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Sexual Violence As A Crime Against Humanity As Seen In The Indian Partition Of 1947

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**SEXUAL VIOLENCE AS A CRIME AGAINST HUMANITY
AS SEEN IN THE INDIAN PARTITION OF 1947**

Honors Thesis

**Presented in Partial Fulfillment of the Requirements
For the Degree of Bachelor of Arts**

In the School of Arts and Sciences
at Salem State University

By

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ABSTRACT

This research project looks into the nature of violence of the Indian Partition of 1947. The goal in this work is to place sexual violence towards women in this particular moment in history into a global context through applying international law to the violent acts committed by citizens of both India and Pakistan, as well as comparing it to other ethnic conflicts of history. This history has only recently become relevant, alongside the feminist movement of the 1990's with oral historians such as Kamla Patel and Urvashi Butalia. Upon analyzing memoirs, newspapers, official government documentation from social workers, as well as oral histories, it is clear a crime against humanity occurred in the South Asian subcontinent in 1947; however, there has been little action taken by these states' governments to memorialize these women, aid them, or punish their attackers. This research is an attempt to remember these women and uncover the true extent of the violence they faced.

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Introduction

To find a place for women in the narrative of history is often difficult, particularly when the experiences of women would bring shame to the nation they called home. In the history of the Indian Partition of 1947, the voices of women survivors have only recently come to light in the 1990's, when feminists felt encouraged to speak up about the sexual violence, mutilation and abduction of women. The collection of this history was made difficult due to deeply embedded patriarchal beliefs; work did not begin until 40 years after independence, due to the stigma attached to polluted women and dishonored communities. Thousands of women faced unspeakable horrors in a time where the worst of humanity had just been witnessed a few years prior in the Holocaust. Even so, Partition history seems to live apart from widely known world history, where large scale violence failed to see international scrutiny.

Placing Partition in a worldwide context by applying international law and comparing it to other ethnic conflicts, will further the understanding of violence, ethnic conflict, and even genocide throughout history. By focusing on sexual violence toward women, the voices of a once silenced group are heard, and a new perspective is gained outside of the political, nationalistic story of Partition. This social aspect of Partition history deliberately brings violence to the forefront, in a place that has actively ignored the violence, as there are no memorials to Partition. This gender study will focus on two main questions: How and why were women specifically attacked during the Indian Partition, and did a crime against humanity happen at this time of conflict?

A Tryst With Destiny, Indian and Pakistani Independence

On August 14, 1947, Jawarharlal Nehru delivered a speech to the Constituent Assembly in New Delhi: “Long years ago, we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom.”¹ After nearly 200 years of imperial rule by the British, the Raj was collapsing, and in its place, two sovereign nations would arise.²

In the wake of WWII, the British paid less attention to India as a colony; it simply returned to a basic colonial model focused on keeping the peace and extracting the necessary resources for fighting the war. Civil Service had been Indianized and British men did not feel a desire to travel the many miles to maintain a fading empire after surviving the global conflict.³ The idea to Partition rose with the arrival of British delegation in the capital to discuss independence after end of the war celebrations; Khan writes, “Partition emerged from a cauldron of social disorder ... Indians stood on the threshold of change and revolution, but, as yet, the shape of this change was unknown and frighteningly uncertain.”⁴

The largest uncertainty facing the Indian people was with whom the power would be left after the departure of the British. Two front runners emerged in the race to rule by 1946: the Indian National Congress (INC) and the All India Muslim League. The Indian National Congress, under the leadership of Gandhi and other patriarchal lawyers, became

¹ Jawarharlal Nehru, “Tryst With Destiny,” Sri Venkateswara College, August 14, 1947, accessed July 27, 2016, <http://www.svc.ac.in/files/TRYST%20WITH%20DESTINY.pdf>

² Yasmin Khan. *The Great Partition: The Making of India and Pakistan* (New Haven, CT: Yale University Press, 2007), 2.

³ Khan, 14.

