

**Report on
Violence against Women with Disabilities, India**

Submitted to

**Ms. Rashida Manjoo, the UN Special Rapporteur
on Violence Against Women**

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By

Women with Disabilities India Network

Expert Advice and Comments:

Ms. Asha Hans, Founder, SMRC, Bhubaneswar

Report compilation and presentation by Member, Women with Disabilities India Network:

Ms. Anjlee Agarwal, Executive Director, Samarthyam, National Centre for Accessible Environments, New Delhi (www.samarthyam.org)

Ms. Seema Baquer, Assistant Director, Disability Rights Initiative, Human Rights Law Network, New Delhi

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CASES BY

Bhargavi Davar, Member WwD India Network, Pune

Rotnabali Ray, Anjali (NGO), Kolkata

Seema Baquer, The Disability Rights Initiative, Human Rights Law Network, New Delhi

Anjlee Agarwal, Samarthyam, National Centre for Accessible Environments, New Delhi

Members, WwD India Network, Chennai

WOMEN WITH DISABILITIES INDIA NETWORK

We the 'Women with Disabilities (WwDs) India Network' join other women in bringing to your notice the violence to which WwDs fall victim. Violence against WwDs has some common characteristics with violence against women in general, but also has higher magnitude and unique dimensions. WwDs face more violence as compared to women in general.

1. BACKGROUND

WwDs constitute some of the most marginalized and discriminated group of people in India, faced by some of the worst form of sexual exploitation and assault most of which go unreported. Stigma and discrimination attached to disability deprives them from enjoying their social and cultural rights. Additionally barriers and inaccessibility hinder realization of their rights. Viewed as a burden to their natal families, they are exposed to physical and sexual exploitation.

In light of the *United Nations Convention on the Rights of Persons with Disabilities* (Article on Women with Disabilities, Article 12, *Equal recognition before the law*, Article 16, *Freedom from exploitation, violence and abuse*, Article 17, *Protecting the integrity of the person*, and Article 23, *Respect for home and the family*), recognises that any form of violence that violates the rights of women and girls with disabilities is a curtailment of human rights.

Amongst women with sensory, learning, and communicative disabilities are particularly vulnerable to suffering abuse and violence. Women labelled with psychosocial disabilities are likely to be silenced and ignored when speaking out or attempting to defend themselves, particularly when the violence is authorized by law or committed in a context where the woman is deprived of her legal capacity and/or freedom.

Some forms of violence against WwDs are not immediately visible as violence because they are in fact legal and accepted in society. This is particularly true of forced psychiatric interventions and institutionalization. These acts of violence are done under the legal authority of the state, and in pursuance of wrong and discriminatory state policy, and there is no possibility of redress, emphasizing the message of all violence that tells the victim she is powerless.

In India, as the section on Cases shows, WwDs face a large variety of violence through their life cycle:

- 1) The law as per MTP and PCPNDT allows abortion of a fetus with disability though it restricts abortion of a girl child
- 2) They face verbal and physical abuse and ridicule
- 3) Rarely allowed to marry or have children and most of the marriages that happen are for the woman's property or money
- 4) Girls with intellectual disability are forced to sterilization as they might be pregnant if raped
- 5) WwDs are not allowed to retain their fertility on an equal basis with others
- 6) If with child they are forced to undergo abortion

- 7) Many are abandoned by families and then undergo sexual abuse at the hands of strangers and others are abandoned after they are raped while living with the family making them vulnerable to more sexual abuse at the hands of strangers
- 8) They are married then abandonment
- 9) Some are not allowed to open Bank accounts, own or sell property
- 10) WwDs face institutional restraint, strip searches, and solitary confinement that replicate the trauma of rape
- 11) Raped by staff and other inmates/residents of institutions
- 12) Rape and torture of disabled girls and women in institutions and children in India are exposed to atrocities within penal institutions¹.
- 13) Only custodial care is provided for people with psycho-social and mental illness

Discrimination is a sad reality, which needs to be approached and analyzed case by case. For instance, in western countries more democratic, so called "WELFARE STATES", the rights of WwDs are addressed with dignity, equity and distributive justice. All human rights are scrupulously respected, which is not the case in most developing countries including India.

WwDs from India shared injustice and discrimination faced by them:

Eshwari: Family members kill the girl child if she is born with a disability.

Laxmi: My mother tells me feeding of food is waste to girl with disability

Durga: I am harassed about dowry as I am married women with disability. All women I know who married have to face this problem

Balamma: I am other women in my village are married to men who already have wives.

