



# Rashtra Mahila

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## Editor's Column

The National Commission for Women is greatly concerned at the inadequate punishments being meted out to the rapists, particularly, at a time when a sizable section of the society is clamouring for death penalty for the rapists.

Recently, the Supreme Court, justifiably set aside 20 judgements awarded by a Madhya Pradesh High Court Judge for giving cursory prison terms, ranging from a few months to a few years, to persons found guilty of committing rape, which normally attracts a punishment of 7 to 10 years' of rigorous imprisonment.

The Apex court, on the other hand, has urged the courts not to deal with rape lightly and to refrain from using the discretionary power vested in them to award a lesser sentence for such heinous crimes "indiscriminately". It further said that the power, under sections

376(1) and 376(2) is given to courts, to be used sparingly and only in cases where special facts and circumstances justify a reduction. Long pendency of criminal trial and offer to marry the victims are not relevant reasons and nor the age of the offender by itself should be an adequate reason.

The Courts, on the contrary, should apply their minds, while awarding

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VERDICTS**

sentences for heinous crimes against the society and human dignity. For, when a woman is raped, what is inflicted is not mere physical injury but a deep sense of some deathless shame.

Therefore, the courts should keep in mind the plight of the victim and also the social stigma, which might practically ruin all prospects of a normal life. The punishment must commensurate with the

gravity of the offence and act as a deterrent. Not awarding a just punishment might provoke the victim or her relatives to retaliate in kind and that is what exactly is to be prevented by a fair criminal justice system. To quote the Supreme Court, taking liberal attitude by imposing meagre sentences or taking too sympathetic a view merely on account of lapse of time in respect of heinous offences will result-wise be counter productive in the long run and will go against the interest of the society.

## Anti-Prostitution laws to be changed

The government is planning to revise anti-prostitution laws drastically to provide for imprisonment and fine for anyone caught with prostitutes and to drop provisions, which make soliciting a crime.

The amendment, proposed by the department of women and child, awaiting cabinet clearance, provides for three-month imprisonment and a fine of Rs. 20,000 for the patrons.

The department has also proposed to do away with Sections 8 and 20 of the Immoral Trafficking Prevention Act (ITPA), which makes soliciting a punishable offence. The proposed change is being justified on the grounds that most sex workers are victims of circumstances. The perception that most engage in prostitution due to compulsion has also led the department to drop section 20 of ITPA, which provides for the eviction of prostitutes.

The punishment for traffickers, however, is proposed to be made more stringent. Those convicted will face imprisonment upto 10 years and fined Rs. 1 lakh.

## Legal Awareness Programme

Recognising the need to empower women and girls regarding their rights, the Commission initiates countrywide legal awareness programmes to make women aware of the various organs of the justice delivery system, to utilize various channels available for the redressal of grievances and to know the role of the District Legal Service Authority and Lok Adalat.

The awareness programme is implemented through non-government organisations/voluntary organizations registered under the Societies Registration Act/Educational Institutions, with atleast 3 years working experience.

The programme should be of three days. There should be atleast 60 participants in the programme/camp. The Commission provides financial assistance up to Rs. 20,000/-. Eligible organizations can apply with the following documents:

Certified copy of Registration Certificate; Certified copy of Memorandum & Articles of Association; Certified copy of Audited statement of accounts for the last three years; Latest Annual Report; Document giving an undertaking to properly conduct the Programme and in case the programme is not organized, to return the cheque/refund the advance given by the Commission.

Those NGOs interested in organising Legal Awareness Programme may obtain the Application Form from the Commission for submission to the Commission.

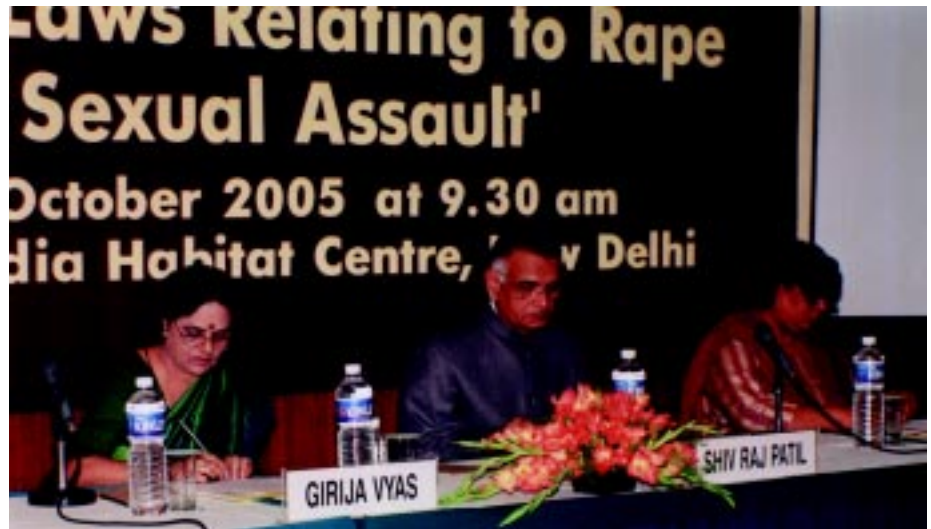
## NCW Workshop to Review Rape Laws

The National Commission for Women recently organised a national workshop on 'Review of Laws relating to Rape and Sexual Assault' in New Delhi. The workshop focused on suggestions to be given to the centre to re-review the laws dealing with sexual assault, rape and eve-teasing.

