

February 20, 2024

Protection of the Rapist and the Molester in Neoliberal India

By: **Ranjana Padhi**

Why does there continue to be a disconnect between sexual assault and punishment of the perpetrator in India? We must recognise the potent nexus of political power, caste superiority, and muscle power that shields sexual offenders in our society.

An endless spate of horrifying reports has made national news in the last decade—from the sexual assault and hanging of two Dalit girls in Badayun district in Uttar Pradesh (UP) (2014) to the stripping of two Kuki-Zo women by a violent mob in Manipur (2023); from hailing the killers of Asifa Bano in Jammu and Kashmir (2018) to public vigils in support of religious leaders convicted of rape; and from the impunity accorded to upper-caste men in Hathras in UP (2020) to the (later reversed) release of convicted rapists in Gujarat (2022).

Complainants have survived brutal assaults, blackmail, and threats to their lives and their family members. Protection of witnesses is still a far cry. Could it be mere coincidence that the *acche din* (good times) guaranteed to all citizens before the 2014 Indian general election implies the exclusion of women and all marginalised groups from justice?

There is a need to question why the onus for the crime of sexual assault and its punishment seems disconnected in our society. Do we see how Hindutva's social and cultural ethos is reversing the position and worth of women? Do we see how women from Dalit and Adivasi communities and from minority religious groups bear the brunt of sexual violence and denial of justice? What makes sections of the public, including women, take to the streets in defence of perpetrators of crime? Do we see the formidable matrix of political power, caste superiority, and muscle power that protects the perpetrators of sexual crimes? This article will attempt to unpack some of these complexities.

Women's Bodies as Battlefields

Sexual violence has always been part of mass violence. In 2013, when the hype about the Bharatiya Janata Party (BJP) coming to power had reached a crescendo, communal violence broke out in Muzaffarnagar district of UP. More than 60,000 Muslims were displaced and several women were reported to have been sexually assaulted. The government announced the setting up of fast-track courts. Ten years later, one woman [still waits](#) for justice while the others have withdrawn their complaints.

|| The priority accorded to projecting India as an investor-friendly place often leads to the suppression of systemic violence against Dalits and a denial of justice.

The pursuit of justice through the criminal justice system can profoundly disrupt the lives of entire families and communities. In cases where Dalits assert their land rights, they can face sexual violence from the dominant castes. In Haryana, communal land owned by village panchayats is a point of contention between Dalits and Jats.

This conflict was highlighted when four young Dalit girls were raped by five youths in Bhagana village in [March 2014](#). Subsequently, 90 families from the Dhanuk community protested at Jantar Mantar in New Delhi for nearly two months. However, they were forcefully disbanded by the Delhi police. The priority accorded to projecting India as an investor-friendly place often leads to the suppression of systemic violence against Dalits and a denial of justice.

Dalits asserting their right to social advancement often face [sexual assault and violence](#). In August 2013, a 20-year-old student from Baniyakheda village in Haryana was found dead in a field after boarding a bus to Jind for an exam. When the community demanded a case be filed, a violent lathi charge injured several, including the girl's father. Six Dalit men were arrested. The Dalit community faces overt denial of basic procedures and justice mechanisms, with even lawyers and male activists at risk. The underrepresentation of women (and men), especially from minority, tribal, and Dalit backgrounds, in the state justice system presents a systemic barrier to seeking justice.

In *Undoing Impunity: Speech after Sexual Violence*, V. Geetha (2016) discusses how upper-caste men assert their authority by controlling the bodies of lower-caste women and by humiliating their men who fail to protect them. In southern Chhattisgarh, Adivasi women have faced widespread sexual violence from security forces and paramilitary groups as they resist corporate land and resource exploitation. Despite first information reports (FIRs) and media attention, no action has been taken against the perpetrators.

The ordeal of a 17-year girl from Unnao in UP began in June 2017 with some strangers luring her with the promise of a job, which ultimately led to her being sexually assaulted by a BJP member of the legislative assembly (MLA). Protesting against police inaction and her father's arrest under the Arms Act, she attempted to set herself on fire outside the chief minister's residence on 8 April 2018. What followed was her [father's death](#) in police custody. A year later, a truck rammed into an autorickshaw she was in, killing two of her aunts.

