Vulnerability of the Girl Child to Rape in India: A Socio-Cultural Study
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Abstract

Rape in India is an issue of foremost concern for young girls who live in conditions of extreme vulnerability and lack of safety. Due to the high statistical occurrence and complex nature of such cases, the root causes of these vulnerabilities often go unaddressed. This research project is the examination of the circumstances which render a girl child vulnerable to rape in India. It is hypothesized that the vulnerability of a girl child to rape in India is shaped by strong societal and cultural forces. It is an interdisciplinary and child-focused study through a discussion of the social, cultural, economic and structural influences which lead to the vulnerability of the girl child to rape in India. Qualitative research on existing secondary data and case studies are used to study the nature and implications of these influences. Potential support and interventions through awareness child participation are also briefly discussed.

Key words: India; girl; child; rape; structural violence; caste system
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1. Introduction

On the 16th of December 2012, a 23-year old girl was gang-raped in a moving bus in New Delhi, India. The brutal incident garnered much global attention and led to an unprecedented public and media uproar against the government and legal system, demanding that the perpetrators of the crime be brought to justice. The months following the incident witnessed key changes in laws pertaining to the safety of women in the country. The impact of the incident was not limited to the city of New Delhi, but catalyzed an active political and civil awareness about the severity of the issue in all parts of the country. It brought to focus the large number of unnoticed incidents of rape of young girls, which occur in rural India. While the media is the primary source of awareness of rape incidents, its representation is often one-dimensional and a large number of cases go unreported. This study focuses on the often-overlooked rape cases of young girls within rural and socially disadvantaged sections of the society.

This dissertation departs from the popular assumption that rape is a tendency inherent to the male nature, and begins with the idea that human sexual interaction, though founded in biological need, is an expression of cultural forces (Sanday, 1981). It aims to analyse how the vulnerability of the girl child to rape in India is shaped by the interaction between social and cultural factors of a society which perpetuates a system of inequality, control, and violence.

1.1. Significance of the Study

In a recent statement issued by the Deputy chairman of the UN Committee on the Rights of the Child, India has been accused of ‘dereliction of duty in relation to rape cases.’ Post a UN committee hearing of Indian officials concerning the recent cases of rape of minors, the committee stated that it was alarmed at the "widespread violence, abuse, including sexual abuse, and neglect of children" in the country. It pointed to data which showed that one in every three rape victims was a minor, and an incident of rape occurred in India every 22 minutes. (Agence France-Presse, 2014). In April last year, the Asian Centre for Human Rights reported that 48,338 cases of child rape were recorded in India between 2001 and 2011, with the annual number of reported cases rising more than four times over this period (Bhall, 2014). In response to this unchecked upsurge of rape cases in India, the Ministry of Women and Child Development of the newly formed Government of India has announced the setting up of Rape Crises Centers in every district of the country. These
centers will offer support and protection services to women across India (Press Trust of India, 2014). For these services to be useful for specifically girl victims and survivors of rape, it is important to understand what are the circumstances which make a girl child vulnerable to such crimes. This step is in consonance with the globally accepted need for the protection of children. However, I argue that the global understanding of how childhood is experienced falls short of several fronts. This dissertation accepts and engages with the global need of children to be protected, while highlighting the significance of a localized understanding for this need. In order to understand what factors give rise to the vulnerability of girl children to rape, it is required that the issue be studied within its relevant context.

This study is timely and relevant to the need of an indepth understanding of the problem of rape of young girls, and the circumstances which make her vulnerable to rape. Post this undertaking, I aim to work directly with the Rape Crisis Centers set up by the Ministry of Women and Child Development and use the knowledge and understanding from this dissertation in bringing about sustainable change.

1.2. Purpose of the Study

This dissertation aims to understand how the girl child in India experiences the cultural environment she is born in, in a manner which renders her vulnerable to rape in India. In particular, I will study how the girl child being raped is a consequence of structural violence perpetuated through the societal structures of caste and gender, and supported by the cultural violence of deep-rooted inequalities within traditional customs and practices. This study also takes into account the role of administrative and legal institutions in shaping how these structures function. This dissertation does not focus on the creation of intervention or action plans towards addressing the effect of rape on the girl child. The focus is rather on creating a rich core understanding of the source of occurrence while steering it in the direction of how this understanding can be used to inform possible intervention and support initiatives.

1.3. Definition of Terms

There are two key terms central to the argument of this dissertation i.e. the girl child and rape. Here, it is important to define the usage of both these terms in the dissertation separately.
The UNCRC defines a child as any individual below the age of 18 years. This definition is accepted as the legal definition of a child in India. The girl child is any individual who is female and below the age of 18 years. I acknowledge that the personal experience of girlhood is defined by factors beyond the chronological. However, for the purpose of a constant definition against which to analyze the topic of this dissertation, I will be referring to the legal usage of the term.

The term ‘rape’ has no universally accepted definition. Besides the general definition that rape is nonconsensual sex, it can have a range of meanings and implications depending on the perspective from which it is being defined. While traditional definitions have regarded rape as an act of sex which involved the desire of the female victims, feminist theorists’ argue that rape is primarily a form of violence with wider connotations (Muehlenhhard, Danoff-Burg, & Powch, 1996, p. 125). This dissertation is a child-centric study and considering the vulnerability and lack of sexual maturity of the girl child, rape is rather “a sociological and cultural force than a mere bodily relation of two individuals” (Malinowski, 1929, p. xxiii). The terms rape and sexual violence have been used interchangeably in this dissertation.

1.4. Methodology

This dissertation is an interdisciplinary literature-based investigation of the vulnerability of the girl child to rape in India. The study uses secondary data in the form of traditional literature, peer-reviewed journals, newspaper reports and articles and international and government documents to conduct a qualitative research of the topic. A review of academic literature from mainly childhood studies, feminist and anthropological research has been conducted to understand the social and cultural complexities of India and their role in defining the girl child’s vulnerability to rape. The data has been comprehensively combined to build up to two case studies which seek to demonstrate the coming together of various aspects of the study. No names of the victims/survivors, accused, or those involved in the cases, as mentioned in news reports, have been used. Additionally, my personal experience of working with girl children in educational and urban slum settings of India has helped me to critically analyze the available literature.
1.5. Structure of the Study

In the first chapter of this dissertation, I present a theoretical framework for the study through an understanding of the concept of structural violence and how it translates into acts of direct violence. In the next chapter, I provide a socio-cultural context of India, in order to describe the specific social structures within which the girl child experiences her girlhood. The third chapter critically analyses the theoretical understanding of childhood as described in the UNCRC and points to the need of an anthropological understanding of the applicability of this model in the Indian context. The fourth chapter closely studies the girl child in India and how her cultural environment places her in a position of vulnerability to the act of rape. I will also use this chapter to analyze how the girl child negotiates with elements of her cultural environment through an example within contemporary Indian literature. Lastly, I will conduct two case studies, to illustrate how the various cultural and social factors interact to place the girl child in a position of vulnerability to rape. Through these case studies I will address questions on inequality, subordination and control. In the conclusion, I argue that these cultural and structural forces can be overcome through awareness and child participatory models, while highlighting the crucial role of the media within a changing and increasingly conscious Indian society.
2. Structural Violence

Rape is a direct form of extreme violence (Farmer, 1996). In every sense of the word, violence denotes suffering. Suffering can be of varying kinds and degrees and so, there is perhaps no universal understanding of violence. It may not always be of the easily discernible, direct kind. Paul Farmer (2004) speaks of structural violence, which is an indirect form of violence that is systematically exerted on all who belong to a certain social order. It is structural because it is deeply entrenched in the unequal political and economic arrangement of the social world and it is violent because it leads to harm and injury, mostly to those who are not the responsible for creating the inequalities (Farmer, Nizeye, Stulac, & Keshavjee, 2006).

As Farmer (1999) notes, it is often the poor who are most likely to suffer and also least likely to have their suffering noticed. Sen (1999) explains that poverty is a systematic and structural denial of basic freedoms that results in a constraint in agency to an extent where individuals lack the ‘capability’ to achieve basic needs. The denial of one freedom multiples into the denial of other freedoms, which renders the poor excessively vulnerable to a whole range of violations. Thus, violence becomes an everyday experience through a system of oppression and denial. These systems could take the form of social structures like caste, gender, social class. Structural violence is explained by Scheper-Hughes and Bourgois (2004) as an everyday violence that is invisible because it is rooted in routine everyday life and institutionalized by social structures. Where the individual is positioned within social structures like class, caste, race and gender, determines how his/her agency is constrained and how they are made vulnerable to violence (Ho, 2007). In India where large sections of society live below the line of poverty, social structures like caste and gender become systems of oppression through everyday prejudices and customs.

