

## SC NO.114/2013: A RETROSPECTION

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### *Abstract*

*In the verdict of Delhi Gang Rape Case of 16/12/2013 (SC No. 114/2013) ultimately who gained? In every verdict the justice prevails. But it should also be accepted that though there is every right to appreciate the protesters there are failures in the system and it leads to such tragedies. In this rapidly progressing neo-liberal country, there is a lack of basic human values both in the personal and social realm and whereby one can easily state that the social system is degrading with its attempt of Ethics with Economics. This paper is an attempt to look into the various aspects of Delhi Gang Rape Case and its verdict and its various implications as getting over significance in the globalised, high 'potentialised' India. Everyone just fall prey in the hands of the hegemonic structures, those who are in power. There was an attempt to cure the wound, but whether the verdict has guaranteed protection and ensured safety is no longer a matter of concern-neither to the media nor to the government. The increasing length of the Constitution does not quintessentially reflect the guarantee of the support from the laws, which prevails in the country. There is an existential crisis in the moral conscience and a struggle for survival in the education system, all these questioned are analysed in the paper.*

*Keywords: Existential, Hegemonic, Neo-liberal, Power, System*

The debate over violence against women has gripped the nation since December 2012 when a 23-year old Indian medical student named Jyoti Singh (popularly named as Nirbhaya) was brutally gang raped. Singh was traveling home with a male friend after a movie. Tricked onto a bus by a group of young men, she was raped so savagely that her intestines were torn from her body. She died on December 29, but not before identifying the men she said had attacked her and becoming a symbol for women across the country of their daily struggle against violence. Women, men too, poured onto the streets to protest, clashing violently with the police, who many blame for failing to take rape seriously. The Indian government, rattled by the ferocity of the protests, rushed through new laws making provision for tougher sentences - including the death sentence - for rapists. The fatal Nirbhaya gang-rape saw an outpouring on the streets of Delhi – protests decrying the fragile status of women in India. Candle light marches, editorials examining the patriarchal and sexist traditions of our country, an awakening on social media – even conversations on streets revolve around the night they cannot forget: the night that made ‘the Nirbhaya’.

In the 33-page charge sheet, of SC No.114/2013, the Delhi Police described the juvenile as the most brutal of the six accused. On 31 August 2013, the juvenile was convicted of rape and murder under the Juvenile Justice Act and given the maximum sentence of three years' imprisonment in a reform facility, inclusive of the eight months he spent in remand during the trial. On 10 September 2013, the four adult defendants were found guilty of rape, murder, unnatural offences and destruction of evidence. All four men were sentenced on 13 September to death by hanging. Judge Yogesh Khanna rejected pleas for a lesser sentence saying the case has "shocked the collective conscience of India", and that "courts cannot turn a blind eye to such crimes". The victim's family was present for the sentencing and her mother expressed satisfaction over the verdict saying, "We were waiting with bated breath, now we are relieved. I thank the people of my country and the media."

On 13 March 2014, the Delhi High Court found all the defendants guilty of rape, murder, unnatural offenses and destruction of evidence. With the verdict, the High Court confirmed death sentence for all four men convicted in September 2013. On 15 March 2014, the Supreme Court of India stayed the execution of two of the four convicts, Mukesh Singh and Gupta to allow them to make their appeal against their conviction on 31 March. This was further extended by the

court to the second week of July. On 2 June, the two other convicts, Sharma and Thakur also asked the Supreme Court to stay their execution to allow them to make an appeal of their convictions. On 14 July, their execution was also stayed by Supreme Court. As of December 2014, two years following the attack, the Supreme Court has not yet handed down their decision.

