.), but she was born and brought up in Delhi. U.P. is “marked by poverty and illiteracy, and education of children is seen as a route to a better life” (*ToI*, December 30, 2012; December 31, 2012). Jyoti’s family decided to sell their ancestral land to move to the city for better opportunities and to support education of their children. The family states that during her early years, only Jyoti among their children decided to pursue medical education as she wanted to save and care for sick people. They described her as a sincere and intelligent student who was only interested in her studies. Jyoti was “said to be among the top students in her class and that she was determined to earn well and repay her father.” In fact, to support her family and father she started to tutor to pay for her school and college education (*The Hindu*, December 30, 2012; December 31, 2012 & *ToI*, January 02, 2013).

Similarly, the neighbours of Nirbhaya described her as a brilliant student, pillar of support to her family, and role model for other students in the neighbourhood (*ToI*, December 31, 2012). This description of Jyoti by her family and her neighbourhood as someone who remained strong and supported her family despite facing adversity gained her love in the society. The newspaper reports demonstrated that Jyoti had superior moral character which generated a “degree of awe” (Flinders and Wood, 2015, p. 644).

After her death, *The Times of India* (December 30, 2012) wrote about Jyoti in the following words:

Until a fortnight ago, she was just a young girl, like so many others, trying to build her dreams in the national capital. The brutal gang rape on the night of December 16 would change all that. But in the 12 days that have passed from her violation to her death, she has transformed from being just a “rape statistic” to a “martyr.” Because the country has not seen something like this in recent years—the enormity of the crime, her determined bid to fight on, and the collective anger of people across India, from Jaipur to Jaunpur, Mumbai to Madurai.

The victim has “become a symbol of the simple dreams, many struggles, and aspirations of lakhs of young women trying to rise above the odds. The brutal assault that ended her life has given a voice to all Indian women” (*ToI*, December 31, 2012). Since the Indian laws protect victim’s privacy and do not allow the victim’s name to be published, several other symbolic names were assigned to her. These included *Amanat* (treasure), *Damini* (lightning), and *Jagruti* (awareness), but *Nirbhaya* (fearless) became the most popular and widely used (Lodhia, 2015, p. 91). It was *The Times of India* which gave the victim the name “Nirbhaya,” and *The Times of India* (December 30, 2012) writes about this in the following way:

The way the entire nation has come out in both protest and mourning, and from whatever we have gleaned from those who knew the 23-year-old so brutally assaulted, traumatized, and finally killed by a bunch of men who have shaken the country with their evil, the young woman was without fear.

The then President of India called the victim “as a brave daughter of India” and “a true hero” (*The Hindu*, December 30, 2012) who fought till the very last for her dignity and her life. Another minister, Praful Patel, demanded that “the Delhi government should accord a state funeral to the Delhi gang rape victim” (*ToI*, December 30, 2012). Even the protestors made an effigy of a corpse and wrapped it in the national flag, demonstrating her to be a true martyr (*ToI*, January 1, 2013). Another woman, while giving tribute to the victim, compared her “death to the crucifixion of Jesus Christ” (*The Hindu*, January 3, 2013).

Even outside India, the then US first lady, Michelle Obama, and Secretary of State John Kerry honoured Nirbhaya with the “woman of courage” award for her bravery and for awakening the consciousness of India on the treatment of women. *The Times of India* (March 6, 2013) published a citation released for the award as follows:

In the wake of her death, India's active civil society began advocating heavily for legislation and social programs to stem gender-based violence in all its forms and to ensure higher rape conviction rates and gender-sensitive law enforcement and justice systems. Thanks to these efforts, the Indian government has begun to take action to follow through on those demands.

Apart from all this, the then Union Minister Shashi Tharoor favored that the anti-rape law should be named after the Delhi gang-rape victim. Even the municipal corporations in Delhi decided that they would name their projects after victims in her memory. The family did not object to this (*ToI*, January 02, 2013).

This broadly confirms Kaur’s (2017) claim that Jyoti was accepted as a “brave heroine, transformed into almost a national martyr” (p. 1). In fact, she was elevated to “status of a goddess from a rape victim” (p. 10). The comparison of Jyoti with Jesus symbolises that she fought the beasts, suffered in silence, and died for a cause (*The Hindu*, January 02, 2013). This cause was awakening public consciousness on women’s issues. As Flinders and Wood (2015)

would say, she became a “harbinger of hope” that women’s issues would now be addressed. She became the voice of many, and it was now hoped that society might transform for the better. She truly emerged as a “folk hero.”

Discussion

The focus of the operation stage is to apprehend how events unfold and are shaped by media, public perception, and societal responses during a moral panic. In our analysis, the operation stage began with the reporting of the details of Jyoti’s gang rape case in news media. It was the precipitating episode that shocked the nation because of the brutal way it was done. The incident generated a massive public reaction and became a sensational case both in domestic and international media. Protests erupted across the country, demanding the harshest punishments for the culprits and amendments to the laws to ensure women’s safety. These protestors garnered support for their demands from prominent political figures, religious leaders, and women’s organizations.

While it was initially assumed that, like any other case, the media would eventually shift its focus to other sensational news, this case received prolonged and consistent coverage. The media kept the case afloat by providing regular updates on this matter. News media published statements about the victim, the incident, the accused, and the rising problem of sexual violence against women, engaging prominent national and international personalities on the matter. The media also published polls, survey results, and blogs to make the public aware of the threats and demonstrate heightened concern. Over time, this prolonged coverage shifted from fact-based reporting to sense-making journalism, where narratives and interpretations overshadowed objectivity.

An example of this shift is seen when the media published a statement by Chief Minister of Uttar Pradesh Akhilesh Yadav that “there has been no such case like Nirbhaya’s case anywhere in the world” (*The Hindu*, January 12, 2013) and that “the situation in the country was like a war” (*ToI*, December 31, 2012). Such statements distorted reality and presented the situation in an exaggerated way. While the attack was indeed heinous, such statements overshadow other significant rape cases and instances of violence against women in India. Cases such as Mathura, Aruna Shanbaug, Bhanwari Devi, and Phoolan Devi were a few of many that highlight the plight of women and the atrocities they are subjected to in India. Dutta and Sircar (p. 297) express this core idea brilliantly to emphasize the role media played in this case:

the media presentation of the 2012 protests seemed to have the effect of erasing history, of exceptionalizing this event in a way that has the capacity to elide not only the rich lineage of feminist activism and struggles against sexual violence, but also the memories of several other equally brutal experiences of sexual violence against women from marginalized communities.

Likewise, our data on the Delhi rape case points out that the authorities employed common crowd control tactics such as water cannons and tear gas to manage and disperse the crowd. Yet, the media described the situation as like a war, which was an exaggeration.

The media also presented a distorted image of magnified public concern. The print media published results from the surveys conducted right after the rape incident, without acknowledging the potential bias of such data. Moreover, the survey results stating that an absolute majority think the courts set the culprits free, believe soft laws have failed to create effective deterrence, and demand the harshest of possible punishments reinforce pre-existing narratives. These narratives blame individuals and hold them responsible for the crimes, rather than addressing the broader structural issues and the culture of patriarchy and misogyny that

perpetuates crimes against women in the first place. Moreover, this reinforces that hostility is considered the only solution.

