

# THE STATE WE ARE IN

---

Dr. N.L. Dongre



THE shocking incident of the beating and molestation of a young woman by a mob in Guwahati in Assam on July 9 has exposed the ugly underbelly of modern, globalised India, where women face violence, covertly and overtly, at home and outside. The incident has also exposed the lackadaisical manner in which these crimes are treated by the authorities and the general public, and subjected to all kinds of interpretations, which eventually deflects attention from the real issues behind the violent manifestation of and escalation in such crimes.

It was not long ago, in June, that Rumi Nath, a young woman legislator of the ruling Congress in Assam, was beaten up by a mob just because she had dared to marry for the second time. In another case, a woman Member of Parliament from Dahod in Gujarat was beaten up by the police.

The Guwahati incident attracted significant public attention, widely telecast as it was on the days following it and later repeatedly shown on leading television channels and social networking sites as a subject matter of discussion. How much of this was voyeuristic is anybody's guess. The focus shifted from the victim and the overall situation of rising crimes against women to the role of the media, the electronic media in particular, and the clumsy handling of the case by the National Commission for Women (NCW), a statutory body set up nearly two decades ago to strengthen the legal apparatus to protect women.

The NCW, which has assumed the role of a proactive body over the last one decade in terms of conducting several fact-finding and inquiry committees into random incidents of violence against women, went into mission mode after the Guwahati incident. It constituted a fact-finding team comping



members of the Commission, including a former Youth Congress leader, Alka Lamba, who had little experience of dealing with such incidents. What followed was outrageous. The victim's identity was given out during a press conference.

Meanwhile, even as several of the accused continued to remain at large, the television channel that had aired the pictures of the molesters and captured the acts of molestation live was at the receiving end. accused of having orchestrated the entire episode and even instigated the mob to molest the young woman. The focus continued to shift, and views on the ethics of media coverage were as diverse as they could get. However, there was no denying that had the faces of the molesters not been captured on camera, the State police would not have been able to apprehend 12 of them in a short time. The continuous and repeated telecasting of the molestation by leading channels was of no concern to anyone. Following the *faux pas* by the inquiry panel member and the outrage over it, the NCW distanced itself from the statement and the person. But the organisation ran into more controversy when the Chairperson was criticised for suggesting that women should dress carefully. She, however, denied making that statement. Some commentators even went to the extent of suggesting that the NCW should be disbanded. The views of women's organisations that had fought hard to get the NCW constituted and put many women-specific laws in place and had lobbied hard for strengthening the existing laws just did not matter. Interestingly, after the previous Chairperson demitted office, the NCW had been headless for nearly five months. And the acting Chairperson, after taking over charge, issued a statement that baffled all: "I would like to educate the women to adopt the collective approach in the right direction and awareness to join the current stream of the nation."



The incumbent Chairperson, Mamta Sharma, a former legislator from Rajasthan, who will complete one year in office in August, if she did indeed make moralising statements, has not been alone in making such remarks. The Commission, while probing the murder of Sister Valsa John in November last year in Pakkur district, Jharkhand, allegedly by the \ mining mafia, encountered a senior : police officer who said, in connection with the rape of a tribal woman who was an associate of the nun and perhaps a witness to the murder, that police frequently did not register first information reports (FIRs) in such cases. Worse, he said that rape was common among tribal people. The Commission took an adverse view of the officer's comments and recommended that its observation be entered in his confidential service reports.

### **KHAP DIKTATS**

Examples of leading political representatives defending the undemocratic diktats of khaps and caste panchayats on the grounds of respecting popular sentiment and tradition are not uncommon. Recently, a highly educated Member of Parliament, Jayant Chaudhary of the Rashtriya Lok Dal (RLD), justified the decision of khap panchayats. Following reports of a caste panchayat in Asra village in Baghpat district of Uttar Pradesh restricting the movement of young girls within the village and their use of mobile phones, the young MP told media-persons that every family had a right to manage its own affairs and that there was nothing wrong in the decision of the panchayat. Baghpat happens to be the constituency of RLD chief and Union Civil Aviation Minister Ajit Singh.

Meanwhile, Union Home Minister P. Chidambaram, who took a stern view of the diktat, was criticised by the All India Jat Arakshan Samiti, which has been actively demanding reservation for Jats in the backward classes category. A senior Minister in the State even commented that the decision of the

panchayat did not warrant action as it did not clash with the laws of the land. In another case, in 2010, in the context of a demand to amend the Hindu Marriage Act to ban sah-gotra (same gotra) marriages, a young Congress MP from Haryana lauded the service rendered by khap panchayats.



