

Criminal Law (Amendment) Act, 2013: Will it ensure women's safety in public spaces?

Dr Rituparna Bhattacharyya[†]

Abstract

The horrific gang-rape and the subsequent murder of *Nirbyaya* (fearless) in December 2012, impelled the Government of India to pass the Criminal Law (Amendment) Act, 2013. The key aim of this article is to review this Act in the light of women's safety in public spaces.

Key words: Criminal Law (Amendment) Act, 2013, violence against women, women's safety, public spaces, India

[†]Alliance for Community Capacity Building in North East India, NE29 9JA, England [Email: rituparna.bhattacharyya@accb.org.uk]

Introduction

Against the backdrop of the nation-wide outrage over the tragic Delhi gang-rape, *Nirbhaya* (Fearless) incident of December 16, 2012, propelled the Government of India (GOI) to drive the issue of violence against women (VAW) to the centre-stage of political discourse. Consequently, on December 22, 2012, GOI appointed a three-member judicial committee headed by the former Chief Justice of India, Justice J.S. Verma, who passed away on April 22, 2013, Justice Leila Seth and Gopal Subramaniam requesting them to submit a report within 30 days. The key objective of the Commission was to review for possible amendments to the criminal law and suggest measures for faster trials and harsher penalties for vicious offences related to VAW. Taking further cognizance of the strident storm of public protests in general and a tribute to *Nirbhaya* (Fearless) in particular, on January 23, 2013, the commission submitted its recommendations by identifying 'lack of good governance' as the central cause of VAW. The commission goes on to criticise the government, the abysmal and old-fashioned police system alongside public apathy in tackling VAW, and thereby, recommends dramatic transformation in legislations. The recommendations are based on more than 70,000 suggestions received from stakeholders, social activists and public comprising eminent jurists, legal professionals, NGOs, women's groups and civil society through varied methods: emails, posts and fax. A 631-page report consisting of 14 chapters (excluding Introduction, Methodology and Conclusions and Recommendations) include recommendations on laws related to rape, sexual harassment, trafficking, child sexual abuse, medical examination of victims, police, electoral and educational reforms.

Based on some of the recommendations of the Justice Verma Committee (JVC) report, an anti-rape Ordinance was enacted and signed by the Honourable President of India, Mr Pranab Mukherjee on February 03, 2013. The Criminal Law (Amendment) Bill, 2013, passed in the

Parliament (*Lok Sabha*¹ and *Rajya Sabha*² respectively on March 19 and 21, 2013) replaced the promulgated Ordinance, which lapsed on April 04, 2013. However, as per the Gazette Notification New Delhi, Tuesday, April 2, 2013,³ the word 'bill' has been replaced by the word 'Act'.

Criminal Law (Amendment) Act, 2013

Popularly, known as the Anti-rape Act, amends the Indian Penal Code (IPC), 1860, the Code of Criminal Procedure (CCP), 1973, the Indian Evidence Act (IEA), 1872 and the Protection of Children from Sexual Offences Act, (PCSO), 2012. In a way, the Act is a radical expression of the fifty-seventh session of the Commission on the Status of Women held at the United Nations Headquarters, New York, March 04-15, 2013 as both the interventions focus on VAW with particular emphasis on women's safety and security. Sadly, even after the declaration by the United Nations in 1993, that any type of VAW is a violation of human rights, incidents of VAW continue to be reported, which definitely is a tip of a very ugly iceberg. Yet, many more cases go unreported for various reasons (Viswanath and Mehrotra, 2007). The elusive goal of the commentary however, is to highlight those issues of the Act linked to women's safety and mobility in public spaces (see, Table 1).

¹ The house of people; the lower house of the Parliament of India.

² The council of states elected by the states' assemblies; the upper house of the Parliament of India.

