



PARTNERS FOR LAW IN DEVELOPMENT

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# CRITICAL REFLECTIONS

## FEMINIST PRACTICE AND DIALOGUE

# 4

**From:**

**Roundtable on Exploring the Continuum  
between Sexuality and Sexual Violence**

**April 28, 2015**

The **CRITICAL REFLECTIONS SERIES** comprises 4 volumes on the following themes, drawn from the *Roundtable on Exploring the Continuum between Sexuality and Sexual Violence*, organized by Partners for Law in Development on April 28, 2015:

### **VOLUME 1**

#### **MARRIAGE, SEXUALITY AND THE LAW**

*Has not having sufficiently challenged the appropriation of desire, love and sexuality by marriage, weakened our ability to challenge criminalization of adolescent sex, breach of promise to marry, and indeed, the partial de-criminalization of marital rape? The discussions will also explore the de jure position and de facto reality of the law.*

### **VOLUME 2**

#### **SPEECH, SEXUALITY AND THE LAW**

*This session will explore issues of censorship that relies on notions of 'obscenity', 'indecent' and more recently, 'hate' speech, tracing the different laws that contribute to this; it will take stock of the relationship of women's rights activism to each of these – commenting especially on the ways in which we have been complicit with or challenging of these; and ways in which these legal concepts have contributed to de-legitimising positive sexuality and sexual expression.*

### **VOLUME 3**

#### **CRIMINALIZATION AND SEXUALITY**

*The discussions will problematise over-reliance on criminal law for social change, a medium through which sexual agency and non conforming sexuality has historically been punished. In relation to rape, it will take stock of sentencing structure and lack of judicial discretion in sentencing, to discuss the implications, particularly in terms of exceptionalising sexual violence. The positions on gender specificity and neutrality in relation to laws on sexual/ gender based violence will also be interrogated.*

### **VOLUME 4**

#### **FEMINIST PRAXIS AND DIALOGUE**

*What has been the impact of popular and social media on public dialogue and reason? In what way can we devise feminist ethics, taking into account the current challenges posed by the state and the media, to create space for dialogue, reflection, to evolve strategies beyond penal law, indeed law centric approaches and binaries, that are also affirming of sexuality.*

# FEMINIST PRACTICE AND DIALOGUE

## PRESENTATIONS BY:

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## INTRODUCTION TO THE SERIES

This report is part of a series of four, each covering a theme from the roundtable organized by Partners for Law in Development (PLD) on April 28, 2015, to explore the continuum linking concerns of positive sexuality with sexual violence. Conversation around these themes have become necessary in the context of a considerably changed scenario following 2012, with the State, political parties, the national media and multiple stakeholders, many antithetical to positive sexuality, adopting sexual violence against women as part of their agenda. The spotlight on high profile cases, an enhanced punitive legal regime, the calls for death penalty and reduction of age of juvenility, entrenched the exceptionalised treatment of sexual violence, with scant regard for reason, principles of natural justice, or indeed affirmative sexuality. Equally, the shrill sound bite driven discourse seemed to overwhelm women's rights activism leaving little space for critical introspection on the law; or indeed, of expanding the engagement beyond State, law and media driven change, to actively forge linkages with sexuality related concerns.

In the context of this changed landscape, the roundtable sought to explore linkages between positive sexuality and sexual violence, reflecting on the dangers of a predominant focus on sexual violence, or indeed on criminalization and censorship. That the amplification of sexual violence at the cost of affirmative sexuality, and indeed positioning concerns and work in relation to these two, as being distinct, unrelated ends of a binary, rather than a continuum with interconnections that shaped the outcomes of each other. For instance, normative sexuality, or indeed, the privileging of sex in the context of romantic love and marriage, are ways by which sexuality is regulated and transgressive desires stigmatized. A primary focus on sexual violence to the neglect of more insidious ways by which sexuality is regulated eventually strengthens protectionist narratives. A feminist discourse constructed primarily around sexual violence and the penal law, without sufficiently addressing other forms of sexual control, cannot fully challenge the culture of victim blaming and selective justice – the very trends that continue to define cases of sexual violence. These concerns cut across the themes, pointing towards the need for an expansive, critical and transformatory engagement. While this roundtable speaks to events following 2012 protests and law reform, the concerns raised are of wider relevance.

