

# Afghan women forced into chastity tests

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18/12

London, December 17

WOMEN IN the western Afghan city of Herat are often arrested, taken to hospital and subject to abusive gynaecological examinations just for walking in the street with a man or riding in a taxi without another passenger, Human Rights Watch reports on Tuesday.

In Herat, every woman has to wear the burqa while TV stations substitute pictures of flowers during foreign programmes when women appear with any hair uncovered.

After conducting more than 100 interviews between September and November in Herat and Kabul, the watchdog shows how little life has changed for women in Herat under the hardline governor, Ismail Khan.

Although particularly bad in Herat, the reports says similar abuses are found all over Afghanistan. In Kabul, the Taliban's "vice and virtue squad" has been reconfigured under the name "Islamic Teaching" and harasses women for wearing make-up.

Elsewhere, the troops of rival warlords with close military ties with US and other foreign forces have committed gang rapes. The abuses are not confined to Pash-tun areas where the Taliban was strong. Khan is a Tajik who opposed the Taliban.

Troops loyal to General Mohammed Fahim, a senior Northern Alliance commander and the central Government's defence minister, "have been enforcing Taliban-era 'moral' restrictions" such as "forbidding families from playing music at weddings and dancing, and in some cases arresting and beating musicians," Human Rights Watch says.

"Many people outside the country believe that Afghan women and girls have had their rights restored. It's just not true," says Zama Coursen-Neff, co-author of the report.

## Grenade attack

TWO US soldiers and their interpreter were injured on Tuesday when attackers threw a grenade into their jeep in the heart of Kabul, the US military said. One of the soldiers was wounded in the head, while the second soldier suffered wounds to the lower right leg, said Lt Tina Kroske. She did not identify the soldiers or say how serious their injuries were. An Afghan interpreter was also in the vehicle at the time according to the US Central Command in Tampa, Florida.

AP, Kabul

"The US-led coalition justified the war against the Taliban in part by promising that it would liberate Afghanistan's women and girls... The international community has broken that promise."

While conditions in Herat are better than under the Taliban, Khan has pressured women not to work for foreign non-governmental organisations, has urged them to stick to teaching in girls' schools, and has ordered them not to drive.

Women and girls are afraid to go out except on essential business because of tight restrictions enforced not only by the police but by adolescent boys trained to spy on them.

A doctor at Herat's only hospital told Human Rights Watch that police bring in about 10 girls and women a day for "chastity" tests.

In one case in October, police arrested a girl and her cousin in the bazaar. The girl was taken to the maternity ward with such a commotion that at least 100 people saw her. Two doctors examined her and determined she was "perfectly healthy and untouched".

The Guardian

# Bill to protect women rape victims 51-4 from slur 10/12

**Nandini R Iyer & Mohan Sahay in New Delhi**

Dec. 9. — The Lok Sabha today passed an amendment Bill to bar cross-examination of a rape victim on her character, even as human rights activists said suggesting a death sentence for rape was a "retrograde" step.

The Bill effectively protects a rape victim from being forced to answer questions which seek to establish that she is of loose morals. Parliamentarians welcomed the Indian Evidence (Amendment) Bill 2002 — amending the original Act of 1872 — deleting two clauses to show that the victim of rape or attempted rape is of generally immoral character.

Replying to the discussion before moving the Bill — it was passed later by voice vote — the Union law minister, Mr K Jana Krishnamurthi, today assured the Lok Sabha that he was prepared to bring in a comprehensive legislation on rape after consulting the leaders of all political parties.

Several members expressed concern over the tendency of the counsel defending the accused of rape to question the character of the victims and also put embarrassing questions during the cross-examination of the rape victims to weaken the case of the prosecution. The law minister said the amendment sought to save the victim from a "second humiliation" and render justice to them, adding the government planned to bring a more comprehensive Bill to deal with crimes against women, by the next session of Parliament.

Meanwhile, human rights activists have criticised the Deputy Prime Minister, Mr LK Advani's suggestion that the death penalty be included in the punishment for rape, complaining that while the rest of the world was doing away with such a penalty for rape as this will spur rapists to kill their victims to prevent being identified, India was now considering this "retrograde step". They said the death penalty — and justifying it on the grounds that a woman's life ended after she was raped — amounted to furthering the social stigma rape victims are subjected to.

# Rape of Justice

## Revenge as Court of First Appeal

By Vidya Subrahmaniam

A shocking case of sexual assault in broad daylight on one of the Capital's busiest streets, and almost the next thing that follows is a burst of loose comments from the highest political quarters.

The high point of this competitive statement-mongering is without doubt the astonishing remedy offered by — who else? — George Fernandes. The defence minister wants rapists shot dead in the same way as the Chinese shoot their corrupt: Catch the culprit, dismiss his appeal and get his relatives to buy the bullet that will kill him. Why only rapists? If we must follow the Chinese example, why not go the whole hog and dispatch the corrupt as they do? Think of it, Mr Fernandes. No Tehelka-kind commissions of inquiry, no cross-examinations, just plain and simple death sentence.

If a political veteran of Mr Fernandes's vintage can so easily advocate Kangaroo court-style trial of rapists, it is little wonder that the idea resonates so much with the public at large. In surveys done after the Delhi rape case, respondents invariably asked for rapists to be put to death. And preferably without the botheration of a trial, hearing etc. Given the context, the emotion is understandable, but is legal shortcut the answer to crime, however reprehensible?

Worryingly, reactions of this kind seem more and more part of a pattern, especially among the urban classes — a pattern that suggests a moving away from the due process towards a form of vigilantism. The most recent example of this is the Ansal Plaza shoot-out, justified by any number of people as absolutely the right way to deal with terrorists. What if they were not terrorists but two ordinary youths? Too bad, but that can't be helped. What if they were terrorists, but the encounter was stage-managed? Of course, encounters have to be stage-managed; there is no other way to get the terrorists. Besides, those who kill cannot ask for a fair trial for themselves.

This reasoning was advanced as much by the common men and women as ministers in high offices.

But the whole point of the justice system is precisely that even those who kill have a right to a fair trial. Guilt must be established prior to punishment. In fact, there is a description for a country that doesn't follow this elementary principle: A banana republic. Sadly, that is the way we are moving. Gujarat demonstrated this only too graphically. For Narendra Modi & Co, the post-Godhra riots were a natural reaction to the Godhra carnage. Before long the logic caught on: "Who started it?" was a question that one was to hear again and again. Forget the absurdity of dispensing justice in this

rough and ready fashion, it didn't even matter that the perpetrators of the Godhra crime were in no way connected with those who paid for that crime.

Agreed, the justice system in this country is scandalously tardy. But surely the cure for this doesn't lie in Hindi movie-style revenge and retribution. A more rigorous prosecution and speedier delivery of justice are what we must fight for. Instead, we seem to veer between extremes. Between no prosecution and straight death sentence. Ordinary law will not be followed, but the most draconian of laws will be enacted. From Bofors to the 1984 anti-Sikh riots to the Babri masjid demolition case to now the Gujarat riots, prosecution is a disgraceful story in this country. As appalling is the situation as regards rape, for which the death sentence is being demanded: What use the death sentence when there is almost no one to convict?

In truth, what the "hang them, kill them" chorus reveals is our increasing impatience with things complex. It is so much easier to strip an incident of its social context and pronounce judgment than to ask questions, take a socio-political perspective and then address the problem. One saw this in Gujarat. The mob fury was justified without

the slightest attempt to understand the essential differences between the Ghanchi Muslims and other Muslims. One sees this in the ready sanction granted to fake encounters.

The reactions to rape are similar. Outrage without analysis. Rape is treated with horror not because it

is violent but because of the disgrace that attaches to its victim. It is precisely this attitude that empowers the rapist whose goal is the humiliation of his victim. Legal redressal is important. But it is as important to de-stigmatise and de-mystify rape.

In his book, *Men Who Rape*, Nicholas Groth describes rape as "sexuality in the service of non-sexual needs". He divides rapists into three categories: Power rapists, anger rapists and sadistic rapists. Sexual gratification is not the objective for any of them. Indeed, for most, rape is a violent means of suppressing their own insecurity.

This demystification is very, very necessary to tackle rape. Groth's study also establishes that victims who know the psychology of rapists are most successful at resisting rape. Rape must be understood as a sign of weakness and not strength. That is the only way to remove the fear in potential victims. That is also the way to fight the stigma associated with it. Once the fear and stigma are gone, rape will cease to be the potent weapon it is.

Exaggerated calls for death sentence do precisely the opposite. They invest rape with just the kind of power that makes it so fearsome.

### IN BRIEF

- Public reaction to crime is moving towards a form of vigilantism
- The social context of crime must be understood

4 DEC 2002

# Beauty and the Beast

## Contestants are not Guilty at All

By Wole Soyinka

**Lagos (Nigeria):** In order to stop the Miss World pageant from taking place on Nigerian soil, the fundamentalist agenda mounted a rampage of frustration. It was not sufficient that the organisers agreed to shift the date for the finale out of respect for the season of Ramadan, the Muslim season of fasting and purification and — lest it be forgotten — peace. It was not sufficient that, as yet another concession, the absurd decision was taken that the competitors would not appear in swimsuits in the finale. Additionally, the head of state, president Olusegun Obasanjo, had earlier agreed to receive the contestants in a courtesy call; he withdrew in deference to Muslim sensibilities. All these merely whetted the appetite of the beast of intolerance.

The newspaper that allegedly committed the offence, *This Day*, published fulsome apologies and retraction of the publication that gave offence. This apology was sentimentally accepted by Muslim leaders and the Supreme Islamic Council, laying emphasis that the newspaper in question showed contrition and remorse.

Nothing in the statement of the Muslim leaders, however, considered an expression of remorse necessary for the loss of innocent lives nor administered a stern rebuke to the fanatic hordes that swept through the streets of Kaduna, burning and butchering.

I shall withhold comment for now on the appropriateness of the apology of *This Day*, the indicted

newspaper, since my intention is not to fan awake the embers of mayhem whose flare-up now appears to have been temporarily doused. Sooner or later, the issue of freedom of expression must be addressed within societies such as mine, and the nature of due response that is permissible when such freedoms are held to have wounded the sensibilities of others. A society that tolerates the murder of innocents, or incitement to murder, as the interpretation of due and legitimate response is a society that is breaking apart beyond all remedy.

For now, let this be clearly understood: The alleged offence by the newspaper was only an excuse. Anything at all, anything or nothing, would have served as the trigger of a predictable rioting. The parameters of "offence" are now totally without definition and have turned infinitely expandable.

Perhaps at this point it is necessary for me to repeat my views on beauty pageants in general. I have always considered them a frivolity that does nothing to enhance the condition of womanhood. However, this 2002 edition, its originally scheduled location in a nation whose mostly peaceful secular co-existence has been brutally shattered, not once but repeatedly in recent times, has been a critical event. Nigeria, in case

anyone has forgotten, is that nation of more than 30 states where a calculating political animal suddenly unsheathed the sword of religious fundamentalism for purely political gains, setting a dangerous example that has been followed by eight other states.

The governor of that state, Zamfara, declared his intention to rule the state on strictly Sharia principles. This, as I stated repeatedly, was an act of secession, and the various violent manifestations that we have witnessed since then, stemming from that declaration, mostly engineered, have been a pursuit of a secessionist political agenda that attempts to disguise itself in religious robes. The amputation of the hands of thieves followed shortly, in defiance of the provisions of the nation's criminal code which — let this be emphasised — does grant Sharia laws their legitimacy, but sets unambiguous limits on its application in the administration of justice.

The most notorious punitive measure of the Sharia states, however, has been the sentencing of two women to death for alleged adultery. The first was acquitted on appeal, on a technicality, while the latter, Safiyat, remains under that threat of judicial murder of the utmost sadism — to be buried up

to her neck and stoned to death. This will not happen, however. No, the sentence will not be carried out. The Nigerian government has assured the world that it will not, and the Sharia states understand this. To kill Safiyat is to step beyond the line of no-return and, for a number of

reasons, none of the seceding states is prepared to go that far. So what we are witnessing are simply sanguinary incursions into the cohesion of the Nigerian nation, acts of defiance intended to warn the government that the rebellious states are determined to assert a degree of autonomy that is not enjoyed by the rest of the member states.

Yes, a beauty pageant is a trivial indulgence, and some may argue that it even diminishes the status of womanhood. However, given a choice between the bearded wannabe Taliban face of any protagonist governor of Sharia, uttering his imprecations against the beauty contest on television, and the sight of sylphid aspirations of femininity on parade, I have no hesitation in opting for the latter. Never has a frivolity acquired such profundity in the pluralist character that is the very essence of the Nigerian nation! Destruction of property and human massacres are always traumatic events in a community, saddening and enraging, but the organisers of the beauty contest, as well as the participants, must understand that they are totally free of guilt. The guilty are the storm troopers of intolerance, the manipulators of feeble-minded but murderous hordes of fanaticism.

(The author is a Nobel laureate for literature)

### IN BRIEF

- Religious fundamentalism is being used for purely political gain in Nigeria
- Beauty pageants may be trivial, but nothing justifies killing innocent people

women

## RAPE AND SOCIAL REFORM

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08/11

THE ANGUISH ECHOED in Parliament in recent days over growing incidents of rape in the capital and elsewhere in the country must trigger nothing short of a concerted societal response towards eliminating barbarous crimes of this nature which, in addition to inflicting emotional and psychological trauma and personal humiliation, have for decades denied to women their basic constitutional guarantees of equal protection under the law. The tragic incident in New Delhi involving the rape of a student of medicine has sent shock-waves through the capital and focussed the attention of Members of Parliament on questions of the increasing frequency of violence against women and the impunity with which perpetrators escape the long arm of the law. It was barely months ago that public outrage against the rape of a mentally ill teenager on a Mumbai suburban train and the indifference of passengers led women's groups to initiate legal action. The Delhi and Mumbai incidents are but isolated cases where the chances of bringing to book those who would otherwise have got away with committing such brutalities are perhaps greater.

Sadly, the truth about laws on rape in India is the extent to which they are weighted against the interests of victims, the inherent complexities of completing trial, the appallingly low rates of convictions and, above all, the cumulative burden of gender bias they embody. While anguish over increased instances of brutalities against women has forced the political executive to take a fresh look at prevailing laws on rape, any such exercise — if it is to carry conviction — must raise some fundamental if uncomfortable questions. The reference here is to the innumerable instances of organised and systematic rape of women belonging to the minority communities during the carnage in Gujarat last February where the complicity of the State machinery has been well documented in several human rights reports. These must undoubtedly fall under an altogether different class of crime and any sincere attempt at reforming the prevailing law on rape must begin

with applying the same impartially and even-handedly against the accused. But surprisingly, the horror against recent incidents of rape has escaped any reference to this dimension of the Gujarat riots. At another level, even the attempts aimed at fine-tuning legal instruments appear to be half-hearted. For instance, the call by women's organisations to broaden the definition of the crime to incorporate marital rape and to delete the provision in the law of evidence — which allows the accused to refer to the immoral character of the victim in a prosecution — seem to have elicited no response so far. Such changes constitute a decisive step forward and are consistent with the Criminal Law Amendment Act of 1983. On the contrary, the Deputy Prime Minister, L. K. Advani, has been advocating the death penalty for rapists — a proposal that is high in symbolism but is unlikely to help bring the offenders to book so long as the legal procedures remain weighted against the victim. Still more disturbing is the move — even while conceding a reluctance on the part of women's groups to punish rape with the death penalty — to secure a political consensus in Parliament for a law which at best is intended to exploit an emotive issue as rape to further brutalise society by introducing the death penalty for another crime.

Clearly, this is no time for knee-jerk reactions when it comes to dealing with such a sensitive issue as rape which constitutes a fundamental violation of a woman's personhood. As such, Parliament should display a sense of urgency to amend patently discriminatory provisions in the law which disadvantage women from the very outset. Women's empowerment cannot be treated as a matter of reactive social management where Governments respond from crisis to crisis between prolonged spells of callous indifference and even complicity in crimes against women. Rather, a proactive policy that intends to secure women their rightful place in society and draw them into the process of nation-building must necessarily launch an onslaught on myriad social, political and legal inequities.

# Won't work

The death penalty for rape is an inherently flawed idea

*women 95-8*

THE recent concern over sexual assaults on women has triggered the demand that capital punishment be awarded to rapists. No less than Union Home Minister L.K. Advani has expressed his unqualified support for such action. Speaking in Parliament on Tuesday, he stated that his government was prepared to bring a law along these lines if there was political consensus on the issue.

While the concern of those who advocate such a measure is perfectly justified given the ubiquitous nature of this heinous crime, its efficacy is strongly in doubt. Although it has been rendered into a cliché almost, there is a great deal of common sense inherent in the observation that it is not the stringency of the punishment for this crime that is of the essence, but its surety. And it is precisely in ensuring that the rapist is actually convicted that the state has failed its women citizens. Even the effort of the state to make punishment for rape more stringent by enacting the Criminal Law (Amendment) Act in 1983 — which upped the punishment for the crime to a minimum sentence of seven years, which could go up to life imprisonment — has not yielded the necessary re-

sults. This is also because the great majority of those who commit rape escape any sentence whatsoever thanks to the numerous infirmities inherent in the criminal justice system — from the level of the filing of FIRs to the judicial interpretation of events. Many women suspect, and understandably so, that this call for capital punishment for rapists is just another way of avoiding a thorough reform of the system to ensure that it delivers real justice to women.

There is another issue that has not been highlighted sufficiently enough and one that has to do with societal trends. The alleged rapist of the Maulana Azad Medical College student in Delhi was found to be in his late teens, or early twenties. What causes young men to behave in such a bestial manner? Somewhere, the educational system, the media and society in general has failed to instil the basic value that all human beings, regardless of their gender, have a right to their bodily integrity, a right not to be physically violated, a right to exist without fear. Capital punishment for the rapist will not ensure that this happens. Targeted reform will.

