

Has the Legal System Been A Trap For Tanushree's #MeToo?

Are women being “bullied” by Social Media to file criminal complaints in MeToo when the law may not help

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The Mumbai Police have stated to a Mumbai court that they do not have sufficient evidence to prosecute Nana Patekar who was accused of sexual harassment by Tanushree Dutta in a complaint filed by her in October 2018.

Tanushree Dutta's # MeToo

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Does a [closure report](#) from the police mean the end of the road for what is frequently described as Tanushree's #MeToo? Will those who cynically 'predicted' that the Me Too movement will fizzle out now say "I told you so"? Is there hope yet?

Three lawyers explain why putting all your hopes in the criminal justice system, isn't doing the movement justice. They tell us how women can still win in the court of public opinion even if they 'lose' in court, and how it is wrong to make women feel that unless they go the legal route, their story is not valid.

What Can Tanushree Do Next?



“ Tanushree Dutta has the option of challenging the closure report in court, pointing out the flaws with it, including that the investigation failed to take on board the evidence that corroborates her account of what transpired.

It is for the investigating officer to go to collect evidence and gather statements from those connected with both sides of the story, to draw final conclusions from.

MADHU MEHRA
Feminist Lawyer



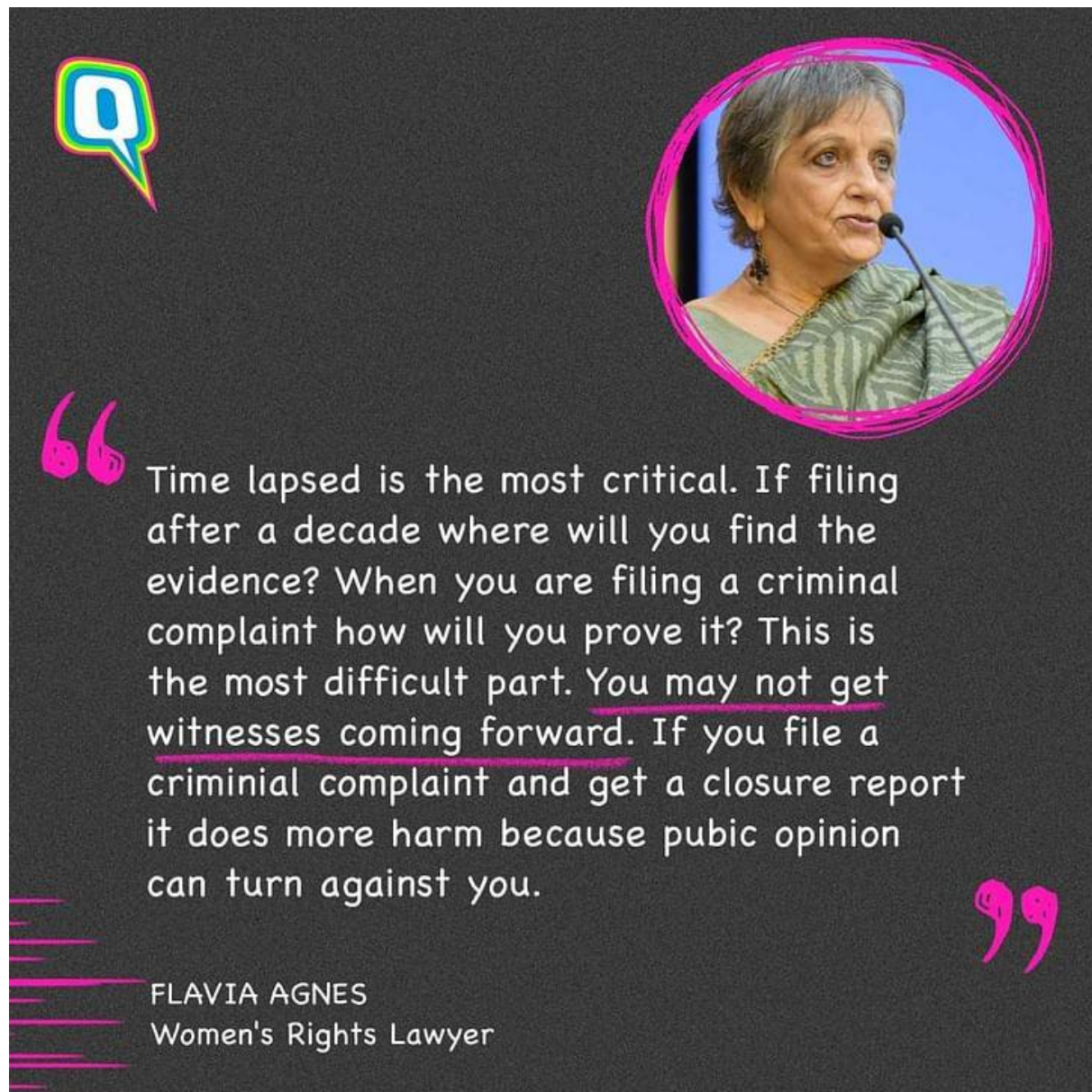
So, the good news for Tanushree is that she can demand that the witnesses who would have corroborated her account have their versions recorded. Can we expect an outcome in her favour given the very public nature of her case?

