

# PARLIAMENT WATCH – INDIA\*

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The Indian subcontinent has seen some interesting developments in the past few months. Freedom of expression is inherent to a democratic set up and this has been reflected in different ways in the case of India. It is a matter of appreciation that certain significant bills have finally been introduced for consultation at the parliament. These are new legislations which are certainly required. However, for some of them, there have been several levels of opposition, many points of dissent which have to be looked at and brought to notice.

The monsoon session<sup>1</sup> of the Indian Parliament began on August 1, 2011 and ended on September 8, 2011. There were 83 government bills pending before the session and 14 bills were introduced during the session. 11 bills were passed during the session and 86 bills were pending after it.

The Winter Session began on November 22 and ended on December 29, 2011, it was extended in both houses for three days when anti- corruption bills like the Lokpal and Lokayuktas bill, the Judicial accountability bill and the whistleblowers bill were taken up for consideration. The number of government bills<sup>2</sup> pending before the session was 86 and 30 bills were introduced during the session. The number of bills passed was 17, two bills were withdrawn and one bill was given a negative vote. There are 96 bills pending after the session.

### **The Land Acquisition, Rehabilitation and Resettlement Bill, 2011**

The Land Acquisition, Rehabilitation and Resettlement Bill<sup>3</sup>, 2011 (LARR) was introduced in the Lok Sabha on September 7, 2011.

At present, land acquisition in India is governed by the Land Acquisition Act 1894. An amendment bill was introduced by the United Progressive Alliance (UPA) government in 2007 along with the rehabilitation and resettlement bill<sup>4</sup>. However, both bills lapsed in 2009. The National Advisory Council in May 2011 gave recommendations<sup>5</sup> which were taken into consideration<sup>6</sup> when a 'comprehensive' bill was worked on.

The land acquisition, rehabilitation and resettlement bill 2011 has faced a lot of criticism and requires an in depth analysis.

There are certain clauses which must be looked at. The bill mentions that multi cropped agricultural land is to be excluded, but not all agricultural land. Speaking of acquisition,

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<sup>1</sup> PRS legislative research- <http://www.prsindia.org/parliamenttrack/parliament-updates/parliament-session-wrap-monsoon-2011-1985/>

<sup>2</sup> PRS legislative research- <http://www.prsindia.org/parliamenttrack/parliament-updates/parliament-session-wrap-winter-2011-2157/>

<sup>3</sup> The text of the bill-

<http://www.prsindia.org/uploads/media/Land%20and%20R%20and%20R/Land%20Acquisition,%20Rehabilitation%20and%20Resettlement%20Bill%202011.pdf>

<sup>4</sup> Information about the amendment bill <http://www.prsindia.org/pages/land-acquisition-debate-139/>

<sup>5</sup> NAC press release- recommendations for a single comprehensive legislation

[http://www.prsindia.org/uploads/media/Land%20Acquisition/NAC%20press%20release\\_Land%20Acq%20and%20others.pdf](http://www.prsindia.org/uploads/media/Land%20Acquisition/NAC%20press%20release_Land%20Acq%20and%20others.pdf)

<sup>6</sup> Draft of new bill on Land Acquisition ready. (The Hindu, July 24, 2011)

<http://www.thehindu.com/news/national/article2290317.ece>

there is a clause which says that acquisition will be permitted if 80 percent of the land owners give their consent. However, this applies only to government acquiring for companies including Public- Private Partnership PPP cases and not to government acquiring for itself<sup>7</sup>. Another significant point which must be brought to notice is that that this bill mentions a clause [clause 2 (1) (b) and (c)] “which gives priority to ‘use of private companies for public purpose (including public- private partnership projects)...’ and acquisition ‘on the request of private companies for immediate and declared use by such companies of land for public purposes’”. (Ramanathan<sup>8</sup> 2011, 13) ‘Public purpose’ has been defined very broadly and the ultimate decision for each case is left to the bureaucracy. Ramanathan quotes the bill [clause 8 (2) (a)] which says that the committee which examines proposals for land acquisition will ensure that there is “legitimate and bona fide public purpose for the proposed acquisition which necessitates acquisition of the land identified.” (Ramanathan 2011, 11<sup>9</sup>) The bill [clause 8 (3)] also says that only the minimum area required for the project can be sought for acquisition. However, this clearly implies that the area will not be changed and whatever ‘minimum’ area required will be taken. It also mentions that minimum displacement would be looked for and concerns for ecology would be shown but ‘minimum’ is not defined.

