

No crime deserves death

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Shilpa Phadke

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"Context. Context. Context," is my oft repeated advice to my research students. What we say and what it means depends significantly on where, when and how we say it. But of course sometimes there are absolutes. So let's get one thing clear, [Mulayam Singh Yadav](#) (MSY) and friends, rape is not a "mistake", it is a crime and should be punished.

However, I along with many, (though by no means all), feminists, am against the death penalty. I would also argue that awarding the death penalty to lower-class men in no way addresses the rape culture in India. So does this mean I agree with MSY?

There is a case for context here too. People seem very confused about what feminists want. And this may be because we are often making nuanced arguments about all kinds of things, but in the present context (that lovely word again), about rape cultures, patriarchal ideologies and systems of justice.

The feminist position is not against punishing the perpetrators, but against the state arrogating to itself the right to kill. We argue that the certainty of punishment is a far greater deterrent than its severity. Further, as was seen in the Shakti Mills case, the death penalty is often awarded by making the "rape is a fate worse than death", "the victim is rendered a zinda laash", kind of arguments that are built around patriarchal notions of honour and in fact co-exist quite happily with rape cultures where everyday forms of sexual harassment and assault are brushed aside in precisely the kind of "boys will be boys" argument that MSY is making, in relation to rape.

Statistical data from across the world demonstrates that men from poor and minority communities make up a disproportionate per cent of death row prisoners. The media reportage of the December 16, 2012, Delhi gang rape as well as the Shakti Mills gang rapes focused relentlessly on the deprived backgrounds of the perpetrators, intentionally or unintentionally, making the case that it is lower-class, and often "footloose migrant" men who are the rapists. This often has the effect of obscuring the fact that rapists are in the majority of cases known to their victims and are often neighbours or kin and also of completely erasing the middle and upper class perpetrators of rape. But more on this anon.

The feminist position then, while against the death penalty and aware of the marginal location of poor men, is quite different from that of MSY and his ilk. Unlike the Abu Azmis and sundry khaps of this country, feminists assert women's right to consent (both within and outside of marriage) and to make choices about our bodies. We reject the offers of conditional safety and demand our right to public space.

The recent comments of MSY and Abu Azmi have the media shrilly baying for their blood and the Right and Left alike denouncing them on various social media. In a similar vein have been comments such as those of Asaram Babu (himself a rape accused) who counselled that the young physiotherapist could have saved herself if she had called the men her brothers. Khap panchayat member, Jitendar Chattar averred (perfectly seriously) that such acts are caused by the consumption of chowmein which creates 'hormonal imbalance'. Not to be outdone, Nanki Ram Kanwar, Chhattisgarh home minister, argued that the alignment of the stars were to blame for the crime. These assertions are rivalled only by the calls for the policing of women's

clothing, the denial of cell phones to women and the calls for women to willingly consent to house arrest, ostensibly in order to stay safe. These constitute in some ways the almost lunatic fringe of the spectrum. I write, 'almost' because unfortunately they are far from few in number. Yet, public debate even in the mainstream media counters them unequivocally.

Far more dangerous, I would argue, are the other voices — the ones that masquerade as progressive. Recently, journalists Manu Joseph and separately, Seema Mustafa wrote articles calling into question the testimony of the Tejpal assault survivor. It is important to mention here that these articles are based on the viewing of CCTV footage that, as per court guidelines, should not have been accessible to them at all.

Joseph under the aim of writing the balanced story jeopardizes the identity of the survivor and succeeds in creating reasonable doubt about the survivor testimony. Mustafa goes a step further and in her concluding lines, argues that the CCTV footage suggests that there was no apparent force that propelled her (the survivor) to enter the lift. Her final words are, "The jury is clearly out on this one".

There was a strong negative response to these articles that accused them of being part of a campaign to discredit the survivor. The Network of Women in the Media wrote to the Press Council of India and the Editors' Guild of India contending that these pieces were against journalistic ethics, were biased against the complainant and could be seen as part of a deliberate attempt to influence the case. In response, Seema Mustafa hit out at feminists for what she perceived was an intolerance to "differing views".