For the purpose of this dissertation, I will analyze the triangle of violence model expounded by Johan Galtung, who is also known to have coined the term structural violence. This model will help understand the dynamics of violence and how rape as a direct form of violence is created. Galtung (1990) theorizes that when both direct and indirect (structural) violence find their legitimization within aspects of culture, it is termed as cultural violence. Through the psychological process of internalization, cultural violence makes both direct and
structural violence seem right, or at least not wrong. This leads to an acceptance of violence in a society.

Galtung proposes that the relation between the three kinds of violence i.e. direct, structural and cultural can be visualized as a vicious triangle of violence. When standing on its ‘direct violence’ and ‘structural violence’ feet (Fig 1.1), it symbolizes cultural violence as the source of legitimization of the other two. When standing on the point of ‘direct violence’ (Fig 1.2), the triangle denotes that structural violence and cultural violence together are the source of the direct culmination of violence. Lastly, when standing at the point of ‘structural violence’ (Fig 1.3) and as unequal social exchanges are increasingly vertical, direct violence serves the purpose of maintaining structural violence, while cultural violence justifies it. Despite this triangular interaction, the individual forms of violence do vary in their inherent nature. While direct violence is an event, structural violence is understood as a process; and cultural violence is the non-variable permanence (Galtung, 1977). Rape of the girl child in India and the social structures of caste and gender are validated through a culture which is based on strict hierarchies and religious beliefs. These social and cultural hierarchies are discussed in the following chapters.

FIGURE 1 (Representative figure)
Thus, in order to study the occurrence of rape as a direct form of extreme violence in a particular context, it is important to study its structural and cultural determinants within that context. The next chapter will establish the socio-cultural context of India and the structural influences which render the girl child vulnerable to rape.
3. India: A Socio-Cultural Context

As established in the earlier chapter, an understanding of the cultural context of India is germane to this discussion in order to discover how cultural and structural influences define the vulnerability of the girl child to rape in India. For this purpose, this chapter traces the complex elements of the socio-cultural fiber of India.

India is the world’s largest democracy. It is also incredibly diverse with 6 main religions, 29 languages and over 2000 different ethnic groups. With the second largest population in the world, at approximately 1,210,193,422, India accounts for approximately 17.5% of the global population (Census of India, 2011). Yet, large parts of the population live in extreme poverty. In 2011, 25.7% of the rural population and 13.7% of the urban population were still below the poverty line (Planning Commission of India, 2013). The culture of India is rich and complex, with multiple influences from within religion, folklore, history and colonialism. Inherent to this complex culture, are deep-rooted inequalities of caste, gender and community (Sen, The Argumentative Indian, 2005). Owing to this complexity, there is perhaps no one dimensional understanding of what is ‘Indian’ and an understanding of any one of these aspects can exist only at the intersection of all of these aspects. In the following sections I will briefly describe the caste and gender systems of the Indian society as the two cultural structures which place inequality at the core of societal functioning. I will then explain how these two structures interact to engender sexual violence. Lastly, I will critically analyze The Protection of Children from Sexual Offences Act 2012, as the chief law for addressing the issue of child rape in India. I will now briefly describe the caste system of India and its core ideology of inequality which forms a basis for the act of sexual violence.

3.1. The Caste System of India

The caste system in India finds its roots in religious belief. Religion is conceivably one of the strongest influences within Indian society and the Constitution of India declares it to be a secular state, allowing citizens to freely and openly follow any religion of their choice. Hinduism is the religion followed by majority of the population (80.5%) according to the Census of India 2001. The Hindu belief system has integral to its nature a rigid caste system which is a traditional form of stratification of the social structure of India. While the caste
system finds its origins in Hinduism, other religions too have adopted their own forms of caste based social stratification. Here, I describe how caste shapes a person’s lived experience in India and the way in which sexual violence is defined and understood.

The caste system is a form of social stratification unique to the Indian society. Dumont (1966, p21) explains that though there is no universally accepted definition of a caste, there are three characteristics on the basis of which castes are divided or connected. These are “separation in matters of marriage and contact, whether direct or indirect (food); division of labour, each group having, in theory, a tradition, a profession from which their members can depart only within certain limits; and finally hierarchy, which ranks the groups as relatively superior or inferior to one another.” In India there exist two distinct concepts within caste- Varna and Jati. Ancient Hindu scriptures have explained the origins of the four castes or Varnas: Brahmins, Kshatriyas, Vaishyas and Sudras in the following Sanskrit verse:

(Purusasuktam, Rig Veda)

It says that at the time of Creation, the gods offered the Primordial Being as a sacrifice into the sacred pyre. Out of the body parts of Being emerged the four different castes. His face became the Brahmin- the learned. His shoulders became the Kshatriyas- the warrior. His thighs became the Vaishyas- the businessmen. And his feet became the Sudras- the workers or the servants (Sri Sathya Sai Organisation, n.d.). Below the four varnas exists a distinct group of individuals occupying the lowest strata of society, commonly known as the Dalits or the Untouchables. The Untouchables were dehumanized by the caste order of the Hindus (Rao, 2009, p. 1). They fall outside of the hierarchal caste order and were traditionally involved in landless labour and occupations such as cleaning, scavenging and dealing with bodily waste. These occupations were considered ‘impure’ and those engaged in it were believed to be contaminated. This contamination, the higher castes believed would be passed on to them if they came in contact with Dalits. Even though Dalits occupy 25% of the national population according to the Census 2011 (The Indian Express, 2013), they continue
to face deep-rooted discrimination. Over time, following from the Varnas, a more complex form of caste developed called the *Jatis*. It is *Jati* that is today the operative category of caste which determines the contemporary social code. There are about 2000 to 3000 Jatis existent today in India (Deshpande. 2002). The system of caste hierarchy is of greater consequence in rural areas, as epitomized in the functioning of the *Panchayat* System.

3.1.1. The Panchayat System: A self-governance model of rural India. Caste finds immense influence within the political scene of India. While the Constitution of India upholds the ideal of a casteless State, caste-based politics and caste representation play an immense role in determining power relations and authority within the India polity. The Indian administrative structure of India is federal in nature with governmental structures at the Center, State, District, Block and Village levels. The Village council or *Panchayat* is the grass root form of administration in rural India. A *panchayat* is a self-governing village council comprising elder members of the community headed by the *Sarpanch* as the elected head. In 1947, post the British colonial rule, the Indian state replaced the traditional panchayats with the setting up of the modern *Nyaya Panchayats* (Hayden, 1984, p. 43). Parallel to the constitutional panchayat format, there often exists a caste-based panchayat which is a self-appointed caste-specific committee comprising of members from the dominant caste in a village. It enjoys complete authority in rural areas where caste hierarchy is paramount and access to more formal modes of governance is limited. The caste panchayat enjoys the authority to settle disputes between parties of non-dominant castes (Srinivas M. , 1955, p. 8). In the case of rapes within the village, the caste panchayats play the role of the primary legal and administrative body, which dictate how justice is defined and delivered.

A society so inherently characterized by inequality provides for an environment where the voices of some are heard louder than those of others and the troubles of one person are not as grave as the troubles of another. This not only obscures the occurrence of rape in large parts of society, but also limits access to justice and protection for those in a position of social disadvantage. This contributes significantly to creating an environment which leaves girls from large parts of the society vulnerable to rape. While the caste order to which a girl is born into determines her level of social advantage or disadvantage, gender structures augment this disadvantage even within a particular caste order. I argue in the next section, that her gender is made into a disadvantage not biologically, but by the social and cultural understanding of gender in the Indian society.
3.2. Gender

India is traditionally a patriarchal society, and gender in a patriarchal society is a primary structural influence in the life of an individual. Here, gender is understood as being different from the sex of a person, which is principally a biological trait. Oakley (1985), distinguishing between the two, writes-

‘Sex’ is a term which refers to the biological differences: the visible difference in genitalia, the related difference in procreative function. Gender however is a matter of culture: it refers to the social classification into ‘masculine’ and ‘feminine.’ (Oakley, 1985, p. 16)

Gender is thereby determined by culturally defined roles and expectations. Deriving from the famous words of Simone de Beauvoir- “One is not born, but rather becomes, a woman”, Butler (1986) states that gender is a cultural interpretation of sexual qualities, which is distinct from the mere existence of these qualities. The word ‘becoming’ however, as Butler analyses, goes a step ahead to claim that not only is gender culturally constructed but also actively constructed through an exercise of personal agency. Gender becomes a matter of choice within an established set of cultural norms.