Ultimately in the verdict on Delhi Gang Rape Case of 2012 who gained/gains? Did Nirbhaya? Ramsingh? the Protesters? the Media? the Government? women? the nation? Surely it was a verdict where justice prevailed. Yet, without failing to appreciate the protestors, the government and the media shouldn't we also check whether it is the failures of our system that cause these tragedies? Aren't we, as a society, lacking the basic human values both in our social and personal realm? Isn't our social system degrading with its attempt of mitigation of Ethics with Economics? Our moral system is in an existential crisis as our educational system is in its struggle for survival. Thus goes the famous saying prevention is better than cure. It is true that we have somehow succeeded to cure the wound, but do our solutions guarantee protection? The attacks have re-ignited the debate over whether India has apparently become a more dangerous place to be a woman. What is the change that took place in the culture of this nation? Is urbanization to be blamed? A change in the morals of the modern society? Or an incapable law enforcement system? Despite the fact that some of the most powerful persons in the country are women, that several states are ruled by autocratic female chief ministers; and that the mother figure is deeply revered in Indian culture, there is little sense of sisterhood. In the impulse of wine and websites women turns to be mere touch pads for men.

Some activists in India hoped that Singh's death would prove to be a turning point in attitudes towards women, yet the rapes have continued. The following month, i.e. in January, a 5-year-old girl was raped over a four day period in the Gandhi Nagar neighborhood of Delhi. Days after that a woman was found brutalized and murdered in a park in South Delhi's Vasant Kunj area. 30-year-old American tourist was gang raped in a taxi in the early hours of the morning near Manali, a popular tourist spot in Himachal Pradesh. The attack came just days after a 21-year-old Irish aid worker was raped in Kolkata - an attack which took place, according to the police, after she had been drugged by a local businessman. In March a Swiss tourist was gang raped while camping in Madhya Pradesh state. In the same month a British woman told police she jumped from her first floor hotel window in Agra - near the country's most famous

tourist site, the Taj Mahal – because she feared being sexually assaulted by the hotel manager after persistent knocking on her door at 4 a.m.

In December 2014, at the second anniversary of the attack, referring to a woman who was raped in an Uber cab, the parents remarked to the press that not much had changed: “Nothing in India has changed since December 16, 2012. All promises and statements made by our leaders and ministers have turned out to be shallow. Our suffering gives them their moment in limelight. My daughter asks me what I have done to get her justice. She asks what am I doing so that many more like her get justice and I wake up to realise how helpless and trivial I am...”

More than 24,000 rape cases in the country were reported last year alone, of which 570 were reported in the Indian capital, where already this year 635 rape cases have been registered. The legal news service Trust Law says India is the worst country in the G20 to be a woman. It says women and girls continue to be sold, married off at a young age, exploited and abused as domestic slaves. Every single day single women, young girls, mothers and women from all walks of life are being assaulted, molested, and violated. The streets, public transport, public spaces in particular have become the territory of the hunters. While the ones already hunted down weep in silence or in disdain, the rest fight their way to a basic life with dignity. There is an unspoken war on the streets. Everyday women are dealing with harassment from mild to extreme forms on our streets. Young school and college going girls use books to shield themselves, other women wear full-covered attire to protect their bodies, and others avoid the mere glance of the roving gaze. How long will this menace continue? We don't need to look at statistics to confront the horrid truth. News stories of women from all over India being raped, beaten, killed are flashed across us day after day – and we all are aware of it.

We are developing...a fast developing dynamic economy. But, in the process we have left many of our “Arshbharat” values. Our culture too is getting like our economy- ‘open-mixed culture’. India has developed, has developed into a nation of cultures: our politicians have a culture (me, my family, my party, then only my people and my nation), our teachers have culture (to teach is my mercy, to pay is government’s duty), our students have a culture (not knowledge, a certificate matters), our religions have culture (everything is easy through charity route), our states have a culture (the other is my enemy), even our educational system has got a trend of

‘study here, work there’! In what way do we get integrated? Are we in lack of laws? Or are we in the trap of global market colonialism? India needs a diagnosis of her probable tuberculosis before she gets bed-ridden. In search of freedom and independence (economic, political and social) we have approached different medical shops without having a proper diagnosis and prescription! And we have distributed the same tablet to all sick hoping all will be ok. We trust the medicine more than understanding our illness! I can read news, discuss the issues, print banners, formulate slogans, conduct protest marches, go for hunger strike...all together with nothing but being a ‘rapist in private’, whether really do it or not is a matter of chance and choice of means!

