In 2015, the Indian National Crime Record Bureau recorded an alarming figure of violence against women. A total of 3,27,394 crimes against women were reported in 2015, including 34,556 rapes and 2113 cases of gang rape. 28359 of the total victims of rape were girls under 18 years of age. In addition, 4437 cases of attempt to Commit Rape, 59,277 cases of kidnapping and abduction of girls and women have also been registered. A total of 8,800 cases were registered under the Protection of Children from Sexual Offences Act during 2015. Government data also acknowledges that out for every thousand women who approach the police with their complaints of sexual violence, first information reports were registered in 337 cases, charge-sheets was submitted in 190 case of rape and trials were completed in just 28 cases. Justice is often elusive for most survivors with a national conviction rate of 27% in 2013.

The causes behind this poor conviction rate are complex. Majority of sexual violence offenses take place against women marginalized because of their caste or economic status. Before cases even get as far as the police station, survivors of rape and sexual violence face tremendous pressure from their families, influential upper caste persons, and religious institutions to remain silent. Intimidation and isolation ensure that survivors do not have the support they require to navigate the complex legal system. Survivors that do have the courage to approach the police are likely to experience insensitivity, corruption, shoddy investigation, and delayed action. In May 2013, the Supreme Court of India banned the two-finger test but, across the country this practice remains prevalent. Many rape survivors are still forced to undergo the “two finger test”—to confirm sexual assault. Non conformance to prescribed medico legal procedures by doctors usually result in incomplete medical reports that further weakens the chances of justice.

In this context Jan Sahas and Rashtriya Garima Abhiyan organized a “National Consultation on the Challenges of Access to Social and Medical support and Justice for Survivors of Rape and Sexual Abuse” on 9th December, 2016 at Constitution Club, Rafi, New Delhi with the objective of
discuss the role of police, medical, judiciary and family to ensure justice to the survivor. By providing a platform for survivors and family members to speak about the challenges they have faced, appropriate authorities and stakeholders will be exposed to existing realities and can contribute to making responses effective and just. Various social and state actors - survivors of rape and sexual violence, their family members, representatives of relevant government department and commissions, policy makers and representatives from the judiciary, civil society, media, lawyers, and UN agencies participated in the consultation.

INAUGURATION SESSION:

During the inauguration session Ashif Shaikh from Jan Sahas presented current situation and context to the National Consultation.

Mrs. Rekha Sharma, Member, National Commission for Women, New Delhi: She posed some of the important questions related to behaviour of police with the survivors and issues related to medical treatment and examination. She also shared her experience of rescue and intervention in case of survivor from Uttar Pradesh. She further added that how our society is naturalized to remain silent, people don’t have courage or gender sensitization to stand against the injustice that are being perpetuated on the marginalized section of this society. She also explained about the role of National Women Commission in the cases of sexual violence.

Mr. Ali Anwar Ansari, Member of Parliament (Rajya Sabha): Mr. Anwar Ansari briefly explained how caste and religion play an important role in Indian society focusing on how women and girl children are targets of such hideous crime due to their social positioning in society. He further emphasized how Nirbhaya incident had impacted and generated debate across spectrum on safety and protection of women which including in the parliament. These issues had never been discussed before with such intensity which is very important. He spoke of bias in media reporting with cases from the elite class receiving more attention than survivor belonging to schedule caste and minority. He encouraged survivors to come out openly and fight against the system that perpetuate injustice.

Prof. (Dr.) G.S. Bajpai Registrar, National Law University, Delhi: He explained the inefficiency of the judiciary system. The judiciary doesn’t have a proper structure for cases of violence against of women and advocated for a standard operation center to be adopted. The system is inclined towards the defense and decisions related to it. The right to participation in trials, seek protection and assistance of the survivor doesn’t exist in the system. To state few example the survivor doesn’t have the right to address the court, they are only seen as a witness in their cases. When it comes to assistance, it is important to decide that the financial compensation is a right of the survivor or not a favour. Obligation of the prosecutor when taking over case should be mentioned specifically.