⁴ Khan, 17.

a mass nationalist party with millions of members and sympathizers; the All India Muslim League, though much newer than the INC, rapidly gained a following, claiming two million members by the early 40's.⁵ These two parties shared very different ideas for what the South Asian subcontinent should become. While the INC called for a united state for all Indians, the Muslim League was founded in Muslim Nationalism and called for a separate Muslim homeland.⁶

Religious differences appear to be the largest contributing factor pushing for Partition. This perception of the 'other' religion, Hindus vs. Muslims vs. Sikhs, fueled the desire for a division of land. In an interview with Butalia, Bir Bahadur Singh said:

“if we are holding a dog in one hand and food in the other, there's nothing wrong with that food. But if a Musalmaan would come and shake hands our didis and mothers would say, son, don't eat this food, it has become polluted. Such were the dealings: how can it be that two people are living in the same village, and one treats the other with such respect and the other doesn't even give him the consideration due to a dog? How can this be? They would call our mothers and sisters didi, they would refer to us as brothers, sisters, fathers and when we needed them, they were always there to help. Yet when they came to our houses, we treated them so badly. This is really terrible. And this is the reason Pakistan was made.”⁷

However, Butalia writes that this is not the sole factor: “The political developments that preceded the drawing of Radcliffe's boundaries contributed to the growing hostility

⁵ Khan, 18.

⁶ Khan, 18.

⁷ Urvashi Butalia, *The Other Side of Silence: Voices from the Partition of India* (Durham, UK: Duke University Press, 2000), 72-73.

between the Hindus, Sikhs and Muslims. This did not only have to do with religion. Much more was at stake: jobs, livelihoods, property, homelands. A sort of competition developed for these, but significantly and differently, on religious lines: would a Muslim get x or y job, or a Hindu? Just as religion had conflicted with geography – how many Hindus or Muslims on this side of a river or mountain or desert – so it also clashed with things such as property and employment.”⁸

These perceived religious differences pushed Muhammad Ali Jinnah, leader of the Muslim League, to subscribe to the Two Nation theory - on May 4, 1947 he stated: “I should like to point out that there is a great deal of confusion created on purpose. The question of a division of India, as proposed by the Muslim League, is based on the fundamental fact that there are two nations - Hindus and Muslims - and the underlying principle is that we want a national home and a national state in our homelands which are predominantly Muslim and compromise the six units of the Punjab.”⁹ This call for a separate land does not seem so farfetched after considering the words of Bir Bahadur Singh; it appears clear that Hindus and Muslims, though living in the same state, lived by very different rules and did not perceive each other as equals.

After much debate about how independence would be reached between Gandhi, Nehru and Jinnah, the plan was announced first on June 3, 1947.¹⁰ Both an independent Pakistan and India would be formed with the departure of the British. The decision to partition major provinces, including Bengal and Punjab, followed on June 20, 1947.¹¹

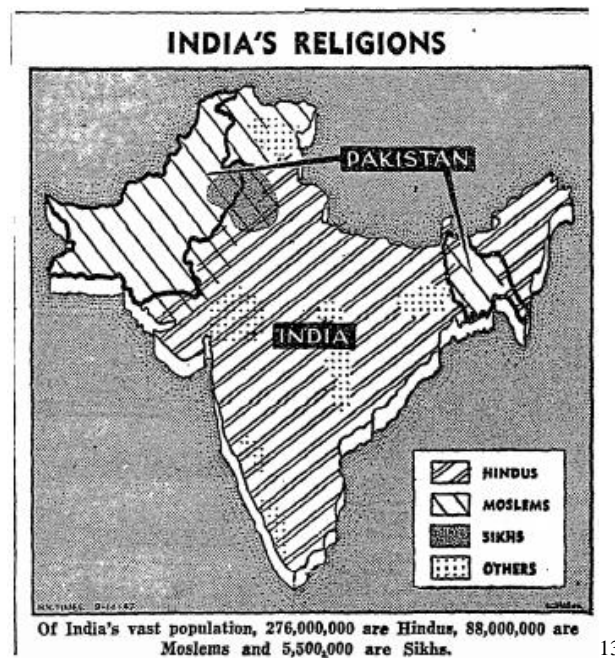
⁸ Butalia, 68.

⁹ Muhammad Jinnah, “Jinnah on Partition,” UK National Archives, May 4, 1947, accessed July 27, 2016, <http://www.nationalarchives.gov.uk/education/resources/the-road-to-partition/jinnah-partition/>

¹⁰ Khan, 1.

¹¹ Khan, xix.

Thus began the largest upheaval of people in world history; “Never before or since have so many people exchanged their homes and countries so quickly. In the space of a few months, about twelve million people moved between the new, truncated India and the two wings, East and West, of the newly created Pakistan.”¹²



These religious tensions had been growing for long before these lines were drawn; according to Khan, “Reminders of religious ‘difference’ were built into the brickwork of the colonial state,” self-conscious awareness of religious ethnicity had been on the rise and, conflict around this issue, became more flagrant, with riots breaking out on religious holidays.¹⁴ Somehow, “Astonishingly, and despite many warnings, the new governments of India and Pakistan were unprepared for the convulsion: they had not anticipated that the fear and uncertainty created by the drawing of borders based on headcounts of

¹² Butalia, 3.