The challenge for feminists then is not just to counter the ludicrous comments of the politicians but to place them alongside those who seem to be making 'reasoned' arguments. Yes it is important to counter the ridiculous misogyny of MSY, but many would rush to agree that certainly these deprived/depraved young men deserve punishment. It is however harder, but just as important, to counter those voices that protect the privilege of the Tarun Tejpal of this world. Ultimately, MSY sympathizing with the perpetrators of the Shaki Mills gang rapes and the victim-blaming engaged in by journalists (among others) in relation to the Tejpal case are part of the same context where if women are attacked, it must be because we asked for it. These and others like them must all be seen and countered as part a spectrum of attacks which are attempting to silence women's voices and capacities to defend ourselves and seek justice.

The writer is co-author of Why Loiter? Women and Risk on Mumbai Streets



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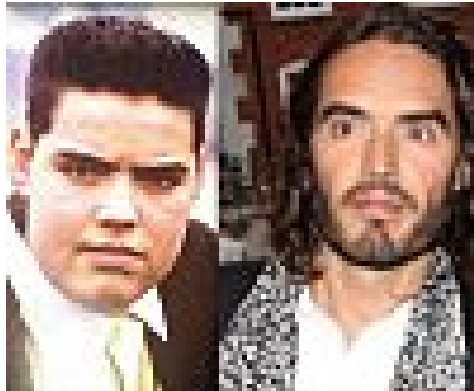
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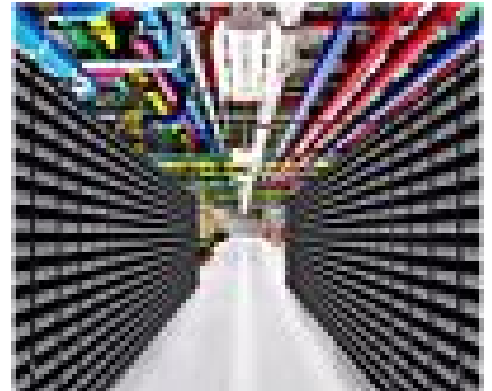
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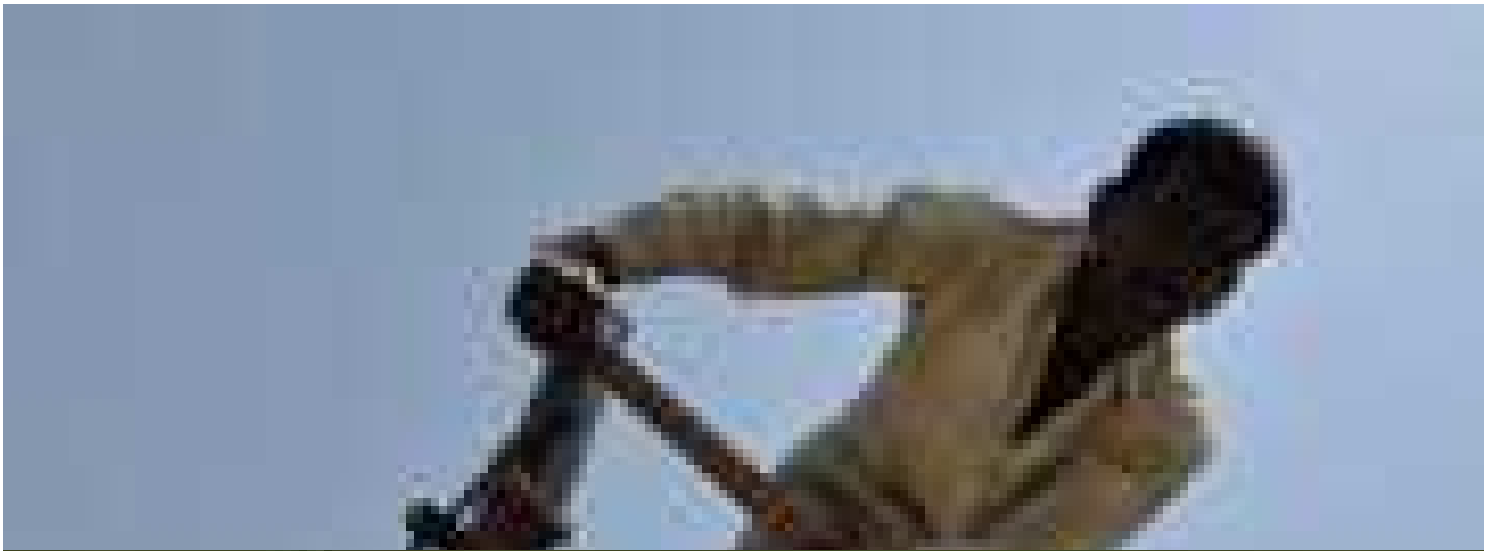
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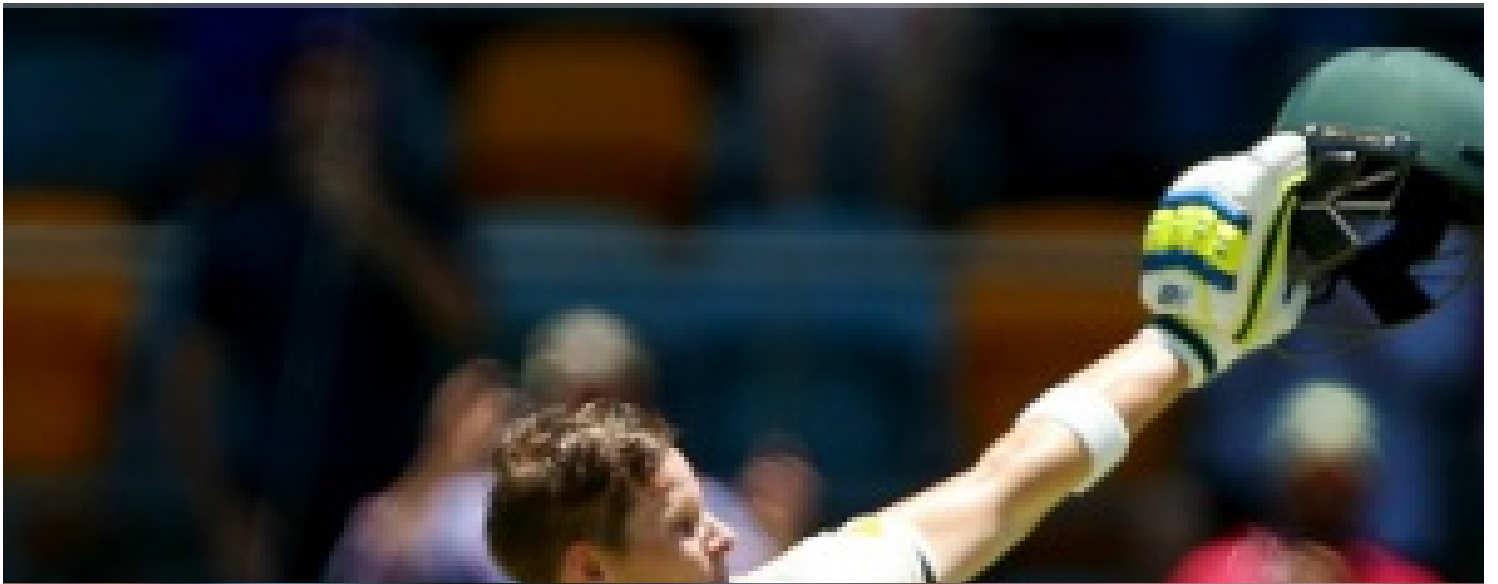
