

Politics of sexuality: rape and the construction of gender identity

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Abstract

This paper explores the processes of gender and the constructions of identity through the example of violence on women, namely, rape. While it debates that violence to women can be legitimised by 'proving' their lack of community or family status and these processes are part of an identity formation, which is defined by and through the violence on women. Following an examination of the elements related to rape within the legal discourse in India and concluded that it is difficult within the Indian legal discourse to actualise women's rights as citizens. Furthermore, it is more or less impossible to separate out a woman's identity as subject/citizen imbued with rights from her identity as female, as daughter, sister, wife and mother and multiple gendered identities are constructed on the bodies of women.

Introduction

Over the years many feminists have noted that patriarchal discourses on the modesty of women are principally about sexuality. Sexuality, which is according to Michel Foucault, a "dense transfer point for relations of power... one of those endowed with the greatest instrumentality" (1981:103) is even more boldly defined by Gayle Rubin as a "vector of oppression"; she asserts that much of the oppression of women is "borne by, mediated through, and constricted within sexuality". From 1960's onward many western feminists have attempted to deconstruct the patriarchal linking of sexuality with danger as well as to rediscover the pleasures of female sexuality, one cannot ignore the present intensification of sexually oppressive practices and rhetoric in everyday life with the heightening of the operation of institutions within patriarchal social orders. Such changes are frequently marked

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upon or through the women's body, which is crucial in discourses of gender and practices over the whole world.

This paper will argue that violence to women can be legitimised by 'proving' their lack of community or family status and these processes are part of an identity formation, which is defined by and through the violence on women. Focusing on this argument the following questions will be addressed: how are multiple gendered identities constructed on the bodies of women? How are rights over women defined by placing them within the family and community or challenged by removing them from the sphere of family and community?

In order to find out answers to these two questions the following methodology will be used. Firstly I will develop a conceptual framework by examining the literature relating to the concept of identity, its meaning and processes of formations; and its links with gender and violence to women. Secondly, I will describe the context of agitation against rape in India in order to situate the case of police rape and the official discourse on police rape in India. Thirdly, I will illustrate my argument by describing the case of Rameeza Bee, an eighteen-year-old woman who was gang raped by four policemen in Hyderabad, India. The case study will be extracted from Radha Kumar (1993), *The History of Doing: An illustrated Account of Movements for Women's Rights and Feminism in India, 1800-1990*, Verso, London and from Kalpana Kannabiran (1996), "Rape and the Construction of Communal Identity", in *Embodied Violence: Communalising Women's Sexuality in South Asia*, ed. K Jayawardena and M. De Alwis, Zed Books, London¹. Fourthly, using the analytical framework developed earlier I will analyse the case of Rameeza Bee's rape. Finally I will draw a conclusion on the basis of the above discussion.

Gender and the Construction of Identity:

Identity has become a key word in contemporary politics and like other key words it carries not one complex meaning but a range of competing definitions (Mercer, 1992). Identity in the Enlightenment subject was based on an understanding of the person as a fully centred unified individual endowed with the capacities of reason, consciousness and action. Every person was born with an inner core, which was the basic self, and this remained continuous throughout the individual's existence (Hall 1993). The sociological theorising of identity is based on the understanding that the inner core is not autonomous and self-sufficient, but formed in relation to powerful others who interprets to the subject the values, meanings and symbols that form the culture of the worlds that s/he lives in. This interpretation left the inner core or basic nature as it is except that it emphasised the formation and modification of the subject in continuous dialogue with the cultural worlds outside and the identities that they offered. Identity thus attached the self to the outer world, providing stability both to the subject and the world s/he lives in.

The above discussion on identity corresponds to the feminist notion of gender and therefore the feminist notion of identity. Feminism, both as a social and political movement and as a theoretical critique, has contributed intensively to my understanding of identity and subject hood. By asserting that the personal is political it has challenged the basis of the earlier inner/outer and private/public distinctions. Moreover, this challenge has opened up for contestation new areas of social life, such as sexuality, family, housework, and the division of labour. It has addressed as a political question the issue of how 'we' are formed and produced as gendered subjects. The conceptual and theoretical understanding developed in feminist research is that our basic social identities as men and women are socially/culturally constructed rather than based on fixed