The roundtable comprised four panel discussions on the inter-related themes relating to the law, sexuality and sexual violence. The discussion on each of the themes was initiated by presentations of three panelists, followed by conversation on the theme between all participants as well as the discussants. To not lose the richness and nuance of the discussions on each of the themes, the report reproduces as them as truly as possible, with minimal editing, keeping intact the flow of the discussions on each of the themes. This however, made the report substantially long one. So, in the interest of easy access and readability, we opted for separate reports for each thematic panel, rather

than a comprehensive report of the roundtable. Broken up into thematic reports, each is short, and can be read independently, although interconnections between the themes make for a richer reading. These reports seek to take forward discussions started at the roundtable, to widen and continue the dialogue with each other and in the different spaces we are part of.

## SUMMARY OF PRESENTATIONS

The report on feminist praxis and dialogue considers the impact of popular and social media on feminist activism. It seeks to address the manner in which a space for dialogue, deliberation and reflection can be created, given the environment built by the media and the state, and the evolution of feminist ethics that is able to do this while affirming positive sexualities and breaking binaries.

Farah Naqvi's presentation described the binary, 'gladiatorial' nature of public dialogue birthed by contemporary media, which seems to be straining the democratic and participatory ethic of feminist communications, both internally and externally. An environment of aggressive position-taking and quick bytes reinforces dominant voices in the public domain, but also within the feminist movement, sacrificing representation, reflection, dialogue and nuance. The 'lynch mob' mindset, which obfuscates the form of debate and its content, simultaneously generates dominant feminist positions, which homogenize the movement, deny representation and dissent, and permit the usurping of voices and distinctions within.

Jaya Sharma's presentation links the thread of binaries in communication and representation to the binaries between sexual pleasure and danger, which does not bear out in the lived experiences of women on sexual interaction in various contexts. An environment which does not affirm sexuality by permitting women to say 'yes' without fear of stigma will continue to trivialize their 'no' and normalize violence. A discourse on sexual violence around the fulcrum of consent will be ineffective without simultaneously challenging the codes of heteronormative desire, and the manner in which it is currently bounded with marriage.

Ayesha Kidwai's presentation spoke of the feminist ethic of 'looking forward' through three broad strokes. First, the intense engagement of the feminist movement with the law absents it from the new sites of interaction, mobilization and political action opened up by social media, which is crucial for building movements. Second, a re-think on strategies for addressing sexual violence that seek to strengthen feminist institutions and processes, is necessary. Current strategies of reporting and 'shaming' make a spectacle of sexual violence, making it an expensive option for victims who get placed under scrutiny, thereby intensifying the use of sexual violence laws as a tool by the dominant. Thirdly, Ayesha suggests re-framing 'feminist' issues and subjects to encompass the routine negotiations of marginalized subjects with violence and disadvantage, which are under pressure from not only community norms but also the State.

## FARAH NAQVI

### *Writer and Activist*

I'll be sharing my thoughts and concerns about, what I think is the impact of popular social media and television debate culture not only on public reason and dialogue, but on feminism and feminist movement with reference to our public positioning/ external communication as well as our internal communication. This age of the proliferation of social media, on the one hand, widens space for expression and dialogue but on the other, its form and culture is one that thrives on binaries, fixed positions, instant responses and gladiatorial communication. We as women's activists however, aspire to a feminist ethic that demands higher standard of democracy that we ought to hold ourselves up to. Yet, our engagement with this space of social and television media seems to have impacted our communication and dialogue in ways that fail to respectfully engage, but also in ways that leave no room for nuance or reflexivity. I will explain what I mean by this, in terms of what the concerns I am referring to are, and how they play out. Since I too am part of this community, I would like to add a caveat of my complicity in this, as I myself might be doing some of the things that I critique today.

This presentation is specifically with reference to our positioning on sexual violence, in which the media has since 2013, played a fairly central. The structure and culture of the social and television media, much like the quintessential high school debate is framed through binaries of 'for' or 'against', leaving no space for grey. In fact, even when the television channels call on you, they first check your position on the for or against scale, before formally extending the invite. There is no space for nuance in this. How has this engagement with the media impacted our external communication and internal dialogue, which in my view, has faced enormous set back. It is these concerns which I flag in my presentation, that we must take notice of.

First, the media demands communication that is instant, can be boxed and labelled. We seem to have given into these compulsions. We have seen that in more than one situation – whether in response to star cases or even India's Daughter, that we take instant noodle positions on twitter/ facebook/ to journalists in breaking news, and then stand by it – unflinchingly, in frozen frames, in ways that only allow reiteration of that instant position, not dialogue. Is this dominant public culture becoming our way of communicating or are we in any way, through our engagement, willing to challenge the dominant format. These instant opinions in more than one situation have become absolute opinions, with no space for reflection, persuasion or uncertainties, no greys whatsoever. If there is a compulsion to stridently hold onto a position, which may have been immediate and not reflected upon, should we not be holding back our opinion, taking 20 breaths so to speak, before commenting? While we are left defending our positions and stridently so, have we not compromised our politics, the space for dialogue and reflexivity?

