

Submission to the Justice J. S. Varma Commission

We the 'Women with Disabilities India Network' join other women and concerned citizens in condemning the heinous act of Rape against a young girl in Delhi on 16th December 2012 which was followed by her death on 29th December. The brutality perpetuated on the victim has outraged the nation.

Our submission is that rape is a heinous crime and needs immediate attention. We believe that rape as a weapon of violence must be stopped and impunity enjoyed by perpetrators brought to an end. Impunity for the rape of women has become a national concern, because it compounds the effects of such violence. It intensifies the subordination and powerlessness of the targets of rape and sends a message to society that male violence against women is both acceptable and inevitable.

We urge that the cases of such heinous crimes be taken up and speedy action taken so that justice can be done. We aim for dignity and safe homes, society and country.

We draw your attention to the violence perpetuated against us women with disabilities each day in both public and private sphere. Such rapes are not isolated incidents, but are rather experienced in a continuum. They happen within the homes, in buses and trains and in State run institutions for instance against women with mental illness and young girls with intellectual disability where rape is an everyday affair.

Violence against women with disabilities is often a silent act because in a majority of cases women do not realize they are victim, or they are unable to communicate the act of violence. Even if it is communicated they are not believed. The low knowledge of women with disabilities on the reporting system, the less credibility given to their in reporting and longer duration of abuse as they have more difficulty in ending the abuse should be considered when the new laws are introduced.

We believe that:

We must adopt laws and policies recognizing that all actions that violate women's bodies are illegal. Women including those with disabilities must themselves be key decision makers in efforts to identify priority concerns and legal responses.

We suggest that:

1. The punishments should be such that these act as deterrents for those who commit the crimes .Appropriate strict punishment for all rapists including family members and carers of persons with disabilities, should be enhanced, both in terms of the length and nature of imprisonment ensuring that they do not

indulge in such activities again. Since most disabled women are raped by men they trust the most who may be their family member's or care givers, most often they do not report such incidents for fear of losing the little support and care that they do get. This means that this amounts to exploitation. There must be a mechanism set across the country where they can report such matters without the scare of any negative consequences.

2. The laws of the country discriminate against women with disabilities as provided by the Articles of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the Indian new Draft Bill (2012) on Rights of Persons with Disabilities based on CRPDⁱ. We believe that policies and legislation sanctioning non-consensual treatments to prevent rape including sterilization and abortion post rape go against the rights of the woman. The law should ban such criminal practices. In cases where required support be provided so the woman can exercise her legal capacity as provided by Art.12 of CRPD.ⁱⁱ.
3. Make complaint mechanisms accessible by removing communication and architectural barriers. Access to information for complaints procedure in accessible formats be made available to cater to a large section of the population (Braille, audio, audio-video with same language sub-titling, large print, easy to read and pictorial guidance and availability of sign language interpreters) must be ensured. A woman must be allowed to give statement in any alternate modes of communication like sign language, Braille language or a form she is comfortable in and it should be recordedⁱⁱⁱ.
4. Bad/poor/low lighting in public spaces makes women feel unsafe and vulnerable; so too things that make them feel caged such as tall fencing in a park or fencing on a long stretch of pavement where they have no clear sight lines and cannot escape in case of an attack. Transport and all infrastructures need to be made safe, well lit based on the principles of universal design and accessible for all.
5. Accountability of the concerned police officer/ investigating officer in cases of rapes at all levels (FIR, Chargesheet) should be made liable in terms of correct registration, timely investigation so that there is no acquittal of the accused by the court. In case of acquittal of the accused, the police officer has to be made liable. This will only be possible if police personnel are provided training that builds specific cultural awareness about disability issues and legal knowledge on the issue.
6. Mahila and Sishu desk in all thanas are to be set up, made functional so that cases of violence against women and children can to be taken up in a prompt

manner. Those in charge of such desks should be made aware of issues concerning women with disabilities.

7. Police reforms be carried out so that the investigation work and law and order work are sensitive towards women with disabilities. Adequate human resources should include women with disabilities working help lines and working in women's cells set up in police stations
8. Additional vulnerability of women with disabilities is not recognized anywhere. This must be recognized and addressed at all levels whether it be in the women commission, women groups and NGO programmes or any programmes and schemes instituted by the government.
9. Compulsory courses in syllabuses of educational institutions/ training curricula and long term and short term courses for professionals on gender and disability with a focus on inter-sectionality that includes caste, class, gender and minority issues.
10. There are no shelters for women with disabilities, and little psychological and vocational support for women with disabilities victims of rape especially in rural areas.
11. Courts are not accessible so women with disabilities cannot enter a court to provide evidence. Judicial capacity and sensitization on disability is another area where augmentation is required.
12. Any Task Force set up to counter violence against women must include a woman with disability
13. The persons manning the help line must be trained to deal with complaints received from women with disabilities

ⁱ Art 6 of CRPD is related to the rights of women and Art. 5 of the PWD Draft Law

ⁱⁱ As per Art 12 of CRPD States Parties reaffirm that persons with disabilities have the right to recognition

everywhere as persons before the law. 2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life. 3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

ⁱⁱⁱ A deaf woman in Kolkata raped in a police van could not communicate the details of her trauma and the medical team refused to accept her statement (2002). Another deaf woman raped in Bengaluru had her hands chopped off so that she could not communicate to with her parents (2012).