

Chapter 14

Charge Sheet to Charging: A Comparative Analysis of Case Management by Police and Prosecution Between India and the UK With Special Reference to Cybercrime

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ABSTRACT

Police and prosecution are the two essential elements in criminal justice systems, especially for justice delivery to the victims as well as for the accused. Cybercrimes targeting women have remained a menace for the victims, police, and prosecution for over a decade now in India and the UK. This chapter aims to research on the comparative analysis of relationship of police and prosecution for case management with special reference to cybercrimes against women cases between UK and India to find positive solutions for restitution of justice in such cases.

INTRODUCTION

Women victims of online harassments may not get justice due to several reasons. These may include slow reporting, slow process of investigation, and lack of cooperation from the victims, internet platforms, and other criminal justice stakeholders, especially when it is related to cross border criminal activities (Halder & Jaishankar, 2011). It is widely accepted among researchers that women often do not report cybercrime victimisation to the police in many jurisdictions (Saha et al., 2019) because either they may not be empowered to reach out to the police with their cases, or the police may not be aware of the patterns of victimisation, consequences of the same, and impact of the same on the victims. By saying that they are not empowered, this author emphasises two points: (i) such women may not be empowered to physically reach out to the police or to the courts with their complaints. Their right to speech and expression, and right to information may be extremely limited. Hence, even if they are victimised online,

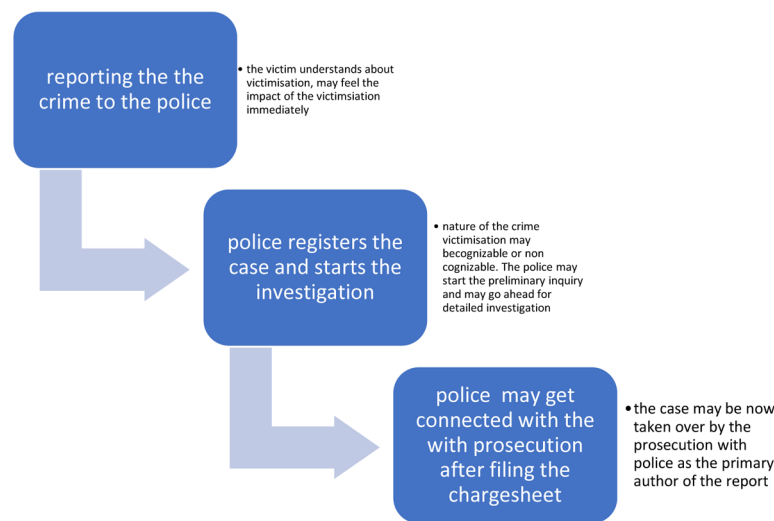
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they may not be able to report the same. They may remain perpetual victims because of socio-economic political oppression (Halder & Jaishankar, 2012), (ii) Such women may not be digitally empowered, and they may come to know about their victimisation from different sources. However, they may not be aware as how to access the respective digital platforms to report the harassment and victimisation (Halder & Jaishankar, 2014). There may be different patterns of cyber victimisation of women. For instance, some may be interpersonal, some may be organised crimes, and some may be victimless crimes.

These may include victimisation by way of unauthorised access to the data, devices or networks, cyberstalking, cyberbullying, and trolling, revenge porn, and non-consensual image sharing, voyeurism, etc. Many of the aforementioned criminal activities may or may not be recognised by domestic laws. In the event that such criminal activities are not recognised, the victims may face severe challenges from the police as they may be refused any legal recourse. This had been the situation for victimisation by way of sextortion, revenge porn, cyber-gender bullying, trolling, cyber-flashing etc., in several jurisdictions, including countries like India, Sri Lanka, Bangladesh etc. In the US, Canada, Australia, and some European Union countries, the criminal laws have been expanded to include some of the above-mentioned criminal activities. However, internationally, the situation has not improved much since the late 1990s or in the early 2000s. There is a clear process which may lead one to understand how the occurrence of criminal activities, including cybercrime cases, may be approached by the criminal justice system. This includes the process shown in Figure 1.

Figure 1.



The above flow chart illustrates the general process whereby the police may receive the case details from the victim, document the same, and go forward with the investigation as what happened and how it happened. The police will search for any digital footprints, profile the modus operandi, review the outcome of the offence, including whether the outcomes involved significant monetary loss, property loss, bodily injury, or death; or whether the outcome of the case was minor, or had affected a specific class of people.

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