³ The Gazette of India, Department of Publication, Ministry of Urban Development, Government of India, <http://egazette.nic.in/RecentUploads.aspx?Category=1> (accessed April 16, 2013)

Table 1: Comparison between the Existing Laws, JVC Report recommendation and Criminal Law (Amendment) Act, 2013

Offence/Issue	Definition	Existing Laws	JVC report recommendation	Criminal Law (Amendment) Act, 2013
Disobedience of law by a public servant	Failure to record information in sexual offences cases; knowingly disobeying laws on investigation	No specific provision, IPC, 1860	Failure of a public servant to record information in relation to sexual offences should be specifically penalised under the Bill.	Punishable with rigorous imprisonment for six months to 2 years and fine.
Rape resulting in death or vegetative state	Causing death or persistent vegetative state when committing rape.	Rape and murder dealt with as two separate offences. Rape: 7 years to life imprisonment, Murder: imprisonment for life or death, IPC, 1860.	Punishment 20 years up to life imprisonment. In case of gang rape resulting in death or persistent vegetative state punishment should extend to life imprisonment	Specific offence. Punishment 20 years to life imprisonment (rigorous imprisonment) or death.
Punishment for gang rape	Where a person is raped by one or more in a group of persons acting in furtherance of a common intention, each of these persons shall be deemed to have committed the offence of gang rape, regardless of their gender	10 years to life imprisonment and fine, IPC, 1860	Imprisonment for life shall mean imprisonment for the rest of that person's natural life.	20 years to life imprisonment (rigorous imprisonment) and fine payable to the victim, that is reasonable to meet medical expenses.
Rape by armed personnel	"Armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government	No specific provision. Public servant includes armed personnel. Punishment: 10 years to life imprisonment and fine, IPC, 1860	Specifically penalises rape by armed personnel within the area they are deployed in. Armed personnel should be penalised with imprisonment for 7 to 10 years if they knew that sexual offences were being committed by their subordinates. The requirement for sanction to prosecute armed personnel should be removed in relation to sexual offences.	Specific offence. Shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life
Responsibility of Hospital	Failure of hospitals and doctors to provide medical treatment to victims	No specific provision, IPC, 1860 and CCP, 1973	The victim must be taken to the nearest hospital. Medical examination report	Punishable with 1 year and/or fine. In cases of acid attacks or rape, all hospitals

	of sexual offences.		must be prepared, preferably immediately after the examination, but most certainly on the same date as the examination and must be forwarded to the investigating agency forth with immediately. All hospitals should co-operate with the police and preserve the samples likely to putrefy in their pathological facility till such time the police are able to complete their paper work for despatch to forensic lab test including DNA.	(public and private) are required to provide free medical treatment to the victim and immediately inform the police.
Acid Attacks	Throwing of acid on women for a multitude of reasons, including alleged adultery, turning down advances from men, and also as a form of domestic violence. Causing permanent or partial deformity or burns on any person by throwing or administering acid.	No specific provision. Covered under grievous hurt. Punishment: up to 7 years imprisonment, IPC, 1860.	Whoever attempts to throw acid or corrosive or any burning substances on any person, or attempts to administer acid to any person, or attempts to use any other means to achieve the purpose of causing permanent or partial damage to any part or parts of the body of a person, shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to pay compensation to the victim adequate to meet at least the medical expenses incurred by the	Specific offence. Punishable with 10 years or life imprisonment and reasonable fine amount to meet medical expenses.

			victim.	
Punishment for repeat offenders	Punishments for persons previously convicted of an offence of rape, custodial rape, and gang rape.	No specific provision, IPC, 1860	Shall be punished with imprisonment for life, which means imprisonment for the rest of that person's natural life.	Specific offence. Life imprisonment (rigorous imprisonment) or death.
Age of Consent	Legal age at which a person is considered competent to give sexual consent (sexual intercourse)	Specific provision, since the 1983 amendments in the rape law in the IPC, 1860	16 years	18 years
Touching	Physical contact involving unwelcome and explicit sexual overtures.	Outraging a woman's modesty. Punishment: imprisonment for maximum 2 years and fine, IPC, 1860	Existing provisions of the IPC should be deleted. Intentional touching of a sexual nature, without the person's consent should be penalised with 5 years rigorous imprisonment.	Outraging a woman's modesty: 1 to 5 years imprisonment and fine. Physical contact involving unwelcome and explicit sexual overtures: up to 3 years imprisonment and/or fine.
Stalking	Following a woman, attempting to foster personal interaction despite indication of victim's disinterest, spying, monitoring electronic communications	No specific provision.	Whoever commits the offence shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine.	Specific offence. 1st offence punishable with 1 to 3 years imprisonment (Bailable). 2nd offence punishable with up to 5 years imprisonment (Non-bailable).
Sexually coloured remarks/Use of words or gestures to insult a woman's modesty	Making of sexually coloured remarks by a man.	No specific provision for this offence. Verbally assaulting a woman's modesty is punishable with one year imprisonment and/or fine, IPC, 1860.	Use of words or gestures towards a person, or in his presence, which create an unwelcome threat of a sexual nature, should be punishable with imprisonment for one year and/or fine.	Specific offence. Punishable with imprisonment for up to one year and/or fine. Non Bailable
Demand for Sexual Flavour	Demand or request by a man for sexual favours.	No specific provision for this offence. Verbally assaulting a woman's modesty is punishable with one year imprisonment and/or fine, IPC, 1860	Those who demand or request for sexual favour should be punishable with imprisonment for one year and/or fine.	Specific offence. Punishable with up to 3 years' rigorous imprisonment and/or fine.
Assault to disrobe a woman	Forcing a woman to undress and lie in naked condition.	No specific offence. Outraging a woman's modesty is punishable with	Whoever assaults or uses criminal force to any woman or abets such act with the	Specific offence. Punishable with 3 to 7 years imprisonment and fine.

