



The Role of Bollywood in Creating the Ideal Rape Victim in India

Nikunj Kulshreshtha^{1,2} · Lydia G. Jose³

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Abstract

The paper seeks to explore the role of popular Hindi cinema (Bollywood) in the creation of the image of an ideal rape victim that is expected by members of the criminal justice machinery (CJM) in cases of rape against adult women in India using theoretical, conceptual and interdisciplinary methodologies. The article would begin by reviewing contemporary literature on how Bollywood impacts society in the way certain crimes and victims are perceived and how the CJM deems certain victims more credible than the others. The article would then analyse the depiction of rape scenes in Bollywood movies from 1980 to 2022 to understand how specific characteristic markers are expected from rape victims by the CJM in India. Thereafter, the paper discusses the impact of each of these markers on the CJM and the role of media in shaping the opinion of society before offering possible solutions to address the issue and thereafter conclude.

Keywords Ideal rape victim · Bollywood jurisprudence · Gender sensitization · Media influence

✉ Nikunj Kulshreshtha
n.kulshreshtha@lse.ac.uk

¹ Department of Gender Studies, London School of Economics and Political Science, London, UK

² Jindal Global Law School, O.P. Jindal Global University, Sonipat, Haryana, India

³ IILM University, Gurugram, Haryana, India

Introduction

An ideal rape victim in the eyes of the criminal justice machinery (CJM) refers to a specific set of expectations.¹ First is a form of behaviour which is typically expected from a genuine rape victim such as—being uncontrollably hysterical or stoic as a result of their violation.² Second, aggressive resistance to the rape resulting in injuries on their body, particularly private parts which would be evidence of their victimhood and would directly corroborate their claim. Third, is the construction of a genuine rape victim's personhood that would be easily discernible to the ordinary observer and would easily evoke sympathy and trust. This would include a chaste sexual history, conservative outlook, behaviour during and after the assault that would give no reason to suspect that she enticed the attack on her or was consenting during the act and was lying thereafter (Christie, 1986, p. 18–21). In the Indian context, this would include stereotypes based on identities such as class, caste, religion among others (Kulshreshtha, 2010; Kulshreshtha, 2023a; Mitra & Satish, 2014).

Numerous studies have attested to the existence of such ideal victim expectation by police officials, judges amongst others not only in India but internationally as well (Schuller et al., 2010); (Smith, AL., Bond EW., and Jeffries, 2019); (Gekoski et al., 2024); (Hindes & Fileborn, 2021); (Thompson & Pozzulo, 2024); (Deming ME, 2013) (Manohar & Kline, 2014). There are some scholars who have expressed doubts on the impact of these myths or stereotypes on the CJM (Thomas, 2020); (Gurnham, 2016a); (Gurnham, 2016b); (Reece, 2013). However, there is no denying that victims who do not conform to these expectations have a tough time establishing their credibility for securing justice in cases of sexual violence in India, particularly rape (Kulshreshtha, 2023a); (Garg, 2019); (Vishwanath, 2018) (Baxi, 2014).

Prevalence of these myths and stereotypes is attributed to a confluence of factors such as gender norms, societal conditioning, influence of media, role of religion and tradition in the construction of ideal personhood under the law (Kulshreshtha, 2023a). While each of these factors play their role in constructing an ideal victimhood caricature, in this paper, the authors will focus on the role of movies particularly the Hindi Film industry (Bollywood informally) in India. Juxtaposing the myths, stereotypes and the expectations of an ideal rape victim in the eyes of the CJM, with the deep-seated patriarchal norms and cultural portrayals in various Bollywood movies in India, it is evident that a masculine cultural lens has significantly shaped public perceptions of rape victims. This can be explained by Mulvey's Male Gaze Theory (1975) which suggested that stories of females and their identities are portrayed in Hollywood movies through a male dominated lens. The theoretical backdrop would assist in answering the main research question which is to what extent does Bollywood impact societal construction of sexual victimhood and victims in India.

¹ Criminal Justice Machinery refers to various state and non-state actors which a rape complainant has to interact with while seeking legal recourse of their assault. These include police officers, judges, lawyers, prosecutors, doctors, counsellors among others.

² The author would use the words victim, prosecutrix, survivor and complainant interchangeably throughout the paper.

The paper has been structured as follows. We would begin by analysing the dominant literature on the subject of impact of movies on public psychology and gender stereotyping in Indian courts by scholars. Then we would discuss the methodology for analysing the depiction of rape scenes in mainstream Bollywood movies over a period of forty-two years using markers commonly associated with an ideal victim caricature as perceived by the members of the CJM. The results drawn would be used to discuss the implications of these markers on a rape victim in the legal system based on contemporary literature. Finally, the article would discuss possible solutions for sensitisation and regulation of rape victim portrayal in movies and reducing the overall impact of these myths and stereotypes before concluding.

