

Neither the recommendations nor the follow up debates and penal measures have related to *Crimes against Gender* which provide the environment, the platforms and the mind-set to imputinise *Crimes against Sex*.

A Remedy to Verma Committee on Rape Episode Delhi (RED)

The core emphasis, consequently, stayed on flexing state muscles through increased retribution and protectionism, the two essential bye products of male chauvinism, rather than overcoming the eternal handicaps via sensitization of functionaries and capacity building of women

So much of steam and so little substance

In the aftermath of *Rape Episode of Delhi* (RED), the depressing realization that not enough is changing on ground towards instilling a sense of security into country's female population is impossible to escape.

The High Powered Action Committee in the MHA (Ministry of Home Affairs) constituted to tackle the menace of *Crime against Women*, has confined to monitoring only the administrative measures-more PCRs, more female police, higher level task force and may be a stricter accountability regimen for non-performers. This routine exercise has never helped the victims or deterred the offenders in the past. There is no reason why the outcome would be different this time around.

Verma Committee on RED has proved to be yet another lost opportunity indeed. **Neither the recommendations nor the follow up debates and penal measures have related to *Crimes against Gender* which provide the environment, the platforms and the mind-set to imputinise *Crimes against Sex*. The core emphasis, consequently, stayed on flexing state muscles through increased retribution and protectionism, the two essential bye products of male chauvinism, rather than overcoming the eternal handicaps via sensitization of functionaries and capacity building of women.**

The RED Committee did harp upon the oppressiveness of prevailing gender inequality but played

tough only on sexual crimes. No surprise that even when the Committee, bowing to strong public backlash against an insensitive criminal justice system and an insecure environment for women, is prompt to recommend stringent possible punishment for the sex offenders and a wider accountability for the Law & Order functionaries, the sexual offences including the gang-rapes must go unabated.

The trend will not change after the government accepts the Verma Committee recommendations, it has little choice under the circumstances, and the stringent measures are put in penal practice. An honest implementation of the recommendations will, though, change the crime statistics under the relevant crime heads as the new accountability awareness among various sections of society will compel police to register more sexual crimes and inspire judiciary to hand over more convictions. It will appear statistically that there is a





spurge in sexual crimes, a seemingly ironical but foreseeable outcome, without altering the security status.

Why will free registration of cases, speedier trial and stringent punishment not substantially impact the sex crimes? Because free registration will help only when the offences are reported without any inhibition to police, speedier trial will play its role only when the reported cases stand trial in courts, and stringent punishment will be felt only when the trials are supported by evidence to end up in convictions. Sadly, the Verma Committee's recommended measures do not alter the prevailing logjam to make any favourable dent in the above equations.

However, it can still be argued that more registration and more conviction will have a salutary effect on the potential sex offenders and at least to that extent it will positively impact the prevailing environment of insecurity? The answer will still be a 'NO'. Because the sexual offences mostly go unnoticed, unreported and unacted for reasons of insensitivity of the police as well as the other criminal justice machinery, and acute gender inequality, and there is nothing in the RED measures to augment these vital handicaps. On the other hand a larger chunk of cases alleging abduction/kidnapping/rape/molestation involving females surface on account of the social compulsions faced by the parents and guardians- to curb the female assertion rather than to obstruct the female exploitation. These are the cases which, if not taking the route of 'honour'



killing, are pursued to the hilt with police/in courts, and add to statistics of registration/conviction, but are otherwise irrelevant to the issue of women-security. Such episodes belong to the domain of counseling and not crime tackling, if the interest of the female is to be served.

This brings us to the central issue : How to encourage reporting, ensure registration and obtain conviction in core

areas of crimes that are detrimental to women *from the point of view of women.*

The remedial dynamics is bound to be multifaceted. It would, first and foremost, comprise gender sensitization of the criminal justice functionaries, identifying as serious crime the imposition of any vital gender handicap on women while quantifying corresponding civil/criminal liability of perpetrators. It would most importantly ensure shifting the accountability paradigm for guaranteeing a victim friendly speedy interface at various stages of crime against women on to the concerned segments i.e. Witnesses, Police, Hospital, Shelter, Counselor, Protection Officer, Prosecution, Court, Rehabilitation and even Media. All facilitations must be time bound and carry no financial liability to victim or her guardians. The victim in serious cases must be rehabilitated emotionally as well as financially to be able to have a stable and dignified post-trauma life.