biological characteristic; many feminist in general and radical feminist in particular claims that there is no recourse to a body that has not always already been interpreted by cultural meanings; indeed, sex, by definition, will be shown to have been gender all along (Butler, 1986, Beauvoir 1973). Therefore gender is the core conceptual basis of my analysis. In addition these bodies of theory further claims that the fraternity of sexual difference is central to the social world. Every individual's relation to the world is filtered through gendered subjectivity. Gendering is not a simple or a unitary process but rather a highly complex set of processes (Standing, 1990; Whitehead, 1984). Gender identity is organised through a complex system of social relations, structured by the institutions not only of family and kinship but also at every level of the legal, political, economic and social formation. Neither these identities nor institutional practices are fixed or invariable. 'Masculinity' and 'femininity' are constructs specific to historical time and space. "They are categories continually being forged, reworked and reaffirmed in social institutions and practices as well as a range of ideologies" (Davidoff & Hall, 1987:29). Feminists have also shown how gender identity structures and defines the boundaries of other social identities, such as class and caste (Davidoff & Hall, 1987; Sangari & Vaid 1989; Bannerjee, 1989).

One of the basic assumptions of feminism is that the relation between men and women is essentially a power relation in which, in the majority of societies known to us, women have less power than men (Pearson, Whitehead & Young, 1984)). For example the statement that women have less power than men means that, in general, men have the ability to shape women's lives and to oblige women to adapt their lives so as to accommodate men's personal projects and that, in general, women lack this ability or power (Young 1988). Nevertheless, this does not mean that women are victims and that no woman is ever able to carry through social and political projects.

Power in male and female relations is usually discussed in terms of the concept of patriarchy conceived of as the coercive power of men to command women's bodies, labour and product of their labour (Young 1988). An obvious confusion arising from the use of the concept of patriarchy to explain the differential power of men and women is whether this power belongs to individual men or resides in the social structure itself. The analytical framework I will use for my analysis refers to the structural power of men. Thus by addressing from where men derive their power rather than assuming that it is an inherent characteristic, this paper will focus on the wider social and political realms where this power is produced and the institutional mechanisms through which it is reproduced. Public/political discourse on women first classifies them by class, caste and community, creating hierarchies so that different classifications co-exist and separate the 'normal' from the 'abnormal' within and between levels (Kannabiran, 1996). Those who are perceived as being outside the normal cannot assert a legitimate claim to protection from the state; this applies not just to women, but some times to the communities they belong to as well.

Men and women have multiple identities, such as ethnic, racial, national and class identities which being constructed by history and culture only make sense within it. Thus there is no essential category of 'women' given the differences in the experience of women of different classes, races, castes and communities. Identities are formed and transformed in relation to wider processes and to the articulations of power, and therefore identity is established through difference and similarity.

Having this theoretical debate in mind, in the rest of the paper I argue that violence to women can be legitimised by proving their lack of community or family status, and these are part of a process of identity formation, which is defined by and through violence on women. I will try to show how difficult it is within

the Indian legal discourse to actualise women's rights as citizens and why it is more or less impossible to separate out a woman's identity as subject/citizen imbued with rights from her identity as female, as daughter, sister, wife and mother.

The above conceptual and theoretical framework will now be used in the presentation and analysis of the case of rape and legal discourse in India. My intention is to explore the processes of gender and the construction of identity through the example of violence on women, namely, rape.

The Context of Agitation against Rape and the Indian State's Response to It:

During 1979 the few women's groups that had emerged in the major cities of India and which had dealt only with local issues on a regular basis up to then, co-ordinated a nation wide campaign against rape. The pressing urge was the publication of a Supreme Court judgement that had excused two policemen, of charges of raping a sixteen-year-old tribal girl, Mathura, in a police station, while they were on duty. The Women's groups demanded a reopening of the case and later, a change in the rape laws. The campaign did lead to a change of the rape laws in 1983. More importantly, however, it provoked a public discussion whereby the issue of 'rape', hitherto a taboo topic, came out of the closet and was subjected to extended scrutiny. As a result there was widespread public discussion on women's sexual rights in general, the relevance of 'sexual history' in rape trials, the biases of medical examinations, and the rights of women (over and above those of men) at the time of arrest (Kummar 1983). It also helped to give meaning to cases of 'rape' perpetrated by custodians of the law on women who were in their charge. 'Custodial' as it came to be defined, therefore, implicated the guardians of law and order, namely, the police, the para-military, and the army. Through the naming of this particular crime and its recognition in the public sphere via legislation there was acknowledgement by the state that the

machinery responsible for 'protecting' the public had turned the coercive power vested in their position against the most vulnerable section of the population, namely, women (Mukhopadhyay, 1994).

