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## **‘Others’ within the ‘Others’-An Intersectional Analysis of Gender Violence in India**

### **Abstract**

In 2018, the rapes of two young girls shook India. The ruling government blatantly supported the perpetrators in both cases. It has also been highlighted that if the victims were high class, high caste or belonged to the Hindu community, public and media outrage would have been different, possibly similar to what was witnessed after the December 16th 2012, Delhi Nirbhaya rape. Hence, it is valid for us to question what was different about the Nirbhaya case? Class and caste divisions form the foundation of the hierarchical nature of Indian society. Using an analysis of the Nirbhaya rape case through the lens of intersectionality, this paper explores how factors such as class, caste, religion and geography in India influence not only how a case of gender violence and the victims are perceived but is also reflected on the perception of the perpetrators and the resultant punishments meted out. Previous research establishes interesting intersections of gender and representation in the Nirbhaya case (Dey & Orton, 2016; Shandilya, 2015). This paper further builds on that discourse to establish how the intersection of social segregations along with gender division and patriarchy, form a complex web of discrimination and violence in India.

**Keywords:** intersectionality, gender violence, rape, caste, class, patriarchy, Nirbhaya, India.

### **Introduction**

India is an extensively diverse society with a wide range of intersecting discriminations affecting women. Class, caste and religious divisions form the foundation of the hierarchical nature of Indian society. Being considerably multilingual and multicultural, it also leads to vastly different perspectives on gender, discriminations and power relations (Purkayastha, Subramaniam, Desai, & Bose, 2003). Hence, social segregations along with gender division and patriarchy form a complex network of abuse and discrimination affecting women situated at these different intersections.

In this context, at the outset, it is important to define the term patriarchy. According to Walby (1989), patriarchy is indispensable to create an understanding of gender inequalities that exist in society. She further argues that there are several patriarchal structures in society that aid in suppressing women. However, the understanding of patriarchy can change in relation to different societies and cultures (Walby, 1989). India belongs to what has been termed as the belt of ‘classic patriarchy’ (Kandiyoti,

1988). Social structures of such societies are characterised by rigid gender segregation, specific forms of family and kinship and powerful ideology linking family honour to female virtue. Men are considered to be the primary breadwinners and are largely entrusted with protecting the family honour through their control over women within the family (Kabeer, 1988; Moghadam, 2004). Due to women's inferior status within the household, girls often have less access to food, education and freedom compared to their brothers. However, they are simultaneously seen as 'repositories of household honour and prestige; often their every act and utterance is closely scrutinised as inappropriate behaviour by a family's womenfolk threatens the whole family's honour and, thus, their marriage prospects' (Rew, Gangoli & Gil, 2013, p.151).

On December 16<sup>th</sup> 2012 a female physiotherapy student called Joyti Singh Pandey from New Delhi, India was brutally raped in a moving bus. 13 days after the incident Joyti passed away. On complying with Indian laws, Joyti's actual name was never released and the media used various pseudonyms, the most common of which was 'Nirbhaya' (transl. the fearless one). In response to the incident massive protests broke out all over the country demanding justice for the victim making it one of the biggest gender movements that the country had witnessed. The Nirbhaya case can be deemed a turning point in the politics of gender justice in India. However, the case also displayed a complex intersection of class, caste, religion and geography that has seldom been highlighted and it requires an in-depth analysis of the nature of Indian society (Dey & Orton, 2016).

Using an analysis of the December 16<sup>th</sup> 2012, Delhi Nirbhaya rape case through the lens of intersectionality, this paper explores how factors such as class, caste, religion and geography in India influence not only how a case of gender violence and the victims are perceived by civil society actors, the government and the media but is also reflected on the perception of the perpetrators and the resultant punishments meted out. Previous research establishes an interesting intersection of social and cultural factors in the Nirbhaya case to understand the rationale behind the public uprising and the government action that followed (Dey & Orton, 2016; Shandilya, 2015). This paper further builds on that discourse to establish how the intersection of social and cultural factors with patriarchy, form a complex web of discrimination and violence in India.

## **Methodology**

Since the Nirbhaya case is central to this study, the case study approach has been considered to be the most appropriate methodological base to develop an understanding of the events, conditions and relationships utilising multiple sources of evidence. Data collection for this research was conducted following a Netnographic approach. Netnography provides the methodological guidelines, a disciplined

approach to the culturally-oriented study of the technologically-mediated social interaction that occurred through the Internet and other forms of ICTs (Kozinets, 2010).

Online I have collected data from social media sites such as Facebook groups and Twitter accounts of the most prominent individuals and organisations who were participating in the conversation using hashtags such as #Nirbhaya, #DelhiGangRape, #DelhiProtests, #braveheart, #JyotiSingh, #Nirbhaya and #IndiasDaughter. Some of the Facebook Groups I looked at included 'Swift Justice in Delhi Gang-Rape Case' and 'Delhi Rape case, penalty to death'. I have further considered independent English online publishing/blogging platforms such as Youth Ki Awaz', 'Got Stared At' and 'Kafila'. I chose these blogs for their constant and critical engagement in the conversation around gender based violence after the case.

I also studied online articles about the case posted by mainstream media sources like national newspapers and news channels to understand how mainstream media framed the incident and the protests that followed. These articles were based on Google searches and links large number of people were sharing on Facebook and Twitter. This method was extremely significant as it helped in understanding events in real time as well as the interpersonal behaviours and motives of individuals and groups in the online environment (Yin, 2009).

