

CROSS-CULTURAL VIEW OF RAPE

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ABSTRACT

Rape is still a predominant issue that many cultures are constantly battling. The prevalence of rape and how cultures have dealt with the issue differs. This Note discusses two independent instances of rape, one in the United States and the other in India. Although both events happened within a couple of months of each other and occurred in similar conditions, the responses nationally and internationally were very different. This Note distinguishes the American and Indian cultures to explain the differences in the current rape climate in both countries. It further shows that remedies against rape in one culture may not be affective in the other. Finally, this Note evaluates various approaches to solve the sexual violence problem in India by examining international views of rape and proposing an individualized approach for India.

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I. INTRODUCTION

As an Indian living in the United States, I have the unique opportunity to learn about the Indian and American cultures and share a common sense of belonging to both. I often keep myself apprised of the major news in both countries—usually after browsing the New York Times, I spend a few minutes reading Times of India. On December 16, 2012, the major news in India was the headline for most of the newspapers in the United States. A twenty-three-year-old student was brutally raped on a bus in Delhi, India's capital.¹ My initial reaction was of horror, anger, and sadness. Over the next few months, I followed the story closely. Looking back, I now realize how easy it was for me to learn about the incident and the after effects. Every major media source covered the story and the repercussions that followed. Even though I sought out information and was more inclined towards the media coverage, the news was so widespread that it was even known to the common American citizen. At first, I was pleasantly surprised by the global outcry and concern for India, but later I began to question why there was so much conjecture over the event. Although it was a terrible crime, it was not so different from crimes that occur in the United States. For example, around this same time, a similarly terrible gang rape took

¹ *Delhi Gangrape: What Happened on December 16, 2012 and Status of the Case*, NEWS 18 (Dec. 8, 2014), <http://www.news18.com/news/india/delhi-gangrape-what-happened-on-december-16-2012-and-status-of-the-case-730141.html>; Heather Timmons & Sruthi Gottipati, *Women Dies After a Gang Rape That Galvanized India*, N.Y. TIMES (Dec. 28, 2012), <http://www.nytimes.com/2012/12/29/world/asia/condition-worsens-for-victim-of-gang-rape-in-india.html>.

place in Steubenville, Ohio.² While the media covered this event, it was not discussed as extensively. In this Note, I will use principles of cross-cultural analysis to discuss the Delhi and Ohio rapes along with the aftermath of each incident. I hope to better understand the causes and effects of each of the events using a cross-cultural lens.

As a non-resident Indian, I realize I may be biased towards India and dislike any negative publicity. However, I am aware of India's shortcomings. Just as a parent of two children, one of whom is excelling while the other is still developing, I too want to protect the weaker child from criticism. Nonetheless, as a parent, I will not support the weaker child when she is doing something wrong. Therefore, in this Note, I will try not to shelter India and to present a balanced view between both cultures.

II. INTRODUCTION TO CULTURE

Culture has many different definitions, but "four components are shared: 1) a patterned way of thought or behavior, 2) of a group, 3) that is based on certain values, and 4) followed over a period of time."³ A culture contains numerous dimensions and principles that can help explain the actions and situations of its members.⁴ These principles can indicate what is important in each culture and what motivates people in a certain culture to act as they do.⁵ Cultural characteristics can be classified in four dimensions: individualism v. collectivism, monochromatic v. polychromatic, high context v. low context, and low power distance v. high power distance.⁶ Although not every person in a culture will fall into the same dimensions, a culture generally exhibits a trend towards one over the other.⁷ When two cultures have differing worldviews, conflict is common because "[c]ross-cultural differences often result in labeling behavior that is interpreted by a person from another culture as, at a

² Richard A. Oppel, Jr., *Ohio Teenagers Guilty in Rape That Social Media Brought to Light*, N.Y. TIMES (Mar 17, 2013), http://www.nytimes.com/2013/03/18/us/teenagers-found-guilty-in-rape-in-steubenville-ohio.html?_r=0.

³ Sukhsimranjit Singh, *Beyond Foreign Policy: A Fresh Look at Cross-Cultural Negotiations and Dispute Resolution Based on the India-United States Nuclear Test Ban Negotiations*, 14 CARDOZO J. CONFLICT RESOL. 105, 118 (2012).

⁴ Sukhsimranjit Singh, Professor at Univ. of S. Cal., Class Lecture, Cross-Cultural Alternative Dispute Class Lecture about various definitions of culture (Oct. 10, 2015).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

minimum, strange, if not insulting or offending.”⁸ Therefore, it is necessary to look at a culture’s actions and circumstances in context.⁹ We must not use our “own cultural yardstick to define ‘the other,’” but rather, take an “honest non-judgmental approach to learning the new culture.”¹⁰

III. THE PARTIES

A. INDIA

India has one of the fastest developing economies in the world.¹¹ While it was once considered a third-world country, India is now at the forefront of developing nations.¹² Nevertheless, it is still strongly rooted in traditions.¹³ Under the dimensions of culture, it is still characterized like many developing nations.¹⁴ It is a collectivist culture; Indian people are interdependent, and believe in making decisions after consulting with family and friends.¹⁵ Saving face in society and respect is held to an utmost importance.¹⁶ Under the second dimension of culture, India is polychromatic. Indians generally view time as flexible and elastic.¹⁷ They focus more on the past and believe time has an innate healing power.¹⁸ Third, India is a high context society; information is scarce and

⁸ John Barkai, *What’s a Cross-Cultural Mediator to Do? A Low-Context Solution for a High-Context Problem*, 10 CARDOZO J. CONFLICT RESOL. 43, 45 (2008).

⁹ Sukhsimranjit Singh, Professor at Univ. of S. Cal., Class Lecture (Oct. 11, 2015).

¹⁰ BEE CHEN GOH, HABIB CHAMOUN-NICOLAS, ELLEN DEASON, JAY FOLBERG & SUKHSIMRANJIT SINGH, *As We See It*, in *Educating Negotiators for a Connected World: Volume 4 in the Rethinking Negotiation Teaching Series* 104, 119 (Christopher Honeyman et al., eds., 2013).

¹¹ Raymond Zhong, *India Will be Fastest-Growing Economy for Coming Decade*, *Harvard Researchers Predict*, WALL ST. J. (Jan. 1, 2016) <http://blogs.wsj.com/indiarealtime/2016/01/01/india-will-be-fastest-growing-economy-for-coming-decade-harvard-researchers-predict/>.

¹² *Is India Still a Developing Country?*, THE GUARDIAN (Apr. 6, 2014 9:00 PM), <https://www.theguardian.com/global-development/poverty-matters/2014/apr/07/is-india-still-a-developing-country> (noting that while India is making rapid improvements in various areas, there is still more progress to be made).

¹³ Singh, *supra* note 9.