Literature Review

There is a plethora of literature, both domestic and international which show a clear correlation between mainstream movies and their influence on society, legal systems and perception of crimes. Bandura's Social Learning Theory (1976) and Gerbner's Cultivational Theory (1976; 1980) suggest that audiences when viewing violent behaviours on screen are more prone to enact them in real life as well. Bandura (1986) further expanded on his social learning theory by referring to his Symbolic Modelling concept which mentions how 'film-mediated aggressive models' can be a cause of similar behaviour in real life. Similarly, Gerbner's (Gerbner et al., 1976) Mean World Syndrome explored that audiences can be influenced with media through repetitive and common messages and they could also likely perceive the real world as violent and dangerous which they receive from the exaggerated perceptions of the media.

In the Indian context, numerous scholars have discussed the effect and the general portrayal of rape victims in Bollywood movies in India. Nira Gupta-Cassale (2000) has analysed the change in the depiction of rape victims in three films from 1980 to 1990. She notes that the depiction of the rape victim seeking revenge or bringing her perpetrator to justice in the 80's and 90's movies is based on the popular dissatisfaction based on the decision of courts in Mathura (1973) and Rameeza Bee (1978) rape cases. This is a progression from the reflection of a rape victim's response to the assault in 60's and 70's in the form of passive disobedience, silent protest and internalisation of shame and guilt. However, she also notes that each female protagonist in her quest for revenge or seeking justice was assisted in her efforts by a male ally. This assistance validates her struggle and without him she would not have succeeded in her efforts. She concludes by acknowledging the role of mainstream cinema as an indirect agent of social change and its potential for bringing out subconscious societal issues. This is similar to Mulvey's stance on Hollywood movies, in which she says that since Hollywood is heavily male dominated, the narratives will also be from the perspective of the male gender or through the eyes of a male even when it is to narrate the story of a female; this is also the case with Bollywood (GDI, 2014); (Mulvey, 1975). Similar arguments on the effect of rape scenes in the 80's movies have been discussed by Ranjani Mazumdar (2017).

Oxfam India (2017) conducted a study of mainstream Indian cinema's influence on the issue of violence against women and girls by analysing Bollywood movies

from 2012 to 2016 and some Odia³ and Punjabi⁴ films. The study revealed that most movies still continue to objectify women by depicting them as sexual stereotypes who are frail and violable. Community members interviewed by the researchers revealed that notions of sexuality were constructed by viewing these films and many young adults believed that gender roles depicted in films were realistic and informative. Pascal Zinck (2019) in his analysis of rape scenes in Bollywood movies notes that majority of these scenes are depicted with a stereotypical revenge plot against the perpetrator which shifts focus away from the act of rape and its aftermath on the victim. By focusing on the perpetrator and also the avengers of the crime, the narratives in the movie digress to the act of vengeance and restore the male honour while giving more agency to the male gender while sidelining the victim and her trauma. This format of representation aligns with patriarchal expectations of men as saviours and women as passive victims. This characterisation in movies can desensitise the audience to the grave matter that is rape itself (Mathew, D.S., 2023). Though the trivialisation of the act of rape and its effects is nothing new, filmmakers and screen writers are now working to reduce such portrayals to cater to an increasingly assertive female audience.

Devasundaram and Barn (2020, pp. 887–891) have analysed the role of cinema in the portrayal of rape through exploring two films based on the Nirbhaya gang rape. They opine that both films have excessively focussed on exploring the fact and fiction behind the crime and the aftermath. They fail to notice the apparent intersectional and performative issues raised during these explorations and the role of news media in sensationalizing while reporting this crime. Astha Bhandari (2021) contends that community norms on sexual and gender-based violence are reflected in the reporting of rapes by mass media in India. Newspapers and media can frame a crime sensational or ordinary depending on how they decide to portray it (Radha & Govindaraju, 2016). Intersectional identities become relevant during public uproar against a crime suffered by a person the ordinary public can relate to (Scheufele, 2006). She cites this as an explanation for why there was so much outrage for the gang rape of Nirbhaya while the subsequent rapes of other women did not receive the same public response.

Barn and Powers (2021) engaged in an ethnographic study of rape myth acceptance amongst students in India and the UK. They determined that there was a high acceptance of rape myths amongst students in India, particularly males. The students in both countries had a victim blaming mindset and the act of rape and its after effects on the victim were trivialized and understood to be exaggerated. They attribute such strong beliefs to the media portrayals of high-profile rapes in both the countries and their impact on the public perception of these crimes. Media both in India and the UK often maintain problematic portrayals of women, which then reinforces stereotypes that accuses the victim and underplays sexual violence (GDI, 2014). Nidhi Shrivastava (Shrivastava, 2022a) in her analysis of rape scenes depicted in two movies released in 2014 and 2021 notes how the portrayal of rape victims has evolved since the 80's and 90's. The construction of victimhood in 2020's movies is different from earlier ones, where the victim now publicly confronts her assaulter. Another change

³ Odia films refer to the Odia language film industry based in the Indian state of Odisha.