A distinct feature noted in our data from the hybrid model is the focus on folk heroes. The hybrid model focuses on the folk devils and the typification of their behaviour, and it does not mention folk heroes. In my data, the folk hero and the focus on their character have been an important emergent theme. As the hybrid model states, symbols were attached to the culprits and they were called monsters, evils, beasts who deserved corporal punishments, but their demonization was also done by way of glorifying the mirror image folk hero. Jyoti was portrayed as an ideal victim, a heroic figure, and a true martyr worthy of state honour. In fact, she was raised to the status of Godliness with her comparisons to Jesus. She was characterized as a resilient figure, who, despite facing odds, was determined to succeed and support her family. She fought bravely with the culprits and resiliently put up a fight to survive before she finally succumbed to her injuries. Her character was depicted as morally upright, embodying moral fortitude. Committing such heinous acts against a person of such integrity casts the culprits as having committed devilish deeds, warranting the harshest possible punishment.

Thus, the protestors demanded capital punishment for the culprits; some even supported that they should be tortured before executing them, so no one dares to do such a crime again. With such enormous public outcry after this case, it was felt that women's issues will now be addressed, and that society will transform and will become more inclusive for women. Talking specifically about the juvenile in this case, when the public learned that the juvenile would receive a maximum sentence of three years, there was widespread demand for this case to be tried as an exception. The victim's family and protestors demanded that no mercy should be shown to the juvenile due to his age and he should be given the capital punishment. It was

contended that upon release he would pose a danger to society, and it was feared that this would also set a wrong example, as others would think they could commit similar crimes and face a minimal punishment of only three years. The essence of this statement can be assessed from the following snippet published in *The Hindu* (September 14, 2013):

“I have a friend who teaches in a government school. She told me that her students were talking about the juvenile being let off only with a three year sentence and how that meant they can do whatever they wanted”, said Satvinder Kaur from Akali Dal’s women wing.²⁶

The media also played a significant role in shaping a narrative against treatment of youth offenders. The continuous publication of stories about how youth offenders who committed serious crimes in other countries were subjected to harsh punishments gave readers a false sense that such measures are both legitimate and effective in curbing youth crime. This influenced public sentiment in India, leading to demands for similar punitive reforms. As a result, the outrage surrounding the juvenile in this case contributed to a repeated cycle of moral panic—where emotional reactions, amplified by media narratives, prompted demands for harsher punishments rather than promoting informed, evidence- based approaches to juvenile justice.

In conclusion, the data analysis exhibited key elements of the operation stage including a precipitating event, media magnification, and heightened public concern. The media played a central role in sustaining attention on the case and shaping public narratives, especially around the treatment of youth offenders. However, a notable divergence from the traditional hybrid model was the domination of the "folk hero" concept, where the victim was glorified as a moral and social exemplar, in contrast to the demonization of the culprits. While predictability of

²⁶ Shiromani Akali Dal is a state political party in Punjab (India).

outcomes was not a predominant theme, the magnification of the case ultimately led to calls for regulatory and structural changes, which are explored in greater detail in the next chapter.

CHAPTER 5: DATA ANALYSIS – THE OPERATION STAGE – SUBSTAGE REGULATION

Klocke and Muschert (2010) state that magnification ultimately leads to regulation. A threat when presented in an exaggerated way “calls for strong measures of social control to deter, manage, and eradicate the threat, including pre-emptive action” (p.10). Law enforcement agencies increase surveillance, and the public is asked to take caution and report any suspicious behaviour to authorities. Similarly, “the social control agents and action groups mobilise the human and financial resources to take corrective legislative, civic, and law enforcement measures against the new threat” (p.10). These measures later become institutionalized with the creation of new formal organizations, the passage of new laws, or tougher penalties.

Another point to be highlighted is that it is at this stage that there could be counter-movements to resist social control. If the folk devils and counter claimers have more social capital than the agents of social control, then it will succeed, and the moral panic will be dissolved. This is the reason, that, if the folk devil belongs to a more socially empowered group (like white-collar criminals), then they are more likely to avoid being the subject of a moral panic (Klocke & Muschert, 2010 and 2013).

This also provides that social control measures will resonate more with people if they are or feel to be part of the threatened group based on the social identities like race, class, gender, religion or nationality or share the social status or ideology with the threatened group (Klocke & Muschert, 2013, p. 422).

Jyoti’s case and the regulation substage

Jyoti’s rape incident not only yielded instant reactions, opinions, and statements but also immediate action by authorities on the demands of protestors to manage the situation. Some of

these demands, as reported in the news media, were: extensive monitoring on a regular basis through concepts of neighbourhood patrolling; GPS installation in cabs and public transport vehicles; self-defense training for women; increased numbers of Police Control Room vans; enhanced women's employment in the police; an improvement in rates of conviction; evaluation of court judgments; and providing helpline numbers to assist victims in times of crisis (*The Hindu*, December 18, 2012; *The Hindu*, December 19, 2012; *The Hindu*, December 21, 2012). Several “corrective legislative, civic and law enforcement measures, which include formation of new organizations, the passage of new and tougher laws” were taken by the Central and State Governments, the police department, the judiciary, and the health department to prevent such crimes from happening in the future. The efforts undertaken by different institutions is discussed in more detail in the following paragraphs.

Central Government

Immediately after the incident, the Home Minister²⁷ announced that, based on the suggestions given by members of the parliament, a special task force at the level of the Home Ministry would be constituted to investigate women’s safety in Delhi every fortnight (*The Hindu*, December 18, 2012; January 1, 2013).

In addition, the Congress (who were then the ruling party) announced they were considering strong laws against rape offenses and looking into the possibility of chemical castration in the case of repeat offenders. Congress also proposed to establish fast-track court cases to try sexual offenses (*ToI*, December 31, 2012).

²⁷ Home Minister is the head of the Ministry of Home Affairs. The Ministry of Home Affairs discharges multifarious responsibilities, the important among them being – internal security, border management, Centre- State relations, administration of Union Territories, management of Central Armed Police Forces, disaster management, etc (Ministry of Home Affairs).

Furthermore, in response to the protests and to curb sexual crimes against women, the then “Minister of State for Home RPN Singh directed the National Crimes Records Bureau to prepare a database of all rape convicts across the country and make their names, photographs, and addresses public by putting it on police websites” (*ToI*, December 28, 2012).

In addition to all these measures, on December 23rd, the government appointed a three-member expert committee headed by the former Chief Justice of India, J.S. Verma, to suggest “amendments in the criminal and other relevant laws for quicker investigation, prosecution, and trial, and also enhanced punishment for criminals accused of committing sexual assault of an extreme nature against women” (*The Hindu*, December 24, 2012). The union Home Minister Sushil Kumar Shinde requested all political parties submit their suggestions to the expert committee to sternly deal with cases of sexual assault (*The Hindu*, December 31, 2012).