The second concern relates to the age of the instant media celebrity, a culture we seem to have embraced uncritically. What does this culture of instant media celebrity do to collective action? The media 'anoints' each individual as an expert of some sort, given its internal compulsions. So we have a "feminist expert", a "legal expert", a "human rights expert" etc. The question to be asked is, if the media does it to us, have we also begun doing it to ourselves? Do we then begin to speak for movements whose permission we haven't asked? For instance, we have cases of individuals on television claiming that they are espousing the position of 'the' women's movement, positioning themselves as spokespersons. I am not suggesting that this is deliberate. Yet, it is a culture that we are not self-conscious about, and seem to have internalized. The question I pose to us is, 'whose' women's movement is this anyway? We speak of diversity, plurality as being ideals dear to us, but are these evident in our praxis, or the way we engage?

A third aspect that I will flag is the manner of conducting dialogue. In the media, we seem to engage like gladiators in an arena, rather than partners in public or democratic dialogue. That is the nature of the demand that is placed on us. The issue then is why do we not push back against this demand? Why do we find ourselves unable to reject the 'gladiator' form to set in place or at least insist upon 'reasoned conversation'. Debates are conducted and won as it were by aggression, not engagement; with some emerging as winners, and the others as losers, which does not further understanding. A more serious concern for introspection is whether we are internalizing this mode of communicating in our internal circles? Must sisterhood be soul-crushing in this environment?

Related to this are many more concerns, which I would like to pose as a series of questions for reflection. Is the feminist communication strategy succumbing to anti-feminist principles of public communication? Is the intolerance for non-conformist views in mainstream society, breeding intolerance for non-conformist feminist views internally? Is the lynch mob on TV, also breeding lynch mob in our circles? Are the trolls on the internet breeding a similar style internally?

These questions are vital to us now, because we seem to be failing to distinguish between the forms of the debate, and what we believe is the rightness of the content of the debate. What we increasingly see in the conversations on sexual violence, an emergence of a dominant feminist position, and trashing of those that do not subscribe to that. A belief that there is a 'correct' feminist position – that only results in silencing others, for fear of being trashed or found wanting. Trashing is not the same as opposing or disagreeing with or critiquing. Trashing is about disparaging and destroying. It is about the unspoken view that *'she's not doing feminism currently, so we need to trash her'*. In this process, is nuance or uncertainty seen as a weakness? The Deepika Padukone advertisement, "My Choice" comes to mind as an example of 'not doing feminism right', therefore trash aggressively. Invoke class, consumerism, capitalism or whatever, to make the entire expression irrelevant. This style suggests the emergence of a dominant feminist position. Are we subscribing to that? Younger feminists get nervous

of speaking out, if they are not aligned to the dominant position which will make them feel out of place.

An article, “The Tragedy of Feminist Trashing” talks about fear of certain women of becoming a ‘bad’ feminist and thus, do not voice their opinion as it is better to join the chorus than risk that. There are many more examples of what might reflect a dominant feminist position. For example, on the issue of marital rape, there is a dominant feminist position that views it as a standalone problem, limiting what is otherwise a wider discussion on inter-connected issues, or opening it up to debate.

Another example is that of the criminalisation of sexual harassment in the IPC. I have no hesitation in saying that introducing such a provision in the IPC was a big mistake, and it is important to say it publicly that the criminalising sexual harassment will do no good, as it is a grey area. The dominant feminist position, however, will not broker any critical reflection on what it means to criminalize sexual harassment. On an occasion when I expressed this, the immediate response to my concern was, ‘Well, how else can we get someone like Pachauri?’. Unfortunately, it is not understood that, ‘getting a Pachauri’ is not the larger goal. That’s not good enough! We can’t freeze our positions around star cases. For instance, in relation to the Tarun Tejpal’s case, there was a thought provoking piece written by a young feminist, which she shared with me. In the context of digital rape, she makes the point that India needs to change its imagination of rape, because it no longer resembles the Hindi cinema with a man violently ripping off a woman’s clothes. She goes on to argue that while digital rape, from the perspective of the victim, violates bodily integrity, she is in complete opposition to prosecuting Tejpal under the provision of aggravated rape, by ‘person in a position of authority’, which carries a mandatory minimum of 10 years to life. She was emphatic that she could not subscribe to this as a feminist, yet did not dare publish it for fear of being trashed for going against the dominant feminist position.