When, finally, BJP MLA Kuldeep Singh Sengar was convicted for the rape, an attempt was made on her life in Rae Bareilly and she had to be airlifted to a hospital in Delhi. Such incidents from rural India and small towns become news only when victims are airlifted to hospitals in the national capital. Yet, Rashtriya Swayamsevak Sangh (RSS) chief Mohan Bhagwat said in the aftermath of the 2012 Nirbhaya gang rape in Delhi that [such crimes took place only in urban India](#), which was under Western influence, but not in “Bharat”.

Two state BJP ministers attended a rally in support of the accused. The gang rape was a chilling message to the landless Bakarwal Muslim community to stop claiming their grazing rights.

In January 2018, eight-year-old Asifa Bano was abducted from a village in Kathua district of Jammu and her body was [discovered](#) a week later. She belonged to the Bakarwal nomadic community, a Muslim tribe. Investigations revealed that she was sedated and raped in a Hindu temple by a gang, including the temple priest and local police.

Rallies by Hindu right-wing groups supported the accused and the Jammu Bar Council [threatened](#) the victim's counsel. Lawyers supporting the Hindu Ekta Manch blocked the way of the Crime Branch team when it arrived in court. The state BJP ministers in charge of forests and industries [attended](#) a rally in support of the accused. The gang rape was a chilling message to the landless Bakarwal Muslim community to stop claiming their grazing rights.

Self-styled gurus and godmen have been exposed when brave women have dared to stand up for their rights. [Gurmeet Ram Rahim Singh](#), who headed the Dera Sacha Sauda, was convicted of rape in August 2017 and [Asaram Bapu](#) in 2019.

Yet, a 23-year-old law student went missing in August 2019. She was in a college in Shahjahanpur in UP run by a trust headed by former BJP union minister Swami Chinmayanand. She had posted a video [accusing](#) Chinmayanand of sexually assaulting her for a year. He was arrested but he filed an FIR accusing her and her friends of extorting Rs. 5 crore from him. The victim spent two months in jail and Chinmayanand is no longer a BJP member. In March 2021, he was [acquitted](#) and the sexual assault charges were dropped.

In 2020, a 19-year-old woman in Hathras was on her way to work when she was waylaid by upper-caste Thakur men of the village. Battling for her life with a spinal injury and a severed tongue, she bravely named the four men who had raped her. Former BJP MLA Rajveer Singh Pehelwan rallied huge upper-caste men, and the RSS and its allies followed suit. In this atmosphere of orchestrated hysteria, the investigation was manipulated in many ways.

When the victim died two weeks later in Safdarjung Hospital in Delhi, her body was [forcibly cremated](#) by the police. Citing a preliminary inquiry report, it was said that both her post-mortem report and medical report did not mention any sexual assault. The state government suspended the Hathras superintendent of police and four other policemen and ordered that the victim's family members [undergo polygraph tests](#). A public relations firm was also hired to claim that the sexual assault had not taken place. To show that all dissent was part of an international conspiracy, the police cited a [website](#), which had content that had been hurriedly copy-pasted from a Black Lives Matter website in the US.

The brazen manipulation of investigations into such cases offers nothing encouraging to women stepping out to join the workforce—often the first generation of earning members in their families.

Hathras was cordoned off and nobody was let in, be it politicians or journalists. Despite a writ petition filed in the Supreme Court by Dalit women and queer persons on caste-based atrocities, by March 2023, [three of the four accused were acquitted](#) of sexual assault

charges by a Scheduled Caste/Scheduled Tribes court. The prime accused was sentenced to life for culpable homicide not amounting to murder. The flouting of the Scheduled Castes and Scheduled Tribes Act (Prevention of Atrocities) Act has become routine.

The brazen manipulation of investigations into such cases offers nothing encouraging to women stepping out to join the workforce—often the first generation of earning members in their families. The mushrooming of establishments in the private sector, in education, sports, and hospitality, has been disadvantageous to [many](#) women employees.

