

Chapter Three: Anti-Rape Mobilisations in India— 35 Years and Ongoing

In this chapter, we analyse the history of anti-rape mobilisations at the national level and the subnational levels of Gujarat and Karnataka, exploring the key events and policy windows at the national, subnational and international levels that have propelled and enabled the mobilisation. We identify the key actors, particularly organisations and networks working on violence against women, that have emerged at both national and sub-national levels, and the key claims-making processes.

3. 1 Locating Anti-Rape Mobilisations at the National Level

This section examines the mobilisations and claims making on anti-rape laws and policies that took on a national character, in terms of the breadth of mobilisations, starting with those around the Mathura rape case leading up to the recent Criminal Law Amendment Act of 2013. It locates a timeline of key events, including key policy and law reform moments, but particularly focusing on the processes leading up to these events. It also locates key actors (including women’s groups, feminist epistemic communities, law commissions, joint review committees), claims (including the nature of claims, who makes claims, the contested nature of some of the claims, and how they have changed if at all), strategies of mobilisations of groups (whether these have changed), as well as whether claims making is reflected in policy and legal change, and if so to what extent, as well as how these policies and legal changes have been understood by women’s groups and feminist commentators.

3.1.1 Contextualising the anti-rape campaigns: The contemporary women’s movement in India

Writing on the women’s movement in India begin with an acknowledgement of the complexity and diversity of voices and mobilisations that form the “Indian Women’s Movement”.⁴ Feminist scholar Nivedita Menon, for instance, locates the “rich, complex and contentious debates” that rage within the women’s movement while noting their shared concerns over the “ways in which gender gets defined, institutionalized and mobilised in perpetuating inequality and injustice” (Menon 1999: 32). Literature on the women’s movement in India also notes the ebbs and flows of women’s mass mobilisation from the 19th century onwards, as well as the diversity of the nature and purpose that drew groups of women together (see Kumar 1993). Drawing on Nandita Gandhi and Nandita Shah’s work, Menon identifies three waves of the women’s movement: the first, the mass mobilisation of women during the national movement; the second, from the late 60s onwards when there were mass uprisings in Gujarat and Bihar; and the third, in the late 70s. This last wave had a specifically feminist focus and was based on the growth of “autonomous” women’s groups in urban areas and centred on the nationwide campaigns on dowry and rape (Menon 1999: 18-20; also see Kumar 1993).⁵

The various waves of the women’s movement were influenced by previous mobilisations, such as the sharecropper- and peasant-based Telengana movement in Andhra Pradesh and the Tebhaga movement in Bengal in the 1940s. Women were involved in large numbers in these movements, even though they did not specifically address women’s rights beyond a benevolent paternalism (Kumar 1993). The women’s movement was also influenced by the various socialist and communist movements of

⁴ Calman 1989; Kumar 1993; Menon 1999; Khanna and Pradhan 2012.

⁵ Autonomous Women’s Groups are groups that are not affiliated with the state, or any political party or religious group and are therefore independent in nature.

the 1970s wherein, women actively participated but “larger and more important” issues dominated, including land rights, peasant agitations and workers’ rights.⁶ Radha Kumar, in her landmark book on the women’s movement, *The History of Doing*, for instance, describes in detail how the movements in the 1970s, but more specifically the Shahada movement—a landless labourers movement in Maharashtra and the subsequent anti-alcohol movement in the same region—facilitated, for the first time, women’s mobilisation on the issue of wife beating. The strategies of women activists were initially indirect in that they attacked liquor vendors and suppliers, but progressively it became more direct in punishing and chastising the perpetrators themselves (Kumar 1993). Similarly, although some of the movements of the 1970s (such as the anti-price agitations in Bombay in 1973, the Nav Nirman movement in Gujarat in 1974, the birth of SEWA in Gujarat in 1972 and the Chipko movement in 1974) did not directly deal with the problem of discrimination against women, they were important in terms of large-scale mobilisation of women. Moreover, they initiated the questioning of patriarchy among women and thus sowed the seeds for an autonomous women’s movement in India (Kumar 1993).

The 1970s was also the decade when groups focusing specifically on women’s issues were formed. The Progressive Organisation for Women (POW) was formed in Hyderabad in 1974, comprising women with a Maoist orientation. It is one of the first organisations of the contemporary women’s movement with a manifesto that stressed the sexual oppression of women (Kumar 1993). Influenced by the formation of POW, Maoist women also formed organisations in Pune and Bombay, the Purogami Stree Sangathana and the Stree Mukti Sanghatana respectively (Kumar 1993: 105). Kumar also points to the formation of a dalit women’s group in Maharashtra—the Mahila Samta Sainik Dal (League of Women Soldiers for Equality) which spoke of not just women’s oppression but its relationship with caste oppression (Kumar 1993: 105-106).

The 1970s also saw the release of the landmark report, *Towards Equality* (1974) by the Committee on the Status of Women in India. This 480-page document significantly re-conceptualised the prevalent discourses on gender and spurred on the pursuit of the agenda of improving the appalling conditions of women.⁷ It called for government action and urged movement activities, as the government could not possibly alter all regressive cultural practices (Calman 1989). However, both the *Towards Equality* report and two key conferences on gender in 1975 paid little attention to the problem of violence against women (Katzenstein 1989: 61).⁸

At a global level, 1975 was also the time when the UN’s First World Conference on Women was held in Mexico, and the year was declared International Women’s Year. Further, the decade 1975–1985 was declared the International Decade for Women. These events heralded a women’s movement worldwide, and Indian feminists described their participation at the Mexico conference as personally momentous, while recognising the hierarchies that existed between women from the North and the South (Jain 2011). In the same year, the International Women’s Day on March 8 was celebrated for the first time in India by autonomous women’s organisations as well as those affiliated with political parties (Kumar 1993).

⁶ Calman 1989, Kumar 1993, Desai 1997.

⁷ Calman 1989; Katzenstein 1989; Kumar 1993; Agnes 1994; Agnihotri and Mazumdar 1995; Phadke 2003.

⁸ The first conference was in Pune and sponsored by the left parties, and the second was in Trivandrum and organised by the Indian School of Social Sciences (see Katzenstein 1989).

However, no sooner were women in different regions of India beginning to network and plan actions, an internal emergency was declared by the Indira Gandhi government in 1975. The Emergency allowed the state to suspend civil liberties and freedom of the press. There were large-scale arrests of political opponents, and the thwarting of any social activities perceived as against the state. As the Emergency was lifted in 1977, there were already reports of large-scale violations of civil and political liberties by the state, including reports of sexual assaults, rapes and brutality against women by the police and security and paramilitary personnel (Kumar 1993). Feminist commentators have located the excesses and violence of the Emergency as one of the reasons for the emergence of the new phase of the women's movement, particularly in terms of the focus and shape it took through the anti-rape campaign (Patel 2012).

3.1.2 *The anti-rape movement, 1978–1983*

During the latter half of the 1970s, the experience of police brutalities was still fresh, and further reports of rapes by police, landlords and the army resulted in outrage and anger among the locals, and rape—especially under custody of state authorities—became an important rallying point for women's groups. In many cases, courts acquitted the perpetrators, often on the basis of the presumed immoral behaviour of the victims, causing mass protests and agitations.⁹ However, these protests and rallies remained isolated from each other until the Mathura case (Kumar 1993).

The Mathura case and the ensuing mobilisations

In 1972, Mathura, a 16-year-old tribal girl was gang raped by policemen while she was in their custody in Chandrapur, Maharashtra. The conviction of the police by the High Court was reversed by the Supreme Court in September 1978 on the appalling grounds that the girl was “habituated to sex”, that she did not “raise an alarm for help” and there was an “absence of injuries on her body or signs of struggle” (Murthy 2013:1; *Tukaram v. State of Maharashtra* (1979) 2 SCC 143). When the case was reported the following year, the acquittal of the policemen by the Supreme Court on such weak and moralistic grounds was met with outrage. Four law professors—Upendra Baxi, Lotika Sarkar, Vasudha Dhagamwar and Raghunath Kelkar—wrote an Open Letter to the Chief Justice of India questioning the rightness and conscience of the judgement.¹⁰ The Open Letter displayed shock at the “extraordinary decision sacrificing human rights of women under law and the Constitution” (Baxi et al. 1979: 2). It drew attention to the double standards of the judgement in acquitting the policemen while proclaiming Mathura to be habituated to sex. The letter reminded the Chief Justice that there is a wide distinction between submission and consent. The four professors also charged the Court of giving “no consideration whatsoever to the socio-economic status, the lack of knowledge of legal rights, the age of victim, lack of access to legal services, and the fear complex which haunts the poor and the exploited in Indian police stations” (Baxi et al. 1979: 4). Most importantly the letter held the court responsible for violating the dignity and rights

⁹ An important landmark in these early mobilisations was the case of Rameeza Bee, a poor woman in Hyderabad. In 1978, she was raped by several policemen and her husband killed for protesting the rape. This led to a mass protest in the twin cities of Hyderabad and Secunderabad. The protest ended through the establishment of the Justice Mukhtadar Commission with the mandate to investigate the case. However, the defendant police officers, instead of providing evidence against the rape, built the case on the presumed immoral character of the victim proving that “she was a prostitute caught by the police while she was soliciting” (Kannabiran and Menon 2007: 13). Other cases of rapes by police, landlords spurred protests during the late 1970s including those in Sadammar, Patiala and Malur village, Karnataka, and in Guhawati (Kumar 1993: 128-129).

¹⁰ The Open Letter was initially taken up by the Gandhian organisation Jyoti Sangh in Ahmedabad after a public address to them by Upendra Baxi. The ensuing reportage attracted the attention of women's groups. Further, the choice of protest in the form of the open letter, as well as the journey of the open letter itself, garnered wide publicity have now gained legendary status in feminist and legal communities. However, the process was far from being smooth or without ramifications. To read about the events around the Open Letter, read Upendra Baxi's account (U. Baxi 2014).

of the raped women, and demanded “liberation from the colonial and male-dominated notions of what may constitute the element of consent, and the burden of proof, for rape which affect many Mathuras on the Indian countryside” (Baxi et al. 1979: 5).

The Open Letter acted as a catalyst for the nationwide mobilisation of women’s groups on rape and violence against women. Based on the nature of judicial proceedings in the Rameeza Bi and Mathura cases, “feminists and human rights activists realised with a shock that what seemed to determine whether a woman had been raped was not the ‘objective’ assessment of evidence before the court, but her past sexual history” (Kannabiran and Menon 2007: 13). Indeed, roused by the letter, the Forum against Rape in Bombay (later renamed the Forum against the Oppression of Women) successfully invited other organisations across the country to coordinate protests, demanding a retrial of the Mathura case on the occasion of International Women’s Day in 1980. Coordinated demonstrations were held in Bombay, Delhi, Nagpur, Pune, Ahmedabad, Bangalore and Hyderabad. Joint Action Committees were formed in Delhi and Bombay mainly comprising of students from feminist groups, and socialist and communist parties to coordinate the campaign (Kumar 1993: 129-130).

Over a period of three years from the time of the judgement, autonomous women’s organisations and collectives were formed. These were largely urban, such as Saheli and Stree Sangharsh in New Delhi, Forum Against Rape and Women’s Centre in Bombay, Chingari Nari Sanghatan in Ahmedabad, Vimochana and SJS in Bangalore, among many others.¹¹ Autonomous women’s research organisations were also established, such as the Centre for Women’s Development Studies in 1980 in New Delhi. A small group of women started a women’s magazine, *Manushi*, in New Delhi, which reached a circulation of several thousand (Katzenstein 1989:53). The contemporary women’s movement drew activists from the previously existing women’s organisations and from the newly formed autonomous organisations that mainly included urban middle-class educated women, legal professionals, academics and women from parties on the left.¹²

After the coordinated action by women’s groups in early March 1980, there were several protests against incidents of police rape in several parts of the country where women’s groups were not active, suggesting that these were propelled instead by wide media coverage (Kumar 1993: 130). By the time of June 1980 when Maya Tyagi, a woman on her way to attending a wedding, was paraded naked and brutally raped and her husband and two others murdered by policemen in Bhagpat, Uttar Pradesh, incidents of police rape provoked not just women’s groups and local communities into action, but also political parties (Kumar 1993: 131). By then debates on “the large-scale increase of rape and atrocities against women” had made it to the Lok Sabha.¹³ In 1980, the Law Commission—which had been requested to review substantive rape laws, including the laws of evidence and procedure—consulted with women’s groups and came up with recommendations (Law Commission Report 1980).

Importantly, the Law Commission Report included the demands of women groups to shift the onus of proving consent from the prosecution onto the accused, and for the woman’s past sexual history not to be used as evidence. The Law Commission’s recommendations also included some additional points such as treating refusal to register a crime by the police as an offence, and the statements of a woman to be recorded in the presence of a relative, a friend or a representative from a woman’s

¹¹ Katzenstein 1989; Gangoli 1996; Desai 1997; Patel 2010

¹² Patel 2012; Desai 1997; Kumar 1993.

¹³ The Lok Sabha, or House of the People, is the lower house of the Indian Parliament.

organisation (Agnes 1992). However, the Bill presented to the Parliament in August 1980 only partially accepted the recommendations made by the Law Commission. The Bill “codified distinctions between different categories of rape in a fairly radical way” by defining the category of custodial rape, mass and gang rape, apart from individual rape (Kumar 1993: 133). However, the crucial recommendations on not using a woman’s past sexual history and conduct as evidence was not accepted by the Bill, and the recommendation on shifting the burden of proof was accepted only in the context of custodial rapes (Agnes 1992). Moreover, the Bill incorporated elements that were not suggested by the Law Commission. It proposed to make the publication of anything related to the rape trial a non-bailable offence, which “meant a virtual censorship of rape trials” (Agnes 1992: WS-20, also see Baxi 2000: 1199).

The question of the consensus among women’s groups on the issue of burden of proof, and on in camera trials, was to be severely tested in the ensuing debates on the Bill.¹⁴ In the national conference on Perspective for Women’s Liberation Movement in India, held in Bombay in November 1980, the proposed changes to the rape laws dominated the discussions (Patel 2012). Particularly controversial was the clause on burden of proof. Some of the Delhi groups, Lawyers Collective and Stri Sangharsh in particular, demanded that the burden of proof be extended to all cases and not be limited to custodial cases alone. This experience was similar to other rape trials (Kumar 1993: 134). However, groups such as Stri Shakti Sanghatana opposed this suggestion because they feared the clause could be used by the state to harass male activists by implicating them in fake cases (Kumar 1993: 134). Moreover, for those feminists who were opposed to extending the burden of proof beyond custodial rape, the memories of the Emergency and the consequences of excessive state power were all too strong (Mazumdar 2000). After a few rounds of charged discussion on the issue, participants at the conference decided, based on a simple majority, in favour of limiting the clause of burden of proof to custodial rapes (Kumar 1993: 134).¹⁵

In spite of differences, feminists at the Bombay conference were able to come to a consensus on other issues and pass a number of resolutions (Patel 2012: 2-3):

- the past history of a woman should not be used as evidence in a rape trial;
- the provision on consent in Section 375 of the Indian Penal Code (which defines the offence of rape) should be modified in light of the Mathura rape case;
- the burden of proof should be shifted to the accused in cases of custodial rape;
- a woman should be interrogated only in her dwelling place; and
- during interrogation by a police officer, a woman should be allowed to have the presence of a male relative, friend or social workers.

Given the wide range of disagreements, the government sent the Bill (drawn up in August 1980) to a Joint Parliamentary Committee for review in December 1980. This Joint Parliamentary Committee, however, took a further two years to publish its report. And it took another year for the revised Bill to reach the Lok Sabha. In the end, as Pratiksha Baxi has argued, after three years of the anti-rape campaign, a Law Commission report, a Bill, and a Joint Parliamentary Committee report, the proposed changes to the criminal law were eventually debated over only three short days by as

¹⁴ In camera trials are meant to protect the identity and privacy of the victim, by restricting access to the trial.

¹⁵ So charged was the issue that the participants at the conference agreed to have a second vote. On the second vote, the “anti-estentionists”, as Radha Kumar calls them, namely, those who did not want to extend the reversal of the burden of proof beyond custodial rape, won again, but this time with a much narrower margin. Even after this, many wished to open the debate again, but could not do so owing to time constraints (Kumar 1993: 134).

many as 15 members of Parliament (Baxi 2000: 1199; also see Agnes 1992). This three-year process took the wind out of the sails of the anti-rape campaign (Agnes 1992; Kumar 1993). In Agnes's words, "the delaying tactics of setting up committees by the state had succeeded in robbing the campaign of its initial fervor". She further notes that "by the time the amendment was passed, the campaign had virtually died down" (Agnes 1992: WS-20).

Analysing the anti-rape campaign of the early 1980s

The Mathura case and the ensuing mobilisations were watershed events signalling a new phase in the contemporary women's movement.¹⁶ Although the women's movement "was never centrally planned by any organisation—but spread spontaneously from one place to another, first Ahmedabad, then Nagpur, then Bombay and then Delhi" (Mazumdar 2000:15), there was coordination for the first time in feminist activism, and the women's rights movement gained a national character (Kumar 1993: 129-130; Patel 2012).

Reflecting on the anti-rape campaign, Flavia Agnes echoes what several commentators have to say about the campaign: "the principal gain [was] that rape which was hitherto a taboo subject came to be discussed openly" (Agnes 1992: WS 20). Moreover, while this was not the first protest in the country against the use of rape by the state, with this campaign, rape by the state now emerged as a civil rights and a women's issue (Gangoli 1996). Further, among all the groups, there was a common perception of women as victims of violence, and that the way to resolve it was to hold the state accountable for the violence (Butalia 2005: 341- 343). There were however analytical differences in the approaches of the various groups, particularly between groups affiliated to the left parties and between the autonomous women's organisations with the former placing violence against women largely within the framework of class and capitalist relations of production, while the latter primarily saw patriarchy and power relations as the main reason for violence against women (Butalia 2005). Despite this, there was "an overarching solidarity among women was maintained based on the assumption of commonality of women's experience that cut cross caste, class, and religion" (Butalia 2005: 341-343). Vina Mazumdar (2000) suggests that what defined as well as unified feminists in the campaign was ideology, the understanding that the struggles for equality could no longer proceed without an analysis of relations of unequal power, and that rape was not only about sexual violence but about dominance and subordination, and power—whether of the state, or dominant castes or classes.

In terms of strategies adopted by women's organisations to address the problem of violence against women, most groups adopted a two pronged strategy: first, they campaigned to galvanise support from the wider public through methods such as street plays, theatre, distribution of posters and handouts, singing of songs to invite people to join the struggle, and protest marches.¹⁷ Second, the groups networked among themselves to consult with each other, to debate different methods of approaching the problem, and generally, to emerge with a consensus to lobby with the State on the changes required within the legal system.¹⁸

Although there was coordination among the various groups, this was by no means easy, and as Kumar suggests, "it was not to last long" (1993: 130). The groups felt the

¹⁶ Agnes 1992, 2002; Patel 1980; Baxi 2000; Das 1996; Agnihotri and Mazumdar 1995; Gangoli 1996, 2007; Kumar 1993; Murthy 2013.

¹⁷ Kumar 1993; Desai 1997; Gangoli 1996. This is reflected in our interviews with those engaged in the early days of the campaign (see interview with Celine, 23 July 2014; also see section on Karnataka below).

¹⁸ Patel 2012; Desai 1997; Gangoli 1996.

pressures of developing a campaign with limited resources, especially the difficulties of efficient and speedy communication between cities. Moreover, a source of frustration for those within the joint action committees was that many organisations also individually petitioned the state despite being part of the joint action committees (Kumar 1993: 130-131).

In substantive terms, apart from the attritional nature of the reform process taking the wind out of the sails of the movement, the debates on rape and sexual violence also came to be co-opted by centre and right-wing parties with the nature of the discourse changing from one of class and gender-based power to a discourse on the protection of women (Kumar 1993). This tension between competing discourses on rape sexual violence continues to play out in the public domain.

3.1.3 *The law reforms of the 1980s*

When the Criminal Law Amendment Act was eventually passed in 1983, many of the changes sought for by women's groups did not make it into the eventual law, particularly those the exclusion of the woman's sexual history and conduct as evidence in a rape trial, and the curtailment of police powers (Patel 2012). Importantly however, the demand by women's groups to reverse the burden of proof on to the accused in cases of custodial rape was accepted (Agnes 1992). Further, there was a recognition by the law that certain kinds of rapes constituted aggravated crimes.¹⁹ Moreover, "for the first time, a minimum punishment for rape was laid down—10 years in cases of custodial rape, gang rapes, rape of pregnant women and girls under 12 years of age and 7 years in all other cases". As Agnes argues, "even though this was not the major demand, it turned out to be the most important ingredient of the amendment" (Agnes 1992: WS 20).

Although some of these changes were indeed laudable, their journey into the legislative realm was anything but. Instead, as Pratiksha Baxi has argued the parliamentary debates on the reforms suggested "a central concern with discourses of shame, stigma, death and defilement as the defining features of the rape experiences of the victim" (Baxi 2000: 1197). Baxi locates her analysis of these discourses within a broader critique of what she terms "heterosexual rape", namely, a conception of rape that centres penile-vaginal rape, where penile violation of a woman's vagina is considered the most egregious form of violation, a conception which allows for discourses of shame, stigma, death and defilement to circulate. In this conception, women are not rights bearers with rights of bodily integrity, but are considered the repositories of the honour of the family, community or even the nation—and the way in which to uphold honour is to control the sexual behaviour of women. Three categories of women emerge from the parliamentary debates: "the raped woman as the 'bearer of stigma' versus the 'normal woman', the 'chaste woman' versus the 'unchaste' woman and the 'married' versus the 'unmarried' woman" (Baxi 2000: 1197; also see Gangoli 1996).

The legal reforms had an ambivalent impact on judicial practice. For a start, the fears within the movement and outside that more stringent punishment would result in fewer convictions, proved to be true (Agnes 1992: WS 20). Moreover, in several cases, the courts continued to pass judgements in line with the patriarchal notions of virginity, chastity, the importance of marriage and control of female sexuality, rather than the

¹⁹ These include those by policemen in a police station, by a person on the management or staff of a remand home, jail or hospital in these places, or by a public servant in his custody and gang rape.

bodily integrity of the woman²⁰ (Agnes 1992). However, in making the case for the limited impact of the amendments, but the *positive impact of the anti-rape campaign*, Agnes (1992) points to several progressive judgements at the height of the anti-rape movement from 1980-1983.

In terms of women's groups engagement with law reform during and immediately after the 1983 amendment, their demands to change the law on rape were only partially accepted. However, this small success was seen as the first step towards more protective laws and procedures from the state. Moreover, the fact that women's groups, academics, the media and the public at large could come out undivided on an important issue of rape was also seen as a major success.

Apart from changes in rape law, other laws were also amended in the 1980s. The Criminal Law Amendment Act inserted a cognisable, non-compoundable, non-bailable provision on cruelty, Section 498a, into the Indian Penal Code (IPC), which sought to tackle domestic violence. The Dowry Prohibition Act of 1961 was amended and made more stringent, and "dowry death" was included as a new category of offence. Further, the 1956 Suppression of Immoral Traffic in Women and Girls Act was replaced by the Immoral Traffic (Prevention) Act 1988, which recognised that children and men could also be sexually abused for commercial purposes. The Act did nothing to change the purported immorality associated with prostitution, but sex workers benefited from a couple of amendments: the recognition of harassment faced by them from the police, especially during raids and interrogation; and the concept of rehabilitation and gainful employment for the sex workers and their children. The decade also saw the introduction of the Indecent Representation of Women Act 1986, and sustained campaigns against sex-selective abortions, which began in the state of Maharashtra and were later being taken up by the Parliament at the national level.

Importantly, by the end of the decade, another landmark legislation—the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989 (PoA)—was also enacted. This Act criminalised several acts of injustice against dalit men and women as atrocities, including assaults or use of force on any woman belonging to a Scheduled Caste or a Scheduled Tribe with "the intent to dishonour or outrage her modesty". While these provisions have also been heavily critiqued by dalit and feminist commentators, especially given the added requirement of proving intent, as Vina Mazumdar said, even if the 1983 Amendments did not incorporate the concept of "power rape", the PoA recognised the relationship between power and hierarchy in the context of caste relations and the infliction of sexual violence (Mazumdar 2000).

3.1.4 Further mobilisations on sexual assault law reform (1990s – 2012)

By the end of the 1980s, it was clear that the amendments to the law were insufficient to bring justice to the increasing number of rape victims in the country. Agnes's (1992) scepticism on the effect of law reform was echoed by other feminists in the movement.²¹ Writing in 1995, Lotika Sarkar argued that there were many lessons to be learned from the relationship of the women's movement with the legal process. Noting the relative ease with which it was possible to get laws enacted in the early years, she argued that the movement had continued to "exercise its influence sometimes wisely, but sometimes hastily". While acknowledging that women's groups were far more

²⁰ For example, the Suman Rani case and other similar judgments did not present a rosy picture of changed attitudes and progressive case law in the post-amendment period (Agnes 1992: WS 20).

²¹ Sarkar 1995; Mazumdar 2000; Gothoskar et al. 1994; Gangoli 2007.

knowledgeable about the law when compared to the situation prior to 1975, she was also encouraged by the engagement of women's groups with "the enforcement or implementation" of the law, rather than just its substantive content. However, she noted that the movement had not shed what she termed "its excessive dependence on the law" (Sarkar 1995: 24).

The understanding that law reform was relatively easy to achieve was to shift in the coming years, with some feminists expressing scepticism at the turn of the century. Indeed, Agnes argued that not only were legal reforms slow to achieve, but when they were achieved, "they may be injurious to women and other marginalised sections or they may simply hide or relocate the fundamental problems" (Agnes 2002: 844).

In terms of the conceptual focus of feminist mobilisations in the 1990s, there was a concerted effort to "expand the socially and legally accepted definition of rape as exclusively penetrative coercive sex" and "to redefine it on the basis of the experiences of women" (Gangoli 2007: 77). Agnes notes that "newer unaddressed issues" began to surface, central among which was the "patriarchal presumption that vaginal penetration by the penis amounts to ultimate violation 'a state worse than death'" (2002: 844). Further, the myth that "rape occurs only in dark alleys", outside the intimate embrace of the home, was gradually shattered with several cases of abuse by family members entering the public domain. Moreover, the question of the sexual abuse of male children also began to emerge. These cases, as Agnes suggests, could not always be brought under the traditional definition of rape which focused rather narrowly on peno-vaginal violations. Instead, an archaic law, dealing with unnatural sexual offences targeting homosexual communities (Section 377 of the IPC) was brought into play to deal with the injustice of these crimes (Agnes 2002: 844, 845).

In 1992, the then recently formed National Commission for Women (NCW) proposed a new Sexual Assault Bill.²² The process began when a sub-committee was formed by the NCW following a seminar on child sexual abuse. A number of child rights and women's groups were represented on this sub-committee.²³ The sub-committee proposed the Sexual Violence against Women and Children Bill 1993 after a process of review of the law on rape, molestation and sexual harassment in the IPC over a six-month period.²⁴

One of the key recommendations of this sub-committee was to re-categorise the offence of rape to a graded set of offences on sexual assault. It was felt that the all too narrow focus on penile-vaginal penetration in the offence of rape did not capture the gamut of women's and children's experiences of sexual violations. Moreover, the term rape itself was thought of as "inappropriate and loaded with a certain baggage". Instead of the existing offences of rape and of the Victorian "outraging the modesty of women", it was proposed that the law provide for the offence of "penetrative sexual assault" defined as "penetration by the penis into the vagina, mouth and anal cavity and...included inserting parts of the body and objects into such orifices". The committee also proposed the offence of sexual assault that "was said to have been committed by any person who

²² The NCW is the apex, national level body constituted through an Act of Parliament with the mandate of protecting and promoting the rights of women. It was formed as a result of the recommendations of the Committee on the Status of Women in India. However, the NCW has been criticised by feminists in recent years. They have demanded a review of the selection process of NCW members and of its functioning (Press Release signed by 92 organizations and 546 individuals, 23 July 2012, <http://feministlawarchives.pldindia.org/wp-content/uploads/press-release-on-clab-20121.pdf?> last accessed 2 January 2016).

²³ The subcommittee which formulated the Bill included members of organizations such as Jagori, Sakshi, AIDWA, HAQ, among others (Menon 2004: 157).

²⁴ Rajalaksmi 2010; interview with Kirti Singh, 21 August 2014; Agnes 1998, 2002.

touches directly or indirectly, or with an object, any part of the body of a person”. Further, it also recommended the inclusion of a category of “aggravated sexual assault” that included sexual assault which causes grievous bodily harm, as well as protracted sexual assault. It was further recommended that “sexual assault committed by armed forces and paramilitary forces personnel should also come under aggravated forms of sexual assault, and punishment prescribed accordingly”.²⁵

This conception of a continuum of sexual assault offences was an important contribution of the sub-committee. By doing away with the offence of rape altogether, the sting of the offence of rape—and the discourses of death, stigma, defilement and shame that accompany it— were sought to be emptied of meaning. However, by recognising a continuum of sexual violations, the committee also sought to recognise that there were differences in degrees of violations. These were not centred on how shameful an act was, but on a conception of rights to bodily integrity. Menon talks of the “razor’s edge occupied by feminist understandings of rape”—which aim to “desexualise rape—in law and in everyday life” and to deem it as “merely another kind of physical violence” while holding onto an understanding that “sexual violence has a distinctive character [which] is more humiliating, more paralyzing than physically less harmful actions” (Menon 2014). The sub-committee through their Bill made one of the first fuller attempts to articulate this razor’s edge of feminist understandings of rape in the law.²⁶

The other significant recommendations of the sub-committee were:²⁷

- the repeal of Section 377 of the Indian Penal Code that criminalises homosexuality;
- a gender-neutral provision to be applied to same sex penetrative sexual assault;
- consent to be explicitly defined to mean unequivocal, voluntary agreement to the act to ensure that a woman who remained passive for a variety of reasons could not be said to have consented to the act;
- the inclusion of marital rape in the definition of rape;
- change to the evidence and criminal procedure to exclude the conduct and character of the woman as evidence; and
- the shift of the burden of proof onto the accused in all cases of sexual assault and on the recording of evidence and guidelines for medical examination.