¹⁴ *Id.*

¹⁵ Singh, *supra* note 4.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

communication is more contextual.¹⁹ Communication is not direct, with body language and delivery being more important than what is actually shared.²⁰ Social status plays a large role in all types of communication.²¹ As such, India is a high power culture and rules may be bent depending on a person's social class.²²

In terms of women's rights, India is a patriarchic society in which men are considered as the superior sex and women are traditionally treated as subordinates.²³ Although India has many women in power and who are advancing in their careers, there is still a large disparity between the two genders.²⁴ This may be attributed to the inherent preference to have sons for reasons including lineage, inheritance, and economic security.²⁵ When a girl is born into an Indian household, she is considered to be a temporary guest because she is expected to join her husband's family.²⁶ A daughter was once considered a burden that her father had to carry until she was married off.²⁷ After marriage, she would become the responsibility of her husband.²⁸ These beliefs discouraged families from investing in their daughters because their investment would eventually go to the daughter's future husband's family, whereas an investment in their son would secure their own family's future.²⁹ These underlying notions prevail today.³⁰ For example, female infanticide is a huge problem in India and it has only recently garnered media coverage and increased awareness.³¹ Similarly, violence against women has also steadily

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Priya Virmani, *Sexual Violence in India is a Patriarchal Backlash that must be Stopped*, THE GUARDIAN (June 17, 2014 2:00 AM), <https://www.theguardian.com/commentisfree/2014/jun/17/sexual-violence-india-patriarchal-narendra-modi-women-reform-rape>.

²⁴ *Id.*

²⁵ Rangamuthia Mutharayappa, Minja Kim Choe, Fred Arnold, and T. K. Roy., *Son Preference and Its Effect on Fertility in India*, NATIONAL FAMILY HEALTH SURVEY SUBJECT REPORTS, Mar. 1997, at 5.

²⁶ *See id.*

²⁷ *Id.* at 5-6.

²⁸ *Id.* at 5.

²⁹ *Id.*

³⁰ *Id.* at 30.

³¹ *India Loses 3 Million Girls in Infanticide*, THE HINDU (March 15, 2016), <http://www.thehindu.com/news/national/india-loses-3-million-girls-in-infanticide/article3981575.ece>.

increased.³²

The National Crime Bureau of India reported that crimes against women increased 6.4 percent during 2012.³³ In 2011, there were 228,650 reported crimes against women, while in 2012, there were 244,270.³⁴ Of these crimes, the number of reported rapes specifically have increased.³⁵ The National Crime Records Bureau reported 24,923 rapes in 2012 in India,³⁶ which is in contrast to the four year average between 2008-2011 of approximately 22,000 rapes.³⁷ It is also important to highlight and remember that these statistics are not accurate representations of the actual numbers in India because most acts of violence against women are not reported.³⁸ Many of these crimes occur in the women's homes by family members.³⁹ In addition, many women do not report such crimes because it would lower their dignity and honor in society.⁴⁰ Today, it is still common for women to be considered at fault for such incidents.⁴¹ The UN Office on Drugs and Crime ranked countries based on reported and unreported rapes.⁴² In its results of reported rapes:

“[It] places India at 85 out of 121 countries for which data for 2012 is available. At the top of this list is a mix of developing African nations and industrialized western nations—Botswana, Lesotho, Swaziland and Sweden. The United States comes in at 16 and Brazil at 18. It is, however, widely acknowledged that the rate of unreported sexual violence in Indian society is far higher than official statistics would indicate, and that this is likely to be a bigger problem in India than in other countries, as it is a more patriarchal society.”⁴³

India ranked thirty-ninth while the United States ranked twenty-sixth for

³² See *Crimes Against Women*, NATIONAL CRIME RECORDS BUREAU 79 (2013), <http://ncrb.nic.in/StatPublications/CII/CII2012/cii-2012/Chapter%205.pdf>.

³³ *Id.* at 79.

³⁴ *Id.* at 81.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *See id.*

³⁸ Sudha G Tilak, *Crimes Against Women Increase in India*, AL JAZEERA (Mar. 11, 2013), <http://www.aljazeera.com/indepth/features/2012/12/2012122991735307545.html>.

³⁹ *Id.*

⁴⁰ *See id.*

⁴¹ Virmani *supra* note 23.

⁴² Rukmini Shrinivasan, *Rape, Rhetoric, and Reality*, THE HINDU (Dec. 19, 2014 2:41 PM), <http://www.thehindu.com/opinion/op-ed/comment-article-rape-rhetoric-and-reality/article6705077.ece>.

⁴³ *Id.*

unreported sexual violence.⁴⁴ The survey indicated that there was an 18.3 percent of unreported rapes in the United States and 8.5 percent in India.⁴⁵ The highest ranked countries were Ethiopia and Ghana, at 55.9 percent and 44.5 percent respectively.⁴⁶

Under both sets of statistics, India is in “the middle or lower end of the global scale of sexual violence.”⁴⁷ However, “for the last two years, the rhetoric around rape in India has not reflected this.”⁴⁸ The 2012 Delhi rape triggered conjecture that illustrated India to be a center of rape and sexual violence.⁴⁹ Delhi is even considered the “rape capital.”⁵⁰ Although sexual violence is still very much a problem in India, and there are not “‘acceptable levels’ of rape”, it is being characterized at a much higher degree than what the statistics indicate.⁵¹ However, this may be simply masking the greater problem of female autonomy in India.⁵² Even these statistics are probably inaccurate simply because many rapes in India occur in the home, making it very difficult to determine the number that are unreported.⁵³ These “known-person rapes” usually involve males in the family or men in the community who know which households are vulnerable.⁵⁴ For example, daughters of single women with no familial support are targeted because the mothers are forced to work long hours leaving the daughters alone and susceptible to sexual crimes.⁵⁵ Within those families, severe domestic violence often prevents mothers from standing up for themselves or their daughters.⁵⁶

Another example of unreported rapes occurs in child marriages.⁵⁷

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *See id.*

⁵⁰ Harichandan Arakali, *Rape in India: ‘Epidemic of Sexual Violence Against Women and Children, Rape Laws Aren’t Enough, Experts Say*, INTERNATIONAL BUSINESS TIMES (Oct. 27, 2015 9:24 AM), <http://www.ibtimes.com/rape-india-epidemic-sexual-violence-against-women-children-rape-laws-arent-enough-2157704>.

