



## PRESS RELEASE

**The Government should focus on substantive issues of sexual assault and implement Justice Verma Committee recommendations; Death penalty and chemical castration not deterrents;**

**New Delhi, February 1, 2013 – The Working Group on Human Rights in India and the UN (WGHR)** welcomes the Justice Verma Committee (JVC) report on amendments to Criminal Law with regards to sexual violence and assault, and the endorsement of WGHR recommendations on the issue of sentencing in its ambit. WGHR's submission to the JVC on **death penalty and chemical castration** is annexed herewith.<sup>1</sup>

WGHR salutes the JVC for accommodating the views expressed by the large section of civil society groups including the women's rights activists in the process, and urges the Parliamentary Standing Committee on Home Affairs to endorse the JVC report recommendations, while wholly incorporating them in the *Criminal Law Amendment Bill, 2012* which is under consideration.

The JVC aptly raised the issue of Government's failure to safeguard the constitutional rights of women for safety and protection against sexual violence. This apathy, according to JVC, further percolates to the bureaucratic level, for which the imperative issue of sexual violence does not constitute a priority.

### **Justice Verma Committee's Call for a Comprehensive Law on Violence against Women:**

The JVC report expands the definition of rape to include marital rape; widens the spectrum of sexual assault offences to recognise and name all forms of sexual assault from penetrative to non-penetrative; defines the age of consent at 16 years, with consent being a unequivocal agreement to participate in the sexual act in question; outlines a new protocol for medical examination of victims of sexual violence (banning the two-finger test) and their treatment during trial procedures.

WGHR upholds JVC's proposals for law reforms relating to rape and sexual assault, and urges the Government of India (GoI) to focus on substantive issues of definition, procedure, evidence, and implementation, in order to address the abysmal rates of conviction in cases of rape and sexual assault and ensure that the present state of impunity is replaced by a zero-tolerance approach, including the certainty of arrest, prosecution and conviction. **WGHR in its submission to JVC headed by Justice J. S. Verma, affirmed that there should be no amendment to the existing law to provide death penalty and/or chemical castration for the offence of rape or sexual assault.**

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<sup>1</sup> WGHR's submission to the JVC can be also accessed online at:  
[http://www.wghr.org/pdf/Submission by WGHR to Justice Verma Committee.pdf](http://www.wghr.org/pdf/Submission_by_WGHR_to_Justice_Verma_Committee.pdf)



### **Justice Verma Committee's Call for Police Reforms and its Recommendation Against Impunity of the Security Forces for Sexual Violence:**

The JVC report calls for comprehensive reforms to laws dealing with crimes of sexual violence, judicial and police reforms to ensure transparency and accountability, review of existing legislation and practices affording impunity for members of police accused of torture and violence against women in custody.

WGHR concurs with the JVC's call for an urgent review of the **Armed Forces (Special Powers) Act (AFSPA)** – the draconian law which provides sweeping powers and immunity to the armed forces, legitimizing a series of gross human rights violations including widespread sexual assault – by amending section 6 of AFSPA, such that for offences of rape and sexual assault committed by armed forces there shall be no need for prior sanction to initiate criminal proceedings for rape, and for bringing the case within the purview of the criminal courts. WGHR also endorses the proposal to include the new offence of 'breach of command responsibility' for public servants for offences of rape and sexual assault.

### **Justice Verma Committee's Views on Cultural Prejudices and Patriarchy:**

WGHR fully complies with views of JVC regarding the atrocities against women under certain cultural prejudices, like caste system and Khap Panchayats. Violence against women (and men) in the name of 'honour' is a serious concern. Family members or community leaders ostracise and kill young couples, who chose a spouse against social, caste and community norms. The report also raises the concern over social alienation as one of the factors for demonstrating male sexuality by active forcible penetration and overpowering of women belonging to the Dalit community by the so called upper caste men. WGHR appreciates the stance of JVC on asserting that lesbian, gay, bisexual, transgender, intersexual persons (LGBTI) hold the same alienable rights and are entitled to the same protection from abuse and violation of their human rights including torture, rape and murder.

