

# Sexual Violence in India: The Discourses of Rape and the Discourses of Justice

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## Abstract

In the wake of the 2012 Delhi rape incident, there has been intense public introspection into the nature of Indian society and the current structures of governance that have failed to keep women safe. Politicians, academics, social commentators, rape survivors, activists, bloggers, and television talk show hosts have all contributed views—right across the conservative-liberal spectrum—on the causes of rape and sexual violence in the country and measures to remedy them. In this article, I summarise some of the writings that were published in influential international and local media in late 2012 and early 2013 as reflective of the contemporary discourses of rape that are deployed in the public space in India, and that inform ideas of just recourse in cases of violence against women. The commentary pays particular attention to the emerging discourse of socio-economic inequality in perpetuating gender violence and the possibilities of redistribution as the basis for gender justice.

## Keywords

Rape, sexual violence, discourse, justice, inequality, India

The gang rape of a student in Delhi in 2012 precipitated, on an unprecedented scale, a very public discourse on sexual violence in India.

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Violence against women, even in its most brutal forms, is not an uncommon event in India and, sadly, stories of the most horrendous violations have seemingly inured the state and citizens to inaction. The Delhi case is unusual in that respect. The case appears to have generated, for no distinct reason, both publicness and personalisation of rape in a way that has not happened before. Thus, there have been earnest efforts to unearth a cause—or perhaps, a chain of them—that might have helped explain not just what happened that night on the bus, but in the many, many instances before and since that day. Politicians, academics, social commentators, rape survivors, activists, bloggers and television talk-show hosts alike have attempted to identify a cause that in some way would rationalise an otherwise diabolic act and help construct an appropriate frame for justice that seeks redress not only in this specific case, but also recognises the fundamental right to safety for all Indian women.

A scrutiny of the news reports, analyses, blog sites and commentaries, very quickly clarifies that there was a plethora of explanations around the act of rape in India that was circulated widely, some of which were and continue to be embedded in institutional discourse and responses in the name of justice. Informed by contemporary scholarship on justice that extends beyond jurisprudence and develops frameworks based on socio-economic equity, institutional parities and social voice (see Fraser, 1997, 2009; Sen, 2009; Young, 1990, 2002), this commentary surveys some of the discourses of rape currently being deployed in the public space in India, and the impact that it is having on remedial action and justice discourses.

The ‘failure of governance’ is a foremost discourse that has emerged since the rape incident. In the days following the rape, a shocked populace sought answers from their politicians: How is it that this crime was allowed to happen in a public space in the capital city? The bus in which the rape occurred was driven through the streets of central Delhi passing several police checkpoints. As shock turned to outrage, attention turned to the failure of the law and order system, and to those who execute the law. Amongst the shortcomings highlighted are the narrow focus of the legal definition of rape (Baxi, 2012; Narrain, 2013), the insufficiency of the penalties, low rates of convictions and the tardiness, often deliberate, of their implementation. Corruption abounds, protecting perpetrators among the country’s powerful such as politicians and the police, and further, the excesses of the military in ‘secure zones’ are not subject to an

open civil trial, if tried at all. These shortcomings, in particular, have been noted in the report of the three-member committee led by Justice J.S. Verma along with other eminent judges, which was constituted days after the incident to advise the government on the actions that needed to be taken to safeguard against other similar incidents.<sup>1</sup> The committee deliberated for 29 days taking into account the views of a wide cross-section of society, including women's groups, intellectuals and jurists. The Verma report recommended severe penalties for rape and sexual crimes (but they were strongly opposed to capital punishment), improvements in the criminal justice system, reforms within the armed forces and the police, broader definitions of sexual crimes (including stalking and trafficking as sex crimes), clear protocols for dealing with victims of rape and the ban on the system of dowry paid by women to their husbands at the time of marriage. Some of the recommendations of the report have fed into the Criminal Law (Amendment) Ordinance passed on 3 February 2013.<sup>2</sup> The Ordinance has substituted the word 'sexual assault' instead of 'rape', rejected the recommendation of the Verma report and has instituted the death penalty in certain cases of aggravated rape but not implemented the recommendations relating to political, police and military reforms. There has been criticism from feminists that the Ordinance is a watered-down response to the Verma report (Menon, 2013a, 2013b); nonetheless, this discourse of systemic failings currently dominates the institutional and policy responses to sexual violence.

