

Persistent Violence Against Women Despite Laws And Spiritual Reverence Towards Women In India: A Strange Dichotomy

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Abstract

The vast expanse of Indian spirituality, with its myriad rituals, beliefs, and traditions, is deeply intertwined with the essence of the feminine divine. This isn't merely a concept but a pulsating, living energy revered and celebrated across India. From the verdant valleys of Kashmir to the temple towns of Tamil Nadu, the feminine aspect of divinity has been venerated, symbolizing not just fertility and motherhood, but also wisdom, strength, and transcendence. Narratives, whether in sacred texts, folklore, or local traditions, often challenge societal norms, pushing boundaries and redefining concepts of purity, power, and devotion. Our history, our mythology and our 21st century modern democratic ideals are filled with reverence for women and yet they continue to face the horrors of violence within home and outside. Nirbhaya Movement (2012) is a mile stone with regards to Contemporary Indian Women's Movement.

Civic engagement (Social movement) is essential to our democratic life. The two (Spirituality and Social Movement) are strongly correlated, but even people who are engaged in both endeavours don't see the relationship between the two. It is only through that other great democratic art form, conversation with others, that the connections start to be made. When those connections are made, spirituality is deepened, civic engagement increases and the relationship between the two is made stronger.

This paper aims to explore relations between spirituality and Social movement against violence on women with specific reference to heinous rape crimes. Laws that protect women against violence are also reviewed. This paper is based on secondary research through published articles, documentaries and popular discourse in media.

Introduction

In ancient Indian scriptures, the universe's creation is often described as a dance between masculine and feminine energies. The feminine, known as 'Shakti' in Sanskrit, is the dynamic force driving creation, preservation, and transformation in the universe. She is the life-giving river, the nurturing earth, the

blazing fire, and the boundless sky. Yet, the feminine divine in Indian spirituality is not just limited to cosmic functions. She is the village deity protecting local communities, the fierce goddess demanding sacrifice, the benevolent mother offering solace, and the mystic yogini imparting wisdom. Her narratives, whether in sacred texts, folklore, or local traditions, often challenge societal norms, pushing boundaries and redefining concepts of purity, power, and devotion.

As we delve deeper into the role of women in Indian spirituality, we embark on a journey that transcends time and space. We encounter tales of devotion, valour, and wisdom, each echoing the myriad facets of the feminine divine and her indomitable spirit.

Goddess Worship: The Shakti Principle – Women in Indian Spirituality

The reverence for the feminine divine in Indian spirituality finds its most vivid expression in the worship of goddesses. Central to this veneration is the concept of ‘Shakti’, the primordial cosmic energy representing the dynamic forces that breathe life into the universe.

The Triad of Goddesses:

- **Saraswati:** The goddess of knowledge, arts, and wisdom, Saraswati is often depicted with a veena (a musical instrument) and a book, symbolizing the importance of learning and creativity.
- **Lakshmi:** Representing wealth, prosperity, and fertility, Lakshmi is the embodiment of abundance in all its forms, both material and spiritual.
- **Durga/Kali:** Durga, the warrior goddess, represents the protective and vindicating force. Her fiercer form, Kali, symbolizes the destruction of evil and the transformative power of time.

Festivals and Celebrations:

- **Navaratri:** This nine-night festival celebrates the goddess in her various forms, culminating in Dussehra, marking the victory of Durga over the demon Mahishasura.
- **Diwali:** While predominantly known as the festival of lights, Diwali also celebrates Lakshmi, invoking her blessings for prosperity and well-being.

In essence, the worship of Shakti in her myriad forms underscores the Indian spiritual landscape’s depth and diversity. It’s a celebration of life in all its facets, recognizing the feminine as the nurturing, creative, and transformative force that shapes and sustains the universe.

India, is the land of spiritual wisdom and ancient religions and practices. Women are revered and prayed to for wealth, wisdom, health, prosperity, power, success and everything else that is worthy of being desired by mortals. This then begs an understanding of why the violence against women has been on a steady rise in modern time. Why, the laws and economic prosperity of being the fifth largest economy, still fail to control violence in the private and public sphere for women in India?

I. Heinous Rape Crimes that Shook the Country’s Conscience

There are innumerable cases. More cases than any sane mind can handle emotionally. For the purpose of this paper a few are mentioned below. These caught the larger media attention and caused a nationwide outrage.

- The 2012 Delhi gang rape and murder, known as the Nirbhaya case involved the fatal assault on Jyoti Singh, a 22-year-old woman who was returning home after watching a movie with her friend.

