

To,

Date: 6th February 2013

Mr. Manan Kumar Mishra,
Sr. Advocate
Chairman, Bar Council of India
manankumarmishra@gmail.com

Respected Sir,

This is an appeal to the Bar Council of India to take the lead in responding to the issues that have followed the dastardly sexual assault and murder of the 23-year-old medical student in Delhi on 16 December 2012. Her friend, who survived this horrific assault, has made a public appeal to all of us, with whom we stand in firm solidarity, to take our protests to the heart of law. It was reported recently that the Delhi Bar Association has decided not to represent the accused in this case on moral grounds. We appeal to you to desist from refusing to provide legal representation to any accused on moral grounds, since everyone has the right to legal representation and fair trial. Further, any violation of due process and natural justice is an adequate ground for appeal.

At the same time, we appeal to you to bring about changes in the way defence lawyers and prosecutors argue rape trials; and change the culture of courtrooms to ensure gender equality and dignity to all women. We believe that the Bar Council of India has a special duty in this time of despair and anger to lead judicial reform. The Bar Council of India does not need to wait for a judicial commission to direct it to act; rather it could demonstrate that the legal profession sincerely mourns with the people of India by bringing about the following changes.

1. Take steps to ensure that women lawyers are active members of the Bar Council of India and bar associations in the country.
2. Institute prevention and redressal anti-sexual harassment committees, on the lines of the Vishaka judgment through a democratic process. These committees should be representative of all hierarchies within the court. Model policies of JNU and University of Delhi may provide a template for the same.
3. Debar any male lawyer who has been convicted of sexual harassment, rape or sexual assault.
4. Develop ethical guidelines for defence lawyers on how to argue rape cases without causing prejudice, harassment and injury to rape survivors, while maintaining fair standards of trial.
5. Debar any defence lawyer who pressurises a rape survivor to compromise a rape trial.
6. Debar any defence lawyer who produces false statements of compromise on stamp papers and produce defence witnesses who testify to previous instances of compromise in so-called unreported cases. This introduces past sexual history to prejudice the victim's testimony.
7. Build gender sensitization programs for lawyers and prosecutors.

8. Mandate that all law schools teach feminist jurisprudence, build courses on gender, violence and law; and conduct critical legal literacy workshops in other universities and in communities.

9. Mandate that research be conducted on sexual violence, and broadly violence against women in law schools.

10. The disciplinary proceedings of the Bar Council should be made available online.

We, the undersigned, sincerely hope that the legal profession will honour the memory of this young woman who died to awaken the mass conscience of the Indian people for the first time in Independent India.

Yours Sincerely

Indira Jaising, Additional Solicitor General
Email: indirajaising@gmail.com

Prof. Upendra Baxi
Email: baxiupendra@gmail.com

Prof. Babu Mathew
Email: babumathewtu@gmail.com

Rebecca John, Advocate
Email: rebeccamammen@gmail.com

Madhu Mehra, Advocate
Email: madhu05.m@gmail.com

Pratiksha Baxi, Assistant Professor
Email: pratiksha.baxi@gmail.com

Kavita Krishnan, Activist
Email: kavitakrish73@gmail.com

Anita Abraham, Advocate
Email: anitaabrahm@gmail.com

Pritarani Jha
Email: pritarjha@gmail.com

Endorsed by:

1. Maja Daruwala,
Director
Commonwealth Human Rights Initiative
Email: maja.daruwala@gmail.com
2. Miloon Kothari
Convener
Working Group on Human Rights
Email: miloon.kothari@gmail.com
3. Suneeta Dhar
Jagori
Email: suneeta.dhar@jagori.org
4. Kalpana Vishwanath
Jagori
Email: viswanath.kalpana@gmail.com
5. Partners for Law in Development (a legal resource centre working on women's rights and social justice)
 - a. Ishani Cordeiro
 - b. Shweta Goswami
 - c. Saptarshi MadalEmail: programmes@pldindia.org
6. Anand Grover
Sr. Advocate and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health
Email: anandgrover@gmail.com
7. Vrinda Grover
Advocate
Email: vrindagrover@gmail.com
8. Lawyers Collective
Email: wri.delhi@lawyerscollective.org
aidslaw1@lawyerscollective.org

Additional Endorsements attached

