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India

# **â€™Defend women’s right to freedom without fear! Ensure swift and sure punishment for rape!’**

- Features - Sexual politics -  
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December 24, 2012 â€” In the midst of the unspeakable horror of a rape and attempted murder in Delhi is a spark of hope that we nurture, cradling it with our hands lest it be snuffed out, helping the spark to grow into a steadier flame – and then spread into a forest fire.

A young woman, a 23-year-old student of physiotherapy, boarded a bus in Delhi with a male friend. They were alone on the bus but for a group of men, who began taunting the woman for being out at night with a man. She and her friend didn’t take the taunts lying down – and eventually the group of men decided to "teach her a lesson". They beat her friend senseless. And they ganged up to rape her, brutalising her and leaving her intestines torn.

The hope lies in the huge numbers of people who have come out to protest afterwards. The spontaneous anger and determination to bring rapists to justice was good to see. But even better was the willingness to direct that anger against the society and culture that justifies rape and sexual violence. The popular will – on part of ordinary women and men – to address the roots of sexual violence and end it, is what inspires more hope and confidence than all the fire-spewing rhetoric of MPs in parliament.

Challenging rape culture

One woman who saw a video of our protest demonstration and the speeches of activists at Delhi Chief Minister Sheila Dixit’s house wrote to me to say that the protest struck a chord with her: “Younger girls have been writing to me, absolutely distressed, because their parents are using the Delhi gang rape case as an example of what happens when you 'stray'. Now, they are unable to do anything: from having conversations with their male friends to go to a college of their choice. Watching your protest gave me so much hope and a sense of solidarity.”

Sexual violence is, indeed, a way of imposing patriarchal discipline on women. Women who defy such discipline are punished for their temerity by rape. And the fear of rape and sexual violence works as a permanent internal censor of women’s decisions. And "protection" from sexual violence most commonly takes the form of restrictions imposed on women: curfews in college hostels are the most common instance, followed by dress codes, bans on mobile phones, restrictions on mobility and friendships (especially with men friends), discouragement from taking admission in a college away from home, and so on. If sexual violence and the measures commonly used to contend with it breathe the same patriarchal air, no wonder women feel suffocated.

Some years ago, when journalist Sowmya Visvanathan was shot dead, Delhi’s chief minister commented that Sowmya had been "adventurous" in being out on the street at 3 am. The last Delhi police commissioner had said in a press conference, “If women go out alone at 2 am, they should not complain of being unsafe. Take your brother or a driver along.” Of course, these statements were greeted with a chorus of protest, with many pointing out that women who work have no choice but to be out late at night. In the present case, Bharatiya Janata Party (BJP) leaders in parliament said that the victim had done nothing "rash" – she had not been out very late in the night. One national English TV channel discussing the rape in Delhi kept carrying these bulletins prominently – “She wasn’t dressed provocatively... She wasn’t out late at night... She wasn’t alone.”

The idea remains: that women ought not to be out at night unless they have good reason for it, that women ought to

dress in ways that are not "provocative". That it is acceptable to expect women to restrict their mobility and choice of dress in the interests of their safety. That it is acceptable to put women who face violence in the dock and ask them to "justify" themselves. In other words, there is a widely accepted notion that women have to acquit themselves of the charge of having "invited" rape

But in the protests this time around, it was refreshing to see and hear many women challenge this rape culture – a culture that justifies rape and blames women for "provoking" or "inviting" rape – head on. One placard said – "Don't teach me how to dress, teach your sons not to rape." Another declared, "My spirits are higher than my skirt, my voice is louder than my clothes." And yet another handwritten placard held aloft by a student who was probably participating in a protest for the first time, declared, "You raped her because her clothes provoked you? I should break your face because your stupidity provoked me!"

When women are offered "protection" on patriarchal terms (terms that impose restrictions and regulations on women), it is time to say "Thanks but no thanks! We don't need patriarchal â€˜safeguards' for women" – instead we must demand that the government, police, judiciary and other institutions stand in defence of women's unqualified right to be adventurous, to dress and move and conduct themselves freely at any time of day or night, for any possible reason or no reason at all, without fear of sexual violence. After all, this freedom to be adventurous and to be safe in public spaces is one that men can take for granted; the adventurousness of men is valourised endlessly in popular culture.

