

Submissions to Justice Verma Committee by Saad Aangan,Goa

Statement and recommendations of round table of faculty and students of colleges and higher secondary's in Goa organized by SAAD AANGAN in collaboration with Goa College of Home science

3rd January 2013

NOTING THAT

- 1) Sexual assault occurs across the board against women of different sections of society,
- 2) The access to justice from the first point when a woman needs assistance is faced with many obstacles
- 3) Systems are differently arrayed for and against different sections of society in that class, caste, urban/rural, 'ability', and norms conformity based divides have a role to play in the systems of access of certain sections to justice
- 4) Technological advances have not been used to the benefit of women
- 5) Sexual assault continues to occur also at the hands of police and army and people in positions of power who misuse their positions
- 6) Sexual assault also continues to occur at the hands of people in positions of trust such as family members
- 7) Mass sexual crimes occur and cannot be dealt with adequately through the existing systems
- 8) Enabling provisions and services for a woman to walk through the justice systems and dignifiedly survive them are lacking and that the responsibility of these enabling provisions and services cannot be cast on or be dependent on volunteer initiatives and public-private partnerships or NGOs
- 9) Enabling situations that make it conducive for perpetrators of sexual assaults, such as overcrowded buses, or unlighted streets, need to be addressed.
- 10) Existing provisions and services such as counseling, shelter homes, are built in in the form of schemes at the mercy of those in power and not on the basis of an obligation of the State and are sometimes rendered redundant by the lack of appropriate budget allocation for infrastructure and personnel
- 11) There are no standard operating procedures for the different functionaries under the system, which are stipulated as necessary by law, and where there are some procedures, the same are .
- 12) The monitoring systems are abysmal and are not adequately reflected in the law.

- 13)** There is presently little or no accountability when it is established that the functionaries under the system fail to comply with their respective obligations
- 14)** Some women do not seek to approach the criminal justice system but look for other avenues of justice for various reasons ranging from desire for immediate closure to a total lack of faith in the criminal justice system,
- 15)** Empathy at all levels and gender consciousness is the need of the hour for a system to be responsive to preventing and dealing with sexual assault against women.
- 16)** Punishment is not certain and deterrent (but this does not translate to mean an endorsement for death penalty)
- 17)** The reformatory systems for the convicted are lacking or inadequate
- 18)** Patriarchy is reinforced through various means ranging from the family to education system to the political culture and is interfaced with other forms of domination based on caste, class, ability, and norms conformity, and hence there is a need to challenge and change this culture.
- 19)** Action is on the contrary easily initiated against those who seek to challenge and change this culture (rights defenders).

WE, THE FACULTY AND STUDENTS OF VARIOUS COLLEGES AND HIGHER SECONDARY EDUCATIONAL INSTITUTIONS GATHERED AT THE ROUND TABLE ORGANISED BY SAAD AANGAN IN COLLABORATION WITH THE GOA COLLEGE OF HOME SCIENCE TO DISCUSS INPUTS TO THE JUSTICE VERMA COMMISSION HAVE THE FOLLOWING TO SUGGEST FOR STIPULATION IN THE LAW. WE REITERATE THAT THESE OBLIGATIONS OF THE STATE MUST NOT BE IN THE FORM OF SCHEMES OR PIOUS PLATITUDES OR MISCELLANEOUS ADMINISTRATIVE CIRCULARS, INTRODUCED AND WITHDRAWN AT ANYONE'S WHIMS BUT MUST FIND MENTION AND REITERATION IN THE LAW:

- A)** Helplines to provide instant access to services need to be stipulated for in the law and not be at the mercy of schemes. Helplines cannot stand alone call pick-up places with no integration with other support systems for the survivor. Hence the obligation on the State in the law to set up helplines with appropriate budget allocation for requisite infrastructure and personnel. Existing helplines such as 108, and 1091 need to be aligned on these terms. There has to be a dedicated staff handling the helplines and the referrals and co-ordination.
- B)** Technological advances have to be harnessed in the interests of justice for women. This could mean sms/email enabled access to helpline. The State shall not follow a PPP or outsourcing model in this exercise.

C) However recognizing that connectivity and access to various technologies is itself an issue that needs to be resolved, we also suggest that there need to be contact points/desks in every village and municipality who are duly supported financially to do the link up without shuffling the survivor from pillar to post.

