



WRITTEN SUBMISSION BY
PARTNERS FOR LAW IN DEVELOPMENT¹
FOR CEDAW'S GENERAL DISCUSSION ON RURAL WOMEN
OCTOBER 7, 2013

**RECOMMENDATIONS FOR STATE OBLIGATION TO PREVENT, PROTECT, PUNISH, REDRESS,
INVESTIGATE AND COMPENSATE - COMMUNITY SANCTIONED VIOLENCE AGAINST
RURAL WOMEN**

PLD welcomes the initiative of the CEDAW to issue a general recommendation on rural women. Considering that the majority of India's population live in rural areas, and further taking into account the vital role played by women in the rural economy and development, a general recommendation on the subject would be of immense value in addressing obstacles to equality as well as forms of discrimination that are specific to rural contexts. This submission highlights the specificities and exigencies of the condition of rural women in India, especially as it relates to sexuality, culture, governance in respect of community sanctioned violence against rural women. Article 14 of the CEDAW imposes a duty on the state parties to take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure that they participate in and benefit from rural development on par with men. An essential prerequisite for that to happen is the guarantee of freedom from violence, accompanied by legal redress and reparative justice that restores victims a position of dignity where they can contribute effectively, on equal basis as men, without discrimination, to the social, economic and political processes of decision making and development.

1. The Context

India is a nation where the divide between the social and economic situation of women in the urban and rural contexts is stark. According to Government of India's 2011 Census data, 68.84% of India's vast population lives in rural areas. Women in rural context experience the impact of under-development, poor governance and policing in ways that are uniquely shaped by gender, poverty, caste and minority status. Challenges related to access to and availability of quality public health care, public transport, education, supply of electricity, water, food security and livelihood similarly impact women from marginalised population groups the most. These challenges in fact, make marginalised

¹ Partners for Law in Development (PLD) is a legal resource group working in the fields of social justice and women's rights in New Delhi, India. Founded in 1998, the organization locates women's rights as integral to its work on social justice, engaging with it in contexts of family, sexuality, culture, caste, conflict and development. The organisation is a resource centre on CEDAW in India and South Asia. www.pldindia.org; www.cedawsouthasia.org

women in rural contexts more vulnerable to violence, including sexual violence, discrimination in matters of education², employment and political representation, and less likely to avail of food security, access to basic health facilities, as well as legal redress and justice. That is to say, that the vulnerabilities, disadvantage and discrimination experienced by rural women are not homogeneous, but depend upon factors like caste, class, and geographical location.

2. Particularity of community sanctioned violence against rural women and its consequences

This section provides an overview of the specific forms of community sanctioned violence against rural women, challenges in relation to accessing the legal system, and indeed, in relation to securing justice. The concern of this submission is violence against women within/ by the community, although many of the issues raised in this context, are likely to be similar to domestic violence.

Women who are at the social and economic margins, on account of single status, sexual transgression, caste, tribal status and those from minority communities are at higher risk of violence with little possibility of redress. Some examples of the types of violence are - crimes in the name of so-called 'honour' that target couples in inter-community or inter-caste relationships/ marriage, or women who are sexually transgressive; targeting of women as witches, caste violence against Dalit women, exploitation of/ false cases against tribal women, particularly since large parts of the tribal belt are also areas of conflict – with Maoist groups resisting state policies of corporate led development.

Most forms of targeting of women involves a spectrum of violations, not a single act of violence. The spectrum may comprise of varying degrees of social and economic boycott, stigma, censoring use of common property resources such as water, pastures, accompanied by name calling and humiliation, physical violence, which itself could range from routine to brutal forms leading to murder. Of the common forms of physical violence are tonsuring the hair, forced disrobing, naked parading of women, blackening/ disfiguring the face, tonsuring of the hair, forcible consumption of urine or excreta, and may in extreme cases involve lynching, rape and murder. Many of these violations are typical to witch hunting³ and atrocities against Dalit women⁴, but are increasingly, not limited to them. Crimes in the name of so-called honour may take the form of public humiliation, lynching, hanging or forced marriage. Most victims live with and through the continuum of violations that combine social, economic boycott, stigma and name-calling; they cannot participate in ceremonies and their unmarried daughters lose chances of finding a suitable match. In some cases, such women are not to be seen in public places as their presence is deemed polluting, as a result of which their mobility and livelihood options are severely restricted. The consequence of such violence is typically impoverishment, trauma and even forced displacement.

