

Indian Feminisms Concepts and Issues
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Lecture-19
Theorising Violence–Rape

Hello everyone, in the previous lectures we talked about violence on women predominantly in the domestic sphere. We have also talked about the impacts that violence has not just on women who are married but also on single women, widows and so on. The definition of the domestic also includes both natal and affinal homes of women. The changing notions of domestic violence brought about a significant transformation in the idea of what counts as violence on women.

Feminists were already trying to argue that issues such as dowry-related violence was not merely a private matter, it was deeply entrenched in power relations. In the sense that it was affected by the different kinds of structures and systems such as patriarchy, class, caste, religion and so on. In this way feminist discussions on violence on women contributed significantly to align gender and class-based discriminations against women.

We saw how the sex identity as a female works as a major deterrent to the progress of women. Since in Indian traditional social setting it is assumed that girls will invariably go to another house, they continue to be de-privileged in their natal homes in terms of educational opportunities, property rights etcetera. The issues of wife beating dowry therefore have a more complex premise.

And this is what we have tried to explore in the earlier lectures. If you have any confusion, you can go back to those lectures and take a look once again. In today's lecture we will discuss the agitations against rape. In the process we will also talk about how rape was conceptualized by feminists. Now women's movement across the world have been conscious of the issues of rape and has actively worked to raise consciousness about it.

Radical feminists in the West focused on the physical differences among men and women and argued that men rape women because they can. Liberal feminists moved away from this biological explanation and identified how social sanctity given to patriarchy made the crime

possible. They argued for legal redressal. Marxist feminists located rape in the material realm vis-a-vis class.

Socialist feminists try to achieve a holistic understanding of rape through the convergence of the structures of class, patriarchy and systemic violence. They highlighted the link between violence and economic exploitation of women. Violence and sexuality reproductive labour and male violence, intersectional forms of violence and so on. In discussing rape feminists in India have identified not only the violence on women's body the lack or loss of agency the legal gaps.

They have also talked about rapes both within and outside the house. For example, marital rape and custodial rape. At this point it is also important to remember that systemic rape also takes place in the form of genocide where violence against women is directed to destroy entire communities or ethnicities. Now we will discuss all these things in detail very soon. Rajeswari Sunder Rajan in her seminal work *Real and Imagined Women* talks about the many ways in which rape has been conceptualized in feminist theory and activism.

The very act of rape Rajan notes is an expression of male sexual domination, it is therefore seen as one of the most visible and ultimate forms of patriarchal oppression that completely robs women of any agency over their bodies. Feminists have also tried to locate the issue of rape within a more complex intersectional sphere where they recognize that patriarchy is not the only structure of oppression in society and that privileges and handicaps are heterogeneous.

These are distributed unevenly among categories of both men and women. While talking about feminist reaction against rape it is important to understand how feminism in the West and in India approached the matter. In the US the criticism against rape has broadly questioned the issue of compulsory heterosexuality by challenging the institution of marriage promoting gay liberation, the resistance to harassment of women in the workplace, protests against child molestation and so on.

Predominantly US feminism has focused on the individual pathology of the perpetrator and the violation of individual rights of the victim or survivor. In India the situation was different. Feminist criticisms of rape in India revealed it as a systemic issue that often stemmed from and also impacted individuals as well as groups. Thus, most of the cases of reported rapes were

institutional rapes. In the hands of police, army, landlord upon women of oppressed classes and castes.

As Sunder Rajan mentions rape as a phenomenon in a contemporary India is more properly understood as the expression of male violence sanctioned by various modes of social power rather than of sexual desire. The issue of rape gained prominence in feminist movements in India during the 1970s. According to Radha Kumar the issue of rape has been one of the most contemporary feminist movements internationally have focused on firstly because sexual assault is one of the ugliest and most brutal expressions of masculine violence towards women.

Secondly because rape and the historical discourse around it reveal a great deal about the social relations of reproduction and thirdly because of what it shows about the way in which the woman's body is seen as representing the community. These movements focused on two forms of rape institutional and class-based oppression. In the category of institutionalized form of rape custodial rape has gained the most opposition.

Feminists have pointed out how women become victims of mass rape which often function as acts against a community or class which is engaged in a struggle with those who hold power over it or as individuals belonging to marginal groups. Women from the latter group are often victims of custodial rape. Anti-rape agitation gained momentum through the protest against Rameeza Bee's gang rape in Hyderabad in 1978.

Feminist groups such as Stri Shakthi Sanghathana in Hyderabad, Vimochana and the the women Lawyer's Association in Bangalore continued agitation for a long time. Soon the agitations against rape by police or landlords spread across Patiala, Karnataka, Assam, Jharkhand etcetera. These agitations gain momentum during the 1980s when 4 senior lawyers wrote an open letter against a judgment in a case of custodial rape of Mathura a tribal girl.

The Mathura rape case in 1972 took place in Maharashtra which generated an uproar on a national scale. In 1972 Mathura a teenage adivasi girl was abducted by the policeman and raped at the police station. The premise of the case was following. Mathura and agricultural laborer fell in love with the cousin of her employer and they decided to marry; her brother complained to the police that she was kidnapped by her lover.

They were all brought to the police station; after recording their statements when they were about to leave the police held Mathura back and told her brother to go back. Later at night when her brother came back with others in search of her Mathura said that she has been gang raped by the constables. After much pressure from the crowd a case of rape was finally registered.

Now the policemen were acquitted by the sessions court on the grounds that Mathura had voluntarily had sexual intercourse with the constables and the justification was that she had her lover therefore she was already a licentious woman. The court blamed Mathura for crying rape to prove her innocence. Although on further appeal they were found guilty by the high court but the verdict was again reversed by the Supreme Court.