On 18 September 2022, 19-year-old Ankita Bhandari who had just begun work as a receptionist in a resort near Rishikesh in Uttarakhand was murdered. [Police charged](#) her employer and colleagues for the killing. She had [refused](#) to offer paid sex to VIP guests at the resort. The Uttarakhand Mahila Manch’s [report](#) on the incident said the resort, which was under the control of the police, was [demolished](#) partially on the night of 23 September, [allegedly](#) using a bulldozer brought in by the local BJP MLA Renu Bisht. This erasing of [evidence](#) pointed to collusion between the perpetrators and state functionaries.

The violence in the BJP-ruled state of Manipur was the fallout of state power and majoritarian politics targeting minority communities and women. In June 2023, a [video went viral](#) across the country of two Kuki-Zo women publicly paraded naked, chased, and gang raped. This incident had taken place in mid-May and many more FIRs have been filed in the state on women and girls being molested and sexually assaulted. The administrative machinery seems to have chosen to look the other way.

The culture of impunity fosters toxic masculinity among Hindu youths, evident in the creation of apps that demean Muslim women. [Sulli Deals](#), an open-source app, displayed personal information and photos of Muslim women. In mid-2021, social media was used to auction around 100 such photos. The accused spent only a few months in prison before being released on [bail](#). This was followed by the [Bulli Bai](#) app in early 2022, which doctored photos downloaded from social media profiles, depicting these women as “available”. The targets included prominent women journalists and activists who opposed the Citizenship Amendment Act (CAA) brought in by the BJP-led regime.

It is ridiculous to see how those with political power don the garb of being rescuers of both Hindu and Muslim women. Hindu daughters have to be “protected” from Muslim predators with the rallying call of [the so-called “Love Jihad”](#), a hate campaign that has no regard for women’s consent, autonomy, and desire. At the same time, Muslim women have to be “liberated” from triple talaq and the hijab. This double-edged sword of protection and hatred has become the basis of national politics, fuelling misogyny and terrorising the minority community.

|| In a moment of bitter irony, the released rapists were greeted with sweets and garlands. BJP MLA C.K. Raulji said that they were “Brahmins” and had “good sanskar”.

The nexus among majoritarian politics, deep-rooted patriarchy, and state power is revealed in the protection of perpetrators of crime. On 15 August 2022, 11 convicts sentenced to life imprisonment for the gang rape of [Bilkis Bano](#) and the murder of her family members in Gujarat in 2002 were released from jail. In a moment of bitter irony, they were greeted with sweets and garlands. BJP MLA C.K. Raulji [said](#) that they were “Brahmins” and had “good sanskar”. He was one of the two BJP leaders who were part of the Gujarat government panel that unanimously decided to release the rapists. The Supreme Court has recently [quashed](#) the Gujarat government’s decision and directed all of them to surrender.

Women wrestlers from rural Haryana did India proud with their achievements on the world stage. It is a struggle for any Indian woman to scale such heights in the male-dominated world of sports. But it becomes worse when the struggle involves warding off male predators, including the member of Parliament (MP) who [headed](#) the Wrestling Federation of India (WFI).

On 28 May 2023, while the new parliament building was being inaugurated, the police moved in on the women wrestlers [protesting](#) against the WFI at Jantar Mantar. This demonstrated how the powers that be could close ranks to protect a person accused of crime. Sakshi Malik, ironically one of the brand ambassadors of the Beti Bachao Beti Padhao campaign of the BJP government, announced she was quitting wrestling. Soon after, wrestlers Bajranj Punia and Vinesh Phogat returned their national awards to the Prime Minister.

The institutional protection of perpetrators creates significant barriers for educated and courageous women seeking justice. Both former Chief Justice [Ranjan Gogoi](#) and Tehelka editor-in-chief [Tarun Tejpal](#) were exonerated. In December 2023, a woman civil judge in UP [wrote](#) to the Chief Justice of India, expressing her desire to end her life after struggling for months to file an FIR against a district judge.

Women’s fight for bodily autonomy and integrity extends beyond the courtroom. The tolerance of sexual violence, in various forms, is also fuelled by public complicity. Certain segments of society appoint themselves as judges, deciding who should be protected and who should be punished. The moral compass, whether among leaders or citizens, has veered off course, leading to significant confusion among all.