There are some good provisions as regards displacement which include special investigation teams, their reviews by an expert committee; consideration of less displacing alternatives, public hearings etc. but the final decision is in the hands of the bureaucracy.

LARR has improved the way the compensation will be calculated which will lead to higher levels of compensation but there are fewer rights in this bill. Other forms of compensation like shares in the company for which land is acquired has been provided for in this bill but land for land, jobs, pensions, other financial benefits, fishing rights, these will only be decided by the rehabilitation authorities. Speaking about the urgency clause Usha Ramanathan<sup>10</sup> argued that for instance, in issues around labour law, minimum wage is taken as maximum and urgency clause is perceived in the same way. It is usually overlooked that minimum wage is the lowest amount which has to be paid and in a similar way, the urgency clause if analysed, in most cases is applied without questioning the urgency. But the question she raised was why this is needed? It was emphasised that this is restricted to requirements of national security and natural calamities. However, according to Ramanathan, “Requisitioning land or property and, taking it free of all encumbrances, are two distinct processes. This power does not belong in a land acquisition law.” (Ramanathan 2011, 13<sup>11</sup>)

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<sup>7</sup> Iyer Ramaswamy R. A Good Bill that Disappoints. The Hindu, August 18, 2011  
<http://www.thehindu.com/opinion/lead/article2366476.ece>

<sup>8</sup> Ramanathan, Usha. 2011. Land Acquisition, Eminent Domain and the 2011 Bill. *Economic and Political Weekly* 66 (44 & 45): 10- 14

<sup>9</sup> Ramanathan, Usha. 2011. Land Acquisition, Eminent Domain and the 2011 Bill. *Economic and Political Weekly* 66 (44 & 45): 10- 14

<sup>10</sup> Ramanathan Usha, JNU, Centre for the study of Law and Governance. Talk on October 21, 2011

<sup>11</sup> Ramanathan, Usha. 2011. Land Acquisition, Eminent Domain and the 2011 Bill. *Economic and Political Weekly* 66 (44 & 45): 10- 14

Referring to clause 2, (1), (a) which says that the government can acquire land “for its own use, hold and control” (text of the bill<sup>12</sup>) and to clause 95 which says that when any land taken by the government remains unutilised for ten years, it shall return to the Land Bank; both these seem to imply that the state has the ultimate right to own the land and in case land is not used after acquisition, it will be passed on to the land bank.

Land titling bill has come up along with the LARR 2011. The idea behind this bill is to make land marketable and it has come up in order to have a property titling system. “It shifts the onus from the state to the individual to keep the records updated on pain of punishment, and even loss of acknowledgement of title to the land or interest in the land (Chapter VI ‘Compulsory intimations to Land Titling Authority’)” (Ramanathan 2011, 13<sup>13</sup>). The two most important things about this bill are that firstly, it is made in order to make land marketable and secondly, it will require titles to be given to pieces of land owned by people. In case someone does not have a title given to their land, it can be taken away by the government.

While questioning the relationship which the state has with land, Usha Ramanathan, said that the state seems to have taken a role of an agency which transfers land to companies which pursue their interests of setting up projects and making profit. Referring to the amendments made in 1984 to the 1894 law, Ramanathan states that this role was reinforced. “The state casts itself in the role of a facilitator; as the “public” in public-private partnerships; as party to contracts with corporations where it guarantees certain conditions and terms that would make projects friction free while guaranteeing profits; as agents in procuring land and providing clearances; as disinvestors, through which process the transfer of assets would occur.” (Ramanathan 2011, 10<sup>14</sup>) This has led people to believe that the government does not align with their interests.

