In the Footprints of Bhanwari Devi

FEMINIST CASCADES AND #METOO IN INDIA

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In the Footprints of Bhanwari Devi: Feminist Cascades and #MeToo in India

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Fashions are changing in the sphere.
Oceans are asking wave by wave
What new shapes will be worn next year;
And the mountains, stooped and grave,
Are wondering silently range by range
What if they prove too old for change.

The little tailors busily sitting
Flashing their shears in rival haste
Won’t spare time for a prior fitting --
In with the stitches, too late to baste.
They say the season for doubt has passed:
The changes coming are due to last.
[Adrienne Rich, A Change of World, 1951]

Introduction

The cascading of the #MeToo movement against sexual harassment calls for a sustained reflection on many tracks. Its global travels from its origins in the United States to its rapid spread to other locales, lead to questions about whether this is part of a larger feminist global justice movement in the making. If this is the case, its singular focus on sexual harassment over other forms of gendered violence across different locales call for closer attention. Its use of digital media for “effective” mobilization, presents a shift in movement strategies from physical bodies to virtual spaces of solidarity between absent presences. The place (rather dis-placement) of law and due process (discursively, especially) signals an important shift (transient or enduring?) in the relationship between law and society. Although riding on the crest of this global wave, the insurgent/subaltern local turns in the articulation of issues, skews the global connection towards a specificity of place and intellectual histories of feminism. These are some questions that beg feminist ruminations as the movement cascades, meanders and changes course.

What I offer here are feminist reflections (on the move) on #MeToo in India even as it is unfolding. To borrow an analogy from research on the Internet, this attempt is in a sense trying to photograph a breaking wave, “its molecules already shifting even as they are captured” (cited in Raman and Komarraju 2017: 131). In this essay, I will attempt to open out some possible filters through which we may understand the movement and its contexts, with a view to historicizing the feminist present, signposting the trajectories of its intellectual histories, reflecting on the politics of emotion that drives this moment, anticipating possible “feminist futures” (Ahmed 2004) and speaking to the intersecting

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frames of law and social movements. In doing this, I will specifically look at the Indian context, even while I acknowledge the transversal political possibilities this cascade opens out.¹

We could see #MeToo (a long moment which extends from Raya Sarkar’s List of Sexual Harrassers in Academia, LoSHA for short, to the resignation of MJ Akbar² beyond) as not being only about “sexual terrorism” that extends from unwelcome sexually coded comments to violent assault (Kramarae in Foss et.al. 1999: 47), “but about what thwarts and indicts it”, for, as V. Geetha observes so pertinently, “unless we ‘remember’ the history of this thwarting, even as we do keep alive the memory of …violence, we would be doing grave injustice to our capacity for hope and faith in justice” (Geetha 2016a: xxxi).

#MeToo in india brings into sharp focus a turn in feminist mobilization – the emergence of cyber feminism also characterized as fourth wave feminism, not completely disconnected from but not totally connected to the offline mainstream movement (See Tella 2018). A pertinent question before us is, “what directions of feminist action or resolution are encouraged or constrained when the conversation is taken primarily to online spaces?” (Raman and Komarraju 2017: 133) The digital media, while it occupies a central place in movement communication, is in this case a “world with …digital devices” rather than a “digital world” to echo the distinction Raman and Komarraju make (2017: 137) with the Internet offering “an additional space to define, mobilize and carry forward their agendas” (Raman and Komarraju 2017: 132). Despite its limited reach – more or less confined to urban metropoles and the English media, it offers us some insights into the (im)possibilities of feminist politics. The turn from physical mobilisation to the use of social media platforms in order to forge the collective and craft a cogent feminist resistance – and indeed to build and strengthen the power of physical mobilisation – achieving hitherto impossible aggregations and solidarities of far flung actors lends itself to a searching analysis by itself.

In this alone this moment presents to us a major shift, where recourse to formal law, even where inevitable or unavoidable, is incidental to the collective engagement and does not seem to lie at its core – pointing to distinctive modalities in the means and the ends of the struggle, even while the broad aims and goals may be shared between the movement in its third wave and this one (if indeed these are clearly distinguishable waves).

Heterogenous Locations

Across online and offline spaces, the #MeToo movement has carried the voices of women and queer persons from widely varying social locations, claiming a place in the “Me”, interrogating the “Me” and/or setting up a counter-“Me,” deploying a diverse range of tools of analyses.

¹ There are several individuals named in the different moments during the #MeToo movement – from LoSHA and the feminist statement to other academic locales, and in October 2018 in cinema, journalism, electronic media and protest movements. I do not dwell on each individual instance.

