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Hypothesis: The sensationalist reporting of rape by the media contributes to the under-reporting of rape to police and hides the real causes of rape in our society.

The Attack and Defence: rape reporting in the New Zealand media

Ali Bell argues that the media uses stereotypes of victims and attackers in the way it tells rape stories and shows scant regard for the privacy of sexual assault victims.

The media reports rape cases in a sensationalist manner as part of an adversarial judicial system where it is the defence lawyer's job to discredit the victim and defend the rapist.

She uses the 2006 Trevor Eagle case, and the Louise Nicholas case to demonstrate.

On the latest high profile rape case, on January 20th 2006, Newstalk radio host Mike Hosking interviewed David Quilliam, the lawyer defending the accused rapist Trevor Eagle.

"He's not evil," said Quilliam about Eagle. "He's not a bad sort of bloke on an individual one to one basis."

This rape case was particularly gruesome. The woman had obviously narrowly escaped with her life after an abduction and 9 hour period of repeated assault and rape. She had been hospitalised, and it was reported in the paper how lucky she was to be alive. This case, it could be argued, was straight forward - there were not a lot of shades of grey in a subject where those shades can be most apparent.

How extraordinary then to hear these words from Quilliam to Hosking in what could be described as a mild-mannered chat about

the case between the two men, done in a matey interviewing style, and where the defence lawyer's motives on behalf of his client were not made explicit.

One could be forgiven, especially if a female listener, for wondering what exactly *is* repeated rape over 9 hours, but a 'one to one' sort of thing? And for thinking an act of that nature other than 'bad' or if not the perpetrator evil, then at least the act itself was the kind of evil women can relate to.

But this is exactly the kind of news reporting and commentary that happens around rape and violent sexual assaults in the media, still, in 2006.

Adversarial justice and standard reporting procedures

Why is this the case? Because journalists in this country are reporting on rape within a judicial system where rape is tried in an adversarial manner. It's 'her word against his word', tried by a jury, the media present with the right to report on them, and on an "individual one to one basis".

Where even with rape shield laws in place, a woman's prior sexual history, irrelevant information about her age, location, profession, sexuality and life-style is not supposed to be used as a defence of rape, but this still seems to happen. And then supported by standard reporting procedure when sources other than what is heard in court are interviewed in the media. (Think of the girlfriend/flatmate's words in the Louise Nicholas case, and the ex-man-friend with name suppression whose words on Nicholas were reported in the press.)

This is a system where the rapist has a lawyer whose job it is to show whatever defence s/he can, and with rape - that the complainant/woman was really consenting, or there were other mitigating circumstances. (In the Eagle case the defence lawyer was going for the 'P made him do it' defence.)

The radio interview became another venue for 'his word', without any hard questions.

Journalists are reporting on sexual violence in a world where gender relations, of male against female, is such an ingrained 'fact of life' that the front page of a major case's jury verdict has the man on one side (yes, appearing first) and the woman on the other side of the page in a frank visual depiction of how and what is thought to be going on here. ('Tears of Relief' front page of a three page article, NZ Herald, April 1 2006.)

Reporting of sexual violence compared to war violence

Journalists are reporting on sexual violence in a world where other forms and acts of violence, such as in war, have not been reported in detail (although at the time of writing this may be changing), but details of sexual violence are.

What goes on in war, on an individual basis, one to one, has been taboo on the front pages of our newspapers, on the nightly news. It has not been chatted about on the radio. We do not see interviews with returning soldiers with post-traumatic stress disorder detailing how they slit another man's throat 'in the field', or the effects of a bomb on an apartment building (although this is probably changing). But we do hear and read of the details of a sexual assault, as they are revealed in the court case with journalists present.

Sensationalised rape as entertainment

We live in a world where any night of the week forensic dramas or crime shows are played, rape and extreme violence against women are normal fodder for entertainment. These shows focus on the high drama of terror, and the fascination we perhaps naturally have for all things to do with sex. And it must be said – with violence.

The uncomfortable extrapolation of that is a fascination we have as a species with sexual violence. (The fact that the fascination in practice, and in media production, may be highly gendered, ie of more interest to men, is too big a subject to deal with in this article.)