Ms. Suneeta Dhar, Jagori, New Delhi: She mentioned how important it is to understand the meaning of the word NO when a woman says it. The idea of consent should be understood by each and every individual. She also focused on the lack of shelter homes for the survivors. A heinous crime that has been committed against them leaves them scared and abandoned from
the society specifically from their families. A step has to be taken collectively as a part of an institution to make women feel safe, the shelter homes is one of the steps in this direction.

Ms. Urmila Bai, Leader of Survivors and Activist, Madhya Pradesh: Urmila Bai shared her experience of rape and with the discrimination meted out by the police, medical and judiciary. She raised this issue at national level through Satyamev Jayte TV show. She also appealed to family members for support to survivors towards access to justice.

Ms. Bhanwari Devi, Leader of Survivors and Activist, Rajasthan: Bhanwari Devi survivor and a leading activist pointed out at the rooted cause for the violence against women. The caste system is one of the major reasons behind it and also shared her experience of delayed judgment of more than 20 years.

PANEL - 1 STAKEHOLDERS’ SHARING ON MEDICAL, POLICY, JUDICIARY AND LEGISLATION:

The second panel addressed the specific aspects on medical treatment and counseling, challenges in implementation of POCSO 2012, how can the judiciary be more responsive in issues of violence against women.

Best practices in Medical Examination and Treatment- Ms. Aarthi Chandrasekhar, Cehat, Mumbai:
Aarthi Chandrashekhar from Cehat, Mumbai shared her finding on 609 cases that Cehat has intervened in. She spoke of the role of health sector in ensuring uniform guidelines on medico-legal care for survivor of sexual violence, the pros and cons of relying on compiled evidences from intervention, differences in the nature and circumstance of sexual violence, health consequence of sexual violence and presented a few case studies where deliverance of proper medico legal care (for instance doctor should note down every detail of the incident and details of happening thereafter) has led to justice for the survivors.

Relevance of current laws- Ms. Shohini Banerjee, i-probono, New Delhi:
Sohini Banerjee spoke about the improvement and implementation of current laws in the system. In context to this, she presented three cases which mentions the challenges faced by the survivors and the victims. The difficulties that are faced by most of the people know about their rights and access to justice, having your own lawyer is problematic. The legal community lacks such lawyers who want to work on issues of violence against women. It is too difficult for an adolescent to come forward and give statements, hence sensitization and creating an environment for the survivors or the victims is necessary. Delhi court has provided guidelines on issues of violence against women, one such state that it is necessary to have a children friendly environment inside the court when dealing with a POCSO case, in such a situation responsibility of the judges, is the most important key for seeking justice. In minor cases the adolescent cannot sign or be the witness, there is a need of an adult to represent the case, though there are many cases where the family is not supportive, a provision of Guardian ad litem can help in addressing the case for the minor. Guardian ad litem is a person the court appoints to be a legal re-presenter of the minor case for the best interest of the child. Most importantly in cases of bail, there are chance of the victim being a hostile witness, for improvements in such cases Delhi Witness Protection Scheme
gives protection to witness. But such progressive laws are hardly implemented or awareness of such laws lacks. Judges and organizations working on issues of violence against women should keep a track of such laws to get a speedy justice.

Interpreting Forensic Examination of Survivors: Ms. Jayshree Bajoria, Human Rights Watch:
Jayshree Bajoria from Human Rights Watch shared her expertise on interpreting forensic examination of the survivors and relevance of current laws in sexual violence. Jayshree Bajoria spoke about the forensic examination of the survivors. She shared few cases in which two finger test still exist despite of Supreme court banning the practice of two finger test. Doctors are not in a position to comment for no reason to the survivor, they should strictly adhere to their responsibility towards the survivor. Desensitisation on issues and lack of responsibility persists within doctors. The TFT test not scientific test, but a lot of importance is given to TFT in courts, judgements are addressed on TFT test. While specifying on two finger test she focuses on the demographic difficulties rural women have to face on a daily basis, in such cases doctors hardly consider such background into consideration. Most of the states, hospitals, doctors, judiciary do not follow the 2014 guidelines. In context to this she says such injustice within the system discourages the survivors to fight for their case, as before they could start fighting they have to ponder on the many obstacles in their way to justice. In India medical evidence is concerned as the most important tool to give judgement whereas that is not necessary, the statement of the witness should be considered as the most important tool to provide justice.