		imprisonment for maximum 2 years and fine, IPC,1860	intention of disrobing or compelling her to be naked in any public place, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and shall be liable to fine.	
Voyeurism	Watching a woman when she is engaging in a private act including sexual acts, use of lavatory, or when private parts are exposed.	No specific offence, IPC, 1860. Information Technology Act, 2000 protects both men and women. Punishment: up to 3 years and/or fine up to ₹2 lakh.	Penalise the act of capturing images of, or watching, a woman engaging in sexual acts or when her genitals are exposed with imprisonment for 1 to 3 years and fine.	Specific offence. Only protects women. 1st offence punishable with 1 to 3 years imprisonment and fine. 2nd offence punishable with 3 to 7 years.
Other forms of rape	Rape includes un-consented penetration of the mouth, anus, urethra or vagina with the penis or other object; un-consented oral sex.	In the absence of penile-vaginal penetration offence of outraging modesty of a woman punishable with maximum 2 years and fine, IPC, 1860		Specific offence. Punishable with 7 years to life imprisonment (rigorous imprisonment).
Marital rape	Forceful sexual acts committed without the consent of the partner.		Should be an offence regardless of the age of the wife.	Is not an offence if the wife is over 16 years of age.
Forcibly showing pornography	Forcibly showing pornography by a man to a woman.	No specific provision, IPC, 1860		Punishable with rigorous imprisonment for up to 3 years imprisonment and/or fine.
Protection against disclosure of identity of victim		Provided in case of rape, custodial rape, rape of a judicially separated wife, abuse of power to obtain consent. Punishable with imprisonment for up to 2 years, CCP, 1973		Protection extended to victims of repeat offenders as well.
Identification of accused		No specific provision for special procedures to assist		Judicial magistrate to undertake special procedures to assist differently abled

		differentially abled persons in identification of accused, CCP, 1973.		persons in identification of the accused. Identification process to be video graphed.
Recording of information by woman officer		No special requirement for woman officers to record information about sexual offence cases, CCP, 1973		In case of acid attack, sexual harassment, disrobing, voyeurism, outraging a woman's modesty, rape (of all kinds) information would be recorded by woman officer.
Recording of information in case victim is physically/mentally disabled		No special requirement, CCP, 1973		In case of VAW like acid attack, sexual harassment, disrobing, voyeurism, outraging a woman's modesty, rape information would be recorded by woman officer at a place of the victim's choice, in the presence of special educators. Required to be video graphed.
Exception to police's power to require attendance by witnesses		Men below 15 years of age and women are not required to give evidence at a police station. Evidence to be taken from home, CCP, 1973		Applies to men below 15 or above 65 years of age; women and physically and mentally disabled persons.
Judicial Magistrate to record statement		No special requirement in case of sexual offences, CCP, 1973		Judicial Magistrate to record statement of the victim immediately after the police is informed in case of acid attack, rape, sexual harassment, disrobing, voyeurism etc. In case the victim is differently abled, the assistance of interpreters has to be taken and has to be video graphed.
Examination of victim at trial stage		No special protections to victims of sexual offences, CCP, 1973		The statement recorded by the Judicial Magistrate will be treated as the evidence of the victim presented by the prosecutor. Protects the right to be cross-examined.