## Patriarchal â€˜protection' and â€˜honour'

Look at the recent ad campaign by the Delhi Police against sexual violence, and you are struck by the fact that it has no women in it. Instead, there is actor-director Farhan Akhtar, saying, "Make Delhi safer for women. Are you man enough to join me?". Another ad Delhi Police have been using for several years has a photograph of a woman being harassed by a group of men at a bus stop with some men and women simply looking on. This poster proclaims, "There are no men in this picture... or this would not happen" and urges "real men" to "save her from shame and hurt". It suggests that sexual harassers are not "real men"; that women facing harassment feel "shame" (rather than anger); and that only "real men" can protect women. There is no attempt by the state machinery at asserting or propagating the idea of women's freedom and rights

The problem is that machismo is being prescribed as a solution – when in fact, it is the root of the problem of violence against women! Rape is not the only form of violence against women. Recently, there have been a series of incidents (in different parts of the country), where a father or a brother has chopped off the head of a woman for having an extramarital affair or for marrying outside their caste. A man in Tamil Nadu's Dharmapuri district killed himself when his daughter married a Dalit – sparking off severe violence against the entire Dalit community. Men are being exhorted to defend women's "honour" from "shame". When they police their sisters' or daughters' relationships – even to point of murdering her in case of her defiance – do they not claim to have acted in defence of "honour"?

Then, there is the notion that rape robs a woman of "honour". The Rajput queens of old are said to have preferred to burn themselves alive en masse rather than wait to be raped by conquering armies. One factor in the large number of suicides of women following rape is no doubt the fact that they are told their life is "ruined" and not worth living.

BJP leader Sushma Swaraj, speaking in parliament, declared that even if the Delhi rape victim were to survive, she would remain a zinda laash – a "living corpse". Reacting to this statement, a woman student of Jawaharlal Nehru University, participating in a vigil at Safdarjung, said: "We've come here to let the rape survivor know we're with her. We angry with the statement made by Sushma Swaraj that a woman who has been raped remains a "zinda laash". We're here to say we hope she lives the fullest life with her head held high – and it is the rapists who ought to suffer and be shamed, not the survivor!"

End custodial, communal and casteist rape

The outrage and anger over the rape and attempted murder of a young woman in Delhi is welcome. The outrage, solidarity and struggle for justice should also embrace the victims of custodial, communal and casteist rape.

In 2004, Thangjam Manorama Chanu of Manipur was raped and murdered (with bullets in her private parts) by personnel of the Assam Rifles. The perpetrators of this gruesome rape and murder have not been punished; in fact the Indian government is protecting the perpetrators, claiming that army personnel under the Armed Forces Special Powers Act cannot be subjected to a criminal trial!

Two young women, Neelofer and Aasiya (the latter a schoolgirl), were raped and killed by army personnel in Shopian, Kashmir, in 2009. The entire state machinery has engaged in a massive cover up. The perpetrators are free.

Recently, a young adivasi [Indigenous] schoolteacher Soni Sori was raped by Chhattisgarh police officers, who inserted stones in her private parts. But SP Ankit Garg, instead of being arrested and punished, got a Presidential Gallantry Award on Republic Day! Soni Sori continues to be stripped and humiliated in Raipur jail, and remains in the custody of her rapists.

Countless Dalit women are raped all over the country by men of the upper castes; while BJP and Rashtriya Swayamsevak Sangh [organised right-wing Hindu-chauvinist] mobs gang-raped Muslim women during the Gujarat genocide of 2002.

Police or army uniform, and the dominance of caste and community, cannot be a licence to rape and kill! If the Delhi rape has awakened people to the crime of sexual violence, we must ensure that the voices of Manorama, Neelofer, Asiya, Soni, Priyanka Bhotmange (Khairlanji) and Bilkis Bano (Gujarat) – and countless others – calling for justice, are heard.

## Demonising the poor

The Delhi police and Delhi Chief Minister Sheila Dixit, beleaguered by the popular outrage, are taking the familiar route of projecting an "external enemy" – the migrant worker! And some others too are trying to channel the anger against sexual violence into class hatred for the migrant poor.

In a TV interview Dixit said that the nature of Delhi had changed thanks to the influx of migrants, who could "attack and flee", and this made crime against women difficult to fight in the city. The Times of India on December 20 carried a story about how "migrants" were "on the prowl" in the night in Delhi, quoting "top Delhi Police officers" as saying that migrants are prone to crime and rape because this group "stays away from their families for years. They are attracted to big city life. However, they have little means to attain it."