Women  
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## FIGHTING FOETICIDE

27/11 ✓

THE DIRECTIVE FROM the Supreme Court to the Centre and the Governments of States and Union Territories to furnish status reports on the implementation of the Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Act, 1994, is indeed timely considering the growing nexus between sex-selective abortions and gender discrimination and consequent adverse demographic implications. But the issues raised at the meeting of Members of Parliament on proposed amendments to the 1994 Act, however, betray a vested interest against attempts to plug loopholes in the law. Unregulated access to technologies for sex-determination and subsequent abortion of female foetuses is perhaps the surest form of reinforcing prevalent gender bias beyond the present generation. The Indian law which provides safeguards against this form of gender discrimination, wherein females are disadvantaged even before child-birth, has been rendered less effective owing to lack of proper enforcement over the years. Consequently, the apex court, in responding to petitions, has in particular laid emphasis on the constitution of authorised agencies at the district and sub-district levels in order to monitor the proliferation of unregistered clinics and the misuse of medical technology. The court has already banned the use of ultrasound scanners by unregistered clinics and ordered their confiscation. However, there has been little overall progress either in terms of setting up statutory bodies to oversee the enforcement of the law, or achieving a reduction in the incidence of female foeticide.

Unrestricted access to ultra-sound scanning technology has been found to have an adverse impact on sex-ratios in societies in the Asia-Pacific region; notably in China, where a decline in female population and consequent shortfall in the supply of women in the labour force is said to be responsible for the increase in urban violence. In India, experts have alluded to the availability of sex-selection technology as a ma-

ajor cause behind declining sex-ratios in the 0-6 age group which stood at 927 girls to 1,000 boys in the 2001 population census compared with 944 in 1991. In Delhi, one in seven female foetuses is said to be aborted; whereas Punjab, Haryana, Himachal Pradesh, Maharashtra and Gujarat are also showing a downward trend in the sex ratio. There are strong apprehensions that States where the appeal of ultrasound scanning technology is somewhat more recent could likewise begin to reflect this adverse trend in a matter of years. The other danger is that since under-reporting of female births and female infanticide have accounted for the negative ratio for many decades, this fact could well deflect attention from the more recent phenomenon of aborting female foetuses with the aid of advanced medical technology. While it is a matter of utmost urgency that provisions in the relevant law in its current form must be invoked to ensure that all legitimate uses of modern medical technology are not jeopardised, legislators must also recognise that important amendments to some of its provisions brook no delay. For instance, there is a good case to prohibit sperm and embryo sexing methods considering that with the advance of technology, sex-selection before conception may soon become a reality.

Moreover, enhancement of penalties for violations, presumption of innocence of women undergoing sex-determination tests and a mandatory stipulation that clinics maintain records of scans are some of the other amendments that would have to be adopted to ensure effectiveness of the law. Clearly, the need to incorporate some of these aspects stems from the brief experience in working a progressive legislation that aims directly to strike at the root of deep-seated social prejudices. As such, the challenge facing the administrators and the medical fraternity alike is to ensure that society does not deny itself the fruits of scientific advances while it strives decisively to rid itself of the stranglehold of patriarchy.

27 NOV 2002

THE HINDU

# Govt favours rape death penalty, women don't

OUR SPECIAL  
CORRESPONDENT

New Delhi, Nov. 26: Deputy Prime Minister L.K. Advani today said the government favours death penalty for rapists but women's organisations and NGOs rejected the proposal, pointing to the poor conviction rate and discrepancies in laws dealing with the assault.

"The punishment is quite tough as it is in the existing law against rape. The problem is of conviction and not the degree of punishment," said Kirti Singh, a lawyer with the All India Democratic Women's Association. "We are totally opposed to it. This is a ridiculous suggestion — nothing but a gimmick."

Advani told the Lok Sabha the government would like to enact a law in consultation with states and political parties for sentencing rapists to death. "I feel the punishment for rape should be death. However, I would like to get the point of view of political parties and state governments in this regard," he said, intervening during question hour.

Responding to Congress MPs Margaret Alva and Renuka Chowdhury's demand for stringent punishment for those guilty of the assault, he said many members had expressed the view that if someone commits murder, the person is hanged. Rape is worse than that but no such punishment is meted out to the culprit.

The deputy Prime Minister said he had supported such stringent punishment for rapists as far back as in 1998 but pointed out that many states and women's organisations were not in its favour.

On their part, women's activists made it clear that what they wanted was an overhaul of the "archaic" rape laws and not just a tinkering with the form of punishment, which, they say, will only "worsen" the situation. "They should first strengthen the law machinery in such a manner that conviction takes place," said Jyotsna Chatterjee of the Joint Women's Programme, echoing Kirti Singh.

"Even if you bring in a death sentence, no judge will be willing to use it," said Indira Jaisingh of

the Lawyers' Collective.

Earlier, the Lok Sabha saw a strong demand cutting across party lines that women be given adequate protection and laws regarding rape amended. "The way women are being raped, hope we are safe at least in Parliament," Alva said.

Her party colleague Chowdhury wanted to know the problem in implementing laws on preventing atrocities against women and gave a spin to the inaction in rape cases. "We are being kept out of Parliament and that is also a kind of a rape," she said. "Why are you not implementing the 33 per cent seat reservation for women in elected bodies?"

In his reply on the plight of rape victims, minister of state for home I.D. Swami outlined various measures taken to protect women, including the setting up of police stations manned by women and a cell to deal with crimes against women.

Swami said the government has involved 12,000 NGOs, which deal specifically with issues related to women, and added that the Centre has asked the states to help these organisations.



# State, women's groups wary of 'death for rape'

Statesman News Service

KOLKATA, Nov. 26. — Deputy Prime Minister Mr LK Advani today told Lok Sabha that the government was in favour of death sentence for rapists and will like to pass a law in consultation with women's organisations and state governments.

But women's organisations in Kolkata were not too keen on the proposal and signal from the government was similar.

Ms Anuradha Kapoor of Swayam said, "I don't think death sentence is a good idea. Even with existing rape laws, conviction rates are few and far between. Having a death sentence will bring down conviction rates even further. Also, from the human rights angle we don't support death penalty. The government should enforce the right mechanism instead... there should be a thorough investigation, speedy trial, proper medical check-up and women-friendly courtrooms. The government should change its entire outlook where rape victims are concerned."

Ms Sutapa Chakraborty, coordinator of the Human Rights Law Network, however, said: "Death penalty should be implemented. Rape is a heinous crime and punish-

ment should be exemplary. A bold step is needed. But then in cases of such extreme form of punishment we must make sure that the trial is just and fair."

Ms Maitreyi Chatterjee, convenor of Nari Nirjatan Pratirodh Mancha, said: "It has never been proved that death penalty has brought down the crime rate... people are still murdered... I think in case of a rape, there should be life imprisonment. In case of death penalty, there is always the benefit of doubt. The judges tend to think a lot and so the final conviction might not come through easily."

Echoing similar sentiments, Ms Soma Sengupta, director of Sanhita, said, "We don't believe in the right to kill. The person should be given a chance to reform himself. We are against death penalty under any circumstances. There should instead be rigorous imprisonment of seven to 10 years."

Chief minister Mr Buddhadeb Bhattacharjee said: "I have heard about it... we are discussing the issue." Another state government official said: "It will be more effective if there is a procedural change... instead of the victim having to face the questions in court, there should be a video conference between the judge and the victim."

# India's shame: 15,000 women raped every year

By Sujata Dutta Sachdeva  
TIMES NEWS NETWORK

**New Delhi:** ● In 1972, Mathura, a 16-year-old tribal girl, was raped by two policemen in Desai Ganj police station of Chandrapur district, Maharashtra. The guilty were forced to file a 'panchnama'. Two years later, the court let them off, saying Mathura was lying since she was 'habituated to sexual intercourse.' Rape could not be proved. However, the Nagpur bench of the Bombay high court set aside the ruling and sentenced the two to rigorous imprisonment. But the Supreme Court acquitted them saying Mathura had not raised an alarm and had no visible injury marks.

● In Mohammed Habib vs State, a rapist was allowed to go scot-free simply because there was no injury on his penis, assuming that the victim had not resisted. It was another matter that the victim, a seven-year-old, had suffered a ruptured hymen and bite marks.

The law, they say, is blind to everything but the truth. But many rape victims would disagree. On an average, there are more than 15,000 rapes every year in India. And the conviction rate? Below 30 per cent.

National Crime Research Bureau figures indicate that the incidence of rape has increased: from 15,330 in 1997 to 16,496 in 2000. On an average, cases take between 2-10 years in court; the longest took 15 years.

This is just the tip of the iceberg. Veena Goswami, legal advisor to the Delhi commission for women says, "Only 20 per cent of rape cases are reported." What is the solution?

● **Change rape laws?:** "These laws in India are extremely antiquated," complains Kavita Chowdhury of Mahila Atyachar Virodhi Andolan. "Culprits use loopholes to go scot-free." Plus, says lawyer Anita Shenoy of Equity and Justice Foundation, "They do not cover all aspects of rape like oral sex, etc. The sexual history of the woman is given undue importance, thus shifting focus from the real incident." And only a public prosecutor can

represent the victim as rape is considered an atrocity against the State. "Besides, there are delays and adjournments. Sometimes even the public prosecutor may change midway," says Prateeksha Bakshi of the Centre for Women's Development Studies.

Experts say the law needs to be more sensitive to the victim. Statements like 'Don't tell us you didn't enjoy it,' are common. Adds Shenoy "If the victim is a minor, the onus is on the accused to prove his innocence. But if the victim is a major, it is up to her to prove her charge. The defence, therefore, finds it worthwhile to prove she is a major."

● **Implementation hurdles:** The courts are filled with people who favour the accused and challenge the veracity of the victim. The police, say experts, is the biggest hurdle. "In

30 per cent of the cases, the victims are pressurised into withdrawing their complaint. The police discourages them from lodging an FIR, sitting stigma and social rehabilitation," says Chowdhury. Discrepancies also creep in since an FIR is not easily understood, making the case weak.

Plus, the medical test, mandatory within 24 hours, "is not foolproof. Even doctors tamper with evidence," says Bakshi. But, says

Shenoy, "There are no standardised medical kits or procedures for doctors. Only two places in India have DNA sampling facility, so doctors depend on DNA grouping test, which is not foolproof."

Another problem, says criminal lawyer I.U. Khan is that of victims changing their statements in court.

"This happens in 50 per cent of the cases, either because they don't want to pursue the case or because their case was false in the first place."

● **Is capital punishment the answer?:** Some MPs suggested this recently. Experts say no. "This will cause more damage since law-enforcing agencies will make more moolah and not report cases," says Khan. Others feel conviction rates will reduce further. "Give punishment. Plus, put in place sentencing guidelines," suggests Bakshi.

## TOP TROUBLE SPOTS (2000)

| State          | Incidents of Rape |
|----------------|-------------------|
| Madhya Pradesh | 3737              |
| Uttar Pradesh  | 1865              |
| Bihar          | 1570              |

## Metro Rankings (2000)

| State   | Incidents of Rape |
|---------|-------------------|
| Delhi   | 374               |
| Mumbai  | 124               |
| Kolkata | 35                |
| Chennai | 24                |

26 NOV 2002

# Miss World seeks suitable London venue

By Rashmee Z. Ahmed  
TIMES NEWS NETWORK

**London:** The organisers of the Miss World contest have said the show will go on here less than a fortnight from now despite its sudden unexpected change of country, a reported financial loss to the company of two million pounds and the contestants' frightening midnight dash from Nigeria to London on Sunday.

But by late on Monday, it remained unclear if the pageant would in fact be held at the organisers' first choice of suitable British venue, Alexandra Palace in central London, on December 7. Most venues are reportedly booked for other events but sources close to Miss World executive chairman Julia Morley said she seemed keen to stick to her original choice.

At a packed news conference at a plush five-star hotel near London's Heathrow airport, Ms Morley rejected criticism of the contest in the

wake of riots and an estimated death toll of 215 in the northern Nigerian city of Kaduna.

The contest's organisers also rejected criticism of the pageant from leading politicians, such as the Oscar-winning former actress and former Labour minister Glenda Jackson, who told TNN: "Common decency demanded that in the wake of the terrible events in Nigeria, this year's pageant be cancelled."

Ms Morley has, however, already admitted the difficulties of shifting



Miss World contestant Shruti Sharma of India attends a press conference on Monday in London.

at short notice such a big contest, which claims to be second only to the Olympics in global representation.

Miss World's search for a London home comes as Ms Morley was quoted as saying she had personally lost two million pounds as she had to keep a chartered plane on stand-by to fly the girls out of Nigeria.

Meanwhile, *The Sun's* Jamie Pyatt, the only journalist on board the chartered plane that took India's Shruti Sharma and 91 other contestants out of Nigeria, told TNN that Shruti and the other girls were "not concerned about themselves, but about their worried parents, who were ringing from around the world".

He said that en route to London, Shruti expressed her hopes and her fears for herself and the contest's planned grand finale in Britain. "Shruti, charming lady, said it was a hard act for her to follow with India having four Miss Worlds in seven years. But she said India had a lot of expectations of her."

# Press blamed for Miss World 'sabotage'

Abuja, November 24

THE NIGERIAN Government today lashed out at the international media and one of the country's national newspapers, accusing them of a conspiracy to sabotage the Miss World beauty pageant.

Miss World's contestants and organisers flew out of Nigeria early today after two days of rioting fuelled by Muslim opposition to the contest, which was initially triggered by an article in a Nigerian daily. Preparations had already been marred by a storm of bad publicity surrounding northern Nigeria's reintroduction of Sharia law.

"I salute the courage of the

contestants," Information Minister Jerry Gana said on state radio. "They came all the way here despite the conspiracy of the international press... particularly the British press."

"There's an international conspiracy just to show that an African country like Nigeria cannot host this thing. I think Nigerians should be really angry with the international press."

Gana also singled out the Nigerian newspaper 'This Day', which wrote a preview on the Miss World pageant that stoked Muslim anger and triggered riots in Abuja and the northern city of Kaduna.

"It's unfortunate that our national press succumbed to this

conspiracy by creating an opportunity for violence. This was a direct provocation and it was irresponsible, totally unnecessary and should be rebuked and denounced by every right-thinking Nigerian," Gana said.

Some 90 Miss World contestants arrived in London today while furious organisers blamed the media for undermining the event.

Violence continued in parts of the northern city of Kaduna, where 15 churches and eight mosques have been burned to the ground in two days of sectarian violence, Shehu Sani, head of the Civil Rights Congress, said.

Sani said observers had

counted 200 dead and 600 injured in fighting with security forces and hate attacks by rival Muslim and Christian gangs.

Nigerian newspaper *This Day* today sacked the author of an article on the Miss World beauty contest which has sparked violent unrest.

The chairman of the media company said the management had sacked style writer Isioma Daniel, who wrote the offending story. The announcement came in the latest of a string of front-page apologies for the piece.

On Friday Nigeria's state security service said it had arrested Daniel and the editor of the paper's yesterday's edition.

AFP

25 NOV 2002

THE HINDUSTAN TIMES

# Call to plug loopholes in rape law

Statesman News Service

NEW DELHI, Nov. 22. — Women parliamentarians have been raising Cain in this session of the Rajya Sabha demanding death penalty for rapists, but lawyers believe the lawmakers should first plug loopholes in the existing rape legislation.

While making special mentions yesterday, women MPs demanded that the rape law be amended to provide capital punishment and said Delhi had become "a living hell" for women. They took up the issue of domestic violence today. On 15 November, a woman student of Maulana Azad Medical College was dragged off a busy road and raped.

Yesterday, parliamentarians had called for imposition of the death penalty. They contended that punishment for rape be more severe than for murder as the victim suffers for the rest of her life.

Lawyers vary on the issue of wheth-

er or not capital punishment should become law but agree that much can be done to minimise rape victims' suffering.

"All rape trials should compulsorily be held in-camera," said lawyers who have dealt with cases of rape. "There is an undesirable social stigma against rape victims in our society and I suspect nine out of 10 rape cases don't even get reported. Why punish the few who dare bring a rapist to book," said a prominent advocate of Delhi High Court.

Another senior lawyer said the police's attitude to rape cases left much to be desired. "They need to treat a case of rape just as they would the murder or assault of a VVIP. Forensic teams need to be rushed in to check the scene of crime. The victim and the family must get complete medical, psychiatric and social support from the system. Medical examinations must be conducted immediately on the victim and, if possible, the perpetrator".

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Lawyers agreed that "a basic principle we were taught while studying law — Locards Principle" was being ignored by the police in most rape cases. "In a nutshell, it suggests that every contact leaves a trace but policemen rarely check for traces, except in cases highlighted by the media," said a senior advocate.

Another lawyer said the discretion provided to the judiciary regarding reducing the sentence for a rape accused must also be used akin to the death sentence — in the rarest of rare cases. "Though the minimum sentence is 10 years, judges do use their discretion," he contended.

Similarly, though the maximum sentence is life imprisonment, "inevitably it is commuted after 13 or 14 years for good behaviour. Why do that. If a court was convinced at the time that the man's crime — rape — merited a life sentence, we have to stop remissions for good behaviour in the case of rape," another section of lawyers said.

# Rape stalks refugees in city camps

WILLIAM MACLEAN  
NAIROBI, NOVEMBER 21

WHEN Somali refugee Amina shut her legs and refused to submit to gangrape, one of her four attackers resolved matters by plunging a knife into her crotch.

The gangrape of the 19-year-old — 10 metres from the main UN refugee agency office in Nairobi — then proceeded. “He pushed me down and pulled up my dress. They were all going to rape me — but I refused to open my legs. I kept them together. So then he took his knife and sliced my thigh. “They started raping me. I passed out eventually.”

Amina’s story is recorded in a Human Rights Watch report published on Thursday about the abuse, persecution and neglect of refugees in the Kenyan capital and the Ugandan capital Kampala.

The US-based organisation says thousands of refugees suffer mistreatment when they flee bad conditions in Kenyan and Ugandan refugee camps and settle in their capitals.

Abuse comes from governments hostile to their presence, from securitymen sent by home countries to crush exiled Opposition and from overburdened, underfunded aid workers, the group says.

It was not Amina’s first rape. She had been violated repeatedly in a refugee camp in northern Kenya after fleeing violence in Somalia in 1994 when she was only 12.

She was sent to Nairobi by the UN High Commissioner for Refugees (UNHCR)

No escape in East Africa



(R) Somali refugee and rape victim Madobi, 7, with a family friend outside the UNHCR office in Nairobi. Reuters

for treatment for tuberculosis and afterwards refused to return to the camp, preferring to sleep outside the UNHCR offices. It was there that the attack occurred in 2001.

According to a researcher who examined Amina, her knife wound stretched from the edge of her vagina to her knee.