The campaign and its outcome of a change in the rape laws were widely acclaimed as a victory for the women's movement. It was interpreted as a victory in that it empowered women's organisations and also led to the articulation of other issues of violence against women. However, the relationship of women to the state, examined here via the legal campaigns and consequent legislation, needs locating. Here the question arises, what kinds of subjects are produced through the shifts in definition that legal amendments bring about. In examining the decade of legislation 1980-89 Flavia Agnes (1992) points to some of the implications. Redefining 'consent' in a rape trial was one of the major thrusts of the campaign. The Mathura rape case had made it clear that how difficult it is for a rape victim to prove that she did not consent 'beyond all reasonable doubt'. The main demand of the campaign was, therefore, that the onus of proving consent should shift from the prosecution to the accused. The second major demand was that in a rape trial the victims past history and general character should not be used as evidence. A law commission included the demands made in the campaign and went further by suggesting safeguards for women in pre-trial procedures (mainly to protect them from arbitrary police power).

The bill, which came to Parliament in August 1980, did not, however, take up the recommendations regarding the regulation of police power. It also did not shift the onus of proof to the accused except in the case of 'custodial rape'. The demand that a woman's sexual history and general character should not be allowed as evidence in a rape trial was excluded from the bill. The bill had certain re-examined elements, which were not recommended by the Commission. It made publishing anything

relating to rape trial an offence. This was fit to censorship of the press. Considering the role that reporting and media attention had played in supporting the anti-rape campaign, this particular clause was punitive. The bill did, however, lay down for the first time a minimum punishment for rape. It also made sexual intercourse in custodial situations, even with consent of the women, a punishable offence (ibid; 1994).

Although the amended rape law was inadequate, it was expected that the courts would follow the spirit of the amendments and give women a better deal. Comparing some landmark judgements given by the courts in the period 1980-83 when the anti-rape campaign was at its peak, with those that were given in the outcome of the amendment, Agnes (1992) shows that there was a visible change in the way 'consent' was construed. In the 1980-83 judgements the women's 'consent' is problematised (i.e. submission cannot be interpreted as consent), giving her the benefit of the doubt and reflecting in a way the concerns projected into public discourse by the anti-rape campaign. However, the judgements in the post amendment era seem to reverse this trend. In these judgements the need for 'certain evidence' (i.e. injury, raising an alarm) to prove lack of consent is accorded centrality even in situations in which the power relations between the victim and the accused are clearly in the latter's favour. She further argues that in the case of positive judgements (i.e. in women's favour) the reasons offered by judges for believing the woman had more to do with whether they were convinced that she was 'chaste' or 'virgin' than whether she was subject to violence against her person. A positive judgement, cited by Agnes, described the reason for believing the woman/victim in the following terms:

Virginty is the most prized possession of an unmarried girl. She would never willingly part away with this proud and precious possession. (Ibid. 1992)

Another important observation that Agnes makes, and which arises from her detailed observation of the post amendment judgements, is that laying down of more severe punishments in the new rape bill has actually resulted in fewer convictions. In fact legal experts did forecast, in the period when the amendments were being debated in Parliament, that this might happen (Kummer, 1983). Agnes uses the above arguments to conclude that the anti-rape campaign was unable to shift the definition of rape beyond the parameters laid down by a patriarchal value system. It is important to keep in mind that consideration of the role of patriarchy is not enough to understand the complex nature of the relationship of the state to women. In order to assess its complexity it is necessary to look more closely at the discursive strategies that constitute the female subject and how these discourses are affirmed in definitions, institutions and arrangements. Judgements given in rape trials prior to the amendments could go either way (i.e. in the woman's favour or against) depending on the evidence available in case law and used by the particular judge on the case. The amendments were supposed to lay down guidelines and provide a frame for uniformity of treatment. Agnes' main regret seems to be, however, that the guidelines have not imposed uniformity (Agnes, 1992)). In response to Agnes, Mukhopadhyay (1994) said that in post amendment judgements it is clear that some uniformity has been imposed and 'fixing' the meaning of consent is imposing this uniformity. But actually this has gone against women. In order to unravel why this has happened it is necessary to examine the discourses within which the campaign's claims were made and those within which the resolutions were offered.

