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BETWEEN *SAMSKARAS* AND *ADHIKARAS*:

RAPE, SUICIDE AND THE STATE IN CONTEMPORARY INDIA

By

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ABSTRACT OF THE DISSERTATION

BETWEEN SAMSKARAS AND ADHIKARAS:

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This dissertation examines the relationship between suicide, the state and women's right against rape in contemporary India. By situating raped women's suicide within the complex conversation between the Hindu nation's gendered notion of *samskaras* on one hand and the modern Indian state's narrative of equal rights or *adhikaras* on the other, the dissertation examines why raped female citizen-subjects threaten or commit suicide, and the state's response(s) to such suicides in light of women's legal right against rape. In this respect, the dissertation is particularly attentive to the unfortunate agency of raped women who use public suicide in order to claim their right against rape from the postcolonial Indian state.

Contemporary scholarship on women's suicide in India has primarily been framed within a clinical-psychological framework, while women's right against rape in/and the Indian state has been theorized predominantly within feminist legal paradigms. While

some work does engage the political-cultural aspect of women's suicide, raped women's suicide and its relationship to rights and the state remains an un-theorized area of inquiry. This study of rape victims' suicide thus brings within a single analytical frame two questions - women's right against rape in/and the state; and women's suicide – that, till now, have been studied separately. Arguing that suicide as a complex, embodied form of agency exercised by raped female citizen-subjects colludes with, as well as contests, the collective identities of gender, class, caste, religion, the 'local' and the 'national,' and evokes equally complex responses from the postcolonial state, the dissertation offers new and challenging insights on women's rights, culture and the state.

The dissertation is interdisciplinary, and draws from a range of theoretical perspectives including feminist political theory, postcolonial theory, cultural theory, psychology and Indian Studies in order to offer a complex, layered understanding of raped women's suicide and the state. Methodologically, the dissertation combines the empirical and the interpretive, juxtaposing National Crime Records Bureau data on rape and suicide along with textual analyses of a range of relevant texts including religious treatises, historical accounts, political materials, judicial judgments, mental health professionals' narratives, and news reports.

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## INTRODUCTION

### **The Research Question**

In June 2008, a young woman named Sarita staged a spectacular public suicide in the police headquarters of Haryana, India.<sup>1</sup> Through the lucid suicide note she left behind, it came to light that she had been raped by two policemen; her rapists had succeeded in evading arrest due to the absence of necessary forensic evidence, and her suicide was a protest against this injustice.

The suicide sparked a raging debate in India, with the political left and right bridging all manner of ideological divides to speak out in favor of the unfortunate rape victim. The affective communities mobilized across the nation, along with the suo-moto notice of the events taken by the state, resulted in some very interesting dynamics that both drew from, as well as contributed to, ongoing debates on rape in India. Among the most crucial of these dynamics, as we shall see, was the manner in which the Punjab and Haryana High Court moved to grant Sarita justice despite the lack of forensic evidence.

The idea for this dissertation came primarily from this suicide. Although India has a high rate of suicide, reliable and comprehensive data on suicide is still lacking.<sup>2</sup>

However, as across all of South Asia, the limited data on suicides in India confirms an

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<sup>1</sup> "Rape victim ends life at police HQ," *The Times of India*, Chandigarh, June 10, 2008.

<sup>2</sup> U. Thakur, *History of Suicide in India* (New Delhi: Munshi Ram Manohar Lal Oriental Publishers, 1963); D. Lester, K. Aggarwal, and M. Natarajan, "Suicide in India," *Archives of Suicide Research* 5 (1999), 91-96; M. Khan, "Suicide on the Indian Subcontinent," *Crisis* 23 (2002), 104-7; and Shalina Girdhar, T.D. Dogra, and Antoon A. Leenaars, "Suicide in India, 1995-1999," *Archives of Suicide Research* 7 (2003), 389-93.



undeniable and unfortunate connection between rape and suicide. The reports of the National Crime Records Bureau (NCRB), India's apex government body responsible for collecting macro-level data on suicide, classifies suicides according to likely causes; physical violence, including rape, is listed as a cause.<sup>3</sup> This positive correlation between rape and suicide was all the more apparent when I delved into news reports, government publications and the other texts from which this dissertation draws.

While scholars working on suicide emphasize that the overall rate of male suicides has been higher than of female suicides in India,<sup>4</sup> the NCRB figures show that most of the suicides committed for reasons related to rape and physical violence are by women. In 2008, for instance, a total of 367 suicides occurred under this category, of which 267 suicides are by women; also, in the same year, 6429 suicides by women are listed under unknown causes which may also include rape cases that went unreported.<sup>5</sup> The already-high official statistics, together with the probability of significant and widespread under-reporting in sensitive cases such as these, thus makes the study of rape victims' suicide critical.

Despite the criticality of this issue, however, contemporary scholarship on women's suicide in India is quite limited. While some work does engage the political and

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<sup>3</sup> National Crime Records Bureau, accessed Jan 3, 2010, <http://ncrb.nic.in>.

<sup>4</sup> Girdhar, Dogra and Leenaars, "Suicide in India."

<sup>5</sup> "Accidental Deaths and Suicides in India 2008," accessed December 12, 2010, <http://ncrb.nic.in>.

socio-cultural aspect of women's suicide in general,<sup>6</sup> the bulk of contemporary work on this subject is within a clinical-psychological and mental health framework. As a result, raped women's suicide and its relationship to rights and the state remains an un-theorized area of enquiry. Instead, women's right against rape in/and the Indian state has been theorized predominantly within a feminist legal paradigm.<sup>7</sup>

The legal paradigm is, of course, of seminal importance; the substantial body of feminist legal research on rape has contributed significantly towards strengthening anti-rape laws in India along with making the rape trial more sensitive. At the same time, this liberal-formalistic focus on justice, that defines rights narrowly in terms of due process of law, often overlooks other unconventional forms of women's agency that engage the state by drawing creatively from the vast resources of cultural imagination. Raped women's suicide is one such unconventional form of agency that, as in the case of Sarita's suicide, exposes the limitations of a purely legal framework. In any case, feminists have often been forced to acknowledge that:

'legislation cannot be the instrument for democratically resolving political conflicts. This understanding has led them to critically assess the role of the judiciary as the sole arbitrator in politics involving justice. Feminists working within the terrain of law are now engaged in an intense battle questioning law as the principle, if not the only site for feminist interventions relating to gender justice.<sup>8</sup> [...] This accounts for the shift in

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<sup>6</sup> Emile Durkheim, *Suicide*, trans. Robin Buss (London: Penguin, 2006). Original work published 1897; U. Thakur; Ritu Menon and Kamla Bhasin, *Borders & Boundaries: Women in India's Partition* (New Delhi: Kali for Women, 1998); Urvashi Butalia, "Community, State and Gender: Some Reflections on the Partition of India," in *Women and the Politics of Violence*, ed. Taisha Abraham (Delhi: Haranand, 2002); Gayatri Chakravorty Spivak, "A Literary Representation of the Subaltern: A Woman's Text from the Third World," in *In Other Worlds: Essays in Cultural Politics* (New York: Routledge, 1988), 241-69; Madhu Kishwar and Rina Tripathi, "Trial By Fire" in *In Search of Sita: Revisiting Mythology*, ed. Malashri Lal and Namita Gokhale (New Delhi: Penguin, 2009), 101-11; and Lakshmi Vijayakumar, "Altruistic Suicide in India," *Archives of Suicide Research* 8 (2004), 73-80.

<sup>7</sup> Here I am referring to the substantial body of work by feminist legal scholars such as Flavia Agnes, Kirti Singh, Ratna Kapur, Pratibha Baxi, Nivedita Menon and others.

<sup>8</sup> Taisha Abraham, ed., *Women and the Politics of Violence* (New Delhi: Shakti, 2002), 27.

emphasis by feminists from the legal to the cultural realm – which allows for a critique of the “subject of law” – for pursuing gender justice.’<sup>9</sup>

It would perhaps be hard to find a more compelling critique of the ‘subject of law’ than presented by Sarita, who, upon being denied legal justice on the basis of the forensic evidence that is deemed necessary by law in order to determine ‘truth,’ goes on to use suicide in order to posthumously claim her right against rape from the state.

The agency of this woman, rendered all the more provocative because of its profoundly *public* nature, raises all kinds of questions. Was this a lone case, explainable purely on the basis of individual psychology and trauma, or were there several other rape victims who were using their ‘violated’ body as a deadly weapon against the state? In that case, are these women heroic ‘revolutionaries’ who are using their bodies, their lifeblood, to write a new revolutionary language of protest that is as yet un-inscribed by the rigidities and formalisms of law? And if so, does this not suggest a link with the political uses to which suicide – despite its criminalization in law - has often been put in South Asia?

\*

Yet it cannot be as simple as viewing raped women’s suicide solely in terms of political protest. Suicide, and the sense of sacrifice it entails, has always been deeply gendered - except that, in the case of suicide, we are referring not just to the sacrifices that women have historically been called upon to make for their families and

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<sup>9</sup> Ibid, 31.

communities, but the ultimate sacrifice of the body and of life itself. Here we need only recall India's unfortunate history of *sati*, as well as of women voluntarily giving up their lives to save themselves from the 'dishonor' of rape during periods of political violence such as the partition. Countless feminist theorists have critiqued the deeply patriarchal discourse of female chastity, honor and male ownership over female sexuality that permeates culture. Can raped women's suicide be seen as entirely separate from this discourse?

In speaking of this discourse of female chastity and honor, one cannot but mention one word, a word one has heard very often while growing up in India: *samskara*. A Sanskrit word dating back to the *Dharmashastras* (Hindu codes of law), and perhaps even earlier than that, *samskaras* refer to normative and prescriptive socio-ritual ideals and attributes ascribed to men and women, and lay great emphasis on female chastity. Of course, the notion of *samskaras* harks back to centuries ago; tremendous social, political, economic and cultural changes have swept the nation since, and individual men and women now exercise vastly different life choices, especially in urban and cosmopolitan areas. Yet, going not just by contemporary right-wing political rhetoric but also by popular culture, it is apparent that the notion of *samskaras* is hardly extinct, especially among upper-caste Hindus.<sup>10</sup> Instead, collective understandings of *samskaras* exist side by side with other, more modern understandings of sexuality and gendered behavior, and surface in likely and unlikely ways in the quotidian everyday as well as during moments of political and cultural anxiety.

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<sup>10</sup> As an example, the word *samskara* repeatedly figured in the dialogues of many popular soaps running on Indian television during the time of collecting material for, and writing, this dissertation.

On the other hand, notions of *adhikaras* or rights are gaining significant ground in the nation-state.<sup>11</sup> A fluid concept that has always existed within culture, *adhikaras* have assumed different connotations based on historical period and political context. So, for instance, the *adhikara* of a subject under caste-centric Hindu Shastric law varied from the *adhikara* of a citizen-subject in the ancient Indian states or *mahajanapadas*, which in turn varied from the *adhikaras* as constituted under Anglo-Saxon law during the period of British colonization, and then again under Indian constitutional law.

Under Indian constitutional law, gender equality is a *mool adhikara*, a fundamental right. Art 14 of the Constitution states that “The State shall not deny to any person equality before the law or equal protection of law,” while Art 15 states that “The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.” These articles, when read alongside Article 21 (“No person shall be deprived of the right to life or personal liberty except according to procedure established by law”), grant to women the right to bodily integrity, which subsumes under it the right against rape. Rape is a punishable offense under the Indian Penal Code (IPC), a comprehensive code covering all substantive aspects of criminal law in India. Section 375 of the IPC states that

‘A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:—

First.— Against her will.

Secondly.— Without her consent.

Thirdly.— With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

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<sup>11</sup> This formulation does not mean to set up culture and rights in binary, antagonistic terms but merely to acknowledge the tensions that also accompany the complex, yet potentially collaborative, relationship between the two.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.— With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly— With or without her consent, when she is under sixteen years of age.’

The IPC was enacted in 1860 and came into force in colonial India in 1862.

Widely criticized for its colonial and dated understandings, there have been several amendments in the IPC following independence. This is also true for rape laws, where a series of amendments have tried to widen the scope of Section 375, make it more sensitive towards the victim and affording her greater *adhikaras*.

This evolution of the concept of *adhikara* might well constitute a separate and very substantial research project in its own right. However, what is pertinent for the specific purpose of this dissertation is that this evolutionary process has always been marked by continuities, ambivalence, contradictions and rupture. For instance, the understanding of rights as contained in the Constitution and formal laws of the land is only one aspect of the story; within contemporary India, the lived understandings of *adhikaras* differ significantly as one moves from rural, semi-literate and caste-inscribed communities towards a more educated and cosmopolitan populace defined by class mobility and legal knowledge. In the process, not just *samskaras* and *adhikaras*, but also the widely different understandings of *adhikaras* themselves, are pitted against each other within the nation-state.

A pertinent example is marital rape. This is the decade when marital rape was comprehensively included under the legal definition of rape,<sup>12</sup> thus challenging not only earlier conceptions of a wife's limited *adhikara* under law, but also challenging traditional notions of *samskaras* within a marriage (which does not allow for the possibility of rape within a marriage, a Hindu right reading of marriage similar to that of the Christian as well as Muslim right). At the same time – and while the state's move to include marital rape within the larger category of rape has an organic link with progressive understandings of a woman's bodily integrity as espoused by transnational human rights discourse - cases filed under this category has been quite low in the conservative bastions of India (just as across the world), a trend that indicates the continuing sway of *samskaras*.

This tussle between *samskaras* and *adhikaras* generally characterizes all cases of rape; while the Indian Penal Code criminalizes rape, the continuing sway of notions of chastity vastly complicates the issue of justice. Thus, since rape forcibly destroys the chastity of the victim, it is seen to bring upon the victim a 'dishonor' which, in cultural terms, is considered irreversible *regardless of the final outcome of the legal process*. Hence an attention only to individual psychology, or to the political uses to which suicide has been put in South Asia, or even to the growing trend in citizen-subjects forcefully demanding their rights from the state cannot, on their own, suffice; the irreversible cultural stigma associated with rape must also be taken into account when trying to formulate an adequate explanation of the link between rape and suicide.

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<sup>12</sup> The Protection of Women from Domestic Violence Act, 2005. Earlier, the IPC only recognized certain cases of marital violence (such as rape of a minor wife) as falling under the ambit of rape.

Of course, this raises all sorts of additional questions. For instance, who are these rape victims who commit suicide? What are some of the possible explanations for their acts? What can be surmised about the women's intent? Can they be said to comprise a homogenous category, or at least to share certain social, psychological or geographical characteristics? For instance, are they equally distributed across the geographical regions of India (and indeed, across South Asia, even though that is beyond the scope of this dissertation) or are they clustered in certain parts of the country? What are their caste and class affiliations? More importantly, what responses do these suicides by differently positioned rape victims elicit from the nation-state, and what are the conditions under which these responses might vary? Even more importantly, can suicide as an embodied act carried out by rights-bearing female citizen-subjects help conceptualize the body, agency, subjectivity, rights and the state in different ways, outside of liberal-legal frameworks?

This dissertation attempts to answer these questions. Primarily an exploratory study, it offers the first detailed investigation of the relationship between suicide, the state and women's right against rape in contemporary India. More specifically, I am interested in examining the politico-historical and socio-cultural context within which raped female citizen-subjects resort to committing suicide in contemporary India, and the state's response(s) to such acts in light of women's legal and constitutional right against rape.

### **Some Notes on Methodology**



An obvious challenge faced by a study on rape victims' suicide is that the research subjects are dead. Hence the dissertation does not entail any work with human subjects nor engages in fieldwork, instead focusing entirely on *textual material*. However, the material that is available can be inadequate; the sensitive nature of rape often results in missing primary texts (suicide notes, for instance) as well as potential gaps in official statistics due to issues of privacy, secrecy and under-reporting.

Further, these challenges cannot be explained away either on the basis of my chosen methodology or even on the basis of the nation-wide scale of this project, for the same challenges would have remained even if one chose to interview all the members of a single block, village or community; given the sensitivity of the issues and the cultural stigma associated with them, it is simply impossible to get accurate data on rape victims' suicide. For these reasons, I would argue that the importance of data notwithstanding, quantitative methods of analysis are ultimately unsuitable for this project, a point I shall return to in later chapters.

There are also additional challenges pertaining to caste, class, location and other factors. For instance, notions of privacy and secrecy have traditionally been stronger among the upper castes, which may result in a greater degree of under-reporting. For Dalits, on the other hand, there may be additional challenges in reporting rape, such as, for instance, the many cases highlighted in this dissertation where the politico-economic power of the perpetrators led to a refusal on the part of the administration to lodge an official complaint. At the same time, upper caste notions of stigma are considerably

weakened in the context of class mobility and cosmopolitanism, while the politicization of Dalits and other lower castes has made the issue of caste power and privilege trickier in contemporary India, leading to a more complex set of dynamics than can be captured by simple formulations.

Another methodological challenge concerns the possibility of false allegations. In drawing from the available news reports on rape victims' suicide, the dissertation assumes the veracity of their truth. However, there may be a theoretical possibility that some of these reports are based on a false accusation of rape. In the event that the woman was lying, can justice ultimately depend on mere accusation or even on public sentiment? In a study of rape victims' suicide, this is an important question, and one that is closely related to the issues of secrecy, sensitivity and social inequality already discussed.

So, for instance, it must be reiterated that the cultural context which this dissertation investigates is one where rape victims are strongly stigmatized, thus negatively affecting the 'marriageability' of unmarried girls as well as the honor, more generally, of the family, so that rape victims are loath to register a formal complaint. In a cultural situation where female bodies continue to be permanently marked by the impress of sexual assault, a woman forwarding a false complaint must know that her 'shame' is life-long and definite, while the possibility of the man she has accused being punished extremely unlikely. Hence, keeping in mind the high cultural cost of rape, the extreme difficulty of securing a final conviction, and, in the specific context of this dissertation

the severity of the women's actions (i.e. suicide), I would argue that the possibility of false accusations is highly unlikely.

At this point I must emphasize that several of the cases that will be discussed in this dissertation *will* provide adequate proof of the truth of the rape allegation; I refer not just to cases where forensic evidence and due process of law establish rape, but also, as we shall see, to cases where the rape is brutally recorded in the form of MMS clips etc. And to the extent that the absence of formal evidence in a few of the other cases might continue to be methodologically worrisome, it need only be recalled that many publicized cases of rape victims in India - cases which international human rights organizations widely acknowledge and criticize as a travesty of justice - are cases where there is, strictly speaking, no recorded 'evidence.' An example that I mention in the dissertation is of Bhanwari Devi; the woman was poor, rural, and low caste while her rapists were upper caste and politically powerful. As a result, she was initially prevented from registering an FIR; instead, she was shunted from police station to hospital to police station, from her village to one city to another. Though social workers were finally able to get her complaint registered, the deposited evidence (her semen-stained *lehenga*, for instance) either went missing or were tampered with. The testimony of her husband, who had been brutally beaten by some of the men and forced to watch his wife's humiliation, was dismissed by the judge, in whose opinion an Indian man could never watch his wife being raped. The lower court judges ultimately acquitted the rapists not only on the basis of 'absence' of evidence, but on the basis of the upper caste judge's opinion that older, 'respectable' men do not rape, and that upper caste men would never rape a lower caste

woman because her touch would be considered defiling - an understanding that is completely at odds with the history of caste violence in India.

This links up with another point - that the non-recording and/or tampering of evidence has been quite common in India in situations characterized by extreme power differentials between the rape victim and rapists; this is a fact substantiated by a huge number of studies such as the Human Rights Watch study I reference in the dissertation, and which talks about the rape of Dalit women in situations of escalated caste violence. In many of these cases, as we shall see, the families either did not, or were not allowed to, register official reports, and it was only through extensive collaborative work with ground-level NGO's, and by taking elaborate measures to safeguard the respondents from retaliation, that Human Rights Watch was able to uncover these narratives of sexual violence. It goes without saying that such power differentials are hugely escalated when the alleged rapists are agents of the state; here I am referring, for instance, to those cases discussed in the dissertation where the rapists are policemen.

In speaking specifically of such a case i.e. the public suicide of the young woman named Sarita that the dissertation will analyze in some length, it may be useful to clarify a few points at the very outset. One, it must be clarified that while some necessary forensic evidence was certainly lacking, there was, as the chapter notes, very strong circumstantial evidence of rape. In any case, this would not have been the first time when a poor, uneducated woman was unaware of the intricacies of legal procedure.

Two, the media frequently highlights points of contention in cases where the veracity of the accusation seems doubtful; with specific reference to rape, the dissertation

does mention one such case. Hence any strong doubts about Sarita's rape would have been highlighted not just by the media but also by the state government, especially - as I will demonstrate - because the latter was pulled up harshly by both the judiciary as well as the central government for its laxity. This also applies to the (remote, I would argue) possibility of mental instability – if this woman, and others like her, suffered from mental instability, surely this fact would come up in the course of investigations. At the same time, this dissertation will repeatedly emphasize the porous boundaries between the psychological and the social, for rape can cause extreme psychological trauma, especially in situations where justice is delayed.

That there was a clear travesty of justice in the Sarita case will be adequately established since, even after the filing of the FIR report, the policemen not just continued in duty but kept threatening her to withdraw the case. (Even if the allegation were false, due process of law should have protected the victim from retaliation until the investigations were concluded.) I should also emphasize that the case is still under hearing in the High Court; at the time of writing this dissertation, the final verdict was not yet out and the absence of forensic evidence does make it difficult to secure a final conviction. The important thing I have tried to highlight, however, is the manner in which the judicial system tried its best to 'listen to' Sarita's voice even after her death.

Of course, none of the above explanations can be said to totally eliminate the possibility of untrue allegations. In situations where the alleged rape victims are dead and not even available for further questioning, the truth can certainly, at least in theory, lie outside the (mis)representations of social agents - family and friends, the news reporters,

as well as agents of state. But this brings me to my final question: can misrepresentations not occur and the absolute infallibility of truth be assumed even in cases where ‘evidence’ is considered entirely sufficient from an objective point of view?

Much more commonly in cases of rape, some evidence may simply be unavailable (as in some of the cases highlighted in this dissertation, of women who have committed suicide without approaching the law) or else read through the lens of power differentials and dominant framings, such as in the case of the upper caste judge in the Bhanwari Devi case who noted that upper caste men could not possibly rape a lower caste woman. Under the circumstances, does the state not owe even a hearing for its citizen-subjects who allege a travesty of justice? This dissertation believes it does, all the more so in a politico-cultural context where evidence from a wide range of quarters, and not just the facts and figures of the National Crime Records Bureau, show a high correlation between rape and suicide.

In the last instance, I therefore assert that the interesting points of contention that may arise in a few of the cases regarding the truth of the rape allegations are fundamentally irrelevant to the academic project in hand, since this dissertation is ultimately an analysis of the *phenomenon* of rape victims’ suicide. If this dissertation can provide a layered understanding of this correlation between rape and suicide, motivating society and the state to make necessary changes – which does not need to lie in sentencing alleged rapists without sufficient evidence, but simply in acknowledging what needs to be done to make the overall cultural and legal climate more sensitive for rape victims – its purpose will have been served.

In any case, what these methodological challenges do prove is that *raw 'data' on rape victims' suicide cannot, on its own, suffice* and requires complex contextualization in order to distill some broader trends that can then be used as the basis for praxis. To this end, I draw upon primary and secondary textual material in order to piece together an interdisciplinary political, historical and cultural context, within which I then situate the available primary material on rape victims' suicide in contemporary India. In other words, I have attempted to go beyond mere textual analysis – a phrase one would arguably use for a more formalistic method aimed at uncovering relations internal to the texts themselves. Instead, I have tried to 'read' the texts in the manner of a cultural theorist, staying attentive to the constant interplay between text and context, and between history, politics and culture, in the hope that this will yield a fuller picture.

### *The Interdisciplinary Context*

In speaking of the interdisciplinary context, then, it is impossible to adequately analyze raped women's suicide in contemporary India without taking into account the traditional understandings of female chastity in dominant religious texts. Equally important is the colonial and postcolonial history of the nation, the emblematic position accorded to female chastity within these politico-historical narratives, and the manner in which these narratives of chastity intersect with those on suicide. Attention must also be paid to how dominant understandings of chastity intersected with legal texts, particularly

under colonialism, as well as to how this emblem continues to undergird the postcolonial Indian state's framing of rape. The legal framing of suicide, as contained in pertinent sections of the Indian Penal Code as well as contemporary legal debates on the decriminalization of suicide, is very important for this project. And since suicide is increasingly being framed as a mental health issue in modern India, a feminist engagement with perspectives from clinical psychology also cannot be avoided. Modern cultural material such as film helps shed further light on cultural understanding of rape victims' suicide. And finally, secondary feminist literature on culture, rights, agency, female embodiment and the state is invaluable for the research question at hand.

In other words, this is an interdisciplinary project that draws from a range of disciplines *including* – and indeed, the interdisciplinary spaces *between* – history, political theory, cultural theory, sociology and social anthropology, feminist legal studies, psychology, and Indian Studies. These interdisciplinary interfaces are, as I have contended, not just useful but indispensable for this dissertation.

### *The Primary Texts*

This brings us to a discussion of the primary texts used in this dissertation. The *first* set of primary materials, or the starting point for the study, comprised reports of the National Crime Records Bureau (NCRB), India's apex government body responsible for collecting annual macro-level data on a range of 'crimes' in India, including suicide. Through content analysis of the available NCRB data for the past six years (2007-2012),



the study tries to understand the correlation between rape and suicide. While my focus was on the approximate numbers of suicides committed by rape victims, the study is also attentive to potential gaps in official statistics.

In order to carry the study forward from the general to the particular, the *second* set of primary textual materials consists of newspaper reports on individual rape victims' suicide for the same six year time period, obtained through archival research. This set of textual materials is, in many ways, the most important for this study. I collected reports on rape victims' suicide from the *Hindustan Times* and *The Times of India*, India's highest-circulating English-language national dailies. This archive was supplemented through internet searches, where I used a combination of keywords (rape, suicide, India) in order to obtain relevant news-reports from the online versions of a wider range of newspapers and magazines. The archive thus created is quite comprehensive; the aim, in any case, was not to build an exhaustive archive of *all* relevant news reports on raped women's suicide but to demonstrate a fairly comprehensive sample of trends.

One such trend revealed by my research is that most of the heavily publicized cases of raped women's suicide are from *north* India. This is not to say that rape victims do not commit suicide in south India – indeed they do, as examples in this dissertation will amply illustrate – but that the cases that have received national attention and mobilized the state machinery in unprecedented ways have mostly been from the north. The dissertation will offer explanations for this regional clustering; at this point, it suffices to mention that my analysis therefore focuses on these reports.

My analysis of the news-reports, obtained either in print or on the web, focuses on *three themes* – the stated or apparent intent of suicide, the positionality of the individual women (class, caste, region etc.), and the response(s) of the state. At the same time, I must again emphasize the gaps in data – for instance, suicide notes are not always available, several news reports do not mention the caste of the rape victims or perpetrators, and so forth – and the ensuing complexity of the available primary material, which therefore cannot be analyzed through statistical methods such as coding,<sup>13</sup> and must instead be “read” in the context of the cultural history of the nation.

Also included in my archive are a few select news reports from earlier years which frame key debates in India on the issue of rape and/or suicide. These reports were obtained from the archives of the Centre for Women’s Development Studies, the primary autonomous gender research institute in New Delhi supported by the Indian Council of Social Sciences Research (ICSSR), and Jagori, one of the best-known grassroots NGO’s in New Delhi working on rape in India.

While the project’s time-frame aims to elicit contemporary material on raped women’s suicide, and while the individual cases are therefore all drawn from this time-period, the issue needed to be placed within a broader cultural and politico-legal context as already noted. A *third* and *fourth* set of texts – religious materials, and popular films respectively – help further establish the broader cultural context. Religious materials include the *Manusmriti*, the *Lakshmi Panchali*, and online extracts from a contemporary

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<sup>13</sup> Coding is a method of statistical analysis where large amounts of data are classified into clusters or segments; these segments are labeled with codes which are then mathematically analyzed.

Hindu right-wing website. While the *Manusmriti* and the contemporary Hindu website both offer important insights into the religious framing of the female body, the *Lakshmi Panchali* offers a glimpse into the religious framing of suicide. Likewise, popular films – I have restricted myself to Bollywood or the Hindi film industry - add yet another layer to our analysis of raped women’s suicide. More specifically, a visual analysis of popular films not just offers an in-depth cultural understanding of the relationship between rape and suicide, but has also allowed me to trace how the representation of raped women’s suicide may have changed over time. References to these materials have been kept to a minimum, since they only add texture to, rather than constitute, the central thesis of the dissertation.

Finally, texts pertaining to the broader politico-legal context comprises a *fifth* set of textual materials. This set of materials comprises articles pertaining to rape and suicide from the Indian Penal Code; relevant Supreme Court judgments on rape and suicide; and reports of the National Commission of Women (NCW) on rape and suicide. The Indian Penal Code was retrieved from The Government of India online archives, and the NCW material has been obtained from the NCW library in New Delhi.

### *The Time Frame*

As mentioned, the time-frame of the study is 2007-2012. Not only does this six-year time frame allow for a sufficiently focused analysis of rape victims' suicide in contemporary India, but is also pertinent to the dissertation for additional reasons.

Firstly, there has been a twenty-five percent increase in rape rates in this six year period, resulting in increased media and public attention on rape; this also includes an increased attention on suicide in the context of rape.<sup>14</sup> As a very recent article in *The New York Times* points out, the alarming increase in rape rates in this six-year period reflects, to some extent, a rise in reporting by victims; at the same time, 'India's changing gender dynamic is also a significant factor, as more females are attending school, entering the work force or choosing their own spouses – trends that some men regard as a threat.'<sup>15</sup> In this respect, increasing gender violence in India is, like in many other countries around the world, a backlash against social and political gains made by women.

Secondly, it was in this period that the Supreme Court instructed Parliament to re-examine and delete Section 309 (criminalization of suicide) from the Indian Penal Code, pronouncing the law as outdated and anachronistic since 'a person commits suicide out of depression and needs help rather than punishment.'<sup>16</sup>

Thirdly, while the Supreme Court's judgment is clearly undergirded by a clinical-psychological perspective, discussions on suicide as a *political* tool, especially with reference to its Gandhian antecedents, have, in general, assumed pivotal importance in

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<sup>14</sup> Jim Yardley, 'A Village Rape Shatters a Family, and India's Traditional Silence,' *The New York Times*, 28 October, 2012

<http://www.ndtv.com/article/india/a-village-rape-shatters-a-family-and-india-s-traditional-silence-285210>

<sup>15</sup> Ibid.

<sup>16</sup>[http://articles.timesofindia.indiatimes.com/2011-03-08/india/28667810\\_1\\_euthanasia-sc-judge-suicide](http://articles.timesofindia.indiatimes.com/2011-03-08/india/28667810_1_euthanasia-sc-judge-suicide).

India during this time due to some very high-profile cases.<sup>17</sup> This is true with reference both to suicide in general, as well as to rape victims' suicide.

Focusing on this very pertinent six-year time frame, I will demonstrate how the Indian national imaginary's androcentric framing of female bodies in terms of *samskaras* or gendered socio-ritual attributes, and the complex inter-linkages between this narrative and the modern democratic Indian state's narrative of *adhikaras* or rights, when read alongside the historical deployment of suicide as a political tool to claim justice in India, makes the relationship between rape, suicide and the state a fascinating and timely topic of inquiry.

## **Chapter Outlines**

The first chapter 'State, Nation, Nation-State' begins with defining the key terms that constitute the building blocks of this dissertation. While an elaborate engagement with these terms and concepts is beyond the current scope of this project, I shall delineate a few of their most pertinent features as they might apply to this project. Through a brief discussion on the gendered nature of states, and its repercussions for female citizen-subjects and their rights, this chapter also sets the stage for this project's subsequent treatment of gender as an analytical category.

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<sup>17</sup> An example is the recent and hugely-publicized case of eminent social activist Anna Hazare, who continued the Gandhian political strategy of public fasting unto death – thus effectively threatening the Government of India with suicide - in order to rid the country of corruption by pressurizing Government to enact the Jana Lokpal Bill.

The second chapter ‘Framing the Female Body: Chastity, Rape and the State’ demonstrates how hegemonic narratives in religion, history, and colonial and postcolonial politics intertwine to create the emblematic figure of the ‘chaste woman’ within the Indian national imaginary. While conceding that this ‘national’ figure closely approximates an upper caste and/or middle class ideal, which in turn creates different challenges and opportunities for differently-situated women, I argue that dominant understandings of female embodiment do not always restrict themselves to these discrete sub-sections. Finally, I draw from feminist juridical perspectives in order to examine the relationship between chastity and rape with/in the nation-state.

The third chapter ‘Rape and Suicide: Social, Psychological, Legal, Political and Moral Perspectives’ examines the relationship between rape, suicide and the state from a variety of perspectives. It explores the socio-cultural connection between rape and suicide; draws from clinical-psychological work on suicide; analyzes law’s criminalization of suicide as coded in Article 309 of the Indian Penal Code and Supreme Court rulings; analyzes the political history of suicide-as-protest in India and explores some cultural underpinnings of this political strategy.

The fourth chapter ‘Victims or Agents: Women’s Suicide in India’ explores the question of raped women’s suicide from the perspective of agency versus victimhood. I begin with examining the two epistemologies within which female suicide in India has thus far been framed. Drawing from contemporary understandings of agency, and

continuing to analyze news-reports of rape victims' suicide, I argue that these suicides tremendously complicate the victim-agent binary.

The fifth chapter 'Sarita's Suicide: Rape, Public Death and the Gendered State' is a case study of rape victim Sarita, who staged a spectacular and controversial public death in the police headquarters in April 2008 in India. The primary materials for this chapter consist entirely of news-reports pertaining to Sarita's suicide and the responses it elicited from the nation-state. Reading this material through the lens of feminist legal, political and cultural theory, I examine how Sarita's suicide and the responses it elicits from the state complicate liberal understandings of rights and justice.

The sixth chapter 'Theory to Praxis, Local to Global' explores the connections between different forms of agency exercised by raped women, in literature and in law, in fact and in fiction. Admitting to the practical challenges surrounding rape victims' suicides in India given the fraught relationship between women and the nation-state, the chapter forwards a range of suggestions for feminist praxis. I conclude with briefly examining the issue of rape victims' suicide from an international human rights perspective, and argue for the need for transnational feminist alliances.

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## CHAPTER ONE

### **The State, the Nation, the Nation-State**

One of the key challenges implicit in the research question and design of this project is that, in examining the relationship between rape, suicide, and the state, it attempts to theorize on the level of India. While theorization on the macro-level of a nation, a state or indeed of the world or of an entire civilizational epoch is not uncommon, it does necessitate some epistemological and methodological clarifications, especially since many difficult but necessary generalizations must be made. Hence, it is useful to begin with defining, howsoever provisionally, the three key terms that constitute the building blocks of this dissertation, given that these terms tend to circulate in multiple and often mutually contradictory forms in different territorial, socio-cultural and intellectual spaces, speaking in different voices to the historical and political anxieties particular to each.



Secondly, some justification must be provided for this project's treatment of gender as an analytical category. While such treatment is often taken for granted within Women's and Gender Studies, this assumption cannot always be made for different disciplines or for diverse audiences. With specific reference to this study, a brief discussion on the gendered nature of states, and its repercussions for female citizen-subjects and their rights, will thus help set the stage for the feminist analysis that follows.

### **Key Terms: The State, the Nation, the Nation-State**

Of the three, defining the state is perhaps the easiest. A state is, in the first instance, a politico-legal concept, with the classic definition of a state including such impersonal political characteristics as sovereignty, territoriality, government, constitutionality and laws of governance, and in a Weberian sense, legal-rational authority and the legitimate use of violence.

There may of course be some amount of intellectual quibbling as to whether, and to what degree, these characteristics hold for any state – in these times dictated by the demands of transnational capital, for instance, it is a valid question to ask if states are indeed sovereign, or if constitutionality is often followed in the breach, or indeed if the political authority of states legitimately holds for those inhabiting its centers and its peripheries alike. Despite these questions of far-reaching intent, it is nevertheless entirely

possible to ascertain statehood through an appeal to formalistic criterion which ultimately allows a state to speak 'for' its people.

For instance, India - the focus of this project - is a state and inarguably so, because of its sovereignty, territorial authority, and its recognition as such by the wider international comity of states. With specific reference to this dissertation, the politico-legal status of India as a state also allows us to see how the clauses pertaining to rape and suicide in the Constitution, the Indian Penal Code, and the corpus of judicial precedent systematize at a macro level what otherwise might be very disparate understandings at communitarian and individual levels.

The nation is a stickier concept. According to dominant theories of nationalism, a nation draws from timeless, ahistorical notions of common blood, race, origin, soil, a common language, and, following from these, a common feeling of family and kinship. From this understanding of the nation also follows nationalism in its most virulent form, an understanding that was at work in Nazi Germany, in South African apartheid and in Serb nationalism. Here one need only reiterate the all-too-familiar rhetoric of the Third Reich, constructed as it was around notions of the superiority of Aryan blood, of the unadulterated German race, and of a consolidation of its 'blood brothers' through a brutal extermination of its 'others.'

But such simplistic readings of the nation have, in nation studies, long given way to more discursive and affective understandings of the nation as Anderson's imagined

community,<sup>18</sup> as Bhabha's narrative form,<sup>19</sup> and as Spivak 's cultural and epistemological product,<sup>20</sup> which nevertheless also has, as Appadurai notes, profoundly real effects.<sup>21</sup> Thus the 'we-nation' does not 'exist' a priori, in some 'authentic,' 'original' form, but is continuously brought into being through key moments of nation-building premised upon narratives of collectivity and the homeland with its 'common enemy' and a common destiny of 'our' people.

What is important to note is that most nationalisms have state formation and consolidation as a main aim,<sup>22</sup> and citizenship in the state is one of the means by which nationalist projects constitute diverse collectivities into a single nation.<sup>23</sup> As one author points out, it is also widely accepted that, while citizenship is in theory an association of equal citizens with equal rights,

'legal citizenship and paper rights mark a person's admission to the state, but not necessarily to its resources, nor to the national community. Naturalized immigrants or their locally born children may still be seen as migrants and foreigners, and denied their entitlements through discriminatory or shoddy treatment. Racialized minorities, even after generations, may experience similar treatment. Particular groups are suddenly 'denationalised' by political events [...] The politics of citizenship is a politics of exclusion, where belonging for some is marked apart from and depends on others' not belonging [...] Many groups are effectively inside the state but outside the

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<sup>18</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (New York: Verso, 1983).

<sup>19</sup> Homi Bhabha, *Nation and Narration* (London: Routledge, 1990).

<sup>20</sup> See for instance Gayatri Spivak, *Nationalism and the Imagination* (Kolkata: Seagull, 2010).

<sup>21</sup> Arjun Appadurai, *Modernity at Large: Cultural Dimensions of Globalization* (Minneapolis: University of Minnesota Press, 1996).

<sup>22</sup> Susie Jacobs, "Globalisation, States and Women's Agency: Possibilities and Pitfalls," in *States of Conflict*, ed. Susie Jacobs, Ruth Jacobson and Jennifer Marchbank (London: Zed Books, 2000), 224.

<sup>23</sup> Deniz Kandiyoti, "Identity and its Discontents: Women and the Nation," in *Colonial Discourse and Post-colonial Theory: A Reader*, ed. Patrick Williams and Laura Chrisman (Essex: Pearson Education Limited, 1993), 383.

nation. These contradictions and ambiguities are summed up in the notion of ‘second-class citizenship.’ [...] The state itself is engaged in the definition of ‘the community.’ This fiction allows the state to construct the ‘national interest’ regardless of dissent, and of exclusions from the national community and from state power.’<sup>24</sup>

In other words, it is instructive to go beyond classical distinctions between the nation and the state, instead engaging in critical analyses that point to the enduring discursive linkages between the two. On the lines of Corrigan and Sayer’s brilliant foucauldian analysis of the state as a totalizing project that unifies the people as a *national* community, we must acknowledge how state formation is a cultural as much as a political process.<sup>25</sup> This enables us to understand how the nation, often disguised, nevertheless emerges in the course of key contemporary political events in/of the state, in times of both war and peace, in the ‘maimed bodies and barbed wires in Eastern Europe, xenophobic violence in France, flag waving in the political rituals of the election in the United States,’<sup>26</sup> in the ‘democratic American people’ who unite against the ‘fundamentalist Muslim’ after 9/11 (the creation of a Department of Homeland Security being just one of the real, statist effects of a nationalist imaginary), or in the India – of the cities *and* of its villages - that sportingly waves the tri-color during an India-Pakistan cricket match, or waves the same flags with greater fury after the terrorist attack of 26/11, and closes in its political borders against Muslim ‘outsiders.’

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<sup>24</sup> Jan Jindy Pettman, *Worlding Women: A Feminist International Politics* (New York: Routledge, 1996), 16-17.

<sup>25</sup> Philip Corrigan and Derek Sayer, *The Great Arch: English State Formation as Cultural Revolution* (Oxford: Blackwell, 1985).

<sup>26</sup> Appadurai, *Modernity at Large*, 159-60.

Thus, though it has been argued that the state derives from rationality, impersonality, and objective bureaucratic procedure, and the nation from ideas of personal relations of love and belonging, the home, family and collective life such that the state and the nation appear in a dichotomous relationship of the rational versus the emotional, impersonal versus personal, individual versus collective, universal versus differentiated,<sup>27</sup> these distinctions between state and the nation certainly appear clearer in theory. In practice, what emerges is a complex and continuous nexus between the nation and the state. In this nexus, the state, which is supposed to stand above the fray of conflicts and passions as a neutral agent of order, is instead revealed to be deeply involved in the shaping of affective ties and alliances, and in promoting dominant culture; in defining the standards of civilized life on which practices of inclusion and exclusion are based and identity, respectability and belonging constructed, the state presents itself in affective and moral terms.<sup>28</sup> This presentation of the state is, in fact, an important theme for the dissertation, and one that I shall revisit later.

This brings us to the third and most complex concept, that of the nation-state. But isn't the era of nation-states over? For even if we take into account the discursive linkages between the nation and the state as discussed earlier, the nation-state still does not follow automatically. After all, the boundaries of nations and states do not necessarily

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<sup>27</sup> For a detailed discussion, see Rubina Saigol, "His Rights/Her Duties: Citizen and Mother in the Civics Discourse," *Indian Journal of Gender Studies* 10:3 (2003): 379-404.

<sup>28</sup> For a discussion, see for instance Fernando Coronil and Julie Skurski, eds., *States of Violence* (Ann Arbor: University of Michigan Press, 2006).

coincide.<sup>29</sup> So we certainly need to engage in a closer examination of the discourses that are contained within the hyphen that links nation to state,<sup>30</sup> and to acknowledge the unruliness implicit in this union, as does Appadurai who says:

‘The nationalist genie is never contained in the bottle of the territorial state, now itself diasporic. Carried in the repertoires of increasingly mobile populations of refugees, tourists, guest workers, transnational intellectuals, scientists, and illegal aliens, it is increasingly unrestrained by ideas of spatial boundary and territorial sovereignty. This revolution in the foundations of nationalism has crept up on us virtually unnoticed. Where soil and place were once the key to the linkage of territorial affiliation with state monopoly on the means of violence, key identities and identifications now only partially revolve around the realities and images of place.’<sup>31</sup>

Yet even while conceding that the legitimacy of nation-states has undoubtedly been weakened by a variety of complex and plural subnational, transnational and postnational forms and imaginaries, by global flows of capital and information and technology and bodies, I support Appadurai’s own conclusion that ‘none of these implies that the nation-state in its classical territorial form is as yet out of business.’<sup>32</sup> To use an example of the Indian diaspora residing outside the boundaries of the Indian state, we need only think of how ‘Indianness’ may nevertheless be constructed and preserved through the (often essentialist) national and/or cultural understandings that ideologically link these complex, dispersed and mobile diasporic forms with the ‘imagined’ community, and therefore the ‘real’ territorial state, that is India.

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<sup>29</sup> Nira Yuval-Davis, *Gender and Nation* (London: Sage Publications, 1997).

<sup>30</sup> Appadurai, *Modernity at Large*.

<sup>31</sup> Appadurai, *Modernity at Large*, 160-61.

<sup>32</sup> *Ibid.*

At the same time, the dissertation does attempt to regulate the hyphen's unruliness by restricting itself to the specific and delimited geopolitical territory of India over which the state exercises sovereignty and *within* which citizen-subjects are subjected to the disciplinary discourses of culture and the nation; as a consequence, the Indian diaspora resident outside the territorial state (and therefore falling outside the politico-legal jurisdiction of the Indian state) has been left out of this project.

I am aware that in making use of the 'nation-state' as a conceptual category in this dissertation, there are at least five other issues that may raise special concern, especially in the current political climate of the metropolitan academy. Below I briefly lay out the work of other theorists who have attempted to address these concerns.

*Firstly*, some political scientists see nationalism as a derivate discourse, and the nation as an essentially European category unsuited to Third-world countries.<sup>33</sup> But here we need only recall Edward Said's argument that the history of all cultures is the history of cultural borrowings.<sup>34</sup> According to Said, 'Cultures are not impermeable; just as Western science borrowed from Arabs, they had borrowed from India and Greece. Culture is never just a matter of ownership, of borrowing and lending with absolute debtors and creditors, but rather of appropriations, common experiences, and interdependencies of all kinds among different cultures.'<sup>35</sup>

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<sup>33</sup> See for instance Eric Hobsbawm, *Nations and Nationalism since 1780: Programme, Myth, Reality* (Cambridge: Cambridge University Press, 1993); and Gayatri Spivak, *A Critique of Postcolonial Reason; Towards a History of the Vanishing Present* (Cambridge; Harvard University Press, 1999).

<sup>34</sup> Edward Said, *Culture and Imperialism* (New York; Vintage, 1993), 217.

<sup>35</sup> Said, *Culture and Imperialism*.