Refugees from one of the world’s most

turbulent regions often flee to relatively stable Kenya and Uganda where they are required by local law to stay in camps. Many of the refugees find conditions in camps so terrible — plagued by violence, food shortages and unsanitary facilities — that they try to settle in Nairobi and Kampala.

“Once in the city, refugees encounter overburdened agencies with neither the resources nor the ability to help all of them,” the report said. “Others find something much worse: governmental hostility to their presence in urban areas, vulnerability to rape or other forms of physical attack, police abuse and harassment by agents from their countries of origin.”

Kenya has 220,000 refugees in its camps and another 60,000 are believed to be in Nairobi. Uganda has about 200,000 refugees in camps and 50,000 living mostly illegally in Kampala. Both countries justify their limits on the refugees’ freedom of movement by saying they are a threat to national security.

But Mahret, an Eritrean woman, said she was raped and her house burned down in Uganda’s Nakivale Camp by Ethiopian refugees acting out of hostility towards her. “I decided I had to go to Kampala.”

UNHCR Kenya spokesman Emmanuel Nyabera said the agency was trying to alter some of its procedures to reduce the risk of refugees’ exposure to abuse from host country nationals. But he added: “If refugees refuse settlement in camps, we don’t have the capacity to control them because they are completely, so to speak, outside our mandate.” — Reuters

Riots continue in Nigeria ✓

# Miss World venue shifts to London

29/11 51-4 women



**INNOCENT VICTIMS:** A woman holds on to her child at a brewery in Kaduna, Nigeria on Saturday. — AFP

**AGENCE FRANCE-PRESSE**  
KADUNA, Nov. 23. — Riots raged on in the northern Nigerian city Kaduna today after violence there forced beauty pageant organisers to abandon plans to stage the Miss World pageant in Nigeria. Miss World's organisers announced early today that they would quit Nigeria and seek to hold the 7 December ceremony, set for the Nigerian capital

Abuja, in London instead. Fighting, which began as protest by Muslim youths against an article on the pageant has turned into a street war between Muslims and Christians. A civil rights group monitoring the unrest said the number of people killed in the riots has risen to 200. Shehu Sani, director of the Civil Rights Congress, said 600 more people had been injured in inter-com-

munity clashes and in skirmishes with security forces. An AFP journalist was forced to join around a 1,000 refugees hiding in Kronenbourg brewery in the south of the city near the main road to Abuja, protected by troops and an armoured car. Another woman said that a gang came to kill her after burning her home and only let her live when she lied and claimed to be a Muslim.

# Centre creates 'character' shield for rape victims

OUR SPECIAL  
CORRESPONDENT

New Delhi, Nov. 11: The Centre has decided to amend the Indian Evidence Act of 1872 to prevent rape victims from being asked questions on their "character".

Since the early 1980s, women's groups have been ask-

ing the government to amend the law as rape victims are made to face humiliating questions in court that seek to establish a link and "justify" the assault by pointing a finger at their "moral character".

The proposed scrapping of Section 155 (4) of the Evidence Act, to be ratified at tomor-

row's Cabinet meeting, aims to rectify this.

The amendment, moved on the recommendation of the Law Commission and the National Commission for Women, says there should be no "unre-

strained questioning" that can destroy the reputation or self-respect of a victim. It suggests scrapping Section

155 (4) that allowed this line of questioning.

"It is a welcome move," said Kirti Singh, a lawyer with the All India Democratic Women's Association. "Almost all rape victims are asked questions relating to their character and sexual history," she stressed. This achieves two results — first, the victim is in-

timidated and second, the jury ends up being prejudiced against the victim.

"Even if there is no past sexual history, the lawyer will try to paint a picture in which to point a finger at the victim. They will make innuendoes and try to prejudice the court. The victim on her part ends up feeling guilty," Singh said. Very

often, rape victims find it difficult to face the questioning in court.

Women's organisations have also been demanding amendments to the law dealing with rape.

According to them, the rate of conviction is so low that it almost defeats the purpose of the legislation.

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## 25/10 CONTROLLING ORGANISED CRIME 10-10

THE SUPREME COURT'S directive to the Central Government to report within six weeks on the implementation of the Action Plan drawn up in 1998 to prevent sexual abuse of women and children is, at one level, indicative of the seriousness with which the continuing exploitation of vulnerable sections of society is viewed in the highest quarters. However, the apparent lack of progress in translating objectives into action, as may be surmised from the petition filed in the Court, must raise critical questions on a gamut of issues ranging from the efficacy of law enforcement, punitive action against perpetrators of crimes, to the repatriation and rehabilitation of victims of this form of exploitation. Trafficking in women and children has assumed alarming proportions globally and the subcontinent is a haven for international organised crime groups. Trafficking in humans is believed to be currently third in transnational illegal trade after arms and drugs. With appalling levels of poverty, illiteracy and unemployment and no form of social security measures to speak of for vast sections of the populations of the subcontinent, the susceptibility to the gambits of crime groups dealing in illegal drugs, weapons, money laundering and, worst of all, in humans is not hard to imagine.

The numbers of women weaned into commercial sex work, and of child or bonded labour, have steadily been on the increase over the years. If women have for long borne the brunt of domestic violence, and their family lives reveal tales of dowry-related disharmony, outside their homes, especially those among the socially and economically disadvantaged, they form the backbone of many an industry in the cottage, tourism, hotel and small scale sectors of the economy. With neither the guarantee of a reasonable remuneration nor protection from the hazardous nature of the different occupations they engage in, they are

often ready victims of the constant pressure to find an escape route that perpetually eludes them. The vicious trap of physical and sexual abuse and exploitation that they fall into haunts them through the rest of their lives. At another level, the exposure of many transnational rackets in trafficking children and women has brought to light the extent to which Indian borders have become gateways to sneak in women and children from neighbouring Bangladesh and Nepal, or transit points to smuggle to destinations in West Asia. In many such instances, the complicity of the police and other law-enforcing agencies has meant that racketeers and middlemen often get away with forging travel and emigration documents.

It was against this backdrop that the 1998 report of the committee on Prostitution, Child Prostitutes and Children of Prostitutes acknowledged the minimal impact of law enforcement and proposed a comprehensive plan of action. It identified gender bias in law enforcement, questioned the manner in which brothel raids are conducted and children of sex workers rehabilitated and the absence of formal mechanisms for repatriation of illegal immigrants. Clearly, each of these reflects on the performance of the police machinery, the magistracy and even the courts in some instances. Thus, it is easy to see that the Supreme Court's directive to the Centre underscores the general failure of law enforcement in the domains of labour relations, gender justice and child protection. The simple lesson to be drawn is that the effectiveness or otherwise of enforcing the law in one area necessarily depends on applying the statute book in others. In relation to trafficking in humans, the Court directive should be treated as a wake-up call to ratify the United Nations Conventions relating to organised crime and enacting corresponding legislation to facilitate enforcement of international norms and, above all, ensure their effective implementation in all given instances.

# Gangrape death verdict a good example: victim

WOMEN 6-3 2/9

ASIM TANVEER

**Multan, Sept. 1** (Reuters): A Pakistani woman gangraped by four men on the orders of a traditional village jury said she was satisfied with the six death sentences handed down for the crime today.

A special anti-terrorism court in the town of Dera Ghazi Khan in Punjab province sentenced four rapists and two jurors early today for the June 22 attack on 30-year-old divorcee Mukhtaran Mai.

Eight other men who had sat on the jury that authorised the crime were released.

Mai, who says her family has received death threats, was not in court when the judge announced the decision shortly after midnight.

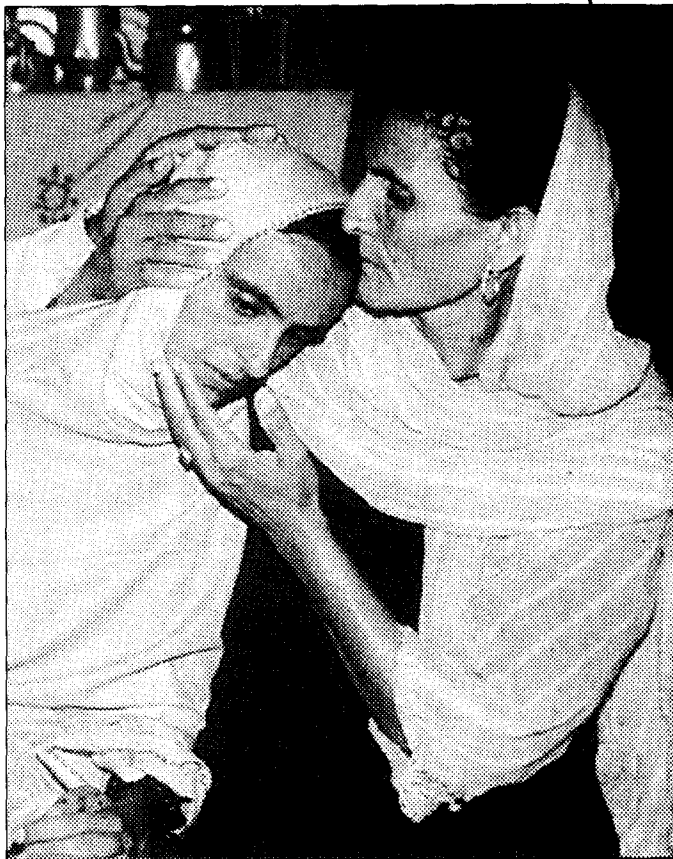
She was given the news at lawn by a relative in her home village Meerawali, the scene of the attack. "God has provided justice to me," she said by telephone. "If courts start giving decisions like this, I am sure rapes will be reduced, if not stopped totally. I am satisfied with the decision."

Mai's father Ghulam Farid Jat said she was overcome by the news. "She cried loudly and fainted a few times," he said.

Mai was raped by four men after approaching a traditional jury, or panchayat, to settle a dispute with the more powerful Mastoi clan.

Mai said she went to the jury after her 12-year-old brother Abdul Shakoor was kidnapped and sodomised by members of the Mastoi family as a punishment for having an illicit affair with one of their female relatives. The jury ruled that to save Mastoi honour, Shakoor should marry the woman with whom he was linked while Mai was to be given away in marriage to a Mastoi man.

When she rejected the decision, she was gangraped and made to walk home nearly naked



Mukhtaran Mai (left) with her mother in Meerawali. (Reuters)

in front of hundreds of people.

Police sent extra armed men to Meerawali and cordoned off Mai's house to prevent any revenge attack.

Mastoi family members said police had detained eight of their men as a precaution, but no independent confirmation was available. On Friday, Mai said she and her family had been threatened with revenge if the men were convicted. She asked for government help to move to a safer place.

"We are receiving death threats," she said.

"They have told us that if their four people are sentenced to death, they would kill eight of our men. Not only my family, but those who supported us are

being threatened with dire consequences."

Lawyers for the convicted men have said they will appeal.

Execution in Pakistan is by hanging. Generally this is done only after a lengthy appeals process, but the anti-terrorism law under which the case was tried requires appeals to be filed within seven days.

Even though gangrapes and "honour" killings are common in rural Pakistan, the case caused an outcry when it was publicised in national newspapers to highlight the plight of women in rural areas, where feudal behaviour codes still rule.

# Death for 6 in Pak gangrape case

ASSOCIATED PRESS

DERA GHAZI KHAN (Pakistan), Aug. 31. — A court sentenced shortly after midnight tonight six men to death by hanging in the gang-rape of a woman to punish her family, court officials announced. Eight men were acquitted.

Those receiving the death sentence included four rape accused and two members of a tribal jury that ordered the 22 June assault.

The rape was ordered by a tribal jury after a high-status clan, the Mastois, accused the woman's brother of associating with one of their women. The victim's family is from a low-status clan.

The eight acquitted were also members of the tribal court.

The case stirred outrage in Pakistan and drew attention to the plight of women in conservative areas where traditional customs almost

always take precedent over national laws.

The trial started on 26 July and testimony concluded on 24 August.

The judge, Mr Zulifquar Ali Malik, gave his verdict shortly after midnight.

The defence lawyer, Malik Salim, said he would file an appeal because "justice has not been done for the accused persons."

During the trial, the victim, whose age was variously reported between

18 and 30 years, testified that she begged the assailants not to disgrace her but they ignored her pleas and assaulted her for four hours in Meerwala village. Before the verdict was announced, hundreds of people gathered outside the court house in the darkness. They included members of the accused Mastoi clan who prayed for an acquittal for all 14 defendants.

The victim, however, was not present.

# Woman was forced to commit sati: MP govt

TIMES NEWS NETWORK

**Bhopal:** The Digvijay Singh government admitted in the state assembly on Wednesday that 65-year-old Kuttibai, who committed sati on Tuesday morning, was forced by villagers to jump into her husband's funeral pyre.

Kuttibai apparently did not have cordial relations with her husband and was living separately with her son. A magisterial inquiry has been ordered into the incident.

Police have arrested 15 persons on charges of murder and criminal conspiracy while cases have been registered against 11 others for assaulting policemen, rioting and attempted murder of public servants.

Speaking on behalf of the government, home minister Mahendra Baudh told the assembly that at 9:10 a.m. on Tuesday, a villager telephoned

the Saleha police station in Panna district and informed the officers that Mallu Nai (70), a resident of Tamoli Patna village, had died and that his wife Kuttibai (65) was contemplating sati on his funeral pyre.

"Soon after receiving the call, sub-inspector H.S. Ghose and constables Hamrah and Nathulal left for the spot," he claimed. "At the crematorium, a 1,000-strong crowd was waiting for the funeral. When the policemen reached the place, Kuttibai was standing near the body, which had already been lit by the deceased's elder son Ashok.

"Several people were coaxing Kuttibai to enter the pyre," he said. "The police tried to control the crowd but were outnumbered. Some persons started stoning the policemen. Mr Ghose was injured. Even as the policemen took cover, a group of people hurriedly thrust Kuttibai onto the burning pyre."

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# Probe ordered into 'sati'

women

8/8 ✓

**BHOPAL, AUG. 7.** The Madhya Pradesh Government today ordered a magisterial inquiry into the "Sati" committed by a 65-year-old woman, Kuttu Bai, in Tamali Patna village of Panna district on Tuesday.

In a statement, the Home Minister, Mahendra Boudh, told the State Assembly that the woman, who died of burn injuries, was forced to enter the funeral pyre of her husband, Mallu Nai.

He said on getting information about the possibility of the woman planning to commit Sati, two police personnel from Saleha police station reached Tamoli Patna and found a crowd of 1000 near Mallu Nai's funeral pyre. These people stoned the police officials, who were injured, he said and added that 15 persons have been arrested in connection with the incident.

The leader of Opposition, Gauri Shanker Shejwar, said as the incident was of a serious nature, it deserved to be discussed under an adjournment motion and the suggestion was accepted by the Speaker, Srinivas Tiwari, who announced that it would be taken up tomorrow.

The National Commission for Women today

described the "sati" incident as "atrocious and shameful" and decided to send a four-member delegation to Panna district on August 9 for investigating the incident.

The NCW chairperson, Purnima Advani, told UNI in New Delhi: "It is really shocking that even in this era incidents like this were happening."

The NCW delegation would visit the village for an on the spot investigation. Ms. Advani said that she had spoken to the chairpersons of the State Human Rights Commission, Women Commission and the Director-General of Police on telephone. She said there were two versions of the incident. According to the local people, the police was informed about the women's intention at 7 a.m. while police claim that they were informed of about her intention only by 9 a.m. "However, the actual situation would be clear only after the team visits the spot and makes a thorough investigation of the matter." She said the NCW was scheduled to make a visit to Bhopal on August 12 and 13 to discuss the status of women in Madhya Pradesh. Now during that meeting also, the focus would be on this incident only. — PTI, UNI

8 AUG 2001

THE HINDU

# Woman commits sati in MP

HT Correspondent  
Jabalpur, August 6

KUTTU BAI, a 65-year-old woman, committed sati today on the funeral pyre of her husband. The incident took place at Tamoli Patna village, some 70 km from the Panna district headquarters of Madhya Pradesh.

Two policemen who tried to pull her off the burning pyre were stoned by the villagers. One of the two, sub-inspector Harcharan Singh Ghosh, told *Hindustan Times* that when he reached the site with other policemen at around 9.30 in the morning, Bai was sitting on the pyre, which had been set alight from one side.

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Ghosh said he caught hold of the woman and dragged her off the pyre. But a crowd of more than 1,000 people charged at the cops, overpowered them and freed Bai to let her go ahead with the rite.

The woman's husband, Mallu, had been ailing for a long time and died early this morning. It was not clear yet whether Bai had committed sati, but she did die of burns, the police said.

If she offered prayers and was taken to the funeral pyre by the villagers with the express purpose of making her a sati, then the case should indeed be deemed as such, the police said.

Tipped off shortly after Bai mounted the pyre, the town inspec-

tor rushed to the spot with another official from the Saleha Police Station. They said the woman's two sons, both adults, were in the crowd. They made no attempt to stop their mother.

The police said the village was deserted now and further information about the incident would be available only after the villagers returned.

Sub-inspector Ghosh said a case had been registered against one Jainarayan Pathak and some other people under Sections 307, 332 and 147 of the Indian Penal Code for egging on Bai to perform sati.

A search was on for the man who had forced Bai into the act, he added.

7 AUG 2002

THE HINDUSTAN TIMES

18 held in Pak crackdown

# Death plea for jury rape

**Multan, July 17 (Agencies):** Prosecutors will seek the death penalty for four men who allegedly gangraped a woman in a remote village after a tribal council ordered the punishment, her attorney said today.

Police have arrested 18 people in connection with the rape — including some of the council members — which occurred in Meerwala last month.

"We have made all preparations for filing charges against the culprits in a local court (tomorrow)," said Ramzan Khalid Joya, the woman's lawyer.

The woman's family was from the Gujar tribe, considered lower-class than the Mastoi tribe, the tribe of the boy's companion. The council was Mastoi, as were the men who carried out the rape.

"The violence against women is not a new phenomenon, but incidents of gangrape have suddenly increased in Pakistan," said Naeem Mirza, a spokesman for Pakistan's Aurat Foundation, a women's rights organisation.

"Mostly, those who commit gangrapes or kill women in the name of honour are influential tribesmen or feudal, therefore, they escape punishment," Mirza said.

"Women are often punished for the crimes committed by male members of their families." Joya said the woman was raped on June 22 but the crime didn't get reported until days after.