Different protests have been taking place in different parts of the country since many years.

Recently, petitions were sent to the High court in September 2011 by farmers<sup>15</sup> challenging the urgency clause used to take away their land in Delhi which resulted in the High court issuing notices to the Union and Delhi governments and the Delhi Development Authority. Another agitation by farmers<sup>16</sup> in Delhi was to demand better

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<sup>12</sup> The text of the bill-

<http://www.prsindia.org/uploads/media/Land%20and%20R%20and%20R/Land%20Acquisition,%20Rehabilitation%20and%20Resettlement%20Bill%202011.pdf>

<sup>13</sup> Ramanathan, Usha. 2011. Land Acquisition, Eminent Domain and the 2011 Bill. *Economic and Political Weekly* 66 (44 & 45): 10- 14

<sup>14</sup> Ramanathan, Usha. 2011. Land Acquisition, Eminent Domain and the 2011 Bill. *Economic and Political Weekly* 66 (44 & 45): 10- 14

<sup>15</sup> Notices to centre and Delhi govt. On land acquisition (The Hindu, September 24, 2011)  
<http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/article2481168.ece>

<sup>16</sup> Bhatnagar, Gaurav Vivek. Delhi farmers demand a better deal. The Hindu, August 8, 2011  
<http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/article2334769.ece>

compensation and for farmers to have a right on their land. Different groups from the farming community in Karnataka<sup>17</sup> also opposed the draft according to recent reports.

Severe agitations have been on in Orissa<sup>18</sup> and a prominent one is against a multinational steel manufacturing company, POSCO which has its head quarters in South Korea. A convention was organised in Jagatsinghpur which was selected for POSCO's steel project, where the basic demand put forth was that the law should prohibit acquisition of agricultural land and forest land which is the source of livelihood for the local communities.

A three day protest took place at Jantar Mantar by various people's movements under the banner of Sangharsh<sup>19</sup> which began on August 3, 2011 where they demanded that the government must come up with a comprehensive bill and protested against the draft. Human rights violations against people fighting against land acquisition and various activists have been increasing since many years and this has been highlighted during various protests.

Citizens have been agitating for more time<sup>20</sup> to analyze the bill and suggesting that the government should also spend more time on it. However, the government seems to be in a hurry to pass it. Jairam Ramesh<sup>21</sup>, the Union Minister of Rural Development requested the chairperson of the Parliamentary Standing Committee on Rural Development, Sumitra Mahajan to submit the committee's recommendations during the winter session even after she had made it clear that this bill must not be rushed<sup>22</sup>. Jairam Ramesh also told BJP<sup>23</sup> members to support the issue and to get this bill passed in the winter session. The standing committee invited suggestions from stakeholders and an assurance was given that a public consultation would be organised where the experts would be heard.

On November 2, 2011, a group from National Alliance for People's Movements<sup>24</sup> and other constituents of Sangharsh, a collective platform for people's movements made a presentation to the standing committee on Rural Development since the bill has been put forth into the public domain.

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<sup>17</sup> Stakeholders trash draft bill on land acquisition (The Hindu, August 31, 2011)

<http://www.thehindu.com/todays-paper/tp-national/tp-karnataka/article2413383.ece>

<sup>18</sup> PPSS reiterates demand for shifting of project site (The Hindu, August 27, 2011)

<http://www.thehindu.com/todays-paper/tp-national/tp-otherstates/article2402530.ece>

<sup>19</sup> Balchand K. Dharna planned against draft land acquisition bill. The Hindu, August 3, 2011

<http://www.thehindu.com/news/national/article2316718.ece>

<sup>20</sup> Citizens demand more time to study provisions of draft land acquisition bill (The Hindu, August 26, 2011) <http://www.thehindu.com/todays-paper/tp-national/tp-karnataka/article2398932.ece>