² MJ Akbar - senior journalist and former editor of leading English language daily newspapers in India, and till #MeToo accusations named him forcing him to resign, was Minister of State for Foreign Affairs, Government of India.
The Facebook group Dalit Women Fight underscores intersectionality as the hallmark of Dalit feminist mobilization:

“As Dalit women we have for long resisted our perpetrators, which include dominant caste men, mixed caste men, men from our own castes and dominant caste women. The approaches to our battles have been varied but our language has always been one that seeks collective transformation. As anti-caste feminists we aim to dismantle caste and envision a world that strives for gender equity alongside...The intersectional impact of caste and gender is manifold and the appropriate response multi-pronged. Always” (11 October 2018).

Gender, caste, sexuality, tribe, community, social location, labour, citizenship and violence are all mutually interconnected and co-constitutive producing gender orders that are may only be decoded through an understanding of intersectionality. Patricia Hill Collins and Sirma Bilge foreground the figure of Savitribai Phule as someone who understood and used intersectionality without necessarily naming it as such when she “confronted several axes of social division, namely caste, gender, religion, and economic disadvantage or class,” in the course of her life and work (Collins and Bilge 2016: 4).

The Decolonial Feminist Statement on #MeToo by Kashmiri Women (2018) places the resistance to violence against women within the context of the resistance to army occupation in Kashmir, and the movement for self-determination, underscoring the fact that curtailment of fundamental freedoms has specific implications for women.

“We would also like to address the current perception amongst some who support the movement for self-determination that the women bringing these allegations are merely lending a shot in the arm to the Indian state’s occupation. It is true that the Indian state and its votaries will seize upon anything to discredit the Kashmiri Muslim community, and by implication denigrate the movement for self-determination and freedom... [W]e insist that those who support the movement for Azadi must be wary of dismissing women’s complaints and brushing them under the carpet in the name of protecting the resistance. For a due process to take place, it is important that victims be believed, and space is created where women feel that they are able to voice their experiences without censure, stigma, or rebuke."

This acquires a new relevance in the light of the testimony published by a student in Delhi of being raped by the man who led the protests on behalf of the Kathua rape victim’s family in which she speaks of the “De-colonial Statement” enabling her disclosure:

“I am aware of the dangers of speaking up about this celebrity “activist” raping me. My testimony may be used by those forces which are bent on distorting the facts of the Kathua rape case and letting those rapists off the hook. This is the apprehension which forced me to remain silent for more than five months. Had it not been for the ‘Decolonial Feminist Statement on #metoo in Kashmir’...I may even have swallowed my humiliation and kept my silence for ever” (Anonymous 2018).

Queer activists, especially transpersons – and within that broad collective, Dalits and Muslims speak of the persistent and virulent exclusion they face on a daily basis in a society that treats cis gender as the norm even while it opens out legitimacy to LGBTQ persons through the decriminalisation of Section 377 IPC. A young woman on the threshold of adulthood declared her support to #MeToo on her Facebook page by recalling with chilling openness her own experiences of repeated molestation by older men who were not strangers that spread across her growing years from age six to seventeen
– not to ask for any action, but to warn young girls to look out for early signs of abuse and call out abusers without delay.

There are of course silences that scream: Women with disabilities have not entered this account, because the frames of reckoning are locked within able-normative discourses, and yet we know especially but not only from the case of Suchita Srivastava,3 the extreme vulnerability, especially of women with disabilities in institutional care, to sexual assault and routine sexual violence. The largest number of women from the working classes (mostly migrant, Adivasi and Dalit) in precarious employment in the rapidly proliferating unsafe workplaces and gated communities spawned by unfettered neo-liberal markets are as yet unrepresented in the #MeToo movement.

Entitlement to Impunity

There are also of course the men who have been found guilty/accused of harassment – Challenging the male prerogative over women’s bodies is tough: within the family, where marital rape continues to be lawful, and at work where sexual access to any (all) women is presumed and normal. In the long line of cases from Rupan Bajaj through Bhanwari to MJ Akbar, there is an eerie steadfastness to the claim of impunity for and on behalf of men, for after all women must develop “finely tuned, discreet social mechanisms for coping with Importunate intrusions on the individual [read female] body” (Swapan Dasgupta, “Enter Sexual Harassment: Awaiting the Feminist Inquisition’, The Indian Express, August 10, 1996).

Without multiplying examples, the gold standard alone: KPS Gill.