The recommendations by the sub-committee proposed seismic shifts in the way in which rape and sexual assault were conceived of by the law. While some recommendations, such as the one to change evidentiary law to exclude the character and sexual history of victims of sexual violence in trials, were long-standing but nevertheless important demands of the women’s movement from the 1980s, there were other issues such as making rape and sexual assault gender-neutral offences that were introduced for the first time, but with far reaching consequences, with debates on the appropriateness of the proposed changes continuing to rage within the women’s movement to this day.

Agnes, reflecting on this Bill, noted two important things: first, that the Bill continued to retain an understanding of “aggressive male sexuality” in its redefinition of sexual assault. Second, while welcoming the move to repeal Section 377, which would

²⁵ Rajalakshmi 2010; also see interview with Kirti Singh, 21 August 2014; Kapur et al., 2000; Agnes 1998.

²⁶ The more recent, albeit differently articulated, attempt was made by the Justice Verma Committee recommendations (see the next section).

²⁷ Kapur et al., 2000; Menon 2004; interview with Kirti Singh, 21 August 2014; also see Agnes 2002.

legitimize same sex relationships, she notes that gay rights groups were excluded from the debates on the Bill (Agnes 2002: 845). Although the Bill generated some debate, it was to lie dormant for nearly a decade. In this period, the conflict between child rights groups—which invoked Section 377 to include cases of child sexual abuse outside the purview of rape laws—and sexuality minority groups—which challenged notions of conventional morality by also challenging Section 377—intensified (Agnes 2002: 845).

Section 377, child sexual abuse and the recognition in law of homosexuality

In 1996, a case of incest came before the Delhi High Court. A high-ranking government official was charged with sexually assaulting his six-year-old daughter mainly through finger penetration and oral sex. The accused was charged for outraging modesty (section 354, IPC) and for unnatural sexual offence (section 377, IPC) instead of rape (section 375, IPC). The mother filed a revision petition with the support of the women’s organisation Sakshi, seeking that the complaint be registered under section 375 instead (see *Smt. Sudesh Jhaku vs K.C.J. and Others* on 23 May 1996; Sen 2010).²⁸ The petition sought to expand the interpretation of “penetration” under Section 375 to include the penetration of any bodily orifice (vagina, anus or mouth) by a penis as well as with any object. However, the Delhi High Court speaking through J. Singh disallowed the wider interpretation of rape, arguing that the insertion of a bottle into the vagina would amount to only a violation of modesty. The argument the learned Justice made was that the boundaries of the forbidden sexual conduct that constituted rape were well known and changing this would risk obscuring the meaning, indignity and harm of rape. Moreover, the court suggested that if there was to be a change in definition, it was a matter for the legislature (*Sudesh Jhaku vs K.C.J.*). Flavia Agnes argued that in the end nothing much came of this regressive judgement, but that it “did pave the way for the advancing the argument of gender neutrality”, which she saw as a “concept devoid of all social reality of sexual abuse in our country”. This was also because, as part of the obiter dictum of the judgement, the conservative judge spoke encouragingly about a law on gender-neutral sexual offences, commenting, “what about defining the offence in gender-neutral terms? I think the law reform community would have no objection to it” (Agnes 2002: 846).

Post this judgement, in 1997, Sakshi approached the Supreme Court through a writ petition asking for directions concerning the definition of rape in the IPC. The aggrieved mother Sudesh Jhaku was also a petitioner in this case. The petition sought a declaration from the Court that the sexual intercourse as contained in Section 375 of the IPC should include all forms of penetration such as penile/vaginal, penile/oral, penile/anal, finger/vaginal, finger/anal, and object/vaginal penetration. But the Supreme Court declined to pronounce on the widening of the definition of rape and instead referred the matter to the Law Commission (see *Sakshi v Union of India and others* AIR 2004 SC 3566, S. Narrain 2003; and interview with Kirti Singh, 21 August 2014). The immediate response of the Law Commission, under the chairmanship of Justice P. Jeevan Reddy, was to suggest that the 156th Law Commission Report had already dealt with these issues. However, the Supreme Court, agreed with Sakshi that the aforementioned report did not deal with the precise issues raised in the writ petition. In August 1999, it directed the Law Commission to look into these issues afresh (S. Narrain 2003).

²⁸ Sakshi was one of the organisations that had been on the sub-committee of the NCW proposing the new bill.

The Law Commission Report 2000, the AIDWA Bill and a further slew of bills

After consulting with mainly three groups—Sakshi, Interventions for Support, Healing and Awareness (IFSHA), and the AIDWA—as well as the National Commission for Women over a period of ten days in September 2000, the Law Commission released its 172nd report (see Law Commission Report 2000). The groups had used the previous draft bill they had prepared for the discussions. Kirti Singh from AIDWA points out that there were many organisations involved in the discussions at the sub-committee level (interview, 21 August 2014). Based on these discussions, the Law Commission proposed several wide-ranging changes to the law on rape including the substantive law, as well as evidentiary and procedural law. It proposed that the law replace the term “rape” with sexual assault, and include within its fold penetration of the vagina or anus or urethra with any object and not just the penis. Further, by introducing the term “any person”, it proposed that sexual assault should be a gender-neutral offence, for both the victim as well as the offender. Therefore, sexual assault could be a crime against a man, woman or a child. The Law Commission also recommended the deletion of Section 377, thereby seeking to decriminalize homosexuality. Further, it introduced a new section to deal with a new offence of sexual harassment at the workplace. One of the major omissions of the report was that it did not criminalise marital rape. It only recommended raising the age of consent of the wife from 15 to 16 years, after which a woman was not protected from rape by her husband.²⁹

In terms of evidentiary and procedural law, the report recommended the deletion of section 155(4) of the Indian Evidence Act, which would prevent a victim of rape from being cross-examined about her “general immoral character” and sexual history. Further, the commission recommended shifting the burden of proof of consent to the accused. It included specific provisions that would deal more sensitively with the medical examination of the victim as well as the accused by a registered medical practitioner. On the evidence gathering procedures especially on child sexual abuse, it proposed that girls who are victims of rape should be questioned only by a female police officer, failing which the girl could be questioned by a qualified woman from a recognised social organisation. On sentencing, the report proposed graded sentences with higher punishment for rape committed by people in a fiduciary relationship with the victim such as public servants, relatives and person in trust or authority, management and staff of hospitals. However, it continued to provide discretionary powers to judges to reduce the sentence in case of convictions below the minimum sentence specified (Law Commission Report 2000; also see Kapur et al. 2000).

The report was neither unanimously nor wholeheartedly welcomed by women’s rights, child rights or sexuality minority groups (Saheli Women’s Resource Centre 2002; Agnes 2002). In December 2001, over 30 groups with diverse concerns came together to discuss how to respond to the report in a three-day national-level meeting in Mumbai (Agnes 2002: 846). Although the expansion of the “definition of sexual assault, the recognition of child sexual abuse and the modifications to the Indian Evidence Act” were welcomed, there were several counts on which many groups were unhappy. They felt that “the processes was not consultative enough, and that making rape laws gender neutral would lead to the misuse of the law, as rape was a gender-based crime” (S. Narrain 2003). Further, the participants were unhappy that the report, while extending gender neutrality to all forms of sexual assault continued to decriminalize marital rape (S. Narrain 2003; also see Agnes 2002). The meeting concluded with the publication of a report and a letter. The latter was sent in January 2002 to the Law Ministry,

²⁹ Law Commission Report 2000; Kapur et al 2000; also see Narrain 2003.

expressing opposition to parts of the Commission's report (Agnes 2002: 846). The signatory organisations were mainly from Maharashtra, with a few from Delhi and others from other regions such as Sangama from Karnataka and Lakshya from Gujarat (Saheli Women's Resource Centre 2002).³⁰

The report of the Mumbai meeting is particularly scathing on the process of consultation by the Law Commission as well as on the lack of representation of LGBT concerns. It calls the exclusion of sexuality minority groups the "biggest oversight" and notes that "any law reform that does not take into open consultation the sections of society it seeks to represent is highly undesirable and cannot elicit the trust of those it represents" (Saheli Women's Resource Centre 2002). Further, the report categorically opposed gender neutrality, arguing that it negated the "sustained struggle of the women's movement against all forms and levels of patriarchal violence we women face in this society". It also notes the recommendations of women's groups that the issues of child sexual abuse and violence against women needed to be decoupled, as the reasons for the gender neutrality provisions were that male victims of sexual abuse should also be protected by the law. The report called for the repeal of Section 377 and for a separate law on child sexual abuse. Similarly, Saheli, another Delhi-based autonomous organisation, recounts that during their meetings to discuss the Commission's report there "was strong opposition to [gender neutrality] from all groups present except for two groups who felt that the provision of gender neutrality ought to be retained". The report states that what was needed instead was "the recognition of sexual identities by the state and society through introducing anti-discriminatory laws based on sexual orientation by amending Article 15 of the constitution". Moreover, "it was strongly felt that there should be separate legal provisions to deal with child sexual abuse keeping in mind the different types of sexual offences, gender, age-groups and procedures required in the case of children" (see Saheli Women's Resource Centre 2002).

After these consultative meetings, and based on extensive discussions among women's groups in Delhi, Kirti Singh (AIDWA) drafted an alternative Bill which was then circulated among women's groups (Narain 2003; also see Saheli Women's Resource Centre 2002). On the 30 January 2002, women's groups in Delhi met to finalise the AIDWA draft Bill on Sexual Assault. Partners for Law in Development's (PLD) records (based on a letter circulated by Kirti Singh) indicate that this draft Bill made sexual assault gender specific, and included provisions on child sexual abuse as well as marital rape. It also recommended the deletion of Section 377. However, there were areas where women's groups could not arrive at a consensus. This was on how to deal with same sex non-consensual intercourse. Kirti Singh's letter indicates that there was a clause in the Bill that recognised non-consensual same sex intercourse as sexual assault. Ms Singh prevailed on the groups to lend their support to the other parts of the Bill even if they did not agree with this one.³¹ In the following months, the Bill underwent further changes after discussions with women's rights and queer rights groups, after which it was sent to the Home Ministry through the NCW.

³⁰ Partners for Law in Development (PLD), a Delhi-based gender and law research and advocacy group has collated an interesting, albeit sporadic set of documents (a background note to the discussions by women's groups on sexual assault amendments) over this period of activism beginning with the responses to the Law Commission report and ending with an open letter to the Law Minister by women's groups in 2010 (see <http://feministlawarchives.pldindia.org>, last accessed 20 March 2016). Recalling the smaller meetings organized by Saheli in Delhi and by FAOW in Mumbai where the issue of gender neutrality was discussed, the background paper also discusses at some length the responses by the LGBT group PRISM in Delhi, the report of the national consultation in Mumbai in December, as well as the letter sent to the law minister in January 2002 (also see Saheli Women's Resource Centre 2002).

³¹ See <http://feministlawarchives.pldindia.org> (last accessed 19 March 2016).

In the meantime, the government enacted an amendment based on the Law Commission's recommendations during the winter session of Parliament, which deleted section 155(4) and inserted a proviso to section 146 of the Indian Evidence Act, which meant that a victim of rape could no longer be questioned about her past sexual conduct and her "general immoral character" (S. Narrain 2003).³²

After intense mobilisations between 2001 and 2002, things seem to have gone cold on the overall question of sexual assault amendments for a while. However, AIDWA and other groups continued to follow up with the government and with various law ministers over the years to make the recommended changes into law (Rajalakshmi 2010; interview with Kirti Singh, 21 August 2014).³³ Mobilisations continued around sexual assault law reform in 2006 when a meeting was held in the Lawyer's Collective Office in New Delhi in July to discuss *Voices against 377*. The meeting was attended by CREA, PLD, PRISM, Nirantar, Naz and PUCL.³⁴

The records of the *Voices* meeting in 2006 note that although both the NCW and the Home Ministry were keeping quiet about the issue, there were reports that the Home Ministry was planning to introduce a Bill intending to make rape laws gender neutral with no concomitant plans to revoke Section 377. It is clear from the minutes that even though members of the coalition were not certain about the shape of the proposed Bill, they were worried about any provision that sought to criminalise non-consensual same sex relations without Section 377 being simultaneously revoked. The plan within the coalition was to stall proceedings with the Bill until more clarity could be got through meetings with Kirti Singh, Shivraj Patil (the Law Minister), Girija Vyas (the NCW chairperson) and Brinda Karat (AIDWA). Moreover, the coalition recognised the importance of a coalition consisting of groups working with women's rights, civil liberties, child rights, gay and lesbian rights and law at a national level and to take the discussions beyond Delhi.³⁵

In 2010, in response to the Rathore case, which involved the sexual assault of a minor girl by a police officer, resulting in her suicide, the government proposed a Bill, which women's groups saw as badly drafted and a knee-jerk reaction to the case (interview with Kirti Singh, 21 August 2014). The proposed Bill, the Sexual Offences (Special Courts) Bill 2010, did not address any of the issues brought up by the 2002 Bill, but instead focused on a medley of reform, largely dealing with procedural law. Moreover, it did not incorporate any changes in the "definitional, substantive and procedural laws relating to child sexual abuse (including molestation and rape) and the sexual abuse of women that were demanded by the women's groups" (Rajalakshmi 2010).

The Department of Home Affairs recounts its own version of events following the Law Commission report. It notes that the legislative department had proposed a new

³² Section 155 (4) of the Indian Evidence Act 1872 permitted the person accused of rape or attempt to rape to prove that the prosecutrix was of generally immoral character.

³³ Moreover, this was also the time that several other cases of sexual violence, such as the brutal sexual assault and murder of Thangjam Manorama by the Assam rifles in Manipur, and the Khairlanji massacre in which two dalit women were stripped, paraded naked, raped and murdered, mobilized women's groups to action (Saheli Women's Resource Centre 2004; Kannabiran 2010; Kannabiran and Menon 2007). Further, mobilisations on Section 377, domestic violence laws, AFSPA and communal violence also galvanised women's groups across the country at this time (on which see more below. Also see interviews with Kalyani Menon-Sen, 31 July 2014 and Arvind Narrain, 23 July 2014).

³⁴ *Voices against 377*, a coalition of NGOs and progressive groups (including women's groups, child rights groups, human rights groups and groups working for sexual rights including gay and lesbian rights) based in Delhi had been set up in 2004 to mobilise efforts to decriminalize homosexuality. A petition had already been filed in 2001 in the Delhi High Court to read down section 377 by Naz Foundation.

³⁵ See <http://feministlawarchives.pldindia.org> (last accessed 19 March 2016).

Criminal Law Amendment Bill based on the Law Commission report. This and the Bill proposed by the NCW were discussed by the then Home Minister, the then Law Minister as well as the then Chairperson of the National Commission for Women (see background note, 167th report of the Standing Committee on Home Affairs 2013). Based on these discussions, the legislative department was asked to redraft the Bill, taking into account the argument that “the various sexual offences specifically relating to males and females should be differentiated and the crime should remain gender specific” (167th report of the Standing Committee on Home Affairs 2013: 10). The work of re-drafting, consultation with the states (which did not result in agreement) and further “in-depth consultations with all concerned” were carried out over a long period of time. It was to be 10 years after the Law Commission produced its report that a new Criminal Law Amendment Bill 2010 was proposed by a High Powered Committee in March 2010. This Bill was sent to the states for consultation and was also posted on the Home Affairs website for comments by the general public (167th report of the Standing Committee on Home Affairs 2013).

This Bill changed the terminology of rape to sexual assault and widened the offence beyond peno-vaginal penetration (while continuing to centre penetration in defining the offence). However, it continued with its understanding that sexual assault was a crime that could only be committed by men against women. It also provided for an enhanced punishment for sexual assault and for instances of custodial sexual assault and for instances such as gang rape (Criminal Law Amendment Bill 2010).³⁶

The Bill once again generated a lot of debates by women’s groups (see Kannabiran 2010). Groups met across the country and submissions were made to the Home Ministry.³⁷ One of the main criticisms of the Bill was its narrow focus. Kalpana Kannabiran (2010) locates the changing focus of the feminist engagements to elaborate on why the Bill was inadequate. She argues that while feminists continued to engage with the questions of expanding the definitions of rape, recognising a continuum of sexual assault offences, better procedural and evidentiary laws, and resolving the purported conflict within the law between child rights and gay rights, there were also several other issues screaming for attention. Along with long-standing concerns of custodial rape, and conceptions of power rape, feminist engagements with sexual violence were also focusing on the hurdles of bringing justice to survivors without laws to prosecute perpetrators in several contexts.

Impunity for armed forces personnel accused of assault...(Manipur and Kashmir), sexual assault during episodes of collective violence (Gujarat and Kandhamal) or as part of caste atrocity (Rajasthan and Khairlanji); custodial sexual assault on intellectually challenged women (Chandigarh); on transgenders (Karnataka); on children—girls and boys; and sexual assault on and/or humiliation of men in custody and situations of collective/targeted violence (Kannabiran 2010).

Although the 2010 Bill was not passed, within two years, in July 2012, the Union Cabinet approved the introduction of the Criminal Law (Amendment) Bill 2012. This Bill was based on the report of the Law Commission, as well as the recommendations of the NCW. It replaced the term rape with sexual assault and widened the scope of what constituted sexual assault to include non-penile penetration. However, it continued to centre penetration in its understanding of sexual assault. Also, it controversially made

³⁶ Available at <http://www.prsindia.org>, last accessed 20 March 2016.

³⁷ One of the submissions was made by LGBTI (Lesbian, Gay, Bisexual, Transgender and Intersex) groups, after consultations held in Chennai and Bangalore. This called for a gender-neutral provision on sexual assault. See the section below for more details.

the offence of sexual assault gender neutral and increased the age of statutory consent. It also introduced a new offence, acid attack, and prescribed punishment for the failure of public servant to perform his duties.

In the debates that followed, the contentious issue of gender neutrality was to rear its head again among feminist groups, with groups not always speaking in one voice (Narain 2012). When a delegation of women's groups and individuals from across the country met the President of the Congress Party Sonia Gandhi in July 2012, they demanded that the proposed amendment define rape as a gender-specific crime in recognition of the fact that rape is primarily a crime perpetrated by men against women, and is accompanied by specific consequences for women. In light of this, they opposed transforming rape into a gender-neutral offence. Furthermore, the need for introducing a gradation in sexual assault offences was also highlighted as necessary to enable law to respond appropriately to aggravated assault such as public stripping and parading to less severe forms of molestation. The delegation also demanded that the age of statutory consent be 16 years and not 18 years as was being proposed (press release, 23 July 2012).³⁸ In September 2012, groups such as the Alternative Law Forum in Bangalore were still calling for the Bill to be temporarily shelved till further discussions could take place, particularly on contentious issues such as gender neutrality (Narain 2012). However, the Bill was introduced to the Lok Sabha on 4 December 2012 by Law Minister Sushil Kumar Shinde.

3.1.5 Mass protests against the December gang rape 2012

The brutal gang rape of a 23-year-old paramedic student by a group of six men in a bus on 16 December 2012 in Delhi, which resulted in her subsequent death, evoked a firestorm of discourse on violence against women in India.³⁹ Along with wide media coverage, there were widespread public protests, vigils, demonstrations and debates in Delhi as well as in several other parts of the country. This combination of events propelled the issue of sexual assault and violence against women to the centre stage of political discourse.

The mass protests, involving thousands of people out on the streets of Delhi continued for a month and were largely composed of youth groups—students, as well as young men and women in their twenties, many of whom were protesting for the first time (Roy 2012; Sengupta 2012). Nandini Rao, a feminist activist based in Delhi, describes her impressions of the immediate aftermath when crowds filled the streets of Delhi,

I will never forget at India Gate when we were walking around....They had blocked the road, everything was under 144 [IPC section on unlawful assembly] so no transport was allowed. So we were literally walking kilometres and kilometres and we see these young kids from school, college kids walking with us, marching. Nobody is connected to anybody, nobody said, we are with this school...they were not connected. It was amazing, how people got there after what happened. ... Nobody knew at that point, who she [the victim of the gang rape] was; it was the horror of what had happened which hit people. I am not talking about activists ... it was *junta* [public]; it has hit them in a way never before or after actually (interview, 24 March 2014).

Although the 16 December events brought protesters together, they were by no means speaking in one voice. Demands for chemical castration and death penalties vied for space along with demands for change in male behaviour, women's rights of bodily

³⁸ Available at <http://www.prsindia.org> (accessed on 19 March 2016).

³⁹ Indian law does not allow the publication of the names of victims of rape. The woman victim of the 16 December gang rape in Delhi was christened Nirbhaya (meaning fearless) by the media for her remarkably courageous response in the face of the egregious violence faced by her. Her case came to be known as the Nirbhaya case.

integrity, their rights over public spaces and the city, as well as anger over the policing of women's behaviour for their "safety".

The mass protests also generated reflections on the relationship of the mass mobilisation with feminism, with feminist academics such as Mary John arguing that it was difficult to claim the mobilisations as a feminist mobilisation (public lecture by Mary John, December 2013). Even so, Nandini Rao sees the mass protests as making a difference to feminist politics. Contrasting the differences in reception between public engagements on sexual violence by the CCSA in Delhi she notes,

December 2012 really switched [things for] people—the way they looked at what they could do and that was very interesting for us because you could see actually the change. We would go out on the streets, talk to people ...either you do a little skit or start singing, take out our placards and people come to check out what you are doing Pre Dec 16th and post Dec 16th were very different. On 15th Dec 2012, we were in a very crowded market in Saket at the PVR cinema ... and we were heckled by these two guys who were drunk who had no idea what we were talking about It was a large crowd but people were not willing to do anything. Nobody did anything This was on 15th. 16th was when she was attacked, 17th it was when people found out. 18th [onwards] we were on the streets. And on 31st of Dec we decided we will do a Take Back the Night. That Take Back the Night, I can't tell you... it was *zameen aasman ka farak* [difference between heaven and earth]! The way people were reacting to us. It was incredible! (interview, 24 March 2014).

Whether or not the mass protests reflected feminist concerns, feminist voices, as is clear from Rao's account, sought to shape public discourse. In newspapers, blogs and during the protests, Take Back the Night campaigns, articles in public forums, discussions on television, they urged the public to make the wider political connections to understand the cultures of rape that sustained incidents such as this one, namely, rape in the context of transgression of caste and gender boundaries or in the assertion of communal and state power (see Baxi 2012; as well as postings on Kafila in December 2012). Moreover, they sought to make visible the contexts within which most sexual assaults occur—within the home, at work places, by acquaintances and within intimate relationships. They challenged the demands for chemical castration and death penalties, cautioning against seeking more rigorous punishments, which they argued, invariably results in no justice at all for women (Baxi 2012; as well as postings on Kafila in December 2012).

During a protest in front of the Chief Minister's residence, Kavita Krishnan (Secretary, AIPWA) challenged and indicted the state and society's patronizing attitude to protect women by controlling their behaviour and sexuality:

We are here to tell her that women have every right to be adventurous. We will be adventurous. We will be reckless. We will be rash. We will do nothing for our safety. Don't tell us how to dress, when to go out at night [or] in the day, or how to walk or how many escorts we need...Even if women walk out on the streets alone, whatever the time at night, if she simply wants to go out at night, if she wants to go out and buy a cigarette or go for a walk on the road—is this a crime for women? We do not want to hear this defensive argument that women only leave their homes for work, poor things, what can they do, they are compelled to go out of the house. We believe that regardless of whether she is at home or outside, whether it is day or night, for whatever reason, however she may be dressed—women have a right to freedom. And that freedom without fear is what we need to protect, to guard and respect...The word safety is an abused word, we hear it everywhere....We women, we know the meaning of safety. It means, you behave yourself, you get back into the house....⁴⁰

⁴⁰ See AIPWA blog, available at http://aipwa-aipwa.blogspot.in/2012/12/aipwa-national-secretary-kavita_20.html, for the video and translation of the speech (the original speech is in Hindi) (last accessed 19 March 2016).

This public indictment of the state's and society's patronizing attitude of protecting women by controlling their behaviour and sexuality, and Krishnan's demands for the right to live fearlessly, the freedom to loiter aimlessly, and the freedom from patriarchal questioning, inspired a wider campaign based on these ideas. The Bekhauf Azadi (Freedom without Fear) Campaign mobilised students in large numbers and organised street rallies and protests. Participants used posters to explain the stand against death penalty to the public, and public speeches often provocatively challenged entrenched notions about gender roles (interview with Kavita Krishnan, 15 May 2014). Moreover, several Delhi-level meetings were held between different individual activists and students that delved into the idea of extending the claim of *bekauf azaadi* for various kinds of issues. LGBT persons in the meetings raised their right to practice their sexuality and live freely, the northeast region and Kashmir raised their right to live freely from state domination and from Armed Forces Special Powers Act (AFSPA) (interview with Kavita Krishnan, AIPWA, 15 May 2014).

In her interview, Kavita Krishnan reflects on the resonances of this speech with other feminist writings on women's access to public spaces, particularly the book, *Why Loiter*, by Shilpa Ranade, Shilpa Phadke and Sameera Khan. She says, "I realised that my speech would have fitted perfectly with that book, because it is exactly the same thing. Why cannot we be allowed to loiter, and do nothing without explaining the respectability of our purpose?" (interview with Kavita Krishnan, 15 May 2014).

Apart from similar feminist interventions seeking to shape public discourse, there were other discourses seeking to inform public opinion in the immediate aftermath of the Delhi rape—by politicians, "god men", bureaucrats—discourses that talked the language of "dented and painted ladies" (characterising rape victims as loose women), of the lack of existence of rape in rural India, of rape survivors as "*zinda laash*" (walking dead), and echoing some populist demands for more stringent punishment including death penalty.

Reflecting on the nature of the mass movement a year on from the December events, Krishnan (2013) cautions against seeing the December mobilisation as a singular movement, but as reflective of "tensions and debates" that themselves reflect different political visions and possibilities. She argues that these tensions between discourses seeking Bekhauf Azadi for women and those calling for patriarchal protection and vengeance continue to inform political discourse on sexual assault. She notes that "as long as the idea of patriarchal control over women in the name of their protection remains 'available' as a 'hospitable space', violence against women will continue to be justified by victim-blaming, and communal fascist and casteist politics will keep breeding there". She further notes that in order to contend with this, it is absolutely imperative that "*azaadi* [freedom] for women from the patriarchal structures of the household, caste, and community—including financial, social and sexual autonomy—has to become a priority political agenda for the left and for all democratic, progressive movements".

3.1.6 Responses by the government to the mass protests

On 23 December 2012, the then government quickly appointed a three-member judicial committee under the Chairmanship of Justice J.S. Verma to review the laws on rape, taking cognisance of the widespread protests and debates in the media and in the public.⁴¹ The government also sought to renew its energies for the implementation of

⁴¹ Justices Leila Seth and Gopal Subramaniam were the other two members appointed to the Committee.

the long-standing Financial Assistance and Support Services to Victims of Rape Scheme. The Ministry of Women and Child Development announced a pilot of one-stop crisis centres in 100 districts across the country and received an additional sum of Rs. 200 crore⁴² to design schemes for women belonging to vulnerable groups (see the reports in the Hindustan Times and the Times of India). In his 2013-2014 Union Budget speech in February 2013, the Finance Minister announced the establishment of the “Nirbhaya Fund” of Rs. 1,000 crore for women’s safety and empowerment in tribute to the gang rape victim and with a commitment to spend the fund in the same year.

The Justice Verma Committee

The JVC undertook to perform the task of reviewing the laws on sexual assault within a short period of 30 days to enable a speedy response by the government before the next session of the Parliament. Upon its appointment, the committee issued a Public Notice inviting suggestions from the public and asked public legal functionaries, women’s rights groups, legal academics to send their proposals for amending sexual assault laws. Around 80,000 submissions were received from groups, institutions, legal experts, activists, academics and individuals from across the country and elsewhere. An oral consultation was also held with various stakeholders, particularly with women’s groups and experts in the field. Based on these submissions, the committee prepared and submitted its report to the government on 23 January 2013 (see Preface to the JVC report, January 2013).

Compared to the consultations of the previous commissions, the process of consultation initiated by the committee was considered a democratic and inclusive process by many interviewees. Kavita Krishnan notes,

The Verma Committee hearing was a much much wider thing where there were dalit groups, groups from the North-east, from Kashmir, groups representing sex workers, representing LGBT groups, representing child rights groups,...people who had worked with sexual harassment, there were student groups, trade union groups, dealing with women workers and their rights...I mean Verma Committee process was very, very, very, very inclusive that way (interview with Kavita Krishnan, 15 May 2014).