In the Tejpal case, we also witnessed Shoma Chaudhury being condemned for not taking the complaint to the police, not constituting an ICC, choice of the victim, etc, as if the legal position lacked ambiguity, and as if we had exceptional clarity on the law which the institutions lacked. High profile cases provide an opportunity for public engagement, which we have not capitalized on. Rather than speak about the grey areas, or condemn the 10 year minimum mandatory punishment, the dominant feminist voice endorsed the flaws in the law, and assumed a clarity that was certainly lacking in the law.

The exceptionalism carved out for sexual assault laws is troubling – be it about shifting the burden of proof to the accused, which as we know spilled into POTA and more recently, in the Maharashtra beef ban law. These trends we see internally, mirror all the problems that the media is flawed for, and that is really worrying.

## JAYA SHARMA

*Queer feminist activist, Founding Member, Nirantar*

Binaries do exist within the way we frame issues, and my presentation is about the need to break these binaries, both in terms of the way we understand issues and the way we communicate on the issues. The binary that I will focus on, is what we as feminists seem to have created between pleasure and danger or sexuality in respect of violations and affirmative sexuality.

In the past few years, we have begun to talk about the need to move beyond sexual violence and violations, and the need for a discourse on sexual pleasure. As feminists, this is important. But pleasure and danger are not two unconnected subjects, they do not constitute a binary. I will draw on the work of Nirantar, recalling two stories on that bring out this point.

The first learning for us emerged from a training with non-formal education teachers in Rajasthan, where we watched the film, *Jab chaar yaar milte hain*. In the discussion, there was reference to a scene where the boy seems to be harassing a girl. Someone recalled that in our society, it is often said that '*aurat ki naa main haan hoti hain*', where 'no means yes'. A woman teacher at the workshop said, when a man approaches me and expresses interest in me, and if I also express interest in the man, then I will be called a *burī aurat*. This is because women don't have the space to say 'yes.' And this inability to say 'yes', and compulsion to say 'no,' means that when they say 'no' and mean it, it is misinterpreted. This discussion ended in a powerful learning that we can have the right to say 'no' only when we have the right to say 'yes'.

Nirantar's work on capacity-building on sexuality is premised on the principle that positive and non-judgmental approach to sexuality is important to be able to work on sexuality as well as on gender-based violence. Sexuality was at the heart of domestic violence, with 92% of the reasons relating to sexuality. Major sexuality related factors were sexual jealousy, suspicion and sexual incompatibility. Many cases, where if the man wanted to have anal sex, even if he did not coerce the woman, his desire itself was viewed as a wrong, and a violation. While consent is non-negotiable, it is important to deepen our understanding of consent. Women who view non-heteronormative sexual desire *per se* as violent, also had much more limited exposure to the different ways in which sexual desire can be experienced as opposed to men.

We know that the survivors of domestic violence sometimes return to their abusive partners. Why? From Nirantar's workshops we learnt this was because marriage is the only space for legitimate sex. What this shows is that sexuality and sexual violence are not a binary, as we often seem to understand, but strung along a continuum. In order to effectively work on sexual violence and violations, we need to have a positive approach

to sexuality, and if not, then it is not possible to take affirmative stand on violence against women.

These binaries are often reflected in the positions and petitions we circulate – which are endorsed widely. We adopt water-tight positions on issues in a hurry to agree with one another in petitions, or condemn with rapid fury someone who we suspect to have violated our rights, or even someone within us with a different point of view. These are lock-stock-barrel and quick-gun murugan ways of responding, leaving no room for dialogue, and quite often, reveal a blood-thirsty turn to the law for justice.

Recently, a meeting was called in Delhi to discuss the Vogue video “My Choice” and other controversies, because we felt it is important to meet face-to-face instead of only online discussions. Initially, everyone was saying things along prescribed lines: what else can we expect from Vogue? After all, its only an advert. There was some talk of neo-liberalism, critiquing of the term choice, questioning who has choice etc. Only when someone asked if there was anything at all that was likeable about the video; if there anything we can learn as activists with our terrible skill at communications with non-activists/ ordinary people, etc. was the space created for other points of view. One of the responses was whether we can dismiss choice so easily, and that we as feminist activists also turn to a framework of choice sometimes. For example, even those of us who have a critique of marriage, respond to someone when they get married, by attributing it to choice.