This judgment prompted lawyers such as Upendra Bakhshi, Ragunath Kelkar, Lotika Sarkar and also Vasudha Dhagamwar to write an open letter challenging the logic of consent applied in making the judgment. The forum against rape which later changed its name to forum against oppression of women a feminist group in Mumbai came across this letter in 1980 and decided to start a campaign for reopening the case.

The Mathura rape case brought the concept of custodial rape and the criminal law Amendment Act 1983. The reaction to such legal measures were multifaceted. On the one hand some were happy that the sensitive matter of rape was getting legal recognition. The feminist groups such as lawyers Collective and Stri Sangharsh also demanded the scope to be expanded and extended to all cases of rape and not just custodial rape.

Because in most cases rape is considered proven only when physical science of forcible entry were found on the woman's body. Feminist groups on the other hand argued that other forms of rape be also recognized. There was also another controversy regarding burden of proof clause where the accused would be presumed guilty till proven otherwise. This created the fear of misjudgment intentional accusations etcetera.

Now the Mathura rape case is significant not just because of the recognition to custodial rape it also has latent caste gender implications. Mathura was an adivasi girl and her presence in the public sphere due to her job along with the fact that she was an unmarried woman and had a lover branded her as a loose hypersexual woman. This assumption made her sexually available and also worked as a reason why the session's court gave her a judgment.

Her case highlights the prevalence of casteist sexist assumptions. I have talked about it in detail in earlier lectures too. If you have any questions, you can go back to those lectures and look them up once again. Now this case and the feminist agitations against it is significant also because as we have seen and learned in earlier lectures, we cannot homogenize the category woman as a single group who is universally affected by one kind of patriarchy.

In fact, based on the caste, class, religion they belong to different groups of women face oppression differently. This realization also raises another question that is who can speak for whom? Feminism whether in India or in West has often promoted the cause of either white women or upper caste upper class women? In the process black women in the West and lower caste lower class women in India have often remained in the margins.

And even when they are talked about a lot of times they are relegated to stereotypical images of victimhood. This is most visible in the ways in which the first world talks about the third world. The former assumes to know about the latter because of their locational and political hegemony. This is what Spivak terms as speaking for or on behalf of someone. Such representation fixes the marginalized women into stereotypes and does not give any space to their voices.

The same anxiety is reflected in the case of Mathura's reaction to the feminist agitation against her case. When members of the forum against rape which as we said change its name to forum against oppression of women met Mathura for her opinion on presenting her case in a campaign on the international women's day. Mathura responded by saying that she does not object to it, but she was not hopeful of his outcome either.

This led to the realization that they had gone so far into the campaign without even trying to know what the subject truly felt like. On the one hand it raised questions about the assumed Supremacy that mainstream Indian feminists often exercised regarding the marginalized women. On the other hand, it raised more painfully complex questions of the impending stigma that might be brought upon Mathura after the case gets reopened and prominence once again.

It is important to remember that the legal premise against rape is predominantly heterosexual. As Geetanjali Gangoli mentions while purporting to provide justice to raped women the laws

in actuality reinforce patterns of heterosexual dominance in which women are seen as inferior, sexually passive and within marriage. The sexual property of their husbands moreover the issue of marital rape continues to be a dubious fear where legal intervention seems to be lacking.

Gangoli observes how section 375 of IPC offers protection from marital rape for judicially separated married women. Ironically this is nullified by the conjugal rights under Hindu Marriage Act 1955 where if one spouse files for restitution of conjugal rights the court can direct the absconding spouse to reside with the petitioner. This law creates problematic situation for women by recognizing only physical or sexual violence for a wife's refusal to stay with the husband.

The 1964 case of Srimati Tirath Kaur versus Kirpal Singh at the high court of in Punjab is an example here. Now due to her job the wife used to reside away from the husband's family. The husband applied for restitution of conjugal rights under section 9 of the Hindu Marriage Act. The wife pleaded that she wanted the marriage to continue and did not want to resign her job either.

The judge gave the verdict in favour of the husband and directed her to submit herself obediently to her husband's authority. The wife's career outside the husband's home and her decision to retain the job were seen as acts of rebellion. The judgment denied married women's assertion through economic independence and validated a husband's unlimited control over his wife.

In fact, the only instances where law seems to see a wife's reasons to stay away from the husband justifiable where in cases of violence or the husband's refusal to maintain the wife. Now the anti-rape laws underwent a major change in the aftermath of the Nirbhaya rape case in Delhi in 2012. As per the recommendations of the Verma committee the 2013 Amendment Act was promulgated with amendments in the section 375 of IPC CRPC and Evidence Act to make the laws against rape and sexual assault more stringent.

These amendments included capital punishment for rape cases that have led to death or rendered the victim in a persistent vegetative state and a minimum of 20 years imprisonment for gang rape. New offenses such as talking acid attacks and voyeurism were added into the

definition of rape. The minimum sentence was changed from 7 years to 10 years. The law has fixed age for consensual sex at 18 years.

These legal steps at the aftermath of the Nirbhaya case have been perceived as victories against rape and other forms of sexual violence against women. We will discuss this further in the next lecture. Now let us summarize today's lecture. Today we took a look at how feminists in India dealt with the issue of rape? A most obvious form of violence inflicted on women. We learned that rape cannot be understood simply as sexual oppression or violation.

It has deeper links with different systemic structures and also affects different groups of people differently. As the Mathura rape case showed there are deep-seated caste, gender implications underlying the rape and the verdicts. Following the usual method feminists in India have actively worked towards bringing about social awareness and legal redressal with reference to rape.

Rape most of the times goes unreported because of the social stigma that puts the blame on the victim or the survivor. In the next lecture we will talk about how violence has or can be used as a method to challenge oppression. Thank you.

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