⁵¹ Shrinivasan, *supra* note **Error! Bookmark not defined.**

⁵² *Id.*

⁵³ Arakali, *supra* note 51.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Etienne G. Kung, Linda L. Dahlberg, James A. Mercy, Anthony B. Zwi, & Rafael Lozano, *World Report on Violence and Health*, WORLD HEALTH ORGANIZATION GENEVA, 156-57

The World Health Organization notes that child marriage may serve to legitimize sexual violence because it is legal in many countries.⁵⁸ It is a form of sexual violence because child spouses know nothing about sex and are too young and uninformed to consent.⁵⁹ Many times, they are forced into their first sexual encounter and are afraid of the unknown.⁶⁰ Child marriage is especially common in South Asian countries like India.⁶¹ Although it is more prominent in rural parts of India, it also occurs in urban centers.⁶² The study further states:

“In India, the median age at first marriage for women is 16.4 years. A survey of 5000 women in the Indian state of Rajasthan found that 56% of the women had married before the age of 15 years, and of these, 17% were married before they were 10 years old. Another survey, conducted in the state of Madhya Pradesh, found that 14% of girls were married between the ages of 10 and 14 years.”⁶³

These forms of sexual violence are again not reported and very difficult to determine, further skewing the sexual violence statistics.⁶⁴

The recent Delhi rape on December 16, 2012 was frequently reported on and highly publicized.⁶⁵ A twenty-three year old medical student was gang raped on a bus in Delhi.⁶⁶ She was traveling with her male friend when the six other people on the bus, including the driver, brutally raped her and beat her friend.⁶⁷ The rapists used a rod during the incident, which caused the victim to sustain injuries in her intestines, abdomen, and genitals.⁶⁸ The victim eventually died from her injuries a few days later.⁶⁹

(2002).

⁵⁸ *Id.* at 156.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Kung et al., *supra* note 57, at 156-57.

⁶² *Id.* at 157.

⁶³ *Id.*

⁶⁴ *Id.* at 150.

⁶⁵ Shrinivasan, *supra* note **Error! Bookmark not defined.**

⁶⁶ Niharika Mandhana & Anjani Trivedi, *Indians Outraged Over Rape on Moving Bus in New Delhi*, (N.Y. TIMES, Dec.18, 2012 7:01 AM), <http://india.blogs.nytimes.com/2012/12/18/outrage-in-delhi-after-latest-gang-rape-case/>.

⁶⁷ *Id.*

⁶⁸ *Delhi gang rape victim regains consciousness, next 48 hours critical*, FIRST POST (Dec.18 2012 1:42 PM), <http://www.firstpost.com/india/delhi-gangrape-victim-regains-consciousness-next-48-hours-critical-561535.html>.

⁶⁹ *Delhi gang rape: Chronology of events*, THE HINDU (Sept. 10 2013),

B. THE UNITED STATES

The United States is considered a super power.⁷⁰ It is a western developed country and, across the cultural dimensions, it generally falls opposite the spectrum to India.⁷¹ First, the United States is an individualist culture as Americans make their decisions independently of one another.⁷² There is more individual freedom and autonomy and the culture does not place much importance on societal judgments.⁷³ As such, there is less social shaming and people are more future thinking.⁷⁴ It is also a monochromatic culture, which means that time is linear, with deadlines and schedules being very important.⁷⁵ The United States is also a low context culture.⁷⁶ Information is abundant, and it is expected that information will always be provided.⁷⁷ Communication itself is very direct and more importance is placed on the words actually being said than body language.⁷⁸ In addition, social status does not necessarily play a role in communication.⁷⁹ This fact may be because the United States is a low power distance culture as well.⁸⁰ There is uniformity and equality in the application of rules and laws in the United States.⁸¹ A person or group's status does not necessarily dictate how they will be treated in society or which rules and laws by which they must abide.⁸²

The United States is a patriarchic society.⁸³ However, the key difference with other patriarchies is that American women have been fighting for an equal voice for many years and have progressively attained

<http://www.thehindu.com/news/national/delhi-gang-rape-chronology-of-events/article5079321.ece>.

⁷⁰ Ian Bremmer, *These are the Five Reasons Why the U.S. Remains the World's Only Superpower*, TIME, (May 28, 2015.)

⁷¹ Compare 6-D United States Model, <https://geert-hofstede.com/united-states.html>, with 6-D India Model, <https://geert-hofstede.com/india.html>.

⁷² Singh, *supra* note 4.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Singh, *supra* note 4.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Singh, *supra* note 4.

⁸³ Philip Cohen, *America is Still a Patriarchy*, THE ATLANTIC (Nov. 19, 2012), <http://www.theatlantic.com/saxes/archive/2012/11/america-is-still-a-patriarchy/265428/>.

more independence.⁸⁴ Today, women are not completely equal to men as issues such as income disparity and occupational segregation are still evident, but the quality of life and power women hold in the United States is greater than what is found in India.⁸⁵

A turning point in violence against women in the United States was the passing of the Violence Against Women Act.⁸⁶ The 1994 act provided \$1.6 billion to address issues of violence against women.⁸⁷ Despite such efforts, problems are still prevalent in American culture.⁸⁸ Amnesty International reported that “[w]orldwide, one in three women experiences physical, sexual or emotional violence in her lifetime; one in five experiences rape or attempted rape.”⁸⁹ It further clarified that these statistics hold true for the United States as well⁹⁰—specifically, there were 84,767 rapes in 2010.⁹¹ Even more worrisome is the fact that these numbers are very low representations of the actual number of rapes that occur in the United States.⁹² Amnesty International estimated that in 2008, 500 women were raped each day in the United States.⁹³ This statistic is surprising because even though American women have made considerable progress in terms of equality, violence against women is still a large problem in the United States.⁹⁴ However, in comparison, the typical American woman is more likely to speak out against violence than an Indian woman.⁹⁵ American society does not stigmatize sexual violence to the same extent as Indian society.⁹⁶ As an

⁸⁴ *Id.*

⁸⁵ *See id.* (Indicating that the American patriarchy has weakened.).

⁸⁶ Lisa N. Sacco, *The Violence Against Women Act: Overview, Legislation, and Federal Funding*, CONGRESSIONAL RESEARCH SERVICE (May 26, 2015), <https://www.fas.org/sgp/crs/misc/R42499.pdf>.

⁸⁷ Monica N. Modi et al., *The Role of Violence Against Women Act in Addressing Intimate Partner Violence: A Public Health Issue*, 23 J. WOMEN’S HEALTH 253, 254 (2014).

⁸⁸ *See* Cohen, *supra* note 83.

⁸⁹ Lisa Schechtman, *Violence Against Women is a U.S. Problem, Too*, AMNESTY INT’L HUMAN RIGHTS NOW BLOG (June 11, 2011, 9:00 AM), <http://blog.amnestyusa.org/us/violence-against-women-is-a-u-s-problem-too/>.

⁹⁰ *Id.*

⁹¹ *Crime in the United States by Volume and Rate per 100,000 Inhabitants, 1991-2010*, U.S. DEP’T OF JUSTICE, FED. BUREAU OF INVESTIGATION (2010), <https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl01.xls>.

⁹² Schechtman, *supra* note 89.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ Singh, *supra* note 9.