In the second stage of data collection I conducted 30 semi-structured interviews both online via Skype and face-to-face interviews during fieldwork in India. I interviewed students, activists, NGOs, journalists and civil society actors who participated in the Nirbhaya protests, both online and offline. I used a purposive sampling technique to identify certain specific participants who were very verbal on social media during the movement, people who were writing extensively about it or people who were quoted in articles. From these members of the target population who I identified through purposive sampling, I sought information about other potential participants using snowball sampling.

This research accepts that a legitimate and meaningful way to gather data on a certain reality is to interact freely with the participants, ask questions, listen to them and gain access to their accounts. Hence, the objective of conducting interviews was to identify specific experiences and narratives that could not be obtained without face-to-face interaction. All aspects of data collection and analysis were conducted following a feminist approach (Clisby, 2001). I have also used the term participant in this research instead of 'interviewees', 'the researched' or 'respondents'. This has been done in a manner of giving them agency of their story.

### **Intersectionality: The Theoretical Framework**

In speaking about gender it must be remembered that the experiences of all women cannot be explained in the same way and categorised under a single unified group. Violence faced by women is often shaped by varied dimensions of their identity including race and class (Bilge, 2010). Following this Kimberle Crenshaw (1989) coined the term intersectionality arguing that the experiences of women of colour cannot be understood in silos and are often a result of intersecting patterns of sexism and racism. Hence, in order to develop a complete understanding of violence faced by women factors such as class, caste, religion and nation need to be explored as systems that mutually build and express one another (Hill Collins 1998). McCall (2005) agrees with this and goes on to suggest intersectionality as one of the most important contributions to feminist theory in the contemporary understanding of gender.

Shields (2008) defines intersectionality as ‘the mutually constitutive relations among social identities’ (p.301). An individual’s social identity has immense influence on their perceptions, understandings and experiences of gender making it fundamental to study gender within the framework of power relations deep-rooted in particular social identities. This is particularly true in the case of India where very often women’s experiences are shaped by other aspects of their identity including class, caste and religion.

The concept of intersectionality also has not remained stagnant and it has been applied beyond its original focus on race, ethnicity, gender, and class to incorporate citizenship, sexuality, religion, age, and other dimensions of subordination, across many different social and cultural backgrounds (Bose, 2012). However, this has raised further questions regarding the theory itself (Nash, 2013). While some scholars have applied this framework as a theory, others have considered it as a heuristic process and as a strategy for feminist analysis (Anthias, 2012; Lewis, 2009). In this context Risman (2004) argues that while intersectionality has given rise to valuable debates she does not agree with a strategy that suggests that the only way to construct an appropriate analysis should be within the intersectional framework. She further states,

While various axes of domination are always intersecting, the systems of inequality are not necessarily produced or re-created with identical social processes.....We cannot study gender in isolation from other inequalities, nor can we only study inequalities’ intersection and ignore the historical and contextual specificity that distinguishes the mechanisms that produce

inequality by different categorical divisions, whether gender, race, ethnicity, nationality, sexuality, or class.

(Risman, 2004, 443)

On the other hand, Shields (2008) argues that intersectionality is a reflection of reality and in reality there is no single social identity category that can describe how individuals respond to their social environment and how others respond to them within the same environment. Hence, on talking about intersectionality, Davis (2008) states that ‘it encourages complexity, stimulates creativity, and avoids premature closure, tantalising feminist scholars to raise new questions and explore uncharted territory’ (Davis, 2008, p.79).

### **Intersectionality in the Indian Context**

In this paper, I have applied the intersectionality framework in an Indian context to understand the effects of factors such as class, caste, religion and geography not only on the perception of gender violence and resultant action but also on the punishment meted out perpetrators for such crimes. Identity is a social construct and the state, through its powers to dominate discourse, plays a key role in the process of its construction. This concept came to further light in connection with Said’s theory of Orientalism. India, like many other parts of the world (especially the East), has a long history of European colonisation and western imperialism. Thus, we see the emergence of the term ‘others’ in order to set up a system of hegemony, oppression and separation of the West from the East (Said, 1978; Breckenridge & Van der Veer, 1993; Yegenoglu, 1998). However, even within the group of ‘othered’ Indian women, there exists a hierarchy where some women have certain definite advantages by virtue of their caste, class, religion and geography while some are further ‘othered’ and face varying degrees of abuse and marginalisation (Anne, Callahan, & Kang, 2013).

A marked feature of Hindu society is its legal sanction for an extreme expression of social stratification in which women and the lower castes have been subjected to humiliating conditions of existence. According to Chakravarti (1993), caste and gender hierarchy are the core organising values of the Hindu Brahmanical social order. She states, ‘caste, class and gender remain major points of discrimination in Indian society and people belonging to the intersection of one or more of these social categories face the most discrimination’ (Chakravarti, 1993, p.179). Hence, individuals belonging in the intersection of gender and caste are often the primary victims of violence. In this context one participant comments,

In general, poorer women and lower caste women are more vulnerable. There’s no doubt about it because they don’t have the protection of their families. Their families cannot get in touch with the police, they cannot pull some strings, and so there’s no doubt that they are more likely

to be victims. But in terms of perpetrators, it could practically be anyone. But the lower caste, lower class man attacking an upper-caste, upper-class women, would be rare.