*Secondly*, some postcolonial theorists see nationalism as an elitist failed project, condemned not only to promoting the interests of hegemonic groups but to repeating the epistemic violence of the colonial project it fashions itself after.<sup>36</sup> But this view has also been critiqued by such theorists as Ranajit Guha of the Subaltern Collectives, who point to the need to acknowledge the contribution made by people on their own, independently of the elite, to the making of nationalism.<sup>37</sup> Differences notwithstanding, Subaltern Studies theorists remain united in their emphasis on, for instance, the autonomy of the peasantry and ‘concerned with demonstrating how in their struggles, whether in the sphere of productive activity or in the more directly political sphere of mass upsurges or revolts, the politics of the subalterns constitutes an “autonomous domain.”’<sup>38</sup>

*Thirdly*, it may be argued that the nation as an imagined community and as a cultural product is applicable only to modern socio-political formations brought into being through print capitalism. This in any case was Benedict Anderson’s understanding of the nation, whose people are brought into collective being through the narrative forms of novels and newspapers and their synchronized daily reading.<sup>39</sup> Viewed through this lens, only educated (or at least literate) peoples can comprise ‘a nation.’ However, an undue emphasis on print narratives overlooks the power of other consolidating narratives. With specific reference to India – and while also keeping in mind the Indian state’s

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<sup>36</sup> Spivak, *A Critique of Postcolonial Reason*.

<sup>37</sup> Ranajit Guha, ed., *Writings on South Asian History and Society* (New Delhi: Oxford University Press, 1982).

<sup>38</sup> Javed Alam, “Peasantry, Politics, and Historiography: Critique of New Trend in Relation to Marxism,” in *Reading Subaltern Studies: Critical History, Contested Meaning and the Globalization of South Asia*, ed. David Ludden (London: Wimbledon, 2002), 44.

<sup>39</sup> Anderson, *Imagined Communities*.



internationally awarded literacy programs across the length and breadth of the country that have raised literacy to much higher levels than before - one must take into account the popular-cultural sway of television and cinema. Many cultural theorists have, for instance, pointed to the tremendous role played both by some popular mega-serials as well as by the popular films of Bollywood in the consolidation of Indian 'national identity.'<sup>40</sup>

*Fourth*, it may seem as though the use of the nation-state as a concept is ill-advised in the Indian context, given that people may identify more closely with their caste, class, region, linguistic community, religion and so forth. But this presumption of linguistic and cultural sameness is again a very Eurocentric (and dated) notion of the nation, a notion that has been challenged not just in postcolonial but in all contexts of religious, racial, ethnic and regional diversity, including in developed countries of the west such as the United States.<sup>41</sup> What is important to remember is that, along with a range of diversities, there are also always some unifying factors – the boundedness of a physical territory, for instance; shared (at least to some extent) historical memory; a unifying political machinery; positioning, in the world, as an economic entity; hegemonic cultural values and so forth. Moreover, as already discussed, it is during moments of political and economic crisis that diversities and differences are further subsumed within

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<sup>40</sup> See for instance Pavan Varma, *Being Indian* (New Delhi; Penguin, 2005).

<sup>41</sup> In the US, for instance, many members of the Catholic community may prescribe to ideas about sexuality and reproduction that differ considerably from hegemonic ideas of 'liberal America' as they are exported overseas; African-Americans (and all hyphenated Americans) may have a different relationship to the (racially-marked) nation; and New Yorkers despite their many differences may find more in common with each other than with those from the rural south. As Eisenstein states, 'U.S. stands for "united" states – unity with its distinct parts. Yet the unity reflects a war of conquest against Mexico and Native Americans; the black slave trade and the vicious practice of slavery; its own civil war. The nation utters different narratives for its different inhabitants.' (Eisenstein 38)

a larger discursive collectivity such that ‘we, the nation’ is reborn and re-vitalized. In fact, as Appadurai notes, patriotism thrives only at the level of the nation-state; below that level it is easily supplanted by more intimate loyalties, while above that level it gives way to empty slogans rarely backed by the will to sacrifice or kill.’<sup>42</sup>

And *finally*, one must remember postcolonial theory’s criticism of the Eurocentric tendency to club together all postcolonial states in Asia, Africa and Latin-America without paying heed to historical and political context. In this dissertation on India, it may thus be instructive to recall postcolonial theorist Rajeshwari Sunder Rajan’s assertion that in India, the idea of the nation has historically provided a powerful legitimization of the state institution.<sup>43</sup> One of the easiest explanations of Rajan’s assertion lies in India’s colonial experience and anti-colonial freedom struggle. Declared unfit for self-rule by the British, the freedom’s struggle’s goal became to unify the diverse political and linguistic communities of the country into a *nation* in order to challenge Empire; it was out of this political and ideological imperative that the Indian state was created, thus preserving discursive continuity with the nation.

The above discussion hopefully demonstrates that, even while using the nation-state as a conceptual category, a use stemming both from conscious political choice as well as the need for methodological clarity, this dissertation ultimately distances itself from an ahistorical deployment of this concept.

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<sup>42</sup> Appadurai, *Modernity at Large*, 160.

<sup>43</sup> Rajeshwari Sunder Rajan, *The Scandal of the State: Women, Law and Citizenship in Postcolonial India* (Delhi: Permanent Black, 2003).

This now brings us to gender and its relationship with the state, the nation and the nation-state.

### **Gender and the Nation-State**

‘The state is not always a neutral instrument but often forwards the sectional interests of those groups which have privileged access to state power or whose support is necessary for the continuation of the regime. Indeed, according to some theories of the state, deriving from the Marxist tradition, the state by its nature cannot do otherwise. The only questions at issue are (i) the extent to which the state depends on social consensus achieved through ideological control rather than on sheer coercion (ii) its degree of ‘autonomy’ from the immediate interests of the classes that constitute the ruling and non-ruling elites...’<sup>44</sup>

To the extent that the state is an organizer of the power-relations of gender, its cultural construction of the public/private has meant that it has systematically excluded women from full citizenship and equal rights. This has, in fact, prompted feminist political theorists to speak of how states are gendered, and how the normative citizen is always male.<sup>45</sup> This is not to claim that women’s relations with the state are the same everywhere, but that, differences in the specific forms of gendered citizenship notwithstanding, state policies affect women differently such that women’s experiences of citizenship are everywhere different from men’s.

Of course, it must be clarified that ‘the state’ is not monolithic or unitary in form but is, in fact, composed of a multitude of relations, institutions and practices that enter

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<sup>44</sup> Patricia Uberoi, ed., *Social Reform, Sexuality and the State* (New Delhi: Sage, 1996), xx-xxi.

<sup>45</sup> I am referring to the work of theorists such as Carole Pateman, Anne Phillips and Margaret Thornton who have critiqued the public/private binary and women’s exclusion from full citizenship.

into complex and shifting relations of cooperation, competition, contestation and conflict. Thus, while some theorists remain deeply ambivalent about the possibility of the masculinist state to ultimately effect gender equality, turning instead to the redeeming power of civil society, others have demonstrated how the state has oftentimes also succeeded in playing a positive role for women. As Sunder-Rajan and Park note, ‘the state is a constitutive site of struggle, both as ally in bringing about desired legal changes and instituting welfare measures, and as adversary on account of its discrimination and coercive measures against women and minorities.’<sup>46</sup>

But why, in the first place, should the state be invested in treating male and female citizen-subjects differently, and in denying women equal rights?

The easiest answer points towards culture. This is not to say that cultural practices are always patriarchal obstacles that present themselves in an antagonistic relationship with women’s rights. Indeed, that which we refer to as culture is a vast repertoire of ideas, understandings and practices that offers both positive and negative images for women. However, dominant cross-cultural patriarchal understandings of gender roles and attributes cannot be denied. Thus, cultural specificities notwithstanding, women in many cultures are seen as passive, emotional, nurturing and hence more suited to child-rearing in the space of the private, while men are constructed as more active, rational, analytical and hence better suited to the space of the public.

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<sup>46</sup> Rajeshwari Sunder Rajan and You-Me Park, “Postcolonialism Feminism/ Postcolonialism and Feminism,” in *A Companion to Postcolonial Studies*, eds., Henry Schwarz and Sangeeta Ray (Oxford: Blackwell, 2000), 62.

Given my earlier exposition on how the state is, in fact, not just a political but also a cultural category, it is hardly surprising that these cultural understandings of gender difference should then frame the workings of the state. As a consequence, men emerge as individual, rights-bearing subjects even as women – like children - are entrusted into the ‘guardianship’ of patriarchal men and a patriarchal state. Further, given the discursive linkages between the state and the nation discussed earlier such that the state as a cultural category is driven by the impulse to consolidate itself as a ‘national community,’ it is easy to see how nationalist impulses may further consolidate the patriarchal tendencies of the state. Feminist scholarship on the nation has demonstrated how female bodies are constructed as the biological and cultural reproducers of the nation, as symbols of the collectivity, and as border-guards of its ethnic, racial and other differences.<sup>47</sup> Thus, in its notion of nation as a family, nationalism invokes powerful constructions of women’s place and their nature. Here we must also refer to the idea of ‘uterine nationalism’ which derives out of the womb<sup>48</sup> to create the symbolic image of Woman as mother of us all, thus psychically attaching the nation to family and nature.<sup>49</sup> Hence, speaking of the relationship between gender and the nation-state, the nationalist history of states and their politics of national identity can shed considerable light on the nature of gender regimes in place in that state.<sup>50</sup> Further, as Deniz Kandiyoti points out, the demands of the nation

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<sup>47</sup> Valentine Moghadam, ed., *Gender and National Identity: Women and Politics in Muslim Societies* (London: Zed, 1994); Nira Yuval-Davis, *Gender & Nation* (London: Sage Publications, 1997); and Rada Ivekovic and Julie Mostov, *From Gender to Nation* (Ravenna: Longo, 2002).

<sup>48</sup> Geraldine Heng and Jonadas Devan, “State Fatherhood: The Politics of Nationalism, Sexuality and Race in Singapore,” in *Nationalisms and Sexualities* eds. Andrew Parker et al. (New York; Routledge, 1992), 349.

<sup>49</sup> Saigol, “His Rights/Her Duties.”

<sup>50</sup> Kandiyoti, “Identity and its Discontents,” 378.

are as constraining as the tyranny of more primordial loyalties to lineage, tribe or kin, the difference being that such demands – such as in the construction of women as ‘mothers of the nation’ – are enforced by the state and its legal administrative apparatus rather than by individual patriarchs.<sup>51</sup>

Motherhood, for instance, has been central not just to national reproduction but also to state discourses on the family; as an example, when Republican America legislates against abortion, this is not so much the voice of an impersonal state as of the very personalized, emotional nation, the latter with its ideological understanding of the nation-as-one-family, and of the mother with her sacred womb and moral duty to procreate. Similarly, when the Indian constitution and the Indian Penal Code have clauses pertaining to the need to ‘respect women’ and to ‘protect rather than outrage her modesty’, lurking not so far away behind the modern democratic state of ‘equal’ citizens is once again the ahistorical notion of nation-as-family, of a woman not as an individual but as a wife, a mother and a daughter, who needs the protection of the male members of her family and in turn, stays within the moral boundaries demarcated by the latter. For after all, it may be asked, do men not have modesty or deserve to be respected? What is it about a woman that automatically must demand respect? Once again, the sacred womb and the duty/ability to expand the tribe? Or, in this case, the Hindu figure of the woman-as-goddess, as a *devi*, a discursive understanding that the legal-formalistic symbols of the Indian state, of its constitution and its government and its ratifying signature on CEDAW fail to account for?

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<sup>51</sup> Ibid, 377.

In other words, gender as an intrinsic and inextricable part of a national imaginary also plays into the nexus between the nation and the state, with the feminine space of the nation paralleling the construction of actual female citizen-subjects of paternalistic state practices. The integration of women into modern nationhood is epitomized by citizenship in a sovereign nation-state; women are relegated to the margins of the polity even though their centrality to the nation is constantly being reaffirmed in nationalist rhetoric, in an intense preoccupation with women's sexual conduct and so forth. The state is constituted through gendered practices such as discourses of national honor, and participates in the production of gendered subjects by such means as legal codes, penal institutions, labor regimes, and marginalization of gendered Others, such as defiled women.<sup>52</sup> Thus while the state may offer to its citizen-subjects 'equal rights', such equality is often mediated by cultural ideologies of gender, of the 'national family,' and of women's nature and roles therein, in a manner that complicates the delivery of rights on the ground.

For instance, Sundar Rajan notes the Indian state's pervasive construction of gendered identities such that women are at once rendered as a sex and as a group, or in other words, a female population.<sup>53</sup> Here it must be pointed out that this rendering of women as a group has not necessarily been counterproductive for the feminist agenda. For one, gender and nationalism have not always been positioned antagonistically in South Asia, but rather, progressive anti-colonial nationalisms have often promoted women's rights.<sup>54</sup> And two, given that nationalism provided the basis for state-formation

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<sup>52</sup> Coronil and Skurski, *States of Violence*, 22.

<sup>53</sup> Sunder Rajan, *The Scandal of the State*, 24.

<sup>54</sup> See for instance Kumari Jayawardena, *Feminism and Nationalism in the Third World* (London; Zed Press, 1986).

in democratic-socialist India, the Constitution's definition of 'women as a class' has historically been responsible for affirmative action and a slew of progressive legislation on behalf of women.<sup>55</sup> In other words, it was by staking claim to the nationalist project that women (and also members of the 'lower' castes) staked a claim to the benefits of the welfare state, including reservations. However, it is widely acknowledged that once the immediacy of nationalist reconstruction is over, women are usually again relegated to the margins of the polity. In India, this may partly have happened through what one author calls the 'postcolonial sexual contract,' whereby political authority for the new state was structured upon a compromise; gender equality in the public sphere as guaranteed by the Indian Constitution was accompanied by women's subordination in the private sphere.<sup>56</sup>

Also, an explicitly gendered logic undergirding the state as cultural process and product obviously creates normative templates of an idealized femininity.<sup>57</sup> In India too, the framing of a female population has often resulted in differences among women (pertaining to class, region, caste, religion and language) being discursively homogenized such that the normative subject of the national symbolic order emerges not as the real but the imagined, monolithic 'Indian woman' of a nationalist imaginary.<sup>58</sup> Thus Rajan argues that, while the invocation of 'nation' as an epistemological category is fairly fraught in the metropolitan academy, it is ultimately impossible to analyze the Indian state and its relationship with female citizen-subjects without simultaneously speaking of the Indian

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<sup>55</sup> Namita Aggarwal, *Women and Law in India* (New Delhi: Century, 2002), 4.

<sup>56</sup> Christine Keating, "Framing the Postcolonial Sexual Contract: Democracy, Fraternalism and State Authority in India," *Hypatia* 22:4 (2007), 130-145.

<sup>57</sup> Anne Phillips, *Which Equalities Matter* (Oxford: Polity Press, 1999).

<sup>58</sup> *Rajeshwari Sunder Rajan, Real and Imagined Women: Gender, Culture and Postcolonialism* (London: Routledge, 1993).



‘nation’, since the specificity of the Indian state and its relationship with its female citizen-subjects is a matter of its particular national history and of a ‘national’ symbolic order or ‘national culture.’<sup>59</sup>

In using the phrase ‘national culture’ with respect to women, my attempt, like Rajan’s and other South Asian feminists, is therefore to take us into the complex discursive realm of ideas and images, where history, religion and politics intersect in specific ways to produce hegemonic understandings of female embodiment. Thus the dissertation acknowledges that the cultural norms emphasizing female chastity and honor are not necessarily pan-Indian; instead, they most closely approximate the Indian upper caste, middle class ideal. However, while alternate understandings of the female body do exist, it would be naive to assume that these pose a durable challenge to hegemonic discourses of female embodiment. Examples of such discourses are hegemonic religious understandings that conflate mythic goddess, epic heroine and mortal woman in order to emphasize female chastity;<sup>60</sup> cultural practices of naming and shaming that are given effect through slippages between virgin, wife and goddess (or in the case of some women, none);<sup>61</sup> and of political discourses structured around essentialist, ethnocentric representations of differences between ‘us’ and ‘them’ (where ‘we’ are exhorted to respect our women-as-goddesses as opposed to the western ‘other’ that commodifies and

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<sup>59</sup> Sunder Rajan, *The Scandal of the State*, 4-5.

<sup>60</sup> Sandra Robinson, “Hindu Paradigms of Women: Images and Values,” in *Women, Religion and Social Change*, eds. Yvonne Haddad and Ellison Findly (Hartford: SUNY Press, 1985).

<sup>61</sup> Among Hindus in India, the first name of a young and unmarried woman is suffixed by the word *kumari*, a virgin, while that of an older woman is suffixed by *devi*, goddess, and of a married woman prefixed by *srimati*, wife. Within hegemonic cultural discourse, a woman who has the unfortunate status of being neither virgin nor wife nor goddess can therefore be seen as ‘unsanctified’ public property.

sexually objectifies its women.) And as a formidable body of feminist scholarship on the Indian state demonstrates, these ‘national’ ideologies have continued to discursively undergird constitutional law and policy in India despite the formalistic guarantees of gender equality by the state.

The complex ways in which these issues come to bear upon the relationship between rape, suicide and the state will now be taken up in greater detail.

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## CHAPTER TWO

### **Framing the Female Body: Chastity, Rape and the State**

When I began collecting empirical evidence on rape victims’ suicide, the first two cases I came across were of teenaged girls who, in separate incidents, had both committed suicide by setting themselves afire. According to a news report of the first suicide,

‘The girl’s paternal aunt said, “I was with her when she was taken to Delhi’s Sri Guru Teg Bahadur Hospital. There, the poor girl was repeatedly saying, “Ek ne mera munh pakda toh doosre ne balatkar kiya. Sab kuch lut gaya, tai.” (Aunt, one of the men

covered my mouth while the other raped me. I have lost everything.) The girl's mother is still in a state of shock. The victim was her only daughter and she had lost her husband 11 years ago. On Monday evening, the victim, a class 8 student, was allegedly raped by her 20-year old neighbor and his 22 year old friend. They reportedly pulled her into their house where she had gone to return a pair of scissors. She came back home and told her mother about the incident. Her mother apparently advised her to remain silent until her brothers returned from work. Later, when her mother went out of the house, the girl poured kerosene on herself and set herself afire. Unable to bear the pain, she tried to run to a tap nearby. But she did not make it. As she lay unconscious, her brothers and neighbors took her to a hospital in a borrowed tractor. There she died around 10:30 pm [...]'<sup>62</sup>

In the second case,

'A 16 year-old girl, an alleged victim of gang-rape, committed suicide by setting herself ablaze in Awasi Vikas Colony in Kanpur on Saturday.

"We have not recovered any suicide note from the house, but prima facie it appears that the girl has committed suicide," said B P Jogdand, DIG of Kanpur.

According to her family members, she was unable to bear the social ostracism after she was allegedly raped in December 2009. "On Saturday morning, my daughter requested me to change the house as she could not bear the social boycott," said her father [...]

The girl was reportedly kidnapped on December 18, 2009, and the next day she was found in an unconscious state in Kalyanpur area. On the complaint lodged by her father, a case of kidnapping and rape was lodged at Kalyanpur police station on December 19 against three youths identified as Irshad, Raju Katheria and Sachin Gupta. While Irshad and Raju were arrested in December and sent to Kanpur district jail, Sachin is still absconding.

The bereaved father demanded the immediate arrest of Gupta [...]

According to Jogdand, charges for provocation of suicide under Section 306 will also be added in this case.'<sup>63</sup>

As noted in the introduction, a study of suicide necessarily suffers from a major limitation i.e. the subjects are dead. However, the girl's words to her relative in the first

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<sup>62</sup> Lalit Kumar, "Day after 14-year old Dies, Molestation Case Lodged: Family Claims Loni Police Waters Down Rape Charge," *The Times of India*, New Delhi, July 3, 2008.

<sup>63</sup> "16 Year-Old Gangrape Victim Commits Suicide," *Indian Express*, <http://www.indianexpress.com/news/16yearold-gangrape-victim-commits-suicide/573573/>

case - ‘Sab kuch lut gaya’ (I have lost everything) - do allow us to piece together the act of suicide as she understood it. But what was this ‘everything’ she had lost, a loss that she experienced as so absolute and irreversible that her young mind saw death as a better fate?

And in the second case, why was the young girl being socially ostracized such that she saw suicide as the only way out? After all, she was the *victim* of a brutal gang-rape; might it not be reasonably assumed that she should be the recipient of social empathy rather than social ostracism?

The answer is *chastity*. Of course, there is nothing new in this assertion. An emblematic figure in India’s ‘national’ symbolic order, insofar as it derives from a complex conversation between history, hegemonic religious and other cultural practices, and post/colonial politics, is that of the chaste woman. Theorists writing from a range of perspectives, including the socio-historical, theological, psychoanalytical and popular cultural, have thus demonstrated the centrality of chastity as an attribute of the ideal woman in Indian cultural iconography.<sup>64</sup>

In order to understand the relationship between rape, suicide and the state, it is imperative to explore, in detail, this notion of chastity and its hold over the nation’s collective imagination.

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<sup>64</sup> See for instance Sudhir Kakar, “Feminine Identity in India,” in *Women in Indian Society: A Reader*, ed. Rehana Ghadially (Delhi: Sage, 1988); Sandra Robinson, “Hindu Paradigms of Women: Images and Values,” in *Women, Religion and Social Change*, eds. Yvonne Haddad and Ellison Findly (Hartford: SUNY Press, 1985); and Rajeshwari Sunder Rajan, 2003.

## The Chaste Woman: Religion, History, Politics

In her critique of dominant western feminist understandings of ‘Other’ women’s perspectives, Archana Parashar argues that the liberal western distinction between the public and the private tends to relegate religion to the sphere of the private, a relegation that is not relevant to many women in the Third World, nor indeed to many in the west. As Parashar says, ‘Religion is an integral part of one’s personality in both private and public spheres.’<sup>65</sup> Hence, in trying to understand the historically dominant role played by female chastity in India, it may be useful to begin with Hinduism, the majority religion of India.

Hinduism is a polytheistic religious and mythological complex that is composed of many different texts, theological outlooks and layered philosophical traditions accumulated over centuries, and that exhibits both continuity and change with respect to understandings of gender.<sup>66</sup> Yet despite the existence of progressive alternative understandings of sexuality and the body both within the Brahmanical tradition as well as within vernacular epistemologies and ‘village Hinduisms,’ the hegemonic (i.e. male, upper-caste) politics of reading has resulted in inarguably androcentric framings of the female body, with male control over female sexuality.

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<sup>65</sup> Archana Parashar, “Reconceptualisations of Civil Society; Third World and Ethnic Women,” in *Public and Private: Feminist Legal Debates*, ed. Margaret Thornton (Melbourne: OUP, 1995), 231.

<sup>66</sup> Emily Kearns, “Indian Myth,” in *The Feminist Companion to Mythology*, ed. Carolyne Larrington (London: Pandora, 1992).

The *Dharmashastras* provide a classic example of hegemonic Hinduism's emphasis on female chastity. As one scholar says in her explanation of the iconization of female chastity in the 'high' tradition of Hinduism,

'The Dharmashastras, Smritis and Puranas represent the high tradition Brahmanical-Sankritic texts within Hinduism. These texts were authored by Brahman males for the benefit of the Brahmins and the ruling classes. They provided women (and the lower castes, both male and female) with prescriptive roles. In the texts women are not imaged as they are but as they are 'imagined' to be by the Brahmanical male elite and women become iconized into what they should be, again in the male epistemological view.'<sup>67</sup>

Of pivotal importance in the high tradition of Hinduism is the notion of *samskaras*. To expand upon what was discussed earlier in the introduction: *samskaras* can be explained as rites of passage, or as a set of embodied values, behaviors and accomplishments, that mark the stages of human life and good conduct. Different *samskaras* are associated with different stages of life such as pregnancy, childbirth, marriage, education and death. As a consequence – and in a classic gesture of the naturalization of the social – religion assumes men and women to have fundamentally different *samskaras*.

Traditionally, for instance, one of the *samskaras* of a boy was to undergo *upanayana samskara* or wearing of the sacred thread, which then allowed him to gain formal education under *gurus* (teachers) during the *brahmacharya* (student, and sexually abstinent) stage of his life. In contrast, *upanayana* was never a required *samskara* for women; women who obtained education in ancient India were the exception rather than

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<sup>67</sup> Vijaya Ramaswamy, "Re-searching Icons, Re-presenting Indian Women," in *Researching Indian Women*, ed. Vijaya Ramaswamy (New Delhi: Manohar, 2003), 19.

the norm. Later, upon entering the *grihastha* (householder) stage, the man was required to perform his duties and thus discharge his *rin* (debts) to the gods, to his ancestors, his parents and his gurus; this was his *dharma* (moral duty as well as way of life) in which his *dharmapatni*, wife, was required to assist him. Therefore, in common usage, a wife who did not respect and obey her husband, bear him children, put him ahead of herself and help him discharge his duties, his *dharma*, had bad *samskaras*.

Much of its initial intent carries over into modern usages of the term, where *samskara* connotes cultured behavior and good upbringing. A *samskari* girl is chaste, respectful of her elders, her husband and his family, and displays appropriate modesty with respect to her own sexuality and to male desire.

Hardly surprising, then, that the most infamous of the *Dharmashastras*, the *Manusmriti* or Laws of Manu, is not only the source of many *samskaras* but also the treatise that lays the most patriarchal restrictions on women. The *Manusmriti* emphasizes the need for women to be placed under the control of men, and prescribes punishments for women who transgress the norms of chastity. As Manu says,

‘By a girl, by a young woman, or even by an aged one, nothing must be done independently, even in her own house

In childhood a female must be subject to her father, in youth to her husband, when her lord is dead to her sons; a woman must never be independent. . .

Her father protects (her) in her childhood, her husband protects (her) in youth, and her sons protect (her) in old age; a woman is never fit for independence.’<sup>68</sup>

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<sup>68</sup> Manu, *Manusmriti*, trans. G. Buhler, The Laws of Manu (London: Oxford University Press, 1886).

Elsewhere, I have drawn from the work of a range of scholars to explain, in detail, how this ideal of female chastity is not only limited to the Dharmashastras but is also very apparent in Hindu epics and legends, through female mythological role models such as Sita and Savitri, and in myriad ritual, linguistic and other cultural practices.<sup>69</sup>

So for instance, the female body is marked through rites, symbols and codes largely inapplicable to the male body, imposing several ritual constraints on women that in turn construct the chaste woman - whether virgin or virtuous wife – as auspicious. These early understandings can still be found in the form of notions such as *suhagan ka shrap* (the powerful curse of a chaste, married woman), and in rituals such as the *kumari pooja*, where young virgin girls are still prayed to in north India, and get their feet washed (like goddesses), fed and given ‘offerings’ in the form of food, clothes and money. Another example is language; languages are androcentrically marked according to the same logic, with a whole range of words such as *pativrata* (chaste, devoted and faithful wife) and the *kulta* (unchaste woman) classifying women on the basis of their sexual behavior; these are words that either do not exist in the same form for men or whose similar use has historically dwindled.

Using female mythological figures such as Sita to normatively construct the ‘ideal’ Hindu woman as one who is chaste and self-sacrificing, who always puts her devotion to her family ahead of herself, and who finds identity through marriage and motherhood, the same dominant cultural strands therefore blur the lines between mythic

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<sup>69</sup> Debotti Dhar, *Cultures in/and the Classroom: Pedagogy, Sexual Violence and “South Asianness” in the United States* (New Jersey: Manavi, 2011).



goddess, epic heroine and mortal woman.<sup>70</sup> A Foucauldian understanding of power then allows us to appreciate the linkages between patriarchal constructions of female embodiment and women's internalization of these constructions such that their own identity and body-image derives from them. In fact, authors such as Sudhir Kakar have demonstrated the intimate position of the Sita-figure in the Hindu psyche, arguing that these myths of the ideal woman as defined in terms of chastity, shame, devotion and self-sacrifice play a seminal role in the crystallization of the average Hindu female identity.<sup>71</sup>

Importantly, this emphasis on female chastity as an attribute of the ideal Indian woman is not only a result of hegemonic religious and cultural practices, *but also inextricably intertwined with colonial and postcolonial politics*. As one author puts it, the myth of Indian 'womanness' is a signifier of the Indian nation; Indian women represent tradition and custom as metaphors for chastity and sanctity.<sup>72</sup> However, even though the patriarchal version of culture frames the ideal 'Indian woman' as chaste, nurturing and self-sacrificing (for the sake of larger social institutions such as marriage and the family), to her is also attributed vast reservoirs of personal and spiritual strength that can be called upon in times of political need. The difference between 'real' and 'imagined' women<sup>73</sup> has thus been culturally masked, since it is the imag(in)ed woman who has served as the

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<sup>70</sup> Sandra Robinson, "Hindu Paradigms of Women," 194. Robinson attempts to illustrate how mythic goddess, epic heroine and mortal sati are not mutually exclusive entities within the Brahmanical paradigm but rather share many overlaps, coalescing in specific figures.

<sup>71</sup> Sudhir Kakar, "Feminine Identity in India," in *Women in Indian Society: A Reader*, ed., Rehana Ghadially (New Delhi: Sage, 1988).

<sup>72</sup> Anannya Bhattacharjee, "The Habit of Ex-Nomination: Nation, Woman, and the Indian Immigrant Bourgeoisie," in *Public Culture* 5:1 (1992).

<sup>73</sup> Rajeshwari Sunder Rajan, *Real and Imagined Women*.

symbolic bulwark and heroine in historico-political narratives of the nation in order to counter the ‘moral’ threat posed by the ‘other’, even as the ‘other’ has used the same image in order to assert its own superiority.

This process can historically be traced back to the nineteenth and early twentieth centuries, when the morphology of the female body and the feminized body-politic were discursively mapped onto each other such that the body - both material and symbolic - of the Indian woman served as a justificatory ground for the imposition of colonial rule. In missionary discourses and in parliamentary debates, Indian women were cast as victims of their aberrant national culture. As one British scholar put it, ‘The daughters of India are unwelcomed at their birth, untaught in childhood, enslaved when married, accursed as widows and unlamented at their death.’<sup>74</sup> In the process, class, caste, ethnicity, religion and region-based differences were ignored; both the Indian woman and her nation were homogenized as ‘inferior’ and in need of moral uplift, which translated as social reform/regulation for the former and subjugation for the latter. As Edward Said has argued, the discourse on Indian women and the Orient was thus framed by a mapping of British concerns onto the Indian body, ‘according to a detailed logic governed not simply by empirical reality but by a battery of desires, repressions, instruments and projections.’<sup>75</sup> The identification and subsequent erasure of boundaries became integral to colonial morphology, as dozens of institutions – church, hospital, school, ‘rescue’ homes – busied themselves in ‘bringing Indian women closer to the universalized ideal whilst

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<sup>74</sup> Weitbrecht 1880, quoted in Janet Price and Margrit Shildrick, “Mapping the Colonial Body: Sexual Economy and the State in Colonial India,” in *Feminist Theory and the Body*, eds. Price and Shildrick (New York: Routledge, 1999), 393.

<sup>75</sup> Edward Said, *Orientalism: Western Conceptions of the Orient* (London: Penguin, 1978).

simultaneously emphasizing their Otherness, or as Homi Bhabha puts it, ‘Anglicised but emphatically not English’.<sup>76</sup>

This notion of women as symbolic boundaries was carried forward by Indian nationalist struggles for independence, though in nationalist discourse, ‘our women’ now became morally superior to ‘theirs’. Thus Partha Chatterjee’s provocative essay, ‘The Nationalist Resolution of the Woman’s Question,’ where he argues that Indian nationalist ideology divided the domain of culture into the material and the spiritual, the outer and inner, *ghar* and *bahir*, and resolved the ‘woman’s question’ by educating and culturally refining the new woman outwardly, but preserving her so-called ‘Indian femininity’ from within.<sup>77</sup> According to Chatterjee, while the outer world –represented by men – needed to emulate the west in order to be able to successfully challenge its superior material culture, the home – with women as its core – represented the spiritual inner sanctum, which must not be allowed to disintegrate. This social construction of gender continued into the next century, when women became active participants in the nationalist movement. Many feminist scholars have demonstrated, for instance, how Gandhi’s politics of nation-building in general and non-violent resistance in particular drew upon very traditional constructions of womanhood and its normative role in maintaining the ‘sanctity’ of ‘Indian culture’ even while empowering women politically.<sup>78</sup>

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<sup>76</sup> Homi Bhabha, quoted in Price and Shildrick, *Feminist Theory and the Body*, 395.

<sup>77</sup> Partha Chatterjee, “The Nationalist Resolution of the Woman’s Question,” in *Postcolonial Discourses: An Anthology*, ed. Gregory Castle (Oxford: Blackwell Publishers, 2001), 152-65.

<sup>78</sup> See, for instance, Suresht Bald, “The Politics of Gandhi’s “Feminism”: Constructing “Sitas” for Swaraj,” in *Women, States and Nationalism: At Home in the Nation?* eds. Sita Ranchod-Nilsson and Mary Ann Tetrault (Routledge: 2000), 81-97.

The most lucid explanation of this complex phenomenon in postcolonial nation-building contexts has been provided by Frantz Fanon in his famous article “On National Culture,” which begins with analyzing how ‘colonial domination, because it is total and tends to oversimplify, very soon manages to disrupt, in spectacular fashion the cultural life of a conquered people. This cultural obliteration is made possible by the negation of national reality [...] Every effort is made to bring the colonized person to admit the inferiority of his culture, to recognize the unreality of his ‘nation,’ and, in the last extreme, the confused and imperfect character of his own biological structure.’<sup>79</sup>

Thereafter, he observes how,

‘after a century of colonial domination we find a culture which is rigid in the extreme, or rather what we find are the dregs of culture, its mineral strata. The withering away of the reality of the nation and the death-pangs of the national culture are linked to each other in mutual dependence. That is why it is of capital importance to follow the evolution of these relations during the struggle for national freedom. The negation of the native’s culture [...] continues to breed aggressive patterns of conduct in the native.’<sup>80</sup>

As a consequence,

‘in a colonized country the most elementary, most savage and the most undifferentiated nationalism is the most fervent and efficient means of defending national culture. For culture is first the expression of a nation [...] the nation is not only the condition of culture, its fruitfulness, its continuous renewal, and its deepening. It is also a necessity. Later on it is the nation which will ensure the conditions and framework necessary to culture.’<sup>81</sup>

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<sup>79</sup> Frantz Fanon, “On National Culture,” in *Colonial Discourse and Postcolonial Theory: A Reader*, eds. Patrick Williams and Laura Chrisman eds. (Essex: Pearson, 1993), 45.

<sup>80</sup> Ibid, 46.

<sup>81</sup> Ibid, 50.

Fanon asserts that ‘the conscious and organized undertaking by a colonized people to re-establish the sovereignty of that nation constitutes the most complete and obvious cultural manifestation that exists [...] If culture is the expression of national consciousness, it is the national consciousness which is the most elaborate form of culture.’<sup>82</sup>

Regardless of how the postcolonial claim to a national culture rehabilitates the erstwhile colonized nation, the point relevant for this dissertation is how India’s experience of colonization and the decades of nationalist movement discursively framed the terms under which gender ‘equality’ was to be constructed. Among other things, postcolonial normative constructions of the ideal ‘Indian woman’ as chaste and self-effacing, which proceeded alongside an oversimplified ‘us-them’ binary with respect to the west – a point I shall return to, in a later discussion on women’s agency versus victimhood - only reveal the historical continuities in how female bodies have always been differently positioned within the narrative of the nation-state, to be idealized, ‘protected,’ and ultimately controlled.

The manner in which religion, history and politics come together in order to frame the chaste, idealized Indian woman can be aptly demonstrated by the following extract from a contemporary Hindu website which discusses the role of women in the nation.

‘Ideals constitute the very heart and soul of a nation. Hence a real understanding of the Hindu nation and its womanhood would essentially depend on that of its ideals [...] Purity, self-control, devotion and austerity are as much necessary for woman as for man. However Hinduism does not shut its eyes to the differences that do exist between

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<sup>82</sup> Ibid, 50-51.

man and woman, biological as well as temperamental. That is why it has defined their areas of activity depending upon their Svadharma or special characteristics and prescribed slightly different modes of life and discipline.

The strength and the soundness of a society are sustained by those of the family; and woman is the central figure in a family. Just imagine the tremendous responsibility that is placed on her! A Griha or home is no home but for the Grihini (the mistress of the family). Hence the ideal placed before the Hindu woman is that of the ideal Grihini, who again is an ideal wife, an ideal friend and an ideal mother all rolled into one. It is Sita, Savitri, Damayanti and Gandhari, the songs of the Hindu soil that have inspired the lives of millions of Hindu women for aeons, and not Helens or Juliets.’<sup>83</sup>

Going on to speak of the equal freedoms enjoyed by women in the golden Vedic age and the subsequent neglect of women’s welfare in the middle age, the passage claims that society has regressed even further in modern times.

‘With the advent of modern education, the impact of science and western civilization, things have changed no doubt, but the remedy seems to be worse than the disease! Now woman seems to want to out-man man himself! Getting discontented with her role of childbearing and home making she wishes to devote herself to some other higher activity! Consequently homes are slowly being replaced by hotels! In the name of economic independence, life is tending to become more and more hectic, irregular and even vagrant!

By engaging herself in activities which prejudice the work of preservation, the modern Hindu woman is coming into conflict with her own inner nature. By blindly imitating man, she cannot be the giver of joy, the inspirer of activity and the consoler in distress that she has all along been.

This is what the world famous scientist Dr. Alexis Carrel says: "The differences existing between man and woman... are of a fundamental nature. Ignorance of these fundamental facts has led promoters of feminism to believe that both sexes should have the same education, the same powers and the same responsibilities. In reality woman differs profoundly from man. Every one of the cells of her body bears the mark of her sex. Physiological laws are as inexorable as those of the sidereal world. They cannot be replaced by human wishes." What then is the solution? [...]

All other training should be secondary to religion," says Swami Vivekananda. Mahatma Gandhi exhorts our women not to ape the West but apply methods suitable

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<sup>83</sup> www.hinduunity.org

to the Indian genius and Indian environment. Says he: "Theirs must be the strong controlling, purifying, steady hand, conserving what is best in our culture and unhesitatingly rejecting what is base and degrading. This is the work of Sitas, Draupadis, Savitris, and Damayantis, not of amazons." Will our mothers and sisters heed this advice?'

In the above passage, we again see religion's naturalization of the social such that gender differentials in society end up being explained away on account of women's inner, and fundamentally different, nature. Even more unfortunately, religion meets science, and the patriarchal tendencies of the east meet those of the west, in the provocative figure of Dr. Carrel, who is said to ascribe the 'mark of sex to every cell of a woman's body!' Further, by intertwining politics with religion, 'our' women are set up as cultural traitors if they dare to go against their 'inner' nature of chastity, austerity and devotion.

While the above passage does not specifically mention *samskaras*, a very cogent and contemporary analysis of the intertwining of religion and politics with reference to *samskaras* is provided by feminist historian Tanika Sarkar. In her study of the Rashtriya Swayamsevak Sangh, the most effective organizer and bearer of the politics of the Hindu right, Sarkar speaks of how women are constructed predominantly as 'mothers who could help the Sangh cause most by rearing their children within the RSS framework of *samskaras* – a combination of family ritual and unquestioning deference toward family elders and RSS leaders.'<sup>84</sup> Furthering expanding upon this mother role, Sarkar writes that

'Mothers, then, are political creatures and agents and we will not grasp the deeply political import of this agenda unless we are clear about the directly political and not merely ideological significance of everyday relations, personal disposition and habits, of domestic ritual and practice within the RSS scheme for hegemony, and the full

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<sup>84</sup> Tanika Sarkar, "Heroic Women, Mother Goddesses: Family and Organisation in Hindutva Politics," in *Women and the Politics of Violence*, ed. Taisha Abraham (New Delhi: Shakti, 2002), 189.

significance of the much-used key term *samskaras* in the Sangh vocabulary. The mother is to instill habits of deference, of obedience, of respect for the RSS version of patriotism. She should scramble the child's earliest notions of history, mythology and patriotism through moral lessons about 'faith in Dharma and pride in our history,' and instructions about '*tirthas* and temples.' [...] As to how important the lessons in Dharma and history, pilgrimages and temples lumped together are, should be evident in the Ramjanmabhoomi campaign which pitted a Muslim king against the sacred figure of Ram, and insisted that the destruction of the Babri Mosque was not only a religious but also a patriotic duty.<sup>85</sup>

Elsewhere, she points out how 'the Hindu right depends on a critique of modernity that opposes the liberal theories of rights that it considers an alien and alienating colonial influence. In their place it tries to claim the existence of traditional notions of community obligations and mutuality. The claim can establish itself through a suppression of the historical realities of caste and gender asymmetries.'<sup>86</sup> Little wonder, then that 'the televised version of the Ramayana epic which was made to coincide with the building up of the Ramjanmabhoomi movement, restated the older codes of patriarchal command through the irresistible, erotic appeal of the self-abnegating figure of Sita.'<sup>87</sup>

In other words, we see how dominant strands from within religion, post/colonial history and politics congeal in the emblematic figure of the chaste women within the national imaginary.

### **The Nation and its 'Others': Caste, Class and Chastity**

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<sup>85</sup> Sarkar, "Heroic Women, Mother Goddesses," 194.

<sup>86</sup> Ibid, 219.

<sup>87</sup> Ibid, 218.



It may be argued that female chastity is being overemphasized as an enduring ‘national’ feature, and that peeling away the thick national discourses on female chastity will reveal many important differences across castes, classes, regions, education levels and so forth. This is certainly a valid point, and one that deserves detailed analysis.

Speaking of the different understandings of female embodiment across castes, for instance, one is forced to face the fact that the ideal of female chastity as it derives from upper-caste norms of purity/pollution and auspiciousness/inauspiciousness has historically not applied to the bodies of lower caste women, who have discursively been framed by the dominant order as sexually available. *Dharmashastras* such as the *Manusmriti* are explicit in their caste bias, prescribing harsh punishments for lower-caste men who enter into alliances – whether forced or voluntary - with upper-caste women but not the other way round. Indian history, too, is replete with unfortunate instances of how women hailing from the lower castes were denied the right to bodily dignity. An obvious example is of how veiling as a cultural practice was traditionally restricted to upper-caste women while lower caste women were sometimes not allowed even to cover their breasts; in caste riots in nineteenth century Kerala, for instance, untouchable women were forcibly stripped of their breast clothes.<sup>88</sup>

In other words, the normative female subject of the national imaginary, as discussed in the previous section, is implicitly upper-caste; chastity, as understood by the dominant order, is both a duty and a privilege for upper caste women. For lower-caste women, this has worked as a double-edged sword; as an upper-caste privilege, chastity

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<sup>88</sup> Oliver Mendelsohn and Marica Vicziany, *The Untouchables: Subordination, Poverty and the State* (Cambridge: Cambridge University Press, 1998), 85-6.

norms have often militated against lower caste women's right to bodily dignity, while as an upper-caste duty, it has ensured that lower-caste women can at least escape the stranglehold of chastity norms in a manner denied to upper-caste women. This has led many theorists to conclude that upper and lower caste understandings of female embodiment are diametrically opposite, instructive examples being the work of feminist Sandra Robinson and of the Dalit writer Badri Narayan, both of whom assert the equality of women in lower castes as opposed to upper castes.

Thus, Sandra Robinson makes a distinction between Brahmanic and non-Brahmanic paradigms. According to Robinson,

'Brahmanic Hinduism is a Sanskrit-based priestly tradition emphasizing formal ritual. Although as a religious tradition brahmanic Hinduism has received patronage from members of all castes, brahmanic worship has been maintained in the custody of purohits (ritual officiants) belonging to the highest ranked caste, the Brahmins. Non-Brahmanic Hinduism expressed through regional languages, is a composite of diverse devotional practices emphasizing modes of worship which either de-emphasize or obviate the priestly role. This general categorization bears critical significance with regard to religious roles of Hindu women in that historically, brahmanic Hinduism has tended to objectify and exclude women, whereas non-Brahmanic Hindu traditions have tended to provide full recognition and active participation by women.'<sup>89</sup>

Robinson's distinction between an androcentric Brahmanic Hinduism and a gender-equal non-Brahmanic Hinduism is also echoed in the writings of some Dalit writers in order to demonstrate gender inequality in upper caste Hinduism as opposed to gender equality among the Dalits. An interesting example is Badri Narayan's work on women heroes in India, which demonstrates how Dalit communities use myths, legends,

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<sup>89</sup> Robinson "Hindu Paradigms of Women: Images and Values," 182.

folk heroes and histories to fashion a culture of dissent, thereby asserting their own narratives of identity and subverting the hegemonic and patriarchal Brahmanical code.<sup>90</sup> These female-centered narratives of an alternative national history emphasize the continuing freedoms of Dalit as opposed to upper caste women. Thus Narayan points out how this is used as leverage by the women's wing of the BSP who in their party meetings exhort their women *not to emulate Brahmanical norms of a meek and submissive womanhood but to be brave and assertive like their own women heroes*.<sup>91</sup>

In the light of such work as Robinson's and Narayan's, it may therefore appear as though upper caste and lower caste understandings of female embodiment and gender roles in India are indeed so diametrically opposite as to rule out the possibility of making any pan-Indian generalizations. *However, my research material does indicate that raped women's suicide occurs across castes; this includes several cases of Dalit women's suicide as well as suicides by their family members*. While these suicides will be examined in greater detail in the following chapter, and other mitigating factors including the economic and the psychological will be taken into account in explaining these

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<sup>90</sup> Badri Narayan, *Women Heroes and Dalit Assertion in North India: Culture, Identity and Politics* (New Delhi: Sage, 2006). Narayan shows how the Bahujan Samaj Party used the Dalit communities' oral-historical memory of Dalit women heroes such as Jhalkaribai, Udadevi, Avanti Bai Lodhi and Pannadai from the 1857 war of Indian national independence (along with other mainstream nationalist figures such as Rani Lakshmi Bai of Jhansi) to build up the public image of Mayawati, a Dalit woman, and the current Chief Minister of the state of Uttar Pradesh. Also, much in the manner of Anderson's nation as an imagined community, Narayan shows how print media in the form of newspapers, popular booklets, posters, handbills and pamphlets written and composed by the Dalits themselves has been used to disseminate this information of Dalit sacrifices. As Narayan argues, this idea of nationalism is an important factor for connecting Dalits to the nation-state, problematically compelling them to prove themselves to be more nationalist than others (93). However, it is precisely by pushing for a greater acknowledgement of their role in the recorded history of nation-making that the Dalit communities have created for themselves alternative spaces within the dominant narratives of the nation in order to put forward a moral logic of reservations for themselves (pp. 31-33). Narayan's argument supports Rajan's point mentioned earlier, of the Indian nation serving as a powerful legitimization of the state institution.