The question I want to ask is why do we quickly take for-or-against positions? Facebook is not conducive to debate and discussion. Someone shares a view, people either agree or take diametrically opposite views, leaving no space for nuance. But even outside the social media format of sharp sound bytes, we are quick to take positions. Is our tendency to respond in this way related to identity-politics? While we acknowledge identities, we are also aware of the dangers of identity politics. We are mostly wary of identity politics in respect of caste, religion, sexual orientation etc. This leads to hardening of stance, and ‘us-v-them’ binary. The way we take positions, it increasingly appears as if we as feminist activists also getting trapped in identity politics, in viewing ‘feminist activist’ as an identity in itself. Could this also be a reason why we feel the need to fiercely define and defend our positions? This tendency, is limited not only with respect to others, but also those within the women’s movement, who might seem to disagree with us. Even among feminists, there is sometimes a need to find the ‘true’ ideological position, which bolsters the identity of the community of feminist activism. I am wondering if this is because we fear fuzziness on issues, and don’t like messiness? Our activism seems to be rooted in the underlying assumption that if we think and act in specific ways, then change will follow, when we know this is not the case. We are often frustrated because the change we desire did not follow as expected. Our focus on engagement with the state has pushed us to water-tight positions, even in internal communications. We seek resolution through law, are drawn to legal remedies because they offer certainties we yearn for, and then we get trapped in its fixities and binaries.

Can we try to connect our positions on issues with the non-rationality we all struggle with personally. How rational are we in our personal lives?

Sexuality provides us with useful and humbling opportunities to see the non-rational sides of ourselves. Perhaps accepting the messiness in our lives in relation to sexuality can help us be less water-tight and judgmental of ourselves and each other, and more thoughtful and nuanced about the positions we take. This is also in a way, a call to relate to the feminist mantra of personal being political, to help us to see that we are not alone in what we experience. Personal is political means acknowledging the conflicts within ourselves, which requires us to be hard and sincere, sometimes suffer considerably in the process of reconciling our personal lives with our politics, including but not limited to desire.

Can the personal impact the political in a different way, that the messiness in our lives including those desires that we might want to wish away, help us to better understand reality and the messiness in the political? Take us closer to our realization to our desire for justice and change?

The question I want to ask is, as feminists, what is our political engagement with the young? Many of us have seen the movement that sprung after December 16, and experienced the great opportunity it offered us. There were 12000-15000 people out on the street for so many days consistently. We must remember that we did not bring them there. They came on their own. They were there for social change, occupying public spaces. We may have brought the issues to some publics, and we may have always been there, but we didn't bring those large numbers that comprised the movement there.

At the Justice Verma Committee proceedings, Justice Verma could look at the well-spring of emotion, solidarity and the claiming of space that the week represented, and seen in all of that, something that looks to the future. Yet, the emails to the Committee also reveal an incredible feminist pushback. Some people have gone on record to say that this was a ploy to overshadow the women's movement. Instead of looking at JVC recommendations, let's look at where the 2012 population went? They haven't gone anywhere. It's just that we are not in the same space as many of the young who defined the post December 16 moment. We are not kissing outside Jhandewalan. We are not getting arrested and putting up videos, we are not putting up sanitary pads. All new and incredibly powerful modes of protest.

One of the big concerns, in the future, what is the relation that we 'mummy-type' feminists will have with those who we believe are feminists or at least share feminist agendas? Today, half of India's population is under 25 years. This is an enormous public, opening for us new possibilities of dialogue and intersection? Are we setting the terms for interaction, or have we simply retreated from the spaces that they occupy? In my view, on account of our overly intense engagement with the law, we have failed to interact in those spaces occupied by the young. We need to find a common language to talk to them with, because it's not as if they don't want to talk to us. Off the board, there is a lot of respect for people they have read in books, seen on TV or who have just been there. What are we going to talk about? Many of the terms of engagement have changed today. The freedom to hide from your parents on Facebook has now translated into the freedom to occupy public space. Virtual net as public space. What do we talk about? Do we have to be grim and serious, or can we laugh? There is a possibility of doing both.

But what the young are also looking more for, because we have been there, is recipes for how to be young. How to live a life about ideals and ethics. Anyone who is an activist, or teacher, 50% of the time you spend in office, you have young people seeking advice on how to negotiate terrains that are tough for them, for example – I hate my mother, can you help me deal with it? I want a girlfriend, what do I do? What does sexual harassment in JNU mean – will I get hauled by the GSCASH if I look at a girl for more

than 10 seconds? So it's those questions. Why is it that these subjects, and possibilities of engaging with these have not been important. We have to alter the terms in which we interact.

Issues of relationship-fixing, dealing with parents, making life decisions are no simpler now than they were for our generation. The other important aspect is, it is a more sexually plural universe today. Not talking of middle class India, but beyond that from all parts of India, the young have more aspirational goals, with greater possibilities in terms of sexualities and sexual choices. Every single student of mine is turning to be bisexual. What is worrying me is whether this is because they don't want to be calling themselves gay, so bisexual is a safe option? These are people who come from all parts of India.