I contend here that within the Indian context, the element of choice in gender is considerably diluted. Women in India have lived as second-class citizens within and beyond the household. Their personal autonomy in matters regarding all aspects of their lives is limited. A large section of the girl population is married at a very young age; bear children early and live a life burdened with domestic and economic responsibilities. Chakravarthi (1993) notes that although the subordination of women is a common feature in major parts of the world throughout history, its form and extent is conditioned by the social and cultural context within which women are placed. She points out that in India, Brahmanical or orthodox Hindu social order has been shaped by strong religious tradition. In ancient Hindu mythology, traditional narratives have described the powerful image of the mother goddess, known by different names such as Shakti, Mahadevi, Parvati, Kali and Mahakali. These goddesses are worshipped as symbols and sources of benevolence and nurturance as well as
the destroyers of all that is evil and demonic. The social reality of women, however, is a contrast to this powerful feminine form, in a strong patriarchal structure where, from childhood, their position is constantly devalued as compared to their brothers (Guzder & Krishna, 1991). Clearly, it is not possible to fathom the vulnerability of the girl child in isolation. Her disadvantage cannot be assessed without understanding whom is she at a disadvantage against. In this section I study both sides of the social balance scale, establishing why the balance tends to drop for the girl child.

3.2.1. Son preference. Preference for the boy child is perhaps one of the greatest manifestations of gender inequality. It places men at a position of social immunity, allowing them to commit even rape without being held accountable for their crime. A number of cultural practices play a role in creating and propagating these inequalities.

A key factor is dowry. It is common for the parents of the girl to pay for the entire cost of marriage along with a large dowry. Oldenberg (2002) explains that dowry, which started out, as a form of a voluntary safety net provided for the married daughter from the natal home has now become a severe compulsive financial burden. Another key factor is the fear of daughter bringing ‘dishonor’ to the family. While sons are valued for being capable of carrying forward the family lineage, daughters are considered to be in need of extra protection during their adolescence lest their chastity is compromised, thus bringing dishonor to the family (Arnold, Choe, & Roy, 1998). This fear of dishonor also plays up if a daughter of the family is raped. It not only subjects the girl child to social isolation and injustice, but the feeling of shame and family dishonor heightens her personal humiliation and suffering. It also impedes the reporting of such cases.

A gender-driven hierarchical power structure is the foundation for gendered violence. The cultural basis for the structural disadvantage of the girl child is the most powerful predictor of the incidence of sexual violence. These gender-based inequalities, when heightened by caste hierarchies’ lead to a gender-caste overlap which renders the young girl vulnerable to rape through multiple structural forces. How caste and gender-based power relations interact and manipulate female sexuality to a point of violence is studied in the next section.
3.3. Sexuality and sexual violence as function of caste and gender

The structural dynamics of gender and caste are deeply enmeshed at each level of interaction, and can be observed in the way in which sexual violence is used as a tool for maintaining and perpetuating these power dynamics. Rao (2009) explains the crucial role of female sexuality in reproducing caste. Cultural forces of violence towards women, such as Sati (enforced widowhood) and child marriage dictated the lives of upper caste women. While upper-caste women led highly regulated lives, lower-caste women have since long been sufferers of sexual violence as caste exploitation and sexual labour. On interacting with a Satnami (a person of the Untouchable community), she recognizes that though men of higher caste would never eat with them with the fear of losing their ‘purity’, they would willingly engage in sexual acts with them. Indeed, sexual violence was a form of conditioning men and women of all castes into caste norms. She notes:

..the sexual economy of caste is complex: it prohibits all men from viewing all women as sexual partners, but also gives upper-caste men the right to enjoy Dalit and lower-caste women. Indeed, the knowledge of this is a public secret, normalized as privilege by the upper castes and experienced as a shameful secret by its victims.

(Rao, 2009, p. 235)

It is critical here, to understand how women’s sexuality was controlled and violated as a means of upholding the hierarchy and purity of the caste order. The caste system engrained in men a misplaced sense of ownership over women, their movement, their bodies and sexuality to an extent which often translated itself into horrific acts of sexual violence.

In contemporary urban India, the forces of modernity and democracy have combined to institute the traditional power structure within a horizontal space, by annihilating the ritualistic status of the system to a large extent. Different caste group can now co-exist and compete in open spaces for equal resources through balancing social policy and the sheer power of majority of the lower caste groups (Jahanbegloo, 2008, p. 3). In rural areas, however, caste-based hierarchies continue to define daily interaction and opportunities. A woman of higher caste leads a life very different from one of a lower caste. Mandelbaum (1988) notes that cultural practices like seclusion for women and dowry are more prevalent in
higher castes, which adopt more stringent gender stratification systems. Women from a lower caste or tribal women experience lesser restrictions on movement or employment outside the home (Srinivas M. N., 1976), often owing to economic pressure to contribute to the family income (Pande & Astone, 2007). While these instances well demonstrate the ideological and material restraints placed on women, they do not address the how these practices explain subordination and control over women at different levels of the caste order. Yalman (1968) does this by explaining that the purity of women is associated with the purity of the caste she belongs to. The interaction of a higher caste woman with a lower caste man exposes her to the threat of bringing impure low caste blood into the lineage. Liddle and Joshi (1986, p.59) note that men of lower caste used the rituals meant to protect the sexuality of higher caste women, as means to move up the caste hierarchy. Besides better economic power, men imposed the cultural aspects of ritual purity that were associated with higher caste women, on women belonging to their caste to gain vertical momentum within the caste order. This meant an increased control over female freedom and sexuality.

While gender in itself entails a cultural and structural inequality, the manner in which these inequalities are monitored and affected are a determined by caste power hierarchies. Rape then, becomes a culmination and translation of these complex inequalities and power relations.

The final section of this chapter turns the discussion towards critically analyzing the role of the legal system as an aspect of culture, which shapes the way in which rape of the girl child is a continued crime.

3.4. Legal system: The Protection of Children from Sexual Offenses Act, 2012

The role of law in shaping the cultural environment of a society is being increasingly recognized. Recent discussion has also emphasized on the ability of law to construct the meaning around which people apprehend their social environment and locate themselves in it (Cotterrell, 2004). For the purpose of this dissertation I will critically study the Protection of Children from Sexual Offenses Act, 2012 and why despite a dedicated law, the incidence of rape of girl children is on the rise.
In the year 2011, out of the 24,270 reported cases of rape cases in India, 30% were of girls below the age of 18 years. Nearly one in every three rape victims in the country is a girl (UNICEF India). Yet, before the passing of the Protection of Children from Sexual Offenses Act 2012, there was no dedicated law for the protection children from sexual abuse. Any such case would fall within the purview of existing generalized laws. These generalized laws were insufficient to deal with the complex and sensitive nature of these cases.

The Protection of Children from Sexual Offences Act, 2012 defines six sexual offences against children - penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, sexual harassment, and using a child for pornographic purposes. The Act requires the State Governments to designate the Sessions Court in each district as a Special Court to try the violations under the Act. An attempt to commit offense is also punishable under the Act. The Act has been widely accepted for of its child-centered approach and clear definitions.

Despite its successes, the Act falls short on practical grounds as it fails to recognize that social and cultural barriers limit the access to its provisions for large sections of the society. In my opinion, the Act caters to a limited, urban setup where there is more access to formal legal and administrative recourse. In rural areas, the benefits of the the provisions of this Act would be limited due to the lack of access, ignorance of legal procedures, corruption, and a lack of trust towards existing systems. The Act also rests on the assumption that the victim or victim’s family would actively report the case, which in reality is a fairly small percentage of the actual number of instances of child sexual abuse. This assumption fails on two grounds. One, according to a report in 2007 by the Ministry of Women and Child Development, Government of India, 50% of the abusers in such cases are persons known to the child or in a position of trust and responsibility. Pinki Virani, in her highly influential book ‘Bitter Chocolate: Child Sexual Abuse in India’, shares how the perpetrators are often parents or close family members of the child. Besides the element of easily gained trust and closeness, this could be partially attributed to poor economic conditions, clustered houses, and lack of toilet facilities where children are forced to defecate in the open. Secondly, the Act does little to support a more open and trustable communication between police and civil society. Also, local authorities are not adept in dealing with these cases with due sensitivity and understanding. So despite child-centric provisions of the Act, the actual interactions between the survivor and the authorities may not be child-centric. From a broader perspective,
these issues can only be evaluated when the more core issues of social inequality leading to lack of access to legal facilities, and an active implementation of sex education in schools are confronted. Conclusively, these shortcomings within the laws and administrative setups which are meant to ensure protection and justice in cases of child rape, lead to a failure in providing a safe environment for the child. There is a need to not only tighten curative measures with regards to child sexual violence, but to set up measures towards preventing them.