Chalamma: I am not given a share or right to property

Due to WWD India network interventions and personal advocacy meetings with Advocate Gopal Subramainam, Justice Verma Commission formed in 2012, we achieved the following:

The Criminal Law (Amendments) Act 2013 was signed by the President of India on 4th April. It is for the first time, the needs of women with disabilities have been included in a general law.

One highlight: When a sexual offence takes place against a disabled girl or woman, the complaint would be recorded at home or wherever she is most comfortable. Help of sign language interpreters, social workers can be taken. Entire process shall be videographed (Section 154)

¹ <http://www.mumbaimirror.com/article/15/20110103201101030853502491dd077d5/Health-chiefs-raise-alarm-on-masina%E2%80%99s-house-of-horrors.html>; <http://www.ndtv.com/article/cities/man-admitted-for-alcohol-rehab-says-ward-boys-beat-him-up-23519>; http://www.dnaindia.com/india/report_in-for-medical-counselling-scarred-for-life_1707626

2. CRITICAL ISSUES

2.1 Inaccessible environment- attitudinal and physical barriers

In Hyderabad, home for women with vision impairment housing 22 young women are being raped and are sent to clients as prostitutes. When a local MLA intervened and asked these girls to be rehabilitated, they refused. They said “we are used this now and we will not get accessibility features in other home. Hence, we will continue staying here”.

2.4 No interpreters in the police stations or in the judicial systems

When a deaf women goes to a police station to register a case of violence or abuse against her, the most common response one could experience from the police would be “ Why are you complaining? Adjust and live”. Even our divorce cases could go for more than 10 years. There are no experiences of speedy disposal of cases.

2.2 Forced Sterilization

In India there is clear evidence that forced sterilisation continues to be carried out on many persons with disabilities, above all on girls and women with intellectual or psychosocial disabilities and without their consent or their understanding the specific purpose of the medical operation, under the pretext of the wellbeing of the person with disability. For many girls and women with disabilities this experience, to which they are forced against their will, intimidated and pressured, is a denial of their right to access appropriate services. Their fundamental human rights, including the right to safeguard body integrity and maintain control over their reproductive health, are violated and removed, at times without their realising. This procedure is carried out with little regard to respect human rights and will of the women or girl with a disability. The medical personnel have the responsibility to ensure that the woman or girl with a disability and the person giving consent on their behalf is adequately informed about the fact that the surgery or medical intervention will lead to WwDs being sterilised and the consequences of this for her future.

A research study² conducted in villages of 12 districts in Orissa by interacting with 729 disabled women, girl child and family members revealed that;

- 12.6% of women in the combined group (physically disabled and deaf) had been raped as compared to 24.6% of women with mental disabilities.
- And in the case of pinching and uncomfortable touching it was 15% in the combined group as compared to 19% for women with mental disabilities.
- instances for forced sterilisation were in the range of 5-7% for the combined group and 7.5% for women with mental disabilities. The high incidences of sterilisation of women with disabilities happen because families and community do a role reversal viewing them as incapable of motherhood, which goes unchecked.

2.3 Marriage and Lack of legal aid in rural areas

² “Abuse and Activity Limitation: A Study on Domestic Violence against Disabled Women in Orissa, India” by Dr. Sruti Mohapatra and Mr. Mihir Mohanty

This has resulted in lack of redressal and documentation on the violence and abuse experienced by women with disabilities in rural areas. Ms. Chandra, a person from a village near Madurai wanted to marry her cousin with whom she was in love for many years. Her cousin married another woman and both of them took a decision to marry Chandra as a second wife. Chandra was married to the same man. After 40 days of their marriage, once the benefits announced by the Government were received, Chandra was tortured. She could not even make a complaint or file a case against the perpetrators as there is no legal aid / services available in rural areas.

2.5 Dehumanization people with disabilities are considered less human and inferior to the rest of society

Female patients of a mental hospital in Bengal shared a practice which on a daily basis diminishes them and traumatizes them. All the female patients, young and old, recovering and otherwise are forcibly made to take off all their clothes by the nurses and GD staff. They are then splashed with few mugs of soap and Lysol water and then splashed with cold water. The reason for this was given that, some patients hoard soap, some may waste it etc. Even if few patients may need assistance, why should all the patients of the ward be made to go nude at the same time? A young woman in her twenties said that she feels like dying of shame every morning when this happens. Is this not sexual abuse? The cases of sexual assault and abuse have been raised time and time again. But still these things continue to happen. The genuineness of these women's testimony is questioned and hence perpetrators know that they can get away with anything.