Something I saw in the Justice Verma Committee, and that has bothered me tremendously, is the gate-keeping that we as feminists do in what we see as 'our' crimes. So only women can be raped. Others can seek redress through another provision, not ours. So while only women can be raped, men can be sexually assaulted. My question is what is the status of a transgender person in our movement? Is she going to be included as a feminist subject? In my view, our feminist ethics cannot be only about women, can't only be about certain classes.

Another question I have, what is our engagement with the publics that media creates? We are all lucky that we have access to the spaces created by the death of a woman with 15,000 people protesting. What publics are we seeking to speak to. It is one thing to not be creating reflecting spaces, but it is quite another, to be creating publics in which the nature of feminist action is shaming? Even though we hold so much respect for the law, and our actions seem to be directed at the law itself, in terms of legal redress – my question is, are we not creating a public where making complaints, specially of lesser crimes like sexual harassment, entail much higher costs? If you are charged with sexual harassment, there *will be*, at the point of making a complaint, a press conference. These charges will be released. As someone who has been working on sexual harassment for 19 years, this is a cost that most complainants cannot pay. Because it is saying that you are under scrutiny. Please compare the model in JNU, where the whole complaint proceeds against the senior-most professor, and there are huge demonstrations by students, but all this, only *after the complainant* herself asks for action to be taken.

These costs that we are making women bear, this is what makes sexual violence spectacular. These are the ones that are the stuff for gossip. I'm not saying, don't hold a press conference. I want to know, what is happening to the cases against the Supreme Court judges. What is the status of the complainants. Where are they after the media blitz? To my shock and horror I discovered that Justice Ganguly wasn't even given a copy of the complaint. Now, we at JNU learnt this as far back in 1999, that if you don't give a copy of the complaint to the respondent, you cannot proceed. You are creating a public to which you are doing the spectacular, but you are not doing the leg-work that

must precede it. Mostly, I find myself unable to even say the catch-phrase of feministic gyaan, *I endorse*. I simply don't.

We are creating a lot of noise, but are we creating and supporting institutions, and the mechanisms for redress? Across the board, most of the women complain that the big cases have all been around matters of sexual harassment law, barring Tejpal case. What are we doing to actually strengthen the institutions born out of the women's movement. Vishakha was something the women's movement produced. In JNU, we got tremendous help from many people to help us through the proceses. Unfortunately, we're not doing the building work now.

We are also not addressing another very serious issue. When we did a gender relations survey in JNU, online, anonymous - one in five women reported that she is beaten by her partner. That is the international average. In hostel rooms. One respondent said, "I think he's going to kill me". I couldn't do anything because it was anonymous. The natures of relationships, sexuality, violence submission; funding your boyfriend while he sits for the IAS and dumps you as soon as he gets through; these are the issues that are real. A student committed suicide because he was attracted to another male student - the other boy complained of harassment, in response to which everyone said, we can't deal with it. Especially the gender sensitization committee. The university then handed the boy to the police, but the students union got him back. Everyone kept a watch on him as much as they could, but a 24 hour cover is impossible, so he hung himself when he went to the loo. Because he was Kashmiri, sniffer dogs were on campus, and it became a TADA/POTA issue. These too are the issues of the women's movement.

While intersectionality is one way of making connections between issues, we cant partitions issues in any manner now. We might be 'mummies', but we need to be able to talk to the young. Let's do it! That is a feminist ethic of looking forward.

## DISCUSSION

**RITUPARNA BORAH:** Senior feminists and activists are not always responsive, and themselves are hierarchical. We seem to have taken on the masculine traits of gender norms in the feminist movement, and have disavowed feminine traits of being emotional, irrational etc. We can't embrace messiness and vulnerability. We are talking about justice, bravery, and thus this idea of being correct all the time.

We should also have a space to critique things that younger feminists do. During the slutwalk time, feminists-india was full of criticisms about the slutwalk, but even so some of us went to participate, and found it really wasn't a 'slut'walk. Ironically, they were saying, "we are not sluts". Just a rally against gender-bias, wearing corporate sponsored t-shirts. We need to have a space to critique newer forms of engagement and not exoticise them.