The Bill seeks to enlarge the definition of rape and make it more comprehensive by including in it forced oral and anal sex. The Bill also seeks to replace the word rape with sexual assault. The Bill defines sexual assault as that committed by a man on a woman. However, child sexual assault by a man or a woman falls into the new definition.

The Bill also seeks revision of Section 377 of CrPC dealing with consent, saying silence as well as absence of resistance cannot be construed as consent. At the same time it raises the statutory age of consent to 18 years.

The Bill also suggests amendments to Section 376 of the IPC to include new categories of aggravated sexual assault to the list of custodial rape which are : sexual assault of a minor below 16 years; sexual assault of a pregnant woman; sexual assault of a person suffering from a mental or physical disability. It also adds sexual assault by a person in a position of economic, social or political dominance. Minimum punishment for this category is 10 years as per the 1983 amendment. A new



At the workshop on Review of Laws Relating to Rape and Sexual Assault (from left) Dr. Girija Vyas, Shri Shivraj Patil, Ms. Kirti Singh. (Below) Ms. Ranjana Kumari, Ms. Indira Jaisingh, Ms. Sushila Tiriya, Ms. Suhashini Ali and Ms. Flavia Agnes.

section has been added to the Bill to make the police accountable for deliberate inaction and disobedience of law.

Responding to the NCW's proposal to the Centre, the Home Minister Mr. Shivraj Patil said in the amended CrPC, suggestions, especially those recommending that the victim's statement be recorded in the presence of a friend or relative have already been incorporated.

Government will take a considerate view of the other suggestions pertaining to video-taped evidence, different punishment for different offences, and shifting the onus of proof on the accused

from that of the prosecution, he assured.

On administrative reforms, Mr. Patil said "I am looking at the figure of at least 10 percent of police force to be women. At the same time, every police patrolling van needs to have women police personnel. Police will be trained to investigate sexual assault cases in a just and sensitive manner".

The key changes suggested by the NCW are :

- The definition of rape should be widened and not be restricted to vaginal penetration.
- Sexual assault should be punishable with a minimum of 10 years in prison and a maximum of life term.
- The age factor should be looked into more carefully in abduction-cum-rape cases as existing law is very often misused by rapists.
- Buying sexual favours (from sex-workers) should also be considered sexual assault.
- Video and audio recordings of the victim's statement should be admitted in court as evidence to save her from embarrassing "cross examinations".
- Investigation and trial of the victim should be a time-bound affair and public servants held accountable for any lapse.





## Convention on Review of Dowry Prohibition Act

Deeply concerned about the increasing cases of dowry harassment and dowry deaths, the National Commission for Women recently organised a National Convention on 'Amendments relating to Dowry Prohibition Act, 1961 and relevant laws', in New Delhi. Chairpersons of State Women's Commissions, DGPs, Lawyers, representatives of NGOs participated in the programme.

Inaugurating the convention, NCW Chairperson, Dr. Girija Vyas said that definition of dowry in the existing law was very narrow as it did not specify if demands made after marriage were to be termed as dowry. Also there was the problem of drawing a line between valuables given as gifts and those given as dowry.

She further said that the anti-dowry law was the most potent weapon against dowry, hence it should stay, but procedural changes could be considered to prevent its misuse.

The state commissions have been given three weeks to hold consultations on the issue and submit their recommendations to NCW. On Section 498A that deals with harassment of a woman or cruelty towards her by her husband or in-laws, a non-bailable and non-compoundable offence, the NCW feels that it should not be diluted despite complaints of its misuse.

The key points raised at the meeting were :

- The Act and the procedure for registering complaints should be made people-friendly and victim friendly.
- Dowry Prohibition officers under the Act should have exclusive functions and existing Govt. officials should not be given the charge only as an additional and secondary responsibility. The notification notifying the Dowry Prohibition Officers should be well publicized and known to the general public.
- Massive overhauling of anti-dowry laws to address the changing times where greedy in-laws have found new ways to circumvent existing laws.
- Members of legislatures, and public servants should be made to sign a mandatory declaration that they have

not asked for dowry at the time of their children's marriage.

- Men and women holding public offices should conduct marriages without vulgar display of wealth.
- A woman who has slapped charges of dowry harassment on her in-laws

should be free to go to court where her parents reside.

