

Reflection on Crime against Women¹

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Background

Dr M N Buch wrote a series of articles in the aftermath of the Nirbhaya Incident that rocked the nation in December 2012. The barbarity of the incident and its consequences, finally ending with the death of Nirbhaya resulted in a spontaneous outpouring of public anger. It has also led to a lot of introspection about the law & order situation and the widespread violence against women reported across the country.

Dr. Buch looked at this issue from different stakeholders' perspectives including those of Judiciary, Legislature, Executive (Bureaucracy, Police), Women and Societal Norms.

Analysis of the articles

In the article titled "**Crime and Punishment**"(Buch, Crime and Punishment, 2012), Dr. Buch analyzed the strident demand for instantaneous capital punishments to perpetrators of such heinous crime. The author argues that the existing law of minimum seven years imprisonment, extendable up to life should be sufficient deterrent for such cases. He points out that in case of murder which already attracts capital punishment (for the rarest of the rare cases), has been seen to be ineffective as a deterrent to criminals. The fundamental problem is that judiciary has become extremely slow in execution. The country needs swift action from the courts so that rape convicts can be prosecuted as soon as possible. This will restore reverence and faith towards judiciary.

In the next article in the same subject titled "**An Object Lesson in Government Incompetence**"(Buch, An Object Lesson in Government Incompetence, 2012) the Author wonders whether the spurt in rape cases is a sudden development or an indication of the centuries old malaise of gender inequality. He is of the opinion that gender inequality has always existed in our society. Even now in rural India, illegal child marriages are prevalent as

a means to deter abuse of young girls. He wonders how a country can survive and prosper if half its population is discriminated against.

The protests that ensued after the incident could be a sign of the society's growing intolerance on the inept handling of such issues by the authorities. He further indicates the protests and anger could have been better managed by the top leaders including President, Prime Minister and Chief Minister of Delhi etc instead of allowing it to degenerate into a mob management scenario. The author advises people in high places should interact with the masses they govern and learn to listen to their woes and handle such spontaneous out bursts by the people as it is their duty to do so.

Similarly he castigates the Delhi Police for allowing the ill-fated bus to ply erratically on the night of the incident even after it was detected by some Police patrols. The entire administrative machinery should have been alert enough to deter such crimes and top brass of the police machinery should have been chastised for not implementing proper security measures. He also criticizes the unseemly public statements issued by the Delhi PC in defiance to the harsh criticism of the Delhi CM. The Author calls for handing over control of Delhi Police to the Delhi Government, duly retaining some residual powers with the Lieutenant Governor, as done in Nagaland etc, being a Union Territory.

The next article on the series is titled "**Systemic Failure or Organ Failure**" (Buch, Systemic Failure or Organ Failure, 2013) where the author draws parallels between the anatomy of an organism and the Indian body politic. The author analyses the multi-organ failures and wonders if we are on the brink of a system failure, which would be difficult to correct. He suggests reforms in all the three subsystems of the polity.

On the Legislature front, he cites the absence of deliberation and debates on the societal issues, as the parties do not see eye to eye. He also points out the increasing power wielded by the splinter regional parties to influence the workings of the subsystems. The remedy

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suggested is to have reforms that will restrict independent candidates or Parties not having presence in a minimum of 3 state legislatures to participate in Parliamentary elections.

On the Government front, he questions the vacillation and dithering at the highest levels that result in officers not having clear policy/orders for implementation. He suggests that the Constitution already provides the system framework in which every functionary is expected to carry out his functions, without fear or favor. They need to be allowed to function.

The author then talks about the pressure exerted by the Executive or the Legislature on the effective functioning of the Judiciary. One cannot deny that there is a great deal of inefficiency and even corruption in the judiciary today. The judicial reforms should set objective assessment of the strengths of judges and magistrates, a process of selection of judges which safeguards the independence of the judiciary and a call for speedy disposal on a day-to-day basis.

In the article titled "**Propriety and Appropriateness**" (Buch, Propreity in Attire Debate, 2013), Dr Buch evaluates the role of society in this context. He outlines a need for dressing appropriately for situations and behaving appropriately. India is still a fairly conservative country and major parts of India haven't accepted what the rest of India thinks is modern. The western culture has evolved a code to repulse unwanted attention to women and also invite attention at select occasions, without questioning the morals of the women in question. In India, where there are still cases of children being married as soon as they attain puberty to protect them from anti-social elements, we are a long way from evolving a similar code.