Protection against confrontation of victim by accused		No special protections to victims of sexual offences, CCP, 1973		In case the victim of rape or a sexual offence is less than 18 years of age care has to be taken that she is not confronted by the accused.
Requirement of sanction to prosecute public servant		Sanction is required to prosecute public servants in all cases, including cases of rape, outraging a woman's modesty, CCP, 1973		Requirement of sanction removed under the CCP, 1973. Such requirement may continue under other laws.
Requirement of satisfaction of prima facie facts in case of rape		No such requirement, CCP, 1973		In case of rape of a judicially separated wife by her husband, the court has to be prima facie satisfied of the facts constituting the offence before it takes cognizance.
Requirement to fast track		No requirement to fast track sexual offence cases, CCP, 1973		Trial to be held on day-to-day basis. In case of rape cases, trial to be completed in 2 months of filing of charge sheet.
Compensation		The State government has to prepare a compensation scheme for rehabilitation of victims. The state or district legal service authority is to make compensation awards, CCP, 1973		Compensation awarded by the State is in addition to what is payable by the accused.
Previous sexual history		No specific provision barring the use of previous sexual history in rape cases, IEA, 1872		Bars the use of past sexual history in determining consent of the victim. Bars evidence or questions in the cross-examination of the victim as to the general immoral character of the victim or past sexual history with any person.
Presumption of consent		Required the victim of rape to		Shifts the onus on to the accused to prove

		prove that she did not consent, IEA, 1872		that consent was given.
Special provisions for evidence by differently abled persons		No special provision, IEA, 1872		Court to use the assistance of interpreters to take evidence of differently abled persons. Such evidence to be considered oral evidence when given in open court. Statement to be video recorded.
Punishment for rape		7 years to life imprisonment and fine, PCSO, 2012		10 years to life imprisonment and fine.
Gang rape of child		10 years to life imprisonment and fine, PCSO, 2012		20 years to life imprisonment and fine.
Disrobing		3 years and fine, PCSO, 2012		3 to 7 years imprisonment and fine.

Sources: Verma, J.S., Seth, L., and Subramaniam, M. (2013, January, 23) Report of the Committee on Amendments to Criminal Law; The Criminal Law (Amendment) Bill, 2013, Bill no. 63-c of 2013, as passed by Lok Sabha on March 21, 2013; Kalra, H. (2013 March, 23) Comparison between the Criminal Laws Amendment Bill, 2013 and existing laws with regard to change in punishment for various offences, PRS Legislative Research, Institute for Policy Research Studies, New Delhi; Kalra, H. (2013 March, 23) Amendments to laws other than the IPC brought about by the Criminal Laws Amendment Bill, 2013, PRS Legislative Research, Institute for Policy Research Studies, New Delhi; Kalra, H. (2013 February, 06) Comparison between the Criminal Law (Amendment) Bill, 2012; the Report of the Committee on Amendment to Criminal Laws; and the Criminal Law (Amendment) Ordinance, 2013, PRS Legislative Research, Institute for Policy Research Studies, New Delhi; Kalra, H. (2013 March, 23) New offences under the Criminal Law Amendment Bill, 2013, PRS Legislative Research, Institute for Policy Research Studies, New Delhi

Violence against Women

Subtle analyses of the type of offences (Table 1) specifically related to women as a 'category', reinforced by the VAW statistics, National Crime Records Bureau (NCRB), Ministry of Home affairs, GOI unfold that gender biases remain deeply in-grained in society, sustained by the institutions of patriarchy. NCRB (2011) recorded a total of 228650 incidents of VAW [42968 (18.79%)-molestation, 8570 (3.75%) - sexual harassment, 24206 (10.58%) -rape, 35565 - kidnapping and abduction, 8618-dowry deaths and 99135 (43.35%)-cruelty by husband and relatives]. Appalling statistics unpack that from 1953 -2011, rape rose by 873%, which is three times faster, when all VAW put together (Bidwai, 2012). Shockingly, a woman is raped every 22 minutes; every 58 minutes a daughter-in-law burnt for dowry and every 51 minutes a woman faces harassment in the public spaces

of India. Ironically, NCRB (2011) also unfolds that 7112 cases of rape were committed against children, where one in three of the total rape victims is a child. That said, Bidwai (2012: 6) argues that the key reason, which galvanise VAW in public spaces is the "sexual frustration and machismo." This is further augmented by the July 09, 2012 Guwahati molestation⁴ case followed by *Nirbhaya* and similar other incidents that continue to be reported.