¹³ Robert Trumbull, Bands Organize Massacres in India, *New York Times*, September 14, 1947, accessed June 28, 2016 <http://query.nytimes.com/mem/archive-free/pdf?res=9D0CE6D7153AE233A25757C1A96F9C946693D6CF>

¹⁴ Khan, 19.

religious identity.”¹⁵ A considerable deal of ethnic violence followed the announcement of Partition and the securing of Independence.

There was the ‘Great Calcutta Killing,’ of August 1946, where 4,000 were killed and 100,000 were left homeless.¹⁶ F. J. Burrows writes in a letter to Lord Wavell, “Even before 10 o'clock Police Headquarters had reported that there was excitement throughout the city, that shops were being forced to close, and that there were many reports of stabbing and throwing of stones and brickbats. The trouble had already assumed the communal character which it was to retain throughout. (Later reports indicate that the Muslims were in an aggressive mood from early in the day and that their processions were well armed with the lathis, iron rods and missiles. Their efforts to force Hindu shops to close as they passed through the streets were greeted with showers of brickbats from the roofs above - indicating that the Hindus were also not unprepared for trouble - and from this sort of exchange of missiles, matters soon degenerated into arson, looting and murder).”¹⁷

¹⁵ Butalia, 3.

¹⁶ F.J. Burrows, “Indian Independence: Partition Source 4”, The British Library, August 22, 1946, accessed July 27, 2016,

<http://www.bl.uk/reshelp/findhelpregion/asia/india/indianindependence/indiapakistan/partition4/index.html>

¹⁷F.J. Burrows, “Indian Independence: Partition Source 4”, The British Library, August 22, 1946, accessed July 27, 2016,

<http://www.bl.uk/reshelp/findhelpregion/asia/india/indianindependence/indiapakistan/partition4/index.html>



18

The violence spread quickly to other provinces, with estimates of the dead ranging “from 200,000 (the contemporary British figure) to two million (a later Indian estimate) but that somewhere around a million people died is now widely accepted.”¹⁹ Fear of this violence pushed people to move toward what they thought would be safer places, surrounded by those of the like religion. Many traveled in overflowing trains, but many were too poor to afford such transportation, and traveled in large walking groups, called *kafilas*.²⁰ Butalia writes, “As *kafilas* crossed each other, moving in opposite directions, people who looked exactly the same – for little in their appearance would, at first glance, tell whether they were Hindu or Muslim – and were burdened with poverty and grief, would suddenly turn in murderous attack on each other.”²¹

¹⁸ Robert Trumbull, Bands Organize Massacres in India, *New York Times*, September 14, 1947, accessed June 28, 2016 <http://query.nytimes.com/mem/archive-free/pdf?res=9D0CE6D7153AE233A25757C1A96F9C946693D6CF>

¹⁹ Butalia, 3.

²⁰ Butalia, 60-61.

²¹ Butalia, 61.

This violence toward the other brewed from a growing animosity toward the other religion, Hindu vs. Muslim vs. Sikh, spanning over decades, from a perceived racial ethnic difference; it culminated in murder, but also has a prominent gendered experience, with sexual violence committed toward women at remarkable levels; the attack on women was not only an attack on her body, but her purity, her ability to marry and mother children, her entire community and nation. Humanity was lost amongst the perpetrators, and faith was lost amongst the victims. Lives were changed forever, families were broken apart, people were left to die. These actions raise the question of whether a crime against humanity occurred in the partitioned subcontinent.

Foundations of Crime Against Humanity

The concept of crime against humanity has a blurry beginning, first seen referred to as laws of humanity in regards to armed conflict, and was later invoked again following World War I in condemnation of the Turkish massacre of Armenians.²² Following World War II, crime against humanity was defined for the first time as follows:

“murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.”²³

²² Christine Byron, *War Crimes and Crimes Against Humanity in the Rome Statute of the International Criminal Court*, (Manchester: Manchester University Press, 2009), *eBook Collection (EBSCOhost)*, EBSCOhost (accessed June 28, 2016), 188.

²³ Byron, 189.