⁹⁶ *Id.*

individualistic culture, America values freedom and autonomy and does not emphasize public shaming and saving face in society.⁹⁷ Independence and addressing problems directly is celebrated and encouraged.⁹⁸ Although this may be more true for men, women are similarly supported in American society.⁹⁹

A few months before the Delhi rape in December 2012, an equally horrific rape occurred in Steubenville, Ohio.¹⁰⁰ A high school girl was sexually assaulted by her peers on August 12, 2012.¹⁰¹ When the victim was incapacitated by alcohol at a party, she was transported and sexually assaulted by two football players in her high school.¹⁰² The rapists shared pictures and videos of the incident on social media.¹⁰³ These pictures and videos spread throughout the town and highlighted the prevalent rape culture in the United States.¹⁰⁴

IV. RESPONSE TO THE TWO RAPES

A. DELHI RAPE: PUBLIC RESPONSE

The public reaction after the Delhi rape was unprecedented.¹⁰⁵ Protests erupted after the incident in Delhi.¹⁰⁶ Indians not only took part in live protests, but also used social media sites such as Facebook to voice their concerns and anger after the incident.¹⁰⁷ Thousands of people signed an online petition against the incident.¹⁰⁸ The protests were not

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ Oppel, Jr., *supra* note 2.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ Melisa Goh, 'Unprecedented' Public Rage Over Gang Rape in India, NPR (Dec. 22, 2012 4:16 PM), <http://www.npr.org/sections/thetwo-way/2012/12/22/167879878/unprecedented-public-rage-over-gang-rape-in-india>.

¹⁰⁶ Sruthi Gottipati, Gardiner Harris, Niharika Mandhana, & Heather Timmons... *Protests Over Rape Turn Violent in Delhi*, N.Y. TIMES (Dec. 23, 2012 7:27 AM), <http://india.blogs.nytimes.com/2012/12/23/protests-over-rape-turn-violent-in-delhi/>.

¹⁰⁷ Komal Guglani, *When Words Fail, a Dot Speaks Volumes*, THE TIMES OF INDIA (Dec. 21, 2012 6:54 AM), <http://timesofindia.indiatimes.com/city/chandigarh/When-words-fail-a-dot-speaks-volumes/articleshow/17701877.cms>.

¹⁰⁸ Akanksha Prasad & Indu Nandakumar, *Delhi gang rape case: Social Media Fuels Rally at India Gate*, THE ECONOMIC TIMES (Dec. 24, 2012 5:00 AM),

limited to the various states in India; they also occurred in places across South Asia, including Nepal, Pakistan, Sri Lanka, and Bangladesh.¹⁰⁹ There was even a rally in Paris near the Indian embassy.¹¹⁰

The reactions to the incident were not confined to protests; prominent societal figures also spoke out against the incident, including government authorities, athletes, and Bollywood stars.¹¹¹ The constant attention and condemnation of the incident led state governments to take various actions to ensure women's safety.¹¹² For example, many states in India instituted helplines and fast-track courts to aid women who have been subjected to similar types of violence.¹¹³

The Delhi rape shifted the focus to sexual violence in India.¹¹⁴ Although the rape brought similar incidents to the forefront, it also may have resulted in further curtailing of female autonomy in India.¹¹⁵ The fear that stemmed from the incident and the constant focus on rape statistics further restricted women's movements outside of the household.¹¹⁶ Female autonomy is already very low in India as only "one in five women has her name on her house's papers . . . four out of five need permission to visit a doctor," and "[j]ust one in five women is in the workforce, making India's workforce one of the most gender-biased in the world."¹¹⁷ After the Delhi rape, it was said that a woman's freedom is

http://articles.economictimes.indiatimes.com/2012-12-24/news/35991878_1_delhi-gang-adhivith-dhuddu-social-media.

¹⁰⁹ Jason Burke, *Rape protests spread beyond India*, THE GUARDIAN (Jan. 4, 2013 12:42), <https://www.theguardian.com/world/2013/jan/04/rape-protests-spread-beyond-india>.

¹¹⁰ *Protests in Paris to Demand Justice for 'India's Daughter'*, (NDTV video Jan. 1, 2013), <http://www.ndtv.com/video/news/news/protests-in-paris-to-demand-justice-for-india-s-daughter-260273>.

¹¹¹ Nancy Schwartzman, *Bollywood Actors Stand Up Against Violence*, THE HUFFINGTON POST (May 22, 2013 9:11 PM), http://www.huffingtonpost.com/nancy-schwartzman/bollywood-actors-stand-up_b_3312657.html.

¹¹² *Delhi Gang-Rape Case: Jayalalithaa for Harsher Punishment for Rape*, THE ECONOMIC TIMES (Jan. 2, 2013), http://articles.economictimes.indiatimes.com/2013-01-02/news/36094633_1_jayalalithaa-sexual-assault-sexual-abuse.

¹¹³ *Id.*; *Helpline Launched for Women to Report Sexual Assault Cases*, THE HINDU (Jan. 4, 2013 2:30 AM), <http://www.thehindu.com/news/national/karnataka/helpline-launched-for-women-to-report-sexual-assault-cases/article4269699.ece>; *Karna Mulls Fast-Track Courts for Crime-Against-Women Cases*, THE SHILLONG TIMES (Jan. 4, 2013), <http://www.theshillongtimes.com/2013/01/04/karna-mulls-fast-track-courts-for-crime-against-women-cases/>.

¹¹⁴ Shrinivasan, *supra* note 42.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

“being sacrificed at the altar of women’s safety.”¹¹⁸ One example is the “promotion of toilets inside the house as a measure for women’s safety.”¹¹⁹ A “male head of a rural household” in Uttar Pradesh built a toilet inside the house as soon as his son got married.¹²⁰ The purpose of this was to ensure his daughter-in-law not leave the house for anything.¹²¹ Such incidents are common and “rewarded by official policy” through the spread of faulty statistics and fear.¹²²

B. DELHI RAPE: INTERNATIONAL RESPONSE

The incident not only generated news coverage in India and surrounding nations, but the United States and United Nations also stepped in to call upon the Indian government to take necessary actions to grant justice and ensure that this did not occur again.¹²³ The United Nations called on the government “to do everything in their power to take up radical reforms, ensure justice and reach out with robust public services to make women’s lives more safe and secure.”¹²⁴ In addition, the American media extensively covered the rape, “repeatedly referenced the sexist culture,” and reported on “how misogyny runs rampant in India.”¹²⁵ Overall, the media coverage of the Delhi rape focused more generally on women’s rights in India and the Indian justice system.¹²⁶

¹¹⁸ *Id.*

¹¹⁹ Shrinivasan, *supra* note 42.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ Press Release, U.S. Embassy New Delhi, India, Statement on the Death of New Delhi Assault Victim, Embassy of the U.S. New Delhi India (Dec. 29, 2012), <http://newdelhi.usembassy.gov/pr122912.html>; *UN Human Rights Chief Calls for Profound Change in India in Wake of Gang-Rape Tragedy*, U.N. NEWS CENTRE (Dec. 31, 2012), http://www.un.org/apps/news/story.asp?NewsID=43862#.V51_5ZMrKV4.

¹²⁴ Anne F. Stenhammer, *UN Women condemns gang rape of Delhi student*, U.N. Women, (Dec. 20, 2012), <http://www.unwomen.org/en/news/stories/2012/12/un-women-condemns-gang-rape-of-delhi-student>.

¹²⁵ Jessica Valenti, *America’s Rape Problem: We Refuse to Admit That There is One*, THE NATION (Jan. 4, 2013), <https://www.thenation.com/article/americas-rape-problem-we-refuse-admit-there-one/>.