(Participant 2, 22 October 2014, interview with the author, New Delhi)

In cases of gender based violence Crenshaw's (1989) study also revealed that black men faced harsher and longer punishment compared to white men. The punishments were most severe when the crime was committed against a white woman by a black man. A similar situation can be witnessed in India. In 1980, in a verdict, the Chief Justice of India P. N. Bhagwati said, 'there can be no doubt that death penalty in its actual operation is discriminatory, for it strikes mostly against the poor and deprived sections of the community and the rich and the affluent usually escape from its clutches' (Menon, 21 August 2004). Ex-president of India Dr A.P.J Abdul Kalam, in his book *Turning Points: A Journey Through Challenges*, echoed the same claim and stated that a study conducted during his term as president showed that all pending cases of capital punishment displayed a socioeconomic bias (Bhowmick, 29 July 2015; Chhibber, 29 July 2015). More recently, a study conducted by a group of scholars, legal researchers and students based out of the National Law University, Delhi attempted to interview every death row prisoner in India and their families. Their study found that 76% (279 prisoners) on the death row are from lower castes or religious minorities and most of them from economically vulnerable backgrounds (Sen, 6 May 2016)

To further analyse this, in the table below I have summarised some of the high profile rape cases from 1990 till 2012. The common ground between all cases of gender violence listed in Table 1 is that all these cases received huge amounts of media attention and led to massive public outrage. All these cases were also of women whose stories were specifically reiterated by the media and even compared with the story of Nirbhaya following the Nirbhaya rape case. These cases were collected during the online data collection phase.

**Table 1: Summary of 'High Profile' Rape Case from 1990 till 2012**

<b>Victim</b>	<b>Year</b>	<b>Nature of Crime</b>	<b>Perpetrator</b>	<b>Place</b>	<b>Punishment</b>
Hetal Parekh belonged to the affluent middle class	1990	Victim was raped and killed	Dhananjay Chatterjee, a poor guard in the apartment building of the victim. He belonged to high caste but socially belonged to a low class.	Kolkata	Chatterjee was hanged in 2004. The new analysis revealed in 2015 claimed that the perpetrator might have been innocent and punished for a crime he did

					not commit (Jayaram 21 July 2015).
Bhanwari Devi belong to low-class poor family and low Dalit caste	1992	Victim was gang-raped by 5 men	Ram Karan, Ram Sukh, Gyarsa, Badri and Shravan Sharma. All belonged to the high caste, high-class Gurjar community	Bhateri, Rajasthan	Five men were acquitted (Halabol 20 May 2013).
Suryanelli Rape case, victim belonged to poor low-class family	1996	Victim was abducted and raped over a period of 40 days by different men	40 people were accused including some very influential, well-known individuals like an MP called P.J. Kurien. Main accused was a well-connected lawyer called Dharmarajan.	Kerala, Tamil Nadu	In 2005 all except one accused was acquitted. However, after the Nirbhaya incident, the case was reassessed by the Supreme Court and 24 men were convicted. The prime accused Dharmarajan was given life imprisonment (Krishnakumar 8 March 2013).
Priyadarshini Mattoo belonged to a middle-class family	1996	Victim was raped and killed	Santosh Kumar Singh, the son of a high-class Police Inspector-General	New Delhi	Accused was first acquitted and then given life imprisonment by the Supreme Court in 2010. He was given one month's parole in 2014 to submit his dissertation (The Times of India 25 February 2014).
Manorama Thangjam Chanu	2004	Victim was gang-raped and killed	Indian paramilitary unit 17 Assam Rifles were said to be responsible	Assam	Nobody was accused. The main report of the incident was kept under wraps till 2014 when finally it was released to the Supreme Court which revealed the victim had undergone 'brutal and merciless torture' (Rajagopal 14 November 2014).
Nirbhaya belonged to a middle-class family	2012	The victim was gang-raped. Died later in the hospital	Ram Singh, Mukesh Singh, Vinay Sharma, Pawan Gupta, Akshay Thakur and Bhura (the juvenile), all socially belonged socially to a low class	New Delhi	Ram Sigh committed suicide in the jail. The remaining four were given the death sentence. The juvenile was given three years in a reformation home by the juvenile justice board

Section 228A of the Indian Penal Code prohibits the disclosure of identity of victims when it comes to certain offences. However, there are no ethical issues in revealing the names of the victims in the table

above as these were the names used by the media to refer to these particular cases. One of the participants on talking about this felt that the media and political leaders are often less particular about details such as protecting the identity of the victim when the victim belonged to a lower caste and lower class. He stated, 'it is as if they don't even deserve a pseudonym' (Participant 1, 29th October 2014, interview with the author, Mumbai). This theory, however, does not hold ground in case of the Hetal Parekh whose real names was used even though the victim belonged to the affluent middle class. Only two cases in the table below where pseudonyms have been used are the Suryanelli rape case and the Nirbhaya case.

The above table shows that only in two cases death penalties were awarded to the accused and in both cases, the perpetrators belonged to socially and economically backward communities compared to the victims. Firstly, in the 1990 Hetal Parekh case, the accused Dhananjay Chatterjee, who was a poor guard in the apartment building where the victim lived, was hanged in 2004. Secondly, in the Nirbhaya case, all five accused were poor slum dwellers and were given the death sentence in May 2017. In both these cases, the victims represented the educated middle class and the perpetrators were from a lower class. In all other cases, the victims were either middle class or low class but the perpetrators belonged to a higher class or high caste and were socially and economically more influential compared to the victim. None of the accused in these cases were given the death sentence. Some of them were even acquitted and the maximum punishment given was life imprisonment. The same trend can be noticed when analysing other similar cases through the years.

Violence has always been a commonly used tool to keep an oppressed group under terror and rape is perhaps the ultimate form of violent expression of both class and patriarchal oppression (Hanmer & Maynard, 1987). The representation of rape in the eyes of law has also been a patriarchal process, where women are under constant scrutiny and questioned about their chastity and purity. Gender based stereotype like clothes, attitude, past relationships all become reasons for female oppression as it is often suggested that she was not a victim of rape, but asking for sex (Naqvi, 5 March 2015). Therefore, it is often considered that the victim brought sex on herself by breaking social norms that are only applicable to women.