² Only 58.8% of women in rural India are literate, according to the 2011 census

³ PLD, 'Targeting of Women as Witches: Trends, Prevalence and the Law in Northern, Western, Eastern and North-Eastern regions of India', 2012. PLD's field investigation and consultations show that increasingly, witch hunting is motivated by material and social reasons and the targeting serves to enforce status quo. Even as many such cases of targeting takes the form of 'witch hunting', they may have no connection with superstition, illeracy, or black magic. Instead, their roots lie in lack of access to legal help, partisan policing, poor governance.

⁴ Ruth Manorama, 'Background Information on Dalit Women in India'. Retrieved from <http://www.rightlivelihood.org/>

3. Particular forms of barriers to justice in rural contexts

The particularity of barriers to justice for community sanctioned violence against rural women are shaped by the nature and consequences of violence, the limitations of legal redress, barriers to accessing the law combined with the power of customary mechanisms of adjudication in rural contexts, as well as weak governance. The consequences of violence of community backlash against rural women, whether perpetrated with or without the complicity of the victim's family, have long term economic, livelihood and survival consequences. The outcomes involve impoverishment, hunger, loss of livelihood, shelter, and social stigma, and as a consequence increased risk of further violence and forced displacement. The barriers to justice are at many levels –

a) Legal framework is inadequate: with the law focussed on specific acts of violence and penal responses, it is unable to recognise or respond to the continuum of violations that women experience. This limited prism of one or more types of violence fail to grasp the full nature of harm suffered by women; and fails as well in providing remedies beyond law and order responses that restore the victim from a position of abject vulnerability to strength. Reparative remedies are vital for justice to victims of community violence in rural contexts, as are support services run by/ resourced by the state, that provide shelter, food security, livelihood skills, and medical treatment to victims. Support services are vitally absent, of poor quality in rural contexts and inaccessible to most marginalised victims of violence.

b) The customary and traditional mechanisms of adjudication are closer to and more acceptable to the communities, wield greater influence and are a means by which powerful vested interests within the community preserve status quo and garner political influence. In the last few years, many of the customary mechanisms seem to be asserting greater force, to resist what they perceive as an assault by modernity on their traditional way of life, mostly through greater restrictions on freedoms of women and girls, and greater moral policing including against inter-community marriages. In the context of witch hunting, it is the traditional male healers who exercise influence. While its tempting to blame tradition or customs for the entire problem, that is far too simplistic and unhelpful an analysis. There is need to examine the nexus between the increasing political influence of traditional leaders, the growing potential identities in electoral politics with poor governance, as well as a complicit law enforcement machinery in these contexts. The lack of healthcare, access to education, and unsustainable livelihoods, also facets of governance are reasons that exacerbate vulnerability of women, while increase the authority of these self appointed community leaders.

c) There is strong evidence of institutional bias and sexism in the police force. Populated largely by men, the police stations are the victim's first point of contact with the system. Defined by aggressive masculinity, political influence and corruption, the police stations are hostile places for women. The lack of police reforms to address institutional weakness, absence of 'special operating procedures' for responding to sexual or culturally sanctioned violence, the lack of training and serious initiatives at gender sensitization, exacerbates the hostility women experience. A widely reported problem is the refusal by the police to register a complaint, the First Information Report (FIR) relating to sexual violence, as well as other cases that they deem trivial, in order to minimize crime figures. In cases of caste atrocities against Dalit women, these are rarely ever registered under the special law for caste atrocities; the biggest critique of the police force in respect of caste violence, is the reluctance to register cases under the Atrocities Act which treats the crime as aggravated,

opting instead for the general penal provisions. Post mortem reports of rape and murder of Dalit women are often inconclusive, destroying the case.⁵ Women from marginalised communities face additional hostility as they are lowest in the social, economic and caste hierarchies, and simply don't count. In less serious cases, compromises are often facilitated instead of registering a criminal case; in serious cases, as for instance mob violence and lynching, there will be no witnesses available or willing to testify, the investigation weak failing to ultimately make a case for successful conviction.