¹²⁶ Mallary Jean Tenore, *Why Journalists are Covering Rapes Differently in New Delhi & Steubenville*, POYNTER (Jan. 14, 2013), <http://www.poynter.org/2013/why-journalists-are-covering-rapes-differently-in-new-delhi-steubenville/200119>.

C. DELHI RAPE: POLITICAL AND LEGAL RESPONSE

After the rape, a judicial committee, headed by former Indian Supreme Court judge J.S. Verma, was appointed to amend the criminal laws against sexual assault in India.¹²⁷ The committee submitted a report a month after the incident, and suggested amending certain provisions of the rape laws.¹²⁸ The committee's suggestions were later incorporated into the Criminal Law Ordinance (Amendment), which added new offenses, changed Section 370 of the Penal Code, and broadened the definition of rape.¹²⁹

D. STEUBENVILLE, OHIO RAPE: PUBLIC RESPONSE

The rape garnered nationwide coverage.¹³⁰ Major media outlets, including the New York Times, covered the story and brought attention to the rape culture in the United States.¹³¹ However, there were many split views on the rape.¹³² Some blamed the victim, noting her provocative clothing, while others sympathized with the defendants.¹³³ For example, CNN's reporter stated, "[It had been] incredibly difficult . . . to watch what happened as these two young men that had such promising futures . . . watched as they believed their li[v]e[s] fell apart."¹³⁴

¹²⁷ Sandeep Joshi, *Shinde calls meeting of Chief Secretaries, police Chiefs to review crime against women*, THE HINDU (Dec. 24, 2012 3:49 AM), <http://www.thehindu.com/news/national/shinde-calls-meeting-of-chief-secretaries-police-chiefs-to-review-crime-against-women/article4235212.ece>.

¹²⁸ *Highlights of Justice Verma Committee report*, NEWS18 (Jan. 23, 2013, 7:16 PM), <http://www.news18.com/news/india/main-points-splits-533219.html>.

¹²⁹ *President signs ordinance to effect changes in laws against sexual crimes*, INDIA TODAY (Feb. 3, 2013, 10:07), <http://indiatoday.intoday.in/story/president-signs-ordinance-to-effect-changes-in-laws-against-sexual-crimes/1/248740.html>; *Ordinance vs. Verma Commission Recommendations*, NDTV (Feb. 1, 2013), <http://www.ndtv.com/india-news/read-ordinance-vs-verma-commission-recommendations-512121>.

¹³⁰ Rachel Dissell, *Steubenville sexual assault case gets international attention after video goes viral*, THE PLAIN DEALER (Jan. 4, 2013, 8:00 PM), http://www.cleveland.com/metro/index.ssf/2013/01/steubenville_sexual_assault_ca.html.

¹³¹ Juliet Macur & Nate Schweber, *Rape Case Unfolds on Web and Splits City*, N.Y. TIMES (Dec. 16, 2012), http://www.nytimes.com/2012/12/17/sports/high-school-football-rape-case-unfolds-online-and-divides-steubenville-ohio.html?_r=0.

¹³² Clementine Ford, *There was only one victim at Steubenville*, DAILY LIFE (Mar. 19, 2013, 1:31 PM), <http://www.dailylife.com.au/news-and-views/dl-opinion/there-was-only-one-victim-at-steubenville-20130318-2gaxy.html>.

¹³³ *Id.*

¹³⁴ David Edwards, *CNN Grieves that Guilty Verdict Ruined 'Promising' Lives of Steubenville Rapists*, RAW STORY (March 17, 2013), <http://www.rawstory.com/2013/03/cnn-grieves-that->

E. STEUBENVILLE, OHIO RAPE: LEGAL RESPONSE

The two defendants in the case were found guilty.¹³⁵ Since, both defendants have been released from detention, and one has rejoined the school's football team.¹³⁶ Both have to register as sex offenders.¹³⁷ Although the rape initially generated a lot of dialogue, it is no longer discussed in the news and it did not trigger any substantial legal changes.

V. CROSS-CULTURAL ANALYSIS

As I discussed while introducing the American and Indian cultures, different principles and dimensions characterize both cultures.¹³⁸ Using these dimensions I will analyze and try to explain the aftermath of each event.

The response to the Delhi incident was very widespread—reactions were not confined to Delhi as people from all over India spoke out against this incident. In a culture such as the United States, the nation is unified in major events like the 9/11 terrorist attacks. However, for most other incidents, the effects are concentrated on the affected state. In contrast, India, as a collectivist culture, emphasizes group unity overall. Each citizen is seen as a brother or sister of the larger family that comprises the Indian community. For example, when addressing other Indians, “bhai” (brother) is attached to a man's name and children address adults as “uncle” or “auntie.” These examples emphasize the focus on family that is unique to collectivist cultures like India. Therefore, during times of crisis, it is normal for the entire nation to band together. Although the attack occurred in Delhi, the entire nation responded. In contrast, although the rape in Ohio garnered a national response, the reactions were not comparable to the outcry that arose from India after the Delhi rape.

guilty-verdict-ruined-promising-lives-of-steubenville-rapists; Erik Wemple, *CNN is getting hammered for Steubenville coverage*, THE WASHINGTON POST (Mar. 18, 2013), https://www.washingtonpost.com/blogs/erik-wemple/wp/2013/03/18/cnn-is-getting-hammered-for-steubenville-coverage/?utm_term=.8a72fe96d17a.

¹³⁵ Steve Almasy, *Two teens found guilty in Steubenville rape case*, CNN (March 17, 2013, 6:08 PM), <http://www.cnn.com/2013/03/17/justice/ohio-steubenville-case/>.

¹³⁶ Doug Stanglin, *Ohio teen athlete released from detention in rape case*, USA TODAY (Jan. 6, 2014, 2:40 PM), <http://www.usatoday.com/story/news/nation/2014/01/06/ohio-high-school-rape-convict-released/4340947/>; *Steubenville high school rape convict released from custody*, CBS NEWS (Jan. 7, 2015, 12:25 PM), <http://www.cbsnews.com/news/steubenville-high-school-rape-convict-released-from-custody>.

¹³⁷ *Id.*

¹³⁸ Singh, *supra* note 4.

This may be attributed to the individualistic culture that dominates America. Americans value autonomy and have fought so that each state is a sovereign entity. Therefore, although the other U.S. states did show support to Ohio and disapproval of the rape, it was clear that it was the responsibility of the town of Steubenville and the Ohio justice system to address the incident.

The Delhi rape was one of the first times that violence against women was spoken about so openly in Indian society.¹³⁹ In a collectivist culture, saving face is very important. Therefore, even when such events happen against women in society, women are frequently told to keep it a secret or they themselves do not report the incident. Female victims or their families do not want society to think she is “loose” or that her dignity is “tainted”.¹⁴⁰ As such, violence against women is often hidden and under-reported. Many times, families would rather marry off their daughters to rapists than face society’s judgments.¹⁴¹ Thus, the public reaction and outcry that followed the Delhi rape was uncharacteristic of Indian society’s inclination to avoid humiliation. Some may argue that the government’s immediate response to the incident may actually have been to save face. The international condemnation of the act may have provoked a response from the government. Nevertheless, the true test is whether Indian society has incorporated the new laws and legal processes to combat violence against women.