She attributes the inclusiveness to “people like Vrinda Grover⁴³ [who] helped to call activist groups from across the country, very varied kinds of activist groups doing work on violence against women and in a variety of circumstances and contexts” (interview with Kavita Krishnan, 15 May 2014). Similarly, Arvind Narrain, founder member of ALF in Bangalore notes, “she [Vrinda Grover] orchestrated the whole thing. She was Gopal Subramaniam’s contact person and she contacted people around the country and can you imagine, what a marvellous representation” (interview with Arvind Narrain, 23 July 2014).

Narrain suggests that we should think of the consultative process of the Verma Committee in comparable terms to the process of the Constituent Assembly of India. He says the question is not whether there was representation of membership alone, but representation of ideas.

The majority of members [of the Constituent Assembly were] represented by 2% or 3% franchise, a lot of them [were] selected by the people at the very top. Dr. Ambedkar got in and they ensured that in some sense [the Constitution] reflects a range of issues...every section was represented in

⁴² USD 1 = Rs. 66.9 approximately. 1 crore = 10,000,000.

⁴³ Vrinda Grover is a human rights lawyer and advocate for women’s rights.

terms of the issues. Once again to the critics of who was there [at the JVC], the question we need to ask is what issue is left out (interview with Arvind Narrain, 23 July 2014).

Moreover, the LGBT community could be represented by activists such as Akkai Padmashali (Sangama, Bangalore) because of the openness within the Committee (interview with Arvind Narrain, 23 July 2014).

Due to their long engagement with the question of violence against women and negotiations with the state for gender just laws, women's organisations and human rights groups were already well-equipped to send their expert recommendations to the JVC, in spite of the fact that they were given barely any time. Kalyani Menon-Sen, feminist activist, researcher and national coordinator of the Women against State Repression and Sexual Assault notes, "most of the material that went into the submissions to the JVC were really compilations of what we have been saying and asking. Hundreds of reports and hundreds of demands and campaigns" (interview, 31 July 2014). Vani Subramanian, member of the autonomous women's group Saheli, based in Delhi, also agrees with the usefulness of this long history of engagement in submitting appropriate recommendations and in knowing the potentially contentious issues requiring further consultation, "By the time December 16th happened and JVC happened, we pretty much knew what people were going to say, we knew what we had to negotiate and damn lucky we were because there was not time to think right?...we could arrive at non-negotiables and fine tune what is to be [tabled]. So, we were already on top of it" (interview, 23 August 2014).

As feminist lawyer, Vrinda Grover puts it in her submission to the JVC, "This issue has been the subject of rigorous debate, research, analysis and study, spearheaded by the women's movement for over 25 years. The problems are therefore known, the issues formulated and the range of potential answers, solutions and way forward have on many occasions been presented to the government and Parliament" (Grover 2013:1).

The JVC submitted its report as promised, a month from when it was constituted. The JVC recommendations were noted for their sensitivity to the problem of violence against women in India and were generally well received by women's groups, civil society and the media. As Nivedita Menon notes, the JVC report "was widely recognised as a paradigm shift in understanding sexual violence, reflecting the inputs of the women's movement and queer movement among others" (Menon 2014; also see Narrain 2013). This included the understanding that it was "the duty of the State as well as civil society to deconstruct the paradigm of shame-honour in connection with a rape victim" and to recognise that "rape is a form of sexual assault just like any other crime against the human body under the IPC" (JVC report 2013: 83). As the Bekhauf Azadi Campaign said of the report: "it firmly upholds the principle that violence on women should be understood from the perspective of women's autonomy, bodily integrity and dignity, rather from patriarchal notions of honour and shame. From that perspective, it recommends an overhaul, not only in the existing laws against sexual violence, but also in the systems of investigation, prosecution, and trial" (Bekhauf Azadi Campaign 2013).

The committee decided not to replace the offence of rape with a continuum of sexual offences. Although the committee saw it as the state's duty to deconstruct the shame-honour paradigm, it opined that doing away with the offence of rape altogether would not convey the social opprobrium associated with the offence. Moreover, "in the current context, there is a risk that a move to a generic crime of sexual assault' might signal a dilution of the political and social commitment to respecting, protecting and promoting

women’s right to integrity, agency and autonomy” (JVC 2013: 111). While retaining the term “rape”, the Committee however, recommended an expansion of rape beyond penile-vaginal penetration to include all forms of non-consensual penetrative sexual assault, including penetration by any object into the vagina, anus or urethra, and oral sex (JVC 2013: 439-440). Further, the committee retained gender specificity in terms of the perpetrator of the crime of rape but recommended gender neutrality with respect to the victims of rape, acknowledging that a person of any gender can be sexually assaulted and raped. In the context of certain relations of power, namely, aggravated rape or gang rape, however, this principle of gender specificity of perpetrator was overturned and the offences were constructed as gender neutral in relation to both perpetrator and victim. This nuanced approach to gender neutrality was an “important breakthrough in the debates on gender neutrality so far” (Baxi 2013). Baxi notes that “this definition not only recognises the bodily autonomy of women but also the bodily integrity of men (irrespective of sexual orientation or gendered identity) and transgendered persons”. “Given the heated debates on gender neutrality” Baxi argues, “the JVC managed to define rape as a crime of patriarchy, which is not limited to women as victims, although women have predominantly been the target of sexual violence” (Baxi 2013).

The committee also recommended the criminalisation of marital rape. Further, the committee replaced the offence of “outraging the modesty of a woman” and widened the spectrum of sexual offences to include intent to disrobe a woman, acid attacks to disfigure and maim, stalking and voyeurism with appropriate punishment for the range of sexual assaults. On the age of consent, the committee recommended that the age of consent be 16 years, and not 18 years as was proposed by the Criminal Law Amendment Bill 2012. It recommended a protocol for medical examination of victims and banned the “two-finger test”.⁴⁴ In holding the state accountable for the failure to protect women, the report suggested punitive measures for the non-registration of First Information Reports (FIRs) and extensive reforms to make the police accountable. It urged judicial reforms to accelerate trials. Moreover, the committee proposed a new offence of “breach of command responsibility” for public servants to be applied in the context of mass sexual atrocities, such as during communal violence.⁴⁵

Although welcomed on several counts by women’s groups for the paradigm shift that the report signalled, there were also voices of caution and critique. P. Baxi (2013) and Kotiswaran (2013) point out the errors in relation to trafficking that clubbed together and criminalised all forms of sex work:

The JVC possibly forgot to add the words ‘exploitation of’ prostitution, while mistakenly dictating the UN protocol 2000, going against the UN Protocol signed in 2011. The trafficking clause, due to exhausted dictating, criminalises all forms of sex work, including in trafficking voluntary and consenting sex workers who are now unionised and been fighting for right to live with dignity. This provision has been enacted in the name of fighting sexual assault—and is totally unacceptable (Baxi 2013).

Moreover, the committee omitted to repeal Section 377 in spite of the recommendations from LGBT and women’s groups. At the time of the submission of the report, however, the judgement of the Delhi High Court that read down Section 377 to decriminalize homosexuality, was still in force, but things were to change by the end of the very same year. In December 2013, the Supreme Court of India reversed the Delhi High Court judgement, thereby reinstating the criminalisation of homosexuality in India, dealing a

⁴⁴ JVC report 2013; Mehra 2013a; Bekhauf Azadi Campaign 2013.

⁴⁵ JVC report 2013; Mehra 2013a; Bekhauf Azadi Campaign 2013.

huge blow to the struggle for LGBT rights (Suresh Kumar Koushal and another v Naz Foundation and others SC 11 December 2013).

The Criminal Law Amendment Ordinance 2013

In February 2013, the government hurriedly passed an ordinance that was supposed to be based on the JVC recommendations, but which excluded many of its important recommendations. The JVC in their report had in fact recommended that an ordinance be passed immediately while waiting for the reconvening of the Parliament (JVC report 2013). Newspaper reports in the first week of February talked of the government bringing together the “non-controversial” recommendations of the JVC report and of the Criminal Law Amendment Bill 2012 through an ordinance. The Ordinance itself was received scathingly by women’s groups, as was the process through which it was passed.⁴⁶

The Ordinance reverted to the Criminal Law Amendment Bill 2012 in providing for an across-the-board gender-neutral offence of sexual assault, namely, gender neutral for both the victim and perpetrator. Simultaneously, the recommendation by the JVC to criminalise marital rape was not included. In her critique of the Ordinance, Pratiksha Baxi (2013) writes, “wives, we are told cannot prosecute husbands for sexually assaulting them. But since sexual assault is gender neutral without any exceptions and the marital rape exemption is not extended to husbands, now husbands can accuse wives of sexual assault but wives can never prosecute husbands for sexual assault!”.

The Ordinance did not repeal Section 377 as this was not recommended by the JVC, even though it was recommended by the 172nd Law Commission report. This resulted in the absurd situation where same sex non-consensual sex is both an unnatural offence and an assault, deeming the requirement of Section 377 unnecessary (Baxi 2013). If the idea of sexual violence is to be based on bodily integrity and consent, this confused basis for the classification of an offence “is illogical, if not ideologically violent” (Baxi 2013). Baxi is also scathing of the Ordinance’s classification of various sexual offences, noting that the sentencing structure in the Ordinance did not reflect the varying degrees of seriousness of the offences. Moreover, the Ordinance did not do away with the two-finger test, nor did it include the important recommendations of command responsibility, of aggravated sexual assault in the context of caste and communal violence, or of not requiring prior sanction to prosecute the army over sexual offences. Further, it raised the age of consent to 18 and introduced the death penalty in “the rarest of rare” rape cases—those in which the victim dies or is in a permanent vegetative state (Bekhauf Azadi Campaign 2013).

The Criminal Law Amendment Act 2013

On 19 March 2013, 16 days before the Ordinance was due to lapse, the government withdrew the Criminal Law Amendment Bill 2012 and introduced the Criminal Law (Amendment) Bill 2013 in the Lok Sabha. It was passed by the Lok Sabha on the very same day, by the Rajya Sabha⁴⁷ a couple of days later, and received Presidential assent a day before the Ordinance was to lapse.⁴⁸ Newspaper reports at the time documented that some members of Parliament recognised that there were several loopholes, which the government promised to discuss thoroughly at a later date (Balchand 2013).

⁴⁶ See Baxi 2013; Bekhauf Azadi Campaign 2013; other Kafila publications, Feb 2013.

⁴⁷ The Rajya Sabha, or Council of States, is the upper house of the Indian Parliament.

⁴⁸ See PRS website, <http://www.prsindia.org/> (last accessed 19 March 2016), on the progress of the Bill.

In the immediate aftermath of the Amendment Act, the new law was welcomed as historic by feminist groups who also voiced reservations both on some of the substantive aspects of the new law as well as the process through which the Bill became law. They noted especially the troubling aspects of the general tenor of the debates, wherein many Members of Parliament (MPs) “freely expressed sentiments that undermined the dignity of all women, unmindful of the gravity of issues of rape and violence” (Press release accessed from Feminists India, 23 March 2014).⁴⁹ Acknowledging the decades-long struggle for reform of laws on rape and sexual assault, they noted that the new law was even more welcome because women’s rights groups, lawyers and activists from across the country had managed to wrest significant gains for women in the new Act, despite the discourses of the MPs (Press release accessed from Feminists India, 23 March 2014).

The Criminal Law (Amendment) Act 2013 made significant changes to the law on rape and sexual assault. While retaining the category of rape as an offence, it expanded the definition of rape beyond penile-vaginal penetration, including non-consensual penile penetration of the anus and mouth, penetration by objects into the vagina, urethra and anus, as well as unwelcome oral sex (new Section 375, Indian Penal Code). The new Act recognised several new offences such as forced disrobing, voyeurism, acid attacks and stalking. No prior sanction was required for public servants to be charged with sexual offences. The Act also provided for a minimum mandatory sentence for dereliction of duty by the police and public servants.

There were, however, several omissions, in spite of clear JVC recommendations. In the face of all evidence, the new Act retained the idea of rape as a gender-specific crime in relation to the victim, thereby ignoring calls by women’s groups, LGBT groups as well as the JVC recommendations that gay men and transpeople could also be victims of rape by men (Narain 2013). The Act did not repeal the section on “outraging the modesty of a woman” and continued to provide an exception to marital rape, and also increased the age of consent to 18 years. Although prior sanction was removed for the police, this was not extended to the army, which continues to enjoy impunity. Moreover, systemic sexual violence against dalit and tribal women was not acknowledged as aggravated rape in the Act (S. Narain 2013). Quite regressively, it called for the death penalty for the “rarest of rare” rape cases (Section 376A, Criminal Law Amendment Act 2013).

Reflecting on the Act as well as a year of feminist activism on rape and sexual assault, Menon argues that the Act was a “strange mishmash of a piece of legislation ... marked by an arrogant blindness towards the entire charged debate that preceded it, and deliberately ignoring the JVC Report” (Menon 2014). Kalyani Menon-Sen, however, points to a wider ambivalence towards the Act based on the feminist relationship with law reform—a sense of ambivalence that encapsulates both the hope at the opportunity provided by the JVC and the disappointment with the response of the state:

[The JVC] was a watershed in terms of having a space ... it was like you have your finger right there on the policy and you can influence [it]. Now looking back, ... many of us even back then thought it was incredibly naïve...After the Verma Report came out, and the government’s [response was] to keep all the citadels of impunity intact, it seemed strange to me that we invested so heavily in the idea of legal reform, and we kind of overlooked the limitation of [reform] (interview, 31 July 2014).

⁴⁹ Available at <http://feministsindia.com/tag/anti-rape-bill/>, last accessed 20 March 2016.

3.1.7 Claims making by women's groups: The issues at stake

Several issues recur in women's claims making throughout the three decades of feminist mobilisation on sexual assault and rape, but particularly since the 1990s. While some of the claims have translated into changes in the law (including burden of proof in the limited context of custodial rape), there are others that took a while to come onto the statute books (for example, use of past sexual conduct and character as evidence in rape). Even so, there are still issues such as marital rape, where there has barely been any traction in actual policy change (apart from the recognition in law of rape in the context of legal separation). There are other issues such as the issue of gender neutrality (and whether this ought to be extended to both victims and perpetrators, only victims, or neither) in sexual assault laws, where although there is an uneasy consensus among women's groups, the law as it stands has not been cognizant of the voices of feminist groups. Entwined with the issue of gender neutrality are issues of justice for survivors of child sexual abuse as well as the rights of the LGBT community. Here, policy change, particularly on the recognition of sexual violence, has not been sensitive to the human rights of sexuality minority communities. Moreover, issues such as whether it is useful to retain the offence of rape and/or have a continuum of sexual assault laws have not completely been resolved by the new Amendment Act.

In the next section, we turn to some of the issues that have either not always been at the forefront of feminist mobilisation (disabled women, dalit women) or those issues that have proved to be far more contentious within women's groups but also with other groups such as sexuality minority groups, child rights groups (gender neutrality, age of consent) to better understand the questions at stake. This will allow us to make some reflections on the diversity of women's claims making over key issues, whether and if so how these claims have changed over a period of time, whether the processes of policy change have been cognizant to these claims making, and if so, whose voices get heard and why.

Expanding the definition of rape and/or a continuum of sexual assault laws

Since the early 1990s, the feminist movement has grappled with the question of whether to replace the offence of rape with a wider conception of sexual assault (that goes beyond peno-vaginal penetration) in order to empty the offence of its meaning and associations with discourses of shame and honour, or to retain and expand the offence of rape. Moreover, feminists have been critical of the narrow range of sexual offences (either rape or outraging the modesty) available under the Indian criminal law and have consistently argued for widening the of the range to "truly" reflect women's experiences of sexual violence. In their submissions to the JVC, most feminist groups recommended several things: (i) changing the terminology from rape to sexual assault with a broadening of what constituted sexual assault; (ii) expanding what constituted sexual violence through the introduction of new offences; and (iii) recognising differences between offences through a graded hierarchy of sexual offences. The submission by WSS sums up this position: "We believe that sexual crimes form a continuum, and that the graded nature of sexual assault should be recognised, based on concepts of harm, injury, humiliation and degradation, and by using the well-established categories of sexual assault, aggravated sexual assault, and sexual offences" (WSS 2013).

The Criminal Law Amendment Act 2013 dealt with these concerns by introducing new offences while simultaneously retaining the offences of rape and outraging the modesty

of women.⁵⁰ This confused solution (now enshrined in the law) does two things: it draws on women's claims making on the multifarious nature of the women's experiences by recognising new offences. However, by retaining the offence of "outraging the modesty", it continues to retain the shame-honour paradigm in sexual assault law.

On the offence of rape itself, the 2013 Amendment Act did follow the JVC recommendations in expanding the definition of rape beyond peno-vaginal rape to include penile penetration of the anus, urethra and the mouth as well as penetration of the vagina, urethra and anus by any object in the definition of rape. It also included non-consensual oral sex—including non-consensual touching by the mouth of the anus, urethra and vagina—in the definition of rape (see amended Section 375, IPC). However, it did not make it gender neutral in relation to the victim, as recommended by the JVC.

A widened definition of rape/sexual assault (that is not restricted to penile-vaginal penetrative sexual assault) has consistently featured in feminist claims making over the last couple of decades. However, the case of Tarun Tejpal that ensued soon after the enactment of the new laws was to throw the re-categorised offence of rape into sharp relief. In November 2013, Tarun Tejpal, the Editor-in-Chief of the magazine *Tehelka*, was accused by a colleague of sexual assault by digital penetration which fell into the newly re-categorised offence of rape under CLA (Criminal Law Amendment) 2013 (the new Section 375 of the Indian Penal Code). CLA 2013 had also amended the IPC to remove judicial discretion in sentencing for cases of rape. Moreover, the law had expanded the category of aggravated rape to include rape by a "person in position of control or dominance" (Section 376 (2) (k), IPC), which stipulated a mandatory minimum sentence of 10 years.

In the heat of the media glare that consumed the case, there were many voices that declared the new laws as "draconian" (Joseph 2014; also see Baxi 2014). The complainant herself initially saw the offence as a case of sexual harassment in the workplace (Menon 2014). However, in a statement soon thereafter, the complainant explained her assessment of the re-categorised offence of rape in the light of her experience:

Perhaps the hardest part of this unrelentingly painful experience has been my struggle with taxonomy. I don't know if I am ready to see myself as a 'rape victim', for my colleagues, friends, supporters and critics to see me thus. It is not the victim that categorises crimes: it is the law. And in this case, the law is clear: what Mr. Tejpal did to me falls within the legal definition of rape. Now that we have a new law that broadens the definition of rape, we should stand by what we fought for. We have spoken, time and again, about how rape is not about lust or sex, but about power, privilege and entitlement. (Statement of survivor, 29 November 2013).⁵¹

Feminist commentators once again sought to make sense of the gaps between the social, legal and feminist definitions of rape and victimhood, the concomitant sentencing structures and the place of judicial discretion within the context of the new definitions. Their responses were complex and varied, reflecting diverse concerns from how the law ought to deal with a transformative conception of women's agency, to an engagement with feminist realpolitik in the light of the conception of the new laws as draconian, as well as feminism's own difficult relationship with state power.

⁵⁰ Stalking, sexual harassment, voyeurism, acid attacks, disrobing are some of the new offences that the Act recognized.

⁵¹ Available at <http://www.firstpost.com/india/full-text-tarun-tejpal-raped-me-says-victim-in-new-statement-1257311.html> (last accessed 6 January 2016).

Menon (2014) locates her assessment of the changes to the law within a framework of women's agency asserted through the "desexualisation of rape, in law and in everyday life". In the context of the complainant's statement, she notes that "the term 'rape' is extremely fraught" and that "in the new law, what would previously have been understood by even feminists as 'sexual assault', is now 'rape'". She argues that the expansion of the category of sexual assault is meaningless without a simultaneous removal of the term "rape" from legal lexicon. Moreover, because "the expanded definition of rape in the new law [was] not accompanied by any gradation of different offences in terms of severity or nature of violence", "every offence in that list [could] potentially be awarded the maximum sentence". The solution, Menon suggests, is an amendment to the law to replace the term "rape" with "criminal misconduct of varying degrees" with a graded sentencing structure (Menon 2014).

Baxi's (2014) assessment of the new law, targeted at those calling the changes "draconian", focuses on its discursive underpinnings. She argues that the new law does not grade the indignity, humiliation and heinousness of rape based on "which part of the body is used as a weapon"; rather rape is seen as "a violation of the personhood of the survivor". Further, she argues that what makes a rape an aggravated rape is not always the "evidence of aggravated violence" but the position of power that the accused person holds over the victim, whether through custody, trust or a fiduciary relationship. She asks us to reflect on how we conceive of the "real" victims of rape: "must every case of sexual violence entail the horrifying violence witnessed in 2013 Delhi?", she asks. Similarly, on sentencing, she suggests that the severity of the punishment for rape should be contextualised by the public clamour for the death penalty, especially when such severity "is seen as signalling that the state will not tolerate an intolerable offence".

While the two responses are seemingly different, one explaining the context of the changed law, and the other being far more critical of it, the discursive underpinnings of both are based on two related ideas that have informed long years of feminist claims making: removing the sting associated with rape, and moving beyond conceptions of rape centred on penile-vaginal penetration.

Other concerns such as the importance of the process of conducting investigations in cases of sexual assault have also animated feminist responses to the Tejpal case. Apoorva Kaiwar, a former member of the autonomous women's group Forum in Mumbai, reflects on the gradation of offences under the 2013 Act and its implications for the Tejpal case. She argues that solutions also lie in understanding the overall framework of how the law functions, not just in substantive terms, but also in investigative terms,

I think what is also needed to be changed is this whole notion of investigation itself, which cannot be done through law, because it is basically protocols—investigative protocols, police manuals and stuff like that....I mean the one thing was the two-finger test, and there was a judgement on that. But they did a potency test on Tejpal...so when there is a rape accusation, apparently they do a potency test!...When your definition is expanded and the allegation against Tejpal is digital rape, what potency test will you do? So this expansion has only been in definition. Nobody has understood what it means. I think what is needed is a complete revamp of the investigative protocols (interview, 22 July 2014).

Apart from the re-categorisation of rape and the protocols for investigation, feminist voices have also been critical of other aspects of the changed law, particularly the law's

translation of the feminist understanding of aggravated rape (rooted in conceptions of the power of the perpetrator), into the blanket provision of aggravated rape by a “person in authority” (Section 376 (2) (f), IPC) (Naqvi 2015). Naqvi’s criticism is targeted at the “exceptionalism carved out for sexual assault laws”, particularly when it strengthens the power of the state to criminalise and severely sentence in cases of sexual assault.⁵² While feminists have spoken in one voice against the clamour for chemical castration and the death penalty, there are also voices against other forms of legislative overreach such as the removal of judicial discretion (Satish 2015).

Similarly, there have also been critiques of the inclusion of some additional offences without proper differentiation. Apoorva Kaiwar, for instance, argues that the law has not properly differentiated between offences such as sexual harassment and sexual assault in the desire to incorporate new offences, making the new law “more confused than before” (interview, 22 July 2014). Moreover, feminist voices have also been critical of the implications of the inclusion of sexual harassment as a *criminal* offence in the new laws (the new Section 354 A in the Indian Penal Code) (Menon 2014; Naqvi 2015). The civil remedy for sexual harassment at the workplace that women’s groups had wrested from the government now stands alongside the crime of sexual harassment, which is now without the context of the workplace, which had defined the wrong in the first place. As Arvind Narrain says,

[The new law] says a man committing any of the following acts, which includes the demand or request for sexual favours, shall be guilty of the offence of sexual harassment. ... You just do that [and] you are guilty of sexual harassment. ... They have taken it from Vishaka but Vishaka is in the context of the workplace ... you kind of take the new offence from Vishaka but you construct a different kind of offence. So, the fact that this is a hotchpotch, there is no ambiguity on that, so nobody is happy with this I think (interview, 23 July 2014).⁵³

The re-categorisation of the offence of rape in CLA 2013 and the responses from feminists about what it means for “women’s experiences of rape” throws into the sharp relief the difficulty of analysing the question of state responses to women’s claims making when the law has seemingly acquiesced to feminist demands. When law reforms do not come from the same ideological frameworks as women’s claims making, and when states only partially take on board women’s claims, the interpretation of state responses too becomes the subject of politicisation. Although women’s groups largely agree about how the state should proceed in the recategorisation of the offence of rape, actual state “responses” throw up new grounds for interpretation and claims making by women’s groups.

Gender neutrality, gender inclusivity, sexual assault and Section 377 IPC

The question of gender-neutral rape and sexual assault laws has been the subject of intense debate over many decades of claims making by women’s, children’s and LGBT groups. The issue of simultaneously recognising the gendered nature of the crime of rape while upholding the bodily integrity of children, men, transgender people (and lesbian women) who have been victims of sexual violence is complicated by a homophobic culture that has not recognised the human rights of the queer community (Narrain 2012). Since December 2013, things have been further vitiated by the Supreme Court judgement which reinstated Section 377, thereby recriminalising homosexuality (Suresh Kumar Koushal and another v Naz Foundation and others SC 11 December 2013).

⁵² This critique would hold true for rape by a person in a “position of control or dominance” too (Section 376 (2) (k), IPC).

⁵³ Vishaka is a famous judgement of the Supreme Court that laid down guidelines for dealing with sexual harassment in the workplace (Vishaka and others v State of Rajasthan SC1997)

Discussions and debates around the Criminal Law Amendment Bill 2012 (which called for a gender-neutral provision for both perpetrator and victim) proved an important turning point in crystallising a consensus among groups on gender neutrality. Laying down the terms of the debate, Narrain (2012) breaks down what the term “gender neutrality” signifies by differentiating between “neutrality for the victim”, “neutrality for both the perpetrator and the victim in custodial situations” and “neutrality for the perpetrator”. In making the case for gender neutrality for the victim, he draws on the experiences of sexual violence by the transgender community to argue that the law needs to provide justice for these experiences too. Addressing critics who suggest that rape is gender specific crime—that it is conceptually a crime committed by men against women—he argues that what the transgender community experience is because of gendered norms, namely, it is a gendered crime too. In the context of custodial situations, he draws on the evidence of women as perpetrators of sexual violence to make the case for gender neutrality for both perpetrator and victim. On gender neutrality of the perpetrator per se, which is “perhaps the most controversial”, he suggests that there is no empirical evidence of sexual violence perpetrated by women and “as such there is a deep suspicion of the logic and rationale of making women liable to criminal sanctions as perpetrators in non-custodial situations, especially when there is no evidence of sexual assault”.

By the time of the JVC recommendations, it seems that women’s groups and LGBT groups had arrived at a consensus on proposals for gender neutrality by recognising the need to have gender neutrality for the victims of rape, but not for the perpetrators of rape.⁵⁴ However, this consensus was both hard fought for and somewhat uneasily held together, as we shall see below.

For a start, not all LGBT groups have spoken in one voice over the last decade about gender neutrality in sexual assault laws. For instance, early on, in 2001, PRISM, an LGBT rights group based in Delhi, was extremely critical of the gender-neutral provisions of the Bill, which was proposed soon after the Law Commission report in 2000. In its response to a meeting to review the Bill,⁵⁵ PRISM argued that the gender neutrality provision (for both perpetrator and victim) in the Bill was based on the faulty assumption that “we live in a truly equal society with systems completely blind to gender”. Moreover, they noted that “Indian women are extremely disempowered in relation to legal systems” and that the Bill “would be abused to disempower women even further”. They further argued that “lesbian relationships will become particularly vulnerable in the heterosexist, patriarchal society we live in”. The understanding that they brought to the debate was that while gender neutrality provisions recognised same sex relationships, this was in fact a “negative articulation”, which could be “seriously detrimental” to the cause of LGBT groups. Agnes (2002: 847) in her response to the same proposals also argued that such a law would inflict “even greater trauma and humiliation to an already marginalised section” and “could not be introduced on the pretext of safeguarding the rights of other marginalised segments”.

However, not all LGBT groups have been so steadfastly opposed to gender neutrality in sexual assault laws either. By the time of the 2010 Criminal Law Amendment Bill, a number of LGBT groups proposed that the law be gender neutral, for both perpetrator as

⁵⁴ For instance, see WSS 2013; Jagori 2012; Lawyer’s Collective 2012; also see N. Menon 2013.

⁵⁵ See PLD website, <http://pldindia.org/>, last accessed 20 May 2015.

well as victim. In their recommendation to the Home Ministry,⁵⁶ the groups commended the Bill's effort at widening the definition of sexual assault to include forms of violence beyond penile-vaginal penetration. It suggested that the Bill could take its own reasoning to its logical conclusion, namely, if sexual assault is about more than just penile-vaginal penetration, then it could be committed by any man or any other person. While acknowledging that women have been victims of sexual assault, the letter draws on the People's Union for Civil Liberties (PUCL)-Karnataka report (2003) to note that "sexual assault is not limited to the category of those born as women" (PUCL-K 2003: 29). Based on this, the recommendation argues,

If this is indeed the lived experience of both male and female born transgender persons, then the Sexual Assault Bill 2010 creates an opportunity to respond to these concerns. To take on board these concerns it is proposed that one makes a small change in the law such that the perpetrator can be any person and the victim can also be any person. In short, one substitutes the word person for the word man and similarly substitutes the word person for the word woman (letter to the Home Ministry, 4 July 2010, on file).⁵⁷

Among women's groups too, the uneasy consensus on gender neutrality, particularly the uneasiness with the loss of the hard-fought specificity in law of women's experiences, continues to find expression. For instance, although the WSS did, in its submission to the JVC, argue for gender neutrality for the victim, Kalyani Menon-Sen also talks of the difficulty with this claim. She says:

I have this kind of strange sense of a split world because...the notion of things changing because you have person instead of women in the law is so remote [and] even with the term women,...things are sort of invisibilised and marginalised. I do not know whether just with changing it to person it proves the point it makes. I mean it establishes a claim in that sense. But in terms of legal edge that it gives to the law, I am not sure. ...Also I do not think one can assume that the category of women as a biological and gender category is irrelevant, in terms that it is still the category which is on the front line, it is the major target of assault and all (interview, 31 July 2014).