Debate about whether crimes against humanity could occur only in times of war or if they could also happen in times of peace followed the International Criminal Tribunal for the former Yugoslavia (ICTY). A certain autonomy had grown in the term, and despite argument, most delegates agreed that “the International Criminal Court (ICC) will have jurisdiction over crimes against humanity whether committed in time of peace or conflict ... there need not be a military attack.”²⁴

Included in the International Criminal Tribunal on Rwanda (ICTR), a new condition for crime against humanity, developed in 1996, had been applied; crime against humanity was now required to be committed in a systematic nature or on a large scale, meaning it was pursuant to a preconceived plan, or affected a large multiplicity of victims, respectively.²⁵ ICTR confirmed that a crime against humanity could be systematic or widespread, it does not need to be both simultaneously, and ICTY confirmed the term ‘widespread’ was not limited to geography, but could also apply to the number of victims affected by such a crime.²⁶ For a crime to be considered ‘widespread’ or ‘large scale’ enough for the ICC to take jurisdiction, the number of victims needs to be in the high hundreds or thousands.²⁷ In addition, crime against humanity is not limited to attacks on one side of a conflict, meaning that such crimes can be committed against people of the same nationality.²⁸

The Rome Statute of the International Criminal Court, begun in 1996, following and in response to ICTY and ICTR, was completed in 2002. The statute created the

²⁴ Byron, 191.

²⁵ Byron, 192.

²⁶ Byron, 192.

²⁷ Byron, 193.

²⁸ Byron, 198.

International Criminal Court, and established which crimes, including crimes against humanity, would fall under the court's jurisdiction, listed in part as follows, in Article 7 of the statute:

“Crimes against humanity

1. For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

(a) Murder;

(d) Deportation or forcible transfer of population;

(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;

(g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;

(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;”²⁹

²⁹ UN General Assembly, *Rome Statute of the International Criminal Court (last amended 2010)*, 17 July 1998, ISBN No. 92-9227-227-6, available at: <http://www.refworld.org/docid/3ae6b3a84.html> [accessed 28 June 2016], Article 7, Paragraph 1.

For the first time under international law, ICTY had concluded that “rape and sexual enslavement were violations of sufficient gravity to be considered as ‘crimes against humanity’... This overdue move to place sexual crimes on the list of most serious crimes for prosecution came in the wake of the international outrage generated by the Bosnian War.”³⁰ The establishment of such a court as the International Criminal Court brings forward a pressing question; what exactly were these atrocities committed and experienced in these states of the former Yugoslavia, Bosnia specifically, for such laws to be put in place?

Perceived ethnic difference pushed Serbian forces to use sexual violence as a method to attack Muslim citizens of Bosnia; Muslim populations were considered a form of “race betrayal”³¹ of the accepted Slavic Christianity adopted in the sixth century, with Islam as a result of Ottoman invasion in the late fourteenth century.³² Serbian national mythology relied heavily on the idea that “racial ethnicity is largely assumed to be synonymous with religious difference.”³³ As Bosnia declared its independence from the Yugoslav federation, Serbs within the state demanded that the land they lived on should be united with Serbia; Serbia responded to these cries, claiming Bosnian land village by village, attacking the Muslim population along the way despite “these peoples belonging to exactly the same racial and linguistic group, Southern Slavs.”³⁴ It is important to note the effect sexual violence toward women has on the entire community: “the way that rape is socially constructed makes it primarily a violation defiling the male members of both

³⁰ Lynda E. Boose, "Crossing the River Drina: Bosnian Rape Camps, Turkish Impalement, and Serb Cultural Memory." *Signs* 28, no. 1 (2002), 71.

³¹ Boose, 76.

³² Boose, 76.

³³ Boose, 75.

³⁴ Boose, 76.

the victim's family and her community,"³⁵ meaning the attack affects male standing in society just as much as it physically affects the lives of women.

It is estimated that anywhere from 20,000-50,000 women were forcibly incarcerated and raped in camps by Serbian forces. Rape was a strategic tool, "documented as a systematically planned Serbian instrument of genocide,"³⁶ used to "destroy parent-child and spousal bonds and render large numbers of the society's child-bearing women contaminated and thus unmarriageable."³⁷ This was an attempt to, in a way, undo the "ethnic mixing"³⁸ that had happened with intermarriage between religious groups, and in turn destroyed "the prevailing sense of communality"³⁹ among the varying religious groups living in Bosnia. The horror of sexual violence in Bosnia can be understood in painful detail in the following: "Serb soldiers threw Muslims off of cliffs and from hotel roofs into rivers, carved Orthodox crosses into their chests, hacked off the arms or legs of their victims, made women clean up the mess from such amputations, and then raped the women on top of the blood-soaked rags."⁴⁰

Following tragedy as such in the 1990's, it is easy to understand how and why the International Criminal Court came to be, and why rape and sexual violence were finally considered a crime consequential enough to be a crime against humanity. Sexual violence was not simply limited to rape, but also included forced abortions,⁴¹ bodily mutilation and was often followed with murder.⁴² However, very similar violence at an even larger

³⁵ Boose, 72.

