

RAPE IN THE METROPOLIS: THE GEOGRAPHY OF CRIME IN DELHI

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Abstract: This paper is a study of rape in the national capital of India, and the focus is on the amendments of rape law aftermath 12 December 2012 crime. It questions at the safety and security issues of women in the metropolis of India, and it also discusses critically how laws amendments have been made aftermath this barbaric crime. Though this paper doesn't set an inquiry yet it provides common criticism against the new amendments and it remains observational in nature, and sets a study. The temporal aspect revolves around the gang rape case of December 2012, but it also peeks in the past for the reference purpose only. The insensitive reactions from the political party leaders and religious leaders also find a space in the paper to show the general reaction of the society. The urban middle-class carefree attitude is reflected by an example of a popular reality show. But finally this paper advocates for lengthy prison sentences that have some behavior-altering deterrent value.

Keywords: amendments, rape, metropolis, safety and security issues, women.

INTRODUCTION

Is rape a private matter that should not be discussed in a public domain? Of course, not! New Delhi, a metropolis, is again in limelight for wrong reason: 2012 Delhi Gang Rape Case; and this paper is a study of it. It questions on the safety and security issues of woman in the metropolis of India, and it also discusses how laws amendments have been made aftermath this barbaric crime. The National Crime Records Bureau (NCRB¹) recorded the capital accounts for over 47% per cent of rapes and abduction of women in urban India. Mishra in *Women Safety in Delhi* says 'for women across India, fear is a constant companion and rape is the stranger they may have to confront at every corner' (Mishra 2009: 2).

After every unfortunate incident of rape the general reaction of most of the people is: what was 'she' doing in an unsafe place in the night; was 'she' with her boyfriend; was 'she' drinking and eating in the hotel alone? It seems that the mindset of the people has not accepted the process of urbanization and migration fully, and they still think that inhospitable and harsh cities will stop the migration and consequently crimes will stop in the metropolis. But, this time, fortunately the resi-

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dent of this transit city came out from their shelters with one voice for a demand for justice to the victim and to hang the culprits, though the religious and political party leaders were busy in making their usual insensitive remarks e.g. a controversial religious guru Aasaram Bapu's statement that the girl could have escaped rape had she addressed the rapists as "brother", international president of Vishva Hindu Parishad Mr. Ashok Singhal was busy in criticizing Western Culture, Madhya Pradesh Industry Minister Kailash Vijayvargiya had been advising women not to cross their lines, Rashtriya Swayamsewak Sangh (RSS) chief Mohan Bhagwat shrugged this off by describing it as an urban phenomenon, Shafiqur Rehman, a member of a parliamentary committee on Home Affairs from Bahujan Samaj Party (BSP), held women's irresponsible dressing codes responsible for the assault, Andhra Pradesh Congress chief Botsa Satyanarayana fantasized why do women need to travel in the night?, and many narratives would soon be in the line with these which show the social dementia in the people of politics and religion when it comes to talk about a serious issue, and all this jabbering resulted in one conclusion that women are not safe in the capital of India, and women send vibes of insecurity being the urban residents of this transit city.

HISTORY AND BACKGROUND

On the night of 16 December 2012, Ram Singh², Vinay Sharma (20), Akshay Thakur (28), Pawan Gupta (19), Mukesh (26) and the juvenile³ had gang raped the girl (23) in a bus after luring her and her 28-year-old male-friend. The victim's friend, a software engineer, suffered fractures in his limbs in the incident. The girl died on December 29, 2012 at a Singapore hospital. There were 130 effective hearings over 7 months, 85 prosecutions and 17 defense witnesses examined. All four accused were awarded sentenced to death on 10 September 2013.

Rape made national headlines earlier to and afterwards this incident but we forgot them easily. In 2003 a medical student and before that a call center worker was raped. In 2011 Uttar Pradesh faced the worst atrocities. The Vice-President of SR Darapuri People's Union for Civil Liberties (PUCL) stated: "I analyzed the rape figures for 2007 and I found that 90% of victims were Dalits and 85% of Dalit rape victims

were underage girls". In January 2013, a 7-year old girl was raped in the school toilet in Goa. In March 2013 a Swiss-woman gang raped in front of her husband at a village in a Dalit district, and in August 2013, an Arunachal Pradesh teacher was arrested raping fourteen underage girls in the hostel for over 3 years. BBC reported in February 2013, more than 7,200 children are raped every year in India. But this time only when the people identified the victim as one of them-urban, middle-class, and educated-and they came out on the streets and called for the capital punishment.

The Indian Penal Code had gone through a lot of amendments in the past too for the punishment for rape. In 1983 the following amendments had been made; they are: S. 376(2) i.e. custodial rape, S. 376(A) i.e. marital rape, and S. 376(B to D) i.e. sexual intercourse not amounting to rape were added; and U/s 228A of Indian Penal Code, no person can disclose the name of the rape victim, U/s 114-A of Indian Evidence Act; presumption can be made as to the absence of consent, U/s 53(1) of Code of Criminal Procedure, U/s 164A of Code of Criminal Procedure; provisions for medical examination of rape victim are given, and U/s 327(2) of Code of Criminal Procedure, there should be in camera trial for all rape victims. The amendments in 1983 are given for reference only. In this paper, we will discuss only the amendments aftermath 16 December 2012 gang rape case.