Joya said all the suspects are in jail at Muzaffargarh, a southern city of Pakistan, near the woman's village.

Originally, it was reported that the woman was 18 but her attorney said today she is 22.

## Verdict appeal

Lawyers defending three men sentenced to life imprisonment in Pakistan for their role in the kidnap and murder of US reporter Daniel Pearl said they had filed an appeal against the verdict today.

Lawyers for Ahmad Omar Saeed Sheikh, sentenced to death for masterminding the crime, were expected to appeal that verdict as well.

Appeal papers for his three accomplices, Sheikh Adil, Fahad Naseem and Salman Saqib, had been filed in the provincial Sindh High Court in Karachi, their lawyers said.

"I hope the high court will examine the case without any pressure and... will live up to its reputation," defence lawyer Rai Bashir told reporters outside the court. Yesterday, prosecutors filed an appeal asking for the three accomplices to be sentenced to death.

Bashir said he was appealing on the grounds that not a single prosecution witness had said that any of his clients were involved in conspiracy, kidnapping or the murder of Pearl.

"On this basis, to convict my clients in conspiracy, kidnapping and murder, was illegal and unjustified," he said.

The reporter's father Judea Pearl said in a letter to his son's newspaper, the *Wall Street Journal*, today that the guilty verdicts had proved to the world that Pakistan had the strength to subdue terrorism and secure justice and dignity for its people.

1 5 JUL 2002

# Female infanticide

5/4 Gender discrimination still rife 15/7  
women

Thursday was World population day and the Indian government along with WHO decided to observe it with special emphasis on empowerment of women. (While many would look at the independent, single, working women who have managed with their grit to conquer all obstacles and stand next to men as equals, these are just a miniscule number in our burgeoning population of over a billion. The truth is that even today women are discriminated against from birth. Female infanticide continues to rise in most India's 'backward' districts, where a girl child is still seen as a burden. For those who consider themselves too educated to actually kill a baby once it is born, they have more sophisticated methods of sex determination tests to help them to decide whether to terminate the pregnancy. Sex test clinics, while illegal have mushroomed in urban areas, obviously because of the demand — and it is to ensure that girls are not born.

The crime is prevalent across the country, only varying in frequency depending on literacy levels of the state. The more literate the state, eg. Kerala, the lower the population rate as well as gender discrimination. In the rural areas of the north where life is still very feudal, women are seen as a burden because of the huge dowries demanded at the time of marriage. The menace of dowry cuts across divides of class and caste, and continues to keep women in the position of little more than a possession of the man, be it father, husband or son. A male child is also still seen as the insurance policy for old age, and who will inherit and carry on the family name. These social mores have to be broken down first before real gender discrimination has even a chance of being eliminated. The only answer is literacy, education and raising awareness, and on a war footing if India is to really enter the 21st century.

THE STATESMAN

15 JUL 2002



# Village witch-hunt almost lands widow in grave

ASHWANI SHARMA  
RAIPUR, JULY 8



**I**MAGINE seeing your fellow villagers dig a trench to bury you in, alive. Imagine being saved by the skin of your teeth, just before they put you in. Then imagine living with the same people day in and day out, alone, knowing they resent every breath you take.

That's the fate of 70-year-old Phulbahari of Kurruri village in Raipur district. Widowed three years ago, her daughter married off, Phulbahari's life fell apart after two village women died a mysterious death recently and she was reportedly labelled a "Tonhi" (a woman with evil eyes). She became a stigma, was boycotted and "sentenced" to death.

A police officer at Gharsiwa, Jawahar Mishra, says: "Had we not intervened, the poor woman would have been buried alive on orders of the village community panchayat." Phulbahari showed the police the trench, which the villagers had dug for her. They arrested 35 peo-

ple, including a dozen village elders, who were reportedly present at the panchayat which pronounced the death penalty on her.

While the villagers now deny even holding a panchayat, calling it an "informal" community meeting, Phulbahari says she was abused and taunted as *Tonhi* at the gathering. "A few slapped and others pushed me, repeatedly coercing me to confess being a *Tonhi*," she recalls. "All my pleas went unheeded."

A village elder, Chet Ram, says Phulbahari drew the charges after she harboured another woman branded a *Tonhi*, a few days before one of the women of the village died mysteriously. The latter, Jigar Bai, was pregnant. Phulbahari identifies the *Tonhi* woman as Barbasa, who reportedly disappeared when villagers started investigating reasons for Jigar Bai's death. Later, another woman and a woman of four, Bhinda Bai, suddenly died.

A villager, Shyam Sunder, says both women were in good health, and defends the panchayat's decision to question Phulbahari.

NDN-11

Now, they have another reason to target her: her decision to go to the police. The villagers say she "got 35 people framed" and that all her charges — "harassment, abuses, slapping" — were "false". They claim they ended up paying Rs 50,000 to secure bail.

But Phulbahari is not the first victim. Seven months ago, three women — Gangotri, Lata Bai and Purnima Bai of village Bandri — were reportedly ostracised. "We were told to leave the village and no one would speak to us," recalls Gangotri. It was after a campaign by a Raipur-based newspaper, *DeshBandhu* that the village accepted them back last month.

SP Raipur R. C. Patel talks of another case, just a week ago, when they had to intervene at village Lakhera to save three women, who had been beaten up on the suspicion of being *Tonhis*. Forty people were arrested in this case.

Phulbahari now spends days in her hut, pleading innocence and reaching no one. "I can't prove I never practised *Tonhi*," she says. "This stigma will die with me."

# Agni-pariksha on woman in Indore; 6 arrested

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Press Trust of India  
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INDORE, July 7. — Six persons, including the husband of a woman who was subjected to *agni-pariksha* by placing a burning iron rod on her palms to prove her fidelity, were arrested here last night.

Mrs Sangeeta, belonging to Sakal Gihara (Kanjar) Samaj here, was forced to undergo the ingenious trial on Friday, ASP Mr GG Pandey said today.

The woman had wanted to visit the Vaishno Devi shrine but her husband always turned down the request, Samaj sources said.

She had a dispute with her husband over attending the marriage of a relative in Mumbai, following which Mrs Sangeeta, along with a friend, left for the shrine without informing anyone.

When she returned after 11 days, her husband refused her entry to the house, suspecting her fidelity. Mrs Sangeeta had to return to her parent's place in the city.

It was her parents and the in-laws who asked her to undergo a trial while a panchayat of the Samaj suggested the *agni-pariksha*.

The test was organised at a private residence in presence of Samaj members and other elders. The entire episode was filmed on a video camera. The cassettes were later seized by the police.

Even after proving her fidelity, however, Mrs Sangeeta's husband and in-laws refused to accept her.

The arrested persons told the police that the system of testing a woman's fidelity was prevalent in their society for years and cited examples of similar tests in neighbouring districts, Mr Pande said.

Resenting police action, the Samaj members are trying to organise a protest at Chhatripura police station where those arrested have been lodged. The chairperson of the state women's commission, Dr Savita Inamdar, condemned the incident, describing it as a "heinous act" reminiscing of the *Sati* era.

Cutting across party lines, many politicians, including Indore mayor and BJP MLA Mr Kailash Vijaywargiya and Congress MLAs, Mr Ashwin Joshi and Mr Ramlal Yadav, have condemned the incident.

THE STATESMAN

8 JUL 2002

# Law of the jungle

women  
sister  
Gang-rape as tribal justice 87

The gang-rape of an 18 year-old girl at the behest of a village jury in the Punjab province of Pakistan is an outrage to both the victim and society. The plight of the girl is unthinkable, it also violates all norms of human behaviour. The crime harshly underlines the fact that all forms of discrimination — sexual, caste, economic — still dominate our society. The incident may have happened in Pakistan but similar outrages take place in Indian villages too — Phoolan Devi and Sukhwari Devi were both gang-raped by upper caste men to teach them a lesson as they were rising above their perceived station.

The hapless Mukhtaf Mai was the perfect fodder for such barbaric male chauvinists. She was a woman, poor and low caste and therefore in their minds had absolutely no rights. Her crime was that she was born into the same family as a young boy who had allegedly had an affair with a woman from an upper caste family. The only way the panchayat felt the "crime" could be punished was to gang-rape the boy's sister. Mindless and utterly disgusting! There is no way that this vulgarity can be passed off as approved by law or religion. Even in the 21st century the honour of a man lies in the bodies of the women of his family. A woman has no rights, she is treated worse than chattel. And if she happens to be born of lower caste parents then she has no hope either. Even barbaric justice would stop at punishing the boy. Why his sister who was wholly innocent? Pakistan's Supreme Court was right to take *suo moto* notice, as the victim's family was too frightened to even go to the police. Apart from the four who indulged in the rape, all the members of the jury are equally to blame and should be given the harshest punishment possible — which by Pakistan's Islamic law is death. Apparently there are still some cases suitable for the death penalty.

# Pak victim begged for mercy before being gangraped

**Muzaffargarh (Pakistan), July 5 (Reuters):** A Pakistani woman said today she kept begging for mercy, but none from hundreds of people around her to a room and gangraped her on the order of a village jury.

The woman, Mukhtaran Mai, and her father said no one from the crowd dared to object to the verdict of the traditional jury, or panchayat, of village elders for fear of their lives.

"They kept dragging me towards the room," Mai said refer-

ring to the incident in a remote village in the central province of Punjab that has sparked a national outcry.

"My father, uncle and myself begged for mercy from them (jury) and the people sitting there but no one came to our help," she said at Muzaffargarh town near her Meerwala Jatoi village.

"They raped me for one hour and afterwards I was unable to move," Mai said. "After one hour, I called my father and uncle to take me home."

A close relative of Mai fainted as she spoke about the ordeal she suffered as a punishment for an alleged love affair her brother had with a girl of a high-class tribe.

"We begged for mercy in the name of God, but they held guns on us and thus we were helpless," Mai's father Ghulam Farid Gujjar said about the incident that happened on June 22, but was registered as a complaint by police only about a week later.

Police said today they had arrested one of the four alleged

rapists and were hunting for three others as the country's Supreme Court heard the provincial police chief saying he was unaware of the incident even a week after it had happened.

"It is unbelievable that the inspector general of police came to know about the facts of the case so late," chief justice Sheikh Riaz Ahmad remarked during a brief hearing in Lahore. The country's top court had summoned the provincial police chief and local police offi-

cial to explain the incident after newspapers reported that a crowd of villagers, too frightened to protest against the jury's ruling, watched four men take turns to rape Mai inside a farmhouse and force her to walk home naked.

The government, which has vowed to pursue the case, yesterday handed a cheque for 500,000 rupees (\$8,200) to Mai.

Local newspaper reports had said Mai was an 18-year-old, but Punjab police chief, Malik Asif Hayat, told the Supreme Court

she was actually a 30-year-old divorcee.

"I would have committed suicide if the government had not come to my help," Mai told women's development minister Attiya Inayatullah who gave her the cheque.

Inayatullah said the government was considering setting up a summary court to deliver quick punishment to those responsible for the gangrape.

Newspaper reports said today another young girl of the same area committed suicide a

few days ago after being raped. The authorities have confirmed the report.

A recent Human Rights Commission of Pakistan report for 2001 estimates a woman is raped every two hours in Pakistan, but says most sexual assaults go unreported because of the social stigma and the impossibility of proving the charges.

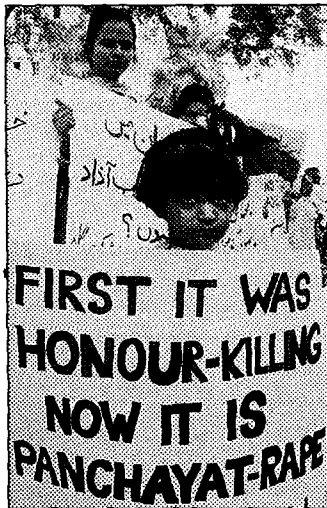
In Punjab, a woman is raped every six hours and a woman gangraped every fourth day, yet only 321 rape cases were reported to police last year, it said.

# Panchayat rape jolts Pak SC into action

Islamabad, July 4 (Reuters): Pakistan's Supreme Court expressed outrage today at reports that a traditional village jury in Punjab province ordered the gangrape of a teenage girl and summoned local officials to explain the affair.

The country's top court said local newspapers had reported that a crowd of villagers, too frightened to protest against the jury's ruling, had watched four men rape the girl inside a farmhouse and force her to walk home naked.

"This is a shocking incident in the 21st century concerning blatant violation of human rights as well as human dignity," the court said in a notice to the



A girl at an anti-rape rally in Karachi. (AP/PTI)

provincial police chief and other officials, whom it ordered to appear before it on Friday.

Local newspapers said the village jury, or panchayat, ordered the gangrape on June 22 as punishment for an alleged love affair between the girl's brother and a girl from a high-caste tribe.

The police registered a complaint eight days later, after a delegation of lawyers met the local police chief and pressed for action. Newspapers reported that

the girl's family at Meerwala Jatoli village had hesitated to approach the police for fear of further retribution by the influential Mastoi tribe against her weaker Gujjar tribe.

Hundreds of people watched the gangrape but "none dared to speak up against the injustice," the *Daily Times* newspaper reported. It quoted "some of them" as saying they had been threatened with death if they raised any objection.

The Supreme Court said it had asked the Punjab police chief and three other police officers to appear before it on Friday in Lahore to explain "the action taken by them in this case". Police said they had arrested all eight members of the panchayat, a traditional tribal forum for settling local disputes without going to police or a court, but were still hunting for four alleged rapists.

Azhar Abbas, the village police chief, said the panchayat members had been accused of "abetment", which carries the same punishment as rape — punishable with death under Pakistan's Islamic laws.

The Alliance for the Repeal of Discriminatory Laws, which brings together several local rights groups, called the incident an "outrage to society".

5 JUL 2002

THE TELEGRAPH

# Rape charge against Bihar Speaker

## Statesman News Service

PATNA, June 20. — A Dalit woman has accused Bihar Assembly Speaker Mr Sadanand Singh, his brother and several police officials of perpetrating "mass rape" on her and keeping her in "illegal confinement" for a month.

Ms Reena Devi, a resident of Rangra Chowk in Bhagalpur district, lodged a complaint yesterday with the Bhagalpur chief judicial magistrate, naming the Speaker, his brother Mr Vivekanand Singh, Kahalgaon DSP Mr Shatrughan Singh and officers-in-charge of Ghogha and Kahalgaon police stations. The case has been lodged under sections 307, 323, 324, 379, 376/34 of the IPC and the SC/ST Act 3 (10) (2).

Her petition says the O-Cs arrested her father Mr Jogi Dom following the kidnapping of Saragar, grand cousin of the Speaker, from Bhagalpur on 4 May.

Two days after the arrest, the petition says, the woman approached the police station to inquire about her father. But the Kahalgaon O-C put her in a lock-up and freed her father. While releasing him, the DSP told Mr Dom that his daughter was supposed to undergo interrogation. A few hours later, the DSP entered the lock-up, stripped her and allegedly raped her. She fell unconscious even as the two O-Cs later raped and assaulted her. The assault continued after she gained consciousness.

On a later date, the Speaker's brother, Mr Vivekanand Singh, visited the police station, and he too allegedly raped her. He, however, asked the police officials to ensure "proper medicine and food" to Reena so that "she stays pleasurable."

Reena was "repeatedly" raped by the men for 24 to 25 days. Meanwhile, the petition says, the

Speaker visited Kahalgaon on 5 June. He allegedly asked Mr Shatrughan Singh to produce the woman to him in a "presentable condition." On the Speaker's directive, says the petition, she was "bathed, perfumed and dressed in a good sari" and was taken to Mr Sadanand Singh, who "raped me in his room."

The police, in the meantime, came to know that Mr Dom had contacted an NGO working for women, Jago Bahan, and was planning to move court. The DSP then took Reena's thumb impression on six different papers and released her, but not before threatening that "your entire family will be eliminated if you or your father move court."

Mr Sadanand Singh termed the charge as a "blatant lie." He said from Bangalore he was "shocked at such baseless and fabricated charges". He said the allegations were "politically motivated".

## Four BSP legislators join RJD

### Statesman News Service

PATNA, June 20. — The BSP virtually lost its foothold in Bihar with four MLAs — including three who joined the Rabri Devi ministry on Tuesday — joining the RJD today. The BSP now has a lone MLA — Mr Suresh Pasi — in the state.

Apart from the three ministers who were sworn in a couple of days ago — Mr Mahabali Singh, Mr Chhedilal Ram and Mr Rajesh Singh — the other MLA to join Mr Laloo Prasad Yadav's party was Mr Zakir Khan. By engineering a vertical split in the five-member BSP legislature party, Mr Yadav has kept alive his reputation as a past master in the game.

The MLAs met the Assembly secretary and submitted a letter to the Speaker, seeking recognition as members of the RJD legislature party. They also requested that arrangements be made for their seats in the Treasury Bench.

**Eunuch elected:** An eunuch, Kali Hijra, today won the civic election in Patna, becoming the first such person to occupy a public office in the state. Kali contested from a ward reserved for women. Other contestants had raised questions whether an eunuch could contest from the such a seat. But the Patna High Court settled the matter in favour of the eunuch, adds PTI.

## AIDWA seeks Modi's dismissal

By Our Staff Reporter

*HO 11 25*  
*women*  
**BANGALORE, MAY 24.** The All-India Democratic Women's Association (AIDWA) has demanded dismissal of the Modi Government in Gujarat and imposition of President's rule in the State.

The general secretary of the association, Brinda Karat, told presspersons here on Friday that "the State-sponsored communal carnage has utterly subverted the process of law and justice in the State." The AIDWA was concerned over the "unprecedented sexual violence against women of the minority community". Two months after the tragedy, only three first information reports had been filed. Women's organisations wanted "national condemnation of the sexual violence" and the arrest of the guilty. Special courts had to be set up to try these cases.

Ms. Karat said in international jurisprudence, for trials of mass killings on ethnic lines, the rules of evidence had been reformulated. "We must

apply those norms here." Since many rape victims had been burnt to death, there had to be added emphasis on eyewitness statements.

The official toll was less than 1,000, including those who were killed in police firing. The Government has demanded DNA samples from women for identifying their missing husbands and fathers. Others were asked for "proof of death" which was "any available body part." How could the Government punish these traumatised women, she asked. Most widows and orphans were yet to get compensation. In cases of "recognised death", the amount was a maximum of Rs.1 lakh. Of this, only Rs. 40,000 was given in cash, and the rest was given as Government bonds for the Narmada Dam project.

