

STOP CRIMES ON WOMEN; GIRLS ARE NOT OBJECT

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Abstract

In December 2012, a twenty-three year old college student, who was given the pseudonym "Nirbhaya" ("fearless"), was fatally gang-raped on a private bus in Delhi, India, galvanizing the country to swiftly adopt new legislative measures and catapulting the issue of violence against women in India into the international spotlight. Although assault and rape cases have made India infamous for its high volume of crimes against women, the reaction to this particular incident was much different from before. This paper investigates whether the governmental and societal responses represent social change, as indicated by changing attitudes towards violence against women in India. I study this question by analyzing scholarly literature regarding the factors that affect collective attitudes towards violence against women. In addition, this paper examines collective attitudinal change in the nation as indicated by media coverage of rape cases, crime statistic reports, influence of women's movements, impact of legislation, and public opinion polls. I find that despite an immediate backlash against the epidemic of sexual violence, the response has not contributed to a complete transformation in attitudes towards violence against women based on the indicators studied above.

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Introduction

Rape and the issue of violence against women in general have been endemic to Indian society, with high profile cases capturing national and international attention for brief bouts of time before dying down and becoming part of commonplace history. Rape is the fourth most common crime against women in India. Section 375 of the Indian penal code defined rape as "A man is said to commit "Rape" who, except case hereinafter excepted has sexual intercourse with a woman in without her consent, against her will, with her consent, when her consent has been obtained by putting her or any person in

whom she is interested, in fear of death or of hurt, with her consent, when the man knows that he is not her husband, and that her consent is given because she believes herself to be lawfully married, with or without her consent when she is under sixteen years of age.

In 2012, a case of rape occurred that made international headlines and stirred an unprecedented uprising in Indian society. At around 8:30pm on December 16, 2012 a twenty-three year old female college student named Jyoti Singh, and her friend were waiting for a public bus in South Delhi after attending a viewing of Life of Pi. A bus with tinted windows eventually stopped, whereupon a young boy persuaded the pair to board the bus with the promise of transportation home. At that fateful moment, Nirbhaya was violently assaulted and raped by six men; these perpetrators were Ram Singh, the main accused bus driver his brother Mukesh Singh (age 29); Vinay Sharma, an assistant gym instructor (age 18); Pawn

Gupta, a fruit seller (age 19); Rape and the issue of violence against women in general have been endemic to Indian society, with high profile cases capturing national and international attention for brief bouts of time before dying down and becoming part of commonplace history. Rape is the fourth most common crime against women in India. Section 375 of the Indian penal code defined rape as "A man is said to commit "Rape" who, except case hereinafter excepted has sexual intercourse with a woman in without her consent, against her will, with her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt, with her consent, when the woman knows that he is not her husband, and that her consent is given because she believes herself to be lawfully married, with or without her consent when she is under sixteen years of age.

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Clearly, the response to this case was rare and unprecedented. Perhaps there was a buildup of social tension that finally exploded when this rape happened. Perhaps it was the sheer brutality of the event, but there were cases before and even shortly thereafter that were equally appealing. For example, there was, in that year, the horrific abduction and

gang rape of a five-year-old named Gudiya, who was kidnapped from a residential area in Delhi, kept in a room for two days, and then raped repeatedly by two men. Similar to Nirbhaya's case, foreign objects were inserted into her body, producing infection, "surgeons took out three pieces of candle and a 200ml plastic hair-oil bottle from inside her".

Sex and gender discrimination in Indian society;

In India, discriminatory attitude towards men and women has existed for generation and affects the lives of both genders. Although the constitution of India has granted men and women equal rights, gender disparity still remains. Gender discrimination violates human rights. Rights are given to all human beings not only for men but also for women.

Females of our country have faced the discrimination for ages now and still continue to exist in various forms. Nature doesn't discriminate men from women. But Women worldwide have been the victim of inequality not only in terms of social and political rights but also on grounds of employment opportunities. India is a male dominant society which makes women habitual of this discrimination. As a result, most women fail to understand their own rights and freedom.

After making so much law for protecting women still in our country women faces a lot of problem. Still, a place in India where 'Draupadi Pratha' still exist. In Kinnaur in Himachal Pradesh is famous for this ritual. In Kinnaur it is said that songs of bereavement and separation are sung by women only with the permission of the gods. This practice is also welcome in areas where number of women is short than that of the man due to socio-economic reasons.

Despite increased economic and social equity towards women over the past few decades, some scholars maintain that there is something inherent to Indian culture that results in the submissiveness of women to men. This prohibits a rapid shift in attitudes towards violence against women after a tragic

event such as this rape incident. one reason often given for this is that men, especially in India, the nation with the largest film industry in the world, are aggravated by the promotion of sexualized images of women in films and on television, and are desensitized to women's pain, especially during depictions of rape on screen. They are the product of, and protected by, establishments such as the aforementioned traditional patriarchal System. Consequently, social mores and traditions have created an environment that nurtures rape and victims in general; it is at this societal level where change needs to occur to hinder the promulgation of violence against women.