An op-ed article in the same day’s Times of India by one Tuhin A. Sinha said that “a huge chunk of male population lives away from its spouse to earn a livelihood. It is this chink which has shown a greater propensity towards committing gender crimes. It makes sense, in this situation to consider legalizing prostitution.”

What is this article saying? Do migrant women or the wives of migrant men, separated from their spouses, go around

raping people?! Isn't it a shameful justification of rape to suggest that it is motivated by male sexual starvation? If we say the rapist rapes women when deprived of access to his wife or a sex worker, is his wife or the sex worker the usual recipient of his violence? Can rape be fixed by ensuring a steady supply of sex/women as a commodity to all men? Or do we need to recognise rape as an act of patriarchal violence, assert the personhood of women and challenge the notion of women as "providers" of sexual and domestic services?

## False notions

The Times of India is running a campaign calling for chemical castration and so on. If, instead, the Times were to stop justifying rape by blaming it on male sexual starvation, it would be much more helpful for the campaign against sexual violence! The calls for chemical castration and the like are all based on the false notion that rape stems from sexual desire. In fact rape is motivated by hatred of women, not desire for women! Notorious serial rapists such as the British serial rapist and killer Robert Napper and Jack the Ripper are suspected to have been impotent.

**Only 26 in every 100 rapists are punished – SHAME!  
End impunity – ensure a 100% conviction rate for rapists!**

Undoubtedly, perpetrators of sexual violence enjoy a sense of impunity, a sense that they will go unpunished. The facts tell their own story: National Crime Records Bureau (NCRB) data shows that incidents of rape in the country have increased by 791% since 1971 (murder increased by just 240%, and robbery by 178%, kidnapping increased by 630%).

And conviction rates for rape dipped from 41% in 1971 to 27% in 2010. Conviction rates for other crimes against women – dowry death, cruelty by husband and relatives, trafficking, molestation, sexual harassment, kidnapping – are similarly very low. The reason is that the police force, hospitals and courts are unfriendly to women and gender-biased.

Remember, this abysmal percentage of conviction (26%) is in those cases where FIRs [First Information Report] are filed. Rape is the most under-reported crime: studies indicate that for every reported case of rape, more than 50 go unreported. In hundreds of cases, the police simply refused to file FIRs, or demoralises the complainant so much that she withdraws her complaint. When it takes days of struggle to get an FIR filed, one can imagine there is no urgency in the matter of collecting forensic evidence.

The medical examination in hospital is another ordeal – it is common for doctors to perform the "two finger test": inserting two fingers into the woman's vagina to establish whether or not she is "habituated to sexual activity". In spite of the Supreme Court's injunctions against this practice, emphasising that the survivor's past sexual activity is irrelevant, this "test" continues to be given credence in lower courts.

Trials run on for years, allowing the rapist greater chances to exert pressure on the complainant and witnesses. The delay wears out the complainant, often leading her to concede defeat.

And in the event it does come to the court, the trial can be an ordeal where the complainant is subjected to all sorts of humiliating questions.

Courts have been known to pass a variety of gender-biased judgements in rape cases. Even if the bench itself is

sympathetic and sensitive, the shoddy work of police and prosecution combine to prevent a conviction.

## **The intimate enemy**

In the national outrage against rape, it is all too easy to forget that rapists are not an "alien species" in our society that can be exterminated. Rapists are not always faceless strangers – in most than 90% cases, in fact, they are fathers, brothers, uncles, neighbours: people the victim has known, trusted and been expected to respect and obey.

According to the National Crime Records Bureau data for 2011, “Offenders were known to the victims in as many as 22,549 (94.2%) [of all cases reported in India in 2011]” and “Parents/close family members were involved in 1.2% (267 out of 22,549 cases) of these cases, neighbours were involved in 34.7% cases (7835 out of 22,549 cases) and relatives were involved in 6.9% (1560 out of 22,549 cases) cases.”

In other words, rapists are not separated from the rest of society by a neat wall. Rapists are not born. They are created – by a society that demeans and subordinates women.

The foremost preventive for sexual violence and other forms of violence against women ("honour" crimes, sex-selective abortion, domestic and dowry violence, sexual harassment), then, is what the women’s movement is doing: challenging patriarchal attitudes and women’s subordination; asserting women’s unqualified personhood and freedom; demanding full equality for women. The problem is that the governments, the dominant political parties, and the state machinery, remain hostile to the women’s movement’s struggle. Instead they stand by patriarchal forces at every juncture.