LGBT groups too travelled some distance in arriving at the compromise of gender specificity for perpetrator by the time of the JVC recommendations. In a talk in Mumbai in 2010, Narrain's proposal for gender neutrality across the board was not received kindly by other women's groups, including LGBT groups (interview, 23 July 2014). The dialogues at the Mumbai meeting led to two sets of proposals. The first, gender neutrality for the victim and gender specificity for the perpetrator, which has now become the position that many groups accept. The second, introducing two sets of offences—one against a woman, and the second, an offence against "a person other than a woman". Narrain is sceptical of this second proposition in terms of it standing the scrutiny of legal jurisprudence. He asks, "what is this classification? How do you classify person other than woman?" Moreover, he argues that if the two offences are the same in terms of what constitutes a sexual assault, and the only thing that distinguishes the second provision is the classification of "person other than a woman", which is not legally sound, then how could we propose this to law makers? (interview with Narrain, 23 July 2014).

⁵⁶ The letter was drafted after consultations held in Chennai and Bangalore, and was also endorsed by other LGBT groups across the country. Many of the organisations that were signatory to the letter were from Bangalore, including ALF, Sangama, LesBit and Sexual Minorities Forum. See the Karnataka section below for more on these groups.

⁵⁷ The differences between LGBT groups maybe indicative of the different contexts within which these groups themselves have emerged. Groups from Karnataka, which has had a very strong base of LGBT groups, have been one of the more vocal.

Further, the introduction of a separate law would create an initial barrier for accessing justice, as victims would have to prove the category they belong to,

For you to be entitled to protection from sexual violence, first you have to prove that you are transgender....Then we come to the complicated question of who is a transgender? The other part is the question of violence on men who are not transgender in the context of custody. The further question is *kothis* who might not be considered as transgender and there could be a gay man who might be just merely effeminate and not transgender...There are a range of categories which will not get covered under this formulation so it will do injustice to this community. That is the first thing. Second thing of course is that it will do injustice. [As] Pratiksha [Baxi] puts it, you had a medicalisation in terms of the two-finger test. Now you have to medicalise it again. You see you have to prove that you are a woman and how are you going to prove that? There is going to be stripping, there is going to be what? (interview with Narrain, 23 July 2014).

Kaiwar too argues that a separate provision or law that accounts for sexual assaults by and against gay and transgender communities does not make sense. She however argues that separate provisions for women and “others” would make sense “if and only if we want to retain ‘rape’ with all its connotations as a specific offence that men commit against women and not move to using the term ‘sexual assault’ across the board. If we use the term sexual assault instead of rape, and with the understanding that we are expanding the definition of rape, then separate provisions for women and others does not make sense” (interview, 22 July 2014).

The argument she makes is that a separate law makes sense when both the categorisation of the offence and the victim are clearly defined. She says that this is what distinguishes crimes against dalits and against minorities in general, which is why having a separate law such as the Atrocities Act makes sense in law. A similar such provision for sexuality minorities would be to propose a law on hate crimes (interview, 22 July 2014).

On the other hand, some feminist groups continue to find value in having a separate section or law so that the provisions dealing with sexual assaults on women can be wholly and solely used by women. Menon-Sen argues,

I would even say a separate law is the way to go rather than seeing each law as framed in a way that encompasses everybody’s issues. I use that same logic that we used when we said we need a separate law for children. You cannot package children and women together just because it is sexual abuse. Similarly, categories like transgender, you cannot package them with women because even though it is sexual abuse the politics of that abuse, the kind of abuse, all of it is very specific and in many ways, they are subjected to abuse precisely because they are challenging the binary of gender. So I think [the group that] is challenging the binary and the group that is oppressed because of the binary cannot be packaged together into one person (interview, 31 July 2014).

Similarly, AIDWA in its recommendation to the JVC argues that, along with the deletion of Section 377, the IPC should include a new section to address penetrative sexual assault in same sex relationships. This would mean that there is “no justification for a gender-neutral provision in Section 375 of the IPC” (AIDWA 2013). Partners for Law in Development proposes a different alternative for inclusion of sexual assaults against the LGBT community. It argues that the law should retain the gender specificity of sexual assaults and, in order to account for same sex sexual assault, Section 377 should be amended accordingly to remove the “shadow of criminality” but to penalize “same sex sexual assault” by drafting the provision in gender-neutral language (PLD 2013). Interestingly, these proposals purportedly deal with a wider gamut of offences (including same sex assaults by women) than those suggesting gender neutrality for victims and gender specificity for perpetrators.

There are further nuances that LGBT groups have to offer to the debates on gender neutrality and gender specificity. Shubha Chacko, Director of Aneka,⁵⁸ argues that sexuality minority groups such as hers prefer to talk in terms of “gender inclusivity” rather than gender neutrality or specificity (interview, 24 July 2014). In fact, this is the language used by sexuality minorities groups (largely from Karnataka) in their recommendations on the Criminal Law Amendment Bill 2012. The understanding of inclusivity that LGBT groups bring to the table acknowledges the problems of neutrality from a feminist perspective, namely, that neutrality invariably means an erasure and invisibilisation of women from the law. However, the “solution to this erasure”—“gender specificity”—is not *inclusive* of the violations that LGBT persons face. In a sense, LGBT groups use the logic of feminism, of making visible and including women’s voices and experiences, to make the same case for the LGBT community. However, the law incorporates this understanding by recognising the figure of the LGBT person in the term, “person”,

We welcome the suggested recommendations of J. Verma with respect to the Criminal Law (Amendment) Bill, 2012 and in particular would like to endorse the proposal to make the offence of rape gender inclusive. We think it is historic that for the first time all LGBTI [Lesbian, Gay, Bisexual, Transgender, Intersex] persons have come within the protection of the criminal law through the usage of the word “person” (rather than the gender specific word “woman”) to describe all victims of sexual assault under the proposed Section 375 and Section 376 ... The use of the word “person” implicitly recognises the unacknowledged history of sexual assault to which LGBTI persons have been subjected to (letter to the Standing Committee of the Rajya Sabha, dated 27 Jan, 2013, on file).

However, while the law may be able to include sexuality minority groups, such inclusion does not necessarily translate into an understanding of the diversity of experiences of violence faced by sexuality minority communities. Sumathi Murthy, founder member of the lesbian, bisexual and transgender group, LesBit in Bangalore argues,

You have to complicate the entire debate and then try and make provisions. [I do] not have an answer [whether] should we have a separate law—we do not know. Should we have sub clauses—we do not know, but what we are trying to make you [reflect on] are that these are the problems [with gender specificity]. Sex workers do not get covered, F to Ms [Female to Male Transsexuals] do not get covered, trans-women do not get covered, and intersex people do not get covered. Plus, you also have to understand that all these four categories, they do not undergo the same kind of sexual assault as it is with women. ...When we spoke about this with LesBit Group, the first response [by transmen] was “we are men, we will not get raped”. Second thing even if I undergo something like that because I am a man I cannot tell you, I will not tell you. Third thing, I am already doing this work [sex work], so who will recognise what is my violence? ... I am saying we have to think [in a more] nuanced [fashion]. Person is definitely any day better because whether it is a trans-person or a woman or whomever, female body, male body [they are included]. But still experiences are not the same. Just by changing a word, I do not know if you are going to capture the experience of all. Just by changing a word I do not know if you are going to be inclusive, I have my doubts there. (interview, 24 July 2014).

The various interventions by feminist and sexuality minority groups illustrate the complicated and contested terrain of claims making on rape and sexual assault that seeks to account for a diversity of experiences. If we ask the question in Fraser’s (1989) terms, “What is the better or worse interpretation of people’s needs?”, then we may need to consider both the “procedural” as well as the “consequential” aspects of claims making on gender neutrality. From this perspective, it would seem that the fragile consensus that has been arrived at might best represent both of these considerations.

⁵⁸ An organisation based in Bangalore that works with sexuality minorities.

However, the fragility of the consensus also illustrates the need for a constant and iterative process of democratic deliberation and reinterpretation of claims making among feminist publics too. At the moment, this fragile consensus on gender neutrality for the victim remains to be tested as the Criminal Law Amendment Act 2013 has now reverted to the old provision of gender specificity for both victim and perpetrator.

Age of consent and juvenile justice

Another of the issues that proved contentious in the recent mobilisations for law reform was the question of the age of consent. This issue was notable for being fiercely contested in the public domain by conservative discourses on young adult sexuality pitted against most women's and child rights groups. The Protection of Children from Sexual Offences Act (POCSO) 2012 had, in November of that year, raised the age of consent to 18 from 16. When the Criminal Law Amendment Bill 2012 came up for debate in the aftermath of the events of December 2012, several women's and child rights groups called for the new law to reverse this change. The assumption behind the raising of the age of consent to 18 in POCSO is that a person below the age of 18 is sexually inactive and that their sexual encounters amounts to the harmful violation of sexual autonomy of a person (Arora and Singh 2012). In other words, the Act considers persons below 18 years of age as children and incapable of giving consent to a sexual act. However, the argument made by child rights and women's rights groups was that by criminalising sexual acts between consenting young adults, the Act in fact places them in a vulnerable position, particularly if they do not have consent from their family and society. Moreover, as women's groups had been arguing for several years, the age of consent provisions have in fact been abused by being used not to prevent non-consensual sexual intercourse with a child, but to police transgressive relations between consenting young adults, especially those that transgress boundaries of caste and religion. Increasing the age of consent only brought more such relationships under the ambit of the law (Baxi 2009; Agnes 2013).

In their submissions to the Justice Verma Committee, women's and child rights groups sought to reverse the age of consent from 18 to 16.59 As Vrinda Grover (2013) notes, increasing the age of consent to 18 years only creates further conditions for the misuse of the provision, "particularly in the context of inter-caste/inter-religious relationships that attract social disapproval". She argues, "It is well borne out from court cases that criminal cases of rape, abduction and kidnapping are frequently foisted upon young boys/men in situations, where the young boy and girl have exercised their right to choice, often against parental sanction" (Grover 2013).

Krishnan too echoes this argument,

Raising the age of consent has actually been disastrous. We have seen this in Haryana and Muzaffarnagar in cases of consensual relationships between teenagers especially where the boys are from a dalit caste or Muslim community respectively. In Haryana every Jat whose daughter falls in love with a dalit boy will always say that the dalit boy is a rapist. It has always been the case. In Muzaffarnagar every Muslim who befriends a Hindu girl is a rapist. So it is really quite disastrous (interview, 15 May 2014).

Although the JVC was persuaded with the arguments put forth by women's groups and child rights groups and recommended a lowering of the age of consent to 16, and despite the pressure from most of the women's groups across the country, the Criminal

⁵⁹ See PLD 2013; WSS 2013; Jagori 2012; Grover 2013; Saheli Women's Resource Centre 2013; interview with Bharti Ali, 19 May 2014.

Law Amendment Act 2013 did not heed the recommendations of women's and children's groups to lower the age of consent to the previously stipulated age of 16.

A further claim that was raised by child rights groups and supported by the women's groups was for the proper implementation of Juvenile Justice Act. In the wake of the December 16 events, in which one of those convicted of rape was a juvenile offender, there was a clamour for a harsher punishment to be meted out to juveniles by reducing the age of criminal responsibility. Based on the Child Rights Convention 1989, the Juvenile Justice Act makes special provision for the protection and care of children who are in state custody, as well as prevention and rehabilitation in cases of juvenile delinquency. Bharti Ali from HAQ notes: "Our engagement after the [Dec 16] case was with both women's groups and within child rights' groups. As child rights' groups, we were defending the Juvenile Justice Act. We did not want any dilution in the Juvenile Justice Act and that is a stand which even the Justice Verma Committee took. That is a stand many women's rights groups were also taking" (interview, 19 May 2014). Bharti Ali explains the impact of adult jails on young offenders:

I am talking about 16 to 18, so there is always a tendency in the police to treat them as adults and send them to Tihar [jail]. Once you have been to an adult jail and then if you are shifted to an institution which is meant for children, it does not work. It does not help because the way you have been treated [in Tihar jail], what you have seen there is what you bring to the other institution which is meant for children. You have already been hardened [during the] months when they languish in Tihar till they get transferred to the appropriate institution. As a result there is a lot of violence in the observation homes. The names that keep coming up for those who create violence are all those boys who have been transferred from adult jail to the observation homes and we need to understand this (interview, 19 May 2014).

While, as Bharti Ali mentions, this recommendation by women's groups was taken seriously by the JVC, the new National Democratic Alliance (NDA) government that has come into power since the general elections of May 2014, as well as the preceding one, persisted with proposals to try juvenile offenders as adults.

The tightrope that women's and child rights groups walk when asking for a reduction in the age of consent, while keeping the age of adult criminal responsibility is also one that is walked by conservative claims making (except in reverse). Over the last year, the battle lines were tipped in favour of claims favouring the status quo with the NDA government drawing up the new Juvenile Justice (Care and Protection of Children) Bill, 2015 which has a provision that allows juvenile aged between 16 and 18 years who are accused of heinous crimes like rape and murder to be tried under the Indian Penal Code, that is, under the adult criminal justice system (interview with Kavita Krishnan, 15 May 2015). In December 2015—with the prospect of the release of the juvenile offender in the Nirbhaya case—the Bill was passed by both houses of Parliament, in spite of the left parties in the Rajya Sabha staging a walkout and calling for the Bill to be sent to a Select Committee.

Marital rape

From the early days of the anti-rape campaign, there has seemingly been a consensus among women's groups in their calls for the criminalisation of marital rape through the removal of the exception to marital rape contained in Section 375 of the IPC. This is reflected in the calls for its criminalisation in the slew of Bills drawn up by women's groups, including the NCW Bill, AIDWA Bill as well as in the representations made by women's groups to the Law Commission in 2000. Moreover, in their representations to

the JVC in December 2012/January 2013, most women's groups included the demand for the criminalisation of marital rape.⁶⁰

The Justice Verma Committee, after taking cognisance of the various recommendations, and surveying laws across the world, recommended the removal of the exception to rape within marriage, thereby criminalising marital rape (JVC 2013: 113-118). However this recommendation was not accepted by the CLA 2013 in its entirety. However, it did criminalise (through the new Section 367B, IPC) marital rape against a wife who is above 15 years in cases when the spouses are living separately, whether or not under a judicial order (the courts had previously recognised marital rape in the context of spouses living separately under a judicial decree). Moreover, where the wife is below 15 years of age, marital rape was criminalised regardless of whether the spouses were cohabiting. Further, the sentence for marital rape (in these limited contexts) was increased from a maximum of two years in 2013, to that of two to seven years (CLA 2013; Mehra 2013b, 2015).

Feminists have theorised on the reasons for the intractability that the issue of marital rape has had with the law. Veena Das has argued that it is because of the conceptualisations of male desire as “natural” and “normal” and the “female body as the natural site on which this desire is to be enacted”. She argues therefore that “women are not seen as desiring subjects in the rape law [and] as wives they do not have the right to withhold consent from their husbands” (Das 1996: 242).

Supporters of the government's refusal to criminalise marital rape point to the difficulties of prosecuting marital rape and the risks of its misuse. Some activists acknowledge that it is hard to prove rape among married women, but argue this is not a good enough reason to deny women a legal framework to fight sexual abuse. “A murder is also hard to prove”, says Vrinda Grover. “But that doesn't deny victims from seeking legal recourse” (Grover 2013). Even so, the question of how to deal with the entrenched position of the state against the criminalisation of marital rape continues to vex feminists. Vani Subramanian asks, “I mean since the 2013 Act does not say yes to marital rape, then, for instance, can we use DV [the Domestic Violence Act] to get that in? I think there is a lot more strategising and thinking that needs to be done” (interview, 23 August 2014).

This interest in examining the various remedies offered by the law comes from a desire to recognise and name the wrong of marital rape as a wrong against the bodily integrity and autonomy of women, and to provide justice to victims of rape within marriage. Amid this landscape of a seeming consensus on the criminalisation of marital rape however, there have a growing number of voices expressing concerns over the “singular focus” on the *criminalisation* of marital rape by women's groups (Mehra 2015; N. Menon 2013). Nivedita Menon (2013) asks, “if a marriage is violent, that must be grounds for divorce, but what are we saying when we insist it be treated as a crime? Is it preferable for a woman to have a husband in prison than be divorced? Does the idea of marital rape as a crime in fact protect the institution of marriage?” Menon draws on the arguments of Rohini Hensman, who suggests that we examine what we mean when we say “recognition of marital rape”—does this entail asking the state to ensure that all marriages in India are consensual, and if so, how? Based on this argument, Menon suggests that in a context of the “inherent violence of compulsory marriage”,

⁶⁰ See, for instance, WSS 2013; ALF 2013; Grover 2013; Jagori 2013; PLD 2013; also interview with Kavita Krishnan, 15 May 2014.

criminalising marital rape “rather than treating it as grounds for divorce may still leave ‘the impunity of the citadel’ of marriage intact” (N. Menon 2013).

In their responses to Menon, Apoorva Kaiwar and Kavita Krishnan argue that criminalising marital rape does not preclude the option of civil remedies to rape (such as divorce). Further, they bring the focus back from the nature of marriage (and whether or not it is compulsory) to the nature of the act and whether it violates the bodily integrity of women. In this sense, they argue that criminalising marital rape recognises the wrong that it is in law, whether or not it is in the context of compulsory marriage (N. Menon 2013).

To this, Menon comes back to feminist praxis: “if we [feminists] politically and theoretically confront head-on the institution of compulsory (heterosexual) marriage, within which precisely, consent of the woman for everything is taken for granted, then... can we demand that all marriages have to be decided with the consent of the two people concerned?” The understanding that the battleground lies in the heteronormative conception of compulsory marriage, rather than the “singular focus” on the criminal law of rape, is echoed by feminists such as Madhu Mehra. Mehra (2015) draws on her work with grassroots level social workers, lawyers and service providers to argue that the a priori frame of marital rape may not be useful to understand the experiences of women in marriage,

To understand how patriarchy controls sexuality within marriage, and its impact on women, it was important to broaden the question to include all kinds of problems women raise with social workers in relation to sexuality within marriage. Only through a broader dialogue, can we hope to understand ways by which heteropatriarchy shapes sexuality, desire within marriage, and which aspects of these are oppressive to women....The campaign [on marital rape] must embrace all aspects that control and stigmatise sexuality, without being limited to select types of sexual violence. It must treat sexual discontent, lack of sexual agency and revulsion towards non-normative sexual acts as concerns significant enough to engage with. More importantly, with sex being a necessary condition of marriage, and with women’s sexuality framed primarily in relation to marriage, the law cannot be the starting point of this conversation. We must seek to prioritise sexuality in our work in relation to gender, equality and on sexual violence, exploring strategies outside of the law to dialogue, challenge, raise consciousness on these issues (Mehra 2015: 10 -11).

However, while there is much ground for feminist praxis to cover, particularly in terms of analysing the relationship between sexuality and marriage in its myriad complexities, as Nivedita Menon (2013) suggests, through and in conversation with other feminists on the criminalisation of marital rape, “we are in fact opening up and denaturalizing the institution of marriage as a public one, subject to the public demands of our Constitution and the norms of democratic functioning—which can go a far way in exposing its naturalized compulsory character” (N. Menon 2013).

The conversations and debates among feminists on marital rape are indicative of the complex terrain that feminist claims making has to navigate, even in what is seemingly a claim on which there has been a long-standing feminist consensus.

State impunity and immunity: Armed Forces Special Powers Act

Allegations of sexual violence against security personnel including the Indian army, the Border Security Force (BSF), and the Central Reserve Police Force (CRPF) frequently surface in the states of northeast, Jammu and Kashmir, and even Chhattisgarh, where there is the presence of the Central Armed Police Force. However, these forces enjoy immunity from prosecution in civilian courts due to the special powers awarded to them under the Armed Forces Special Powers Act. Indeed, the Act provides for special

powers such as the right to shoot with the aim to kill, and the requirement of prior sanction from the central government to institute any legal proceedings.

Women's and human rights activists have demanded the removal of these special powers on account of mass misuse in terrorizing citizens in troubled areas. There have been grave allegations of mass rape and sexual assault against the armed forces, to name a few: Kunan-Poshpara, Kashmir in February 1991, rape and murder in Shopian in Kashmir in May 2009, and the brutal sexual assault and killing of Thangjam Manorama in Manipur in July 2004. It highlights the irony and enduring contradiction between the state's attempts to "secure" territories that have become synonymous with bodily insecurity for women of the same region (Kazi 2009; Singh and Butalia 2012). Bhasin (2013:13) observes that despite grave human rights violations, such special powers are legitimized in the name of "national interest", "in the line of duty" and "upholding the morale of the security forces". The state's unwillingness to acknowledge the high incidence of rape by security forces reflects the deliberate connivance and callousness of the state towards the violence perpetuated by their security forces (Bhasin 2013:14). Justice for victims and survivors of rapes is only possible if the immunities provided in the Act are abolished. Grover (2013) states that: "this discretionary power has been exercised by the Central Government to block all prosecution of any human rights violations, including rape, torture, enforced disappearances and extra judicial killings of civilians. This is reinforced by the ordinary law under The Code of Criminal Procedure, 1973, through Ss. 197 (2), 132 and 45. Section 197 Cr. P.C".

Autonomous women's groups and human rights groups—AIPWA, CCSA, Saheli, and ALF—have been unanimously demanding the repeal of the Act to control the excesses of the Armed Forces and to make them accountable. In 2009, a nation-wide network called Women against State Repression and Sexual Assault was created in Bhopal by women's groups, human rights groups, mass organisations and youth groups. As Menon-Sen, national coordinator of WSS recounts, "We started in 2009 after the Thangjam Manorama incident when a lot of us felt ... there really is not a strong voice and a total condemnation [of state violence]. So everybody who was at that meeting said 'okay we will form a platform called WSS'" (interview, 31 July 2014).

The network condemns the violence against women committed by the police, the military, paramilitary and other security forces in regions demarcated by the state as being "insurgency affected". It mobilises efforts to bring to light atrocities against women from the understanding of state repression and has taken up several cases. One of them is the case of Soni Sori, a school teacher from Datewada, Chhattisgarh, who was arrested in 2011 on the charges of being a messenger for Maoists in Delhi. She was raped and tortured by the police under custody, to the extent that stones were found in her private parts during the medical examination (Safvi 2013). Similar other cases from conflict regions affected by Naxalism, from the northeast and from Kashmir have strengthened the resolve of the women's movement against the state's draconian laws. Irom Sharmila, known as the Iron lady of Manipur, undertook an unprecedented protest against AFSPA with an indefinite fast on 3 November 2000, a day after 10 persons were killed by the Assam Rifles (one of the Indian Paramilitary forces operating in Manipur). Since then she is being force-fed by the police to keep her alive. Now in her 15th year of fast, Sharmila has managed to shake the world but has failed to sensitise the state. She has instead been charged with the crime of "attempt to commit suicide" (Teltumbde 2013).

Although the JVC recommended the repeal of AFSPA, the Criminal Law Amendment Act 2013 refused to renegotiate the terms of immunity. This was another issue, like the

issue of marital rape that received short shrift by the state. As Nilanju from Jagori recalls, “We tried very much to repeal AFSPA. And that was one of the issues [that] everybody agreed with but we just could not—like marital rape again, we just could not push it across” (interview 12 Aug 2014).

Women with disabilities and sexual violence

Disability increases the vulnerability and the risk of women and children to sexual assault. Women with disabilities—with limited mobility, hearing, speech or visual impairments or limited intellectual capabilities—may be dependent on their caregivers, making them easy targets for the caregivers themselves, family members and even strangers. Perpetrators sexually exploit women with cognitive disabilities because of their inability to understand, communicate, or due to the low credibility attached to their accounts (Elman 2005). Further, disabled women represent soft targets as it is often easy for perpetrators to get away with the sexual crime (Salelkar 2013; CREA, n.d.).

Indeed, sexual violence against disabled women is rampant but highly unreported (Sengupta and Mandal 2013; Raha 2009). However, there is no national-level data to prove the high incidence of violence against disabled women; the National Crimes Record Bureau (NCRB) does not have a separate category for the disabled (unlike with SC/ST communities). But the magnitude of the problem can be gauged from several cases reported in 2012 in the state of West Bengal alone (JVC submission by the disability groups, 2013).

Women with disabilities who experience sexual violence face all the systemic discriminations that women in general face from the society and state structures, but they also face additional issues as a result of their physical and mental limitations—the compounded vulnerability due to their dependency on others, as well as the prejudices and the discriminations due to their disabilities. Renu Addlakha, researcher, feminist and disability rights activist at CWDS, describes the stereotypes associated with disabled people and the external limitations that work against their rights,

She is disabled so who would be interested in her sexuality, since her primary identity is that of a disabled person. So breaking that stereotype is very important and secondly, when a disabled woman goes to a police station, the credibility of her statement is doubted and [she is] often disadvantaged with the fact that there are no hearing, sign language interpreters. If she is deaf, how does she act without assistance? If she is blind, who takes her to the police station? If she is a wheelchair bound, how can she get into the police station which are often inaccessible areas? So I think the issue needs to be brought forth. Some of the provisions are there and some of the strategies available to assist women who have been molested to come out are there but they need to be given greater prominence (interview, 9 July 2014).

Mandal (2013) also examine the ways in which evidentiary value is accorded to a disabled woman’s testimony by examining court judgements on rape cases. Most notably, a disabled victim’s testimony was normally not recorded during the trial or, if recorded, proper procedures were not followed, consequently weakening the prosecution case and resulting in acquittal. The perceptions of the authorities are also prejudiced against disabled women, who are seen as promiscuous with uncontrolled sexual desire and who falsely charge men with sexual assault (Mandal 2013).

The Supreme Court of India expressed anguish at the repeated rape of a mentally ill woman in the case of *Tulshidas Kanolkar v State of Goa*. The judge drew attention to the aggravated nature of sexual violence especially when the victim is mentally challenged, as the mental age of the victim may even be less than a 12-year-old child

(Raha 2009). Similarly, disability groups and women's groups have demanded designating sexual violence against disabled women as "aggravated violence". However, even if sexual violence against disabled women is designated as "aggravated violence", it will have no meaning unless importance is given to the disabled women's testimony by police and in courts (Mandal 2013). Taking cognisance of the aggravated nature of violence against disabled women, the government has specifically included women with mental or physical disability under section 376 of the IPC through the Criminal Law Amendment Act 2013.⁶¹ New provisions have also been drawn up under the Code of Criminal Procedure 1973 for the assistance of an interpreter or a special educator in recording the statements of a mentally challenged or a physically disabled person, and these statements are to be video-graphed.

In terms of the relationship of the women's movement with disability rights, although many of the interviewees reflected on the importance of the issue, the mobilisation on the question of sexual violence and disability have been limited. There are, however, some feminists who have engaged with the question of disability. Nandini Rao of WSS and CCSA says,

Another area which I am working on, which I have been working for a while, is gender and disability. For women with disabilities, violence is like all-pervasive, it is there in every aspect of their lives, so again [working with disabled women]—training women to become trainers. I have done some work with deaf women, training them to be gender trainers in sign languages on issues of gender, patriarchy, violence against women, sexuality and so now that work continues with people with various kinds of multiple disabilities (interview, 24 March 2014).

Renu Addlakha puts the onus of carrying forward the claims associated with the particular forms of violence faced by disabled women on the disability rights movement, rather than on the women's movement. She however observes that the disability rights movement is a fractured movement still dominated by patriarchal notions, "This needs to be made an issue by the disability rights movement. Women's movement has mentioned it. It has come in the Verma Report but now it is not the women's movement call any more. It is the disability women's call and that still is largely patriarchally bound" (interview, 9 July 2014).

Communal violence and related mobilisations

Incidents of communal violence, especially the 1984 Sikh riots in Delhi and the violence in 1992-1993 in major cities of India after the demolition of Babri Mosque, brought to light the sexual atrocities on women during such violence. The 2002 communal violence in Gujarat presented a further assault on the women belonging to the minority community. Rapes during collective violence are carried out with the intention of shaming and dishonouring an entire community (Sarkar 2002). However, the Indian law and criminal procedures have been silent on making any special effort to bring justice to victims, who live in a situation of terror and intimidation. After the communal violence in Gujarat in 2002, women's groups got together to push through legislations to deal with sexual violence during communal violence. As Menon-Sen says, "Immediately after Gujarat, there was a huge mobilisation around violence as a tool of communal hatred. Apart from [dealing with] all the cases of sexual violence, looking at the Communal Violence Bill was one big activity" (interview, 31 July 2014).

⁶¹ Section 376 deals with punishment for rape. The Criminal Law Amendment Act 2013 included Section 376 (2) (l) which reads, "whoever commits rape on a woman suffering from mental or physical disability shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine."

In May 2004, the National Common Minimum Programme issued by the United Progressive Alliance (UPA) government had promised a comprehensive legislation on communal violence. The first draft of the bill was introduced in 2005, then named the Communal Violence (Suppression) Bill 2005.⁶² However, due to widespread criticism of the Bill of being weak and toothless, it was referred to the Parliamentary Standing Committee on Home Affairs for its review and recommendations. The committee took suggestions from its chosen civil society representatives and did not make the process transparent and participatory enough to allow other members of the civil society to suggest changes. It finally submitted its report in December 2006 with only cosmetic changes to the draft Bill and did not consider the serious concerns expressed against the Bill.