Anglo-American scholar, MacKinnon (1979) argues that harassment is as an exertion of power to influence the broad-scale system of male-domination and hetero-sexual nature of

⁴ 11 convicted, four acquitted in Guwahati molestation case (2012, December 07), The Hindu, <http://www.thehindu.com/news/national/other-states/11-convicted-four-acquitted-in-guwahati-molestation-case/article4174500.ece> (accessed April 07, 2013)

the society (here, Indian society), which manifests subordination of 'women as a class' in general and structural subordination of women (Kabeer, 2013) in particular. For instances, perpetration of harassment by upper class/caste men over women of lower class/castes; by the police, who often demean a woman complainant and harass the complainant by quizzing vulgar details; by the armed forces, who use VAW (particularly rape) as 'a weapon of war' especially in the conflict ravaged zones of India: North East India, Kashmir, Jharkhand to annihilate the community in general and progeny of the family in particular (Kabeer, 2013), thereby, gain control by paralysing the entire socio-political process.

Dreadfully, according to a study conducted by UNICEF (2012)⁵ reveals that 57% Indian boys aged 15-19 years justify wife-battering. In a similar study by the Thomson Reuters Foundation,⁶ unfold that 52% of Indian women themselves accept some form of domestic violence by men against women. Such staggering revelations echoes that gender remains stratified in neoliberal modern India. These underlying attitudes, which ignite widening gender inequalities, are perhaps far more frightening and worrying with profound consequences, when it comes to the everyday practices of an individual and or groups. What is more surprising and shameful is that in case of VAW, it is the 'victim' who is blamed in our society rather than the perpetrator (Lahiri and Bandyopadhyay, 2012). In the said context, though unsurprising, the misogynistic rants made by some of the members of Parliament/State legislatures, spiritual *gurus* in relation to the *Nirbhaya* case unmask an

inherent gender inequality in the attribution of intent. Some of the voices of misogyny on how women invite rape upon themselves are:

- "Only 5-6 people are not the culprits. The victim is as guilty as her rapists... She should have called the culprits brothers and begged before them to stop... This could have saved her dignity and life. Can one hand clap? I don't think so,"
- "Such crimes (rapes) hardly take place in 'Bharat', but they occur frequently in 'India'."
- "We have told the chief minister in the assembly that the government will pay money to compensate rape victims. What is your fee? If you are raped, what will be your fee?"
- "*Jab tak koi mahila tedhi nazar se hasegi nahi tab tak koi aadmi usse chhedega nahi* (No man will harass a woman unless led on by her)".

The list of such statements continues unabated. Unarguably, the deep-rooted prejudices that extend to women in general and the pervasive VAW in public spaces have often restricted women's mobility.

Scholars argue that most Indian women maintain a delusion of safety barrier by drawing on boundaries to their bodies and personal spaces through the practices of Indian femininity while accessing and negotiating public spaces (Phadke, 2005; 2007; Phadke et al., 2011) as the onus of remaining safe lies squarely on the women. Arguably, such restrictive approaches reflect that women remain vulnerable in accessing public spaces.

Will the Act enhance women's safety?

Access to violence free and safe public space is the basic right of a woman. Yet, the greatest challenge relates to the alarming threat to women's safety and freedom of movement in public spaces. Notwithstanding the Act (please refer to Table 1) advocates its focus on VAW and seeks to provide stringent punishment to the perpetrators of extreme cases of rapes and gang rapes. However, the question arises will

⁵ Progress for Children: A report card on adolescents, Number 10, April 2012, available at: http://www.unicef.org/media/files/PFC2012_A_report_card_on_adolescents.pdf (accessed February 28, 2013)

⁶ Canada best G20 country to be a woman (2012, June13). India worst - Trust Law poll, A Thomson Reuters Foundation Service, <http://www.trust.org/trustlaw/news/poll-canada-best-g20-country-to-be-a-woman-india-worst/> (accessed September 05, 2012).

'longer jail terms' or 'capital punishment' enhance women's safety and security in public, although for sure such law may inculcate a sense of fear among the culprits.