Article 15 of the constitution prohibits any discrimination on grounds of sex. The directive principles of state policy also urges that the state shall direct this policy towards securing an adequate means of livelihood for women and ensuring equal pay for equal work for both men and women. The women discrimination can be visualized on various angles. In a male dominated society like India one has to accept that women are at the receiving end. The sex ratio is unfavorable to women and it has declined overtime. The literacy rates are low among women.

The expectation of life is low for women in India up to recent times.

Many social scientists have discussed why rape is so prevalent in Indian society, and many of the explanations are similar to those attributed to domestic violence, but with more nuanced details. Anand Soondas, in his Times of India blog, "why Indian men rape" writes, "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".

The governmental response to the Delhi rape case seemed to be an appropriate message to suggest that violence against women would no longer be tolerated. However, since the Nirbhaya incident there have been multiple analyses of the legal response. Bhattacharyya

(2013), Shastri(2013), Dube (2014) and Sharma,unnikrishnan, and Sharma (2014) all indicate that there are numerous shortcomings of the criminal Amendments Act passed after the Nirbhaya incident that do not address the underlying problems in society, nor provide a plan for effective implementation of the legislation.

Women's movement:

I have conducted an analysis of women's movements in India before and after the case happened. One of the major responses to the Nirbhaya rape was the Indian federal government's decision to pass the criminal law Act, 2013 three months after the case happened. While legislative action was certainly a step in the right direction for social change seeing as federal anti-rape laws had not been amended for nearly one hundred years, it does not necessarily mean the laws were fully and properly implemented or that legal action was the best governmental response to this act of sexual violence. Strong local movements bring home the value of global norms on women's rights and can prove to be more effective than rapid legislation. Women's movements have pushed forward legislation and policy making to advance the rights of the subordinate gender, and many argue that the same can be done for India following the Nirbhaya case, as well.

I studied the major women's movements in India from 2010 onwards through searches for organization websites, governmental reports, scholarly literature, and newspaper mentions. Since movement requires more time to develop. I used this starting year to record how many were really focused on the issues of preventing sexual violence against women and if male participation in these cause has changed, if at all. Government responses to movements and petitions for legislatives or political action are paramount to assessing changing attitudes, too. Usually, more attention has been given to the issue of domestic violence. So a measure of changing attitudes

towards violence against women would be increased attention to sexual violence, which has been “taboo” to speak publically about in India for years.

Violence against women :

“It is important to walk a mile in another person’s shoes. As it is possible to grow up in the same family, neighborhood school, etc, and yet have totally different experiences depending on whether you are a man or a woman. The way to resolve differences therefore is not to suppress those who are different but to notice them and not try to see our reflection in them”. - justice L’Heureux, supreme court of Canada

Gender-based violence has only recently emerged as a global issue extending across regional, social, cultural and economic boundaries. As a near universal phenomenon, gender-based violence threatens the well-being, rights and dignity of women. Women victims need to be treated with sensitivity. Victims of sexual violence suffer from a sense of shame, self-guilt, and fear and feel humiliated, abandoned, traumatized and stigmatized. In recent years, the issue of violence against women has been recognized as a basic human rights issue and the elimination of gender-based violence has been seen as central to equality, development and peace. Violence against woman includes not only physical violence, but also sexual, psychological and emotional abuse. Many forms of violence are not even recognized as such and are ignored, condoned or justified by involving religious, cultural and traditional beliefs. There is increasing evidence to show that women regardless of age, educational level, class, caste, community and family living arrangement, are vulnerable to violence. They face violence both inside and outside the family, at all stages of their lives. The national crime records Bureau reported in 1998 that the growth rate of crimes against women would be higher than the population growth rate in 2010.

Public discussions about violence against women :

The conversation has changed in India since that horrific night in December 2012. The crime- which triggered outrage amongst urban Indians who took to the streets to protest- acted as a turning point, forcing many in India to face up to the widespread violence inflicted on women and girls in this largely patriarchal nation. Discussions about rape, acid attacks, sexual harassment, molestation, dowry murders and female feticide are now no longer just confined to civil society groups, feminists and academics but are being widely debated in the mainstream media and even amongst the usually apathetic political classes. While this had helped create greater awareness and social intolerance towards gender crimes, it has also led to a conservation backlash which has over the past year manifested itself through a series of disturbing incidents some of which can only be described as an attempt at moral policing.