The anti-rape campaign appealed to the state for the protection of women's rights within a discourse of civil liberties. The immediate catalyst of the campaign, it must be recalled, was the judgement in the Mathura rape case, which was about public servants (the police) using state power to oppress citizens. The

campaign resulted in public discussion about women's sexual rights in general, which decentred to some extent the understanding of rape from being about 'honour'ⁱⁱⁱ to being about violation of rights of the individual. The amendments lie squarely within the parameters of a discourse about the liberal notion of rights of the 'citizen' vis a vis the state. The criminalisation of 'custodial rape' that the amendment brings about, shifting as it does in this instance the onus of proof from the victim to the accused, is a recognition of the right of the citizen, within the discourse of civil liberties, to be protected against arbitrary powers of the state machinery. This notion of the individual citizen, however, cannot accommodate the differential power between, the accuser woman as a rational, freely choosing subject, and the accused (Mukhopadhyay, 1994). Thus in every other instance but custodial rape judges still have to prove beyond a doubt that a women's character and sexual history should not be part of the rape trial. This is also about the positing of the unified, freely choosing, rational subject as the model for the construction of the 'citizen' in order that the differential positioning and asymmetrical power relation between the male rapist, who is the accused, and the female victim, the accuser, is eliminated. The identity of the female victim is then fixed by the judge. This reconstruction of the female subject is achieved by drawing upon notions about female sexuality, its definition in relation to men's honour, and the 'fixing' of parameters for judging appropriate/correct female sexual behaviour which then are used to define whether the violent act was rape or not.

In the rest of the paper I will illustrate my argument by examining a rape case in Hyderabadⁱⁱⁱ, I will show how women are trapped by the battle of identity and how difficult it is for them to get access to secular criminal and civic justice, access which is limited in serious ways by the politics of gender identity around the issues of women's sexuality that are legitimised by the state.

The Case of Rameeza Bee:

In 1978, an eighteen years old women called Rameeza Bee was gang-raped by one Hindu and three Muslim policemen in Hyderabad. Her rickshaw puller husband Ahamed Hussain was murdered because he protested at his wife's gang rape. Following this rape there was a mass protest in Hyderabad. Twenty-two thousand Hyderabadis went to the police station and laid Ahamed Hussain's dead body outside the door and were shouting for justice in various ways. In order to control the huge crowd, police open fired indiscriminately on the crowd, which resulted in more loss of life and further exacerbated the situation. After that a one-man Commission of Enquiry^{iv} was set up, with Mukhtadar a judge from the Andhra Pradesh (henceforth AP) High Court, a Muslim having reasonably well off feudal background (Kannabiran, 1996)^v. The terms of reference of the commission of enquiry were confined to the cause of Ahamed Hussain's murder and the rape of Rameeza Bee.

In nature, a commission of enquiry is an investigator of the case and cannot give a direct judgement. According the news reports in India, the state government did not take any steps to facilitate work of the commission during the investigation of the case apart from providing logistic support. There was no instruction from the Home Ministry to the police department to help the commission to get witnesses, etc.; on the contrary, the government went out of its way to protect the delinquent policemen (Kannabiran, 1996). As a result of that police department tried to turn the case in favour of them by declaring Rameeza Bee a 'prostitute' and her husband Ahmed Hussain a 'pimp'. No attempt was made to prove that she was raped. The Special branch had arranged the preparation of a post-mortem report on Ahmed Hussain, where the forensic experts having been biased by the special branch, said that Ahmed Hussain died due to a cardiac problem. Justice In his report justice Mukhtadar established the policemen's guilt of the offences of rape, assault

and murder and a common intention to commit all three offences (Kannabiran, 1996). He recommended the prosecution of the policemen. However, despite the report of the commission of the enquiry, the accused petitioned the Supreme Court of India for a move on the grounds that the one-man commission of enquiry consisted of it was likely that his subordinate judiciary were biased in favour of him (extract from Commission of Enquiries report cited in Kannabiran, 1996). The case was transferred to the district judge of Raichur, Karnatka State, who excused the policemen, because according to Indian law it is not possible to use the evidence recorded in commission of enquiry in a prosecution. At this point feminists in south India protested: the Stri Shakti Sanghathana in Hyderabad, Vimochana and the Women Lawyer's Association in Bangalore, demonstrated against the judgement and made an appeal against it to the High Court, which was dismissed.