The following gender/sex violations may be listed as

core crimes, attracting stringent punishment/liability, in the present context :

- (a) denial of share in parental assets/property
- (b) denial of choice in marriage/intimate friendship
- (c) denial of choice in education/career
- (d) domestic violence
- (e) stalking, voyeurism, obscene words/gestures
- (f) sexual harassment at work place
- (g) gender harassment at work place
- (h) molestation/indescent assault/disrobing
- (i) rape/attempt to rape
- (j) rape by a person in authority or having control/custody
- (k) threat, attack, acid attack, murder, as weapon of imposition
- (l) objectification/inappropriate depiction of female body
- (m) blaming the victim for the crime (victim in the dock)
- (n) negative stereotyping of female gender
- (o) human trafficking for forced prostitution
- (p) marital rape/sexual inducement on the pretext of



- marriage
- (q) dowry harassment/violence
- (r) abetment to commit suicide
- (s) failure to act or not do timely action/rehabilitation/disposal as provided under law in above matters by police/medical staff/protection officer/prosecution/judiciary/rehabilitation agency.

Just, Effective and Speedy Punishment to Offenders of Crime Against Women

Against the backdrop of public outcry for justice and media build up for systemic upheaval, the Delhi's 16 December 2012 episode of brutal rape assault exposed handicaps at many levels:

- (i) Lack of a credible language of gender equality in administrative parlance as well as in media and society;
- (ii) Lack of willingness to interlink the crimes against sex with the crimes against gender;
- (iii) Lack of clarity on Rape degrees and their linkage with just and effective punishment;
- (iv) Lack of direction in Police's capacity building (cognitive, emotional, environmental) as the first and foremost responders to challenges of crimes against women;
- (v) Lack of emphasis on gender sensitization training of functionaries of various segments of criminal justice system, at cutting edge and supervisory levels;
- (vi) Lack of investment in the gender sensitization training at all levels of police and particularly at cutting edge levels;
- (vii) Lack of initiative to develop victim friendly investigation and prosecution protocols;

- (viii) Lack of political / administrative will to provide an accountable orientation Interface for the arriving work force into Metropolis;
- (ix) Lack of courage to bring out the primary role of family and media in keeping the female gender vulnerable and male gender contrite;
- (x) Lack of planned budgeting to extensively cover above handicaps beyond symbolic / demonstrative / test-tube stages and as systemic priority.

The most vital lesson of Delhi episode for administration is that mere hands-on competency in arresting, prosecuting and punishing the offenders would not be enough to give a sense of security to community, when they lack the capacity to stand by the emotions of the community. For this, first and foremost, they need to be *constitutionally conditioned*. Their capacity build up must involve the aspects of sensitization and orientation as much as the competency aspect. The edifice of competency (domain / intersegment) must stand on the piers of orientation (legal / ethical) and the bedrock of sensitization (personal/social).

The above handicaps are addressable through

training, public debates, appropriate legal protocols and budgeting. Out of these, budgeting is the easiest (Rs. 1,000/- per frontline person involved in the criminal justice delivery), and training the hardest to achieve (experienced trainers, will to avail training, training platforms, pulling out people for training etc).

Accordingly, for a holistic remedial picture, the focus of the 'Rape' debate must examine 4 relevant dimensions:

- (A) Prevailing gender stereotype in society;
- (B) Shameful plight of Victim;
- (C) Just, effective and speedy punishment to offenders; and
- (D) Gender sensitization training of law enforcers.

A. Prevailing gender stereotype in society

While the entire society could be shown up in arms against the sexual exploitation of women, there is hardly any soul agitated when it comes to subjugation of female gender. The phenomenon is reflected in private and public spaces alike. Its most fundamental manifestations are - within families in denial of share in parental property, in popular culture in glorification of male sexuality, in media in objectification, in governance in test tube female representation, in security domain in exclusion from employment, in policy in ignoring adequate gender budgeting, in religion in subservient role modeling, and in criminal justice parlance in adversarial protocols. Ironically, the cultural / traditional / emotional / security arguments that are aired to demand stringent punishment for crimes against sex are turned around to accommodate the crimes against gender. *The sex offenders are shamed, battered and despised publicly but the gender offenders are ignored, tolerated and seldom questioned.*

The fact of the matter is that the unabated gender

assault leaves the female extremely vulnerable to various forms and ways of exploitation, and prepares the male mind-set for sporadic sexual assault with impunity. Why the male dominated society is blind to this obvious connection is because of its inertia to move to loosen the stranglehold over its women-folks. The ceasarians needed to cut the umbilical cord of gender exploitation feeding to sexual assaults are missing, and must be brought into play.