We can’t allow perpetrators of sexual violence to continue to be free of the fear of punishment!

## **We need steps to be taken IMMEDIATELY.**

Let’s demand a change at every level of the system:

**Gender-sensitive laws, swift and sure punishment:** hold a special session of parliament without delay to enact comprehensive laws against sexual assault (including provisions for marital rape and rape by security forces), sexual harassment and "honour" crimes in consultation with the women’s movement.

**Judiciary:** Fast-track courts for all cases of sexual violence (not only rape but sexual harassment too must be set up, with verdicts to be delivered within three months). Any judge who has made remarks or passed judgements which justify any violence against women and go against gender equality, must be made to quit.

**Police:** Gender sensitisation training modules to be introduced in all police stations, including procedural instruction and training for dealing with rape complaints. Proper infrastructure and rape investigation kits to be made available in all police stations. Punitive measures including dismissal in case of failure to register cases of sexual harassment/rape.

**Hospitals:** A separate ward for medical and psychological care of rape victims and proper infrastructure for handling pathological-forensic investigations in hospitals.

**Ending the culture of justifying gender violence:** An end to ANY justification of sexual violence, "honour" crimes or domestic violence. Those public servants including elected representatives or police officers or judges who indulge in

victim-blaming must be made to quit.

Support: Social, medical, legal, psychological and economic support – at the government’s cost – for rape survivors.

Prevention and education: Gender equality be made an essential part of the school curriculum, to be drawn up in national consultation with women’s movement activists in the field. The aim should be to challenge misogyny, patriarchal attitudes and hostility to women’s freedom and rights, head on, on a war footing.

When denial of justice in cases of sexual violence is the norm rather than the aberration, it is hardly surprising that some brave women have been pushed to desperate measures in their quest to be free of violence in their lives. Kiranjit Ahluwalia, an expatriate Indian living in Britain, set her husband, who was a habitual wife beater, on fire. Some years ago, women slum dwellers in Nagpur together killed a serial rapist in the courtroom itself. A Bihar schoolteacher Rupam Pathak knifed to death a BJP MLA after police failed to take action against him in spite of her rape complaint.

It is ironic that BJP leader Smriti Irani declared that she would shoot rapists dead without care for the law – while her own party leaders branded Rupam as immoral and thanks to their NDA government in Bihar, Rupam has been sentenced to life imprisonment in a fast-track trial, while her rape complaint remains uninvestigated!

In the situation where the main problem is that rapists do not have to fear punishment thanks to shamefully low rates of conviction, death penalty for rape is unlikely to provide any real deterrence.

Rape is patriarchy’s way of punishing women’s very being, women’s demand for equality and freedom, and asserting male dominance. Rapists do not "desire" women, they hate and fear women’s freedom.

As ordinary people storm the streets demanding justice for victims of sexual violence, let’s raise the battle cry: Defend women’s right to freedom without fear! Ensure swift and sure punishment for rape! Fight and win women’s equality and dignity!

## Postscript

I can’t agree at all with Arundhati Roy that these protests happened only because the victim was middle class. Middle-class women also do not usually get a response like this! They above all are the ones accused of being "illegitimate" victims because they are said to drink, smoke, dress sexily etc.!

If such horrific violence could happen to a middle-class woman in the national capital â€” women from oppressed castes, the working class, religious minorities, oppressed nationalities, adivasi backgrounds are even more disempowered and are likely to face gender violence! In the name of opposing the hierarchy of violence, we should not imply that we endorse a reverse hierarchy, suggesting that the rape of a middle-class woman is a "lesser" rape!

There is absolutely no reason why this solidarity that has emerged now should not extend to dalit, minority and adivasi women. My experience was that when I raised Soni Sori’s and Nilofer Aasiya’s stories in the protests there were cries of SHAME â€” an outcry in fact â€” from general crowds of people...

There is indeed a campaign by some (mainly the Delhi government, police and the Times of India targeting migrant workers and slum dwellers. But why assume (as Arundhati seems to) that all the protesters on the streets are

**â€˜Defend women's right to freedom without fear! Ensure swift and sure punishment for rape!'**

somehow targeting the poor?