

Negotiating Spaces

Looking back. Looking Forward. Rape Law Reform in India

Registration

Form

Majlis invites you to our annual conference '*Negotiating Spaces*' which focuses on laws, rights and legal strategies concerning women and children. This year the theme is *Looking back. Looking Forward. Rape Law Reform in India*

The decade of 2012 - 2022 has been historical with great strides made in legislations dealing with sexual violence. The Protection of Children from Sexual Assault (POCSO) Act came into force on 14 November, 2012. The gruesome gang rape and murder of a paramedic in Delhi led to country wide protests, and a change in the rape laws through the Criminal Amendment Act (CLA), in April, 2013. Since then there have been a number of amendments including CLA, 2018 which introduced death penalty in cases of sexual assault of minors below the age of 12. Some of us from the women's movement have traversed a long and winding journey from the Criminal Law Amendment Act of 1983 to 2022. Over the past forty years we have addressed the issue of rape, both through public campaigns and by providing support to individual survivors. Yet often we find ourselves facing the same or similar dilemmas despite periodic reforms. While the legislation changes brought in hard won victories there were others which are a cause of great concerns.

Ideal Victim We are constantly faced with the notion of 'an ideal victim.' The implementing agencies in a rape trial have a stereotype image of an ideal victim - very young (virgin), raped by a stranger, with multiple injuries, reported immediately (clear forensic evidence) makes for an ideal victim, the rest of the cases fall by the way side and end in acquittal. In spite of four decades of amendments have we progressed in our expectations from a rape victim?

Clinching Evidence Criminal law requires prosecution to prove an offence 'beyond reasonable doubt'. While there are innumerable judgments which have held that sole testimony of the victim is sufficient for convicting the accused, courts are always looking for corroboration or 'clinching evidence'. What are the chances of getting 'clinching evidence' when the majority of cases are reported much later, there is no forensic evidence and no injuries.

Age of Consent vs Agency In 1860 the age of consent was 10yrs, 1890 - 12yrs, 1929 - 14yrs, 1949 - 15yrs, 1983 - 16yrs. Today as per the POCSO Act, 2012 as well as the CLA, 2013 it is now increased to 18 years. This has led to a blanket criminalising of all sexual activity of children. The issue has split activists, ministries and parliamentarians down the middle. Some believe that this has better protected children who rarely have any agency, especially when it comes to abuse by family and close relatives. Others oppose it as it does not offer a nuanced differentiation towards consensual sexual activity of children. What have been the consequences of this amendment especially when young boys are being accused due to parental opposition?

Mandatory Reporting In a first of its kind POCSO Act, 2012 made not reporting sexual abuse of children, a crime. This has caused great discomfort among various groups. While the number of cases reported has increased exponentially it has required several agencies to break confidentiality of the victim. What has been the gains and losses of mandatory reporting on the ground? Is there a need for pinning the responsibility of mandatory reporting on select agencies.

Sexual violence in conflict areas The CLA, 2013 attempted to address the issue of gross sexual violence committed during communal or sectarian violence. Rape by persons from armed forces, parading a woman naked, gang rape. How have these amendments helped

women in conflict situations (gruesome rape and murder of muslim, dalit and tribal women) especially in cases of state sponsored conflict.

Victim Compensation Supreme Court in the *Delhi Domestic Workers Union vs. State* (1994) mandated the government to introduce a rape victim compensation scheme. A central scheme was introduced in 2018. Within the rhetoric of 'genuine' and 'false' cases, how is compensation being granted? Have the committees headed by a judicial officer, which mandates submitting of the FIR, Medical and 164 statements, become another agency where victims are placed under trial and humiliated?

There are a host of other highly contentious issues like inclusion of marital rape, making the law gender neutral for victims, stringent punishment as a deterrent, best interest of the victim, victim friendly procedures, lowering the age for juvenile offenders to be tried as adults, etc.

The two day conference organised by Majlis will dwell on these and other diverse concerns that shroud the landscape and will attempt to flag some of the challenges. **Looking Back Looking Forward** is a safe space for activists, academicians and concerned citizens to deliberate and introspect.

The conference will be held in Mumbai. Please block your dates on 12th & 13th November, 2022. To participate, please register by clicking on this link [Registration Form](#) or email us at majlislaw@gmail.com

Audrey Dmello Flavia Agnes

Director

Founder

Past Conferences in this Series

Negotiating Spaces: Legal Constructs, Gender Concerns and Community Constraints. (2010) (Proceedings of this conference are published by Oxford University Press)

Negotiating Spaces: Women in Conflict Zones (2011)

Negotiating Spaces: Interrogating Patriarchy a spotlight on Natal Family Violence (2012)

Negotiating Spaces: Fine Tuning our demand for Rape Law Reform (2013)

Negotiating Spaces: Uniform Civil Code Its Inclusions and Exclusions (2014)

Negotiating Spaces: Interrogating Mandatory Reporting under POCSO Act. (2015)

Negotiating Spaces: Feminist Legacies The personal is the political. (2016) Majlis 25 years.

Negotiating Spaces: Negotiating the online (2017)

About Majlis

We are a team of women lawyers and social workers who work for the protection and promotion of women and children's rights through legal representation, advocacy and training. We provide social and legal support to women and children victims of sexual and domestic violence.