Through the course of this chapter, I have described how structural and cultural violence that are perpetrated through caste, gender and inefficient governance create an environment which renders the girl child vulnerable to a direct form of violence, that is, rape. Having established the structural and cultural aspects of a girl child’s lived experience in India, I proceed to examining the fundamental question of what childhood is, in the next chapter. I argue that the global idea of childhood is gaining prominence when we attempt to define childhood locally. It is relevant to understand this global ideal so that we can recognize the gap between the global ideal of childhood and a local understanding of childhood, and the applicability of the global ideal within the Indian context.
4. What is Childhood?

The ideal of childhood everywhere, is increasingly shaped by global forces (Burr, 2006). The international coverage of the Delhi rape potentially marked a turning point for the girl child in India and called for closer adherence to a global understanding of childhood through the UNCRC. In this chapter I examine the applicability of this model. The ideal childhood within this model is explored in this section through a theoretical understanding of childhood from an interdisciplinary, child-centered perspective. For this purpose I will critically examine the Charter of the United Nations Conventions of the Rights of the Child 1989, as the standard for the global understanding and acceptance of childhood. I will then study the philosophical roots of defining the nature of childhood through existing theories. Next, I determine how an anthropologically informed idea of childhood can lead to a more accurate understanding of the various aspects of a child. For the purpose of this dissertation, I also focus on the specific aspects of childhood innocence and child sexuality. Lastly, I examine the question of when childhood can be thought to have come to an end. This is will help us understand how the Indian society views young girls within the child to adult spectrum in a way which condones the act of sexual violence.


The United Nations Convention on the Rights of the Child 1989 is the primary human rights treaty for the economic, social and cultural rights of children. It is the most widely accepted treaty internationally, being ratified by all but two nations (Somalia and the United States of America). It guarantees that any individual below the age of 18 years enjoys a wide range of rights for their sustenance and development. It deems the child as being a self-sufficient individual with rights and agency. The wide array of guaranteed rights range from providing for their basic needs of growth and development, prevention of abuse and infringement of rights, protection from exploitation, violence and abuse, and participation in matters of concern to them. These rights are made available to all children without discrimination of “race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status” (Article 2). The Charter states that the “the best interests of the child must be a primary consideration in all actions concerning children” (Article 3). India ratified the Charter in the year 1992, which means that
the government accepts the responsibility to uphold the ideals of the UNCRC. However, there are major challenges in the applicability of this model in India.

While the UNCRC must be credited with creating a child-focused space for dialogue and action towards the benefit of the child, the applicability of the Western-inspired principles of the Charter faces considerable challenges in India and the issue of rape of the girl child in India. Firstly, this Western-inspired global understanding of the child is a problem because it falls short of acknowledging the social, historical and cultural environment of the girl child which determines her reality and her experience of sexual violence. Secondly, childhood is rarely a static linear movement of growth as is propagated by the acceptance of a firm chronological definition. In India, the experience of the ideal childhood for the girl is often shattered owing to cultural practices like child marriage at a very young age. A static chronological definition falls short of acknowledging these culturally defined experiences of childhood. Third, the controversial set of participation rights fail to take into consideration the issue of the degree of maturity of the child in being able to express his/her views on larger issues (Last, 1994, p. 196). Also, the question of how the challenge of the child’s opinions would be met in a situation where traditionally, their voices were never encouraged is left unaddressed. For example, majority of girls in India feel that they cannot question long-standing cultural practices like child marriage and their voices hold no consequence in matters of their own life. Lastly, though widely ratified, many second and third world nations do not have the resources to bring about any considerable impact on account of these rights. The UNCRC fails to acknowledge the current global inequalities as a factor which hinders the achievement of its objectives (Burr, 2006). Though it has accepted the UNCRC principles and ideals, India still lacks the social support systems for children to uphold these ideals in practice.

Despite these inadequacies, the UNCRC has undoubtedly pushed for social policy being directed towards child welfare at a local level. It has brought into focus the need to trace what childhood is and how it is experienced. Drawing on this need, I will put forth a theoretical basis of understanding childhood through a range of discourses.
4.2. The Nature of Childhood

Childhood can mean many things. The commonly known and accepted view of childhood is inherently adult-centered. I argue that this adult-centered view of childhood is detrimental to understanding the issue of sexual violence, because it prohibits young girls from speaking out against long held beliefs which have traditionally placed them in a position of vulnerability and disadvantage. This idea is elucidated in this section.

Theoretically, the adult-centered view posits three possible perceptions of what a child is- “as threats to adult society, as victims of adults, and as learners of adult culture (“socialization”)” (Thorne, 2012, p. 21). For the purpose of this study I will examine the first two theories in this section and, then examine how socialization influences the way child sexuality is perceived.

The image of the “evil child” as first theorized in the puritan discourse, portrays the child as being easily corruptible and in constant need of correction, disciplining and punishment (James, Jenks, & Prout, 1998, p. 12). In rural India, this approach is inbuilt in parents who often use punishment for their children as means of training them for adulthood. Violence and abuse are not considered wrong for parents who use excessively harsh methods such as hanging the child by their hands or feet, branding, holding a burning stick infront of penises to control masturbation and even death threats as means of correction (M.Hunter, Jain, S.Sadowski, & Sanhueza, 2000, p. 435). The child is not looked upon as an individual with personal needs and desires, but as a deficient adult-to-be. Perceptions such as these highlight why it is there is a disconnect between the international and very local response to sexual violence towards girls.

The second image represents the child as being integrally vulnerable and in need of protection. As Burr (2006) points out, this idea is unquestionable and self-evident in some ways. However, the assumption that adults are experts in determining and protecting the needs of the child is fundamentally problematic because it leads to the silencing of the voice of children in matters that concern them. Why is the voice of children so crucial to the understanding of childhood? Childhood is culturally constructed and the particular form of modern childhood is socially and historically specific (Stephens, 1995). This necessitates that the individual reality of a child be acknowledged, over a universal idea of what childhood is. This is substantiated in how the girl-child and her concerns continue to be marginalized.
despite international conventions existing which challenge this status quo and aim to protect her interests.

I contend that these philosophical insights are primarily of the western ideal. The experience of childhood in rural India is rigged with inherent cultural inequalities, the dynamics of which demand a more nuanced understanding of the nature of childhood. These cultural inequalities are studied later in the course of this dissertation. Keeping in mind the objective of this dissertation, I will now examine the nature of childhood innocence and sexuality.

4.3. Innocence and Sexuality

Having critically examined the a universalistic UN based understanding of childhood, I now look towards the arguments expressed by anthropologists about child sexuality to further to showcase how a universalistic approach towards violation of innocence is inadequate. The earlier mentioned idea of the child being a product of socialization can be observed in the development of child sexuality. Socialization can simply be defined as the “transmission of culture” (Wrong, 1961, p. 192). That is to say, children acquire the culture of the society they find themselves in and gradually learn how to conform to social norms (James, Jenks, & Prout, 1998, p. 23). It is when they are fully ‘socialized’ that they are no more considered as children, but capable of living in a complex adult world. Goodman (1970) notes that like all other cultures, the culture of childhood is learned, shared and transmitted to children through each other as well as through adults; and that children imbibe patterns from a keen sense of attention and curiosity. In this section I will be studying the function of child sexuality as a violation of the notion of childhood innocence, through an anthropological lens. Establishing what innocence means in a particular culture and context, will enable an understanding of what the implications of disregarding and violating this innocence would mean. I will draw on examples from different cultures to show that it is possible for different ideas about sexual practice to co-exist.

In most cultures, the idea of child sexuality is an uncomfortable one, and sexualized traits and behavior in children are in general, undesirable. Jackson (1982, p78) writes that the image of an asexual innocent child implies that children lack sexual desire and interest and that they are not ready for sexual knowledge. Yet, the effort we make to preserve this
inocence suggests that we are not completely sure of this innocence, and that we do acknowledge sexual potential. The question thus arises- are children sexual? In the case of girls being sexually violated in India, it may be that those who perpetrate violence consider the age of the girl to be of little relevance, and it is rather their gender and caste which dictates their fate. Thus, the fundamental connect between childhood, innocence and sexuality is made irrelevant. Anthropologists, along with historians, psychologists’ and biologists have rejected the idea of sexuality being a universal physiological impulse. They have increasingly accepted that sexuality means different things cross-culturally (Montgomery, 2007, p. 323). The physiological aspect of sexuality cannot be denied and is perhaps ‘natural’. Culture however plays a major role in how sexuality is molded. We are naturally endowed with sexual capacities, but how we express these capacities is dictated by culture (Jackson, 1982, p. 9). With children, the role of cultural factors in understanding sexuality heightens. This is because of the sense of secrecy and shame that comes with issues of children and their sexuality. In this sense, the natural aspect of child sexuality is a variable since it gains meaning only within a cultural context. Montgomery (2007, p.328) illustrates this point with the help of a cross-cultural example. She notes that a contemporary child in a western world is generally sheltered from any exposure to sexual matters since he/she has often a room separate from his/her parents and is provided with adequate space and distance. However, in a slum setting in a country like India where all the members of the family sleep in the same room and in such cultures where privacy is not valued, children grow up within constant exposure to sexual acts and talk. In such a context, children are highly exposed to sex from a very young age. The western practice of preserving the child’s innocence is overlooked in these cultures where children’s exposure to sexual activity is not unusual. With this being the case, the demarcation between sex and sexual violence may get blurred, and the understanding of severe implications of sexual violence tends to get diluted.