Women's organisations wanted special rehabilitation packages for widows and women with missing male relatives. "We did try to meet the Prime Minister, but he did not have time," Ms. Karat said.

THE HINDU

2002

# The women in Gujarat's camps — II

By Vasudha Dhagamwar

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**L**IKE EVERYONE else I was struck by the fact that after seven weeks Gujarat was still burning, with no end in sight. Yet, even Parliament has not focussed on the need to restore normality; people were busy scoring points.

Most frightening was the polarisation, the hatred and aggression, even among the NGOs. During a public hearing at the Ahmedabad circuit house on May 11, there was a clear communal divide among the NGOs. They were even positioned on two sides of the conference table. The anger and hostility were also frightening. The pro-Hindu NGOs began with a challenge... What had we to say about the burning of the train on February 27? Had we visited any Hindu camps? A woman from a pro-Muslim NGO hotly contested that anything had happened to Hindus. A colleague of hers seemingly placated her saying, "no, no, they think that Hindus have also suffered". Needless to say that this remark was not designed to pour oil on troubled waters.

The Godhra train burning has truly rocked Gujarat. We were repeatedly asked why we had not spoken up on February 27, why we had ignored the plight of Kashmiri Pandits, even Bangladeshi Hindus or Hindus in Pakistan. This "we" was the Commission as well as the secularists. There was a strong resentment based on the perception that Hindus are denied protection of the law, that their grievances are ignored. The irony is that in New Delhi we have carried the implied but unspoken burden of being a group organised by a BJP-appointed NCW that would naturally be soft on the Government.

The question about why we had been silent when Hindus were attacked in Kashmir or elsewhere is not new. It has surfaced from time to time. On this point our track record is admittedly poor. It has not given credibility to secular thinkers. To be secular in India is seen by many as being equal to being anti-Hindu. We are losing touch with the ordinary

Hindu who does not belong to the Vishwa Hindu Parishad or the Bajrang Dal.

There is one more point. We have been saying and rightly that the train massacre does not justify the carnage, which has now turned into riots. At the same time there are innumerable letters and articles which try to explain why the train carriage was set on fire. Well might a mother-in-law say that her daughter-in-law invited punishment by her behaviour.

*The malaise in Gujarat is deep, very deep. It needs sensitivity, understanding and courage to cleanse it. Posturing is not going to do it.*

Another explanation that has surfaced for the quick conflagration is that the travellers were carrying kerosene stoves and canisters for cooking. Well might a mother-in-law say that her daughter-in-law was wearing a nylon sari.

Yet another question being posed now is whether the carnage was planned or unplanned. Is unplanned burning less heinous? What are the permanent anger levels that within minutes a mob can collect, stop a train, and set a carriage on fire? Is that a safe position for a community or a village? What is being done to deal with it?

Yet, people of the eminence of Swami Agnivesh and Nirmala Deshpande were the first to write to *The Pioneer* to say the train carriage had been burnt because the passengers had misbehaved with a tea vendor and his daughter. This story was further improved: she was kidnapped, and even raped in the few minutes that it took the train to reach the outer signal. Every such explanation leads to a counter-explanation. We must insist that nothing justifies and nothing explains mass murder, mayhem and looting. There is nothing such as a minority or a majority before the criminal law of the land, or before the Constitution.

The report has condemned the police for their role. It is a fact of politics that the police are the bonded servants of the politicians, especially of the Government. We had collected no direct evidence of the Government's complicity but we could perhaps have stated this inference. What we could have said with certainty was that no Government that could not control the riots in 72 days had any business to be in office. After all, the anti-Sikh riots were quelled in four

not wanting rights of inheritance. The Bhils may give in because of their economically weak position, but they resent it. I know it after working with Maharashtra Bhils on land issues for three years, when I lived with a Muslim family with a Bhil mother. This factor might have been exploited by the Hindus to make the Bhils join in the looting.

Normally the Adivasis keep well away from us. If they do not, they pay a very heavy price for it. If the story about the Hindus forcing the Bhils to loot is true, we must ask ourselves, what in God's name was the hold the Hindus had over the Bhils? If they could be so driven by other exploiters, it speaks of either a terrible grievance, or a terrible slavery. Possibly, when they got a chance to retaliate against at least one community they took it. Whatever the truth, it has to be brought out in the open and has to be addressed. There is no point in simply insisting that the Bhils were forced to loot and destroy; they are no one's fools.

But over the years we have not been willing to ask questions about the reasons behind any riot or crime by the Adivasis, if it is against a minority. Nellie is a case in point. So is the more recent awful triple murder of the Staines family. One almost prays that they will go on rampage against Hindus so that we will at least ask the much-needed questions, and will have the courage to apply the findings.

The British High Commission and a few others have "found" that the Gujarat carnage was planned four to six months earlier. If this can really be discovered so easily by outsiders, then what in heaven's name were the State and Central intelligence agencies doing? Where do these accusers locate the train disaster? Or the responsibility for it? The malaise in Gujarat is deep, very deep. It needs sensitivity, understanding and courage to cleanse it. Posturing is not going to do it.

(Concluded.)

THE HINDU

23 MAY 2002



# The women in Gujarat's camps — I

By Vasudha Dhagamwar

**A**ROUND THE first week of April, the Chairperson of the National Commission for Women, Poornima Advani, asked me to join her fact-finding committee to Gujarat. Initially, I had some hesitation about joining the committee. But the NCW is a statutory body, and if no NGO had accompanied the fact-finding team we would have been the first to criticise it on that very count. I found that the team consisted of Dr. Advani, Nafeesa Hussain, member, Reba Nayyar, member-secretary, two Supreme Court lawyers, Pinky Anand and Anees Ahmed, one retired Inspector-General of Police, Ramamohan, Pam Rajput, an academic activist, and myself.

The visit was from April 10 to 12. As a fact-finding visit, it was not long enough but some of the members could not have managed to spare more time. We had also decided that the Chief Minister, Narendra Modi, was not our direct concern.

Even before I was on the Committee, I had met Elaben Bhat in Delhi. She said that SEWA was busy taking work to women in the camps, as she had done after the earthquake. In Ms. Bhat's experience women always asked for work to keep the family and themselves going. Work brought them money and also took their minds of the horror of their situation. During our visit we met NGOs and women citizens, the latter were mostly Hindus. We visited several camps in Himmat Nagar (Sabarkantha district), Ahmedabad, Godhra and Kalol (Panchmahal district), and Vadodara, mostly Muslim and some Hindu. We also visited the burnt train carriage.

Our strategy was to speak with women to the exclusion of men. The subject of rape was very much on our minds. But while the women said there had been many cases of gang rape and violence they also said that the raped women had also been killed. The sister-in-law of one

woman brought her forward in the Godhra camp and said she had been raped. The woman immediately denied it. I have to say that only three women admitted to having been raped.)

It is possible that as an official delegation we might not win the trust and confidence of the women... But there is also the social reality. An Indian, a subcontinental or perhaps even an Asian woman who admits to

*The perennially helpless condition of women, ever dependent on their men, was exacerbated several times over.*

being raped stands the very real chance of being abandoned for the rest of her life. That every woman who had been raped was also killed seemed a little difficult to accept. That is not to say that I believe there were few rapes. One criticism was that the report did not tell exactly what happened to the women. Several visits by NGO groups and print journalists, and by electronic media and do we still need more graphic stories? What about the women who were not anxious to share those experiences?

The women recounted everything else but rape. They mentioned the assaults and the murders and the mayhem. They told us how they had run away and had hidden in the shrubs or jungle or fields — and even in a well — for hours or even days before finding their way to a camp or a relative who brought them there. They said they did not know where their men were when they ran or came to the camp... Some of them still did not know where their men were... Altogether, the perennially helpless condition of women, ever dependent on their men, was exacerbated several times over. The men were as helpless as them.

(Not only the Muslim but even

Hindu women (I was told by team members), spoke about their extreme fear of the State police; especially of the State Reserve Police (SRP). The report remarks that the police credibility was very low. In any riot situation, the SRP is uniformly found playing a devilish role. One has seen Bhils, Santhals and Dalits complaining in other States that the SRP had helped the landowners.

What did the women wish to do

after peace was restored? The camps were clearly a short-term option. Many had no homes left to which to return. The women whose men had died or were still missing were even more unsure. Some women expressed a willingness to go back to their homes if they had protection from the Army or the Central Reserve Police Force (CRPF).

Notably this answer came from the Kalol camp inmates. Many of the inmates were farmers. They said they had returned with police protection to harvest whatever remained of the crops.

As Kalol is in a tribal district we asked them who the culprits were; one of the men said with black humour, "good caste people, that is why they did such good work".

Although we spoke with women on their own, it cannot be said that the women were speaking their own minds. I got the feeling that with regard to the decision on going back home, the women were following whatever line their men decided.

Farmers and businessmen had a stake in their villages; they would go back. The women from landless agricultural families did not wish it. Landless labourers are often more mobile or less attached to a place,

especially if they do not even own their homes. The authorities as well as the activists seem to be taking the camps for granted. No thought seemed to be given to the future.

How long could anyone stay in the camps? The temperature was already 43 degrees. In the next few weeks it would soar to 47 or 48 degrees. There were babies, infants and newborns under the canvas. There were pregnant mothers, the old, and the ailing. Water, sanitation and privacy were in short supply. There was no privacy during waking or sleeping hours, to feed the baby or change one's clothes. The situation was mired in pathos and humiliation.

Even in the camps the women and men did not feel secure. Well away from the Kalol camp we heard some commotion. Immediately a wave of fear ran over the camp. While we had police escorts the camps were defenceless. They needed protection given by the CRPF or the Army.

No one seemed to have asked questions related to rehabilitation. What efforts were being made to make their homes and localities safe? Or to determine, in consultation with them, where the women without men folk or children without parents would go? The problem of widows and orphans cannot be solved except on a case-to-case basis.

But the problem of families needing to return home has to be dealt with, not by peace marches, but by going to the village, slum, suburb and town and making vigorous and sustained efforts in two directions: one, to impress the will of the law with the Army and the CRPF and criminal prosecutions; two, by talking with the communities who have, after all, lived side by side for generations. Peace marches may do good to politicians; they serve no purpose for the people.

On one point everyone was in agreement. The old man from Porbandar had courage beyond our capabilities.

THE HINDU

7 7 MAY 2002

# PM refuses to meet women's group

By Our Special Correspondent

**NEW DELHI, MAY 14.** The Prime Minister, Atal Behari Vajpayee, today turned down a meeting with women's groups, who wanted to discuss the situation of women who have suffered in the Gujarat violence.

The Prime Minister's office had given an appointment at one p.m. today to the group of 14 organisations, including the All India democratic Women's Association, the YWCA of India, and the Muslim Women's Forum.

The meeting was cancelled after the PMO ascertained what specifically the organisations wanted to discuss.

Brinda Karat of AIDWA said: "when we called to confirm the appointment, they asked us what we wanted to discuss with the Prime Minister. We told them we had some specific demands.

"They called us back a few minutes later to say that the meeting was off." The Prime Minister, they were told, had called an emergency meeting. Their request for a later meeting was brushed aside.

A memorandum that the 14 organisations had hoped to give the Prime Minister said that it was "essential for the nation to

recognise that the violence including sexual violence against women in Gujarat is unprecedented in its scale and savagery."

It said that although there was enough compelling evidence of rape and sexual violence, only three FIRs had been filed in all of Gujarat on the charge of rape.

And those named in the FIRs had not been arrested.

The memorandum demanded that police file FIRs in all cases of rape and arrest those named as perpetrators. And, that the Government set up special courts specifically for cases of violence against women, "with specific reference to rules of evidence as medical examinations were not possible and in many cases women were burnt and killed".

It drew attention to the plight of women widowed in the carnage, most of whom had received no compensation.

It said that thousands of women had been "rendered heads of families due to the killings of male members and have to assume responsibility for the surviving members and children.

"For these women proper rehabilitation is the right to life itself."

THE HINDU

15 MAY 2002

**P**OLITICAL science and feminism have a lot to learn from each other. Feminism has encouraged political science to pay greater and more careful attention to more than half of the world's population who are women and it can also contribute to a fuller understanding both of individual political systems and of politics itself. On the other hand, feminists can learn from political science about the importance, for women, of public politics and the state, and ways in which women and feminists can more effectively influence policy-making.

Up to the 1960s, at least, and the resurgence of feminism, political science had very little to say about women. One obvious reason being that the profession of political science was, as it still is, overwhelmingly male-dominated, whether the criterion is numbers, positions in the hierarchy or output.

When political scientists would discuss women, as feminist critics have pointed out, their interpretation was often sexist. Sexism in political science, as in other social sciences, has mainly taken the following forms: first, omission of women as subject matter, although they may be submitted under such generalities as "humanity", "mankind" or "man"; second, discussion of women, when they are mentioned, in terms of their significance for men rather than in their own right; and, finally, the assumption that the male and female nature differ and that the male nature is superior, or at least "normal".

A survey question may prompt a

sexist reply, as in the notorious 1936 Gallup Poll question: "Would you vote for a woman for President if she was qualified in every other respect?" Or let us consider the following saying: "Politics is portrayed as a male-only world, by the use of the male gender, the pictures chosen and the limited and stereotyped choices of answers provided."

Indeed, there is a need for female involvement in conventional politics, as well as campaigns of protest. For ages, public policies have subordinated women's interests to those of men and the state, so long as feminists were unable to modify them. However, the latter have shown more endeavour through coordinated action to influence public policy.

It is not enough for more women to acquire political office since, as we have seen, female politicians are not necessarily feminist. For instance, the fact that Indira Gandhi became Prime Minister of India did not improve the position of women in the long run. The same is true of Pakistan and the election of Benazir Bhutto as that country's Prime Minister. Not that legislation, judicial decisions and administrative measures can on their own improve women's status. On the contrary, constant feminist

# Women and Politics

gender

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pressure and vigilance is needed to ensure their effective implementation. Moreover, public politics is a tool, however imperfect, for modifying relationships within society, and feminists cannot afford to ignore it. Political science can help them put that tool to the best use.

Politics is recognised to be social; it has little meaning for the solitary inhabitant of a desert island. It has been seen as the process by which members of a community — in the sense of a relatively self-sufficient group of people — decide on matters deemed to be of common, or public concern. This public political sphere has been contrasted with a private realm, in which and about which, by definition, there is no politics. Most crucially for feminism, this private sphere centres upon family life which still defines and limits women's wider social role.

In fact, 19th-century feminists and many contemporary feminists have not really questioned the prevailing notion of politics. It is the radical feminists who have recognised it as an important issue

for feminism and stimulated new thinking about it within the wider women's movement.

First, radical feminism rejects the definition of politics as an activity. The pioneer, in this respect, was Kate Millett. In *Sexual Politics*, she refers to politics as "power-structured relationships, arrangements whereby one group of persons is controlled by another". (Millett, 1972.)

Radical feminists have attacked the notion of a distinctive political arena, and the public-private split that goes with it. Accordingly, they spoke not only of "political politics" but also of "sexual politics", "the politics of housework" and so on, challenging the orthodox assignment of these issues to the realm of private choice.

Influenced by radical feminists, many women political scientists have elaborated this critique of the public-private divide, condemning it on both ideological and factual grounds. JB Elshtain, for instance, traces the way in which it has been used in successive eras to legitimise women's exclusion from public politics. Thus Aristotle upheld the public political sphere as that in which the highest good was or should be realised. Since he believed that women, along with

slaves and children, possessed only limited capacity for good reason, he concluded that they were unfit to participate in politics.

Much later, political thinkers came to contrast the immorality of the public political sphere with the purity of the private. But again, they insisted that this domestic haven of morality could only be preserved if women were protected from the corrupting world of public politics. Whether politics was viewed as moral or as immoral, an argument was always at hand to support women's confinement to a private world that kept them from it.

Indeed, feminism has shed new light on the relationship between women and politics both by pointing to the structural features of political life which have to exclude women from positions of power, and by recovering from oblivion a hidden history of women's involvement in political action.

Most important, feminism has helped us see that politics and policies have always, directly or indirectly, affected women's life options through, for instance, prohibitions on birth control, confirmation of fathers' and husbands' authority, or the absence of effective protection or redress for women against rape.

*(The author is a postgraduate in Gender Studies from the London School of Economics and has worked in the field for international organisations in Paris and Singapore.)*

women  
19-10

## DO NOT MARRY HER OFF

26/9

CHILD MARRIAGE IS a shocking reality in an India which purports to call itself a modern, progressive nation. Every year, perhaps every day, children are marched to a "mandap" and forced into a relationship they have only the faintest of ideas about and are the least ready for. In Rajasthan, for instance, even infants — sometimes in the arms of their mothers — are wedded. The other day, 3,000 very young girls and boys tied the knot in Chhattisgarh in a tradition that is old and in a ritual that has become an annual atrocity. Obviously, the custom or practice is cruel. To push two physiologically and emotionally ill-prepared individuals into matrimony is a compassionless way of looking at relationships. Marriage even at the best of times and between the most compatible is fraught with obstacles: one reason for this is the complexity of man-woman intimacy in which each has a set of expectations different from that of the other.

Encouraging, if one may use this word, this societal trend is the Act which restrains child marriage. This law does not talk about the status of the union; it does not actually annul it. Instead, it seeks to punish those guilty of promoting it. An argument against abrogating such a tie between two underaged individuals is that thousands of such "contracts" may then become meaningless. In India, many still get wedded before the recommended age of 18 for women and 21 for men, and Hindus are under no compulsion to have the union registered. Muslims and Christians usually do have documentary evidence to support wedlock, and although temples now record marriages, hundreds of Hindu couples formalise the bond elsewhere, even at homes, without a piece of paper. Marriage, per se, may not harm a little girl, but the brunt of mother-

hood undoubtedly tells upon her health. In Chhattisgarh, it is reported that women hardly ever cross 40. And, the emotional scar that child-rearing leaves on a child-mother could be painful.

