

## Reporting Rape: Ethics, Gender and human Rights

The news has been dominated this last week by the story of the alleged rape of a South African woman by a South African judge. The rape allegedly took place at an international conference in Mumbai, India. The judge was arrested by Indian authorities and is currently in prison. The story was first reported on a radio station when the woman's husband (who is in South Africa) called the station and announced that a judge had raped his wife. In telling the story the husband named the judge. Initial reports in many media including the *Citizen*, *The Star*, *This Day*, the *Business Day*, *Sowetan*, ClassicFM, e-tv and SABC TV did not name and identify the people involved, however, some media opted to name and identify the judge, the woman he allegedly raped, her husband and their children from the beginning. By 21 January the overwhelming majority of media had decided to name both the judge and the woman.

Ordinarily, had the incident taken place in South Africa, in spite of a prominent person being involved, the media would be guilty of an offence had they named the judge and the woman without her permission. Section 154(2) of the Criminal Procedures Act, prohibits the naming and identification of a person charged with a sexual offence before he/she has pleaded. As the incident took place in India it would appear that South African law does not apply. The question to be asked however is whether or not that means the legal and ethical framework and principles should simply no longer apply?

Some media are to be commended for attempting to adhere to the legal principles, in not naming those involved (e-tv being one of the most prominent). Following on from last year's humiliation and discrediting of Vusi Mona it would have been reasonable to assume that the media would have exercised greater caution in reporting this case. As things stand however with all parties being named including the children of the woman who has laid the charge, the case presents the media with the opportunity to discuss various legal and ethical issues.

The majority of media, in naming the woman made it clear that her permission had been given, and while legally speaking this would permit them to name her, the value added (if any) to the story needs to be questioned. Also, it would be fair to assume that a person who has been raped would be in a state of severe trauma and the question then arises as to whether the person giving their permission to be named, less than 36 hours after the rape, would be cognisant of the implications of doing so. The free manner in which the woman in this case has been speaking to the media would suggest that she is aware of its implications.

An opinion piece on the front page of *This Day* (20/01/2004), would normally not have been possible given its content and would most certainly be found to be in contempt of court. Again, because the incident took place in India such a discussion of the case and the evidence is not *sub judice*. The piece raised important questions which journalists covering a similar case would not have been able to do.

Given the general trend to name and discuss the case, there are clear gender concerns about the way it has been reported. While there has been some critical coverage of the husband, *Die Beeld* (22/01/04) and *This Day* (22/01/04), which highlighted some of his dubious past activities, there has been little attention given to his gender biased comments. (An exception to this was Safm's debate at 8 (22/01/04). The manner in which the husband is reported to have referred to the incident and his comments, suggest clear patriarchal beliefs, (including his reported request that the judge should ask for the husband's forgiveness (*The Star* quoting 702, 19 January 2004), and these need to be unpacked and interrogated. In addition, to this, the manner in which some media have identified the woman as "wife" ("Wife accuses judge of Rape" (*The Star*, 19/01/04) and "Forgiven Wife is coming home"(*The Star* 20/01/04)) and not on her own terms supports a stereotype of women needing to be defined in relation to men. Not only is rape as a crime one of the biggest problems facing South Africa it also presents us with one of our greatest gender challenges. The fight against rape is undermined if gender stereotypes are reinforced.

With regard to the children, their best interests should be taken care of by their parents and the media cannot be blamed for the father placing them in the spotlight in spite of his claim that he, "can see what they are going through." (*The Star* quoting interview with the husband on 702 (19/01/04)). Furthermore while it may not be illegal to name and identify the children, what value is added to the story by doing so? The question is critical when balanced against the potential harm and stigma they may be exposed to.

Some media reports on Classic Fm suggest that the judge may be brought back to be tried in South Africa. If and when this happens the media will again be faced with the dilemma of identification (a person accused of a sexual offence may only be identified after he/she has pleaded – this has still not occurred) let us hope at that point past lessons of respect for the law, due consideration of the facts, accuracy and balance are adhered to.

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