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EDITORIAL NOTE

Justice at Last for Women?

The Parliament recently passed the Criminal Law Amendment Act, 2013, a move that came hard on the heels of the brutal gang-rape and murder of a paramedical student in Delhi. The Amendment creates hope for women's rights activists who see in it, the fruition of some of the changes that they have been demanding in the sexual offences laws in India for decades. The Amendment in some ways, attempts to replace the language of morality with the language of crime, appropriately recognizing that rape is not about the disgrace or dishonour of a woman, but is a savage act of violence against the body of an individual. The definition has been broadened to include not only peno-vaginal penetration, as before, but various other forms of sexual assault as well. Admirably, the Amendment has also added various offences such as stalking and voyeurism, practices that have plagued women for generations, but have only received attention as the brunt of jokes in popular culture. In many rural areas, parading of naked women is still an accepted way of 'punishing' women who have dared walk a path that is "morally reprehensible" (read 'love marriage'). Similarly, acid attacks by jilted lovers or by caste induced rivalries are on the rise and definitely needed a remedy in law. The legal recognition of these offences (along with some others) has addressed long-standing gaps in the protection of women from sexual offences.

A disproportionately high majority of incidents of sexual violence is faced by women, and any response to this issue must be gender-sensitive. Sexual violence flows from discrimination, a discrimination that in our country, is traditional in nature. It has flowed

down the ages with little realization of the causal link between sexual violence and gender discrimination. Stereotyping women, not treating them on an equal footing with men and labeling them at the drop of a hat, are the most commonly recognized attitudes in this country. Sexual violence is an act of domination, a show of power against one's own insecurities. In a country where it is considered normal, in fact, morally acceptable, that men exercise power and control over women, it is not surprising that sexual violence has continued in our country unabated. As has been oft repeated, there is an urgent need for gender sensitization amongst the population to make them aware of the different ways in which women face violence. It is not as though these issues were raised for the first time after the Delhi gang rape case, but the kind of attention and space it received in popular media was unprecedented. Mention must be made of the positive role played by the academicians and activists who have been working in the field of sexual violence with increased vehemence after the Delhi gang rape incident. Along with the citizens who protested on the roads, the contribution of these activists and academics helped immensely in coercing the government into concrete action.

However, the Amendment act in some ways fell short of the expectations of the activists, leaving one with the feeling that the government's way of dealing with matters that have caught the public eye is to go thus far and no farther. For instance, the Verma Committee had suggested that the requirement of sanction for prosecution of armed forces personnel should be specifically excluded when a sexual offence is alleged. The Parliament chose to ignore this key recommendation of the committee. The Committee also suggested that the exception to marital rape should be removed and marriage should not be considered as an irrevocable consent to sexual acts. Even this was not incorporated in the final Amendment Act. These two key recommendations were also longstanding demands of feminists and human rights activists and their non-incorporation has justly irked many right-thinking members of the society.

While there is much fodder to credit or accuse the government and the legislature for its (in)actions, they must, by all counts, be credited for effecting changes very quickly after the incident. The

speed with which these events came to be – the rape, the committee report, the Amendment Act – is truly commendable, especially considering that important social welfare legislations like the Food Security Bill, the Manual Scavengers Bill and the Street Vendors Bill, and gender-sensitive legislations like the Women's Reservation Bill have been pending for years now. It is however unfortunate that it took a prod as cruel as the death of a young girl and an indignant population on the warpath, to wake the government from its executive and legislative slumber and enact an appropriate legislation to deal with the growing peril of sexual offences. From quickly constituting a committee to draft recommendations for a new amendment on sexual offences, to notifying the amendment act, the government finished the entire process in less than ninety days to appease the furious citizens of the country. The Protection of Women Against Sexual Harassment at Work Place Bill, however, has not been fortunate enough to receive the same treatment. It was passed by both the Houses of Parliament (after years of waiting) but is yet to receive the Presidential assent and the subsequent notification by the government. This, despite the fact that the *Visakha* guidelines were in place from 1997, and subsequent governments had ample opportunity to bring in a legislation soon after that to plug such a gaping silence in our laws.

The Amendment is doubtless a huge achievement, and is a great improvement over the laws in force previously. This brings us to the seminal question – of law's connection with justice. Will all the legal recognition to sexual offences mean that there will be more convictions of the guilty, will the victims be able to bring their perpetrators to book, and will the victims be able to get the Justice which has been so elusive to them till now? The answer lies in the delivery of justice and not merely by a feeling that law would automatically lead to justice. Without some drastic institutional and social changes in the country, we fear that this law might become merely symbolic.

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On behalf of the Editorial Board