For the first time, the Act endeavours punishable offence for those police officers who fail to register First Information Report (FIR). The Act also addresses penalties for other abhorrent forms of crime (stalking, touching, sexually coloured remarks, voyeurism, human trafficking and acid attacks, awarding a minimum 10-year jail term to the perpetrators and reasonable fine to meet the medical expenses of the victim). However, it remains unclear as to how the perpetrators of the offences like touching, stalking, and sexually coloured remarks would be accused and subsequently prove the assailant as guilty.

Although, there is no comprehensive statistics on the number of acid attacks, a study conducted by Cornell University (2011) reports that in between January 2002-October 2010, 153 cases of acid attacks were reported, which not only disfigured the victims, but also ruined and isolated their lives. Disgracefully, a bottle of hazardous chemical is easily available in the informal market, which is relatively cheap (₹50), but sufficient to disfigure a woman. However, the GOI is yet to enforce strict regulation of production, storage, distribution and sale of these concentrated chemicals. At the same time, the Act fails to frame legislation that eliminates easy access to acid, though Tamil Nadu has already introduced a legislation to control its sale.

In addition, the Act also fails to address contentious issues like 'marital rape' or 'legal immunity' for army officials. The JVC report suggests that any army official accused of sexual assault or rape should be tried under civilian law and should not be protected by the law that guarantees absolute protection. Although, the Act considers 'rape by armed personnel' within the area they are posted in as an offence, with punishment of no less than seven years, and which may extend to imprisonment for life and fine, however, this

offence is meaningless for the military officers /soldiers deployed in the states of North East India, Jharkhand and Jammu and Kashmir, where the 1958 draconian Armed Forces Special Powers Act (AFSPA) is still in force, which guarantees effective immunity to the armed officials. This means that not only those victims of brazen rapes, murders and other brutal sexual violence by the armed officers where the AFSPA functions may fail to seek justice,^{7,8} but also the perpetrators of these heinous VAW may never face prosecution; however, they may be awarded gallantry. It is worth noting here that AFSPA continues to operate despite the continuous silent opposition by Irom Sharmila, the Iron Lady of Manipur, who has been on the world's longest hunger strike, since November 02, 2000 demanding GOI to repeal AFSPA.

Further, the Act has increased the age of consent to 18 years, which remained 16 since 1983. Critics argue that raising the age of consent to 18 leaves ample room to wrongly prosecute teenagers (boys) below 18 (more precisely 16-18) years as rapists or offenders of sexual assaults simply for kissing, hugging or even having consensual sex with a female counterpart of his age (Krishnan, 2013).

Hence, the Act falls short off what many feminist organisations seeks for, and therefore, criticises the Act as 'tokenism'.

⁷ Thangjam Manorama, who was picked up in 2004 by 17 Assam Rifles from her home on suspicion of being militant was raped and then murdered, 2004 Manorama Devi rape-murder: No action against armed forces yet (2013, January15), *CNN-IBN India*, <http://ibnlive.in.com/news/2004-manorama-devi-rapemurder-no-action-against-armed-forces-yet/315794-3-225.html> (accessed February 05, 2013).

⁸ On the night of February 23 1991, in a village called Kunan-Poshpora, located in Kashmir's remote Kupwara District, at least 53 women were mass raped by Indian soldiers (Joshi, 1999). However, justice is yet to be sought to these survivors, Mass Rape Survivors Still Wait for Justice in Kashmir, TrustLaw: A Thomson Reuters Foundation Service (2012, March 07), <http://www.webcitation.org/681CeGR3T> (accessed February 03, 2013)

What needs to be done?

Despite its flaws, the Act bears a progressive insight to make an impact and fight a battle against VAW. However, the Act by itself is not sufficient to redress and seek justice for VAW. For this, the GOI needs to make colossal investments in building necessary infrastructure to deal with the crimes supplemented by meaningful reforms in judiciary (building fast track women's courts, more engagement of women lawyers, women doctors to examine victims) and modernisation of the police system across whole of India.

In the wake of the *Nirbhaya* incident, the GOI has announced a *Nirbhaya* fund of ₹ 10 billion in the 2013-14, Union Budget, to enhance women's safety and security in public spaces, a tribute to the brave soul. As a starting point, perhaps the *Nirbhaya* fund can be best utilised to conduct a safety audit in each state/union territory to redesign the architecture of its towns and cities and vis-à-vis assess the vulnerable spots that are most likely to invite upon VAW, plug these flaws and develop strategies for crime prevention.

