

Rape and Honour Crimes: The NCRB Report 2012

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The statistics presented in the recently released National Crime Records Bureau report 2012, reaffirm the rising trend of crimes against women. The abysmal conviction rate for these crimes reveals the ineptness of the criminal justice system, which continues to remain hostile to women across the country. The exact extent of honour crimes is not known because these have yet to be recognised by law. The lawmakers need to shed their apathy and design laws to tackle these crimes.

The National Crime Records Bureau (NCRB) released the "Crime in India 2012" report recently. The report reveals the sorry state of affairs regarding crime trends and the criminal justice system of our country, especially vis-à-vis the crime of rape. It is most alarming that the singular crime of rape is the fastest growing crime in India and has increased by 902% over 1971 to 2012. The incidents of rapes reported increased from 24,206 in 2011 to 24,923 in 2012. These figures for rape, however, should be taken with a pinch of salt because of the manner in which the NCRB collates data.

We are all aware that criminal incidents often involve more than one crime. As a result, FIRs often invoke multiple Indian Penal Code (IPC) sections. The figures provided by the NCRB are segregated into very neat categories of rape, murder, kidnapping etc. This is because only the most serious charge mentioned in a FIR is taken into account. By this logic, an incident of rape and murder is recorded as murder, because murder is a more serious offence in law than rape. As a result, ironically, even the 16 December gang-rape incident that shook the entire country would not be a part of the rape statistics compiled for the year 2012, alongside numerous other cases where the rape victims also lost their lives.

Additionally, the extent of numerous other crimes that have recently been recognised by the Criminal Law Amendment Act, 2013, like gang-rapes, acid attacks, stalking, etc., will be known from next year onwards. The exact extent of "honour" crimes, which are still not recognised by law, will still remain unknown.

In view of the rising incidents of crimes against women in general, and rapes in particular, it is often claimed that the figures presented are a reflection of greater awareness and better reporting, rather than an increase in absolute numbers. While "awareness" is undoubtedly

improving, the claims made by those in government are underlined by a sense of satisfaction that they are contributing towards a creation of a more conducive environment for women. This is contrary to the situation on ground, as the entire criminal justice system continues to remain extremely hostile to women across the country. While the impact of "awareness" on reporting may be difficult to measure, what can certainly be measured is the response of the criminal justice system to the reporting of crime.

"Crime in India 2012" Report: Some facts

A total of 1,07,82,638 oral, written, telephonic or suo-moto complaints were recorded by the police across the country in 2012. But 15 states and 3 union territories did not provide separate records for complaints and FIRs, and recorded only FIRs as complaints. The remaining states provided disaggregated data for the total number of complaints received as well as those converted into FIRs. 13 states and 4 UTs received a total of 71,47,332 complaints in 2012. Out of these only 24,06,253, that is 33.66% were converted into FIRs. Delhi has the worst record of converting only 2.49% complaints into FIRs. Since no separate data is available for this rate of conversion regarding crimes against women or rape, one can assume that the general average must be the same (in other departments the figures for crimes against women are in fact much worse).

Of the total 38,144 rape cases pending investigation in 2012, charge-sheets were submitted in 21,565 (56.5%) cases. Investigations were still pending in 14,695 (35.9%) rape cases at the end of the year. The charge-sheeting rate calculated by the NCRB does not take the pending cases into account, hence the rate provided is as high as 95.6% for rape. This manner of calculation is highly questionable and conceals more than it reveals.

Of the total 1,01,041 rape cases pending trial in the courts, trials were completed in 14,717 (14.6%) cases. Of these, convictions happened in 3,563 cases, 292 were compounded or withdrawn, and the accused were acquitted or discharged in 11,154 cases. The conviction rate for rape, therefore, was as low as 24.2% in 2012, down from 26.4% in 2011 and 26.6% in 2010. The average number of IPC cases per police personnel was 2.5 in 2012, the same as in 2011, contrary to constant refrains of overburdening by the police.

The rapes were committed by the following: parent/close family member– 393 (1.6%), other relatives –1,585 (6.4%), neighbours –8,484 (34%), other known persons – 14,008 (56.2%), and unknown persons–453 (1.8%). Moreover, 1,175 incidents of rape by juveniles were reported in 2012. Out of these, 881 were committed by 16-18 year olds, 391 by 12-15 years, and 33 by 7-12 year olds. 28 rapes were also reported in the railways in 2012. For every one hour, 2.84 cases of rape were reported across the countries in which on an average 3.55 persons were arrested during the year 2012, suggesting a significant number of gang rapes. A total of 1,00,727 rape cases were pending in the criminal justice system at the end of 2012, with 14,695 pending investigations by police and 86,032 pending trial in the courts.

