

VOYEURISM: PARTIALITY IN THE TIME OF NEUTRALITY

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ABSTRACT

Judicial activism in India has accelerated on an unprecedented pace. This represents a ray of warm light piercing through the dark and murky corners that lurked behind the individualistic and religious application of the law. Voyeurism is one such instance where lawmakers realized the need of a law that aided the victims of such a vile act and strike fear in the minds of people who have the audacity of perpetrating such a crime. However, the commendable provision is still imperfect as it hasn't clearly covered all the facets that could occur which could avoid justice for the victims as well as the perpetrators. In this paper, such imperfections are discussed in hope of eradicating the slips of the provision for a better and safer future for the present and future generations of the nation.

INTRODUCTION

It is the new millennium; The era of technology. People have accepted the conspicuous advent of science and technology. It is now a part of day to day activities of our lives. We cannot flourish, nay live, without the constant assistance of technology in the shape of gadgets which help us in routine strenuous as well as not so strenuous activities. Science has opened doors to an infinite possibility which our ancestors could not even think of; but with such power comes a great deal of responsibility to administer it properly and carefully. Dr. A.P.J Abdul Kalam, 11th President of India said, "Science is a beautiful gift to humanity; we should not distort it." Unfortunately, Man's ingenuity is though admirable but sometimes can amount to cunning as well. People find ways of committing acts which are not only undesirable but also illegal. In the present times where the offences against the human body is rising

to an unprecedented level. This is more than just a necessity to create and administer laws that protect people from offences which did not happen, mostly for the reason that they could not happen, in the earlier times. The offence that supersedes in this discussion is Voyeurism. A Committee lead by Former Justice Verma submitted the report which proved to be the basis for The Criminal Bill Amendment Act, 2013 which came into force on 3rd February of the same year. Senior advocate Sudha Ramalingam said that the criminal amendment bill emerged out of the context of the anger over the Delhi gang rape case. Saying that devices have enabled intrusion into everything that is considered private for a person, she emphasized the necessity for an "internalisation of discipline amongst people". One such amendment of the criminal bill act shaped Voyeurism.

DISCUSSION

Voyeurism is defined in section 354 C of the Indian Penal Code, 1860. The section defines voyeurism as follows: "Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed ..." It defines private acts as "where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public." It also recognises that the victim may consent to capturing such acts for not for their dissemination to others, and penalises abuse of such material. First conviction of such an offence is punishable by imprisonment of one-three years and/or a fine. subsequent convictions are punishable with imprisonment of between three-seven years and/or a fine. There are two major predicaments that arises from the aforementioned section. The primary point of discussion is, what if the culprit who willingly commits the offence with the *Mens Rea* is a woman. Can a woman commit the same crime which would result in severe punishment when commenced by a man would yield no culpability on her just because she is a woman? If so then isn't this a gross injustice by the lawmakers of our country. It is too naive to think that the offence of voyeurism can only be committed by one sex and not by the other. Another situation is that a man abets a woman to commit the crime of voyeurism. Shouldn't the woman also be culpable for the crime to a certain degree if not equally to the a bettor. These lacunae are giving a lot of unwanted flexibility to culpable perpetrators who can walk away free unscathed being guilty of the crime. The other matter at hand is that the crime of voyeurism focuses only on the privacy of woman. Couldn't a man or a transgender also be a victim of the same crime; couldn't they be looted of their privacy by being recorded and/or disseminated of the aforementioned recording. Leading lawyers say, if such conditions arise then the interpretation of law can expand to men as well. But the point of fact is

why the lawmakers are letting such an important point being ambiguous to the common people. If a common teen-aged boy is a victim of this horrendous crime, then shouldn't it be clearly stated for him and all other boys like him that the law is there to punish their perpetrators. It's the age of awareness, and complete awareness about law can only be spread when the laws of the land are unambiguous and well defined for the citizens to know it and utilise it for their own protection and safety. It can be argued by some over zealous protectors of the law that the laws are penned as per the need of the land but that might not always be true. There is no doubt that these offences or sexual offences in general are in majority committed against women but that doesn't mean that these offences can not be committed against men as well. It might not be the best decision to wait for such offences to surface only to realise that a quick and swift action should have been taken when we had the chance. There is a need for a gender-neutral law because the above mentioned situation is not a hypothetical one and even though the chances of a male being a victim of voyeurism are less they are not non existent. Moreover, no mention has been made for people who do not identify themselves as either males or females.

CONCLUSION

India is a vast country with the second largest population in the world. This brings a lot of pressure to all the three powers: Executive, Legislative and Judiciary but still it should not and can not amount to any excuse for incompetence of Law. It is the machinery that drives the nation forward along with its citizens. There is a reason that the land is governed by law; Rule of law is there for a motive, without proper construction and administration of it people can not live in well-being and harmony. Article 14 of the constitution of our country guarantees equality before law and this is stripping people of their fundamental rights by making distinctions on the basis of gender and for people who do not identify with the genders of male and female. This is a case which compels for the

lawmakers of the land to step in and take it upon themselves to rectify the existing law and make it better for the present as well as future generations of our country. There can be no postponement in providing justice as the prevalent saying declares, 'Justice delayed is justice denied'.

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