In fact Delhi's brutal public Rape may also be seen as an extremely violent continuum of gender subjugation, attempted in a lurking environment, carried out by an impunity mind-set. While the physical environment can be tempered by better policing and faster sentencing coupled with continued public focus on women security, the tackling of the mind-set begs to address deeper issues of sensitisation of all concerned segments - police, prosecutors, rehabilitators, judges, prison officials, media, employers-towards gender vulnerability.

B. Shameful plight of Victim

The community feels insecure not because every female is being sexually assaulted but because of the sense of insecurity that even one episode of the magnitude of Delhi assault is capable of creating. The feeling is further accentuated by the plight of victim. The investigation and prosecution procedures put the female victim in the dock on every step. Let a team comprising criminologist, jurist, police and psychologist work out a victim friendly dignified protocol for dealing with offences against sex and gender. This would include, inter alia, examining communication skills, compensation / rehabilitation priorities, counseling approach and conviction strategies in the given time and space, fixing accountability at every stage of the offence.

C. Just, Effective and Speedy Punishment to Offenders

It is nobody's case that the Rapist be shown leniency. However, in order to marry the jurisprudential caution with the severity of sentence, the offence itself should better be defined and adjudicated not as one genre but in terms of dynamic degrees. By analyzing the varying profile of the complaints registered under the offence of 'Rape', the following degrees are discernible:

First Degree:- Where the victim is brazenly overpowered by physical force / threat / deceit and brutally assaulted by a group of persons. (The 16



December Delhi episode would straightway fall in this category). This degree will also apply in cases where the offender has the custody of the victim or control over her, and commits rape taking advantage of his authority / position.

Second Degree:- Where there is only one offender who overpowers the victim with physical force / threat / deceit, and sexually assaults her. This degree will also apply when the victim has been forced into human trafficking for prostitution or compelled to submit to offender on account of fiduciary / officious / sexual / marital blackmailing.

Third Degree:- Where the adult victim is in emotional relationship with the offender and lured into sexual activity on the pretext of marriage or promise of co-habitation similar to marriage.

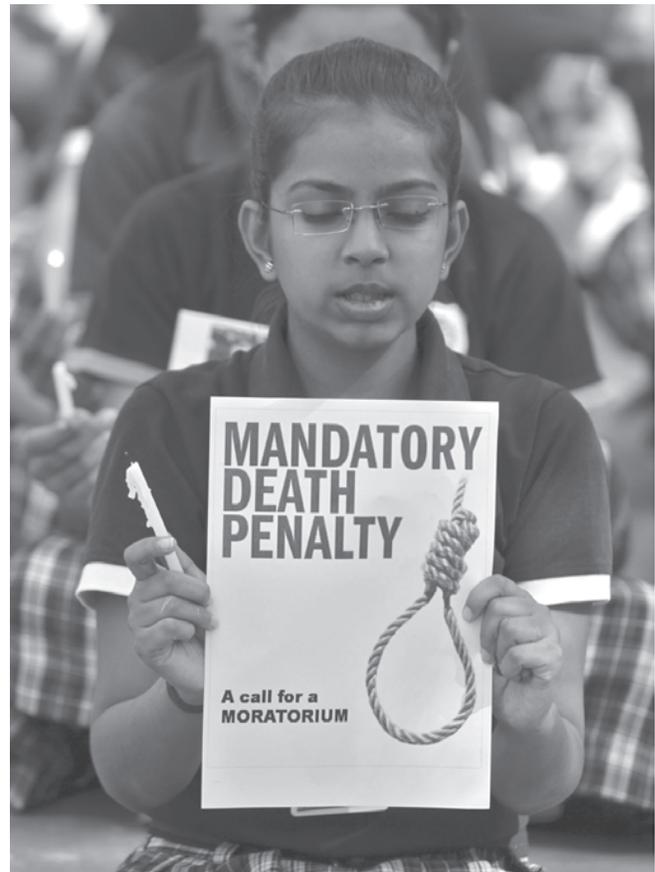
Fourth Degree :- Where the 'Rape' is alleged by the parents / guardians following the girl's elopement against their wishes, and they persist with the matter alleging Kidnapping / Abduction and Rape, on account of personal reservations or social compulsions. This degree may also apply when a married woman opts to live with another person and the husband alleges 'Abduction' and 'Rape' to pressurize her with a view to regain her custody against her wish.