<sup>91</sup> *Ibid*, 30-31.

suicides, my research material also suggests that strategies of ‘shaming’ the rape victim into silence or compliance are not restricted to rape victims from the upper castes alone.

In other words, while not denying that notions of chastity hold a much stronger sway over the upper castes, I am trying to say that chastity as a notion may play a discursive, disciplining role – howsoever limited, and regardless of actual sexual practices of individuals - even in the case of women not hailing from the upper castes. After all, as Rajan reminds us, our understanding of the problems of ‘real’ women cannot ultimately lie outside the ‘imagined’ constructs in and through which ‘women’ emerge as subjects.<sup>92</sup> Based on my research material, I will therefore assert that while staying attentive to locational differences is very important, treating ‘upper’ and ‘lower’ caste understandings of female embodiment as discrete and completely unconnected categories can also be problematic. As we move away from the world of ideal-typical formulations to that of reality, we may be confronted with more complex phenomena which elude neat compartmentalization. *Upper caste framings of female embodiment are not monolithic in themselves, nor do they always remain completely separate from lower caste understandings.* Let us see how.

Elsewhere I have drawn from the work of several feminist theologians to demonstrate how Hinduism is not by most theological standards an organized religion, instead being composed of many different texts and layered philosophical traditions accumulated over centuries, whose relationship to each other is marked by agreements,

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<sup>92</sup> Rajan, *Real and Imagined Women*, 10.

ambivalence as well as contradictions.<sup>93</sup> What Robinson terms ‘Brahmanic Hinduism’ (with the Vedas as their textual hallmark) is in fact also not a monolith and includes many different understandings of gender.<sup>94</sup> Speaking of progressive understandings from the ‘high’ tradition pertaining specifically to female chastity, one must mention the complex treatment of chastity in classical Hinduism and its androcentric oversimplification in hegemonic cultural practice. One author draws from a range of Hindu canonical scriptures as well as oral traditions to demonstrate how, it was only after the penning of the rigidly patriarchal Dharmashastras that the emphasis on chastity, virginity and subservience became an absolute parameter of ‘wifeliness.’<sup>95</sup> In any case, Hinduism has a wide corpus of texts and traditions that emphasize female sexual pleasure, the Kamasutra and the Ratishastra being just two out of many examples. Further, these texts are not unrepresentative; rather, they are rooted within the Hindu

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<sup>93</sup> Debotri Dhar, “Cultures in/and the Classroom.”

<sup>94</sup> These include Upanishadic interpretations that reject ritualistic hierarchies of gender and caste. Many authors have also demonstrated that though the time-honored role for upper caste Hindu women was the submissive wife, the Vedic period was a time of comparative freedoms for women as compared to medieval Indian history, something that even Robinson acknowledges (Robinson, 190.) See for instance Denise Carmody, ed. *Women and World Religions* (Englewood Cliffs: Prentice Hall, 1979.)

Other progressive ideas include the almost-parallel narrative of strong, independently revered goddesses such as Durga, and of shakti or the powerful and dynamic female cosmic principle responsible for both creation and destruction. It would also be incorrect to assume that this parallel narrative of female strength does not percolate down to the everyday. As Madhu Khanna argues, ‘the Durga legend lives universally in the Indian imagination. The myth has many institutional and popular applications. It is found in calendar art, popular cinema, scholarly writing, popular songs and folktales.’ (Khanna, 197.)

Durga as a divine symbol of female strength also links up interestingly with a unique cultural paradigm of Indian womanhood called virangana, a woman who manifests the qualities of heroism, distinguishing herself through exceptional skills in warfare, martial arts and so forth. Thus Kathryn Hansen puts together a long list of such women from across castes and regions, including both pan-Indian figures as well as lesser known folk heroines, who position themselves in complete opposition to the passive, husband-obeying and chaste heroines of the epics, instead emerging as strong and fearless leaders of both women and men. See Kathryn Hansen, “The Virangana in North Indian History: Myth and Popular Culture,” *Economic and Political Weekly* Vol. 23 No. 18 (1988): 25-33.

<sup>95</sup> Vasudha Narayanan, “Hindu Perceptions of Auspiciousness and Sexuality,” in *Women, Religion and Sexuality: Studies on the Impact of Religious Teachings on Women*, ed. Jeanne Becher (Philadelphia: Trinity Press International, 1991), 64-92.

worldview as contained in the *Purushartha Chatushtham* (the Four Cardinal Principles) comprised of *dharma* (righteousness), *artha* (material well-being), *kama* (sexual pleasure) and *moksha* (salvation) where, in a classic blurring of the sacred and the profane, sexual desire and its aesthetic expression are not just seen as integral to a holistic life but also elevated to the same status as righteousness and salvation.

In other words, while not denying that upper caste women have had to bear a far greater burden of Hindu purity and pollution norms, it is also important to acknowledge the alternative, progressive understandings of female embodiment from *within* ‘Brahmanical’ Hinduism that have, due to political and socio-historical reasons, dwindled with time.

Equally importantly, it would be incorrect to claim that upper and lower caste understandings of female chastity are *completely* different from each other such that the discursive sway of chastity restricts itself entirely to the upper castes. Two sociological concepts, of ‘sanskritization’ and of the ‘Great and Little Traditions,’ may come in useful here.

The term ‘sanskritization’ was used first by M.N. Srinivas to describe the process of cultural mobility in the traditional social structure of India.<sup>96</sup> Srinivas found that lower castes, in order to raise their position in the caste hierarchy, adopted some customs of the Brahmins and gave up some of their own customs that were considered impure by the higher castes, such as meat-eating, consumption of liquor and animal sacrifices to their

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<sup>96</sup> M.N. Srinivas, *Social Change in Modern India* (Berkeley: University of California Press, 1966).

deities; they imitated the Brahmins in matters of dress, food and rituals. By doing this, within a generation or so they could claim higher position in the hierarchy of castes. Thus the caste system was not as rigid a system with the position of component castes being fixed for all times. Instead, movement was possible, especially in the middle regions of the hierarchy; during periods of relative closure of the Hindu social system, sanskritization worked as an endogamous process of cultural and social mobility. This idea of the lower castes imitating and replicating the dominant social order within their communities has been made by other scholars too, including Badri Narayan, though for Narayan, this process indicates not cultural imitation but cultural revolt.<sup>97</sup>

With specific reference to women, an interesting example of sanskritization is how practices of veiling, indicative of Hindu caste privilege and therefore traditionally debarred for Dalit women, were oftentimes aspired to and/or adopted, where possible, by women of lower castes, in order for the caste as a whole to claim a higher ritual status. Another example is of sati; while sati did remain by and large an upper caste phenomenon, and while there were no injunctions on the lower castes to commit sati or to disfigure widows, they sometimes did so in imitation of the upper castes.<sup>98</sup> Thus as one author argues, ‘the traditional freedom (and generally more humane attitudes) granted to women in the ‘lower’ castes did not always work in practice; in their eagerness to imitate the higher castes, their women were also subject to negative treatment.’<sup>99</sup>

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<sup>97</sup> Narayan, *Women Heroes and Dalit Assertion*. Narayan also gives a lucid account of the work of other scholars and their viewpoints on this subject.

<sup>98</sup> Narayanan, “Hindu Perceptions of Auspiciousness and Sexuality,” 82.

<sup>99</sup> *Ibid*, 83.

One must also consider how lower castes and Dalits were compulsorily ‘sanskritized’ by the upper castes through such processes as education – thus the Hindu educational establishment implicitly inculcated upper caste, middle class values such as chastity and respectability in Dalit girls. Interestingly, the widespread conversion of Dalits to Christianity also did not halt this process, since the ideal of chastity continued to be reinforced by Christian missionaries through the figure of Mary and other patriarchal strands within hegemonic Christianity; this was also true for hegemonic versions of Islam, which also emphasized female chastity.

The other sociological concept central to my argument of not treating castes as discrete units with completely different understandings of female embodiment, and instead appreciating both continuities and ruptures between caste understandings, is that of the ‘Little and the Great traditions.’<sup>100</sup> A definitive study conducted by Marriot in a village named Kishan Garhi in northern India found in the structure of the village culture and its social organization, elements of both ‘Little’ and ‘Great’ Traditions of Hinduism.<sup>101</sup> Further, the study found constant interaction between cultural forms, thus preserving cultural continuity. That is to say, elements of the ‘little’ tradition, indigenous customs, deities and rites circulate upward to the level of the ‘Great’ tradition through a process Marriot calls ‘universalization.’ Likewise, some elements of the great tradition lose much of their original form, circulating downward to become an organic part of the

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<sup>100</sup> The concept of Little and Great traditions was first used by Robert Redfield in his study of Mexican communities. Influenced by this model, Milton Singer and Mckim Marriot conducted a series of studies on social change in India.

<sup>101</sup> McKim Marriot, “Little Communities in an Indigenous Civilization,” in *Village India*, ed. McKim Marriot (Chicago: University of Chicago Press, 1955), 171-222.



‘little’ tradition in a process he calls ‘parochialization.’ On the basis of these observations, Milton Singer formulated a series of statements about cultural changes in India: that the great tradition was continuous with the little tradition to be found in its diverse regions, villages, castes and tribes, that this continuity has been formed in India with the help of certain processes and factors i.e. sacred books and sacred objects, the caste system, a special class of Brahmins and other agents of cultural transmission; and that this cultural continuity with the past is so great that even the acceptance of ‘modernizing’ and ‘progress’ technologies does not result in a linear form of social and cultural change but may result in the traditionalizing of apparently modern innovations such that the old and the new sit side by side.<sup>102</sup>

This conversation between the old and the new was not entirely disrupted by processes such as Dalit conversions to other religions; while we do have instances such as Ambedkar’s absolute rejection of Hinduism and subsequent conversion to Buddhism, the lived realities of religious conversion in most instances showed the remnants of old practices alongside the new. My argument here is similar to that of Foucault’s critique of Subaltern Studies, which he terms a reification of historians in the sense of its theoretical constitution of subalterns as a polarized social category with the mentality of opposition; instead, for Foucault, subaltern ‘acts of resistance link up with, interact with, intersect with what is happening around them.’<sup>103</sup>

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<sup>102</sup> Marriot, “Little Communities.” Also see Yogendra Singh, *Modernization of Indian Tradition* (Jaipur: Rawat Publications, 1998), 13-4.

<sup>103</sup> David Ludden, ‘Introduction,’ in *Reading Subaltern Studies: Critical History, Contested Meaning and the Globalization of South Asia*, ed. David Ludden (London: Wimbledon, 2002), 23.

This relationship between the Little and the Great traditions is also acknowledged by Badri Narayan, who says of the hero-centric caste stories of Dalits that ‘the purpose of these stories is to identify the social space of that caste in the Hindu social set-up. Almost all the stories try to link themselves with the Great Tradition, but they also critique the situational matrix within which that caste had been pushed to the outermost orbit of the social structure by the upper castes.’<sup>104</sup>

In other words, while strongly critiquing the hegemonies of the Brahmanical order, Dalit politics simultaneously emphasizes some links with that order. Thus the social-anthropological concepts of sanskritization, of Little and Great traditions, and of universalization and parochialization, help us appreciate how lower and upper caste understandings have always been in historical conversation, *a conversation that also applies to gender*. This is the reason why Sudhir Kakar is able to assert that Sita holds a powerful place in the individual psyches of Hindu women regardless of their caste, class, region and rural-urban location. As the epic heroine of the *Ramayana*, and as an enduring symbol of female chastity, Sita is very much a high-cultural figure from the Hindu ‘Great’ tradition. However, her tale is disseminated not just through the Sanskrit text – in which case, it would have been limited to educated, upper caste groups - but also through oral narratives and visual culture, through songs, calendar art, and plays (especially the *ram-leela* during Dussehra, which is enacted across the nation, in both villages and cities.) This may have resulted in a certain degree of pan-Indian ‘Sita-ization,’ at least on a discursive even if not always on a lived level (though the latter, too, is possible, as in

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<sup>104</sup> Narayan, *Women Heroes and Dalit Assertion*, 42.

the case of women from the 'lower' castes attempting to consciously cultivate bodily and other practices on the lines of the hegemonic ideal.)

So much for caste. What about class? Do notions of female embodiment change completely as we move between classes in India?

Here it may be useful to first examine the relationship between caste and class. Thus it must be emphasized that while pro-active affirmative action has certainly given the lower castes a stronger voice in the Indian democracy since independence, most of the politico-social advantages have been appropriated by what is referred to as the 'creamy layer' among the lower castes (the OBC or 'Other Backward Castes') and have not trickled down to the most disadvantaged segments (i.e. the Dalits.)<sup>105</sup> As a consequence, caste and class form somewhat of a continuum in contemporary India and can sometimes be difficult to separate into discrete, watertight compartments. For instance, in rural and lesser-developed parts of the country, Dalits often comprise the poorest sections of the population. Also, while the class system is slowly but surely replacing the caste system in urban and metropolitan pockets that are marked by a high degree of social mobility, it would be fallacious to assume that caste disappears altogether even in these locations. As an example, the lower castes were traditionally associated with manual labor; this association still survives in Indian cities, especially in professions that have traditionally been considered ritually polluting such as sweeping and

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<sup>105</sup> Smita Narula, *Broken People: Caste Violence against India's "Untouchables"* (New York: Human Rights Watch, 1999), 37.

scavenging. In such instances, caste and class go together, the disadvantages of one compounding those of the other.

Speaking of female embodiment in the context of class, then, I shall make the same assertions I made in the context of caste: first, that there are important differences between classes in terms of attitudes and beliefs, ways of life and so forth; and second, that these differences notwithstanding, there may also be something of a cultural continuum. As a result, it would be hard to argue that notions of female chastity disappear completely, except within very cosmopolitan circles. Again, this is not to say that women's lived realities are always in tune with the norms of chastity – indeed they may not be, even in apparently traditional contexts - but to argue that regardless of lived realities, the normative ideal of female chastity continues to hold discursive sway over the collective imagination, albeit in very different ways and to differing degrees based on location.

In fact, some feminist theorists have argued that the ideal of chastity continues to shape the subjectivities of upper middle-class women even in liberal, cosmopolitan contexts.<sup>106</sup> Shilpa Phadke's work on the social construction of urban middle-class cosmopolitan female subjects in contemporary 'globalized' India is instructive in this regard. Phadke points to public discourses on sexuality in contemporary middle-class urban India that make a distinction between respectable and suspect female sexuality.<sup>107</sup>

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<sup>106</sup> Here the use of the word 'liberal' is ironical inasmuch as it refers to India's liberalization, to the political economy and its integration into the global economy, and therefore to the urban middle-class of cosmopolitan cities that forms the consumer base for the processes and products of globalization.

<sup>107</sup> Phadke, Shilpa, "Some Notes Towards Understanding the Construction of Middle-Class Urban Women's Sexuality in India," in *Sexuality, Gender and Rights: Exploring Theory and Practice in South and Southeast Asia*, eds. Geetanjali Mishra and Radhika Chandiramani (New Delhi: Sage, 2005), 67-81.

Acknowledging the methodological challenges of defining the ‘middle-class’ that is comprised of individuals of different religious, caste and linguistic communities as well as falling under a range of education, employment and income categories, Phadke chooses to define this loose stratum from the point of view of consumption patterns. According to her, ‘In global market terms, the middle-class are consumers numbering anywhere between 100 and 250 million (depending on the audience and the persuasive powers of the marketing person making the claim). To religious fundamentalists, the middle classes are the main constituency upon whose bodies must be written particular cultural nationalist ideologies. To the socialists, the middle classes are the ones selling out, abandoning Nehruvian Socialism for the commodity fetishism of global capitalism.’<sup>108</sup>

The study argues that, despite the many differences that might otherwise characterize this stratum of Indian society, generalizations pertaining to this category are still possible. According to Phadke, it is thus possible to generalize how normative (hetero)sexuality is constructed in ways that define what it means to be a ‘modern urban middle-class progressive but respectable woman’ in India.<sup>109</sup> Phadke points to how being middle-class has come to be seen as ‘sexy’ in the late 1990’s and early 21<sup>st</sup> century through a single globalized master-narrative that promotes the *modern* experience of middle-class global consumerism without necessarily challenging ‘the traditional.’ This consumerist narrative then seemingly offers a tantalizing illusion of overturning gender

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<sup>108</sup> Ibid, p. 69.

<sup>109</sup> Ibid, 68.

roles but mostly reinforces them such that *sexualized globalization is not incompatible with traditional cultural realities*.

Phadke's argument is similar to Tejaswini Niranjana's assertion that 'good modernity' must only be skin-deep, and with Rajeshwari Sunder Rajan's analysis of the modern Indian woman who, as perennially and transcendently wife, mother and homemaker, saves the project of modernization without westernization, the female subject who successfully balances (deep) tradition with (surface) modernity.<sup>110</sup>

In other words, while many valid differences in understandings of female embodiment definitely do exist across Indian society, they are also in historical conversation; rather than constituting discrete, watertight categories, they often form somewhat of a cultural continuum. In the process, the hegemonic (i.e. traditionally upper caste, middle class) understanding of chastity and female embodiment does not necessarily restrict itself to the upper castes and the middle-classes, instead spilling over and shaping individual female identities across castes, classes and locations, albeit in complex ways and to differing degrees.

So, what is the relationship between this normative ideal of female chastity and the violence of rape?

### **Chastity and Rape**

The relationship between the normative ideal of chastity and the violence of rape can be understood in the following way: since rape violates a woman's *samskara* of

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<sup>110</sup> Rajan, *Real and Imagined Women*, 133.

handing herself over to one and only one man in her lifetime, a man who is her husband, hegemonic Indian cultural iconography has traditionally understood the raped female body as unchaste, as ritually impure on account of having irretrievably ‘lost its honor,’ and as irreversibly shamed. Honor, in other words, traditionally resembled a commodity which resides in the ‘chaste’ female body.

Rape, translated as ‘*balaatkar*’ in Hindi, is also used interchangeably with other phrases. One of the most common translations of ‘I have been raped’ is ‘*meri izzat lut gayee.*’ ‘*Izzat*’ (an Urdu word that has, owing to long periods of Muslim rule, become an integral part of Hindi as spoken in north India) translates back into English as ‘honor’. In the language of cultural signification, ‘I have been raped’ is therefore the same as ‘I have been robbed of my chastity/honor.’ As psychoanalytical feminists have pointed out, we are born into language whose phallogocentrism defines our embodied experience. Thus, ‘I have been robbed of my honor’ becomes, for many women, the only way not only to express one’s experience through language, but to even comprehend the experience. Ultimately, it is a question of how the discourse of chastity, honor and shame is central to women’s self-identities, which in turn is linked to how shame and sexuality as a linked pair are internalized by women,<sup>111</sup> an internalization whose religious and socio-political dimensions have been explored in detail earlier. This is why Indian feminists have tried to show the link between shame and sexual violence, and how a woman’s experience of

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<sup>111</sup> Kalpana Vishwanath, “Shame and Control: Feminism, Sexuality and the Body” (paper presented at the conference on Femininity, the Female Body and Sexuality in Contemporary Society, Delhi, Nehru Memorial Museum, 1994.) Quoted in Veena Das.

shame is a form of patriarchal control; a man can violate a woman's body and, such being the power of shame, then throw the blame back on her.<sup>112</sup>

A definitive study by the National Commission of Women, Government of India, expands upon this link between rape and the social norms of chastity.<sup>113</sup> Thus it describes the experience of the rape victim in terms of her 'shame and disgust,' the loss of her 'sense of self-respect and autonomy,'<sup>114</sup> her 'disgrace' and the 'unfortunate social stigma that is corollary to rape and makes the victim unsuitable for marriage'<sup>115</sup> etc., going on to argue for a change in cultural attitudes. The Commission speaks of the 'utter ruination of the future prospects of the complainant' in the 'tradition-bound non-permissive society of India where a premium is placed on the virginity of a prospective bride' such that 'the incident of rape has narrowed her chances of securing an alliance with a respectable family.'<sup>116</sup> Further, this loss of honor has traditionally applied not only to the raped woman herself, but to her family and community. As one author says, 'It is not only the victim of rape; the social prestige of all individuals and institutions to which her name is attached is at stake [...] This is because in the social set-up, the woman generally symbolizes the honor and good name of all those to whom she is related. Rape puts a social stigma against all those who are connected with her.'<sup>117</sup>

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<sup>112</sup> Meenakshi Thapan, "Gender and Embodiment in Everyday Life," in *Embodiment: Essays on Gender and Identity*, ed. Meenakshi Thapan (Delhi; Oxford University Press, 1997), 25.

<sup>113</sup> *Rape: A Legal Study*, National Commission of Women, 2000.

<sup>114</sup> *Ibid*, 16.

<sup>115</sup> *Ibid*, 17.

<sup>116</sup> *Ibid*, 32.

<sup>117</sup> Bedabati Mohanty, *Violence Against Women: An Analysis of Contemporary Realities* (New Delhi: Kanishka, 2005), 89.



Historically, the most evocative explication of this relationship between rape and family/community honor can probably be found in feminist retellings of the 1947 partition of India and the widespread violence that accompanied it. While this will be taken up in greater detail in Chapter 4, what is important for now is to emphasize the centrality of *sexual* violence on both sides of the border, with ‘accounts of innumerable rapes, of women being stripped naked and paraded down streets, of their breasts being cut off, of their bodies being carved with the religious symbols of the other community.’<sup>118</sup> Here we see how sexual violence functioned as a weapon of war, to shame not just the individual women but also their communities. Also, we must note how, in this instance of communal violence, differences of caste and class and region were collapsed/ignored such that it was the woman’s national identity (Indian/Pakistani), coupled with her religious identity, that was foregrounded as each side tried to shame and dishonor the other.

In other instances, the caste and/or class identity of women may constitute the central reason for rape. Earlier, I have discussed the traditionally dominant order’s discursive construction of lower-caste women as sexually available; it is not hard to see the connection between these ancient practices and contemporary events. Thus Dalit women remain easy targets of rape at the hands of upper-caste men, especially in rural and conservative parts of the country. A Human Rights Watch study which interviewed more than 300 Dalit men and women as well as more than 100 government officials, social workers, Dalit activists and attorneys is probably the best documented book so far

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<sup>118</sup> Urvashi Butalia, “Community, State and Gender: Some Reflections on the Partition of India,” in *Women and the Politics of Violence*, ed. Taisha Abraham (Delhi: Haranand, 2002), 131.

on lower caste women's vulnerability to sexual violence.<sup>119</sup> One of the most shocking cases the study mentions is of Bhanwari Devi, where *Saathin* Bhanwari Devi was brutally gang-raped by upper-caste men for being an outspoken critic of child marriage.<sup>120</sup> Here we see how gender inequality intersects with caste inequality; the upper-caste men were incensed by Bhanwari Devi's outspokenness against what they considered to be the traditional and sacrosanct cultural practices of their community not only because she was a woman but because she was lower-caste. This case also highlighted the continuing dominance of the upper caste in rural India, and the vulnerability of working women in general across the country. And while we know of this case simply because of the tremendous publicity it received in India as well as in the international community, not all cases of sexual violence occupy a similarly expansive space within the nation's imagination; for each such case of rape and sexual exploitation of lower caste women that makes it to newspaper headlines, there are several that might be lying buried under files or in the disturbed psyches of victims for entire lifetimes.

In other words, women from different castes often have to combat different disadvantages with respect to sexual violence, especially in rural and conservative areas of the country where caste continues to exert a very powerful influence. While the normative ideals of chastity, 'marriageability' and familial honor often make it difficult for upper-caste women from these areas to speak openly about their experiences once rape has occurred, the lower caste female body - and especially the erstwhile

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<sup>119</sup> Smita Narula, *Broken People: Caste Violence against India's "Untouchables"* (New York: Human Rights Watch, 1999).

<sup>120</sup> Ibid, 176-77. For further details of the case, see Kirti Singh, "Violence against Women and the Indian Law," in *Violence, Law and Women's Rights in South Asia*, ed. Savitri Goonesekere (New Delhi: Sage, 2004), 104-5.

‘untouchable’ or Dalit female body – is already coded as sexually available in traditional patriarchal and caste-centric narratives of embodiment, thereby making lower caste women more vulnerable to the threat of rape.

As for class, it may be instructive to recall my earlier discussion on the overlaps between caste and class, and how the disadvantages of one can compound those of the other. At the same time, class can play an independent role regardless of caste. The easiest example is of working-class women who might belong to the upper castes, but whose working class status makes them more vulnerable to sexual violence. This is especially true for women working in the unorganized sector of the economy, as domestic help, as construction workers on daily wages, roadside vendors etc. Unlike educated women working in white collar jobs in the urban organized sector, who can also be victims of sexual violence but who are at least afforded the protection of legislation, the sites of work for working class, uneducated women are as yet legally unregulated, rendering them vulnerable to the constant threat of sexual violence.

In other words, working class women – in many instances, regardless of caste - face a set of sexual violence-related challenges that can be somewhat different in nature from those faced by non-working class women. In the public sphere, the latter classes of educated women are usually not as easy targets of sexual violence. However, once rape occurs, notions of privacy, social reputation and family honor may serve as stronger deterrents, holding them back from approaching the law for justice. On the other hand, if they are able to overcome these initial social and psychological barriers, the odds are

more in their favor; non-working class women have the education, the legal awareness, the money, and the required social and professional contacts that working class women lack in order to successfully fight their case.

These factors, along with the fact that the normative female subject of the national imagination is implicitly upper caste and middle class such that these women are anyway framed as the ‘ideal’ rape victims by the apparatus of the nation-state, results in favorable social positioning that might allow some of them to get a greater degree of public sympathy and legal ‘justice.’ This is the point I now turn to.

### **Rape and the Nation-State**

So far, we have established two crucial points. *One*, that the hegemonic cultural ideal of female chastity, while traditionally stemming from the upper caste-middle class complex, does not always restrict itself to this complex. Instead, it may spill over to shape the subjectivities of individual women across locations who, regardless of their lived realities, may aspire to the hegemonic ideal of chastity as the idealized expression of their embodied selves. *Two*, this power of the ‘national’ *imaginary* notwithstanding, there are both *real* difficulties and possibilities associated with different locations; in the context of rape, we saw how women of different castes and classes might often face uniquely different challenges.

The question now is: what are the dynamics set in motion when these intertwined discourses of sameness and difference collide with the apparatus of the nation-state and its juridical framing of rape?

The past few decades have seen a tremendous amount of legal reform in India, with a slew of progressive legislation in favor of women which has, in many instances, significantly furthered women's interests. However, as discussed at length in the previous chapter, the state – being linked to the 'nation' in terms of its national history and 'national' symbolic order - ultimately cannot function completely outside of the dominant cultural ideologies of the nation. And since law is but an instrument and institution of the state, these patriarchal ideologies, operating through the regulatory process of law, have often co-opted the working of the state in order to discipline female citizen-subjects. An excellent example in this regard is Brenda Cossman and Ratna Kapur's seminal work on the familial ideology that, they argue, has undergirded juridical approaches to gender issues in India.<sup>121</sup> Citizenship is thus gendered through the 'construction' of women by the state, with 'woman' functioning both as a unified as well as a differentiated category

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<sup>121</sup> Cossman and Kapur, "Women, Familial Ideology and the Constitution: Challenging Equality Rights," in *Feminist Terrains in Legal Domains: Interdisciplinary Essays on Women and Law in India* (New Delhi: Kali for Women, 1996), 61-99. Kapur and Cossman argue that law in India has been defined by a protectionist approach to gender, wherein women are seen as the weaker sex, as 'different' from men, and in need for male protection; by conflating the biological fact of women's childbearing with their socio-historical roles as wives and mothers, law has operated within the framework of a familial ideology that essentializes gender difference by naturalizing the social. While Kapur and Cossman acknowledge that 'to recognize that particular differences are socially constructed is not to suggest that they are any less real in the lives of individuals who have been so constructed' (72), they insist on a deeper interrogation of social 'facts' so that law does not – even when it is purportedly using the moral language of advancing women's interests – end up reinforcing the same patriarchal ideology that resulted in women's subordination in the first place.

within law, the latter pointing towards dichotomies such as good and bad, housewife and prostitute, normal and deviant.<sup>122</sup>

This function of law as a site not just of progressive change but also of co-option and compromise is, then, also true with respect to rape laws. Thus while the Indian state's principle of protective discrimination has led to anti-rape laws and legal procedure in contemporary India tilting very much in women's favor, and while Sections 375 and 376 of the Indian Penal Code criminalize rape and prescribe stringent punishment for rapists, the patriarchal bias of law, as practiced, often allows the perpetrator to escape unscathed. These biases and legal loopholes draw from a larger patriarchal mindset of society, where gender inequalities intersect with other social inequalities such as of class and caste to create complex and shifting structures of domination and oppression. The Bhanwari Devi rape case itself is an example, where the corruption of lower courts and loopholes in the law combined with the orthodox hierarchies of the caste system; offensive questions pertaining to the (lower caste) victim's morality were raised in juxtaposition to the (upper caste) perpetrators' social and economic 'respectability' to deny justice to the hapless victim.

Thus, despite significant strides in rape laws in India, eminent feminist sociologist Veena Das demonstrates how judicial discourse in India often continues to be undergirded by an androcentric national imaginary that discursively classifies rape victims as 'good, chaste women' or 'bad, unchaste women' in a manner that ultimately has less to do with protecting the bodily integrity of women and more to do with the

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<sup>122</sup> Rajan, *The Scandal of the State*, 2-4.

regulation of sexuality according to the social rules of alliance.<sup>123</sup> Das demonstrates how judicial judgments on rape often lie at the intersection of the discourses of sexuality and the discourses of social alliance. So, for instance, in the case of a young, unmarried girl, it is a ‘grievous’ matter of a chaste, previously unmarked body now sexualized through the impress of male desire and rendered ‘unmarriageable,’ while in the case of women defined as ‘sexually experienced, rape is an offense against the rule of alliance (according to which, she is only supposed to be available to her husband.) But if it can be proved that she is unchaste, and without significance in the exchange between men, then she is seen as morally ‘available’ within the social rules of alliance. In essence, then, the discursive production of legal ‘knowledge’ places the female body before the scrutiny of a masculinist state such that women’s experiences become unknowable.

This paradox of law is brought out very cogently by Nivedita Menon in her article ‘Embodying the Self: Feminism, Sexual Violence and the Law’.<sup>124</sup> Using the example of specific rape cases from India, Menon demonstrates how the binary logic of law, defined in terms of oppositions such as truth/untruth, guilt/innocence and consent/non-consent, cannot comprehend the complexity of sexual violence. As a consequence, even when justice appears to be done, the legal discourse on violence re-enacts dominant patriarchal values; in the Indian context, this would translate into values such as chastity, virginity, premium on marriage, and honor.

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<sup>123</sup> Veena Das, “Sexual Violence, Discursive Formations, and the State,” in *States of Violence* eds. Fernando Coronil and Julie Skurski (Ann Arbor: University of Michigan Press, 2006), 393-423.

<sup>124</sup> Nivedita Menon, “Embodying the Self: Feminism, Sexual Violence and the Law,” in *Translating Desire: The Politics of Gender and Culture in India*, ed., Brinda Bose (New Delhi: Katha, 2002), 200-37.

Interpreted thus, Menon's argument that the female body does not exist 'naturally' but is produced by legal discourse, which in turn is enmeshed within the power structures of society, is absolutely accurate. As she says, rights come into being and have meaning only within particular discourses, and as a consequence, the reality of sexual violence cannot be accessible outside its (cultural) context. 'Legal discourse functions by fixing meaning, by creating uniform categories out of a multiplicity of possibilities, by suturing open endedness. The experience validated by feminism as "real", on the other hand, acquires meaning precisely through an interplay of contexts, and may be rendered sterile within the rigid codification required by legal discourse.'

The moot issue, therefore, is not just the normative production of female chastity through the discursive mechanisms of the nation-state. Ultimately of concern is the manner in which the natural, the social and the moral are ideologically conflated within the space of the nation-state in a manner that perpetuates hegemonies, denies justice to those located outside of its discursive framework, and, in fact, even renders a formal enactment of 'justice' meaningless. For a cogent explanation of these dynamics, one might turn to Jacqui Alexander's study of postcolonial legislation which argues that juridical frameworks exist for the purpose of disciplining and regulating the social, and that the language of morality has always been central to law; to be 'moral' is to be asexual, heterosexual or sexual in ways that presumably carry the weight of the 'natural.'<sup>125</sup> Thus Alexander argues that attempts to manage sexuality through morality is inextricably bound to colonial rule and carries over into the postcolonial context; by

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<sup>125</sup> M. Jacqui Alexander, "Redrafting Morality: The Postcolonial State and the Sexual Offences Bill of Trinidad and Tobago," in *Third World Women and the Politics of Feminism*, eds. Chandra Mohanty, Ann Russo and Lourdes Torres (Bloomington: Indiana University Press, 1991), 133-52.



drawing sexual boundaries around 'licit' and 'illicit' sex, and by establishing a discursive relationship between sex and morality, and morality and nature, the state ultimately institutionalizes a hegemonic patriarchal politics as the basis of the polity.<sup>126</sup>

Thus the Bhanwari Devi case is hardly an exception. In India, the moral character of the raped woman has always played a huge role in rape cases. The most infamous of these cases was the Mathura case, where the Supreme Court in 1979 had acquitted the two policemen who had raped a sixteen year-old tribal girl in the police station on the grounds that the victim was of loose morals and habituated to sex. Because Mathura's tribal subjectivity was at odds with the nation's – and therefore the state's – normative female subject, she was thus seen as undeserving of justice. Fortunately, a massive public outrage had followed the acquittal of the rapists, as a result of which, rape laws in India were significantly amended in 1983 and then again, in 2003.

However, despite the Supreme Court's repeal of Section 155(4) of the Indian Evidence Act such that 'evidence' pertaining to the morals and prior sexual history of the rape victim is no longer admissible in court during a rape trial, such 'evidence' often continues to be used in order to undermine the rape victim's allegation. Defense tactics sometimes include comments on provocative dressing, being out of home late at night, being in the company of men and so forth. Even if no explicit references to her character are made during the trial, many subtleties regarding the woman's morals, her life choices, her professional and personal history, and the nature of her relationship with the accused

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<sup>126</sup> According to Alexander, morality gets codified through the enactment of three simultaneous gestures: the central positioning of legitimate, naturalized, procreative sex within the conjugal arena, and with it the institutionalization of hegemonic masculinity and subordinated femininity; the establishment of clear boundaries between 'natural' sex and forbidden sex such as prostitution and homosexuality; and the construction of an 'unnatural' underworld of homosexuality (139-400).

may be introduced to weaken her case and to undermine the victim's testimony. As a recent newspaper report pointed out, the two most common defense arguments in a rape trial in India are either that the particular case under consideration is one of mutual consent, or that the victim was in general sexually immoral and habituated to intercourse with men.<sup>127</sup>

In her scathing criticism of the Indian judicial system, renowned feminist lawyer Flavia Agnes says that the ideal rape case therefore seems to be one where the raped female is a newborn girl (thus ruling out doubts regarding the prior loss of her virginity and firmly establishing non-consent), and who is gang-raped by multiple men (which dramatically increases the gravity of the crime and elicits immediate public sympathy) in front of many witnesses (who are able to provide testimony, thus fulfilling the all-important legal requirement of evidence and thereby ruling out the possibility of a conspiracy charge being brought against the girl's guardians for falsely accusing the rapists for caste or monetary or other gains)!<sup>128</sup> Since most rape cases are more complicated, with issues of consent and evidence infinitely more blurred than in Agnes' ironic example, the defense relies on 'evidence' pertaining to the life situation and prior life choices of the victim in order to ascertain the veracity of her allegation.

Further, while these tactics of using the good woman/bad woman dichotomy as the basis for deciding upon the fate of the accused are more common in the lower and subordinate courts, even the upper courts are not completely free from it. As Veena Das

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<sup>127</sup> Manoj Mitta, "Rape victim's word enough to nail accused," *The Times of India*, New Delhi, June 17, 2009.

<sup>128</sup> Flavia Agnes, "Protecting Women against Violence: Review of a Decade of Legislation, 1980-89," *Economic and Political Weekly*, 27: 17 (1992): 19-33.

rightly concludes after analyzing a series of judicial judgments on rape in India, a woman whose testimony is most likely to be believed is therefore one who is chaste, ‘tradition-bound’ and displays the appropriate modesty with regard to male desire.<sup>129</sup>

While Agnes’ and Das’ arguments are based on cases from earlier years, my forthcoming work on some of the more recent and controversial rape cases in India confirms their thesis. Interrogating the relationship between the discursive framing of rape and the caste/class affiliations of victims and perpetrators, and examining how this relationship ultimately impacts upon legal justice in the aftermath of rape, I argue that the national imaginary’s chaste female subject continues to be very much foregrounded in rape judgments, in the process creating different challenges and possibilities for differently-situated rape victims.<sup>130</sup>

Thus my essay argues that the collective anxiety of the Indian middle-class often results in public outrage against working class rapists (as in the Dhanonjoy Chatterjee rape case, where the upper caste but working-class rapist was awarded capital punishment) but not so much when the rapist hails from an upper-class influential stratum of society. Arguing that, regardless of the class affiliation of the rapist, the victim still has a chance at justice if she approximates the middle-class ideal of what Veena Das terms the ‘good, chaste woman,’ I show how justice is, in practice, often compromised when we have a working class victim. So, while a working class woman may be able to drag her non-working class, socially powerful rapist to court (as in the Shiny Ahuja rape case), the

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<sup>129</sup> Das, “Sexual Violence, Discursive Formations, and the State,” 409.

<sup>130</sup> Debatri Dhar, “The Class Dimensions of Rape in India,” in *Indian Women: Issues and Perspectives*, eds. Ranjay Vardhan and Manoj Kumar (Delhi: Indian Publishers, 2013), forthcoming.

victim's testimony is often socially discounted even despite irrefutable legal evidence. Referring to this phenomenon as the 'Virtuous Virgin/Lying Maid Syndrome,' my essay uses it to address the larger issue of compromise i.e. a situation where the victim is paid money to withdraw her case.

Sunder Rajan's earlier assertion that the postcolonial state's construction of gendered citizen-subjects translates into 'woman' functioning both as a unified as well as a differentiated category in law is therefore absolutely correct; a foregrounding of the postcolonial nation's chaste, emblematic female subject ensures that the state grants justice to women whose positioning most closely approximates the national 'emblem.' Thus, a rape victim from the upper caste-middle class complex may be discursively framed by the state as the ideal victim, but only so long as her individual subjectivity continues to be in keeping with the hegemonic norms of her caste and class, and therefore with the national imaginary. In other words, the power of the 'imagined woman' trumps the lived realities of real women such that different understandings of female embodiment do not necessarily pose a significant challenge to hegemonic framings of the normative, chaste female subject at the level of the nation-state.

We can now see how the emblematic position of chastity within the dominant narratives of the nation-state not only militates against meaningful justice for many rape victims, but might also result in rape victims staying entirely away from the state's legal apparatus in order to avoid compounding the 'shame' they are already experiencing. And as I have already argued, the hegemonic discourse of chastity may have been internalized

by individual rape victims irrespective of their location, and regardless of how the legal apparatus of the nation-state frames them; as a result, 'shame' as a patriarchal disciplining tactic need not necessarily be restricted to rape victims hailing only from the upper caste-middle class complex. And finally, even if women do approach the law, the discursive framing of rape as the irreversible loss of chastity and as a fate worse than death may even render the notion of legal justice meaningless for many women, regardless of whether or not the rapist is found guilty by the courts.

Quite obviously, then, rape victims' suicide is one unfortunate consequence of this androcentric framing of the chaste female body within the discursive spaces of the nation.

### **Rape and Suicide**

Some of the most evocative examples of rape victims committing suicide out of the shame from having been rendered 'unchaste' are to be found not just in historical, political or religious and other high cultural narratives, but more so in popular culture and more specifically, film. In fact, it was on account of these compelling visual images of rape victims' suicide, images one has been subjected to for many, many years, that the connection between rape, chastity and suicide had presented itself as an obvious cultural 'fact' to me even before consulting the NCRB data.

Cultural theorists agree that popular culture, being an important site for struggle over meaning, offers culture's dominant understandings of gender, thus providing rich

material for feminist interpretation.<sup>131</sup> As cultural artifacts, an ideological analysis of films can therefore shed light on cultural values and patterns. This is all the more true for Indian cinema, since from its early days, Indian films have both reflected and set trends in Indian society.<sup>132</sup> While the emergence of the Mumbai-based Hindi film industry (or Bollywood) as the single-largest producer of films worldwide may recently have led to the tremendous impact of movies on the Indian population being studied systematically, film scholars had speculated the influence of this most popular medium of mass communication to be very strong even before that.<sup>133</sup> So, as a medium of and for the masses, commercial Indian cinema has mostly been undergirded by the same patriarchal ideologies discussed earlier in the dissertation; ignoring the diversities and actual realities in society, the ideal Indian woman was for many decades represented in monolithic terms, as chaste, self-sacrificing, submissive and steeped in Indian tradition. As one author puts it, ‘Indian cinema would have the *pativrata* (chaste woman) confronted by the *kulta* or unchaste woman.’<sup>134</sup> Hence, it is hardly surprising that Bollywood<sup>135</sup> should afford us an effective insight into the social framing of rape as well as the dominant cultural understanding of rape victims’ suicide.

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<sup>131</sup> Suhela Kirka, “Popular Culture: From Being an Enemy of the “Feminist Movement” to a Tool for Women’s “Liberation”?” *Journal of American Culture*, 2:3 (1999), 101-7.

<sup>132</sup> Rachel Dwyer and Divia Patel, *Cinema India: The Visual Culture of Hindi Film* (London: Reaktion Books, 2002), 42-100.

<sup>133</sup> See for instance the work of film scholars such as K.A. Abbas and V.P. Sathe, M.L. Raina, Shamita Das Gupta and Derne.

<sup>134</sup> Vijaya Ramaswamy, “Researching Icons, Re-presenting Indian Women,” in Vijaya Ramaswamy (ed.) *Re-searching Indian Women* (New Delhi: Manohar, 2003).

<sup>135</sup> While regional cinema also exhibits many of the same trends, their ideological influence is limited to specific linguistic areas. Hindi cinema, on the other hand, exerts influence over the entire nation; as mentioned earlier, this has led some contemporary theorists such as Pavan Varma to conclude that Bollywood has emerged as one of the primary forces contributing to national consolidation.

Thus Shamita Dasgupta points out how a common theme in Hindi films was for the raped woman to either marry the rapist in order to mitigate the shame of the rape and thereby restore her chastity, or for the raped woman to commit suicide out of shame and her male relative – usually the husband or lover, but occasionally the father or the brother – to avenge himself against the rapist on her behalf.<sup>136</sup> These themes can be found not just in the films of the 1970's, the 1980's, but in a few instances, even the 1990's. In making a connection between rape and suicide, the examples that immediately came to my mind were *Noorie* (1979), *Aaspaas* (1981), *Andha Kanoon* (1983) and *Aakhri Raasta* (1986). The films in which the rape victim marries the rapist include *Pyar ka Devta* (1990), *Benaam Badshah* (1991), *Raja ki Aayegi Baraat* (1997); a less common option was for the rape victim to kill (or castrate) the rapist, as in *Zakhmi Aurat* (1988), *Insaaf Ka Tarazu*, *Phool Bane Angerey* (1991) and *Daman* (2001).

It is important to mention that over the last decade, the representation of women in mainstream Indian cinema has undergone tremendous shifts. Bollywood is, in this political moment, deeply invested in the discursive production of a glossy, cosmopolitan Indian identity, an identity that again plays out through female bodies and gendered discourses about the “new Indian woman” as did the more traditional Indian identity before it.<sup>137</sup> Some scholars attribute this change to the economies of demand, supply and circulation; Bollywood has overtaken Hollywood as the largest global producer of films,

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<sup>136</sup> For a discussion, see Shamita Dasgupta, “Feminist Consciousness in Women-Centered Hindi Films,” *The Journal of popular Culture* 30 (1996): 173-189.

<sup>137</sup> See for instance Sujata Moorti, “Uses of the Diaspora: Indian Popular Culture and the NRI Dilemma,” *South Asian Popular Culture* 3:1 (2005), 49-62; and Amita Nijhawan, “Excusing the Female Dancer: Tradition and Transgression in Bollywood Dancing,” *South Asian Popular Culture* 7:2 (2009), 99-112.

and the intended audience for these films has now expanded much beyond the territorial frontiers of India.<sup>138</sup> Film is ultimately a ‘product,’ manufactured within a given system of economic relations; because every film is part of the economic system, it is also part of an ideological system.<sup>139</sup> Given the rise in the economic power of India's cosmopolitan sectors as well as the changing roles of women in contemporary urban India, Bollywood films as an economic medium for product placement and brand endorsement have thus also become an ideological medium for a cosmopolitan world.<sup>140</sup>

As a consequence, it is now common for Bollywood films to challenge gender stereotypes, to be sexually explicit, and to engage with themes such as homosexuality, pre-marital sex and single motherhood. With specific reference to rape, it is hard to think of any Bollywood films from the last decade that advocate patriarchal ideologies or frame sexual violence in regressive terms. While a few notable earlier films such as *Prem Rog* (1982) had also challenged traditional stereotypes pertaining to rape, such challenges are far more common and mainstream now. One of the best examples of this is *Hamara Dil Aapke Paas Hai* (2000), where the heroine (played by Aishwarya rai) is a rape-victim and the hero (played by Anil Kapoor) falls in love with her. Actively taking on the barrage of gossiping neighbors and dispelling traditional myths associated with rape, he encourages her to stop blaming herself, to pick up the threads of her life and work on advancing her career.

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<sup>138</sup> Ibid.

<sup>139</sup> Jean-Luc Comolli and Jean Narboni, “Cinema/Ideology/Criticism,” in *Film Theory and Criticism: Introductory Readings*, eds. Leo Braudy and Marshall Cohen (New York: Oxford University Press, 2004), 812-819. Original paper written in 1969.