The judicial outcome cannot be predicted. The court will weigh evidence to see if the guilt of the accused can be proved beyond reasonable doubt, which is the standard required for convictions in criminal law.

MADHU MEHRA Feminist Lawyer And Executive Director Partner For Law In Development
Of course the law should follow due process regardless of the public nature of a case but does the law take into account the fact that it is really hard to find evidence to prove harassment that allegedly occurred a decade ago?

Listen to the full story here:

Time Lapsed Shouldn't Matter, But It Does



“Time lapsed is the most critical. If filing after a decade where will you find the evidence? When you are filing a criminal complaint how will you prove it? This is the most difficult part. You may not get witnesses coming forward. If you file a criminal complaint and get a closure report it does more harm because public opinion can turn against you.”

FLAVIA AGNES
Women's Rights Lawyer

I don't know how many people stood by her side. She has gone through the IPC section and sexual harassment comes as a very minor offence over there. It is not even seen as a grave offence. Without a proper employer- employee committee where else will she file a complaint? I feel that social media campaigns are effective even if you don't file a complaint.

Flavia Agnes, Women's Rights Lawyer
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Social Media A Friend and Bully Both?

In a lot of cases the women who are speaking out after all these years, were not really looking into legal recourse and were bullied into it by social media that “if you are serious about the allegation then why not go to court.” There is the general obsession that the law is going to solve the problems of society.

Mihira Sood, Supreme Court Advocate Specialising in Gender Equality



Legal process can be a trap as the law may not go in your favour because you may not have preserved the evidence.

Criminal law requires a much higher standard of proof than the POSH act, but often the POSH act doesn't strictly apply or doesn't provide an effective remedy.



MIHIRA SOOD
Advocate At The Supreme Court

So, women should keep screen shots, call records, start collecting and preserving evidence if they have any, but if they don't it is understandable.

But they must be aware at the same time that the legal system requires a lot of evidence in sexual harassment cases. **Finally, women should NOT be made to feel that unless they take the legal route their story is not valid.**

There is the general obsession that the law is going to solve the problems of society. What does she see as justice? This is something that is very personal for every complainant. Many people are quite satisfied if someone is outed in front of friends and family..

Mihira Sood Is An Advocate At The Supreme Court And Specialises in Gender Equality

Is A Verdict The Only Justice?

Have women been given the message that their story is not valid if they don't file a criminal charge?

Speaking out has been one of Tanushree's biggest contributions to building a supportive community for women who validate each other's stories of trauma.

“This in many ways is beyond and larger than what legal verdicts can ever offer” says Madhu Mehra. “Justice is a holistic concept and victims chose their pathways- variously, through solidarities, sharing collectivising, validating each other as a way of affirming their truth and healing.”

Will The Law Change Or Should It?

Procedures can be made more sensitive but beyond a point the law is not going to change. It is not going to become that flexible. The rigidity of procedure and evidential requirements inbuilt into the law are inbuilt for a reason, a good reason.

Mihira Sood

So, while Tanushree Dutta can follow the legal options she has before her to challenge the Mumbai Police closure report, her long drawn out legal battle poses these two questions for women in her situation.

1. Are women fully aware of the limitations in the ‘flexibility’ of the criminal justice system to handle sexual harassment complaints?
2. Will #MeToo supporters and commentators see the calling out of alleged perpetrators in the court of public opinion as a justice enough?

With inputs from [India Today](#).

Source: <https://www.thequint.com/neon/tanushree-dutta-me-too-nana-patekar-legal-advise-and-traps#read-more>