Myths of Collective Conscience

Remember how four of the six convicted in the Nirbhaya gang rape were hanged in the early hours of 20 March 2020? The [Supreme Court](#) termed the case, which had shocked the collective conscience of society, “rarest of the rare”. In the absence of effective justice mechanisms and speedy trials, capital punishment becomes a tool in the hands of the state. It can be useful for appeasing a horrified public, but the state abdicates its constitutionally mandated duty to follow due process to protect its female citizens.

Women’s groups have always opposed retributive justice and the democratic rights movement is steadfast on ending capital punishment. As long as it remains on the books, using it as punishment for sexual assault will be a grey area. At whose behest is this collective conscience being forged? What is the ethos gaining acceptance in society where the public bays for blood in medieval lust?

According to the police, the accused snatched their guns and they were compelled to kill them in self-defence. A section of the public greeted the policemen with loud cheers, showering them with rose petals.

It is as disquieting when the state machinery is hailed by the public for eliminating accused people through extra-judicial killings known as encounters. In November 2019, the Telangana government arrested four accused of sexually assaulting a 26-year-old veterinary doctor in Hyderabad. In response to the public outrage, the state government ordered the setting up of a fast track court.

However, the very next day, the four accused were shot by the police at the scene of the crime. According to the police, while there to reconstruct the crime, the accused snatched their guns and they were compelled to kill them in self-defence. A section of the public greeted the policemen with loud cheers, showering them with rose petals. The Justice V S Sirpurkar Commission, set up by the Supreme Court to probe the encounter of the four accused, [concluded](#) that the police deliberately fired on the accused “with an intent to cause their death.”

This valorisation of “encounter” killings as a response to crimes against women takes the attention away from how the state is being emboldened. [As Women against Sexual Violence and State Repression has pointed out](#), it is easy to call for the hanging and murder of lorry workers but what of the many fathers, uncles, brothers, godmen, and security and army personnel who continue to rape with an impunity granted to them through legal and social protection? The collective conscience makes it clear who ought to be punished: slum dwellers and workers, but not godmen, academics, jurists, or political heavyweights. There is more at play here than just the state or the justice system being partisan to the powerful.

One of the grave outcomes of this collective conscience is the canonising of rapists, which lends plausible deniability to their crimes. From the time Asaram Bapu was accused in 2013 till his conviction in 2018, [continuous sit-ins](#) were organised by his followers, including large numbers of women, in Jantar Mantar in Delhi and other places. Such gurus spend long spells of time on [parole](#), with even ministers and high bureaucrats visiting them. Let us try and understand the public morality that informs this collective conscience.

In a sociological sense, a collective conscience is understood to have emerged when morally less critical societies gradually evolved certain basic beliefs and tenets, which they collectively affirmed as the highest common good. In the prevalent social and cultural ethos, there is the manufacturing of an altered collective conscience to suit a majoritarian agenda. This is being done by injuring, damaging, and reducing the worth of the “other”.

This made-to-order collective conscience is employed at majoritarian will. The Preamble of the Constitution affirms “We the People” but the ascendancy of majoritarianism is unmaking rules and laws for the “other”. Addressing today’s refabrication of the collective conscience requires discerning the strands of hysteria whipped up craftily each time. If the perpetrator is Muslim or Dalit or a lorry worker and the affected is a Savarna, the collective conscience is aroused and it bays for extreme punishment. However, if the perpetrator is a Savarna, a godman, the bulldozer state, a church-vandalising Hindu, or a saffronised law maker, and the affected is a Muslim, Dalit or Adivasi, the same collective conscience exonerates the perpetrator.

Observations made in the public domain range from ripped jeans to eating chow mein being the cause of rape. A member of the UP Women’s Commission remarked that mobiles were the main reason for increasing sexual assaults.

Further, if both the perpetrator and the affected are Savarna, as in the case of researchers or law interns and journalists or court employees, the standard power distinctions operate in accordance with patriarchal and class hegemonies. These strategies aimed at suppressing the other are carried out everywhere—from state bodies and the judiciary to media houses and educational institutions. Thus the chemistry of collective conscience is dodgy, mendacious, and self-serving.