³⁶ Boose, 73.

³⁷ Boose, 73.

³⁸ Boose, 73.

³⁹ Boose, 74.

⁴⁰ Boose, 75.

⁴¹ Boose, 72.

⁴² Boose, 74.

scale had been committed previously in world history, seen in the partitioning of the South Asian subcontinent into India and Pakistan in 1947. Partition was a gendered experience. This violence toward women is difficult to accept and horribly gruesome. Butalia remarked in her studies, “I knew by now that the history of Partition was a history of deep violation – physical and mental – for women.”⁴³

A History of Deep Violation

Kamla Patel witnessed firsthand Partition and wrote of her experiences as one of the most influential social workers in charge of recovering abducted women in her memoir, *Torn From the Roots*. She writes: “Women were the worst sufferers in the partition of the country,”⁴⁴ as well as, “the atrocities which they were subjected to cannot even be described in words.”⁴⁵ In her records, she provides the demographics of the women affected by communal violence in both India and Pakistan, remarking that “the names that were given to us were mostly from the poor and ignorant sections of society.”⁴⁶ Even “10-years-old girls had been raped and ... girls had been carried off by the invaders. Old women were stripped of their possessions, murdered and their bodies burned in their houses,”⁴⁷ showing a wide range of women and girls subject to the violence of Partition. In total, 9,302 women and children were recovered from Pakistan⁴⁸, and 20,728 were recovered from India.⁴⁹ This is just a small portion of the estimated

⁴³ Butalia, 104.

⁴⁴ Kamla Patel, *Torn From the Roots: A Partition Memoir* (New Delhi: Women Unlimited, an associate of Kali for Women, 2006), 162.

⁴⁵ Patel, xii.

⁴⁶ Patel, 30.

⁴⁷ Nehru Sees Ravaged Town, *New York Times*, November 13, 1947, accessed June 28, 2016 <http://query.nytimes.com/mem/archive-free/pdf?res=9C07E7DD113AE233A25750C1A9679D946693D6CF>

⁴⁸ Patel, 230, Appendix 1.

⁴⁹ Patel, 233, Appendix 1.

number of women abducted, which ranges from 75,000 to 100,000⁵⁰, where it appears that the terms abduction and rape are essentially synonymous.

To understand why this violence occurred, one must discuss the concepts of purity and honor, and their importance in Hindu, Muslim and Sikh communities. Purity lays in the sexuality of women, which was to be reserved for her husband, generally of the same religion. Through rape and various acts of sexual violence, this purity would be tarnished and the women would be thus polluted; this pollution was difficult to accept, particularly in Hindu families: “From all accounts the ‘purity’ of the woman was of much more importance within India, to Hindus and Sikhs – perhaps because the Hindu religion places greater emphasis on purity and pollution. Apparently, abducted Muslim women were more easily accepted back into their families.”⁵¹ Patel confirms this, writing, “We could see clearly that, unlike Hindu women, these Muslim women had no feeling of becoming ‘impure’ or that they had any stigma attached to them.”⁵² Honor appears to be of the most importance in the Sikh community. Through the defiling and attacking of Sikh women, the men in the community as well as the victim of the attack lost their honor; “Among the Sikhs particularly, the men felt they could protect themselves but they were convinced that the women would be unable to do so. Their logic was that men could fight, die if necessary, escape by using their wits and their strength, but the women had no such strength to hand ... While the men could thus save themselves, it was imperative that the women – and through them, the entire race – be ‘saved’ by them.”⁵³

⁵⁰ Butalia, 105.

⁵¹ Butalia, 127-128.

⁵² Patel, 173.

⁵³ Butalia, 155.

Thus the protection of female purity and the purity of the Sikh and Hindu races from pollution became the ultimate task of the male community.