Challenges to implantation of POSCO: Ms. Ravindar Kour, HAQ Centre for Child Rights, New Delhi:
Ravindra Kaur from HAQ, Delhi threw light on comparison of POCSO 2012 and other laws related to gender violence. She specifically stated that POCSO 2012 has no consent in the case of minor and clearly defined the responsibility of police are missing in the laws of gender violence.

Carriers or Barriers to justice? Role of the police: Ms. Devika Prasad, Commonwealth Human Rights Initiative, New Delhi

Testimonies of survivors: Delhi, Rajasthan, Madhya Pradesh and Uttar Pradesh

PANEL - 2 PERSPECTIVES ON STAKEHOLDERS DISCUSSED:

Is the media responsible in its reporting? Ms. Bhasha Singh, Journalist:
Bhasha Singh revealed the double standards in the reporting of the media in cases of violence against women, and called for the media to come out openly and stand against any kind of gender violence. The four pillars of justice that is Parliament, Legislative Assembly, Panchayat and Executive officials are patriarchal in nature. Confronting them and exposing them should be the primary concern of the media. The caste, class, religion barricade that exists in the society is a manipulating factor for the media also. High profiling of reporting is done in violence against women cases where high class women are concerned where as in cases of violence against women against Dalit, Minority and Lower Class it is not a disturbing matter for the society, civil society or the media. A basic headline of the news is printed with no follow up of the news. Every time media reports a case on violence against women, a pictorial image of the survivor is created,
this is an attempt to sympathies with the act of crime. An end to sympathizing the act of crime and manipulating the report that are received from the crime reporter is the current need. The institutional violence should be exposed meticulously.

**Holistic community responses: Ms. Mamta Jetli, Vividah, Jaipur, Rajasthan:**
Mamta Jetli from Vividha in her short time expressed that 49% of women fall under false cases reports and in case of Dalits it is 58% according to NCRB data Rajasthan. The question arises here is that why women are reported for false cases? Why such assumptions are persisting in the mentality of individuals. It is easy for women to go against the odds and file an FIR, but still when they do they are categorized as false cases. Mamta Jetli gave her insights on violence against women in reference to Bhanwari Devi’s case. The flippant attitude of the institutional pillars in the case of violence against women will not provide justice; the society gave justice to Bhanwari Devi. To quote Mamta Jetli “It has been 24 years Bhanwari Devi has not received Justice. Delayed Justice is no Justice, in Bhanwari Devi’s case 3 accused have died the other two will also die in a while. Even if after 24 years, justice is given to her what is the purpose of it”.
A collective movement is the only possible revolutionary approach to speak about violence against women. In regard to this it is necessary to decide that how can we strengthen the expected reactions of the society and sustain our struggle. Mamta Jetli ended her discussion with critiquing the present government also she emphasized that the institutional pillars have been justifying crime, how can they provide justice. The future of justice can only be determined with the extent of solidarity that this country foresees.

**Counseling and Psychological Support: Ms. Monica Kumar, Manas Foundation, New Delhi:**
Continuing to the point of no consent in POCSO 2012, Monica Kumar from Manas Foundation, Delhi mentioned that rape is just the only form of sexual abuse and that there are other forms of abuse, it is important to be aware of them and acknowledge them. Additionally she emphasized the role of counseling in sexual violence cases.

