



## Short Review Paper

# Myths behind the Rapes in India

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## Abstract

*It is a fierce reality that every day a new rape case is reported at some region in India. This short note illustrates a few examples of such brutal rapes to prove that provocation is not the reason for committing a rape, rather it is the insatiable lust combined with the lack of fear for the legal sanction that instigates rape. This note suggests that in any rape case, priority should be attributed not to whether the victim was provocative or not, but whether the accused was as fragile as to get provoked by seeing the victim so as to commit rape. Further, this note evaluates the necessity of criminalizing marital rapes and also as to how provocation becomes redundant in child rapes in India. Why is a wife seen as a mere tool for sexual gratification? How is a child capable of sexually provoking the perpetrator to commit rape? These are some of the issues that this note addresses. In short, this note argues that firstly, rape should be seen a violation of bodily integrity of an individual; and secondly, provocation should be disregarded as a factor causing rape.*

**Keywords:** Rape, Provoke, Women, Victim, Crime.

## Introduction

Rape is generally defined as “the crime, typically committed by a man, of forcing another person to have sexual intercourse with the offender against their will<sup>1</sup>”. Another definition goes like this: “to force someone to have sex when they are unwilling, using violence or threatening behavior”<sup>2</sup>. The common element in any definition of rape is the use of force, or in other words, the absence of consent. It is interesting to note the transition from sex to rape. The role of the word ‘yes’ to a sexual act is the fulcrum that decides whether the act is an offence or not. It is unfortunate that the victim, mostly a female, has to go through a lot of trauma from different levels of society as soon as she decides to report a rape case. The questions that she is often asked are: “What were you wearing at the time of the incident?” “Who were with you at the time of the incident?” “Why were you outside your house at the odd hours?” etc. The failure of most of the rape trials in our country is that a woman is always considered to have played a contributory role in it. And this mentality is precisely the root cause of the defense argument that the victim *provoked* to commit rape. Perhaps, this argument flows from the narrow-mindedness of society. But, it should be noted that modern day crime rates include not just rapes of women, but, that of children, men, etc. In India, even husbands rape wives legitimately. How do we understand such forms of rapes? How could a baby of 1 month old *provoke* a 50 year old man to commit rape? Why would husbands use their wives as mere tools for sexual pleasure? Why would a woman’s ‘No’ to sex in a marital relation be ignored solely because she is a wife of that person? Why is rape only a female-centric offence? Why are men ashamed to come forward and report of their own

rapes? Why is honor being given such a pedestal so as to threaten an individual from reporting against their own grievance? There are innumerable questions that have no clear answers. However, it is time the light of clarity fall upon these questions so that India could gradually *annihilate* rapes.

## Marital Rape

Amongst the many types of rapes in India, the most disturbing one is the legitimization attributed to marital rapes. For instance, Anita who was married in 2005 to a man in Maurana village in Unnao district UP discloses her experience as a victim of marital rape<sup>3</sup>. Her husband used to force her for sex whenever he insisted. He made her perform oral and anal sex against her desire. One could easily understand her plight when she says that he wouldn’t even let her leave the bed to go to the bathroom. “This was not marriage. There was no love between us”, she says. Anita was so depressed, afraid and full of hate for both her husband and herself that forced her to stop eating which made her fall ill frequently. Further, every time the doctor advised her husband to abstain from sexual intercourse for the sake of his wife’s health, he ignored the advice. Anita was thus so depressed with her life that she tried committing suicide.

Anita is just one in a million victims of brutal marital rapes. Neha, a former school teacher from Lucknow has another traumatizing story to tell<sup>3</sup>. She elaborated upon her horrifying wedding night when her husband had sex with her seven times. She was left crying in excruciating pain and unable to move. “It could be any time of the day, anyone could be in the house, I could be menstruating, it didn’t matter to him”, she says. She

continues, "He would use abusive words, kick me, make me perform oral sex. And if I refused he would hit me. If I screamed he would tell people I was mad." Sadly, her parents' advice asking her to adjust at her new home was not helpful. She further reveals that her husband drank on a regular base and the violence escalated to such an extent that he began harassing her outside the school where she worked, which compelled her to quit her job.

Age was not a matter in marital rape. Kameshwari, a 60-year old woman residing in Aelur, near Andhra Pradesh states how her husband used to rape her and brand her an "unfit, sexually unsatisfying wife"<sup>3</sup>. Even while she was willing to divorce her 65-year old abusive husband, her mother-in-law would not permit it. For the 28-year old Jaya from Lucknow, "I bled for days after my husband raped me, and my in-laws thought I had gotten pregnant by another man. My children would go hungry and thirsty if I would say no to my husband"<sup>3</sup>.

What do we understand from the above heart-wrecking stories? Which of these women had 'provoked' their husbands to commit rape? Well, marital rape always has the disguise of sanctity of marriage to it. Whether this sanctity is maintained by the husbands in such situations is the real question.