2.6 Forced medication and institutionalization

Unjustified administration of drugs (tranquillizing the woman to 'shut her up') or withdrawal of drugs also comes under the realm of physical abuse. We see regular over medication of patients. There is no prescription audit and we are demanding it. Over medication is leading to patients having serious side effects and not being able to participate in the rehabilitation programs.

2.7 Lack of communication between General and Mental health care system

Recently we dealt with the hospital and its staff in Kolkata regarding a patient. She is an inmate of a state run mental hospital and broke her hip joint three and half month ago. No reason is yet found as to what brought about this. She was then transferred to a state run general hospital where all her psychiatric medications were discontinued. She needs an operation but that was not performed as patient's relatives were not available and so she lay there languishing in pain from a broken hip for more than three months. In the meantime due to the gap in medication her symptoms returned. The Ayahs who are assigned to take care of her and give her medication and change her bed etc. tie her to the bed all day and leave her in her own filth and excrement and sit around chatting all day. This seventy year old women, in the extreme pain of broken hip, and with no psychiatric medication, being bound to her bed in her own filth, is that not violence? But the entire episode and the way it progressed brings into light

the systematic neglect shown towards the mentally ill patient. It highlights the complete lack of multidisciplinary communication between the state general hospital and the mental hospital which lead to the discontinuation of her medications and relapse of her symptoms, which further added to her plight because her behavior became aggressive leading to her being bound to the bed by the staff who again lack any training on their part. As she did not have a family to constantly pressurize both the hospitals on her behalf, only when we took it up to talk about her condition, the state general hospital responded.

2.8 Gender Bias in admission and care

Voluntary admissions, hospitalization and discharge favor men more than women. A study of five mental hospitals in the state of Maharashtra revealed that while men are admitted to hospitals for treatment in the early stages of diagnosis, women are “dumped” here only after their illness turns chronic ie when they turn dysfunctional and are unable to comply with their social roles.

This pattern repeats itself across India. In the mental hospital of Ranchi, Jharkand, while the female to male ratio at the time of admission is 29% to 71%, the long stay patients are predominantly women: 67% as compared to 33% men. Most Anjali NGO partners and participants have clocked 8-15 years of hospitalization. Our women partners have fewer visitors than their men counterparts. Families and societies do not want a recovered woman back. Once hospitalized, a woman’s role is redistributed to other female members of the family, her husband remarries and her children grow up with an image of a mad, demonic, witch mother. Parents of young women with mental illness reject her for the fear of possible future sexual exploitation or concerns about her marriage and dowry plague them. But, a male patient’s economic status in the family is not devalued as easily. Much after his hospitalization, his wife continues to be the caregiver and the family continues to see him as a bread earner.

2.9 The Gender Gaps in Mental Health Treatment:

Work in the mental health sector requires a measure of empathy, and sensitivity, yet this is what is acutely absent from our treatment and care. Women in mental hospitals are put through rigid paternalistic scrutiny and surveillance. They are dressed in loose frocks tied at the waist, oversized unisex gowns, and/or uniform saris. Often they not provided with even undergarments with their gowns. They are forcibly tonsured or their hair cropped close to the skull. Patients are covertly discouraged to keep themselves clean and attractive on grounds that they could sexually provoke members of the male ward. Their treatment defeminizes them, dehumanizes them. The lack of personal space to store ones belongings further depersonalizes women. They are denied the therapeutic opportunities of looking into a mirror (self-evaluation of one’s image). Counseling entails relentless advice and admonition. Inside hospitals, patients who develop close or intimate friendships are harassed and punished by being relocated to separate wards. Health, clothing, menstrual hygiene, cleanliness and personal space are critical challenges.

All psychiatric patients receive the same drugs irrespective of categories viz. the recovered, the curable and the chronically ill. Most times women patients get one or two dresses which are

washed once in ten days, if at all. Women are not given sanitary napkins during menstruation – often they live in soiled clothes that are stained in menstrual blood. Group bathing and drying accelerate gynecological morbidity, injuries and infections. These problems are more pronounced for chronic, long-stay patients. There are no provisions for mothers admitted within the institutions to see their children either.