Civil society organisations in Delhi responded by organising two national consultations in 2007 and in 2009, whereby specific changes were suggested to the Bill (Anhad 2010). Some of the organisations who participated in the consultations were Anhad (Delhi and Gujarat), PUCL, Jagori, Saheli, Human Rights Law Network, Centre for Social Justice (Gujarat) and the Bharatiya Muslim Mahila Andolan (Mumbai). Individual human rights activists such as Vrinda Grover, Usha Ramanathan and Kavita Srivastava also attended the meetings (SACW 2012). Civil society groups were formed to directly engage with the government, while other groups organised mass campaigns, such as public meetings and signature campaigns, in their respective states (SACW 2012).

The UPA government redrafted the bill, and proposed the new Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill 2013, to cover hate propaganda, funding of communal violence, torture and dereliction of duty by a public servant as offences. Accountability of bureaucrats and public servants had also been introduced for acts of omission and commission, before, during and after the riots. The concept of command responsibility for senior officials failing to control their subordinates is also an important feature of the Bill. This Bill was fiercely debated in Parliament in February 2014 on the grounds that it went against the principles of the federalism, with claims that it allowed the centre to usurp the power to legislate on “law and order” which is the legislative domain of states (see newspaper reports, *The Hindu*, 5-6 February 2014). However, the criticism from women’s groups was that the Bill actually gave too much power to the state, by creating “communally disturbed areas” much like the AFSPA and “giving more power to the same state machinery which has been found to be institutionally biased and complicit” (Vrinda Grover talk, November 2013). With the change in the ruling political party at the central level on May 2014, the Communal Violence Bill has run into more obstacles as the current party of government has consistently opposed the Bill since 2005.

Dalit women’s movement and sexual violence

We would share the agony and pain of dalit women at the national women’s movement’s platform. But that voice was never heard. We used to feel very hurt that there is a section of women who as a result of the age old caste practices do not get respect, they do not have better livelihood options, and this impacts their lives. But you do not want to listen to their voices! It was then, in 1990-91 that we decided we need a separate platform for dalit women (interview with Vimal Thorat, 1 September 2014, translated from Hindi).

The early 1990s saw the emergence of dalit women’s organisations locally as well as nationally (Rege 1998). The factors that led to this emergence were both external and internal (Guru 1995). Among the internal reasons for the emergence of dalit women’s groups was the alienation that they felt within the dalit movement itself, particularly

⁶² See WRAG India website, <http://www.wragindia.org/>, last accessed 20 March 2016.

within the Dalit Panther movement which began in the 1970s but where the gendered role of women as “mothers” and “victimised sexual being” dominated the discourse.⁶³

Among the external reasons were feelings of alienation of dalit women from the autonomous women’s movement (Guru 1995). Rege explains this in terms of dalit women’s need to assert their “otherness” or “difference” from the homogenizing discourses of the mainstream women’s movement, wherein issues of sexuality were defined largely within an individualistic and lifestyle framework (Rege 1998: WS-43). Taking the example of rape, Guru explains this difference in experience from a caste perspective: “The question of rape cannot be grasped merely in terms of class, criminality, or as a psychological aberration or an illustration of the male violence. The caste factor also has to be taken into account which makes sexual violence against dalit or tribal women much more severe in terms of intensity and magnitude” (Guru 1995: 2548).

Sharmila Rege (2000) also makes a distinction between “addressing the issues” of women belonging to dalit, tribal, or minority community as in the cases of Mathura, a tribal girl, or Bhanwari, a woman worker belonging to dalit community, and the “re-visioning of politics” based on the issues of marginalised women.⁶⁴ Vani Subramanian, a long-standing member of Saheli, an autonomous women’s group in Delhi, recognises this failing in the engagement with dalit women’s issues,

There has been a critique of how in Mathura we never looked at her as being tribal, as being dalit The framework is state repression...and there are a slew of such cases, like Manorama⁶⁵. ...Bhanwari we never talked of as a caste victim, we talked about Bhanwari as caste violence but we never talked of her as caste victim, being a distinction. Again, we talked about Bhanwari as being an employee of the state (interview, 23 August 2014).

During the 1980s, the principal analytical framework to understand violence against women was patriarchy (Vijayalakshmi 2005).⁶⁶ Emphasis was laid on the *commonness of women’s experience* due to the all-pervasive system of patriarchy cutting across caste, religion and identity. Thus, women’s identity was constructed in the singular under the overarching framework of patriarchy and class; however, caste and religion were taken as categories to be transcended. Vijayalakshmi (2005) calls this position the anti-essentialist position by which the autonomous women’s movement found it difficult to accept plurality of women’s experiences and positions emanating from several other identities.⁶⁷ The underlying sentiment among autonomous women’s organisations was that violence against women had to be fought autonomously from other oppressions. This is reflected in the report of the National Conference on Women’s Liberation held in Bombay in 1988: “We started with the basic insight that violence is inherent in all social structures of society like class, caste, religion, ethnicity, etc., and in the way the state controls people. However, within all those general structures of violence, women suffer violence in a gender specific way and patriarchal violence permeates and promotes other forms of violence” (quoted in Desai 1997: 114-116).

However, class as a framework of analysis had not been entirely ignored. Rege (1998) highlights that the autonomous women’s organisations challenged the emphasis of the

⁶³ Rege 1998; Chigateri 2004; interview with Vimal Thorat, 1 September 2014.

⁶⁴ Bhanwari Devi was a dalit social-worker employed under the Rajasthan state’s Mahila Samakhya Programme. She was gang raped in 1992 by higher-caste men angered by her efforts to prevent a child marriage in their family.

⁶⁵ Thangjam Manorama was a Manipuri woman who on 10 July 2004, was picked up from her home by the paramilitary unit, 17th Assam Rifles on uncertain allegations. The next morning, she was found brutally raped and murdered.

⁶⁶ Also see section above on the claims making of the 1980s.

⁶⁷ Desai 1997; Rege 1998; Agnes 1994.

left on class, but at the same time also accepted the materialistic framework as imperative for the analysis of women's oppression in the Indian context. This combination of patriarchy and class within the feminist analytical framework is noted by Phadke: "It was assumed that affiliations with the women's movement were based on gender and positions of difference were articulately largely on grounds of class rather than caste or religious community" (2003: 4571).

National-level meetings of dalit women were held in Bangalore, Delhi and Pune during the late 1980s and early 1990s in order to address the lack of voice and representation of dalit women in feminist politics and within the dalit movement (interview with Vimal Thorat, 01 September 2014). This culminated in the first independent and autonomous dalit women's mobilisation in the form of National Federation of Dalit Women at Delhi in 1995. Subsequently, many other dalit women's organisations were formed during the 1990s at national and state levels: the All India Dalit Women's Forum, the Bahujan Mahila Parishad in 1994, the Maharashtra Dalit Mahila Sanghatana in 1995, and Vikas Vanchit Dalit Mahila Parishad in 1996 (Rege 1998). The NFDW in the meanwhile was spreading its network across the country and included in its fold all small and large dalit women's organisations, and individual activists.

Box 1: UN Conference against Racism and other Related Discrimination, 2001, Durban

The United Nations Conference Against Racism and Other Related Discrimination, held in 2001 in Durban, was a major event around which mobilisations on dalit identity occurred. The conference elicited debates about the relationship between race and caste but were situated in the realpolitik of focussing international attention on the condition of dalit communities in India.^a

Vimal Thorat describes the importance of the Durban conference in her interview,

It was the first time that the caste issue was heard. Three hundred of us had reached Durban with a lot of efforts, and UN also helped us a lot. And when on reaching there we organized seminars and workshops on our issues, many people attended them and understood what untouchability was and the impact of untouchability on people's representation, and the discrimination, humiliations and atrocities that they have to face. The world media highlighted our case. This event still reassures us that thousands of activists from different nations and different places belonging to different groups, races and communities understood our problem and even shouted slogans with us 'down down caste system'. So the impact of all this was that the Indian government began to listen to us, the women's organisations also began to show some sensitivity. They realized that if at the Durban conference we were heard, then there is some meaning to it, something to be heard. Then gradually we began to receive strong support here (translated from Hindi, 1 September 2014).

The Durban conference was a turning point for dalit politics in India. Dalit groups claimed the space provided by an international conference to bring pressure on the government and on civil society to recognize their issues, claims and efforts. However, the fallout for taking their claims to international platforms for dalit women's groups, especially the NFDW, were heavy. Vimal Thorat notes that the sources of funding for the NFDW dried up after the Durban conference, leading to a slowing down of its work with dalit women (Feedback meeting, ISST, 22 October 2014).

a. See the December 2001 volume of the journal Seminar; Omvedt 2001a, 2001b; Chigateri 2004.

The NAWO is a forum that has been presenting the voices of the dalit women at international platforms such as the Beijing conferences and as alternative reports for the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) committee. According to Laxmi Vivek from NAWO, dalit organisations and other organisations working with the marginalised deal directly with dalit communities and bring their issues forward to the network. Vrinda Grover, a human rights advocate, who is also an active part of NAWO, drew JVC's attention to the specific issues of dalit women, especially concerning the non-implementation of the SC/ST Atrocities Act, the

changes needed in the criminal proceedings in the method of investigations by the police, and the protection of evidence to ensure that dalit women who are victims of sexual assaults are able to see justice (interview with Laxmi Vivek, 4 August 2014).

In 2014, Women against Sexual Violence and State Repression produced a report on the links between land, caste and sexual violence against dalit girls and women in Haryana (WSS 2014). The report sought to “expose and understand the ongoing onslaught of sexual violence against dalit girls and women in the state of Haryana” (WSS 2014: 2) through interviews with survivors of sexual violence and their families who are fighting for justice in different districts (Rohtak, Hisar, Jind, Karnal and Kurukshetra). It locates the responses to violence against dalit women in Haryana against the uproar that accompanied the brutal rape in December 2012 in Delhi. It is worth quoting this in full:

In October 2012, dalit activists from media watch groups created a map of Haryana with the title ‘30 Days in a Rape State’ with locations and basic information on the rape of 19 Dalit girls that had been perpetrated in several districts during that month. This was followed by a list of 101 cases from across the country, gleaned from English newspapers and circulated on 30 August 2013. An updated version of this list was circulated two months later, with the number of cases at 180—an increase by 80 percent in just two months. The day that this updated list was published—16 December 2013—marked the first anniversary of the fatal gang rape in Delhi that shocked the nation and created ripples across the world. In sharp contrast to the anger and outrage over the Delhi tragedy, public and media reactions to the equally horrifying ordeals of Dalit girls and women have been muted. Their stories receive only a cursory mention in the media and are seldom followed up with any seriousness. The wider public has not shown any serious concern. Even women’s movements across the country have not been able to respond to this explosion of sexual violence in Haryana in any sustained manner (WSS 2014: 2).

The WSS report also locates the Prevention of Atrocities Act, 1989 (POA) and the ways in which the Act defines crimes against dalit communities, including sexual violence against dalit women. With reference to “sexual assault of women from SC/ST communities”, the report suggests that the Act distinguishes between “rape” and “rape as atrocity”. An atrocity under this Act is one that is committed by non-dalits against dalits. However, the ways in which the law has been implemented by the court has not always reflected the principles with which the law was enacted. As the report suggests, courts “have dismissed charges of rape under the PoA Act on the grounds that the assaulters did not know that the raped woman was a Dalit; that the assaulters were acting out of lust or sexual desire, and therefore the case was of ‘mere’ rape and not a deliberate atrocity; or by refusing to acknowledge the experiential social context of the aggrieved woman” (WSS 2014: 20).

In their submissions to the JVC, dalit women’s groups, as well as other women’s and human rights groups, focused on the poor implementation of the PoA and made recommendations in the proposed criminal law to deal with sexual violence against dalit women. One of the recommendations made by Asha Kowtal, General Secretary of the All India Dalit Mahila Adhikar Manch, was for the new law to provide guidelines to file cases immediately under POA. She also recommended that the new legislation should ensure proper protection and full rehabilitation of the victims and their families. Groups such as WSS proposed categorising sexual violence against dalit women as aggravated sexual assault. However, neither the JVC nor the Criminal Law Amendment Act that followed took these recommendations on board.

3.1.8 Processes of mobilisation

As seen in the previous sections, an integral component of claim makings is the process of mobilisation by civil society organisations in terms of their engagement with the

state, among themselves, and in terms of mobilising public opinion. Women's groups have strategised in various ways to draw attention to the issue of violence against women, whether through conferences after key events (such as the national conference in Mumbai for the Mathura case), rallies, street plays, or submitting recommendations to legislative bodies (for example, the Justice Verma Committee). In this section, some of these processes will be explored to describe the range of methods used by women's groups, but also to indicate the shifting terrain of women's engagements, particularly in terms of spaces available to women's groups to engage with each other.

Spaces for consensus building among women's groups

AUTONOMOUS WOMEN'S CONFERENCES

The national conferences of autonomous women's groups have been an inextricable part of the history of the contemporary women's movement in India. They have provided an important occasion to deliberate, clarify and negotiate positions and have offered an exhilarating space for activists to come back to their work inspired with new ideas (see interviews with Sheba George, 28 May 2014 and Trupti Shah, 29 May 2014). The first autonomous women's conference was held in Bombay in 1980 in the backdrop of the Mathura judgement. Subsequently, other conferences were held in Bombay (1985), Patna (1987), Calicut (1990), Tirupati (1994), Ranchi (1997) and the last one in Kolkata (2006).⁶⁸ Autonomous women's organisations such as Saheli, Forum, Jagori and Vimochana have been involved in the planning and organising of the conferences since the beginning through the National Coordination Committee (NCC).⁶⁹

Many of the interviewees recalled these spaces as important in not only shaping their perspectives, but also in bringing attention to the issues at the margins of feminist politics.⁷⁰ Kalyani Menon-Sen of WSS who has also been a part of Jagori, comments on the importance of the space of these national conferences. She notes that "it was only the women's conferences that were inclusive of a large number of women" (interview, 31 July 2014). The Kolkata conference in 2006, which Jagori and Saheli were involved in organising, was the last conference. According to some activists, another autonomous women's national conference may not be held for some time to come because of the problems related to logistics, the vastness in the number of issues and their complexities, as well as the burgeoning field of women's organisations. Bringing everyone together on a single platform in such circumstances is difficult (interviews with Kalyani Menon-Sen, 31 July 2014 and Vani Subramanian, 23 August 2014). However, as reflected in Kalyani Menon-Sen's observation, this space will be missed as an important forum for deliberations open to all issues concerning women, including violence.

ISSUE-BASED COLLECTIVES OR NETWORKS OF AUTONOMOUS WOMEN'S ORGANISATIONS

Subramanian notes that women's mobilisations in the more recent past have been focused on issue-based networks such as health, right to information, and so on. (interview, 23 August 2014). Women's groups align and build interest-based networks; these networks include WSS, NFDW, National Network of Autonomous Women's Groups (NNAWGS) and NAWO. WSS was built out of the need to collaborate on issues of violence from a broader perspective—including class and caste dimensions of violence—and to bring a sharp focus on violence against women in the particular

⁶⁸ See Saheli website, <https://sites.google.com/site/saheliorgsite/>, last accessed 20 March 2016.

⁶⁹ See interview with Celine, 23 July 2014; see also Vimochana website, <http://www.vimochana.net.in/home.html>, last accessed 20 March 2016.

⁷⁰ Interviews with Trupti Shah, 29 May 2014; Sheba George, 28 May 2014; Celine, 23 July 2014; Geeta Menon, 26 July 2014; Ruth Manorama, 16 August 2014; Vimal Thorat 1 September 2014; and Apoorva Kaiwar 22 July 2014; (Appendix II).

context of state repression. WSS also works on the lack of gender-sensitive policies in the fields of urbanization, migration and land rights. Somewhat similar to the WSS in its claims, the NFDW was the result of the need to highlight and voice the claims of dalit women and specific forms of caste violence. Created in Bangalore, the NFDW has a presence in about 22 states of India (interview with Vimal Thorat, 1 September 2014). NAWO was created as a national advisory group for the Beijing Conference in 1995, and it continued to engage with national and transnational platforms on the review of the Beijing Declaration. It also submitted the shadow report from India to CEDAW in 2014 (interview with Lakshmi Vivek, 4 August 2014). Finally, the NNAWGS was established in 2003 prior to the World Social Forum held at Bombay. Closely linked with the World Social Forum (WSF), the network functions as a platform to decide on the input of women's movement in to the WSF process.⁷¹ It is not clear however how active this network continues to be.

Nilanju from Jagori gives a flavour of the kinds of networks that groups are a part of. Speaking particularly of Jagori, she says,

We are part of various networks. For example, there's this network called Aman Network at the national level. We are a group of about 84 organisations all over the country. We meet once a year. And this network is basically for better implementation of the Domestic Violence Act. So we meet once a year, we talk about our challenges that we face in the last one year and what are the strategies that we have developed to overcome these challenges. And so this is for experience sharing, learning, sharing information. So that is one network we are a part of. We are part of a helpline network in Delhi, organisation, organisations that run a helpline, we have come together and formed a small network where we talk about principles and we talk about how to deal with a call, a distress call and things like that (interview, 12 August 2014).

There are similar such issue-based networks at the subnational levels as we shall see in the next few sections.

CONSULTATIONS

Since the Mathura case, conferences and workshops have been organised to discuss different positions on a certain issue or on policy advocacy. This is to enhance understanding and present a common front to the state and society. After the December event, a consultation was called by the National Law University in Delhi. Women rights' activists, advocates, legal consultants, field practitioners, researchers and LGBT groups came together to discuss the Criminal Law Amendment Bill and to propose recommendations to the JVC. Kavita Krishnan describes it as an important space to negotiate and clear the air, particularly on contentious issues,

That was one of the places where there was a no-holds barred discussion without having to worry about the media presence for example. It was an informed audience of persons already engaged and involved and fighting and everyone was on same side in that sense but there were differences in terms of different perspectives and different positions. ...At that time one of the things that we had discussed was how do we approach the question of death penalty? We had all agreed we do not want the death penalty. So one of the ideas that came up was well then we have to give the Justice Verma Committee something. So somebody suggested life sentence without parole. But there were some civil libertarian lawyers who were deeply opposed to this, so this suggestion was not accepted (interview with Kavita Krishnan, 15 May 2014).

Thus, national or subnational conferences, regular meetings within issue-based networks, and special consultations over a particular issue are discursive spaces wherein women's groups come together to discuss, enhance their understanding, explain their

⁷¹ See Vimochana website, <http://www.vimochana.net.in/home.html>, last accessed 20 March 2016.

positions and try to build consensus. Once consensus is arrived on a certain issue, discussions are further held over effective strategies to influence policy change. Consensus is therefore built to have a common strategy and a stronger voice to push the required change. Discussion over issues and strategies is also important for commitment among groups to a certain understanding. The discursive spaces of women's groups thus facilitate voluntary processes for mutually acceptable decisions: "As part of the Aman Network we come together, we discuss, we brainstorm and then we form a common recommendation. Instead of all organisations sending individually their recommendations, we send it as a network" (interview with Nilanju, 12 August 2014).

Strategies of mobilisation targeting the state

FACT-FINDING MISSIONS AND REPORTS

Fact finding is a common strategy used by women's groups to collect evidence and visibilise, vocalize and draw attention to an issue. This strategy is as an important mode of engagement with substantive issues. Menon-Sen talks of the use of fact-finding reports at WSS,

Basically, we are doing fact findings and trying to present cases in a way that shows the patterns. We have just finished the study of violence against dalit girls in Haryana and what we have tried to do is to use our fact finding on 15-20 cases to show the pattern that links neoliberal policies of a strange form of urbanisation that has happened in Haryana, and the existing operations of the caste system with the cash economy. When private developers are called in and land is transferred in this way, it is not done in ignorance of the fact there is going to be huge turmoil with social relations in these communities and that violence against women will happen because it is a tool of enforcing class, it is a tool of enforcing caste and it has actually strengthened and concretised the existing caste hierarchy (interview, 31 July 2014).

Fact-finding missions are meant not simply for ascertaining facts and for elucidating a specific human rights concern. Their purpose is to expose the patterns of violence and pressurise the state to adopt progressive policies and laws. There are other fact-finding reports too that have been used as an effective strategy to bring attention to issues in a state, for instance the PUCL-K report on transgender violence and the fact-finding reports on communal violence in Gujarat in 2002 (both of these are discussed further below).

APPROACHING UN PLATFORMS

The UN Convention on the Elimination of Discrimination against Women was ratified by India in 1994. It obliges the state signatories to report

"on the legislative, judicial, administrative or other measures that they have adopted to implement the Convention within a year after its entry into force and then at least every four years thereafter or whenever the Committee on the Elimination of Discrimination against Women... so requests. These reports, which may indicate factors and difficulties in implementation, are forwarded to the CEDAW for its consideration".⁷²

Civil society organisations, including women's groups, can participate in this process by submitting shadow reports. This is one important engagement of women's groups at the international level, which in turn pressures the state at the national level. Women's groups in India have been submitting their alternative reports to the CEDAW committee for information and on the status of its implementation in India. Organisations send these reports either individually or as a combined report by many organisations. NAWO, for instance, prepares shadow reports based on country wide consultations with women's

⁷² CEDAW website, <http://www.un.org/womenwatch/daw/cedaw/reporting.htm>, last accessed 20 March 2016.

organisations at the subnational level as well as at the community level. Lakshmi Vivek, who has been compiling the alternate reports for CEDAW from NAWO, explained the process of consultation for the recent 58th session of CEDAW in July 2014, “[We] started having regional and state level consultations on CEDAW so every area was kind of divided. [We] started with the first consultation in 2011 in Hyderabad and which was followed by Madhya Pradesh and then Maharashtra, Goa, Chandigarh, so various other places too including the northeast” (interview, 4 August 2014).

The people involved were divided into various groups to deliberate specific recommendations on different topics over a period of three days. These recommendations were further worked upon in preparation for the national consultation held in 2012. Once all groups had submitted their draft papers, the recommendations were fine-tuned during a lobbying training conducted by UN Women and NAWO in Delhi in 2014. Of the 29 individuals who attended the CEDAW session in New York, 16 were NAWO representatives and the rest were from other civil society organisations (interview with Lakshmi Vivek, 4 August 2014). Renu Addlakha (CWDS) participated at the CEDAW committee and shared the situation of violence against disabled women in India (interview with Lakshmi Vivek, 9 July 2014). Similarly, Ruth Manorama, the President of NAWO, ensured that a chapter on dalit women was included in the shadow report (interview, 16 Aug 2014; also see NAWO report 2014).

However, not all organisations neither are engaged with the above process nor are engaged with UN institutions. Vani Subramanian says,

See the difference is for us historically in Saheli is I think somewhere after Cairo or by Cairo we had stopped going to these UN processes We had a huge critique of the way NAWO was formed and the way in which they mobilised ... Therefore NAWO and all are not our networks We have a huge issue with this UN framing over lot of things and we seem to just organically have an issue with it. (interview, 23 August 2014)

On the other hand, for dalit organisations such as the NFDW, international platforms, particularly those provided by the UN, are useful to highlight and visibilise issues concerning dalit women. As mentioned earlier, dalit women’s groups took the problem of violence against dalit communities to the UN world conference on racism at Durban in 2001, bringing sharp focus to the issue with the recognition of dalit women being the worst affected. Since then, NFDW and other organisations have been consistently engaging with international UN conferences (interview with Vimal Thorat, 1 Sept 2014). Recently, a delegation also presented their report on the situation of dalit women to the CEDAW review committee (see Ruth Manorama interview, 16 August 2014). Apart from NAWO, other dalit organisations such as Navsarjan Trust and the All India Dalit Mahila Adhikar Manch (AIDMAM) also submitted reports to the committee.⁷³ In response, the committee acknowledged the violence against dalit women and urged the Indian government to act in order to prevent such violence (NAWO 2014). Delegations of dalit women have also presented their views on violence against dalit women during a side event organised during the 26th session of the UN Human Rights Council in 2014. The UN High Commissioner for Human Rights, Ms. Navi Pillay, in her opening statement at the event highlighted her own commitment to the issue of violence against dalit women.⁷⁴

⁷³ See International Dalit Solidarity Network (IDSN) website, <http://idsn.org/>, last accessed 20 March 2016.

⁷⁴ See IDSN website, <http://idsn.org/>, last accessed 20 March 2016.

INTERNATIONAL CAMPAIGNS

Indian civil society organisations including women's groups across the country had signed up for the "One Billion Rising" global campaign initiated by Eve Ensler and her organisation, V-Day, to end violence against women, rise for justice and promote gender equality. Many women's groups across the country took part and organised events across the country, gearing up to the final one-day event on the 14 February 2014. Sangat and Jagori were actively involved in the campaign in Delhi. Rallies, songs, dances and plays were set up across Delhi by various organisations and college students. Similarly, most of the women's groups in Gujarat got together for a public programme on the same date, which received an encouraging response from the public (interview with Manisha Tiwari, 2 April 2014). Groups in Bangalore, such as Vimochana, also participated in the campaign.

RECOMMENDATIONS UPON INVITATION BY THE STATE

State bodies sometimes look upon women's groups for recommendations at various levels, from policy design to implementation procedures. Nilanju at Jagori talked about their engagement with the state's recent proposal to have one-stop crisis centres,

Right now the government is planning to come up with one-stop crisis centres all over the country. So the Ministry of Women and Child actually called for a consultation. It was a very small group of people, six of us, meeting together and brainstorming. They actually had prepared the proposal but now they want a recommendation. We had sent our recommendations. Then they wanted us to prepare a set of guidelines for them as to how to run these crisis centres (interview, 12 Aug 2014).

Similarly, Bharti Ali shares her observations on government processes of consultation pointing out some challenging aspects,

Now at least some processes are in place, for instance if there is a bill that is coming up for discussion and it is before [presented in front of] a Standing Committee, then the Standing Committee looks for people who they can call and you know discuss it with, they do look for people and there have been times when If they somehow come to us, then we have suggested other names to consult groups that are also working on issues and so that has happened. At least that process is in place but with the bureaucracy it is very, very personality driven (interview, 19 May 2014).

As recounted earlier, after the 1983 amendments in the law, the next phase of engagement with the state for changes in rape law started in 1992. The NCW set up a sub-committee with Kirti Singh from AIDWA as the Convenor. The committee examined the sexual assault laws and engaged with a number of child rights and women's groups. Although Kirti Singh argued that the process was made as consultative as possible (interview with Kirti Singh, 21 August 2014), organisations not actively involved with the NCW subcommittee or the AIDWA-led consultations felt that it was not consultative enough (Agnes 2002). While Law Commissions, subcommittees and the NCW have had consultative processes, as we have indicated earlier, the JVC process was one of the first processes of consultation where several groups understood the process to be truly inclusive and democratic.

LOBBYING WITH STATE REPRESENTATIVES

Sometimes lobbying with influential state representatives successfully works to push the process of policy change forward. As Kirti Singh argues: "The reason why the 2010 Bill was introduced was because we went to the Law Minister Veerappa Moily and we asked him to please look at it. We have been to each of the law ministers...to ask them to change these laws and these procedures" (interview with Kirti Singh, 21 Aug 2014).

Bharti Ali also makes the argument that often policy change is based on individual leaders:

if you have a receptive Joint Secretary or a Secretary level person then you will get more opportunities to be heard. But if there is someone who has already made up [his/her] mind and is basically just having a consultative process because it is a formality then there is not much that you can achieve. There may be some who will not have any consultative process who would not believe in it at all so it is very individual personality driven (interview, 19 May 2014).

Strategies of mobilisation targeting society

Organisations like NAWO, Jagori, NFDW, AIPWA and AIDWA are deeply involved in organising local communities at the urban as well as in the rural setting, providing gender training, facilitating a conception of human rights and women's rights, training and building their capacities in leadership and political participation. For instance, Jagori provides direct support to the women victims of violence, runs a helpline for the victims, mobilises them to form support groups in the local communities, and trains them to check violence against women in their own communities and to intervene in cases of violence. It also works with the youth by providing gender-sensitive trainings. Nilanju gives a glimpse of this work:

We have door-to-door visits in the communities. We have campaigns—various sort of campaigns on International Women's Day. Just before International Women's Day, maybe we would visit the entire community. And another thing that we do is *gali* (street) meetings. We go to the *galis* of a selected block and conduct many meetings. So *gali* meeting is one way of interacting with the women and youth and men of the community talking about any issue, whatever we feel at that point of time needs to be discussed. It could be related to public toilets or the public distribution system, or violence (interview, 12 Aug 2014).

Street-level engagement with people is also a common strategy to challenge entrenched notions on the roles of men and women. CCSA, Saheli, Jagori and AIPWA use street plays and public programmes, including dances and songs, to introduce people to a different way of thinking and of analysing social situations. Nandini Rao of CCSA talks about this strategy: “We work in Delhi and NCR [National Capital Region] trying to raise awareness about the issue, but also at the same time talking to people on the street literally about what they can do to stop violence or actually illicit responses from them what they can do to stop violence if they feel they can” (interview, 24 March 2014).

3.1.9 Conclusion

The 35-year -long period of anti-rape mobilisations in India captures the myriad highs and lows for the women's movement in India. Denial of justice by the state to victims merely based on entrenched biases against women or communities have marked the lows in mobilisations on anti-rape laws, but these very lows have resulted in renewed claims making and actions on the part of women's groups. Some of these mobilisations have also led to incremental changes in laws, policies and attitudes. A roll call of brutal cases of violence against women in this period—Mathura, Bhanwari Devi, Maya Tyagi, Rameeza Bee, Thangjam Manorama, Khairlanji, Nirbhaya and several others—have propelled mobilisations by women's groups across the country over the last several decades. It is the interventions and the countrywide mobilisations by women's groups that have enabled the re-articulation of some of these cases from stories of “denial of justice” to “symbols of change”.