**MADHU MEHRA:** While 2013 got us a whole bunch of legal reforms, some of which we had long fought for, it actually happened because of a momentum that the women's movement did not create. While that marked a turning point in our struggle for making the law more cognisant of many aspects of sexual violence, the flaws of the law also became apparent in the cases that followed and the discussions around these cases. What is worrying however, is that in these discussions, we have been unable to create a respectful space to critique the flaws in the law, in relation to sentencing structure or judicial discretion or deterrence model of justice. There seems to be this immense sense of ownership of the law that is coming in the way of critical reflections, even internally within the movement. I mean critically introspecting on the law or case strategies. This acceptance of the high threshold of punitive, despite our knowledge that the law is selectively applied and enforced should trouble us. This embracing of the 'punitive' should be a cause of concern; especially, if we consider that most of the 'victim's rights' or 'non punitive features', that is to say, the provisions relating to including compensation, medical aid, or voyeurism, or provision on acid attacks, came from the JVC report as they were not part of the proposals by the women's movement in 2010-12 advocacy. In fact, the autonomous women's groups have been quite reluctant about compensation for rape – virtually not participating in the 7 year long NCW process on this subject. Today, however, with compensation as part of the law, we find that women are looking for that money, and the receipt of the first instalment means much as an acknowledgement of their injury by the State.

A related point I want to make is about fair trial, civil liberties and the rights of the accused. While we have a wide consensus against death penalty, there are other aspects of fair trial that we don't take a position on in the context of sexual offences. So in the Ganguly case, he was not given a copy of the complaint although every respondent is entitled to one, and that did not bother us. Why is due process not consistently important to us as a principle of procedural justice? In the Tejpal case, why was it not

possible to publically distinguish the motives of the rights activists in supporting the victim from that of the suo moto action of the State? These ambivalences and selectivity weakens our public stands and standing – and in many ways, weakens our ability to dialogue, process and learn from these cases.

**SRIMATI BASU:** Over the past few years, I have started interviewing anti-feminist groups, around domestic violence and rape laws. Some of the feedback is, inevitably on 498A. There is a lot of domestic violence that remains unreported and unaddressed, but equally, there is also the use of the law that produces tragic cases. Rape law too has outstanding questions, including those relating to gender-neutrality. There is a valid fear that if such changes were introduced, it will allow people to file cases against women for rape, domestic violence, etc. The backlash will be on women litigants, and law will provide a way to get back at them. But for feminists who have been concerned about issues of gender neutrality, amongst others, it is a different question. What is our complicity when certain unintended things are happening in the laws that we have argued for. It resonates with me that a lot of us got into feminist work because we were critical of power relations in our families, schools, laws etc. Then we were told to be quiet because it is the reputation of family, religion, school. So now when these concerns point to our complicity, and we don't talk because it is about the reputation of feminism, then does dirty laundry acquire a different meaning?

**MIHIRA SOOD:** Two areas that I see increasingly as priorities to address, is the widespread neoliberal and economic social ethic, because that is where our students come from. You see their problems as well, in terms of very individualized, atomized context, not the collectivities. There is also need to address technology, as the use of technology characterises their lives.

**BARAAN:** Just want to point out in this context, the video of the Naga lynch mob. Most of them were school children, and they were very happily cheering and eventually lynching him in the square. Most of them were young. They were school and college going kids, as opposed to the older people.

**DIPTI MEHROTRA:** Today we have been looking at how to move beyond retributive justice, but what kind of justice are we looking at? What are the options beyond the punitive? Are we looking at different ways of conflict-resolution? One solution is the mahila panchayats, came out of a very feminist space in Delhi. They have a huge history of taking up actual cases of violence, and process of addressing them through social action and collective means. Very few of the cases actually ended going to the law. This history right next to us, in Jahangirpuri, which we can tap into it.

Secondly, let's not essentialise the younger-older divide. It is very much about our politics. It is also about where we come from, in terms of class, caste background, where we have taken up positions, younger and older, to try and live up to them. And then there are others who haven't taken up positions and who haven't lived a feminist political life. We need to be very nuanced about what we build our solidarities around.

And of course put our emotions also into the picture. What are our allegiances? What do we feel about being non-violent? We need to include these in our reflections.

**FARAH:** Wanted to respond to Dipti's point about Mahila Panchayats. When we talk about the law and alternative forms of justice, and we talk of Mahila Panchayats simply, we need to bear in mind what Mary had mentioned earlier of Dalit women being violated by upper caste men, the example of Bhanwari's assault by upper caste, the example of Bilkis, Muslim woman violated by Hindu mobs. In such contexts, in my view, when civil society is communalized, casteist and shattered, women from marginal communities cannot trust the mahila panchayats, often composed of the same dominant groups that have violated them, so they look to the state as a mythical neutral actor.

