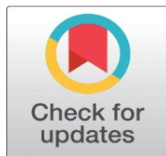
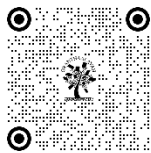


# THE ROLE OF PUBLIC OPINION IN SHAPING NEW CRIMINAL LAWS

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## ABSTRACT

It is public opinion that shapes new criminal law by affecting those who make new criminal law by those who seek changes to the criminal law through the legislature and, ultimately, by creating society's approval for new legal reforms. Public opinion serves as a barometer with which to register the concerns and values of the population regarding the issues raised by rising crime rate, new forms of criminal behavior, detrimental activity of criminal groups and gaps in the existing legislation. The laws that politicians draft usually match with public expectation and widespread concerns and public sentiment is usually harvested through surveys, social movements or the media. For example, in many countries, there has been swift legislative response to public outcry against, for example, gender based violence or cybercrime. In addition, public opinion also serves to check laws because public opinion permits the laws to remain legitimate and to be complied with, because of the fact that laws that have no relationship with public opinion fail to establish compliance and resistance. In the end however, the reliance on public opinion opens itself to challenges such as biased by misinformation, media sensationalism and populist agendas that will lead to reactive student behavior rather than conducive law reforms.

## Keywords:

## 1. INTRODUCTION

Shaping new criminal laws, public opinion serves as a central driver of legislative reform and an ultimate proscription for public accountability. In democratic countries the laws are reflections of collective values and priorities of people and thus the public sentiment is an important component of development of the criminal justice policies. If citizens begin to raise issues such as increasing rates of crime, gender based violence or even futuristic issues such as cybercrime, lawmakers are then forced to handle worrisome aspects of the country through legislation. The existence of a relationship between criminal law and public opinion is highlighted by the times when public awareness or the public mood is particularly raised or incensed, usually by high profile cases or social movements. For instance, mass protests or viral campaigns can be a call to action against systemic injustices, pushing governments to implement reforms oriented toward tackling the source of these injustices. But public opinion can also be a challenge, when not based in nuanced understanding or evidence backed analysis. Reactive policymaking can come down to overly punitive or poor law cause emotional reactions to sensationalized events, such as the topic of abortion. Moreover, public opinion's role can also be a hindrance, as it often obstructs what should be a prioritization of issues according to the needs of minorities, and in the name of justice that finds may not be popularized. The complexities involved make it difficult for lawmakers to strike a balance between acting with the will of the people and not compromising fairness, sustainability and the effectiveness of the law in contending with the challenges of today. Public opinion is amplified through media, social platforms, and advocacy group amplified, and serves as a dynamic feedback loop on legislative discourse and policy

outcomes. Public opinion is an essential, albeit a complex, element in the lawmaking process, because communities' perceptions of justice and crime both change and develop with the societies in which they exist.

### **Importance of public opinion in democratic lawmaking**

Public opinion is a cornerstone of democratic lawmaking because of its representation of a necessary link between the governed and those who govern. Because public sentiment is a barometer through which it is much easier for readers to determine which way the wind blows when it comes to an issue or topic, this is especially true in presidential systems, where laws are born out of collective values, needs or priorities of the people. In areas like criminal justice, social policies and civil rights, citizens by voicing their concerns, expectations and demands participate in the law-making process through the creation, amendment and the repeal of the law. Lawmakers are made accountable and responsive as to public opinion so that legal frameworks can not be built out of sync with realities of society. For example, whenever public anger over systematic issues reaches a feverish pitch, — like violence against women, environmental devastation, or corruption — government may be forced to set up or tighten legal backstopping to remedy these problems. Furthermore, public opinion contributes to transparency and inclusiveness of the law making process, because it enables various perspectives to be heard therefore laws representing the interests of different groups of the public are passed. But, its significance extends beyond dealing with current concerns, serving as a main factor in specifying long lasting social norms and principles. Public opinion represents at once a safeguard as well as a guideline of democratic law making by means of keeping the legislation within the reach of public needs and by maintaining the legitimacy of the legal system. It is critical to its integration into the legislative process for helping to engender trust, accountability and the protection of democratic ideals.

### **Purpose and scope of the research**

This research attempts to demonstrate why public opinion plays a critical role in new criminal lawmaking particularly in how sentiments of a society determine legislative priorities and outcomes in democratic systems. In contemporary governments, public opinion is a kind of strong force transmitting from the people to policymakers. This study attempts to understand the mechanisms of how public sentiment influences criminal law reforms including direct advocacy, press influence, or grassroots activism. In this article, we try to understand how public opinion actually leads to tangible changes in legal rules, and how far it may influence a change in, or the creation or repeal of, criminal laws. This research systematizes and demonstrates the effectiveness of public driven reforms through key examples and patterns as well as points out potential challenges like misinformation, emotional bias and as a result of reactive policymaking.