Admittedly, there are no easy solutions for a malaise that has crept into Indian communities. But it would be prudent to examine the causes that force parents or other relatives of a little one to marry her off. Historically, a girl has been seen as a liability, and the sooner it is shifted to the shoulders of another man, the better it could be for her father. Education and empowerment of women have been suggested as remedies, but in a largely male dominated country like India, the fairer (and biologically stronger) sex finds terrible impediments on the road to a freer existence. It is a fact that many more boys are educated in schools and colleges than are girls. What is, however, more regrettable than this is the tendency to undervalue, even negate, a woman's role. Her onerous duties — which include looking after her siblings, her children and the aged — are given little importance, with the result that her very worth outside the four walls of her house tends to be questioned. Equality among the sexes is an imperative need, but this calls for radical thinking and approach, and "real" education can help fight beliefs that prop up an institution like child marriage. But, for starters, the Government can think of making it mandatory for every wedding to be registered. Some States have already shown the way here. Maybe, a post-office — which is normally found even in remote regions and the postmaster or the postmen who know most people in their jurisdiction — can act as a centre for recording marriages, a process that might just about scare away those seeking to palm off their babies.

THE HINDU

# Behind every woman... lies history

By Devaki Jain

Using a well-worn axiom, namely that 'behind every woman lies... (unstated)... a man', Supriya Roy Chowdhury has argued (*The Hindu*, 21 April, 2002) that the effort to 'empower women' by reserving seats for them in local self-government, has not only been a farce, but it has distracted from developing a more genuine voice of women, for removing the age-old discrimination.

To quote "many of the emerging features of women's role in panchayats indicate that first, reservation, in itself, is insufficient as an instrument of empowerment. Second, reservation in fact may turn out to be a handicap insofar as an obvious insignia of empowerment detracts attention from deeper, structural sources of powerlessness and the need to address these through movemental struggles rather than through institutionalised power" . . .

She questions the elected women's "capacity to effectively represent the general interests of the community, and second, more specifically, their capacity to conceptualise and effectively represent the interests of women in the community. . ."

She notices, "There appeared to be a hiatus between the projects that the women seemed to uniformly want to implement in their villages, and the absence of a vision of overall economic betterment, which would provide, above all, employment and higher wages . . ." and goes on to say, "More importantly, perhaps, their political placement in these institutions in relationships of dependence to locally powerful persons prevents them from evolving a broader political agenda to push for the interests of the poor in the community. Effectively, the women remain tied to the project / grant discourse which reinforces the power of the local strongman."

"In such a context, participation in institutionalised forms of power, through mechanisms of state-sponsored affirmative action, has only limited possibilities of addressing larger issues of justice and equality."

She builds her argument from her interviews / interaction with elected women in Karnataka, who informed her that they were stimulated, guided or ordered to stand for elections by their husbands; that they did not see women as their constituency, as those whom they represented, that they perceived themselves as representing the

area or perhaps their class, caste or political party. Further, that many of them belonged to the contractor or landlord class.

Thus apart from being male and elite-driven, her investigations showed that women are not representing women. Some labouring women she interviewed said they had not really heard about anything called panchayat, but one said that they were happy that some drinking water arrangement had been made for them — and she believed by the panchayat.

Her critical analysis, she suggests is (I quote), "necessary in the context of the present euphoria over women's role in panchayats".

Taking the first finding of Ms. Chowdhury, namely that women were there because of their men. The seats reserved for women, have been "taken" from men, — a reallocation of an occupied seat. In the first instance, it is quite natural that the dislodged man would put his women — be it wife, daughter or daughter-in-law — as a

## OPINION

"proxy". But what is missing from Ms. Chowdhury's commentary is the fact that in many constituencies, areas, especially in the second round of elections, women have gained more than 33 1/3 per cent of the seats reserved. In Karnataka, in successive elections, it went up to above 40 per cent. So also in Kerala, Himachal Pradesh etc.

In those areas where women fought in non-reserved seats, they have come out on top because of their own political drive and show it too. A pilot study with 60 women G.P. members (Stephen 2001), who had undergone a three-phased training, revealed that one-third were still functioning as proxy candidates, one-third did not face any constraints at home but found it difficult to overcome gender-subordination within the gram panchayat and about one-third were functioning effectively and have gained some power within the family.

Secondly, in many parts of Karnataka for example, women who belong to the Mahila Samakhyas Sanghas fought electoral battles not because their men told them to, but because they could see this as a natural next step to the evolution of what could be called a consciousness of themselves as citizens, as persons with some special voice, issues on which they required power to re-

dress their subordination. Here and in some areas where there have been strong women-led community-based organization, or women support centers, women are their own agents. In some constituencies, resolutions have been passed removing a woman sarpanch, after manipulating non-attendance. In as many places, local women's campaigns have had them re-instated. Thus important battles are being fought in local areas between women and men, and the historically male-dominated political arenas, restructuring gender relations which would not have been possible without the Amendment and the reservation.

Here are interesting findings from conversations with groups of political Elected Women Representatives (EWRs). First, it was women as different in their opinion from their men, in Karnataka as far back as in 1987 when Karnataka introduced reservation of seats for women in local self-government (prior to the Constitutional amendment) who objected to the clause in the Bill — (which has now been unfortunately passed) that elections to Gram Sabhas are to be held on a non-party basis. Their explanation was that it is through party membership and party participation that they could rise in the political sphere. This mature political sense shook the women NGOs.

In consultations, in several States, "EWRs" have said they see themselves as representatives of the area. "We are interested in all the issues and development initiatives." Why, we asked. Again, if they associate themselves only with one social category, they feel they cannot gain the area support which is what they need when it comes to fighting elections.

Thus women at the grassroots are getting politicised. As they understand and deal with hard politics, they also push for its transformation to accommodate their own location and needs. This political astuteness has to be recognised, rather than demeaned.

Behind every woman who attempts to claim power lies a history — a complex experience of exclusion, requiring deep understanding of her attempts to emerge from the underground. It may look like scratches, on the surface; but the one million women released through the reservation of seats in local self-government, will crack open that chink in the contemporary political armour.

## 11-10 Massacre of Innocents

"My daughter was like a flower, still to experience life. Why did they have to do this to her? What kind of men are these? The monsters tore my beloved daughter to pieces": this is the testimony of Medina Mustafa Ismail Sheikh in Kalol camp in Gujarat to a women's fact-finding panel on the rape of her child. A mother carrying her three-month-old baby was attacked, another raped in front of her infant son, many violated and murdered before the eyes of their families. There is no longer any room for doubt; the recent pogrom in Gujarat was by all accounts unprecedented in its savagery towards women and small children. The deliberate and viciously planned strategy began with rumours, floated by vested interests, about attacks on Hindu women after Godhra. Independent investigators, and indeed the police, found no substance in these rumours, but by then the message from sectarian, communal organisations had gone out loud and clear: Don't spare women and children this time around. And the mobs spared no one. Their handiwork is recorded in chilling detail in the women's panel report. The women's testimonies are perhaps the most devastating and damning accounts of brutality in any riot in independent India. Significantly, a visit to these camps by the National Commission for Women — nearly two months on — has yielded an apology of a report; apart from an inexplicable dismissal of the earlier independent report as an exaggeration.

However, the inaction of the police and the administration speaks for itself. Few FIRs have been filed despite many victims actually naming the culprits. Then there was the cumbersome legal procedure. Normally, a medical examination is required within 24 hours to ascertain rape. But in these extraordinary times, when women victims could not seek aid, such examinations became impossible. The testimonies of those affected have to be taken as the basis for initiating legal action against the accused. But this is jumping the gun. Many of the women in the camps, some of them barely teenagers, are too traumatised to recount the horrors they have suffered. They urgently need counselling and medical attention, and above all, assurance of protection from their attackers. Yet, in much of the reporting of these riots, women have remained largely invisible. The same indifference shown to them by the NCW is shared by both the Central and state governments. The minister of state for family welfare actually went on record as saying that such incidents happen in all riots, overlooking the magnitude of the atrocities that women in Gujarat suffered. She blithely spoke of the money she had sanctioned for the camps, as if to suggest that the government had done all it could. Ironically, in the initial days of the riots, some sections of the press refrained from reporting the true extent of the violence against women. Their reasoning — it would amount to provocation and sensationalism. So it would seem that Gujarat's women are condemned to silence while their attackers walk free. The sangh parivar and its affiliates have always been long on rhetoric on the glorious role that women play both within the family and society. Surely, they cannot justify, in the name of the civilisational values they claim to represent, the violation of innocent women and girls.

# 3,000 child marriages in Chhatisgarh

By Aarti Dhar

RAIPUR, APRIL 23. In keeping with the age-old tradition, over 3,000 child marriages are reported to have been performed in 1,021 villages of Baiga and Marrar tribe-dominated Kawardha district of Chhatisgarh on 'Ramnavami' last Sunday. One hundred and twenty-seven child marriages were reported from six villages on that day.

The Collector, K.S. Kehari, said he had no information but the matter would be looked into. According to him, reports of some child marriages came to him on March 24 following which he had asked the gram panchayats and zilla panchayats to ensure that no such marriage was conducted as it was against the law and even violation of the rights of the child. He said pamphlets had been distributed among the villages as part of an awareness campaign.

The huge number of child marriages was brought to light by a human rights organisation, Forum for Fact-finding Documentation and Advocacy (FFDA) that visited six villages on Sunday, while they were being solemnised. The children were in the age group of 4 to 13 and many did not even know the name of their spouses or what exactly was meant by marriage. Since the literacy rate among men is just 30 per cent and women and children largely are unlettered, distribution of pamphlets would not have served the purpose anyway.

According to Subhash Chandra Mohapatra, project execu-



A child bride being readied for the wedding in a village in Kawardha in Chhatisgarh.

tive of FFDA, the forum conducted a survey of villages in Kawardha district between March 7 and April 22. On March 17 and 18 five villages — Bhaisadbara, Chhindad, Kamthi, Taliapani and Bodoura — saw 67 child marriages take place.

The highest number was reported in Pandaria block, where 127 child marriages were solemnised in 287 villages.

"Going by an average of 20 marriages a village, the number goes up to about 5,000 in the entire district. We have claimed only 3,000 such marriages," Mr. Mohapatra said.

In a taperecorded statement, the Collector said that he had no information about the marriages. However, the

villagers had a different story to tell.

They alleged that the sarpanches had sent prior information to the Collector about the marriages but no action was taken.

Mr. Mohapatra said that child marriages had played havoc with the women's mortality rate in these villages. Women hardly survived until the age of 40.

The members of the fact-finding team could spot very few women aged more than 40.

"The girls are sent to their in-laws' house as soon as they attain puberty, following which they conceive at the age of 12 or 13. The child mortality rate is high and women often die of various diseases."

# Women's empowerment & fertility control

By Mrutyunjay Sarangi

**T**HE RECENT observation by Alaka M. Basu, a sociologist and demographer of the Harvard Centre for Population and Development Studies, that consumerism and not women's empowerment, is the prime mover of fertility decline in India, opens up an interesting perspective in population studies. Since fertility decline and population control cannot be explained by a single factor, research on fertility control invariably looks for a wide range of explanations at the macro and micro levels.

However, a relatively recent area of interest in explanations of fertility decline is the crucial aspect of women's empowerment and its impact on reproductive decisions. It is in this context that Dr. Basu's observation about the marginalised role of women's empowerment in fertility decline assumes significance. Although it will not be proper to say that this point of view debunks the leading slogan of the 1994 World Population Conference in Cairo to "empower women" to take control of their reproductive life, it certainly offers an entirely new perspective on efforts at population control in developing countries.

Since such views have now been endorsed by no less an organisation than the United Nations Population Division, a bit of introspection on women's empowerment and its effect on fertility decline is called for.

What exactly is women's empowerment and how does it affect fertility behaviour? The most common explanation of women's empowerment, as found in sociological literature, is "the ability to exercise full control over one's action". In the context of fertility, empowerment will mean, "the ability to decide whether to produce a child, when to do so and at what intervals". A corollary to this is, "the freedom to use the appropriate means of birth control if a decision is taken not to produce a child".

The question, therefore is, do women in India, particularly rural India, where child birth is more frequent, (as per the National Family Health Survey - II, the Total Fertility Ratio (TFR) is

3.07 in rural India compared to 2.27 in urban areas), control their reproductive life by deciding when to have a child, at what intervals, and do they carry out such decisions by adopting family planning methods? The use of contraceptives by women in the reproductive age group has increased all over India from 41 per cent in 1993 to 48 per cent in 1998. Whether this increase can be attributed to women's empowerment and their consequent participation in reproductive decisions is a pertinent question.

*In the Indian context, it is premature to devalue the impact of women's empowerment on fertility control.*

If one goes a little deeper into the question of women's participation in reproductive decisions, a number of factors come to the fore. For example, is the decision by a woman to determine the timing of child-bearing, intervals between childbirth and use of contraceptives independent of influence by her husband or other members of the family? Or is it the product of a joint decision, mostly with the husband, and sometimes with other family members? Can a woman use contraceptives such as pills to delay or prevent pregnancy without her husband's consent or knowledge? Do women in rural India wield independent power to that extent?

An empowerment-driven participation in decisions on child-bearing by women necessarily assumes a fair degree of autonomy and independence in other decision-making activities in the household. From simple decisions such as what to cook daily to complex decisions such as choosing a career for children, there is a large canvas where women exercise their role as partners in decision-making. The frequency, intensity and effectiveness of such participation often involves the crucial aspect of a woman's status and position in the family vis-a-vis the husband and other members.

Most research on the empower-

ment explanation of fertility behaviour assumes that a greater degree of autonomy in important decisions in the family may lead to a higher degree of influence in fertility decisions. I conducted a quantitative and qualitative study on this aspect in 1996 in ten villages of Dindigul district (in Tamil Nadu). Analysis of the quantitative data offered a limited evidence of the impact of women's empowerment on fertility behaviour. This was due to the absence of sufficient degree of variance in the data in the degree of empo-

werment and in fertility behaviour. Second, the overpowering effect of the success of family planning programmes in Tamil Nadu explained most of the variance.

However, during my focus group discussions with over 120 men and women in 12 groups, I came across an astonishing array of emphatic responses on the degree of empowerment of women and their decisive role in fertility control. First, although there was a varied response on women's autonomy in economic decisions and freedom of mobility, there was universal acceptance, both from men and women, that the wife has the prerogative to decide how many children to have and when to stop child-bearing. A 34-year-old woman noon meal worker educated up to the 8th standard said, "we wish to have two children, but the husband might want three children. Since we are the ones who suffer we decide to stop with two." A 69-year-old man, educated up to only the 2nd standard, and a farmer by profession, said, "during the delivery of our second child my wife asked the nurse for getting a family planning operation done. The nurse asked for my consent. I told her that as my wife had decided it was okay. It was her decision."

Second, there was not a single instance where the mother-in-law or

any other relative influenced the decision on the number of children. Third, the initiative was entirely left to the women. They took most decisions on the use of contraceptives and the timing of such use.

India has had an impressive record in fertility decline in the last few years. States such as Himachal Pradesh and Punjab have made remarkable strides in fertility control in the intervening years between the first and the second NFHS. It is perhaps not a mere coincidence that as per the second NFHS report, these two States have also recorded the highest degree of autonomy among women in terms of decision-making in households and access to resources. Himachal Pradesh, Kerala and Goa also report the lowest degree of domestic violence. However, there is still a wide gap in explanation for population control in some of the other States, which have registered fertility decline in the last few years but have not shown proportionate success in the implementation of family planning programmes, or in achieving social or economic development, or in improving women's status with a view to empowering them to take reproductive decisions.

Viewed in this perspective, Dr. Basu's observation that consumerism is a reasonable explanation of fertility decline certainly merits a deep analysis. India still has wide pockets of deep ignorance, illiteracy and obscurantism where women's status is abysmally low and their participation in decision-making is marginal. In such pockets, consumerism may act as a motivation, but it still needs a process to translate motivation into practice. Fertility control is a product of a conscious decision, reflecting a rational choice. Empowerment is the key to such rational choice. In the Indian context, it is premature to devalue the impact of women's empowerment on fertility control. To deny this role will rob the women's empowerment movement of a very powerful motivator.

*(The writer is a civil servant working in Chennai. The views expressed are his own and do not represent the views of the Government of Tamil Nadu.)*



# Pakistani women face increasing violence

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Associated Press

LAMABAD, April 17. — The Pakistani government is failing to protect its female citizens from an increasing incidence of crimes including rape, acid attacks, burning and killing, an international human rights group said today.

Violence at home, in police custody and in society at large is widespread in Pakistan, London-based Amnesty International said in its fifth report on women's rights in the country.

The report said that though the government of President Pervez Musharraf has made numerous pledges to protect women's rights, the statements have had limited impact and little has changed in recent years. Pakistan's minister for human rights, Mr Khalid Ranjha, said, "Our problem is there is a conflict between our laws and people's attitudes."

Amnesty said the so-called honour killings of women continue to be reported daily, while women are never convicted of the crime. Such killings are carried out by men who assume that their wives, daughters or sisters

have in some way contravened rules relating to the behaviour of women which damage a man's or his family's "honour".

In March last year, a 60-year-old widow, Hidayat Khatoon, was killed along with 55-year-old Baksh Ali by her son in Chandan village, district Sukkur for allegedly having an affair.

In November, 2000, Mohammed Umar Magsi killed his 11-year old daughter because he suspected her of having an affair. When his wife and younger daughter intervened, he killed them as well.

In a January 2001 case, a woman, her three daughters and two sons all were hacked to death by the woman's husband because he suspected her of adultery.

There is also an emerging trend of "fake honour killings," in which men accuse their wives of dishonourable behaviour to extort money from wealthy men. In such cases, the woman is usually killed, while the man accused of misconduct is required to pay off the husband and be pardoned, Amnesty said.

The government has also done little to restrict the sale of acid or to punish those who use

it to injure women, Amnesty said. While acid burns rarely kill, they result in serious disfigurement and suffering, frequently confining women to their homes.

"Few women make official complaints, and those that do are often dismissed and sent back to their abusive husbands," the group said, adding "the law is not being applied equally and verdicts often reflect the gender bias of individual judges".

Despite promises of reform, Amnesty said police continue to intimidate, torture, harass and humiliate women in custody to extract money and information. Rape is also widespread, it said.

While slavery is illegal in Pakistan, girls and women are still traded to settle debts and conflicts, the group said. In some parts of the country, they are openly sold in markets, it said.

Pakistan is also a source and transit country for the trafficking of women for domestic work, forced marriage and prostitution, organised by crime networks that span South Asia.