A year after the Delhi rape, some media sources reported that the number of reported rapes have increased over the past year.¹⁴² However, it was also noted this does not suggest that the number of rapes have increased, but rather that this may be a result of more women willing to report rapes.¹⁴³ The Delhi rape caused a shift in thinking, even if slight, in that it is now less taboo to report and speak out against rape.¹⁴⁴ This is key for a society in which public shaming is prevalent. There is now less need for women to hide sexual violence in order to avoid humiliation in society. In this case Indian culture is working within its collectivist

¹³⁹ Kathryn Lum, *Gender violence in India: On the response to the Delhi gang rape*, INGENERE (April 9, 2013), <http://www.ingenere.it/en/articles/gender-violence-india-response-delhi-gang-rape>.

¹⁴⁰ See Kung et al., *supra* note 57, at 163.

¹⁴¹ *Id.*

¹⁴² Nilanjana Roy et al., *Viewpoints: Has Delhi Rape Case Changed India?*, BBC NEWS (Sept. 10, 2013), <http://www.bbc.com/news/world-asia-india-24012424>.

¹⁴³ See *id.*

¹⁴⁴ See *id.*

mindset to bring about change by addressing broader issues. By making it acceptable to talk about and report violence against women, women do not have to brush acts of violence under the rug any longer or worry about societal judgments.

The response time to address the incidents is also characteristic of how each culture values time. For example, the response after the Ohio rape was very orderly and immediate. The case went through the legal system, and the defendants were declared guilty. The process was handled in a linear and structural manner. On the other hand, although the response to the Delhi rape was immediate, it was not as linear and orderly. There were responses on multiple fronts. Not only did the case go through the court system, but it also triggered the passing of a new law and immense public upheaval.

Nevertheless, the Delhi case did move through the legal system much faster than most other violence against women cases. This may be attributed to the fact that in polychromatic cultures, time is more flexible,¹⁴⁵ and it changes based on the importance of the event or the parties involved. Since the event had such widespread coverage and condemnation, the Indian government made it a priority to respond and even created fast track courts for similar incidents. This also highlights the high power distance nature of the Indian culture. Although the rules were not adjusted for class concerns, as is common, they were adjusted based on the importance given to the issue. The Indian government realized that violence against women was garnering a strong national and international response and the issue needed to be addressed immediately.

A polychromatic culture believes time has an innate healing power.¹⁴⁶ This again played a role in the repercussions of the Delhi rape. The rape is still in the news because it takes time for Indian society to move past and recover after a major event. In contrast, the Ohio rape is no longer relevant in the news today. Monochromatic cultures are linear and more future-oriented.¹⁴⁷ Therefore, the Ohio rape is no longer relevant because it has been resolved. The American public is focused on the future and not past events.

This analysis demonstrates that the cultural differences between the United States and India resulted in each society dealing with major incidents in different manners. However, conflict can arise when the

¹⁴⁵ Singh, *supra* note 4.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

United States or other cultures intervene by judging Indian society and instructing it on how it should solve the problem of violence against women. The following quote describes how cross-cultural conflicts may arise:

“Beck’s five principles of cognitive therapy . . . illustrate how misunderstandings may occur: 1) We never know the state of mind – the attitudes, thoughts, and feelings – of other people. 2) We depend on signals, which are frequently ambiguous, to inform us about the attitudes and wishes of other people. 3) We use our own coding system, which may be defective, to decipher these signals. 4) Depending on our own state of mind at a particular time, we may be biased in our method of interpreting other people’s behavior, that is, how we decode. 5) The degree to which we believe that we are correct in defining another person’s motives and attitudes is not related to the actual accuracy of our belief.”¹⁴⁸

The United States’ reaction to the Delhi rape falls into many of these principles. The United States did not take time to understand the state of mind (or in this case the state of the Indian nation) before reporting, instructing, and condemning the Indian government for the condition of women’s rights in the country. It also used its own “coding system” to decipher the situation in India and the wants and needs of the Indian population. Although it is true that most Indians want and should want a country that protects women, the manner in which the United States addressed the problem may lead to misunderstandings. In addition, the United States did not take into account the vastly different history of women’s rights in the United States and India. It held India to the same standard it has created for itself. However, it failed to recognize that India is still a developing nation. Just as the United States had time to develop as a country, India should also have that opportunity. Achieving women’s suffrage in the United States was a tumultuous process, but American culture was given the time to adjust and reform. That same time should be given to India. Granted, India must address its major problem of violence against women, but it should be able to combat the issue without the constant critical eyes of the United States and other countries.

Such cross-cultural differences, creates an “us versus them” mentality. In reality, both cultures are too different to compare. In addition, America has yet to fully solve its problem of violence against women. The Steubenville rape is only one of the hundreds of rapes that

¹⁴⁸ Singh, *supra* note 3, at 127-28.

occur in the country. Thus, it is unfair to criticize a nation when your nation has yet to resolve the same problem. Although India's rape culture is more prevalent, generalizations that women are not safe in India or that Delhi is a "rape capital" do not foster a sense of community between nations. A more effective manner of resolution is recognizing cultural differences and tailoring a response to the problem for each culture. Instead of pointing fingers, the nations should understand and be open to learn about the other culture in an effort to solve the problem in the most effective manner possible.

VI. INTERNATIONAL VIEW OF RAPE

Rape is a prevalent problem throughout the world.¹⁴⁹ However, as demonstrated by the vastly different approaches between India and the United States, each country addresses the issue in different ways.¹⁵⁰ "Some countries have far-reaching legislation and legal procedures, broad definitions of rape that includes marital rape, heavy penalties for those convicted, and a strong response in supporting victims."¹⁵¹ Countries on this side of the spectrum are characterized by specialized police training, specific police resources allocated to the issue, expedited/consistent investigation of sexual assault cases, and strong support to victims of sexual violence with legal services and additional resources.¹⁵² "At the other end of the scale are countries with much weaker approaches to the issue — where conviction of an alleged perpetrator on the evidence of the women alone is not allowed, certain forms or settings of sexual violence are specifically excluded from the legal definition, and where rape victims are strongly deterred from bringing the matter to court through the fear of being punished for filing an 'unproven' rape suit."¹⁵³

Furthermore, just as with India and the United States, the extent of the problem is not fully reported globally.¹⁵⁴ The World Health Organization reports that "[d]ata on sexual violence typically come from police, clinical settings, nongovernmental organizations and survey

¹⁴⁹ Kung et al., *supra* note 57, at 149.