Through these 35 years, women's groups have engaged with the state and society in various ways to shape public discourse in favour of gender-egalitarian policy change.

The two significant moments in this period include the 1983 amendments to the rape laws and the recent Criminal Law Amendment Act 2013, which brought in wide-ranging changes to sexual assault and anti-rape laws. However, the overall story of the relationship between mobilisations by women's groups and policy change has been one of a very gradual and painstaking process. For instance, the demand from the women's groups to broaden the definition of rape has been made consistently since the early 1990s; however, it was to find acceptance in the law only recently in the Criminal Amendment Act 2013 with mixed results.

Many times, the state has taken a conservative approach to the claims of women's groups and sometimes has even taken regressive steps, for instance, in the case of raising the age of consent from the earlier 16 to 18 in the recent 2013 amendments. Similarly, a claim such as the recognition of marital rape that goes completely against the traditional conception of women's place in marriage has not found any acceptance by the state. Further, the key claim of women's groups to repeal laws that provide immunity to the army from being prosecuted for sexual crimes has also fallen on deaf ears. The "citadels of impunity", as Vrinda Grover phrased it in the context of the Criminal Law Amendment Ordinance 2013, of family, marriage and state seem to prove the most difficult to shift of in terms of policy change (see N. Menon 2013).

Moreover, there have also been changes in the discourses of claims making from the early days of the anti-rape campaigns. While the conception of "power rape" was at the heart of women's groups claims making from the early days, and some groups brought in the question of state power, as well as caste and class early on in the debates within the women's movement, the depth and breadth of the engagement of women's groups on anti-rape laws have expanded from claims calling for shifting of the burden of proof, the sexual history of women survivors of violence not to be used as evidence, and the recognition of the forms of power rape such as custodial rape. While claims making by women's groups on AFSPA and state impunity have direct antecedents in critiques of custodial rape that recognise the importance of checking the exercise of state power, more recent feminist mobilisations on AFSPA also recognise the dangers of the use of extraordinary powers by the state in the name of peace and security in vulnerable regions of the country.

There are also several other issues that have gradually come to the fore in the claims making on anti-rape laws. These include an understanding of the aggravated nature of sexual assaults in the context of communal and caste-based violence, and the recognition of forms of sexual violence against other vulnerable groups such as disabled women and transgender communities. This has also entailed a deeper engagement with the decoupling of women's rights from children's rights in the claims making on law reforms. There has also been a deeper engagement with women's groups on the procedural aspects of claims making on anti-rape laws, with mobilisations against the increasing medicalisation of evidence gathering, particularly against the notorious two-finger test. Moreover, questions of punishment and sentencing have also come to take centre stage with women's groups treading the difficult ground of protecting juveniles from the strong arm of criminal law sentencing and the recognition of the lack of humanity and futility of sentences such as death penalties and chemical castration, even for purposes of "prevention".

The women's movement in India comprises multiple forms of organisations ranging from advocacy groups and networks to local community-based organisations (CBOs),

autonomous non-funded groups to political party-affiliated mass level organisations, identity-based groups to national-level networks that bring together different voices on a particular issue. The women's movement in India is a complex interplay of different kinds of groups and voices coming together on issues of importance through consultative processes. These consultative processes include national level discussions and conferences. In more recent times, these consultative processes have been more "specific issue" focused, rather than the more broad-based discussions and negotiations that found articulation in spaces such as the national conferences on women.

Given the diversity of forms of women's groups, the strategies employed by these organisations are also multifarious, ranging from organisational- or individual-level engagement with the state which takes the form of lobbying, petitions in the courts, critiquing of bills and sending recommendations to state commissions or special committees. Further, women's groups also network with other groups across regions and issues to clarify claims, build consensus and strategise together to have a wider and greater impact on the state.

3.2 Mapping Anti-Rape Mobilisations in Gujarat: From Recognition to Implementation

Contemporary mobilisations in Gujarat on violence against women can be traced to the beginnings of the anti-rape campaigns of the 1980s in India. In this section, we locate the Gujarat specific anti-rape mobilisations, both focusing on the specific context of Gujarat, but also reflecting on where these mobilisations have influenced processes at the national level. Apart from secondary materials, we have relied on interviews with groups working Gujarat on violence against women (see appendix II).

3.2.1 Key events that propelled mobilisations in Gujarat

Cases of sexual violence

Incidents of rape, particularly those where the victim was denied justice and/or when she faced hostility from the system and attempts to silence her, were precipitating factors that resulted in action from civil society organisations, especially women's groups. In 1979, Ahmedabad was among the first few cities to demonstrate against the Supreme Court verdict on the Mathura case (Mazumdar 2000). Women activists in Ahmedabad and Vadodara networked with activists from other cities to shape the nation-wide anti-rape movement in the 1980s.⁷⁵ Similarly, the gang rape of Bhanwari Devi, a grassroots worker for a state-run programme in Rajasthan in the year 1992 also resulted in mobilisation of women's groups in Gujarat. Some women activists working with the state-run Mahila Samakhya Programme in Gujarat also took steps to organise against such incidences in their own state (interview with Angharia, 27 May 2014).

At the state level, several cases of sexual violence galvanised and shaped the women's groups. One of the early cases was the custodial gang rape of a tribal woman by policemen in 1984 in the Sagbara taluka⁷⁶ of Bharuch district. The woman faced hostility and a refusal from the medical authorities to examine her medically for sexual assault and treatment. The case was registered at the local police station but she was medically examined only after interventions from three legal personnel, one from Delhi and two others from Ahmedabad (Kalathil 1986). Moreover, she and her husband continued to face abuse at the hands of the accused, the police and the medical

⁷⁵ See previous section for details.

⁷⁶ An administrative district.

practitioners. Newly formed organisations at the time such as Sahiyar, Lok Adhikar Manch and Chingari documented her plight in an exhaustive fact-finding report that received publicity in the vernacular and English newspapers of Gujarat. The campaign resulted in the punishment of the policemen and compensation to the victim (Patel n.d.). The Sagbara gang rape case was a key moment that brought women's groups to the fore and prepared them for action on similar incidents of sexual abuse.

Another incident of custodial rape that propelled women's groups and activists in Gujarat to action was when Harivallabh Parikh was accused of raping a 20-year-old tribal woman in 1996. Harivallabh Parikh was a well-respected Gandhian social worker who had worked for the upliftment of tribals in Rangpur for about five decades at the time. He had also earned distinction for establishing *lok adalats*⁷⁷ in the area. In 1996, a tribal woman who was a vocational skill trainee at Harivallabh Parikh's Ashram gave birth to a still-born baby on her way back after attending a wedding. She alleged that she had conceived the baby after she was raped by Parikh. She also narrated that other tribal girls who took training in the same ashram were also sexually abused and often raped. What followed was a long legal battle of claims and counter claims. Women's groups, including Sahiyar and PUCL, supported the tribal women through their social campaigns and by pushing the legal process in favour of the victim. However, Parikh was acquitted by the sessions court, and amid the legal battle in the higher courts, Parikh died of old age and the cases did not reach any conclusion (interviews with Trupti Shah, 29 May and 24 July 2014).

A more recent case was that of a 17-year-old dalit girl who, in 2008, was raped for several years in a primary teacher's certificate college by five of her teachers. Since the victim belonged to the dalit community, the dalit groups led the protests supported by other women's groups. As two of the perpetrators were dalit men, women's groups found it appropriate that a dalit group take the lead. The women's groups, especially the dalit group called Navsarjan Trust, were able to get an able prosecutor appointed for the case. The case was considered a success as all the accused were convicted and punished. The groups used the media to sustain the social support in favour of the victim, and provided all the needed support to the victim to keep her going. The Patan case, as it was called, was key in redefining the role of the dalit group Navsarjan Trust in seeking justice for women survivors of sexual assault, particularly for dalit women. Manjula Pradeep, as the director of the organisation played a prominent role within the organisation and succeeded in bringing the gender perspective into the analysis of violence against dalit women and against people belonging to the low castes (interview, 31 March 2014).

Communal violence

The communally motivated, widespread violence in Gujarat also impacted women's groups in important ways. Groups were not only concerned by violence against a particular community, but also outraged by the sexual targeting of women from minority communities and the silence on mass rapes. For instance, Trupti Shah, the founder of Sahiyar (Stree Sanghatan), expressed her indignation about the Nari Gaurav Neeti Programme (Women's Equity Policy)⁷⁸ introduced by the state in the aftermath of the communal violence in 2002: There was "nothing about sexual violence on woman during communal violence, not a single word about how they will rehabilitate because

⁷⁷ Lok Adalat, or People's Court, is a system of alternative dispute resolution.

⁷⁸ The programme was meant to make legal and policy change more gender inclusive.

in fact they were not accepting that something like this has happened” (interview with Trupti Shah, 29 May 2014).

Prior to 2002, like many other states, Gujarat experienced communal violence during the *rath yatras* in the build-up to the demolition of Babri masjid (mosque) in 1991. Baroda and even Surat, considered a peaceful city, also experienced the most brutal kind of communal violence. Women were especially targeted with a vengeance. They were not only brutally gang raped but this brutality was filmed by the perpetrators and screened for jeering crowds (Lobo and Dsouza 1993; Patel n.d.). Lobo and Dsouza (1993) document cases of gang rape, murder and burning of victims in an environment of state complacency and inaction during the Surat riots of 1993. About a decade later in 2002, violence against the minorities in Gujarat reached mammoth levels. Sarkar (2002) observes that women were raped to humiliate their entire community and that the violent nature of the rapes was to prove the superior masculinity of Hindus against the assumed virility of Muslim men. Finally, children—including unborn children—were targeted to destroy the next generation of Muslims. Such large-scale violence led to polarization within civil society groups of Ahmedabad and more widely in Gujarat. A few women’s groups emerged as anti-state while helping the victims; many others were either intimidated by the communal tensions or found that action was not appropriate at that moment. However, all the organisations interviewed for this study did take a stand and acted for the victims despite the communal threats. On this, Prasad Chacko, the Director of the Human Development Research Centre observes, “The radical feminist and secular women’s organisations, many of them, were kind of peeved by the fact that most other NGOs which talked about women’s rights never took a stand or came out in the open in 2002” (interview, 30 May 2014).

Trupti Shah reiterates this understanding of a studied silence by groups: “Most of the NGOs in Gujarat...kept quiet. Even if they were not happy, they would say why confront? There are very few who would confront. Even 2002, you will not find many organisations that stood up and talked about these issues” (interview, 29 May 2014).

Sahr Waru, ANHAD, ANANDI, Centre for Social Justice, Olakh, Sahiyar, Sahaj and PUCL were a few of the organisations that struggled to support the victims, many of whom were brutally raped and sexually assaulted.⁷⁹ As Renu Khanna recounts, there were very few groups, and they had to work in difficult conditions of blockades; some affected areas were remote and difficult to reach (interview, 9 September 2014). However, she also points out that this experience brought these groups together, providing relief. They were supported by civil society and women’s groups from outside Gujarat. Khanna highlights that local groups were able to “only respond there on the ground” and were not able produce the fact-finding reports and other documentations, which was done by Delhi- and Bombay-based organisations. A women’s panel of six organisations and activists from Delhi, Bangalore, Tamil Nadu and Ahmedabad called the Citizen’s Initiative released the report *Gujarat Riots: The Impact on Women* describing the physical, economic and psychological impact of the riots on women after visiting seven relief camps over five days in March 2002 (interview with Renu Khanna, 9 September 2014; Hameed et al. 2002). They found evidence of state and police complicity in perpetuating the crimes against women. The state did not establish institutional mechanisms through which these women could seek justice (Hameed et al. 2002). Disturbingly, despite widespread and gruesome sexual violence against women, there was complete invisibilisation of the issue of sexual

⁷⁹ Interviews with Renu Khanna, 9 September 2014; Prasad Chacko, 30 May 2014; Trupti Shah, 29 May 2014.

violence in the mass media, compounded by the apathy of law enforcement agencies and the indifference of political representatives (Hameed et al. 2002).⁸⁰

An international group, the International Initiative for Justice (IIJ), was also formed in Gujarat in response to the horrific violence. The initiative comprised members of women's groups from India and nine women from Sri Lanka, Algeria/ France, Israel/ UK, Germany and USA (International Initiative for Justice in Gujarat 2002). The group met with survivors of violence as well as with representatives of women's groups, human rights and other citizen groups from Gujarat. The findings of the group were similar to those reported by the fact-finding team's report on Gujarat riots, *The Impact on Women*.

The communal violence further defined the approaches and strategies of the organisations. It led to new alliances at local, national and international levels with women's groups. New organisations were formed overnight as it was felt that it was safer to work under the name of a registered organisation than individually. Additionally, communal violence was also key in broadening the mandates of some organisations, and issues related to communal politics were included more fundamentally in their analytical framework of violence against women and in the strategies for mobilisation.

Role of meetings and conferences in mobilisations

Some Gurajati organisations were inspired after participating in the Indian autonomous women's groups' conferences, which provided a discursive space for debates and consultations on issues, negotiations and strategising. These conferences also served as a space to introduce new activists to the movement. Trupti Shah, who was still a student at the time, attended the first conference in Bombay in 1980. The conference was held in the context of protests around the Mathura rape case to debate the required changes to the then law and to achieve a consensus among activists. Shah was motivated by the liveliness and the dedication of the autonomous women's groups from other parts of the country and founded a group in Baroda to work on violence against women and for a society free of inequality, injustice and atrocities (interviews with Trupti Shah 29 May and 24 July 2014). Similarly, Sheba George, the founder of Sahr Waru, an organisation advocating for women from minority communities, recalls how her involvement in one of these conferences resulted in her realising the importance of a separate space to work on concerns of violence against women,

So it was in the early 1990s and just around 1990 that with the Calicut conference I sort of ... entered the whole thing of what is the National Women's Movement and [became] part of the women's groups who were working. I started doing a lot of self-appraisal about equality. I mean the point is that the personal is political so to understand if you know as an activist, as a person who is trying to change women's lives how much of those rights that I was advocating was part of my life So it was an internal process as well as external process and through that entire process I started realizing that we needed a different space (interview, 28 May 2014).

The last conference of the autonomous women's organisation took place at Kolkata in the year 2006. Renu Khanna reflects on the loss of the autonomous women's conference, but she suggests that the continued existence of spaces such as the Indian Association of Women's Studies (IAWS) provides hope. She suggests that these spaces are not just academic, but also engage in "activist theory building" (interview, 9 September 2014).

⁸⁰ Other organizations that supported the local groups included Forum Against Oppression of Women and Awaaz-e-Niswan from Mumbai, and Saheli from Delhi (Trupti Shah, personal communication, 15 November 2014).

The United Nations convened its Fourth World Conference on Women on 4–15 September 1995 in Beijing, China. Some organisations in Gujarat found the conference to be an important event that inspired the formation of new initiatives and networks among women’s groups in the state. The Beijing conference was followed by consultations among women activists and organisations to identify new areas of work and networking opportunities in Gujarat. For instance, Andharia (ANANDI) had not personally attended the conference, but she was an active part of the post-conference consultations. “In Bhavnagar we started working in the post-Beijing and the post 73rd amendment context so we had done a lot of mobilisation of elected women representatives from 1995 onwards” (interview, 27 May 2014).

In these consultations, women’s groups identified the work and action needed in Gujarat. The Mahila Swaraj Abhiyan (Women’s Freedom Movement) network was created for further consultations. Kutch Mahila Vikas Sangathan, Uthaan, Marag and Swati were some of the other groups that participated in these consultations. The network also organised training and capacity building on women, governance and political participation, especially in the Panchayati Raj system. Some of the organisations were conceived after the Beijing conference. Sahr Waru, which was until then a programme of its mother organisation Sanchetna, became a separate organisation after its founding member Sheba George actively participated in the preparatory phase as well as during the conference in Beijing. Poonam Kathuria, a founding member of Swati, also assigns the Beijing conference as one of the reasons for instituting the organisation (interview with Poonam Kathuria, 27 May 2014).

New legislations or review of existing legislations propelling action

The enactment of new legislation or the review of existing legislations in the area of gender justice are a result of a combination of different factors, one of the most important being the advocacy and lobbying by women’s groups at different stages and at different levels. But once the state initiates the process of enacting or reviewing laws, as we have seen in the section above, this moment generates a heightened and a more visible activity among women’s groups to build a consensus and push their interpretation of the law. Thus since the 1980s, when for instance rape laws were reviewed by the state, or laws related to violence against women were to be reviewed or enacted by the state—such as the review of Dowry Act 1961, and the Sati Prevention Act 1987, enactment of the new Domestic Violence Act 2005, the Sexual Harassment at Workplace Act 2012—they became key moments for further collaborative activities and mobilisation within the women’s movement.

The review or enactment of new laws relating to violence against women led to a discursive engagement in the women’s movement where individuals and groups congregated to deliberate on common matters and advance their stands and interpretations with the aim of creating a consensus on related matters and to reach a common judgement. However, while there is consensus on many issues, some matters remain disputed. Sheba George comments on this discursive space:

So there is a discourse, it is not like there is a large mass women’s movement in this country but there are leaders, women activists, feminists, lawyers, women’s rights activists across this country that come together for these kind of legislative inputs and all of that and that really worked and that is reasonably consultative. [At] that time ... those who were steering these processes are as inclusive as they can be I think (Interview 28 May 2014).

3.2.2 Claims making on anti-rape laws: State accountability and implementation

Most of the claims by the women's groups at the national level are reflected in the claims making by the groups in Gujarat. However, the interviewees placed a lot of importance on the issue of non-implementation or improper implementation of the laws and policies already passed by the state. One of the reasons for this emphasis on implementation was that all the organisations interviewed for the study were crucially involved in providing support of victims of sexual assault. Therefore, their advocacy emerged from the daily challenges associated with the implementation of laws.

Gendered nature of violence, special mechanisms and state accountability

The primary claim by women's organisations was simply the recognition of the gendered nature of the crimes and in so doing making special provisions for dealing with such crimes (see interviews with Sheba George, 28 May 2014 and Nupur, 26 May 2014). These special mechanisms are needed at all stages, beginning with the recording of statements to investigations, enquiry and punishment. Moreover, they should also take into account the threats, vulnerabilities and violations that the victim may face during this long legal process and their consequences. For instance, a woman may sometimes change her statement or fall ill for a long time; in other words, she may not be able to stay consistent throughout the process. Legal mechanisms need to recognise these vulnerabilities and be conscious and sensitive in favour of the victim and survivor of a sexual assault.

An essential goal of the women's groups in Gujarat has been to make the state responsible for not only its own direct actions, but also to be accountable for the prevention of gendered crimes against women. This accountability by the state necessitates the adoption of laws and policies that would consider such crimes as heinous and inexcusable, which in turn will result in proper prosecution and punishment of the perpetrators. This includes accountability at various levels. As Nupur Sinha argues, "there has to be accountability of higher authorities ... Higher authorities should be investigating all forms [of accountability] not only at the lower levels of the police, judiciary, bureaucracy" (interview, 26 May 2014). Women's claims for accountability by the state are derived from the need to break the silence around the problem of violence against women and to bring it forcefully from the private to the public sphere of the state.

However, some groups point to the levels of non-recognition of their specific contexts. The claims made by the LGBT groups, for instance, were of a more basic kind. Their claim was for the recognition of their different gender and to make provisions for these differences in various systems. So for instance, Sylvester from the LGBT group Lakshya says, "to get a bank account from banks they will tell thousand and one *nakhras*⁸¹ ... the entry point itself is denied" (interview, 29 May 2014).

Implementation of existing laws

Organisations working in Gujarat concentrate their efforts on ensuring the proper implementation of existing laws and policies by the state. There are numerous issues that organisations have to deal with at the ground level: the ignorance of state agents about new laws or directives by the state, a generally hostile attitude of state agents

⁸¹ This can be roughly translated as "they make a lot of fuss".

towards gender specific reforms, the regular transfers of police officers, lengthy and difficult processes for victims/survivors of sexual assault when registering their complaint, vulnerabilities and threats from the community or state agents towards the victims and their families, and so on. More than the enactment of new laws and policies, the main concern for women's groups in Gujarat is the proper implementation of laws and policies and creation of an enabling environment for the survivors of violence to seek justice: "If the implementation is not functional, if the implementation is faulty then how do you go about it? ... [The] main core that we [hit against is] the implementation of it. We did a study on shelter homes [to see] whether [they] are functional. ... Everywhere we found that the situations of these shelter homes were very deplorable" (interview with Johanna, 26 May 2014).

Trupti Shah also comments, "All these issues have remained throughout 30 years...but...we started with rape and even today, we are talking about rape. We started with female foeticide, and we are still talking about sex selective abortions or sex selection in fact...after passing of law, [the emphasis is] more for implementation. Earlier it was for passing of law, now implementation of law" (interview, 29 May 2014).

In other words, she implies that earlier the role of the women's groups was to advocate and lobby for passing of laws, but now the need is to focus on their implementation too. In the same vein, Sheba George asserts, "We have to get behind this government to see that the Sexual Harassment of Women at Workplace Act 2013, the Criminal Amendment Act 2013, the Domestic Violence Act, all of these should have full implementation and we should ensure that [when] we give our recommendations, can we put the infrastructure, put the money where the mouth is, to get the staff going, do monitoring?" (interview, 28 May 2014).

By saying this, she also emphasizes the importance of the role of women's groups in ensuring effective implementation of laws and policies, including the monitoring of the process, namely, to provide recommendations to the state based on the situation on ground. Moreover, she argues that if the state at the subnational level does not respond, then the state at the national level needs to be approached for the implementation of laws and procedures.

For the proper implementation of laws, one of the important demands reflected in the interviews pertains to the training of state personnel, especially the police, with respect to new laws and more importantly to make them gender conscious. Nalini Jadeja, the Secretary of AIDWA in Gujarat says, "All police personnel, up to class I officers need to be trained,...firstly their language, secondly their behaviour and body language should reflect support, such that these support centres should not in turn become unsupportive centres" (interview with Nalini Jadeja, 26 May 2014, translated from Hindi).

Women's groups are not just perturbed by the attitude of the police but of the other private and state authorities as well, including hospitals and medical professionals, universities and school establishments, and the judiciary. It is a constant struggle to see that proper and full implementation of statutes, especially those relating to sexual offences, is carried out in these institutions.

Another claim related to implementation is the time-bound handling of cases,

The local women's *sanghatans* (groups) have seen that when it comes to criminal cases, or sexual violence, First Information Report (at the police stations) is to be done immediately, but the system is so unresponsive [you have to] sit for the whole day and only then is the FIR registered...it is not only a matter of police complaint, our whole recommendation was to have a more comprehensive systemic response to a woman who has faced violence....This recommendation was a contribution of the local *Mahila sanghatans* (the community women's groups) (Interview with Jahnvi Andharia, 27 May 2014, partially translated from Hindi).

The problem of delays from the state agents is a frustrating experience, especially for women activists who directly support the victims of sexual violence. The importance of timely registration of the crime and medical examination and treatment are prerequisites for legally pursuing sexual violence cases. Often in such cases the delaying practices by the state agents is usually not out of ignorance, but often a conscious effort to discourage the victim from registering the case, and to spoil investigations and the evidence for the case. Nupur Sinha stresses this point, "Having special mechanisms like fast track court or special courts does not necessarily lead to justice. As is seen in the SC ST Prevention of Atrocities Act, the cases tried by designated special courts take more time for disposal than 'regular' cases. What is important to ensure is time bound disposal of the case, prioritising it over other cases of less severity" (interview, 26 May 2014).

Support to the survivor during the legal process

Victims of sexual assaults are extremely vulnerable during the legal process as they often also incur economic loss in terms of wages as a result of visits to the police station, or loss of job if the perpetrator is associated with her employer, not to mention social ostracism, and so on. Based on this experience, women activists claim economic support for victims. Andharia argues,

One of the biggest reasons why women victims of violence compromise [is] the problem of loss of their livelihood. They do not have money for survival [let] alone the expenses that they have to incur on the legal process. They even lose their daily wage because of running around for their case. Hence, compensation has to be seen from the point of livelihood support as well. Based on our experience, we need to make this demand loud and clear so that there is support for the victims to continue their fight for justice against in circumstances where there is little social support and financial back up (interview, 27 May 2014).

These claims emerging from the lived experiences of women activists were also put forth in the discussions leading up to the submission from the groups in Gujarat to the Justice Verma Committee in 2013.

Sexual violence during mass crimes

Having witnessed sexual atrocities against women in the communal violence in Gujarat, groups such as Sahr Waru, which focus their work on the minority communities, brought in the whole question of sexual violence in situations of mass crimes. They argue that a mass crime is distinct from individual rape cases in terms of circumstances and vulnerabilities involved. Hence, these organisations make a claim for a separate focus and special provisions exclusively for sexual violence in situations of mass crimes. Centre for Social Justice, a legal organisation that has worked extensively with the victims of communal violence in Gujarat, also brought forth the concern of rape victims among the internally displaced persons due to conflict situations. "How should they [victims] be compensated? They are also doubly vulnerable, so which is the nodal agency which looks at this whole issue of displacement and hence if you have been raped and you are displaced to another place so what happens to that. So these were some of the things that we had raised" (interview with Johanna, 26 May 2014).

Gender neutrality

Local women activists related to ANANDI had faced a situation of a woman activist wrongly indicted for facilitating a sexual crime on a girl. The woman activist in fact was helping the girl who had eloped willingly with a boy she wanted to marry. But the family of the girl accused the woman activist of facilitating rape of the girl by the boy whom she eloped with. According to Andharia, “that became a point of discussion on how a woman’s name can be included as the perpetrator, and the implications of gender neutrality at the level of the perpetrator.” However, all women’s groups agreed that gender neutrality can be proposed at the level of a victim but not at the level of the perpetrator as that may further victimise women (see interviews with Sheba George, 28 May 2014; Nupur Sinha, 26 May 2014; and Trupti Shah, 29 May 2014).

Recognition of identity-based claims

Some of the women’s groups, especially those with a focus on particular communities (such as Dalits and Muslims), shared their grievance about the lack of recognition of the differences in the forms of violence faced by women belonging to dalit, Muslim or tribal communities. Manjula Pradeep notes that the “vulnerability is more” in case of women belonging to marginalised communities,

in 2002 when there was genocide here, communal genocide, I saw the vulnerability of Muslim women. [...Only] one lady was ready to fight for justice in that case I know her because she was supported by one of [our] sister organisations Janvikas (CSJ) but apart from that, I was in a relief camp as a camp leader helping them to get access to relief and supplies and also helping them to file complaints. So at that time there were lots of women who were there but they never said that they were being raped. ... A woman from a tribal or dalit community is more vulnerable than a woman from other community just because of her identity which is much different than women from other communities [...Three groups of women]—Muslim, dalit and tribal—their identities apart from the biological identity, is more prominent when you talk about sexual violence (interview, 31 March 2014).

Sheba George also felt aggrieved that although everyone agrees that there are multiple identities of women, “it was a lonely battle We were sidelined and people started whispering that these people will only raise these issues” (interview, 28 May 2014). When these specific groups felt that the women’s organisations at large do not recognise that some women, especially those belonging to dalit, tribal and Muslim communities face distinct forms of violence, they raised these claims in smaller but more sensitive networks and alliances such as NAWO. Sheba George explains: “We wanted that our voices get heard. So while we were talking about violence against women in the home, we [also] wanted to talk about social violence, political violence, violence based on identity, violence based on caste, violence based on religion. We started bringing [these dimensions] into the larger domain of discourse, the mainstream discourse” (interview, 28 May 2014).

On the other hand, Nupur disagrees with “valuing vulnerability or pain of one person more than the other”. According to her, “the suffering, irrespective of the social strata of the victim is the same” (personal communication, 16 November 2014). She explains,

Rape is an act of power, whether it is between an upper caste and a dalit, whether it is between a non-tribal or a tribal, whether it is between a Hindu or a Muslim. For the women, it is the same. To say that this exists and that does not exist, I do not know how one can say that, I mean all three and many more forms are existing.... I would not want to grade the vulnerability. How would you grade the vulnerability? I mean if I am upper-caste woman travelling in a train compartment with 10 dalit men who raped me, how is my situation any different from the reverse? I would not want to grade that. Not to undermine the fact that some groups by virtue of their social cultural strata are more

vulnerable...yes. Having said that, also saying that the fact that my social cultural strata determine my position in the society and therefore [I am] much more liable [to being] attacked or that much more are my chance of being attacked [by the dominant group] (interview, 26 May 2014).

The debate on the difference between the experience of violence and the vulnerability to aggravated forms of violence and whether consequently, the violence faced by women belonging to particular communities is to be recognised separately from the violence faced by women not belonging to these communities will continue for some time to come.

Lakshya, an LGBT group, argues that LGBT concerns need to be seen separately from women's issues and should not be mixed with women's claims. Sylvester, the co-founder of Lakshya, argues, "Already with woman it is complicated. ... When they say that 'okay fine put them under the category of woman', we said no! Already these people [women] have so many issues ... why should we be included in those claims?" (interview with Sylvester Merchant, 29 May 2014, partially translated from Hindi).