In many cultures, it is the violation of this innocence which is implicit in sexual abuse, and is therefore considered to be a violation of childhood itself (Ketzinger, 1990, p. 160). Adults trying to ‘protect’ the desexualized image of a child create the strong taboo that surrounds sex. This is not to claim that children are inherently sexual. But it is to point to the need to not fall into the trap of understanding their sexuality through adult knowledge and experience (Jackson, 1982, p. 77). In a society where child sexuality is associated with violence, aggression and exploitation, the rationale for parents to protect the children from sexual matters is not unwarranted (Jackson, 1982, p. 58). The error lies in the universalization
of these fears and anxieties. Kehily and Montgomery (2003) illustrate how this universalization is invalid, with the help of an example. In parts of rural Thailand and the Middle East, mothers often comfort a crying baby boy by playing with or sucking on his genitals to pacify him. While an act like this would be considered sexually abusive in a country like Britain or America, it is completely asexual and normal in this case. Using another example, the authors note how in some cultures like the Canela in Brazil, a girl is expected to have multiple sexual partners from an early age (9 or 10 years) before her marriage at around 11 years. Cases like these clearly establish that child sexuality gains meaning only within a social, cultural and geographical context. This substantiates the need for a violation of this idea of innocence to be understood within the same context. The sexuality of a girl child in India is highly regulated by social and cultural structures which create the circumstances for the violation of this sexuality.

Having studied the nature of childhood and its aspect of innocence and sexuality, it is apt now to raise the question of when childhood ends in order to better understand the division between childhood and adulthood.

4.4. When does childhood end?

As I have explained previously, a tension seems to exist between the local and global response to sexual violence towards girls. The high rate of sexual violence in India indicates that there is a disconnect between the actions of the men and boys who have performed such acts and the response of wider society to those acts. Age is only one aspect of this. Cultural and historical factors often play a greater role than gender in judging when childhood ends. The UNCRC definition of the child that limits a child to being an individual below the age of 18 years has been the most widely accepted chronological definition. However, this age ceiling is molded differently in different cultures, and with respect to different laws. In India, The Hindu Marriage Act, 1955 permits a girl over 18 years and a boy above 21 years to marry. In Iran, the marriageable age is 15 years for a boy, and 13 years for a girl and even lower with the consent of the father. With respect to age of sexual consent, the legal age in India is 18 years, 16 years in the United Kingdom, but as low as 14 years in China. In Islamic countries, sex outside of marriage is illegal irrespective of age. It is clear from these instances that an age-bound definition of a child though important to the State, cannot be universal.
across cultures and even within the different areas of life. At what point does childhood end then?

Several disciplines have approached this question from their respective perspectives. The historical perspective is key to exploring this question on childhood because it describes childhood as, fundamentally, a social and cultural construct which changes with time (Lombardo, 1997). In his seminal work on the ‘Discovery of Childhood’, Aries observed that the medieval world was ignorant of any particular nature of childhood which differentiated a child from an adult. It was only in the fifteenth sixteenth and seventeenth century that childhood was ‘discovered’ (Heywood, 2001, p. 11). Though highly influential, Aries’ work garnered some credible critique. Historian Doris Desclais Berkvam points to the possibility that there may have existed in the Middle Ages, a kind of consciousness of childhood which is so different from our own that we fail to understand it (Mellon, 1988, p. 35). This puts under question our own contemporary understanding of childhood. The malleability of the idea of childhood through time points to the need of constantly informing and innovating our own ideas of childhood so that it is qualified to address contemporary issues of childhood. For the purpose of the study I suggest that childhood in India is still predominantly defined and measured by the influences of caste and gender and not by age.

The childhood described here is not the only kind of childhood, but it is one that exists alongside many other kinds of childhoods. I argue that while multiple childhoods exist simultaneously, it is the UN ideal that all childhoods are measured against. Anything different from this ideal is held to be deviant. But for this to have meaning society needs to have the mechanisms in place to challenge the abuse of children. While raping a young girl is a horrible violation in any situation, it continues to happen on a very regular basis in India. So while the UNCRC is flawed and introduces a particular type of childhood into the equation it is a convention that can be very usefully applied to challenge the poor treatment of girls. I started this chapter by arguing that the generalized treatment of children under the UNCRC and also under the umbrella of childhood studies is problematic when addressing children’s lives in India. Yet, it has been with international support that women and the girl child have started to have a voice in India. International outrage at rape incidents and violent attacks has given more girls and women the confidence to come forward and report on further violations. By using the international community, be it through the media, aid agency support or application of the UNCRC, perhaps the momentum that has started will continue and more
changes will be made. I will return to this argument in the conclusion. Having established the need for an in-depth local study of the problem, I will now turn my attention to the social and cultural context for the girl child in India in order for greater appreciation to be highlighted of what it means to be a girl growing up in contemporary India and why it is that their experiences differ so widely from the childhood ideal.
5. The Girl Child in India

This section focuses on the girl child’s experience of gender and caste based prejudices, and the cultural norms and traditions which uphold these prejudices. I will analyze the role of these cultural forces in exposing the girl child to sexual violence. Within the complex Indian societal structure, the girl child (especially of the lower caste) holds a social status at the base of the ladder. Her natural vulnerabilities as a child, heightened by gender and caste hierarchies, place her in a position of deprivation in terms of access, opportunity and protection. I will critically examine how cultural, historical and societal norms and beliefs regulate the life of the girl child and render her vulnerable to abuse, neglect and violence.

The need to protect the rights of the girl child were recognized internationally at the United Nations Declaration in the Fourth World Conference on Women Beijing, 1995 gave rise to an international focus on the girl child. The Declaration fortified the need to:

*(To) intensify efforts to ensure equal enjoyment of all human rights and fundamental freedoms for all women and girls who face multiple barriers to their empowerment and advancement because of such factors as their race, age, language, ethnicity, culture, religion, or disability, or because they are indigenous people...and to...promote and protect all human rights of women and girls.*

(United Nations, 1995, p. 4)

This acknowledgement of the need for empowering and protecting the rights despite social and cultural barriers was crucial is directing global attention to the need protect the vulnerability of the girl child. Yet, at the local execution level, the girl child in India is deprived of basic human rights to life and survival owing to these very barriers. The Census of India 2001 recorded a sex ratio of 933 females per 1000 males, which was a six-point improvement from the Census of 1991. Though this improvement is laudable, there has been a significant drop in the sex ratio of the population between 0-6 years from 945 to 927 from the year 1991 to 2001. This puzzling phenomenon has often been referred to as the ‘missing girl child’ of India (Premi, 2001, p. 1875). According to the provisional Census of 2011, the
child sex ratio has declined further to 914. These numbers represent a widening circle of
daughter aversion, through practices like female infanticide (the deliberate killing of female
babies) and sex selective abortion (John, 2011). As determined earlier, acts like these are a
consequence of a strong sense of son preference due to the predominant belief that sons are a
source of economic support and having a daughter is a burden on the family. These customs
point towards a lack of value of the life of a girl child and this belief also plays a role in
normalizing sexual violence and killings in the Indian society. The girl child continues to be
subjected to such harmful customs and prejudices during the early years of her childhood. For
the purpose of this study I will discuss some of these customs and prejudices and analyze
how they play a role in perpetuating rape.