The committee consulted experts and social activists, also taking into consideration the enormous response it received from the public, including the international community from Oxford, Harvard, and other universities in Canada and Australia, while preparing a report on this matter. In its published report, the expert committee made the following main observations (*The Hindu*, January 23, 2013; *ToI*, January 24, 2013; *The Hindu*, January 25, 2013):

1. The committee stated that an overwhelming majority of scholars and women’s organizations submitted that they were strongly against the death penalty. Thus, the committee ruled against the death penalty even in the rarest cases. The committee stated that “according to the Working Group on Human Rights, the murder rate has declined consistently in India over the last 20 years despite the slowdown in the execution of death sentences since 1980. Hence, the committee recommended that we do take note of the

argument that the introduction of the death penalty for rape may not have a deterrent effect” (*The Hindu*, January 23, 2013)

2. On the issue of reducing the age of a juvenile from 18 to 16, the committee rejected the popular demand. The Committee observed: “Assuming that a person at the age of 16 is sent to life imprisonment, he would be released sometimes in the mid-30s. There is little assurance that the convict would emerge a reformed person” (*The Hindu*, January 23, 2013). Therefore, the committee did not favor lowering the age of a juvenile from 18 to 16 years. The committee instead stressed comprehensive institutional reforms in children’s institutions.
3. The committee proposed that in the Criminal Law Amendment Bill, 2012, the minimum sentence for punishment for rape should be enhanced to a minimum of 10 years (earlier it was 7 years), with the maximum punishment being life imprisonment.
4. The Committee held castration would be unconstitutional and that it is inconsistent with basic human rights treaties to expose any citizen without their consent to potentially dangerous medical side effects.
5. The committee also provided that the convict should pay compensation to the victim, adequate to meet at least the medical expenses incurred.

Adhering to the recommendations suggested by the Justice Verma Committee, the Parliament decided to introduce The Criminal Law (Amendment) Bill, 2013 which was later passed by both the houses. Reporting on the amendment act *The Hindu* (March 12, 2013) writes:

Sources in the government said the differences largely dealt with the provisions on stalking and voyeurism, on whether to lower the age of consensual sex from 18 to 16, on the advisability of replacing the word “rape” with the broader, gender neutral term “sexual assault,” and whether there should be a stronger penalty for those who made a “malicious” complaint, defined as one that is not ultimately proved.

Some of the key provisions from the passed Act are as follows (*The Hindu*, August 28, 2013):

The Criminal Law (Amendment) Act 2013 took the historic step of amending the Indian Penal Code (IPC) to provide for the new offenses of rape causing death or a vegetative state, sexual intercourse by a person in authority, gang rape, and repeat offenses.

Importantly, the Act also introduced several other new offenses, such as causing grievous hurt through acid attacks, sexual harassment, use of criminal force on a woman with intent to disrobe, voyeurism, and stalking.

Importantly, the Act further amended the IPC to criminalize the failure of a public servant to obey directions under law. It has also made the non-treatment of a rape victim by any public or private hospital an offense.

Besides the legal amendments, the Women and Child Development Minister, Ms. Tirath, stated that the ministry planned to work at the grass-roots level. She stated that “in order to bring change in the mindset of the people and to make them aware of legal procedures and provisions to address and eliminate all forms of violence against women, ‘*ahimsa*’ (non-violence) messengers will be appointed.” These messengers will basically be “a cadre of women, girls, and youth who will work at the grassroots level and facilitate social/community mobilization to fight social evils to ensure the overall security and development of women” (*The Hindu*, May 14, 2013). Hence as Klocke and Muschert (2010, 2013) point out, this represents the mobilization of human resources to take corrective measures against the new threat.

Delhi State Government

In addition to the Central Government, State Governments also took several initiatives to ensure the safety of women and to lower the likelihood of such heinous crimes against women. In Delhi, with an intent to send a clear message that violence against women will not be tolerated, the government proposed to set up five fast-track courts for speedy trials in rape cases, which were later cleared by the Delhi High Court (*The Hindu*, December 18, 2012; *ToI*,

December 20, 2012; *The Hindu*, December 28, 2012). Taking other measures, the Delhi Chief Minister also announced that she would launch a dedicated 24-hour helpline number connecting all the police stations in the city and would set up the line in her office. The government also requested that the Delhi Police deploy more Police Control Room vans, widely publicize police protocols, and impart training to police personnel for dealing with the citizens in a respectful and accountable manner (*The Hindu*, December 28, 2012; *The Hindu*, December 31, 2012). Furthermore, the CM said that the Delhi Government will reserve 33 percent of new police positions for women. The Delhi Government also decided to request that Additional Solicitor General Indira Jai Singh draft a new bill seeking amendments that make the law against sexual assault more stringent (*ToI*, December 21, 2012; *The Hindu*, December 21, 2012).

The Delhi Government also took some precautionary measures and identified 255 routes that required more patrolling based on requests from the public. Likewise, 1600 dark places were identified for installation of streetlights to prevent crimes (*The Hindu*, January 10, 2013; January 18, 2013). Moreover, to make public transport safer, the government issued a notice making GPS mandatory in chartered buses and *Gramin Sewa* vehicles²⁸ (*ToI*, March 19, 2013). All these measures point to Klocke and Muschert's (2010) observation that increased surveillance and pre-emptive action are elements of a moral panic. It is also worth noting that the Delhi Transport Corporation workers also pledged that they would not tolerate similar incidents in their buses (*The Hindu*, January 3, 2013).

Other States

²⁸ “Launched in 2010, the *Gramin Sewa* is a para-transit scheme wherein high capacity three-wheelers with a seating capacity of six passengers were given permits to ply in the rural areas, unauthorised, resettlement colonies and the slum clusters of Delhi. These vehicles are an important means of last-mile connectivity in rural areas” (Business Standard, 2024).

Other states also took initiatives to curb such crimes from happening. *The Times of India* (December 23, 2012) wrote:

The Karnataka state assembly has dusted off the “draconian” Goonda Act for use against rapists. In Nashik, police have begun to note down the numbers of autos ferrying lone passengers from the railway station to the bus stand. In Lucknow, the police say the beat system and foot patrolling will now be vigorously carried out.

In the state of Uttar Pradesh, Chief Minister Akhilesh Yadav ensured that “swift action will be taken on 1.5 lakh²⁹ complaints that have been received so far on the helpline number for women (1090)³⁰.” He also said that the state would recruit more women to the police force (*The Hindu*, January). In addition, the Moradabad government railway police (GRP) (in the state of Uttar Pradesh), inspired by the *TOI* campaign dedicated to Nirbhaya, launched the Nirbhaya card, which provides numbers for all GRP stations between Moradabad and Lucknow on one end and Delhi on the other. The card also contained numbers of GRP control rooms on the route (*The Times of India*, May 29, 2013).