3. ACTS, LAWS AND SCHEMES

3.1 Military Laws: *The Army Act* of 1950 (Sections 145-149); *The Air Force Act* of 1950 (Sections 145-149); *The Navy Act* of 1957 (Sections 143-144); *The Coast Guard Act* of 1978 (Sections 88-92); *Border Security Force Act* of 1969 (Sections 99-103); *Assam Rifles Act* of 2006 (Sections 121-125); *Sashatra Seema Bal Act* of 2007 (Sections 111-115); *Indo Tibetan Border Police Force Act* of 1992 (Sections 111-115). In these may be found pathways for involuntary commitment into “lunatic asylum”. The words ‘lunacy’, ‘lunatic’, ‘unsound mind’ and ‘idiot’ are still widely used in this set of laws. There are detention provisions to a variety of institutions, and reference is made to the *Indian Lunacy Act, 1912*. The government has not yet addressed these legislations from CRPD point of view.

3.2 Beggar Prevention Act 1959 and Juvenile Justice Act: A variety of other closed door / penal institutions are found in Pune city, serving the entire district, under these Acts. A reception center for Beggar’s Home exists, run by the Women and Child Department, where a majority of people found are people with psychosocial or mental disabilities found on the streetsⁱ. The right to Liberty is seriously violated through these legislations.

These laws do not provide safeguards on rights, and protocols are left to local authorities even though right to liberty is a matter for the courts, relating to access to justice. The Mental Health Act provides for magisterial role in fully and fairly adjudicating admission, as involuntary admission always involves a deprivation of right to liberty, which is a constitutional right.

“I was standing near station waiting for next train. A woman in a Khaki color sari was standing with a group of other people. She approached me and told me that they needed some people to work somewhere and that they will give good money and vada pav (a favourite street food) for the work done. As there was some time left for the train to arrive, I decided to go with her. They brought me directly to the court. I started realizing that something was going wrong. I was fearful and started protesting. One of the men went inside the court and asked me to sit in the vehicle. Eventually the vehicle brought me here (in the beggars’ Home). They did not tell me why they brought me here or how long I will be here”

3.3 A study of 20 Reception Orders done of people admitted into the Pune mental hospital in 2010 showed the following findingsⁱⁱ:

In the judgments, it is found that persons being admitted forcibly are referred to as ‘non-applicant’, and the ‘applicant’ is the mental hospital authority. This is a curious twist given to adversarial system of justice, followed in India, where both applicant and respondent have equal right before a court of law. In this case, there is no respondent, and the adversaries are

the 'non-applicant' and the 'applicant'. Names of the person involuntarily admitted have not been mentioned, and no further jurisprudence is found regarding arbitration on the constitutional issue of deprivation of liberty. An administrative order, repeated word for word in each and every 20 ROs reviewed, is passed off in all cases of this small sample as a judicial orderⁱⁱⁱ. MHA provides for very short detention period by which time a Reception Order must be issued, else it is to be construed as illegal detention. The study of ROs shows that, a person may have been admitted on a certain day. However courts have taken upto 3 months to issue a reception order. It is clear that no inquiry has been conducted because admission orders are all the same, except for change in the case number and the date, sometimes the name of the sitting judge. The judge does not make any special notings for any of the ROs. Each RO in very same words says that the 'advocate' for the applicant has been heard, and medical report has been satisfying. However no further notings were found on who the advocate is, what the hearing was, what the medical report said and the reasoning of the court for the admission. It is also clear from the ROs that the 'non-applicant' never came before the court at any point, whether for admission, or whether for extension of stay in the hospital. It is evident from the above analysis that access to justice is negligible for people with mental and psychosocial disabilities, which is a big barrier for life in the community and being able to access services in the community.

3.4 NALSA (National Legal Services Authority), a national legal authority which enables cadres of legal aid services in all states of India, adopted the "**Legal services to the mentally ill persons and persons with mental disabilities, Scheme of 2010**", in the Meeting of the Central Authority of NALSA held on 8.12.2010 at the Supreme Court of India.

While adopting a number of human rights provisions of the CRPD, however, the Scheme falls back upon a language of "incapacity" when it comes to consent to treatment and refers to the Mental Health Act of 1987 on involuntary admissions. However, the NALSA scheme provides, among other positive measures, for rescue by the Legal Services Authorities of people being rendered "Forced Treatment". The Maharashtra Legal Services Authority, which conducts *Loknyayalay* (people's courts) regularly in Pune District, has adopted these guidelines, but has failed to act on it at the time of writing this report.