The severity of punishment may be different for each degree of Rape:

- (i) *First Degree* - Imprisonment for life or death penalty, with no bail / parole (fast tracked).
- (ii) *Second Degree* - From seven years upto life imprisonment with no bail / parole (fast tracked).
- (iii) *Third Degree* - Upto seven years of imprisonment and / or counseling of all concerned.
- (iv) *Fourth Degree* - Counseling of all concerned.

In all the above degrees, the law must categorically emphasize that the girl at the receiving end is a multifaceted victim, and an automatic protocol be provided to ensure for her appropriate emotional counseling, privacy, trauma support, medical assistance, compensation, rehabilitation and sense of security, and justice. The cognizance should also be taken of the fact that the third and fourth degrees together constitute the bulk of cases that are registered under the generic title 'Rape', even though the anger and frustration in the society is on account of the first and the second degree of cases. Also, in the fourth degree, the parents / guardians may prove to be the real perpetrators at times, and the wishes of the girl to be brought out through counseling must be given supremacy.

However, the above scheme of punishment would serve its purpose if certain gender crimes are also severely punished in tandem. These could be :



1. **Repeated Stalking** : When the victim feels threatened / harassed / insulted by being repeatedly followed by a stalker laden with sexual / derogatory / marriage / alliance / friendship pestering or innuendoes, it should attract imprisonment upto 7 years and counseling (fast tracked, without bail). If the offence is repeated, imprisonment upto 10 years and regular counseling (fast tracked, without bail).
2. **Acid Attack / Violent Attack** : Taking recourse to acid / violent attack on the girl by an offender to avenge her refusal to his sexual pestering or marriage / alliance proposal is an extremely serious matter and not just vent of frustration of a 'jilted lover', as the media so routinely describes these heinous acts in a neutral tone and without a tinge of anger. In fact to term such so-called 'lovers' as depraved and indifferent is the worst form of depravity and indifference. The punishment should range from 10 years to life imprisonment (fast tracked, without bail / parole) coupled with continuous counseling in jail.
3. **'Honour' Killing**: Imprisonment for life coupled with continuous counseling in jail or death penalty (fast tracked, with no bail / parole). In order to put the offence in perspective it be called 'Gender Killing', so that to delink it from any notion of

'Honour' as prevails in popular perception.

4. **Domestic Violence:**

First time conviction should carry punishment upto 7 years coupled with counseling. Repeat conviction should attract from 10 years to life imprisonment coupled with continuous counseling in jail (fast tracked, without bail).

5. **Denial of share in Parental Property:**

Notwithstanding the laws enabling inheritance for girl child, it is a universal practice to deny them share in parental property citing customs and dowry expenses. The fact is that the girls are kept totally aside from the family assets and silently nurtured to this fate through emotional blackmail. Those few who dare to put forward their claim, find doors of the annoyed family closed on them, and even suffer



of exploitation including vulnerability against sexual attacks.

It would make a big dent in the domineering male mindset, being routinely constructed within the family environment, if the girl child, assured of her equal status in inheritance, finds space for expression as a discerning individual. The stakes being so high, let a violation in this regard also attract a fast tracked criminal liability of

deterrent nature. In the event male members of the girl's family conjure up the usual plea that she had voluntarily surrendered her share in their favour, her portion be automatically get vested in the State.

6. **Gender Harassment at Work Places :**

Denial of mainstreaming, maternity leave, convenient logistics, transport/housing etc. are the usual harassment channels used to subjugate females at work places. These be underlined as criminal offences, attracting

punishment upto 7 years and/or counselling.

7. **Denial of choice in Marriage/Career/Education :**

Alongwith the perpetrators, the promoters, the instigators, the fatwa-givers etc in this domain would need to be counselled. The repeat offence



facing a violent opposition or protracted litigation from the male family members rather than getting their due share. This single exclusion contributes immensely to ultimate subjugation of female gender via erosion in self-esteem and dependence on male gender, opening up the route to many forms



first through an appropriate process of de-conditioning. The slate would then be ready to record fresh writing, integrating sensitisation, orientation and competency.