Police department

The Delhi police department announced several measures to ensure the safety of women and reduce their re-victimization. For example, the department said, “training courses will be provided to personnel from constable to inspector levels for five days every month over gender sensitization. Along with this one day in each of the next three months, will be allocated to provide training on issues related to crime against women” (*ToI*, May 24, 2013).

The news reports the Nirbhaya’s effect in the following manner:

Police patrolling, especially around girls’ schools and colleges, increased; police station jurisdiction is no longer an issue for registering a case on a woman’s

²⁹ 1.5 lakh equals to 150k.

³⁰ The 1090 was a dedicated helpline number launched by the U.P. State Government in 2012 to assist women in distress.

complaint; 24-hour help desks for women at all police stations with exclusive phone lines; Complaints of sexual harassment are now recorded verbatim; Lines increased for distress number '100'; women and child helplines increased from four to ten; home guards deployed in night special buses; women's special buses introduced; six fast-track courts set up (*The Hindu*, January 18, 2013; *ToI*, June 08, 2013).

Furthermore, in a meeting of the Security Commission for Delhi, it was also decided that women will be able to file their complaints directly with the Special Commissioner of Police and be able to meet him on the last Friday of every month to discuss and take forward all suggestions on crime against women (*The Hindu*, January 18, 2013).

Delhi police addressed another important issue of people failing to assist other people in distress by issuing an advertisement. It stated that "citizens can now rush people in trauma on city roads to hospitals and leave without revealing their identity" (*ToI*, January 13, 2013).

Supreme Court and High Court

A petition was filed in the Supreme Court by Nipun Saxena, a law student, and Ankita Chaudhary, an advocate, seeking orders from the court on several suggested measures to ensure the safety of women. The petition sought that all the public and transport vehicles should be fitted with GPS systems and high-security registration plates, besides maintenance of the logbooks. The petition also read that all vehicles should carry the names and telephone numbers of the owners, drivers, conductors, and cleaners in large letters on the rear side. Furthermore, it stated that the government should encourage employment of more and more women as drivers and conductors and that the government should start a taxi/auto service with women at the wheel so that women would have the option to choose their transport. The petition further read that the government should allot booths/small shops at bus stands, railroad stations, and shopping malls all along major roads in the city to women who had police, army, or paramilitary backgrounds, thereby helping other women feel safer and more confident while using public spaces. The

petition also suggested “a system of appointment of honorary magistrates from among people of repute should be revived to inspect the functioning of the transport system. They should be empowered to issue challans³¹ to offenders for violation of rules on the road, the petition said.” (*The Hindu*, January 12, 2013).³²

Besides this petition, the Supreme Court directed all sessions courts in the country to conduct rape trials daily and complete the process in two months from the date of commencement of examination of witnesses (*The Hindu*, December 31, 2012). The Delhi High Court also ordered opening six new fast-track courts to try cases of sexual offenses against women and directed all Sessions Courts to transfer such cases to the designated courts (*The Hindu*, January 13, 2013).

In Delhi specifically, “the court directed the police to remove tinted glasses and curtains from vehicles plying in the capital and the Union government to increase the number of PCR vans to ensure a more secure and safe environment in the city for women” (*The Hindu*, January 10, 2013).

Health Department

The Department of Health and Family Welfare issued a set of new guidelines for “rapid response by hospitals in case of medicolegal case (MLC) examination of sexual assault victims. These instructions were issued in the wake of the Nirbhaya’s rape case in which the preparedness at a city hospital was found allegedly somewhat lacking while handling the victim” (*The Hindu*, February 4, 2013).

³¹ A challan is an official document issued by traffic authorities to individuals who violate traffic rules and regulations.

³² The data does not provide what orders were passed by the Supreme Court on this petition.

Hence, all the measures adopted broadly reflect what Klocke and Muschert (2010) state about institutionalizing efforts to address the emerging threat. Next, the subsequent paragraphs discuss in detail the counterclaims that arise from the adoption of strict measures.

Counterclaims:

Klocke and Muschert (2013) point out this is also the stage when measures of social control can spark counter-movements. In Jyoti's case, in contrast to popular opinion and demands, there was a segment of society which had a distinct opinion on giving stringent punishments to the accused and the treatment of juvenile offenders.

Social theorist Ashis Nandy, as reported in *The Times of India* (December 20, 2012), said:

The talk of hanging the accused publicly or torturing the rapists—these ideas stem from the same culture of violence that led to the rape. This saddens me. Northern India has a culture of violence and misogynists. But we need to look at a long-term perspective on how to tackle this.

In similar tone, Jug Suraiya, a former associate editor with *The Times of India* (January 7, 2013), writes in their column:

Violence is an infectious disease; it breeds on itself and spreads from one person to the other, from one act to another. He said that the horrific violence inflicted on Nirbhaya did not end with her death, and instead the virus of violence is feeding on us as we demand the capital punishment for the rapists.

He further writes, “An act of violence against one individual raises demand for retributive counter-violence through all of us. It increases the violence quotient of us as a society. Hang rapists by all means. But will killing a rapist also kill the contagion of violence that prompted the rape in the first place, or will it only further spread that contagion? Will the violent death of a violent criminal increase or decrease our VQ?”

Even some women's organizations agreed that the death penalty could be counterproductive. They stated that “If a rapist knows he could get death if convicted, he might be tempted to get rid of the strongest evidence against him—the testimony of the victim—by killing her” (*ToI*, December 23, 2012; *The Hindu*, December 30, 2012). Moreover, there is no

evidence to suggest that the death penalty will act as a deterrent. In fact, there is a strong possibility “that it would make an already low rape conviction rate even lower, since judges would be unwilling to hand down such an extreme sentence except in the worst and most brutal cases” (*The Hindu*, December 20, 2012; *The Hindu*, December 25, 2012).

Referring especially to cases of custodial rape, the rape cases by soldiers, and the police officials implicated in the rapes of women from the lower castes, another counterclaim was raised asking whether the death penalty would be for all the rapists (*The Hindu*, December 20, 2012). *The Hindu* (December 20, 2012) publishes Nilanjana S. Roy’s, a Delhi-based author, words about the situation as follows:

So if you agree that the death penalty should apply to rapists, be consistent about it, and prepare for the consequences. The people you’ll be hanging, more than 90 percent of the time, won’t be strangers, the gangs of youth whom we can safely think of as marauding outliers, the threatening outsider beyond the threshold of our homes.

She further writes:

I wish I could think that public hangings would miraculously solve the problem of violence against women, but I don’t believe in fairy tales. Hanging the neighbor will not address the clear and present need to examine how violence works inside our own homes, within our own families.

The next argument was made by Vrinda Grover, a lawyer and women’s rights activist. She stated that the “death penalty is a distraction from the real issue” and “a tool in the hands of the state to further exert its power over its citizens.” She corroborated her statement by quoting data from both the U.S. and India and writes that “men from minority communities make up a disproportionate number of death row inmates.” She also pointed out “that it would be certainty of punishment rather than severity of its form that could act as a deterrent” (*The Hindu*, December 25, 2012). This aligns with Zatz’s (1987, p. 147) argument pointed out in the literature

review that the stereotypes and deep-rooted structural factors give power to the social control agents to control less powerful actors who would otherwise be seen as illegitimate.

