

India: Eliminate gender-based violence, ensure accountability and protect women's rights

(Kathmandu/Bangkok, 26 April 2018) – The Asian Forum for Human Rights and Development (FORUM-ASIA) is gravely concerned about the widespread prevalence of violence against women across India. FORUM-ASIA urges the Government of India to take immediate actions to end gender-based violence.

In January 2018, an eight-year old girl in Kathua, Jammu and Kashmir was raped and murdered. When lawyers tried to prevent the police from filing the charge sheet against the accused persons at a Court in Jammu on 10 April, it triggered massive public resentment and outrage. The accused were allegedly supported by Ministers of the ruling party. The charge-sheet¹ was published by the media, shocking people over the atrocious sexual assault and murder following eight days of confinement of the girl in a temple.² The modus operandi and motive suggests it was a hate crime, targeting a particular minority community and was committed with a deep sense of impunity. The accused were openly supported by members of the ruling party.

Another case that added fuel to the outrage was the sexual assault of a 17-year old girl by a legislator of the ruling party and his brother in Uttar Pradesh. The sexual assault allegedly took place in June 2017 and has been investigated by the Central Bureau of Investigation (CBI). However, no progress was made in terms of trial and prosecution. The survivor has faced harassment and coercion during the investigation. On 3 April, the father of the survivor was allegedly beaten by the supporters of the accused and was later arrested by the police. The survivor attempted suicide in front of the chief minister's residence on 8 April, in protest against the continuous failure of the Government to investigate and arrest the accused, and against the protection they have received from having to face a trial. Soon after, the father of the survivor died, while in custody, on 9 April. The survivor believes that her father was tortured to death for not withdrawing the case against the accused persons.

These cases indicate the prevalence of deep rooted discrimination, stereotypes and violence against women in India. Following a violent rape and murder of a paramedic student in Delhi in 2012, a wide range of legal reforms and policies were adopted to end gender based violence, especially sexual violence in India. However, conviction rates for sexual assault remain abysmal, despite an increasing number of complaints.³ Reported cases of crimes against women increased by 83 percent from 185,312 in 2007 to 338,954 in 2016, while conviction rates were a meagre 18.9 percent in 2016.⁴ 19,765 rape cases were reported in 2016.⁵ Justice for survivors is further adversely affected by obstacles such as: lack of victims'

¹ <http://www.thehindu.com/opinion/op-ed/shaken-to-the-core-in-kathua/article23590354.ece>

² <https://www.firstpost.com/india/kathua-rape-case-how-2-jammu-cops-tried-to-kill-evidence-by-washing-clothes-of-dead-8-yr-old-girl-in-police-station-4434549.html>

³ <https://www.firstpost.com/india/a-24-21-per-cent-conviction-rate-for-rape-in-india-lower-every-year-1096959.html>

⁴ <https://www.firstpost.com/india/crimes-against-women-up-83-but-conviction-rate-hits-10-year-low-delhi-reports-highest-crime-rate-in-india-4254313.html>

⁵ <https://www.thequint.com/voices/opinion/minor-rapes-in-india-data>

support; witness protection; a hostile law enforcement machinery; an inefficient and often delayed medical evidence extraction system; and social stigma.

A special fund, the Nirbhaya Fund, was created by the Government to end gender based violence. However, the majority of the funding has not been utilised.⁶

On 22 April, the Government of India promulgated an ordinance declaring death penalty for sexual assault of children below 12 years of age,⁷ defying an international trend towards the abolition of the death penalty. FORUM-ASIA urges the Government to reconsider this decision and abolish the death penalty altogether.

FORUM-ASIA insists on the need for the strengthening of the rule of law to ensure speedy trials for cases of gender based violence. FORUM-ASIA also urges the Government of India to improve the implementation of the laws and policies in force to ensure survivors' access to justice and undertake long term legal and social affirmative actions to eliminate gender discrimination.

All measures must be in accordance with the pledges and obligations of the Government of India under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other international human rights standards to ensure the full realisation of women's rights and freedom from violence.

About FORUM-ASIA:

FORUM-ASIA is a regional human rights group with 58 member organisations in 19 countries across Asia. FORUM-ASIA has offices in Bangkok, Jakarta, Geneva and Kathmandu. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expression, assembly and association, human rights defenders, and democratization.

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⁶ <https://www.deccanchronicle.com/nation/current-affairs/210418/rs-3100-crore-for-womens-safety-lies-unused.html>

⁷ <http://indianexpress.com/article/india/death-penalty-for-child-rape-president-kathua-promulgates-ordinance-5147808/>