To attack women was to attack the manhood and honor of not only the families of the victims but of the entire nation; gender and a sense of masculinity play a huge role in Indian and Pakistani society, and a failure to protect one's women was seen as a failure to protect Mother India: "This easy equation of manhood and nationalism was not unusual – it needed men to protect the honour of the motherland ... it became important to establish the purity of Mother India, the motherland which gave birth to the Hindu race and which was home to the Hindu religion. The country ... was imaged in feminine terms, as the mother, and Partition was seen as a violation of its body."⁵⁴ This national honor, thus placed in the body of Mother India, was translated unto the bodies of all Hindu and Sikh women as potential mothers.⁵⁵ Such deeply embedded patriarchal beliefs allow and at times even seem to encourage such targeted and sexual violence toward women; Menon and Bhasin argue that "the dramatic episodes of violence against women during communal riots bring to the surface, savagely and explicitly, familiar forms of violence - now charged with a symbolic meaning that serves as an indicator of the place that women's sexuality occupies in an all-male, patriarchal arrangement of gender relations, between and within religious or ethnic communities."⁵⁶

Sexual assault was used by men as a weapon to assert their own identity and, at the same time, humiliate the "other by 'dishonouring.'"⁵⁷ Sexual violence was not limited

⁵⁴ Butalia, 147.

⁵⁵ Butalia, 150.

⁵⁶ Ritu Menon and Kamla Bhasin, *Borders & Boundaries: Women in India's Partition* (New Delhi: Kali for Women, 1998), 41.

⁵⁷ Menon, 41.

to rape, but manifested in many forms and was often an act of retribution. Such forms include, but are not limited to, disfigurement, mutilation, disembowelment, castration and branding.⁵⁸ Women were made to parade through streets and marketplaces naked, to dance in the clothing of the other, to be “stripped as bananas are peeled,”⁵⁹ and “raped in the presence of their menfolk.”⁶⁰ Durga Rani recalls her experience in Partition: “We saw many who had been raped and disfigured, their faces and breasts scarred, and then abandoned. They had tooth marks all over them. Their families said, ‘How can we keep them now? Better that they are dead.’”⁶¹ Particular attention was paid to the breasts of those assaulted, where the amputations of the breasts proved to be one of chief types of injury inflicted on women, and often proved fatal.⁶² Many were often assaulted in other vicious ways, through “tattooing or branding the breasts and genitalia with triumphal slogans ... knifing open the womb ... killing foetuses.”⁶³ Patel witnessed such violence, in her work rescuing Muslim women; when the recovery mission began, ‘Om’ and other Hindu mantras had been tattooed on their bodies.⁶⁴ Tattooing and branding, through their permanence, would be a constant reminder to the women, her family and her community, that such humiliation was brought unto them; the loss of the breasts took away the sexuality of the woman, and took away her means to nurture.⁶⁵

Both such attacks not only harmed the generation of those who directly experience the violence, but also the generation to follow. Sexual violence was a means

⁵⁸ Menon, 39.

⁵⁹ Menon, 41.

⁶⁰ Menon, 41.

⁶¹ Menon, 32.

⁶² Menon, 42.

⁶³ Menon, 43.

⁶⁴ Menon, 36.

⁶⁵ Menon, 43-44.

to defile the Hindu and Sikh race; “women could be raped, impregnated with the seed of the other religion, and in this what not only would they be rendered impure individually, but through them the entire community could be polluted, for they would give birth to ‘impure’ children.”⁶⁶ Often times, women that found themselves pregnant would be forced to leave their children behind simply to be considered for acceptance back into their families: “Social workers confirmed that pregnant women would either be sent away to appointed places to have their children (who were then often offered up for adoption) or they would be sent to be ‘cleansed,’ or in other words, to have mass abortions performed (‘safaya,’ it was called). The State then financed mass abortions, out of a special budget set aside for the purpose, at a time when abortion was actually legal.”⁶⁷ Even after sacrificing their children, these women still found themselves in very precarious situations, where, if they would not be accepted by their families, “it was not even possible to get these young girls with little children married off.”⁶⁸ These women, polluted and unmarriageable, without the prospect of having future children, were detrimental to the success and growth of the Hindu and Sikh groups of India.

For those who had not been protected, whose honor and purity had been ruined and were left to their own devices found themselves living out of state sponsored camps; “Ashrams were set up in north Indian cities to house abducted women: in Jalandhar, Amritsar, Karnal, Delhi. Some of these were meant to hold women in transit until their families took them back. Often, families didn’t: the women were now soiled. The family had made its adjustments to their absence, why should they now readjust, make new

⁶⁶ Butalia, 155.

⁶⁷ Butalia, 128.

⁶⁸ Patel, 145.

space, and take in a person who had become ‘polluted’? So the ashrams became permanent homes for the women.”⁶⁹ Though these women were not accepted by their families, they had a chance at life in these camps. Some women were not so lucky.