<sup>140</sup> Coonoor Kripalani, “Trendsetting and Product Placement in Bollywood Film: Consumerism through Consumption,” *New Cinemas: Journal of Contemporary Film* 4:3 (2006), 197-215.



At the same time, an interesting point of view forwarded by some scholars is that the current focus of Bollywood films on glossy, cosmopolitan narratives actually represents a restricting of the national imaginary through its conflation of ‘Indian’ with Hindu, wealthy, and urban, a conflation which is the product of socio-political and economic trends such as global capital flows and regressive gender politics; in the process, the female body continues to be a site where anxieties about national identity and globalization are worked out.<sup>141</sup> This argument does have its merits, especially when one considers the near-absence of films on rape in the past few years, a time period when actual rape rates have increased on the ground owing to widespread patriarchal backlash.

The strides in popular culture and the real social changes they mirror notwithstanding, it may therefore be more accurate to argue that contemporary realities are more complex than a linear narrative of progress might convey, and that the effects of centuries-old discourses on chastity die hard. Thus the dialogues commonly found in films of earlier decades, such as “There is no point in my living anymore since I have lost everything,” not just give us a clear insight into the dominant socio-cultural understanding of rape during earlier decades but may also indicate the mindset of many rape-victims even in contemporary times.

To go back to the particular cases of rape victims’ suicide with which this chapter began, then, it is hardly surprising that the young rape victim in the first case committed suicide; according to her, she had ‘lost’ everything, a loss that must have presented itself

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<sup>141</sup> Sheena Malhotra and Tavishi Alagh, “Dreaming the Nation: Domestic Dramas in Hindi Films post-1990,” *South Asian Popular Culture* 2:1 (2004), 19-37; and Moorti, “Uses of the Diaspora: Indian Popular Culture and the NRI Dilemma.”

to her as shameful, total, irreversible, perhaps even worse than death. It is hardly surprising, then, that suicide presented itself to the young, unmarried girl as an immediate way to end her feeling of shame and loss. And in the second case, the girl's request to change residence because of social ostracism gives us a clear sense of what she was undergoing in her social milieu. This case serves as an apt example of the social stigma associated with rape, a stigma that finally compelled the victim to take her own life.

In other words, my assertion that rape victims' suicide is an unfortunate consequence of the androcentric framing of the female body and the cultural emphasis on chastity within the discursive spaces of the nation-state is certainly an assertion that both these cases of suicide support.

Viewed in this light, it seems absolutely right that feminists in India should have vetoed the Hindu right's suggestion to bring in legislation awarding capital punishment to rapists.<sup>142</sup> While there has not been an organized feminist response to capital punishment in India in general, capital punishment for rape posed some exceptional challenges. At a practical level, the new law would have translated into judges' hesitation in prosecuting rapists and might even have encouraged rapists to kill their victims. Also, as a study on capital punishment for rapists notes, 'the government's logic for awarding death sentence to rapists in the "land of Sita and Savitri" is based on the belief that rape is worse than death.'<sup>143</sup> On a more discursive level therefore, the new law would have further

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<sup>142</sup> For debates on capital punishment for rapists in India, see *Capital Punishment* (New Delhi: Center for Women's Development Studies, 1999).

<sup>143</sup> *Ibid.*, 2.

consolidated the ‘dishonor of rape as worse than death for a woman’ thesis and perhaps encouraged more suicides by the ‘unchaste,’ ‘dishonored’ women across the nation.

The important question to ask now is: should rape victims’ suicides be explained solely in terms of the socio-cultural framing of female chastity and the meaning of rape within this framework, or are there other understandings of rape victims’ suicide that jostle for space within the nation-state? And once again, what is the role of the state?

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### CHAPTER THREE

#### **Rape and Suicide: Social, Psychological, Legal, Political and Moral Perspectives**

In answer to the question raised in the last chapter, I submit that rape victims’ suicides cannot be explained solely on the basis of the hegemonic cultural emphasis on chastity. For, in fact, an analysis of the textual material on rape victims’ suicide collected for this dissertation reveals *several different understandings* of suicide.

The *first* of these is the traditional socio-cultural understanding that has been explicated in the previous chapter, on the relationship between the hegemonic emphasis on female chastity and the experience of rape. To provide a brief recap, chastity and honor are seen to reside in the female body, making it imperative for the nation-state to

render ‘unviolated’ bodies appropriate for protection through a series of blatant as well as latent guardianship strategies. However, once violated, the loss of honor has traditionally been seen as irreversible. Further, this ‘dishonor’ falls not only upon the victim but upon her entire family. As a consequence, rape victims hailing from the upper castes and/or middle classes – i.e. social formations characterized by a greater emphasis on norms of chastity and ‘respectability’ - may adopt the path of suicide in order to ‘save face.’

At the same time, I also demonstrated how hegemonic understandings of female embodiment do not necessarily restrict themselves to the upper caste/middle class complex; instead, they may spill over and shape individual identities of women across castes, classes and locations, albeit to varying degrees. Hence, while upper caste/middle-class women from conservative backgrounds may certainly be more prone to committing suicide, it cannot be assumed that women from other castes, classes and locations are completely outside of the influence of hegemonic understandings of embodiment. Indeed, as mentioned, the evidence for this dissertation suggests that rape victims from the lower castes and/or classes also frequently commit suicide.

The Human Rights Watch study mentioned earlier points to how Dalit families also have trouble securing matrimonial alliances for their daughters once they are raped; as a result, many families remain silent about sexual violence while many rape victims attempt suicide.<sup>144</sup> According to the study, ‘Early marriage between the ages of ten and sixteen years persists in large part because of Dalit girls’ vulnerability to sexual assault by upper caste men; once a girl is raped, she becomes unmarriageable.’<sup>145</sup> Elsewhere, the

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<sup>144</sup> Smita Narula, *Broken People: Caste Violence against India’s “Untouchables.”*

<sup>145</sup> *Ibid*, 31.

study mentions the case of a Dalit rape victim who was gang-raped by members of the Thevar caste<sup>146</sup> and who tried to commit suicide by pouring kerosene on her body and setting herself afire.<sup>147</sup> She was saved, and her family and the fellow-residents of the village were able to convince the police to take up the case; however, despite an identification of the rapists by her as well as other eyewitnesses, the investigation was ultimately dropped because of police apathy as well as considerations of reputation on the part of the victim's family. In fact, these considerations of reputation and shame also result in women committing suicide in order to evade the possibility of rape. In one such case in 2008, a Dalit woman committed suicide by setting herself on fire in order to evade a rape attempt by her neighbor.<sup>148</sup>

Here it is important to point out that news reports on rape victims' suicide do not always mention the caste affiliations of the victim. Regardless, the common motive behind many of the cases of raped women's suicide – as in the first two cases discussed in the previous chapter – seems to be that, caste notwithstanding, suicide (or at least its attempt) results from the feelings of shame and self-loathing associated with rape, a feeling that the women's suicide notes, conversations or other evidence amply indicates.

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<sup>146</sup> The Human Rights Watch study provides a very compelling account of how caste violence occurs not only between Dalits and upper castes, but more often between Dalits and other backwards castes that are only marginally above the Dalits but that have managed to secure greater benefits and power under the state's affirmative action program. In this instance, the rapists were Thevars, a backward (in terms of ritual status) but politically more powerful caste while the victim was a Dalit.

<sup>147</sup> Smita Narula, *Broken People: Caste Violence against India's "Untouchables,"* 174.

<sup>148</sup> "Dalit Woman Commits Suicide to Evade Rape Attempt," *The Indian News*, July 5, 2008, [http://www.thaindian.com/newsportal/uncategorized/dalit-woman-commits-suicide-to-evade-rape-attempt\\_10068139.html](http://www.thaindian.com/newsportal/uncategorized/dalit-woman-commits-suicide-to-evade-rape-attempt_10068139.html)

Just as it did for another rape victim, this time from a village in the state of Uttar Pradesh; in March 2012, the 18 year-old confided in her sister about her rape, and then committed suicide. According to a report,

‘An 18 year-old rape victim allegedly committed suicide in Sahijana village here, police said on Monday. The incident took place yesterday, when the victim hanged herself from a mango tree, police said. The FIR lodged by the girl’s brother states that a village youth raped the girl at gun point when her parents were attending a family function on Saturday night, they said. The deceased had confided in her elder sister about the incident of rape, police added. Raids are being carried out by the authorities as the accused and his family members have been absconding since the incident took place, they said. The victim’s body has been sent for post-mortem, police said.’<sup>149</sup>

Another similar suicide case is of a poor minor girl who was gang-raped in Kanpur in 2010. According to a news report,

‘A minor who was gang-raped by two youths in Ghatampur area in Kanpur allegedly committed suicide today, sparking protests by locals. The 17 year-old girl had gone to a field near her house last night where she was allegedly raped by her two neighbors Pradeep and Sunil Singh Bhadoria, Ghatampur police station circle officer Prem Prakash said. The victim’s father claimed that he had approached police for registering a rape complaint against the duo, but he was asked to come the next day. However, this morning the victim poured kerosene and set herself afire, according to the girl’s father. The police have registered a case in this regard and are waiting for the girl’s medical report to confirm the rape charge. Agitated over the incident, villagers held a protest in the area demanding immediate arrest of the duo who are at large.’<sup>150</sup>

In yet another case, the rape victim’s feeling of shame was compounded by a pregnancy. In this case, the suicide occurred not after the rape, but after the girl realized that she was pregnant.

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<sup>149</sup> “Rape Victim Commits Suicide,” *Zee News*, March 5, 2012, [http://zeenews.india.com/news/uttar-pradesh/rape-victim-commits-suicide\\_762205.html](http://zeenews.india.com/news/uttar-pradesh/rape-victim-commits-suicide_762205.html)

<sup>150</sup> “Kanpur Rape Victim Commits Suicide,” *Daily News and Analysis*, September 3, 2010, [http://dnaindia.com/india/report\\_kanpur-rape-victim-commits-suicide\\_1433144-all](http://dnaindia.com/india/report_kanpur-rape-victim-commits-suicide_1433144-all)

‘A teenage rape victim committed suicide at Sayla village in Surendranagar district on Thursday. Preliminary investigations have revealed that the pregnancy following the rape compelled the girl to take her life.

According to the Sayla Police, the girl, daughter of one Dalsuh Devipujak, a resident of Mota Kerala village, consumed poison on Wednesday after she discovered that she was pregnant. She breathed her last at a hospital in Sayla on Thursday. After her death, her father registered a rape complaint against a neighbor, who is now reported to be absconding.

Police said the girl was raped some two months back at her residence in Mota Kerala village. Devipujak alleged that one Hitesh Pagi raped his daughter. In his complaint, Devipujak, 40, said that in the last week of November, when his daughter was alone at their place, the accused forcefully entered their house and raped the girl.

The police said the accused, Pagi, had also accused the girl of dire consequences and had asked her to keep silent about the whole issue. Her parents said they came to know about the crime only after the girl consumed poison two days ago. She was taken to a hospital for treatment, but died there the very next day.

“The girl was horrified after the rape, and committed suicide when she discovered that she was pregnant,” said a police officer. He said Pagi is absconding and is yet to be arrested.<sup>151</sup>

As in the above case of a pregnancy, the shame being experienced by a rape victim may be compounded by yet other factors, such as the role played by an irresponsible media. One such really outrageous case was that of a 24-year girl named Bijal Joshi who committed suicide on 7<sup>th</sup> January, 2004. The National Commission for Women’s investigative report<sup>152</sup> confirmed that Bijal was picked up, brutally beaten and gang-raped by a group of five men which included the man she had been in love with. Afterwards, she was brought in a semi-conscious state to a place near an Indian Oil Petrol Pump, from where the sister of the victim picked her up; sensing the situation, the sister immediately took Bijal to the nearest police station, where they had to face a lot of

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<sup>151</sup> “Teenage Rape Victim Commits Suicide Following Pregnancy,” *Express India*, Jan 25, 2008, <http://www.expressindia.com/latest-news/teenage-rape-victim-commits-suicide-following-pregnancy/265532/>

<sup>152</sup> “Alleged Gangrape and Suicide of a Rape Victim in Ahmedabad,” *Investigative Report*, National Commission for Women, New Delhi, Jan 2005, 3-9.

apathy, insensitivity and delays. In the weeks that followed, lack of Inter-State Police cooperation hampered the speedy conduct of investigation. In the meantime, the accused kept openly sending threatening and mocking SMS messages to Bijal; one particular message was “tujhe jo karna hai kar le; mera to baal bhi banka nahin hoga.”<sup>153</sup>

In an extremely insensitive and irresponsible move, a television news channel broadcast the details of the case based on their own ‘investigation.’ The NCW report speaks of how the news-channel, ‘in a 45-minute report, traced all the phone calls made by Bijal in the last 8-9 months. A few of the contacts were interviewed; one contact’s statement that Bijal was “aisi ladki thi”<sup>154</sup> was also aired. The story line was that Bijal was contacting many men frequently, thus, leading the viewers to raise questions about her conduct and values.’<sup>155</sup> Condemning the manner in which the program used victim-blaming strategies to discredit the rape victim, the NCW report questioned whether, ‘at a time, when the investigation was progressing and when one of the accused was still at large, was it ethical or wise to air a program like that?’<sup>156</sup>

Sajal finally committed suicide, stating in her suicide note that the guilty must be punished “especially Sajal, as I loved him.”<sup>157</sup>

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<sup>153</sup> Ibid, 3. Translation: “Try as much as you want, but you won’t be able to do anything to me.”

<sup>154</sup> Translation: “She was just this type of a (characterless) girl.”

<sup>155</sup> Ibid, 6.

<sup>156</sup> Ibid, 7.

<sup>157</sup> Ibid, 3.



In yet other cases, the rapist might be a relative or friend, making it even harder for the victim to come to terms with her rape. In my research, I came across many instances of this, such as in the following case where

‘A 28-year-old woman, allegedly raped by her husband’s brother-in-law a week ago, committed suicide in the Bawana area of outer Delhi on Friday night. After the accused’s wife learnt of the incident, she, too, tried to kill herself. The accused has been arrested. “Pradeep and his wife, Neeta (name changed), have been living in Nangla village of Bawana for the past 12 years. Pradeep’s sister, Sangeet (name changed), was married to Bittu, who used to visit them often. Last week, when he came to their house, Neeta told him that Pradeep was out and it was then that he raped her,” said a police officer, who did not want to be named.

Bittu threatened her with dire consequences if she talked about the incident to anyone.

“Nearly a week after the incident, Neeta consumed some poisonous substance on Friday, after which she was taken to the Valmiki hospital,” the official added. In her statement to the police and doctors, she said she was raped by her relative which forced her to take the extreme step.

“She died soon after giving the statement and we sent a team to arrest Bittu. Sangeet too got to know of the incident. Ashamed of her husband’s act, she consumed a poisonous substance,” he said. Sangeet is recuperating in a hospital and is out of danger.

The medical examination of Neeta has confirmed rape. “We have recorded Pradeep’s statement and a case has been registered against Bittu. He has been arrested,” he added.<sup>158</sup>

In the above case, the rapist threatened the victim with dire consequences should she report the matter. Rapists, in fact, often take advantage of their victim’s feeling of shame in this manner; using threats aimed at further marring the victims’ reputation and respectability, they continue taking advantage of them and blackmail them into compliance. In one case, for instance,

‘Patiala: A resident of Manakpur village has been arrested for allegedly raping a woman and making her obscene MMS which he later sold off to a shop-owner in the

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<sup>158</sup>“Rape Victim Commits Suicide,” *Hindustan Times*, November 17, 2011, <http://www.hindustantimes.com/StoryPage/Print/770241.aspx>

village. So much so, the accused allegedly kept exploiting the woman over a period of 10 months while threatening to circulate the clip if she let the truth out.

Sources said the victim, a resident of Manakpur village, and her family enjoyed good relations with Sukhdev Singh, their neighbor, and were planning to marry the victim's younger sister to him.

Around 10 months ago, Sukhdev allegedly called the victim at his residence on the pretext that his mother wanted to hold talks with her about the marriage alliance. However, when the victim reached his house, accused Sukhdev allegedly raped her and captured the obscene clip on his mobile phone.

The truth came to light a few days ago when a close friend of the victim's husband told him that an MMS featuring his wife had been circulated among youngsters of their village. A shocked Harijit went to the computer shop, which had already uploaded the clip on the mobile phones of youngsters, and lodged a complaint at the Bankur police station.

In his police complaint, the victim's husband alleged that his wife did not reveal that she had been raped by Sukhdev and that he had been exploiting her for 10 months, as accused allegedly threatened to circulate the MMS if she complained against him [...]'<sup>159</sup>

While the rape victim did not commit suicide in the above case of blackmail, the suicide of a 15 year-old minor girl in Bhopal, Madhya Pradesh, is a more heartrending case. The girl was gang-raped, with her rapists recording an MMS of the rape and threatening to upload it on the internet if she did not agree to continue being sexually available to them. When she protested, the rapists circulated the clip among their friends, leading to the girl committing suicide. According to a news report,

'Two weeks after a minor girl committed suicide, an MMS that featured the girl being gangraped by four did the rounds in Harda town, Madhya Pradesh. The 15-year-old girl ended her life after she came back from school on December 14 [...] The accused have been booked under the charges of abetment to suicide. Even as a charge sheet was to be filed against the accused, the MMS was doing the rounds in town. The victim's family copied the footage and submitted it to the police. According to sources, the CD showed four people involved in gang rape. As they took turns to rape the girl, the victim can be heard screaming. The accused too can be heard in the CD threatening her that they would circulate the MMS and upload it on the internet [...]

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<sup>159</sup> "Man Held for Raping Woman, Making MMS," *The Times of India*, New Delhi, August 19, 2010.

“Once identification of the victim in the footage is ascertained, the accused would be charged with section of rape and their accomplices would also be arrested,” said Harda Superintendent of Police RS Uike.<sup>160</sup>

In my research, I have come across an increasing number of rape cases where such recorded MMS clips, as well as more old-fashioned threats, are being used to silence the victim into compliance. *Here I must again emphasize that blackmailing the rape victim through threats to tarnish her respectability and honor seems to be common even for lower caste and/or working class rape victims.*

A very recent example is the gang-rape of a 16 year old Dalit girl; while her attackers succeeded in using cellphone videos to coerce her into silence, the images circulated in the village and reached her father, who then committed suicide. According to the very poignant report,

‘One after the other, the men raped her. They had dragged the girl into a darkened stone shelter at the edge of the fields, eight men, maybe more, reeking of pesticide and cheap whiskey. They assaulted her for nearly three hours. She was 16 years old.

When it was over, the men threatened to kill her if she told anyone, and for days the girl said nothing. Speaking out would have been difficult, anyway, given the hierarchy of caste. She was poor and a Dalit, the low-caste group once known as untouchables, while most of the attackers were from a higher caste that dominated land and power in the village.

It might have ended there, if not for the videos: her assailants had taken cellphone videos as trophies, and the images began circulating among village men until one was shown to the victim’s father, his family said. Distraught, the father committed suicide on Sept. 18 by drinking pesticide. Infuriated, Dalits demanded justice in the rape case.

“We thought, we lost my husband, we lost our honor,” the mother of the rape victim said. “What is the point of remaining silent now?” [...]

The gang-rape of the 16-year-old girl occurred on Sept. 9 but remained a secret in the village until her father’s suicide. Dalits formed a committee to demand justice, and roughly 400 people demonstrated outside the district police headquarters, as well as at the hospital where the father’s body was being kept.

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<sup>160</sup> “MP: Girl’s Gang rape MMS Surfaces After Suicide,” *Reporter India*, Jan 6, 2012, <http://www.reporterindia.com/mp-girls-gang-rape-mms-surfaces-after-suicide/2012/01/>

“We told them that unless you catch the suspects, we would not take the body,” said a woman named Maya Devi. “We do not have land. We do not have money. What we have is honor. If your honor is gone, you have nothing [...]”<sup>161</sup>

What we see in the above case is an underscoring of a point made earlier, regarding the manner in which the discourse of honor also circulates among the lower castes. The rapists used this discourse to shame the rape victim into silence, and it was only after the ‘dishonored’ father committed suicide that a demand for justice was made. And while this is a very recent example (September 2012), there are several examples in my archive (2007-2012) that are similar to this recent case as well as to the cases from an earlier decade mentioned in the 1999 Human Rights Watch study.

An example is a case that was covered in the Hindi newspaper *Dainik Jagran*, where a working class Dalit woman was gang-raped by two college students, who also recorded an MMS of her and threatened to upload it on the internet should she complain to the police.<sup>162</sup> While this woman fortunately did not commit suicide, another news report of yet another Dalit rape victim details how:

‘A Dalit rape victim committed suicide on Wednesday by hanging herself in Mubarakpur police station area in Azamgarh district after she was allegedly threatened by the accused’s father of dire consequences if she did not settle for a compromise in the case.

The Azamgarh Superintendent of Police (SP), Bhagwan Swaroop said the victim, Priyanka (18) of Piyropur village was allegedly raped by Guddu Yadav and Rajesh Ram of the same village on December 21. Both the accused have been arrested. The victim in her statement before the court had alleged that Guddu and Rajesh had raped her. The SP said the girl hanged herself with a saree from the ceiling hook in her house and committed suicide on Wednesday noon. [...] A case of

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<sup>161</sup> Jim Yardley, ‘A Village Rape Shatters a Family, and India’s Traditional Silence,’ *The New York Times*, 28 October, 2012  
<http://www.ndtv.com/article/india/a-village-rape-shatters-a-family-and-india-s-traditional-silence-285210>

<sup>162</sup> “Dalit Mahila Se Gang-rape: MMS Bhi Banaya,” *Jagran City*, June 28, 2009.

abetment to suicide has been registered in the girl's suicide and efforts are on to arrest the accused, the SP said.'<sup>163</sup>

The point I am trying to make again and again is that, while victims hailing from upper caste and/or middle class backgrounds may be more susceptible to such threats on account of social reputation, women from other backgrounds are not completely immune to it. Further, for women from lower castes/classes, silence is also the result of caste hierarchy and economic powerlessness; hence we see all these cases where threats to withdraw the police complaint are often also accompanied by political and economic pressure. As in the following heinous case of a Dalit rape victim's attempted suicide, where a girl was not just gang-raped by six of her college teachers at least 14 times within a span of six months, but she and her family were also coerced into silence until she finally went public about her rape and threatened to commit suicide.

"[...] The girl, however, was intercepted before she could take any further step in this direction. "I got a call from the girl early in the morning. She said she had written such a note, which a teacher has found," said Manjula Pradeep of Navsarjan, a body working for Dalits' rights.

According to reports, the girl, who scored a high percentage in her first year PTC examination, is worried about her security within her family and fears that her fight for justice may be bought off [...]

Gemar Chaudhary, president of the Parents Association of Patan PTC College, said: "I learnt that the girl had drafted a note of suicide this morning."

He said: "She has been under a lot of pressure from all quarters. Her father is a labourer and he is also under tremendous pressure from his community leaders." Chaudhary, who has already sought the intervention of the National Human Rights Commission in the case, said they are being subjected to "all kinds of pressure techniques, including social, economic and political."

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<sup>163</sup> "Threatened by Accused's Father, Dalit Rape Victim Commits Suicide," *Indian Express*, February 17, 2011 <http://www.indianexpress.com/news/threatened-by-accuseds-father-dalit-rape-victim-commits-suicide/751192/>

“While some of the accused are from the same community as mine, our family members are being approached asking us to step aside from the case,” he said, adding that he was offered Rs. 5 lakh to stay away from the case [...].”<sup>164</sup>

At the same time, it may validly be argued that in these instances of suicide (or even its attempt) following constant threats issued by the rapists, it is the *psychological trauma* faced by the victim rather than (only) the ‘shame’ of rape that leads to suicide. This is all the more true in those cases where, prior to her suicide, the rape victim had already gone public about her rape and lodged a complaint with the police.

For that matter, it might validly be asked as to why this reading of psychological trauma should only be limited to those rape victims who were later on threatened by their rapists? After all, the brutal and dehumanizing invasion of bodily integrity that defines the experience of rape is trauma enough. As a study by the National Commission of Women notes, ‘an initial acute trauma related reaction shows itself in nearly all rape victims. Feelings of terror, mistrust, depression, rage and guilt seem to engulf the poor soul. Anger and guilt usually pre-dominate. The victim is filled with shame and disgust; her sense of self-respect and autonomy is gone.’<sup>165</sup> Thus mental trauma should apply to all of the cases of rape victims’ suicide discussed so far, including the cases discussed in the previous chapter, where the women’s stated intent was overtly indicative of the socio-cultural emphasis on chastity.

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<sup>164</sup> D P Bhattacharya, “Patan Gangrape Victim Threatens Suicide,” *Express India*, June 26, 2008 <http://www.expressindia.com/latest-news/patan-gangrape-victim>

<sup>165</sup> *Rape: A Legal Study*, National Commission of Women, New Delhi, 2000, 16.

This, then, is the *second* understanding of suicide, an important understanding that has, in any case, assumed pre-eminence within the bulk of scholarship on the subject of women's suicide, partly if not wholly because of the paucity of detailed and reliable sociological data. Deriving from a clinical-psychological and mental health framework, and significantly informed by 'western' scientific research, this second understanding of suicide views suicide as the result of excessive mental trauma leading to temporary insanity/mental 'disorder.'

Speaking of the correlation between mental disorders and suicide, Indian psychiatrist Lakshmi Vijaykumar notes that

'Mental disorders occupy a premier position in the matrix of causation of suicide. Majority of studies note that 90% of those who die by suicide have a mental disorder. The number of published reports specifically studying the psychiatric diagnoses of people who die by suicide has been relatively small. The majority (82.2%) of such reports come from Europe and North America with a mere 1.3% from developing countries [...]'<sup>166</sup>

Of course, the reading of rape victims' suicide in terms of mental trauma and subsequent complications is entirely valid, regardless of the specificities of nationality, race, caste and class, and of whether or not studies on the link between trauma and suicide are representative of cultures in the non-west. However, it is important to remember that *the psychological cannot ultimately be separated from the social*. This appreciation of the interrelationship between the personal and the social in the diagnosis of mental disorder increasingly informs western models too.

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<sup>166</sup> Lakshmi Vijaykumar, "Suicide and its Prevention: The Urgent Need in India," *Indian Journal of Psychiatry* 49(2) (2007):81-84.

Thus, the gender-blindness of supposedly objective studies in cognitive neuroscience, forensic psychiatry and allied disciplines which earlier framed mental disorder in terms of intrinsic chemical imbalances in the genetically, hereditarily and environmentally susceptible individual's brain have now been subjected to feminist interdisciplinary criticism. As a result, scholars from differing perspectives have come together to examine how gender as a category plays out in the construction, identification and treatment of women's mental disorders. Phyllis Chesler's *Women and Madness* is arguably one of the most trenchant works in this category.<sup>167</sup> Chesler put forward the claim that what is considered madness is either the acting out of an ideologically devalued female role, or the rejection of one's sex-role stereotype. According to Chesler, this works more to the detriment of women than men because of the inherent nature of the female role itself, to which has historically been attributed qualities of passivity, irrationality, helplessness, deceit, dependency and neurosis. As a consequence, while men can avoid being labelled mad by displaying a broader set of behaviours termed 'masculine,' women stand to be given the same label not only if they reject the culturally stereotyped female role, but also if they adopt it too well. In other words, women's mental disorder is deeply embedded in the discursive construction of normative femininity.

To the extent that one uses discourse analysis in order to read raped women's suicide, I would argue that Chesler's argument certainly applies. For here we see women who have adopted the culturally stereotyped female role too well; since the normative

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<sup>167</sup> Phyllis Chesler, *Women and Madness* (New York: Avon, 1972).



woman of the Indian national imaginary is chaste, the raped woman who has forcibly been robbed of her chastity sees it as the ultimate dishonour and kills herself.

But even if one does not wish to go so far as Chesler's discursive argument takes us, one would still be forced to agree with feminist critiques of the gendered nature of positivist medical knowledge on mental disorders, and of the androcentrism of psychiatric diagnosis, especially those listed by the American Psychiatric Association and followed by medical establishments around the world.<sup>168</sup> As a result, feminist psychiatrists have advocated for an epistemological shift from the positivist tradition in the bio-medical and psychological sciences to more holistic psychiatric approaches that can better account for the multiple layers of women's subjective experience.<sup>169</sup>

Feminist sociologists have also made substantial contributions to analyses of women's mental disorders by demonstrating how such disorders stem from systemic gender discrimination, with many feminist sociologists causally locating women's mental disorders in societal structures of oppression that create systemic inequalities for women in their stifling social roles and responsibilities such as domestic work,<sup>170</sup> mothering,<sup>171</sup>

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<sup>168</sup> For feminist critiques of the APA, see for instance Paula Caplan, *They Say You're Crazy: How the World's Most Powerful Psychiatrists Decide Whose Normal* (Reading: Addison-Wesley, 1995); and D. Becker, *Through the Looking Glass: Women and Borderline Personality Disorder* (Boulder: Westview, 1997).

<sup>169</sup> See for instance Doris Howard, ed., *A Guide to Dynamics of Feminist Therapy* (New York: Harrington Park Press, 1986); E. Burman, ed. *Feminists and Psychological Practice* (London: Sage, 1990); B. Burstow, *Radical Feminist Therapy: Working in the Context of Violence* (Newbury Park: Sage, 1992); and J. Harden and M. Hill, eds., *Breaking the Rules: Women in Prison and Feminist Therapy* (Binghamton: Haworth, 1997).

<sup>170</sup> M. Barrett and H. Roberts, "Doctors and Their Patients: The Social Control of Women in General Practice," in *Women, Sexuality and Social Control* eds. C. Smart and B. Smart (London: Routledge, 1978).

<sup>171</sup> Ann Oakley, *Subject Women* (Oxford: Martin Robertson, 1981).

and fewer avenues of fulfilment through education and employment.<sup>172</sup> An important contribution of these works has been to locate women's mental disorder in a critical-empathetic space by demonstrating how women's rate of exposure to both generic (such as unemployment, poverty, problems with children etc.) as well as gender-specific stressful life events and crisis (multiple role-strain, role conflict as well as forms of violence such as battering, rape and sexual harassment) is significantly higher than that of men.<sup>173</sup>

What emerges from this discussion is the inextricable intertwining of the psychological with the social, with the latter shaping the former in durable ways. Thus, as Vijaykumar says in the specific context of India,

‘Although suicide is a deeply personal and an individual act, suicidal behavior is determined by a number of individual and social factors [...] Suicide is best understood as a multidimensional, multifactorial malaise. Suicide is perceived as a social problem in our country and hence mental disorder is given equal conceptual status with family conflicts, social maladjustments etc. [...] Divorce, dowry, love affairs, cancellation or the inability to get married (according to the system of arranged marriages in India), illegitimate pregnancy, extramarital affairs and such conflicts relating to the issue of marriage, play a crucial role, particularly in the suicide of women in India.’<sup>174</sup>

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<sup>172</sup> E. Garmanikov, D. Morgan, J. Purvis, and D Taylorson, eds., *The Public and The Private* (London: Heinemann, 1983).

<sup>173</sup> See for instance R.S. Lazarus, *Psychological Stress and the Coping Process* (New York: McGrawHill, 1996); and N.F. Russo, “Women’s Mental Health: Research Agenda for the Twenty-First Century,” in *Mental Health, Racism and Sexism*, eds. B. Brown, B.Kramer, B. Reiker and C.Willie (Pittsburgh: University of Pittsburgh Press, 1995), 373-96.

<sup>174</sup> Vijaykumar, “Suicide and its Prevention.”

Hence, while clinical-psychological understandings of suicide are increasingly becoming popular in India, it is important to keep in mind feminist perspectives on the link between the psychological and the social. As an example,

‘A 15-year old girl in Karauli, who attempted suicide after being raped by a boy, died of burn injuries at SMS hospital on Saturday.

The rape took place in Kanchanpura village of Karauli district on April 29. The accused, identified as Bunty, hails from the same village. The girl, depressed over the incident, poured kerosene over herself and set herself on fire. She sustained severe burn injuries and was admitted to SMS hospital in Jaipur.’<sup>175</sup>

Here we see how the clinical-psychological understanding of suicide – an understanding that the girl was ‘depressed’ - forms an overt part of the narrative itself. Yet, can the psychological trauma resultant from rape be separated from the social aspects of the rape?

In another example of a rape victim’s attempt to commit suicide (where, again, the post-rape trauma forms an overt part of the narrative),

‘The post-crime trauma suffered by a teenaged rape victim and her family members and the state’s apathy to their plight has shocked a Delhi Court, prompting it to order Rs. one lakh as interim compensation to her.

Additional Sessions Judge Kamini Lau expressed shock after finding that the victim had tried to commit suicide by consuming acid, leading to replacement of her food pipe with an artificial pipe while her father suffered two heart attacks and her mother had to work as a maid to sustain the family with no state aid whatsoever.

‘I’m shocked to observe that despite this pathetic state of the victim and her family, who, I find, are feeling a sense of physical and psychological isolation, no assistance has been provided by her to the state,’ the judge observed, ordering Delhi Government to award her the compensation, noting the vegetative state the victim has reduced to.

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<sup>175</sup> “Rape Victim Dies After Suicide Bid,” *The Times of India*, May 14, 2011 [http://articles.timesofindia.indiatimes.com/2011-05-14/jaipur/29542882\\_1\\_suicide-bid-bunty-karauli](http://articles.timesofindia.indiatimes.com/2011-05-14/jaipur/29542882_1_suicide-bid-bunty-karauli)

“The victim, who was hardly 14 years old at the time of incident, has now been virtually reduced to a vegetable existence after she consumed acid pursuant to the incident.

“Rape of a minor not only affects her but has also a devastating impact on her entire family, which equally suffers in silence as has happened in the present case,” the court said [...]’<sup>176</sup>

Another example is of the attempted suicide of a 17-year old rape victim, who jumped out of the second floor window of a hospital in Kolkata. According to the news report, ‘Rape Victim Jumps from Hospital Window,’<sup>177</sup>

‘A 17-year-old pregnant girl, an alleged rape victim, attempted suicide by jumping off the second-floor window of a Howrah hospital’s maternity ward late on Tuesday night, 20 minutes after her admission there. She is now critically injured. Police are investigating the matter.

The girl was admitted to Liluah Home on Monday and was brought to the hospital on Tuesday evening after developing gynecological problems. Police said the girl, a resident of Liluah’s Bamangachi, had been missing since July 2. Suspecting that she had been kidnapped by a neighbor, her family lodged a kidnap case on August 9 at Liluah police station against Jathiram Gupta, his two brothers Ranjeet and Dipak and their aunt Kamal Gupta.

Police arrested the four on Monday and produced them in court. The girl, who was rescued from them, also deposed in court. As the girl was a minor, the court released her on a personal bail bond, giving her parents the option to take her back or else, she would be sent to a juvenile home. The girl’s mother did not sign the bail bond and the girl was sent to Liluah Home. [...]

Police are now probing why the girl attempted suicide. We are probing whether the girl was depressed as her mother did not take her home or whether she was tortured at Liluah Home or whether she went into depression after she was raped.’

Once again, questions regarding the psychiatric condition of the girl form an overt part of the narrative. However, the point to note once again is that, regardless of whether or not the girl’s psychiatric evaluation ultimately points towards depression (and it

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<sup>176</sup> “Rape Victim’s Post-Crime Trauma, State Apathy ‘Shock’ Delhi Court,” *The Times of India*, Feb 2, 2012 [http://articles.timesofindia.indiatimes.com/2012-02-02/delhi/31016513\\_1\\_delhi-court-apathy-victim](http://articles.timesofindia.indiatimes.com/2012-02-02/delhi/31016513_1_delhi-court-apathy-victim)

<sup>177</sup> “Rape Victim Jumps From Hospital Window,” *The Times of India*, Kolkata, August 14, 2008.

probably will), this clinical-psychological problem is obviously a result of social circumstance. The fact is that she was raped; in this case, the issue of consent does not arise since she was a minor. This fact obviously played into her condition, as did her pre-marital pregnancy (something still looked down upon in India, even in the most liberal of circles) and her social ostracism by her family, all of these collaborating to cause the trauma due to which the girl tried to commit suicide.

Further, this clinical-psychological ‘fact’ of trauma would apply to all the cases of rape victims’ suicide discussed thus far. The rape victim who committed suicide because she was unable to bear the social boycott, the minor girl who set herself on fire because she felt she had ‘lost everything’ owing to her rape, the girl who had been raped at gun-point and later hung herself from a mango tree, the woman who killed herself because her rapist was a relative, the rape victims who were threatened with dire consequences should they choose to report the matter (including the cases where the rapists recorded and threatened to make public MMS clips of the rape in order to silence the victim into compliance), the rape victims who committed suicide on learning they were pregnant...in all these cases, the psychological trauma suffered by the victim must have been immense. In all of these cases, it is impossible to see psychological trauma as a category separate from the socio-cultural framings of rape. Instead, these two understandings of suicide necessarily intersect. Also, while a rape victim is traumatized always and everywhere, regardless of location, this trauma will certainly be multiplied manifold in locations defined by greater degrees of patriarchal control over female sexuality, and subsequent victim-blaming.

So much for society, the medico-scientific establishment, and the links between the two. But what about the law? How does the law understand suicide? Law, then, provides the *third* framing of raped women's suicide.

In India, suicide, as it currently stands, is a punishable offense. Section 309 of the Indian Penal Code states that 'Whoever attempts to commit suicide and does any act towards the commission of such an offense shall be punished with simple imprisonment for a term which may extend to one year or with a fine or with both.' The debate on suicide in India has, however, been very interesting with reference to the 'right to die' argument.<sup>178</sup> Section 309, formulated in 1860 and reminiscent of the Victorian heritage of a colonial era, has often been questioned, amended and re-amended by the Indian Supreme Court. In a 1994 case (*P. Rathinam vs Union of India*), Section 309 was declared a violation of Part III of the Indian Constitution on Fundamental Rights, and specifically a violation of Art 21 (Right to Life and Personal Liberty), which was understood by the Bench as including the Right to Death.<sup>179</sup> However, in a 1996 case (*Gian Kaur vs State of Punjab 1996*), this ruling was overturned by a Supreme Court bench which made a distinction between suicide and 'a dignified procedure of death.' Thus the Court held that:

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<sup>178</sup> For a detailed discussion of Section 309 and the right to suicide, see S. BalaKrishnan and R.K. Mani, "The Constitutional and Legal Provisions in Indian Law for Limiting Life Support," *The Indian Journal of Critical Care Medicine*, Volume 9, Issue 2 (2005).

<sup>179</sup> Supreme Court Judgment in *P.Rathinam vs. Union of India 1994 (3) SCC 394*.

'The right to life including the right to live with human dignity would mean the existence of such a right up to the end of natural life. This also includes the right to a dignified life up to the point of death including a dignified procedure of death. In other words, this may include the right of a dying man to also die with dignity when his life is ebbing out. But the "right to die" with dignity at the end of life is not to be confused or equated with the right to die an unnatural death curtailing the natural span of life.'<sup>180</sup>

As in apparent from cases concerning Section 309, an emphasis has been laid on interpreting suicide as it pertains to euthanasia, and therefore to cases of withdrawal of life support for terminally-ill patients. However, even while maintaining this emphasis, the Court has gone beyond it to address suicide in general. The most recent of these judgments was delivered in March 2011, when the Supreme Court declared Section 309 to be anachronistic, and advocated counseling rather than punishment for suicidal persons. Below are the details of this recommendation:

‘In March 2011, the Supreme Court recommended to the Parliament that it consider the feasibility of deleting Section 309 of the Indian Penal Code (attempt to commit suicide) from the statute.

Making this recommendation, a Bench of Justices Markandey Katju and Gyan Sudha Misra said though a Constitution Bench in Gian Kaur's case had held Section 309 IPC constitutionally valid, “the time has come when it should be deleted by Parliament as it has become anachronistic. A person attempts suicide in depression, and hence he needs help, rather than punishment.”

Writing the judgment, Justice Katju said: “It may be noted that in Gian Kaur's case although the Supreme Court has quoted with approval the view of the House of Lords in Airedale's case, it has not clarified who can decide whether life support should be discontinued in the case of an incompetent person, e.g. a person in a coma or PVS [permanent vegetative state]. This vexed question has been arising often in India because there are a large number of cases where persons go into a coma (due to an accident or some other reason) or for some other reason are unable to give consent, and then the question arises who should give consent for withdrawal of life support.”

Explaining why the court was not recognising the petitioner in this case, Pinki Virmani of Mumbai, to espouse the cause of Aruna Ramachandra Shanbaug, who has

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<sup>180</sup> Gian Kaur vs. State of Punjab 1996 (2) SCC 648.

been lying in a vegetative state in hospital for 37 years, the Bench said though her petition was bona fide, “considering the low ethical levels prevailing in our society today and the rampant commercialisation and corruption, we cannot rule out the possibility that unscrupulous persons with the help of some unscrupulous doctors may fabricate material to show that it is a terminal case with no chance of recovery.”

It said: “While many doctors are upright, there are others who can do anything for money. The commercialization of our society has crossed all limits. Hence we have to guard against the potential of misuse. In our opinion, while giving great weight to the wishes of the parents, spouse, or other close relatives or next friend of the incompetent patient and also giving due weight to the opinion of the attending doctors, we cannot leave it entirely to their discretion whether to discontinue the life support or not” [...]’<sup>181</sup>

The above ruling by the Supreme Court is pertinent to this dissertation for two reasons.

Firstly, of course, is the fact that it speaks of the urgent need for the state to decriminalize suicide. This is not to say that a formalistic criminalization of suicide has had no advantages. The criminalization of suicide in Section 309 makes police involvement imperative, and so in the cases discussed in this chapter, we see how the rapists were booked under the ‘Abetment to Suicide’ clause of the IPC, a serious charge. However, I would argue that it can be made legally possible to hold on to this beneficial aspect of Section 309 while decriminalizing the action of the person committing suicide for, after all, this person is not a criminal.

While this judgment couches the Court’s understanding of suicide within a clinical-psychological frame (“A person attempts suicide in depression, and hence he needs help, rather than punishment”), a probing of the suicidal person’s ‘depression’ can lead us very easily into its social and other causes. Thus a debt-ridden farmer committing

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<sup>181</sup> J. Venkatesan, “Time for Parliament to delete IPC Section on Attempt to Suicide,” *The Hindu*, March 8, 2011 <http://www.thehindu.com/news/national/article1517999.ece>



suicide – a reality of contemporary agrarian India, and one that has received considerable scholarly attention - is not a ‘criminal’ any more than a raped woman committing suicide. Rather, the depression suffered by both the farmer and the woman are indicative of a larger social malaise; in the first case, of the structural inequalities in a rapidly globalizing India, and in the second case, of the androcentric organization of society and the horrible socio-psychological consequences of gender violence. In these and other instances, trying to prevent suicide through legal means is counterproductive.

Secondly, while the rest of the Supreme Court’s judgment focuses on the ethical issues of decriminalizing suicide with specific reference to the withdrawal of life support, this focus actually links up very sadly with rape, the central theme of this dissertation. The particular case that had come up for hearing was of Aruna Shanbaug, a nurse who, as the judgment notes, has been lying in a vegetative state in hospital for 37 years. 37 years ago, Aruna was a victim of rape: the rapist, a subordinate from her hospital, had choked her with a dog chain before raping her, cutting off oxygen supply to her brain. Aruna became cortically blind, lost her memory, her muscle control and the use of her limbs, along with suffering from emotional disability which results in inappropriate laughter and bouts of screaming amid extended periods of silence. Aruna’s heart-rending experience is the subject of Pinky Virmani’s much acclaimed book *Aruna’s Story: The True Account of a Rape and its Aftermath*.<sup>182</sup> Speaking of the socially constructed space of silence and shame that rape victims are forced into, a reviewer of Virmani’s book points out that in Aruna’s case, the silence is more than just social.

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<sup>182</sup> Pinky Virmani, *Aruna’s Story: The True Account of a Rape and its Aftermath* (Viking India, 1998).

“Because she could not testify, he got away with a light sentence, and she lives unhappily ever after.” These must be the last words said about practically every case of rape. Like murder, this crime has the effect of silencing the victim one way or another. A rape victim will not - or cannot - speak out for fear of reprisal or of being shunned. In addition, there is the humiliation, and the sensation of profound defilement, both unspeakable.

Speechlessness following a rape can go deeper. Aruna Shanbaug's continuing silence is not the outcome of fear or shame: she cannot speak at all. That "muscle in her mouth," with which she flayed a subordinate for not doing his job, no longer receives any signals from her brain. They have been knocked out. When Sohanlal Bhartha Walmiki choked her with a dog chain before raping and robbing her, oxygen supply to parts of her brain was cut off, and she became bereft not only of the power of speech but of the power to express herself in any other way.<sup>183</sup>

Lying in this vegetative state for over three decades, Aruna would probably have committed suicide if she could have. Since she cannot move, nor make any decisions for herself, Pinky Virmani petitioned the state for mercy-killing on the now 50-year old Aruna's behalf. As the above passage tells us, the court did not recognize Virmani as a petitioner; while acknowledging Virmani's petition to be bona-fide, the court in its 2011 judgment did not wish to set a problematic precedent for future cases, for reasons laid out above.

In rape victim Aruna's case, we thus see how the social, psychological and legal framings of suicide merge seamlessly. Speaking of the legal framing of suicide, the case also points to the complex ethical questions embedded in law. A debate on Section 309 is raging in the country, and one hopes that the Parliament will heed the Supreme Court's recommendation and strike down the section's anachronistic criminalization of suicide.

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<sup>183</sup> Vasantha Surya, “A Cautionary Tale,” *Frontline*, Volume 15, No. 13, June 20-July 3, 1998. Online version <http://www.hindu.com/fline/fl1513/15130740.htm>

Till such time, there will be incidents such as the one below where a rape victim, instead of getting compassion, is arrested for trying to commit suicide!

‘A local court sent two persons to one-day police remand on Monday in an alleged gang-rape case. On Sunday, the alleged victim had torn off her shirt in the police station after the cops reportedly failed to act upon her complaint. [...]

Police produced the alleged rape victim in a court on Monday for creating a scene at the police station on Sunday. Later, the court reportedly granted her bail. SP Dr. SC Rao told media-persons that the rape victim was arrested after she attempted suicide and made her immoral move of tearing off her clothes at the police station.’