From the above data the following can be discerned about the state of the criminal justice system vis-à-vis rape: The rate of conversion of complaints into FIRs was 33.66%. Of these charge-sheets were submitted in 56.5% cases, trials completed only in 14.6% cases, of which convictions happened in a meagre 24.2% cases. So, if a total of 1,000 women approached the police with their complaints, FIRs were registered in 337 cases. Of these, in cases of rape, charge-sheets were submitted in 190. Trials were completed in 27.7 cases and convictions happened only in a total of 6.7 cases, that is in less than 1% cases. Thus, on an average our criminal justice system managed conviction in only 7 out of a 1000 complaints for rape. Even if one assumes that FIRs were registered in all the complaints of rape (which was certainly not the case), our system managed conviction in only about 20 out of a 1,000 rape FIRs, i.e., in less than 2% cases. This calculation still does not take into account cases which are not reported to law.

This abysmal performance needs to change drastically. With this record, it is a miracle that women still come forward with their complaints. The government certainly does not have any cause for satisfaction, and the enhanced reporting of rape is evidently happening in spite of it. The people who came out on the streets to demand justice in December 2012 were demanding a change in this entire scenario and strong deterrent measures to curb the sheer impunity with which the crime was perpetrated. The response of the government to the protests will not be measured by the number of laws passed by the Parliament but in terms of the actual change that can be brought about in the ratio of conversion of complaints into convictions.

Given the dismal state of affairs, the recent debate on reducing the age of criminal majority from 18 to 16 years is missing the woods for the trees. We know that a change in criminal law is not applicable with retrospective effect, so the juvenile accused involved in the brutal gang-rape on 16 December cannot be tried as a major. The debate then clearly is meant for deterring such crimes in the future. The age of criminal majority is 18 years in most countries, 14 to 17 in some and 20 to 25 years in others. However, given the present state of affairs in our country, when 11154 major rape accused were acquitted or discharged after trial in 2012, adding another 881 odd juvenile rape-accused between 16-18 years within the ambit of law for majors may convict at best 17-18 of them. In a few years we may start feeling why 15 or 14 year olds are not being included as well. On the other hand, the task of reforming juveniles is seriously wanting. Minors in juvenile homes are routinely subjected to sexual exploitation, child labour, etc. The criminal justice system for both majors as well as minors is malfunctioning and is in dire need of repair. The situation stands to the satisfaction of none. While the outcome of the PIL admitted by the Supreme Court will determine the age of criminal majority, without addressing the deeper systemic issues at hand, we may just be missing the point. The real deterrence to both major and minor sexual offenders will be a drastically better performing criminal justice system, not a mere change in the age of criminal majority.

Honour Crimes and State Intervention

There are tragedies and tragedies that happen to people. The 23-year-old paramedic student who was gang raped in Delhi on 16th December 2012, succumbed to her gruesome injuries after 13 days of spirited struggle. The ordeal of the young couple started on a bus with initial taunts over what an unmarried woman was doing at that hour of night with an unrelated man. As per reports, while being taken to the hospital, slipping in and out of consciousness, the young woman requested the Police not to inform her parents. Later when the young woman regained consciousness, she repeatedly enquired about the wellbeing of her companion. On the 5th day of her hospitalisation, he could or was allowed to visit her late at night for five minutes. His family wanted him shifted to Gorakhpur within the first day of the incident. The couple could not be together again. After her death, friends and neighbours revealed marriage plans of this inter-caste couple within February. Both their families denied knowledge of any such plans. Among the many reasons that brought out scores and scores of youth onto the streets of Delhi to protest with a cry for freedom were the sheer bestiality of the crime, the impunity of the perpetrators, the alarming rise in gang-rapes, the general air of insecurity, etc. But a raw nerve was also touched by the sheer tragedy that struck this new-age dating couple that was just returning from the movies, and a spontaneous sense that who else but the young could stand up for them in their hour of need.

The adversity faced by young couples who marry across the caste-community divide is continuing. The recent controversy over the mysterious death of a 21-year-old young dalit man, Ilavarasan, who dared to marry his higher caste girl friend Divya, is still raging in Tamil Nadu. The couple eloped and got married in August 2012. Subsequently, Divya's father committed suicide. Over 200 dalit houses were torched in the Dharmapuri district. Divya returned to her natal home and recently deposed in a court that she did not wish to return to her husband for the time being. The next day Ilavarasan was found dead. The outcome of the one-member enquiry committee is yet awaited. The family is demanding a probe by the Central Bureau of Investigation. But the course of events reveal that the police and the state failed to do their jobs in protecting this couple from the ensuing tragedy and backlash.