The research scope spans the theoretical and practical dimensions. The relationship between public opinion and criminal law reforms across different contexts, e.g. high profile cases, social movement identity, the influence of digital platforms in broadcasting public sentiment to policymakers, is investigated. The work further provides comparative analysis over countries like the US, India, and the UK where how different legal systems address public demand is explored. It also considers the ethical and practical tensions faced between public opinion and evidence based policymaking and minority rights protection. This research tries to inform the policymakers, legal experts, and scholars the public views should be incorporated into the criminal law legislation taking place, while at the same time fairness and justice are maintained.

### **Connection between public sentiment and criminal law reforms**

Public opinion and criminal law reforms are in a state of a dynamic and interdependent relationship, where public opinion can play a leading role in the legislative reform process. Criminal laws in democratic societies are not the immutable products of other less enlightened times, but change as the values and concerns and expectations of the public change. Emerged when citizens exposed their dissatisfaction with existing laws or asked for harsher regulations after new problems rose up. For example, public outrage following high profile crimes like gender based violence or hate crimes, has typically pressured governments to reform or tighten penalties or bring in new legal frameworks to plug gaps in the justice system. The connection illustrates the need for active public participation in the development of a legal environment that fits the current demand and ever changing perception of what should constitute justice.

Criminal law reforms can pose difficult questions of their influence on public sentiment. Emotional, media and incident driven reactions create governing stances that often produce reactive and punitive legislation as opposed to preventive, evidence based reforms. For such problems, for instance, laws introduced in the aftermath of public outcry have a tendency to prefer expedient plebiscite over long term efficacy, and may put in place burdens or penalties which are both excessive and counterproductive. Moreover, public opinion sometimes forgets to protect minority rights and the

principle of fair and proportionality in criminal justice. For this reason, policymakers must navigate public demands, expert advice and legal norms to govern upward public sector reform in ways that are both responsive and just. Public sentiment can be connected to criminal law reforms, and this connection can be one factor that is taken into consideration regarding the need for a balanced approach that allows for public opinion on the one hand, but does not relinquish integrity and equity among laws.

### **Influence of Public Opinion on Police Inquires**

The Kerala High Court in the case of *Mani and Anr. vs. State of Kerala* delivered its Judgment on July 19, 2021. Two persons, Mani and Rajan, both of whom are non-tribal people, alleged to be involved in the rape and murder of the tribal woman which took place on May 30, 2005, at Agali, Palakkad were acquitted by a division bench comprising Justice Vinod Chandran and Justice Ziyad Rehman A.A. The Court stated that “the course of an investigation gets diverted” when public opinion drives these investigations with “exasperating results.”

Her immediate family suspected a close friend of the tribal woman from her own community during the investigation. And he was acting suspicious and said he had slept in the forest overnight and came back and didn't pass the body and said his brother also the next morning. He also went into hiding when police arrived at the scene. But, outrage among the tribal community over the inclusion of one of their own in the list of suspects caused the police to remove his name from their list. It then focused on the other two accused, which also belonged to an upper caste group. The matter was filed under the Indian Penal Code, 1860 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Jungian, who police say surrendered and confessed to the murder, was central to the case. But the Court noted he was being inconsistent and contradicts himself. The High Court, therefore acquitted the accused on the ground that public opinion had inappropriately crept into the investigation and tainted the course thereof eventually culminating in flawed outcomes.

## **2. LITERATURE REVIEW**

**Glynn, C. J. (2018).** Public opinion is the complex combination of the beliefs, views, opinions, and preferences of persons of a society on matters and/or subjects of concern. It has critical role in democratic systems; it determines political decision, policy making process and social change. A great deal of factors like media, education, personal experiences and social interactions contribute in forming public opinion. Usually, it is determined through the surveys, polls and focus groups to estimate the population estimates regarding particular subjects. Public opinion can be a powerful vehicle for influencing policy, but it rarely is a single voice, or monolith; it can be broken into segments across political, social, or demographic lines. There are a set of factors that can twist the accuracy of public opinion data; such as wording of questions, sample size and biases in survey methodologies. To align their actions with the preferences and concerns of the population policy makers, businesses and advocacy groups need to understand public opinion.

