

# DEATH PENALTY CAN'T PREVENT RAPES

Several women and human rights organisations, unimpressed by official promises of action, have demanded the death sentence for rape crimes. However, as a society we must take a reasoned view.

RAM SINGH

It seems only a crisis or a tragedy can wake us out of a deep slumber of inaction. The recent spate of unspeakable tragedies involving rape and brutalisation of women has forced us to recognise the endemic trampling of women's right to life and dignity. The actors of the state have all swung into action. Politicians have promised tougher laws against rape crimes. The police has assured proactive nabbing of criminals. The judiciary is for expeditious adjudication of crime against women (CAW) cases.

The desirability of capital punishment for rapists has come to be shared by society at large, several experts of crime, law and sociology included. On the face of it, the demand is quite appealing. After all, rape is the most heinous of crimes and what could deter potential rapists more than the fear of death. Moreover, it appears plausible on the ground of retributive justice; brutal rapists deserve nothing less.

### Disastrous on all counts

Its instinctive appeal notwithstanding, death penalty can fail not only to ensure retributive justice but also as deterrence against crimes. Several things can go wrong when it comes to enforcement of death penalty for rape.

For rape crimes the victim's statement is very crucial for identifying the culprits; in many cases it is the only source of information. But for the testimony of the victims, many rapists would not be punished. However, from the perspective of criminals, death penalty for rape would mean the same punishment for one crime of rape, and also for rape followed by murder of the victim (two crimes). So, death penalty may induce some brutal rapists to kill the victim so as to exterminate the evidence of crime. In such cases, the consequent outcome would be disastrous on all the counts. The victim would have lost her life, and society would have missed crucial proof of crime. But, the perpetrators would go scot-free.

Human errors cannot be ruled out even when THE police, forensic experts and judges all work assiduously. At times victims make mistake in identifying the criminal. Indeed, wrongful convictions are a well-known fact of criminal law – at times, instead of the real criminal, some innocent gets punished. The wrongful conviction rate is estimated to be in the range of 3-10 percent for the USA, a country with a well-functioning judicial system. But, death penalty is an irreversible process.

In contrast, to rigorous imprisonment of wrongdoers, it spares no chance to the criminal to reform himself, and to the system to rectify erroneous convictions. Guided by this concern, judges expectedly would demand conclusive evidence before sending the accused to gallows. However, in many cases decisive evidence is not always easy to come by. Therefore, death penalty can further reduce the conviction rate which is already very low (26 percent).

Moreover, death penalty can further aggravate the problem of under reporting of some categories of crime. Some studies suggest that in a significant fraction of the rape cases, the perpetrator is



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someone known to the victim - a family-member, relative, or friend. Most of such crimes go unreported. The problem of under-reporting is acutest for adolescent and teenage victims. Due to the misplaced social stigmas and pressure from relatives, many victims choose to live with the trauma rather than bring the guilty to the book. Death penalty will further aggravate under-reporting of such crimes.

### Certainty of punishment

It is worth emphasising that as many as 141 countries have abolished capital punishment from their legal systems. However, there is no evidence to show that in these countries, the crime rate has increased post-abolition. As the empirical research in law-and-economics shows, for the purpose of deterrence, *ceteris-paribus* the certainty of punishment matters more than the severity of penalty. Moreover, punishment should increase with the intensity of crimes. Therefore, death penalty should be restricted to the rarest of rare cases.

It will be a mistake to attribute the current state of affairs to the leniency of the law. In India, in cases either victims do not report the crime, or the police does not file FIRs. Moreover, the judicial process is protracted. Therefore, punishment for the guilty is anything but certain. As a result, the law has lost its deterrence power.

An examination of CAW cases reported by the media during the month of December 2012 offers some guidance as what can be done. Com-

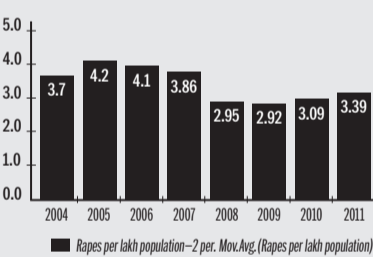
### Media reporting of CAW cases category-wise, during the month of December 2012.

#### NUMBER OF CAW CASES REPORTED (CATEGORY-WISE)

Category of Crime to the victim	Total Molestation taken	Rape	Criminal known	Legal Reported	Reported later	Gang rape	Minor victim (after a significant gap)
Before 17th Dec	4622	2421	130.55	56	16.5		
After 17th Dec	11407	14860	519.528	544			
Increase in reporting*	2.41	1.83	0.23	0.32	0.33	0.54	82.7

\* Ratio of post-Dec 17 cases to pre-Dec 17

### RAPE CASES IN DELHI



pared to the first half, in the second half of the month the number has more than doubled. See Figure 1/ Table 1. This is true for most categories of CAW. This finding is somewhat peculiar. Since, due to the public outrage in the aftermath of the Nirbhya tragedy on December 16 and enhanced vigilance by the police and the media, one would have expected a larger number of potential criminals to desist from crime.

