

# Insightful and path-breaking

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**T**he UPA government has perhaps got more than what it bargained for from the committee it set up, headed by the former Chief Justice of the Supreme Court, Justice J.S. Verma, in the wake of the public outrage following the horrific Delhi gang rape. The government had decided on only limited terms of reference for the committee (whose other members were an equally eminent former Supreme Court judge, Justice Leila Seth, and former Solicitor General Gopal Subramaniam) but fortunately the members, in their words, interpreted it "expansively."

Through the over 600 pages of this path-breaking, insightful report, with the marshalling of irrefutable evidence, what emerges is a strong indictment of the governments at the Centre and the States for their criminal callousness in ignoring the earlier recommendations of measures to prevent sexual violence against women. In section after section, the committee quotes reports — from 1980 — of Law Commissions, earlier judgments and directions of the Supreme Court, and notifications and circulars of the Home Ministry, which were never implemented.

## Critical of governments

It blasts governments for the lack of accountability of public servants, stressing the importance of making dereliction of duty a punishable offence. In the context of the Centre's refusal to act against Delhi's top police officials, including the Police Commissioner, the committee's proposal is particularly relevant. It also proposes to include the concept of command responsibility in the law, holding superior officers responsible for the acts of their juniors when the circumstances show that the crime could have been prevented had the superior acted.

In fact, the Parliamentary Select Committee headed by the present Union Law Minister set up several years ago to re-examine the flawed official bill against torture discussed this issue in detail and recommended the inclusion of command responsibility. But the committee's recommendations have remained in cold storage. Similarly, the Parliamentary Committee on Women's Empowerment made a strong recommendation to bring the armed forces and the paramilitary forces under the purview of criminal law, but the aggressive opposition of Defence Service Chiefs was a convenient reason for not accepting it.

The Verma Committee takes this forward by recommending a concrete amendment to the Armed Forces (Special Powers) Act to prevent it from being used as a shield to protect criminals in uniform. Significantly, it suggests the appointment of Special Commissioners in conflict zones to monitor women's security. It is well known how women, in Chhattisgarh and elsewhere, be-

Although it has left some crucial questions unanswered, the Verma Committee report is a big step forward in the struggle for women's rights



come targets, caught between militants and the security forces.

The recommendations on the state's culpability on a range of issues pinpointed in the report are most welcome but it is not because these recommendations were not made earlier that the situation is as it is, but because of the lack of political will.

The report locates violence against women and children in a broader framework of violation of constitutional guarantees, demolishing self-serving arguments that governments cannot be held responsible for individual acts of violence. At a time when market based ideologies so close to the hearts and minds of those in power promote the government's retreat from its fundamental social responsibilities, the report reminds governments of their primary responsibility to ensure through preventive and deterrent measures a secure environment for its citizens. The report says: "The failure of good governance is the obvious root cause for the current unsafe environment eroding the rule of law..." Indeed the direction of governance in the last decade or so has been dominated by a promotion of corporate led growth, the "unleashing of animal spirits in the economy" with no concern for its impact on increasing social inequalities and subverting the constitutional and fundamental rights of people.

The statistics of increasing violence against women tell their own story. In 2011 alone, there were 24,206 registered cases of rape of which 2,579 were registered in the 89

listed cities. There were as many as 51,338 cases of sexual harassment of which around 25 per cent took place in cities. Thus a majority of rape and sexual harassment victims are from the rural and mofussil areas, of whom substantial numbers are poorer sections of women and children who live and work in insecure environments. All child rape cases in Haryana in the last few months, for example, occurred because there was no crèche or safe place where the working mother could leave the child.

## Vulnerable sections

The changing nature of labour contracts, from permanent workers to casual or contract daily workers, makes women workers, particularly migrant women, vulnerable to the exploitation of employers, landlords, contractors and supervisors. The privatisation of essential services has resulted in a lack of accountability in public transport, lack of electricity, absence of public toilets, all of which are directly related to government policies creating insecurity for women. The report comments "We believe that fundamental rights must not be ignored by the state on a specious argument of paucity of resources when the rich continue to thrive and the wasteful expenditure of public monies is more than evident."

The report also mentions critical issues such as food security and malnutrition. These are welcome as they do take into account the experience of millions of poor women across the country who face sexual harassment on a daily basis arising out of their economic conditions, worsening by the day. It is, therefore, inexplicable that the committee's recommendations for amendments to the criminal laws omit crucial clauses concerning economically and socially exploited women — in other words, the class and caste aspects of sexual violence. For example, the long pending demand to consider sexual crimes on the basis of caste against Dalit and Adivasi women or against women on the basis of communal considerations as aggravated sexual assault, inviting enhanced punishment, is unaddressed.

It is well documented how women face intense insecurity because of dominant caste hostility or communal violence. Further, because of the increasing number of cases of rape by powerful and politically connected men, women's organisations had successfully ensured the inclusion of a clause in the official Bill of amendments to the Criminal Procedure Code introduced in Parliament that when rape is committed by a man

"being in a position of economic, social or political dominance," there should be enhanced punishment. But this does not find a place in the committee's recommendations.

In this context, there is an important demand made by rape survivors from economically and socially exploited sections for a comprehensive rehabilitation package. Some have mocked this as compensation for rape. In fact, it is virtually impossible for a rape survivor who belongs to the working class or the rural poor to bear the expenses of the legal process. It is not enough for the state to provide a lawyer. The question of loss of work, of sometimes having to shift residence, of frequent consultations with lawyers and trips to the court, incurring expenses and losing a day's income are critical issues in the decision of whether or not to fight for justice. It is puzzling that the report does not mention a mandatory rehabilitation package or did not review the existing schemes of rehabilitation. The only mention is that the perpetrator should pay for the victim's medical expenses. The victim might find that abhorrent and demeaning and, in any case, what if the accused proves that he has no funds? If the court wishes to fine the accused, there is a legal provision for that and hefty fines can and should be imposed. But it is the state which must take the responsibility for medical expenses and rehabilitation.

## Disappointing

One of the most widely supported demands of the nationwide protests was time-bound procedure in cases of rape. Today, a rape victim, including a child, may have to wait even 10 years or more for the judgment. The report recognises the large number of pending cases with courts and calls for an end to frequent adjournments in rape cases. It suggests as a way out recruitment of retired judges, extending the age of retirement of judges at the lower levels and so on. But disappointingly, there is no concrete recommendation regarding a time-bound procedure for cases of rape or the setting up of fast track courts. The three months' time frame suggested by a large number of organisations could have been accepted, as lengthy judicial procedures lead to gross injustice for rape victims.

The committee must be congratulated on its multidimensional report which constitutes a big step forward in the struggle for women's rights. Its recommendations can be converted into longstanding gains if the present struggles are linked to political interventions that force the government to act on them. It cannot be allowed to meet the same fate as the 15-year-old Women's Reservation Bill which remains an ornament to be dusted and displayed before every election.

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