

The roots of sexual brutality

In India, it is the quintessential form of political privilege and social authority



V. GEETHA

As the young woman from Unnao, victim of multiple outrages, battles for her life, we, who are often reduced to being hapless chroniclers, have once again to wonder at the everyday workings of India's criminal justice system. Though several rounds of police and judicial reforms have sought to improve its workings, and humanise its approach, the fact remains that at the level of the police thana, other factors direct police action. Local political power; economic, social and sexual tensions between individuals; caste and community equations; habitual misogyny; and the measure of impunity that a perpetrator of crime might claim and exercise all shape not only police responses but those of the civilian government as well, including of doctors, revenue officers and those in the local Collectorate.

As those of us who have worked on issues of sexual assault since the late 1970s know, a complainant is most likely to be disbelieved, blamed for what happened to her, and denigrated and rubbished if she is a Dalit or Adivasi, or from a community perceived as marginal. If she persists in keeping with the justice system, its menacing indifference is calculated to demoralise her. If her family supports her, there might be some relief and care, but if they don't or cannot because they are themselves under pressure to keep quiet, she is left feeling abandoned and friendless and, worse, tainted. Many a time, a protest or a campaign, or the continued presence of women's groups, Dalit groups and progressive political and civil rights interventions alone have made it possible for even an FIR to be registered.

Civic indifference

With respect to the Unnao incident, notwithstanding the fact that the families of the alleged perpetrators and victim are known to each other, and from the same caste, the sequence of events has not been essentially different. For fear of the alleged



"Multiple and entangled wrongs as unfolded in Unnao do not appear as such to those who commit them." A solidarity rally for the Unnao rape victim in front of India Gate in New Delhi on July 29, 2019. *AFP

perpetrator, an MLA belonging to the Bharatiya Janata Party, the police did the bare minimum that was required of them. It was only after the victim, who had been persistent in her quest for justice, threatened self-immolation in front of Uttar Pradesh Chief Minister Yogi Adityanath's office did the wheels of justice begin to move somewhat decisively.

What stands out even in this familiar landscape of crime is civic indifference to sexual violence. It is as if such violence is expected in situations where a supplicant approaches a man in power, and is made to wait upon or transact his ostensible largesse. We were witness to a similar and equally outrageous act in Banda, in Uttar Pradesh, in 2010, when a minor girl accused sitting Bahujan Samaj Party MLA Purushottam Dwivedi of rape. Her family had approached him for assistance and protection, since there had been an attempt to kidnap and sell the girl, with the collusion of the local police. Unlike in the Unnao instance, though, Mayawati, who was Chief Minister, called for the prosecution of her MLA. It is noteworthy that the victim had the

support of the country's only rural women's news network, *Khabar Lahariya*, which has been long active in the region.

An ornamental document

The violently transactional nature of sexual assault in these circumstances bears looking at in some detail. A woman approaches an elected representative of the people for assistance, exercising her right to state redressal and assistance. She realises very soon that her claims are not transactable in a civic sense, but only in a violently sexual sense. In the event, not only is her bodily integrity violated, but also a series of constitutionally guaranteed rights, including the right to life and livelihood. And by those who have taken an oath in the name of the Constitution!

However, these crimes are not viewed in these terms. The Constitution is seldom viewed as enunciating shared civic values and morality. Rather, it exists as a formal and ornamental document that affirms not so much our sovereign democratic selves, but the privileges we have gained as elected representatives. Se-

cond, multiple and entangled wrongs as unfolded in Unnao and Banda and indeed elsewhere do not appear as such to those who commit them.

For one, they are validated in any number of ways, first by the family, and next by kin and caste networks. Kuldeep Singh Sengar's brother and henchmen were fully behind his various reportedly criminal acts. More important, whatever their personal feelings, Sengar and Dwivedi's spouses felt honour-bound to insist that their husbands could never have done what they ostensibly did. For to admit that their spouses are capable of such acts of crime would be tantamount to conjugal infidelity, and a denunciation of the caste family. Female complicity in these instances helps secure male authority as given and 'natural', thus placing it beyond the pale of questioning.

In any case, even if spouses do not actively endorse their husbands' crimes, the perpetrators suffer no pang of conscience. After all, both within the family and without, a powerful man's right to a woman's body appears a natural extension of his maleness: marital rape is not an issue, for one, and male sexual entitlement is something that women are expected to reckon with. If they don't, that is entirely their problem, as has been made clear with respect to a slew of #MeToo allegations.

Survival of caste society

Further, such entitlement and power are affirmed by their constitutive context, which is caste society. Birth-based superiority, illegitimate as it is, cannot be sustained, unless it is renewed day in and day out through a combination of patent lies and brute force. Verbal and physical acts of sexualised humiliation and violence directed at the lower castes and Dalits are necessary for the survival of caste society and increasingly so, in the face of challenges and resistance. In the Unnao instance, and in other such instances, sexual brutality is thus not an afterthought: it is the quintessential form of political privilege and social authority in our social context. Our criminal justice system is yet to reckon with such routinised and habitual criminality, for it is never quite registered as such.