**McCombs, M., et al (2020).** Setting the Agenda: Through the study Mass Media and Public Opinion determines how mass media through agenda setting plays a key role of influencing public opinion on what matters in public discourse. The idea of 'agenda setting' is that if the media don't always tell you what to think, they undoubtedly influence what you think about. The media directs public attention onto the certain subjects, events, and problems in order to determine what matters for public and shapes salience of the issues in political and social life. An example is the use of Media outlets' choices for editing, framing and repetitive coverage of some issues as a process that drives this process. While it is compelling to engage during elections, crises, and social movement, the strength of the media 's power of agenda setting is evidently long standing at this level.

**Cullen, F. T., et al (2000).** Public Opinion About Punishment and Corrections examines how public attitudes toward crime, punishment, and punishment will influence the way we punish criminals and define public policy. Generally speaking, overall public opinion on punishment finds those in favour of that which reflects a balance between retributive justice, which simply tries to punish offenders for their wrongdoing, and rehabilitative justice, which seeks to reform the offender and reduce recidivism. For many, prisons are essentially about deterrence and punishment: harsh penalties will lower crime. In addition, it is also experiencing increasing support for alternatives to jail time, including rehabilitation programmes, restorative justice as well as community based sentencing, which aim at reintegrating the offenders into their society. Factors such as personal experience, the media's portrayal of crime, and the public's perception of the 'success' of the criminal justice system contribute to molding public opinion. Although adhering to punishment and

corrections may differ from countries to countries and political ideas, the knowledge of the inmates' difficulties has inspired to change to make a more justified, reasonable, and ethical system of justice.

**Roberts, J. V., et al (2000).** *Public Opinion about Punishment and Corrections* explores how public opinion affects the way crime is viewed, viewed as punishment, and how effective corrections are perceived. The public opinion over the punishment is more complex; it reflects a variety of opinion on whether the act committed deserves punishment, and whether deterring further similar acts, or retribution, or reformation or restoration is more important. A consideration of punitive measures, including longer prison sentences, is supported by many people, who think that punishment prevents crime and that justice must be done. Support for rehabilitation focused approaches to reduce recidivism and reintegrate offenders into society—especially for non violent offenders—is rising. Their views of public crime are often influenced by the media portrayal of crime, personal experiences, political ideologies, and spreading alarm over the deep issues within the justice system, namely racial discrimination and prison overcrowding. Some want a harder line on crime and others think we need to reform the system and there is call for more rehabilitative and restorative justice models.

**Burstein, P. (2003).** *The Impact of Public Opinion on Public Policy: A Review and an Agenda* explores the shifting relationship between public opinion and policy making. The study looks out how the government actions, decisions of law formulation and decisions of the houses going through is influenced by the public attitudes and preferences. In democratic systems, public opinion is important as policymakers often turn to public sentiment in helping to make decisions, and feel the policies that are implemented should reflect public desires and concerns. A broad review traces out a variety of public-opinion shaping factors including media influence, political ideologies and social movements, and the way that these factors interact with governmental structures and processes. The paper also considers the extent to which public opinion impacts policy, suggesting that policymakers may act against popular opinion in the case of complex or long term issues where expert opinion and political interests trump public preferences. Lastly, the work recommends a research agenda for how public opinion may be better brought into the policy process, including consideration for more balanced, evidence rich approaches that understand the nuance of public attitudes in a changing world.

**McCombs, M. (2002, June).** *Agenda Setting Role of Mass Media in Forming Public Opinion* Studies how media influences the issues that make headlines and dominating public agenda and setting its priorities. The mass media is central to determining what gets covered and how it is framed, and thus selecting which topics are 'news worthy', and in doing so generally sets the public agenda. The media may not directly be telling people what to think, but it has an extremely large impact on what people think about in that it brings certain issues to the fore and disregards other issues, which determines how important people consider these things to be. The effect is especially strong around an election or some kind of crisis, or when attention is focused around a social movement, and the media have a tendency to control the public's agenda. In part, it examines the correlation between media and public opinion, pointing out that what the media states can reinforce in the public mind existing stances or powerful opinions can be countered by the media.

**Bernays, E. L. (2015).** In *Crystallizing Public Opinion*, the author details the process by which a more solid, stable public opinion is formed. The idea behind this is that vague or fragmented initial opinions, travelling through the influences that we spoke about just now, such as media coverage and leadership and events, can turn into much more consistent attitudes. Individual opinions are 'crystallized' as individuals experience information and engage in discussions on issues in such a manner that they are firm and relatively unchangeable. This is a crucial process with which to shape electoral outcomes, policy preferences and societal norms. However, factors like personal experiences, cultural background, and political environments equally influence how opinions on a public level are solidified. Crystallization points out that public opinion is not fixed but rather malleable in the molding of political campaigns, social movements, and the media. Impressions that were hard to crystallize have a greater impact on political behavior and decision making, shaping actions of public officials and the overall direction of social change.

