On Impunity

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Impunity is what keeps unequal class and gender arrangements in place. It is constitutive of power in all its forms and the relishing of impunity marks the exercise of power, rendering it desirable and attractive. Whether the rapist is a citizen or a custodian of the state, the relish that makes for a particular exercise of power has to do with sexuality, and it is this peculiar interplay of sexuality and power that needs to be understood for the evil that it is.

I must confess that I have been unable to summon words or courage to speak about the horrific fate visited on the young woman in Delhi who tragically did not survive it. For one, it summoned up a longer genealogy of similar horrors and, for another, it insistently foregrounded the sheer injustice that we continually resist and struggle against, only to be returned to it, ever so often. Like many others, I felt anger, rather sorrowful anger: anger that the rapists actually did what they did, anger at the state for all that it fails or refuses to do. But I felt anger on another count: that here is a state that is clearly in crisis, for it can only respond with more and more violence and claim more and more impunity when its citizens protest and yet we are inexorably bound to this state, by history, by our investment in democracy and this republic and thus again and yet again we renew the life of the state, in good faith and hope. Meanwhile the state retreats into further impunity.

This set me thinking about impunity as such: from the local police thana to city police headquarters; from the municipal councillor to the cabinet of ministers, power and authority are shielded in this country. Impunity is what dominant castes grant themselves as they attack and destroy dalits and adivasis, and impunity is what keeps unequal class and gender arrangements in place. Clearly, impunity is constitutive of power in all its forms and the relishing of impunity marks the exercise of power, rendering it desirable and attractive.

This is something that the poor and marginal citizens in this country know so well. I was present at a public hearing in Chennai in early 2012 on crimes that ought to be tried under the (Prevention of Atrocities) against Scheduled Castes and Tribes Act, 1989. The first person to depose was a middle aged man from the adivasi Irular community who had undergone torture at a local police station. In a gentle questioning tone he spoke of the details of his hurt, the detached, almost bored interjections by the senior inspector who was in charge, the manner in which the torture was routinely yet menacingly carried out, his own painful attempts at resisting, asking questions, and finally his sense of bewilderment and sadness. He ended by wondering – and hoping – if the inspector would not one day realise that what he had done was unjust...and make amends. His narration may be read as a veritable parable of a citizen's good faith in the face of state cynicism and impunity. But it is not for this reason alone that I recall this witnessing: for it revealed something more, that impunity of this sort is not only characteristic of the everyday business of the state, but the everyday life of caste society. There is a complicity here, which is as much about shared hatred and contempt for sections of our marginal and labouring people, as it is about unjust power that is parcelled out, and yet held in common in this instance by the state and civil society.

It is this shared complicity that we need to interrogate with regard to the

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act of rape: and this means we ask questions about the everyday existence of sexual violence and brutality in our many contexts. In what follows I shall do some of these questions. I am not sure that either the questions or my observations add up to a coherent argument, but I do hope that they push some of our debates into other and newer directions.

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Impunity of the Routine

Let me start with the nature of those acts which are both brutal and routine, and ask what makes for impunity in these matters. Verbal abuse of women, lewd gestures, stalking and sexual threats mark and make our experience of public spaces; while humiliating speech acts and routine unwelcome sex, if not sexual torture, define conjugal authority and rights. In both instances, silence, however perturbed, angry, impatient and desperate, renders these acts invisible. This silence is due partly to the “sexual” nature of violence, which women experience as shame, and partly due to the furtiveness the aggressor invests in his actions but which he displaces onto his victims.

In the context of the family, we are all familiar with the “don’t report, don’t tell, it can only get worse for you” phenomenon, which fathers, husbands, brothers, uncles and others deploy as a sign of their intimidating power, which is now additionally charged with punitive intent, so that the victim is made to feel that she deserves punishment should she break the terror spell cast on her. In a public context, whether in a bus or a market, or a police thana, the furtiveness is of a different order: the aggressor “knows” and has a deep and wretched sense of doing something that is “forbidden”, yet he is imbued with the confidence that it is fine to do this, for it makes for an exultant assertion of authority, whether paltry or grand.

This sense of relish at crossing the line, in doing what is “forbidden” in fact lies at the core of impunity. For all their nasty disdaining of dalit women’s bodies – routine verbal abuse flung by dominant caste men at dalit women is directed at their wombs, their vagina – dominant caste men insist on their forceful right of access to them. In 2002, in Gujarat, the hatred invested in Muslim women’s bodies – in pamphlets, slogans and other forms of incendiary communication – was only matched by the gruesome violence that acted out that hatred. What is reviled is thus what is sought out, and in both instances punishment and relish constitute each other.

Where the state is concerned, doing the forbidden becomes a mandate almost, and one that its personnel learns to savour. In Chilean writer Ariel Dorfman’s play Death and the Maiden, Dr Miranda who is called in to “medically” supervise the systematic custodial violence inflicted on political dissidents and is afterwards made to confess to his crimes by one of his victims says:

We’re at war, I thought…they want to install a totalitarian dictatorship but even so they still have the right to some form of medical attention…but afterward…bit by bit…the mask of virtue fell off it and the excitement, it hid, it hid, it hid from me what I was doing, the swamp of what…Everything they have forbidden you since ever, whatever your mother ever urgently whispered you were never to do. You begin to dream with her, with all those women…

Interestingly, this confession is “extracted” out of him, and the play is ambiguous on what brings it forth: his victim’s ability to “read” his torture, or his own reflective sense of what he did, when he is forced to account for his actions. In any case, torture that has its origin in what is considered “virtuous” by the torturer makes us ask questions of virtue itself; or by implication the interests of the state, which in our secular parlance constitute virtue. Nandita Haksar’s Hanging Afzal, Framing Geelani alerts us to the virtue that the state claims for its acts of impunity, and which it then actions through a series of extremely unvirtuous and corrupt acts, which implicate its personnel as well as its key citizens.