Further, according to Gandhi and Shah (1992), the family as an institution has not been sufficiently analysed as a site of patriarchal dominance, oppression and violence in the Indian context. This is essential as data by National Crime Record Bureau (NCRB) in 2015 showed that in 95 per cent of all rape cases, the offender knew the victim. For example, 27 per cent of rapes were committed by neighbours, 22 per cent involved the promise of marriage and 9 per cent committed by immediate family members and relatives. One of the biggest misconceptions around rape is 'the "other-ing" of both the criminal and the victim' — that a "certain" type of man rapes and a "certain" type of woman gets raped'



(Sharma, 9 May 2017). As a system, patriarchy functions both on an ideological and material level interacting with the methods of production and manipulating itself to benefit both men and the capitalist system. It reproduces itself in various different ways, through different relations and institution to maintain a systemic inequality between the sexes (Dey & Orton, 2016).

In some communities, domestic violence is regularised and acceptable as a way of life. Hence, it is often the case that domestic violence as a crime is not taken seriously (Kaur & Garg, 2008). If the victim is a lower caste rural woman or a woman from any 'othered' communities, they receive very little help from authorities, almost no media attention and minimal assistance from support groups and this often results in the victims being silenced or forgotten (Dominguez, 30 May 2014). Only the most severely beaten women would consider their problem worthy of mentioning in interviews or surveys. Some others accept forms of beating and abuse as commonplace and do not even consider reporting them (International Clinical Epidemiologists Network, 2000). This normalisation of sexual violence is also not limited to rural women. A participant, who teaches in an elite New Delhi college, commented on speaking about her female students, 'Women internalise so much, that it appears normal to them when there are small forms of attack. It appears normal to them to tolerate a certain amount of control and violence in a relationship' (Participant 2, 22 October 2014, interview with the author, New Delhi).

### **Intersectionality of Gender and Class in the Nirbhaya Case**

In 2017, more than five rape cases were reported on an average every day in Delhi and a total of 2,049 rape cases were reported. Human rights activists, point out that, due to under-reporting, the real figures are likely to be much higher. However, very few of these rapes have resulted in mass public outrage or media attention. Hence, it is a valid to question what was different about the Nirbahaya case.

A large number of factors were responsible for the massive outrage in response to the Nirbhaya case. However, one of the least explored factors remained the impact of the intersectionality of class, caste, religion and geography in making this case one the biggest that the country has witnessed (Dey & Orton, 2016). There is a sexual hierarchy where some female bodies are given more importance compared to others. What was different in this case was that men belonging to a much lower class, lower caste raped an educated middle-class, higher caste Hindu girl. In this context Kabeer (5 March 2015) stated that the Nirbhaya case brought out, in front of the world, the effect of the widening inequality in a modernising and globalising economy. She further added, 'this was violence perpetrated by men from the underclass of Delhi, men who will never share in the benefits of 'shining' India, against a woman who symbolised the country that India hopes to become' (Kabeer,5 March 2015). Many of participants interviewed agreed with this view. One of them commented,

I think the profile of not just the victim in that case but also the circumstances that fit those slots very well. She was one of us, doing something that any of us could have been doing. On the other hand, the attackers were the kind that people middle class, urban Indians have no problem in speaking out against. So I think a lot of caste and class factors did come together in that.

(Participant 4, 20 October 2014, interview with the author, New Delhi)

I asked every participant I interviewed for this research to state what, in their opinion, led to the Nirbhaya case escalating into a huge gender movement, when cases of gender violence are so common in India and usually receive little or no attention. This was also the main research question around which this study has been framed as well. Only two interviewees (both longtime feminist activists) spoke about the brutality of the crime. Another activist commented that she did not understand why the case became so big because in India similar cases of gender violence can be witnessed every day, some even more violent than the Nirbhaya case. Apart from these 3 participants, all other participants (individuals and representatives from organisations) said that the case gained so much attention because of who the victim was and the circumstances: ‘It could have been me’. Nirbhaya could have been anybody’s daughter, sister or friend. In this context, a participant commented, ‘Nirbhaya represented the middle-class sensitivity. It is sad that it often takes something like this happening to someone belonging to the educated middle class to bring these issues into visibility’ (Participant 5, 23 April 2014, interview with the author, Skype).

Nirbhaya became the symbol of the quintessential Indian middle-class daughter. She was educated and belonged to the urban middle class. She was not alone and was accompanied by a male companion who, under normal circumstances, would be expected to protect her. It was not late in the night and the incident occurred in a very popular and populated area of one of the busiest cities in India. Everything about the circumstances of the Nirbhaya case was ‘extraordinarily ordinary’ (Dey & Orton, 2016). Almost every urban middle-class woman could relate to Nirbhaya and if something like this could happen to her it could happen to anyone. Another striking aspect was that it was a crime where a couple was involved. For their safety, women in India are often advised not to travel alone without a male companion. However, Nirbhaya was not alone. A participant stated, ‘the fact that it happened to a couple and not just to a girl, brought in a lot of young people who are struggling to live life on their own terms’ (Participant 2, 22 October 2014, interview with author, New Delhi).