While our western sisters burned bras in the 1960s for equality, India's women are now taking to the streets to demand their right to walk freely without fear from men. They knew what they were demanding and achieved their demands in practice, but we are not so sure about what to be demanded and we satisfy ourselves with changes in the law books. What was our cause for the hue and cry we made in Delhi and all over India? Death for the convicts, or justice for the victim? A change in the law or a change of attitude? A guarantee from the government or a guarantee from our brothers? The presence of laws and policies does neither prevent violence against women, nor automatically leads to women empowerment. Implementation and monitoring is important, this is what seems to be lacking in many countries including India. Laws are the means and not the ends we seek.

Whom/What are we going to punish or protect? What actually is to be protected or safeguarded? Is it the physical boundaries of the bodies or the internal chemistry of our society? Information Technology, today, is in and above physics, chemistry and biology. It can penetrate into all the fields, physical as well as mental. Increasing the length of our Constitution does not guarantee that we, Indians, are the most constitutional people. Let the next generation remember us for our good attitudes than our magnificent verdicts and rulebooks. We all want an immediate reaction and an immediate resolution that consoles, not a serious reflection and revolution that transforms. And so our protests remains as a reaction without bringing a revolutionary change that would guarantee rights of women in our society. We were more emotional than rational, or we failed to take advantage of the event, sad and heinous, which shook all most all the nation, united the nation in protest to lift to the heights of a transforming wave .

In his theory of Revolution, Karl Marx says about the need of true class consciousness for a revolutionary move in the society. “Objective class experience” develops into “subjective class consciousness” and that is known as “true class consciousness”. It is this true class consciousness that would harmonize and sustain the group throughout the revolution. In the absence of it, the action would live short as a massive protest or an emotional outburst and die out without a radical change to the root causes of the issue. This is, after all, what happened in the response of us to the brutal, heinous crime against womanhood in the streets of Delhi.

We all came together, lit the candle, marched together, shouted the slogans, went for hunger strike, conducted debates on the issue/event of 19<sup>th</sup> Dec 2012. What was the result? What is the situation today after 2<sup>nd</sup> anniversary of the event? Are we in a better position today? What is the addition to our society, culture, morality and personal life after the victorious verdict? Has anything got added to our social security than some promissory notes in the Books? Today we remember the date of the tragedy, pictures of the marches, slogans of the protesters but not the cause for which we stood for, because we hardly had a definite cause to stand for than just an emotional outburst of the suppressed feelings against the scattered violent behaviours in the society. We failed to consolidate these feelings to a collective consciousness and turn these scattered mass protests into a revolution against the evils of the society. Some where we lacked the leadership which could have been a consolidating power and lift the emotional move to a rational social wave and start up the revolution of change of attitude of the society towards women and womanhood. According to Sonia Gandhi, “social revolution for empowering women... seek to reform the mind set and old thoughts of our society and empowerment of women can’t be achieved by only passing laws or through mass protests...it requires instilling particular values to boys and girls” (John et al).

What are we supposed to do about it? 49% of India’s registered voters are women, and the Power of 49 together needs to demand an India that is sensitive to women, her rights and needs. This is the time we own up to ourselves. We stand by each other. Tall and proud. Brave and unfazed. This is the time we own up to India. No more Harassment. We want what we deserve - for us, our mothers, sisters and our daughters – a safer India for women. After all, nothing has happened after SC No. 114/2013, other than that we forgot the two families in shame and tears: that of Jyothi Singh and of Ram Singh. We celebrated the events- the rape and her death and the

verdict; but, have we succeeded to make her the last one to be so unlucky? Haven't we kept the left over pieces of the candles to be lit on the next occasion at Jantar Mantar?

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