The failings of governance, however, do not fully account for the precipitating factors that make men commit rape. In public commentary (especially from conservatives) the discourse of blaming women, that they would have 'invited' this upon themselves either by their dress or mannerisms, is not uncommon. As the Delhi rape dominated national news, a Swami (translated as a spiritual leader) claimed that the victim was equally to blame and could have avoided the rape if she would have chanted the name of God and begged for mercy from her rapists.<sup>3</sup> What is unusual for India is that these views were quickly marginalised in the public space. Also around the same time, the President's son made derogatory comments about the female protestors on the streets for which he was immediately upbraided.<sup>4</sup> Yet, blaming the victim discourse has also had perverse impacts. In a Muslim community in Haryana in north India, restrictions on women and young girls have increased; a ban against cell phones was promulgated as these gadgets could 'spoil' them.<sup>5</sup>

Mirroring the focus on stereotyping women victims, there have also been discourses that have focused on the rapist. In trying to understand the nature of men and masculinity generally, there has been serious suggestion that we might be seeing the surfacing of an inherent beast or 'monster'—the repressed Indian male. The father of the victim used this term when he called for her rapists to be executed.<sup>6</sup> The innate beast, as constructed by this discourse, is aggravated by promoting sexualised images of women in films and on television, and scenes that show rape to be titillation not violence, that is desensitised to the pain of women (Shah, 2013). There is good reason to abandon the 'depraved male' discourse. The discourse individualises the act of the monster when, in fact, quite often they are the product of and protected by structures—traditional patriarchal systems (Narayan, 2013; Sengupta, 2013)—caught in the intersections of 'neo-liberalism, militarism, nationalism, growth and development' (Baxi, 2012), and coupled with the 'hegemonic, ...misogynistic, hetero-masculinities' of contemporary consumerism (Doron and Broom, 2013, p. 169). Furthermore, writers in the West have jumped on this discourse and have attempted to show that the 'depraved male' is a trait particular to Indian men (for example, Purves, 2013), a view that has, fortunately, been discredited (O'Toole, 2013; Valenti, 2013). Nonetheless, some of the more recent popular debates on whether prostitution in India should be legalised<sup>7</sup> or if pornography should be banned (as is being considered by the Government of Kerala, India's most literate state) builds on a suite of incentives and regulations as policy measures to contain the repressed male sexual desire.

There is also a nuanced discourse, if peripheral, proposed by an intellectual stream, that links the psychology of the rapist to the nature of social structures and social circumstances, allowing for the possibility that contexts create violent men. Change is fundamental to these explanations—that social structures in India are in transition and that in a society faced with change, some men become brutal. Anand Soondas, blogging on *Times of India* newspaper's site, makes the following argument in his *Why Indian Men Rape*:

Strange theories are floated to explain the depravity of Indian men... but the truth is that at the root of it all lies a culture built around hierarchies, of gender, faith, colour, caste, region.

We are, quite simply, not used to people being equal.

In accepting Soondas's argument that rape is an outcome of societal transformation, the focus is on the movement from the traditional to the contemporary and on the tense social relations that emanate from this transition. Here, he reflects on the transition from a hierarchical to an egalitarian system—facilitated, no doubt, by socio-economic development—that has had an effect on the emancipation of Indian women (their 'westernisation', as conservatives note) which in turn has led to a crisis in the male identity and a rupture in gender relations precipitating violence (Doron and Broom, 2013). Presumably, over 40 years of women's development interventions as empowerment programmes, education, employment, land rights, financial literacy and agency, and collectivisation, to name a few, could quite likely have had an 'unintended consequence', namely, violence against women. Programmes which have tried to include men and understand masculinities, as part of the gender and development stream of work, have made small, but possibly not enough, of an impact. It is arguable that most programmes that seek to include men in development narrowly focus on areas of relevance to the development agenda of countries, such as family planning, HIV/AIDS control, child health, maternal health, and so on. These programmes aim at the normative 'family' man and his role in his family and community, not the criminal or the delinquent. The omission of the deviant from development policy discourse may be an area that deserves future attention.

While Soondas's argument highlights gender unevenness, Kabeer's (2013) assessment draws on poverty and socio-economic inequality as a possible explanation for the men's actions.

The six men in question came from one of the squalid slum neighbourhoods of Delhi and there is little question that, had this or something like this not happened, they would spend their lives in the same or similar slums. The youngest of them has been living on the streets since the age of 13.

Kabeer's excerpt raises a vital issue: the fixing of 'class' on the rapists decentres the 'innate monster' argument and instead raises questions about poverty and violence—can conditions of deprivation instigate or create a culture which normalises sexual violence? At a simplistic level, there is a temptation to attribute violence among the poor as part of 'their culture'. No wonder in the days following the rape, other residents from

the slums were keen to dissociate themselves from the rapists and establish that despite their poverty, they had decent values. 'We are good people', they insisted to the media (Burke, 2012). One resident told a news reporter, 'Do not think we are all like the accused ... When you grind wheat to make flour, insects will come out with it too', suggesting that the same source can contain both the good and bad (Burke, 2013).