Geography also played a vital role in the case receiving so much attention. The young, urban, middle-class Indian population, alongside the political class, journalists, policy makers and opinion makers, are mostly concentrated around Indian cities. Thus, when gender and caste violence occurs in a rural landscape it does not attract the attention of the urban middle-class as it does not affect the flow of urban life and is often forgotten. A participant states that when a case of similar nature happens in an

Indian village, people do not react the same way because they think its rural problem. It is far away from home and can never happen to them. But when it happens to someone in a city it suddenly becomes a real problem (Participant 7, 20 February 2015, interview with the author, Skype). Another participant stated, 'the route that the bus was taking was a very common route. People related themselves to the situation. It was a very urban situation. It was not disconnected from them, it was not something that they had to think about' (Participant 6, 30 October 2014, interview with the author, New Delhi).

The fact that the case happened in Delhi, the capital city of India, also played a significant role. This prompted the media to report the story far more quickly than usual. The Nirbhaya case made gender violence a reality to the people of urban India. They could no longer ignore it by saying it was a rural problem and it was this realisation that motivated many people to take action (Dey & Orton, 2016). People could easily identify with the victim and what happened to them. The fact that it could happen to anyone really affected the people of the country. As a participant stated, 'it made me feel insecure and vulnerable' (Participant 6, 30 October 2014, interview with the author, New Delhi).

Karatzogianni (2006) emphasised the importance of media attention for the success of any social movement. Another major factor that led to popularity of the case was the media attention it received. Patil & Purkayastha (2015) argue that there are some well-perpetuated myths when it came to the coverage of rape by the mainstream media. In mainstream media, there are a set of core assumptions that distinguish 'real rape' or 'ideal rape' from 'not real' rape. In an 'ideal' or 'real' situation 'rape occurs in a non-domestic setting, typically at night, in which the rapist is a monstrous (male) stranger who attacks a (female) victim with a weapon, where the victim's appearance, dress, behaviour are unimpeachable, and where the victim, physically resists and sustains visible injuries' (Patil & Purkayastha, 2015, p. 600). Following this, in the case of Nirbhaya, she was not only the ideal victim but it was also the 'ideal rape' and therefore it was instantly reported by the media, given publicity and sparked a mass public outcry (Dey & Orton, 2016).

To establish that Nirbhaya was the 'ideal victim' and the rape was an 'ideal rape' for the mainstream media, I examined news articles published online by one of the biggest news channels in India. On December 17, 2012, when the Nirbhaya case was reported, there were four articles on the Nirbhaya case. However, on the same day, there was 1 article each on 2 other rape cases. One of the articles was about the gang rape of a fourteen-year-old girl in a small village in Kerala, South India where she was allegedly raped by her brother and his friend for two years. The other article was about a six-year-old girl allegedly being raped by her neighbour in South Delhi. On December 18, 2012, there were 21 articles reported on the Nirbhaya case. On December 19, 2012, there were 28 articles that provided a step-by-step update of the Nirbhaya case and then there was 1 four-sentence long article reporting the brutal rape of a five-year-old child belonging to a small village in South India who was battling for her

life in the hospital. There were no further updates on any of the other cases except the Nirbhaya case. The same trend was observed over the next few months where rape and gender violence occurring in rural India or of low class, low caste victims received very little or no attention from the mainstream media.

There is no doubt that Nirbhaya's identity, stuck a chord with the protestors and her story became representative of the perils of 'everywoman' in India. According to Shandilya (2015, p. 468), 'While the notion of 'everywoman' served as a potential tool for solidarity, bringing together disparate activist groups as well as citizens from all walks of life to the protest, the category was co-opted to mean a Hindu, upper-caste, middle-class woman'. In speaking about this a participant asks, 'do you think so many people would rally for Joyti if she was Muslim? Or a tribal girl from a remote village in India?' (Participant 6, 30 October 2014, interview with the author, New Delhi). According to Sarkar (2008, p.56) the dominant nationalist discourse in India produces the 'Mussalman' as a violent male and the Hindu middle-class/upper-caste woman as the *adarsha bharatiya nari* (ideal Indian woman) leading to the disappearing of the poor, low caste and Muslim women from the larger public discourse.

In this case it is important to briefly speak about the two other major cases that led to changes in law related to gender based violence in India- the Mathura case that happened in 1972 and the Bhanwari Devi case which happened in 1992. Mathura was a young tribal Dalit girl gang-raped in the police station and Bhanwari Devi a poor Dalit woman gang-raped by five upper caste men from the same village. In both cases the victims were low class, low caste poor women, in both cases the perpetrators belonged to the higher class and caste and in both cases the perpetrators were acquitted. In the Mathura case, the court stated 'she was used to having sex and must have consented to the police ... She claimed rape so that she would appear virtuous to her lover' (Basu, 2013). In case of Bhanwari Devi the court said she was a Dalit, and upper caste men, including a Brahmin (the highest caste) could not have raped her (Desai, 30 December 2003). After years of protest, in 1983, the Mathura case led to an amendment of the Criminal Law which introduced mandatory 10-year punishment for custodial rape and the onus of proof was shifted to the accused. It also codified distinctions between different categories of rape. Bhanwari Devi's case led to the first authoritative judgement by the Supreme Court of India on sexual harassment in the workplace and formation of the Vishakha Guidelines. Neither Mathura nor Bhanwari Devi received justice from the Indian legal system for the crimes committed against them. On the other hand, the Nirbhaya case led to the most extensive overhaul of the Criminal Law in a little more than three months after the incident took place on 16 December 2012. In September 2013 all four accused in Nirbhaya case were awarded death penalty by Delhi High Court and subsequently the decision was upheld by the Supreme Court.