Legal Discourse on Rameeza Bee's Rape:

In order to understand the case of Rameeza one has to go back to her social and marital background. She was a poor village woman from the minority Muslim community in India. She was first married in her early teens. During the inquiry of the commission she wasn't able to remember her age at the time of her first marriage. According to Rameeza at the time she left her first husband she had not reached puberty. Her husband never liked her and she didn't like him at all either. So she left her first husband and was married to Ahmed Hussain. As mentioned in the commission report, she was in love with Ahmed Hussain before she reached puberty and when both Ahmed Hussain and she used to go for agricultural labour (Kannabiran 1996).

Two policemen took away Rameeza while her husband was passing urine in the shade of a graveyard's wall. In her cross-examination she mentioned this act of her husband in the commission's of enquiry, although it did not carry any weight in

the commissions report as well as in the case; but this detail became a crucial factor, as is apparent in Rameeza's statement:

ot tell Mr. Bari that my husband went into a graveyard for the purposes of answering the call of nature. Where my rickshaw was standing I saw a graveyard...I do not know whether Muslims respect Muslim graveyards or not. I do not know also whether the Muslims put flowers on the graves and whether they perform *fateha*^{vi} and I do not know whether Muslims consider it a bad thing in desecrating the graveyards by answering calls of nature or urinating there.

(in Kannabiran 1996:35)

Apart from Rameeza, there was another woman who had been cross-examined by the commission of enquiry and also needed to prove her knowledge about Islam. Malan Bai, mother of Ahmed Hussain, had to defend herself against the allegation of taking girls to brothels. In her statement Malan Bai explained the validity of Rameeza's marriage according to Islam^{vii}. While Malan Bai justified the illegality of Rameeza's marriage, on the other hand, she tried to prove her honour in connection with prostitution. The information she provided created the basis of the argument that Rameeza's rape was not a violation of human rights or of Indian law, and that in the case of a prostitute rape is intentional, which then cannot be a criminal offence. The significant statement in this case was given by Quttubuddin, the uncle of Ahmed Hussain's first wife Shahzadi Bai, and two prostitutes who tried their best to prove that Rameeza was also a prostitute. It was clear from the women's statements as well as Shahzadi Bai's statement that the police set them up^{viii}. Furthermore Quttubuddin in his testimony tried to confirm the loose character of Rameeza by stating she had relations with multiple men^{ix}. According to Shahzadi Bai her husband was never involved in immoral trafficking of women and her

mother-in-law was a midwife. She also tried to confirm Ahmed Hussain's social position by stating that he didn't have any link with prostitution. Interestingly although Shahzadi Bai didn't say anything about Rameeza Bee, her statement justified the position of Rameeza, Ahmed Hussain and Malan Bai⁸. It was clear that Shahzadi's statement was based on fact; her statement was marginalised in the process of the case (Kumar, 1993; Kannbiran, 1996).

All the evidence of the defence was round the issue of Rameeza's loose character, her involvement in prostitution and her multiple marriages, which signified how rape itself is viewed women who have an immodest sexual history. Furthermore, from the state's point of view, non-conformity on the part of Muslims to the tenets of Islam was used to justify the assault effected on them by state. In the process of the case Rameeza Bee herself and other women, namely, Ahmed Hussain's mother and his first wife needed to prove that they were familiar with Islamic tenets and the law. Conformity to Muslim religious law in this case is defined and assessed by the State and its agencies. In this way the agencies of the State gave the subject a communal identity, an issue that had nothing to do with religion.

To many feminists the Hyderabad agitation was a sign of hope that the public demanded a better response against rape in general, and police rape in particular. But according to news paper reporting the case was picked up as a political issue, and it is important to mention that Rameeza got support from local feminist groups, left political parties and the Majlis Ittehadul Mussalmeen, a Muslim fundamentalist group in Hyderabad. In Hyderabad there was a 'mass' protest, mainly organised by feminists activist and the Muslim fundamentalist party, actually forced the state to become defensive and to protect its servants (here the police). In the process of this defence, the marginalization of protest, the marginalization of the

Commission's report and the vested interests of the political parties, all actually sidelined the case of Rameeza's rape and the murder of her husband (Kumar, 1993).