Alongside, it remains well documented that the streetlights of most Indian cities remain inadequate and fail to function properly. The JVC report too (pp. 420) recommends, "street lighting everywhere would provide more safety since dark areas are more prone to facilitate crimes". The underlying irony is that though most cities adhere to the norms of the Ministry of Urban Development and provide street lights every 40 metres bearing a minimum illumination capacity of 35 lux, however, most of these lights (in most towns and cities) remain either dysfunctional or the level of performance remain very poor with a very low gleaming potency.⁹ Hence, all the states must take urgent steps to revamp and strengthen highly efficient public lighting facilities, perhaps using smarter lights. Possibly, the urban spaces of each state must initiate to install Light

Emitting Diode (LED) lamps, which are deemed as highly efficient having 50,000 hours of life. It is evident that although initial installation of these lamps involves higher capital costs, but being highly energy efficient, it would entail higher savings in terms of its operations and maintenances. This will definitely spur the safety and security of the urban spaces and boost public confidence.

A 2012 study conducted by the Bureau of Police Research & Development (BPR&D) reveals shortage of manpower in the police departments (Table 2). For every 568 persons, there is only one policeman and the ratio of police to population is 176.2 police per one hundred thousand of population. On a scrutiny, a minimum 88 persons are looked after by one police officer in Tripura and Manipur through to a maximum of 1,187 and 1,133 respectively in West Bengal and Bihar. The case of *Nirbhaya*, who was murdered in the moving bus (without permit) having black tinted windows, and which passed through successive check posts without being confronted demonstrate the case of poor policing. It is hard to imagine, when the nation's capital lacks security, what could be the conditions of other states and union territories?

Further, JVC report also unfolds that not only police are apathetic towards gender justice but also (as stated above) are insensitive in tackling VAW. Alongside, stark evidence shows that due to the very low availability of women police officers, many women victims fail to complain a sex crime (Bhattacharyya, in press): there are approximately 84,479 women (Table 2) in different police departments out of an all India total (Civil Police + Armed Police) of 2,124,596, which merely constitute 3.98% of the total police force. However, the Act requires that a female officer should record all information in the case of offences like acid attack, sexual harassment, disrobing, voyeurism, outraging a woman's modesty, rape (of all kinds). Hence, the GOI urges all states/union territories to increase the number of female police officers to 33% of the total police strength.

⁹ On the bright side (2013, April 19), The Hindu, <http://www.thehindu.com/opinion/editorial/on-the-bright-side/article4634186.ece> (accessed April 19, 2013)

Table 2 Population per Policeman, Sanctioned and Actual (2012)

Arunachal Pradesh	PP (SPS)	109	Maharashtra	PP (SPS)	614
	PP (APS)	161		PP (APS)	829
	ASWP	399		ASWP	20062
Andhra Pradesh	PP (SPS)	642	Manipur	PP (SPS)	88
	PP (APS)	953		PP (APS)	119
	ASWP	2031		ASWP	636
Assam	PP (SPS)	507	Meghalaya	PP (SPS)	207
	PP (APS)	566		PP (APS)	239
	ASWP	620		ASWP	220
Bihar	PP (SPS)	1133	Mizoram	PP (SPS)	91
	PP (APS)	1456		PP (APS)	98
	ASWP	1485		ASWP	575
Chhattisgarh	PP (SPS)	345	Nagaland	PP (SPS)	94
	PP (APS)	525		PP (APS)	94
	ASWP	1931		ASWP	259
Goa	PP (SPS)	291	Odisha	PP (SPS)	750
	PP (APS)	343		PP (APS)	899
	ASWP	347		ASWP	3675
Gujarat	PP (SPS)	571	Punjab	PP (SPS)	348
	PP (APS)	1021		PP (APS)	383
	ASWP	2021		ASWP	2789
Haryana	PP (SPS)	406	Rajasthan	PP (SPS)	814
	PP (APS)	610		PP (APS)	895
	ASWP	3077		ASWP	5698
Himachal Pradesh	PP (SPS)	393	Sikkim	PP (SPS)	114
	PP (APS)	460		PP (APS)	157
	ASWP	1420		ASWP	189
Jammu and Kashmir	PP (SPS)	179	Tamil Nadu	PP (SPS)	608
	PP (APS)	192		PP (APS)	713
	ASWP	2185		ASWP	10118
Jharkhand	PP (SPS)	429	Tripura	PP (SPS)	88
	PP (APS)	567		PP (APS)	101
	ASWP	1842		ASWP	697
Karnataka	PP (SPS)	656	Uttar Pradesh	PP (SPS)	52
	PP (APS)	751		PP (APS)	1173
	ASWP	3348		ASWP	2586
Kerala	PP (SPS)	702	Uttarkhand	PP (SPS)	499
	PP (APS)	765		PP (APS)	638
	ASWP	3001		ASWP	1498
Madhya Pradesh	PP (SPS)	880	West Bengal	PP (SPS)	1187
	PP (APS)	962		PP (APS)	1658

