

**National Platform for the Rights of the Disabled  
4, Ashoka Road, New Delhi 110 001**

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**Press Statement**

The National Platform for the Rights of the Disabled (NPRD) welcomes the report and recommendations of the Justice Verma Committee concerning sexual violence against women.

The NPRD puts on record its appreciation of the seriousness with which the Committee has considered the specific issues concerning women with disabilities and the sexual assaults they face. Representatives of the National Platform for the Rights of the Disabled (NPRD) met the Committee on three occasions, and made its submissions.

The Committee has, amongst others, made the following recommendations, in the context of assaults against women with disabilities:

*Duty of the State:* The Committee has affirmed the duty of the State as the guarantor of the Fundamental Rights of disabled women and has stated that the involvement of private actors in providing services to the disabled, does not absolve the State of its Constitutional duty towards them.

The Committee has also invoked the idea of *parens patriae* (the State has the same rights over its citizens that the parent has over his ward) to describe the role of the State.

However, experience shows that protection by the State is like a double-edged sword. When the State takes over the role of the parent, it often overrides the opinion of the ward; the State then decides what is good for the ward and what is not. This could at times go against the interests of the disabled. This issue also needs to be addressed.

*Making the Legal System Accessible:* In its submissions to the Committee, the NPRD had highlighted the difficulties encountered by disabled women at each stage of the criminal-legal process, right from filing an FIR, to testifying in court during the trial. The Committee has responded to the submissions by recommending the following:

- When a physically or mentally disabled woman lodges a complaint of rape (Section 376 Indian Penal Code) or outraging of modesty (Section 354 IPC), such complaint shall be recorded by a woman police officer at the residence of such woman, or wherever she is comfortable. The complaint shall be recorded in the presence of a special educator or interpreter, depending on the need of the

complainant. The entire process of recording of the complaint should also be videographed. (Section 154 Code of Criminal Procedure)

- A physically or mentally disabled woman cannot be asked to go to the police station. Her complaint must be recorded at her residence or wherever she is comfortable. (Section 160 CrPC)
- During the process of Test Identification Parade, if the person identifying the arrestee is physically or mentally disabled, then the identification process must be videographed. (Section 54A CrPC)
- While recording the statement of a physically or mentally disabled woman in court, the Magistrate must take the assistance of a special educator or interpreter, depending on the needs of the complainant. Additionally, the recording of testimony of the woman should be videographed. (Section 164(5)(a) CrPC)
- Additionally, the statement made in the above manner shall be treated as a statement for the purpose of cross examination during the trial and the physically or mentally disabled woman would not have to re-state the same. (Section 164(5)(b) CrPC)
- Section 119 of the Indian Evidence Act, provides for the recording of testimony of 'dumb witnesses'. The Committee has recommended that this derogatory phrase be replaced with 'persons who are unable to communicate verbally'.

One of the major reasons why most cases involving rape of disabled women fail to convict the wrongdoer is because the testimony of the victim is not given due importance by the police or the court. The above recommendations, if incorporated in the law would go a long way in addressing this problem.

However, the definition of 'special educator' and 'interpreter' require further clarity when these recommendations are incorporated into the law. In our deliberations with the Committee we had stated that a special educator may not know sign language and an interpreter may know only a few signs, and therefore may not be always equipped to provide the required assistance in bridging the communication barrier between the victim and the legal system.

*Medico-Legal Examination:* Medical examination of the victim is of utmost relevance in cases of rape, both from the point of view of providing medical aid and from the point of gathering evidence for the trial. The Committee has recommended the setting up of Sexual Assault Crisis Centres at government and private hospitals to carry out this task. The Committee has recommended that the Counsellors present in these Centres should be professionally qualified to address the needs of disabled victims of sexual assault. In addition, the report of the counsellor regarding disability of the victim should be part of the medico-legal evidence that is submitted to the court.

*Safety of Women and Abuse within Institutions:* The Committee has affirmed that every citizen has a right to protection against violence and it

is the duty of the State to provide safe spaces to all women, including disabled women. The Committee has recommended that such safe spaces should be accessible to the disabled in terms of architectural design, management and provision of services. To address abuse of disabled children within institutions, the Committee has suggested that all such institutions and homes must be registered with the concerned High Court with the court acting as the guardian of such children.

The Committee has recommended that the concerned High Court should act as an oversight mechanism to all the institutions in the state and there should be weekly reports submitted to the High Court. The suggestion to professionalize the recruitment of care takers and superintendents, in terms of having mandatory qualifications etc. is a welcome suggestion and would improve the conditions of these institutions and the way they are currently managed.

Power Asymmetry and Socialization in Schools: The Committee has observed that it must be the task of educational institutions to recognise discriminatory attitudes among children on the basis of gender, disability, caste and so on and rectify the same.

Sex Education: The Committee has recognized that sex education must also be provided to disabled children and young people by professionally trained teachers and care givers, to ensure their safety and holistic development.

Aggravated Sexual Assault: The Criminal Law Amendment Bill 2012, which is at present before the Parliament provides that sexual assault against physically or mentally disabled women, is classified as an 'aggravated sexual assault' and has a minimum punishment of ten years imprisonment. While the Committee has endorsed most of the provisions in the Bill, it is unfortunate that this clause is absent from the Committee's recommendations.

In the light of these recommendations made by the Committee, it is of utmost importance that the government act immediately. The NPRD demands that the recommendations made by the committee with regard to changes in laws should be passed in the Budget session of parliament. It also demands that necessary budgetary allocations for requisite infrastructure and providing personnel and their training should be made for implementing the other recommendations made by the Committee.

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