

MARITAL RAPE, GENDER NEUTRAL LAWS COME UP AT NCW MEET

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At a consultation organised by the National Commission for Women on amendments to criminal law on Tuesday, there was unanimity among speakers that marital rape should be criminalised. The meeting also discussed rising instances of cyber-crime against women and the need for gender-neutral rape laws.

The NCW is expected to have another round of discussion on this issue, following which it will send the recommendations to the Ministry of Home Affairs, which is looking at a review of the Criminal Law, including the IPC, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872.

The meeting also comes at a time the Delhi High Court is hearing multiple petitions on making marital rape an offence and the government has sought more time to present its stand.

The petitions have sought striking down exception to Section 375 of the IPC, which says forceful sexual intercourse or sexual acts by a man with his own wife, the wife not being 18 years, is not rape. "There was agreement among all present that marital rape exemption cannot continue. There was one voice that raised concerns about evidence gathering," said a person present at the meeting who didn't want to be identified.

'Strict burden of proof'

Senior Advocate in the Supreme Court, Geeta Luthra, who made the point on the need for evidence for punishing marital rape, told *The Hindu*, "No one is talking against women's autonomy or privacy or that marital rape should not be an offence. But there should be a better investigative process and a strict burden of proof so that it doesn't happen that someone is miffed and makes a marital rape allegation."

The meeting also discussed the interpretation of consent.

"We have said there should be a broader understanding of when consent stands vitiated. Anything obtained with fraud or force where force means fear of injury to body, mind and reputation is considered in cases of extortion and we are demanding that the same standard should be applied to consent in sexual offences as well. The focus has to be on violence and not morality," said Ved Kumari, Vice-Chancellor, National Law University, Odisha.

On the issue of age of marriage being raised for women to 21 years to make it equal to that of men, most speakers agreed that 18 years should be the age of marriage for both men and women.

The meeting also discussed the need for gender-neutral anti-rape laws which the civil society has demanded to recognise same-sex assaults among gay, lesbian and bisexual people as well as sexual crimes against transgender people.

"There was a lot of emphasis on cyber-crimes against women as well as making revenge porn and online stalking punishable," Senior Advocate, Supreme Court, Pinky Anand said..

Several women's rights activists, however, were unhappy because they were not invited for the discussions.

While there were 13 speakers, only one was an activist and remaining were lawyers apart from a representative each from the National Law School of India University, Bangalore, and the National Law University, Odisha.

Six women's organisations wrote to NCW Chairperson Rekha Sharma demanding wider consultations.

The focus has to be on violence and not morality

Ved Kumari

Vice-Chancellor, National Law University

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