### **KILLING FOR HONOUR**

Although not documented in crime records as such, honour-related crimes have been on the rise in the past one and a half decades in the country. A draft of The Prevention of Crimes in the Name of Honour and Tradition Bill, 2010, has been pending with the NCW for two years. It was prepared by senior advocate and former Law Commission member Kirti Singh and adopted by the NCW. The Union government has been dragging its feet on several Bills, including a comprehensive draft Bill to prevent sexual assault. This was also prepared by Kirti Singh on behalf of the All India Democratic Women's Association (AIDWA). The Bill proposed several amendments to the Code of Criminal Procedure (CrPC) and the Indian Penal Code (IPC) in order to widen the ambit and definition of rape. In May this year, Parliament passed the Protection of Children Against Sexual Offences Bill, raising the age of consent from 16 to 18, but many Bills, including the Women's Reservation Bill, are in cold storage. A major problem is that even those Bills pertaining to women and children that are passed by Parliament do not somehow comprehensively address all the issues raised by women's organisations.

The Protection of Women against Sexual Harassment at Workplace Bill, 2010, is awaiting parliamentary passage even though the Supreme Court had issued guidelines on stopping sexual harassment at the workplace 15 years ago. The Bill was introduced in the Lok Sabha last year and has remained there since. It had excluded domestic workers from its ambit and was referred to the Union Cabinet for amendments. Interestingly, a Parliamentary Standing Committee recommended the inclusion of male workers in the Bill, something which was not acceptable either to the Women and Child Ministry or to women's groups. Such attempts to constantly trivialise legislation meant to protect women have only worsened the situation.

The latest figures of the National Crime Records Bureau (NCRB), released in June, show that crimes against women have been rising steadily. The NCRB has since 1953 been keeping a record of all crimes committed in India, including those against women and children. The data reveal an increase in crimes filed under the IPC (rape, molestation, kidnapping and abduction, homicide for dowry or dowry deaths, mental and physical torture, sexual harassment, eve-teasing, importation of girls) and those filed under Special and Local Laws (those specific to women, such as the Immoral Traffic (Prevention) Act, 1956, the Dowry Prohibition Act, 1961, the Indecent Representation of Women (Prohibition) Act, 1986, and the Sa-ti Prevention Act, 1987).

Crimes against women in India, filed under both the IPC and the SLL, went up by 7.1 per cent over 2010 and 23.4 per cent over 2007- Significantly, States with a high per capita income, and high education and literacy levels, reported high rates of crimes against women. According to NCRB data, there was a continuous increase in crimes against women between 2007 and 2011; the sharpest increase was between 2010 and 2011. West Bengal and Andhra Pradesh reported the highest rates of crimes committed against women as a percentage of the total crimes.

Not only the reported number of crimes but the incidence of crime against women also went up in 2011, with Tripura topping the list. The IPC component of crimes accounted for 95.8 per cent of the total crimes against women and the SLL component 4.2 per cent. There has been a steady increase in the rate of IPC crimes since 2007- Rape, one of the most grievous crimes against women, increased by 3.5 per cent between 2007 and 2008, and after a decline in 2008 increased by 3.6 per cent in 2010 over 2009- The increase was monumental in 2011 over 2010:9.2 per cent. Madhya Pradesh, among the States, reported the highest number of rape cases, accounting for 14.1 per cent of the total number of cases. The crime rate was the highest in Mizoram, much higher than the national average.

The NCRB categorised rape cases as incest rape and other rape cases; marital rape remains an unrecognised category by lawmakers. Girls under 14 constituted 10.6 per cent of the victims, and 19 per cent were teen aged girls between 14 and 18 years. The bulk of the victims, 54.7 per cent, were women in the age group of 18-30 years. As many as 141 victims of rape were over 50 years of age. The offenders were known to the victims in 94 per cent of the cases.

## **KIDNAPPING AND ABDUCTION**

Kidnapping and abduction cases went up by 19.4 per cent, with Uttar Pradesh accounting for a large number of them. Dowry deaths, too, went up in 2011, and a good number of them were reported from Uttar Pradesh, followed by Bihar. Torture cases, that is, cruelty by husband and his relatives, registered under Section 498A of the IPC, went up by 5 per cent; West Bengal reported the highest rate for such crimes. It is significant to note here that there has been an orchestrated campaign to make the section non-culpable and compoundable, on the pretext of its misuse. Women's groups have been strongly opposed to any dilution of the section.

Incidents of molestation increased by 5.8 per cent over the previous year; Madhya Pradesh reported the highest incidence. In contrast, cases of sexual harassment decreased by 14 per cent though some 9,961 cases were reported. But, worryingly, cases of importation of girls went up by as much as 122 per cent. Here again, Madhya Pradesh accounted for the bulk of such cases, followed by Karnataka and Bihar. The three States together accounted for more than two-thirds of the total number of cases at the national level.

Among crimes under Special Laws, cases registered under the Dowry Prohibition Act increased phenomenally by 27-7 per cent. Andhra Pradesh topped the list of States with such crimes, followed by Karnataka. However, there was a palpable decline in the number of cases registered under the Indecent Representation of Women (Prohibition) Act. Whether this symbolises acceptability in the way women are represented or whether it is a reflection of changing mores is not clear.