Treatment of juvenile offenders

Due to the involvement of a juvenile in this case and in response to popular demand, the Minister of Women and Child Development, Ms. Tirath proposed to review the punishments accorded to juvenile offenders based on the nature and seriousness of the crimes in which they are involved. Responding to this, the National Commission for Protection of Child Rights Chairperson Shantha Sinha noted that “juveniles in conflict with law should be looked at comprehensively and not in terms of a single incident” (*The Hindu*, January 1, 2013). Bharti Ali, Co-Director HAQ: Centre for Child Rights³³, also stated that this step would be in violation of National Policy for Children (2013) which defines a child as any individual below the age of 18 years. She also mentioned that:

As per statistics of the National Crime Records Bureau last year, only 1,698 persons in the age group of between 16 and 18 committed serious crimes. Evidence on the ground does not support the view that juvenile crime has assumed massive proportions.

The fear that society is under threat from its children is grossly exaggerated (*The Hindu*, December 21, 2012).

The Supreme Court, in another judgment, made a similar observation, as reported by the *Times of India*. It noted that “there was no data to support public perception, formed after the gruesome Nirbhaya gang rape, on spurt in heinous crimes involving juveniles. The Supreme Court said reformation was more important for juveniles than attaching a permanent criminal tag to them” (*ToI*, August 01, 2013).

³³ An NGO in India that focuses on the recognition, and protection of the rights of all children.

Shireen Wakil Miller, Director of Advocacy and Policy—Save the Children also held a similar opinion. She stated that “Most of the youth in conflict with the law are in need of care and protection; they come from a background of neglect, abuse, and deprivation” (*The Hindu*, September 1, 2013). So, the focus should be on reforming such children rather than just punishing them.

Moreover, despite the involvement of a juvenile in this case, women’s groups, child rights activists, and legal experts were also of unanimous opinion that the age to try juvenile offenders must not be lowered from 18 years to 16 years, “as the solution did not lie in locking them up young” (*The Hindu*, January 25, 2013). They also contended that “harsher punishments to juveniles on par with adults were not effective in other countries” (*The Hindu*, December 21, 2012).

Lastly, the objections to lowering the age of juveniles can be best summarized from the affidavit of the Ministry, Women and Child Development submitted in the court in response to a petition filed by Subramaniam Swamy’s on the issue of determining the culpability of juveniles. The Ministry in their affidavit as reported in *The Times of India* (August 1, 2013) stated:

The age group of 16-18 years is the most impressionable age for outside influences, and as crimes are increasing in society, the number of crimes committed by juveniles between 16-18 years has also slightly gone up,” it said. “It is also a fact that whereas there has been an increase in crimes in IPC to the tune of 50.5% from 2002 to 2012, the percentage of juvenile crimes to total crimes has only increased from 1% to 1.2% in 2012,” it said.

The ministry said the age fixed for treating a person as 'juvenile in conflict with the law' has to be understood in the context of the larger purpose and philosophy behind the Juvenile Justice (Care and Protection of Children) Act, 2000.

Opposing Swamy's petition, the ministry said, "A child below the age of 18 years is denied most of his legal rights, and the petitioner does not appreciate that change with respect to imposing liability on a person below 18 years has no legal or constitutional basis.”

“The Act provides for various procedures and services necessary for rehabilitation and social integration of such children into the mainstream of

society. Children are the future of a nation, and individual cases should not take away the protection and services enjoyed by millions of juveniles/children below the age of 18 years.”

Concluding the proceedings against the juvenile in this case, the Juvenile Justice Board sentenced the juvenile to a maximum of three years of punishment as prescribed under the Juvenile Justice Act, 2000 and sent him to a place of safety to complete his sentence. The verdict received mixed responses. While the child rights’ organizations welcomed the decision, the public at large and the victim’s family criticized it. These mixed responses covered and reported by media are discussed next.

In favour of the judgment

The child rights activists supported the judgment and wanted a comprehensive rehabilitation plan to be drafted and implemented in the current case (*The Hindu*, September 1, 2013). Commenting on the judgment, child rights activist Sanjay Gupta of the non-government organization CHETNA, which works with street children, said:

We in the child rights sector think that the verdict is a balanced one as this boy is clearly a victim of abuse and trauma that he suffered as a child. The society cannot wash its hands off [sic] the adverse circumstances that it allows a child to grow in and absolve itself from taking responsibility for his actions, which are heavily influenced by his life experiences” (*The Hindu*, September 01, 2013).

Similarly, Shireen Vakil Miller, Director (Advocacy and Policy) from ‘Save the Children’, said

The aim should be to help the juvenile reintegrate into society once he has completed his sentence. It is also very important that at all times the juvenile’s identity is protected, as it could lead to him being ostracized. The juvenile accused could face threats of violence from other juveniles in the home (*The Hindu*, September 01, 2013).

Criticism of the judgment

The family of the victim recorded their unhappiness with the judgment by calling it “unfortunate” and “expressed disagreement with the quantum of the sentence awarded to the

juvenile.” They stated they would file an appeal against the order of the court (*ToI*, August 31, 2013). The outraged public also demanded that the age to be declared juvenile should be brought to 16 from 18 years (*ToI*, August 31, 2013).

Nirbhaya’s family’s unhappiness was reported in the following manner in the news reports:

The parents were upset over the verdict and broke down and rushed outside the courtroom, saying “they lost the battle” and “there was no need for these proceedings” (*ToI*, August 31, 2013).

The father said:

“I was already dead on December 29, when I lost my daughter. However, I gathered courage to attend the proceedings at the board, thinking the minor will also be hanged.”

He further said, "The board should have sentenced the juvenile keeping in mind his crime and not thinking of his age at the time of offence.”

The victim's father said he would move the higher courts against the order. Visibly upset, he said it was a crime in India to be born as a girl. “Is this justice? Three years for such a heinous crime. The accused has sections for all serious crimes slapped on him, but he has gotten away with a punishment that means nothing,” he said (*ToI*, August 31, 2013; September 01, 2013).

The mother said:

the verdict is not acceptable to them. "There was no need for these proceedings. We have been fooled. I don't accept the judgment. What was the need for keeping us waiting for the whole day?" (*ToI*, August 31, 2013).

The victim’s brother also recorded his anger and said (*ToI*, September 1, 2013):

Children above 16 years of age have senses, and they know what is wrong and what is right.

The accused has been sentenced to three years, which is very less for him in comparison to the crime he committed. He should be hanged here only," he said in tears.

The Hindu reported the family’s unhappiness in the following words (September 11, 2013):

Speaking about the condition of the victim’s mother, the father said: “She was shattered when the juvenile court sentenced the boy to three years in jail. He participated in raping and killing a girl just a few years older to him; what justifies

the light verdict? The court has given him a second chance. Can they give my daughter a second chance to live?