The incident occurred on December 16, 2012 in Munirka, South West Delhi. Singh was beaten, gangraped, and tortured in a private bus by six people, including the driver.

- In 2014, the gang rape and murder of two teenage girls was reported in the Katra village of Badaun district, Uttar Pradesh. This was widely reported in the press nationwide as well as internationally. After investigation, the CBI concluded that there was no gang rape, and the suspects were released, however in 2015, a POCSO court rejected the CBI report, which showed the massive failing of the organisation.

According to reports, the girls had gone out into the fields that were used for open defecation and did not return. The police were notified, but no action was taken. The villagers spent the entire night searching for the girls, and the following morning found them hanging from a tree.

- A 19-year-old Dalit woman was gangraped in Hathras district, Uttar Pradesh on September 14, 2020, by four upper caste men, belonging to the Thakur caste. She died two weeks later in a Delhi hospital. In a statement, the victim accused the four of raping her. After her death, it was alleged that she was forcibly cremated by the police without the consent of her family. The case and its handling received condemnation from across the country, and activists protested against the Yogi Adityanath government.

On December 19, 2020, the CBI filed a chargesheet in a special court in Hathras, invoking gangrape, murder and charges under SC/ST Prevention of Atrocities Act. CBI also cited lapses on the part of UP Police, which included delay in recording the victim's statement and her medical examination.

- An 8-year-old Muslim girl was abducted, gangraped and murdered by six men in January 2018 in the Rasana village near Kathua, Jammu and Kashmir. The accused were arrested and the trial began in April. The girl belonged to the nomadic Bakarwal community.

The case led to huge protests in the nation. On 10 June 2019, six of the seven defendants were convicted and one acquitted. Three of those convicted were sentenced to life imprisonment and the remaining three to five years in jail.

- The gang rape and murder of a 26-year-old veterinary doctor in Shamshabad, near Hyderabad sparked outrage across India in November 2019. Her body was found a day after she was murdered. Four suspects were arrested and confessed to having raped and killed the doctor.

After the victim parked her scooter, the suspects allegedly deflated her scooter's tire in her absence. She noticed the flat tyre and called for help. The accused, on pretense of offering help, ambushed her. The men removed her clothes and sexually assaulted her until she lost consciousness. After she regained consciousness, they smothered her, wrapped her body in a blanket, and burnt her body under a bridge using diesel and petrol. It was reported that the suspects were drunk during the rape and murder. Protesters across India demanded stricter laws against rapists.

- Independence Day 2024 will be remembered not for the predictable statements made by politicians but for the images of thousands of women and men who came out on the streets of Kolkata to "Reclaim the Night". They were protesting about the brutal rape and murder of a 31-year-old junior doctor at the RG Kar Hospital and Medical College on August 9.

The focus is on the college administration and its responsibility for what happened, the protests that have spread beyond Kolkata remind us, yet again, about the pervasive violence that Indian women encounter in the workplace.

II. THE CRIMINAL LAW AMENDMENT ACT 2013

In consonance with the report given by the Justice Verma Committee the Criminal Law Amendment Act 2013 came into force on the 3rd of February, 2013, which introduced comprehensive changes in the Indian Penal Code, 1860, Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872.

- Under the act, the most important changes were made in the definition of rape laws. Earlier, the law was restricted to only penile-vaginal intercourse but the new amendment substituted the section 375 of IPC and widened its ambit by including any bodily penetration as rape.
- Further an explanation was added in the section which defined consent as *"an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act"*. Also, the age of consent was raised from 16 to 18 years.
- The scope of section 376(2) was expanded to include rape committed by a member of armed forces deployed in an area by the Central or a State Government in such area.
- The 376 A was inserted according to which if rape caused death or persistent vegetative state of the victim then he shall be punished with rigorous punishment for not 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 section 376 B was inserted which made sexual intercourse by husband upon his wife during separation punishable by the term of 2 years which may extend to 7 years and shall also be liable to fine.
- Section 376 C dealt with sexual intercourse by a person in authority like ones in fiduciary relationship or public servant or manager of a jail or hospital and made it punishable by term of 10 years which may extend to life imprisonment and shall also be liable to fine.
- A separate section 376 D was introduced which dealt with the offence of gang rape and made it punishable with the rigorous imprisonment for a term of 20 years which may extend to life imprisonment and also fine.
- Punishment for repeat offences was made under section 376 E which made repeated offenders punished with life imprisonment or death.