Broadening the understanding of violence against women

Autonomous women's organisations working on wider issues concerning women (such as livelihoods and access to resources) felt that the focus of feminist discourse was confined to women's bodies, and the important links to be drawn between violence and economic and social issues were not adequately addressed. This, they argue, results in a discourse that is disconnected with the actual lived experiences of women, especially of those in vulnerable situations on account of their social and economic status. Angharia explains,

The understanding of sexual violence in the context of livelihood comes from the people who are living completely on the economic margins and cultural margins. Whereas we feel that a lot of the times the feminist debates have been very highly centralized around just 'body' and the violence of...women's body and not link it and see the natural linkages that also exist with the struggles for livelihood. Bringing that voice into the feminist movement we thought was very important (interview, 27 May, 2014, partially translated from Hindi).

This understanding of the interconnectedness between class and gender, and how violence, including sexual violence, against women should be understood informs the perspectives of domestic workers groups too (see chapter on domestic work). Moreover, it also informs the work of organisations that work primarily with poor, working class women such as AIDWA, WSS (see interviews with KS Lakshmi, 18 June 2014; Kalyani Menon-Sen, 31 July 2014).

3.2.3 Processes of mobilisation

Engagement of groups within public space: The case of the women's justice committees

The women's *nyaya samitis* (justice committees) are community-level groups promoted in Gujarat by the state's Mahila Samakhya Programme. Gujarat was one of the three states where the Mahila Samakhya Programme was launched in 1989. The *nyaya samitis* under the programme are organised and trained to support women in dealing with their experiences of violence, and to check violence against women in the community. These groups provide counselling (largely feminist counselling) and social support to victims of violence and, when necessary, they provide legal support. Many women's organisations such as Utthan, ANANDI, Sahr Waru, AIDWA and Sanchetana learned from this model and saw the potential of change at the community level. They

organised and trained women's groups from their communities in a similar way. Once a nyaya samiti starts functioning on its own, it registers as a separate entity and identifies as an independent organisation. There are many nyaya samitis in different regions of Gujarat that meet as a bigger federation to consult and share their experiences.

As independent entities, the committees work together with other women's organisations by sharing the lived experiences and nuances of dealing with cases of sexual violence within their communities. For example, some of these samitis, like the Devgarh Mahila Samiti, were also part of the subnational consultations in Gujarat before a combined submission was sent to the JVC for changes in the Criminal Amendment bill, 2012. The consultations first took place at the community level and then scaled up to higher levels within Gujarat and at the national level.

Alliance formation among groups within Gujarat

Independent organisations and individuals may come together and collaborate to pursue common goals and objectives. The underlying hope is that an alliance will build on the energy and expertise of individual organisations and will be more impactful compared to individual efforts. Alliances are formed out of the voluntary cooperation of organisations and individuals that have common concerns around a particular issue or related issues.

In Gujarat also, alliances were formed between separate organisations to share common concerns, consult and to act in cooperation with each other. Some of the instances captured during the interviews with the participants in this research are as follows.

ALLIANCES ON SPECIFIC CASES OF SEXUAL VIOLENCE

In the late 1980s, newly formed Sahiyar and other two organisations, namely Lok Adhikar Manch and Chingari, collaborated on a fact-finding mission during the Sagbara gang rape case of a tribal girl in 1984. The report released by the organisations was disseminated widely and helped to turn the case in favour of the victim. Similarly, organisations such as Sahiyar and PUCL allied together to investigate the Harivallabh Parikh rape case (interviews with Trupti Shah, 29 May and 24 July 2014). Organisations align to investigate on some cases of sexual violence when the perpetrators belong to a dominant or influential group with a political clout, or if the perpetrator himself is highly influential both politically and socially (for example, the Harivallabh Parikh case).

ALLIANCES FOR NEW AREAS OF INTERVENTION

When a new area of intervention was identified, alliances between organisations were formed to consult, learn and support each other. During the post-Beijing discussions and the post-73rd amendment in the constitution, many organisations agreed that there was little intervention for the promotion of women's political participation in the village councils called Panchayats. Discussions were held to clarify whether promoting women's political role would fall within the domain of women's organisations, given that these organisations were themselves not involved in political structures. Finally, an alliance was created by those organisations that agreed on the importance to support women's political participation.

We were part of the post-Beijing consultations in Gujarat when the women's groups came back [from Beijing] and it was felt that 73rd amendment is an opening because till then most NGOs believed that we don't work on political spaces, we are non-party political spaces so [the question was whether] this [was] political or not political. A lot of debate and intense and clarifying discussion took place within the women's groups in Gujarat, and we felt that this is an issue that

all of us are grappling with and a good case for us to become a new network. A new network was formed of which we were a part (interview with Andharia, 27 May 2014).

The need for collective efforts was also felt by women's organisations when new and threatening initiatives were to be worked on. Poonam Kathuria recalls,

In the 90s, we could not talk of the issue of violence against women. I remember having a meeting in maybe 1999 with a group of 23 organisations ... this was in the Saurashtra region. Of these, I think 10 of them said [violence against women] is not an issue in our area, it doesn't happen. [The] underlying thing was that it was a threatening area [with] all male-headed organisations who found it difficult to take up the issue of violence against women. ... 13 organisations ... joined that group (interview, 29 May 2014).

Women's groups derived strength from numbers and from working together in order to more effectively face the challenges that the initiative may throw up.

ISSUE-BASED OR REGION-BASED NETWORKING

Organisations have also worked together on single and similar issues. Groups in the Saurashtra-Kutch region in Gujarat have formed an alliance to work on the issue of violence against women in the region. The alliance has been built to provide support to each other in handling of cases, in sharing and improving knowledge and skills required to work effectively against violence. The Saurashtra Kutch Network for Violence against Women is also an important advocacy group from the state, which contributed significantly during the consultations for submission to the JVC on the anti-rape laws in India.

The issue of dalit rights is often also discussed separately in smaller groups for more focused consultations with people who work specifically with and for dalit communities. Navsarjan Trust, Human Development and Research Centre, Janvikas and other such organisations meet in Gujarat to deliberate on laws, policies and the situation of implementation.

Engagement of groups within the public sphere at the national level

ENGAGEMENT DURING SITUATIONS OF CRISIS

Organisations have felt the need to align with other groups and networks across the country and even internationally in situations of crisis. Such a crisis emerged during the 2002 communal violence in Gujarat. All the participants in the research were actively reaching out to the victims of violence and providing relief and support. In the aftermath of the violence, help was received by organisations from outside the state of Gujarat in the form of relief, support in investigations, and support in advocacy. The alliances, Citizen's Initiative and the International Initiative for Justice in Gujarat, were formed with the crucial goal of bringing to light the impact of communal violence on the targeted communities in Gujarat in the year 2002. This initiative had a wider network of support from international activists and groups. The groups in Gujarat at the time were more engaged with relief work and were limited in their capacity to document and disseminate the impact of violence due to threatening political circumstances.

ISSUE-BASED NETWORKING

Specific issues which need to be discussed within specialised groups or with groups with similar concerns is one of the reasons for networking with organisations beyond the subnational level. For example, Navsarjan Trust, which mainly caters to the rights of dalit communities, is an important member of the Coalition on Amendment of Atrocity Act. The National Dalit Movement for Justice (NDMJ) in Delhi created this coalition to

consult with other organisations in India on the amendments needed in the SC/ST Prevention of Atrocities Act, 1989, an Act of the Indian state designed to prevent atrocities against dalit and tribal communities. NDMJ is connected with the National Campaign on Dalit Human Rights (NCDHR), which is a platform created to deliberate on the new challenges and new opportunities that present themselves with changing times.

Sometimes organisations also network with groups or join alliances to express claims that do not find full expression and acceptance at the subnational level. Sheba George reflects this aspect of alliance formation,

[The] women's movement was not recognising, acknowledging or wanting to acknowledge that poor women faced particular kinds or forms of violence, dalit women faced particular forms of violence, Muslim women faced [particular forms of violence at national and sub national levels]. Everybody was talking about violence in the domestic arena only. An NGO advisory committee formed for the Beijing conference in the 1990s later became the National Alliance of Women, which is basically for women who are working at the grassroots or with marginalised communities like dalits, tribals and Muslims. We wanted our voices to get heard. So while we were talking about violence against women in the home, we wanted to talk about social violence, political violence, violence based on identity, violence based on caste, violence based on religion. So these dimensions we started bringing into the mainstream discourse (interview, 28 May 2014).

The organisations at the subnational level join or build alliances to bring the issues of concern in the mainstream discourse of the women's movement both at the national and subnational levels and to find a better acceptance.

Arriving at a consensus

Meetings, conferences and workshops between groups and activists are meant for consultations, deliberations, clarifications and negotiations for the purpose of understanding each other's positions and ultimately building a consensus. Consensus may not always be found on every issue and is normally not easy to achieve where there are a range of related issues with many complexities. If the focus is narrow, there is a fear of excluding issues that are intricately related. Thus the debated issues discussed earlier arise from the basic question of what is to be included from the domain of the women's movement's analytical framework. So, for example, whether identity issues or livelihood concerns of women and communities are to be included in the framework for analysing violence against women becomes a central question.

REPRESENTATION OF VOICES

Some of the interviewees wondered if civil society members or the public sphere has provided adequate space for all to voice their views, especially if they are different from the dominant discourse of the public sphere. This emotion is captured well by Chacko's statement, "Yes, as humans we are equal, but I do not know whether we have given adequate space to the people with whom we are working. So we are democratic, we are secular, we believe in equality, liberty, fraternity, everything, but political space and the space for expression and the freedom to debate—even say the unsaid—suppose some of them were given opportunity, they might have" (interview, 30 May 2014).

Andharia is also of the opinion that not enough attention is being paid to the women's movements at the local community level. They tend to become invisible in the mainstream domain of the women's movement. Andharia comments on the large mobilisation of women's groups in Shehor in Gujarat on the issue of rape and violence against women, "I think these are also part of women's movements which are very invisible, what remains visible is urban people like us, you know who get privileged in

whom we are speaking to. ... it is a fault of the way our society and knowledge structures [function], you know, how knowledge is built, these are our shortcomings that we do not see them” (interview, 27 May 2014).

However, Sheba George pointed out that consultations for the JVC were first held at the level of Gujarat, and many of these meetings were with grassroots workers and conducted in the regional language. Recommendations from these smaller meetings were then included in the state-level consultation in Vadodara and a combined submission was sent.

Strategies of mobilisation

The strategies of the women’s groups include actions aimed at raising the public consciousness on a particular issue. The idea is to push the issues as defined by the women’s group in the public discourse such that it becomes a part of public consciousness and in turn also results in the desired changes at the level of society, as well as at the level of policy changes and implementation. Trupti Shah, for instance, refuses to call her campaign as an advocacy campaign calling it an awareness campaign instead. “All these things we publicise in newspapers and media, raising the kind of things that we have always done whether it is Patan case, wherever we send any letter, it is well publicised and so it is not just a simple advocacy, we make it an awareness issue, we do not call it advocacy. It is awareness campaign. Advocacy is a small part of it.” (interview, 29 May 2014)

Strategies of the women’s groups begin with clearly defining their claims for the public, and the use of terminologies which may lead to confusion is avoided. The main challenge that the women’s groups have faced is from the right-wing political parties or organisations that use similar terminologies as that of the women’s movement. To reveal that their claims are different from the right-wing groups, the women’s groups have had to coin terminologies which are different and which more clearly define their stand. So for example, the demand for the Uniform Civil Code, which is also a demand from the right-wing Hindutva organisations to have uniform personal laws for all, was called a secular civil code for gender justice. The renaming of the claim renders clarity in the eyes of the public as different from a similar claim from others.

The strategies adopted by women’s groups in Gujarat could be broadly divided into two kinds: (i) strategies specifically targeted towards the state and (ii) strategies targeted towards the society. Organisations, however, use a mix of these strategies rather than a single strategy.

STRATEGIES TARGETED AT THE STATE

Women’s groups have engaged in various kinds of strategies at different points of time. One set of strategies that the interviewees shared was related to collection of evidence and data for further advocacy with the state. Fact-finding missions have been carried out for individual cases of rape or in gang rapes, especially when the state agents played a hostile role against the victim. As noted earlier, fact-finding missions were carried out in the Sagbara gang rape case of a tribal girl, in the Harivallabh rape case, and for gang rapes of Muslim girls during the communal violence in the year 2002. These reports are published for wider dissemination and for advocacy with the state.

Another form of evidence gathering is through the Right to Information applications (RTIs) addressed to the concerned state bodies. For example, in January 2012 the Gujarat government issued a resolution that the scheme for compensation to rape

victims under the Criminal Injuries Compensation Boards is to be made operational in all districts under the Ministry of Department of Woman and Child Welfare. Under the scheme it was required that a board for this purpose ought to be set up in each district with members from the city hospital, representation from a NGO and government officials. Centre for Social Justice took the initiative of finding out whether such boards were appointed in all districts and whether compensation to the rape victims was being made. CSJ filed RTIs across the state to know how many of these boards had been constituted. Only four to five boards had been constituted by then. However, after the public outcry against the Nirbhaya rape case in December 2012, boards were set up in almost all the districts. The next RTI was to know if compensations were actually disbursed or not. From the information received, it was known that initially the funds were not made available, but later with constant pressurising by CSJ, funds arrived, but the process of compensation continued to be very slow (interview with Johanna, 26 May 2014). Thus women's groups first collect enough evidence to strengthen their case, before making claims from the state or related bodies.

One method is approaching the national and subnational commissions, which only have recommendatory powers, but have credibility and influence over the public and over the state. Women's organisations have often approached the National Human Rights Commission (NHRC) and State Human Rights Commission (SHRC) and the National Commission for Minorities. According to Navsarjan Trust, more than the SHRC, the NHRC has been quite responsive when cases of sexual violence where action was not being taken by the state were brought to its notice with an appeal to take action.

Special commissions are also set up by the state for specific matters relating to the masses where submissions are also invited by civil society organisations. One such commission is the Nanavati-Shah commission instituted for the purpose of inquiry into the Godhra Train burning incident which subsequently led to the communal violence in the state of Gujarat. Sahr Waru as part of the citizen's initiative that had collected a number of sexual violence cases from the violence in Gujarat, had compiled it together and submitted it to the commission.

Another strategy is to use public pressure through rallies, hearings, demands for public apologies, sit-ins, hunger strikes, press conferences, and so on. Organisations have also widely used signature campaigns to put pressure on the state. For example, after the Nirbhaya rape case, approximately 40,000 signatures from thirteen districts of Gujarat were submitted to the Minister of Women and Child Development to demand changes in the rape laws as well as changes in the legal procedures and proper implementation of laws to prevent sexual violence against women in March 2013 (Trupti Shah, personal communication, 14 November 2014). Trupti Shah had also used a signature campaign to pressurise the Collector of Baroda to make it mandatory for government offices to follow the Sexual Harassment at Work Place Act properly. Due to the pressure, he ceded to the demands of Sahiyar, which resulted in the formation of sexual harassment committees in about 40 to 45 government offices in Baroda (interview with Trupti Shah, 29 May 2014).

It is usually the case that progressive laws and policies may be passed at the national and subnational levels, but the state personnel are either not aware of the new laws or have not brought them into practice. Women's groups often take the initiative to undertake training for the police to make them gender conscious and to educate them about the new laws. In this manner, organisations also build a rapport with the police which is helpful when registering cases of sexual violence. Training modules, resource

materials and guidelines are developed for use by police personnel. In some cases, cells in police stations that receive cases of violence against women are operated by women's organisations or by the local women's justice committees.

Women's groups have also successfully used the courts for direction in procedures to be followed in a certain law, policy or an act of the state. The Protection of Women from Domestic Violence Act, 2005, made provisions for full-time protection officers in police stations but what was being provided at the police stations was either part-time or ad hoc protection officers. So CSJ had filed a petition in the High Court to direct the subnational police stations to appoint full-time protection officers and give the Act the due attention that it calls for (interview with Nupur, 26 May 2014).

Sometimes women's groups who hold expertise in certain matters are invited officially by the state bodies to give their recommendations on policy and legal matters. For instance, around 1998, the Women and Child Development Commissioner invited CSJ to give its recommendations on child sexual abuse and gender neutrality. However, since 2002, the government's initiative to engage with civil society groups has decreased, particularly with those that are now considered anti due to their stand during the communal violence of 2002. As Trupti Shah suggests, "the government's engagement with our kind of NGO is very low and I don't think they are consulting anybody. They are working through consultants" (interview, 29 May 2014). However, sometimes sensitive state personnel seek guidance from women's groups in their personal capacity,

Post-2002, there has been a reduction in this [in consultation from the state], so I have had the Commissioner for Women and Children very angry about something that the Gujarat government was proposing but she could not call me to her office on a working day. She said 'I want you to help me'. She opened the office on a Sunday and she made me draft her submission on why she is opposing that (anonymous respondent, interview, 2014).

Reviewing, critiquing of existing legislations, submission of new draft bills for amendments in existing laws or for passing of new laws is also carried out widely by the women's groups. International Women's Day on 8 March is another occasion when women groups from across the state come together to submit collective demands to the state.

In terms of its engagement with the state, AWAG undertook a study on domestic violence in Gujarat in 1985 and lobbied with the state to re-evaluate the criminal justice system in Gujarat from the perspective of women. AWAG also conducted regular police trainings to sensitise them about the conditions of women victims of violence and to use the laws effectively to curb further violence. It also organises public marches and rallies against incidents of violence to demand justice and to put pressure on the state. As a result of AWAG's hard work, the Gujarat government appointed a committee to examine the portrayal of gender stereotypes and subordinate status of women in school textbooks (Patel, on feministindia.org).

STRATEGIES TARGETING SOCIETY

An important strategy to influence society has been to gradually develop the agency and leadership of women belonging to the marginalised communities. The organisations form women's groups in the community and train them to critically analyse their situation and create a realisation that situations can indeed change for the better if they take action. ANANDI, Utthan, Swati and Sahr Waru are some of the organisations that

have successfully used this strategy to sensitise women themselves and help to bring a progressive change in their communities.

Another strategy used by organisations like Navsarjan Trust and Lakshya is to have the marginalised community themselves run the organisation. The community members are trained and recruited to run the organisation. This strategy results in better acceptance of its mandates and activities, as it is more representative of the voices of the marginalised group. Besides recruiting staff members, creating a network of paid or unpaid volunteers also aids in commitment from the community to bring about the desired changes in the society.

Educational programmes and trainings are also conducted for children of various ages in schools and with youth in the communities to sensitise them about gender, and other societal discriminations.

Lakshya, Swati, ANANDI and some other organisations, after building rapport with the police, often collaborate with them to conduct public awareness programmes. This collaboration helps the community to feel that the organisation is effective, reliable and has a certain influence on the police.

Public awareness programmes are carried out on different occasions, sometimes to garner support on a controversial case of violence against women, and sometimes to generate general public awareness on occasions such as Women's Day and during religious or community festivals. These programmes include street plays, public hearings, public poster exhibitions, competitions, gender-sensitive songs and information flyers.

AWAG also undertakes awareness-raising programmes with their women clients, such as workshops on health and social issues. Most of the participants in these workshops are victims of domestic violence who had approached AWAG for help. Public programmes include street plays to highlight the pervasive nature of violence against women in communities and the importance of raising voices against all its forms. These street plays have inspired other women to become activists. Thus although the central area of work for AWAG is violence against women, they do see linkages with health and livelihood, and provide training to enhance the capabilities of women around livelihood, and to enhance their understanding and importance of their health.

3.2.4 Conclusion

Women's groups in Gujarat have been shaped and influenced by local, national and transnational forces, events and discourses. At the local level, women's groups in Gujarat have responded to individual cases of sexual violence since the early days of the contemporary women's movement in India, and in this process they have highlighted the complexities and the vulnerabilities of rape victims in seeking justice. The rape cases described above are only a few of the innumerable cases that encapsulate the kind of struggles that women's groups in Gujarat have endured to seek justice. Some of the struggles around the cases have led to successes, but most resulted in limited success or outright failure in bringing justice to the victim. Further, women's groups have been repeatedly rocked and distressed by communal violence, the most disturbing of which was the 2002 communal carnage against the minorities carried out with state complicity. The response of women's groups in these challenging circumstances has been to continuously modify their relationship with the state and their strategies to influence policy change.

Nationally, the women's groups in Gujarat have been influenced by the discourses within the wider women's movement in India. The national-level conferences, consultations and networking have led to new initiatives in Gujarat with a multiplying effect and a spreading of work against violence at the subnational level. Transnational platforms, especially at the UN level, have also led to enthusiasm and flourishing of new ideas as well as alliances and networks both sub nationally and nationally. Women's groups in Gujarat have also been articulating their claims emerging from their local conditions at these national and international platforms and often find greater expression in these forums compared to the ones at subnational level. Some of the claims that were brought forth effectively are related to violence against women in mass crime situations, state repression and the essential linkages of violence against women with economic and social conditions of women and communities.

The women's groups in Gujarat, like anywhere else, are not a monolithic group. The groups interviewed for this study comprised identity groups, organisations that facilitate formation of community-based women's groups in rural and urban settings, crisis centres for violence against women, groups comprising legal professionals that provide legal aid and support. Besides their varying experiences, all these organisations advocate and lobby the state for gender-sensitive laws and policies, and their implementation at the local level. Public pressure tactics are also used to stress the urgency of changes or actions needed on the part of the state. These strategies include public protests, public hearings, and signature campaigns; these tactics therefore mobilise a wider public to engage with the state. The women's groups in Gujarat, thus use various kinds of strategies and techniques to advocate the required changes depending on their areas of expertise and strengths.

In doing so, they have developed and continue to develop a wide range of strategies from the collection of evidence to the direct collaboration with state bodies; from public demonstrations to the provision of information on violence against women.

Women's organisations in Gujarat are strongly influenced by the features of their state, where the trauma of the communal violence and the strong marginalisation of Muslim, dalits and tribal communities impact their ways to articulate claims.

3.3 Anti-Rape Mobilisations in Karnataka: Alternate Conceptions of Equality and Justice

Karnataka has a vibrant culture of autonomous women's groups that focus on violence against women. One of the first organisations in the contemporary history of the women's movement in Karnataka is Vimochana (Liberation), which was established in 1979 in Bangalore. It emerged out of the Centre for Informal Development Studies collective (CIEDS).⁸² Other organisations such as Stree Jagriti Samithi emerged out of the "angst and frustration" in the aftermath of the Mathura rape case in the early 1980s, but also with a clear understanding of the economic oppression of women. Starting life in 1980 in Bombay "working in the unorganised sector and in the Bombay slums", SJS moved to Bangalore with its founder member Geeta Menon in 1984, setting up the Stree Jagriti Samithi in the slums of south Bangalore in 1986 (interview with Geeta Menon, 17 June 2014). Similarly, other women's organisations such as Women's Voice also

⁸² The CIEDS collective came together in 1976 in the context of the political emergency of 1975 from a Trotskyite tradition in left politics (see Vimochana website, <http://www.vimochana.net.in/home.html>, last accessed 20 March 2016).

took shape in the 1980s with a clear focus on women's economic exploitation and locating their interventions in the framework of caste injustice (interview with Ruth Manorama, 19 June 2014). Organisations such as Hengasara Hakkinna Sangha (Women's Rights Group), focusing on women's human rights through an engagement with legal literacy, emerged in the 1990s (interview with Indhu, 20 June 2014).

More recently, Karnataka, and particularly Bangalore, have seen a proliferation of groups focusing on LGBT rights since the early 2000s: Sangama, Samuha, Aneka, LesBit, Karnataka Sexual Minorities Forum, Karnataka Sex Workers Forum and several others. Two organisations—Good as You and Sabrang—began in the 1990s.⁸³

Further, Karnataka has a long history of dalit mobilisation, particularly since the 1970s with the emergence of the Dalit Sangharsh Samithi (DSS) (Nagaraj 1993; Japhet 1997). Although DSS had a women's wing (the Dalit Women's Federation) at its inception, dalit feminist politics in Karnataka has itself taken longer to emerge as a political force (Chigateri 2004). Over the last decade or more, the DSS has splintered into several groups, and several other dalit groups such as the Madiga Reservation Horatta Samiti (MRHS) were formed, providing a diverse and dynamic dalit political field in Karnataka. Groups such as Women's Voice, the National Federation of Dalit Women as well as the Dalit Mahila Okoota (Dalit Women's Federation) have emerged as significant actors representing dalit feminist politics in Karnataka. Other human rights groups such as Peoples Union for Civil Liberties-Karnataka (PUCL-K) and the Alternative Law Forum have also intervened significantly in anti-rape mobilisations.

The engagement of groups from Bangalore on the question of violence, particularly through the work of older groups such as Vimochana, began from the start of mobilisations against the Mathura judgement (Kumar 1993; Gangoli 2007). When women's groups got together in Mumbai to debate the recommendations for changes to the law on sexual violence, Vimochana was an active participant (interview with Celine, 23 July 2014). Vimochana was also closely involved with mobilisations with other cases that took on a national character, the Rameeza Bi case in Hyderabad as well as the mobilisations against the Maya Tyagi case.⁸⁴ Celine, who is the Coordinator of the Crisis Intervention Centre at Vimochana, locates the difficulties not just of mobilising on violence against women, but the lack of a vocabulary to talk of the issue. She also locates how this began to change with the charged and transformatory context of the early mobilisations energising women's groups, with discussions moving well beyond the particular context of these cases,

These rape cases really brought us together and there were lots of discussions, where for the first time we were talking about something happening on our being, which was never spoken. And second was, 'can that be done by somebody who is married to you?' I mean these were very very radical issues at that time. Nobody was talking. They used to look at us as if we were mad and we spoke about that kind of intrusion whether by police whether in the name of the law, whoever does it (interview, 23 July 2014).

Moreover, apart from the transformations within groups, the early mobilisations had an impact on public discourse too. "Very few writings or questionings were there. And then when this Mathura thing came, and people started talking in our words. What is the role of the police, what is the role of judges, how does the court engage with these kind

⁸³ PUCL-K 2001; Manohar 2005; Chandran 2011.

⁸⁴ See national section for details.

of things? And the entire country vocalized, [started] talking, discussing” (interview with Celine, 23 July 2014).

Since those early mobilisations, groups from Karnataka, particularly from Bangalore, have continued to be involved in national level mobilisations on anti-rape laws through the 1990s and up to the recent mobilisations on the enactment of the Criminal Law Amendment Act 2013. In the broader context of women’s groups’ interventions on violence against women, groups in Karnataka have also mobilised on dowry prohibition and domestic violence laws and policies, as well as sexual harassment laws post the Bhanwari Devi case, the communal violence bill, and sex workers rights.⁸⁵ Vimochana’s own work on violence against women post its inception for instance, focused on dowry deaths and “personal” violence. In 1993, the organisation established the women’s crisis intervention centre Angala (Courtyard) in order to “systematically reach out, respond and offer moral, social and legal support to women who [were] victims of violence and abuse both within marriage and outside”.⁸⁶ Similarly, in 1997, the Campaign to Protect the Right of a Woman to Live was initiated. The campaign focused on studying the “increasing violence and deaths (from suicides or murders) of women within the first few months/years of marriage due to harassment for dowry”. This campaign led to the setting up of a unit at the government-run Victoria Hospital with the purposes of monitoring the police investigation of admitted cases of burning and to offer support to the survivors and their families.⁸⁷

In this section, we locate the more subnational mobilisations that groups have engaged in, and reflect on how these may have influenced engagements at the national level.

3.3.1 Claims making by groups on anti-rape laws in Karnataka

Relationship with the law

The question of the relationship of women’s groups with the state and the law have animated feminist engagements on violence against women in Karnataka, as well as nationally.⁸⁸ Geeta Menon of Stree Jagriti Samithi talks of this in terms of whether feminist groups conceive of the state as a “friend or an enemy”. She argues that early on, although women’s groups called upon the state for special mechanisms to deal with violence against women, an institutional critique of the state and its mechanisms were necessary.

[At that time] we were seeing that a lot of the women’s movement had fought for family courts and for women judges. ...But ... even though there is a family court headed by a woman judge, finally it is the laws that are the same and regressive laws that are being followed. ... So these were the questions we were raising all the time in the women’s movement, because if you are clear that the state is not our ally, then the state has to be looked at in terms of [serving] vested interests of patriarchy, caste and class (interview, 26 July 2014).

Corrine Kumar, a founder member of Vimochana nuances this critique by talking of a schizoid relationship in their engagements with law,

⁸⁵ See interviews with Indhu, HHS, 20 June 2014 and Vimochana website, <http://www.vimochana.net.in/home.html>, last accessed 20 March 2016.

⁸⁶ See Vimochana website, <http://www.vimochana.net.in/home.html>, last accessed 20 March 2016. This intervention centre continues to offer support to survivors of violence with Vimochana, responding to about 400-450 women and families at any given point of time. This case-based intervention through counselling and direct intervention, providing medical, social and legal support has become a core part of Vimochana’s work (interview with Celine, 23 July 2014; also Ghadially 2007).

⁸⁷ See Vimochana website, <http://www.vimochana.net.in/home.html>, last accessed 20 March 2016.

⁸⁸ See the national section for details.

For 35 years we have used the laws. We have asked for a dowry law, worked so hard on the Dowry Prohibition Act, worked hard on getting even the family courts as an institution of justice. And realised more and more that if the paradigm does not change, the shift does not happen, if patriarchy is still embedded in the laws, the laws which are so gendered, which lens are we looking through and why are we so shocked that the laws do not see the women?...Seemingly on issues of violence against women there are these huge loopholes in the law and huge gaps which the women just fall through...I say we are schizoid in Vimochana because we are using the law, we are using the police, we are using the institutions of justice, we do go to the mediation centre, we do go to the family courts, civil and criminal courts. Yes, but where are we getting in all this? The delays in the justice system are horrendous...I mean people do not live sometimes—most of the times—and through all this, the delays, the loopholes, the corruption within (interview, 23 July 2014).