Such class, class and religious bigotry has also been evident recently in the 2018 Kathua<sup>1</sup> and Unnao<sup>2</sup> rapes where in both cases the victims were young girls and the perpetrators politicians and government officials. The ruling nationalist Hindu right-wing government have blatantly shown support for perpetrators in both cases. It has also been highlighted that if the victims were high class, high caste and in case of the Kathua rape belonged to the Hindu community, public and media outrage would have been different. A prominent Indian journalist commented, ‘where are our candlelight marches, our outrage and our mass protests? Why have we been so muted in our response to the reported gang rapes of two girls, an 8-year-old child and a teenager? And no, our lazy tweets and our commiserating hashtags do not count’ (Dutt, 11 April 2018). Though eventually people did take to the streets to seek justice for the victims of both Kathua and Unnao, Hindu Nationalists leaders continue to threaten and harass the victim’s family and their lawyers and continue to support the perpetrators. Both civil society and the media also routinely chose to ignore the rape and violence inflicted by the Indian military based on impunity provided to them through The Armed Forces Special Powers Act (AFSPA)<sup>3</sup> in Kashmir and the North-Eastern states of India. There are also no candle lights and protests marches for the victims of Kunan Poshpora<sup>4</sup>, Shopian<sup>5</sup> and the women of Nagaland and Manipur<sup>6</sup>.

Hence claiming that Nirbhaya represented ‘everywoman’ is problematic, as discussed above, as we routinely see Women like Mathura, Bhanwari Devi, victims of Kunan Poshpora, Neelofar Jan, Aasiya

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<sup>1</sup> In Kathua, a small district in Jammu and Kashmir, an 8-year-old girl called Asifa was brutally assaulted, raped and murdered by 6 men. According to the police charge sheet the rape and murder were part of a plot to “dislodge” the Muslim shepherd community from the village. The child’s rape and murder became a perfect example of communalisation for rape when self-appointed Hindu group (named the Hindu Ekta Manch- or Forum for Hindu Unity) started marching in defense of the accused rapists and were supported by Bharatiya Janata Party (BJP), the ruling nationalist Hindu party, ministers.

<sup>2</sup> In Unnao, a teenager alleged that she was raped by Bharatiya Janata Party (BJP) MLA Kuldeep Singh Sengar and his brother in June 2017. In April 2018, the victim, along with her family members, tried to commit suicide in front of Uttar Pradesh chief minister Adityanath's residence in Lucknow to demand justice. The victim's father was then taken into police custody from the location and the next day he died in custody under mysterious circumstances.

<sup>3</sup> The Armed Forces (Special Powers) Act (AFSPA) grants the army power to maintain public order in “disturbed areas”. These laws have been known to legitimise impunity for systematic or isolated sexual violence by making government permission necessary before security forces can be prosecuted for criminal offences. Since permissions are rarely granted, these provisions in effect put security forces above the law, violating victims’ rights to remedy.

<sup>4</sup> On February 23, 1991, units of the Indian army launched a search and interrogation operation in the villages of Kunan and Poshpora in Kashmir. More than 100 women were gang raped by soldiers that night. However, human rights organizations including Human Rights Watch have stated that the number of women raped is much higher. Indian authorities have dismissed all of the allegations of mass rape as baseless.

<sup>5</sup> In the Shopian district of Jammu and Kashmir, 2 young girls Neelofar Jan and Aasiya Jan were abducted, raped and murdered in suspicious circumstances between 29 and 30 May 2009. Local villagers alleged that both were raped and murdered by the security forces. However, the allegations were rejected by the local police and the government

<sup>6</sup> States in North-East India have been victims of decades of Human Rights Abuse by the Indian Armed Forces with crimes ranging from rapes to fake encounters

Jan, Thangjam Manorama<sup>7</sup>, victims of the Khairlanji massacre<sup>8</sup> and Asifa do not fit the ‘everywoman’ mould and hence they keep waiting for support and justice.

Using the term ‘everywoman’ in Nirbhaya’s case is also challenging as it suggests that her horrific experience of rape and violence is representative of the diverse and varied experiences of sexual violence faced by women, men and people from the LGBTQIA communities in the country. By extension, it has the potential to indicate that only the most horrifying instances of sexual violence are worthy of protest. In both cases, ‘her body and identity are repurposed to create her as a symbol of the suffering Indian woman’ (Shandilya, 2015, p.470).

As discussed in their earlier section, Crenshaw (1991) argued that often the sexual conducts of black men have been viewed negatively and historically links have been made between black male sexuality and violence. Just like some female bodies are given more importance than others, a disproportionality has been noticed when it comes to punishment of the perpetrator, especially if they belonged to a minority community (Crenshaw, 1991). The same patterns can be noticed in India, where the body of an upper-caste, upper-class woman is considered to be most important. In this context Kabeer (5 March 2015) spoke about the class and caste of the perpetrators being a major factor in the representation of the crime. In talking about the Nirbhaya case there was an emphasis on the socio-economic background of the rapists. All of the perpetrators were low-class, low-caste slum dwellers and the youngest among them lived on the street since the age of 13. They migrated from their villages and lived in slums in New Delhi. Only 1 of the perpetrators had a school education (BBC, 13 September 2013). According to Kabeer, ‘they fit the face of the image of the rapist ‘monster’ in the public imagination in a way that rapists in the police force, the army and the upper castes do not’ (Kabeer, 5 March 2015).

In her interview, a participant mentioned how the public discourse around rape in India had created a perception that sexual violence was largely a lower class or poor people’s problem. It is often widely perceived that sexual violence is a ‘problem of the migrants, uneducated rural people and people who could not adjust to social progress’ (Participant 4, 20 October 2014, interview with the author, New Delhi). Another participant agreed and stated that,

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<sup>7</sup> Thangjam Manorama was extra-judicially executed in 2004 by an Indian paramilitary unit in the state of Manipur. Her mutilated body was found four kilometers away from her home where she was arrested the earlier night. Investigations revealed that she was tortured, raped and then shot several times.