“the sentence of three months’ rigorous imprisonment...although well within his discretion and powers under the relevant section of the Indian Penal Code looks somewhat harsh considering that Gill had an outstanding record as a supercop. If today Punjab is rid of militancy which had taken a heavy toll of human lives in the state a great deal of the credit goes to Gill” (editorial, The Hindu, August 9, 1996).

Or

“It somehow makes the law of the land look grotesquely odd and incongruous that a man who has done signal service to the country by ridding a state of the dread and oppression of terrorism should have to spend five months in jail for a minute’s exuberance provoked by the charms of an attractive working woman” (editorial, Deccan Chronicle, August 8, 1996).

Or

“KPS Gill's conviction by a Chandigarh court prompts a moral dilemma. India's smnost celebrated policeman, the man who contributed most in crushing terrorism in Punjab, and one of the country's most authentic living heroes, has been held guilty of using 'criminal force' and "intruding upon the privacy of a woman. There was no political dimension in Rupan Deol Bajaj's charge...It was a plain and simple charge of sexual harassment...Under the circumstances, should Gill's enormous national contribution be allowed to gloss over a personal misdemeanor? Conversely, should Gill's record in Punjab be allowed to be subsumed by a flood of righteous indignation...No Indian who is aware of his role in defeating secessionism in Punjab

3 Suchita Srivastava v. Chandigarh Admn. 2009 9 SCC 1
can be happy at Gill’s misfortune...Unfortunately it is not his humiliation alone; the country too feels a little small today.” (editorial, The Indian Express, August 7, 1996).

Similar, yet very different in the intersections of caste entitlement with sexual assault in another context at the same time, an excerpt from the trial court judgment in Bhanwari Devi’s case:

“Indian culture has not fallen to such low depths that someone who is brought up in it, an innocent, rustic man, will turn into a man of evil conduct who disregards caste and age differences — and becomes animal enough to assault a woman. How can persons of 40 and 60 years of age commit rape while someone who is seventy years old watches by; particularly in the light of Bhanwari Devi’s acceptance that one of the rapists is a respected man in the village.”

What, we might then ask, are the limits of #MeToo and challenges before it – as movement, as possibilities, as futures.

Who is the “Me” in the “MeToo”?

We may reflect on this question from at least two vantage points. The first is through a historical grounding of assertions by Adivasi women, Dalit women, queer persons, children, and women in precarious employment especially in the unorganised sector for instance of their right to dignity, bodily integrity, due process, rule of law and feminist recuperation/restoration in the aftermath of violence. The second is by situating the “Me” question within larger/older debates on feminist and anti-caste solidarities.

Although the first case of “sexual harassment in the workplace” was brought to court by an IAS officer, Rupan Bajaj against IPS officer KPS Gill it was the struggle of Bhanwari Devi to have the men who sexually assaulted her prosecuted and punished that resulted in significant advances in the law on sexual harassment in the workplace and brought this term into the constitutional imaginary. Bhanwari’s experience of pursuing justice that was always ever out of reach for Dalit women simultaneously shaped our understanding of the skewed trajectories of due process and the precarity of the rule of law in Dalit women’s lives.

Yet, in the pursuit of justice for her case, even while Bhanwari led and catalysed a national movement for the protection of women’s right to bodily integrity and dignity (a victory for “all women” against sexual harassment), the criminal trial to prosecute the dominant caste perpetrators in her case was a gross violation of Bhanwari’s right to justice against sexual assault and caste atrocity. In terms of the rule(s) of law, dominant caste prerogative powered the criminal trial in Rajasthan, while caste was erased from the judicial deliberations on the constitution and international law in the Supreme Court’s ruling on sexual harassment at the workplace. When we look at “due process” as a piece placing these two cases that spring from the same source and from Bhanwari’s experiences, we find a morphing of the discourse on sexual assault through caste atrocity and the absence of due diligence by the state into the “lesser crime” of sexual harassment against “caste-less” women – initially through the Vishakha judgment and now through the Prevention of Sexual Harassment at the Workplace Act 2013.

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5 In the classification of criminal offences against the body in the Indian Penal Code and special legislations.
The question of due process has been at the centre of acrimonious debate and contention among feminists since Raya Sarkar published LoSHA and a small group of feminists published a sharp rejoinder in 2017. The concerns remain whether it is adequate to call out harassers and sexual predators; whether naming and public shaming adequately meet the ends of justice on all counts; whether calling harassers out is a first step towards initiating some form of formal action – mindful of its pitfalls and treacherous history of subverting the ends of justice, but also of its gains, few but significant; and what that formal action might be.