**Lax, J. R., et al (2009).** This research looks at the Public Opinion and Policy Responsiveness to gay rights policies in the United States at the state level. In doing so, the study explores how LGBTQ+ rights policies, like those that recognize same sex marriage, anti-discrimination laws, or adoption rights are being adopted. Increased indices of state support for gay rights are observed over time in keeping with appreciating public opinion in favor of gay rights, especially in the 21st

century. The study also shows that the rate of state policy responsiveness has been uneven, with some states moving faster toward more progressive state policies than others. Factors examined include how ideologies affect policy responsiveness, whether interest groups are more likely to persuade than the public is, and the influence of the judiciary on writing down constitutional rights. The study highlights that public opinion is a force behind policy change and shows that public push can change the course of reform in the gay rights movement.

### **Role of Technology in Amplifying Public Opinion**

Public opinion is magnified by technology, and the way in which we form, express and act upon our societal sentiments is transformed. The communication revolution of the last generation has led to the democratization of the medium of exchanging ideas, where one person can share his views and mobilize support for any cause at any time on an unprecedented scale through the use of social media, blogs, online news portals and digital forums, among other things. The viral properties of Twitter, Facebook, and Instagram have turned movements that might once have taken months, or even years, to rise to national and even international prominence, into phenomena with global visibility within hours. Take, for example, hashtags like #MeToo and #BlackLivesMatter, which not only informed public discourse, but also mobilized public demand and shaped debate about policy and legal reforms around underlying injustices.

Apart from social media, the analysis and understanding of public opinion are also going through a revolution which big data analytics and artificial intelligence (AI) are bringing about. With an ever increasing reliance on social media and the shrinking attention span of the average user, governments, organizations and researchers can now track trends, analyze sentiment and predict public reactions with unprecedented accuracy that policymakers can measure population mood in real time. But whereas technology gives rise to public discourse, it too holds risks. Misinformation, echo chambers, and content guided by algorithm increase the polarization of debates and distorted views of social priorities. In addition, digital manipulation techniques, including bots and fake accounts, can artificially boost some opinions, fooling policy makers and the public alike.

The role that technology plays in amplifying public opinion cannot be overstated. Technology facilitates swifter, broader, and more inclusive conversations, which means that public sentiment will continue to play a driving factor in democratic processes (including the creation of rules which govern those in the criminal sector). But it ought to be used alongside efforts to cultivate digital literacy, minimize misinformation, and protect against unethical practices.

## **3. CASE STUDIES**

Many important legal reforms, including those in anti-rape laws and cybercrime legislation, have been dominated by the voice of public opinion. For example, the case of the 2012 Delhi gang rape led to a renowned reform of anti-rape laws in India. The incident provoked outrage in the public and forced the government to reform the Criminal Law (Amendment) Act, 2013, which attempted to address systemic issues on dealing with the issue of sexual violence. This changed the statutes, added stricter penalties for sexual offenses, expanded rape law and created provisions of quick trials through specially created courts. These changes were influenced by public opinion, as public opinion forced policymakers to take the safety and the dignity of women into account in the legal framework

For example, the evolution of cybercrime laws continues in response to this concern for online harassment, data breaches and digital fraud. In places like the US, public call for stronger protection from identity theft or cyberbullying resulted in the formation of laws like the Cybersecurity Enhancement Act and the Children's Online Privacy Protection Act. In India, likewise, public debate was marked by rising incidents of cyberstalking, online abuse and digital financial fraud which necessitated the amendment of the Information Technology Act, 2000. The amendments strengthened the provisions for penalising cybercrimes and user data protection.

Such examples are shown illustrating how public opinion organized rightly can force out governments to legislate on pressing societal issues. Besides improving law relevance, public driven reforms make sure that laws correspond to prevailing societal values and issues.

### **Comparative analysis across countries (e.g., the U.S., India, and the U.K.)**

It also features a study that provides a comparative analysis of public opinion's role in bringing about criminal law reform in the United States, India and the United Kingdom; examining how public sentiment has led to legislative change in differing legal and cultural contexts.