However, it must be mentioned that, regardless of the ‘official’ criminalization of suicide in Section 309, my research did not reveal many cases where police actually arrested suicidal women. The very few suicide cases involving actual arrest were cases that were rendered more complex by additional acts carried out by suicidal women such as in the above case of tearing off one’s clothes.

The act of a rape victim’s tearing off her clothes is a protest against a milieu that is unsympathetic to the violence that she has undergone, and is therefore by no means a ‘crime.’ Not only that, but the act of a rape victim’s stripping – as I shall discuss in Chapter Six, with specific reference to Mahasweta Devi’s short story ‘Draupadi’ – is almost revolutionary insofar as it completely reworks the hegemonic codes of female chastity. However, since they appear unintelligible within an androcentric cultural universe, state authorities often react negatively to such acts of protest. Hence, all such instances where rape victims have stripped for justice are usually culturally decoded by the state as ‘immoral’ acts. In these and other similar instances, the protesters may be

seen as disrupting law and order and creating public nuisance, thereby leading to their arrest.

These exceptions notwithstanding, the state has often had a far more sympathetic attitude to suicide than the starkness of Section 309 reveals. This sympathy may certainly be indicative of an understanding of the social and psychological causes of suicide. This is all the more true in case of rape, where the Supreme Court has even laid down that even if the victim of rape is not available to give evidence *on account of her having committed suicide*, the prosecution case cannot be thrown overboard; instead, in such a case, the court can proceed to record a conviction on the basis of the available evidence brought on record by the prosecution.<sup>184</sup>

However, I submit that there is an additional dimension that allows us to better situate some of this sympathy for suicide. This, then, is the *fourth* understanding of suicide, an understanding that is at once moral as well as political.

A scene from the popular Bollywood film *Cheeni Kum* (dir. R. Balki, 2007) might serve as an irreverent but apt introduction to this fourth understanding of suicide. *Cheeni Kum* is about a romance between a 34-year old woman and a 64-year old man. When the woman's father comes to know of the romance, he vows that he will not touch a morsel of food until his daughter agrees to leave her older boyfriend and marry a more suitable, younger man. The father then lies in bed, fasting, while *Vaishnava Janato* (a devotional song associated with India's freedom struggle led by Mahatma Gandhi, who was known

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<sup>184</sup> State of Karnataka v. Mahableshwar Gourya Naik AIR 1992 SC 2043. Quoted in Rape: A Legal Study.

for advocating, as a form of non-violent political protest, the offering up of one's life) plays on a stereo and neighbors gather to play their last respects. When the fast continues on for days, the dying man's daughter and her boyfriend get more and more worried. Finally, the boyfriend remembers that, under the Indian Penal Code, suicide is a punishable offense. So he goes to the police station to persuade the officer to arrest his girlfriend's father, so that they can then force him to eat. The scene plays out in the following manner:

Police Officer: *Ji, bataiye main aapki kya madad kar sakta hoon?* (Tell me, how can I assist you?)

Hero: *Koi suicide karne ki koshish kar raha hai, main chata hoon ki aap use roken.* (Someone is trying to commit suicide, I want you to stop him.)

Police Officer: *Ok... matlab suicide hua nahin hai, hone waaala hai...?* (You mean the suicide has not happened, it is about to happen?)

Hero: *Koshish ho rahi hai. Isse pehleki koshish kabyab ho jaaye, aap use roken.* (An attempt is going on. Please stop him before the attempt becomes successful.)

Police Officer: *Aapka matlab aadmi kisi building ki chat par chadhdh chukka hai aur...* (You mean the man has climbed on top of some building and...)

Hero: *Nahin, koi building nahin. Ghar mein hi.* (No, not a building. Inside the house itself.)

Police Officer: *Matlab pankhe-vankhe se latatkar, yaa bhir neend ki goliyan kaa kar...* (You mean, trying to hang himself from a fan, or swallowing sleeping pills...)

Hero: *Nahi, khaana chodhdh diya hai usne. Dar-asal do din se usne kuchch khaaya nahin hai. Khud ko bhookh se maar raha hai.* (No, he has stopped eating. Actually he has not eaten anything for two days. He is committing suicide through starvation.)

Police Officer (enlightened and standing up, just below an enlarged photograph of Mahatma Gandhi): *Oh, aapka matlab satyagraha?* (Oh, you mean satyagraha?)

Hero: *Nahin, aisi koi mahaan baat nahi hai. Who humen dhamki de raha hai. Dar-asal who nahin chaahta ki uski beti mujhse shaadi kare.* (No, there is nothing so great about it. He is threatening us. Actually he doesn't want his daughter to marry me.)

Police Officer: *Oh. Main samajh sakta hoon.* (I can understand.)

Hero: *Kya samajh sakte hain?* (What can you understand?)

Police Officer: *Nahin...er...er.er...aapka dard.* (No...your pain.)

Hero: *Ab dard-varid kuchch nahin hai. Gussa hai.* (There is no pain now. There is anger.)

Police Officer: Hmm. *Par sir, yeh koi bara problem nahin hai.* (But sir, this is not a big problem.)

Hero: *Toh is chhote se problem ke liye aapke paas koi chhoti si solution hai?* (So do you have a small solution for this small problem?)

Police Officer: *Haan. Jaake bol dijiye usko ki main tumhari bati se shaadi kahin karunga. Usko chod raka hoon. Phir who khaana khaane lagega. Aur app kya kijije, aap us ladki ko kisi mandir mein le jaakar chupke se shaadi nipta dijiye.* (Yes. Go and tell him that you will not marry his daughter. That you are leaving her. Then he will eat. And what you do is that you take the girl to some temple and quietly get married.)

Hero: Brilliant idea. *Agar mijhe yahi karna hota toh mein aapke paas kyun aata? Aap use arrest kijiye, who is tarah se humen blackmail nahin kar sakta. Hum jo kar rahen hain, who kanoonan sahi hai. Who jo kar raha hai woh kaanoonan jurm hai.* It's an attempt to commit suicide. *Aap use isi waqt arrest kijiye, zabardasti khana khilaiye aur hum sabki takleef door kijiye.* (If this is what I had to do, why would I come to you? You must arrest him, he cannot blackmail us like this. What we are doing is lawful. What he is doing is illegal. It's an attempt to commit suicide. You arrest him immediately, force him to eat and solve all our problems.)

Police Officer (with hands folded): Sir, please *mujhe maaf kijiye. Main majboor hoon. Haan, aap kahen toh main aapke saath chalkar unhe advice de sakta hoon, par arrest nahin kar sakta. Main aise kisi aadmi ko arrest nahin kar sakta jo bhookha rehkar, yaani satyagraha se apna virodh prakat karta ho. Aur humne toh humesha aise logon ko mahaan samjha hai. Is desh mein satyagrahi ko arrest karke koi bach nahin paaya sir.* (Sir, please forgive me. I am helpless. Yes, if you say so, I can go with you and advise him, but I cannot arrest him. I cannot arrest any such person who is starving himself to death, or in other words, protesting through *satyagraha*. And we have always considered such people great. In this country, no one can arrest a person protesting through *satyagraha* and get away with it.)

Hero: *Kuch le-deke?* (What about some give and take?)

Police Officer: *Nahin sir. Is maamle mein hum le toh sakte hain, par kuch de nahin sakte.* Sorry. (No sir. In this issue we can take but not give. Sorry.)

What might seem as an unsuitable example in a serious study on suicide actually gives us an insightful glimpse into a pervasive politico-cultural understanding, an insight

that is otherwise impossible to glean from the stark clauses of law. Here I am referring to the political uses to which suicide has been put across South Asia for centuries.

While the most infamous of these political uses is embodied by the fundamentalist terrorist/ suicide bomber – and here I must draw a clear moral distinction between the taking of one’s own life and the indiscriminate killing of innocents – public suicide has, in fact, been seminal to the conception of justice in India, as across the rest of South Asia. In colonial India, offering up unarmed lives to face the brute might of the British Empire was very central to the Gandhian politics of passive resistance and non-violence. Likewise, mass self-immolation by students to protest the Mandal Commission reservation policy, and the public staging of *aamaran anshan* or ‘fast unto death’ protests by political separatists and social activists, show how in contemporary times too, suicide as political resistance has been deployed in India.

An interesting report in *The New York Times* confirms the uses of suicide by young people in India, especially college students with bright careers before them, for separatist causes such as demand for the statehood

‘The number of ideologically motivated suicides in India doubled between 2006 and 2008, the last year for which statistics were available, according to the government [...] “Young people see this as a way to give meaning to what seem like meaningless lives,” said Sudhir Kakkar, a prominent psychoanalysis and novelist who has written extensively about mental health in India. “It is a way to become a hero, to take a stand.”

Suicide is generally considered taboo in Hinduism, the religion of most Indians, because it disrupts the cycle of reincarnation that is central to the soul’s progress, Mr. Kakkar said. But the willingness to die for a cause, as exemplified by Gandhi’s epic fasts during the struggle for independence, is seen as noble and worthy. Ancient warriors in Tamil Nadu, in southeastern India, would commit suicide if their commander was killed, Mr. Kakkar said. And the practice of sati, or widow burning, although outlawed, remains a potent symbol of wifely devotion.

In modern, democratic India, however, such drastic measures seem like a bizarre and troubling throwback that has shattered many families [...]’<sup>185</sup>

Activist Anna Hazare’s staging of a fast unto death in 2011, in order to force the state to combat corruption by enacting the Jana Lokpal Bill, is probably the most publicized case of the willingness to die for a noble political cause in recent times. During the span of my research, I came across countless other lesser-publicized but equally poignant instances where suicide or its threat was used to claim justice from the state. Whether the threat of en-mass suicide by unemployed women armed with petrol bottles atop water tanks,<sup>186</sup> or the threat of self-immolation by a war widow for non-receipt of dues from the government,<sup>187</sup> or the threat of public suicide by a woman to protest against the slow pace of police investigation,<sup>188</sup> such instances demonstrate how sometimes, even the threat of suicide has sufficed to mobilize society and the state into action. Understanding this larger political context of protest then allows us to better contextualize the motivation of those rape victims who resort to a *public* staging of suicide in order to mobilize the state.

In September 2011, for instance, a rape victim tried to set herself afire at the police station.

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<sup>185</sup> Lydia Polgreen, “Suicides, Some for Separatist Cause, Jolt India,” *The New York Times*, March 30, 2010.

<http://www.nytimes.com/2010/03/31/world/asia/31india.html?ref=global-home>

<sup>186</sup> “Unemployed women climb atop water tank, demand jobs,” *The Times of India*, June 22, 2010.

<sup>187</sup> “War widow threatens to immolate herself,” *The Times of India*, August 4, 2010.

<sup>188</sup> “Woman threatens suicide,” *The Times of India*, June 29, 2010.



‘A rape victim, whose case was squashed due to absence of evidence against the accused, made an attempt to immolate herself at Samalkha police station on Friday afternoon.

Sources said her husband had accused Roshan of Pashian Khurd village for raping the woman two years ago.

On Friday, sources said the woman arrived at the police station carrying a bottle of kerosene. “She poured kerosene over her but was caught before she could set herself ablaze.”

Cops said the woman was booked under Section 309 of the IPC for attempting suicide. However, the woman’s family members accused the investigating officer of conniving with the accused named by her in the complaint.

“Roshan was arrested in January 2009 and had undergone DNA and polygraph test at forensic laboratory in Madhaban. Cops had to get him discharged as the reports showed no proof of the crime,” said the police officers.

They said cops had asked the woman to get the same tests done but “despite sending six notices, she did not join the investigations.” Cops then initiated proceedings to squash the case.<sup>189</sup>

From the above information, it is difficult to ascertain the veracity of the victim’s allegation. Whether it was indeed a case of police corruption and connivance with the accused – a possibility that cannot be ruled out – or simply a case of a false rape charge cannot be known. However, the incident does provide further confirmation of a trend that seems to emerge from my research i.e. that rape victims who directly engage the state by attempting suicide within the premises of a court or a police station do so only after they are denied legal justice in the conventional way.

In the above case, the authorities were able to prevent the suicide. However, this is not always possible. Rape victim Alka’s suicide serves as a case in point.

‘Rohtak: A police officer’s office has become the scene of yet another suicide by a rape victim in Haryana. On Wednesday, a young couple tried to kill themselves

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<sup>189</sup> “Rape Victim Attempts Suicide at Police Station,” *The Times of India*, Sep 10, 2011 [http://articles.timesofindia.indiatimes.com/2011-09-10/india/30138670\\_1\\_police-station-cops-station-on-friday-afternoon](http://articles.timesofindia.indiatimes.com/2011-09-10/india/30138670_1_police-station-cops-station-on-friday-afternoon)

outside the Rohtak DGP's office in protest against his inaction after 25-year-old Alka was raped. Alka is now dead and her husband critical.

Now her relatives have taken up the fight. They are refusing to cremate Alka until the guilty are punished.

Roop Singh, father-in-law of Alka, says: "This is not justice. We will not take the body until the police officers and the guilty are punished."

Last June, Alka had filed a case of gang rape against 5 men at a police station in Panipat. But evidence against them was not enough, so they are still free.

V Kamaraja, IG Rohtak range says that when the couple visited him, he asked the DGP to investigate the case. "Investigation was going on...now again we are looking into it."

Alka has left behind 2 children, who are 7 and 5. Her story is a reminder of another tragedy last year when another young woman in Haryana had died after consuming poison in front of a police station after the police failed to act against her rapists.<sup>190</sup>

Just as in the earlier case, Alka committed suicide after she was denied justice due to lack of forensic evidence. Interestingly, the other 'young woman' who is mentioned towards the end of the above narrative is Sarita, also a rape victim, who similarly committed suicide in the premises of the police station after being denied legal justice due to lack of forensic evidence. Among all the cases of rape victims' public suicide in the past five years, Sarita's case received the most amount of publicity, mobilizing the apparatus of the nation-state in unprecedented ways. While a detailed examination of this case will be taken up in a subsequent chapter, an immediate question, for now, that might occur to those situated outside of this particular cultural universe is: why should the state care if a citizen threatens suicide?

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<sup>190</sup> "Rape Victim Commits Suicide in Haryana," *NDTV*, May 8, 2009 <http://www.ndtv.com/article/india/rape-victim-commits-suicide-in-haryana-2949>

The answer is complex and multi-layered. We have already critiqued the idea of the state as an impersonal category and neutral agent of order, instead establishing the discursive linkages between the state and the affective nation. Given these linkages, I submit that some sort of a cultural and spiritual politics of compassion is in place that sees the taking of one's life as a last act of resistance to socio-political injustice. This politics of compassion is, in fact, a very important theme, and one I shall return to in the fifth chapter.

While it is obvious that this cultural politics has clear links with the freedom movement, where it was a Gandhian strategy to embarrass the colonial state into action, I would like to suggest that the Gandhian strategy itself may have had links with certain Hindu ideas on life and death. This would not be surprising, since Gandhi used many religious symbols in his politics. Even non-violence, his core political strategy, has pride of place in Hinduism and its off-shoot religions such as Buddhism. As one author says, 'In the Hindu worldview, power is also linked with the human virtues of self-surrender, endurance, tolerance and self-abnegation, which are generally regarded as passive.'<sup>191</sup> This is not to deny the point made by the earlier-mentioned article in *The New York Times*, about suicide being considered taboo in Hinduism since it disrupts the cycle of reincarnation central to the soul's progress.<sup>192</sup> Instead, what I am suggesting is that even though suicide is discouraged in some Hindu treatises including the *Dharmashastras*,<sup>193</sup> and one even finds lines such as *atma-hatya mahaa-paap, narake gaman* ('suicide is an

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<sup>191</sup> Madhu Khanna, 199.

<sup>192</sup> Lydia Polgreen, "Suicides, Some for Separatist Cause, Jolt India."

<sup>193</sup> Lakshmi Vijayakumar, "Altruistic Suicide in India," [Archives of Suicide Research](#) 8(1):73-80.

extreme sin, which will send you to hell’) in religious texts used in the everyday,<sup>194</sup> another strand within the Hindu worldview might understand suicide as an act of profound moral self-surrender, in the face of overwhelming injustice, and in the belief that the injustice will be settled on a higher plane. Here I am speaking of a victim’s suicide as promising punishment to the perpetrator insofar as the suicide would compound the ‘sin’ (in religious terms, rather than only crime in terms of the law) committed by the rapist. While this observation is conjectural, there may be sufficient grounds for it. So, for instance, the belief that ‘sinners’ will be punished is certainly linked to the all-pervasive Hindu idea of *karma*, wherein one’s *karma* (or acts, good or bad) do not end in this moment but have repercussions for the rest of this life as well as consecutive lifetimes. During the course of my research, I came across suicide notes such as the one mentioned in the news report below, which uses religious metaphor and speaks of the soul not resting in peace unless the rapists are punished.

‘A 22-year-old polytechnic student committed suicide after her cousin and two other youth first filmed her while she was taking bath and then raped her by threatening to post the clippings on the internet. Police have arrested the three youth, all college students.

M Agila, 22, a second-year electrical and electronic engineering student of a private polytechnic college, hanged herself in her house in Tamil Nadu's Tiruvannamalai district on Monday night. She left a suicide note saying her cousin E Ezhilarasan, 21, and two of his friends, R Jagan, 21, and E Vinod, 21, all from the same locality, had filmed her on a mobile phone while she was bathing in her house a week ago. She said they later approached her, showed her the clippings and raped her after threatening that they would post them online if she resisted. Naming the three youth, she said, "These three are responsible for my suicide. My soul will not rest in peace if they go unpunished."

The body has been sent to the Christian Medical College, Vellore, for postmortem. Police have also sought additional medical tests to ascertain rape. The three youth were booked on charges of rape, abetment to suicide, house trespass and

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<sup>194</sup> See for instance *Lakshmi Panchali*

under various sections of the IT Act, 2000 and the Tamil Nadu Women Harassment Act, 1988 [...]’<sup>195</sup>

This ‘religious’ use of suicide, to inflict ‘sin’ on the opposite party, also finds mention in secondary literature. For example, certain groups such as the Bhats in Gujarat and Brahmins in the north used to maintain their social privileges under the threat of committing suicide (*traga* in west India and *dharna* in the north) of which people were highly apprehensive since they believed the sins of such a death would fall upon them.<sup>196</sup>

In other words, the socio-historical, political, religious and moral reasons discussed in this chapter might explain the state’s generally sympathetic cultural attitude towards suicide, despite the pathological framing of suicide in psychiatry and its criminalization in law.

Interesting as these responses of the state are, and as fascinating the circumstances undergirding these responses, it may now be instructive to turn to the subjects themselves, in order to examine their acts of suicide more closely. The use of the term ‘subject’ is, in fact, particularly telling in this context, for it may validly be asked whether they are subject ‘to’ (in the sense of bodies rendered docile through the powerful disciplining discourses of their location) or subjects ‘of’ (in the sense of agents who exercise power and re-constitute their environment.)

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<sup>195</sup> Bosco Dominique, “Blackmail, Rape by Cousin Drives TN Woman to Suicide,” *The Times of India*, July 25, 2012.

[http://articles.timesofindia.indiatimes.com/2012-07-25/india/32847612\\_1\\_polytechnic-student-suicide-note-mobile-phone](http://articles.timesofindia.indiatimes.com/2012-07-25/india/32847612_1_polytechnic-student-suicide-note-mobile-phone)

<sup>196</sup> L.S.S. O’Malley, “The Impact of European Civilization,” in *Modern India and the West; A Study of the Interaction of their Civilizations*, ed. L.S.S. O’Malley (London: Oxford University Press, 1941), 45.

It may be argued that we have already answered this question in part – thus on one end of the spectrum, we have rape victims who commit suicide in private, out of shame, while on the other end we have the rape victims who use public suicide to stage a powerful agency. I will contend, however, that this is too binary and simplistic an understanding of agency, and one that is rooted in the epistemologies that have traditionally framed raped women’s suicide. It is to this question of victimhood versus agency, and to how rape victims’ suicide complicates this binary, that I now turn

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## CHAPTER FOUR

### **Victims or Agents: Women’s Suicide in India**

The tension between agency and structure, and its role in the shaping of human subjectivity, is one that has long formed an important part of debates on epistemology. In fact, one could even go so far as to argue that it is the precise treatment of this tension that signals important epistemic shifts and constitutes the core of knowledge-production in cultural theory.

Thus from Kant's transcendent subject who transcends the limits of social structure to gain 'enlightenment,' to Marx's historically determined subject whose material circumstances produce the dialectics through which subjectivity emerges, to Freud's unconscious subject, to Sartre's existential subject who must exercise conscious choices or be reduced to nothingness, to Foucault and Butler's post-structuralist subject who is rendered docile through discourse but whose discursive disciplining also produces the spaces in which resistance appears – we see in each of these seminal conceptions of subjectivity the tension between agency and structure. Feminist theories, critical race theories, postcolonial theory and subaltern theory add yet more layers to the question of subjectivity, and to how gendered, raced and classed subjects constitute, and are constituted by, multiple historical, political and socio-cultural registers.

What insights can an analysis of raped women's suicide add to these ongoing debates on agency versus victimhood, and how might these insights insert themselves into a growing body of knowledge on culture and rights? In order to answer this question, it may be useful to first examine existing scholarship on women's suicide in India, and the different approaches undergirding this body of knowledge.

### **Women's Suicide in India: Two Approaches**

The limited scholarship on women's suicide in India was historically characterized by one of two approaches – the Durkheimian approach which understood Indian women's suicide as the product of a 'backward' culture, and the nativist approach which defended

Indian women's suicides as heroic cultural practice, reading into the latter a powerful agency. Let us examine these competing epistemic frames.

In 1897, Emile Durkheim's groundbreaking work *On Suicide* broke with dominant clinical-psychological perspectives that frame suicide in terms of individual pathology, instead offering a sociological analysis of the *collective* tendencies undergirding suicide in different cultures.<sup>197</sup> *On Suicide* attributed a specific type of suicide – altruistic suicide, which Durkheim defined as suicide that is committed in societies characterized by insufficient individuation and excessive collective integration – to what it describes as 'inferior societies,' citing colonial India as a classic example of such a society.<sup>198</sup> Widely considered a canonical sociological text on the subject of suicide, *On Suicide* says that 'altruistic suicide is strikingly different from egotistical suicide. The former is linked to that crude morality that considers worthless whatever interests only the individual, while the latter derives from the refined ethical code that sets the human personality so high that it can no longer be subordinated to anything. So, between the two is the distance separating primitive peoples from the most cultivated of nations.'<sup>199</sup>

So, in speaking of suicides among the Hindus of India 'who were freely killing themselves under the influence of Brahmanism,'<sup>200</sup> and while acknowledging that the

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<sup>197</sup> Emile Durkheim, *Suicide*, trans. Robin Buss (London: Penguin, 2006). Original work published 1897.

<sup>198</sup> *Ibid*, 234-47.

<sup>199</sup> *Ibid*, 245.

<sup>200</sup> *Ibid*, 241.



Vedas do not condone suicide, Durkheim says that suicides are common in India among ‘a species of savage, uncouth men to whom they have given the name sages.’<sup>201</sup> Further,

‘Among these same people, widows are often expected to kill themselves on the death of their husbands. This barbarous practice is so embedded in the customs of the Hindus that it persists despite the efforts of the English to eradicate it [...] So suicide is certainly very common among primitive peoples...and in all these cases, if a person commits suicide, it is not because he assumes the right to do so, but because he has a duty to do so. If he fails in this obligation, he is punished with dishonor [...].’<sup>202</sup>

In a gesture of discursive colonization, Durkheim thus goes on to read into suicides in India – including Indian women’s suicide – ‘the moral characteristic of the primitive.’<sup>203</sup>

In an earlier chapter, I drew from the work of postcolonial theorists such as Edward Said and Homi Bhabha to explore how the morphology of the female body and the feminized body-politic were discursively mapped onto each other such that the body of the Indian woman served as a justificatory ground for the imposition of British rule. Coming at that precise historical moment, Durkheim’s imperialist reading of women’s suicide in India is therefore hardly surprising, for his words merely echo those of missionary discourses, parliamentary debates and European scholarship on the orient, which cast Indian women as victims of their aberrant culture. The same chapter also pointed out how the notion of ‘the Indian woman’ as a symbolic boundary of the nation was not just discursively deployed by the imperialist machinery but also by the Indian

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<sup>201</sup> Ibid, 235.

<sup>202</sup> Ibid, 236.

<sup>203</sup> Ibid, 241.

nationalist struggles for independence, though in nationalist discourse, ‘our women’ now became morally and spiritually superior to ‘theirs.’

While the purpose of that chapter was to demonstrate how hegemonic readings of religion intertwined with post/colonial politics to crystallize in the cultural-essentialist, emblematic figure of the chaste woman, it is even more interesting how this ‘our women-their women’ logic played out with specific reference to women’s suicide.

In this context, Uma Narayan’s work on *sati* may be particularly useful.<sup>204</sup>

Narayan critiques British essentialist representations of Indian culture for ignoring the fact that *sati* was not a cultural practice ever engaged in by ‘All Indians,’ and for effacing the history of criticisms and challenges posed to this practice by various groups of Indians themselves. Narayan’s provocative question is: why did a practice, which was the exceptional rather than the routine fate of widows even in the few Hindu communities that practiced it, go on to acquire an emblematic and central status for “Indian culture” and a symbol of Hindu wifely chastity in a way that obscured its limited practice?

Narayan’s critique is directed against the discursive mechanisms of imperialist historiography which ignored class, caste, ethnicity, religion and region-based differences, such that both the ‘victimized’ Indian woman and her nation were homogenized as ‘inferior’ and in need of moral uplift, which translated as social reform for the former and subjugation for the latter. Equally importantly, Narayan’s critique is directed against the complex process – partly described by Fanon in his work on postcoloniality and ‘national culture’ as discussed earlier - whereby some Indian

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<sup>204</sup> Uma Narayan, “Essence of Culture and a Sense of History,” in *Women, Culture, Society: A Reader*, ed. Barbara Balliet (New Brunswick: Kendall, 2002).

nationalists embraced these generalized colonial definitions of culture. The unfortunate consequence of this process was that, while the larger aim of the Indian nationalist movement was to counter imperialism, ‘our’ women/culture continued to be seen in stark contrast to ‘their’ women/culture. In nationalist formulations, women who committed *sati* were therefore seen *not as culture’s victims but as heroic agents*.

In other words, we see how the same gendered practice of suicide gets differently read, with one reading emphasizing women’s agency and the other, victimhood.

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Elsewhere I have argued that, notable exceptions notwithstanding, contemporary feminist scholarship on women’s suicide in India remains fraught with the unresolved tension between these two competing epistemic frames.<sup>205</sup> While one imitates the Durkheimian logic of reading Indian women’s suicide as cultural victimhood, the other highlights the agential aspects of women’s suicide.

In speaking of women’s suicide as cultural victimhood, it may be useful to begin with examining feminist accounts of the communal violence that accompanied the 1947 partition of India. While the stories of partition have been kept alive in national memory and passed down from generation to generation, feminist retellings of the same stories have exposed the central role played by sexual violence in the narratives of the two nations. Urvashi Butalia uses parliamentary debates and published sources as well as the less conventional tools of historical reconstruction such as experience and memory to

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<sup>205</sup> Debotri Dhar, “Beyond the Binary: Rape, Suicide and the State in Contemporary India” (paper presented at the Modern South Asia Workshop, Yale University, Connecticut, April 9-10, 2011.)

demonstrate how thousands of women (estimated at between 29,000 and 50,000 Muslim women and 15,000 to 35,000 Hindu and Sikh women) were stripped naked, paraded, mutilated, raped and killed on both sides of the border.<sup>206</sup> As noted earlier, sexual violence – accompanied by mass-scale abductions, forced conversions and marriages - became an organizing mechanism to protect ‘our’ women and mark ‘other’ women, and by extension, ‘our’ and ‘their’ national identity.

The interesting angle that feminist research such as Butalia’s exposes is how women were not only at the receiving ends of their religious and patriarchal communities’ violence but also offered themselves to death at the hands of their men in order to protect – from the communal other, whether Hindu or Muslim - the ‘purity’ and ‘sanctity’ of their religion and the honor of the community and the family. *Even more interestingly, large numbers of women voluntarily committed suicide for the same reason.* In Thoa Khalsa in Rawalpindi district, for instance, over 90 women and children jumped into a well to ‘protect their honor.’<sup>207</sup> While admitting that these examples complicate simplistic binary formulations of agency and victimhood, the author ultimately emphasizes the latter. Thus, according to Butalia, women, while clearly also violent agents, were nevertheless exercising their agency in the service of patriarchy.

This reading of women’s suicide as victimhood can also be seen in a range of more recent work on the subject. Two examples would be Malvika Karlekar’s detailed

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<sup>206</sup> Urvashi Butalia, “Community, State and Gender: Some Reflections on the Partition of India,” in *Women and the Politics of Violence*, ed. Taisha Abraham (Delhi: Haranand, 2002), 131.

<sup>207</sup> *Ibid.*

sociological work on gender violence in India,<sup>208</sup> and Lakshmi Vijayakumar's clinical-psychological work on suicide in India.<sup>209</sup> Karlekar's otherwise nuanced article includes suicide along with a range of other oppressions that are inflicted upon women – and this includes self-infliction - within a predominantly patriarchal culture. Vijayakumar's article on suicide is far more Durkheimian; aptly titled 'Altruistic Suicide in India,' it begins with examining the historical antecedents of this type of suicide in India – predictably using Jauhar and Sati as emblematic examples – and goes on to examine modern examples of this type of suicide. While the larger body of Vijaykumar's work on suicide in India certainly takes into account social and economic factors undergirding suicide, and is in that respect far more nuanced than Durkheim's blanket condemnation of what he terms India's 'primitive culture,' what emerges is certainly a reading of those committing suicide more as victims than as agents.

Framed by an almost-opposite epistemology is work on women's suicide by postcolonial cultural theorists such as Gayatri Spivak and Madhu Kishwar.

In her influential and provocative essay 'Can the Subaltern Speak?' Gayatri Spivak provides a very compelling account of the female subaltern's suicide-as-protest in colonial India, where 'A young woman of sixteen or seventeen, Bhubaneshwari Bhaduri, hanged herself in her father's modest apartment in North Calcutta in 1926. The suicide was a puzzle since, as Bhubaneshwari was menstruating at the time, it was clearly not a

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<sup>208</sup> Malvika Karlekar, "Domestic Violence," in *Women's Studies in India*, ed. Mary E. John (New Delhi: Penguin, 2008), 241-48.

<sup>209</sup> Lakshmi Vijayakumar, "Altruistic Suicide in India," *Archives of Suicide Research: Official Journal of the International Academy for Suicide Research* 8(1) (2004): 73-80.

case of illicit pregnancy. Because Bhubaneshwari had known that her death would be diagnosed as the outcome of illegitimate passion, she had waited for the onset of menstruation.<sup>210</sup>

In this case, we have two facts: one, that a young woman committed suicide, and two, that she was menstruating at the time. But a pertinent question to ask might be this: why does the ‘fact’ of her menstruation even enter this narrative on suicide? The answer is that Spivak is reading against the grain; by providing us a sense of time, place and culture, Spivak is giving us an insight into how the woman might herself have understood her death. Thus Spivak argues that while the conditions of Bhubaneshwari’s life prompted her to take her own life, she did so with meticulous planning such that the meaning of her death would not be misinterpreted; hence Bhubaneshwari waits until the onset of menstruation, not just to make clear the fact that her suicide has nothing to do with an illegitimate pregnancy as her family might immediately assume, but also to pose something of a challenge to hegemonic cultural readings of a woman’s suicide as a pious and ‘virtuous’ act (which must be carried out in a ‘pure’ state, and not while menstruation.) Here we clearly see the earlier readings of women’s suicide as victimhood giving way to an interesting reading of women’s suicide as agency.

This is not to claim that such a reading is without its problems. For, even if the woman has tried to control the meanings attributed to her death, Spivak shows us that she is ultimately unable to do so; years later, when Bhubaneshwari’s nieces are asked about her suicide, they describe it as a case of illicit love. In other words, the discursive regime

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<sup>210</sup> Gayatri Spivak, “Can the Subaltern Speak,” in *Marxism and the Interpretation of Culture*, eds. Cary Nelson and Lawrence Grossberg (Urbana: University of Illinois Press, 1988), 307.

within which female sexuality is constructed in that historical moment makes it seem 'obvious' to cultural insiders that it 'must have been' illicit love. The narrative is further complicated when Spivak 'discovers,' years later, that the young woman had been involved in a revolutionary group and responsible for a political assassination which she later lost the nerve to carry out. (How does Spivak discover this 'fact'? Do the girl's relatives speak about it? In that case, why did this information not come up years earlier? Is the family now trying to provide a more 'respectable' explanation for the suicide?) In that case, was the menstruation purely coincidence? What is the 'truth'?

All these unanswered questions do seem to confirm Spivak's conclusion that the gendered subaltern cannot speak. But if the gendered subaltern cannot speak, is she not ultimately a 'victim'? A misreading of Spivak's argument such as this could very well point us once again in the direction of women's victimhood. But what Spivak is trying to say is that, when the subaltern speaks – for in Bhubaneswari's case, we have an agent who does point us in a certain direction by 'speaking' through her body – she cannot be *heard* within the discursive regimes that render her voice culturally unintelligible. Spivak's understanding of this suicide thus takes us beyond the facts of the suicide, and of conventional interpretations of women's suicide, in order to tease out how cultural 'facts' come to be constructed as such.

Among contemporary anti-positivist interpretations of women's suicide in India, Madhu Kishwar's is possibly the most interesting in that it imputes to the dead woman an extremely powerful agency, even more than does Spivak. Earlier, Kishwar had challenged

mainstream feminist framings of Hindu mythological figures like Sita as submissive, self-effacing cultural heroines, instead reading them as powerfully resistant subjects.<sup>211</sup> In a more recent interview, Kishwar speaks of women's suicide (in this instance, by burning themselves to death in their marital homes) in India; acknowledging a definite unconscious influence of Sita-like mythological stereotypes on these women, she nevertheless reads in their suicides a strong statement of protest. According to her,

‘A woman who chooses the most painful way of killing herself is, in effect, saying, ‘I consider living in my marital home more hurtful than burning myself to death. I reject this relationship and this marriage because there is no sanctity left in it [...] A woman who chooses this form of death leaves a permanent blot on the marital family... In such cases, no matter what the verdict of the court is, the social verdict goes against the husband and in-laws. It is a very deadly and unforgettable way to register protest and damn your torturers.’<sup>212</sup>

Clearly, the work undertaken by scholars like those discussed above is fraught with the unresolved tension between the two historically dominant epistemic framings of women's suicide in India. While contemporary work on the subject is far more nuanced than its historical antecedents, and presents the issue of victimhood versus agency in far less binary terms, the binary itself is far from dissolved. The question is – does raped women's suicide further complicate this binary? I suggest that in order to answer this question, we first unpack the meaning of the term ‘agency.’

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<sup>211</sup> Madhu Kishwar, “Yes to Sita, No to Ram! The Continuing Popularity of Sita in India,” *Manushi* [http://www.manushi-india.org/pdfs\\_issues/articles.pdf](http://www.manushi-india.org/pdfs_issues/articles.pdf). Accessed Jan 12, 2011.

<sup>212</sup> Madhu Kishwar and Rina Tripathi, “Trial by Fire,” in *In Search of Sita: Revisiting Mythology*, ed. Malashri Lal and Namita Gokhale (New Delhi: Penguin, 2009), 103-104.



### **Agency: A Post-Structuralist Perspective**

Agency is undoubtedly a very complex term. According to a provisional definition of agency proposed by anthropologist Laura Ahearn, agency is simply the socio-culturally mediated capacity to act.<sup>213</sup> This definition has several merits, one of which is that it does away with the weaknesses associated with the traditional liberal conceptualization of agency as free will exercised by autonomous individuals; instead, it recognizes that any capacity to act is always mediated by society and culture. Also, it bridges the conventional gap between ‘actor’ and ‘agent,’ wherein the actor’s action is rule-governed whereas the agent is engaged in the exercise of power in the sense of the ability to bring about effects and (re)constitute the world.<sup>214</sup> Drawing from the work of a range of scholars such as Abu-Lughod, who cautions against the ‘romance of resistance;’ Ortner, who rejects any such thing as ‘pure resistance;’ Giddens’ sociological work on the reinforcing loop between action-social structure; and Bourdieu’s notion of the habitus, it emphasizes how human actions cannot be considered in isolation from the social structures that shape them. Thus, this conception of agency is attentive to how (re)constitution does not necessarily translate into resistance, *since oppositional agency is only one form of agency.*

At the same time, Ahearn herself admits that this definition does leave many questions unanswered, such as, for instance, whether all agency must necessarily be individual or can it be supraindividual (the property of families or communities, for

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<sup>213</sup> Laura M.Ahearn, “Language and Agency,” *Annual Review of Anthropology* 30 (2001):109-37.

<sup>214</sup> Karp 1986. Quoted in Ahearn, “Language and Agency,” 113.

instance) or subindividual (i.e. the property of what several scholars have termed ‘dividuals,’ as when someone feels torn within herself)? This question is perhaps answered most affectively by a poststructuralist conception of subjectivity. In her conception of the poststructuralist gendered subject, Henrietta Moore makes a distinction between the individual and the subject; according to her, each individual takes up multiple subject positions within a range of discourses and social practices so that a single subject is not the same as a single individual.<sup>215</sup> According to Moore, there are dominant and subdominant discourses that are both reproduced as well as resisted by an individual’s multiple subjectivities; what holds these multiple subjectivities together is the experience of identity and the physical grounding of the subject in a body.

This notion of the subject has been used very effectively by Sally Engle Merry in her work on gender violence. Thus Merry describes how, in going to the law, a victim of gender violence

‘takes on a new subject-position defined in the discourses and social practices of the law. She tries it on, while not abandoning her other subject positions as partner/wife, member of a kinship network that usually includes her partner’s family as well as her own, along with other subject positions such as “local,” Christian and poor. She is, in a sense, seeing how it goes [...] Often, this process involves ‘choosing between two incompatible subject positions, one the rights-bearing subject, the other the good wife. Each represents a vision of the self that produces self-esteem, but the battered woman cannot simultaneously enact both. Choosing either one represents a failure of the other. The practices of the legal system are thus of critical significance to the woman’s decision as she ambivalently moves in and out of this subjectivity.’<sup>216</sup>

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<sup>215</sup> Henrietta Moore, *A Passion for Difference* (Bloomington: Indiana University Press, 1994), 55.

<sup>216</sup> Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006), 185-6.

This is similar to the idea of the discursive subject, which, according to Susan Hekman, is not a unitary but a heterogeneous entity.<sup>217</sup> Unlike the constituting subject who is expected to have some absolute, transgressive form of agency, and the constituted subject, the possibility of whose agency is obviated by the very circumstance of the subject's 'constitution,' the discursive subject pieces together both dominant as well as subjugated forms of knowledge in order to give creative expression to agency within multiple discursive spaces that it inhabits in historical time.

This poststructuralist call to remain attentive to content, context and contestation is also echoed in the work of many 'Third World' feminists, who have called for the need to ground the notion of women's agency in a material politics that engages multiple fluid structures of domination that intersect to locate women differently at particular historical conjunctures, while insisting on the everyday oppositional agency of individuals and collectives.<sup>218</sup> This notion of agency moves us away from the transcendent 'autonomous' subject of Kantian enlightenment and liberal feminist theory, towards the more complex agency of the situated subject who is actively involved in the disciplining process of her subjectification, but whose subjectivity also produces the spaces in which resistance appears.<sup>219</sup>

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<sup>217</sup> Susan Hekman, "Subjects and Agents: The Question for Feminism," in *Provoking Agents: Gender and Agency in Theory and Practice*, ed. J.K. Gardiner (Urbana: University of Illinois Press, 1995).

<sup>218</sup> Chandra Talpade Mohanty, *Feminism Without Borders: Decolonizing Theory, Practicing Solidarity* (Durham: Duke University Press, 2003).

<sup>219</sup> Michel Foucault, "The Eye of Power," in *Power/Knowledge* trans. and ed. C. Gordon (New York: Pantheon, 1977); Michel Foucault, "The Subject and Power," in *Michel Foucault: Beyond Structuralism and Hermeneutics*, eds. H.L. Dreyfus and P. Rabinow (Chicago: University of Chicago Press, 1983).

This perspective on agency does not entertain abstract notions of absolute, ‘free’ choice for the social agent, since the agent is always constituted in discourse. However, instead of assuming a completely passive social dupe, this perspective allows us to appreciate how the agent can and does engage in performative resistance,<sup>220</sup> and in individual selection, appropriation, interpretation and actualization within the terms of a larger social contract of language and meaning,<sup>221</sup> such that the agent emerges at once as the subject and object of her universe, in the process not just being passively constituted *by* but also actively constituting culture. As Sunder Rajan says, ‘culture appears as the chief matter and consequence of dominant ideological investment, powerfully coercive in shaping the subject; but since it is also heterogeneous, changing and open to interpretation, it can become a site of contestation and consequently of the re-inscription of subjectivities.’<sup>222</sup>

So, returning to our question, what does this nuanced perspective of agency tell us about raped women’s suicide?

### **Dismantling the Victim-Agent Binary: An Analysis of Rape Victims’ Suicide**

My research on rape victims’ suicide certainly confirms that the lines dividing contexts and texts, structures and agents, compliance and subversion are fluid; the female

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<sup>220</sup> Judith Butler, *Bodies That Matter* (New York: Routledge, 1993).

<sup>221</sup> Roland Barthes, “Language and Speech,” in *The Blackwell Reader in Contemporary Social Theory*, ed. Anthony Elliot (Malden: Blackwell, 1999), 48-60.

<sup>222</sup> Rajan, *Real and Imagined Women*, 10.

body is not just the site of victimhood and patriarchal control but simultaneously also the site for negotiation, contestation and transformation. So, while suicide as a form of agency may be shaped by the collective identities of the rape victims, it also contests and transcends the same collective identities in complex, imaginative ways.

Speaking of these collective identities, I had explicated (in Chapter Two) some of the challenges and possibilities pertaining to class and caste in cases of rape, not just in the sense of ‘real’ challenges faced by differently-situated women but also in the sense of the complex dynamics set in motion when these realities come into conversation with the emblematic female subject of the national imaginary. My research on rape victims’ suicide points to many of these same dynamics as witnessed in rape cases in general. Thus, in a majority of the cases that I refer to in this dissertation, *class emerges as one of the most important factors.*

It is common knowledge that class plays a key role in determining an individual’s life chances, especially in polities characterized by huge gaps between the rich and the poor. This explains why suicides among the poor and illiterate sections of society have consistently been higher in India<sup>223</sup> (though under-reporting among the middle class owing to considerations of social reputation may account for part of the officially documented difference in suicide rates.) When class intersects with gender, caste and location, as in the case of a poor, low caste woman hailing from a rural area, her locational disadvantages are compounded manifold. While it may be hard to conclude

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<sup>223</sup> Shalina Girdhar et al., *Suicide in India*.

that a greater number of rape victims committing suicide hail from the working class, my material certainly suggests that most of the instances of suicide among rape victims hailing from the poor strata were accompanied by continued harassment, threats and coercion by the rapist. It is obvious that rape victims hailing from economically privileged backgrounds cannot be coerced in this manner.

I have earlier noted not just the general vulnerability of working class women but also their vulnerability at the hands of the so-called protectors of the law; this explains the suicides of those poor and powerless rape victims whose rapists were policemen, politicians and so forth, further compounding the victims' trauma. On the opposite end of the spectrum, I did not come across any cases of educated female professionals from upper-class, cosmopolitan backgrounds committing suicide; it may be reasonable to assume that this segment would be most likely to pursue justice through legal channels.

This representation of cosmopolitanism is, of course, not without its problems. As Dorothy Hodgson pertinently points out in her introduction to a collection of essays on gender, culture and rights, "Within discussions of human rights and women's human rights, the very concept of "culture" is controversial. Does culture refer to fixed, dated "traditional" practices and beliefs which are often represented as obstacles to "progress," "enlightenment" and "emancipation" on the part of the "other" – especially poor women living in remote, rural areas – but not a feature of elite societies with education, mobility and cosmopolitanism?"<sup>224</sup> Hence I would like to clarify that, by pointing out the somewhat lesser possibility of 'cosmopolitan' women committing suicide as a result of

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<sup>224</sup> *Gender and Culture at the Limit of Rights*, ed. Dorothy L. Hodgson (Philadelphia: University of Pennsylvania press, 2011), 5.

rape, I am not arguing that educated, cosmopolitan women do not have ‘a culture’ in the sense that illiterate, rural women might. Indeed, I earlier spoke of a cultural continuum, and of how hegemonic ideas of embodiment might hold even outside evidently traditional areas. Instead, I am suggesting that *legal culture is a part of contemporary cosmopolitan Indian culture*. This understanding, along with an appreciation of how the state’s legal apparatus is also often guided by patriarchal understandings of embodiment, allows us to reject an unproductive binary between the cosmopolitan (and therefore culturally ‘progressive’) versus the non-cosmopolitan (and therefore culturally regressive), instead embracing a more productive understanding of how ‘culture’ is, as Hodgson reminds us, a part of all institutions, structures and processes.

*The rural-urban and the north-south divides, emerge as other important ‘collective’ factors in rape victims’ suicide.* Thus most of the cases have occurred in rural areas or small towns; where they have occurred in the larger cities, they are almost always in a context of socio-economic powerlessness. Also, an interesting finding is the geographical distribution of suicides. *All the highly publicized cases of rape victims’ suicide I have come across are from the northern states of the country.* In fact, my initial data – culled, as mentioned, from national newspapers as well as through internet searches – did not include any cases of rape victims’ suicide from south India. Even an internet search with the keywords rape, suicide and south India threw up results only from north India, and it was only when I performed keyword searches with the names of specific south Indian states (Tamil Nadu, Andhra Pradesh, Karnataka and Kerala) that I

was able to obtain reports on rape victims' suicides in south India, some of which I have included in this dissertation. Thus, while rape victims' suicides have occurred in south India too (both within the time period of this dissertation as well as in earlier decades, a fact confirmed by the 1999 Human Rights Watch study<sup>225</sup>), and while these suicides also demonstrate the same dynamics outlined earlier such as those of caste and class, the cases publicized on a national level were all from the north.

