

Gist of EPW October Week 2, 2020

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Is Policing a Moral Question?

Context:

The alleged gang rape of a girl in Hathras district of Uttar Pradesh (UP) and the events that unfolded after it has raised questions on the role of the police who are believed to have displayed a disturbing lack of sensitivity in the incident.

Background:

- Following the gang-rape of a 19-year-old girl, belonging to a socially backward community in Hathras district, social media and public discourse have brought to focus, a number of terrifying events associated with the case.
 - The news of her death and subsequent cremation by the UP police at midnight has shocked the nation.
 - The victim's family was not allowed at the funeral.
- A local top official was seen threatening them to change their statements by stating that there was no concrete proof of rape.
- State police was seen quoting that certain foreign human rights groups are responsible for rousing trouble after the protests started across the nation.
- Incidentally, the state government in an affidavit before the Supreme Court said that because of certain extraordinary circumstances and a series of unlawful events, the victim's body was cremated on the same night (on 1st October) she was declared dead, in the presence of her family.

Arguments of the State, Opposition Parties, Social Activists, and the Media:

- Opposition parties and activists are giving opposing narratives of the situation.
- On the one hand, opposition parties, the media, and the social activists were prevented from meeting the family of the victim, which was seen as the denial of the ethical right to stand in support of the victim and her family.
- On the other hand, the picture depicted by the state seems to point towards articulations such as incitement to caste hatred, conspiracies and sedition.

Role of the Police:

- In all these bizarre narratives of sedition and conspiracies, it seems that the police have played a crucial role.
- Police are one of the most effective tools of governments to enforce law and order across the globe. If the police are acting in a partisan manner, against minorities or marginalized groups, then it can be said that they

are doing so at the behest of higher authorities, who will not only ignore their actions but also protect them from all the repercussions arising out of it.

- When inquired by a journalist about the burning of the victim's body, the police officer refused to divulge any information while quoting that he was doing his duty. Such responses raise important questions on the work ethics of police.
- To what extent is the response of a police officer that he was just doing his duties justified?
- Does the training module of police not include lessons on listening to one's own conscience or sense of right and wrong?
- Does police training mean that the personnel feel no moral misgivings or doubts in the face of what is obviously not within societal norms?
- Nuremberg trials of the mid-1940s need to be mentioned here. Officers who worked with Hitler during World War Two underwent trials over war crimes in Nuremberg, Germany. In the trial, the accused claimed that they had no remorse for their inhuman acts. According to them, they were only following the orders of their superiors, and hence had done nothing wrong.

Need for Police Reforms:

- To ensure justice, gathering evidence through unbiased and efficient investigation is a crucial factor and this has to be ensured by the police. But the situation becomes ugly when police hold prejudices against a particular caste, religion, or gender.
- That is why most countries that were under colonial rule had to make changes in police training after becoming independent.
- In India, several committees have recommended police reforms. In 2006, the [Supreme Court of India](#) provided a holistic framework for police reforms. It has called for the following measures among many:
 - Separating investigating and law and order functions of the police.
 - Taking away the control of executives from recruitment and postings, promotions, and transfers of police officers.
 - A mechanism to deal with complaints against police.
- The question of who will implement these reforms and whether these reforms are sufficient to make police morally and socially accountable to the community they are supposed to serve remains.

Conclusion:

Under the current structure, the important point to ponder is: will the police be able to cognitively and independently assess its prejudices against the minorities and the marginalized?

For more EPW articles, read ["Gist of EPW"](#).

The Two Faces of Injustice

Context:

In the case of rape, women in general and women from oppressed castes in particular face two types of injustice: active and passive. The article looks into the active and passive forms of injustice and discusses the role of the state.

Background:

The teenager belonging to an oppressed caste in Hathras, Uttar Pradesh, who was raped and subsequently died, had to face the worst form of injustice.

What is Active Injustice?

- Active injustice occurs when the accused responsible for rape gets support from various quarters of the society.
 - A society that does not care for justice, does not find the action of some of its people who defend a rape accused, morally objectionable.
- When a rape accused gets support from the members of his own community, the vice of injustice becomes stronger.
- Injustice further acquires an intensified mode when investigative agencies of the state are accused of not doing their duties in a fair and just manner.
- In such a scenario, standing with the victim amounts to standing with justice.
- In the Hathras case, as per some media reports, some people from Savarna (higher) castes were defending the rape accused citing their innocence.
- Seeds of ambiguity were deliberately planted on social media platforms to cover the truth and weaken the demand for justice for the rape victim.
- Support for the accused also included the false acts of blaming the victim herself along with her parents for rape and even implicating her relatives in the whole matter. The only aim of such acts was to stop the victim from getting justice.
- The idea of active injustice in the Hathras case further strengthens from the fact that there was a delay in registering the first information report (FIR) and submitting samples to forensic agencies for medical examination.

What is Passive Injustice?

- When people choose to remain indifferent to rape or caste atrocities passive injustice occurs.
- While the indifference does support the accused, it contributes to the injustice to the rape victim. Such actions also embolden the accused to continue with their crimes.
- The act of passive injustice also occurs at various levels. Rhetorical statements of some political leaders such as “guilty would be punished,” “strong action has been already taken,” “the accused have been arrested and compensation has been promised,” and “justice would be done” also reflects the act of injustice. Such statements find a way to the larger public through social media and do much harm.
 - Repeated use of rhetorical statements finally nullifies the quest for justice.
- Social media could also be misused to dismiss genuine protest including the Hathras one, as rhetorical.

- In such circumstances, the act of expressing solidarity with the victim acquires moral significance.

Responsibility of the State:

- In situations where rape threats tend to become frequent, the role of the state as a guarantor of justice becomes much important.
- To be on the side of justice, the state has to act in a fair manner, and not with prejudice. It is due to prejudice only that the state comes up with some “conspiracy theory” to defend its actions.

Conclusion:

- In the Hathras case, the fate of justice depends on the elimination of the possibility of injustice that is likely to overshadow the investigation.
 - It is tragic that the act of fighting injustice only comes in after the victim is subjected to complete physical destruction and moral devastation.
 - The act of resistance by the victim should be considered as a basis to rule out any conspiracy theory.
 - When rape consciousness is reinforced by caste consciousness of the socially dominant, such overlap should be able to strengthen the investigation heading towards justice for the victim and her family.
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