IMPLEMENTATION OF LAWS AND POLICIES

At the razor's edge of women's schizoid relationship with the law, women's groups in Karnataka work with the state to make it accountable, while simultaneously critiquing the processes through which the law is implemented. According to Donna Fernandez (Vimochana), the law is one recourse among many for women's groups in their quest for justice because "for women victims of violence, it is such an unfriendly process" (interview, 23 July, 2014). Moreover, even with changed laws, the practice does not necessarily keep up. For instance, although the protocols on medical examination have changed after the Supreme Court judgement on the two-finger test and the new protocols of the Ministry of Health in 2014,⁸⁹ they are not applied in practice. As Donna Fernandez recounts, a mentally challenged woman victim of rape was kept nude for three/four hours for a medical examination in a Mysore hospital in contrast with the new rules. "How does the law address a question like that?" she asks (interview with Donna Fernandez, 23 July, 2014).

Further, the way implementers interpret the law may not always be consistent with the purport of the newly reformed laws. For instance, in a recent case of a gang rape in Fraser town,⁹⁰ the inspector downgraded the offence against the accused to molestation because it did not involve penile penetration. Donna Fernandez reflects on this case,

What was very revealing was that the inspector said ... that he was not aware of the law. So this gap between the law which was passed more than a year ago ... Therefore what he did was, when this woman talked of rape which is not in the usual way of penile penetration, he thought it is molestation because that is how it was all this while till the new law [2013 Act] came. But the new law seems to remain only on the paper and it does not get translated on to people who are enforcing the law (interview with Donna Fernandez, 23 July, 2014).

She also asks the larger question of accountability—who is accountable for his lack of knowledge? Donna also suggests that the police may not be the "best people to deal with cases of rape" because these are very gender specific laws, but we have the same "flawed legal system" for implementation. Her argument is that the "[the substantive

⁸⁹ A Committee was set up by the Health Department after the Justice Verma Committee recommendations to design protocols for the medical examinations of victims of sexual assaults. Renu Khanna (Sahaj), who was a member of this committee, talks of the gamut of issues that the committee had to consider: "how do you do the exam in a woman-centered, non-invasive way, how do you collect evidence and then what do you do, ...counseling ... that was what that committee did for the health department". In March 2014, based on these discussions, a report was released on the protocols to be followed by dealing with sexual assault victims. Renu Khanna argues, however, that there was a conflict at the heart of the report, "one of the things in the health committee protocol which people were not happy with was this whole thing of mandatory reporting. The argument by [women's groups in the committee] was that if the woman does not want to report than you should respect her autonomy. However, the health system, the legal system and the justice system say that if you know that there has been a sexual assault you have to report it. So there is a conflict between a woman's autonomy and the system requirements" (interview, 9 September 2014).

⁹⁰ This case was one of the first cases where a policeman was charged with the new offence of dereliction of duty (Section 166A) inserted by the Criminal Law Amendment Act 2013 (see newspaper reports on 15 July 2014, particularly Swamy, Bangalore Mirror, for details of the case).

part of] laws themselves maybe good but we are using the same old structures, the same old systems to translate these laws and it does not work”. Talking about a recent child abuse case in a popular school in Bangalore, she asks “how do you expect a bloody rough policeman in his suit and boot and khaki to come and talk to a child who is six-year-old? Does [he know] that baby language even to talk to her to find out something so traumatizing?” She suggests that what we need “are psychologists, women’s rights activists, multiple things” (interview with Donna Fernandez, 23 July, 2014)⁹¹.

Feminist responses to the arduous process of implementation in a flawed system has also been to work with the system itself to bring about change. For instance, Hengasara Hakkina Sangha set about dealing with the problem of implementation through a fellowship programme for lawyers.⁹² Indhu, the Executive Director of HHS recounts the reasons for the programme and what they did:

I mean the system almost seems indestructible and set in stone. ...We realised women were finding difficulties in the court processes, not having gender sensitive lawyers and judges....I mean not just talking about Bangalore, we are also talking about all over Karnataka. People want someone gender sensitive to be able to give them some advice....So we ran two rounds of lawyers fellowship programme, selecting lawyers from the small towns and taking them through a year of capacity building, paying them a stipend so that they are able to work (interview, 20 June 2014).

They successfully trained around 20 lawyers in 14 districts of Karnataka. HHS connected them with the women’s organisations across the state, so they could provide gender-sensitive services. She says that the refrain is always, “we want law, law, law. Law came, and there was not much focus on how it is going to get implemented.” (interview, 20 June 2014).

HHS also monitors the implementation of the Protection of Women from Domestic Violence Act 2005 (PWDVA) by understanding the rules that have been made, and tracking who are appointed as protection officers, how much training they have received, and whether they have become involved with the training. Some of HHS’s other monitoring work revolves around Santwana centres, which are run by the Government of Karnataka since 2002 for any woman who faces violence. Based on what Indhu terms the “outsourcing model of the government”, it funds NGOs to run these centres (augmented with additional resources). However, the government has not set out any clear guidelines on how these are to be set up. HHS carried out a study on the Santwana centres through which it became clear that a lot of women used the facilities, but the quality of the centres was poor. HHS then conducted a study “which looked at the quality and accessibility of these services”. Using the findings of this report, it got various state agencies involved, such as the Department of Women and Child Development, Legal Services Authority and the police, to “impress upon state agencies the need for certain uniformity across the board and certain benchmarks for quality” (interview with Indhu, 20 June 2014).

⁹¹ This understanding that an alternate system of justice is better equipped to hear and deal with the violence that women face runs through the work of Vimochana. It is behind its World Courts of Women, and also behind its interest in offering to test the government’s proposal on Nirbhaya centres for dealing with victims of violence, to which we will return below.

⁹² HHS is a women’s organisation set up in the 1990s to deal with the issues of women’s rights through legal literacy, training and advocacy.

Similarly, AIDWA Karnataka critically engages with the Karnataka government on a current sensitisation programme for students in around 65,000 schools and colleges.⁹³ The programme mainly focuses on the Indian legal framework to eradicate violence against women. AIDWA welcomed the programme but raised some concerns on its contents. It advocated for a more gender-sensitive approach to change mind-sets on gender, instead of instilling fear through the knowledge of law (interview with KS Lakshmi, 18 June 2014).

AIDWA, and other groups such as Vimochana, also use case-specific interventions. Based on the programmatic priorities set by their state level committees for three years, AIDWA intervenes on cases of violence against women whether this is on sex selective abortions, cases of violence related to inter-caste marriage, domestic violence, or dowry deaths.

A recent case where AIDWA was able to mobilise at the state level was the case of a PUC (pre-university course) student who was raped and murdered on her way home from college in Dharmasthala near Mangalore in October 2012 (for details, see Raghuram 2012). When after a year, there were still no arrests, mobilisations were taken up at the state level by AIDWA and other organisations. Apart from several agitations at the local level, KS Lakshmi recounts that in Bangalore, an indefinite strike was held in front of Town Hall where nearly 60 organisations came together, after which a Central Bureau of Investigation (CBI) inquiry was finally ordered into the case, which KS Lakshmi suggests is the first instituted for a case of violence against women. Now AIDWA is demanding a CBI inquiry into 492 cases of unnatural deaths of women in Dharmasthala (interview, 18 June 2014).

CLAIMING AN ALTERNATE SYSTEM OF JUSTICE: WORLD COURTS OF WOMEN AND WOMEN-FRIENDLY NIRBHAYA CENTRES

Among their claims making on women's rights, Vimochana demands and advocates for a women-centred system of justice. Their daily work with the nitty gritty of the existing system of justice has fuelled their alternate visions for the Nirbhaya Centres proposed by the government. As Corrine Kumar, founder member of Vimochana puts it, "Now women who are victims of crime need to heal in another way. And the healing will not come through the police, will not come through the law courts, will not come through the hospital. Can the alternative justice that we are talking about, can it bring in a whole dimension of healing?" interview, 23 July 2014).

According to her, setting up Nirbhaya Centres in safe spaces for women would offer a better possibility of healing: "where you have a kind of an ambience and a kind of a space where the woman can feel that this is a safe place". Arguing against the "adjust maadi"⁹⁴ kind of attitude that penetrates our legal institutions where women are expected to conform to the system and get by, she says:

What happens in our institutions of justice, law and order, medical ..., it is very easy to put women into categories and into objects so that you have to separate them from the feelings. How many times a woman has been told 'if you are going to be good witness do not cry, if you are going to be a good witness forget your trauma, if you are going to be a good witness, you do not have a memory so you just answer what I as a prosecutor am going to ask you, I as a lawyer am going to ask you'. Now this has erased a way of knowing that can take us into a deeper layer of knowledge, that will bring us other insights. And this is what we are preventing ourselves by continuing in this kind of dominant way to knowledge, the dominant cosmology that says the way to knowledge is

⁹³ AIDWA Karnataka has a large state presence with about 7,000 members in Bangalore and about 72,000 members across Karnataka, most of whom are from disadvantaged communities including 40% dalits. They work on issues of violence at various levels.

⁹⁴ This is a colloquial Kannada expression which means "accommodate/adjust to circumstances".

scientific, it must be proved, it must be logical, it must be objective. And I say to you, no, when we are talking in terms of violence against women, that is the person who has been subjected to that violence. You must listen to her voice (interview, 23 July 2014).

Based on this alternate form of knowing which centres women's voices, Vimochana developed a programme called World Courts of Women in collaboration with the international NGO El Taller. Since 1992, the courts of women have been held in several parts of Asia and the Pacific on various issues, including violence against women, war crimes, dowry, HIV-AIDS and trafficking. The purpose of these courts is to make the case for an alternative vision of justice that is open to voices of women and the emotional dimension of their traumas,

What we have found in the courts is that we are using all our old paradigms and old frameworks to understand what is this violence. How do we understand violence against woman? When it comes through the police, it is the FIR. When it goes to the courts, the court case that goes on the evidence that it has called for at the trial. All of these processes are further victimising the women. Even how we know what we say we know and bring into these kind of public institutions of justice is a way to knowledge that is always seen as something that is objective, distanced, linear, logical—that is the kind of knowledge that we use to bring justice in the law court. There is no place for tears, no place for trauma, no place for emotions, no place for memory, no place for history, no place for the woman, no place for the world views and the life stories of the women. There is just the crime and she is the object of the crime (interview with Corinne Kumar, 18 June 2014).⁹⁵

This alternate understanding of justice runs through the kind of campaigns and modes of strategising that Vimochana do as well (on which more below).

Claims Making by Sexuality Minorities: Transforming Debates on Violence against Women

Karnataka has a number of organisations focused on the rights of sexuality minorities. One hypothesis for the growth of sexuality minorities' organisations is related to the specific context of the rich history of political movements in Karnataka, particularly since the 1970s. According to Rajesh, an activist from Sangama, the emergence of groups such as the DSS and the CIEDS collective provided the foundation for collectivisation among sexuality minorities groups (interview, 15 August 2014). The cases of sexual violence against sex workers and the transgender community—often perpetuated by the police—were another propelling factor of the mobilisation on sexuality minorities' rights.

The history of the mobilisation on LGBT rights in the state is usually traced to the setting up of Good as You—a support group for the gay community in Bangalore – in 1994 (Chandran 2011). Many other sexuality minority organisations started working in late 1990s, but officially registered themselves only in early 2000s. One of them, Sangama, initially worked exclusively with sexuality minorities, but expanded its focus to include sex workers and people living with HIV in the mid-2000s. The group's primary focus was the establishment of a documentation centre, after which it supported the creation of other organisations such as Samara, Sadhane, LesBit and the Karnataka Sex Workers Union (Interview with Gurukiran Shetty, 15 August 2014). Samara and Sadhane are organisations of sex workers and people from sexuality minorities. They deliver services for the HIV prevention and organise support groups for HIV positive

⁹⁵ The Courts of Women as an alternate system of justice resonates to some extent with the *nari adalats* (women's courts) under the Mahila Samakhya programme. In Karnataka, *nari adalats* came to the notice of the *sanghas* (women's organisations), through an exposure trip to Gujarat, where they witnessed the working of this non-formal dispute mechanism. The first Nari Adalat was set up in 2000 in Gulbarga in response to (Purushothaman 2010; also see interview with Corinne Kumar, 23 July 2014).

people in Bangalore respectively. LesBit, which specifically focuses on lesbian, bisexual and trans women, separated from Sangama due to differences of opinion (interview, Gurukiran Shetty, 15 August 2014; see also interview with Sumathi Murthy, 24 July 2014). The Karnataka Sex Workers Union is a membership-based union that addresses specific rights of sex workers in the state. In 2008, a fifth organisation called the Karnataka Sexual Minorities Forum started as an advocacy platform for sexuality minority rights (interview with Gurukiran Shetty, 15 August 2014). Apart from this family of organisations, another closely affiliated organisations is Aneka, which works to promote the rights of marginalised communities especially sexuality minorities, sex workers, women, and people living with HIV by supporting community organisations, and engaging in policy advocacy and in research (interview with Shubha Chacko, Aneka, 24 July 2014).

At the state level, there is an active campaign group called Campaign for Sexuality Minority Rights (CSMR), constituted by many of these groups, as well as others such as the Alternate Law Forum, PUCL, Good as You, We are Here and Queer (WHAQ) and Swabhava.

CASES THAT PROPELLED SEXUALITY MINORITIES' MOBILISATION

In 2002, four kothi sex workers were picked up, harassed and severely beaten up by the police in a police station in Bangalore (PUCL-K 2003). They were later released, without charges, but with a warning to not appear again on the streets of the city. This case was one in a spate of recurring violence against the transgender community by the police which led to a group of organisations instituting a joint fact-finding mission to investigate the human rights violations and suggest measures for redressal of grievances and securing justice (PUCL-K 2003).⁹⁶ The significance of the report was to echo beyond the particular context of Karnataka. Indeed, the report was used by the Delhi High Court in the landmark judgement in *Naz Foundation v. NCR Delhi*⁹⁷ to link the violence suffered by the transgender community to Section 377 which criminalises homosexuality. Moreover, the PUCL-K report was employed extensively to make the case for “gender neutrality” in relation to the victim of sexual assault around which most feminist organisations coalesced prior to the Criminal Law Amendment Act 2013 (interview with Narrain, 23 July 2014; Mundkur and Narrain 2013).

There were other significant cases that mobilised groups in Karnataka, particularly in the context of police brutality. In 2004, a transgender woman, Kokila, was raped by 10 men and further harassed and tortured by the police when she went to register a complaint (interview with Gurukiran Shetty, 15 August 2014; Mundkur and Narrain 2013). Furthermore, between 2005 and 2006, four sex workers were arrested by the police in the town of Channapatna (Ramnagar district) with the false accusation of running a brothel. The media covered this incident without protecting the privacy of the women. Sangama called for a protest that was brutally repressed by the police. A wider protest with over 40 groups in Bangalore resulted in complaints being registered with the Bangalore rural Superintendent of Police (SP), Ramnagar SP, the States Human Rights Commission and the National Human Rights Commission. Further, a fact-finding mission uncovered the details of the incident. This rapid mobilisation propelled the government to action: the police officer was transferred and the local offices of

⁹⁶ The organisations included People's Union for Civil Liberties (Karnataka), Alternative Law Forum, People's Democratic Forum, Sangama and Vimochana.

⁹⁷ *Naz Foundation v. Govt. of NCT of Delhi*, 160 Delhi Law Times 277 (Delhi High Court 2009). This judgement read down Section 377 of the Indian Penal Code, decriminalizing homosexuality. However, it was later overturned by the judgement of the Supreme Court in December 2013 in *Suresh Kumar Koushal and Another v Naz Foundation*, making “unnatural sexual offences” a crime again.

Sangama were reopened after being closed by the police during the protest. If the Kokila case was a significant moment for the mobilisation of sexuality minorities because it brought groups together to focus specifically on sexual violence and the requirement of gender neutrality in sexual assault laws (interview with Rajesh, 15 August 2014), the second case channelled the mobilisation of sex workers through the establishment of the Karnataka Sex Workers Union (interview with Gurukiran Shetty, 15 August 2014).

After few years, in 2008, the new Commissioner of Police appointed by the Bhartiya Janata Party (BJP) government approved a circular that authorised the arrest of transgender people for causing nuisance at the traffic lights. Five transgender women were arrested thereafter, and when Sangama staff intervened, they were arrested too, and were stripped naked, physically assaulted and harassed (interview with Gurukiran Shetty, 15 August 2014). The ensuing mobilisation was not only supported by sexuality minorities' organisations, but also by other groups including the Dalit Women's Forum and the Garment and Textile Workers Union. A further arrest of other five people intensified the protest. The escalation of tension between protesters and police resulted in more arrests (some were later released on bail). A notice by the police to homeowners left many transgender people and individuals from other sexuality minorities homeless.⁹⁸ The organisations responded with a series of actions to increase the awareness and the knowledge of transgender issues among the police personnel and wider society. They proposed a week of action, in which Vimochana organised the Women in Black protest, and Sangama themselves employed "gandhigiri".⁹⁹ This entailed going to police stations and offering flowers to the police entreating them to understand transgenders. They also distributed leaflets. Gurukiran estimates that they distributed about one lakh (100,000) leaflets during that time. Further, they also used a helpline to educate the public about the context of the transgender community (interview with Gurukiran Shetty, 15 August 2014).

The actions taken on these cases proved to be significant, although they did not always lead to positive results. However, thanks to these mobilisations, sexuality minority groups managed to establish a clear presence in Karnataka. The initial actions propelled further mobilisations on claims such as social security for sexuality minority communities as well as a strong intervention in debates on sexual assault laws (particularly on gender neutrality and sexuality minority related issues) at the national level.

THE KARNATAKA SEX WORKERS UNION

After the Channapatna case, in 2007, a group of sex workers established the Karnataka Sex Workers Union (KSWU) in order to better intervene in case of crises, to engage with each other about the nature of their work, to disseminate information on the Immoral Trafficking of Persons Act (ITPA) and discuss strategies on how to negotiate the law and the police. The Union works with female sex workers, transgender sex workers and male sex workers in seven districts of Karnataka¹⁰⁰ (interview with Nisha Gulur, 11 August 2014).

⁹⁸ Gurukiran recalls that while their usual number of weekly crisis cases were about 8-10, in the period following the arrests, the cases went up to 40.

⁹⁹ Gandhigiri refers to an interpretation of Mahatma Gandhi's non-violent protest, popularised by the Hindi film, *Lage Raho Munnabhai*.

¹⁰⁰ The seven districts are Bangalore, Ramnagar, Bangalore rural, Bangalore urban, Ramnagar, Kolar, Chikkaballapur, Tumkur and Hassan. At the moment, there are 2,500 members in the union, with an elected board of 11 members.

Although the Karnataka Health Department recognises sex workers as workers in its programmes, they are not yet recognised as such by the Labour Department. Since 2009, the trade union has tried in vain to register the union. The requests were rejected because of the arguments made by the state that sex work was not legal and that the employer/employee relationship does not subsist in this context (Interview with Gurukiran Shetty, 15 August 2014).¹⁰¹ However, the New Trade Union Initiative, which is a national federation of various unorganised workers unions, have given the KSWU membership.

The president Nisha Gulur of KSWU describes the kinds of violence faced by sex workers, including violence by intimate partners, brothel owners and police (interview, 11 August 2014). Apart from these types of violence, she points to the complete lack of recognition of the fact that sex workers can actually experience violence.

In their recommendations to the Home Affairs Select Committee on the Criminal Law Amendment Bill 2012, the National Network of Sex Workers (NNSW), of which the KSWU is a member, also located the sexual violence within sex work and state violence against sex workers (draft submission, on file courtesy Aneka). In its letter, the NNSW recommends that the state recognise the aggravated nature of the sexual assault against sex workers by people in authority. They also recommend that the law include a new clause under Section 375 recognising that sex workers can also be sexually assaulted. Moreover, they recommend that the victim of sexual assault ought to be gender neutral, as these experiences of sex workers are not restricted by gender. The letter also recommends certain protocols to be followed in dealing with cases of sexual assault against sex workers (interview with Nisha Gulur, 11 August 2014).

As we have seen in the national-level section above, the JVC recommendations did not make any distinction between sex work and trafficking. While this was rectified in the Criminal Law Amendment Act, the other recommendations made by groups such as NNSW did not make it to the Criminal Law Amendment Act, leaving sex workers unprotected by the criminal law.

The recommendations on the amendments to the criminal law, as we have seen in this section, have emerged from the experiences of sex workers in Karnataka (as elsewhere). Groups such as Sangama, Aneka and the Karnataka Sex Workers Forum have been instrumental in seeking these changes to the law at the national level. Moreover, as we have seen in the national-level section above, groups such as LesBit and Aneka have also been part of efforts to broaden understanding of gender neutrality to gender inclusivity, based on their experiences with sexuality minority groups in Karnataka.

Dalit women and sexual violence

The question of the marginality and invisibilisation of dalit women's claims is reflected in the mobilisations in Karnataka (just as they are at the national level and in Gujarat). Groups working with dalit women in Karnataka point out that despite the many incidents of violence against dalit women, they do not get attention at either local level or at state and national levels. As Ruth Manorama of Women's Voice puts it, "dalit women are very very upset by it. They say that look when there is an issue of rape, the Nirbhaya case has got so much [publicity]. One after another, in about 40 days, there were 22-24 cases of rape [of dalit women] and nobody really raised their voice" (interview with Ruth Manorama, 16 August 2014).

¹⁰¹ The trade union is working with Lawyers Collective and ALF to take the case forward.

Even so, there are groups mobilising and supporting the claims making on and by dalit women at both the state and national levels. Ruth Manorama, who has been an integral part of the formation of the NFDW and has also been integral to the mobilisations on dalit women at the national and international levels, argues that “dalit women’s issue and the [question of] violence has been taken up the National Federation of Dalit Women to a very great extent to the CEDAW committee in 1998, 2000 itself”. Moreover, through her work with the National Alliance of Women’s Organisations, of which she is President, she ensures that the question of dalit women finds a place in the shadow reports to CEDAW (interview, 16 Aug 2014).

In Karnataka, there are organisations such as the Dalit Women’s Federation that mobilise specifically on claims from dalit women.¹⁰² Moreover, dalit women are supported by other organisations. AIDWA Karnataka organised a campaign on devadasi women urging the state to provide livelihood alternatives and pension scheme for these women (interview with Lakshmi, 18 June 2014).

PUCL Karnataka have also documented sexual assaults against dalit women. In its submission to the JVC, the organisation made particular mention of the case of Budhihalli in Chitradurga district where the organisation found “a tragic tale of continued and large-scale sexual exploitation of Madiga women (dalit women) at the hands of Gollas and Nayakas—the land holding communities”. Further, the state machinery was insensitive to “the great psychological and social barriers that Madiga women faced to openly acknowledge, let alone file FIRs and register cases of sexual exploitation against males from dominant communities” (PUCL-K 2013). In their submission to the JVC, PUCL-K recommends that the Criminal Law Amendment Act should provide better accessibility to medical centres and police stations for dalit women, and the presence of a woman constable at all police stations (see submission to the JVC).

Although groups such as Women’s Voice also target their mobilisations at the national level, there are significant mobilisations at the subnational level as evidenced by the PUCL-K report.

3.3.2 Processes of mobilisation

As mentioned above, there are many ways in which groups in Karnataka engage with each other and with the state. The autonomous women’s conferences provided valuable spaces for women’s groups to engage with issues of particular significance to them. Geeta Menon remembers the Calicut conference, where the issue of religious fundamentalism was taken up, and Ruth Manorama remembers the Tirupati conference where dalit women stormed the conference (interviews, Geeta Menon, 26 July 2014 and Ruth Manorama, 16 August 2014). Vimochana has been closely involved with these conferences as well through their involvement in the National Coordination Committee.

Apart from these autonomous women’s conferences, groups have also used networks such as the Campaign on Sexuality Minorities Rights at the state level to raise issues pertaining to sexuality minority rights groups. Groups are also part of several national level campaign groups such as the National Network of Sex Workers (NNSW) which provide a forum for debates and consensus formation.

¹⁰² However, owing to an inability to interview them, we are unable to document their interventions at the subnational and national level.

Groups also note the changes in the modes of communication since the early days of the movement to more recent mobilisations. Celine (Vimochana) recalls the difficulties of communicating in the early days, “everything was taking time, and to get the phone line was not so easy, you know you have to make a trunk call and all that. Really, you can’t imagine, we used to send cyclostyle papers” (interview, 23 July 2014). Gurukiran Shetty (Sangama), on the other hand points to the role of the social media in mobilising more than 40 groups during the Channapatna case: “Many groups came together, because we are very good in [using] open space. There is a Google group where more than 2,000 NGOs are connected” (interview, 15 August 2014).

To mobilise the wider public and raise awareness, organisations have used a wide range of strategies such as handbills, leaflets, phone lines and press briefings (Interviews with Sangama, 15 August 2014 and AIDWA, 18 June 2014). Celine talks of Vimochana’s early campaigns in the 1980s:

“[The] first campaign was go on the streets, wall writings, street theatre, talking to students ..., go to...the bus stop and sing lots of songs. ... We used to take ladders and climb up [and] attack the hoardings [which portrayed women in a derogatory manner]. Some hoardings were 200 feet high, and we would take one ladder, two ladder, three ladders, [tie it] tight like that ... and climb up and paint it” (interview, 23 July 2014).

Since 1993, Vimochana has organised Women in Black protests which is “formal, silent, featuring black clothing, black placards, black banners” (Cockburn 2007). The first one was held in the aftermath of the demolition of the Babri Masjid to protest against the communal violence. In the 2000s, Vimochana used this form of protest to draw attention to, among other things, war crimes and the violence against the transgender community. Other strategies that groups employ are one-to-one meetings with sexuality minority communities, interventions for specific cases (Vimochana, Sangama, KSWU, LesBit and AIDWA) and training and capacity building of women’s groups (HHS).

Groups have also engaged in innovative strategies targeted at the state. Fact-finding missions and reports are one way in which groups have sought to make governments accountable for state violence and for its apathy towards the violence committed against individuals from sexuality minorities, dalit women, and minority women (see for instance PUCL-K 2003). Other ways in which groups have sought to influence the state have been through methods such as Gandhigiri which was recently adopted by Sangama in entreating the state to directly engage with them. Apart from this, groups use strikes, protests and rallies against the state to good effect.

However, in her response to the question of what strategies work against the state, KS Lakshmi of AIDWA responded that there is no substitute to community mobilisation. As she puts it, “Instead of strategy, strength of a struggle is most important. If the struggle is weak, symbolic and based on token intervention it will have no effect. You need to have long-term intervention. It has to involve the community. If the state has to take it seriously, it is only people’s struggle and mobilisations that work” (interview, 18 June 2018).

Box 2: The Marmara Campaign

A recent strategy that Vimochana has employed to reach the wider public has been through the “Marmara” campaign. Corrine Kumar (Vimochana) says that the idea gripped them in the context of Modi’s Chai pe Charcha campaigns in the run up to the recent general election in May 2014.

This is what we have to do, we have to sip tea but we have to sit under trees. The mara in Kannada means a tree, and the mara it is a very wonderful space, if you sit around the tree it is very non-hierarchical green bean on patriarchy. You could not be standing up and talking down to us. It could be a place of shelter, a place of shade, a place of nourishment, a place of nurturing. So we began to think of all these positive things and then I thought of people who are displaced, people who are uprooted, so the idea of the marmara, marmara means the murmuring which could be the trembling of leaves and trees, it could be the breaking of new grounds, it could be from a murmur to a hubbub one day (interview, 23 July 2014).

Once the idea germinated, Vimochana were quick to seize on it and conduct marmaras on various issues around Karnataka. Such was the energising nature of the marmaras that they managed to do 50 marmaras in about three months, examining various local issues, including water consumption, democracy, widowhood, dalit issues and violence against women.

3.3.3 Conclusion

Groups in Karnataka have been engaged with the mobilisations at the national level from the early days of the Mathura campaign. From the late 1990s onwards, Karnataka has also seen a growth in the number of sexuality minorities’ groups, which have emerged in response to police brutality, state apathy and other forms of societal violence. Their mobilisations have influenced the nature of claims making at both the subnational and the national levels, as evidenced by the strength of sexuality minority voices from Karnataka during the JVC hearings as well as in public discourse. The claims by sexuality minority groups from Karnataka to expand notions of equality to *include* sexuality minority experiences, especially those of the transgender community have resonated among women’s groups in Karnataka as well as at the national level. Overall, the proliferation of a diverse and dynamic group of organisations in Karnataka is also reflective of the rich history of dalit and feminist mobilisations in the state since the 1970s. Dalit feminist voices from Karnataka have also influenced the debates on the relationship between dalit women and sexual violence at a national level, particularly through the work of Women’s Voice and NFDW. Other groups such as PUCL and AIDWA intervene on cases of violence against dalit women at the local level.

At the subnational level, groups have engaged with the implementation of law, whether through lawyers’ training, improvement of government schemes or critiquing the existing interpretation and consequent implementation of the law. These engagements have led them to envisage alternative systems of justice to be applied to the government-run support centres or through initiatives run by civil society organisations (i.e., the World Courts of Justice for Women). Further, almost all of the groups intervene in supporting victims after violence in intimate relations, violence by the state or community-based violence.