**Engagement of Man and Boys: Mr. Satish K Singh, MenEngage Alliance, New Delhi:**
Satish K Singh works with the men action to stop violence against women. Men Engage alliance believes in the ideology of “either men should be support violence against women or fight against violence against women”. There is no scope of for neutral approach. He focused and questioned the stigma of honor attached to women. Why is it that women who are facing crimes are questioned about honor? And also the concept of honor changes according to time and place for the society. The society is purely patriarchal in nature; men show their power position in cases of violence against women. Stating this background of the society he opined strongly that men cannot wash of their hands from issues of violence against women. It is necessary that they evolve and get involved in eradicating the mindset of the society. To remove such stigma and stereotypes, society has to work together. The institutions will be of no function if the individuals of this country are not sensitized. The denial of attitude of the society for their sons should be questioned and a self-reflecting attitude should be adopted. Men need to work under the framework of constitutional rights that is right to live with the dignity, where each every individual avails the right. Men who are of neutral approach it is time that they raise their voices and come out in open. This will help in engagement of more men, working for the issues of violence against women.
Testimonies of survivors: Bihar, Maharashtra, Madhya Pradesh and Rajasthan

CONCLUDING REMARKS:

Anu Aga, Member of Parliament, Rajya Sabha, New Delhi: She spoke of how police, judiciary and politicians needs to be sensitize on the issue of gender violence. She posed an important question as to whether as survivors and society as a whole are we ready to change our mind set? She spoke of her own life experience when she has encountered how attitudes towards girl child and boy child are different in the Indian society, which need to be changed.

Ms. Indira Unninayar, Lawyer, Supreme Court, New Delhi: Indira Unninayar shared her expertise on judiciary responsiveness. An immensely flippant attitude of the judiciary system, causes delay in court proceedings, which results in increasing the pain of the survivors and they are tortured in a way. This attitude should come to an end; the proceeding should end in two to three visits. Lack of infrastructure is another excuse that the system puts forward for failing in justice. To have a better system video recording of all the court proceeding also recording of in camera proceeding in rape cases should take place, so that it becomes a non-rewritable provision. Such bold steps would ensure that the judiciary system is transparent and accountable. Involvement of counselor or psychologist is necessary in family courts during the trials or proceeding. Last but the not the least she focused on the approach of the judges can only be improved with special training and workshops. Sensitization on issues of violence against women and proper training of the judges is one step forward to seek justice for the survivors.

Ms. Mamta Kohli, DFID, New Delhi: Ms. Mamta Kohli started with her experience of Delhi and how environment for girls and women were in city like Delhi. Deriving impetus from such experience, she has been working on issues of gender violence for last 10 years. The primary task is to provide handholding support to grassroots organization in bringing forth the policy concerns to government. She also praised survivors for sharing their stories by breaking the silence. She emphasized to broaden the horizon and engage with as many institution such as media and corporate etc. to build momentum which aimed to create harmony in society.

KEY CONCERNS:

It is crucial to note here that National Consultation was an attempt to understand the different experienced model/practice that had been adopted by different civil society organizations across India and come out with flaws and gaps in the policies in the gender justice related laws. Laws which are limiting in nature or does not address the situation that survivor has to undergo before receiving justice.

1. Two Finger test violates the right of rape survivor to privacy, physical and mental integrity and dignity. Medical treatment should be carried out in such a manner that constitutes cruel, inhuman and degrading treatment. The state is obliged to provide the safety measure which can ensure and protect the right of survivors. In 2013 Supreme Court ordered ban on two finger test
and come out with better medical procedure to confirm sexual assault. Despite such practice are prevalent. Testimonies from our field also indicated in most of the cases, survivor had to undergo two finger test for medical examination.

2. Ministry of Family and Health has issued a guideline for providing proper medico-legal care to the survivor. The guideline suggested that uniformity in approaching, treating and documenting the case of violence especially rape. The purpose was to set the course of more sensitive and human approach to survivors of rape and sexual violence when they arrive at hospital for treatment. Guideline clearly mentioned that treating doctor should keep proper recording and documentation of medical history and facts. This kind of practice should be clearly directed to doctors. Our field experience suggested survivor still had to visit many hospitals for medical treatment. The guideline compulsorily needs to add in the curriculum of MBBS and Nursing courses.