	ASWP	3010		ASWP	1811
Andaman & Nicobar	PP (SPS)	101	Delhi	PP (SPS)	234
	PP (APS)	122		PP (APS)	253
	ASWP	388		ASWP	5356
Chandigarh	PP (SPS)	147	Lakshadweep	PP (SPS)	212
	PP (APS)	159		PP (APS)	250
	ASWP	985		ASWP	16
Dadra & Nagar Haveli	PP (SPS)	902	Pondicherry	PP (SPS)	289
	PP (APS)	1046		PP (APS)	433
	ASWP	26		ASWP	168
Daman & Diu	PP (SPS)	590	All India Total	PP (SPS)	568
	PP (APS)	805		PP (APS)	761
	ASWP	10		ASWP	84479

Population per Policeman (Sanctioned Police Strength)=PP (SPS)

Population per Policeman (Actual Police Strength)=PP (APS)

Actual Strength of Women Police= ASWP

Source: Data on Police Organisations in India as on January 1, 2012, Bureau of Police Research & Development, New Delhi

Importantly, 'real policing' for ordinary citizens remain far lower as approximately 3 police officers are recruited for providing securities for each Very Important Person (VIP)¹⁰, which is far more than the actual sanctioned strength of police officers on this matter, though for some VIPs, the number may sometimes escalate even more. Strikingly, a good number of police officers need to be deployed at the time of a major political event or a VIP visit, which severely affects night patrolling and other crime-prevention measures. Very importantly, there remains a dire need in implementing a model of change in real policing for ordinary citizens alongside rectifying the perennial annoyances (inadequate logistics including lack of forensic facilities or specialised crime units, meagre training, and poor intelligence) necessary for making the entire police force more efficient.

Further, NCRB (2011) data unpacks that approximately 83.6% pendency of rape cases in courts across the country. The quick justice sought to the young woman of the Guwahati

molestation case by the honourable Chief Judicial Magistrate's court, Guwahati is an excellent example of fast track court. In the said context, the Act requires that rape trials should be held on fast track court on a day-to-day basis and completed within two months of filing the charge sheets (Table 1). Hence, for the laws to be effective, the infrastructure needs to be built as quickly as possible: for without meaningful reforms in judiciary and police, the Act will remain only as a symbolic tool, no matter as to how stringent the laws are on the papers.

Conclusion

To sum up, the role of the state remains paramount in tackling VAW. Therefore, the law implementing agencies should be adequately provided strategic training to tackle any eventuality with dexterity—even if it necessitate increasing the number sufficiently. Alongside, as also suggested by the JVC report, there remains a desperate need to improve public-police relationship, possibly through a good will venture (perhaps training the police officials as well as the public in gender sensitive programmes). Challenge therefore, lies in scaling the mechanism of coordination and cooperation from few to all stakeholders of the state. To be more precise, the executive, who is delegated with the responsibility of

¹⁰3 cops to protect each VIP, just 1 cop for 761 citizens (2012, April 02), *The Times of India*, http://articles.timesofindia.indiatimes.com/2012-04-02/india/31274675_1_vip-security-protectees-police-personnel (accessed March 03, 2013)

investigating a trial in a judiciary, should bear a sense of accountability (rather than misusing its power) in ferreting out the actuality of the facts so that the outcome of the trial turns out to be unbiased, fair and flawless. At the same time, the incitement and provocation alarmingly disseminated by the media and other information agencies must be shackled appropriately in compliance to decency, morality and social order- the constitutional mandate. Last, and in line with the JVC report, reformation in curriculum right from the primary level of education has to be brought; embracing value based moral lessons; incorporating perception reforms through gender-blind programmes and creating congenial atmosphere in the domestic, social and institutional sectors.

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