3.5 Incapacity laws continue to operate in the district court in large volumes

At the family court, Pune, a sample reading of judgments shows that 'unsound mind' is regularly used to settle divorce matters, with poorer outcomes for women. One marriage was annulled on the basis of a finding of "moderate depressive episode with somatic syndrome"; the history of this case shows that the husband filed divorce petition on ground of insanity and fraud, because he found that his wife has had 'as many as 6 previous sexual relationships'^{iv}. A sample reading of judgments in 2011 on 'guardianship' done for purpose of this paper, suggests that district courts are regularly giving guardianship over people mainly in the context of property matters, pensions, etc^v. Guardianship granted is not for a specific cause, but of 'person' found to be 'mentally ill'. In a judgment of 18/11/2011, the district court noted in their judgement that 'Certainly there needs to be someone to take care of this fellow', handing over the person of Bhimaji Kulkarni to his brother^{vi}. In the sample of 10 cases reviewed, two cases, a person of 'mild mental retardation' was found to be 'mentally ill' by the court and granted

guardianship under the MHA. Even though MHA specifically excludes MR, section 52 of MHA on guardianship was applied:

4. CASES

4.1 Aruna's case

After Aruna had a polio attack her family tried all means of medical treatment for her. With no results, they ultimately resorted to physiotherapy and other home remedies. Mental retardation with bouts of epilepsy followed suit. The source of disability was traced to the effect and impact of marriages in blood relations (parent's background). She was admitted to a play school where she got an opportunity to indulge with children in the mainstream. This instilled confidence in her and she also managed to study upto the 5th std. before moving to another school. She had to discontinue her education due to the teasing and ill treatment by her classmates and friends. She was married to a man without a disability on the advice of well wishers and the initial years of her married life was peaceful. Then the harassment and violence increased which led to her deteriorating health condition and finally desertion. He married her because of dowry was later revealed. After getting divorce from her husband, now she is dependent on her old parents for livelihood and social security.

4.2 Sumitra's case

I am 26. I studied till class VIII in a mainstream school. My parents tell everyone that I am 17. Most parents of girls and with Mental disabilities hide their age like that. I will finish my study and get married. I want to marry and raise a family. I do not want to take up a job and earn in future. I realized I am different when my mother took me out of my old school and admitted to a special school. I feel sad as all my "normal" friends are going to college. I will not be able to do that. I have been sexually abused several times. It happens so many times when I am travelling in a bus. So many people touched my private parts when I travel by crowded bus . I was raped by my music teacher once at my home. My brothers was in next room. My parents were not there at home. It was painful. Blood came out. I told my mother what has happened. When my mother tried to confront the music teacher, he denied it. He said, "your daughter is not normal". Who will believe her? Her testimony will not be accepted by the police or court. There's no witness, how will you prove this?" The music teacher did not come to our house after that. My mother says I should not talk about this to anyone. No one in the school knows about this.

4.3 Kolkata Pavlov Hospital where a female patient was reportedly sexually assaulted on 23.4.12 brought out several points.

Ms. A.D. is a young woman of about 30 years. She looks much younger because of her built. Her intellectual disability is apparent from her looks. She was reported to be of 'violent' nature and had a habit of stealing things from other patients. So she does not have any friend in the whole hospital. However, during our interactions with her, we felt that at least one nurse loved her and she shared a good rapport with the nurse who took us to her. She was put in solitary

confinement. When asked as to why she was there nurses said because of her 'violent' behaviour. We felt this was a punishment meted out to her. Incidentally Shampa knew Ms. A.D. before from the time when she worked with Missionaries of Charity's homeless mentally ill women. According to sources contacted at MOC, Ms. A.D. was a "street-case" – she was found pregnant in the roads by one of the sisters of MOC. They brought her to one of their homes Shanti-Daan. She stayed there for almost 1 year. When sisters realised that she needs specific treatment which they were unable to give, they tried to admit her to Antara, another NGO run set-up in Baruipur. However she ran away from Antara home. After this MOC sisters again found her and admitted her in Pavlov Mental Hospital. From the way Ms. A.D. reacted to Shampa, it was clear from that she also recognised her. We talked to her for some time. She spoke incoherently most of the time, saying "Bari Jabo" (I want to go home) several times. She could not give details of her family or address. But told us her husband's name and that she was pregnant when she was thrown away from home. We asked her gently if someone touched her in recent past. Immediately tears filled in both the eyes. She cried a lot and showed her breasts and vagina – she said "YES, HE TOUCHED THESE AREAS. IT HURTS. THE STOMACH HURTS". She also made a motion by her hand whereby we felt that sexual intercourse or penetration of hand/other object into her vagina took place. The most important question that remains here is how we make her and all the other women in this hospital safe. Who will take responsibility of these women when from the Super himself to the nurses we talked to all are eagerly waiting to get released from this hospital as the infrastructure/ human resource. Also comments from Superintendent of the same hospital saying that this woman herself is highly sexually active, I find it difficult to save my male staffs from her more important" makes us shiver.