To echo Upendra Baxi’s question in a different context, how and to what extent might we sidestep an over reliance on normative law? In this again, Bhanwari shows us the way:

“Bhanwari made the difficult choice of returning to Bhateri and renegotiating her position there by calling a jati panchayat in 1993... There was hostility, of course...there was suspicion...and there was isolation...Yet, she called a panchayat, not to demand justice because she had been sexually assaulted, but to restore herself in some way to her own context with dignity. Since that context was specific and one of which she alone was part, she was clear that she did not want any members of the support group that had backed her to be present at that meeting” (Kannabiran 2012: 399).

In Bhanwari’s case we see the different simultaneous locations of the “me” – defined by the “we” – which is inclusive at times: the community of belonging, -- the village, the community, the feminist collective, as the case may be; and exclusionary at other times, with the “Me” standing alone at the margins speaking truth to power, almost always losing ground to multiple, intersecting channels of impunity bolstered by state/majoritarian power; and yet staking her rightful claim on due process at every level in a simultaneous and integrated articulation of justice in plural locales. In her self-conscious choices of justiciability, she as the survivor with feminist agency transforms the “Me” into a plural “We” constituted outside the frames of individual reparation/redress alone. We will return to the idea of the “We” in the concluding section on feminist politics.

Memory, Emotion and the Challenge to Impunity

“What happens when feminists speak out against forms of violence, power and injustice? What role do emotions play in acts of speaking out and in the ‘spectacle’ of demonstrating against such forms of power?” (Ahmed 2004: 168)

The deeply disturbing testimonies that have called out perpetrators in the past year bear witness to the harms of sexual violence ranging from unwelcome gestures, verbal abuse, visual and physical molestation and stalking to child sexual abuse, rape and gang rape – some of which may be in the jurisdiction of internal complaints mechanisms of workplaces, others that fall through the cracks of different jurisdictions and are therefore confronted with the impossibility of redress, and yet others firmly in the domain for formal criminal law that calls for immediate prosecution. All of these, whether or not the lines of due process are clear, are within the domain of public call-outs of perpetrators that is the method the #MeToo movement deploys to challenge the impunity of perpetrators and push for due diligence by public actors, non-state actors and importantly the media (print, electronic and social/digital). The problems of accountability and justiciability in the material world are challenging without doubt – since there is a materiality to reparations in every one of the cases: responsibility of
current employers for past wrongs by employees, methods of investigation, what besides testimony amounts to proof/evidence, processes in the case of independent professionals, punitive measures and appropriate authorities, material costs involved, for instance.

Distinct from the choices the survivor might make is the deployment of the “rule by law” as distinct from the rule of law by perpetrators – before us in the continuing present, the illustrative case of criminal defamation by MJ Akbar (earlier by RK Pachauri who was similarly accused), which mandates feminist engagement with formal law even while issuing a public call out of harassers. Due process is not always, neither should it be part of an “either/or” choice.

How much do we really understand about the realities of sexual violence in the futures survivors carry themselves into? In this #MeToo moment, we witness in real time the afterlives of sexual violence stretching over two to three decades in some cases. This today is the future of that violence in the past which in fact is the continuing present. Human rights and feminist fact-finding must grapple with this complexity of the “long night” (to borrow from Essar et.al. 2016) that extinguishes the fine distinctions between past, present and futures for survivors especially in terms of their interiorities and their dwelling within themselves, and their communities of belonging – whether home, community or workplace. It also challenges the amnesia that is constitutive of impunity.

The challenge to amnesia, indeed to mis-naming, occurs at a second level: in the confrontation of dominant feminist organising within the larger struggle against sexual violence, as with Mimi Mondal’s interrogation the savarna bias in acknowledging the frontrunners of feminist resistance:

“Why are Savarna Indians so reluctant to be represented by a Dalit woman, even someone who is a stranger, someone whose work is not specifically for or about Dalits?... Raya Sarkar’s list wasn’t only for Dalit women, yet Savarna India needed a new, unrelated #Metoo movement to feel comfortable talking about large-scale sexual harassment. What message does that send to us Dalit women?” (Mondal 2018; see also Bargi 2017).