SEXUAL HARASSMENT AND CHANGES IN LAW

Rarely a single incident of crime amends law but this time it happened, aftermath 16 December 2012 gang rape case that has led to various changes in rape laws in India. The major achievement was in re-defining 'rape' and provisioning a death penalty too. It also defined several new offences such as causing grievous hurt through acid attacks, sexual harassment, use of criminal force on a woman with intent to disrobe, voyeurism and stalking. Accepting Verma Committee Report's recommendation, the Indian Parliament introduced amendments to the Indian Penal Code and after receiving the assent of the President on the 2 April 2013, and various changes have been made to the anti-rape laws in India. The Verma Committee Report proposed these amendments in law, and according to former minister of Law and Justice Ashwani Kumar 90% suggestions has been accepted. The parliament has not included

the recommendations now for marital rape, reduction in the age of consent, and amending armed forces special powers act.

In section 354, four new sections have been inserted: 354 A, 354 B, 354 C, and 354 D. The section 354 A recommends punishment for a man (*i*) who makes physical contacts and indulges in unwelcome and explicit sexual overtures, (*ii*) demands and requests for sexual favors, (*iii*) shows pornography against the will of a woman, and (*iv*) makes sexually colored remarks. For the clauses (*i*), (*ii*), and (*iii*) there is a reward of a rigorous imprisonment for three years, or with fine, or both. For the clause (*iv*) it is for one year, or fine, or both. For assault or use of criminal force to woman with intent to disrobe in the section 354 B recommends a reward between 3 to 7 years. The section 354 C rewards penalty for voyeurism for one to seven years with fine depends upon the severity of the crime. Here, the gazette has described 'the private acts' rather explicitly: "An act of watching carried out in a place which (...) expected to provide privacy and where victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using the lavatory; or the victim is doing a sexual act that is not a kind ordinarily done in public (The Gazette of India 2013: 3)". The dissemination of the capture images of the victim without consents is also considered an offence. The section 354 D for stalking, and the reward is up to seven years/fine depending upon the severity. The section 370 is substituted by 370 and 370 A where the law amendments for the trafficking of the person and exploitation of a trafficked person are introduced, and the term 'prostitution' has been dropped. There is a subtle difference in the nature of 354 A, B, C, and D, and 370 & 370 A where except once in 354 D point (2) the word 'whoever' is used in place of 'man' whereas in 370 & 370 A there is not any instance of using the word 'man' specifically. Voyeurism and Stalking are no longer a gender neutral term, and only a man can commit on a woman.

Besides 354 and 370 the most important change that has been made is the change in the definition of the term 'rape' under Indian Penal Code. A new term 'sexual assault' has been introduced in place of 'rape', and the penetrations, other than penile, have been added to the definition. But still the existing definition of rape in section 375 of IPC only covers the cases where the victim is woman. The section 376 describes 'whoever' and states punishment for rape by a police officer, a public servant, a member of the armed forces, the management or the staff of the jail, a relative, guardian, teacher or the

person in authority, and it also describes various places and the stages of the victim. Depending upon the situations-aggravated or alleviated (not aggravated)-the punishment will be rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine; and in non-aggravated situations it will be imprisonment not less than seven years but which may extend to imprisonment for life, and shall also be liable to fine.

A new section, 376 A has been added for punishment for causing death or resulting in persistent vegetative state of victim. It states that if a person committing the offence of sexual assault “inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean the remainder of that person’s natural life, or with death (The Gazette of India 2013: 7)”. The section 376 B describes sexual intercourse by husband upon his wife during separation, and rewards punishment of minimum of two years which may extend to seven years, and also liable to fine. The sexual intercourse by a person in authority is described in section 376 C, and it rewards punishment of minimum of 5 years which may extend to 10 years, and also liable to fine. In case of “gang rape” in (376 D), persons involved regardless of their gender shall be punished with rigorous imprisonment for a term which is minimum twenty years which may extend to life and a fine, and the age of consent in India has been increased to 18 years.