Public opinion in the United States exerts a large influence in criminal law, improvements typically resulting from advocacy groups, social movements, and media campaigns. For example, the Black Lives Matter (BLM) movement gained widespread attention for injustices against Black people and police brutality. But reforms such as banning police chokeholds in several states and the passing of the George Floyd Justice in Policing Act in the House of Representatives were due to public pressure from BLM and similar movements. The reform of sexual harassment and workplace misconduct laws were spurred by similar movements such as #MeToo. Due to its division to the federal and state levels of the U.S. legal system, the principles of public opinion can impose their impact on both national and state laws, so there is a decentralized influence of social problems.

In India, however, many criminal law reforms are a reaction to public opinion driven by sensationalized cases that generate outrage on a national scale. A prime example of the above rant is the 2012 Delhi gang rape case, also referred to as the Nirbhaya case. The government was forced to introduce the Criminal Law (Amendment) Act, 2013, two months after the gang rape, following massive protests and public demand for justice, which increased the penalties for sexual offences and defined more crimes against women. In the same way, public awareness about the growing cybercrimes has led to amended Information Technology Act, 2000 regarding digital safety and privacy. India's legislative framework is very centralized unlike the U.S. where most changes happen in a decentralized manner.

In the United Kingdom public opinion is a crucial propellant of criminal law change but it is usually mediated through institutional conduits such as public consultations, commissions and inquiries. For example, new measures and support in the legal system came about due to an increased public demand for better protections for domestic abuse victims, for which the Domestic Abuse Act, 2021 was passed. As knife crime rose, also public campaigns and reforms such as the Offensive Weapons Act 2019 came to reform. In addition, public opinion plays a major role for the U.K. government in shaping laws, through structured consultations, and reforms are evidenced based and widely supported.

In those countries, public opinion acts as a powerful force for legislative change. Yet, its effects differ with cultural, political and legal systems, with US advocating grassroots activism, India adopting centralized reforms while responding to citizens' outcry, and UK relying on institutions to diffuse public views in the policy process.

#### **Case law**

Notable cases show that the view that public opinion is very influential to judicial decisions is an obvious reality. The Supreme Court allowed an easy land purchase process in the Ayodhya case; but the case went beyond being merely a property dispute. The media, often calling it 'Ram' feverishly sensationalized the matter, the ruling Bharatiya Janata Party (BJP) capitalized on it as a political rallying point. Thus, in those situations, it is impossible to avoid public opinion and the resulting pressure on the judicial processes.

In the Navtej Sandhu case, the Supreme Court had said that the convict must be given death penalty in order to quench "the conscience of the society" . Also, in its 2016 National Anthem case, the Court, after massive public furore and discussions, had amended its first edict which had made playing of the national anthem in cinema halls compulsory, to a nonmandatory guideline. The Parliament rolled back the Court's revision of the protections from SC/ST atrocities in the Kashinath Mahajan case on the SC/ST Atrocities Act, only after widespread public agitations and strikes by affected communities.

In these cases, we see that the judiciary has long been the subject of, and has been effected in its decisions by, public opinion, beyond the law itself. Judicial outcomes on heinous crimes, social issues and even religious conflicts often draw public attention, due to the pressures and expectations of the society, revealing the intricate relation between public sentiment and the judicial process.

#### **4. CONCLUSION**

Public opinion is crucial in the creation of new criminal laws in that it plays a decisive role in the making of a new legal arrangement or legal reform, as well as being a mirror of the existing values in the society. The voice of collective concerns enables public sentiments to influence policymakers to address pressing issues around gender based violence, neglect, cybercrime and systemic discrimination. Public opinion is magnified in high profile cases and social movements and government reacts to legal reforms according to justice and public expectations. But the public opinion is a double edged sword. However, while it can facilitate much needed and timely reform it can also yield reactive or excessively punitive laws fuelled by emotional reasoning and bad data. Instances of public pressure affecting judicial decisions or

law enforcement investigations serve to illustrate the nuanced nature of balancing one's expectations of society with principles of balance and equity.

With public opinion amplified by the digital age via social media and online platforms, the dissemination of ideas and mobilisation of support for legal change occurs at hyper speed. But that process democratizes the lawmaking, even if it comes with the challenges of misinformation and polarization. Making laws work for society as well as protect minority rights and rule of law will require effective integration of public opinion which in turn will demand careful consideration of all these aspects. Above all, public opinion is an essential but complicated part of the legislative process of determining a justice system which is both answerable and attentive to the social agenda and simultaneously keep the balance of justice in place. Democratic governance, for one, is ultimately premised upon the investigation of public sentiment, manifested through criminal law, as the environmental factor which allows for accountability as well as progress.

## Conflicts of Interest

None.

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None.

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