

No leg to stand on

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It takes a special political talent and habit of mind to ban something that you haven't seen, that the rest of the world will not just see but is set to centre-stage as part of a global campaign against rape, other forms of violence against women, and gender inequality. The grounds cited to justify the government's decision to ban *India's Daughter*, Leslee Udwin's documentary on the Nirbhaya gang rape and murder case and the responses to it, which NDTV was scheduled to broadcast on International Women's Day, suggest a pathology of arbitrariness, irrationality, fact-denial, and confusion. To be fair, the vilification of the film, sight unseen, and why and how it was made came not just from the government but also from other political parties, some feminists, and, of course, rival television channels.

The objections

If over-the-top allegations such as "a conspiracy to defame India" can be ignored, the grounds cited to justify the ban narrow down to three. They are that (a) broadcasting or otherwise disseminating *India's Daughter*, and especially the interview with Mukesh Singh, the convicted rapist and killer, will threaten public order by "encouraging and inciting violence against women," instilling fear in them, and leading to "a huge public outcry and serious law and order problem"; (b) providing a platform for a man convicted of rape and murder to "use the media to further his own case" when an appeal is pending in the Supreme Court of India is *sub judice*; and (c) the "permission conditions" laid down by the Tihar jail administration were "violated" by the documentary film-maker.

Let us take up each objection in turn.

India's Daughter is a powerful, sensitive, and well-crafted exploration of the life and dreams of Nirbhaya and her progressive and nurturing working class family who sold ancestral land and made other sacrifices to see her through her para-medical education. The central, liberating theme of the documentary, a simple statement that a narrator attributes to Nirbhaya, is "a girl can do anything." The tension between a life shaped by this unshakeable inner conviction and heart-rendingly cut short and the outrageously reactionary social attitudes, expressed without the slightest inhibition and captured on camera, gives *India's Daughter* its power. The central narrators are Nirbhaya's parents who want her story to be told, real name, provenance, and all. The unpre-

India's Daughter is a powerful and sensitive documentary that is part of a global campaign against rape, violence against women, and gender inequality. It explores the life and dreams of an extraordinary young woman, brutally ended. The tension between her story and the outrageously reactionary social attitudes expressed on camera gives the documentary its power. The government's ban has no leg, social, moral, or legal, to stand on

dentented outpourings of solidarity and protest on the streets, led by young women and girls who confront the police with no thought of physical safety and are deterred neither by water cannons nor tear gas shells, offer the documentary a cathartic start. There is no editorialising but the message comes through.

As for motive, the test of any creative work is sincerity. Can there be any doubt after watching *India's Daughter* that the film-maker was inspired by the tremendous response on the streets of India, which gave hope to her personally and to rape victims and campaigners against gender inequality

called the original non-fiction novel. It is the story of the massacre in 1959 of a farmer, his wife, and two of their children by two hardened criminals, Richard 'Dick' Hickock and Perry Smith. The writer, who was given unusual access, did several interviews with both killers after they were convicted and came up with an unforgettable psychological portrait of capital crime. *The Executioner's Song* by Norman Mailer, which re-tells in spare, non-judgmental prose the story of a double murderer, Gary Gilmore, is another celebrated work in the same genre, although Mailer took a different route to his material from Capote.

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and violence against women around the world?

The interviews

What about the interviews with Mukesh Singh and the two defence lawyers? Indian authorities, who assigned guilt by transference to the film for the convict's lack of remorse and for his "chauvinistic and derogatory view regarding women in general and the victim in particular," have been acting as though interviews and interactions with convicted criminals were something new to journalism and documentary film-making. Literary journalism has thrived on such forays into the world and mind of those who have committed the most heinous crimes. *In Cold Blood* by Truman Capote is one of the finest works in the genre and is sometimes

with a documentary film "we are committed to making in the public interest" that would go deep into "the issue of gender-based violence against women in India" and help "understand mindsets that indulge in such heinous crimes all over the world." She requested permission to interview convicts of gender violence in Tihar Jail (after obtaining their consent, of course) "as the basis of a documentary that dares to go beyond the ordinary in understanding the issue from the source of the action." She got lucky with Mukesh Singh and there can be little doubt that without the interview with him, her documentary would have none of the power it has.

The question whether this interview was *sub judice* has been answered clearly in a statement issued by the Editors Guild of India opposing the ban. "The Nirbhaya incident," the Editors Guild has pointed out, "has been an obvious matter of public interest and has been through all the stages of investigation, trial, and confirmation by the High Court, been subject to a widespread public debate and discussion, protests and demonstrations, and enquiry by the Justice Verma Commission that suggested reform of the law. To raise the issue of *sub judice* now at the stage of final appeal in the Supreme Court and seek to still discussion is absurd. Judges, particularly in the Supreme Court, are by training and temperament immune to the happenings in the public sphere outside the court, and it is an insult to the Supreme Court to suggest that the airing of the convict's perverted views would tend to interfere with the course of justice."

Flawless compliance

Finally, did the documentary film-maker violate "permission conditions," as Home Minister Rajnath Singh has alleged in Parliament? A close reading of the relevant papers establishes that this is one of those rare cases where compliance with the procedures and conditions precedent was flawless every step of the way.

The government has withheld from the public the fact that the original condition laid down, in an official letter, dated July 26, 2013, from the office of the Director General (Prisons) that permission was being given for "releasing the documentary film which is being made for purely social purposes without any commercial interest" was dropped after the film-maker wanted a change in the language. That letter was superseded by another, dated August 20, 2013, from the Superintendent (Jails), Prison Headquarters, Tihar, which laid down the condition that "the complete unedited, raw footage of the shoot in the Tihar Jail premises will be shown to the Delhi Prison Administration to