Recalling Audre Lorde’s response to the white feminist refusal to hear her anger against racism, Sara Ahmed’s comment is instructive:

“Learning to hear the anger of others, without blocking the anger through a defence of one’s own position is crucial. Such a project requires that one accepts that one’s own position might anger others and hence allows one’s position to be opened to critique by others.” (Ahmed 2004: 178)

It also takes us back to Dr. Ambedkar’s anger and his “continued anguish over acts of humiliation and violence” in a caste order in which “the so-called untouchables, however much they suffered, are disallowed human concourse that would enable them to cognize and address suffering” (Geetha 2016b: 213, 214). The persistent question from Dalit feminists over the erasure of the suffering and pain of Dalit women as also their leadership from dominant feminist discourse recalls this critical anger which crafted anti-caste resistance.

**Feminist Politics, Histories and Futures**

#MeToo is momentous in feminist politics because it has simultaneously triggered a renewed debate on sexual violence against women (rejecting gradations in harm, suffering and tortuous memory), and called out feminist politics in a graded society. Its sharp interrogation of feminist politics – with cross
cutting questions of caste hegemonies, power embedded in academic standing, gender hegemonies that mis-recognise or silence the non-cis gender queer, and generation/hierarchies of age signalling the multiplexity of feminist reasoning marks this moment.

Guinier and Torres propose demosprudence as “the study of the dynamic equilibrium of power between lawmaking and social movements [which] focuses on the legitimating effects of democratic action to produce [durable] social, legal, and cultural change” (Guinier and Torres 2014: 2749). While one argument is that this #MeToo moment represents a break from what has gone before, a disruption, it is productive praxiologically to historicise this disruption by examining closely the multiple trajectories of this feminist cascade that in its layered engagement with the politics of emotion, law, ethics, and mobilisation -- physical and virtual -- opens a pathway to thinking through the contours of a feminist demosprudence.

How might we think through the complex questions of feminist solidarities? Nira Yuval-Davis (2006), writes of the indispensability of “transversal” politics to feminist praxis today, as a way of keeping sight of questions of diversity, and side stepping the dangers of homogenising and objectifying collective experience. The only way of practising a complete politics, by this argument, is through dialogue between people from widely varying positions and locations. Differences are important, but difference is encompassing of the idea of equality, is non-hierarchical and is built on respect for others’ positionings, with the entire multiplicity of views given voice and weight. While every conflict of ideas may not be reconcilable, there are always infinite possibilities for ‘congenial’ and ‘tolerable’ political engagements that transversal politics could enable.

This is of course far more difficult in a society deeply fractured by caste, community and heteronormativity, as the contentions within the #MeToo movement has foregrounded. A search for the fine thread of reason that could help forge a concerted feminist resistance that encompasses the idea of equality and sororal fraternity leading us to Babasaheb Ambedkar:

[S]ocial divisions of India do matter in politics... What [people] must have in common in order to form a community are aims, beliefs, aspirations, knowledge, a common understanding; or to use the language of the Sociologists, they must be like-minded. But how do they come to have these things in common or how do they become like-minded? ...Participation in a group is the only way of being like-minded with the group...[S]o long as the groups remain isolated the conflict is bound to continue and prevent the harmony of action. It is the isolation of the groups that is the chief evil. Where the groups allow of endosmosis they cease to be evil. For endosmosis among the groups makes possible a resocialization of once socialized attitudes. In place of the old, it creates a new like-mindedness, which is representative of the interests, aims, and aspirations of all the various groups concerned. Like-mindedness is essential for a harmonious life, social or political and, as has just been shown, it depends upon the extent of communication, participation or endosmosis...” (Ambedkar 1919).

Although set out by Dr. Ambedkar as the terms in which Indian society fractured by caste should reorder itself, we may appropriate it for a better understanding of social movements – feminist movements in India in this case – that constitute within themselves and are constituted by the tensions and contradictions in the wider society. We can scarcely ignore Dr. Ambedkar’s acute awareness of the various levels (including within political movements) at which these contradictions were deeply embedded. It is this “re-socialization” that ought to be constitutive of transversal feminist politics, through the catalysing of a “politics of becoming” (to borrow from Connolly 1996, Minow 1996), which enables the re-invention of a new “We” constituted self-consciously -- acknowledging
prior experience of suffering, interrogating existing foundations of culture and solidarities, and moving towards a fundamentally transformative process in the forging of new kinds of feminist collectives.

The forging of the “We” by Bhanwari Devi, which in fact lies at the heart of Dr. Ambedkar’s concerns about the indispensability of “endosmosis”, a “new like-mindedness” that defines the collective experience, acknowledges pain, suffering, prior experience and critical anger, and builds on the memories of turning these around to thwart impunity. A broad-based transversal feminist politics might shine the torch on a better, more ethical, and collectively responsive society.

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