P.S. – The case is now in court. Hospital Superintendent not happy as he is being called to appear in court, he thinks he is not the legal guardian in this case and Nuns of Missionaries of charity should appear on A.D.'s behalf.

4.4 Sexual assault of a woman within an empty bus at Thakurpukur area in Kolkata on 24th December 2012

Anjali NGO visited Thakurpukur Police Station on the very next day. Even though we explained that we are with women who are disabled and would like to give help and support to the concerned woman, the officers present were not at all supportive. They refused to give us any information. The categorically told us that the concerned woman was not disabled and anyway there was no rape but just minor sexual offence. As Officer In charge was not present, also realising that there was a general disturbance in the area over this case (mainly because whole of India was already enraged about Delhi rape case) we left P.S. without getting much information. We asked where the victim woman was kept, the answer given to us, was –"Check Kolkata edition of The Telegraph, they have mentioned the name of the home". Though The Telegraoh also did not publish the name of the institution she was kept in they mentioned the location of the home. We took the initiative of finding which home this is and called up the authorities of the institution. We again offered our help and mentioned that we have the expertise to give support to this woman if she needs it. But the concerned lady said she will not allow us to visit us or talk this woman. She confirmed that this woman is mentally disabled and

have special needs. The lady also said that she is feeling it is a burden for her to keep this woman as they are not equipped to handle mentally disabled women. Over phone, she even asked “Her periods started and she is not ready to wear a sanitary napkin; can you tell me how I can coax her to do so”. She also mentioned that medical reports say that this is not the first time she had sexual experiences (she did not use the word “habituated to sexual intercourse”).

One Bengali newspaper reported that the doctor who did the medical check up also confirms that the woman looked “disabled” – she did not specify what happened to her and when asked she said the man pulled me by hand. At present (on 9th January 2013), she is staying in Pavlov Mental hospital.

On 21st March 2012, an 11 year old girl with visual disabilities was raped in Nalhathi, Birbhum by a neighbour. She used to stay with her grand-father as both her parents were working in a different village. She was a school drop-out. Her grandfather was a daily wage earner. She was playing in a field when the neighbour told her that he will help her to reach home. When they reached her home, he realised that the house was empty. He raped her inside her house. But few people of the locality came to know of the incident and informed police. The grand-father filed an FIR. The blind girl gave full testimony verbally and the accused was arrested. Charge sheet framed but the man is out in bail at present (9th January 2013).

To rehabilitate her, she was admitted to a special residential school in Howrah by Paschim Banga Rajya Pratibandi Sammelani. There is no special school for blind in her district. But the police said that they need her for further investigations and her presence was requested in the place of occurrence. So within few months, they had to bring her back to the village. But local schools not being equipped to give her education, she is presently not getting any education. There are also doubts whether the earlier blind school in Howrah will take her back as they now know that she is a victim of rape.

4.5 Violence perpetuated by the armed forces in conflict zone areas and the apathy of the investigative agencies

On 10th September 2011, a deaf and mute woman, Mrs. Deobari Basumotary was gang-raped by 10-16 SSB Jawans in a village of the Kokarajhar region of Assam, close to the border. She was initially assaulted inside her own home in the presence of her husband who was also physically assaulted by the jawans and then in a field near the road, where she was ultimately left in a critical condition.

Even after the registration of a FIR (372./2011), directions from the Guahati High Court on 16th March 2012 under (Public Interest Litigation (PIL) having No. 65 of 2011) to the lower court to deal with the matter expeditiously, the lower Court rejecting the closure report of the police and ordering re-investigation on 25th April 2012 and directions in a second PIL (Kwrwmdao Wary & Anr Vs Union of India & Ors having PIL No. 48 of 2012) for the Direct General, SSB to cooperate in the investigation, no one has been charged and no one apprehended with the likelihood of a trial being faint and remote. With the failure to duly and properly investigate resting on the non-cooperation of the army personnel all that the victim has received more than a year on from the incident is a promise of Rs.1,00,000 interim compensation.