<sup>21</sup> Balchand K. Jairam for expediting land bill. The Hindu, October 19, 2011

<http://www.thehindu.com/todays-paper/tp-national/article2550019.ece>

<sup>22</sup> Gilani, Iftikhar. Roadblocks for Land Acquisition Bill? Tehelka, October 13, 2011

[http://www.tehelka.com/story\\_main50.asp?filename=Ws131011Land\\_Bill.asp](http://www.tehelka.com/story_main50.asp?filename=Ws131011Land_Bill.asp)

<sup>23</sup> Balchand K. Help pass Land bill, Jairam tells BJP. The Hindu, October 22, 2011

<http://www.thehindu.com/todays-paper/tp-national/article2561283.ece>

<sup>24</sup> Press release- after meeting with the standing committee <http://www.napm-india.org/node/524>

The group expressed their concerns over the fact that the legislation focusing on development planning must ensure consensus with those who have to give away their land. It was made clear by the group that public purpose should be limited to core functions of the government and forcible acquisition must not be done for private corporations. It was asserted that acquisition for private companies is now being allowed which was not allowed even in the 1894 act.

Further arguments presented mentioned that the number of people displaced due to various projects post independence is in millions but there is no data to show what happened to those families. The government was asked to come out with a white paper on the status of rehabilitation of those displaced till now. It was also asserted that, rehabilitation and resettlement has been recognised in this bill which is definitely a step forward but this must cover all those who are still waiting for their rehabilitation and resettlement requirements to be met with. It was added that, the definition of project affected people was comprehensive but misses out on people who are affected by the project once it is over. Many face health related problems due to water logging etc in areas where projects like Narmada, Bhakra Nangal have been functioning. Prior informed consent of the project affected community was demanded as the basis for acquisition and in accordance with the provisions in 243 D (rural areas) and 243 F (urban areas) which emphasises the role of Gram Sabha and Basti Sabha. The group also demanded that regional hearings must be organised so that affected people can give their suggestions.

Another point made was that increasingly, the acquisition of agricultural land for industrial purposes is going to affect the food security<sup>25</sup> of the nation and this has been affirmed by the Supreme Court. Recent media reports have also highlighted these debates.

The whole concept of the land bank was severely criticized and it was demanded that in terms of compensation, land for land should be applicable as the basis for land acquisition and must not be just for irrigation projects as mentioned in the bill. It was asserted that even if this was not possible, giving away land to the land bank was definitely unacceptable.

A National Development, Resettlement and Rehabilitation Commission, a legislative body, was also demanded for, which would look after the requirements of the displaced and have the capacity to consider the challenges to the declared public purpose of the projects.

It was noted that the bill is being pushed for whereas a wider consultation is still required at various levels after which amendments need to be made. The LARR bill, 2011 is open

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<sup>25</sup> Rajagopal, Krishnadas. Food Security hit by land acquisition: SC. The Indian Express, November 28, 2011 <http://www.indianexpress.com/news/food-security-hit-by-land-acquisition-sc/881318/>

to debates and discussions with the public as a part of the pre- legislative consultative<sup>26</sup> process.

### **The Lokpal and Lokayuktas Bill, 2011**

The Lokpal Bill, 2011 was introduced in the Lok Sabha of the Indian parliament on August 4, 2011 in order to curb corrupt practices in India but was withdrawn and instead, the Lokpal and Lokayuktas Bill<sup>27</sup> was introduced on December 22, 2011.

There has been an attempt to come to a consensus and pass the Lokpal bill since 1963. The idea of this bill first came in the parliament that year during a discussion on budget allocation for the law ministry.

In 1966, the administrative reforms committee recommended the setting up of two independent authorities at the central and state levels to look into complaints against public functionaries including MP's. Between 1968- 2011, the Lokpal bill<sup>28</sup> was introduced in the parliament eight times but was not passed.