Making light remarks on sexual crimes masks the abandoning of accountability or responsibility. Observations made in the public domain range from [ripped jeans to eating chow mein](#) being the cause of rape. A member of the UP Women’s Commission [remarked](#) that mobiles were the main reason for increasing sexual assaults. A large section of the mainstream media is always ready to flash these outrageous anti-woman remarks. It also plays a part in propagating half-truths and falsehoods that impair the possibility of a fair trial.

Impunity operates through the pandemonium that breaks out in the ubiquitous blame game of political leaders in Parliament sessions. Recall the chaos when the monsoon session began in July 2023 and the Opposition demanded a discussion on the continuing violence in Manipur.

The microphone of Congress leader Mallikarjun Kharge was switched off when he insisted on the presence of the Prime Minister. The leader of the Rajya Sabha, Piyush Goyal from the BJP, said that they should also discuss violence against women in opposition-ruled states of Rajasthan, Chhattisgarh, Telangana, and West Bengal. Frenzied thumping of desks roaring “Modi,Modi” was followed by the Opposition shouting “Manipur, Manipur”. In this contested political exchange where crimes are speedily cancelled against each other, the seriousness of crimes is undermined each time.

In April 2014, the Samajwadi Party supremo Mulayam Singh Yadav was quick to oppose capital punishment in cases of sexual assault. According to him, ‘[boys will be boys](#)’ and boys will always make mistakes, but there is no need to hang them. He assured everybody that he would amend the law to end capital punishment for rape. Note, it was not about ending capital punishment, only about ending it for those convicted of rape.

The current regime in India draws on a troubling history of state power and patriarchy. In May 2002, during a discussion on communal violence in Gujarat, Union Minister George Fernandes [infamously](#) asked, “What is new about rape?” This shift in stance by the once prominent figure of the anti-Emergency movement was a calculated move to secure his position in the National Democratic Alliance (NDA) government. His question diverted attention from Modi’s alleged involvement in the mass violence against the Muslim community in Gujarat and deliberate instances of sexual assault. Ironically, in a rally in December 2013, Modi urged voters in New Delhi to [remember Nirbhaya](#) while casting their votes in the assembly elections.

As a powerful amplifier of the collective conscience, media callousness leads directly to a denial of justice. The glorification of masculinity becomes prominent as news coverage resembles a dehumanising public trial.

More recently, MP Brij Bhushan, who was seeking bail, officially described the video of the Manipur women as “[unfortunate](#)”. Anurag Thakur, who incited violence in North-East Delhi in February 2020 with his inflammatory anti-Muslim speech that said “*goli maro salon ko*” (shoot the traitors), [assured](#) the women wrestlers to form a committee to investigate allegations of sexual violence. Such double standards are carefully manoeuvred by the current regime to cover up their alleged crimes.

The news media often neglects its social responsibility when reporting on crimes against women. As a powerful amplifier of the collective conscience, media callousness leads directly to a denial of justice. The glorification of masculinity becomes prominent as news coverage resembles a dehumanising public trial. Instances where crowds support accused individuals, obstruct the legal process, or cheer for perpetrators out on bail often make headlines in TV channels and news media. Instead of engaging in critical questioning or investigative reporting, mainstream media tends to reproduce and promote the dominant narrative.

News channels sometimes use prima facie evidence as a basis to doubt the FIR or a survivor’s statement. There is also a tendency to question a woman’s caste background, and the age-old practice of scrutinising a woman’s character continues to be a news topic. This

deep-rooted sexism in character judgment even [extended](#) to eight-year-old Asifa Bano. Such reporting absolves media of the social responsibility to uncover facts and circumstances that could aid in investigations or promote justice.

Whether it is courts invoking the collective conscience or women worshipping rapist godmen, or whether it is the political class blaming each other, impunity works round the clock in this country. This not only renders the act of sexual violence invisible but also powerfully protects the use of it as a social crime. It conserves sexual violence as a “legitimate” political weapon to suppress women and minority communities. That this culture and its trends have consolidated under the BJP is no mere coincidence.

Some Reflections

Clearly, the challenges posed by the state-caste-patriarchy nexus in Indian society have deepened with the consolidation of political power by Hindu right-wing forces. A neoliberal economy hell bent on rolling out its programs and policies for India to become part of the global economy has its social consequences. The uncanny ability of capitalism to transcend and collude with state power, regardless of its ideological persuasion, is today boosting the Hindutva agenda of legitimising majoritarian sentiments and aspirations.