<sup>8</sup> On 29 September 2006, 4 members of the low-caste Bhotmange family belonging to a were murdered in a small village called Kherlanji in Maharashtra by members of the politically dominant Kunbi caste. The women of the family, Surekha and Priyanka, were paraded naked in public, sexually abused before being hacked to death.

If the victim is middle class and propitiator is lower class, the crime is very well addressed. The newspapers are full of stories. So for instance, there was a case in a colony in Delhi, six months ago I think, in which an upper-caste, upper-class old woman, was raped and murdered by her domestic help and that got a lot of coverage.

(Participant 2, 22 October 2014, interview with the author, New Delhi)

However, the participant agrees that a case would not receive the same kind of attention or coverage if the perpetrators were upper class or middle class. Thus, Nirbhaya was not only the ideal victim but the rapists the ideal perpetrators or 'monsters' making the Nirbhaya case not only a case of gender activism but a case of class and caste outrage.

### **Conclusion**

India as a society is extremely diverse socially, culturally, economically and politically. It is also significantly hierarchical and factors such as class, caste and religion along with patriarchy form a complex web of discrimination and abuse for women who are situated at its intersections (Anne, Callahan, & Kang, 2013). This paper argued that gender based violence cannot be viewed in silos and must be considered with other marginalising factors such as class and caste to develop a complete understanding of the violence and abuse faced by women. This paper has also argued that factors such as class, caste, religion and geography significantly affect how people perceive cases of gender violence. While acknowledging the brutality and the heinous nature of the crime itself, following the Nirbhaya case, this paper establishes that a combination of social class, caste, religion and geography was responsible for the instant attention the case received both from civil society and the media which ultimately led to the quickest and most extensive overhaul of the Criminal Law by the government. By no means does this article suggest that these were the only factors that led to the success of the movement. However, it does try to establish that class, caste, geography and religion play an immense role in shaping public reaction and public discourse around gender based violence in countries like India.

Many of the cases mentioned in this study happened in the pre-social media era. But this study specifically emphasises that the social biases and discriminations that exist in the real world also manifest in the virtual world. Hence, while for Nirbhaya thousands of people would rally online and offline, that would never happen for someone like Asifa, even though social media resources were equally available in both cases. Today, large number of activists and organisation routinely write about rapes in Kashmir, Manipur and Chhattisgarh on social media but these stories/posts get little to no traction from civil society, mainstream media or the state.

This is not only true for the victim but also for the perpetrators. Following Crenshaw (1989), this paper argues that there is definite class, caste and religious lens through which perpetrators of gender based violence are seen and is directly reflected in the punishment meted out to them. In the last fifteen years and the death penalty has been awarded twice and in both cases the victims were middle-class educated women and the perpetrators were low class slum dwellers. A study conducted by a group of scholars, legal researchers and students based out of the National Law University, Delhi found that 76% (279 prisoners) on the death row are from lower castes or religious minorities and most of them from economically vulnerable backgrounds (Sen, 6 May 2016). Hence, the intersection of factors including class, caste, geography and religion cannot be ignored because gender violence in India is often not separate but intrinsically linked with one or more of these factors.

**Ethical approval:** All procedures performed in studies involving human participants were in accordance with the ethical standards of the institutional and/or national research committee and with the 1964 Helsinki declaration and its later amendments or comparable ethical standards.

**Informed consent:** Informed consent was obtained from all individual participants included in the study.

## **Bibliography**

- Anne, M., Callahan, J. L., & Kang, H. (2013). Gender and caste intersectionality in the Indian context. *CEJSH: Human Resource Development*, 6(95), 31–48.
- Anthias, F. (2012). Transnational mobilities, migration research and intersectionality. *Nordic Journal of Migration Research*, 2(2), 102–110.
- Basu, M. (2013). The Girl whose Rape Changed a Country. Retrieved September 7, 2015, from <http://edition.cnn.com/interactive/2013/11/world/india-rape/>
- BBC. (2013). Profiles: Delhi gang rapists. Retrieved October 16, 2015, from <http://www.bbc.co.uk/news/world-asia-india-23434888>
- Bhowmick, S. (2015). Was President Kalam right? Does the death penalty only stalk the poor? Retrieved August 28, 2015, from <http://www.catchnews.com/india-news/is-president-kalam-right-does-the-death-penalty-only-stalk-the-poor-1436544975.html>
- Bilge, S. (2010). Recent feminist outlooks on intersectionality. *Diogenes*, 57(1), 58–72.
- Bose, C. E. (2012). Intersectionality and global gender inequality. *Gender & Society*, 26(1), 67–72.
- Chakravarti, U. (1993). Conceptualising Brahminical Patriarchy in Early India Gender, Caste, Class