Often times, violence was fought with violence during Partition. Women faced murder from their own families and communities, and often committed suicide in large numbers to prevent rape and conversion by Muslims. These deaths, however, have held a positive place in cultural memory, as “The suicides of women during the Partition fit quite neatly within these heroic narratives of women’s self-sacrifice and could be memorialized accordingly.”⁷⁰ This resolve and acceptance of these women’s sacrifice is not lost in the subcontinent’s memory, however it had remained unacknowledged “that such deaths constituted a violence.”⁷¹ Though there are records of recovered abducted women, “There is no record of the numbers of women and children who were killed by the men of their own families, their own communities.”⁷² Without official records, it is impossible to know just how many women were killed by their own families to protect their purity and the race, however a picture of what the violence constituted can be made. In her memoir, Patel writes on a local police officer, who “stopped his vehicle at a well and said, ‘innumerable Hindu women of this area jumped into this ‘sinful’ well to save their honour. The whole well was full of the dead bodies of such women.”⁷³ This was not her only encounter with mass suicide in her mission; “When I visited the Myanwali

⁶⁹ Butalia, 129.

⁷⁰ Deepti Misri, *Beyond Partition: Gender, Violence, and Representation in Postcolonial India* (Urbana: University of Illinois Press, 2014), *eBook Collection (EBSCOhost)*, EBSCOhost (accessed June 28, 2016), 56.

⁷¹ Misri, 56.

⁷² Butalia, 165.

⁷³ Patel, 66.

district on the border of Punjab to make arrangements for a camp there, a Hindu grocer who had converted to Islam during the riots pointed out to me a well which was full of the dead bodies of women who had jumped in to save their honor. Because of the foul smell coming from the well, people in the neighborhood had left their homes and gone away.”⁷⁴ These communities could not even be bothered to pull their women out of the wells after their sacrifice to protect the honor of the men and the nation, to be given proper final rights.

Women did not always walk toward their own deaths; often times the men in their lives took this responsibility into their own hands. In an interview, Mangal Singh, a Sikh man, answered Butalia when asked why his village killed off its women and children and if they had felt any fear: “The real fear was one of dishonor. If they had been caught by the Muslims, our honor, their honor would have been sacrificed, lost. It’s a question of one’s honor.”⁷⁵ Butalia also writes that Singh “insisted that the women and children had ‘offered’ themselves up for death because death was preferable to what would almost certainly have happened: conversion and rape.”⁷⁶ Even American newspapers reported on such violence, Trumbull writing: “Instances are told of defenders slaying their women rather than letting them fall into the hands of assailants. This is a custom of ancient standing among the Rajputs, dating back to feudal days.”⁷⁷ If women resisted, if they fought against this murder or refused to sacrifice themselves, they faced the shame of their families. Such a case happened with a woman named Mehta, whose “twelve-year-

⁷⁴ Patel, 19.

⁷⁵ Butalia, 154-155.

⁷⁶ Butalia, 154-155.

⁷⁷ Robert Trumbull, Bands Organize Massacres in India, *New York Times*, September 14, 1947, accessed June 28, 2016 <http://query.nytimes.com/mem/archive-free/pdf?res=9D0CE6D7153AE233A25757C1A96F9C946693D6CF>

old son implores her to kill herself as he himself prepares to drown in the river. Seeing her desist, he remonstrates: ‘You are a coward ... You want to die a shameful death and you won’t lift your little finger to avert it.’”⁷⁸

It seems the gendered violence of Partition knew no bounds, where women faced abduction and rape, impregnation and abortion, castration and mutilation, tattooing and branding. A woman’s body was not her own, but her community’s and her nation’s, a land to be conquered and destroyed by the other. The shame and dishonor that followed forced women to either sacrifice their children or sacrifice their families, and live permanently in camps for the remainder of their lives, unmarriageable. Up to 100,000 women faced such violence during the collapse of the Raj and through independence in August, 1947. Violence to such an extent, especially following the end of the Holocaust, where international scrutiny was heard loudly, should have been widely condemned by the world; yet sexual violence was not considered a crime against humanity until the 1990’s.

International Eyes

The attacks toward women in Bosnia and during the Indian Partition are remarkably similar. Both conflicts revolved around a perceived ethnic racial difference, where nationality and religion were one and the same. In Bosnia, to be Muslim was to betray the race of Christian Slavs of Yugoslavia, and in India, to be Muslim was to be a symbol of Pakistan and failure to keep India as one nation, a betrayal to Mother India as the home of the Hindu religion. Despite having all been born Southern Slavs in the case of Bosnia, or as Indians before the partition of the South Asian subcontinent, violence

⁷⁸ Misri, 67.

broke out between the opposing groups. Women were the targets of the most gruesome attacks.