- Strict guidelines should be issued to the police for investigating cases of dowry deaths on the lines of one existing for custodial deaths.



Dr. Girija Vyas addressing the Convention. (Below) a view of the participants.

## Members' Visits

- Member Sushila Tiriya visited Reewa in Madhya Pradesh to investigate into the alleged gangrape of a woman by five men. She recommended that the enquiry should be conducted by senior police officers and the victim should be properly rehabilitated.

Ms. Tiriya visited Orissa from 8th to 21st October. At Bhubaneswar, she held a meeting with NGOs. Later, she left for Baripada where she discussed the problems of Dalit and Backward women with the district officials. At Baripada, she also enquired into the gangrape of a 15 year old girl recommending compensation for the victim and also met the women prisoners at the district jail and heard their grievances.

Thereafter, she visited Betnati to attend a public hearing on women engaged in making plates with Shal and Babul leaves. Ms. Tiriya also visited Tagabilla to enquire into the death of Jyotsna Gadoria and also attended a public hearing on the problems of local women.

Ms. Tiriya visited Indore to enquire into the alleged sexual exploitation of women by a self-styled godman.

- Member Malini Bhattacharya met the women of Bondanga village in Birbhum district and enquired about their health problems. Later, she visited the Bidhan Nagar North Thana to follow up the case of rape of a minor girl. Ms. Bhattacharya also visited the Presidency Jail to follow up the case of Jayanti Bala Das, who was allegedly raped by BSF personnel.

Ms. Bhattacharya and Member Nirmala Venkatesh visited Sabzi Manda Thana to investigate into a case of gangrape of a girl by four men. They recommended that there should be no delay in submitting the charge sheet and all steps should be taken to rehabilitate the girl.

Ms. Bhattacharya and Member Neeva Konwar conducted an enquiry into the alleged indecent behaviour with the girl students at the hostel of Kasturba Gandhi Vidhyalaya at Hapur, Distt. Ghaziabad.

Ms. Bhattacharya visited the Women Study Research Centre, Calcutta University and discussed the PNDT Act in Kolkata Metropolitan area with the team members.

From Calcutta, she went to Imphal and held a meeting with some NGOs. Later, she visited the ICDS Centre at Imphal and Churachandpur respectively. She also visited an Anganwadi Centre at Churachandpur and the Ima market at Imphal.

- Member Neeva Konwar visited Guwahati to attend the Navratri Festival organised by the Marwari Mahila Samaj. Later, she attended an interactive meeting with the NGOs of Sonapur district, who are working for the welfare of women. Next, she had a meeting with the Director, Women Study Centre at Lalit Bharali College, Malagaon. Later, she had an interactive meeting with the girl students of the college.

Ms. Konwar visited Shillong to attend the state level workshop on 'Women Reservation in Durbars and local village Councils and their effective implementation in North East'.

- Member Nirmala Venkatesh visited Bangalore and enquired into the death of N. Meena, who died allegedly due to dowry harassment by husband and in-laws. She also looked into the case of an attempted murder of Mrs. Jayanthi Ramadas by her husband. She instructed the police to take necessary action.

Ms. Venkatesh enquired into the alleged rape of a woman in Safdarjung hospital and suggested augmentation of security for women and recommended that the hospital should pay compensation to the victim. Ms. Venkatesh also enquired into the case of gangrape of a woman at Vasant Kunj. She recommended that there should be no delay in submitting the chargesheet and the victim should be given compensation.

## From the Complaint Cell

- A Muslim woman complainant approached the Commission alleging that she got married to one Zakir Husain, a teacher in a govt. school, (name changed) on 7th June, 2005. The marriage was arranged through family friends and as such her aged parents did not make any verification. On the second day of her marriage, her husband informed her that he was already married and has 3 children but he would live with his new wife as he did not have good relations with his first wife.

There after, the complainant stayed at a rented accommodation for two months. However, after two months, on account of improved relations of her husband with his first wife, he started harassing the complainant and deserting her started living with his first wife and children.

The Commission took cognizance of the case and summoned both the parties. At the intervention of the Commission, the husband agreed to settle the case through mutual compromise. The husband had already divorced the complainant before she approached the NCW. A draft of Rs. 1,80,000/- was handed over by the husband to the complainant on 3.10.2005 in the office of Dr. Girija Vyas, Chairperson of the Commission.

### Free Legal Counsel for Rape Victims

Free legal counselling will now be available to rape victims courtesy the Delhi Commission for Women (DCW). The legal cell has an experienced Supreme Court lawyer among others to provide counselling and necessary support.

The lawyers will be involved with the victim to assist the prosecutor in the trial, oppose the bail applications of the accused, facilitate recording of statements under the criminal procedure right from the time the first information report is registered.

*for further information visit our website at : [www.ncw.nic.in](http://www.ncw.nic.in)*