AMENDMENTS AND COMMON CRITICISM

Any legislation addressing sexual violence should reflect international human rights law and standards, and the main criticism of this new ordinance is that it fails to provide crucial human rights protections and redress for victims. Meenakshi Ganguly, South Asia director at Human Rights, reacted that “Indian parliamentarians should insist on a law that deals with these critical issues”. The new ordinance ignores the committee’s key recommendations on police accountability, and it provides legal immunity for members of the armed forces. Its failure to state the sexual violence as a violation of women’s rights has been much criticized. The discriminatory provisions

are easy to decode from the above discussion where for the same crime the punishment varies, and the capital punishment is only in some cases of sexual assault, which result in death or “persistent vegetative state” for the victim and in cases of certain repeat offenders. The ordinance retains archaic and discriminatory concepts for defining criminal offenses as “insults” or “outrages” to women’s “modesty” rather than crimes against their right to bodily integrity. The ordinance fails to draw a distinction between the harm caused by penetrative and non-penetrative offences, e.g. the act of touching another person’s sexual part is given the same punishment as penetrative sexual offences. According to amended Penal Code 375, the wives can bring a charge of “sexual assault” against husbands only when they are “living separately under a decree of separation or under any custom or usage”. The Amnesty International and Human Rights Watch criticized and opposed the death penalty under all circumstances realizing it as a degrading punishment and a violation of the right to life. The Protection of Children from Sexual Offences Act, enacted in 2012, increased the age of consent to sexual intercourse from 16 to 18 also received severe criticisms.

The ordinance fails to repeal section 377 of the Penal Code, which criminalizes consensual same-sex relations among adults. The LGBT activists are quite dissatisfied, and they argue that anyone including men, can be raped and they should have recourse to justice. Anjali Gopalan of Naz foundation says: “People from the LGBT community are looked down in our society. In cases of sexual violence, men feel helpless. They can approach no one. If some of them gather the courage to go the police station, the case is not registered. They make fun of the victim”. But to amend the Indian Penal Code to make the definition of rape ‘gender-neutral’ is under consideration. On the contrary, the anger of most of the women organizations and NGOs for women were against the exception no. 2 in 375 which states that the sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape (GOI 2013: 6). Rath quoted the UN Population Fund that observed that more than 2/3rds of married women in India, aged between 15 to 49 have been beaten, raped or forced to provide sex; and in 2005, 6787 cases were recorded of women murdered by their husbands or their husbands’ families.

In spite of these amendments in 354 and 370, the lewd remarks have been exchanged on National Television in the

reality shows, and one of the most popular reality show program named *Bigg Boss Season 7* on *Colors* channel telecasts at 9.00 PM daily is an exemplar of it. During a task in the show, Andy misbehaved with Gauhar by passing crude remarks on her lingerie (Deccan Chronicle). According to one participant, Kushal, “Armaan Kohli has abused every single woman in the house (TNN)”. A leading newspaper *The Hindustan Times* says ‘Reality Show? Let’s just call it voyeurism central (HT).’ Let’s not deviate further from the seriousness of the topic by discussing a reality show largely popular in the urban middle-class population. But incidentally it only demonstrates how easily we forget things.

CONCLUSIONS

Law remains but the criminals continue to act against society. The amendments of 1983 and the recent amendments of 2013 have brought some important changes in the existing laws of rape. But it is time to realize that rape is a sexual assault which is not for sexual gratification, but it is an act of violence which is expressed through sexual means. Severe and certain punishment in a time bound manner can provide a justice to the victim because on an average most convicts get away with three to four years of rigorous punishment, and with a very small amount of fine. Lengthy prison sentences have some behavior-altering deterrent value therefore; these criminals should be sentenced to life imprisonment.

APPENDIX

Tab. 1. *Incidence of Crimes Committed Against Women During 2012*

Union territory	Female population	Rape (Sec. 376 IPC)	Kidnapping & abduction (Sec.363-369,371-373 IPC)	Dowry deaths (Sec.304B IPC)	Cruelty by husband or his relatives (Sec.498A IPC)
	(in lakhs)	I R P	I R P	I R P	I R P
DELHI	85.43	706 8.26 2.83	2160 25.28 5.65	134 1.57 1.63	1985 23.24 1.86

I=Incidence; R=Rate of crime; P=Percentage Share.

Tab. 1. (continued)

Union territory	Assault on women with intent to outrage her modesty (Sec.354 IPC)	Insult to the modesty of women (Sec.509 IPC)	Importation of girls from foreign country (Sec.366B IPC)	Commission of sati prevention Act, 1987
	I R P	I R P	I R P	I R P
DELHI	727 8.51 1.60	208 2.43 2.27	0 0.00 0.00	0 0.00 @

I=Incidence; R=Rate of crime; P=Percentage Share; @ = Show indicates division by zero.

Tab. 1. (continued)

Union territory	Immoral traffic (P) Act, 1956	Indecent representation of women (P) Act, 1986	Dowry prohibition Act, 1961	Total
	I R P	I R P	I R P	I R P
DELHI	24 0.28 0.94	0 0.00 0.00	15 0.18 0.17	5959 69.75 2.44

I=Incidence; R=Rate of crime; P=Percentage Share.

Tab. 2. *Offenders Relation and Proximity to Rape Victims 2012*

Union territory	No. of cases in which offenders were known to the victims	Parents or close family members	Relatives	Neighbors	Other known persons
DELHI	680	41	61	248	330

NOTES

¹ NCRB is implementing Crime and Criminal Tracking Network and Systems (CCTNS), which is a mission mode project under the National e-governance plan of Government of India.

² He hanged himself in the cell on March 11, 2013.

³ On August 3, 2013 the juvenile was convicted and sentenced to a maximum of three years in a reformation home.

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