⁴ Punjabi films refer to the Punjabi language film industry based in the Indian state of Punjab.

noted was that the perpetrator of rape depicted were men of privilege unlike the stereotypical caricature of a rapist depicted in the 80 and 90's as being uneducated, poor and an ex-criminal.

In another piece, Shrivastava (2022b) analyses the experiences of rape survivors and their attempts to seek legal recourse as depicted in four movies, one from 80's, one from 90's and two from 2020's. She noted how courts and legal structures serve to discourage women from complaining about their sexual violence. This is depicted in the form of rape victims enduring humiliating cross examinations from defence lawyers and battling apathetic treatment from police, courts and society. Therefore, from the brief literature review it is evident that there is a clear correlation between depictions of rape victims in movies and their effect on the perception of victims in society and the legal system. The authors seek to build on the work of previous scholars by engaging in a larger qualitative study of depictions of rape victims in a stereotypical manner using 8 markers associated with an ideal rape victim. The assessment would include analysing Bollywood movies for rape scenes between 1980 and 2022, thereby making an original and unique contribution to the literature in this field. It is also important to note that most of the scholars referred by the authors have focused on male perpetrators and female victims of rape. This is because the law of rape in India only identifies men as perpetrators and women as victims and therefore films only depicts these as perpetrators/ victims. The latest penal code does not recognize non-female victims of sexual violence. There is no denying that everyone can be a victim of sexual violence, however due to focus on our paper we have only chosen to refer to certain victims of rape in India.

Methodology

The authors analysed Bollywood movies between 1980 and 2022. The reason for selecting this time period is that the first ever rape case which brought the issue of stereotypes regarding rape victims was the 1979 Mathura rape case, which brought the attention of the Supreme Court of India. The authors used websites such as Internet Movie Database, Boxofficeindia.com and Wikipedia.com to identify the total number of movies released in a particular year. This was further drilled down to identify the movies which depicted any act of rape. The movies were further analysed in detail using subscription-based video on demand websites such as Primevideo, zee5 and Hotstar.

The scenes were analysed based on eight markers: whether the victim was educated, the relation of the victim to the perpetrator, whether the victim was seen to be struggling physically, whether the victim was restrained from moving by the perpetrator during the act, whether the victim was shown to have received injuries, whether the act of rape was confirmed by a doctor post examination, whether the scene depicted provocation for the assault by the victim and the dressing of the victim in the scene. The movies were then grouped into four decades and assessed using existing literature to determine patterns, if any. A total of 4,482 movies were released during the period of 1980–2022. Of these 115 movies had rape scenes in them. The

authors then analysed these scenes using the aforementioned markers to determine their prevalence quantitatively, the results of which are enumerated below.

Results

Category	Subcategory	Count (115)	Percentage
Victims' Education	Uneducated	13	11%
	Educated	54	46%
	Status unclear	48	41%
Relationship with Rapist	Stranger	30	26%
	Familiar (neighbour, acquaintance, friend, or relative)	64	54%
	Status unclear	21	18%
Victims' Opposition	Physical struggle (crying, running, shouting, etc.)	88	76%
	No opposition depicted (implied assault)	27	23%
Means of Assault	Physically overpowered	82	71%
	Implied (confined space with audible cries)	29	25%
Injuries from Assault	Injuries depicted	55	47%
	No injuries	19	16%
	Injury status unclear	41	35%
Doctor's Role in Confirmation	Rape confirmed by doctor	11	9%
	No doctor involvement	104	91%
Victim Blaming	Victim portrayed as responsible	8	6%
	No victim blaming portrayed	107	94%
Clothing Depicted	Ethnic Indian clothes	75	65%
	Western clothes	21	18%
	Clothing unclear	19	16%

Out of a total of 115 rape victims depicted in movies, 13 (11%) victims were uneducated, 54 (46%) victims were educated and the rest was unclear (41%). 30 (26%) rapists were depicted as strangers, 64 (54%) rapists were individuals that the victims were familiar with as neighbours, acquaintances, friends or relatives, the rest was unclear (18%). 88 (76%) victims were shown depicting clear signs of registering their opposition to the act with physical struggle such as running, crying, shouting for help, swinging head sideways among others. 27 (23%) of the victims' protests were not depicted as the assault was implied. 82 (71%) victims were shown to have been physically overpowered by the assailant for committing the assault. Rape committed on 29 (25%) victims were not depicted as the assailant chased the victim into a confined space and her voices could be heard so the rape was implied.