This is certainly a fascinating fact since the NCRB statistics indicate a higher general rate of suicide for the south Indian states. However, NCRB's data on state-wise distribution of suicide is not disaggregated by gender. Given the otherwise economically better-off northern belt's disappointing record of gender equality in comparison to the rest of the country - as indicated by data on female illiteracy, dowry deaths, honor-killings and so forth - it may be feasible to assume that gender disaggregation of state-wise data on suicide would paint a different picture.

So it is hardly surprising that, within the north Indian states, a large number of rape victims' suicides occur in Haryana, a state in north India with reasonably high per-capita income but very patriarchal social structure. Speaking of rape in Haryana, a news-report speaks of:

'[...] the conservative, male-dominated power structure in Haryana, where rape victims are often treated with callous disregard.'  
 [...] In Haryana, the initial response to the rape after it was disclosed ranged from denial to denouncing the media to blaming the victim. A spokesman for the governing Congress Party was quoted as saying that 90 percent of rape cases

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<sup>225</sup> Smita Narula, *Broken People: Caste Violence Against India's "Untouchables."*



begin as consensual sex. Women's groups were outraged after a village leader pointed to teenage girls' sexual desire as the reason for the rapes.

"I think that girls should be married at the age of 16, so that they have their husbands for their sexual needs, and they don't need to go elsewhere," the village leader, Sube Singh, told IBN Live, a news channel. "This way rapes will not occur."

Haryana is one of India's most entrenched bastions of feudal patriarchy. The social preference for sons has contributed to a problem of some couples aborting female fetuses, leaving Haryana with the most skewed gender ratio in India, 861 females for every 1,000 males. Politically, the Jat caste largely controls a statewide network of unelected, all-male councils known as khap panchayats, which dominate many rural regions of the state.

Elected leaders are reluctant to confront the khaps, given their ability to turn out voters, and often endorse their conservative social agenda, in which women are subservient to men. Khaps have sought to ban women from wearing bluejeans or using cellphones. One khap member, Jitender Chhatar, blamed fast food for the rise in rape cases, arguing that it caused hormonal imbalances and sexual urges in young women. Mr. Singh, who suggested lowering the legal marriage age, is also a khap leader [...]

Here in Dabra, about 100 miles from the Pakistan border, villagers say there is no khap panchayat but rather an elected village council where the leadership position, known as sarpanch, is reserved for a woman under nationwide affirmative action policies. Yet the male-dominated ethos prevails. The current sarpanch is the wife of a local Jat leader, who put her forward to circumvent the restriction. During an interview with the husband, the official sarpanch sat silently in the doorway, her face covered by a gauzy scarf.

"No, no," she answered when asked to comment, as she pointed to her husband. "He's the sarpanch. What's the point in talking to me?"<sup>226</sup>

Going on to speak about caste, the same news report also speaks of how:

"The most vulnerable women are poor Dalits, the lowest tier of the social structure. Of 19 recent rape cases in Haryana, at least six victims were Dalits. One Dalit teenager in Haryana committed suicide, setting herself afire, after being gang-raped. Another Dalit girl, 15, who was mentally handicapped, was raped in Rohtak, according to Indian news media accounts, the same district where a 13-year-old girl was allegedly raped by a neighbor.

"If you are a poor woman who is raped, you cannot even imagine a life where there will be justice," Kalpana Sharma, a columnist, wrote recently in *The Hindu*, a

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<sup>226</sup> Jim Yardley, 'A Village Rape Shatters a Family, and India's Traditional Silence,' *The New York Times*, 28 October, 2012  
<http://www.ndtv.com/article/india/a-village-rape-shatters-a-family-and-india-s-traditional-silence-285210>

national English-language newspaper. “If you are a poor woman and a Dalit, then the chances of justice are even slimmer.”<sup>227</sup>

Unlike class affiliations, which are immediately apparent from the news reports, the issue of caste is trickier. I have earlier noted the caste-class continuum in modern India such that the ritual, the social and the economic become hard to separate into discrete compartments. The greater vulnerability of Dalit women to sexual violence has also been well-documented. However, as compared to class, it is significantly harder to reach any durable conclusions regarding the caste dimensions of rape victims’ suicide. The first reason is that, unlike the above news report of a Dalit man’s suicide following the gang-rape of his teenage daughter, most of the material on which this study is based does not mention the castes of the parties concerned; while the reports that do mention caste affiliations lead one to conclude that such suicides occur across castes, these reports are very few in number. And second, given the high possibility of under-reporting among the upper castes owing to considerations of social reputation as noted earlier, especially in conservative rural areas where caste may still be the most important dimension of social identity, it is near-impossible to get accurate data on the exact number of such suicides committed within the space of the private.

This issue of under-reporting is, of course, profoundly ironical because on the one hand, the more closely aligned a rape victim may have been with the normative ideal of female chastity and the traditional understanding of rape as the irreversible loss of honor, the more likely she is to get legal justice in court. On the other hand, the more a rape

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<sup>227</sup> Ibid.

victim may have been aligned with the chastity ideal and with traditional understandings of rape, the *less* likely she is to fight a public battle by approaching the court for justice, and the more prone she may become to suicide in the space of the private. In these cases, it would be plausible to imagine that the family, fearing dishonor and tarnishing of a dead woman's image, might not want to make the cause of suicide public. In many instances, the family may not even be aware of the cause of suicide. Interestingly, these issues also point to the limitations of empirical methods; while a statistical analysis of mugging, for instance, may be useful since people have no reason to hide their experience, statistics associated with rape and suicide will often represent only the tip of the iceberg.

As a result of these factors – and while some of my cases specifically mention both the vulnerability of Dalit women to sexual violence as well as Dalit rape victims' suicide - it is impossible to accurately ascertain the incidence of such suicides or to compare them with the incidence of suicides among the upper castes. With respect to caste, all one might conclude is therefore that rape victims across castes are vulnerable to suicide; that there is a high possibility of under-reporting in socially conservative circles, regardless of economic status; and that the actual number of rape victims' suicide across castes may, indeed, be much higher than official figures seem to suggest.

We see, therefore, the manner in which collective identities play a critical role in shaping individual subjectivities; rape victims' suicides have a distinct socio-cultural aspect (as seen in understandings of chastity and female embodiment, and as these apply to, and across, different castes), an economic aspect (pertaining to questions of class dis/

advantage, education levels, legal knowledge etc.), and a geographical aspect (with reference to rural-urban-cosmopolitan as well as north-south divides.) Despite traditional cultural framings of rape as the irreversible loss of honor, this intersectional understanding of raped women's suicide does take the blame away from culture, instead forcing us to ask *what particular conditions and contexts make certain versions of culture more appealing than others at any particular point and place in time.*

Taking into account the different understandings of suicide developed in the previous chapter – the social, the psychological, the legal, the political and the moral – we can thus see that while patriarchal norms of chastity may be stronger for the upper castes, such norms get further strengthened in conditions of limited social mobility, lack of education and legal knowledge, of occupational choices and of financial freedom; these, in turn, may create feelings of utter helplessness, compounding the psychological trauma of a rape victim, who then commits suicide. It is entirely possible that in some of these cases, the rape victim may find solace in the belief that the rapist will be punished by God for his sin. In such a situation, the state and its legal apparatus seem very distant, and the state's framing of suicide as illegal does not act as a deterrent for the rape victim. On the other hand, upper caste affiliation ceases to matter to the same degree in a more cosmopolitan context, where national notions of female chastity as well as historical memories of suicide as a method of political protest do not disappear altogether, nor does the psychological trauma resultant from rape, but where women from socio-economically privileged backgrounds find it easier to access the state apparatus and to pursue legal routes to justice.

In other words, if agency is the socio-culturally mediated capacity to act, we see how the agency embodied by differently-situated raped suicidal women emerges in relation to, and therefore *colludes with*, the collective and intersectional identities of gender, class, caste, religion, the ‘local’ and the ‘national’ that constitutes it.

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From the above discussion, it is therefore tempting to see these women as victims (of their social identity, geographical location, economic circumstance etc.), and such a reading is not entirely incorrect. However, in acknowledging the role of the social in shaping the individual, this reading does not take into account the fact that *even in exactly similar circumstances, no two individuals will act alike*. While I came across many instances of this in my research, the most poignant was perhaps a heart-rending case where two Dalit girls were gang-raped; while one of them committed suicide after a few days, the other decided to fight the case legally and waged a long battle for justice.<sup>228</sup>

Also the reading is too simplistic in that it does not take into account, as Madhu Kishwar pointed out, the other ways in which suicide might work as a ‘very deadly and unforgettable way to register protest and damn your torturers.’ While on first reading, rape victims’ suicides certainly seem to compound the injustice of rape - much in the manner of Spivak’s subaltern (who may protest, but whose protest gets subsumed by more dominant discourses) and *unlike* Kishwar’s optimistic reading of female suicide as

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<sup>228</sup> Rape Victim Stares at Death, *The Asian Age*, Jan 9, 2012 <http://www.asianage.com/india/rape-victim-stares-death-369>

powerful agency - some of the cases of suicide discussed in this dissertation do, indeed, achieve oppositional ends.

Kishwar talks of how, even when the legal verdict goes against a woman, the social verdict may be in her favor, resulting in social castigation of the accused. Thus, socially speaking, and especially in a situation where some kind of a prior association between the rapist and the victim may have been known, neighbors and other acquaintances will condemn and sometimes permanently ostracize the rapist even on the basis of suspicion alone.

In terms of the law, too, we saw how the states' criminalization of suicide has had an unforeseen benefit in some cases of rape victims' suicide, where the rapists have been charged with abetment to suicide; they have then absconded, with the police on their trail. And, as mentioned in the previous chapter, the Supreme Court has also ruled that even if the victim of rape is not available to give evidence on account of her having committed suicide, the court can still proceed to record a conviction on the basis of the available evidence brought on record by the prosecution.<sup>229</sup> Further, while the Supreme Court's ruling does not do away with the requirements of forensic evidence, we also saw how in several of these cases, a politics of compassion – undergirded, no doubt, by the complex history of suicide-as-political protest within the nation – has allowed the state to assume that there must have been rape, and to even overlook the requirements of forensic evidence in order to pursue the culprit.

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<sup>229</sup> State of Karnataka v. Mahableshwar Gourya Naik AIR 1992 SC 2043. Quoted in *Rape: A Legal Study*.

The dynamics of this politics of compassion will be explored in greater detail in the next chapter, which examines the controversial public suicide of rape victim Sarita and the responses of the state. But it is also important to acknowledge that this is not an isolated case; within the larger category of rape victims who have committed suicide, there is a cohort of women who threaten as well as commit public suicide with the *clearly stated intention* of getting legal justice against the rapists.

Intentionality is, of course, a moot point in this dissertation – and here I must *disagree* with Ahearn’s conception of agency. According to Ahearn, it is important to ask how people themselves conceive of their own actions and whether they attribute responsibility for events to individuals, to fate, to deities or to other animate or inanimate forces.<sup>230</sup> While this is the dominant anthropological framing of agency which seeks to construct the world through the eyes of cultural insiders, this approach is difficult in the case of this project given the gaps in official data. But a more important reason why I would caution against a social-scientific over-emphasis on the intentionality of individual agents is because I do not think that agency – even oppositional agency – is always conscious or intentional. For example, we saw how, despite individual intentionality being obscured, the cases of private suicide discussed in this sub-section nevertheless went on to achieve oppositional ends such that legal justice may well have been an unintended consequence of the suicides.

In other words, privileging intentionality and the ‘knowing subject’ who can introspect and self-report in order to supply us with the most authentic ‘native’s point of

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<sup>230</sup> Ahearn, “Language and Agency,” 113.

view' may overlook, in a Foucauldian sense, the genealogy by which a subject comes to be constructed.<sup>231</sup> Just as private suicides giving the immediate impression of collusion with a patriarchal order may also contest the same patriarchal frames, let us now see how public suicides committed to the express intention of gaining legal justice do not just contest but also collude with the dominant and subdominant discourses that are both reproduced as well as resisted by an individual's multiple subjectivities.

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Speaking of how public suicides collude with dominant discourses circulating within the discursive spaces of the nation-state, let us recall for a moment our earlier discussion on the hegemonic cultural emphasis on female bodily chastity. More specifically, I explained how this emphasis may reflect a predominantly upper caste, middle class norm but is not necessarily contained by these discrete segments, instead spilling over to shape the subjectivities of many more women across the nation, who regardless of their location may aspire to this norm as the ideal(ized) expression of their embodied selves. Hence, in examining the performative and spectacular nature of rape victims' public suicides, one must acknowledge the cultural influence of Sita and Sati-like stereotypes that have historically pervaded the national imaginary.

Whether or not this is a *conscious* influence is information that is not just unavailable but also, I will submit, unnecessary. In the previous section, I underscored the

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<sup>231</sup> For a Foucauldian critique of this social-scientific approach, see Lindsay Prior, "Following in Foucault's Footsteps: Text and Context in Qualitative Research," in *Approaches to Qualitative Research: A Reader on Theory and Practice* eds. Sharlene Nagy Hesse-Biber and Patricia Leavy (New York; Oxford University Press, 2004), 317-33.



need to look beyond accounts of individual intentionality, instead taking into account the complex ways in which certain forms of social action strengthen or weaken existing patriarchal discourses regardless of the conscious intention of individual agents. Or, as Rajan says, locating resistance within the scene of cultural production must be accompanied by a redefinition of individual resistance in terms of its social function rather than only its performative intentionality.<sup>232</sup> In that sense, one of the unfortunate ‘social functions’ of public suicides is certainly to feed into a larger androcentric discourse within which a woman’s dishonor equals her death.

In continuing to examine the role of collective identities, we must also note that the instances of public suicide are mostly cases where legal justice has been denied due to lack of forensic evidence (as a result of delay in medical examination, or in filing the FIR etc.), or where the rape victim was being threatened by her more powerful rapists to withdraw her case (either through an attempt to offer money, or through threats of creating a scandal via MMS clips of the rape being made public and so forth). Thus in these cases too – as in all cases of rape victims’ suicide in general - the agency of rape victims is shaped by their socio-cultural, psychological and economic vulnerabilities.

At the same time, it must be reiterated that *all* rape victims, regardless of their social and other affiliations, are rendered vulnerable within the discursive regimes of the nation-state, albeit in different ways. Hence, while acknowledging that public suicide as a form of agency is certainly shaped by the class, caste and other collective identities of the

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<sup>232</sup> *Real and Imagined Women*, p. 12.

rape victims, it is important to be attentive to how this form of agency also contests and transcends the same collective identities in complex, imaginative ways.

So, in understanding public suicide as ‘performance’ that both draws from as well as feeds into an androcentric national imaginary, we must also reflect upon how the traditional understanding of performance as a specialized public act for an audience is rendered more complicated when we recall Judith Butler’s theorizing of *performativity* not as a singular or deliberate “act” but, rather, as the reiterative and citational practice by which discourse produces the effects it names.<sup>233</sup> In this sense, ‘the theorizing of performance in post-structuralist analysis calls into question any such boundary between ‘staged’ performances as a separate sphere and everyday enactment or performance of self.’<sup>234</sup> So, to the extent that public suicide does collude with the chaste female subject of the national imaginary (who, upon being ‘dishonored,’ gives up her life), we need only recall that *agency always includes an element of the performative* – even in conventional rape trials where a woman must ‘perform’ her victimhood before the benevolent male gaze. This, in any case, is a post-structuralist understanding of performance, which captures the idea of offering up the gendered body for public consumption and on being assessed on the adequacy of that performance.

In speaking of spectacle and performance, one author says that:

‘The public spectacle of a woman’s body enacts an antithesis to the identification of femininity with the private and domestic body. Theories of the disciplining functions of the ‘male gaze’ suggest that she enters public (masculine) space as a potentially

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<sup>233</sup> Judith Butler, *Bodies that Matter: On the Discursive Limits of “Sex”* (New York; Routledge, 1993), 1.

<sup>234</sup> Barbara Brook, *Feminist Perspectives on the Body* (Longman, 1999), 113.

disruptive, transgressive body and it is her position as a spectacle under the view of the masculine eye, that disciplines her back into line, returns her into a docile body. Feminist theorists are interested in the ways that women evade or subvert that disciplining [...] To become and remain subjects they must negotiate not only the regulatory conventions of performance but also the ways in which the disciplining male gaze attempts to reduce them to no more than the docile (hetero)sexual object of desire...'<sup>235</sup>

Sunder Rajan also admits to

'a more positive agential role for women in terms of what might be called a "performative" strategy vis-à-vis the state [...] If crisis provides a specific conjuncture for the constitution of female subjectivity in the reactive mode, then culture, in Spivak's/Butler's sense of "conventions in use" is the scene and mode of the performativity of the political as everyday practice. The shuttle between "crisis" and "culture" describes women's mode of living with/in the nation-state.'<sup>236</sup>

So, in speaking of this 'performative strategy vis-à-vis the state' and of 'the shuttle between crisis and culture,' one must be attentive to the manner in which the performative nature of public suicides not just colludes with, but also destabilizes this national imaginary and the public-private binary logic that undergirds it. Thus it must be noted that these women attempting public suicide do not commit suicide within the private space of their home out of a sense of shame on themselves and their families, nor do they silently accept their plight. Instead, the spectacular and staged nature of their public death powerfully positions their protesting, transgressive female bodies in the public sphere, in the process subverting traditional notions of secrecy and familial honor.

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<sup>235</sup> Brook, *Feminist Perspectives on the Body*, 111-12.

<sup>236</sup> Rajan, *The Scandal of the State*, 29-30. Rajan begins with understanding performance in the literal context of activist theatre, and goes on to analyze negotiations with the state that female citizen-subjects enter into in the more quotidian but nevertheless performative spaces of the everyday.

Similarly, in speaking of the specific disabilities owing to class affiliation, it is apparent that women from a more privileged social stratum would have had more cultural capital, which in turn would have translated into better knowledge of – and therefore access to – medical testing, legal options and NGO support. As we see in the case of these rape victims, these avenues were not as available in a timely manner, and it was as a consequence of the denial of legal justice that suicide was attempted. However, even while acknowledging that the women’s agency was shaped by their location - their economic vulnerabilities, for instance, as well as the extreme psychological trauma that must necessarily follow rape and the subsequent denial of legal justice - we would be doing these women grave injustice if we classified them as passive victims of their circumstances. For, in classifying them as victims of their circumstance, we would be overlooking how the women first tried to fight their cases through whatever avenues open to them; in many instances, this included attempting to meet the topmost police officers of their state. For women from underprivileged socio-economic backgrounds, and often with little to no education or legal knowledge, this certainly constitutes an impressive step.

And finally, we must not forget a point made earlier: that even under the same circumstances, no two individuals act alike. To reduce the agency of these women to their social location and identities is therefore to overlook the fact that not all rape victims in a similar situation will necessarily choose the same path or go to the same extent to get justice. These women, on the other hand, wanted their rapists to be brought to justice even at the cost of their own lives; when all else failed, they used their own bodies as a last resort, to register a powerful public protest against society and the state. Inhabiting

multiple subject positions within a range of dominant as well as resistant discourses and social practices, they transcended the victim-agent binary to give expression to a very complex oppositional agency.

In the last instance, rape victims' public suicide thus invokes a moral rather than a legal language. "We have no 'proof,' but we know we suffered and we now want justice," these dead, yet deadly, bodies seem to say to the state. How, then, does the state respond to such moral claims?

The state is not a monolithic entity; as a consequence, its responses have been varied. As noted earlier, these have ranged from arresting the rape victim for trying to commit suicide to prosecuting the alleged rapist for abetment to suicide. Occasionally, however, the public suicide of a rape victim has mobilized such a powerful politics of affect that it has roused the entire nation. This, in turn, has invoked much more compassionate response from the state, often in absolute opposition to principles of liberal law.

It is to such a case of public suicide of a rape victim that I now turn.

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## CHAPTER FIVE

### **Sarita's Suicide: Rape, Public Death and the Gendered State**

A particularly useful tool for feminist analysis is the case study. Case studies are

‘a method of studying social phenomenon through the thorough analysis of an individual case [...] The case study gives a unitary character to the data being studied by interrelating a variety of facts to a single case. It also provides an opportunity for the intensive analysis of many specific details that are often overlooked with other methods. This approach rests on the assumption that the case being studied is typical of cases of a certain type, so that through intensive analysis generalizations may be made which will be applicable to other cases of the same type.’<sup>237</sup>

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<sup>237</sup> Quoted in Shulamit Reinharz, *Feminist Methods in Social Research* (New York: Oxford University Press, 1992), 164.

As Shulamit Reinharz points out in her study of research methods, woman-centered case studies are exceptionally valuable for feminist analysis because they offer a nuanced understanding of women's perspectives from the gendered every day in cross-cultural contexts, and allow for an in-depth investigation of the relationship between individual cases on one hand and larger social structures and processes on the other.<sup>238</sup>

By the same logic, I suggest that a case study of rape victim Sarita's suicide is particularly important for this dissertation. On one hand, it is a typical case study in that it facilitates an intensive analysis of the relationship between an individual case and larger social processes, allowing for several generalizations to be drawn; on the other hand, some features of this case are atypical and exceptional enough to yield additional theoretical perspectives on rape, suicide and the postcolonial Indian state.

According to the facts of this particular case,<sup>239</sup> a woman in her early twenties called Sarita was raped by two policemen at a police station in Haryana, India on April 10 2008. The rape took place a day after the two policemen demanded six thousand rupees for releasing Sarita's husband Subhash, who had earlier been arrested in a case of motorcycle theft. On April 26 – almost a fortnight after her rape - Sarita filed a rape complaint with the Superintendent of Police, followed by an identification of the accused on May 10. Since no action was taken, she met the Deputy Superintendent of Police on May 26, whose probe confirmed circumstantial evidence for rape. On May 29, she went to the police headquarters to lodge the official rape complaint against the two rapists.

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<sup>238</sup> Ibid, 164-74.

<sup>239</sup> "Rape victim ends life at police HQ," *The Times of India*, Chandigarh, June 10, 2008.

However, there was a delay in taking decisive action against the accused who, despite being booked under rape charges, not only continued in duty but also began to threaten the victim to withdraw her case.

Unable to bear the trauma anymore, Sarita staged a spectacular public death on June 9 2008, consuming poison within the Haryana police headquarters. Her daughters Heena and Muskan, aged six and three, were the only eye-witnesses to their mother's consumption of poison. Later, Sarita was rushed to the PGI hospital, where she breathed her last in front of her children, her grieving husband and hundreds of agitated people.

How do we analyze – not just with scholarly rigor, but ultimately with compassion – this poignant story of a young woman who took her own life?

It might be useful to begin by stating the obvious – that Sarita was an unfortunate victim of rape, a violent act rendered all the more inhuman by the fact that it was committed by the so-called protectors of law. It also cannot be denied that Sarita was, at least in the first instance, a 'victim' of suicide. So for instance we cannot ignore how her suicide, like the suicide of all rape victims, colludes with an androcentric national imaginary and its emblematic figure of the chaste woman. (That Sarita was a member of the working class only consolidates my earlier argument of how this imaginary does not restrict itself to the middle-class.) Hence, at one level, we cannot but read Sarita's suicide as the act of a woman whose loss of 'honor' signals an immense cultural loss and renders life itself meaningless.



I have also discussed earlier how the ‘national’ is only one aspect of female subjectivity, the latter also including other aspects pertaining to class, caste, region and so forth. So while we do not have information on Sarita’s caste – and keeping in mind the gaps as well as overlaps between caste and class – it is apparent that Sarita was a victim of her class identity. In fact, given that rape is less about desire and more about domination, it might be entirely feasible to conjecture that a situation of rape may not even have arisen in the first place since the two low-ranking policemen would have thought twice if faced with a woman more powerfully positioned in society than Sarita, the wife of a poor man accused of petty theft. In other words, Sarita’s greater vulnerability on account of her under-privileged socio-economic status cannot be denied.

It may reasonably be assumed that regional location also plays a role in Sarita’s victimhood. Sarita was from a small town in Haryana, the state in north India I have earlier discussed as having high per-capita income but very patriarchal social structure. According to a news-report, ‘Delhi, Punjab and Haryana may be economically progressive but have a skewed sex ratio compared to other states, a new study by the National Commission for Women (NCW) said on Tuesday. Decades of struggle against gender discrimination has borne little with statistics showing that "huge" gender deficits continue to persist in the country, especially in economically developed states, it said.’<sup>240</sup>

The tremendously patriarchal social structure of Haryana, which persists alongside general economic well-being, has been the study of much recent scholarly writing. One such study, for instance, uses a series of social and demographical indicators

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<sup>240</sup> “‘Developed’ Punjab, Haryana show more skewed sex ratio,” *The Times of India*, March 14, 2012 [http://articles.timesofindia.indiatimes.com/2012-03-14/india/31164822\\_1\\_ratio-ncw-capita](http://articles.timesofindia.indiatimes.com/2012-03-14/india/31164822_1_ratio-ncw-capita)

to examine gender bias in Haryana, and concludes that despite rapid economic transformation, Haryana's entrenched patriarchal structure makes it lag far behind in the field of gender equality and social change.<sup>241</sup> As discussed in the previous chapter, another telling piece of evidence is that Haryana has consistently been in the news for the last few years on account of its notorious *khap panachayats* or kangaroo courts ordering honor-killings. The rampantly patriarchal social milieu in states such as these undoubtedly also shapes the subjectivities of individual men and women, though of course to differing degrees under different contexts.

Then, of course, is the matter of psychological trauma. The trauma of rape compounded manifold by constant harassment from the perpetrators who were still roaming free, in a situation where the husband was in jail, must have been unbearable for this young woman. In fact, if one were to deploy a purely psychiatric frame, it may seem entirely feasible to argue that Sarita committed suicide due to the 'temporary insanity' brought about by trauma and stress. At the same time, we need only recall the earlier discussion on the porous boundaries between the psychological and the social, since each ultimately shapes, and is shaped by, the other.

So it is easy to *represent* Sarita's suicide as socio-cultural, economic and psychological victimhood. For representation it is, an act of imagining that seeks to construct its subject from the perspective of another. This in any case is the problem of representation, 'a term with multiple and sometimes confusing connotations. Meaning presence as much as reproduction, likeness, the formation of an idea in the mind, or even

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<sup>241</sup> "Gender bias and economic development in India: A case study of Haryana," *Social Change* 38 (2008): 226-44.

proxy presence in the sense of a political “speaking for,” the term is at the heart of many debates in postcolonial and/or feminist theory[...] Those with the power to represent and describe others clearly control how these others will be seen.’<sup>242</sup> Elsewhere, this author says that representation is always fictional or partial because it must imaginatively construct its constituency (as a portrait or a “fiction”) and because it can inadvertently usurp the space of those who are incapable of representing themselves.<sup>243</sup>

This problem of representation gets exponentially compounded in a study of subjects who are no longer living, and whose reasons for taking their own lives must be pieced together by the researcher through careful analysis of the events, which must in turn be contextualized within given social and geo-political locations. Despite one’s most sincere attempts, it is entirely possible that in attempting to *represent* her subject’s point of view, the researcher ultimately commits an epistemic violence on the (dead) body of her subject by forcing it into pre-ordered theoretical frames. This is all the more true of the ‘historically muted subject of the subaltern woman’ who is inevitably consigned to being misrepresented by those with the power to represent, and whose death, as Spivak has demonstrated, effectively renders her speechless.

I am entirely aware of this epistemic violence, and admit to the impossibility of guessing which of Sarita’s subjectivities contributed, and to what extent, in fashioning the gendered environment within which her trauma then took the form of suicide. At the same time – and given that I have been urging our focus away from the ‘knowing

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<sup>242</sup> Deepika Bahri, “Feminism in/and Postcolonialism,” in *The Cambridge Companion to Postcolonial Literary Studies*, ed. Neil Lazarus (Cambridge; Cambridge University Press, 2004), 204-5.

<sup>243</sup> *Ibid*, 207.

subject' and towards the genealogy by which the subject comes to be constructed – I would argue that our genealogy only needs to trace the ways in which 'knowledge' about female embodiment is expressed and understood, and the 'rules' concerning how rape enters into the domain of the intelligible, in order to examine the historical juncture and the larger socio-cultural order within which Sarita's agency then takes the form of suicide. Given this genealogy, the contours of which I have traced in detail in the last few chapters, I would submit that to the extent that Sarita was a victim, her victimhood emerged in relation to her many intersecting and overlapping subjectivities.

Hence it is hardly surprising that, in taking suo moto notice of Sarita's rape and her subsequent suicide, the Punjab and Haryana High Court also emphasized her victimhood. According to a news report in *The Times of India*,

'Justices Permod Kohli and Rakesh Kumar Jain minced no words in castigating the state of Haryana, especially its police department, for the monumental apathy it exhibited in handling the case [...] Directing the investigating agency to hasten the probe, the bench asked all authorities concerned to file a status report within two weeks of the date of the order. It also sought a detailed report regarding circumstances leading to the tragic suicide by Sarita and issued a notice of motion to Haryana. The court was especially unhappy at the way the police treated the hapless woman [...] "From the news items placed on record, a sorry state of affairs of *a victim* raped by protectors of law has come to light", the bench observed.'<sup>244</sup> (Italics mine)

Sarita's suicide is a shame for Indian democracy and for women's human rights worldwide; to argue otherwise would be counterintuitive. Yet at this point, I must suggest that we deploy the nuanced understanding of agency outlined in the previous chapter to

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<sup>244</sup> "Protectors Have Turned Perpetrators, Says HC," *The Times of India*, Chandigarh, June 13, 2008.

read Sarita not only as a victim but also as a powerful oppositional agent. Thus I submit that, much like the agency of many other rape victims who commit public suicide, Sarita's agency *not only colludes with, but also contests and transcends*, the material and discursive 'facts' of her embodiment, and the multiple identities of gender, class, region, the 'local' and the 'national' that constitutes it. In many of these aspects of contestation, as well as in the dynamics that they mobilized at the level of the nation-state, the Sarita case goes on to carve out for itself an exceptional space.

So, while admitting to Sarita's discursive collusion with the female subject of an androcentric national imaginary through her 'performance' of chastity, it is nevertheless important to be attentive to how the spectacular and staged nature of her public death - within the police headquarters - subverts traditional notions of secrecy and familial honor. This is beyond doubt a powerful instance of the blurring of the victim-agent divide, especially if one considers how Sarita leaves behind a completely lucid suicide note to bring her rape to the notice of the entire nation and to ensure state action against the accused. According to *The Times of India* news report,

“*Maine goli kha lee hai*” (I have consumed poison), this is what Sarita told ADGP VB Singh while handing over her two-page letter highlighting her plight. “Despite DSP Neeraj Setia’s probe confirming rape, neither the policemen were arrested nor did investigating officers bother to get me medically examined. And the accused issued threats after they failed to lure me with money,” it said. “I have tried my best to get justice but my voice has gone unheard and now I am committing suicide and head constable Balraj and constable Silak Ram are responsible for my death,” she further said in her letter [...].<sup>245</sup>

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<sup>245</sup> “Rape victim ends life at police HQ,” *The Times of India*, Chandigarh, June 10, 2008.

Sarita's agency also in some way transcends class and other constraints, not only as apparent in her courageous attempt to – and success at - meeting some of the top-most police officials in the state to argue her case, but also in her conceptual understanding and deployment of the notion of social justice. She did not believe that the two police officers, despite their more powerful social position, had the right to invade her bodily integrity. She believed she deserved justice, and fought tooth and nail for it – despite all the limitations of her own circumstance – and, when all else failed, used her own body as a last weapon.

Also, I would argue that the details of Sarita's act certainly weaken, if not entirely repudiate, a purely psychiatric frame. It is reasonable to assume that an act stemming from 'temporary insanity' following trauma would be more immediate and on the spur of the moment. Her carefully-worded letter and the public staging of her suicide seem to suggest that Sarita's suicide, however, was more calculated and constituted a far more subversive agency.

In fact, I would go so far as to argue that to the extent that Sarita's agency does collude with an androcentric imaginary, such collusion contributes, in this instance, to mobilizing a powerful cultural politics of performance and affect. This politics is made possible as much by modern narratives of the state as by an embodied invocation of collective and gendered metaphors of the nation, the former in its emphasis on the right to bodily integrity (as a part of an individual's fundamental right to life), and the latter in the

benevolent patriarchal protection owed by the (masculinist) state to the female subject/mother/wife/goddess of a feminized nation.

### **Beyond Legal Liberalism: Public Death and the Gendered State**

Sarita's suicide resulted in an immediate suspension order against the two rapists. Equally interesting, though, were the dynamics that played out when the judiciary took suo-moto notice of the case. Thus a key observation of the Punjab and Haryana High Court was:

'When protectors of law become perpetrators of crime, the life of the common man becomes miserable.' Further, 'when ML Saggar, AAG Haryana, informed the court that the accused had been arrested and dismissed from service and that the government had announced a compensation for the daughters of the victim, the court replied that *no compensation can retrieve the honor of the victim and her family*. Neither can it bring her back to life, the judges said.'<sup>246</sup> (Italics mine)

I wish to direct attention to the very interesting cultural double-bind implicit in the Court's deployment of the notion of honor. On one hand, the observation once again discursively affirms the notion of a group's (in this case the family) 'honor' as residing within the chaste female body, an honor whose loss is irreversible in the case of rape. On the other hand, this very cultural framework is then used by the judiciary to 'honor' Sarita's life and her unfortunate death, and therefore to rebuke the political executive for

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<sup>246</sup> "Protectors Have Turned Perpetrators, Says HC," *The Times of India*, Chandigarh, June 13 2008.

failing to assume moral duty and responsibility for a woman's 'right' to life and against rape.

In her interrogation of judicial discourse on rape in India, Das has noted that, 'while in all cases pertaining to the violation of bodily integrity it is inevitable that the body will be objectified in the process of judicial verification, here the body is objectified as a sexual body. The female body is defined in this discourse primarily as one which is marked by the impress of male bodies on it, leading to a gendered reading of this process of the body's objectification.'<sup>247</sup> To the extent that the Court understands the female body as already always marked, it seems to find Sarita's raped (and therefore irreversibly dishonored) body wanting in comparison to the national imaginary's chaste female subject. Here, we may recall how morality plays out within a juridical framework, functioning as an important mechanism for disciplining and regulating the social.<sup>248</sup> Given that the state, as a major actor in the institutionalization of sexual politics, emerges as the moral arbiter of sexual (mal)practices, we must ask what in Sarita's case is ideologically at stake for the state.

The answer will lead us in the direction of Alexander's conclusion i.e. that, to the extent that morality is cast on narrow conjugal family grounds, women are incorporated into the debate as 'wives' – and in Sarita's case, I would add, as 'mothers' – such that it is primarily in this capacity that women can make claims on the state. We have also discussed historian Tanika Sarkar's work on the discursive centrality of 'wife-lieness' and

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<sup>247</sup> Das, "Sexual Violence, Discursive Formations, and the State," 402.

<sup>248</sup> Alexander, "Redrafting Morality."



motherhood in the political ideology of the Hindu right.<sup>249</sup> As noted earlier, Cossman and Kapur's work on law in India has argued that this dominant discourse (in which women are seen as mothers and wives with particular social roles and responsibilities) has resulted in constituting women as different, a difference that has essentialized and naturalized socio-historical practice and functioned to reinforce patriarchal stereotypes.<sup>250</sup>

In other words, would the state's reaction have been the same if the woman in question had, for instance, been a prostitute? Or indeed, for that matter, a poor working-class unmarried woman with more than one sexual partner? What I am trying to suggest here is that *Sarita enters the discursive domain of law as a wife and mother.*

This direct or indirect emphasis on female chastity in cases of rape is a point that has often been raised by the Supreme Court. Thus, in *The State of Punjab versus Gurmit Singh*, when the rapist was acquitted by a trial court in the nineties on the grounds that the prosecutrix was a girl of loose character,<sup>251</sup> the Supreme Court took exception to this judgment. Criticizing the trend among trial courts to lay undue emphasis on the prior sexual history of rape victims, the Supreme Court opined that the trial courts

'are expected to use self-restraint while recording such findings which have larger repercussions so far as the future of the victim of sex crime is concerned and even wider repercussions in society as a whole, where the victim of crime is discouraged, the criminal encouraged and, in turn, crime gets rewarded. Even in cases where there is some acceptable material to show that the victim was habituated to sexual intercourse, no such inference like victim being a girl of "loose moral character" is permissible to be drawn from that circumstance alone. Even if the prosecutrix, in a given case, has

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<sup>249</sup> Sarkar, "Heroic Women, Mother Goddesses."

<sup>250</sup> Cossman and Kapur, "Women, Familial Ideology and the Constitution."

<sup>251</sup> AIR 1996 SC 1393.

been promiscuous in her sexual behavior earlier, she has *a right* to refuse to submit herself to submit herself to anyone and everyone because she is not a vulnerable object or prey for being sexually assaulted by anyone and everyone. No stigma, like the one cast in the present case, should be implied against such a witness by the Courts. After all, it is the accused and not the victim of sex crime who is on trial in the court.’<sup>252</sup> (Italics mine)

The emphasis on a woman’s *right* against rape has been upheld by courts in many other recent cases too, such as in a case where a subordinate court in New Delhi offered compensation to a rape victim who had committed suicide, “as the offence of rape is against the victim’s basic human rights and violation of her fundamental right to life and liberty.”<sup>253</sup> Earlier, in *Maharashtra v. Madhukar Narain Mardika*, the Supreme Court had observed that even a prostitute has a right to privacy and that past sexual history of the woman is irrelevant in deciding a rape case.<sup>254</sup> Further, it was on the basis of these criticisms by the apex Court and the recommendation of the Law Commission, as well as in response to the continued demand by women’s groups, that Section 155(4) of the Indian Evidence Act (which allowed evidence on the immoral character of a rape victim to impeach her credit) was finally deleted by an amendment in 2003.

What emerges from these standpoints of the courts and the Law Commission is thus an understanding of rape as an offence against the body, and as the violation of an individual’s inalienable right to body integrity – an understanding that is in keeping with international women’s human rights principles - rather than as the irreversible loss of a

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<sup>252</sup> Quoted in *Rape: A Legal Study*, 26-27.

<sup>253</sup> “Rape Victim’s Post-Crime Trauma, State Apathy ‘Shock’ Delhi Court,” *The Times of India*, Feb 2, 2012 [http://articles.timesofindia.indiatimes.com/2012-02-02/delhi/31016513\\_1\\_delhi-court-apathy-victim](http://articles.timesofindia.indiatimes.com/2012-02-02/delhi/31016513_1_delhi-court-apathy-victim)

<sup>254</sup> AIR 1991 SC 207. Quoted in *Rape: A Legal Study*, 27.

chaste woman's honor. *Hence, in the Sarita case, the judicial framing of Sarita's rape as the loss of honor of a wife-and-mother is problematic, since from a liberal perspective, the marked female body-in-culture implicit in the Court's observation is conceptually at odds with the unmarked liberal individual subject of rights.*

However, a range of feminist theorists have demonstrated the limitations of liberal individualist discourse, whose tenet of procedural or formal equality gives rise to a model of equality through abstract individualism, often resulting in abstracting the very (gendered) conditions that make the individual unequal.<sup>255</sup> The formal-positivist liberal model's extensive reliance on objective reason and empirical facts may thus be inadequate to grasp the complexity of female embodiment.<sup>256</sup> Further, in not engaging the specificity, historicity and embodied politics of location, the classical liberal body implicitly emerges as male by being inadequately attentive to women's experiences of violence and rape.<sup>257</sup> Drucilla Cornell in particular notes how what is called human is only too often in patriarchal culture the genre of the male, while Carole Pateman demonstrates how liberalism's notion of the 'individual' remains intact only so long as civil society's binary distinctions between the natural/civil, public/private and male/female remain intact, and how liberalism's celebration of generalized impartiality and

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<sup>255</sup> Anne Phillips, *Which Equalities Matter* (Oxford: Polity Press, 1999).

<sup>256</sup> Nivedita Menon, "Embodying the Self: Feminism, Sexual Violence and the Law," in *Translating Desire: The Politics of Gender and Culture in India*, ed. Brinda Bose (New Delhi: Katha, 2002), 201-39.

<sup>257</sup> Carole Pateman, *The Sexual Contract* (Cambridge: Polity, 1988); Phillips, *Which Equalities Matter*; Drucilla Cornell, *The Philosophy of the Limit* (New York: Routledge, 1992); and Margaret Thornton ed., *Public and Private: Feminist Legal Debates* (Melbourne: Oxford University Press, 1995).

‘objective’ reason is structured upon a gendered separation and relegation of particularity and emotion into the feminized private sphere.

In other words, a foregrounding of sexual difference is only as problematic as its erasure, the former in essentializing gender and the latter in overlooking the real effects of gender to once again implicitly uphold the androcentric norm. This is what Minnow refers to as the dilemma of difference, which she describes as the risk of both recreating and devolving difference by either recognizing it or ignoring it.<sup>258</sup> As discussed in an earlier chapter, these may be considered the two easiest – and, in a sense, flawed – approaches to the framing of gender difference within law, in contradistinction to which Cossman and Kapur have posited their third, nuanced approach of recognizing socio-historical difference while not essentializing or naturalizing it.<sup>259</sup>

In Sarita’s case - and given the subcontinent’s interesting history of the construction of women as mothers - what must therefore be examined is how the state’s foregrounding of sexual difference, through its benevolent patriarchal construction of Sarita’s subjectivity as a wife and a mother, ultimately impacts the delivery of justice. While motherhood has been an effective and successful vehicle for women’s political mobilization, the political deployment of the iconized mother – imbued as it is with religious overtones, and textual and doctrinal legitimacy – has also been a cause of

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<sup>258</sup> Martha Minnow, “Learning to Live with the Dilemma of Difference: Bilingual and Special Education.” Quoted in Cossman and Kapur, “Women, Familial Ideology and the Constitution,” 72.

<sup>259</sup> Cossman and Kapur, “Women, Familial Ideology and the Constitution.”

concern for feminists.<sup>260</sup> Hence, while Sarita's discursive construction as wife and mother in the news-reports can unwittingly feed into a patriarchal ideology, the negative effects of which have been discussed earlier, it is important to also consider how this construction facilitates justice in a moral and ethical sense.

Hence, I shall go so far as to suggest that, its benevolent patriarchal gesture aside, we read the state's response to Sarita's suicide within the framework of a politics of compassion.

### **A Politics of Compassion**

In a very cogent essay on the politics of compassion, Elisabeth Porter draws from a range of feminist writing to conclude that:

'Traditionally, men have been associated with reason and women with emotion. The idea has long existed that women are suited to the realms of family, domestic life, and intimacy where tenderness, nurturance and compassion are valuable qualities. Whereas a concern for feelings was seen by many to limit women's moral reasoning, more recently, feminists have come to see compassionate empathy as "the essence of morality but no longer associated particularly with women" (Gilligan and Wiggins 1988, 111). Feminist perspectives on emotion break the gender-based dichotomy between male reason and female emotion, arguing that "connection, compassion and affectivity should be recognized as important sources of moral reasoning for women and men (Sevenhuijsen 1998, 12).

Emotions reveal what is important to us, what we value, how we perceive situations, what affects us, and how we should respond ethically [...] Feminist ethics values moral traits (traditionally associated with women) like sympathy, nurturance, care, and compassion [...] A politics of compassion links the universal and the particular in that it assumes a shared humanity of interconnected, vulnerable people

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<sup>260</sup> Amrita Basu, "Appropriating Gender," 3-14; and Malathi De Alwis "Motherhood as a Space of Protest: Women's Political Participation in Contemporary Sri Lanka," 185-202, in *Appropriating Gender: Women's Activism and Politicized Religion in South Asia*, eds. Jeffrey and Basu (New York: Routledge, 1998).

and required emotions and practical, particular responses to different expressions of vulnerability.’<sup>261</sup>

Earlier, feminist theorists Sara Ruddick, Martha Nussbaum and Charlotte Bunch had laid out, as it were, the limits as well as the possibilities of compassion. For Sara Ruddick, compassion is different from pity and empathy, and should not entail shared suffering; instead, it involves feeling pained by the other’s pain, and acting to relieve it.<sup>262</sup> While Martha Nussbaum does not draw a hard distinction between pity, empathy and compassion, she also emphasizes the separatedness of the compassionate person and the sufferer in a context where the former acts to relieve the distinctive pain of the latter.<sup>263</sup> At the same time - and regardless of the finer distinctions between pity, empathy, co-suffering and compassion - compassion must ultimately entail an equal respect for each person’s humanity. This is the point that Charlotte Bunch emphasizes, when she says that without this respect, compassion runs the danger of becoming a form of condescending charity towards those less fortunate.<sup>264</sup> This is seconded by Porter, who says that compassion is grounded in the universality of human vulnerability, and it requires meaningful responses to particularity that avoid presumptuous paternalism.<sup>265</sup>

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<sup>261</sup> Elisabeth Porter, “Can Politics Practice Compassion?” *Hypatia* Vol. 21, no. 4 (2006): 97-99.

<sup>262</sup> Sara Ruddick, “From Maternal Thinking to Peace Politics,” in *Explorations in Feminist Ethics*, eds. Eva Browning Cole and Susan Coultrap-McQuin (Bloomington: Indiana University Press, 1992), 152.

<sup>263</sup> Martha Nussbaum, “Compassion: The Basic Social Emotion,” in *The Communitarian Challenge to Liberalism*, eds. E. Frankel, F.D. Miller and J.Paul (Cambridge; Cambridge University Press, 1996), 35.

<sup>264</sup> Charlotte Bunch, “Human Rights as the Foundation for a Compassionate Society,” in *Towards a Compassionate Society*, ed. Mahnaz Afkhami (Bethesda: Women’s Learning Partnership, 2002), 16.

<sup>265</sup> Porter, “Can Politics Practice Compassion?,” 101.