In today's scenario, if a young couple wishes to marry outside their caste and community, their endeavour does not receive active support from the Indian state. The procedural requirements of the Special Marriages Act continue to pose difficulties for the consenting adults as a minimum waiting period of one month is required before they can marry. Instances of non-intervention by the police in providing protection to young couples continue to occur with impunity. Since "honour crimes" are not recognised by law, no concrete data is available about their magnitude. A recent Law Commission sponsored study revealed that over a period of four years out of the 560 couples who were threatened and sought state protection, 121 individuals were killed. No one from the state has been punished for failing to protect these individuals. It is important to recall that the couple Manoj and Babli were under state protection when they were killed. Experience from the field further reveals that complaints of kidnapping by family members are registered far

more easily by the police in comparison to those filed by the couples who seek protection.

The recent NCRB Report reveals some interesting statistics regarding kidnapping and abduction of women and girls that might indicate the extent of adverse state intervention against couples who elope.

Kidnapping and Abduction of Women: Some Statistics

Purpose/Age/Sex-wise Details of Kidnapping & Abduction (All India, during 2012).(Sec.363-369, 371-373 IPC)

S.No	Purpose	Total number of Cases Reported	Age Wise Cases						Total Females
			Male + Female	Up to 10 years	10-15 years	15-18 years	18-30 years	30-50 years	
1	For Adoption	227	5	1	26	143	8	0	183
2	For Begging	31	12	3	0	4	0	0	19
3	For Camel Racing	70	0	0	7	41	22	0	70
4	For Illicit Intercourse	2,989	39	343	724	1621	245	1	2973
5	For Marriage	24,644	31	1,823	8,693	11,850	2044	15	24,456
6	For Prostitution	311	2	15	126	182	32	0	357
7	For Ransom	607	9	4	9	51	22	2	97
8	For Revenge	717	28	28	47	77	23	1	204
9	For Sale	73	3	17	24	17	3	0	64
10	For Selling Body Parts	1	0	0	0	0	0	0	0
11	For Slavery	34	0	1	2	1	5	0	9
12	For Unlawful Activity	685	18	54	129	109	29	2	341
13	Others	17,203	394	1,244	2,512	4,514	1,179	51	9,894
14	Total	47,592	541	3,533	12,299	18,610	3,612	72	38,667

Source: NCRB "Crime in India 2012" Report

The 2012 all-India figures for kidnapping and abduction show that females were the targets of 81.2% of all kidnappings. Among the kidnapped females, 70.9% fell within two very strange categories of purpose, namely, "for marriage" and "for illicit intercourse". It is also significant that 78.87% of all females abducted or kidnapped "for illicit intercourse" fell between the age group of 15-30 years. 83.99% females kidnapped "for marriage" were also in the same age group.

How can we understand these high figures? While some crimes of the kidnapping and abduction “for marriage” can be attributed to the rising incidents of women being trafficked or purchased, for example in Haryana and Punjab, for marriage due to drastically falling sex-ratios. Others may be just abductions alone. But 24,456 women and girls getting kidnapped within one year cannot be accounted for by these reasons alone. It can only be understood in the context of the cases being registered to trace couples who elope and are often sent back to their respective families, even after the marriage has taken place, by the police. The crime of abduction and kidnapping “for illicit intercourse” not falling under rape is even more shocking and is a brazen example of moral policing by the force.. The relevant IPC Section 366 exposes the legal basis for the state’s culpability. The section states that :

Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; [and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid].

Thus, the law of the land permits the registration of cases of kidnapping even when females are “seduced” into marriage or intercourse. The law allows the police to act as the moral police and force females who have married or indulged in intercourse out of their own choice to retract. The high figures for such cases point to the magnitude of adverse state intervention against young couples who wish to exercise their democratic and constitutional right to marry according to their choice. It is not surprising that the Justice Verma Committee categorised the police as “arbiters of honour” in their report.

The above figures cry out for criminalising “honour” crimes in addition to making suitable provisions in law to ensure that murders like those of Ilavarasan, Rizwanur Rahman, Nirupama Pathak, Nitish Katara, Manoj and Babli never happen, and couples can live with safety and dignity. The analysis of the NCRB data on rape and “honour” crimes reveals the extent of state culpability in these crimes. By turning a blind eye to the need for much more drastic corrective measures, the state is only exposing its apathy.