55 (47%) victims were clearly depicted to have received injuries as a result of the assault. Another 19 (16%) victims were shown to have received no injuries as a result of the attack while the status of injuries for 41 (35%) victims was unclear. Rape was confirmed by a doctor for 11 (9%) victims especially in movies released between 2000 and 2022. For the remaining 104 (91%) victims, either doctors had no role in the determination of rape or were not shown as a character in those movies. 8 (6%) victims were portrayed as being responsible for the attack either by wearing

something deemed inappropriate or by engaging in morally irresponsible behaviour such as drinking alcohol. No such portrayal was made for the remaining 107 (94%) victims. 75 (75%) victims were shown to be wearing ethnic Indian clothes such as sarees, salwar kameez, kurta pyjama, lehenga blouse among others. 21 (18%) victims were shown wearing western clothes such as top, pants, jeans, t-shirt, dress among others. 19 (16%) victims' clothing could not be determined as rape was implied.

Discussion

The authors will discuss the eight markers in detail based on the results:

1. *Whether the victim was educated?*

As noted from the movies above, the focus on the education of the victim is generally minimal. This is because the role of education in the sexual victimhood of a rape victim in India has limited relevance in cases of coerced rapes. It is usually referred to in cases of deceptive sex or rape on the pretext of marriage cases in India. In these cases, scholars have noted how educational status of a victim is used as a metric to determine her gullibility to the belief of a promise of marriage of sex. Arushi Garg (2019), in her analysis of rape on pretext of marriage cases, noted how the lack of education of a rape complainant serves to elevate her credibility as a gullible victim whose story of consent on the pretext of marriage seems more believable to courts. Kulshreshtha (2024) in his analysis of rape on the pretext of marriage decisions by appellate courts in India, noted in certain cases, how the educational status of the victim was relied upon by courts as a ground to doubt the victim's claim of consenting to the sexual act solely on the promise of marriage.

2. *What was the relation of the victim to the perpetrator?*

The depiction of the relationship of the victim with the perpetrator is relevant because there still exists a deep-rooted belief amongst public that rape is usually committed by a stranger in a dark alley on an unsuspecting victim (Lonsway, K and Fitzgerald, L, 1994). A claim acknowledged by the Supreme Court in *Aparna Bhat v. Union of India* (2021 SCC Online SC 230). This is despite the fact that most movie scenes (54%) did show that the victim was previously acquainted with the perpetrator in some way or the other.

3. *Whether the victim was seen to be struggling physically?*

The depiction of a rape victim seen to be physically resisting and struggling to protest against rape has serious implications on the process of determination of her credibility while seeking legal recourse. This is because there is an expectation that a genuine rape complainant would offer the stiffest possible resistance against the assault. An example of resistance expected by judges while determining the credibility of a rape allegation was noted in 1977 in *Pratap Mishra v. State of Orissa* (1977 3 SCC 41), where the judge observed: '*We should have expected the stiffest possible resistance from her, resulting in injury over the penis or scrotum of the accused or abrasions over other parts of the body caused by the nails of the prosecutrix. If the story of the prosecutrix was true, then we*

should have expected an injury or bruise-mark on the breasts or chest or on the thighs or other part of the body'. Similarly, in 2016 in Raja v. State of Karnataka (2016 10 SCC 506), the following observations were made: 'Her conduct during the alleged ordeal is also unlike a victim of forcible rape and betrays somewhat submissive and consensual disposition. From the nature of the exchanges between her and the accused persons as narrated by her, the same are not at all consistent with those of an unwilling, terrified and anguished victim of forcible intercourse, if judged by the normal human conduct'.

In both the cases, courts have demonstrated that the victim post the assault should have behaved in an ideal manner. In the absence of which, both cases resulted in the acquittal of the accused. The cases have been decided over a period of four decades, yet the nature of expectation of an ideal behaviour has remained unchanged. While these are just two cases, there is sufficient literature to suggest that the legal system expects that the demeanour of a rape victim to closely resemble the one portrayed on screen. The Indian Criminal Procedural Law, 1973 (CrPC) even contains a specific provision under Section 280 which requires judges to make notes of the demeanour of the witness while recording their evidence.⁵ These notes are expected to assist the judges in determining the overall credibility of the witness and the value or weight to be attached to the witness's testimony. Rape is a crime of private nature as it generally takes place within private spaces (Bharwada Bhoginbhai Hirjibhai, 1983 3 SCC 217); (Wertheimer, 2000). There are rarely independent witnesses to the act in question, thereby the victim herself becomes the most important witness and her credibility becomes paramount.