Both conflicts see mass rape used as a weapon in an attempt to defeat their rival. Camps had been made to systematically rape women in an attempt to undermine ethnic mixing and render as many childbearing women contaminated and unable to marry as possible in Bosnia.⁷⁹ Though no such camps existed in India, rape was used for the same purpose, to undermine the rival group through polluting their women, leaving them without families, and forcing them to abandon or abort their children. In Bosnia, like India, the rival group of Muslims was a threat “to conquer, victimize, feminize and humiliate Serb national selfhood.”⁸⁰

Though it appears that the worst violence toward women in Bosnia is fairly limited to abortion, rape and murder,⁸¹ Hindu and Muslim women of India and Pakistan faced a wider breadth of sexual violence, also including the aforementioned branding, tattooing, and bodily mutilation. An estimated twice as many women in India and Pakistan experienced sexual violence than those in Bosnia, where up to 100,000 were attacked during Partition,⁸² and only up to 50,000 were incarcerated in Bosnian rape camps.⁸³ Sexual assault to defile the purity of the rival race is a key element in both ethnic conflicts. With the confirmation of a crime against humanity in Bosnia through use of large scale sexual violence, established as illegal through the Rome Statute under the International Criminal court, and the noteworthy similarities between both ethnic

⁷⁹ Boose, 73.

⁸⁰ Boose, 78.

⁸¹ Boose, 72, 74.

⁸² Butalia, 105.

⁸³ Boose, 71.

conflicts, the historian can argue that a crime against humanity happened much sooner during the Indian Partition than in the former Yugoslavia during the Bosnian War.

The violence toward women in Indian Partition meets several of the qualifications for a crime against humanity as defined by the Rome Statute. Sexual assault towards women was widespread with 100,000 victims, where the requirement for the court to take jurisdiction is only hundreds or thousands.⁸⁴ The Rome Statute defines rape, sexual slavery, forced pregnancy and any other form of sexual violence of comparable gravity as illegal, as well as such persecution happening based on political, racial, national, ethnic, cultural, religious, or gender grounds.⁸⁵ Since such women targeted attacks as rape, bodily mutilation, branding and tattooing happened at such a large scale and were based on religious and thus racial differences, they constitute a crime against humanity. Murder is also included as one of the crimes prosecuted by the court, and was seen in large quantities of honor killings to avoid conversion and rape during Partition; though many were encouraged to commit suicide, there were occasions where the men of the family took into their own hands the death of their women, with “fathers beheading their own children so they would avoid the same dishonourable fate”⁸⁶ of pollution and conversion of those who lived.

1947 brought fear, anger and confusion alongside independence for India and Pakistan. After two hundred years of colonial rule, the newly sovereign infant nations immediately faced turmoil and violence at extraordinary levels. New enemies had been made from old friends. Twelve million people moved away from the only place they had

⁸⁴ Byron, 193.

⁸⁵ UN General Assembly, *Rome Statute of the International Criminal Court*, Article 7, Paragraph 1.

⁸⁶ Butalia, 5.

ever known as home, suddenly adopting a new identity and country. The experience of women is nearly unfathomable, and “as a result of the inhuman treatment meted out to them by men, they had lost their faith in humanity and even in God.”⁸⁷ A crime against humanity happened during the partition of India, where sexual violence was used to attack women members of the opposing religious racial group, rendering them polluted and impure, and to dishonor the men of rival communities.

Failure to recognize this sort of violence in 1947, long before its recognition in Bosnia in the 1990’s, is due in part to the unwillingness of the Indian and Pakistani governments to acknowledge the violence. Both states are now only “more than half a century after the fact ... reluctantly allowing any space at all for the suppressed stories of the mass violation of Muslim and Hindu women.”⁸⁸ It is due to women like Mridula Sarabhai, the lead social worker of Partition, that women were recovered and rehabilitated following their trauma; her vision and her force to push the limits were to solve the problem these new nations faced, a “problem that was not only limited to India, nor was it one that concerned only the Hindus, Muslims or Sikhs. This was a vast human problem.”⁸⁹ However, the mission to rescue women ended only nine years after it began,⁹⁰ and thousands of women were never recovered. It is due to the vision and drive of feminists and oral historians that their stories do not go unheard.

⁸⁷ Patel, 18.

⁸⁸ Boose, 73

⁸⁹ Patel, 225.

⁹⁰ Butalia, 130.

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