



## Addendum

# *Violence Against Women: What's Law Got to Do With It? A Reflection on Gang Rape in India*

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### Abstract

This Addendum by **Acharaj Kaur Tuteja** provides a reflection on the article *Violence Against Women: What's Law Got to Do With It? A Reflection on Gang Rape in India* first published in this journal in 2014. The original article, by Richa Sharma and Susan Bazilli, addressed the need for using law as a key tool in addressing violence against women in India.

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### Introduction

When *Violence Against Women: What's Law Got to Do With It? A Reflection on Gang Rape in India* was first published in 2014, it emerged from a moment of both national grief and feminist reckoning. (Sharma & Bazilli, 2014) The 2012 Delhi gang rape had not only reignited mass protest across India but also reanimated foundational questions about the limits of law, the performativity of legislative reform, and the structural entanglements of caste, class, culture, and capitalism in the perpetuation of sexual violence (Kannabiran, 2012). The original article was far ahead of its time in refusing to view gender-based violence (GBV) through narrow legal lenses, instead situating it within complex global and postcolonial structures—hypermasculinity, neoliberalism, legal universalism, and the cultural weaponization of feminist discourse.

A decade later, the impulse to return to this work is not nostalgic. It is necessary.

In the years since the article's publication, India's criminal legal system has undergone a profound transformation—at least in appearance. In 2023, the Indian government repealed the colonial-era Indian Penal Code (IPC) of 1860, the Code of Criminal Procedure 1973, and the Indian Evidence Act 1872, replacing them with the Bharatiya Nyaya Sanhita (BNS) (Government of India, 2023), the Bharatiya Nagarik Suraksha Sanhita (BNSS) (2023), and the Bharatiya Sakshya Adhinyam (BSA) (2023). Heralded by the state as a decisive break from colonial legacies, this legislative overhaul was framed as “victim-centric,” and “gender-sensitive.” (Ministry of Home Affairs, 2023) Additionally, the Indian Supreme Court, decriminalised consensual



homosexual acts between adults (Puri, 2016). This was seen as a massive win for the LGBTQ+ community. But beneath such rhetoric lies a haunting continuity of conservatory ideals.

While the new BNS makes certain progressive shifts (such as the formal inclusion of offences like mob lynching, acid attacks, and stalking) it fails to rectify some of the most glaring exclusions from earlier debates. Most notably, the marital rape exception remains intact (*RIT Foundation v. Union of India*, 2022). Though the BNS redefines rape under Clause 63 and introduces gender-neutral terminology in some provisions, it continues to exempt from prosecution all non-consensual sexual intercourse between a man and his wife, if she is above the age of 18 (Narain, 2024). This, despite consistent calls by activists and recommendations by committees, including the Justice Verma Committee (Justice Verma, 2012), which was itself born of the very outrage that anchored the 2012 protests (Baxi, 2014).

This silence is not accidental. It is symptomatic of the ways in which patriarchal ideology is laundered through legal reform, cloaked in modernity but embedded in an older grammar of control.

Recent cases have only further exposed the disjuncture between legal transformation and social justice. The 2020 Hathras gang rape case, involving a young Dalit woman brutalized and later cremated without her family's consent, revealed the casteist violence and impunity that continues to pervade state machinery (Scroll, 2020). In 2024, the rape and murder of a young doctor in Kolkata, allegedly at the hands of a male colleague and his accomplices, once again drew public ire and forced a reckoning with the vulnerabilities professional women face in supposedly "modern" workspaces (Choudhary, 2024). These incidents are not aberrations. They are symptoms of structural violence that persist despite (and often through) formal legal reform.

In response to mounting public anger, the state of West Bengal enacted the *Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Bill, 2024*, introducing the death penalty for rape leading to death and instituting all-women investigation units for crimes against women. While framed as progressive, such responses sit uncomfortably within the framework of carceral feminism, a framework the original article so astutely critiques. These legal escalations do little to address the root causes of violence, often becoming symbolic gestures designed to reassure rather than reform.

But amidst this, we also see resistance. Over the past decade, Indian feminist organising has not only endured but evolved. Campaigns like *Pinjra Tod*, Dalit feminist collectives, and survivor-led organisations have widened the terrain of conversation. Online spaces, despite their volatility, have allowed feminist voices to articulate a critique of both violence and its misrepresentation in media, law, and state policy. They have demanded not just stricter punishment, but transformative justice—justice that recognises the intersections of caste, gender, religion, and class; justice that is not content with courtroom victories but seeks material change in women's lives. It is within this expanded and more contested terrain that the current update is situated. In revisiting the original article, I do not seek to replace its arguments, but to extend their lineage. The core themes of hypermasculinity, the limitations of law, cultural imperialism, and the political economy of violence continue to resonate. However, the actors have shifted, the legal texts have been rewritten, and the language of the state has become more fluent in feminist rhetoric, even as it empties it of its radical core.