It should be therefore obvious that the launching platform for thousands of annual police cadets cannot be constricted to exposing them with knowledge, skill and attitude (K/S/A) in professional domain only. The matrix of de-conditioning and conditioning must lead to showcasing police cadets

should attract jail sentence upto 7 years (fast tracked). The objectification/negative stereotyping of female gender in media should be treated similarly.

D. Gender sensitization training of law enforcers:

Conditioning and De-Conditioning : The Police Training is bound to be different from other trainings in one fundamental way. Any individual joining most other careers would be normally considered comfortable with possessing the required professional competence in the concerned domain. Not so with a police person (or for that matter with a judge or a doctor or a school teacher). S/he would need to be conditioned in three domains - individual, social and of course professional. In the professional domain, the fresh trainees are like a clean slate but in the other two, they are not at all a clean slate and carry the imprints of biases, prejudices and perceptions, collected from life experiences or lack of it. This burden needs to be unburdened

as constitutionally conditioned and, truly accountable to the citizens of the country to stand the test of legitimacy. Importantly, the two processes of de-conditioning and conditioning would run in tandem within competency regimen, led through well structured sensitization and orientation modules.

Sensitised Police for Empowered Society (Samvedi Police - Sashakta Samaj) : The old image of colonial police must yield to a people sensitive profile. It is not just the learning of the skill that is crucial in any police training, but the conditioning or the mind-set of a police-





cultural forms would have the potential to become part of individual's DNA. It is, because the culture defines a society and its people in the same way as the DNA defines any living organism. Equally pertinent would be to expose the cadets to the diversity & plurality of Indian society through heritage exposure. Experience-sharing and Field-visit would be the other effective mediums

person which plays even greater role. Even though the duties of an average police-person involve majorly interfacing with law abiding citizens, s/he is routinely conditioned to deal only with criminals and extremist elements. This is a huge paradox.

Samvedi Police is the way to complete the journey from colonial policing to democratic policing. In this context 'Sensitized Police for Empowered Society' defines the training philosophy.

'Sensitized' means 'Constitutionally Conditioned'.

A sensitized police would be essentially oriented to -

- (a) Democratic & Constitutional objectives;
- (b) Rights-based & Transparent procedures;
- (c) Policing by Legitimacy.

Man is a social animal and, consequently, a cultural animal too. Therefore, it would be logical to sensitise police persons through cultural ensembles as well, involving literature, drama, film, music, dance, folklores, biographies, ballads etc. A perception gained through teaching-learning interface may leave only a skin-deep impact, the imprints of a training experience could reach flesh or bone deep, but a sensitized acquisition through

of sensitization.

'Empowered' means 'Self-served', 'Accessed Legal Entitlement', 'Assured Social Dignity'. Only an empowered society shall pave way for good policing. Only an empowered society shall respect police; a weak society will only nurture mistrust towards police and despise it. It is obvious that a society lacking in respect for its police will experience more crime and disorder. And hence police has a stake in being a catalyst to the process of social awareness and legal empowerment of society, and through this medium to inculcate democratic values and constitutional pride in its own members as well. The most effective way of empowering the society would be by supporting and strengthening the social awareness and legal literacy, leading to citizen's access to social dignity and legal entitlements.

A similar model of sensitisation protocol would be a must and in order for the functionaries of the other segments of the criminal justice system as well. The Empowerment of female gender, so vital to crack the logjam of *woman security* owes a lot to Mission Sensitisation.

A Remedy to Verma Committee on Rape Episode Delhi (RED) : This critique of the ongoing Rape Debate has been written by **Vikash Narain Rai**, *Ex-Director, SVP National Police Academy*, Hyderabad for **Sahitya Upkram**, an initiative in literary and social domains, on the eve of Delhi World Book Fair, 4-10 Feb. 2013. Rai has earlier served as *Director, Haryana Police Academy* and *Director, BSF Academy*. He is credited with devising the democratic Police Training Protocols as integral to their socio-legal roles under the concept of **Sensitized Police for Empowered Society**. Rai has organised hundreds of **Gender Sensitivity workshops** across the country for various sections of society including Police/Prison/Prosecution/Judicial officers, Students, Teachers, Professionals etc. Rai can be contacted at 09818603345 & sahitya_upkram@yahoo.co.in

Rs. 5/-