Rape and the Identity of Rameeza:

In terms of understanding the causes and dynamics of rape, Sullivan (1993) noted that violence against women is often grounded in systematic gender inequalities, which are entrenched in the social, political and economic structures of societies. Therefore, the underlying causes of violence against women and the particular forms that it takes are shaped by the political and social construction of gender roles within specific cultural, economic and social contexts. Thus social and ideological construction of gender is an extremely complex process involving many types of institutions: the family, schools, the media, religious bodies, state agencies, and so on. Shaped by women's material circumstances, the ideological construction of gender also affects the material conditions of women's life.

Taking the case of Rameeza, what message has it produced through the legal procedure and what it tells us about the issue of sexual politics and the fixing of a legitimate identity of women in India? First, Rameeza was a young minority Muslim woman, from a low class in India. Where in India the dynamics of class, caste, power and vulnerability are seen as elements operating in any sort of crime, in this case Rameeza was fighting against the powerful state structure, comprising the legal, medical and the law and order machinery, it contested Rameeza's reports and statements by questioning the validity of her claims on the grounds that she, a low class, minority community woman was claiming that the police, who are responsible to grantee the security of citizens, had raped her. It is thus evident that women's claims for redress and rights are open to contestation by state and non-state actors. Second, being from a weak social position, in order to keep her social position safe Rameeza needed to prove her modest sexual behaviour. The normative

practice in a patriarchal society is that a 'good' woman is not involved in prostitution. This again has a link with the honour of her husband, who as a 'good' man cannot have a relation with a prostitute unless he himself had some bad intention. So, in the procedure of the case Rameeza needed to prove that she was not a prostitute. It is interesting that apart from the two prostitutes all the women, including Ahmed Hussain's mother, Malan Bai, needed to prove their modest sexual behaviour. In order to materialise her interest, Shahazadi Bai, Ahmed Hussain's first wife, tried to give the background of her husband as a mason, who didn't have links with trafficking immoral women in and she didn't say any thing about Rameeza. This confirmed Ahmed Hussain's position in society and also Shahazadi's identity as a good woman and the wife of a good man. On the other hand Rameeza needed to prove that she was not a woman of loose character, who had married several men before she started living with Ahmed Hussain. Second, she needed to prove that she was legally married to Ahmed Hussain. Third, she needed to prove that she was a Muslim and that she knew the Muslim norms and rules, as presented by the state. Ironically, among all the people who gave statements in the case, only Quttubuddin didn't needed to prove anything about his personal character and also didn't need to demonstrate his knowledge about Islam. Caplan (1987) noted that the notion of honour centres around women's bodies and sexuality, which are often seen as social symbols. The episode of rape in Rameeza's case was lost in a web of other factors that in no way disprove the rape, and which raised questions about her modesty; on the contrary, according to the biased legal system her past sexual and marital history effectively justified rape. At the end of the day, however, the judge fixed Rameeza's identity as a woman and wife.

Conclusion:

Given the fact that women are trapped by the politics of identity around the issue of sexuality, their access to uniform civic

justice as a citizen is limited by the politics of identity, which is legitimised by the state (Kanabiran, 1996). Identity is the key issue in the discussion of personal matters in India, where rape also considered as a personal, individual matter^{xi}; this has serious implications for women in general. A serious consequence of the official definition of secularism is that it ultimately put women back within the domain of family and community, rather than treating them as equal citizens. By doing this state, through its practice, is actually reproducing and reinforcing male dominance, initially within the family and broadly within the structure of the state. This basically makes vulnerable women more vulnerable and pushes them out of the protection of the law, where they do not exist within the norm of the family. Here the case of Rameeza Bee is one name to the escalating statistic of sexual violence in India – argues against the patriarchy of legal system, the state and the community which attempts to displace and even legitimise the violence that was done to Rameeza by sexualising and communalising her. While by forcing Rameeza to prove that she was a ‘moral’ woman and a ‘good’ woman, the Commission of Enquiry, an instrument of the Indian State, initiates a particular reconstitution of her identity that is more in keeping with hegemonic patriarchal and nationalist notions that the woman’s place is within her family and community; any woman who refuses such an interpretation sanctions punishment such as rape, which the representatives of the State and the upholders of the law (the police) are quite aware in meting out. Thus more marginalised women are in terms of class, status, ethnicity have less access to justice and are the subject of violence.