As far as rape is concerned, whether the rapist is a citizen or a custodian of the state, the relish that makes for this particular exercise of power has to do with sexuality, and it is this peculiar interplay of sexuality and power that needs to be understood for the evil that it is.

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Sexual Violence

Whenever rape is under scrutiny, several people are at pains to point out that rape is not about sex, but about power; some have complicated these arguments to argue that we cannot thus bracket sex away entirely. In this context I would like to interrogate the sexual as it is received and practised – for there cannot be a rape culture that is completely outside of what passes for the sexual and it may not be enough anymore to annotate a richer, more layered sense of the erotic in response.
Sexual violence always crosses the line but it is not therefore a singular or exceptional act. It has a family resemblance to more quotidian acts, which are seldom viewed, experienced or even understood as such. The scanning of women’s bodies, marking them, with numbers, adjectives, the reducing of a being to an object of appraisal, stalking, surveillance: the forbidden unpacks as a series of acts that structure our everyday. These acts are repeated where sexual minorities, especially trans-people are concerned: they are constantly marked in the public eye as more or less “masculine” or “feminine”, which marking then invites different levels of abusive and violent attention. These public acts of appraisal also have their domestic counterparts: reading through at random any of the matrimonial columns in our dailies, or visiting the various dotcoms that specialise in appropriate conjugality. The answers are not clear, but the construction cannot be wished away. Within the world of the “accepted” and “acceptable”, the exceptional and the horrid are already present, lurking at the fringes.

If the forbidden marks the extreme limits of what we hold to be normative, we must expect fuzzing of the norm and its other, of what is allowed and what is not, making for a dangerous play of the desire and horror. Let me argue through another example: If there is one gesture that is symptomatic of the sexual in an everyday sense, it is groping: at once stealthy, intentional and obsessive. However, groping today enjoys cultural visibility and sanction in one of the most popular cultural signs of our times: the item number or kuthu paatu, as it is called in Tamil. In filming the item number, the camera does not ever get away from particular parts of the women’s body, navel, breasts or buttocks, and if it does it does so only to capture the frankly leering men around, whose hands grope for but never quite or do not always touch the woman’s body. In a bus or in a crowd, a woman resists groping, but where the item number is concerned, the dancing woman who is the focus of the grope relishes and exults in the attention she receives.

Here is a fantasy that extends everyday behaviour, lifting it from the zone of the forbidden into the realm of the desirable. Transgression and relish come together in this ubiquitous fantasy. In the Tamil context, unsurprisingly, the item number bears the marks of caste and race. Often, the dancer is buxom and fair-skinned, while the men who gather around her are darker-skinned subaltern men, who both desire her as well as hold her in contempt. Her fair-skinned status marks her out as a sexual outsider – the stand-in for the forbidden upper caste or northern Indian woman. This fantasy, when acted out in public, has disastrous consequences, because the woman is not exultant, rather she is terrorised or defiant. Fantasy, in this sense, is always already a nightmare, a dangerous play with the fragmented female body.

A different kind of fragmentation happens in the domestic context. Abuse is one kind, and a second has to do with sexual torture or unwelcome sex. But there are other more noticeable indices of fragmentation. Submitting to marriage and sex, against one’s will, or in a state of blank indifference or out of a sense of inevitable duty is still quite common. That women have learned to work this to their relative advantage is what we have come to understand from our studies of and interest in female agency. We have also come to accept that there may be moments of pleasure that cannot be so easily taken out of this unjust equation that is conjugality in India. But this is still a cross-hatched picture of domesticity, intriguing but uneven.

Coming to the opposite of this so-called normal situation: In the stories of runaway love that we hear of, love and desire pull the girl towards her loved one, whereas caste, familial authority and her own sense of “shame” complicate this pull of desire. “Running away”, that is, deserting the terrain which threatens to dissolve her being, often is the only ruse available to her. The forbidden in these instances is freeing. Then there is the love that may not be spoken for or spoken of – non-heterosexual love or non-procreative sex – which belongs to a different realm of the forbidden, and one that is only inadvertently the subject of fantasy. Expressions of such love are furtive, stealthy, private – except where they have created their own subcultures.

Rape: Ultimate Mark of Impunity

If the carrying out of forbidden acts willfully and with relish constitutes power that is exercised with impunity, then sexual assault as such resists accountability. This is why it is repeated, even as one protests its illegitimacy; and by those very agencies – the police, the army – that have to punish it. Rather than see rape as an exceptional crime, we may want to see it as the ultimate mark of impunity: with the “sexual” beingmarshalled to render that impunity given. In this sense, to challenge impunity is to challenge the “sexual” as well, and at the same time as we challenge the structures that make for public impunity. In fact, it is clear that we may not do the one effectively without doing the other.