¹⁵⁰ *Id.* at 161.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ Kung et al., *supra* note 57, at 150.

research.”¹⁵⁵ However, “the relationship between these sources and the global magnitude of the problem of sexual violence may be viewed as corresponding to an iceberg floating in water.”¹⁵⁶ The report illustrates the magnitude of the problem of sexual assault through an image of an iceberg.¹⁵⁷ It demonstrates how few sexual violence cases are reported to the police and in surveys versus the large majority that are never even discussed.¹⁵⁸ The report notes that “[t]he small visible tip represents cases reported to police” and “[a] larger section may be elucidated through survey research and the work of nongovernmental organizations.”¹⁵⁹ However, the area “beneath the surface remains a substantial although unquantified component of the problem.”¹⁶⁰

A. HISTORY OF INTERNATIONAL RAPE LAWS

Rape and other sex crimes have not received much attention historically; “until recently, the failure of humanitarian law instruments to adequately incorporate, characterize, or even mention rape and sexual assault has downplayed crimes against women as the unfortunate but inevitable byproduct of war.”¹⁶¹ Rape was first discussed internationally with the Lieber Instructions of 1863, which was the first codified law on war and a foundation of current war laws.¹⁶² The Lieber Instructions “classified rape as a crime of ‘troop discipline,’ and the current applicable law regarding war contained within the Nuremberg Charter, the 1949 Geneva Conventions, and the 1977 Additional Protocols contain a number of shortcomings and contradictions with respect to defining sexual violence as a serious international offense.”¹⁶³

More recently, the international community has started “to grasp the moral, social, economic, and legal importance of taking adequate measures to prevent and punish gender crimes.”¹⁶⁴ Despite the delay in recognizing sex crimes, the “‘legal value’ of rape” in international

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ Kung et al., *supra* note 57, at 150.

¹⁶¹ David S. Mitchell, *The Prohibition of Rape in International Humanitarian Law as a Norm of Jus Cogens: Clarifying the Doctrine*, 15 DUKE J. COMP. & INT’L L. 219, 223-24 (2005).

¹⁶² *Id.* at 224.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

humanitarian law has increased exponentially.¹⁶⁵ In the last decade, there has been “extraordinary developments in gender jurisprudence ushered in by the ad hoc Tribunals and the International Criminal Court (ICC) [these developments] reflect the international community's willingness to combat and redress crimes of sexual violence . . . and there is now a strong indication that such crimes constitute jus cogens.”¹⁶⁶

In addition, non-binding international resolutions also condemn sexual violence.¹⁶⁷ For example, the U.N. Declaration on the Elimination of Violence Against Women adopted by the General Assembly in 1993 asserts that states should “exercise due diligence to prevent, investigate and . . . punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.”¹⁶⁸ The Vienna Conference on Human Rights in 1993 has also emphasized the importance of rape law.¹⁶⁹ The Conference stressed “the importance of working towards the elimination of violence against women in public and private life” and that “violations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law.”¹⁷⁰ “The Conference further urged states ‘to combat violence against women.’”¹⁷¹ Lastly, the U.N. Crime Commission has also condemned sexual violence through the adoption of several resolutions.¹⁷² Although these are not binding law for countries, they demonstrate a growing emphasis on recognizing rape as a crime that must be prevented.¹⁷³

Although each country may define and outlaw rape in different ways, there is still a widespread common understanding of the act.¹⁷⁴ For example, in *Prosecutor v. Furundzija*, “the Trial Chamber considered a range of national legislation in order to define rape and found that ‘in spite of inevitable discrepancies, most legal systems in the common and

¹⁶⁵ *Id.* at 224-25.

¹⁶⁶ *Id.* at 225; (Jus cogens “refers to certain fundamental, overriding principles of international law, from which no derogation is ever permitted.” It is developed through the general consensus of the legal community and recognized by the international legal community. *Jus Cogens*, LEGAL INFORMATION INSTITUTE, https://www.law.cornell.edu/wex/jus_cogens).

¹⁶⁷ Mitchell, *supra* note 161, at 246.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.* at 247.

¹⁷³ *See id.*

¹⁷⁴ *Id.*

civil law worlds consider rape to be the forcible sexual penetration of the human body by the penis or the forcible insertion of any other object into either the vagina or the anus.”¹⁷⁵ This highlights the fact that many countries have outlawed rape and consider it the government’s responsibility to combat and prevent such crimes.¹⁷⁶ While this analysis suggests that rape is condemned in most countries, it is still unclear why it elicits such different conditions and responses, and what needs to be done to prevent such sex crimes in developing nations such as India.

VII. VARYING CULTURAL REASONS FOR SEXUAL VIOLENCE

The difference stems from the differing cultures.¹⁷⁷ The World Health Organization identified factors that increase the likelihood of men committing rape.¹⁷⁸ They group the factors into four categories: (1) Individual Factors, (2) Relationship Factors, (3) Community Factors, and (4) Societal Factors.¹⁷⁹

Individual Factors include:

- Alcohol and drug use.;
- Coercive sexual fantasies and other attitudes or beliefs supportive of sexual violence;
- Impulsive and antisocial tendencies;
- Preference for impersonal sex;
- Hostility towards women;
- History of sexual abuse as a child; and
- Family violence witnessed as a child.¹⁸⁰

Relationship Factors include:

- Associating with sexually aggressive and delinquent peers;
- A family environment characterized by physical violence and few resources;
- A strong patriarchal relationship or family environment;
- An emotionally unsupportive family environment; and
- A belief that family honor is more important than the health

¹⁷⁵ *Id.* at 247-48 (quoting *People v. Furundzija*, IT-95-17/1-T (Dec. 10, 1998)).

¹⁷⁶ *Id.* at 248.

¹⁷⁷ Singh, *supra* note 4.

¹⁷⁸ Kung et al., *supra* note 57, at 159.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

and safety of the victim.¹⁸¹

Community Factors include:

- Poverty mediated through forms of crises of male identity;
- Lack of employment opportunities;
- Lack of institutional support from police and the justice system;
- General tolerance of sexual assault within the community; and
- Weak community sanctions against perpetrators of sexual violence.¹⁸²

Societal Factors include:

- Societal norms supportive of sexual violence;
- Societal norms supportive of male superiority and sexual entitlement;
- Weak laws and policies related to sexual violence;
- Weak laws and policies related to gender equality; and
- High levels of crime and other forms of violence.¹⁸³

Although all of these factors are characteristics of men who commit rape, some are more so associated with specific types of cultures.¹⁸⁴ For example, factors like societal norms and family honor are likely to be more prominent in a collectivist culture, such as India, than individualist cultures. On the other hand, some of the Individual Factors may be more relevant in individualist cultures. Additionally, some of these factors are correlated. A community that is generally hostile towards women and tolerates sexual assault is more likely to lack institutional support from the police and judicial system. Therefore, when trying to address and prevent sexual violence, it is essential to understand the major factors behind the rape culture in a particular country. It is not beneficial or effective to simply apply the same strategies to all countries. For example, outlawing child marriage will have a minimal impact in the United States, but would significantly impact the “hidden” rapes in India.