On a closer look, it makes sense. Earlier, media reports on CAW were small pieces generally tucked away on the back page. In contrast, post-December 16 reporting has been much more prominent. This along with the condemnation of sex crimes by a wider section of society has encouraged several victims to come out and reveal hitherto unreported crimes. Moreover, a sizable number of such crimes though reported in December, were actually committed earlier. The message is clear: Many more victims can be encouraged to come forward by proactive but truthful reporting by the media, and by changing the victim-blaming attitude of society.

Besides, comprehensive police reforms are indispensable. Media stories on reluctance of the police to register CAW cases and hostile attitude toward victims are abounding. At the same time, some innovative police

officers have shown that it is possible to transform police from an ineffective entity into a protective force. Contributions of two IPS officers in reducing CAW are notable.

Dr. Sagar Preet Hooda of UT cadre pioneered a game-changer initiative in Delhi, called "Privartan". This multi-pronged programme resulted in a significant and persistent decline in CAW under his stewardship. Similarly, Mr Rakesh Arya of the Haryana cadre, when serving as the SP in Kamal undertook initiatives that led to an immediate and significant decline in crime. Such individual creativities are very welcome. However, the imperative is to institutionalise the lessons learnt from such initiatives. Otherwise, the effects of innovative policing start to peter out soon after the transfer of the initiator officer.

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### Are criminals born or made?

MANY criminologists and scientists believe that a person's proclivity towards crimes is a matter of genetic fate. Similarly, it is argued that orientation towards sex-crimes gets determined before birth. In contrast, majority of sociologists believe that crimes against women (CAW) are a matter of social attitude toward women. Also, legal jurisdictions provide for severe punishment for heinous crimes. The use of penalty as a deterrence is intuitive as well as historic. Therefore, the question is: "What is responsible for endemic crimes against women in India; criminal genes, social attitude or a dysfunctional legal system?"

Earlier research suggested that genes are the determining factors. For example, a study based on identical twins – people with the highest probability of having matching genes – concluded that compared to the others, a man whose twin has criminal record is 50 percent more likely to be a criminal himself. Some psychologists found that compared to the other children, a child whose biological parents are criminals is much more likely to end up a criminal, even if his adopted parents are not.

However, on scrutiny these findings were found to be simplistic. Presumably, a criminal is a bad influence on his siblings and children. So, rather than the "bad genes", the home environment may be driving the above mentioned correlations. Today, most geneticists agree that even strong genetic traits are amenable to social environment. The sociologists have a point. Studies also show that several factors determine the level of criminality; such as gender and economic inequality, poor law enforcement, corruption in the police and the judiciary.

At times, peculiar factors can work. For instance, many crimes in America are attributed to the so-called "weekend-fever", crimes induced by heavy drinking. But, weekends marked by the release of block-buster movies tend to experience fewer crimes. Criminals get busy watching movies!

Empirical research shows that knowledge and severity of consequences do impact individual behaviour. Moreover, an increase in the certainty of punishment provides a greater deterrence than a commensurate increase in the penalty. New technology – cell phones, CCTV cameras – can also be used to reduce response time to rescue calls and apprehend the criminals.

The message: it is possible to reduce crime significantly. Civil society organisations should not rest until the state delivers a system in which punishment is certain and increases in proportion to the severity of crime. —R.S.

### SHORT TERM TENDER NOTICE

Sealed tenders on single percentage basis above or below of the HSR 1988 are hereby invited on behalf of the Government of Haryana from the approved contractors and L & C societies enlisted with Panchayati Raj Organization and PWDB & Rony for the following works on the prescribed form obtainable from the office of the Executive Engineer, Panchayati Raj, Ambala on cash payment of Rs. 1000/- or as per rule each tender form. The tender for the listed L & C societies will be issued upto 11:00 am on 21-1-2013 and the same will be received & opened in the office of the Executive Engineer Panchayati Raj, Ambala at 12:00 noon in the presence of L & C societies or their representatives. If tenders received are not found with the necessary premium tendered by societies then the tenders will be issued to the listed contractor L & C societies both upto 3:00 PM on dated 21-01-2013 and the same will be received and opened at 4:00 PM in the presence of contractor L & C societies or their authorized representatives in the office of Executive Engineer, Panchayati Raj, Ambala.

Sr. No.	Name of Block	Name of Village	Name of work	Estimated cost	E/money Cont./ society	Time Limit
1	Ambala-1	Mehlan	Const. of Shed for solid waste, Nala etc.	1389300/-	27000/2000	2Months
2	Barara	Thamber	Const. of Shed for solid waste, Nala etc.	644000/-	13000/2000	2Months
3	Naraingarh	Dudhli	Const. of Shed for solid waste, Nala etc.	867300/-	17000/2000	2Months
4	Naraingarh	Naraingarh	Const. of Ayush Wingat CHC	1442300/-	28900/2000	4Months
5	Ambala City	Ambala City	Const. of Ayush Wingat GH	1730000/-	34600/2000	4Months