In December 2011, the Lokpal and Lokayuktas bill and the Whistleblowers bill were passed by Lok Sabha. However, the Constitution Amendment bill was defeated in the Lok Sabha which would have given constitutional status to the Lokpal and Lokayuktas. The Lokpal and Lokayukta bill was moved in the Rajya Sabha on December 28, 2011; several amendments were proposed by MP's, but voting could not take place.

There has been a long trajectory which has led to this bill reaching the level that it could be debated in the parliament and forces outside the government have played a significant role in this. Recommendations have been coming in from several groups; NCPRI (National Campaign for People's Right to Information) and India Against Corruption have been separately raising the issue on many accounts. Anna Hazare, social activist associated with the India Against Corruption campaign went on an eleven day hunger strike in August 2011 in order to pressurize the government to accept certain basic demands and give an assurance that the bill will be passed in the winter session.

Some of the demands which they were campaigning for were met after several rounds and levels of consultation.

However, the fact that the bill has not been passed has disappointed many. Nikhil Dey, social activist associated with the NCPRI was reported saying that "though the present bill was a watered- down version of what they had in August- the August draft had an independent investigative agency for Lokpal- the overall situation should be termed

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<sup>26</sup> LARR at present-open for debate- <http://www.prsindia.org/billtrack/the-land-acquisition-and-resettlement-and-rehabilitation-bill-2011-1867/>

<sup>27</sup>Text of the bill

<http://www.prsindia.org/uploads/media/Lok%20Pal%20Bill%202011/Lokpal%20and%20Lokayuktas%20Bill%202011.pdf>

<sup>28</sup> PRS Legislative research- Timeline

[http://www.prsindia.org/administrator/uploads/general/1302860449\\_Lok%20Pal%20Bill%20Timeline.pdf](http://www.prsindia.org/administrator/uploads/general/1302860449_Lok%20Pal%20Bill%20Timeline.pdf)

‘much better’ than in the past.” (The Hindu<sup>29</sup>) He further argued that the present bill could be put into place after which amendments could be made. It was also noted that most of the basic demands put forth by the NCPRI like a separate judicial accountability bill, a Grievances Redressal bill had been addressed.

It must be noted that with reference to the fact that the Lokpal has not been given constitutional status, some eminent jurists and constitutional experts have argued that in case any government in future does not want to accept this law, they could have it repealed by an ordinance. If the Lokpal law had been given a constitutional status it could not have been repealed easily like any other legislation. According to recent reports, “The former CJI, Justice V. N. Khare, cited two instances of Lokayukta laws in Punjab and Haryana having been repealed in quick succession as the then governments felt embarrassed when some inconvenient questions were asked by the Lokayuktas.” (Venkatesan 2011<sup>30</sup>) Former CJI Justice J. S. Verma said “It is beyond one’s comprehension that political parties want a strong Lokpal but at the same time did not want to give Constitutional status to it. Everyone knows that Constitutional status is higher than statutory status, but still if they oppose, I will only say it is a political decision.” (Venkatesan 2011<sup>31</sup>) It was noted that if the government desires, amendments can be made in the future for the lokpal law to be given a constitutional status.

Prashant Bhushan, a senior advocate and associated with the India Against Corruption campaign in an article in the Hindu<sup>32</sup> expressed his discontent with the developments on this bill by highlighting on specific recommendations which had been made by them. Showing his disapproval of the fact that after several joint meetings, the government tabled its own bill; he said that only a few provisions of the Jan Lokpal Bill (a draft being campaigned for by the India against Corruption campaign) were incorporated. There were a total of thirty four amendments suggested but four of them were identified as extremely crucial. These were- selection and removal to be made independent of the government; the CBI to be brought under the Lokpal or the Lokpal could have its own investigative body; all government servants were to come under the Lokpal’s investigative range and the procedure for investigation was to be in accordance with the normal criminal investigation procedure. He further said that “the government was adamant in not accepting any of these either, and went on to bulldoze the passage of its bill”. (Bhushan, 2012<sup>33</sup>) The only amendment which was accepted was, to allow state governments to decide when the bill would apply to them.