In *Kamalanantha v. State of Tamil Nadu* (2005 5 SCC 194), the court while assessing the testimony of the victim focusses on the observations of the trial judge noting the demeanour of the witness in court as: *'While recalling the forcible act of rape, the court noticed torrential flow of tears from the eyes of P.W.8 with all pain and conscience shocked, the court listened to the most startling and saddening story of P.W.8 who is yet to attain mental maturity'*. Therefore, courts generally have an expectation of active and utmost resistance to the assault by the victim which would result in injuries to the assailant and to the victim, which would be later noted in medical examination on both and serve as an independent corroboration of the rape victim's testimony, thereby making her complaint more credible. Elizabeth Kolsky (2010), in her analysis of rape adjudication by High courts across India during British rule from 1862 to 1947 noted how judges relied on four factors for determining the credibility of rape victim's complaint. These were caste and class status of the victim, her prior sexual history, prompt complaint of rape after the assault to the police and evidence of resistance on her body. The resistance on the body of the victim could be assessed by medical examination.

6. *Whether the act of rape was confirmed by a doctor post examination?*

⁵The provision has been retained in the new criminal procedural law as Bharatiya Nagarik Suraksha Sanhita, 2023, Section 315 (BNSS).

The reliance on medical examination was explained by Kolsky by referring to the use of Jaising Modi's book on medical jurisprudence and toxicology, which is accepted as an authority in Indian courts (Modi, JP., 1996, pp. 337, 443–444). Modi mentions in his book that the central purpose of a medical inquiry post rape is to look for evidence of resistance by the women. Modi clearly states that '*a woman of average strength and sound mind cannot be raped by a man unaided*'. This belief remains grounded in members of the CJM even today. Neetika Vishwanath (2018), in her ethnographic study of rape trials in Lucknow district court noted the beliefs of a female defence lawyer regarding adult rape complainants. The lawyer stated that only minor women below the age of 12 are vulnerable to rape, adult women can only be gang raped. The fact that any person irrespective of their gender and sexuality could be vulnerable to rape was unfathomable to her. Or the fact that a person could submit to sexual assault based on coercion, fear, harm to themselves or their loved ones. Therefore, the repeated depictions of active resistance by the victim in these movies have created a deep-seated belief in the minds of the members of the CJM that a genuine rape victim would actively resist the attack to the fullest extent.

7. *Whether the scene depicted provocation for the assault by the victim?*

The depiction of rape where a victim is repeatedly seen to be physically struggling with the assailant and the assailant physically overpowering the victim for committing the assault also creates many problematic assumptions. At the outset, it creates a caricature in every viewer's mind that rape is a crime involving physical coercion by the assailant. Therefore, in situations where the victim submits to the assault out of fear of harm to herself or any other person she cares about, or under the effect of alcohol or other intoxicating agents, such a scenario would seem less believable to the public or members of the CJM. In the movies analysed, only two movies depicted scenes where the victim submitted to the assault to prevent harm to a loved one. The submission to assault under coercion by words or actions have been noted in cases. For example, In the movie 'India's Daughter', based on the Nirbhaya case, the main accused Mukesh Singh was asked why he inserted a rod into the private parts of the victim. He replied that the victim was fighting back very hard and was biting him, so to facilitate the act, he impaled her.

In *Mahmood Farooqui v. State (NCT of Delhi)* (2017 243 DLT 310, para 81–82), the victim stated that she quietly submitted to the accused sexually assaulting her as she remembered the words of the rapist Mukesh Singh and feared a similar reaction from the accused if she protested the assault. Therefore, submission to sexual assault from the fear of harm or under the influence of intoxicating agents is documented in both judicial precedents and scholarly literature. However, the repeated depiction of a singular form of sexual violation creates an impression in the minds of the CJM that non-violent forms of sexual violence is highly unlikely. The depiction of injuries being received by victims as a result of rape in almost 50% of the movies explains the general trend of use of medical evidence in determination of consent and complainant credibility by courts. The subsequent confirmation of rape by doctors in the decades

post 2000, further corroborates the reference to medical evidence during rape cases since British times.