D) Crisis units/assistance units for dealing with violence against women to be set up with adequate infrastructure and personnel, including but not limited to counsellors, admin staff, social workers, and the helplines must be co-ordinated with the crisis units. The design of such a unit was extensively discussed in Goa in the context of the Goa Children's Act which stipulates the formation of Victim Assistance Units. Almost everything that was discussed in the same holds for assistance units for women. These units must be state run. NGOs and CBOs are free to have units also, but the Government has to set up units with due measures of accountability AND without following a PPP Model. The personnel must also be full-time and not holding additional charge.

E) The State is under an obligation to set up short stay shelter homes for women in distress, who express their need for the same, with a due programme for the rehabilitation of the women.

F) Training Curricula, must give due weightage to issues around sexual offences, and to gender sensitization

a) for police on investigation of sexual offences and the prosecution and court processes

b) for prosecutors on prosecution of sexual offences and the court processes.

c) for judiciary on appreciation of evidence and the court processes

d) other functionaries within the justice system on sensitivities involved

e) quasi-judicial and administrative authorities on various processes/cases that they initiate/are heard before them

f) other functionaries under the law

and the training must be duly followed by periodic updation and refresher courses on the same

G) The State has an obligation to put technological applications to the use of women (as in to be able to respond to women in distress), but always without violation of any person's human rights.

H) It must be obligatory to have Standard Operating Procedures and protocols for police and various personnel and functionaries under the law, in dealing with violations of women's rights including violations of women's rights to their body and to their lives. These standard operating procedures must reiterate the call for empathy, the sensitivities involved in eliciting information

from the survivor, provision of privacy for recording of complaint unless the woman opts otherwise, etc.

I) Punishments for rape must be harsh enough to create a deterrent effect, but this may not be interpreted to mean an endorsement for death penalty or castration.

J) Audits/ monitoring of police handling of cases with due special emphasis on looking at indicators of vulnerability of survivors due to intersection with caste, class, 'ability' and norms conformity based divides.

K) Audits/monitoring of handling of cases by all functionaries under the law, with a prescribed periodicity again with due special emphasis on looking at indicators of vulnerability of survivors due to intersection with caste, class, 'ability' and norms conformity based divides, Periodic Reports to be furnished to a nodal agency/formal monitoring mechanism, which may be designated with the task of monitoring and could include the National and State Commissions for Women. With a caveat that these Commissions also need to be monitored and there has to be an accountability of the State to respond to the Monitoring Body's reports.

L) Gender sensitization and sensitization about other forms of marginalization, at all levels of education, through inclusion in school curriculum, and also for the families through parent teacher associations and other modalities. Where there is provision for value education, there has to be a paradigm shift in the nature of value education to uphold rights perspectives.

M) Marital rape and mass sexual crimes against communities must be acknowledged by the law by way of special provisions for dealing with the same.

N) Situations enabling vulnerability to sexual assault, including overcrowding of public transport must be addressed.

O) Sex and sexuality education to be disseminated in an age appropriate and contextualized manner at all levels of education.

P) Both gender sensitization and sex and sexuality education need to be a foundation subject like EVS.

Q) Media policy should be reviewed from the point of view of prescriptive measures to have imagery of women as human beings and rights holders, not commodities and not from a censorship point of view.

R) Transparency in case handling with public reports on the net and in other accessible fora, with due provision for confidentiality of the survivor, and also periodic meetings with civil society organizations.

S) CCTVs at police stations to facilitate monitoring of police functioning

T) There has to be a time bound disposal of cases so as to facilitate a closure to the survivor and her family.

U) The State must be under obligation to employ the traditional media such as hoardings and print and electronic media and also creative media including theatre arts to create an awareness about the law.

V) The State must have a programme for reformation of prisoners.

W) The State must support self defence courses which combine the martial arts with a mental preparedness to defend.

X) The State must be under obligation to periodically monitor and review of all laws relating to violence against women and those officers who fail to implement provisions of the law must be duly penalized, including those who fail to appoint the functionaries or constitute the mechanisms prescribed by law.

Y) Research programmes have to be initiated to understand the socio-psychological and political factors responsible for a person/persons committing sexual assault

Z) Women who do not wish to set the criminal justice system in motion must have other options for seeking justice.