Since the 1970s, women’s groups have faced a challenging struggle to compel society, lawmakers, and policymakers to acknowledge rape as a crime. This battle has involved not only advocating for legal reforms but also raising awareness in society.

Existing contradictions in society are intentionally stoked to widen rifts. The National Crime Records Bureau (NCRB) report of [2022](#) shows an increase in the number of crimes reported against the marginalised and vulnerable sections in the country. And it is these groups that face structural barriers and institutional indifference at all levels – from filing an FIR in a police station to accessing subsequent levels of legal aid and justice (EPW 2023).

Reflecting on the journey since the 1970s, women’s groups have faced a challenging struggle to compel society, lawmakers, and policymakers to acknowledge rape as a crime. This battle has involved not only advocating for legal reforms but also raising awareness in society. Myths surrounding rape, such as blaming the victim or justifying it as a result of male lust, were debunked to discredit the feudal and patriarchal notions associated with the crime. Confronting custodial rape, whether in police stations or state-run institutions, meant challenging the blatant abuse of power in a patriarchal state. Women’s groups have also contested the impunity granted to armed forces and paramilitary in conflict zones like Kashmir and the northeast, demanding accountability.

In situations of mass violence, non-state actors supported by political parties and state apparatus often use sexual violence to suppress entire communities. Whether in cases of caste atrocities or communal violence, the violence against women aims to humiliate the men of these communities. Women’s groups have also questioned the state’s use of rape as a tool of terror in operations to suppress resistance against taking over land and resources for development. Each step, whether in establishing standard operating protocols for investigating sexual assault, seeking witness protection, or advocating for rehabilitation measures, has been a struggle.

The 2013 Justice Verma Committee report’s failure to address marital rape and sexual violence by armed forces, despite recommendations from various organisations, was a source of collective disappointment that lingers. In this ongoing struggle, the practice of honoring rapists is regressive, and subjecting the victim’s family members to polygraph tests is equally reprehensible.

The trauma and the stigma of sexual violence take a very long time for effective healing. The social and psychic cost to survivors and their families could cause relocation and endless years of economic instability.

The BJP-led government and its ideological allies promote a Hindutva doctrine, rooted in caste supremacy and the glorification of misogyny from the Manusmriti. Hindutva portrays a dominant, aggressive male image, reinforced by state actions like bulldozing and encounter killings. Politically protected youth involved in the Hindutva project are drawn to its militant, conquering aspect, as seen in the gang rape of a [BTech student](#) on Varanasi’s Indian Institute of Technology campus by three young men, where two of the accused were from the BJP’s IT cell.

The Hindutva forces mobilise women to defend upper-caste rapists, seen in vigils and sit-ins demanding the release of convicted spiritual leaders. This controlled agency, serving male interests, is erasure of agency itself. The increasing dominance of majoritarian ideology is internalised by patriarchal subjects, and any community identity not based on ideology risks becoming reactionary. Neither

community honour nor religious identity can justify sexual violence.

The trauma and the stigma of sexual violence take a very long time for effective healing. The social and psychic cost to survivors and their families could cause relocation and endless years of economic instability (Dubey 2018). Can we imagine the remaking of a collective conscience that fosters empathy to moderate the trauma of news reports, medical tests, and postmortems? Will it assuage the hardship of court trials, media trials, and the rage and humiliation each victim experiences? It is useful to remember that women who seek justice against such overwhelming odds are speaking up for the future of an entire society and not just for themselves.

I express gratitude to my friends V Geetha and Arunesh Maiyar for discussions and inputs in writing this article.

References:

Dubey, Priyanka (2018). *No Nation for Women: Reportage on Rape from India, the World's Largest Democracy*. Simon and Schuster India.

EPW (2023). 'A Grim Portrait of Crimes and Deaths in India', Editorial, *Economic and Political Weekly* 58, no.50 (16 Dec 2023).

Geeta, V. (2016). *Undoing Impunity: Speech after Sexual Violence*. Zubaan.