On the public anger over the verdict *The Hindu* reports (September 12, 2013):

Protests demanding improved safety for women and death for all the convicts, including the juvenile, continued outside the court for the second consecutive day. A few protesters even engaged in heated arguments with some of the defense counsels outside the court.

In addition to the victim's family and public response, *The Hindu* (September 9, 2013) reported in the following words on the verdict given by the juvenile board:

On August 31, 2013, the Juvenile Justice Board (JJB) ordered that the boy who raped Nirbhaya, brutalised her with an iron rod, pulled out her intestines and then cleaned up the bus and made tea would go virtually free by sentencing him to only 28 months in a remand home as eight months of the total 36 months' sentence had already been served.

This news excerpt highlights the shift in news media reporting from presenting facts to sense-making journalism. These news lines are written in a way which gives the reader the impression that no matter how cruel and brutal an act by a juvenile delinquent is, he can roam free after subjecting him to a punishment of less as three years.

This argument is further cemented when we read how the news media went on to publish a detailed report discussing the juvenile justice system in the country. *The Hindu* (September 09, 2013) reported the Juvenile Justice Act (2000), the law to deal with juvenile offenders in the country, incorporates into India's domestic law the principles as enshrined in the "U.N. Convention on the Rights of the Child, 1989, the U.N. Standard Minimum Rules for Administration of Juvenile Justice, 1985 (Beijing Rules), and the U.N. Rules for the Protection of Juveniles Deprived of Their Liberty (1990)." And according to the juvenile law in India, if a person who has not attained the age of majority (18) commits an offense punishable under any law, that person will not be "subject to imprisonment in the adult justice system but instead will

be subject to advice/admonition, counselling, community service, payment of a fine, or, at the most, be sent to a remand home for three years” (*The Hindu*, September 09, 2013).

Next in the news report, a comparison of India's juvenile justice system with that of the United States of America and the United Kingdom is made. The report states that like India both these countries are signatories to the U.N. Convention, but unlike India, upon increase in violent crimes by juveniles both countries amended the law to adopt a tough approach to treat its youth offenders.

The Hindu (September 09, 2013) further elaborates that, in certain parts of the United States, children as young as 10 who commit violent or serious crimes can be tried as adults, and the case gets transferred to adult court automatically. Furthermore, it points out that in the U.K. also, the cases of youth offenders committing serious crimes like rape and murder are transferred to the Crown Court. This court also holds the power to try a minor jointly charged with an adult, and subject them to “indeterminate detention for public protection,” thus concluding that juveniles committing violent crimes can be tried as adults.

It further writes that India’s international obligations do not prohibit it from establishing a “minimum age below which children shall be presumed not to have the capacity to infringe the penal law. Therefore, in accordance with the U.N. Convention, the JJ Act could have established an age limit, such as 14 or 16, below which a person could not be deemed to have the capacity to commit an offense. In short, the U.N. Convention does not prohibit prosecuting a child under 18 who has committed an offense under the regular penal laws,” concluding that India’s international legal obligations do not prohibit it from amending the Juvenile Justice Act (*The Hindu*, September 09, 2013). This entire argument serves to support the contention that “persons between the ages of 16 and 18 who are accused of rape, kidnapping, and abduction of women

and girls can be exempted from the jurisdiction of the JJB and be tried in the adult criminal justice system” (*The Hindu*, September 09, 2013).

This detailed report on the working of the juvenile justice system in the country and its comparison to juvenile justice systems in other countries highlights the role media played in setting an agenda against the treatment of youth offenders in the country. Such reporting by the media failed to provide a balanced and accurate representation. The media was unsuccessful in acknowledging that the main emphasis and philosophy of these international instruments is on the welfare of the children and on saving them from the punitive measures because of their diminished capacity to decide between what is wrong and right (Nirmal, 2016). It also overlooked how these punitive measures adopted by other countries have been widely critiqued. These measures are largely considered to be outcomes of moral panics and are considered ineffective in rehabilitating youth offenders.

Elaborating furthermore, the news media failed to capture that the CRC mandates that all children should be subject to equal rights without discrimination. Thus, treating children as adults based on gravity of offence is discriminatory. Furthermore, Article 37 (c) of the Convention specifically state that “every child deprived of liberty shall be separated from adults.” Thus, the suggestion of treating juveniles with adults will violate India’s international obligations and will violate juveniles right to fair trials and subject children to selective unequal treatment.

This protective principle is equally embedded in India’s constitutional scheme. Article 14 of the Constitution obliges the State to not deny to any person equality before the law or equal protection of the laws. However, as M.P. Jain (quoted in Singh 2019, p. 15) notes, “all are not equal by nature, circumstances, or attainment, and hence a mechanical equality before the law

results in injustice.” Recognizing this, the Drafting Committee of the Constitution acknowledged that vulnerable and weaker sections of society require additional protection and accordingly incorporated Article 15(3). This provision empowers the State to enact special laws for the benefit of women and children (264th Parliamentary Standing Committee Report, 2015).

In this light, treating children on par with adults under the criminal justice system violates the principle of equality under Article 14, and, as Pillai and Upadhyay (2017, p. 60) explain, requires “that only like individuals be treated equally” (also affirmed in the 264th Parliamentary Standing Committee Report, 2015). As noted earlier, because Children are inherently different from adults due to their lack of psychosocial maturity, they are viewed to be less culpable when committing illegal acts. This distinction justifies the need for differential treatment in law. Similarly, Article 15(3) allows positive discrimination in favour of children – not against them (Singh, 2019 p. 16). Thus, subjecting youth offenders to adult criminal procedures runs contrary to both the spirit and the purpose of this constitutional safeguard.

Death sentences for the other four accused

For the other four convicts, the court rejected their plea seeking a chance for reformation based on their young age, poverty, lack of prior charges, and other mitigating circumstances, and awarded capital punishment to all of them. While rejecting the plea, the court observed:

The crime of such nature against a helpless woman, per se, requires exemplary punishment... the aggravating circumstances outweigh the mitigating circumstances in the case (*ToI*, September 14, 2013).

In its judgment, the court stated that the current case falls in the “rarest of rare cases” and that the perception of society towards the offense was important. The death penalty is being awarded because Nirbhaya’s incident was an “overt act,” as it was committed in an “extremely brutal, grotesque, diabolical, revolting, and dastardly manner” that “shocked the collective

conscience of society” and “left a grave impact on social order.” For such outrageous crimes, society demands strict punishment. Therefore, judge Khanna, while reading out the order, said that “courts cannot turn a blind eye to the need to send a strong deterrent message to the perpetrators of such crimes” (*The Hindu*, September 14, 2013; *ToI*, September 14, 2013). The judge stressed the need to adopt a “zero-tolerance policy” in crimes against women and to instill faith in women. This reasoning by the judge testifies what Hall and colleagues (as cited in Hay, 1995, p. 198) says. They state that “societal reaction to the incidence of crime is not about the crime per se but instead perception of the disintegration of the social order itself.” The law-abiding citizens believe these others can only be corrected through hostility.