- and State. *Economic and Political Weekly*, 28(14), 579–585. Retrieved from <http://www.jstor.org/stable/4399556>
- Chhibber, M. (2015). Abdul Kalam opposed death penalty, said can't take away life that God gave. Retrieved February 2, 2016, from <http://indianexpress.com/article/india/india-others/abdul-kalam-opposed-death-penalty-said-cant-take-away-life-that-god-gave/>
- Clisby, S. (2001). *Gender Issues, Indigenous Peoples & Popular Participation in Bolivia*. University of Hull.
- Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 138–167.
- Crenshaw, K. (1994). Mapping the margins: Intersectionality, identity politics, and violence against women of color. In *1994* (pp. 93–118).
- Davis, K. (2008). Intersectionality as buzzword A sociology of science perspective on what makes a feminist theory successful. *Feminist Theory*, 9(1), 67–85.
- Desai, D. (2003). Sexual Harassment and Rape Laws in India. Retrieved August 4, 2015, from [http://www.legalserviceindia.com/articles/rape\\_laws.htm](http://www.legalserviceindia.com/articles/rape_laws.htm)
- Dey, A., & Orton, B. (2016). Gender and Class Intersectionality in India: An Analysis of the Nirbhaya Case December 16th, 2012. In *Gender and Race Matter: Global Perspectives on Being a Woman* (pp. 87–105).
- Gabriel Dominguez. (2014). Violence against Dalit women “not taken seriously.” Retrieved June 5, 2015, from <http://www.dw.de/violence-against-dalit-women-not-taken-seriously/a-17673338>
- Halabol. (2013). The Irony Of Iconhood – The Life And Times Of Bhanwari Devi. Retrieved August 4, 2015, from <http://www.thebetterindia.com/7199/the-irony-of-iconhood-the-life-and-times-of-bhanwari-devi/>
- Hanmer, J., & Maynard, M. (1987). *Women, violence and social control* (Vol. 23). London: Macmillan.
- International Clinical Epidemiologists Network. (2000). *Domestic Violence in India*. Washington DC. Retrieved from <http://www.icrw.org/files/publications/Domestic-Violence-in-India-3-A-Summary-Report-of-a-Multi-Site-Household-Survey.pdf>
- Jayaram, N. (2015). How India hanged a poor watchman whose guilt was far from established. Retrieved August 26, 2015, from <http://scroll.in/article/741784/how-india-hanged-a-poor-watchman-whose-guilt-was-far-from-established>

- Kabeer, N. (2015). Grief and rage in India: making violence against women history? Retrieved June 9, 2015, from <https://www.opendemocracy.net/5050/naila-kabeer/grief-and-rage-in-india-making-violence-against-women-history>
- Kaur, R., & Garg, S. (2008). Addressing Domestic Violence Against Women: An Unfinished Agenda. *Indian J Community Medicine, 33*(2), 73–76.
- Kandiyoti, D., 1988. Bargaining with Patriarchy. *Gender and Society, 2*(3), pp.274–290.
- Kozinets, R. V. (2010). *Netnography: Doing Ethnographic Research Online* (1st ed.). London: Sage Publications.
- Krishnakumar, R. (2013). A rehearing in Kerala. Retrieved August 25, 2015, from <http://www.frontline.in/the-nation/a-rehearing-in-kerala/article4431423.ece>
- Lewis, G. (2009). Celebrating intersectionality? Debates on a multi-faceted concept in gender studies: Themes from a conference. *European Journal of Women's Studies, 16*(3), 203–210.
- Menon, M. C. (2004). Death Sentence: Telling Tales of Verdicts. Retrieved August 28, 2015, from <http://www.asiantribune.com/news/2004/08/21/death-sentence-telling-tales-verdicts>
- Moghadam, V. M. (2004). Patriarchy in Transition: Women and the Changing Family in the Middle East. *Journal of Comparative Family Studies, 35*(2), 137–162.
- Naqvi, M. (2015). A girl is more responsible for rape than a boy': The statement that shocked the world... except India. Retrieved May 31, 2015, from <http://www.independent.co.uk/news/world/asia/a-girl-is-more-responsible-for-rape-than-a-boy-the-statement-that-shocked-the-world-except-india-10084409.html>
- Nash, J. C. (2013). Practicing love: Black feminism, love-politics, and post-intersectionality. *Meridians: Feminism, Race, Transnationalism, 11*(2), 1–24.
- Patil, V., & Purkayastha, B. (2015). Sexual Violence, Race and Media (In) Visibility: Intersectional Complexities in a Transnational Frame. *Societies, 5*(3), 598–617.
- Purkayastha, B., Subramaniam, M., Desai, M., & Bose, S. (2003). The Study of Gender in India A Partial Review. *Gender & Society, 17*(4), 503–524.
- Rajagopal, K. (2014). Manorama “mercilessly tortured.” Retrieved August 25, 2015, from <http://www.thehindu.com/news/national/manorama-death-brutal-torture-probe-panel/article6596278.ece>
- Sarkar, M. (2008). *Visible Histories, Disappearing Women: Producing Muslim Womanhood in Late Colonial Bengal*. London and Durham: Duke University Press.

- Sen, J. (2016). Three-Quarters of Death Row Prisoners are from Lower Castes or Religious Minorities. Retrieved May 1, 2018, from <https://thewire.in/law/three-quarters-of-death-row-prisoners-are-from-lower-castes-or-religious-minorities>
- Shandilya, K. (2015). Nirbhaya's Body: The Politics of Protest in the Aftermath of the 2012 Delhi Gang Rape. *Gender & History*, 27(2), 465–486.
- Sharma, S. (2017). NCRB data shows 95% rape victims in India known to offenders; Madhya Pradesh tops the list. Retrieved May 1, 2018, from <https://www.firstpost.com/india/ncrb-data-shows-95-rape-victims-in-india-known-to-offenders-3433136.html>
- Shields, S. A. (2008). Gender: An intersectionality perspective. *Sex Roles*, 59(5), 301–311.
- The Times of India. (2014). Priyadarshini Mattoo's killer out on parole. Retrieved August 26, 2015, from <http://timesofindia.indiatimes.com/city/delhi/Priyadarshini-Mattoos-killer-out-on-parole/articleshow/30962697.cms>
- Walby, S. (1989). Theorising patriarchy. *Sociology*, 23(2), 213–234.