Also, there need not be any inherent conflict between the ‘universality’ of justice and the ‘particularity’ of compassion. Thus, Nussbaum, Bunch and Porter all agree that compassion is intimately bound up with justice and rights, and that human rights can be the basis of a compassionate society and vice versa. As Porter says, compassionate justice is not just possible, but that politics has an obligation to be compassionate wherever possible, through ‘first, attentiveness to the suffering of vulnerable people who are experiencing pain, marginalization, belittlement, and loss of citizen rights; second, active listening to the voices of sufferers in order to discern their needs; and third, compassionate, appropriate, wise responses to particular needs.’<sup>266</sup>

In this context, Veena Das’ exposition on the moral community created through pain is especially relevant. As Das says, while pain may destroy the capacity to communicate, the expression of pain nevertheless establishes a relationship of communication. It asks for recognition, and thus initiates a social connection; in return it elicits a response, transforming into shared suffering and shaping the moral community. This helps bridge the gap between victim and observer, since relating to the pain of other allows the becoming of a witness to a moral life<sup>267</sup>

The SP in charge of Sarita’s case admitted that Sarita had met him twice to ask for justice. However, he justified the long-drawn inquiry as she had approached his office two weeks after the rape and medical examination would not have been able to establish rape.<sup>268</sup> While the state guarantees women the right against rape, rights are ultimately

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<sup>266</sup> Porter, “Can Politics Practice Compassion?,” 111.

<sup>267</sup> Veena Das, *Critical Events: An Anthropological Perspective on Contemporary India* (Delhi: Oxford University Press, 1995). See especially 194-5.

<sup>268</sup> “Rape victim ends life at police HQ,” *The Times of India*, Chandigarh, June 10 2008.

realized through the instrument of law, making justice contingent upon formalistic requirements of evidence. The time lapse between Sarita's rape and her lodging of a police complaint – a lapse easily explained by the fact that the poor, working class woman was in all likelihood unaware of the forensic requirements of a rape case, along with being intimidated by her policemen rapists – had therefore made Sarita's case difficult to prove in court.

But not only did the Court strongly affirm her right against rape, it also compassionately recognized the specific disadvantages of class and social powerlessness that Sarita had to face and that led to the time lapse between the rape and the actual lodging of a police complaint. As a result, *despite the lack of medico-legal evidence that is so crucial to establishing rape through due process of liberal law, the judicial machinery of the state not only took suo-moto notice of her suicide but also assumed that there must have been rape.* In doing so, it scored significantly over the liberal-legal system and its glaring drawback i.e. the formalistic requirements of forensic evidence.

Thus, in framing her as a wife and mother, the court's response was undergirded by emotion/empathy/compassion as opposed to rationality/objectivity. Elsewhere, Hodgson mentions how an attention to gender can illuminate other dimensions of rights that are often ignored or devalued, such as rights-claims framed in affective, emotional or relational terms that go beyond formulations of the liberal rights-bearing 'individual' in order to acknowledge other modes of being.<sup>269</sup> In terms of Porter's definition of a politics of compassion, as well as of Hodgson's discussion of the relational and affective

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<sup>269</sup> Dorothy Hodgson, *Gender and Culture at the Limit of Rights*, 4-11.



dimensions of rights-claims, we can see how the Court was attentive to the particularity of Sarita's and her family's pain; it listened to her 'voice' to discern her needs, and fashioned what was, to a very large extent, an appropriate, wise and compassionate response to that particular need.

Further, there is only a fine line between *compassionate* politics and *passionate* politics. Here I am referring to one of the more recent feminist trends in the study of social movements and political processes – that of taking into account the political power of emotions. Earlier, the dominance of rational choice models had proscribed investigation into the emotional component of political case studies. This near-absent analysis of emotions in the field of political process and of social movements was unfortunate, since analytical attention to the power of emotions can provide us with important insights into cultural insiders' subjectivities, motivations and notions of what is politically possible, and help us build compelling accounts of a movement's trajectory, strategic choices, internal conflicts and other characteristics.<sup>270</sup>

In any case, feminist scholars across disciplines have challenged the thought/feeling dichotomy and the equation of emotion with irrationality, arguing that feeling and thinking are inseparably intertwined.<sup>271</sup> According to Hochschild, 'culture powerfully affects what we think we should feel, what we try to feel, and sometimes what we

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<sup>270</sup> Deborah B. Gould, "Passionate Political Processes: Bringing Emotions back into the Study of Social Movements," in *Movements: Structure, Meaning and Emotion*, eds. Jeff Goodwin and James M. Jasper (Lanham: Rowman & Littlefield, 2004), 155-175.

<sup>271</sup> *Ibid*, 162.

feel.<sup>272</sup> Hence, focusing attention on the political power of emotions and the manner in which they may be strategically deployed in the mobilization of people allows us to understand the decisive role played by emotions in the Sarita case. In particular, it helps us appreciate how this role both drew from as well as contributed to a larger politico-cultural climate in the nation, which in turn shaped the verdict of the state judiciary. Here I am alluding to the manner in which the performative, deeply affective and profoundly public nature of Sarita's suicide played into the national symbolic order with its androcentric framing of the female body; the issue became highly emotionally charged and in this instance, eased the path to justice. Thus, in speaking of how Sarita's suicide led to widespread agitation across the nation, a news report notes how:

[...] various political parties and social justice organizations took out protest rallies against the Haryana Police. While the political parties demanded the resignation of Chief Minister Bhupinder Singh Hooda, the organizations demanded the immediate constitution of a Human Rights Commission in the state. "The Haryana government has *failed to protect the honor of the women* in the state and for this CM Bhupinder Singh Hooda should resign. With the rapes, sexual harassment, deaths and suicides among women increasing in the state, it is the poor condition of the law and order in the state that is responsible," said Rozy Malik, ex-President, State BJP Women Cell.<sup>273</sup> (Italics mine.)

In fact, the protest against Sarita's suicide was by no means limited to political parties and social justice organizations alone, since individuals across India reacted to the suicide in large numbers. A blog written by an author, who identifies as an ex-career-woman, mother and Indian citizen writes:

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<sup>272</sup> Quoted in *ibid*, 163.

<sup>273</sup> "Sarita Suicide: Protests held Against Cops," *Express India*, June 12, 2008. <http://www.expressindia.com/latest-news/sarita-suicide-protests-held-against-cops/321831/>

‘On the TV screen...a mourning family...a helpless husband...two innocent young children...wide-eyed, not able to comprehend what is going on...the noise, the chaos, the media..and where is their mother?’

A lump formed in my throat when I saw Sarita’s children. Those little boys have lost their mother, because of the crime committed by two policemen.

There is a game children in India play – “Chor..Police”. The Chor (the thief, traditionally the Bad Man) runs, while the Police (obviously, the good man) chases him.

But when the Policeman himself is a criminal, then what who runs and who chases?

Or do they both run, leaving the common (wo)man helpless and battered? Why did they rape a poor woman? How could they rape “*a mother*”? What kind of men were they? Or were they bloody animals in human clothing? They have families too... wife and children. Did they not think of them even once while doing this gruesome act? They have been in the Police force for more than a decade..is this how they have executed their duties ? Does Power always Corrupt?

What was Sarita’s mistake? That she was a woman? Or that she was poor and powerless?

What was the children’s mistake? Why have they lost their mother? When they wake up tomorrow morning, there will no mother to smile at them, to wash their face, to feed them, to love them and to take care of them. For what felony are they being punished? [...]’<sup>274</sup>

Feminist scholars of media have often pointed out how a rhetorical analysis of media can yield useful insights and help us understand the framing of gendered bodies in the public sphere.<sup>275</sup> Just as in the news reports discussed earlier, a rhetorical analysis of the above blog sheds light on the *affective* framing of Sarita as a wife and mother within the discursive spaces of the nation state.

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<sup>274</sup> “A Wasted Life: Sarita Suicide Case,” June 11, 2008.

<http://writerzblock.wordpress.com/2008/06/11/a-life-wasted-sarita-suicide-case/>

<sup>275</sup> See for instance Arabella Lyon, ‘Misrepresentations of Missing Women in the U.S. Press: The Rhetorical Uses of Disgust, Pity and Compassion,’ in Wendy S. Hesford and Wendy Kozol eds. *Just Advocacy? Women’s Human Rights, Transnational Feminisms and the Politics of Representation* (New Brunswick; Rutgers University Press, 2005), 173-92.

Here it is pertinent to revisit two points made earlier: first, that the lower caste and/or working class female body has, in some orthodox understandings, been framed as sexually available. And second, that the Indian ‘national’ symbolic order – especially as it undergirds the workings of the state machinery - has often overlooked these specific caste and class-based vulnerabilities of women, instead discursively homogenizing the differences among women such that the normative subject of the national imaginary emerges as the monolithic ‘Indian woman.’

The rapists were clearly influenced by the first understanding in that they saw Sarita’s body as sexually available, raping her with impunity within the premises of the police station itself and blatantly threatening her afterwards. This, in fact, is the reason why feminist theorists have critiqued the normative construction of ‘national’ womanhood, instead insisting on accounting for women’s locational specificities. I would however argue that in Sarita’s case, *her discursive construction as a wife and mother brought her close to the normative (i.e. chaste) female subject-position, despite her working-class status.* This positioning, howsoever problematic it may be, eased her path to justice by challenging dominant feminist criticism in an important way. Thus in the above comment made by the ex-President of the State BJP Women’s Cell, we see the Hindu right challenging the orthodox framing of the lower caste/class female body by imputing to Sarita’s body the ‘honor’ ‘due’ to *any and all* female citizen-subjects regardless of their location, caste, class and other specificities, an imputation that, in this case, helps rather than impedes Sarita’s posthumous demand for her right, her *adhikara*.

Sarita's case was finally handed over to the Central Bureau of Investigation (CBI) for further probe. Some of the top police officials responsible for the delays that led to Sarita's suicide were either suspended or transferred.<sup>276</sup> Further, some top police officials were charged with abetment to suicide, and the Deputy Superintendent of Police not only had his bail rejected but was also arrested after he tried to escape from the courtroom.

'A Haryana Police officer accused in the Sarita suicide case was on Tuesday arrested for assaulting a CBI inspector while trying to escape from the courtroom after his bail application was rejected.

Deputy Superintendent of Police (DSP) Dheeraj Setia, charged with abetment to suicide in the case, had assaulted CBI inspector Subhash Kumar while trying to escape. Kumar fractured his hand while attempting to prevent Setia from escaping. Sarita, a Rohtak resident, had ended her life in front of the Haryana ADGP's office in Panchkula last June after the Haryana Police failed to take any action against two of its men, Balraj Singh and Tilak Ram, who had raped her in April.

Setia and Inspector Pawan Kumar were charged with abetment to suicide. According to eyewitnesses, Setia along and Pawan Kumar were presented before the court of Haryana Special CBI Judge A S Narang and subsequently denied bail. Soon after, Setia sought to go out of the courtroom on the pretext of taking a medicine and then fled. In the process, he roughed up Kumar who was escorting him out.

However, an hour later, Setia surrendered before the same court and was sent in judicial custody along with Pawan Kumar. The two had been out on interim bail and their regular bail application was pending before the court.

Harinder Pal Singh Verma, the CBI counsel in the case, said the Haryana Police has arrested the accused in a fresh case under different sections of the Indian Penal Code for assault, causing injury to a public servant and for preventing a public servant from performing his official duty.

After a public outcry over the suicide of the 25-year-old mother of two, the Haryana Police were forced to take action in the matter. An FIR was filed after 50 days had elapsed since the incident.

The High Court had earlier taken up the case suo moto and handed it over to the Central Bureau of Investigation for a thorough probe.<sup>277</sup>

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<sup>276</sup> Ibid.

<sup>277</sup> Sanjeev Chopra, "Sarita Suicide: DSP Escapes, Surrenders," *Indian Express*, June 10, 2009. <http://www.indianexpress.com/news/sarita-suicide-dsp-escapes-surrenders/473957/2>

In a recent 2012 development, one of the accused in the rape case, assistant sub inspector Seelak Ram also had his bail plea rejected by the CBI special judge.

‘The CBI special judge rejected the regular bail application of sacked assistant sub inspector Seelak Ram, who was booked along with head constable Balraj for raping Rohtak resident Sarita on April 10, 2008.

Sarita had later committed suicide outside the Police Headquarters in Panchkula on June 9, 2008.

Seelak Ram had moved an application for his regular bail almost six months ago and after hearing both sides, the CBI special judge A K Tyagi rejected his bail plea. The CBI, which is investigating the case, opposed Ram’s bail plea.

The case is at evidence stage. Seelak Ram and Balraj were also named by the CBI along with the then Deputy Superintendent of Police (DSP) Rohtak Dheeraj Setia, Inspector Pawan Kumar and head constable Ramphal, for being responsible for Sarita’s suicide.

Sarita, in her suicide note, had alleged that she was committing suicide as the police failed to take action against two police officials who raped her in Rohtak in 2008, when she was summoned by police staff, who had arrested her husband in a theft case. She had committed suicide in front of the police headquarters at Panchkula when she did not get justice from the Rohtak police.

After serious allegations against the police, the Haryana government handed over investigations to the CBI.<sup>278</sup>

As the above report indicates, the case is still at the evidence stage. While it will be interesting to see whether the CBI is able to secure a final and conclusive legal conviction against the rapists, and while such a conviction is obviously more challenging insofar as it may involve more formalistic-procedural notions of evidence, the dynamics through which the state apparatus attempts to ease the delivery of justice to Sarita are nevertheless fascinating enough to have warranted this detailed inquiry.

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<sup>278</sup> “Sacked Cop Refused Bail in Sarita Rape, Suicide Case,” *Indian Express*, Feb 22, 2012. <http://www.indianexpress.com/news/sacked-cop-refused-bail-in-sarita-rape-suicide-case/915082>

Sarita's case amply exposes the porous boundaries between the public and the private, and forces us to eschew reductive understandings of female subjectivity, collusion and resistance. The case is representative in many ways - the lack of justice and desperation for raped poor women, for instance, as well as the abuse they suffer at the hands of the police. At the same time, the case does stand out in terms of its results, which are not at all representative but quite exceptional because there was a lucid suicide letter that explained the woman's act, because her act attracted such attention and mobilized the nation-state in such powerful ways, and because the courts responded in the unique manner they did. In the last instance, the case demonstrates how Sarita's positioning within the multiple narratives of the nation-state reinforces certain patriarchal frames while contesting others, and strongly reinforces my argument about how rape victims' suicides tremendously complicate the victim-agent binary.

In conclusion, I would like to reiterate a point made earlier, about suicide functioning as a powerful protest against injustice that places a *moral* burden on the accused, on society, and on the state. Interestingly therefore, even the threat of suicide has sometimes sufficed to mobilize the state into action. The second chapter listed various generic instances of citizen-subjects threatening the state with suicide in order to claim a series of rights (to compensation, to property, to have their complaints registered and so forth.) Speaking specifically of rape, this chapter would therefore be incomplete without mentioning how the public inscription of Sarita's suicide was appropriated by other rape victims belonging to underprivileged social strata,

An example is a newly-wed Dalit girl from Haryana who was gang-raped by three men. ‘The 20-year old girl facing threats from her alleged rapists has said she will do a Sarita if the accused were not arrested immediately. The Karnal girl in an affidavit has alleged that police had taken no action against the accused due to political pressure. SHO of Kunjpura police station Ranbir Singh Malik told *The Times of India* that they have now arrested the accused [...].’<sup>279</sup>

In instances such as the above, rape victims have *threatened* rather than actually committed suicide in order to embarrass the state into action. Despite the pathological framing of suicide within psychiatry, and its formalistic criminalization in law, they have thus been able to draw upon cultural and historical memory, gendered national symbols, and a sub-continental politics of public death in order to claim their right against rape from the state.

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<sup>279</sup> “Three arrested in rape case,” *The Times of India*, Chandigarh, June 13, 2008.



## CHAPTER SIX

### **Theory to Praxis, Local to Global**

In this last chapter, it may be useful to broaden the dissertation's focus by linking rape victims' suicide with other forms of gendered agency exercised by rape victims as they interact with the state. I submit that this broadening of focus will illuminate the path from theory to praxis, and from the local to the global.

#### **Rape: An Alternative Cultural Paradigm**

In exploring the problems of focusing solely on the individual as a site for rights, Hodgson points out 'the inability of such paradigms to address larger structural inequalities such as the exploitative relations between states, classes and communities.'<sup>280</sup> In the context of rape in India, some of these exploitative relations between classes and castes have been discussed; examples include the vulnerability of Dalit women to sexual violence at the hands of upper caste men, as well as the specific vulnerabilities of working class women. Thus, in a poignant statement to the Human Rights Watch team, one respondent notes that 'Sexual oppression is intimately connected to land oppression.

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<sup>280</sup> Dorothy Hodgson, *Gender and Culture at the Limit of Rights*, 11-12.

By keeping lower caste women sexually subjugated, the upper castes control the men.<sup>281</sup> Elsewhere, the study notes how ‘women of scheduled castes and scheduled tribes are raped as part of an effort by upper-caste leaders to suppress movements to demand payment of minimum wages, to settle sharecropping disputes, or to reclaim lost land. They are raped by members of the upper caste, by landlords, and by the police in pursuit of their male relatives.’<sup>282</sup> The Human Rights Watch study also mentions organized rapes of women by upper-caste militias such as the Ranvir Sena to spread terror among lower-caste communities, Dalits and Naxalites,<sup>283</sup> and the political patronage that these militias often enjoyed despite their outlawing by the Government of India.<sup>284</sup> As the study notes, ‘Though both the Naxalites and the private militias share the responsibility for increased violence and deaths in the state, the state’s response to the Naxalites has been markedly different. Police have frequently operated as agents of the landed upper castes, conducting raid on Dalit villages and disguising killings of Naxalites as “encounters.”’<sup>285</sup>

Such situations, where a class struggle escalates into an armed caste conflict,<sup>286</sup> expose the extreme measures adopted by the state against the subaltern; as we have seen, these measures also include sexual violence against the gendered subaltern. I would argue that these instances of extreme violence, where the gendered subaltern has been pushed to

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<sup>281</sup> Father Manuel Alphonse, quoted in Smita Narula, *Broken People: Caste Violence Against India's "Untouchables,"* 112.

<sup>282</sup> *Ibid.*, 31.

<sup>283</sup> *Ibid.*, 52

<sup>284</sup> *Ibid.*, 53.

<sup>285</sup> *Ibid.*, 73.

<sup>286</sup> *Ibid.*, 45.

the brink and has nothing further to lose, allow us to understand alternative forms of gendered agency (other than suicide) deployed by raped women as they interact with the state. In the last instance, these forms of agency also go on to illuminate spaces of theoretical possibility and feminist praxis; by offering an alternative paradigm to hegemonic cultural framings of rape, they help us better conceptualize meaningful justice in the aftermath of rape.

In speaking of this form of gendered subaltern agency in the context of rape, one is immediately reminded of Mahasweta Devi's short story 'Draupadi.'<sup>287</sup>

In Devi's story, Dopdi – a tribalized version of the Sanskrit name Draupadi - is a Santhali tribal woman who, along with her husband Dulna Majhi, is a 'comrade' in the revolutionary Naxalite movement in Bengal. Dulna is killed by the Special Forces, who also capture Dopdi in the hope that she will lead them to the other members of her group. Senanayak is the wily specialist in extreme left tactics, on whose directions the Operation is carried out, and Dopdi stripped and gang-raped in custody. When she is finally taken to Senanayak, she exercises a tremendously powerful and provocative agency; *she refuses to be covered with a cloth and chooses to remain naked*. As she says:

'What's the use of clothes? You can strip me, but how can you clothe me again? Are you a man? [...] There isn't a man here that I should be ashamed. I will not let you put my cloth on me. What more can you do? Come on, counter me – come on, counter me?'

Draupadi pushes Senanayak with her two mangled breasts, and for the first time, Senanayak is afraid to stand before an unarmed target, terribly afraid.'<sup>288</sup>

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<sup>287</sup> Mahasweta Devi, 'Draupadi', in Agnigarbha (Womb of Fire), trans. Gayatri Spivak, 'Draupadi,' in *In Other Worlds: Essays in Cultural Politics* (New York: Routledge, 1988), 187-96.

<sup>288</sup> Ibid, 196.

In order to understand the implication of Devi's 'Draupadi' in all its evocative richness, it is necessary to go back to the culturally omnipotent episode from the Hindu epic *Mahabharata* that Devi's story attempts to rework.<sup>289</sup> In the *Mahabharata*, Draupadi is the wife of the five Pandava brothers who lose not only their kingdom but also their wife to the Kauravas in a game of *Chausar* or dice. Draupadi is physically dragged by her long hair into the king Dhritarashtra's court by Dushasana, one of the Kaurava brothers, who proceeds to disrobe her in full public view. Failed by the men in her life, Draupadi starts praying to the god Krishna. Krishna steps in with his magic; even as Dushasana pulls at Draupadi's garment, there is more and more of it. Finally, as the entire hall is filled with endless rolls of her garment and Draupadi remains as clothed as before, Dushasana is forced to give up his enterprise. The woman's right to bodily integrity is thus preserved; Draupadi's body remains elusive to the male public gaze through the 'Idea of Sustaining Law (Dharma), which materializes itself as clothing.'<sup>290</sup>

Draupadi is a complex figure in Indian mythology, not least because she does not accept her fate meekly but questions, with anger and pride, society's androcentrism that objectifies her as a woman and a human being.<sup>291</sup> In that sense, Spivak is correct that it

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<sup>289</sup> For a translation of The Mahabharata, see for instance Chakravarthi V. Narsimhan, *The Mahabharata* (New York: Columbia University Press, 1965).

<sup>290</sup> Spivak, *In Other Worlds*, 252.

<sup>291</sup> For instance, when Draupadi is summoned into court, she sends the messenger back with a query: Did Yudhisthir pledge her before or after he had lost himself in the game of dice, because according to her, the latter situation meant that having lost himself, he no longer had the ownership, and therefore the right to lose her. When she is subsequently dragged into court, she again does not accept it with resignation, and demonstrates both anger and scorn at the inability of the men to stand up against the injustice unfolding before their eyes. See, for instance, Romesh C. Dutt, 1899 (trans.) <<http://Hinduism.about.com/library/weekly/extra/bl-mahabharata5.htm>> (Book 4 of 12) [accessed 26 November, 2007].

would be a mistake to see the modern story of the tribal Dopdi as a refutation of the ancient story of the classical Dopdi, as Dopdi is as heroic as Draupadi.<sup>292</sup> However, Dopdi is also what Draupadi could not be, insofar as the latter was ‘written into the patriarchal and authoritative sacred text as proof of male power [...] Dopdi is at once a palimpsest and a contradiction.’<sup>293</sup> This is because, despite the classical-mythical Draupadi’s undoubtedly powerful agency, the *dynamics* through which her bodily integrity is preserved ideologically upholds patriarchy’s fundamental tenets. These tenets could be as follows: One, the woman is ‘property’, an object of exchange between men and masculine institutions. As Spivak notes, ‘In the epic, Draupadi’s legitimized pluralization (as a wife among husbands) in singularity (as a possible mother or harlot) is used to demonstrate male glory. She provides the occasion for a violent transaction between men, the efficient cause of the crucial battle.’<sup>294</sup> Two, the woman is weak and powerless, and hence needs good men and masculinity to protect her from bad men and masculinity. And three, this protection is chiefly structured around keeping her chastity intact from violation by ‘other’ men according to what Veena Das, as noted earlier, has termed the social rules of alliance.

It may be argued that it is on account of the interplay of these dynamics that Devi’s Draupadi scores over *Mahabharata*’s Draupadi. First, unlike *Mahabharata*’s Draupadi, Devi’s Dopdi is not patriarchy’s ‘property’. Though Dopdi had entered the Naxalite movement on her husband’s insistence, she assumes an independent agency

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<sup>292</sup> Spivak, *In Other Worlds*, 252.

<sup>293</sup> Ibid.

<sup>294</sup> Ibid, 251-2.

within the movement., as evident from her fierce sense of loyalty to the movement, which till the very end makes her value the success of the movement over and above any threat of life or death to her own person.

Second - at no point in the story is Dopdi weak and in need of 'protection' from men, good or bad. Feminist theorists have often critiqued the ironies of appealing to a masculinist state for protection against the violence of individual men. Indeed, from a radical feminist standpoint, it may be argued that no such 'protection' is possible since the territory of sexual violence that every woman potentially inhabits renders every woman generically subaltern, irrespective of her locational specificities. As Gayatri Spivak points out, the narrative technique of the voice of Arijit, the male revolutionary leader of their movement, as well as the thoughts of Dulna, Dopdi's beloved husband, both fading away in the face of her assault demonstrates that neither male love nor male leadership can enter into that feminine space of rape and humiliation.<sup>295</sup>

And third, not only is Dopdi not implicated in relations of 'protection' with/by men, but she finds herself in a situation where her bodily boundaries are grievously violated in order to preserve the boundaries of the nation-state; Dopdi's state-mandated gang-rape is structured upon the premise of her socio-political interests being antagonistic to those of not just a handful of men, but of the entire masculine machinery of the nation-state. The narrative culminates in the men's success in stripping and raping Dopdi; this is her 'political punishment by the representatives of the law.'<sup>296</sup>

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<sup>295</sup> Spivak, *In Other Worlds*, 184.

<sup>296</sup> *Ibid*, 252.

However, the rape does not vanquish Dopdi's spirit but rather, becomes the occasion through which her radical subjectivity is established. By refusing the cloth that is offered to her to cover herself, she refuses not just society's patriarchal disciplinary regimes but also women's internalization of those regimes. Saying that there is not a *man* there of whom she should be ashamed, Dopdi challenges the androcentric universe within which language operates. This is a very clever use of narrative strategy which succeeds in subverting the notion of women's honor by implying that women's honor is relevant only in the context of men's honor.

In the process, Dopdi emerges as a revolutionary subject who, as Spivak says, can still use the culturally mediated language of sexual 'honor' and derisively call herself the 'object of your search', while in the process becoming a terrifying superobject.<sup>297</sup> For all Senanayak's efforts, he is ultimately defeated on the level of the plot; Dopdi remains unvanquished, and he cannot interpret Dopdi's song, the latter marking 'the place of that other that can neither be excluded nor recuperated.'<sup>298</sup>

In other words, the deployment of an unarguably brilliant narrative strategy ensures that Mahasweta Devi's Dopdi succeeds in locating herself in an alternative discursive space that is not contingent upon patriarchy's understandings of sexual violence and of 'justice' for the 'shamed' woman in the aftermath. Unveiling here is a kind of deferred suicide – Dopdi's incredible heroic gesture is predicated on her imminent death – which, in deconstructing the patriarchal veil of chastity, articulates a revolutionary female voice. Devi's Dopdi, the illiterate, powerless (dis)located subaltern

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<sup>297</sup> Ibid.

<sup>298</sup> Ibid, 247.

casts aside Spivak's skepticism in order to assume a very powerful agency; in fiction, the subaltern actually 'speaks.'

Moving from fiction to fact, there are several rape victims who, on being denied justice, have similarly refused the 'cloth' to cover themselves. Among all the cases I came across, the most poignant was of a 34-year old Dalit woman stripping for justice on the Ferozepur-Ludhiana National Highway in north India. According to the news report,

'So traumatized was a woman by the police's unwillingness to lodge a rape case against her tormentors that she had to strip naked in protest in the middle of the national highway. And as passersby stared at her in shock, she spilled her anger at cops and said if this is what a woman has to do to get justice in the country, it is a slap in the face of those who are running it [...]

The 34-year old victim, who is a resident of Ghalkalan village of Moga, had made many requests to the police in the past five days to register her complaint against two youths of her village, who had allegedly raped her on May 12 night. Despite giving a complaint in writing twice to the SSP, Moga, no action was taken against the accused. Three days back, the woman had threatened to stage a protest in the main chowk of the town after tearing off her clothes, if police did not take any action. A few policemen were deployed on the chowk for two days to thwart any such attempt, but on Monday no such special arrangement was made.

For this act, police registered a criminal case against her for creating obscenity at a public place, but they also registered a rape case against the accused. The woman alleged that the accused, Chhinder Singh and Sony Singh, were Akali supporters, so the police was shielding them despite the medical report corroborating her statement [...]'<sup>299</sup>

It may be argued that an upper-caste woman would have found it harder to exercise this form of agency – a perfectly valid argument, given the stronger hold of *samskaras* over the upper castes. However, I would suggest that we see this young

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<sup>299</sup> Balwant Garg, 'Woman Strips for Justice: Protests on National Highway to get Rape Complaint Registered,' *The Times of India*, May 20, 2010.



woman's powerful agency as only emerging in relation to, rather than completely reducible to, her caste and class affiliations, for we have seen how, regardless of class and caste and other collective identities, not every individual will protest alike.

Yet another real-life powerful agent who immediately comes to mind is Phoolan Devi. Phoolan, a young girl of the *mallah* (boatmen) caste from Uttar Pradesh, was not just gang-raped by the upper-caste Thakurs of her village, but also forced to undergo the humiliation of being paraded naked in front of the entire village. Stripped of her right to bodily integrity, and later denied justice by the legal apparatus of the state (Phoolan was falsely imprisoned following her rape complaint against the politically powerful Thakurs), Phoolan decided to avenge herself; she became the notorious 'Bandit-Queen,' and assumed for herself the title of *devi*. *Devi* refers to the mother-goddess, the female principle of Hindu high culture and the 'great tradition.' Phoolan Devi the notorious bandit called herself a modern-day Durga, the demon-slaying goddess, and brutally killed her rapists and other upper-caste Thakurs in 1981. Even when she finally surrendered to the state, she laid the condition that she would surrender only to a picture of Mahatma Gandhi and of the goddess Durga, and not to the police. Not only that, but after serving her jail term, she got elected to public office as a member of the Samajwadi Party!

The dissertation has already explicated anthropological concepts such as 'sanskritization,' 'universalization,' 'parochialization,' and the 'cultural continuum' to explain the hegemonic influence of gendered cultural symbols across the nation-state. The case of Phoolan Devi is yet another excellent example of how the cultural figure of an avenging Durga, a figure of Hindu high culture, might hold sway over the imagination

of not just upper castes but also members of lower caste groups. The more interesting point, however, concerns the interpretation of culture, and how culture is ultimately neither good nor bad; the upper-caste Thakurs used culture as an excuse to rape a lower caste girl, and the girl in turn used culture as a weapon to get justice, howsoever controversially. Using powerful cultural symbols, Phoolan not only went on a murderous rampage to brutally annihilate the Thakurs, but rode on a tidal wave of public sympathy to win a political position in the parliament. In a sense, Phoolan too refused the 'cloth to cover her body' as did Devi's Dopdi, establishing a dramatic and almost revolutionary subjectivity.

This idea of the raped woman donning the mantle of avenging goddess after the state apparatus fails her has also been translated into celluloid. We have already discussed how films of earlier decades often showed the raped woman committing suicide and her male relatives avenging her honor. However, there have also been films such as *Phool Baney Angarey*, where the raped woman wears the dress of a female warrior/ goddess in order to slay her rapist with a sword; *Daman*, where the protagonist is actually called Durga, a fact that foreshadows her ultimate killing of her torturer and rapist husband on Vijayadashami, the last day of Dussehra which commemorates Durga's slaying of demons in the Hindu calendar; as well as more modernized versions such as *Zakhmi Aurat*, where raped women extra-judicially punish their rapists by castrating them.

However, myriad examples from fact and fiction notwithstanding, one would be forced to admit the impossibility of such 'revolutionary' agency, as it were, for the bulk

of rape victims. Even if one were to overlook the issue of democratic process, wherein the state must ensure law and order such that individuals and collectivities do not need to go on murderous rampages following a breach of justice, such a radical and extra-legal space is neither available nor aspired to by the bulk of rape victims who are located within their family, community and cultures.

In her study of women and the postcolonial state, Rajeshwari Sunder Rajan problematizes the possibilities of performance for the gendered subaltern.<sup>300</sup> The hegemonic cultural construction of the normative female body, the central space occupied by this normative body within the national imaginary through the interlocking discourses of religion, history and post/colonial politics, and the gendered inter-linkages between the national imaginary and the state apparatus further cement hegemonic understandings of female chastity, and of rape as the irreversible loss of honor as I have discussed, making it difficult for individual women to fashion radical forms of agency outside of the patriarchal domain of cultural intelligibility.

Thus, while Dopdi, Phoolan, and a few other women like them may almost have conceived of an alternative language, such ‘language’ is practically impossible for the bulk of rape victims. Many rape victims who pursue a legal route to claim justice experience this (im)possibility, wherein the binary logic of law and its codification within fixed meaning systems frustrates the possibility of being able to bring out the transparency of competing discourses of embodiment. Even if such language may emerge – say, for instance, in gestures in the courtroom, or in other ways by which the rape

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<sup>300</sup>Rajeshwari Sunder Rajan, *The Scandal of the State: Women, Law and Citizenship in Postcolonial India* (Delhi: Permanent Black, 2003), 29.

victim refuses to perform the ideal gendered 'self' – the bulk of such radical, oppositional language will ultimately be subsumed within the hegemonic discourses at the level of the nation-state, leaving only minor traces. In other words, and for the most part, a rape victim's refusal to 'cover' herself in the presence of 'violating' men will be denied any signifying radicalism in culture as it operates in the everyday, where most women have to 'cover' herself in the presence of 'protecting' men and a protectionist state. If the subaltern can speak, such speech is highly coded, and always in danger of (mis)appropriation.

Committing suicide, in private or as public protest; pursuing justice through the due process of law; stripping; rarely, even killing one's rapists and surrendering to the state afterwards. Regardless of the particular form of agency chosen by rape victims in their engagements with the state, it is clear that the agency embodied by differently-situated raped women emerges in relation to and colludes with, but also contests and transcends, the individual and collective identities of gender, class, caste, religion, the 'local' and the 'national,' in the process blurring the line between victimhood and agency, and renegotiating the relationship between culture, women's rights and the state.

With specific reference to raped women's suicides, then, what could be some suggestions for feminist praxis?

### **Rape and Suicide: From Theory to Praxis**

Well-known Indian feminist Mary John once remarked that feminism is a politics before it is an epistemology.<sup>301</sup> The previous chapters have established that, like all other forms of agency exercised by rape victims (including approaching the law), rape victims' suicides are the result of a complex conversation between individual choice on one hand and hegemonic discourses of gender, class, caste and location on the other. It is from *this* perspective that I now offer some suggestions for feminist praxis, a perspective that does not pathologize suicide; instead, it merely attempts to understand the complexity of suicide, and to eliminate those circumstances where the decision to die is the result of extreme and unnecessary suffering which society and the state are in a position to ease.

While my suggestions for praxis address rape victims' suicide in particular, these suggestions cannot ultimately be separated from those addressing rape in its totality. Hence, in formulating specific solutions to rape victims' suicide, this section also draws upon the excellent initiatives being undertaken by a plethora of local, national and transnational organizations working, more generally, on rape in India.

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Firstly, speaking of the *socio-cultural* aspect, it is important that the norms of female chastity continue to be challenged such that a rape victim is not seen as irreversibly dishonored. Rape violates a woman's sense of personhood regardless of cultural context; however, in contexts where a higher premium continues to be placed on chastity and virginity, the impact of rape can be severely debilitating for a lifetime. As a study by the Center for Women's Development Studies, an autonomous research institute

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<sup>301</sup> Mary E. John, 'Postcolonial Feminists in the Western Intellectual Field,' *Inscription* 5, 1989, 49-73, quoted in Rajeshwari Sunder Rajan, *Real and Imagined Women*.

working to assist women in exercising their active influence on Indian society and its transformation notes, ‘there is a need to challenge this stereotype of the “destroyed” woman, who loses her honor and has no place in society after the rape. Rape is an act of violence against a woman, and has nothing to do with her morality, character or behavior.’<sup>302</sup>

While patriarchal norms of female chastity do weaken from generation to generation, and while education, professional success, and high-income, cosmopolitan living have created many conclaves within Indian society defined by modern ideas of embodiment, this cannot be said for India as a whole. Indeed, there has been in recent times a backlash (as in many other parts of South Asia and the world), a backlash strengthened by ethnic anxieties around the west’s continued dominance and cultural imperialism, and resulting, most unfortunately, in patriarchal policing of the female body. This kind of policing is very apparent, for instance, in the rhetoric of right wing political parties and their conservative ideas about female *samskaras*; through direct and indirect strategies of victim-blaming that often play out via unproductive comparisons with dress and lifestyle patterns of ‘the west,’ this rhetoric shies away from a clear acknowledgement of how rape is not the victim’s choice or fault, thus exacerbating rather than solving the problem. At the same time, the urgency of the problem is compounded by the fact that such strategies of victim blaming, and the patriarchal ideology undergirding them, are deployed by a very wide range of actors, from conservative

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<sup>302</sup> *Capital Punishment* (New Delhi: Center for Women’s Development Studies, 1999), 4.

factions of the state, to fundamentalist fringe groups, and even to many educated men and women of the national mainstream.

For instance, in an article on suitable dressing by young women, one female author not just exhorts women to wear the *salwar-kameez* instead of western attire, but also coaches us on the correct way to pin the *dupatta* (the loose cloth to be draped over the *kameez*) so as to appear more modest, to not ‘expose bodily movements’ and attract unwanted male attention and thereby to prevent sexual violence.<sup>303</sup> The same article claims that immodest dressing by girls turns even decent men into indecent men, and persuades us (Indian women) to not, in the name of equality, liberty and modernity, tread the path of the so-called liberated women of the west.<sup>304</sup> Such views that hold women responsible for causing or preventing rape, while absolving men from responsibility by naturalizing their behavior through statements in the article like “men are born as such,” are very unfortunate.

The good news, though, is that many non-governmental organizations and women’s groups have been working ceaselessly to challenge such conservative understandings of female sexuality and honor in the public domain. Feminist activism has a long history in India, and these groups are collectively making strong demands for women’s right to bodily integrity, and through it, cultural transformation. An example is the Delhi-based Center for Social Research, which is an NGO working to create a culture of women’s human rights through gender training programs, research, and crisis intervention centers for assisting victims of gender violence and pushing for structural

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<sup>303</sup> Jyothirllata Girija, “Dress Code for Women,” *The Hindu*, 9 October, 2005.

<sup>304</sup> *Ibid.*

and attitudinal changes. Another NGO Jagori works to demystify patriarchal myths, and to build community and national awareness regarding gender violence and women's human rights. The NGO TARSHI (Talking about Reproductive and Sexual Health Issues) conducts research and training, along with initiatives in public education aimed at expanding people's understanding of sexuality. The list of such organizations is long, and spans not only the metropolitan Indian cities but increasingly, also the smaller towns. This network of regional and national organizations is, in turn, further strengthened by international human rights organizations such as Amnesty International, Human Rights Watch, and UNIFEM. Studies such as UNIFEM's 'Say No to Gender Based Violence' tackle cultural and ideological issues such as the inviolability of the family and notions of privacy and shame head on.<sup>305</sup>

An interesting fact about the Indian women's movement is that it has been 'led by privileged dominant caste, upper class, urban feminists. The participation of women factory workers, dalit women and urban poor is co-opted to make up the numbers.'<sup>306</sup> Yet we have seen how gender discrimination impacts women differently by caste and class. In a poignant article on Dalit feminism, Swathy Margaret writes of her experiences as a Dalit middle-class woman who shares little affinity either with Dalit men or with upper caste women.<sup>307</sup> According to Margaret, her years of university education in a cosmopolitan Indian environment made her realize all too painfully how she was, on one

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<sup>305</sup> Ritu Menon, ed. 'Say No to Gender Based Violence: Responses from South Asia' (New Delhi: UNIFEM, 2003).

<sup>306</sup> Cynthia Stephen, 'Feminism and Dalit Women in India,' 16 November 2009 <http://www.countercurrents.org/stephen161109.htm>,

<sup>307</sup> M. Swathy Margaret, 'Dalit Feminism,' June 3, 2005, <http://www.countercurrents.org/feminism-margaret030605.htm>



hand, marginalized by educated Dalit men who refused to see in her an intellectual equal, while on the other, she also could not find anything in common with the ‘urban, fluent-in-English, extremely confident women who called themselves feminist [...] There were no shared fears, pleasures or problems with them. They did not seem to have a caste to be bothered about.’<sup>308</sup>

Pointing out how Dalit women have been the perpetual Other within the Indian women’s movement, another author says that ‘Perhaps this exclusion of Dalit women from the mainstream women’s movement is not such a bad thing after all: it has caused them to start building their own praxis, identity and agency, and build effective working relationships and their own platforms.’<sup>309</sup> Going on to trace the historical parallels between the situation of Dalit women and those of Black women in the US white feminist movement, the author makes a case for Dalit Womanism. According to her, ‘the Dalit Womanist paradigm will be invested with its own meanings from its own political and geographical location, just as Black/African womanism is imbued with its own meaning. Dalit womanism will be broad enough to include the experience not only of Dalit women in general but also sensitive enough to provide space for the expression of the diversity of the experiences of religious minorities, tribal and ethnic identities who are presently termed subaltern [...]’ Among the many attempts made to strengthen the voices of Dalit women and put their agendas in the mainstream, the author mentions the Dalit Women’s Network for Solidarity (DAWNS) which crystallized as a result of a gathering of

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<sup>308</sup> Ibid

<sup>309</sup> Stephen, Ibid.

activists, academics and students to think through the vexed questions of Dalit participation in the Indian women's movement.

Organizations operating in the current political climate are increasingly recognizing the intersections of gender, class and caste, and the double discrimination that lower caste/class women have to undergo, with the UN Human Rights Council in Geneva mooting that caste-based discrimination be recognized as a human rights violation. At the same time, there are also organizations working specifically to forward Dalit women's perspectives on sexual violence. An example is the human rights organization Navsarjan Trust, which undertook a study titled *Gender-Violence and Access to Justice for the Dalit Woman: Final Report December 2011* in collaboration with Minority Rights Group International, London, in order to demonstrate how lower caste women are more prone to violence and also find it harder to get justice.<sup>310</sup> The NGO uses its studies and reports to lobby with state governments and advocate for the rights of the Dalit women

The state has often proved to be a valuable ally to non-governmental and transnational organizations in their work on cultural transformation. As noted earlier, the democratic Indian state, with its link to the Indian freedom struggle, has not always been hostile to the idea of women's rights, even if its relationship with women's rights may often have been couched within a familial and paternalistic ideology seen as appropriate to 'Indian culture.' As we have seen, agents of the state have oftentimes also been directly responsible for stripping women of their right to bodily integrity and against rape. At the

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<sup>310</sup> Paras Jha, 'Atrocities on Dalit Women go Unpunished: Gujarat NGO,' Dec 21, 2011. [http://www.dnaindia.com/india/report\\_atrocities-on-dalit-women-go-unpunished-gujarat-ngo\\_1628588](http://www.dnaindia.com/india/report_atrocities-on-dalit-women-go-unpunished-gujarat-ngo_1628588)

same time, we have also seen how the state, especially in a democracy, is not a monolith; instead, it is made up of multiple – and internally contested – institutions, ideologies and practices. This explains how the National Commission of Women - the India's apex organization with a mandate for promoting women's interests, and from whose studies and reports this dissertation has drawn extensively - can criticize gender-biased practices of the state. While a government organization itself, the NCW not only takes suo-moto notice of violations of women's rights by private actors as well as the state, but also reviews constitutional, legal and other provisions available to women from time to time, pointing out shortcomings and suggesting amendments. The state also runs several other programs such as Mahila Samakhya, a centrally funded scheme of the Ministry of Human Resource Development which mobilizes women in rural India on a number of gender issues including violence and rape.

In other words, a mesh of institutions and organizations - governmental, non-governmental and transnational – are working to change the incidence and androcentric understandings of rape. And while such collaborations between actors inhabiting a range of positionalities and ideological persuasions is fraught, and the dialogues often difficult, this is the only way to ultimately effect cultural transformation and forge new and empowering relationships between body, sexuality and identity in sexuality.

It must be re-emphasized that a constructive approach to cultural transformation is not a movement *away from*, but rather, *towards* culture. The process of engaging culture is not new; in fact, this was the mode of tackling gender based discrimination much before the global women's rights movement worked to

institutionalize a legal human rights culture. But rather than pit culture and rights against each other, resulting in an antagonistic relationship between the more traditional *samskaras* and a modern version of *adhikaras* within the politico-cultural space of the nation-state, what is needed is a continued creative dialogue with culture, an attempt to uncover, emphasize and re-interpret culture from a human rights perspective. This process, also known as framing, has been used quite successfully not just in India, but in transnational human rights praxis.

Sally Engle Merry points out, for instance, the manner in which positive female images and gender-equal understandings from within the vast repertoire of ideas that otherwise comprises ‘Indian culture’ are being used to tackle gender violence in India; she uses, as one among several examples, the strategies of shaming that are steeped in cultural idiom and that shift the blame from the victim back to the accused.<sup>311</sup> My work on sexual violence discussed earlier also uses the same strategies in the context of the Indian diaspora.<sup>312</sup> This approach ensures not just a productive relationship between rights and culture, but also between the east and the west. While not ignoring cultural specificities, it also steers clear of absolute cultural relativism; instead, by staying attentive to both differences within, as well as similarities across, cultures, it is able to synthesize disparate understandings of culture towards the larger goal of a gender-just world. The ultimate aim, of course, is to create a cultural climate where raped women do

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<sup>311</sup> Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006).

<sup>312</sup> Dhar, *Cultures in/and the Classroom*.

not see their bodies as irreversibly dishonored, a dishonor that can only be washed away through – in this instance - the act of suicide.

As a result of these initiatives, there has been a gradual but indisputable change in the social perception of what is considered honorable over time. Regardless of whether or not notions of a women's honor may have disappeared completely, a rapist is rarely seen as an honorable man, even in conservative circles. In an episode of the popular television talk show 'We the People' hosted by journalist Barkha Dutt, the panelists – which included not just public intellectuals, social activists and academics but also relatives of rape victims and members of the general public – all concurred that the 'shame' lies on the perpetrator rather than the victim.<sup>313</sup> One of the recommendations emerging from the discussion was that, instead of current conventions that name the rape victim in legal cases, such as the 'Bhanwari Devi rape case,' naming (and implicitly shaming) practices should change such that cases are referred to by the names of the rapists. In that sense, Dopdi's revolutionary gesture of throwing the shame back on the men has not remained completely confined to the accommodative indirections of literary practice; it has also found its way into feminist praxis.