This judgment also received mixed response from legal experts. *The Times of India* published a range of responses from members of the legal community. One of the voices featured was that of Lawyer Gaurang Kant, who remarked, “Nirbhaya would feel emancipated. I hope this acts as a deterrent to the rising offenses against women” (*ToI*, September 14, 2013). Another retired HC judge, Justice R S Sodhi, said, “I am not sure if a death sentence is a deterrent. But yes, it is a swift punishment that leaves the victim’s kin and society relieved. In cases of life sentences, people eventually forget” (*ToI*, September 14, 2013). Additional Solicitor General Indira Jai Singh, however, was skeptical of the death sentence and said, “The question is, does death act as a deterrent? There have been death sentences given earlier for rape and murder, but still this case happened. It makes you wonder what’s the purpose of a death sentence” (*ToI*, September 14, 2013).

Nirbhaya’s family’s response was reported in the following manner in the news reports:

“We miss her today,” said Nirbhaya’s mother, reacting to the conviction of four accused in the December 16 gang rape and murder case on Tuesday. Repeating her demand for the “death penalty” to the guilty, she said it was also her daughter’s last wish. “I remember her last wish was that these men should be

burned to death. I am sure that she is satisfied now wherever she is,” said Nirbhaya’s father...

“They were taking names like Ram Singh, Thakur, Mukesh, etc. It was night so everyone appeared dark. They beat me up so badly. They were screaming *pakdo, kapde faado, and peeche le chalo*.³⁴ They should be hanged. No one else should suffer like this. They should be burned to death,” Nirbhaya had said in her statement in the hospital. (*ToI*, September 11, 2013).

When people learned that all accused had been awarded the death penalty, “people shouted in joy and clapped outside the courtroom. Some even broke into an impromptu dance” (*ToI*, September 14, 2013). An Italian tourist who came to hear the decision praised the judiciary and Indian police and said “the way the system has dealt with the case is exemplary. I am sure that will create a milestone for every rape trial in the world” (*ToI*, September 14, 2013).

This all proves that the counterclaims failed in the current case.

Discussion

In the study of moral panics, when there is a widespread public concern about a threat it ultimately calls for adoption of strict measures to manage and eradicate the threat. The acceptance of these measures by law enforcement agencies and society at large to eliminate the threat is what is studied at the regulation stage in Klocke and Muschert’s (2010) hybrid model. Thus, without delving into the details again, upon scrutinizing the hybrid model it can be concluded that the key elements of this stage include: evaluation of the measures adopted to deter, manage, and eradicate the threat; and evaluation of the counterclaims.

Following my analysis of the Delhi gang rape case, I can state that both these elements were present and apparent in our data. Talking about the first element, several measures were adopted by the Central and State Government, police department, and the judiciary to curb the

³⁴ Grab her, tear her clothes off, and take her to the back.

cases of sexual offenses against women, and to deal with the accused in the current case. Among all the adopted measures discussed previously the formation of the Justice Verma Committee, the creation of fast-track courts, and the passing of The Criminal Amendment Act (2013) were some of the most critical steps taken by the government and the judiciary which marks the institutionalization of the measures to which Klocke and Muschert (2010) refer.

The next element of the regulation stage is the counter-movements resisting social control. In the current case, the counter claims came from child rights activists, some women 's organizations, and scholars. Similar, to the observations made by the Justice Verma Committee, the counter-movements arising after this gang rape case were unanimously of the opinion that the death penalty is not the solution. Moreover, in cases involving juveniles' the focus should be on the rehabilitation and treatment of juvenile offenders rather than subjecting them to harsh punishments and treatments.

However, in the current case the counterarguments failed against the popular demand as the folk devils belonged to the socially marginalized group. They did not have the relative social capital to succeed against the agents of social control (Klocke & Muschert, 2013). Moreover, the society at large shared the ideology of the threatened group. The four accused were therefore awarded the harshest punishment – the death penalty in this case. The juvenile was also awarded the maximum sentence under the juvenile law applicable at that point in time. However, the family of the victim and the public at large were dejected by the sentence given to the juvenile in the case. Consequently, this later became the reason for passing of The Juvenile Justice (Care and Protection of Children) Act, 2015 when the new government came to power. Hence, the control measures were institutionalised with the passage of new laws echoing a familiar pattern which has been followed by other countries in the past. The new punitive law was passed to appease

public sentiment and to respond to a moral panic, rather than being grounded in evidence to address cases involving youth offenders.

Dissipation stage

Moral panics are volatile by nature; they erupt abruptly and do not continue for long (Goode & Ben Yehuda, 1994). A similar observation is made by Klocke and Muschert (2010, p. 305) who state that “moral panics are temporary social events, although they may leave notable legacies.” Referencing Durkheim, they further assert that “the emotional effervescence experienced in moral panic cannot long persist, and the social relations must return to normal or a new normal.”

Thus, at the dissipation stage the focus is to understand the reasons and circumstances that lead to the disappearance of the moral panic. According to Klocke and Muschert (2010), the moral panics recedes either through success or failure. Generally, the success implies that the moral panic evades eliminates the threat, or that the moral panic resulted in social or institutional changes. On the other hand, the failure implies that the moral panic failed to bring any meaningful change to the existing cultural, moral or social fabric of society.

The Nirbhaya Index used in our data analysis, as already pointed out, only provides links to the news articles until the pronouncement of the judgement by the district court in this case. Therefore, the Nirbhaya Index used in our study for data analysis falls short of providing us with requisite information as to how the moral panic faded in this case.

Nonetheless, based on the existing literature it can be interpreted that the moral panic eroded because of perceived success. The new Criminal Amendment Act (2013) was passed, and it introduced new provisions to deal with crimes of sexual violence against women. Moreover,

the decision of capital punishment announced to all the four accused³⁵ (except the juvenile) in Jyoti's case by the district court was upheld by the Supreme Court and all accused were hanged on March 20, 2020, upon exhausting all legal remedies. So, it can be said that society was relieved as the threat was eliminated. Regarding the treatment of juveniles involved in heinous crimes, the new Juvenile Justice (Care and Protection of Children) Act, 2015 was passed. Under the new law, juveniles between 16-18 years of age committing heinous offenses could now be treated as adults.

Apart from this, the current moral panic also left a legacy in discursive and ideological forms. To elaborate, Klocke and Muschert (2010, p. 304) write that "certain aspects of a moral panic may re-circulate into the discourse of a new moral panic." They recognize that in "severe cases a place name, date, or other labels can become endowed with extraordinary meaning and can trigger deeper emotions." As Welch and colleagues (2002) say about the word "wilding," the word "*Nirbhaya*" still finds "nostalgic references" when any brutal rape crime is reported in the country. The reported brutal rape and murder case of a trainee doctor in Kolkata on August 9, 2024, is a recent example among many where the comparison of the victim and the case was made to *Nirbhaya*'s case.