### CITY FACTS

In megacities, that is, those with a population of more than 10 lakh, a total of 33,789 cases of crimes against women were reported in 2011, almost 10,000 cases more than in 2010. The rate of crime too was high in the 53 megacities. Delhi accounted for the largest number, followed by Bangalore, Hyderabad and Vijayawada in that order. Delhi topped in accounting for the largest number of crimes filed under the IPC, leading in rape, kidnapping and abduction and dowry deaths. Bangalore, Hyderabad, Mumbai and Patna reported more cases filed under the SLL; Bangalore registered the largest number of cases under the Dowry Prohibition Act. Like last year, the majority of cases under the Indecent Representation of Women Act were reported from the two cities of Jaipur and Jodhpur in Rajasthan. The NCW had, as per its mandate, drafted amendments to the Act, seeking to expand its scope to include electronic and digital media.

In recent years, human trafficking and crimes under the IPC related to it had received much publicity, internationally as well as domestically. But NCRB figures show an overall decline since 2007 in the various kinds of human trafficking covered under IPC and SLL laws, that is, procurement of minor girls, importation of girls, buying of girls for prostitution and immoral trafficking, and crimes under the Child Marriage Restraint Act.

The NCRB also classifies certain crimes as violent crimes, and rape is one of them. The percentage share of rape as a violent crime was 9.4 per cent of the total violent crimes. The data show that while there has been an overall increase in the share of violent crimes to the total crimes filed under the IPC, the crimes affecting women have decreased marginally. But this can hardly be a consolation.



### DOWRY-RELATED DEATHS

Dowry, love affairs and sexual matters have been described as significant causes for murders. Odisha leads in dowry murders (26.4 per cent murders due to dowry were reported from here) and Karnataka reported 32.1 per cent of murders for reasons relating to witchcraft.

The overall incidence of dowry deaths went up by 25.8 per cent over 2001, with Uttar Pradesh reporting the highest number of incidents as in previous years. Bihar came second. The crime rate for dowry-related deaths was the highest in Bihar.

Overall, the share of women victims of murder constituted 26.7 per cent (9,377 of 35,123 murder victims) of the total number of murder victims in 2011. Kidnapping and abduction of women went up three times; marriage was one of the main causes cited for the crime. Whether kidnapping for marriage is for revenge or due to the shortage of girls is a matter for further research, but the connection between the skewed sex ratio and this phenomenon cannot be overruled.

The sex ratio, especially child sex ratio, continues to worsen because of the tardy implementation of the Preconception and Pre-Natal Diagnostic Techniques Act, 1994, which has made sex-determination tests illegal. Of the total of 1,165 such cases filed across the country, conviction has been secured only in 102 cases. The rate of disposal of crimes against women by courts and the police therefore speaks volumes on why things are the way they are.

The NCRB data also demolish the myth of misuse of laws by women. Of the total cases investigated by the police, only in 11 per cent the charge of cruelty by husband and his relatives was found to be false.



### **THE OVERALL INCIDENCE OF CRIMES AGAINST CHILDREN WENT UP BY 24 PER CENT OVER 2010.**

The overall rate of conviction for all crimes was 41.1 per cent. The pendency of cases, filed under both the IPC and the SLL, for trials was found higher in the north-eastern States, including Assam. The disposal by courts of SLL cases under the Dowry Prohibition Act was 19.5 per cent, with a pendency of 80.5 per cent. The disposal of IPC cases such as rape was only 16.4 per cent, dowry death cases 17.1 per cent, molestation 15.9 per cent, sexual harassment 17.4 per cent, and cruelty by husband and his relatives 12.3 per cent. Of equal concern is the pathological increase in the number of child rapes in the country. A total of 7,112 cases of child rape were reported in 2011; the figure was 5,484 in 2010. That the rise is in thousands needs to be taken serious note of by policymakers. Among the States, Madhya Pradesh, Uttar Pradesh and Maharashtra accounted for 44.5 per cent of the child rape cases.

The overall incidence of crimes against children went up by 24 per cent over 2010, and the conviction rate for crimes committed against children remained at 30 per cent. The various inquiries initiated from time to time by the National Commission for Protection of Child Rights, a statutory body set up in 2005, have pointed out the shocking nature of the crimes against children, including crimes in shelter homes. The revelations in May this year of sexual exploitation, torture and forced labour of minor children, including girls, at a renowned shelter home in Rohtak, Haryana, which received Central and State grants and also awards, is a pointer to the deep-rooted malaise. The Protection of Children Against Sexual Offences Bill is, therefore, a welcome step, but if the root cause of destitution of children, that is abject poverty, is not addressed, the law by itself cannot guarantee protection.

In fact, a cursory look at the complaints received by the NCW itself since 1992 - coinciding with the beginning of economic reforms in the country - shows that there has been a steady increase from the 122 cases that year to 13,190 cases in 2008. It is of no use to have women as heads of state or government if they adopt and express the dominant values of a patriarchal society-

Among women, Dalit and tribal women are more vulnerable today. Knee-jerk reactions in the shape of not-too-well-thought-out laws cannot be the answer; neither is doing away with institutions. The exponential increase in crimes against women and children needs administrative, legal, judicial and societal responses and it cannot be dissociated from the lopsided development policies being pursued today.