3. Justice Usha Mehra committee recommended One Stop Centre across Indian states and Union Territory. The centre ensures to provide in house facility of a nurse, gynecologist, police inspector, forensic expert and councilor- all under one roof for proper examination of the case. As per the ministry guideline budgeted amount for construction of each One Stop Centre is Rs. 48,69,371 and Rs. 321 Cr. for constructing 36 One Stop Centers. But ministry only allocated Rs.93 Cr. And recently only 10 One Stop centre are operational. This scenario should be taken seriously and only institution (One Stop Center) which can provide holistic support to survivor of rape and sexual offence should be in utmost priority list of the centre and state government.

4. Under the amended Criminal law, victims cannot be denied for treatment in the hospital weather private or government. It is thus mandatory obligation, if not hospitals can be sued with likely penal consequences.

5. The Nirbhaya fund received an allocation of Rs 1,000 crores in each fiscal year, since its introduction in 2013-14, making it a total corpus of Rs 3,000 crores in 2015-16. The fund remained unutilized in the first two years, despite proposals being received from various ministries. Moreover, it was observed that out of this total corpus, fund was not allocated under appropriate head to initialize the expenditure on the same.

6. Police is the immediate authority where survivors can go to for protection and safety. Instead police ended up not even registering the complaint of survivor and victim of sexual violence. Justice Verma Committee recommended filing a complaint of sexual offence online, police should be trained to deal with sexual offence appropriately and most importantly police force must understand their accountability to law and no one else. These recommendations have been largely unattended which led to injustice to survivor.

PROPOSED RECOMMENDATION

- In cases of minors/adolescent cannot sign or be the witness, there is a need of an adult to represent the case, whereas there are many cases where the family is not supportive, a provision of Guardian ad litem can help in addressing the case for the minor. Guardian ad litem is a person the court appoints to be a legal re-presenter in the case of minor for the best interest of the child.
In cases of bail, there is a chance of the victim becoming hostile. For improvements in such cases, the Witness Protection Scheme gives protection to witness. But such progressive laws are hardly implemented or awareness on such laws is absent or un-operational. Lawyers and organizations working on issues of violence against women should keep a track of such laws to get a speedy justice.

In 2008, few changes in the laws have been made for instance 372 CRPC gives the right to appeal against the accused if found guilty, but such existing laws are hardly implemented. Prof. G.S Bajpai from National Law University, Delhi rightly pointed out that lawyer is reluctant to fight for survivor in such circumstances. He also opined that cases of such kind are almost negligible.

Equal footing of both, the accused and survivor has to be considered as their constitutional right. Despite, the denial of the constitutional right is rampant in judiciary; hence it is necessary that the laws of this country obligate judiciary system to ensure equal footing and participation of survivor. The survivor should be considered in every step such as during the investigation, charge making, bail granting, cross examination, medical examination, compensation granting, charges on the accused.

Functional helpline with state authorized linkages with police and medico legal officers in line with present laws. Also proper yearly budgetary allocations, training, technology upgradation and linkage up to NGOs and media for effective implementation of helpline.

Anti-Rape discourse has not considered lack of shelter homes to be sexual violence issue. In addressing the issues of violence against women, a separate institutional network to provide shelter homes for ensuring safety of the rape survivors should be put into operation.

Demanding space in the mainstream media which are gender sensitive in reporting, documenting and representing the case of Gender Violence.

Judgments made by the courts should give priority to the statement of the survivor/witness rather than the medical report which is considered to be the prime evidence. Practice such as comment on hymen, and two finger test perpetuate stereotypes and hold no significance in generating evidence. A component of medical treatment and psychological support to be provided to all survivors has to be made operational instantaneously.

A holistic redressal system should be in place such as short stay for the survivors, financial assistance, assistance of legal action in their cases, counseling sessions for survivors and their family etc.

Focused studies should be done on specific thematic areas such as studies on actual cases and cases that are reported, how effective in the Alternative platforms of justice for women, for example the Bombay special cell project, 2002.
- **Video recording of all the court proceeding** also camera proceeding in rape cases should take place, so that it becomes a non-rewritable provision.

- Working with **the youth and men** is the need of the hour.

- Need of **Rehabilitation Schemes** for survivors.

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