Similarly, in another recent television show on rape, the three high-profile women panelists - Pratima Sharma, ACP, Delhi Police; Ranjana Kumari, Director of the Center for Social Research; and Rekha Mody, founder of the NGO *Stree Shakti* - all agreed that the stigma associated with rape, and outdated notions of rape as rendering the female

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<sup>313</sup> We the People, New Delhi Television, Aired on NDTV 24x7, Sunday 27 February 2011, 8 pm.

body unchaste, must be completely dispelled so that stigma is attached to the perpetrator, not the victim.<sup>314</sup> The panelists emphasized that society's mindset has to now shift from its initial focus on female behavior, dress and comportment to correct and responsible male behavior. More specifically, the panelists pointed out the important role that must be played by the family in the socialization of male children, in order to control aggression, to educate them on the laws of the land, and to instill in them a respect for women's rights. Many other recommendations, such as making courses in self-defense for women (such as the popular training course *Mission Prahar*) compulsory in schools and colleges, and introducing sex education at a more comprehensive level in schools across the country were forwarded, the idea behind the recommendations being to demystify the body, to encourage open communication, and to promote a culture of awareness. This in turn can radically alter the meaning system within which rape is able to operate as an irreversible shaming mechanism for women, allowing individual women greater agency not just in the everyday but also in the unfortunate aftermath of rape. As Kalpana Vishwanath argues, if the meaning of sexual assault in their own lives can be challenged by women, new relationships between the body and identity can be evolved.<sup>315</sup>

Transformation is, of course, a complex matter; it can take decades for positive transformations in the socio-cultural framing of the female body to permeate down to society, and even then, such processes are marked by co-option, continuity and backlash. However, certain events can drastically alter the cultural topography and usher in change

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<sup>314</sup> "Gender Discourse." Aired on Lok Sabha Channel, Monday 20 August, 2012, 2 pm.

<sup>315</sup> Kalpana Viswanath, "Shame and Control; Sexuality and Power in Feminist Discourse in India," in Meenakshi Thapan, ed. *Embodiment: Essays on Gender and Identity* (New Delhi: Oxford University Press, 1997.)

much faster. Such an event occurred on December 16 2012, when a 23 year-old physiotherapy intern was gang-raped on a bus in Delhi.<sup>316</sup> The student and her male friend had boarded a bus after watching a late evening movie, the only other passengers on the bus being five men who were friends of the driver; following an argument over ‘why she was out with a man late in the night,’ the men decided to ‘teach her a lesson’ by not only taking turns to rape the woman, but beating her brutally with iron rods before throwing her off the bus.<sup>317</sup> She was later hospitalized and received multiple surgeries, and also moved to Singapore for further treatment, but died from extensive brain and gastrointestinal damage on December 29.<sup>318</sup>

The incident was internationally condemned, with the UN Entity for Gender Equality and Empowerment of Women calling on the Indian government to ‘do everything in their power to take up radical reforms, ensure justice and reach out with robust public services to make women’s lives safer and more secure.’<sup>319</sup> The incident also generated unprecedented national support, as the brutality of the rape and the callous disregard demonstrated afterwards by the rapists for both law and for women finally shifted the scanner away from age-old discourses of female honor. Thousands of protesters took to the streets in Delhi and across the country, clashing with security

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<sup>316</sup> Raj Shekhar and Dwaipayan Ghosh, ‘Girl Gang-raped in Moving Bus in Delhi,’ *The Times of India*, Dec 17 2012 [http://articles.timesofindia.indiatimes.com/2012-12-17/delhi/35868316\\_1\\_bus-mahipalpur-new-delhi](http://articles.timesofindia.indiatimes.com/2012-12-17/delhi/35868316_1_bus-mahipalpur-new-delhi)

<sup>317</sup> Alok Pandey, ‘Almost All of Delhi Rape Victim’s Intestines Removed’ December 19, 2012 <http://www.ndtv.com/article/cities/almost-all-of-delhi-rape-victim-s-intestines-removed-307392>

<sup>318</sup> ‘Delhi Gang Rape Victim Dies in Singapore Hospital,’ *The Times of India*, December 29, 2012 [http://articles.timesofindia.indiatimes.com/2012-12-29/india/36050485\\_1\\_mount-elizabeth-indian-police-indian-embassy](http://articles.timesofindia.indiatimes.com/2012-12-29/india/36050485_1_mount-elizabeth-indian-police-indian-embassy)

<sup>319</sup> <http://www.unwomen.org/2012/12/un-women-condemns-gang-rape-of-delhi-student/>

forces,<sup>320</sup> while the national media was inundated with poems and songs for the rape victim who had bravely fought for her life. These events have galvanized the government to take far-reaching measures such as proposals for the introduction of courses in gender studies across schools and colleges, along with undertaking widespread legal reform.

*Legal reform* is a necessary corollary to *socio-cultural transformation*. As this dissertation has demonstrated, rape victims who commit suicide and rape victims who adopt a legal route do not always comprise two distinct categories; many rape victims, especially those from socio-economically disadvantaged sections, commit suicide *after* they have been denied legal justice. And it is impossible to estimate the number of women who are so daunted by the legal process that they do not approach the law at all; such suicides within the private sphere may even be unaccounted for by the official data on suicide, unless the families of the rape victims choose to make it public. These are all reasons to continue making the legal terrain smoother for rape victims, so that meaningful and far-reaching justice is served.

The Indian state has, through its amendments of 1983 and 2001, addressed many of the legal loopholes in the IPC's framing of rape, but much remains to be done. The Law Commission has, in its most recent report, made recommendations to further ease the path to justice for rape victims; one recommendation, for instance, points to the need to acknowledge that men too can be victims of sexual violence. This recommendation is again the result of the excellent work being done by feminist legal theorists and

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<sup>320</sup> Harmeet Shah Singh, Mallika Kapur and Laura Smith-Spark, 'New Delhi Police Fire Water Cannon at India Rape Protest,' CNN, Jan 4, 2013. <http://www.cnn.com/2012/12/22/world/asia/india-rape-protest>



practitioners to broaden the scope of rights guaranteed under the human right to bodily integrity to individuals regardless of gender and other markers of social identity. If anything, this timely recommendation further blurs traditional distinctions between the gendered terrain of *samskaras* (where male and female bodies are framed differently, with a different set of rights and responsibilities) and the more modern terrain of twenty-first century *adhikaras* (where sexual difference, while not being overlooked, is nevertheless treated in more nuanced ways, and in keeping with contemporary realities.)

Here we need only recall Cossman and Kaur's third approach to the framing of gender difference within law, and their call for substantive as opposed to formal equality.

This third approach

'creates space for an analysis of the relationship between difference and disadvantage. In this way, difference is not assumed to be natural, nor assumed to be relevant. Rather, difference itself must become part of the analysis, rather than a justification for not pursuing an equality analysis. Substantive equality redirects our attention to disadvantage, and to a critical interrogation of the dilemmas of difference; to the ways in which difference has been socially constructed, and the ways in which it has very real material implications in the lives of individuals, as well as the ways in which judicial approaches cannot simply proclaim on the relevance or irrelevance of difference, but rather, must begin to deconstruct the assumptions that are deeply embedded in the way we see the world.<sup>321</sup>

Elsewhere, Cossman and Kapur acknowledge that

'there is sharp dissonance between feminist claims and legal discourse. However, it is important to constantly push at the boundaries of this dissonance. We need to continue to complicate our understandings of the nature of the problem that women encounter when they attempt to engage with the law [...] We need to recognize the ways in which legal discourse may operate to reinforce the very problems that we set out to challenge [...] All too often, there is a temptation to reject criticisms of particular legal strategies as a call to abandon law altogether. Feminist engagement with the law should not be seen as an all-or-nothing proposition. Law is a site of complexity and

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<sup>321</sup> Cossman and Kapur, "Women, Familial Ideology and the Constitution," 93.

contradiction. Recognizing this complexity and contradiction simply makes the task of developing feminist legal strategies more complicated.<sup>322</sup>

As this dissertation on rape victims' suicide amply indicates, some of these complex feminist strategies involve not just making the legal terrain less daunting and more compassionate for rape victims in general, but staying especially attentive to the class, caste, location and other dimensions of rape.

Speaking of class, for instance, the state must provide adequate compensation to poor victims, especially in cases where rape results in pregnancy and loss of work. Also, working-class victims must be provided protection from their socio-economically powerful rapists so that the latter are not able to threaten or coerce the former into silence. At the same time, one cannot overlook the particular challenges even in situations where the rapists are not socio-economically powerful. The recent Delhi rape case is a prime example, where the rapists were working class while the victim also came from poverty; the latter's parents hailed from the Ballia district of UP, and her father had sold his agricultural lands in order to fund her education. The victim's socio-economic background is a pertinent point, since women from more affluent sections of society would not need to travel by public transportation at night. Ensuring the security of women on public transport is therefore a very necessary step, since unsafe public transportation disproportionately affects women from the poorer strata.

Another class-related legal issue that needs to be addressed is that of compromise, especially given the degree to which this allows poor, working class victims to be taken

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<sup>322</sup> Ibid, 94-5.

advantage of. Not only has the idea of compromise not been criminalized enough in the Indian legal system, but the Courts themselves have, several times, allowed a compromise between private parties as a basis to reduce the term of the rape sentence. The judgment of the Supreme Court in Baldev Singh versus State of Punjab is a case in point. Using its discretion to reduce the minimum sentence of ten years prescribed in the Indian Penal Code for gang rape while increasing the fine imposed on the rapists, the Court used as the basis of its judgment the fact that the two parties had entered into a compromise to 'finish the dispute.' As an author rightly points out in his criticism of the Supreme Court judgment, rape is a crime not only against an individual but against the entire society; this is the reason why the state prosecutes on behalf of the victim and society, and to allow a compromise between parties such that unscrupulous culprits can pay their way out of a rape sentence is to undermine the entire judicial process.<sup>323</sup>

Similarly, the particular vulnerabilities arising out of caste need to be accounted for. One of the facts to remember here is the degree to which Dalit women remain easy targets of sexual violence from upper-caste men, especially in rural and conservative parts of the country. While the dissertation has pointed out the overlaps between caste and class, there have been several rape cases where caste did emerge as the single most important factor. The Bhanwari Devi case mentioned earlier is an example. In cases such as this, the judiciary's sensitivity to the victim's particular situation can send a strong message to the nation and go a long way in educating the public about the rights of the individual regardless of caste and other factors.

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<sup>323</sup> Mrinal Satish, "Compromise Formula in Rape Sentencing," March 12, 2011. <http://lawandotherthings.blogspot.com/2011/03/compromise-formula-in-rape-sentencing.html>

Location has also emerged as a key factor. We saw that a combination of rigid patriarchal structures, a blatant disregard for women's rights, and state apathy worsens an already-bad situation in the northern as well as the less cosmopolitan parts of the country. This year, the Supreme Court of India has taken steps to declare *khap panchayats* and their extra-judicial patriarchal rulings illegal in Haryana and Punjab.<sup>324</sup> However, despite these positive developments, the stronghold of these *panchayats* dies hard. Women's groups need to continue having a localized approach, factoring in these challenging circumstances in their work on ending sexual violence.

Also, the concerted effort needed to close the gaps between theory and practice across the length and breadth of the country cannot be emphasized enough. The recent Delhi rape case has brought forth a slew of recommendations for legal reform, including a 630-page report presented by a special commission set up in the wake of the attack and given to the government by Jagdish Verma, a former chief justice of India.<sup>325</sup> Indicting the police, the courts, successive governments and social attitudes which together have contributed to the wave of sexual violence against women, the report recommends wide scale police and judicial reforms, an end to intrusive testing of rape victims, the establishment of fast-track courts to avoid the endemic delay that cripples rape trials, and heavier sentences for some crimes as well as new offences to cover stalking and marital rape. While welcoming the report, Indian activists have pointed out

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<sup>324</sup> 'No Place for Atrocities: SC Declares Khap Panchayats Illegal,' *Daily Bhaskar*, July 16, 2012 <http://daily.bhaskar.com/article/NAT-TOP-no-place-for-khaps-atrocities-sc-declares-them-illegal-3531881.html>

<sup>325</sup> Jason Burke, 'Indian Report on Gang Rape Received Guarded Welcome from Campaigners,' *The Guardian*, Jan 23, 2013 <http://www.guardian.co.uk/world/2013/jan/23/indian-report-gang-rape-campaigners>

that none of the above recommendations are entirely new, and that the ultimate test of their efficacy will lie in the implementation.

We must also remember that, with specific reference to this study on suicide, these recommendations take on an entirely different urgency. For, even as New Delhi was trying to come up with ways to address the increasing sexual violence against women in the aftermath of the horrific Delhi rape, reports kept coming of other rape victims trying to commit suicide. One such case was of a gang rape survivor from Gujarat who tried to commit suicide by drinking poison in the premises of an Ahmedabad court after learning that her case, which had already dragged on for years, had again been adjourned to a later date.<sup>326</sup> Hence, in speaking of rape victims' suicide, the entire purpose of legal reform is to ensure that the legal process does not seem so bereft of compassion for rape victims that they have to resort to ending their own lives.

And finally, while I have already laid out the arguments against criminalizing suicide as well as against prescribing the death penalty for rapists, these points cannot be emphasized enough. In her advocacy of capital punishment for rapists, BJP member and former Chief Minister of Delhi Sushma Swaraj had famously said that

‘When you murder somebody, the victim is no longer alive to suffer the pain, it is finished. But a raped woman is compelled to live on with the stigma, the trauma she undergoes is incomparable. She becomes isolated in society as well as in her own home. Our society is not sympathetic to victims of rape. On the other hand, in 90% of the cases, they tend to blame the victim. She can never take part in a social gathering.

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<sup>326</sup> Dominique Mosbergen, ‘Gujarat Gang Rape Survivor Reportedly Attempts Suicide in India Court After Trial is Delayed Again,’ *The Huffington Post*, January 23, 2013.  
[http://www.huffingtonpost.com/2013/01/23/gujarat-gang-rape-survivor-attempts-suicide-india-trial-delayed\\_n\\_2535158.html](http://www.huffingtonpost.com/2013/01/23/gujarat-gang-rape-survivor-attempts-suicide-india-trial-delayed_n_2535158.html)

A raped woman's wound never heals. Society does not allow it to heal. If such an offence does not merit capital punishment, then what does?'<sup>327</sup>

In the aftermath of the recent Delhi rape, it is therefore hardly surprising that public demand for capital punishment for rapists has reached an all-time high. However, a study on capital punishment for rapists rightly notes that:

'Awarding capital punishment for rape is one way of deflecting attention from the conditions in society which allow innumerable rapes to occur and the perpetrators to go scot free [...] the demand for capital punishment for rape has not emerged as a demand from the women's movement. It has come from the government itself, as a supposed solution to the problem of violence against women. Such moves need to be viewed with extreme caution, and the motives of the state need to be analyzed.'<sup>328</sup>

Under the circumstances, the Verma Commission report's rejection of capital punishment as a strategy to combat the rising rates of rape<sup>329</sup> is certainly a step in the right direction. Rather than making laws more draconian, the focus must be on better implementation of existing laws and the political will to do so.

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Apart from the social and legal aspects of feminist praxis, a *clinical-psychological* perspective is also important. As we saw, mental health professionals and others working on rape have all agreed that the trauma rape victims undergo as a result of the brutal assault on their bodily integrity is immense. We also discussed that, given the close

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<sup>327</sup> Sushma Swaraj, in conversation with Bonita Baruah, "Is Rape as Bad as Murder," *The Sunday Times*, in *Capital Punishment* (New Delhi: Center for Women's Development Studies, 1999).

<sup>328</sup> *Capital Punishment* (New Delhi: Center for Women's Development Studies, 1999), 4.

<sup>329</sup> Jason Burke, 'Indian Report on Gang Rape Received Guarded Welcome from Campaigners,' *The Guardian*, Jan 23, 2013 <http://www.guardian.co.uk/world/2013/jan/23/indian-report-gang-rape-campaigners>

relationship between the psychological and the social, this trauma can be compounded manifold in situations where the victim is not treated with compassion, stigmatized owing to outdated ideas such as the loss of chastity, or worse, even blamed for her own rape. Under the circumstances, ending one's life may seem an immediate way to end one's trauma and feelings of shame. Hence, compassionate and improved psychological counseling for rape victims might also go a long way in illuminating paths to justice and healing other than the path of suicide. This is all the more true for India, where the sheer numbers point to how suicide is a major public health issue demanding urgent action.

As noted earlier in the dissertation, the correlation between gender violence, clinical depression and suicide is fairly obvious regardless of culture and context. However, an interesting study by Lakshmi Vijaykumar argues that the causal role of depression in suicide has limited validity in India. As Vikaykumar notes, 'even those who were depressed, were depressed for a short duration and had only mild to moderate symptomatology. The majority of cases committed suicide during their very first episode of depression and more than 60% of the depressive suicides had only mild to moderate depression.'<sup>330</sup>

While it is always challenging to generalize on the basis of a single study, my own research does confirm that many women commit suicide in the days or weeks immediately following rape, a time period which might coincide with what Vijaykumar terms the 'very first episode of depression.' In these cases, there is definite merit in

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<sup>330</sup> Lakshmi Vijayakumar and S. Rajkumar, 'Are risk factors for suicide universal? A case control study in India,' *Acta Psychiatr Scand.* 1999;99:407-11.

Vijaykumar's argument that, 'for the overwhelming majority who engage in suicidal behavior, there is probably an appropriate alternative resolution of the precipitating problems. Suicide is often a permanent solution to a temporary problem.' And even in those cases where suicide was committed after a prolonged – and failed – legal battle, counseling services directed at managing the trauma of a protracted quest for justice would have gone a long way in eliminating premature and preventable death.

In its multisite intervention study on suicidal behaviors (SUPRE-MISS), the World Health Organization has pointed out that it is possible to reduce suicide mortality through brief, low-cost interventions in developing countries. Vijaykumar and other mental health professionals therefore argue for the urgent development of an appropriate, cost-effective national plan for suicide prevention in India, a plan that would focus on vulnerable and stigmatized groups by drawing together researchers, clinicians, societies, politicians, policy makers, volunteers and survivors in concerted action.<sup>331</sup>

While I would strongly reject discourses that advocate the increasing medicalization of the mind, and the classificatory regimes that have accompanied the mental health industry in many parts of the west, the extreme mental trauma faced by rape victims everywhere cannot be denied. Hence it goes without saying that, as a vulnerable and at-risk group, rape victims should form an important part of a national suicide-prevention plan in India, were it to materialize. What is important is that such a plan, and the medical efforts it mobilizes, eschew pathologizing the individual mind, instead examining the social, political and material circumstances undergirding suicide.

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<sup>331</sup> Lakshmi Vijaykumar, 'Suicide and its prevention: The urgent need in India,' *Indian Journal of Psychiatry*. 2007 Apr-Jun; 49(2): 81–84.



In fact, instead of emphasizing an elaborate national suicide-prevention plan, I would advocate basic counseling services that are compassionate rather than clinical; that have some financial resources, howsoever limited, to disburse to those in dire need; and that ultimately work with rape victims and their families, helping them piece their life together without shame or fear. While many NGO's in India are already providing this service in the aftermath of rape, efforts need to be directed towards making these services available throughout the length and breadth of the country,

These are some of the ways in which the legal, political, social and material milieu can be improved upon such that large numbers of rape victims stop seeing suicide as the only viable option, and such that the relationship between rape victims and the Indian state can become more productive (rather than retro-active, as in the case of rape victims who commit suicide and whose engagement with the state is therefore posthumous and rendered all the more difficult.)

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And finally, in this discussion on feminist praxis, it must be pointed out that the issue of rape victims' suicide is not limited to India, or to South Asia, or even to the so-called 'Third World' alone. Rather, it may be seen as a global issue, and one that confronts states across the world. Hence, even though this dissertation examines the issue of rape victims' suicide in India, and while a detailed engagement with the issue of rape victims' suicide in and around the world is beyond the scope of this dissertation, it might be useful to at least offer some preliminary glimpses into the situation.

### From the Local to the Global

In Detroit, USA, a fourteen year-old rape victim recently committed suicide after being mercilessly taunted by her classmates. According to a news report,

‘Samantha Kelly endured merciless taunting from classmates after they learned that the high school freshman had accused a senior of rape.

The weeks of harassment eventually became too much. Samantha went home from school Monday and hanged herself in this community southwest of Detroit. With their key witness dead, prosecutors on Wednesday dropped criminal charges against the older student, saying they had no case without the accuser's testimony.

Samantha's mother screamed at 18-year-old Joseph Tarnopolski after his brief court appearance and had to be restrained by a relative. She told reporters she was not consulted about the decision to dismiss the third-degree criminal sexual conduct charge.

"My daughter did not get any justice," June Justice said [...] On Wednesday, Wayne County prosecutor's spokeswoman Maria Miller said the case against Tarnopolski could not proceed "because the sole evidence ... was the complainant."

Attorney Joseph Kosmala, a Detroit-area defense lawyer who was not involved in the case, said the prosecutor seemed to have no other choice.

"Sexual assaults are not crimes that typically take place in front of witnesses. They're private crimes," Kosmala said. "Unless the complainant can sit in the witness chair and point the finger, there is no case." [...] <sup>332</sup>

In another recent incident in Ireland, a young rape victim committed suicide following an extremely insensitive rape trial.

‘A teenage rape victim has committed suicide after an agonizing court ordeal testifying against her attacker. Lindsay Armstrong, 17, was “torn to shreds” by a defence lawyer and made to hold up the g- string underwear she had been wearing at the time of the attack.

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<sup>332</sup> Corey Williams, ‘Rape Charges Dropped after 14-Year-Old Accuser Commits Suicide,’ *The Huffington Post*, Nov 10, 2010 [http://www.huffingtonpost.com/2010/11/10/samantha-kelly-suicide-rape-charge-dropped\\_n\\_781955.html](http://www.huffingtonpost.com/2010/11/10/samantha-kelly-suicide-rape-charge-dropped_n_781955.html)

“She said it was like being raped all over again,” said her distraught father Frank last night.

The 14-year-old accused was found guilty and is awaiting sentence. Lindsay took an overdose and was found dead in bed by her mother on Tuesday morning. Last night her parents said the ordeal in court was as much to blame for their daughter's suicide as the rape itself. “When I think about what Lindsay went through it just tears me apart,” said Mr Armstrong, a machine operator from New Cumnock, Ayrshire. “We were praying this animal would at least spare her the ordeal of giving evidence. But it didn't happen and she ended up being torn to shreds by his lawyer after spending all day on the stand. They basically called her a tart, who deserved to be raped. That's how she felt.”

Mr Armstrong said his daughter, who wanted to travel the world and become a lawyer, left court unable to stop crying. “She said the worst part of being questioned was when she was forced to show the court her underwear. She was furious that they focused on her underwear and never mentioned that she wore jeans, a top, a jacket and boots. They pushed her to the limit and she never got over it.” [...]

Her mother Linda, a shop assistant, wept as she described the effect on Lindsay. “She was so afraid of being alone. She was terrified that he might come looking for her again.”

Despite her fear, Lindsay was determined to see her attacker brought to justice. Mrs Armstrong said: “We admired Lindsay for her bravery and she was determined to see the court case through to the end. She wanted to see justice done and this animal behind bars.”

No-one, however, appreciated the extent of her nightmare. Three weeks after the case ended, Lindsay took an overdose.

“I think she must have snapped and thought that the only way out was to take her own life,” said her mother. [...]

The defence lawyer in a rape trial is free to pursue any line of questioning relevant to establishing the guilt or innocence of the accused. Where a court is trying to prove whether or not a rape has taken place, a case often comes down to the word of the accused against the word of the alleged victim, and even where it may prove traumatic, lawyers feel they must test the victim's credibility. Even a victim's previous sexual history may be aired in court so long as it is deemed relevant to the case.’

In a very recent and even more horrifying incident in Morocco, a rape victim committed suicide after being forced to marry her rapist. A news report mentions how

‘Morocco’s internet activists mobilized on Wednesday over the suicide of a 16-year-old rape victim who killed herself after she was forced to marry her rapist.

An online petition, a Facebook page and countless tweets expressed horror of the case of Amina Filali, who swallowed rat poison on Saturday to protest her five months of marriage to the man who raped her a year earlier.

Article 475 of the Moroccan penal code allows for the "kidnapper" of a minor to marry his victim to escape prosecution, and it has been used to justify a traditional practice of making a rapist marry his victim to preserve the family's honor.

"Amina, 16, was triply violated, by her rapist, by tradition and by article 475 of the Moroccan law," tweeted activist Abadila Maaelaynine.

The victim's father said in an interview with an online Moroccan newspaper that the court pushed the marriage on her.

"The prosecutor advised my daughter to marry, he said 'go and make the marriage contract,'" said Lahcen Filali in an interview that appeared on *goud.ma* Tuesday night.

In many societies, the loss of a woman's virginity outside of wedlock is a huge stain of honor on the family. In many Middle East societies, there is a tradition whereby a rapist can escape prosecution if he marries his victim, thereby restoring her honor. There is a similar injunction in the Old Testament's Book of Deuteronomy

Morocco updated its family code in 2004 in a landmark improvement of the situation of women, but activists say there remains room for improvement. According to the interview with the father, the girl was accosted on the street and raped when she was 15, but it was two months before she told her parents.

He said the court pushed the marriage, even though the perpetrator initially refused. He only consented when faced with prosecution. The penalty for rape is between five and 10 years in prison, but rises to 10 to 20 in the case of a minor.

Filali said Amina complained to her mother that her husband was beating her repeatedly during the five months of marriage but that her mother counseled patience.<sup>333</sup>

Any assumption that rape trials in the United States, Ireland and Morocco can be compared, without any qualifications whatsoever, is flawed. The histories, legal climate, and political, economic and cultural fabric of each nation is entirely different from the other; additionally, there are several valid and far-reaching differences *within* these nations such that generalizations can be very problematic. However, I am suggesting that we look away from these differences for now and focus on the similarities instead.

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<sup>333</sup> Paul Schemm, 'Rape Victim Forced to Marry Attacker Commits Suicide in Morocco,' *The Star*, March 14 2012, <http://www.thestar.com/news/world/article/1145994--rape-victim-forced-to-marry-attacker-commits-suicide-in-morocco>.

Thus, what is common in all the above cases is not just the fact of young rape victims committing suicide, but also the fact that both society and the state could have played a more proactive and compassionate role in preventing it. Speaking of society, we see in the first case, the taunting and bullying of a rape victim; in the second, the patriarchal strategies of victim-blaming accompanying crimes of sexual violence; and in the third, a family's unfortunate collusion in the continued sexual and psychological torture of their daughter under the guise of 'respectability.' And of course, these patriarchal cultural understandings of sexual violence then undergird the functioning of the state. Thus in the first case, the state's decision to use the rape victim's suicide as a reason to dismiss the criminal sexual conduct charge in a case of statutory rape was certainly devoid of compassion; in the second case, it was the extreme insensitivity, even psychological torture, of the defense lawyer that led to the girl's suicide; and in the third, it was an outdated penal code allowing for a rapist to marry his victim in order to 'protect her family's honor' and escape prosecution, that finally led to the traumatized victim's suicide.

If we compare the above instances with the role of the state in India, we can see a few differences as well as some very interesting similarities. As noted earlier, a rape victim's suicide in India is not considered reason enough to dismiss the case of rape; while this ruling by the Indian Supreme Court may, in part, be a result of a social milieu which acknowledges the high possibility of suicide following rape, I would argue that it does ultimately constitute a more compassionate treatment of rape victims. In fact, the argument about social milieu can only go so far, since the positive correlation between

rape and suicide is - despite valid differences in explicit cultural emphasis on chastity - not entirely culture-specific. As a United States-based study of victims of gender violence demonstrates, at least one-third of rape victims develop post-traumatic stress disorder at some point in their lives; rape victims were four times more likely to contemplate committing suicide; and thirteen times more likely to have actually attempted suicide.<sup>334</sup> In other words, there already exists a positive correlation between the brutal violence of rape and the feeling of hopelessness and suicidal ideation in the victim, even without the added anxiety created by overt chastity norms; states need to keep this correlation in mind when formulating laws and methods of redress.

At the same time, it must be emphasized that a patriarchal policing of female sexuality does exist around the world, albeit to different degrees in different locations, and even if such policing is not overtly sanctioned by the state. Thus the same US-based study pointed to how almost 70% of rape victims were concerned about being blamed for the rape, and 60% were concerned about their names being revealed in the news media, leading the researcher to conclude that the stigma of rape still persists, and that service providers and criminal justice officials should maintain the utmost confidentiality and respect the privacy of rape victims.<sup>335</sup> But this need to respect the privacy and dignity of a rape victim is often overlooked by the state, as we saw in the above case in Ireland where the young girl was pushed to her absolute limit during the rape trial.

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<sup>334</sup> Dean Kilpatrick, 'The Mental Health Impact of Rape,' National Violence Against Women Prevention Research Center, <http://www.musc.edu/vawprevention/research/mentalimpact.shtml>

<sup>335</sup> Ibid.

Also, while the above report speaks of how the rape victim's previous sexual history may be aired in an Irish court so long as it is deemed relevant to the case, and while we saw that this corresponding section 155 (3) of the Indian Evidence Act has now been repealed by the Supreme Court, we did mention how, in India too, such 'evidence' continues to be brought against the rape victim, especially in the subordinate courts of the land, in order to discredit her allegation. This clearly demonstrates the limitation of progressive laws when not backed up by implementation, regardless of the particular state in question.

And finally, in comparing with the Indian situation the third and most brutal example of a rape victim being forced by the Moroccan state to marry her rapist, it must be pointed out that while such an archaic 'method' of mitigating the victim's 'honor' has been struck down and declared a criminal offense by the Indian Supreme Court, such incidents do sometimes occur in certain rural and uneducated contexts. If anything, these incidents point to the continuing hold of (very rigid interpretations of) *samskaras* over sections of the population, such that the conservative tenet of a woman being sexually faithful to one man alone over the course of her lifetime gets literally translated into a rape victim needing to marry her rapist in order to protect her and her family's honor.

What emerges from this preliminary discussion on the relationship between rape, suicide and the state, when seen from a global perspective, is the manner in which the conversation between history, politics and culture, while playing out differently in different geographical and cultural contexts, nevertheless stands united in discursively producing an emblematic figure of the (female) citizen-subject. *This is the citizen the*

*conduct of whose body is subject to the micro-surveillance and (bio)power of the nation-state, the latter's overt and covert disciplining mechanisms often resulting in a compromise of women's right to bodily integrity and against rape, and to meaningful justice in the aftermath of a violation of this fundamental human right.*

This global perspective on rape victims' suicide, I would argue, provides us with a strong case for transnational women's human rights activism and cross-border alliance building.

### **An International Human Rights Perspective**

In 'International Networking for Women's Human Rights,' Charlotte Bunch articulates the power of human rights as a meta-concept when she explains how

'Human rights language creates a space in which different accounts of women's lives and new ways of demanding change can be developed. It provides a set of overarching principles to frame alternative visions of gender justice, without dictating the precise content of those visions. The idea of universal human rights provides a powerful vocabulary for naming gender-based violations and impediments to the exercise of women's full equality and citizenship.'<sup>336</sup>

This is not to claim that the language of human rights is without its complications. Third world women have long critiqued the paternalism that undergirds much of western feminist writing on women's rights. This problematic history of intervention by western women on behalf of third-world women has been the analytic focus of much of postcolonial feminist work by authors such as Chandra Mohanty and Gayatri Spivak, with Mohanty famously labelling such western feminist intervention as 'discursive

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<sup>336</sup> Charlotte Bunch, Peggy Antrobus, Samantha Frost and Niamh Reilly, "International Networking for Women's Human Rights," in Michael Edwards and John Gaventa (eds.) *Global Citizen Action* (Colorado; Lynne Rienner, 2001), 221-2.



colonization.<sup>337</sup> Bunch herself acknowledges that patterns of exclusion are reinforced by an uncritical assumption that all women share common and easily identifiable experiences.<sup>338</sup> Radhika Coomaraswamy admits that any notion of ‘universal’ rights is, to an extent, essentialist and deeply embedded within international power politics and a hegemonic world order.<sup>339</sup> In the same vein, Sally Engle Merry rues that, because human rights law endeavors to apply universal principles to all situations uniformly, it often does not tailor its interventions to specific political and social situations, even when these might suggest different approaches to social justice.<sup>340</sup> The reason for this, Merry argues, is that human rights interventions are framed within a particular vision of social justice based on a neo-liberal privileging of choice rather than alternatives that could be more community-based or focused on socialist or religious conceptions of justice.

These difficulties in transnational collaborations and the problematic nature of the ‘universal’ notwithstanding, Bunch, Coomaraswamy and Merry - like many other human rights advocates around the world - remain committed to the ideal of universal women’s rights. Thus, Bunch emphasizes the need to reconcile the multiplicity of women’s experiences with a common basis for women’s global-local collaborations.<sup>341</sup>

Coomaraswamy argues that beyond a point, and despite valid differences between

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<sup>337</sup> Chandra Talpade Mohanty ‘Under Western Eyes: Feminist Scholarship and Colonial Discourses’, in *Feminisms*, eds. Sandra Kemp and Judith Squires (Oxford; New York: Oxford University Press, 1997), 91-6. Also see Gayatri Chakravorty Spivak, *In Other Worlds: Essays in Cultural Politics* (New York: Routledge, 1988).

<sup>338</sup> Ibid.

<sup>339</sup> Radhika Coomaraswamy, ‘Are Women’s Rights Universal? Re-engaging the Local,’ *Meridians: Feminism, Race, Transnationalism* (2002), Vol. 3, No. 1, 1-18.

<sup>340</sup> Merry, *Human Rights and Gender Violence*.

<sup>341</sup> Charlotte Bunch, Peggy Antrobus, Samantha Frost and Niamh Reilly, “International Networking for Women’s Human Rights,” 217-29.

cultures, the ‘standards by which to judge and condemn brutality, oppression, and exploitation cannot be dismissed as narratives of the imagination.’<sup>342</sup> Going on to point out how women’s rights are considered the soft area of international human rights law because they are inextricably intertwined with issues of culture, Coomaraswamy reconciles the competing notions of universality and relativism by advocating the promotion of global norms through a strengthening of local traditions of resistance against patriarchal cultural practices. Similarly, Merry also argues for creative re-workings and transnational collaborative strategies that promote women’s human rights through a re-engagement with local traditions. As noted earlier in this chapter, ‘framing’ i.e. this process of re-interpreting cultural practices from a rights perspective is already being used in transnational human rights praxis in order to promote the global through the local.

I would argue that the right against sexual violence, when seen in connection with suicide, does offer a similar opportunity for transnational praxis. Thus, specificities aside, a few generalizations can safely be made with respect to rape victims’ suicide and the state. One, rape occurs across the world regardless of race, class, age, nationality and other socio-political markers. Two, there exists an unfortunate relationship between rape and suicide, a relationship that has complex social, psychological, cultural, historical and political dimensions as it plays out not just in India but - as our preliminary discussion suggests - across the world. Three, specificities notwithstanding, the state – any state - is deeply implicated in this relationship between rape and suicide. Hence states’

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<sup>342</sup> Coomaraswamy, “Are Women’s Rights Universal? Re-engaging the Local,” 3.

commitment to the right to bodily integrity and against sexual violence, and to the compassionate delivery of this right, can well provide a common basis for transnational collaborations across state borders.

Further, speaking specifically of the law, transnational human rights collaborations need not pit international legal action and state juridical action against each other. Going back to the case of India, Article 51C of the Constitution states that “The state shall endeavor to foster respect for international law and treaty obligations in the dealings of organized people with one another.” And as a feminist legal scholar clarifies, this move of incorporating international law as part of domestic law is useful especially with regard to women, because it expands the amplitude of their rights beyond what is available under the domestic law of India to what has been provided in international law, and can ensure that up-to-date concepts of gender equality are read into the fundamental rights of the Indian Constitution.<sup>343</sup> In any case, since claims within the international human rights regime are required to be made not by individuals but by citizen-subjects of states, working with the state not just helps devise strategies for making women’s relationship with the state more productive but ultimately also provides a globally-recognized platform for the articulation of rights.

At the same time, the need for a productive partnership between international human rights praxis on one hand and the state on the other goes beyond mere necessity. For one, while the relationship between the state and its female citizen-subjects has

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<sup>343</sup> Singh, “Violence against Women and the Indian Law,” 81-82.

always been fraught, state-mandated discourses of rights may sometimes still be the most effective tool for countering injustice. As Sally Engle Merry notes in the case of India,

‘Delhi activists working on violence against women said that the national discourse of rights is far more important for promoting reforms in the area of gender violence than international human rights principles. According to a leader in the Joint Women’s Program in Delhi, only women’s groups are aware of CEDAW. CEDAW is good for lobbying at high levels with government officials such as those in the Department of Women and Child Development, but poor urban and rural people do not understand these ideas. For most people, the Indian Constitution is the basis for rights [...] A member of the Human Rights Commission in India told me that the Indian Constitution is so strong that most people draw their faith in rights from that document and pay little attention to the international standards.’<sup>344</sup>

Also, at a time when global inequalities between rich and poor states is as much a reality as is the erosion of state boundaries by transnational capital, a state-centric yet woman-friendly model of citizenship that is attentive to the needs of its disenfranchised citizen-subjects may be the most viable solution, especially in a postcolonial context. As one author says, howsoever problematic women’s relations with states, they are preferable to an internationalized market citizenship and erosion of state sovereignty by transnational capitalist interests.<sup>345</sup>

Here a clarification is in order. Given the anti-colonial history that undergirds postcolonial discourses of nationalism and the political struggle for statehood, my argument for strengthening the postcolonial state extends to the postcolonial *nation*-state as defined in this dissertation. This dissertation has demonstrated the misuses of

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<sup>344</sup> Merry, *Human Rights and Gender Violence*, 165.

<sup>345</sup> Harrington 1992.

nationalist rhetoric especially as it applies to women's rights; it has shown how the unholy alliance between virulent forms of nationalism and extremely patriarchal versions of religion have often pitted *samskaras* and *adhikaras* against each other, resulting in androcentric framings of the female body which in turn has militated against women's right against rape and to meaningful justice in the aftermath of rape. So, when I speak of the need to continue with the 'nation' as a cultural category, I am speaking neither against cosmopolitanism nor for divisive identity-politics, but rather, like Frantz Fanon, of a genuinely representative national consciousness.<sup>346</sup>

Making a distinction between the official ideology of nationalism and nationalist consciousness, Fanon speaks of the need for the postcolonial subject to produce a critical and deconstructive knowledge about nationalism. Such knowledge will celebrate the positive and affirming aspects of national political identity while also allowing for the fashioning of a new nationalist imaginary and alternative socio-political consciousness. Among other things, this new imaginary must allow coalitions among different members of the nation-state which promote unified effort without subsuming, homogenizing, or – as we have seen so strongly in the case of gender - naturalizing difference.

In its most elevated form, this nationalism would also be far more compatible with internationalism. As one author puts it, citizen-subjects would no longer have to negotiate between nationalism and cosmopolitanism, the latter with its connotation of detachment from the nation and charges of elitist complicity with the colonizer.<sup>347</sup>

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<sup>346</sup> Fanon, "On National Culture."

<sup>347</sup> De Neloufer Mel, *Women and the Nation's Narrative: Gender and Nationalism in Twentieth Century Sri Lanka* (Virginia: Rowman and Littlefield, 2001), 10.

Instead, this nationalist imaginary *is* cosmopolitan; it is ‘an international model that forwards universal human rights through a lateral cosmopolitanism that seeks to install within the nation’s territory a culture which allows for pluralism, the inclusion of the “impure.”’<sup>348</sup>

In this form, a complete form as yet perhaps unrealized anywhere in the world but that holds greatest promise for the future, the nation-state will facilitate citizenship in its fullest and freest sense. Thus, this nationalist-internationalist imaginary will remain grounded in history and political memory and cultural idiom, while also being able to forge a connection with modern discourses of rights and the individual. Such a nationalist imaginary will not be monolithic, uncontested and static; instead, it will modernize with time, one of the aspects of such modernization being the provision of space for democratic dialogue. With specific reference to women’s right against sexual violence, this imaginary will acknowledge a woman’s ownership over her own body and criminalize any forceful invasions of her bodily integrity, conducted by any individual, organization or state, and for any reasons whatsoever.

A woman’s body is her own; it does not belong to her family, society, state or the church. It is only when this understanding seeps into the very core of societies around the world that, perhaps, the right to life will be fully realized. And it is only in that as-yet unrealized revolutionary regime, that culture and rights will co-exist harmoniously instead of being deployed in ceaseless battle on the margins of gendered bodies.

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<sup>348</sup> Ibid.

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## CONCLUSION

As the first detailed analysis of the relationship between rape, suicide and the state in contemporary India, this dissertation has attempted to answer some key questions on the subject. An interdisciplinary study, it has begun with trying to understand, as

comprehensively as possible, the phenomenon of rape victims' suicides. Using a range of perspectives spanning the socio-cultural, historical, psychological, legal and political, I have explained the reasons behind the large (and potentially, even larger, if one takes into account the potential gaps in national data) number of suicides committed by rape victims every year.

Suicide offers a challenging space to examine women's right against rape in the light of several interrelated tensions – between gender and the state, between the individual-collectivity, and most importantly, between victimhood and agency. Agency is a central concept in feminist theory. I have argued that the agency embodied by differently-situated raped suicidal women emerges in relation to and colludes with, but also contests and transcends, the collective identities – of gender, class, caste, religion, the 'local' and the 'national' – that constitute it, in the process blurring traditional distinctions between victimhood and agency.

Both private and public suicides blur the victim-agent binary; however, given the political uses to which public suicide has been put in the nation, or indeed in the Indian subcontinent, rape victims' public suicides comprise a particularly fascinating category of analysis. With specific reference to rape, public suicides have occurred when, upon being denied legal justice, rape victims have chosen a public venue – often a police station, the premises of the court, or other such spaces symbolic of the state – in order to commit suicide. Using as a case-study the public suicide of rape victim Sarita, and drawing from other similar examples, the dissertation has analyzed the politics of affect mobilized by public suicides. Locating public suicide within its specific socio-political universe, I have



examined the state's response(s) to such agency in light of women's legal and constitutional right against rape, paying particular attention to how these responses complicate liberal understandings of rights and justice.

One of the purposes of this project was to bring within a single analytical frame two research questions that, till now, had been studied separately. As mentioned in the introduction to this study, women's suicide had been studied as a separate research question (framed mostly within clinical-psychological terms) while women's right against rape in/and the Indian state had been theorized predominantly within feminist legal paradigms. In bringing these two questions together, this dissertation not just sheds light on suicide as one particular and highly embodied form of agency exercised by rape victims, but also illuminates the continuities between different forms of agency. For instance, an important inference of this dissertation has been that most rape victims attempting public suicide do so only after being denied legal justice. Therefore, the constraints of space notwithstanding, the dissertation has briefly mentioned other forms of agency exercised by rape victims, using the connections between these forms as the basis for making practical suggestions both within the nation as well as transnationally.

In the last instance, this dissertation thus inserts itself into a growing body of feminist literature that examines the complex dialogue between rights, culture and the state. It may be argued that the right against rape, as an integral part of the right to bodily integrity, is the first and most fundamental human right. Yet, ironically, the cultural-ideological investments undergirding the female body make this human right one of the

hardest to realize, as we saw in the tussle between *samskaras* and *adhikaras*. But at the same time, we also see how these concepts, continually evolving and amenable to multiple interpretations, ultimately reveal themselves as not being situated on opposite ends of the spectrum. Instead, the conversation between them is complex and layered; it continuously oscillates between the timeless narrative of the ‘nation’ and the modern narrative of the state, creating shifting matrices of both identity and possibility.

### **Directions for Future Research**

While the dissertation has tried to stay attentive to the specificities of class, caste, location etc., a national study such as this necessitates some generalizations. I have tried to reason that many of these generalizations do hold across contexts. However, this does not rule out the possibility, or even the need, for more localized studies. Such localized studies would not just contribute, in important ways, to the national suicide prevention plan as being currently advocated by health care and other professionals, but also help shed further light on regional, context-specific understandings of rape and suicide. This will, in turn, help the state and other non-state actors, to devise appropriate strategies of intervention.

Another important direction of future research lies in broadening the present research question beyond the issue of women, to include a more comprehensive analysis of gender. As the NCRB data amply indicates, men, too, are victims of sexual violence, and male suicides also occur for this reason. Given dominant discourses of masculinity,

rape is a very hard experience to talk about for men. In fact, the often unacknowledged gender violence faced by men is the reason the Law Commission has, in its most recent report, suggested widening the ambit of current laws on violence in India to include violence against men. When implemented, one of the results of this perspectival change will be to shift the focus away from a gendered notion of *samskaras* (which frames male and female bodies differently, attributing a different set of rights and responsibilities to each) to a more modern interpretation of *adhikaras* (according to which, each individual, regardless of gender, will be seen to possess an inalienable right to bodily integrity and against rape.)

The broad category of research methodology suggests other directions of research. Suicide, an already sensitive issue, becomes even more so in the context of sexual violence. As a result, official 'data' on its own may never suffice, and needs complex contextualization. For this reason, I remain convinced of the overall effectiveness of the methods utilized in this project, and the wide-ranging interdisciplinary textual archive I drew from, an archive that was rendered more comprehensive, I would argue, through the use of technology. I am alluding here to the World Wide Web, and to the manner in which internet resources have helped add to the archive texts that may have otherwise been difficult to trace. However, none of this forecloses future studies that, in utilizing other methods, can better answer the questions this project has only partially engaged.

And finally, another direction for future research points to the larger relationship between gender and death. Death is understood in a variety of different ways within and

across cultures. A profoundly gendered category, death has often signaled different meanings in religion, in law, in literature, and in philosophy. Politically speaking, I would go so far as to argue that death – whether through war, through state-mandated killings, through religious discourses of right-to-life, through suicide or a myriad other forms – has emerged as one of the fundamental organizing principles of societies across the world. How does death discursively construct society and the nation? Who has the right to die ‘for’ the nation? What forms of death are considered more honorable than others, for men and women? What does this say about forms of political resistance, of mobilizing and organizing, in South Asia and elsewhere? Some of these questions have been answered by scholars around the world, while some still remain to be addressed.

Hopefully, this study on rape, suicide and the state in contemporary India will prompt a number of theoretically informed and methodologically diverse studies that will answer many questions, in turn raising many new ones.

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