4.6 Caste and Disability interplay resulting in violence on women with disabilities

A young 20 year old Dalit girl with 75% mental retardation from a village in Jind, Haryana was raped on 3-4 different occasions by a village local Sukbir Singh belonging to the upper caste. The parents of the victim stated that being landless and poor they all had to work as manual labours resulting in the girl being left behind at home alone. Ceasing this opportunity, the accused would come to their house on the pretext of calling them for some work and rape her. As she had been threatened not to reveal the fact of the repeated attacks, her family only learnt about this when they discovered that she was pregnant. Her family was able to detect her condition in time, as her mother was very vigilant about her menstrual cycle and thus they managed to have the pregnancy aborted. Initially the mother was unwilling to file a complaint due to their poor financial condition and the fact that the accused was related to the headman and from the upper caste. However, when the accused tried to keep the family quiet by offering Rs. 1,00,000/- and threatening them, they filed a complaint with the support of their relative. A criminal case has been registered and the accused was taken into custody.

4.7 With Domestic Settings, financial consideration and property leads to a lot of violence against women with disabilities

Geeta Roy has been suffering the effects of verbal abuse, humiliation, assault, isolation and deprivation since the demise of her father, nearly two years ago. Affected with an enlarged gland, which resulted in facial disfigurement and speech impairment, she has a 65% disability. Till her father was alive, he supported her along-with the other 10 members of his family. However, since his demise, she has been suffering abuse at the hands of her brothers and their wives, all of whom live in a joint family set up. Deprived of food on a daily basis, she is humiliated, made fun of and abused mentally. On requesting for food, she is told that she has to go hungry till the money spent on her father's funeral can be compensated for. Geeta also mentioned that the money that had been sanctioned to her under 'Indira Awas Yojna', a Government scheme for providing housing for the rural poor has been partly spent by her brothers to build an unfinished hut and the rest has been misappropriated. The ill-treatment in her case stems from the fact that her family regards her as a financial burden and wants to deprive her of her share in her father's property and therefore they repeatedly ask her to leave the house.

A problem for women with disabilities who hail from families with money sources or property is that they pose an opportunity for getting married to for their money or intended inheritance.

Anuradha Saigal alias Anu, now 44 years of age who herself is deaf and happens to belong to a family where her father, brother, son and daughter are also deaf. The assistant of her photographer father aware of her family's financial status and vulnerability proposed marriage to Anu with a view of taking control of the family's property. When all his pressures on Anu's grandmother to transfer the property to his name did not yield any results he abandoned Anu. Even when she was living in her marital home, she was constantly ill-treated and abused on the grounds of her disability. She was completely isolated as no one accepted her, never tried to learn any means of communicating with her, broke off all her contacts with her friends, stopped her from painting, which was her means of communicating with others and treated her like a servant. Finally her contact with her family was broken when her first born girl died due to

suffocation, as Anu could not hear her crying. This incident happened while she was visiting her maternal home and her in-laws blamed her for it. Furthermore, when her husband abandoned her, he and his family kept their two children. Now with the help of the legal system Anu has joint custody of the children. She now lives with her family in her maternal home.

4.8 Women with Disabilities, especially women with hearing impairment, intellectual disabilities and psycho-social disabilities, are prone to a lot of sexual violence and abandonment

ABC, a resident of Mala in Trissur district was tested positive in the DNA test of paternity of his 21 year old mentally retarded daughter. He had been sexually assaulting her for over one and half years. The matter came to light when it was discovered that the girl was more than 5 months pregnant. The fact that the assaulter was none other than the father came to light in the police investigation on the complaint filed by the parents of the girl. (Translation from local daily in Kerala, "Father arrested for sexual abuse of his mentally retarded daughter", Malayala Manorama, 5th July 2011)

Mentally challenged, K who got pregnant as a result of rape was abandoned by her family after forcibly taking her child. Post abandonment, she was gang raped by three men, who had de-boarded her from a train. She was rescued and bought to a women's home in Chandigarh, where she now resides. Moreover, in a routine check-up it was found that she is HIV+, which is resulting in discrimination from the members and staff of the home.