5.1. Child marriage

Forced early marriage is a primary physical, mental and sexual health concern for the
girl child in India. The Prohibition of Child Marriage Act 2006 states the marriageable age
for girls to be 18 years and 21 years for boys. Yet, according to a study conducted by Raj et
al. (2009) the problem is far from solved. Conducted across urban and rural areas of the
country, the study recorded that of the 22807 women in the sample, one-ninth were married
before 13 years of age, one-fifth before reaching 16, and an aggregate of two-fifths before the
legally permissible age of 18. Despite anti-child marriage laws, the ‘traditional’ customs and
attitudes continue to subordinate women and preserve this practice, which is an
internationally accepted form of human rights violation. It poses serious threat to maternal
and child mortality, level of education, and exposure to violation, isolation and confinement

Child marriage is a multifaceted custom, causes for which are deeply rooted in
economic, religious, social and cultural complexities. Strong community and caste driven
beliefs, sustained through illiteracy, lack of awareness and poverty have reinforced this social
epidemic. Patriarchal forces leave the girl with little choice with respect to when she wants to
get married and to whom she wants to get married. Forced child marriage leads to severe
consequences to the girl’s dignity and control over her body. Her experience of early
marriage is rendered more traumatic owing to ignorance about puberty and sexuality.
Without any previous knowledge or experience of sexual relationships, the girl undergoes
agonizing and painful experiences of forceful sex. In a recent report, the Chief Minister of the
State of Haryana suggested that in order to reduce rapes, girls should be married off early (NDTV, 2010). Contradictory to such ill-informed claims, facts show that young girls who are married before they are 18 years are at a greater risk of being victimized by intimate partner violence, than those who marry at a later age. This holds true especially when the spouse is significantly older than the girl bride. Claudia Garcia Moreno, M.D., from WHO and an expert on violence against women explains, “Child marriage marks an abrupt and often violent introduction to sexual relations. The young girls are powerless to refuse sex and lack the resources or legal and social support to leave an abusive marriage.” (WHO, 2013).

The inability to express it due to the absence of a suitable vocabulary denies the girl of access to help and support (Ouattara, Sen, & Thomson, 1998). The Criminal Law Amendment Act 2013, states that marital rape is not an offense if the wife is above 16 years of age. This disturbing law garnered much criticism from feminist and non-governmental agencies and has been accused of being mere ‘tokenism’ (Bhattacharyya, 2013). It fails to recognize the rape of young girls between the ages of 16-18 years if they are married. This loophole in the law exposes young brides to unchecked and non-punishable rape, as it qualifies neither as marital rape nor non-marital rape. The frightening implications of this gap can only be traced to the innate cultural belief that the sexuality of the wife is the prerogative of the husband, irrespective of her age and autonomy. Here, the position of a married girl is considered no different from that of married women. Her status as a child till she is 18, otherwise guaranteed by the State, is denied to her once she is forcefully wed. As discussed earlier, when in a position vulnerable to rape, her gender and culture defined role takes precedence over her age.

The possibility of escaping this violence is also not socially viable for her, as Sen (1997) points out. Separation may be necessary to protect her from abuse, but most societies are incompetent in accepting and dealing with a single, female adult. And even though the Prohibition of Child Marriage Act 2006 provides for economic compensation and residence for the girl who files for termination of the marriage, she would have to face great personal challenges ranging from social isolation and again, violent attacks such as rape. (Ouattara, Sen, & Thomson, 1998). In such a situation, the girl often prefers to continue bearing with the abuse and violence, for the fear of communal shame, loss of security and uncertainty of the future. Even on an intimate level, there is no sincere love or affection between the husband and wife when they were both too young to understand the meaning of the relationship. They merely accept a mechanical setup of fulfilling their traditional roles and
responsibilities (Anagol-McGinn, 1992). The young girl is denied the experience of healthy sexual relations and succumbs to the culturally engrained authority of the man over her body. With her own sexual autonomy or consent of so little consequence, rape becomes a whim of her husband.

The custom of early marriage of girls in India is also a significant contributing factor to their lack of educational attainment (Maertens, 2013). When the girl reaches puberty, she is traditionally taken out of school and prepared for marriage (Caldwell, Reddy, & Caldwell, 1983). The next section explores how the lack of education within young girls heightens their vulnerability to rape.

5.2. Education

Education is the strongest tool of empowerment for overcoming social and cultural inequalities, which perpetuate sexual violence. Education in a girl child’s life is a definitive process which not only assures her financial independence, but also creates in her a strong sense of personal identity and self-esteem. Yet, for the girl child in India, education is a luxury more than a right. Throughout history, only male members of the higher castes were provided with formal education. The UNCRC upholds the right of every child to get educated. The Right to Education Act, passed in India in the year 2010, guaranteed free and compulsory education for all children between 6-14 years of age. While the Act did impact enrolment numbers to a considerable extent, the percentage of girls’ enrollment to total enrollment remained stagnant at 48 per cent (The Indian Express, 2012). In a study conducted by Maertens (2013) across three villages in rural India, the results demonstrated large variability in levels of school enrolment between girls and boys. 39 per cent of the girls were allowed to pursue higher education by their parents, as compared to 71 per cent of the boys. The gender bias in access to education is evident. Factors contributing to this discrepancy are rooted in the social, economic and cultural status of the family. In economically deprived families, parents often have to choose between sending the child to school and using the child as labour towards earning an additional income for the family. Working as a young labourer, the girl child is exposed to unsafe working conditions away from home, and is under the constant risk of sexual violence in a situation where she can seek no protection.
Ironically, the very education which the girl child is often deprived of because of economic, caste and gender hierarchies, is often understood as the most powerful means of overcoming these inequalities. In the famous words of Brigham Young- “You educate a man; you educate a man. You educate a woman; you educate a generation.” While the intention behind such thought is credible, the underlying currents of gender stereotyping must be acknowledged and analyzed. This line of thought clearly considers the girl as devoid of any personal identity, ambition and desire. The importance of her getting educating is defined by her role in the family. So the girl child’s education is not only a problem of access, but also what role education plays in allowing her to break away from gendered expectations. Denied the means to overcome age, gender and caste based inequalities she is victimized by the violence which these structures engender.

While it is simple to hold parental ignorance and lack of motivation as the sole cause for the low levels of education of girls, we must not move focus from the crucial role of the state to support girl education. Besides common indicators of infrastructure like teacher-pupil ratio and mid-day meals that are common indicators of the quality of school infrastructure, schools in rural India lack basic amenities like girls' toilets or a water tap. These conditions are a violation of the right of the child to health and physical development provided in the UNCRC. The lack of toilet facilities in schools is one of the main reasons for girls dropping out of school, especially after reaching puberty (Singh, 2005). The absence of education in her life deprives the young girl of the confidence and financial independence needed to escape situations that expose her to sexual violence. Her identity is limited to within her family and the idea of the ‘other’ can be intimidating. At a practical level, she grows up without the biological understanding of her body and the basic knowledge of health precautions. This further places her in a vulnerable position to sexual abuse and violence.

In the next section I will use an example from contemporary Indian literature which brings together the cultural inequalities perpetuated by the structures of age, caste and gender as structures, resulting in sexual violence of the girl child.

5.3. The girl child in contemporary Indian literature

Indian literature is resplendent with realistic representations of the personal interaction of girl children with her cultural and social environment and her experience of
discrimination and sexual violence. I will analyze one such story authored by a woman of a low caste, about a young girl’s experience of sexual violence through constant negotiation with age, caste and gender defined boundaries within her society.

Dalit feminist writer Gogu Shyamala’s story ‘Tataki’ (2008) marvelously depicts a girl’s experience of belonging to a low caste. The story centers on a spirited eleven-year old Balamma who is a young feisty girl, skilled at performing agricultural work. The author writes- “Balamma, who filled such large plots with water, was not yet twelve.” (Shyamala, 2008, p. 23). This description holds greater meaning in terms of age, caste and gender expectation. The term ‘girl child’ itself falls short in describing her character, as a “child, yet not-child” blurring the distinctions and upper and lower caste discourse between childhood and adulthood. Balamma poses a contradiction to the rights-based position of the working girl child who is deprived and undernourished, facing gender and societal discrimination. She is driven, brave and booming with a confidence very unlike the popular image of the lower caste victimized girl child (Sreenivas, 2010, p. 270). As the story progresses, Balamma carries out her duties of waking up every day before dawn to bring water from the canal to water her tiny plot of land. In doing this however, she breaks a rigid rule of the village- the landlord’s land must be watered before anyone else’s. One day, the landlord catches her and is furious at Balamma for crossing the boundaries of her age, caste and gender. He called her by the name ‘Tataki’ who is mythological female demon who transgresses to the land of upper caste Brahmin sages and is destroyed by the warriors Rama and Lakshmana to restore Order and protect the penance of Brahmans. The landlord screams:

_Tataki! You bloody witch! You are a small girl, are you? What makes you come here like a man and water the groundnut fields? In our houses, girls like you don’t step into the field. You malas and madigas don’t even know that girls have to be kept at home! You are a small girl, are you?_ (Shyamala, 2008, p. 41)

He then attempts to rape her. This act depicts the historical caste and power relations, where upper class men use rape against lower class women as punishment for disobedience. Rape infact, is not considered as rape at all, due to the customary right of upper caste men over the sexuality of a Dalit woman (Rege, 1995). The term ‘like a man’ holds multiple
implications in terms of her behaviour which defied what was expected of her as a girl. The remark, ‘You are a small girl, are you?’ challenges the global understanding of the child. At less than 12 years old, the landlord does not consider her to be a child. Her caste and gender take precedence over her age in his decision to rape her.

