

MINUTES OF MEETING ON SEXUAL ASSAULT BILL HELD ON  
2.11.2001

The meeting was attended by the following organizations ,CWDS, Saheli, PLD, Nirantar, Action India, Lawyer's Collective and AIDWA.

Since this meeting was attended by some of the organizations which had not been present for the previous meetings, they were briefed about the outcomes of the previous meetings.

The meeting again discussed the nature of the definition of the sexual assault in the bill drafted by AIDWA IFSHA AND SAKSHI and whether it should be gender neutral or not. It was pointed out by Kirti Singh that the definition as drafted would apply to forced oral anal and vaginal penetration by a man or a woman, forced penetrative sexual intercourse by an adult man or woman on a child of either sex and forced sexual intercourse between members of the same sex. She reiterated that the definition should not enable a man to complain that a woman has committed sexual assault on him. This could perhaps be done by inserting an exception in the section.

Sadhna Arya and Laxmi from saheli felt that certain gay and lesbian groups should also be involved in the discussions since the definition affected them. Some meetings have been held in Bombay amongst these groups and the view that has emerged there suggests that ,the gay and lesbian groups are apprehensive that the gender neutral definition of sexual assault can be used against them.

Some were also of the opinion that same sex assault is not very common and therefore we do not need to address this issue.

In response some recent cases like Liluah Nari Niketan were cited to emphasize that these type of incidences are not that uncommon and there are reported cases of such assaults.

It was agreed that Lawyer's Collective will give copies of the bill to these groups in Delhi and ask them to hold meetings and collect responses from them.

It was felt by some that as we suggesting the deletion of s.377 in the bill, we will have to provide some alternative to it.

By making the law on sexual assault gender neutral we will be making only the non consensual kind of penetrative intercourse punishable.

Some criminal codes of different countries were read out and it was found that a majority of them had gender neutral laws on sexual assault. Some of such countries are Canada, New South Wales and Australia. South African law commission has also suggested gender neutral law. The country which had a gender specific law was Israel and the countries where the old rape law applied.

Certain judgements of International Criminal Tribunal of Yugoslavia and Rawanda were also cited .They had pronounced a gender neutral definition of penetrative sexual assault.

Some felt that it would not be right to copy the laws of these countries as we don't know what kind of experiences they had for bringing in these changes in their laws. They were also of the opinion that the social climate in our country is as it is very hostile towards the homosexual groups and bringing in this law at this time will be detrimental to their interest.

At the end of the meeting the points of agreement and the matters which still needs to be debated upon were summarized.

#### Points of agreement

1. Everyone agreed that the definition of sexual assault should be expanded to cover anal and oral penetration by the penis and anal and vaginal penetration by other objects and other part of the body.
2. S.377 Indian Penal Code should be deleted.
3. Marital Rape should be made punishable.
4. S.155(4) of Indian Evidence Act should be deleted.
5. The word "political" should be added to s.376(2) (h) I.P.C
6. The procedural sections were agreed upon as they were.
7. The definition of consent and al other parts not listed below were agreed upon.

Areas of debate remain

1. Whether the law should be applied to forced same sex penetrative and non penetrative sexual assault or not.
2. Whether age of consent should be 16 years or 18 years. A Majority of the people present felt that it should be 16 years.
3. Whether the offence of inducement and seduction as outlined in the bill should remain or whether it could be dealt within the consent clause?

At the end of the meeting it was decided that a core group should be formed taking in one person from all the organizations.

It was decided that instead of starting redrafting straight away the core group should gather more opinions from larger groups and then redraft.

The deadline for getting in all the information was decided to be the first week of January.

It was also decided that by the third week or last week of January the final draft should be ready.

Some of the members for the core group were selected . They are Deepta from Nirantar, Brinda and Sadhna from Saheli, Kalplata from PLD, Kirti Singh from AIDWA ,Jayna from Lawyers collective and Preeti Bhardwaj from CWDS, YWCA, JWP and NFIW.