Kolsky's (2010, pp. 112–115) study referred to earlier, mentions that the general reliance on medical evidence in rape cases by the CJM as a scientific method of inquiry is assumed to be objective and non-partisan. However, this was based on two assumptions, one—every genuine rape case would include presence of injuries on the body of the victim and second—to confirm the chastity of the victim via the two-finger test⁶ to determine if she was habitual to intercourse or not especially in the case of unmarried women. Both these tests were largely relied upon to determine the credibility of the rape allegation. If there were no injuries on the bodies of the victim and if the victim was found to have been habitual to intercourse, then these observations in the medical report would be used by defence lawyers for casting aspersions on the victim's character and the courts would acquit the accused in such cases by giving the benefit of doubt. Such questioning of a rape victim regarding her sexual history was permissible considering that the evidentiary law till 2002 under Section 155(4), permitted a rape victim to be cross examined regarding her sexual history and consent to the act in question.⁷ This provision was repealed by an amendment in 2002 and rape shield laws have been enacted since then.⁸ However, scholars insist that they are largely ineffective due to procedural, cultural and judicial attitudes (Kulshreshtha, 2023b); (Kumar, 2022). Similarly, conducting the two-finger test and its conclusion has been abolished by the Supreme Court in 2013 in *Lillu v. State of Haryana* (2013 14 SCC 643). However, even in 2024, the Supreme court noted in an appeal, that this test is still being conducted by doctors, therefore its implementation remains a concern (Vishwanath, 2018, pp. 6); (*Sunshine Kharpan v. The State of Meghalaya, Special Leave to Appeal (Criminal) no. 1481 of 2024*).

Mitra and Satish (2014) have argued that medical knowledge and evidence in rape trials require substantial reform of medical textbooks, education and the protocol for relying on these evidences in cases by courts. This is because contemporary medical research clearly indicates that in most cases of rape, injuries are absent (McLean, I. et al., 2011). Satish (2017, pp. 34–114) in another study discusses in great detail regarding how judicial decisions by appellate courts in India use medical evidence as corroborative evidence in rape prosecutions and how it contributes to the ideal victim narrative. The stereotypes and assumptions regarding rape victims in Modi's book have been removed in the latest edition (Modi, JP., 2021, para 32.2). The need for a balanced medical report in rape cases has also been felt by forensic medical examiners (FME) in the UK as well.

Gethin Rees (2010) in his interviews with FME regarding neutral reports in rape cases concluded with some keen observations. He noted that FMEs in the UK gave neutral medical reports in rape cases because, firstly, they felt that presence or absence of injuries have no bearing on the question of consent as it is a legal question and not a medical one. Secondly, FMEs wish to protect their reputation as an inde-

⁶The two-finger test involved a medical practitioner inserting two fingers into the victim's vagina to determine her sexual chastity. If the fingers were inserted easily, then this fact was noted in the medical report.

⁷Section 155(4) of the Indian Evidence Act, 1872.

⁸The Indian Evidence (Amendment) Act, 2000.

pendent expert and not appear partisan towards either side. However, even these neutral reports can have possible negative repercussions as prosecution could use these neutral reports for refusing to charge rapists for the fear of not securing a conviction which fuels the stereotype of an ideal rape victim. Another scenario is when both parties agree to not challenge the report thereby denying the FME the opportunity to apprise the court of the limitations of injury evidence. This demonstrates that even nations with advanced resources are failing to deal with age-old deep-rooted stereotypes regarding the role of injuries in rape cases. In such a scenario, the depiction of injuries received by the victim and subsequent confirmation by doctors in most movies, fuels the ideal victim narrative amongst members of the CJM in India.

8. *What was the dress of the victim in the scene?*

The depiction of any provocation by the victim for rape has been minimal and was generally noticed in the 80's and 90's decades. One could assume this change to be based on the lack of general tolerance of the public as such a depiction would be perceived as apathetic towards any rape victim. Dressing of the victim also seems to have a bearing on the question of the quantum of blame to be assigned to the victim for the act. Vishwanath's (2018) study also noted that police participants blamed women by citing influence of western culture, use of mobile phones and excessive freedom granted by their parents as a reason for the increase in rape cases. In another study by Tripathi and Azhar (2021, pp. 1232–1234), similar attitudes of police officers were observed. They noted that police officials met with female complainants of sexual and domestic violence with scepticism as they claimed to have observed them engaging in manipulative behaviour, having a revenge-oriented mindset and misusing legal powers. When further questioned by the authors for specific examples, they found it difficult to recall any individual case but held these views based on conversations with senior and subordinate colleagues and their anecdotal experiences. Therefore, attitudes of scepticism and resentment towards female rape complainants amongst police officers contributes to and perpetuates stereotypes of an ideal rape victim. Issues of intersectionality have also been noticed in the studies discussed above.

Kolsky (2010, pp. 113) noticed how colonial manuals on medical jurisprudence focused for great lengths on the question of how women of particular classes and castes could be raped and suggested ways to determine if they were lying. Satish's study (2017, pp. 49) also asserts the use of class-based opinions in judicial precedents based on Modi's book (Modi, JP., 2008, pp. 938–939) such as '*a woman belonging to a labour class, who is accustomed to hard and rough work, will be able to deal blows on her assailant, and will thus succeed in frustrating his attempts at violation*'. Another example of this was mentioned in another book on Indian medical jurisprudence as '*On the contrary, a woman belonging to a middle class or rich family, might not be able to resist for long, and might soon faint or be rendered powerless from fright or exhaustion*' (Parikh, CK., 2011, pp. 5.32). Similarly, Tripathi and Azhar's (2021, pp. 1233) study noted that police officials trusted lower income and lower caste women even lesser while registering their complaints of sexual and domestic violence. This confirms Stuart Hall's (1997, pp. 223) Representation theory where

he talks about how media plays a significant role in influencing public perception of marginalised groups.