d) There are special mechanisms created for civil remedies in respect of sexual harassment at the workplace for women in the informal/ unorganised sector under the recently enacted, Sexual Harassment at the Workplace (Prevention, Prohibition and Redressal) Act of 2013. Almost 94% of India's female working population work in the informal sector, out of which 20% are in urban centres, the rest working in rural or semi rural contexts.⁶ Experience with the creation of the special mechanism under the domestic violence law shows that the appointment of 'protection officers' who are the point of first contact for the victim are grossly inadequate, and the appointments that exist are in fact, through assignment of dual charge to existing state officials performing other tasks. They are neither trained nor have the time and resources to execute their roles. While the metros have NGOs who facilitate help, rural women have very little by way of special mechanisms to address domestic violence. In this context, there is serious apprehension that the special mechanisms created for redressal of sexual harassment at the workplace for women workers from the unorganised sector – the Local Complaints Committees and the District Complaints Committees under the state government, will in all likelihood not be constituted, or tokenistically constituted, poorly resourced and untrained making the remedies illusory. This ineffective and inadequate support and redress mechanisms in rural contexts is a serious concern.

4. Recommendations

Given the disparity in development, accountability, information, education and quality of services in rural contexts, the particularity of community sanctioned violence and greater barriers to justice for marginalised rural women, the following recommendations must be considered.

1. Legal remedies for violence against women, particularly community sanctioned violence, must incorporate elements of reparative justice that restores to women social dignity, acceptance, through apology, quality support services and a promise of non-recurrence. Financial compensation for suffering and free medical treatment until recovery must be part of the justice package.
2. Victim and witness protection framework must be part of the legal redress to enable the victims and witnesses to participate in criminal prosecution without risk, intimidation or backlash.
3. State must establish and run support services, as well as support NGO initiatives to provide support, that include accessible quality shelter, counseling, legal aid, healthcare. The state must ensure that support services are not concentrated in and around metros, but evenly

⁵ Silence is not an Option: Aradhana Wal, Tehelka (17-8-2013) <http://www.tehelka.com/silence-is-not-an-option/>

⁶ 'Women Working in Informal Sector in India: A Saga of Lopsided Utilization of Human Capital': Presented in the International Conference on Economics and Finance Research, 2011.

distributed across regions, rural and urban contexts, regardless of poverty, under-development, or conflict situation.

4. To ensure that food security and livelihood are not impacted for victims of violence, the state must ensure that rural women who are victims of community sanctioned violence, are entitled to the food security schemes for the poor, and to skill building for livelihood. The children of such women are often forced to leave schooling and education, and the state has a responsibility to ensure that the family does not face social boycott and expulsion. The state has primary responsibility to restore victims back to dignity and strength through various case and context appropriate inputs.
5. Preventive actions through awareness raising, public education of women's rights and equality, are imperative in rural contexts. Contrary pronouncements and dictats by the traditional/ customary adjudication mechanisms or leaders must be mandatorily countered by the district government. Women victims of violence must be honoured, be given state recognition through training, employment, security, or other ways that explicitly and publicly signal state support. Other initiatives to counter stigmatization must be facilitated by the state. Likewise, the state is obliged to ensure that the access of women to common property resources and water is not stopped – backed by action and penalties.
6. Redouble efforts towards rights awareness and access to justice amongst rural women.
7. Monitoring and evaluation of support services, existence of special mechanisms for legal redress, and legal aid in rural areas to be carried out separately to track progress. Studies to be sanctioned by the state to examine the trends, causes of community sanctioned violence in rural contexts, and its consequences.
8. National women's machineries in most countries are located in capital cities and focus on urban contexts. National women's machineries, must be obliged to comply with the Paris Principles; and in addition, must be mandated to ensure that at least 50% of their work pertains to rural women; and be further mandated to track community sanctioned violence specific to rural women, and the relevance of state responses.
9. Compulsory and serious gender sensitisation programmes for the police with strong framework of accountability for refusal to register cases.

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