Discussion

It would not be wrong to conclude that the moral panic generated after Jyoti's rape case subsided with the announcement of capital punishment for all adult accused in this case, and the passage of the new juvenile justice law to treat youth offenders involved in serious and violent crimes. These measures resorted to by the judiciary and the government gave a false sense of

³⁵ Out of the six accused, Ram Singh committed suicide in the jail. Next, the juvenile was already given the maximum sentence under the juvenile law applicable in the country.

reassurance to the public at large that the threat has been addressed, and that society had changed for the better so that women could feel safe.

While Jyoti's rape case may have created a commotion, nevertheless, the reality remains unchanged that crimes against women continue to be a pressing issue in India. According to the latest report published by the National Crimes Record Bureau, a total of 445,256 cases of crime against women were reported in 2022 in India (*ToI*, April 3, 2024). Out of these, 31,516 were rape cases, and in about 96.6 % of these cases the offender was known to the victim (NCRB, 2022). In fact, according to *India Today's* report (August 13, 2024), "despite legal reforms following high-profile cases like the Delhi gangrape, the problem has only grown more pervasive, with sexual violence increasingly characterised by extreme brutality." Furthermore, the NCRB data also suggest that there is no steady decline in the rape cases by children after the passage of the new law.

These statistics highlight the failure of the punitive measures adopted in the aftermath of the Delhi gang rape in addressing the issues of sexual violence against women. India must realise that to combat crimes against women it must address the deep-rooted social, economic, and structural factors that are the contributing factors to crimes against women rather than just resorting to reactive interventions. India needs comprehensive legal, institutional, and cultural reforms to ensure a more inclusive and safe society for women.

CHAPTER 6: CONCLUSION

“A nation’s greatness is measured by how it treats its weakest members.”

- Mahatma Gandhi

Only a few centuries ago, children came to be seen as distinct from the adults, a distinction that had not previously existed. As a result, childhood came to be seen as a period marked by innocence and purity - an ideology that continues to dominate contemporary times. Consequently, when children indulge in delinquent acts, it shatters this image about children and childhood. Rather than seeing juvenile delinquency as an isolated issue, society perceives it as a moral decline of the society itself. But there is no unanimous opinion as to how these delinquent children should be treated. Those who see childhood as a period of growth and learning believe that the focus should be on the rehabilitation of such children and not punishing them. In contrast, another segment of society believes that children should be met with the same treatment as adults and be punished for their crimes.

The existing literature in the field of criminology tries to address this conflict through research and reasoning. Studies suggest that while children may develop cognitive abilities like adults over time, they lack psychosocial maturity. This maturity gap prevents them from being rational in their thinking and decision-making. This serves as a prime justification for why children should be treated differently from adult offenders in the criminal justice system.

Despite these findings, governments across the world have subjected youth delinquents to harsh punishments and treated them at par with adult offenders. The concept of moral panic helps explain this phenomenon. Research on moral panics suggests that when societal values are challenged, society finds comfort in holding a particular group responsible for the perceived threat. The society tries to eliminate the new threat by subjecting that group to strict measures

and harsh punishments. The same literature also suggests that youth offenders have commonly been scapegoated to ease public fear and anxieties.

A similar situation was witnessed in India when, after the Delhi gang rape case, a new law was adopted to try youth offenders as adults. The theoretical framework of moral panic and findings from case studies of moral panic around youth offenders in the USA and UK were applied to the Indian context. The aim was to understand whether the adoption of a new youth justice law in India can be understood as a product of the moral panic around the treatment of youth offenders or not. The data analysis reveals that Jyoti's gang rape case was the precipitating event that generated a huge public reaction. The migrant youth workers from impoverished neighbouring states in Delhi were disproportionately blamed for the rising crimes of sexual violence against women. The protestors demanded the harshest punishment for the offenders in this matter and amendments to existing laws. To pacify the crowd and gain their support, several measures were adopted by government bodies. The judiciary also announced capital punishment for all the accused involved in the case while giving a maximum of three years sentence to the juvenile in accordance with the existing law. The people widely accepted the capital punishment announced to the offenders, but the victim's kin and the society at large were discontent with the treatment subjected to the juvenile.

My analysis also emphasizes on the crucial role media played in shaping public opinion related to the case, especially around the treatment of youth offenders. Consequently, when the new government came to power in 2014, it relented to popular demand and passed the new juvenile law thus evoking a sense of moral panic *déjà vu*. The government enacted the new law, ignoring the fact that the National Crimes Record Bureau suggested that juvenile crimes had increased significantly in comparison to the total crimes being committed in the last decade.

Moreover, the Justice Verma Committee and the Parliamentary Standing Committee also opined that the solution does not lie in locking up young people. Another crucial consideration is that the new law will adversely affect the children from marginalized communities the most as the majority of the children come from a disadvantaged background. Thus, if we consider carefully these children should rather be considered under the definition of children in need of care and protection than children in conflict with law.

This study makes the case that the adoption of the new juvenile law to treat juvenile delinquents as adults was a regressive step motivated by political considerations rather than empirical evidence. The provisions to treat youth offenders committing certain offenses as adults contravene India's commitment to international law as well as the supreme law of the country. I would like to quote lines from Dr. Shashi Tharoor's³⁶ (2015) speech given in the Parliament session on the discussion of the Juvenile Justice Bill, 2015 to conclude:

Children below the age of 18 must be saved from prison, must be protected from the regular criminal framework. We cannot sacrifice the child to appease popular political settlement and sentiment... the state should work to reintegrate them into the society through rehabilitation and assistance and to not cast them aside by regressive measures of retribution... the child is our future, we must protect the child, rescue the child, not destroy the child.

Research limitations

The Delhi gang-rape case involved six offenders, which included five adults and one juvenile. This study presents an overall analysis of the case focusing on the five adult offenders, while attempting to maintain a distinct focus on the juvenile. However, at certain points, maintaining a strict analytical distinction becomes challenging due to the interconnected nature of media reporting.

³⁶ Member of Parliament in opposition.

Furthermore, for my analysis I have only focused on the print media, drawing from the 1700 entries contained in the 'Nirbhaya' database. It is worth highlighting that the completeness of this database cannot be verified. Moreover, due to the large volume of material it was difficult to do an analysis of all the 1700 entries contained in the 'Nirbhaya' database; I therefore chose to focus on two newspapers only. Since the rape incident happened almost a decade ago, it was difficult to retrieve all the links published in the Nirbhaya database relating to the selected newspapers. Finally, I did not have an opportunity to interview the journalists and policy-makers for this study.

Future research

The theory of moral panic mentions 'folk devils' and 'folk heroes.' However, to date, moral panic studies have predominantly focused on folk devils, with little to no attention given to folk heroes. In my research, however, 'folk hero' has emerged as a dominating theme and as a parallel construct to 'folk devils.' The focus on the moral fortitude of folk heroes has resulted in amplifying the demonization of folk devils in this work. Therefore, the current study not only contributes to the existing literature on moral panics involving youth offenders but also makes a compelling case to explore the theme of folk heroes in the study of moral panics.

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