Furthermore, some countries may be farther behind in addressing sexual violence than others. Therefore, preventative measures taken in one country may not be as effective in another. Laws implemented in the

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *See id.*

United States may be premature in India. There are underlying issues that must be addressed before employing similar corrective measures. It would not be effective to simply strengthen laws against sexual violence if the community is generally unwilling to report incidents of sexual violence or have not had sex education. In such cases, the root of the problem is so deep that it needs to be resolved before other issues can be reviewed. If a country has had a history dealing with sexual violence, such as the United States, its current remedies will be ineffective in countries that have only begun to address the issue.

Before the Delhi rape, India did not openly discuss sexual violence. The conversation began in urban areas but there are still many rural areas that are unaware of the movement against sexual violence.¹⁸⁵ Thus, for any corrective and preventative measures to work, the Indian population needs to be educated and empowered to speak out against sexual violence.¹⁸⁶ The mere fact that the rape statistics in India are relatively low is indicative of a problem. It is unlikely that a country with a high population that still engages in customs such as child marriage would have rape statistics that lag so far behind the United States. This shows the extent of the problem; having more stringent laws against violators will not have any impact if most of the violators are not even caught or reported. Therefore, India needs to take a step back and address the deep-rooted issues, while simultaneously implementing the changes it started after the Delhi rape.

VIII. A MULTI-FACETED APPROACH TO SEXUAL VIOLENCE IN INDIA

The World Health Organization outlines the multiple approaches used in various countries to prevent sexual violence.¹⁸⁷ It groups the various initiatives within categories that include individual approaches, developmental approaches, health care responses, community-based efforts, and legal and policy reform.¹⁸⁸ A multi-faceted approach that engages all or most of these initiatives is necessary to see a change in a country's culture.

¹⁸⁵ See Priya Virmani, *Will the Protests Against the Delhi Gang Rape Reach Rural India?*, NEW STATESMAN (Dec. 31, 2012), <http://www.newstatesman.com/politics/2012/12/will-protests-against-delhi-gang-rape-reach-rural-india>.

¹⁸⁶ *Id.*

¹⁸⁷ Kung et al., *supra* note 57, at 165-70.

¹⁸⁸ *Id.*

Under the individual approach, India would benefit greatly from programs that provide psychological care and support.¹⁸⁹ However, these programs should be tailored for the Indian infrastructure and population. While many of these programs may help in urban centers, remote villages are unlikely to have access to such resources.¹⁹⁰ Therefore, accessibility needs to be extended in ways that reach more people.¹⁹¹ A free telephonic helpline is one possible solution to the problem.¹⁹² For example, "A 'Stop Woman Abuse' helpline in South Africa . . . answered 150,000 calls in the first 5 months of operation."¹⁹³ In addition, these programs should provide education to women about sexual and reproductive health.¹⁹⁴ Such programs have caused "reductions in violence against women . . . in communities in Cambodia, the Gambia, South Africa, Uganda and the United Republic of Tanzania."¹⁹⁵

A developmental approach is more difficult to instate; however, with increased education, the current generation may be able to instill ideas of gender equality, reject stereotypes and customs, and reinforce sexual boundaries to their children.¹⁹⁶ This approach would likely cause substantial change over time.

Health care responses post sexual violence are also very important.¹⁹⁷ The training of healthcare professionals to be able to recognize and treat victims of sexual violence is essential.¹⁹⁸ In addition, the implementation of a medico-legal system may be very beneficial.¹⁹⁹ In such cases, the health sector is responsible for collecting medical and legal evidence where sexual violence is reported.²⁰⁰ Research in Canada has suggested that medico-legal documentation can increase the chance of a perpetrator being arrested, charged, or convicted."²⁰¹

Community-based efforts would be very beneficial in a country

¹⁸⁹ *Id.* at 165.

¹⁹⁰ *See id.*

¹⁹¹ *Id.*

¹⁹² Kung et al., *supra* note 57, at 165.

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.* at 166.

¹⁹⁷ *Id.* at 166-67.

¹⁹⁸ Kung et al., *supra* note 57, at 166-67.

¹⁹⁹ *Id.* at 166.

²⁰⁰ *Id.*

²⁰¹ *Id.*

like India. Using the media to support prevention campaigns could help change the attitude towards sexual violence.²⁰² Media sources such as billboards, radio, and TV can be used to spread the word and increase dialogue about prevention.²⁰³ In addition, India can capitalize on the popularity of Bollywood stars and cricket players and have them also promote such efforts.

Finally, legal reform is essential to ensure that cases of sexual violence are reported and handled effectively.²⁰⁴ Not only is it important to focus on a country's legal reforms such as fast-track courts and dedicated response units, but it is also important to analyze the laws against rape.²⁰⁵ For example, it may be necessary to broaden a country's definition of rape.²⁰⁶ This is essential in a country like India because the current definition does not cover rape within marriages, including child marriages, which, as discussed above, are some of the most prominent types of sexual violence.²⁰⁷ Marital rape is a very common problem in India that is completely ignored.²⁰⁸ Even after the Delhi rape and outcry against sexual violence in the country, there is still a strong belief that "marital rape is not applicable in the Indian context."²⁰⁹ Recently, the Head of the UN's Development Programme urged India to criminalize marital rape after India's Minister of Women declined to apply rape in the marital context.²¹⁰ She cited reasons for the denial, including the sanctity of marriage, and a recent poll in the Times of India showed that 52 percent of Indians agreed with her beliefs.²¹¹ Thus, an essential legal reform would be to outlaw marital rape and also have additional approaches target the deeply rooted beliefs to support the changes in the law. A combination of all of these efforts is necessary to address the rape culture in India.

²⁰² *Id.* at 168.

²⁰³ Kung et al., *supra* note 57, at 168.

²⁰⁴ *Id.* at 169-70.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ Kayleigh Lewis, *UN Urges India to outlaw marital rape after women's minister says it is 'not applicable'*, INDEPENDENT (Mar. 15, 2016), <http://www.independent.co.uk/news/world/asia/rape-india-marital-women-un-undp-sdg-sustainable-development-goals-a6931821.html>.

²⁰⁸ Shrinivasan, *supra* note 42.

²⁰⁹ Lewis, *supra* note 207.

²¹⁰ *Id.*

²¹¹ *Id.*

IX. CONCLUSION

India is a rapidly developing nation, but it is still plagued with a rampant rape culture. Nevertheless, it is not beneficial to compare its status quo to developed countries like the United States. The Ohio and Delhi rapes show that rape culture is a problem in both countries but the reactions to each have been divergent. The Steubenville rape was almost swept under the rug while the Delhi Rape was subjected to overly critical discourse. India and other developing countries should be given the time to progress into the current developed model of the United States rather than being unjustly compared. Ultimately, the solution to India's rape culture is to take a multi-faceted approach to the problem, not just to criticize its efforts and condemn its actions with a critical eye. Such approaches would directly address the individual and societal issues, which would allow legal reforms to be effective.