A more serious implication of Kabeer's statement (though she does not explicitly state it), and worth some reflection, is the possibility that economic hardship can be implicated in violence. The aim is not to suggest that only the poor rape; this is a simplistic conclusion amply substantiated by evidence that show sexual violence occurring across all classes. Yet, it is not possible to rule out the role of economic institutions in sex crimes, given emerging contemporary research on the unanticipated consequences of unregulated economic growth. Although set in the context of the global North, *The Spirit Level* written by Wilkinson and Pickett (2009) correlates inequality with social problems arguing that the wider the gap between the rich and the poor, the higher the incidence of a host of social ills, from crime to drug use to teenage pregnancies. Their analysis points not so much to poverty per se, but rather the degree of inequality prevalent in society. Is there, then, some coincidental relationship between the rise in reported rape by 20 per cent in India since 2007<sup>8</sup> and the rapid growth rate averaging 8 per cent<sup>9</sup> alongside widening income inequalities in the Indian economy for most of the new millennium? (Bastagli, Coady and Gupta, 2012). The question might be pitched at too abstract a level to be meaningfully proven but it is not the first time that the effect of uneven economic development has been linked to sexual violence. Juarez, in Mexico, is the town of horrific sexual crimes for which there have not yet been any identified perpetrator, charges or conviction. In attempting to find an explanation for the murders of over 400 women in the border town of Juarez in Mexico, scholars have increasingly begun to focus on the nature and unevenness of the export-oriented economic growth in the town (see Livingston, 2004; Staudt, 2008; Weissman, 2004). Juarez, they argue is a 'maquiladora' town or an export-processing zone; multinational companies have their factories *in situ* that create jobs for women, not men. Amidst intensifying gendered male poverty, it is likely that the murders 'result from a displacement of economic frustration onto the bodies of the women who work in the maquiladoras' (Livingston, 2004). The implications of Juarez

are chilling—we can never be sure if the medical student was a random victim or if subconsciously, with her education and confidence, she represented an upward mobility that the rapists could not achieve. But the Juarez story is a reminder that development must be inclusive and also that it must be holistically transformative (economically, socially, politically, culturally), not just at an individual level, or else ‘empowerment’ can render women more vulnerable in socio-economic contexts where gender inequalities already exist.

Overall, what assessments can we draw from this mapping of the pervasive discourses around rape and its impact on responses of justice? Although far from comprehensive, this analysis is still indicative of the points where the discourses of rape and justice intersect and where they diverge. The dominant response to justice is clearly based on the discourse of the failed system. Instead, there is a more complex structure of gender relations emergent in the contemporary social order that needs to be understood and integrated into the justice responses. If the discourse of socio-economic disempowerment as a potential cause for sexual violence is to be taken seriously, it signals the need to move justice for sex crimes solely from the realm of criminal justice to that of socio-economic justice. Yet, this is where justice response is the weakest. Kabeer (2013), in her article, quite rightly points out that the Millennium Development Goals when signed in 2000 did not include violence against women because it did not seem sufficiently important or perhaps it was thought that gendered development would iron out, at some future time, these acts. How we interlink system failures, dominant constructions of men and women as sexual beings, and economic parity may well pave the way for radical visions of gender justice.

## Notes

1. See <http://www.thehindu.com/news/national/failure-of-governance-root-cause-of-crimes-against-women-verma-committee/article4336046.ece?homepage=true> (accessed 10 June 2014); see also <http://www.firstpost.com/india/these-are-the-key-recommendations-of-the-justice-verma-report-599603.html> (accessed 26 February 2013).
2. See [http://zeenews.india.com/news/nation/verma-committee-recommendations-and-the-union-cabinet\\_826464.html](http://zeenews.india.com/news/nation/verma-committee-recommendations-and-the-union-cabinet_826464.html) (accessed 26 February 2013).
3. See <http://www.nydailynews.com/news/world/swami-blames-rape-victim-article-1.1234924> (accessed 26 February 2013). The idea that the victim

could have appealed for mercy has been spoofed in an online parody skit where a young woman enthusiastically advises would-be victims to call their attackers *Bhaiyya* (Brother), and ‘...then, Rape Fail’.

4. See [http://articles.timesofindia.indiatimes.com/2012-12-27/india/36021507\\_1\\_abhijit-mukherjee-jangipur-women-activists](http://articles.timesofindia.indiatimes.com/2012-12-27/india/36021507_1_abhijit-mukherjee-jangipur-women-activists) (accessed 26 February 2013).
5. See <http://en-maktoob.news.yahoo.com/muslim-panchayat-bans-cell-phone-girls-074620898.html> (accessed 27 February 2013).
6. See [http://worldnews.nbcnews.com/\\_news/2013/01/03/16321396-india-gang-rape-victims-father-hang-the-monsters-responsible?lite](http://worldnews.nbcnews.com/_news/2013/01/03/16321396-india-gang-rape-victims-father-hang-the-monsters-responsible?lite) (accessed 28 February 2013).
7. See [http://articles.timesofindia.indiatimes.com/2012-12-24/people/35983223\\_1\\_prostitution-ayah-mumbai-s-kamathipura](http://articles.timesofindia.indiatimes.com/2012-12-24/people/35983223_1_prostitution-ayah-mumbai-s-kamathipura) (accessed 27 February 2013).
8. These figures have been quoted by the Washington Post, 28 December 2012, but have been used in media reporting more widely as well. See <http://www.washingtonpost.com/blogs/worldviews/wp/2012/12/28/how-indias-rape-name-and-shame-database-could-backfire/> (accessed 26 February 2013).
9. The growth rates in India from 2005–2011 have been 8.4, 9.2, 9.0, 7.4, 7.4, 10.4, 7.2 per cent per annum. See <http://www.indexmundi.com/g/g.aspx?v=66&c=in&l=en> (accessed 27 February 2013).

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