So we live in a world where sexual violence (particularly of men against women) is normalised as entertainment, and real life cases are sensationalised in the media.

An example of sensationalism is the pointer-box referring to an article on the Louise Nicholas case: 'Special investigation', – using the words 'sex allegations plunge', 'crisis', 'scandal', 'the whole sordid affair with new details'. This is the stuff of soap opera, *The Woman's Day*, and *CSI*. It's hard to credit that this is reporting an incident of traumatic proportions for a victim/rape-survivor.

Cynthia Carter and C. Kay Weaver write in *Violence and the Media* that news stories are structured into individualistic and adversarial patterns. Each individual rape case is a unique incident where 'her word is against his word', as most recently exemplified in the Louise Nicholas case.

Compared to war reporting, where the details of the violence is minimised, the details in rape cases are maximised, say Carter and Weaver.

They argue that news reporting on sexual violence and murder of women by men is a staple of the mainstream press (and often extreme in the sensational/tabloid press), the news narratives still mark out the boundaries of acceptable behaviour for each gender, as part of the adversarial justice and reporting system we have.

The kinds of 'acceptable behaviour' questions are: How does an 18 year-old deal when three sexually predatory police officers visit her home? Were the officers predatory? Or just normal men?

When the object of a case is to find out if in fact abusive sex actually occurred, or if the woman was really asking for it, what is considered normal and right and proper for both men and women becomes part of the case, and the media's reporting of it.

Canada's system

Even though our own system is steeped in this dynamic it does not have to be the case. Kylie Tippett, manager of Bodysafe (a rape prevention education programme) at the Auckland Rape Crisis Centre, says there are countries that deal with and report rapes (in terms of positive outcomes for women) worse than we do, and countries that do it better. "Canada is one that does it better," she says.

In Canada a rape case goes to a judge and not a jury, the two parties tell their stories, all the information goes to the judge and the judge makes the decision. No lawyers question the rape survivor. Reporters are not present.

Here we have the jury system, and defence lawyers get to work on playing on the myths that surround rape, says Tippet. And those defences – as dramatic as they are – are what we get sensationalised in the media.

The politics of blame

Underlying the adversarial system – his word against her word – is ‘the politics of blame’. To truly understand what is going on in the media’s representation of rape cases, it is necessary to see and understand this.

Questions are not posed to try and understand rape in a general sense, let alone enter into public debate to try and counter it, but to question the honesty of the victim. Is she lying? Is she falsely accusing? Was it really consensual?

This is the ‘his word’, as these Louise Nicholas case headlines read: *Defence says Nicholas’ story full of holes, Nicholas lying, top policeman tells court, Ex-flatmate says Louise Nicholas ‘wasn’t saying no’, Historic rape case ‘built on straw’ says lawyer.*

And a headline referring to Nicholas’ story – the ‘her word’: *Nicholas evidence ‘chilling’.*

And those dealing specifically with her clothing and grooming. A standard part of the politics of blame was determining what women were wearing at the time of the attacks, and in how she presents as attractive or not – does she, was she asking for it? – *Nicholas showed rape accused her stocking, court hears, Husband tells of dress gift for Louise Nicholas.*

Kathryn McPhillips, clinical manager of Auckland Sexual Abuse Help Foundation, says a colleague had attended the Louise Nicholas trials and “was shocked at the newspaper coverage” of the court events she had witnessed. “There was information that reflected negatively on the defendants that was not reported, while information that reflected negatively on the complainant was reported.”

Only 6 per cent of rapes are reported to police. And of those 6 per cent, 3 per cent of those reach courts and convictions, says Tippett. “A lot of women withdraw their complaint because they don’t want to go through the court system.”

False complaints

Georgina Thompson of the Wellington Independent Rape Crisis Centre says that their observation of the media’s weighting of certain bits of information is “anything relating to a woman potentially being a liar or not telling the truth is sensationalised out of context.

“A false complaint is more newsworthy than an actual incident of rape,” says Thompson. In a world where women are raped often, what makes it newsworthy is when there is obvious conflict – the adversarial paradigm of our judicial system, and the narrative structure we favour.