## Child Rape

Now, let us come to child rapes. The number of children getting raped has shot up in the last few years<sup>4</sup>. Accordingly, a total of 8,541 cases have been reported in 2012; 12, 363 cases in 2013 and 13, 766 cases in 2014<sup>4</sup>. The National Crimes Records Bureau states that 8,800 child rapes were registered country-wide under the Protection of Children against Sexual Offences Act (POCSO) for the year 2015<sup>5</sup>. In almost 2,227 cases which is 25.3 per cent, the offenders were found to be employers or co-workers. Amod Kant, a former police officer and the founder of Prayas, an NGO that works for the protection of children says that: "When we conducted a national study on child abuse in 2007, along with the Ministry of Women and Child Development, we found that there were as many male victims of child abuse as female".

According to the information provided by Louis-Georges Arsenault, UNICEF Representative to India, one in three Indian rape victims happens to be a child. Studies also suggest that more than 7,200 children, including infants are raped each year, and according to experts many more cases go unreported. Those child rape cases that are reported are disgustingly shocking. For instance, Nirmala (name changed) is five-year-old, who lives in Maharashtra<sup>6</sup>. She was raped by her mother's boss. Her mother had given her money to go to the corner store to buy food. While the child was walking, the man came up to her and offered her to buy her some sweets. Further, he took her to a wooden area behind an apartment complex, where he raped her. She was left naked and profusely bleeding which required her to have two surgeries.

Gitanjali (name changed) is a nine-year-old girl who reveals another horrible tale<sup>7</sup>. She was sexually abused by her father for years. He raped her last year and threatened to beat her and her mother with metal rods if she disclosed this to anyone. Eventually, her grandfather found out and had the culprit arrested, however the whole village is pressurizing him to drop the case against his own son. It is sad to observe how Gitanjali's mother responded to the arrest of her husband: "If he gets out he will promise to stop abusing Gitanjali. It's her fault as well. When she would be sick she would stay in bed, she would run around and act childish and my husband would watch her. I told her to stay away from him. She should have shouted when he locked the door. She didn't share anything with me<sup>7</sup>." Gitanjali says that everyday her mother calls her a prostitute and blames her for her father being gone.

Just like the case of marital rapes, age is no barrier even for child rapes. Toddlers are the youngest victims of rapes today. On October 17, 2015, the Delhi police had arrested two teenagers on account of the rape of a two-year old girl<sup>7</sup>. Recently, a two-and-a-half year old girl was raped in Mumbai's Vikroli area on August 2016. The incident occurred around 11 pm on when the accused took the toddler to an isolated place at Navyug Mandal in Vikrohli West and sexually abused her<sup>8</sup>. The most barbaric incident of toddler rape happened on September 2016 in Delhi. A 11-month-old baby was abducted and raped by a construction worker. Ironically, the incident is reported to have occurred inside an office-residential complex that houses police officers. Even though they could not prevent the crime, they were able to arrest the 36-year old migrant laborer who lived near the family of the baby<sup>9</sup>. In a statement given to the police by the father of the baby, he said, "I was horrified to see my daughter's condition. Her clothes were torn and she had nail marks all over the body. The severe injuries might have a lifelong impact on her health<sup>9</sup>".

## Victimization in India

What do these examples prove? In India, it seems that a marriage is considered to be a 'transfer of property'- the father transferring the ownership of his daughter to her husband. And with the transfer of this ownership of 'property', sexual gratification becomes the 'benefits arising from the property', if it may be called so. This is a very dangerous situation. India is the largest democracy where women have the right to choose as to who should represent them in political affairs. However, this great ideal of democracy becomes a mockery, when married women are deprived of the right to their own bodies. Considering the brutal incidents of marital rapes in India, some of which highlighted above, it becomes a necessity to criminalize marital rape. A wife should not be considered as a tool for sexual oppression and sexual gratification. When husbands consider marriage to be a platform to exercise their lust 'legitimately', and consider their wives as equipment for the same, how is the sanctity of the marriage being maintained? I argue that the preliminary step towards safeguarding a marriage

should be to criminalize marital rapes. If a stranger could be arrested for sexually violating a woman's body, this rule should be made applicable to husbands as well. The 'No' by a wife to sexual intercourse at a given point of time should be recognized as an individual's autonomy of her own body. This recognition of bodily integrity is very crucial in re-evaluating the existing rape discourse.

While discussing child rapes, the society never criticizes the victim. The perpetrator always becomes the subject of rage. However, when the victim happens to be an adult woman or even a teenager, questions of her attire, the morality, etc. comes under question. How do we understand this discriminatory treatment? Why is an adult female considered to *invite* her rape? Why should her dress, her friends, etc. matter when she files a complaint of rape? These questions are never given adequate attention. When a few months-old baby to a few years-old child is raped, how could you justify such an act to be anything but greed for lust, or as I would like to term it as an *unnatural greed for lust*, because it would be a fatal to assume that it is natural for a man to be sexually attractive to a child/baby. Child rape is the perfect example to substantiate that provocation should never be even considered to be a causal factor while adjudicating any rape case. Considering the day-to-day increasing number of rape cases, there seems to be two just two factors causing it: *firstly*, as pointed out earlier, insatiable greed for lust; and *secondly*, absence of fear of the legal sanction.

## Conclusion

One should not fail to understand that the honor of a woman is not associated with her caste, family, religion, etc. that she is born into, but, rather it lies with her bodily integrity. It is up to the law of the land to safeguard the honor of India's women

from every other man, including the clutches of their husbands. Only when such a strong determined initiative is taken by the Government and the concerned legal fraternity, will the slogan of *Bharat Matha ki jai* become a reality.

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