This addendum, and the broader revision it introduces, is thus an attempt to speak to both continuity and rupture. It invites us to ask: what does "reform" mean in a context where the form of the law changes but its function remains intact? What do we make of a legal system that is increasingly sophisticated in its language of victimhood, even as it resists structural change? And what role can feminist scholarship play in ensuring that our calls for justice are not reduced to a demand for retribution? These are not new questions. But they are urgent once again.

What also demands interrogation is the growing reliance on technological fixes and digitised surveillance in the name of women's safety. Over the past decade, India has witnessed a proliferation of state-run apps, panic buttons, CCTV coverage, and "women-friendly" police stations ostensibly designed to curb sexual violence. Yet, these interventions rarely address the underlying social and economic vulnerability that places certain women at a heightened risk. Moreover, this technological turn often substitutes substantive justice with the optics of safety, reinforcing what was once called the "NGO-isation of state feminism" (Chakraborty, 2021).

A case in point is the recent push toward gender-neutral laws in the BNS. While on the surface, this appears to reflect an inclusive approach to survivors across gender identities, its effect—absent a robust understanding of power and patriarchy—risks diluting protections historically won by women's movements. The recasting of survivors as gender-neutral subjects without simultaneously deconstructing structural male dominance risks undermining the feminist foundations on which anti-rape laws were built in India. Simultaneously, there has been a parallel right-wing backlash against gender laws—often framed

as protecting men from “false cases”—which taps into the very neoliberal and hypermasculine logics the original article cautioned against. The politics of neutrality, in such contexts, becomes a politics of erasure.

Further, recent jurisprudence raises both hope and hesitation. Courts have, at times, made progressive interventions—questioning rape myths, affirming survivor dignity, and expanding the scope of sexual violence beyond penile-vaginal penetration (Menon, 2012). Yet, courts have also perpetuated caste-blindness, endorsed “compromise” in rape cases, or extended patriarchal protectionism under the guise of leniency. The ambivalence of legal actors reinforces the article’s original provocation: that law, while a necessary tool, cannot be the only site for feminist struggle.

What this updated version of the article ultimately seeks to do is revisit its theoretical framing—not to revise its argument, but to re-anchor it in our current socio-political moment. The idea is not to mirror every shift in law and policy, but to select those turning points that reflect deeper trends in the political economy of violence. We seek to explore how legalism continues to serve as a proxy for justice, how certain victims become more legible than others, and how the state continues to perform outrage without disrupting the structures that breed impunity.

At the same time, it is important not to descend into despair. Indian feminist jurisprudence has evolved—through scholarship, street protest, legal advocacy, and community-based work. Whether it is the critique of survivor stereotypes in courtrooms, or the insistence that workplace harassment is not merely a private HR issue but a public feminist one, or the strategic interventions in judicial appointments and legislative drafting; there is a growing body of work that is reclaiming the space of law without romanticising it.

In revising this piece, we are reminded of the final lines of the 2014 article, which cautioned that without multi-sectoral, grassroots feminist mobilisations, the law would remain a “quick fix” and not a transformational tool. That warning remains relevant. But perhaps the context has become even more layered. Feminist movements today must contend not only with state co-option, but with digital capitalism, communal polarization, caste erasure, and institutional backlash.

And yet, they persist.

The endurance of feminist resistance in India today is as intellectual as it is embodied: visible in the solidarities built across universities and union spaces, in the articulation of queer, trans, and Dalit feminisms that disrupt savarna narratives of womanhood, and in the redefinition of what safety and dignity mean beyond protectionist frameworks. The conversations that were once confined to policy roundtables or academic circles now unfold through street performances, social media testimonies, and community-led legal aid initiatives (Robert, 2019). They unsettle the comfort zones of liberal feminism, insisting that structural violence cannot be redressed through symbolic gestures or carceral spectacle.

In many ways, what we witness today is a feminisation of dissent itself. Feminist movements have become the moral compass of protest politics in India—from Shaheen Bagh’s women-led sit-ins to the labour strikes led by ASHA (Accredited Social Health Activist) and Anganwadi workers, whose demands blur the lines between economic and bodily justice (Salam, 2023). These mobilisations foreground the idea that violence against women is not an isolated aberration but part of a continuum of structural disenfranchisement—of unpaid labour, exclusion from welfare, and the criminalisation of poverty. To speak of gender justice, therefore, is to speak simultaneously of land, labour, and livelihood. It is to question a neoliberal state that deploys feminist idioms while eroding social security and care infrastructures that make women’s lives liveable.

Meanwhile, the judicial discourse on sexual violence continues to oscillate between moral paternalism and procedural sensitivity. The Supreme Court’s recognition of the “right to bodily integrity” and its condemnation of the two-finger test mark important symbolic victories (Dash, 2020). Yet, these gains coexist with judgments that valorise chastity or invite reconciliation between survivors and perpetrators in the name of “family honour.” The judiciary’s uneven feminism reveals a deeper tension: the inability of law to transcend the patriarchal morality that constitutes it. Even as feminist litigators and scholars carve openings within the legal text, the interpretive field remains haunted by cultural anxieties around female sexuality, desire, and deviance.

