

SUBMISSION BEFORE JUSTICE VERMA COMMISSION ON ANTI-RAPE LAWS

Dear Justice Verma,

We are pleased to submit a joint petition to your esteemed Commission on Anti-Rape Laws highlighting the urgent need to bring about significant and major changes in the Criminal Justice System of our country, if we wish to make India a place where Women and the marginalized feel secure, and protected.

*Our Submission which is attached with this email, is in the nature of an Executive Summary, and points to the key elements under the headings "**What Do We want from India?**", "**How Can these Legitimate Citizens' Expectations be Met Speedily?**", and finally, "**How Can our Organizations Help your Commission?**"*

We would also be happy to present our points before you, and would be grateful to be given an opportunity to do so. You would appreciate that we need to think any changes through, before implementation, to make lasting and meaningful change, rather than going for short-term, knee-jerk changes, or populist changes, that could have deleterious long-term impact.

We look forward to being of Service to your esteemed Commission.

Sincerely,

Bharat Wakhlu, General Secretary, FRNV, with Sarvesh Sharma and Prem Arora of FRNV, jointly with Ms. Maja Daruwala, and Navaz Kotwal of CHRI, Kamal Jaswal of Common Cause, and Ms. Madhu Kishwar, Manushi

January 4, 2013

To: The Justice Verma Commission on Anti-rape Laws

From: The Foundation for Restoration of National Values (FRNV), Common Cause, Manushi and Commonwealth Human Rights Institute (CHRI)-Jointly.

1)What Do We Want for India?

We are of the view that any crime – including those against women –require an overhaul in the Criminal Justice System, of which the Police is the first critical element. Accordingly, we desire that your esteemed Commission must address the following expectations of Indian Citizens – which apply to ALL states of our diverse country:

- ✓ All the elements of the criminal justice system must be made to understand the extraordinary courage that is required for women to report sexual crimes, deal with the trauma, and persist through the legal process. Ensuring that

every police officer treats women victims with respect and understanding, no matter her caste, class, or background.

- ✓ Community participation in policing
- ✓ Vastly Improved police performance and its accountability to common citizens.
- ✓ All cases in India – not just those that require “special treatment” – need to be disposed of speedily for the criminal justice system to be effective.
- ✓ The Criminal Justice system needs to be swift and effective without infringing on the rights of people granted by our Constitution, nor must innocent people – and women victims especially – have to face a burdensome system that demeans them rather than convict the transgressor.
- ✓ Highest standards of police investigation of sexual crimes in terms of collection of evidence (forensic, medical, written), preservation of crime scenes, and collecting statements;
- ✓ Zero tolerance of police collusion or alliances with criminals, black-mailers, crime- suspects or accused persons
- ✓ Prevent the gross misuse of laws by the police, lawyers and their unscrupulous clients to implicate innocent families in false cases with a view of extorting money from them.
- ✓ Bridge the growing gap between what the law prescribes and what actually happens in practice. (When a law fails to deliver what it promises, the tendency in India is to erroneously assume that the law is not stringent enough, that it has too many loopholes which enables the culprits to escape punishment!).
- ✓ Withdrawing the archaic provisions of providing “immunity” to offenders if they are government servants or Members of Parliament or Legislative Assemblies.
- ✓ Disallowing the arbitrary “withdrawal” of criminal cases being investigated by the Police or the CBI, by State Governments and the Central Government
- ✓ Implementation of all directives of the Supreme Courts and the various Commissions of Reform (including yours) by the Executive Arm of the Government, which will strengthen the Criminal Justice System
- ✓ Transparent Recruitment of Police personnel made through the State-level Police Recruitment Boards without recourse to bribery or political interference
- ✓ Police Stations to be provided with all essential amenities including a “reception-cum-visitors” room, separate toilets for men and women and separate lock-ups for men and women
- ✓ Regular and systematic training-cum-education for the police, at all levels which is also linked with their career progression
- ✓ Police to have a dedicated team for Criminal Investigation. They must also be freed from regular administrative work which can be done by civilians under the control of the Police
- ✓ Making the Police a Protective Service rather than an intimidating force

2) How Can these Legitimate Citizens' Expectations be Met Speedily?

We believe that there is an urgent need for the Executive to honour the recommendations of previous reform commissions, the Supreme Court and your esteemed Commission. Otherwise, the excellent work done by committed individuals, across the country, are dishonoured, recommendations gather dust, and further disheartens citizens who seek remedial action for ameliorating the problems in the criminal justice system. Specifically, in the light of the points above, we think that the following actions need to be implemented forthwith:

- Have all States of India fully comply with the reform package directed by the Supreme Court in the Prakash Singh case on police reforms. The ground level situation presents a grim picture of compliance, and this must be remedied forthwith. All six directives of the Supreme Court must be immediately complied with (without any tinkering or dilution) immediately. States that fail to do so must be pulled up for contempt
- The Model Police Act, 2006 drafted by the Soli Sorabjee Committee (set up by the MHA) should be adopted, without dilution, by all states and UTs to replace their existing Police Act.
- The Police Service needs to be incentivized on the basis Citizen-centric parameters and metrics
- The touch-points and the interaction between the Police and the people requires urgent improvement.
- The quality of leadership in all branches of the Executive, the Judiciary and the Legislatures has to be improved by making politics the “vocation of the committed and the able” rather than the “last refuge of scoundrels”

3) How Can our Organizations Help your Commission?

- As NGO's that have collectively and individually worked on Police Reforms, Judicial and Administrative Reforms, Human Rights, the strengthening of Ethical standards and Values in all walks of life, among others, we can ensure that the recommendations of the Commission are discussed with a wide cross-section of stakeholders in the country, so that the recommendations have wide approval; thereby, forcing the Executive arm of Government to honour and implement your Commission's suggestions.
- We would be happy to depose before you and provide you with countless examples of the symptoms of the problem, their root causes and further insights into the manner in which the problems can be resolved – for better governance, and for the improved safety and security of women and other disadvantaged citizens of our country.

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