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mulayam singh ne pata nahi kya bakavas ki hai ,lekin aj kal ladkiya POCSO kanun ka buri tarah se upayog kar rahi hai . kai nirdosh logo ko fasaya ja raha hai .koi bhi 18 sal ki ladaki kisi ke bhi uppar badala lene ki bhavana se FIR darj kar de to police bina jache hi us adami ko utha sakati hai . bad me use hi sidh karana hoga ki vah nirdosh hai . isme agar bhagavan bhi aa jaye to chhut nahi sate ,is tarah ka kanun banakar congres ne bada hi bekkar game khela hai .

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Aarop to bebuniyaad lagaye gaye hai bapuji ke uper asliyat to ab tak samne aayi nahi hai. Ye bahut bada shadyantra hai bapuji ke khilaaf aur samuche bhartiya sanskruti ke khilaaf. Aaj aap dekh hi rahe honge ki kis tarah bharat ki nari apmanit ho rahi hai. Aur jo kanoon bana he wo sirf nirdosh logo ko fasane ke liye banaya gaya hai. Uski ke bante bapuji ko bebuniyaad case me fasaya ja raha hai. Varna medical report aur doctor ke kahne par ye saaf ho raha hai ki ladki ke saath aisa kuch bhi nahi hua hai fir bhi aaj bapuji jail me kyo hai? Ye bahut hi badi sajjish hai.

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yes, I fully agree with you

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