### **WGHR Submission to JVC on the Issue of Sentencing:**

There is no scientific basis for claiming that death penalty has a deterrent effect on the incidence of crime. On the other hand, studies show that as punishments become stricter, the rate of conviction falls as Judges are reluctant to convict and/or award harsh sentences. An anticipated result of introducing death penalty for rape would be the reduction in convictions and an increase in impunity. Further, death penalty embodies the idea of retribution which is as violent as the offence for which it is being suggested, and is contrary to all civilized ideals of criminology and constitutionalism.

For India, to amend its laws to introduce death penalty for rape, even where such punishment is restricted to the 'rarest of rare cases' would be a violation of constitutional principles as well as principles of international human rights law, by which India is bound. There is considerable evidence across the globe that deterrent effect of death penalty on serious crimes such as murder is a myth. Data generated by the Ministry of Home Affairs in India also supports the argument that death penalty has not been and is not a

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deterrent for murder. **WGHR highly commends JVC for taking note of its views on death penalty that the murder rate has declined consistently in India over the last 20 years, despite the slowdown in the execution of death sentences since 1980.**

WGHR viewed with deep and growing concern the demands for introduction of chemical castration as a punishment for rape and sexual assault, and views with even greater concern the completely ill-informed nature of these demands. **In its submission to JVC, WGHR categorically stated that any move in this direction would be contrary to constitutional principles as well as established principles of international human rights law.**

WGHR appreciates the UN High Commissioner for Human Rights, Ms. Navi Pillay for taking contingency of the horrific gang rape and for welcoming the JVC report. She urged the Government of India to follow through on its vision and recommendations. She espoused the report as a groundbreaking basis for action against violence against women in India, while adding that “[t]he report should serve as a beacon for many other countries struggling to respect the rights of women more comprehensively by addressing sexual violence through legislation, policies and programmes”.

WGHR also reiterates that it is the high time for the GoI to reconsider over the recommendations made during its second Universal Periodic Review, (UPR)<sup>2</sup> by the UN Human Rights Council in May 2012 in Geneva pertaining to violence against women which the GoI did not accept. Pertaining for this purpose, specific recommendations which were not accepted were as follows:

*“Enact comprehensive reforms to address sexual violence and all acts of violence against women, including “honour” crimes, child marriage, female feticide and female infanticide, and to remedy limitations in the definition of rape and the medico forensic procedures accepted for rape cases.”<sup>3</sup>*

*“Adopt comprehensive legislation on fighting all forms of sexual harassment in relation to women and children.”<sup>4</sup>*

WGHR commends the JVC on the recommendations for law and implementation reforms relating to rape and sexual assault. These recommendations call for the GoI to focus on substantive issues of definition, procedure, evidence, and implementation in order to ensure that the present state of impunity is replaced by a zero-tolerance approach. WGHR urges the GoI to endorse and implement JVC’s recommendations, while adopting a wide ranging rights-based approach in order to ensure and promote equality, non-discrimination, non-violence and recognition of women as rights-holders. ■

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<sup>2</sup> UPR is a unique peer-review process involving the monitoring of the human rights record conducted by the UN Human Rights Council (HRC), involving a review of the human rights record of the 193 UN member states once every four and a half years.

<sup>3</sup> United Nations, 2012, *Report of the Working Group on the Universal Periodic Review: India, A/HRC/21/10*, 19 July, Twenty-first session, Agenda item 6, General Assembly, available at: [http://www.wghr.org/pdf/Report\\_2ndUPR-Reco\\_made\\_India\\_May12.pdf](http://www.wghr.org/pdf/Report_2ndUPR-Reco_made_India_May12.pdf)

<sup>4</sup> Ibid.



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*The Working Group on Human Rights in India and the UN – a national coalition of fourteen human rights organisations and independent experts – works towards the realisation of all civil, cultural, economic, political and social human rights in India, and towards holding the Indian government accountable to its national and international human rights obligations. For information on WGHR, please visit: [www.wghr.org](http://www.wghr.org)*

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