The amendment was a historical step taken by the government in order to curb violence against women. Despite the advantages of the amendment, the act was also criticized for not incorporating certain provisions recommended by the Justice Verma Committee such as making rape and sexual assault laws gender-neutral, restriction of politicians facing sexual offence charges from contesting elections and the introduction of marital rape as an offence. The Government passed the act overlooking these much-needed reforms.

III. THE CRIMINAL AMENDMENT ACT, 2018

The Criminal Amendment Act, 2018 brought about changes in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012.

Under IPC, section 166A, 228A, 376 were amended and three new sections 376AB, 376DA, 376DB were inserted.

- The sub-section 1 of section 376 has been amended to increase the term for punishment of rape not less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

- Further, sub-section 3 has been inserted which prescribes punishment for rape of a woman under sixteen years of age stating rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, and shall also be liable to fine.
- Section 376AB has been inserted after section 376A which provides for rigorous imprisonment for a term not less than twenty years, but which may extend to imprisonment for life, and with fine or with death, in cases where a woman who is raped is under 12 years of age.
- Section 376DA has been inserted after section 376D which deals with the punishment for gang rape and states that a woman under sixteen years of age is raped by one or more persons constituting a group or have acted in furtherance of a common intention, each of those persons shall be punished with imprisonment for life, and with fine.
- Section 376 DB prescribes punishment for gang rape on woman under twelve years of age stating that each of those persons shall be punished with imprisonment for life, and with fine, or with death.

Over the years the offence of rape has been an issue which is dealt by government only as a result of public outrage after new and more barbarous incidents take place. Because of this our system still fails to provide the victims a safe and protective environment. Even though there have been progressive reforms in the laws, there are some debated issues such as marital rape, gender neutrality in rape laws etc., as reported by the Justice Verma Committee, which need to be taken into account with immediate effect.

There are a number of cases which are not reported because of the fear of being humiliated by the society. Victims are harassed at every step, from police stations to courtrooms. From the inadequate healthcare system to law enforcement system, every step during the struggle of seeking justice adds up to the trauma of the victims. The society we live in plays a vital role in becoming a barrier in obtaining justice. Thus, the impact of the laws can never be fully realized until and unless the change comes from within the society along with the legislative reforms.

IV. Marital Rape and Religion

According to the 2011 census, 79.8% of the population of India follows Hinduism, 14.2% Islam, 2.3% Christianity, 1.7% Sikhism, 0.7% Buddhism and 0.4% Jainism. Zoroastrianism, Sanamahism and Judaism also have an ancient history in India, and each has several thousands of Indian adherents. The following presents their take on marital rape.

Hinduism

“This concept is new in our culture and I have not heard anything like this before and is a new discovery to us. Nothing of this sort has been described in the (Hindu epics) Ramayana, Mahabharata or the Vedas,” says Mahant Surendra Nath of Kalkaji Temple, New Delhi.

Brahmachari Dayanand, seer at Matri Sadan ashram, Haridwar, says the relationship between a husband and wife in Hinduism is a pious union. “Our religion does not recognise marital rape. We have never witnessed such a case. However, we consider a woman to be ‘Goddess Laxmi’ and it is the man’s responsibility to keep her happy. If she is unhappy then the family is bound to be doomed,” says Dayanand.

The seer says that Garuda Purana, which is part of Vaishnavism literature corpus on Hindu god Vishnu, has a strict punishment for rape but does not have anything for marital rape. He says one cannot peep into what happens within a family. “How can we ascertain what happens between a couple? Who will find out what the truth is?” adds seer Dayanand.

India's neighbour Nepal, a Hindu-dominated country, criminalised marital rape in 2006 and made amendments in its national civil code, Muluki Ain that is rooted in traditional Hindu laws. The Muslim-dominated neighbour on the western front, Pakistan, changed the definition of rape, and recognised marital rape as a criminal offence after the passing of the Women's Protection Act 2006. However, with sex viewed as a taboo here, very few such cases have reached the courts.

Islam

In India, the majority of Islamic experts do not recognise marital rape. "We do not have any provision on marital rape in Islam. If a husband demands sex, it is the responsibility of a woman to keep him happy and vice versa," says Maulana Syed Arshad Madani, President, Jamiat Ulema-e-Hind. He adds that he has never come across any such case so far but says that when a man and woman become husband and wife no such situation can arise. "They have a right to each other. However, men should also consider the health and mental condition of their wife," he adds.