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FROM THE READERS' EDITOR

Fair and participative journalism needs resources

High-quality journalism does not come free of cost



A.S. PANNEERSELVAN

Following *The Hindu's* Open House in Kochi, many wrote to us seeking more details about the increased space for contributions from readers. Some raised a few questions about the idea of an interactive readers' mail, which will deal with local and civic issues.

R. Sivakumar from Chennai suggested that the 'Letters to the Editor' section on the editorial page should allow more space for letters. Jayaprakash Reddy from Nalgonda wrote: "It is most gratifying that the Editor has given his approval to start edition-centric letters to deal with local and civic issues. But whether this is confined only to the Kochi edition is not clear. I request the Editor to clarify this. There was a local letters column in the Hyderabad edition long ago, but it was stopped after a few months due to reasons better known to the Resident Editor." S. Malathi from Bengaluru asked to extend the scope of the readers' mail section to include social and political issues too.

Clarifications

To clarify, readers' responses to local and civic issues will not be confined to the Kochi edition alone. The Editor is keen to have a dedicated weekly section of readers' letters in all editions. Two, the 'Letters to the Editor' section is common for all the editions across the country and some additional letters that cannot be accommodated in print are published online. Given the fact that space is premium in a newspaper, there is little scope for allotting more space on the editorial page for letters. Three, the scope of the readers' mail section cannot be extended to social and political issues in a blanket manner due to a range of reasons. While the newspaper may welcome comments on social and political issues, it is also acutely aware of the need for a rigorous verification process. We need to remember what distinguishes journalism from different individual initiatives such as blogs. The authors of *The Elements of Journalism*, Bill Kovach and Tom Rosenstiel, have come with a fine distinction: "In the end, the discipline of verification is what separates journalism from entertainment, propaganda, fiction, or art."

It is heartening to note the growing interest among readers about the economics of news production and the cost of journalism. Chidambaram Kudiarasu from Thoothukudi wrote: "At a time when the previous revenue model of advertising money is getting fragmented across platforms, readers should not grudge a few bucks more for high-quality journalism and balk at pay walls." Rajiv Lochan felt that my claim that the revenue model for news publications was led by advertising for a century was not correct. He argued that till the market leader started the undesirable price war in 1990-91, the revenue model of the newspaper industry was reader-led, which covered operating expenses. He wrote: "Ad revenue was the surplus that would be reinvested in the business, paid out to employees and divided out to shareholders. To claim that for a century the revenue model was led by ads is both misleading and incorrect."

The role of advertising

Mr. Lochan's argument is partially true. In the pre-liberalisation era, there was better balance between reader-led revenue and earnings from advertisers. It is also true that the circulation figures before 1990 were substantially low, which meant a limited operational cost. The transformation of the Indian media led to growth and proliferation. Every new platform - from privately owned TV channels to FM radio stations - expanded the market during this phase and advertising became the bedrock of financial sustainability of the news media industry. In his working paper, "A magic square? Print Publics, Consumption and Advertising in Modern Tamil Nadu", historian A.R. Venkatchalappathy observed how advertisements were critical inputs in the widening world of journalism. He cited the doyen of Tamil journalism, T.S. Chockalingam, to establish this point. Chockalingam wrote: "Without advertising revenue journalism simply cannot function".

Chockalingam's essay also explained the role of advertising in keeping the cover price considerably lower than the actual production cost. Mr. Venkatchalappathy's footnotes clearly indicate that Chockalingam made this observation as early as in 1943. Robin Jeffrey's path-breaking book, *India's Newspaper Revolution*, also confirms the role of advertising in the spread of the newspaper beyond the metropolitan centres.

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Rajasthan's effort to criminalise mob lynching is a good start

The Bill goes beyond just codifying SC directives

ANMOLAM & FARHEEN AHMAD

In furtherance of the recommendations made by the apex court in *Tehseen S. Poonawalla v. Union of India*, the Rajasthan government has introduced the Rajasthan Protection From Lynching Bill, 2019. If it gets passed, Rajasthan will be the second State after Manipur to have a dedicated law criminalising mob lynching as a special offence, in addition to other offences under the Indian Penal Code.

The Bill follows the Supreme Court's recommendations in authorising the setting up of special courts, appointment of a dedicated nodal officer, and stipulating enhanced punishments. However, its scope is more comprehensive as it not only criminalises acts of lynching, dissemination of 'offensive material' and fostering of a 'hostile environment', but also provides for relief, legal aid, compensation and rehabilitation.

Broad definition

The Bill defines lynching as an act or series of acts of violence or aiding, abetting or attempting an act of violence, whether spontaneous or planned, by a mob (two or more persons) on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation and ethnicity. Though wide-ranging in content, the document does not cover cases of solitary offences. Noticeably, the Bill says that police officers and district magistrates have to take measures to prevent lynching and related offences. However, unlike the law on mob lynching in Manipur, it does not prescribe any punishment for dereliction of duty.

