

डॉ. अशोक साहु
महाप्रिय
Dr. Ashok Sahu
Secretary General



राष्ट्रीय मानव अधिकार आयोग
फरीदकोट हाऊस, कोपर्निकस मार्ग
नई दिल्ली- 110 001 भारत
National Human Rights Commission
Faridkot House, Copernicus Marg,
New Delhi-110 001 INDIA

D.O. No. 7/16/2012-PRP&P

dated 17th January, 2013.

Dear Sir,

Please refer to your D.O. letter No. 14011/144/2012-UTP, dated 28.12.2012 addressed to Justice Shri K.G. Balakrishnan, Chairperson, NHRC requesting for views regarding changes in the existing laws and related issues in the wake of recent incident of rape and brutal sexual assault on a young woman in Delhi.

A list of Commission's Recommendations/Suggestions is enclosed. While preparing the same the Commission had the benefit of taking into account the outcome of the deliberations held in the Consultation on Violence Against Women organized by NHRC on 08.01.2013 as intimated vide my D.O. letter of even number dated 03.01.2013.

With regards

Yours sincerely,

Ashok Sahu
(Ashok Sahu)
o/c

Justice Shri J.S. Verma,
Chairman,
Justice Verma Committee on Amendments
to Criminal Law,
Vigyan Bhawan Annexe,
New Delhi – 110003.

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Recommendations / Suggestions

LEGISLATIVE REFORMS

Comments on Criminal Law Amendment Bill, 2012

1. The definition of penetrative sexual assault u/s 375 IPC should be broad and beyond the peno-vaginal rape. Further, the offence of sexual assault should be kept gender specific with only men being accused of sexual assault rather than making it gender neutral.
2. The present definition of consent u/s 375 IPC works against the interest of justice for women. Accordingly, appropriate changes will have to be made in the process of investigation. Further, the age of consent for sexual intercourse should be retained at 16 years and not increased to 18 years.
3. Recognizing the structural and graded nature of sexual violence based on concepts of hurt, harm and injury, stalking, stripping and parading naked in public etc., there is need to codify these sexual crimes as new offences of sexual violence against women and girls. All these need to be suitably defined and procedural laws need to be made accordingly.
4. Punishment under Section 354 of IPC may be enhanced upto five years depending upon the seriousness of the offence.
5. In the 2012 Bill, the amendments proposed in Sections 154 and 161 Cr.P.C. are a step in the right direction. However, as far as possible, the statement of women victims should be recorded in the presence of woman police officer.
6. There is need to look into the deteriorating standards of public prosecutors which leads to low conviction rate for which there is no accountability on them. In order to address this problem, there is need to explore how the victim may engage her own private lawyer.
7. In an appeal preferred by the convict in the High court, other than the State, victim or nearest next of kin of deceased victim also be made party. Notice of any proceeding initiated by the accused in the High Court should also be issued to the next of kin of deceased victim or victim as the case may be, and opportunity of hearing should be afforded.

Comments on Code of Criminal Procedure, 1973

8. Death penalty in every rape case, as a punishment is not desirable.
9. Need to examine the severity of punishment to be imposed with regard to rape and other kinds of sexual assault/offence/crime.

JUDICIAL REFORMS

10. There is need to have more courts and other infrastructure to cope with the burden of cases faced by the judiciary. At the same time, more Judges/Judicial Officers are needed. This will go a long way to ensure speedy justice.
11. Fast-Track Courts must be set up immediately to speed up trial where victims are women. There is also need for quick disposal as per section 309 of Cr.PC.
12. A national protocol needs to be developed for medical examination of victims of sexual assault and giving dignified treatment to them.
13. Orientation and sensitization of Judicial Officers, Public Prosecutors and Lawyers on issues and jurisprudence relating to sexual violence against women and girls.
14. A database of cases of violence against women should be maintained to track the implementation and performance of the law, and to identify its weaknesses for future reforms.

POLICE REFORMS

15. Non-registration of FIR by the police is a serious problem. There is need to follow Supreme Court guidelines/directions on police reforms so that police has functional autonomy. This will assist in better registration of FIRs by the police.
16. Protocols need to be evolved to guide the police with regard to receipt of any kind of complaints of sexual violence against women and girls and its investigation in a gender sensitive manner.

17. Need to establish 'Violence Against Women Assistance Cells', which should be made responsible for providing immediate access to free medical attention, psychological counselling, legal aid and other support services as may be required by the victim. These Cells should be uniformly available in tribal, rural and urban areas and in areas of conflict.
18. Proforma used for recording medical examination needs to be as per Sections 53 & 53A of Cr.P.C. for the accused and as per Section 164 A Cr.P.C. for the victim and this should be followed strictly.
19. Forensic tests to include DNA test. In order to reduce time lag, there is need for expanding infrastructural facilities of forensic labs to carry out such tests efficiently so that concrete evidence is available in a timely manner for immediate disposal of cases.
20. There is a need to increase the percentage of women in police force.

OTHER COMMENTS

21. Medical professionals apart from police officers and judicial officers also need to be sensitized about important aspects of sexual violence against women and girls.
22. Need to bring about a change in the public transport system, including plying and regulation of private buses, autos and taxi/car services.
23. Indecent portrayal of women in the media should be avoided. Sensationalism of crime in films and television needs to be avoided.
24. There is a need to issue guidelines for the media. The NHRC Guidebook for the Media on Sexual Violence Against Children should be used and modified/developed for this purpose.
25. Moral and ethical education needs to be prescribed in schools.
26. By way of prevention, there is need for societal change which necessitates massive awareness generation through educational and civil society interventions, NGOs and the media.