**UMA CHAKRAVARTI:** We as a movement have travelled a long journey, and one of the problems is that we are not recalling the fullness of the history that we are all part of. We are pulling out pieces from within it. It's good to do self-flagellation, but it is also good to be mindful of the history we have engaged with. Take sexual harassment for example. I think that is a critical question to ask is what is the kind of effort have we put in the institutional spaces we occupy, long before the criminal law was thought of. We had worked for years and years to put a policy in place, and we did not criminalize! Please, we did not criminalize. What we said was civil redressal. What we said was, lets work to end the problem. Go with what the woman says. Nivedita will remember how we were banged on our heads where we didn't take up the case in which the woman did not want to continue. We just closed the case. Actually, it was a very rich experience that we were all involved with. We produced a very careful, sensitive way in which we would tackle the problem because we wanted only to create a safe, dignified environment which women could also occupy and get the benefit of that space. In that process, the very people who today might be quick to turn to press conferences, were the very ones who told us about civil redressal, who cautioned us against going the criminal route. Of course we created the whole structure of neutrality - to provide copy of complaint etc. We put in gender-neutrality into that, because it was a part of our democratic politics. What do we do about a situation when the gender-neutrality could not be endorsed by us in the JVC because our own sub-constitencies would not let us put it there?

There are only two sets of laws that I critically engaged with - one was sexual harassment at the workplace and the other was communal violence bill. Over there, we were trying to look at completely different ways of addressing sexual violence upon women by foregrounding issues such as accountability. Justice would take its course, but we wanted to hold to account those institutions that carried the responsibility to protect its population. So we were trying to seek redress from another end. There have been very rich ways in which we have engaged with the complications of the law. This cant be reduced to the binaries that we are trying to challenge.

On the question of burden of proof, one of the earliest doyen of feminists, Lotika Sarkar, pointed out precisely this thing that's going to happen. If you shift the burden of proof,

it's going to re-appear in other laws. You will not get anything from that shift but the State will get what it wants. There's a rich history of the way in which we engaged with these issues, which were complicated, but we'll have to continue to do that. It doesn't help to simplify the whole thing into older and younger, but we can and must talk.

## CONCEPT NOTE FOR THE ROUNDTABLE

The past couple of years have witnessed surge of interest on issues related to sexual violence. Sweeping law reform has instated a new legal paradigm to address sexual violence. Political parties have competed in elections over who can best provide 'women's security'. Strident calls for death sentence, media attention and exemplary state action in high profile cases have come to mark the exceptionalism within which sexual violence has come to be framed. Recurring outrage and calls for censorship of sexual expression, banning books, documentaries, art and entertainment shows in the interest of honour, culture and safety of Indian women, from obscenity and indecency have continued relatively unchallenged. Sexual violence is no longer taboo subject – it has currency in elections, national media, public discourse – and is of concern to a diverse cross section of society.

Have sexuality and sexual rights been marginalized in the process of amplifying sexual violence? How do the women's rights and progressive voices continue to engage, debate and respond to events in ways that do not unintentionally strengthen and reinforce protectionist narratives, or positions that exceptionalise sexual violence, or indeed, state centric change processes. And importantly, how to does our articulation of sexual violence, not diminish or marginalize discourses that are affirming and advancing of positive/ non-normative sexuality.

Has the reliance on criminalization, law, the state, and the national media as the key vehicles of change, shrunk the spaces for dialogue, nuance, affirmative sexuality? Have our interventions/ engagement strategies, including in relation to select cases, contributed to a vocabulary where violence and victimhood dominates the conversation on sexuality. Has our discourse on sexual violence neglected the differing ways in which violence is viewed, understood and appropriated within patriarchal structures and the nation state, such that it lends itself to protectionism and censorship of sexual rights. PLD's work with counselors, crisis centres and social workers suggests that a paradigm that focuses heavily on sexual violence, does not lend itself to affirming or defending positive sexuality. Accordingly, community groups, counselors and courts grapple with multifarious cases of 'rape': somewhere consent is material to determination of rape, others where age or condition of marriage is the key determinant, prodding us go beyond simplistic binaries of consent and non-consent. While criminal redress is theoretically available (within the limitations of a fraught legal system), there is no easy articulation or ready defence of autonomy, desire and sexuality.

This roundtable seeks to discuss the many ways in which sexuality, sexual rights and sexual violence are inter-related, and explore the ways our strategies and framing of sexual violence has impacted positive sexuality in the current context. It seeks to critically reflect on how our reliance on criminal law and a sound bite driven media, have shrunk spaces for dialogue, reflection, uncertainties and mindful articulation of sexual violence. It seeks to explore ways of articulating and responding that do not compromise positive sexuality; or indeed, limit our ability to defend and affirm sexual rights.