Upon the rape attempt by the landlord, Balamma remembers having overheard some conversations between the village women about the landlord’s previous actions and she rose to her defense. She kicked him in the groin with both her legs and escaped.

The tale of Balamma challenges the debate on the rape of the girl child as the ‘voiceless victim of violence’ (Leach, 2010). The young girl’s act of resistance stemmed not from a sense of female victimhood, but a sense of defiance of unequal power relations. It interesting to note here that she overcomes her position of vulnerability through the strength she derives from her personal community setting and context. It is also noteworthy how the girl’s childlike defiance is highlighted, despite her gender and caste. Within the larger discourse, the story of Balamma depicts how her economic, social and cultural position presented her as deserving to be raped. The landlords decision to rape was instinctive, the purpose of which was to teach the girl a lesson for crossing the boundaries of age, gender and caste. Rape was an assertion of power and an act of oppression.

The above discussion demonstrates how socio-cultural influences regulate the life of the girl child and pose a threat to her life through sexual violence. The impact of societal norms and expectations seeps beyond the external source, and is internalized by both genders who become self-guides in regulating their gender-defined roles (Ford, Stevenson, Wiener, & Wait, 2002). Complex societal prejudice patterns, protected by both internal regulation and a strict patriarchal order, subtly define how rape in engendered.

The next chapter explores two recent cases of rape against young girls in rural India and how such incidents are rooted within the complex social order of the caste, the family, the State and the media.
6. Case Studies

There are countless number of cases of rape that I could have looked at for this chapter. Owing to the complex social and cultural climate within India, the cases of rape of young girls vary on several accounts. For the purpose of this dissertation I will be looking at two specific cases of rape as representative of the larger issue of rape of the girl child. Through these case studies, I aim to achieve to some extent, a nuanced and truthful representation of the relation between unequal power structures, social inequalities and structural violence, as cause for the occurrence of rape of the girl child in India.

6.1. Case 1

On the 8th of July 2014, a 14-year old Dalit girl was dragged out of her house and raped by a 25-year old Dalit man, in a village in Jharkhand, India. The act was conducted on the orders of the village headman (Park & Singh, 2014). He was not an elected Panchayat chief but a self-appointed Head who was the chief of the dominant caste and a very powerful man of the village (Press Trust of India, 2014). The brother of the girl had allegedly molested the wife of the accused. The village headman ordered that the Dalit man rape the Dalit minor as ‘revenge’ for her brother’s actions. The girl’s father, a coal scavenger, reported that while he was away, the accused and his wife arrived at his house. The wife dragged the girl out by her hair and handed her to her husband, to seek revenge for her honour (Firstpost Staff, 2014). The mother of the child pleaded before him that the girl be spared, but to no avail. On the complaint of the girl, the police arrested the Panchayat head, the accused and the brother of the girl, in relation to the crime (Associated Press, 2014). The National Commission for Women and the National Commission for the Protection of Child Rights stated that they would take up the case if needed, and that action must be taken against these local bodies. The Minister for Social Justice raised the issue in the Indian Parliament and the government promised action against the culprits (Kumar P., 2014).

Acts like these appear to be the result of a spontaneous reaction of anger and conflict. But this poses a simplistic picture, and it is important to look beyond the immediate to trace the source of rape. This study analyzes the incident through a socio-cultural lens by examining the interactions between caste, gender, power and violence as elements which make the girl child vulnerable to rape.

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The first question, which naturally arises is- why, was the child victimized? In a situation where a man violated a woman, why was the man who committed the crime not punished directly? Through a western idea of justice, the crime and the punishment seem completely disconnected in this case. When crimes are prosecuted within a legal system and the rules of evidence apply, punishment is decided on the basis of an ideology of equality and fairness (Desai & Desai, 2000). And justice is not merely about punishment; justice is also about equality and equal access (Stern, 2010). Here, justice was reduced to being a mere barter of power.

Kannabiran and Kannabiran (1991, p.2131) articulate that- “The social relations of caste and gender are based on the exercise of power through the use of force.” In this case, there is a definite demarcation between those who extend force and those who accept it. While the men were clearly the active perpetrators, the young girl was considered a mere pawn in a settlement between men. Gender, within a caste-driven society is structured in a manner in which the ‘manhood’ of the caste is measured both by the level of control that men exercise over women of their caste and the extent of passivity of the women of the caste. In this sense, establishing control through humiliation of women of a caste is a way of diminishing the ‘manhood’ of that caste (Kannabiran & Kannabiran, 1991, p. 2131). This phenomenon arises from an inherent sense of the man’s territory and entitlement over women, in a patriarchal society. Studies have proven that it is more likely that men feel it is acceptable to pressurize someone into sex, than women (Margolin, Miller, & Moran, 1989) and that men who adopt a traditional masculinity (the degree of endorsement and internalization of the cultural beliefs of gender roles, here patriarchal) tend to be more supportive of rape-related attitudes (Good, Heppner, Hillenbrand-Gunn, & Wang, 1995).

The village headman, as mentioned, was a self-proclaimed head of the village, his only qualification being his high caste. Such an arbitrary mode of governance can only lead to a confused, unjust society. However, it was admittedly the only access the man had to legal recourse at that point. With the closest court to the village being a two-hour drive away, the only forum for redressal of their woes is the Panchayat. According to the former head of the village, “If people go the police or to the courts, it costs a lot of money. Also, it takes a lot of time. So we sort out all small issues here in the village council. For us, this is our court. We make all the decisions. Panchayats are the highest form of administration in villages, and we never make mistakes” (Park & Singh, 2014). Thus, often the villagers are left helpless and
are forced to obey whatever the verdict the village council passes. In this scenario, the strengthening and support of the formal, non-caste based village council that passes constitutional and unbiased verdicts is the way to ensure that incidents like these are not repeated.

The central role of the wife of the accused in facilitating the act highlights the classic debate on whether rape is merely sex, or a form of violence. A wife asking her husband to rape a young girl speaks of complex power relations, which gains precedence over all other relations. With the person directing that the rape be committed (more so the wife of the accused) not being the one to physically commit it, the argument that rape is driven purely by sexual urges falls apart. It also points to the extent of conditioning and acceptance of these power structures. The ones most severely victimized by it, are actively perpetuating it.

The rationale behind revenge, however flawed, was justice; that the violation of the wife was to be avenged by the rape of the girl. Evidently, the age of the girl was considered inconsequential to the act. While the molestation of the woman was in no way trivial, it can also not be equivalent to raping the child. The answer to why the child was victimized is perhaps that she was not considered a child, in the ideal sense, at all. Her position in society was considered equivalent to that of a woman. This raises the larger issue of the position of the child within the strict hierarchies of the community. Her vulnerabilities are not regarded in need of protection, but as a means of exploitation. I argue here that in a society where these vulnerabilities of the girl child are not acknowledged, they cannot be protected.

6.2. Case 2

On 27th May 2014, two girls were found hanging from a mango tree after allegedly being gang-raped in Katra village of Badaun District, Uttar Pradesh, India (Press Trust of India, 2014). The two cousin sisters, aged 14 and 15 years, had gone missing from the house the previous night after they had stepped out at to defecate in the nearby open field. After a nightlong frantic search by neighbours and relatives, their bodies were found hanging from the tree about 250 meters from their home, at 4 a.m. in the morning (Chandramohan, 2014). Soon after the girls had stepped out of the house, the father had begun the search for them. After searching the fields, he and his brother had gone to the police station to report their missing daughters. Upon requesting to report the case, the police officers immediately
inquired about their caste. When they learnt that they belonged to the low Dalit caste, the two fathers were subjected to a string of insults and threats even when they fell on their knees asking for help (MacAskill & Mehrotra, 2014). The police officer then told the father that his daughters would be back in two hours. The father requested them to help find the girls fast so the incident could be hidden from the community to avoid shame. But he was pushed away and sent back. He returned four hours later with no sign of the daughters. After waiting for an hour, he was told by the police officer to go check in the woods and that the girls had committed suicide by hanging from the tree (Srivastava, 2014). Even after they were found hanging from the tree, the police took no action. The angry villagers sat below the tree preventing the authorities from taking the bodies down until the suspects were arrested. Finally, the police began to take action. By then, the media and TV crews had already captured the gruesome visuals of the girls and story had caught momentum (Bhadoria, 2014). The five accused, two of whom were police constables, belonged to the high caste Yadav community. They were all arrested in connection to the rape, murder and hanging of the two girls (TNN, 2014). The case caught the attention of national and international media along with mass public outrage. This led the State government to refer the case to the Central Bureau of Investigation (CBI).