The forced marriage of young girls also continues to be reported here, despite a legal minimum age of 16.

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THE STATESMAN

# PM push for women's Bill

HT Correspondent  
New Delhi, March 8

THE PRIME Minister today told the Lok Sabha that the Government is ready to reconsider the Election Commission's suggestion on parties allocating 33 per cent tickets to women.

Vajpayee said he would convene an all-party meeting to build consensus on the women's reservation Bill.

His assurance came after a strong demand made by women

MPs, across party lines, that the long-awaited Bill be passed by the House during the current session by consensus.

Vajpayee said certain parties had opposed the Bill in its present form, though the Government was keen on giving women more representation in the Parliament and the Assemblies. "We are ready to pursue the Bill after a consensus is developed," he said, responding to the issue raised during Zero Hour on International Women's Day.

Vajpayee said all parties should consider the proposal mooted by former Chief Election Commissioner M S Gill that 33 per cent tickets be reserved for women during polls. He said the Government is ready to get the bill passed if all parties agreed.

Trinamool Congress leader Mamata Banerjee said the reservation Bill has been hanging fire for a long time. "Whatever the formula, please do it as soon as possible," she appealed to the Government.

THE HINDUSTAN TIMES

# Tihar was 100 times better than what I expected, says Arundhati

Times News Network

NEW DELHI: "It was 100 times better than I expected it to be. It was an incredible experience," Booker Prize winner Arundhati Roy said on Thursday afternoon about her day in Tihar jail. The supreme court's verdict had gone against her in a contempt of court case.

About her decision to pay Rs 2,000 as fine (not paying the fine would have got her another three months in prison), Roy said, "I didn't want to become a martyr to the cause that is not mine alone". She said that she "wasn't there to be a voyeur".

She said in her two-and-half page statement to the press: "I spent a night in prison trying to decide whether to pay the fine or serve out a three-month sentence instead. Paying the fine does not in any way mean that I have apologised or accepted the judgment. I decided that paying the fine was the correct thing to do because I have made the point I was trying to make."

Aware about conditions in the country's jails, Roy said, "While we criticise, we must give praise...it was



Award winning author Arundhati Roy is kissed by supporters after her release from Tihar jail in New Delhi on Thursday.

a hundred times better than what I expected it to be...it was clean...food was alright...jail was well-maintained. Of course, we were all packed in like sardines, it was hard, but people who run Tihar deserve a zindabad".

Roy, however, continued to be critical of the judiciary. "I'm not trying to trash the institution, but trying to have a conversation," she said. "I wish to reiterate that I believe that the supreme court of India is an extremely important institution and has made some enlightened judgments. For an individual to argue with the court does not in any way imply that he or she is undermining the whole institution. On the contrary, it means that he or she has a stake in this society and cares about the role and efficacy of that institution."

For people to deny themselves the right to comment and criticise the judiciary for fear of inviting criminal contempt, her statement said, would destroy the democratic principles on which the Constitution is based.

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THE TIMES OF INDIA

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# Women's groups oppose Domestic Violence Bill

By Kalpana Sharma

**MUMBAI, MARCH 7.** On the eve of the International Women's Day, 19 women's organisations have urged the Central Government not to pass the Protection from Domestic Violence Bill, 2001, in the current session of Parliament.

They have argued that in its present form, the bill could turn out to be "dangerous in its implications for women who are victims of domestic violence."

The Domestic Violence Bill that is slated to be introduced in Parliament has already received the Cabinet approval. It was formulated in response to a campaign by women's groups across the country demanding a specific law that deals with the violence women experience within their homes. Although there is a provision under the criminal law, Section 498 A, women do not have access to any civil remedies.

Led by the Supreme Court advocate, Indira Jaising, and the Lawyers' Collective, and in consultation with a wide range of women's groups who had been dealing with cases of domestic violence for over two decades, a model bill was drafted and presented to the government.

These groups state that the government's version of the Bill is a far cry from what they had proposed. The principal and most glaring omission in the bill lies in the very definition of domestic violence. While the draft of the Lawyers' Collective stuck to the internationally accepted definitions of domestic violence, the government's bill has a vague and loose one.

According to Trupti Panchal, who works with the Special Cell for Women and Children in Mumbai, the current bill only speaks of "habitual assault" and vague concepts such as actions that make "the life of the aggrieved miserable". As a result, it

does not take into account one time physical assault and allows for a great deal of subjective interpretations as to what constitutes "domestic violence".

Worse still, says Ammu Abraham of the Women's Centre, sub-section 2 of Clause 4, which defines domestic violence, cancels out any efficacy that even this inadequate definition might have had. This section says that if the respondent follows a course of conduct which is "reasonable for his own protection or for the protection of his or another's property", then the section that defines domestic violence as any conduct that "otherwise injures or harms the aggrieved person" will not apply. In other words, if an abusive husband can prove that he beat his wife to protect his property, he will not fall under the ambit of the law.

Ms. Abraham and Ms. Panchal also pointed out that the government's bill has ignored the need for women and children, who are victims of domestic violence, for shelter. The Lawyers' Collective draft had gone into this aspect in detail and suggested "protective orders" which could ensure that the victim could remain in her marital or natal home. The bill is completely silent on this need for both shelter and financial support.

The government's bill also restricts the application of the law to women who are within a "valid marriage". This, the women's groups argue, leaves out almost half the women who are victims of domestic violence. Such women are often second wives, with no legal standing, or have cohabited without legal documents to prove their marital status or have been duped into so-called legal marriages which do not hold up in a court of law. This also excludes women who are victims of cruelty in their natal homes, before marriage. And it excludes widows.

The government's bill also gives the magistrate hearing the case the right to order mandatory counselling of the victim jointly with the abuser. Ms. Abraham and others, who have seen how such counselling works in the context of the family courts, argue that it is dysfunctional. The information from the counselling session cannot be used in the case and is akin to "writing on water". Counselling should be voluntary, and certainly not in the presence of the abuser, they argue.

Representatives of the women's groups have said that they reject the government's bill on domestic violence "in its totality" and have urged the government to modify the bill so that it includes what they term are "non-negotiable provisions". These include changing the definition of what constitutes domestic violence so that it conforms with the U.N. definition, ensuring that the law includes all categories of women, not just those legally married, and providing abused women the right to shelter, including in their marital home.

## PM greets women

By Our Special Correspondent

**NEW DELHI, MARCH 7.** The Prime Minister, Atal Behari Vajpayee, has extended his greetings to women of the country on the occasion of the International Women's Day tomorrow.

In his message, Mr. Vajpayee, said, "the women of today are equal and rightful partners in the country's march towards progress. The women of the new millennium are taking giant strides in different walks of life, lending a multifarious hue to their persona. I wish them great success in all spheres of life".

THE HINDU

: 8 MAR 2002

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## Kuwaiti women march for voting rights 1872

KUWAIT, FEB. 17. Kuwaiti women activists, ignoring repeated failure to gain political rights, today marched into voter registration stations to demand the right to add their names to electoral lists.

Scores of women in the Muslim conservative Gulf Arab state marched to the stations, waving banners demanding equal rights and reminding the country of a failed 1999 decree by the ruler Emir Sheikh Jaber al-Ahmad al-Sabah granting them the right to vote and run for public office.

Kuwait has 25 constituencies with registration stations spread across the small country of some 835,000 locals and 1.4 million foreigners.

At one station, the district chief was not present and employees told women who gathered there that they had no

authority to place their names on voter lists, witnesses said.

In Kuwait, the only Gulf Arab state with an elected Parliament, the electorate of some 115,000 eligible male voters are invited to register in February of every year.

Kuwait also holds municipal elections for an Assembly which, like Parliament, has a four-year term. The next municipal and general elections are scheduled for 2003.

"When will Kuwaiti women get their political and social rights? Vote and stand in elections?" read one banner.

Following elections in 1999, Kuwait's Parliament rejected the Emir's decree. It later voted against a draft law which would have granted women political rights in the oil-rich state. A new draft law is currently before Parliament. — Reuters

1872

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# Ending child soldiering

By Olara A. Otunnu

February 12, 2002 could be remembered as a good day for children around the world. That day, an international treaty came into force banning the use of children as soldiers. The treaty is the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

The problem of child soldiers is immense and has been growing; there are now over 3,00,000 children under 18 used as combatants, camp labourers, sex slaves, and runners in more than 30 armed conflicts worldwide. Using children as soldiers is one of the worst forms of brutalisation — and it is practiced in every corner of the globe. The treaty will be a valuable tool for exerting pressure on states and rebel movements that engage in this particularly cynical exploitation of children.

It is in countries where the conflicts are the most protracted and the most intractable that children are in the greatest danger. Thousands of children, often abducted from schools or refugee camps, risking beatings or death if they attempt to escape, become at times not only victims but also perpetrators. And once childhood is snatched from them, they are cut off from their normal development, education and relationships. Devastated by suffering and hardened against the suffering of others, these children require psycho-social rehabilitation, education and economic opportunities within their communities.

There are many reasons why youth end up in armed groups: some are coerced or induced, some are abducted, some join because economic and social systems

around them have collapsed, and still others join for ideological reasons, because they have been manipulated by religious or political forces. Root causes of war, such as poverty, repression and devastated economies, take their toll on children as well as adults. Children become susceptible and vulnerable to being induced to bear arms before they can make decisions for themselves.

But, as of February 12, governments and rebel groups that condone the use of children will face the consequences from the international community.

As the United Nations Secretary-Gen-

## OPINION

eral's Special Representative for Children and Armed Conflict, I have talked with many child soldiers in many different parts of the world. These children have recounted to me the committing of atrocities and being forced to kill their friends as proof of loyalty to their captors. Their nightmares never leave them, but they dream of returning to normal life.

The treaty will help them achieve that dream. Not only does it outlaw the use of child soldiers, but also urges the signatories to allocate the necessary resources for their rehabilitation and reintegration. It is not enough to demand that a child disarm; we must break the cycle of violence. A former child soldier must be given education, training and psycho-social treatment. It is in the interest of the international community to commit far greater resources to this goal. A society cannot make the transition to stability unless its children — its very future — are given hope, dignity and respect.

But how can we ensure that the provi-

sions of this treaty are translated into reality on the ground? Because most state and non-state abusers of children seek legitimacy in the eyes of the world, those that are engaged in struggles for political power know that their future status depends in part on broad acceptance by the international community. They are often interested in the potential of future financial assistance. And, in this age of global interdependence and communication, even the remotest armed groups know that the glare of scrutiny and condemnation is not far away.

With better monitoring and reporting on the conduct of armed groups, we can ensure that no child is left behind with fighting forces. After February 12 the international community has acquired the tools for protection of children.

The basket of the carrots of financial aid and legitimacy, together with the new stick of this protocol and world opprobrium, mean that it is within our grasp to eradicate the use of child soldiers for the first time in history. This treaty was negotiated for more than six years by the entire international community and was adopted by consensus. Now we must seize the moment. I am calling on all parties and organisations, from the U.N. Security Council to the European Union and other regional ones, to religious leaders, civil society groups and governments to bring all of their influence to bear on the protection of war-affected children. Give this treaty the force and support it deserves by monitoring compliance by armed groups. Children simply have no place in war.

*(The writer is the U.N. Under-Secretary-General and Special Representative for Children and Armed Conflict.)*

THE HINDU

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# Change is in the air

Soon after the Alliance armies marched into Kabul and later Kandahar, and delivered Afghanistan from the Taliban, women of the country were significantly declared to have been "liberated". Everywhere, pictures appeared of women smiling, their veils lifted and several spoke of how they were no longer afraid. Away from all the hullabaloo in Afghanistan, the dawn of the new year also saw the start of a quiet revolution in Turkish society, when centuries of legally enshrined inequality between the sexes came to an end.

Since January 1, 2002, Turkish men are no longer regarded by law as the heads of their families. This was part of a series of sweeping reforms to the country's civil code that have been described as the result of nearly 50 years of hard work. Turkey rejected Islamic law in favour of a more secular legal code decades ago, but the civil code that was still followed did not legally treat men and women as equals. Now a woman is legally allowed to take up a job without first seeking her spouse's permission, and the husband no longer has the right to decide on his own where the couple will live. But by far, the most significant element of the new legislation is the provision that married women are entitled to an equal share of joint assets in the event of divorce.

The new law also gives women a much greater say in decisions concerning the home and children. Women are now entitled to sue for divorce if their husbands commit adultery, and have acquired the right to claim compensation and alimony.

The new law also addresses the question of terminology. Women are now entitled to continue to use their maiden names. While women have long had the right to vote, and Turkey is one of the few Muslim states to have had a female prime minister, these adjustments have been long overdue, according to several women's rights groups. Many women feel that even this new law does not go far enough. It does not automatically apply in retrospect, so 17 million Turkish women, who are already married, will still be deprived of legal support should they wish to get divorced.

While these changes in the civil code are part of the country's bid to enter the European Union, women's rights activists also hope they will serve as a model to other Muslim countries. Turkey, which lies physically between Europe and Asia, and culturally between the secular West and Muslim East, has long struggled to balance its ambitions as a modern democratic nation with the faith of its people.

Women's rights have been one element in the conflict between the need for a secular outlook and the preservation of older values. For instance, the traditional headscarf or *hijab* worn by women has always been an emotive symbol in Turkey, and has been seen by secularists as the flag of political Islam threatening to overturn the strictly secular constitution. In an attempt to quash fundamentalist Muslim tendencies, the Turkish government banned the wearing of hi-

A new law grants Turkish women greater freedom. But Anuradha Kumar feels that the real battle is still to be fought in the conservative rural areas



Fighting for the veil

jabs on campuses and parliament buildings, but this aroused great controversy.

Those in support of wearing the hijab have called it a matter of freedom of expression, and their campaign has won the support of a number of international human rights groups. On the other hand, many people believe that those demanding the right to wear the headscarf ultimately want to force all women to cover up, whether they like it or not.

In April 2000, thousands of female students were prevented from entering their universities and colleges because they wanted to wear the headscarf. The students protested that their human rights were infringed upon, but influen-

tial figures in the state education system held that wearing the scarf was a statement of political intent and current laws allowed them to ban it. The secular elite which has ruled modern Turkey for more than 75 years now says that the headscarf has become a disruptive political symbol. But it remains an issue which goes to the heart of Turkey's complex effort to define the role of the state and the role of religion in society.

As the dispute goes on, it is claiming many victims. One human rights group estimates that in 1999 alone, more than 16,000 women were prevented from entering universities or taking examinations because they refused to remove their scarves.

In August 2000, Turkey's state-run religious foundation also incurred the wrath of the people after it published a booklet that approves of wife-beating. The booklet, published by the Pious Foundation, part of the government's religious affairs directorate, says men can beat their wives as long as they do not strike the face and only beat them moderately. The *Muslim's Handbook* also says that if a man's wife is ill and he cannot afford a servant, he can take a second wife. A leading woman deputy in the Turkish parliament expressed her disappointment at the publication of the booklet, describing it as totally unacceptable. In its justification, the foundation claimed that several books published in the past had approved of wife-beating, the *Muslim's Handbook* merely tried to present a modern interpretation of Islam with greater rights for Muslim women.

Turkey remains a country full of contradictions. These contradictions often manifest themselves in the conflict between the military and the civilian establishments of the government, in their mutual quest to define a "modern" Turkey. The military believes that civilian institutions have come increasingly under the influence of radical Islamic groups. Turkey's influential National Security Council, dominated by the military, has long called for the dismissal of civil servants linked to separatist or radical Islamist groups to help protect Turkey's unity and its secular system. But the president refused to approve a decree authorizing such dismissals on grounds that they were unconstitutional. The military has also accused the schools run by an Islamic brotherhood known as the *fethullahcilar*, or disciples of Fethullah, of seeking to brainwash young people.

Until recently, the Turkish establishment had been delighted by the way in which these schools had enhanced Turkey's international image. The man behind this, Fethullah Gulen, was even feted by Turkey's secular establishment; his message seen as one of tolerance and seeking to promote a private, non-politicized form of Islam that can peacefully coexist with Turkey's strongly secular state. But the Turkish military, that sees itself as the custodian of the country's secular tradition, has always remained suspicious of Gulen's motives. Gulen has now been charged with plotting to overthrow the country's secular state.

But while this conflict rages among the educated elite, concentrated in the urban areas, huge sections of Turkish society — especially in the rural areas — remain deeply conservative. Which is why there are those who have expressed pessimism regarding the new legal code. They believe that the people's way of thinking needs to be changed first. Attitudes in the interior are still rooted firmly in the traditions of eastern Mediterranean and Muslim societies. It is going to take more than just a new legislation to change this. The real battle must now take place in the country's small villages and neighbourhoods, where custom and tradition are more powerful than the law.

‘ Turkey remains a country full of contradictions. These contradictions manifest themselves in the conflict between the military and the civilian establishments of the government, in their mutual quest to define a “modern” Turkey ’

# Recording details of the crime

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**A** amendment of section 160 recommended by insertion of sub-sections (3) to (7). In view of what is stated above, we would recommend the addition of the following provision — say, as new sub-sections — in section 160 of the Criminal Procedure Code, 1973: “(3) Where, under this chapter, the statement of a girl under the age of twelve years is to be recorded, either as first information of an offence or in the course of an investigation into an offence, and the girl is a person against whom an offence under section 354, 354A or 375 of the Indian Penal Code is alleged to have been committed or attempted, the statement shall be recorded either by a female police officer or by a person authorized by such organization interested in the welfare of women or children as is recognized in this behalf by the state government by notification in the official gazette. (4) Where the case is one to which the provisions of sub-section (3) apply, and a female police officer is not available, the officer in charge of the police station shall, in order to facilitate the recording of the statement, forward to the person referred to in that sub-section a written request setting out the points on which information is required to be elicited from the girl. (5) The person to whom such a written request is forwarded shall, after recording the statement of the girl, transmit the record to the officer in charge of the police station.

“(6) Where the statement recorded by such person as forwarded under sub-section (5) appears in any respect to require clarification or amplification, the officer in charge of the station shall return the papers to the person by whom it was forwarded, with a request for clarification or on specified matters; and such shall thereupon record the further statement of the girl in conformity with the request and return the papers to the officer in charge of the police station.

(7) The statement of the girl recorded and forwarded under sub-sections (3) to (6) shall, for the purpose of the law relating to the admissibility in evidence of statements made by any person, be

Extracts from the 172nd report on the review of rape laws by the Law Commission of India, March 2000

deemed to be a statement recorded by a police officer.”