Equally significant is the rise of what might be called *algorithmic patriarchy* - the intersection of technology, surveillance, and gendered governance. Under the guise of “predictive policing” and “AI-enabled safety mechanisms,” women’s bodies have become data points in a vast infrastructure of control (Kesar, 2024). The rhetoric of empowerment often masks an intensification of surveillance, where digital safety apps double as tools for monitoring mobility and moral conduct. Feminist scholars have warned of this shift as a re-domestication of women through technology, one that extends patriarchal authority into the

algorithmic realm. It is not accidental that these technologies proliferated at the same moment that public funding for crisis centres, legal aid, and community shelters is shrinking.

The epistemic violence of representation also persists. Media sensationalism around rape continues to follow a familiar script, valorising “innocent” victims while vilifying those who transgress caste or sexual norms (Ghosh & Banerjee, 2018). The politics of empathy remains selective: Dalit, Adivasi, queer, and sex worker survivors rarely find their stories narrated with the same urgency as upper-caste urban women (Chakravarti, 2018; Rege, 2006). This selective visibility reinforces hierarchies of suffering, shaping public outrage into a spectacle that reaffirms, rather than dismantles, the moral order (Vandana, 2026.) The original article’s warning about the commodification of feminist grief through media cycles could not be more prescient today. At the same time, new solidarities are being forged that complicate these hierarchies. Survivor-collectives are increasingly asserting epistemic authority and insisting on speaking *for themselves* rather than through NGOs, journalists, or legal intermediaries. Their interventions challenge not only the law’s failure but also academia’s complicity in abstracting lived pain into theoretical vocabulary. The shift from representation to self-articulation marks a radical reconfiguration of power within feminist politics, forcing scholars and policymakers alike to reckon with the ethics of advocacy.

Globally too, the terrain has shifted in ways that reverberate locally. The #MeToo movement, while transnational, took on distinct forms in India by confronting entrenched hierarchies within media houses, universities, and even the non-profit sector (Ahlawat, 2022). Its uneven reception exposed the fragility of institutional feminism and the persistence of informal power networks that silence survivors. The backlash that followed (framed in the language of due process and false allegations) mirrored the conservative counter currents that the original 2014 article traced in the wake of legislative reforms. The pendulum between recognition and retrenchment continues to swing, revealing how deeply gender justice remains tethered to broader struggles over democratic accountability.

The rise of authoritarian populism has only sharpened these contradictions (Basak & Pal, 2024). The state’s appropriation of feminist vocabularies “Beti Bachao, Beti Padhao” (Save the Daughter, Educate the Daughter), “Nari Shakti” (Women Power or Women Empowerment) and “women-led development” coexists with the criminalisation of protest and the targeting of women human rights defenders (UN Women, 2024). Those who speak against custodial rape, encounter killings, or carceral excesses are branded “anti-national” (International Commission of Jurists, 2022). The result is a paradoxical landscape in which feminism is celebrated as culture but punished as politics. In such times, revisiting feminist legal scholarship is not merely academic—it becomes an act of defiance, a way of keeping critique alive under conditions of repression.

Equally urgent is the need to revisit the intersections of gender with religion and communalism. The last decade has witnessed the instrumentalization of women’s safety as a justification for Islamophobic and casteist violence from “love jihad” laws to the vilification of inter-faith marriages. Feminist discourse is often co-opted into these moral panics, where “saving” the Hindu woman becomes synonymous with criminalising the Muslim man. This appropriation of gender justice for majoritarian ends marks a dangerous convergence between patriarchy and nationalism, one that the earlier feminist generation anticipated but perhaps could not have imagined at this scale.

In academia, too, there has been a reckoning. Feminist legal studies in India have expanded beyond the binaries of state and law to engage with carceral abolitionism, restorative justice, and decolonial theory (Mandal, 2023). The challenge is no longer just to reform legal texts but to reimagine justice altogether beyond punishment, beyond heteronormativity, beyond the state’s monopoly on legitimacy (Roychowdhury, 2021). This intellectual shift owes much to the groundwork laid by earlier feminist scholarship that refused easy dichotomies between law and culture, structure and agency, global and local. The revisitation of the article, therefore, is not a mere update but part of a larger epistemic continuity, one that seeks to make feminist critique responsive to new forms of statecraft, violence, and resistance.

To extend that lineage now is to reaffirm that every reform bears within it the possibility of regression, and every backlash contains the seeds of renewal. The terrain of feminist struggle has never been linear; it bends, fractures, and reforms in response to the pressures of history. What remains constant is the insistence that gender justice cannot be legislated into existence; it must be lived, fought for, and continually redefined in relation to shifting structures of power. The task before this new edition is thus not to offer closure, but to reopen inquiry, to refuse the comfort of conclusions and to keep alive the radical question that has always animated feminist thought in India: *what does it mean to be free in a society that mistakes control for protection?*

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