Bhandari's (2021, pp. 68–69) study of Indian media narratives of gang rapes suggest how reporting of these cases is filtered through the lens of social identity rather than on the crime itself. In reporting rapes of Dalit women, the victim's caste identity becomes the focus of the story and not the graphic details or the nature of crime. Therefore, the lack of depiction of the effect of intersectional issues becomes even more entrenched in cases of rape where victims have to deal with CJM biases and stereotypes while seeking justice. Studies in Australia and Canada have also noted similar victim blaming media constructions for indigenous sexual assault victim where the narrative shifts blame on them for their victimhood (Cripps, 2021).

A couple of stray observations were also made by the authors regarding the general depiction of sexual violence. This was with respect to the depiction of male, trans and non-binary victims of sexual violence. It was generally noticed that plots of sexual assault and molestation of male victims were often depicted as comical and trivial (Singh, 2022). Sexual consent of men was presumed to be always available. Sexual, harassment and eve-teasing were portrayed as legitimate and recommended methods of attracting a female romantic interest. An example of this was noted in 2013, when an Australian court suspended an Indian immigrant's conviction for stalking and harassing two women considering Bollywood's influence regarding such behaviour as normal and acceptable (ABC News, 2015). Similar concerns have been raised in the UK as well (Moosa, 2017). Rape jokes and non-consensual sexual contact was rationalised as bona fide and paternalistic. An example of this was depicted as 'Jism ki Garmi' act in movies (Dutta, 2020). In these scenes, the female victim would be fatally ill or near death and the only way of rescuing her would be through transfer of body heat from the male protagonist via nude cuddling. Normally, post gaining consciousness one would expect any woman victim to be outraged however, they are depicted as being grateful to the person for saving their life. These scenes serve as prime examples as to how non-consensual sexual contact irrespective of its form as stalking or harassment or molestation is depicted as trivial and influences CJM as such.

Another issue noticed by the authors was the repeated depiction of the rapist as an ideal rape offender. These rapists had a similar caricature with the following characteristics: being a low life or a notorious person of their locality, a jobless person or doing odd jobs requiring very little education or skills, a character portraying lasciviousness and whose very presence evokes a sensation of creepiness or makes you feel unsafe, a criminal or a habitual bad element and a combination of the above factors which would allow the viewers to clearly deduce the potential rapist. The problem with this narrative is when white collar, well-educated, rich, suave men are charged as rapists particularly in cases of acquaintance rapes, their criminality becomes implausible to believe. A belief confirmed by Philip (2022) in his ethnographic study of lives of urban young men in Delhi. Philip (2022, pp.11) noted how young urban men viewed rapists as societal deviants who were inherently evil for committing such dastardly acts. They were unable to see the correlation between inherent patriarchal society and its influence in shaping men's behaviour. How widespread this belief is and what

is its potential impact on acquittal rates is a question the authors would leave future researchers to explore. Let us now focus on the limitations and the possible solutions.

Limitations

One of the key limitations of this study the authors acknowledge is that the Hindi film industry consists of only 50% of the total movies produced in India; the remaining 50% movies produced by regional film industries such as Telugu, Tamil, Malayalam, Kannada, Marathi, Punjabi among others have not been considered in this study. There is no denying that these movies also have an impact on the minds of the public and the CJM. The authors hope that future scholars could potentially explore this impact. The genre and context of the film depicting the rape scenes have not been considered during the analysis. While the genre and context of a film can be relevant to determine how filmmakers and other bodies certify movies as drama or comedy based on the persistent theme of the movie. However, for the purposes of this research, the authors deemed it as an irrelevant factor as the focus was on the individual scene itself. The general observations and analysis in this study have been restricted to mainstream movies; advertisements, print media and other forms of public information systems have not been explored. Future researchers could study the impact of these systems on issues of sexual violence.

Possible solutions

The discussion and the analysis above clearly show a correlation between the depiction of rape victims in mainstream movies and their perception by the CJM. To reform stereotypes and perceptions, it is important to first acknowledge their presence and influence and then trace its sources and origins. Corey Rayburn (2006) in this context has argued that outcome in rape trials is not determined based on legal and evidentiary rules but on the gender stereotypes most appealing to the jury. He also discusses how years of over sensationalising and hyper dramatization has desensitised the public to the harm of rape. This has created an unfortunate situation where if the rape victim does not depict her agony in a pre-conceived scripted way, her story is less likely to be believable. Rayburn (2006, pp. 479); (Vera-Gray, F., 2021) attributes such attitudes to the repeated exposure to violent pornography based on a series of studies both domestically and internationally. Therefore, there is a need to institutionally recognize the realities of decision making in rape cases based on unnecessary and ingrained cues and then train members of the CJM to fight against such instincts.