Post the incident, there was a gross politicization of the issue through insensitive and sexist comments, which brought forth an ugly picture of the nation’s polity. A few days before the incident, the head of the ruling party of the Uttar Pradesh, in an election rally was quoted saying, “First girls develop friendship with boys. They when differences occur, they level rape charges. Boys commit mistakes. Will they be hanged for rape?? We will revoke anti-rape laws” (Fareed, 2014). Recently, a minister in the state of Madhya Pradesh was quoted saying, “If the limit of morality is crossed by women, such cases will happen.”

The trial of the case is underway and the process is getting increasingly complicated. The final verdict has not been passed. For the purpose of this study, I will be using the case as it was first reported. I will not be focusing on the multiple odds and possibilities and of what had happened, but will use the situation and context of the case to address larger question on the vulnerability of girl children to sexual violence.

The complex nature of the case and its multi-layered implications are open to a variety of interpretations and there are perhaps no simple explanations for the incident.
Vulnerability of the Girl Child to Rape in India

Through this study, I will examine three broad aspects of the case and what they mean in terms of vulnerability for the girl child. Firstly, I point to how the physical circumstance of the young girl rendered them vulnerable to such extreme violence, in the form of rape and murder. Secondly, the callousness of the crime is demonstrated in the sheer crudity of how it was displayed. I examine what this blatant display of violence symbolizes with respect to the acceptance of violence in a society. And lastly, I explore how attitudes and reactions to cases such as these exhibit a deep-rooted gender prejudice, and allow for the further occurrence of such crimes.

Young girls stepping out in pairs to relieve themselves before sleeping at night is not unusual for most villages and slum dwellings in India. According to recent report by the World Bank, 53% of Indian households defecate in the open (Press Trust of India, 2013). A senior police official stated that 400 rapes in one single state could have been prevented if the victims had toilets in their homes (Tewary, 2013). The issue is not plainly of poverty but also a lack of sanitation and hygiene awareness. According to a study conducted in five northern India states by economist Diane Coffey, merely providing toilets would not guarantee that people would actually use them. The study showed that 19% percent of women with toilet access would still prefer defecating in the open since they are used to it. She says, “building toilets without addressing common norms, attitudes and beliefs around latrine use is unlikely to reduce open defecation in rural India.” (Mccarthy, 2014). These norms and attitudes arise from a lack of education and awareness, which again can be attributed to a lack of access, thus creating a vicious circle of deprivation. Additionally, I argue that in a society where female dignity and honour is only limited to that of the family and community, her personal dignity and honour is of little consequence.

The image of the girls hanging from the tree is not one that will leave the conscience of the country for a long time to come. What it symbolized has brought forth the dark underbelly of society, which rarely catches the attention of the urban populace. The callousness with which the act was exhibited appeared to declare a complete lack of remorse or fear of law. Supported by gender and caste based licenses and a flawed legal and administrative system, the perpetuators of a crime of this magnitude are still not booked. This institutional lapse and delay in justice, speaks of not only the incompetence of the current laws and administrative bodies, but also a sense of acceptance of violence against the girl
child. With this violence manifest in so many forms in society, there is an air of futility in pursuing what may come across as ‘just another incident.’

The position- ‘boys will be boys’, is a classic representation of the acceptance of male authority over women’s sexuality. In a culture where rape is used as a tool of oppression for young girls and a means of asserting masculine authority, men often see violence as manly, danger as exciting and tend to have a crude sexual attitude towards women (Mosher & Sirkin, 1984). Perceptions about the role of female provocation in rape and that that they deserve it when they “cross the limit of morality” as commented by the Minister, are common rape myths which are held towards a victim/survivor of the rape. Burt (1980, p.217) defines rape myths as “prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists” and argues that these myths play an important role in creating an environment that permits rape to happen. The absurdity of these myths is further proven in cases where the victim/survivor is a child. In a nation where children are perceived as completely asexual beings to the extent where sex education is considered unnecessary and anti-cultural, it is ironical that a girl child be blamed for provocation or ‘asking for it’. One can also not overlook the idea of female morality, which is apparently measured by the extent to which she upholds historical, cultural and societal norms and expectations of her. A parallel can be drawn to the case of the 23-year old girl who was raped in the Delhi bus in December 2012, when similar allegations were made towards the victim. The fact that she was a training physiotherapist who was travelling late at night with a male friend, did not sit well with the men who raped her. Police sources stated that the accused had asked the man why he and the girl were together at that time of the night. When the girl fought back, they decided to rape her to “teach her a lesson” (Sanyal, 2012). When the morality of a girl is so loosely perceived on the expectation of her adhering to culturally prescribed restrictions, any amount of exercise of personal autonomy is considered immoral. And with this morality being used to justify of rape, the power or her personal autonomy is more than often overpowered by the power of cultural subjugation.

Conclusively, rape is not a tendency inherent to the male nature, but a direct form of violence which is the culmination of cultural and structural forces. It is a universal offense by means of being an extreme form of physical, emotional, psychological and sexual violence. It goes against the primary obligation within the Universal Declaration of Human Rights which has “reaffirmed its faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women’ (Preamble, Universal Declaration of
Human Rights). The universalization of rape as a violation of human rights is crucial to emphasize its severity as a violation. However, the way rape is experienced, understood and interpreted is a matter of culture. In a caste-driven patriarchal society with rigid gender hierarchies, rape of the girl child often becomes an expression of oppression, subjugation and power.
7. Conclusion & Way Forward

This dissertation outlines the interaction between social, cultural and structural forces as determinants of the vulnerability of the girl child to rape in India. I have argued that sexual violence is not a mere personal act of violence, but a consequence of a complex multi-layered interaction between social, cultural and structural forces. A key understanding to take home from this study is that within the aspects which form the identity of the girl child in India, her status as a child is perhaps of least consideration when she becomes a victim of sexual violence. The voice of the child is stifled beneath the powerful social structures of caste and gender, and her violations justified within a culture of inequality.

The above research establishes that the vulnerability of the girl child to rape in India is culturally constructed. I argue that if the vulnerabilities of the girl child are socially constructed then it is possible for them to be deconstructed. The deconstruction must be generated from within those who are ‘constructed’ i.e. the girl child. This process must be characterized by two key actions: awareness and participation.

With increased awareness through the media about possibilities and opportunities, young girls in India no longer live in a shell of ignorance. They are challenging traditional roles and expectations by seeking education and new opportunities. The Delhi rape case shook the nation into an awareness of the severity of the issue of rape in India, and this awareness has reached the homes of millions who have been silent victims of the same crime. It has opened up mediums for seeking rights and justice. So the time is right for positive initiatives which utilize this boost in awareness towards initiatives of participation. I believe that these processes must involve both the girl and boy child. Isolating the girl child from her environment would be defeating the purpose. Creating a more equal society requires equal involvement of both sides of the social balance. Boys must be sensitized of social prejudices and made responsible for their actions.

The participation of the girl child in addressing the issue of sexual violence is crucial. Article 12 of the UNCRC upholds the right of children to freely express their views in all matters which affect them. Nolas (2011) draws attention to how children’s agency and participation can be enacted by creating spaces which enable children’s involvement. The subjectivities of these spaces have the potential to transform both the participant as well as
their context. For girls who are vulnerable to rape, these spaces could allow open dialogue, peer-to-peer mediation for conflict resolution and awareness generation of the situations which engender their common vulnerabilities. Again, the participation of the boy child in addressing these social issues must be encouraged in order to allow for a healthier relationship of respect between the two genders.

The fact that the cases studies within this study have reached the forefront of the discussion on sexual violence, point to the power of the media in bringing about change and awareness. Innovative use of this medium for bridging the urban-rural divide, and empowering the voice of the people is well worth exploring.

The key ideas and suggestions of this study are not exhaustive, but are potential beginning points for future research and intervention. It provides rich literature and a holistic understanding of the issue on the vulnerability of the girl child to rape in India. Understanding this vulnerability is the first step towards addressing the issue in terms of impact and intervention.

On a final note, I stress that the fact that these cases and issues which have largely been ignored in the past, are being brought to public and political attention is a sign of hope for change. It is guiding public awareness, social policy, political will and funds in the direction of this change. This dissertation is both a product of and contribution towards the realization of this change.
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