However, unnatural sex and extramarital sex is prohibited in Shia and Sunni, the two main sects of Islam. According to Dr. Mohammed Raziul Islam Nadvi, Secretary, Sharia Council of Jamaat-e-Islami Hind (JIH), if a woman comes forward and files a complaint against her husband claiming harassment by unnatural sex and extramarital sex, the Islamic court will take note of this and will try to resolve the matter. "If the husband wants sex and the wife is unable to provide it, the Islamic laws will not favour her as it is the duty of wife to keep her husband happy," says Dr. Nadvi.

Sikhism

A similar sentiment was expressed by BJP leader and believer of Sikhism, Manjinder Singh Sirsa, who says the situation of marital rape cannot arise between a married couple. "Husband and wife are like two bodies with one soul and both have equal status. In our society, we try to resolve issues at home instead of going to court," adds Sirsa.

Contradicting this viewpoint is Giani Harnam Singh Ji Khalsa, Head Granthi of Gurudwara Sis Ganj Sahib, New Delhi. The religious leader says, "Guru Nanak Dev had said how can one insult/hurt women when they are the ones who have given you birth? If the marriage between a husband and wife is not working out and the husband is cruel, the woman can divorce him."

Christianity

In Christianity, nullification of a marriage is acceptable if the husband is brutal to his wife, says Father Stanley Kozhichira, President of Signis India (World Catholic Communicators Association). "Marriage in the church is a sacred union which a man and a woman form in complete love. The church has never come across a situation where a man is accused of marital rape. In every church and diocese, we have canon (church) laws. There are situations where we have dealt with aggressiveness from the men in marriages. We study the marriage and find out the reality. If needed the couple divorce in accordance with the canon law," he adds.

Buddhism

According to Dr. Sonam Wangchuk, Founder of Himalayan Culture Heritage Foundation, Ladakh, Buddhism is based on five precepts on how to live your life. However, he adds that the religion has not viewed marital rape in its entirety but is completely against violence in all forms, and that non-violence forms the core of the Buddhist belief system. "The only solution to such an issue in Buddhist philosophy is providing counselling. Punishment is of no use," says Dr. Wangchuk.

Under these five principals, the third precept states that Buddhists should not engage in sexual misconduct. This might include adultery, as being unfaithful to a partner can cause suffering, and

promiscuity, which can be seen as a negative expression of craving after sexual stimulation. Sex should form part of a loving relationship (for example, marriage).

Jainism

In Jainism, another religion founded in India on the principle of non-violence like Buddhism, men are taught to practice patience, says Jain monk Devendra Bhaiji. “Since the beginning of a child’s birth, he or she is taught pratikramana, a ritual performed by Jains to atone (prayaschit) for their sins and other non-meritorious acts,” says the Jain monk, explaining that a Jain seeks forgiveness from all life forms in the world they have harmed knowingly or unknowingly by uttering the phrase—micchāmi dukkaḍaṃ (Prakrit for may all the evil that has been done be in vain).

“We have not heard of any such incident of marital rape but if such an incident happens, a legal course of action can be undertaken but we don’t ban the family from the Jain society,” reveals monk Bhaiji.

V. Discussion and Conclusion

“Unless this becomes a problem of nationalism and national pride, I don’t see anything changing,” said Deepa Narayan, a social activist and the author of *Chup: Breaking the Silence About India’s Women*. “Society here devalues women systematically and makes them subhuman, and rape is the worst symptom of that. It does feel like the levels of depravity and cruelty in these crimes are increasing.”

Ranjana Kumari, the director of India’s Centre for Social Research, said she ultimately held the government responsible for the problem. “They are failing in law enforcement, they are failing in dispensation of justice, they are failing in implementing safe environments for women,” said Kumari. “There is no political will to address this problem, so how is it ever going to get better?”

Researching several high profile heinous rape cases against women for the purpose of this paper and studying religious practices to understand the dichotomy between reverence of Women as Divine and committing these crimes against this very divine has led me to conclude that there is much hypocrisy in the matter at hand. Hypocrisy, apathy and convenience of changing stance to what suits one’s interest best is the underlying truth in legislature, bureaucracy and Justice System, the so-called pillars of democracy.

A coherent space for conversation about sexual violence had been created, activists and journalists address issues that were mostly neglected by mainstream narratives, caste based sexual violence in rural areas, and marital rape. Twitter, Instagram and Facebook conversations regarding sexual politics and violence also gravitate towards the ‘unknown Nirbhayas’. The word ‘survivor’ is being used in public discourse instead of the term ‘victim’, since activists stressed the importance of rape being understood as another form of violence, as opposed to its construction as the worst form of violence that can be inflicted upon someone. It is also acknowledged that men and transgender individuals are also raped, and sexual violence isn’t only a women’s issue.

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