



**TWO DAY LAW CRIMINAL LAW CONCLAVE ON CONTEMPORARY ISSUES
SURROUNDING CRIMINAL LAW AND JUSTICE ADMINISTRATION –
13&14TH MARCH, 2020**

Rapporteur- Aditi, Shreya, and Praneeta Tiwary,

Day 1: 13.03.2020

Speaker: Mr Shams Tahir Khan, Senior Executive Editor, Crime Head, Head Dilli Aajtak.

Topic: Medial Trials and Experience as a crime Journalist.

Moderator – Aditi Singh

OPENING REMARKS FOR THE SESSION:

Moderator, Ms Aditi Singh welcomed the guest, Senior Executive editor and Crime Head at Aaj Tak, Mr Shams Tahir Khan. She then expressed gratitude towards him on behalf of the society. She mentioned that Mr Khan is credited for revolutionising Criminal Reporting in this country, and he was the only TV Media journalist to interview Afzal guru after his conviction. And also highlighted the way he inspires youth to be bold and robust, and stand for the truth without any fear. The discussion was based on the theme “Media Trials”.

Session I of the two-day conclave was conducted in the Hindi Language, to promote the discourse in vernacular language in law school. Ms Aditi then handed the charge over to the speaker to give their insights on the positive and negative aspects of media trials and also the challenges faced by media.

FUNDAMENTAL ISSUES/CHALLENGES

Mr Khan highlighted various challenges faced by media mostly not known to a layman.

- He mentioned that risk of life is one of the significant issues faced by media. He shared his personal experience of reporting in Mosul amidst the ISIS threat.



-The non-availability of decent basic facilities and the need of visiting remote areas serves as a huge problem. Pointing out this problem, he informed about the gender disparity that exists in the media team, as this problem hinders women from opting fieldwork.

- The workload in this field is enormous, and sometimes they are required to work day in and day out.

- The other problem serves as one of the biggest problems, and that is the involvement of people from the political field. Pressure from higher authorities hampers the working atmosphere.

- He also pointed out how as a crime journalist, he has to balance out respecting the sentiments of the viewers who mostly think from an emotional quotient and providing a balanced coverage. He mentioned the backlash and trolling which A.P Singh, the advocate who successfully delayed hanging of convicts in Nirbhaya Rape Case by exposing loopholes in law had to face for performing his duty as a lawyer by protecting interests of his client.

- He pointed out that with the increase and improvement in the information and technology sector, new platforms are emerging. In this way, there is enormous competition among the channels. He also opined that the current times is very challenging for news channels as a significant section is starting to lose faith in the 4th pillar of the democracy.

Other Insights

Mr Khan also put forward his opinion that the field of media is as good as any other field for women. He also guided the attendees to stay bold and strong in whichever area they go.

He gave insights about encounter killings and Aarushi Talwar case, and the role of media during the trials. He also mentioned about the unprofessional behaviour of journalist while covering sensitive cases to gather the traction of people towards their channel and broadcast, but he strictly condemned such actions, and called it an impediment in justifying the role of fourth pillar of democracy in our country. Mr. Khan also mentioned how journalists in order to investigate crime and inform viewers of the crime scene try to tamper with the crime scene. He also gave a personal account of indolent response from the officers handling such



sensitive cases. Narrating his personal experiences, he mentioned the utmost importance of maintaining “journalism ethic.”

He also discussed various provisions of the Criminal law in India, used in extra judicial killings like Section 46 of Code of Criminal Procedure, which authorises the police to use force, extending up to causing of death, as may be necessary to arrest the person accused of offence punishable with death or imprisonment for life.

CONCLUSION:

The entire session was quite enriching and engaging. The session was not in form of a lecture but of a conversation, where Mr. Shams Tahir Khan answered every question posed by the audience in an extremely informal and cordial manner. Right from sharing his experiences in crime scene to presenting from the TV studios, every aspect of crime journalism was touched upon by Mr. Shams in this extremely interactive session of more than 90 minutes. The speaker’s address to pertinent questions regarding the role of media and its linkage to Criminal justice system with anecdotes from his professional and personal experiences provided a pragmatic consideration of media trials and the risks involved. Thus, the session was extremely engaging, interactive and enthralling. Some true stories revealed by Mr. Khan truly shook the audience, some left them in wonder, while remaining left the audience in laughter.



Day 2: 14.03.2020

Panel I

Speakers: Ms Aparajita Rai, IPS Officer Currently Posted at DCP STF Kolkata Police

Dr. Payel Roy Chowdhury, Coordinator of Human Rights Department at Rabindra Bharti University

Ms. Sampa Karmakar Singh, Assistant Professor of Law at for the subjects of Women & Criminal Law respectively at NUJS.

Topic: Rising Crime against Women and Failure of Criminal Justice System

Moderator: Ms Ankita Chakravarty

OPENING REMARKS FOR THE SESSION BY MODERATOR:

Ms Ankita Chakravarty welcomed the all-women panel for the discussion on “Rising crime against women and failure of criminal justice system” and expressed gratitude upon their presence. Starting with one of the most gruesome assault on a woman which is rape, she explained that the act is not only a crime against human body but also a serious assault on mind of the victim. To elucidate further she gave reference of the book “Against our will”, authored by Susan Brownmiller, who argues that rape is a conscious act of intimidation by which all men keep all women in a state of fear and expressed her dismay over this surge in violence against women. Ms Chakravarty then handed the charge over to the speakers to give their insights on this rising menace and discuss with us all the probable steps that must be taken to back-pedal this surge.