- Conditions:**
- The cement will be used 43 grade O.P.C.L & C societies/contractor will arrange to own levels such as of Gujrat Ambuja, Shree Cement or J.K. brand
  - The L & C societies/contractor will use the steel Fe-500 T.M.T., TATA, SAIL, TISSCO/ISSCO approved by the Steel Authority of India Ltd.
  - The testing charges, if any, will have to be borne by the concerned contractor/agency.
  - The work will be done as per PW.D. specifications as applicable in Haryana state with up to date as per corrections slip.
  - The tender form will be issued on production of the proof of having deposited earnest money in the form of D.A.C. in favour of XEN (P.R.) Ambala. The L & C societies have to produce a fresh resolution authorized signatory duly attested by Assit. Registrar.
  - 10% security will be deducted from the running bills/Final bill of the contractor/Agency subject to a maximum of 5% of the contract value.
  - Labour cess @ 1% will be deducted from running bills/Final bill of the total work done or as per rule.
  - If there happens to be a holiday on the date as mentioned above then the next working day will be treated as the day for opening of tenders with same timing.
  - No. earth shall be taken from Govt. land.
  - Conditional/telegraphically tenders will not be entertained.
  - 10% of the cost of the work shall be retained as a security for the work.
  - 11% of the cost of the work shall be retained as a security for the work.
  - 12% of the cost of the work shall be retained as a security for the work.
  - 13% of the cost of the work shall be retained as a security for the work.
  - 14% of the cost of the work shall be retained as a security for the work.
  - 15% of the cost of the work shall be retained as a security for the work.

(For and on behalf of the Governor of Haryana) Sd/- (Sohan Singh), Executive Engineer, Panchayati Raj, Ambala. Date:- 4.1.13

**Be Responsible Become a Voter now**

- Only 40% of youth between 18 to 19 years of age have registered themselves as voters.
- A special campaign is being held from 6th Jan 2013 to 25th Jan 2013 to allow the remaining young eligible voters to register themselves. Other eligible citizens are also welcome to apply in Form B.
- Eligibility - 18 years as on 1.1.2013.
- To make use of this opportunity please contact your BLO or your ERO or your College Principal.

15TH JAN 2013 WILL BE CELEBRATED AS NATIONAL YOTER'S DAY

**Semi-Conductor Laboratory (SCL)**  
(Department of Space, Government of India)  
Construction & Maintenance Division (CMD)  
Sector 72, SAS Nagar 160071 Pb. (India) Ph: 91-172-223401-10, Website: www.scl.gov.in

**CORRIGENDUM: NO. 1**

Sl. No.	Name of the work	NIT Reference	Estimated Cost / (EMD) (in Rs.)	Sale period extended upto	Date of submission
1.	Providing and laying of water proofing treatment over the roof of F.G Store, Gas Plant Building etc. at SCL.	SCL/CMD/WPT/Q-97/2012 dated 10.12.2012	8,33,037 (16,661)	29.01.2013	31.01.2013
2.	Re-carpeting of existing road surface and construction of storm water drain at SCL.	SCL/CMD/Road/Q-99/2012 dated 11.12.2012	21,99,573 (43,991)	28.01.2013	30.01.2013
3.	Boring and Installation of Bore well of size 680 x 600mm & 300m deep at SCL.	SCL/CMD/Borewell / Q-100/2012 dated 15.12.2012	22,49,662 (44,993)	30.01.2013	02.02.2013

Tender document can be obtained from the Office of Head (CMD), SCL against payment of ₹500/- in the form of Demand Draft (Add Rs. 250/- for postal requisition) drawn in favour of Semi-Conductor Laboratory, SAS Nagar. The detailed Tender Notice Inviting Tenders can be downloaded from our website [www.scl.gov.in](http://www.scl.gov.in) and [www.isro.org](http://www.isro.org).

Head, CMD

**PRESS NOTICE**

**NOTICE INVITING E-TENDERS**

Sr. No.	Name of Work	Estimated Cost	Earnest Money/ Contractor/ Society	Time Limit	Date and time for bid preparation to Hash submission.
1.	Reconstruction of H.L. Bridge 2 Landed over BBMX-ingand Fatehabad Distributory on Nizampur - Narnaul - Mahendergarh-Dadri-Bhiwani-Hansi-Barwala-Tohana-Munak road (S.H.-17) at RD 222.860 and 222.910 (in Tohana City portion) in Fatehabad Distt.	Rs.369.03 lacs	Rs.7.38Lacs for Contractor & L&C Society.	9 (Nine) months	08.01.2013 at 20:01Hrs. to 04.02.2013 upto 17:00Hrs.

Bids can be submitted online only at <http://haryanapwgs.etenders.in>  
For other details visit website <http://haryanapwd-bandr.org> or [www.haryanapwd.gov.in](http://www.haryanapwd.gov.in) or <http://haryanapwgs.etender.in/> concerned offices

FOR & ON BEHALF OF GOVERNOR OF HARYANA  
Sd/- Executive Engineer, Provincial Division, PWD B&R Br., Fatehabad. (01667-220120)