A hearing impaired girl was raped in the government school in which she was studying by her schoolmates. She mentioned in her interview that the boys used to tease all the girls and lift up their skirts, as no one in the school was given sex education. She was a regular target, as she was disabled and good at studies. Once she was physically assaulted by two boys and when she tried to communicate that to the teachers, they raped her. Her parents tried to talk to the boys but they denied the incident and the school also took no action. She was pulled out of school as a direct result of the incident.

A mentally challenged woman was abandoned by her husband in Jaipur city when her condition deteriorated on the journey. She was begging for her survival when two youths abducted and raped her. (Express News Service, "Mentally Challenged were Raped Outside Badiyadev Temple", expressindia.com, 27th March 2009)

4.9 Abuse within Institutions

The situation within institutions established for the care of persons with disabilities is equally dire with abuse being rampant within the closed walls of the institute. Abuse continues even after many cases have come to light due to lack of monitoring by the State and inaction or delayed and insufficient action by the law enforcing agencies.

The Adivasi Magaswargiya Krushi Sanstha Balgrah for children with psychosocial disabilities had been established under the Juvenile Justice (Care and Protection) Act 2000 and fell under the department of Women and Child Welfare (CWC), Pune. After several reports of death, a visit was conducted by CWC in early August 2010 in which the mal nourished condition of the children, need for medical attention and the lack of proper clothing and bedding came to light.

Instances of beating, using children to do manual labour, forcefully feeding alcohol to boys, sexual abuse, sodomy, molestation and repeated rapes, was uncovered. The institution was also found lacking in adequate staff, women superintendents, probation officers, staff equipped with psychosocial skills and recreational facilities. Despite oral instructions of CWC to transfer the children to other homes this was not done and the said transfer only took place towards the end of the month. Instead of being provided protection by the police even after being directed to do so by the CWC, the children who had suffered sexual abuse had to face the horror of being threatened and intimidated on the behest of the perpetrators of the crimes. (Human Rights Law Network (HRLN), The Kawadas Case, August 2011)

Mentally challenged 19 year old ABC was repeatedly raped by the staff of the two government run care homes where she had been i.e. Nari Niketan and Ashreya in Chandigarh. ABC was abused at the hands of 5 different staff members. The incidence of this continual abuse came to light when ABC became pregnant from the last incidence. The female staff members of the care home Nari Niketan were also accomplice in the crime, as they used to take ABC to the bathroom and keep a watch while the rape would be committed. With the criminal case now in progress, ABC pointed out in Court that she had informed the Superintended of the Nari Niketan home about the sexual abuse but instead of taking action she was rebuked & disbelieved.

5. RECOMMENDATIONS

What should the state do to rectify the situation and fulfill its obligation

- 5.1 Make policies which are more catered towards the needs of the women with disabilities.
- 5.2 Audit and monitor on a regular basis to make sure the implementation of these policies.
- 5.3 A draft policy on rape has been prepared in West Bengal, but it is still in the preparatory stages. Implementing these so that finally some changes happen and that is where the state fails.
- 5.4 The state has drafted a rehabilitation and reintegration policy. It is a welcome move. But the final form and flavor of these policies have to be Patient centered and not authority centers.
- 5.5 A most important gap is between Acts and Policy making and practicing i.e. proper implementation of these policies.
- 5.6 Regular monitoring of institutions for PwDs especially through independent bodies or panel of experts.
- 5.7 Bringing in accessibility features so as to make access to enforcement agencies and various redressal mechanisms easier and available.
- 5.8 Punishment of erring officials and duty bearers.
- 5.9 Getting government agencies to collect data on women with disabilities like under the National Crime Records Bureau (NCRB), which is responsible in India to collect data on crimes and one of the heads under which they collect data is women.

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A RO is an involuntary admission made under the MHA, by bringing a person before a court for certifying as mentally ill and adjudicating right to liberty, to further admit that person in the asylum. A total of 20 Reception Orders were looked at of 2010, from the court of the Chief Magistrate, Pune district court, Pune: 0402030/2010, 2555/2010, 2575/2010, 2592/2010, 2593/2010, 2629/2010, 2890/2010, 2857/2010, 2841/2010, 2828/2010, 2812/2010, 2763/2010, 2857/2010, 2755/2010, 2737/2010, 2703/2010, 2685/2010, 2673/2010

“Order No _____ of date ____: Non applicant admitted on _____ Medical report is satisfying, advocate for the applicant has been heard. And non applicant can be admitted / RO extended until fully recovered. In the court of _____, judgement date _____, signed by Presiding officer”.

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