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<sup>29</sup> Parliament must come together on Lokpal (The Hindu, December 30, 2011)

<http://www.thehindu.com/todays-paper/tp-national/article2759513.ece>

<sup>30</sup> Venkatesan J. Lokpal law vulnerable to repeal, say jurists. The Hindu, December 29, 2011

<http://www.thehindu.com/todays-paper/article2756434.ece>

<sup>31</sup> Venkatesan J. Lokpal law vulnerable to repeal, say jurists. The Hindu, December 29, 2011

<http://www.thehindu.com/todays-paper/article2756434.ece>

<sup>32</sup> Bhushan, Prashant. The Saga of the Lokpal bill. The Hindu, January 2, 2012

<http://www.thehindu.com/todays-paper/tp-opinion/article2767145.ece>

<sup>33</sup> Bhushan, Prashant. The Saga of the Lokpal bill. The Hindu, January 2, 2012

<http://www.thehindu.com/todays-paper/tp-opinion/article2767145.ece>

The Lokpal and Lokayukta bill will be discussed in the Rajya Sabha again during the budget session<sup>34</sup> around the last week of February 2012.

### **Protection of Children against Sexual Offences Bill 2011**

The protection of children against sexual offences bill<sup>35</sup>, 2011 was recently introduced in the Rajya Sabha on March 23, 2011 during the budget session and is the first legislation of its kind in India to protect children.

According to recent reports<sup>36</sup>, it has been observed that with police intervention in Thailand and Amsterdam, paedophiles have turned to India. A government survey<sup>37</sup> was conducted in 2007 across 13 states with a sample size of 12,447. It revealed that over 53% of the children were subjected to some form of sexual abuse. According to Pinki Virani, author-activist, “Children form a sickening chunk of the Rs 40,000 crore commercial sex industry. Of this, 25 per cent of the child prostitutes are between 15 and 18 years of age.” (Krithika 2011<sup>38</sup>)

The bill has received some serious criticism and needs changes.

In chapter II, A, 3 it is being assumed that only a male can commit penetrative sexual assault which is not true and there should be ‘him/her’ added. “They may be less than 10 percent of child sexual abusers but they exist as adult-women upon minor girls and boys. Women who abuse girls use their breasts and/or tongues for partial/full penetration apart from fingers and objects. They also encourage the insertion of the child’s tongue into their own vagina.” (Pinki Virani, email correspondence, December 3, 2011) Thus, it has been suggested that the word ‘breast’ must be included in 3 (a), (b) and (c).

In chapter II, A, the last part mentions that in case of penetrative sexual assault committed against a child between the age group of 16- 18, there would be a need for considering whether the consent for this was obtained against the will of the child and it shall be examined if the child consented. It has been expressed that the age of consent in this case is lowered without the concurrence of the stakeholders. Moreover, this clause can be misinterpreted easily. An instance<sup>39</sup> cited was a case of an adult dance instructor teaching a 16 year old girl who grooms her and then gradually starts performing sexual acts with her. She will have to prove that she did not give her consent. In some other countries where the age of consent is lower, there is a difference because they have proper safeguards in place in case youngsters need immediate help.