FUNDAMENTAL ISSUES/CHALLENGES



- To change the mind-set against the myth that rape or other sexual assaults on women only emanates out of lust and desire. The fact is that, in most of the cases the crime is committed to establish or to show dominance over a particular class, caste, religion, sex.
- Apart from article 21 of Indian Constitution, the International Covenant on Civil and Political Rights, 1966 and the International Covenant on Economic, Social and Cultural Rights, 1966, upholds the inalienable right of every person to equality and human dignity and the sexual offence emanating due to the prevalent bias against women in society, primarily infringe such guarantees.
- Linking this reasoning to the commission of crime, the first speaker argued that the categorization of women as victim only, is not true in all cases, as under this refined definition, anyone including men can be a victim of rape, which our criminal law refuses to consider, as Section 375 of Indian Penal Code is gender specific in nature.
- It was argued that the major reason behind rising crimes against women is inherent bias in the society and a normalization of the fact that by virtue of being a woman, her rights is already prejudiced.

VIALE RECOMMENDATIONS/SOLUTIONS

- The first thing, we as a society must do is to weed out the normalization of the crime against women, as from the recent trends it is evinced the crime against women has lost its shock value unless and until a inhumane and aggravated assault case comes up like the Unnao or Hyderabad rape case.
- The attitude of judiciary towards crime against women is also appalling sometimes and due to the oppressing cycle of hectic trials and social stigmas many of the cases go un-reported and hence add to the plight in disguise.
- The most promising step in furtherance of gaining confidence of the victim and instilling her faith in criminal justice system is to make the system victim centric, not needed to say, without prejudicing the rights of accused too.
- In order to safeguard the interest of victims of rape and other sexual offences, as a part of justice delivery system, emphasis must be laid on bolstering and bringing



advancement in forensic evidences, as in majority of the cases in dearth of such evidences the interest of victim gets prejudiced.

CONCLUSION:

The panel discussion revolved around the attitude of our society and the criminal justice system towards hindering the rise of crime against women. Several societal factors, like gender roles and inherent bias against women, were taken into consideration to present that women are most vulnerable to such offences. Lastly, steps were suggested on prospects of rehabilitation through which, both the society and the criminal justice system, ensure justice to victim.

Panel II

Speakers: Advocate Apalak Basu, Advocate, High Court, Calcutta.

Dr. Sujata Dutta, Gynaecologist and Laparoscopic surgeon, at Fortis Hospital

Advocate Kallol Basu, Advocate, High Court, Calcutta.

Topic: Medical Termination of Pregnancy Act 1971: A debate on Amendment Bill 2020

Moderator: Mr. SurjaKantaBaladhikari

OPENING REMARKS FOR THE SESSION:

Adv. Basu first thanked NUJS for hosting the session, and the volunteers for coordinating the event. He remarked that the rudimentary difficulty with the issue at hand was the lack of awareness and discussion and such a session was the first step to solving the same. He remarked that the panel would help us in getting an in depth understanding regarding terminating pregnancy as a legal concept as well as the tenets of the 'Medical termination of pregnancy act'.

The speakers spoke upon two aspects aforementioned: The role of women in terminating pregnancy and the basis and intricacies of the MTP act, 1971.



The MTP act has been one of the most debatable acts ever since it came into existence. Revolving around the sociological aspect of terminating pregnancy, the act has undergone several changes, and many issues have crept up, off and on. With changing times the questions regarding the role of maternal aspect of the act have come up and it is important to have a clarity regarding that. This session was thus, a structured account of the same.

FUNDAMENTAL ISSUES/CHALLENGES

- The cut-off of 20 weeks is unfair and primitive considering the medical advancements in the last 4 decades.
- The guidelines that MTPA gives for the termination of pregnancy are stringently based on social reservations and not reproductive rights of the pregnant mother.
- The consent of two medical practitioners further curtails the mother's reproductive rights grossly ignoring the importance of the same.
- Due to stringent regulations, several women are forced to go for illegal abortions. Illegal abortions lead to the death of 13 women every day due to the risk of life associated with poor medical regulations and procedure.
- The act doesn't focus on sexual harassment and domestic assault on women lucidly and mentions the bare minimum. Although courts are sensitive in this matter, this leads to a delay in justice
- Mother is not given an autonomy over the decision of the termination in most cases for the decision (in the form of a signature) is compulsive of both parents. This brings forth the issue of choice yet again.
- There is a lack of healthcare facility, awareness and education with respect to the termination of such pregnancy
- The mental trauma, guilt and shame is heightened and ignored by the society with no proper system in place to alleviate it.
- The legal status of the unborn foetus is still in question and clashes with the reproductive rights of parents/mother

VIALE RECOMMENDATIONS/SOLUTIONS



- Recommended amendments should be made in the act
- The basis of the act should shift from societal notions to the reproductive rights of women
- Women should have complete autonomy over their pregnancy along with the sole decision making capacity regarding pregnancy termination
- A cell, helpline and mechanisms should be in place to alleviate the mental trauma
- Healthcare facilities and education should be strengthened with sensitisation and awareness programmes being commonplace and not behind the close doors of guilt and shame
- There should be a harmonious construction between the legal rights of the foetus and the mother both of which should be defined
- Instead of putting a certain number of weeks, the act should be evaluated and applied on a case to case basis under the governance of kinds of pregnancy cannot be terminated
- Since the consent of practitioners puts and overtly medical view to a rights based scenario, the compulsion should be done away with
- Due to several case laws, MTPA considerably transformed thereby being considerate to sexual harassment victims but their is a long way to go till justice is delivered at the right time

CONCLUSION:

The Conference provided a great insight on the importance on the specificities regarding the termination of pregnancies. All the speakers on the panels agreed on the fact that Reproductive rights in India aren't as imperative as they should be. However, just as MTPA came a long way since inception, it can go a long way towards justice, truth and perfection.