There is a corresponding need to sensitise filmmakers about the impact of their works and their ethical duty to not use creative process at the cost of society and to the detriment of rape victims (Vishwanath, 2022). In 2021, the Supreme Court in *Aparna Bhat v. Union of India* (2021, paras 18, 19, 46), acknowledged the general trivialisation of harm due to rape/sexual assault by courts. The Attorney General submitted that there is a need to sensitise judges against gender stereotypes. Oishik Sircar (2021) acknowledged the relevance of films in shaping public perception and their truth telling function as a form of jurisprudence which shapes opinions and perceptions of the public. Sircar (2024, pp.107–110) coined the term ‘Bollywood Juris-

prudence' to contend that Bollywood movies in India have a strong capability to alter, shape and reinforce public perception regarding historic and contemporary events in India. Therefore, filmmakers need to acknowledge the impact of their creative works and the mere mention of a disclaimer at the beginning should not be sufficient to absolve them of any and all responsibilities towards society.

In the past couple of years, The Advertising Council of India has regulated the use of advertisements by corporates to prevent unfair and unethical practises based on relevant statutes.⁹ These steps include directing removal of certain offensive advertisements, levying fines for false advertisements and encouraging consumers to seek redressal in consumer and other legal forums. In March 2024, the Central Consumer Protection Authority issued certain guidelines prohibiting the use of Advertising, Promotion, and Endorsement of unlawful activities by celebrities and influencers via advertisements (CCPA, 2024). Similar steps could be undertaken by the film regulation bodies. The relevant regulatory agency for films in India is the Central Board for Film Certification which is empowered to deny certification of films if found to be in violation of decency, morality and public order under Section 5B of the Cinematograph act, 1952. One can easily make the case that the repeated depiction of rape victims and rapes in a stereotypical manner is against public order, morality and decency. While the Indian Constitution does grant the freedom of speech and expression to every person under Article 19, these freedoms are subject to reasonable restrictions. In the opinion of the authors, relevant steps for regulation and reform of rape victim portrayal in the interest of sexual violence victims would be an appropriate and desirable exercise of this power.

An example of this would be for script writers or film producers to discuss potential crime scenes in movies to check if they are not exaggerating or misrepresenting the crime or the victim. However, this could lead to pre-emptive assessment of many films which could trigger concerns of pre-censorship. Thereby, there is a need for guidelines for an appropriate governance agency for adjudicating such issues concerning films. It is also important to recognise the relevant stakeholders in the decision-making process in the film industry while sensitising them to the impact of their actions. While it is tempting to focus on the script writers for deciding on the portrayal of a particular act, literature indicates otherwise. Priyam Sinha (2024), in her ethnographic study of script writing for disabled characters in Bollywood movies throws some insights. Her subjects explain how script writing involves years of research about the character's portrayal, on ground realities experienced by writers, producers and their personal life experiences. However, script writers expressed frustration regarding the influence of other powerful stakeholders on the final released product. These were established and influential superstar actors, producers, directors and movie production houses who would very well rewrite the script in a manner completely different from what was originally envisaged by the writer. Therefore, it is important to focus our efforts not only on script writers but also on other stakehold-

⁹ The Consumer Protection Act, 1986, Section 6; The Cable Television Networks (Regulations) Act, 1995 & The Cable Television (Amendment) Rules, 2006, Rule 7; The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply, and Distribution) Act, 2003, Section 5; Advertising regulations under Drug and Magic Remedies Act, 1954 & Drugs and Cosmetics Act, 1940, Section 29.

ers who hold decision making powers with respect to the final film product in order to cover all ends for reform.

Conclusion

The use of media as a tool for propagating an idea has always been known to the public. However, its actual impact with respect to the CJM has not been adequately examined by scholars in the past three decades. The authors' study demonstrates a clear correlation between a stereotyped ideal victim caricature portrayed by Bollywood movies repeatedly over a period of forty-two years and its influence in creating a corresponding expectation by members of the CJM in India. While female filmmakers have attempted to portray empowered female victims in the past couple of years, the general majority trend remains the same. Therefore, dedicated efforts to sensitise members of the CJM and the Bollywood industry would reap far more dividends in creating a safe, accessible and inclusive space for all victims of sexual violence to confidently seek legal recourse. Statutory regulations would obviously assist in this process and should be resorted to if the initial efforts fail or result in less than desirable change.

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Declarations

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