4.2.1. The representatives of Sakshi supported the said recommendation and wanted us to reiterate the same.

4.2.2. The 154th report of the Law Commission dealt with the above recommendation... After setting out the aforesaid sub-sections... the 154th report makes the following comments and rec-



Step in the dark

ommendation...in ... chapter XVIII: “6.6 The origin of this suggestion in its embryonic form can be traced to the Law Commission’s reports on ‘Rape and Allied Offences’ and ‘Women in Custody’.”

6.7 The bill (NCW) has gone beyond the Law Commission’s earlier recommendations in that, insisting on the presence of a female police officer. Though the presence of such female officer is useful and necessary, their absence should not lead to delay in the investigation of the offences. Sub-sections (4), (5), (6) and (7) referred to above obligates the officer in charge of the police station to forward the person to a representative of a government, recognized women’s organization and the statement recorded by the person

shall be deemed to be a statement recorded by the police officer.

6.8 It may be pointed out that the 1994 bill does not incorporate the above amendment.

6.9 We are of the opinion that section 160 be amended on the lines suggested above, subject to certain modifications. The recommendation made in sub-section (4) of NCW bill is not practicable having regard to the present condition and dearth of female police officers. It may also not be practicable for the victim or any person interested in her to approach the person mentioned in sub-section (3). Instead, we suggest that sub-section (4) may be amended to the effect that where a female police officer is not available and contacting the person mentioned in sub-section (3) is difficult, the officer in charge of the police station, for reasons to be recorded in writing, shall proceed with the recording of the statement of the victim in the presence of a relative of the victim.

Further, the age of “twelve years” be raised to “eighteen years” in conformity with the Convention on the Rights of the Child.”

4.2.3. Reiteration of the recommendations made in the 154th report. On a consideration of all the relevant facts and the realities of life, we too are of the opinion that the procedure indicated in the sub-sections (4), (5) and (6) is too involved besides being impracticable.

Implementation of the several steps mentioned in the said sub-sections (4) to (6) would indeed result in unnecessary harassment to the victim of the offence or to the complainant, as the case may be. We are inclined to agree with the opinion expressed in para 6.9 of the 154th report of the Law Commission in this behalf. We have changed the language of sub-section (3) by including a woman government officer. Changes are also called for in the light of the amendments effected by Act 43 of 1983 and also in the light of the recommendations made by us in paras 3.2 and 3.5 (substitution of the offence in section 375 and the addition of section 376E).

TO BE CONCLUDED



# Open a new chapter against abuse

**W**e therefore recommend that a new section, namely, section 376E be inserted in the Indian Penal Code in the following terms: 376E. Unlawful sexual contact (1) Whoever, with sexual intent, touches, directly or indirectly, with a part of the body or with an object, any part of the body of another person, not being the spouse of such person, without the consent of such other person, shall be punished with simple imprisonment for a term which may extend to two years or with fine or with both.

(2) Whoever, with sexual intent, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites, or touches, with sexual intent, directly or indirectly, with a part of the body or with an object any part of the body of a young person, shall be punished with imprisonment of either description which may extend to three years and shall also be liable to fine.

(3) Whoever being in a position of trust or authority towards a young person or is a person with whom the young person is in a relationship of dependency, touches, directly or indirectly, with sexual intent, with a part of the body or with an object, any part of the body of such young person, shall be punished with imprisonment of either description which may extend to seven years and shall also be liable to fine.

Explanation: "Young person" in this sub-section and sub-section (2) means a person below the age of 16 years.

3.6. In the light of the change effected by us in section 375, we are of the opinion that section 377 deserves to be deleted. After the

*Women*  
Extracts from the 172nd report on the review of rape laws by the Law Commission of India, March 2000

changes effected in the preceding provisions...the only content left in section 377 is having voluntary carnal intercourse with any animal...

3.7. Amendment of section 509. So far as this section is concerned, the only change we are suggesting is enhance-



More vigilance

ment of punishment. We recommend that the existing section 509 be amended as follows: "509. Word, gesture or act intended to insult the modesty of a woman. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years and shall also be liable to fine.

3.8. New section 166A,

IPC. The 84th report of the Law Commission had recommended...that a new section, namely, section 166A, be inserted in the IPC. The object behind this new section was to punish a public servant who knowingly disobeys any direction of law prohibiting him from requiring the attendance at any place of any person for the purpose of investigation into an offence or other matter or knowingly disobeys any other direction of law regulating the manner in which he shall conduct such investigation and which act of his causes prejudice to any person.

The representatives of Sakshi... requested that a new section as recommended by 84th report of the Law Commission be recommended to be inserted in the IPC. This provision must be understood in the light of the fact that in the next chapter, we are recommending several measures with respect to the manner in which the statement of women and children... should be recorded, the place where it should be recorded and so on.

3.8.1. New section 166A of the IPC recommended. Accordingly, we recommend that a new section be introduced in the IPC in the following terms: "166A. Whoever, being a public servant (a) knowingly disobeys any direction of the law prohibiting him from requiring the attendance at any place of any person for the purpose of investigation into an offence or other matter, or (b) knowingly disobeys any other direction of the law regulating the manner in which he shall conduct such investigation, to the prejudice of any person, shall be punished with imprisonment for a term which may extend to one year or with fine or with both."

TO BE CONCLUDED

# Some more patience with the victims

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**A** amendment of sections 376B, 376C and 376D. Given the gravity of these offences, we recommend enhancement of punishment, with a minimum punishment of not less than five years. We have also added an explanation which will govern all these three sections. The explanation defines "sexual intercourse" to mean any of the acts mentioned in clauses (a) to (e) of section 375. Explanation to section 375 will, however, apply even in the case of sexual intercourse as defined by the explanation to this section.

3.4.1. Modifications in sections 376B, 376C and 376D of the Indian Penal Code recommended. Accordingly, section 376B with necessary adaptations and changes shall read as follows: "376B. Sexual intercourse by public servant with person in his custody. Whoever, being a public servant, takes advantage of his/her official position and induces or seduces any person, who is in his/her custody as such public servant or in the custody of a public servant subordinate to him, to have sexual intercourse with him/her, such sexual intercourse not amounting to the offence of sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than five years and which may extend to ten years and shall also be liable to fine. Provided that the court may, for adequate and special reasons mentioned in the judgment, impose a sentence of imprisonment for a term of less than five years."

Explanation: "Sexual intercourse" in this section and sections 376C and 376D shall mean any of the acts mentioned in clauses (a) to (e) of section 375.

Explanation to section 375 shall also be applicable. "376C. Sexual intercourse by superintendent of jail, remand home, etc. Whoever, being the superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution takes advantage of his/her official position and induces or seduces any inmate of such jail, remand home, place or institution to have sexual inter-

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Extracts from the 172nd report on the review of rape laws by the Law Commission of India, March 2000

course with him/her, such sexual intercourse not amounting to the offence of sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than five years and which may extend to ten years and shall also be liable to fine.

Provided that the court may, for adequate and special reasons mentioned in the judgment, impose a sentence of imprisonment for a term of less than five years.

Explanation 1. "Superin-



Not intended

tendent" in relation to a jail, remand home or other place of custody or a women's or children's institution includes a person holding any other office in such jail, remand home, place or institution by virtue of which he/she can exercise any authority or control over its inmates.

Explanation 2. The expression "women's or children's institution" shall have the same meaning as in explanation 2 to sub-section (2) of section 376.

376D. Sexual intercourse by any member of the management or staff of a hospital with any woman in that hospital. Whoever, being on the management of a hospital or being on the staff of a hospital takes advantage of his/her position and has sexual intercourse with any per-

son in that hospital, such sexual intercourse not amounting to the offence of sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than five years and which may extend to ten years and shall also be liable to fine.

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than five years.

Explanation: the expression "hospital" shall have the same meaning as in explanation 3 to sub-section (2) of section 376.

3.5. Insertion of section 376E. This is a wholly new section recommended by us. We have called it the offence of "unlawful sexual contact". This section is intended to cover a wide variety of offences including sexual harassment at the work place and sexual perversions of the kind mentioned in the note submitted by Sakshi. Sub-section (1) of this new section covers touching, directly or indirectly, with a part of the body or with an object, any part of the body of another person (not being the spouse of such person), with sexual intent and without the consent of such other person. In case the other person is below sixteen years of age, we have recommended higher punishment.

Sub-section (2) is an extension or elaboration of the offence mentioned in sub-section (1), while sub-section (3) deals with a case where such offence is committed on a young person — a person below the age of sixteen years. If the offence of unlawful sexual contact is committed on a young person by a person with whom such young person is in a relationship of dependency, the punishment is rigorous imprisonment which may extend to seven years or with fine or with both and in case the offender happens to be the father, grandfather or brother, a still higher punishment is provided for. In the case of a "young person", consent is treated as irrelevant.

(Sections 151, 152 and 153 of the Canadian Criminal Code also contain similar provisions).

TO BE CONCLUDED

# Legal initiative for sex workers

FROM MONOBINA GUPTA

**New Delhi, Jan. 17:** The Centre has made a move that could push the sex industry closer towards getting legal status.

The department of women and children has suggested deletion of the clause in the Immoral Traffic (Prevention) Act that provides for punishment of sex workers "soliciting" or "seducing" clients in public.

"This section should be repealed. It victimises the prostitute herself. The aim of the Act is to punish commercialisation of prostitution and not prostitution itself," the department has suggested.

In no uncertain terms it has said that retaining such a "retrogressive" clause goes against the "survival right" of prostitutes.

The Centre has written to all state governments for their opinion on the amendments which will have to be cleared by the Cabinet.

Senior lawyer Indira Jaisingh of the Lawyers Collective does not believe that dropping the objectionable provision from the Act in any way means endorsing or moving closer towards legalising prostitution. "Even now the law does not say that you cannot prostitute. The amendment to the Act is in keeping with the existing legal framework," says Jaisingh.

The Act punishes prostitutes for soliciting or seducing through "words, gestures or wilful exposure" in any "public place or within sight or earshot of such a place" regardless of whether soliciting is done from within or

outside any building or house.

Women's organisations have for long been demanding abolition of this provision. But many of them are at the same time doggedly opposed to legalising prostitution. The government is loath to discuss the subject.

But the fact that the Centre has made a move to amend the Act, four decades after it came into effect, shows it has taken notice of the demands women's organisations have been voicing for establishing the "rights" of prostitutes. Officials, however, stress that the amendment could become controversial, opposition to it arising on "moral" grounds.

"There are many who believe that giving rights to prostitutes means perpetuating the practice," said an official.

Those advocating legalisation insist that prostitutes who have no rights at present can have some legal support that would save them from police harassment.

Rebutting them, Jyotsna Chatterjee of the Joint Women's Programme, says: "Legalising prostitution is no solution." She welcomes the amendment but does not believe it is a step towards legalising prostitution.

"The amendment will prevent the victim from being further victimised. But there should also be some provision that would punish clients, pimps and procurers," adds Chatterjee.

The amendments suggested by the Centre object to placing the women found guilty of "soliciting" or "seducing" in "corrective institutions".

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# To save children from violence

Views of the National Commission for Women invited. — The Law Commission would also wish to put on record that before finalizing their recommendations, the Law Commission had also sent a letter to the National Commission for Women enclosing the aforementioned draft (prepared by the Law Commission) (Annexure-B) and inviting them to come and have a discussion with the Law Commission on 16.9.99. The National Commission for Women deputed their joint secretary, Ms Leena Mehendale.

One of the members of the Law Commission, Mrs Justice Leila Seth, heard the joint secretary and also asked her to put her ideas/suggestions in writing. Accordingly, the NCW sent a set of suggestions in writing signed by the joint secretary. A copy of the said proposals is appended herewith (Annexure-E).

Changes recommended in the Indian Penal Code, 1860:

3.1. Substitution of definition of "rape" by definition of "sexual assault".

Not only women but young boys, are being increasingly subjected to forced sexual assaults. Forced sexual assault causes no less trauma and psychological damage to a boy than to a girl subjected to such offence. Boys and girls both are being subjected to oral sexual intercourse too. According to some social activists like Ms Sheela Barse, both young girls and boys are being regularly used for all kinds of sexual acts and sexual perversions in certain tourist centres like Goa — mainly for edification of the foreign tourists.

Sakshi have also recommended for widening the scope of the offence in section 375 and to make it gender neutral. Some of the Western countries have already done this.

It is also necessary to include under this new definition (sexual assault) not only penile penetration but also penetration by any other part of the body (like finger or toe) or by any other object. Explanation to section 375 has also been substituted by us to say that penetration to any extent whatsoever shall be deemed to be penetration for the purpose of this section. This is so

Extracts from the 172nd report on the review of rape laws by the Law Commission of India, March 2000

provided for the reason that in the case of children, penetration is rarely complete - for physical reasons. So far as the Exception is concerned, we have retained the existing Exception the only change made being in the matter of age; we have raised the age of the "wife" from fifteen to six-



For their protection

teen. The age of the person assaulted sexually referred to...has also been raised to sixteen from fifteen.

3.1.1. We may also mention that in redrafting the section, we have stuck to the existing provision as far as possible. This is for the reason that since these provisions have already been interpreted and elucidated by the decisions of the courts, it is better to stick to them rather than use new expressions and new wording. In drafting clauses (a) to (e) in section 375, we have drawn inspiration from the Criminal Law, Western Australia.

3.1.2. Substitution of existing section 375 of the IPC recommended. — We accordingly recommend that the existing section 375 be substituted by the following: "375. Sexual Assault: Sexual assault means — (a) penetrating the vagina (which term shall

include the *labia majora*), the anus or urethra of any person with — i) any part of the body of another person or ii) an object manipulated by another person except where such penetration is carried out for proper hygienic or medical purposes;

(b) manipulating any part of the body of another person so as to cause penetration of the vagina (which term shall include the *labia majora*), the anus or the urethra of the offender by any part of the other person's body; (c) introducing any part of the penis of a person into the mouth of another person; (d) engaging in cunnilingus or fellatio; or (e) continuing sexual assault as defined in clauses (a) to (d) above in circumstances falling under any of the six following descriptions:

First — Against the other person's will. Secondly — Without the other person's consent. Thirdly — With the other person's consent when such consent has been obtained by putting such other person or any person in whom such other person is interested, in fear of death or hurt.

Fourthly — Where the other person is a female, with her consent, when the man knows that he is not the husband of such other person and that her consent is given because she believes that the offender is another man to whom she is or believes herself to be lawfully married. Fifthly — With the consent of the other person, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by the offender personally or through another of any stupefying or unwholesome substance, the other person is unable to understand the nature and consequences of that to which such other person gives consent.

Sixthly — With or without the other person's consent; when such other person is under sixteen years of age.

Explanation: Penetration to any extent is penetration for the purposes of this section.

Exception: Sexual intercourse by a man with his own wife, the wife not being under sixteen years of age, is not sexual assault."

TO BE CONCLUDED

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# Thinking again about rape

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**U**nder an order dated August 9, 1999 made in Writ Petition (CrI) No.33 of 1997, the Supreme Court of India requested the Law Commission "to examine the issues raised by the petitioners and examine the feasibility of making recommendations for amendment of the Indian Penal Code or deal with the same in any other manner so as to plug the loopholes."

The petitioner, Sakshi, an organisation interested in the issues concerning women, had approached the Supreme Court of India with the aforesaid Writ Petition praying for (a) issuance of a writ in the nature of a declaration or any other appropriate writ or direction declaring *inter alia* that "sexual intercourse" as contained in Section 375 of the Indian Penal Code shall include all forms of penetration such as penile/vaginal penetration, penile/oral penetration, penile/anal penetration, finger/vaginal and finger/anal penetration and object/vaginal penetration and (b) to issue a consequential writ, order or direction to the respondents in the Writ Petition and to their servants and agents to register all such cases found to be true on investigation.

The Law Commission was not made a party to the Writ Petition. The Supreme Court however directed the Law Commission, by its Order dated January 13, 1998, to indicate its response with respect to the issues raised in the said Writ Petition. The Law Commission in its affidavit dated March 25, 1998 brought to the notice of the Hon'ble Court that the 156th Report of the Law Commission on the Indian Penal Code had dealt, *inter alia*, with the issues raised in the Writ Petition, but since the said Report was not yet placed on the table of the Houses of Parliament, the matter may be adjourned by a few months. The matter was adjourned by three months. Meanwhile, the aforesaid Report of the

Extracts from the  
172nd report on  
review of rape laws  
by the Law  
Commission of India,  
March, 2000

Law Commission was placed on the table of both the Houses of Parliament. Thereafter, the Law Commission filed its affidavit dated July 28, 1998 setting out *in extenso* the portions of the said Report dealing with the issues in question. Suffice it to say that by and large the then Law Commission (14th Law Commission) did not agree with the

consideration of the issues by the Law Commission and the Government of India. The Court was inclined to agree with the said submissions. The Court also noted that the 156th Report was submitted by the Law Commission prior to these issues being referred to the Commission and further that the said Report of the Law Commission did not in terms deal with various aspects of the issues raised in the Writ Petition. The order further recorded that at the suggestion of the Hon'ble Court, the petitioner did draw up a note containing the precise issues involved in the Writ Petition as well as other connected issues. After perusing the same, the Court asked the Law Commission



Not good enough

viewpoint of the writ petitioners except in certain minor respects which would be indicated at the appropriate stage later. It is after considering the said affidavit and the affidavit filed by the Ministry of Law, Justice and Company Affairs, that the Hon'ble Court passed the aforesaid order dated August 9, 1999.

The order of the Hon'ble Court records the statement of the learned counsel for the writ petitioners that the contents of the 156th Report of the Law Commission were known to the petitioners, but since according to them the Report did not deal with the precise issues raised in the writ petition, a request was made by the counsel for the petitioner to seek further

to examine the said issues afresh. A copy of the "precise issues" with the appendix and affidavit were sent to the Secretary, Law Commission with a request to place the same before the Chairman of the Law Commission for consideration. It was also observed that the Law Commission may, if so advised, call upon the petitioner to assist it in such manner as the Commission thought appropriate. The issues, the Court observed, "need a thorough examination". The matter was accordingly adjourned for three months within which period the Law Commission was expected to submit its response to the Hon'ble Court.

TO BE CONCLUDED

THE TELEGRAPH

8 JAN 2002