

Exempt disabled women from coming to police station: Verma panel

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NEW DELHI: Considering the difficulties encountered by physically challenged women at each stage of the criminal-legal process, right from filing an FIR to testifying in court during trial, the Justice J.S. Verma Committee has recommended that they be exempted from coming to the police station and making repeated visits to courts for testimony.

In its report, the committee said that when a physically or mentally challenged woman lodged a complained of rape or sexual harassment, the complaint should be recorded by a woman police officer at the residence of such woman, or wherever she was comfortable. The complaint should be recorded in the presence of a special educator or interpreter, depending on the need of the complainant. The entire process of recording the complaint should be videographed under Section 154 of the Cr P.C.

Similarly, during the process of Test Identification Parade (TIP), if the person identifying the arrestee is physically or mentally challenged, then the identification must also be videographed. Also, while recording the statement of a physically or mentally challenged woman in court, the Magistrate must take the assistance of a special educator or interpreter, depending on the needs of the complainant. Additionally, the recording of testimony of the woman should also be videographed so that the statement is treat-

ed as a statement for the purpose of cross examination during the trial and the disabled woman will not have to state the same thing repeatedly, the panel report suggests.

Importantly, the panel recommended that the use of the word "dumb witnesses," for those 'who cannot speak, should be replaced with "persons who are unable to communicate verbally." 'Dumb witnesses' is provided under Section 119 of the Indian Evidence Act.

"One of the major reasons why most cases involving rape

of disabled women fail to convict the wrongdoer is because the testimony of the victim is not given due importance by the police or the court. The recommendations of the panel, if incorporated in the law, would go a long way in addressing this problem," says Muralidharan, assistant convener of the National Platform for the Rights of the Disabled (NPRD).

The committee also invoked the idea of *parens patriae* (the principle that political authority carries with it the responsibility for such protection) to describe

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

Further, the definition of special educator and interpreter requires clarity when these recommendations are incorporated into the law.

"In our deliberations with the committee, it was found that a special educator may not know sign language and an interpreter may know only a few signs and, therefore, may not be always equipped to provide required assistance in bridging the communica-

tion barrier between the victim and the legal system," Mr. Muralidharan says. In the overall conclusions and recommendations, the committee has spoken of a "monitoring mechanism" for the safety and physical security of children, women, persons with disabilities, inmates of mental homes and widows and mandates that the ultimate responsibility for monitoring lie with the judiciary.

In addition, there has been proposed a one-stop 'Emergency Response System,' which is sought to be run by a

civil contract agency which does not report to the police but to the civil administration of the city, and will be equipped to identify wireless telephone devices by GPS coordinates. Though not specifically stated, if this system were made accessible to persons with disabilities, even in the event that they were unable to communicate their distress, an emergency service would be at their doorstep for immediate assistance, a statement issued by the Inclusive Planet Centre for Disability Law and Policy, Chennai said.



J.S. Verma

The committee affirmed that every citizen has a right to protection against violence and it is the duty of the state to provide safe spaces to all women, including disabled women. It recommended that such safe spaces should be accessible to the disabled in terms of architectural design, management and provision of services. To address abuse of disabled children within institutions, the committee suggested that all such institutions and homes must be registered with the High Court concerned with the acting court as the guardian of such children.

It recommended that the High Court concerned should act as an oversight mechanism to all the institutions in the State and that it must be the task of educational institutions to recognise discriminatory attitudes among children on the basis of gender, disability, caste and so on.

Insightful and path-breaking:
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