End notes:

ⁱ I haven't come across with any other literature where the case of Rameeza Bee has been cited and currently I do not have access to Indian local newspapers. K. Kannabiran, an Indian feminist activist, obtained the details of the Rameeza's case from the proceeding of the Mukhtadar Commission of enquiry; the Andhra Pradesh High Court set up a commission of enquiry. R. Kumar, another Indian feminist, compiled the case material from reports in the *Times of India*, *Statesman*, *Indian Express*, and *Patriot*, April 2-12, 1978.

ⁱⁱ A society like India, whose social values derive sanctity from and whose discourse of power is rooted in women's complete subjugation to men, tends to turn women into autonomous and inanimate symbols or carriers of social honour, often even into embodiments of the sovereignty of the state. In such a situation a woman's 'honour' is by implication men's 'honour' (Menon & Bhasin, 1993).

ⁱⁱⁱ By analysing the same case Kalpana Kannabiran (1996) showed how case of a rape was used by the state and its agents to construct the communal identity, where I defer from Kananbiran. My understanding is that that the communal conflict and communal identity is not significant in this case. Because first, Rameeza, a Muslim woman, was raped by three Muslim and one Hindu policemen and second, the role of the fundamentalist political group, which supported the movement was also trivial. I would argue that the whole case is a game of politics of gender identity around the issue of sexuality, which is legitimised through state apparatus.

^{iv} It was a one-man Commission because, this was the time of India's Emergency, when the Bhargava Commission was enquiring into 'encounter' deaths. In 1975, Prime Minister Indira Gandhi declared a National Emergency in India to counter "terrorist" activity and "lawlessness". A repressive 18 months followed, during which all access to judicial redress was blocked, and there was total suspension of civil and democratic rights.

^v Some reports of the Commission of Enquiry refer to the Mukhtadar Commission of Enquiry.

^{vi} Performing *Fateha* is a way of showing respect to dead persons in Islam.

vii 'I know that according to the principles of Islam a marriage cannot take place unless the nikah is performed. At my marriage, nikah was performed. No nikah was performed at the marriage of Rameeza Bee to Ahmed Hussain, but before four respectable persons, garlands were exchanged and betel nuts distributed. I know that in Islam the relationship between a man and a woman without the performance of a nikah is illegal. I do not know whether my brother Imam Saheb is keeping Sambakka without performing any nikah with her' (Kannabiran, 1996:36)

viii Ahmed Hussain's first wife, Shahzadi Bai, said in her statement, "I work as a mason wherever I get a job...I have given up my mason's job and I am now selling fish and mangoes. The Transport Minister telephoned Ali Saheb, Panchayat Board member, and he contacted me to get all this information" (Kannabiran 1996:36).

ix Quttubuddin's stated the information he provided, "Rameeza Bee had married another person about two years ago...I learnt that she was married a second time at Mandlam...Why should I now say as to how many men Rameeza Bee got married to and with whom she had been living? I got to know that she got married to a man named Noor Ahmed. I personally do not know anything about the second marriage of Rameeza Bee with Noor Ahmed. It is all hearsay. I do not know whether Rameeza Bee got married to Ahmed Hussain...The character of Rameeza Bee is wayward. I have only heard and did not see about the behaviour or bad character of Rameeza Bee. I heard that she was friendly with the son of one Sattar. And also she was friendly with Rahmatulla. I have not seen Rameeza Bee with these people at all"(Kannabiran, 1996:36).

x According to Shahzadi Bai, furthermore " My husband was a mason. While working as a mason, he started the business of selling stones. My husband was never acting as a pimp or indulging in immoral traffic. My mother in law was working as a midwife in Nandikotkur. I came to know of my husband's death through Quttubuddin. Quttubuddin. Quttubuddin also told me that the government is giving a compensation of Rs. 2000. A policeman had also come to my house. Quttubuddin brought me to Hyderabad for filing the petition...I do not know what language the petition is in. I also didn't say anything about Rameeza Bee. If she says she does not lay claim to the compensation, I am quite

happy...They brought me here representing that they will get me Rs.2000 (Kannabiran, 1996:37).

^{xi} While rape, even in an individual context, is not just a matter of sexual lust. Sometimes consciously, sometimes unconsciously, it is an affirmation of women as objects of pleasure and an underlining of the power of men. In a collective context of an organised aggression, it becomes a spectacular ritual, a ritual of victory, the abuse of the autonomous symbol of honour of the contesting community.

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