Dr Buch then argues that several of the recent cases of violence against women in large cities might have been committed by low skilled workers that have migrated from villages to cities in search of gainful employment. Dr Buch feels that this rootless group is lost between the two worlds, the traditional/ritualistic society that they grew up and the new modern society that they find themselves in. In his opinion, he feels that a great deal of sexual violence is due to wrongful interpretation of

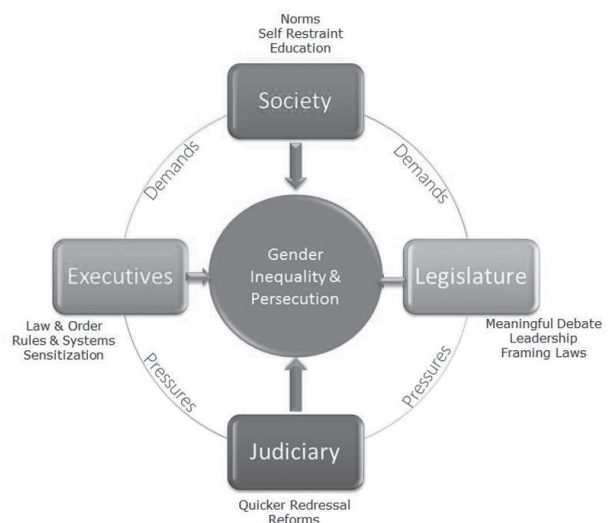
signals by the people concerned. Dr Buch goes on to say that this issue needs to be addressed and specialized organizations of government and police need to be formed to help these folks to assimilate into the society. On the negative reactions to the statements from the Delhi CM on the need for women to dress appropriately Dr. Buch begs to differ pointing that, this is a call for discretion on part of women to understand the society that we live in and also take precautions to avoid such situations.

Dr. Buch brings a balance to the narrative in the article titled "The Police, Too, Have A Case"(Buch, The Police, Too, Have A Case., 2013), which provides the police's perspective. He argues that the Police force is under undue stress due to factors such as population explosion, increasing lack of morality and the constant disempowerment of the forces of law and order. Their problems include inadequate manpower, improper training and lack of infrastructure, which calls for immediate attention.

Bringing together the three stakeholders society, government machinery and the police department will reduce the cost of policing, avoid unnecessary stress in the department and can help to create a balance.

Summary

The following common threads emerge when one analyzes the various perspectives that Dr Buch highlights in the first 5 articles.



A common thread is observed while one analyzes these articles

- Violence against women is not a new phenomenon and has existed in our societies for long.
- Gender discrimination, which lies at the root of this evil, needs to be tackled jointly by the society and enforced by the three pillars of the modern society viz. Executive, Judiciary and Legislature.
- Sensitizing the executive and legislature to the pressing problems of the citizens should remain the top most priority.
- Indian Constitution already lays down adequate provisions to tackle such crimes in a just and an equitable manner. However, the implementation of these provisions by all the three wings needs to be reviewed at the earliest to make them transparent and speedy.

The other issues that were highlighted in these articles were

- The misuse of implementation of criminal justice by politicians for their short term political advantage needs to be curbed.
- There is a continuing faceoff between the conservative India and the Modern India, which contributes to a lot of angst faced in the society, particularly the women and the less privileged. This needs to be understood and managed by the society and the executive.

Gaps

- While the role played by media in highlighting some of the issues needs to be applauded, there is a crying need for the media to practice some self-regulation and ensure that it does not hype peripheral issues and take the attention away from the core issue at hand.
- The role of Non-Governmental Organizations needs to be reviewed to see how they can help the rootless migrant population to assimilate into the urban lifestyle.

Reflections

Dr MN Buch has helped us to take a balanced perspective by examining the incident and its fallout from the eyes of the various stakeholders. He helps us to take a step

back and recognize that there is a widespread discontent and disillusionment with the socio-cultural environment in the country. While the official pillars of the society are to be blamed for some of the malaise, the fact remains that the civil society, starting with each of us, needs to reflect and start acting within his/her sphere of influence. We can make an example by respecting the role of women in our lives and be an example for our children and to those people who look up to us.

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Appendix (Detailed takeaways from each article, to be used if necessary)

1. The author has taken the stance that the recent spurt in reported crimes against women is not really a recent phenomenon and has existed in our societies for centuries. The recent spurt could be attributed to the fact that the modern and the traditional societies which were insulated from each other have now begun to clash with each other on a much larger scale. The author speculates that this spurt in violence against women in the cities could be due to the large scale migration towards urban areas.
2. The author then points to the break down in the efficient functioning of the pillars of the civilized society which includes the Executive, Judiciary and Legislature. All the three of them exert undue pressure on each other which hamper the efficient functioning of all three. The Constitution already provides for an effective framework for not only the functioning of all the three but also for remedies in case of violations. The issue, however, is that the existing framework is not being allowed to function to its full efficacy.
3. On the strident call for swift justice and new laws

to tackle violent rapes, the author agrees that a swift redressal of such cases is required; however, there is no need for separate fast track courts to address these cases.

4. The police and administrative machinery needs to be sensitized to the needs of the women and appropriate measures need to be taken to empower them.
5. He highlights the need for women to appreciate the cultural mores that are prevalent and taking adequate precautions to ensure that their attire and demeanor are not misinterpreted.

In addition to the above, it may be befitting to consider the role of the media in driving up the frenzy and the other Governmental and Non-Governmental organizations in sensitizing the society and the various stakeholders in understanding the larger issues at stake.

This reflection was prepared by Siva M. Kumar , Srinivasa Raghavan R, Manoj Khati, Vinayan J, Milind R. Chittawar, Habeeb C. Mahaboob and Swapnajit Chakraborti.

Each work has to pass through these stages - ridicule, opposition, and then acceptance.
Those who think ahead of their time are sure to be misunderstood.

- *Swami Vivekananda*