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<sup>34</sup> Prasad K.V. What exactly happens to the Lokpal now? The Hindu, December 30, 2011

<http://www.thehindu.com/todays-paper/article2759771.ece>

<sup>35</sup> Text of the bill- <http://www.prsindia.org/uploads/media/children%20against%20sexual%20offences.pdf>

<sup>36</sup> Krithika R. Defining ‘consent’. The Hindu, October 9, 2011

<http://www.thehindu.com/arts/magazine/article2517610.ece>

<sup>37</sup> Government survey- media report [http://articles.timesofindia.indiatimes.com/2007-04-10/india/27883340\\_1\\_child-abuse-sexual-abuse-corporal-punishment](http://articles.timesofindia.indiatimes.com/2007-04-10/india/27883340_1_child-abuse-sexual-abuse-corporal-punishment)

<sup>38</sup> Krithika R. Defining ‘consent’. The Hindu, October 9, 2011

<http://www.thehindu.com/arts/magazine/article2517610.ece>

<sup>39</sup> Krithika R. Defining ‘consent’. The Hindu, October 9, 2011

<http://www.thehindu.com/arts/magazine/article2517610.ece>

Chapter II, B, 5- aggravated penetrative sexual assault and D, 9- aggravated sexual assault mention who come under it. “To this list need to be added (1) Family/Independent Doctors (the list has those in hospitals) (2) NGO’s (3) Individual Priests/Pujaris/Maulanas, (4) Institutions need to include religious ones since children, especially young males, are sent to these places regularly and are at the complete mercy of the heads: Muths (understood as housing/educating Hindu children), Madarsaas (understanding as housing/educating Muslim children), Monasteries (understood as housing/educating Christian, Protestant, Buddhist, Jain and all other children not covered).” (Pinki Virani, email correspondence, December 3, 2011)

Section B, 5 (i) mentions that there shall be action against “whoever commits penetrative sexual assault causing grievous hurt or causing injury to the sexual organs of the child.” (HAQ, Centre for Child Rights<sup>40</sup>) It has been suggested that this be changed in order to ensure that it covers grievous hurt or injury to any part of the child’s body.

It is also suggested that punishments need to be made more severe. For instance, Chapter III. point 14 (1) mentions the use of a child for pornographic purposes to be liable for punishment for up to five years and subsequently for up to seven years. According to Virani, the minimum punishments in Chapters II, III, IV require raising. Instead of looking at how much punishment is adequate for an adult, the effect this has on the child’s psyche has to be taken into consideration.

There are a few additional recommendations<sup>41</sup> which have been made. Firstly, there is a need to tackle repeat offenders since studies have revealed that child abusers can abuse more than thirty different children. It has been suggested that the HRD Ministry should have a website where the ‘first time offenders’ photos and all other details are mentioned and schools, hospitals and others can log on to check before hiring. Secondly, it is important to educate children about this for which the HRD Ministry should formulate a graded module on sex education for schools and colleges. They may not call it ‘sex’ and can word it differently. Interactive classes can be done per year for children of primary classes till class XII with collaborations with the Parent Teacher Associations. It should not be restricted to child abuse but should focus on the body as per the appropriate age.

Another significant recommendation made is that Section 27 be replaced with an entire new chapter on medical examination<sup>42</sup>. Some of the inclusions suggested are- medical examination to be done by a female doctor for a girl child victim; counsellor or psychologist to be made available before medical examination; special rooms to ensure privacy while questioning and medical examination; parents/ guardian/ any trusted person to be allowed to be present during medical examination; a sexual assault evidence collection kit or sexual assault forensic evidence (SAFE) kit consisting of a set of items used by medical personnel for gathering and preserving physical evidence following a

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<sup>40</sup> HAQ- <http://www.haqcrc.org/blogs/protection-children-sexual-offences-bill-comments-haq>

<sup>41</sup> Pinki Virani, email correspondence, December 3, 2011

<sup>42</sup> The suggestions on medical examination are based on the judgement in DCW vs, Delhi Police (W.P. (CRL.) 696/2008) - <http://www.haqcrc.org/blogs/protection-children-sexual-offences-bill-comments-haq>

sexual assault should be available; complete narration of the case must be ensured; medical examination report should be signed by the doctor and a copy given to the parents/ guardian of the child; emergency medical treatment and treatment against STD's should be given and if brought to a nursing home/ hospital the police should be informed immediately.

The standing committee had been given time till 31<sup>st</sup> December 2011. However there have not been any further developments as yet.