Further, some of the Bill's provisions might attract legal scrutiny. Section 8(c) of the Bill says that whoever commits an act of lynching, where the act leads to the death of the victim, shall be punished with rigorous imprisonment for life and a fine not be less than ₹1,00,000 and

which may extend to ₹5,00,000. As regards sentencing, this provision completely deprives the judiciary of any amount of discretion.

Taking away judicial discretion

It needs to be stated that a court needs to consider all the facts and circumstances, different for each crime, while making a decision on punishment. The Supreme Court, while declaring Section 303 of the IPC unconstitutional in *Mithu Singh v. State of Punjab*, held that "the exercise of judicial discretion on well-recognised principles is, in the final analysis, the safest possible safeguard for the accused. The legislature cannot make relevant circumstances irrelevant, deprive the courts of their legitimate jurisdiction to exercise their discretion".

Section 9 of the Rajasthan Bill stipulates, *inter alia*, the same punishment for lynching and "attempting" an act of lynching. In the context of criminal law and sentencing, the principle of proportionality mandates an adequate balance of the gravity of the crime, the interests of the victim and of society, and the purposes of criminal law. The constitutional courts have time and again applied the principle of proportionality and have struck down laws that are excessively harsh or disproportionate.

Lynching is an egregious manifestation of prejudice, intolerance, and contempt towards the rule of law. With all its limitations, the Rajasthan Bill is evidence of political will by the State government. It is expected that deliberations help in the enactment of a more constitutionally robust Bill. However, legislation cannot act as a panacea; what is required is political commitment. It is high time that the other States and the Centre show some urgency so that creeping threats are prevented from metastasising into an out-of-control monster.

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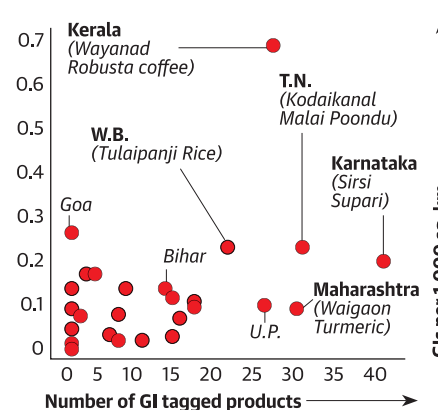
DATA POINT

Making a mark

Odisha recently got a Geographical Indications (GI) tag for its variant of the rasagola. A GI tag is given to products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. There are 347 GI-tagged products across the country. By Varun B. Krishnan

Geographical spread

Karnataka has the highest number of GI-tagged products. However, when geographical area is factored in, Kerala has the highest. Products GI-tagged to multiple locations were omitted. The graph shows the recent GI-tagged items of some States

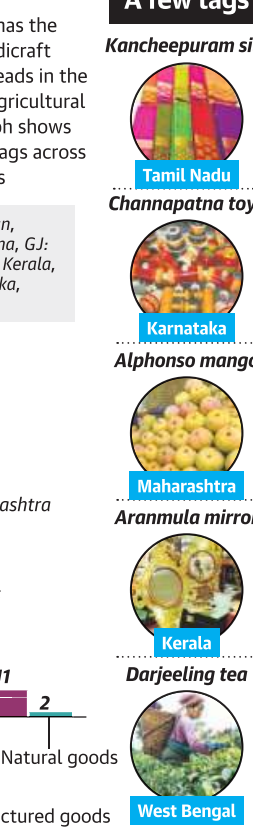


What's special? A text analysis of the names of GI-tagged products shows that over 30 types of sarees and fabrics have been given the tag (the highest), with specialised craft items figuring second. Odisha's rasagola comes under the food category which includes other famous items such as the Tirupathi laddu, Hyderabad haleem, Dharwad pedha and Bikaneri bhujia

Category split

While Tamil Nadu has the highest no. of handicraft GIs, Maharashtra leads in the no. of GI-tagged agricultural products. The graph shows the number of GI tags across categories & States

A few tags



A HUNDRED YEARS AGO AUGUST 5, 1919.

India in the British Parliament.

Replying to Lord Wolmer in the Commons [in London], Mr. Montagu stated that he had received to-day [July 31] only newspaper reports regarding the inadequacy of medical arrangements in the Indian Army and he had telegraphed to India for full information. He had no knowledge that any representations had been made to the General Staff at Simla in 1917 with regard to the necessity for laying a pipe line to the supply camp of Ali Masjid with pure water, but he would enquire, as he also promised to enquire to the number of men of the 6th Indian Brigade, who had been inoculated against cholera before proceeding to the frontier. Replying to Mr. Burn, Mr. Montagu said Government was most anxious to do what it could for Indian army officers taken prisoners at Kut, who had been invited to submit claims for compensation in respect to expenditure during captivity. Most of the claims had been submitted and he hoped that all would be settled shortly. Replying to Sir J. Rees, Mr. Montagu stated that he hoped to send to the Government of India shortly the advice of the Empire Cotton Growing Committee on the recommendations of the Indian Cotton Committee.