“But the reality is false complaints are not common at all. They’re rare. But for the layperson reading the newspaper they wouldn’t get that impression at all.

“When viewing headlines it’s interesting to see where the empathy lies – the empathy is often with the man who has been allegedly falsely accused,” says Thompson.

The myth factor: virgins and demons

Feminist and media commentators refer to 'the myth factor' surrounding sexual violence against women. Carter and Weaver report on other studies of this subject that "their [news journalists'] reports are rooted in myths and stereotypes about women and men that blame individual pathology for the violence, instead of situating it as the end result of unequal – and gendered – social structures in society."

One can simplify basic rape stereotypes in these two questions - is the accused a demon? The complainant a worthy victim?

Quilliam was arguing that his client Eagle was not a demon. The defence lawyers of the police officers wanted Nicholas to be seen as lying, or at least misrepresenting the shades of grey. And the media faithfully report all this. These defences don't seem to be discussed in the public arena outside of individual cases.

And standard reporting procedures such as stating age, and location, even profession can buy into this paradigm. Does the accused rapist fit well the profile of a 'demon'? Meaning - low status – unemployed, non-white, physically scary: "The unemployed 31 year old, of no fixed abode...His tattoos and missing front teeth..." ('Brief court appearance in rape case', Internet Newstalk ZB, January 20 2006).

Does the woman fit the profile of a worthy victim? Either younger (closer to pre-sexual), or older (posited as stereotypically less sexual), conservative in appearance, middle class, not a prostitute - makes for less 'shades of grey' in the politics of blame. As in 'A 24 year-old Napier woman who was abducted and brutally raped...'.

As the Grand Rapids institute for information democracy website *Analysis: reporting on rape* says: "Viewers should ask themselves if providing the age and location of the victim is violating the privacy of the victim?" Or lends itself to making judgements about the victim in relation to her age in view of the nature of the crime. Does it become part of the issue of her worthiness as a victim? And therefore the worthiness of her word, in some cases.

"It's almost as if the reader is being drawn into making judgments" about the victim, says Thompson, about who the victim is, her work, her social class, her age, "whether the victim is worthy or not – white, not a sex worker, and so young she may be a virgin" .

Stating age, location, and sometimes profession is so much a part of standard journalism practice we no longer question its relevancy, let alone whether or not it is prejudicial or distracting from the key issues.

One of the most dramatic and interesting things about the Nicholas case is how the internet was used to counter the limitations of our judicial system, and therefore media coverage, in dealing with a rape.

The internet and grass roots justice

It was as a kind of 'grass roots people's justice' – making critical information part of the public debate that has surrounded the case. The now famous email revealing the crucial suppressed information about two of the accused in the case already being in prison for a strikingly similar offence to the one Nicholas was accusing them of, was spread around the country through personal email, the

members of a supportive-of-Nicholas group deciding to risk prosecution to do so.

The internet is extending the bounds of information dissemination beyond the traditional media. And in this case it was used to balance the scales in a jury justice system that was tipped strongly against the word of the woman.

This is why we talk about victims' bravery in coming forward to prosecute rapists. It's a rare person who does not understand what it took for Louise Nicholas to have her past experience, and her present self, on the front pages of the newspaper the way she did.

Asking the hard questions

Even in the Eagle case if the victim herself hadn't been battling for her recovery she could have heard Quilliam chatting on the radio in defence of her attacker. But radio and internet listeners did hear, and amongst them alas, are potential victims and complainants.

The Louise Nicholas case did bring these kinds of issues out in to the public arena. But journalists are restricted by law and the justice system, and by reporting conventions which support the system we have in place.

"I don't have reporters ringing me to ask about the reality of rape in our society," says Thompson. "The law hasn't caught up with this, or doesn't deal with the reality of rape. The law can't cope with it either – look at the Louise Nicholas case."

Says McPhillips, "The media should be there to ask the hard questions, and make people think, rather than just slam people with

all the gory details.

"We want to stop sexual violence rather than reporting rape in a sensational way. The true incidence of rape will be known and the causes can get debated."

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Sources:

(Direct)

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