Observers agree that the victim’s ordeal has brought a change to public conversations about women’s issues, with men joining in the discussions as well. A young woman who had taken part in the protests at the time of the rape said a year later, “A welcome change is that the taboo on discussing rape and sexual violence has been broken. The protests brought debates and discussions to our homes”. She also said that since the rape and protests the media is now providing coverage of sexual violence. However she saw “absolutely no change in the rape culture and related brutality. The streets are not safe. Teasing and catcalling or worse are to be found everywhere. Sexual harassment in public places as well as inside the home is still rampant.” She added, “I do acknowledge, however, that a year is too less to undo what patriarchy has done over centuries. It is too embedded in our homes, our institutions and in our laws. The police may be a little more

receptive, but it is not out of a sense of duty but out of the fear of censure”.

Legal Reform and crime statistics:

India's attitudes towards sexual violence against woman are as archaic as the Indian penal code of 1860, which is the substantive criminal law of the country. The provisions of the Indian penal code with regard to rape consider only non-consensual vaginal penetration with a penis. Considering the fact that in the case of the Nirbhaya rape, the accused forced an iron rod into the victim's vagina and caused considerable damage to her internal organs that ultimately caused her death, India's primary rape law would have been highly inadequate to deal with such offenses.

Even the criminal law Amendment Act of 1983, which was one of the first attempts to amend the laws to include gang rape and custodial rape, could not possibly cover the assault, abuse, and damage done to Nirbhaya. The criminal law Amendment Act of 1983 brought about substantial changes in the Indian penal code, criminal procedure code and the Indian Evidence Act. Section 114a of the Indian Evidence Act was amended so that if the victim states in court that she did not consent to sexual intercourse, the court shall presume that she did not consent. The definition and scope of the terms “penetration”, “corroboration”, “consent”, and “marital rape” continued to remain grey areas where no substantial changes were made. Thus, the Delhi gang rape was a signal that the irrelevant rape laws direly needed to be revisited and updated.

In the aftermath of the Nirbhaya case, the Indian government appointed a committee headed by the honorable justice verma and issued a notification about this to the public on December 23, 2012. The statement read, “...it has been decided by the union government to constitute a committee of eminent jurists to look into possible amendments of the criminal law so as to provide for quicker and enhanced punishments for criminals on

account of committing sexual assault of extreme nature against women”. In addition to justice verma's, who was the former chief justice of India, Justice Leila Seth and Gopal Subramanian also presided on the committee. The 631 pages report consisting of fourteen chapters that consolidated more than 80,000 public responses to the decree includes recommendations on laws related to rape, sexual harassment, trafficking, child sexual abuse, medical examination of victims, and police, electoral and educational reforms.

Justice Mehta's proposal for increasing safety for women and repairing the legal system, which so far has not been legally implemented, included :

- Mobile phones with a special button to alert the police of a crime.
- Separation of powers within the police to ensure a fair and quick probe.
- A “one stop center” in one hospital in each zone of the cities to provide comprehensive medical attention to a rape victim.
- Better coordination between the police and the transport department to track illegal public transportation licenses.
- Lowering the age of juveniles to sixteen.

Overall, governmental institutions have taken steps, albeit small, in the right direction to change rape culture in India, but it will require a collective consensus by the Indian public to adhere to these legal revisions and domestic programs in order to achieve social change.

Conclusion :

It took a horribly gang rape on a normal evening in December 2012 to awaken the largest democracy in the world from its oblivion about one of the greatest human rights issues of our time. Based on my findings, it is apparent that this awakening has not yet caused a collective attitudinal change in Indian society and that violence

against women continues to persist. However there are still positive outcomes of the various responses to the Delhi gang rape case, including: the media's increasingly detailed reporting of rape cases, the government's swift passage of overhauling legislative reforms, the greater emphasis by women's movements on combating sexual violence, and the public's recognition of violence against women as a major concern in society.

I conclude that one of the main actors, the Indian government, has stalled social change in terms of preventing additional crimes and due to the maintenance of traditional misogynistic views in the upper echelons of its political parties. It has not fully responded to the needs of the electorate, as seen by its inability to fully incorporate all suggestions into the amended anti-rape laws and its failure to hand down justice to perpetrators due to the backlogged judicial system. Therefore, even though individual attitudes can change, to achieve collective attitudinal change, it is more important to transform community customs through a top-down policy that enforces the idea that violence against women cannot be tolerated in society.

The prevalence of violence against women in India is not a phenomenon isolated within this country, but the manner in which various agents in Indian society have dealt with the issue is unique. Nirbhaya death started a new chapter in the history of India's treatment of her woman and her struggles have not been futile.

After the December 2012 attack on Jyoti Singh, rape became a topic of daily conversation in India, which was a reassuring sign that there was increased awareness about the issue. This spoke well of Indians- it was a conversation most people needed to have due to reverse the patriarchal, sexist, and troubling views on women, men and gender roles, and to eradicate the culture of modesty and shame for women. "India's Daughter" is forcing that conversation again,

and that can only be positive. Let us hope that India has not taken a step backward in its effort of combating the widespread problem of violence against women in its borders.