



March 11, 2014

To  
The Hon Chief Justice of India  
Supreme Court of India  
New Delhi

**SUBJECT: Request for intervention on three measures that provide survivors of sexual assault with support and help them in obtaining speedy justice**

Respected Sir,

Over the past year, our team has been researching the issue of rape, especially to understand the journey for justice that a survivor and her family go through. We undertook this research for the purpose of presenting the issues related to this heinous crime, through our television show, Satyamev Jayate, broadcast on Star network that highlights important social concerns.

In dozens of interactions with rape survivors, their families and legal and social institutions supporting them, we discovered that there are several factors that act as roadblocks to the path to justice. These include non-registration of First Information Reports ('FIR'), improper/ inefficient collection of forensic evidence, humiliating treatment at hospitals and police stations, dissuasion of women from doing medical examinations by doctors, vital evidence being collected incorrectly and intimidation and humiliation in and outside court. All of this demoralises the survivor, leads to enormous delays, re-victimises the survivor and also impacts conviction rates. This we believe can lead to grave miscarriages of justice.

It is in this context we feel that the recommendation of the Justice Usha

Recd.  
11/03/14



Mehra Commission for the setting up of One-Stop Crisis Centres for survivors of rape and sexual assault is of crucial importance. In December 2012, following the horrific gang-rape of Nirbhaya in a moving bus in Delhi, the Justice Usha Mehra Commission was set up by the Government of India to suggest measures to improve women's safety. The Commission, in February 2013, recommended the setting up of One-Stop Crisis Centres to ensure support for survivors and help in obtaining speedy justice:

As recommended by Justice Usha Mehra:

- These centres are to be set up in designated hospitals.
- Every centre should ideally have a gynecologist or a medical expert (preferably a woman); a trained police officer of the rank of inspector or above (also preferably a woman); a woman counsellor or a representative of a concerned NGO; a forensic expert; and a qualified nurse, so that a survivor of rape and sexual assault can be assisted on all counts under one roof.
- The survivor should be able to have her medical examination and treatment, FIR registration, access to legal services and rehabilitation support, all at the One-Stop Crisis Centre.
- A judicial or metropolitan magistrate should also be called immediately to record the survivor's statement in order to enable swift action and speedy justice.

It has been over a year since the Justice Usha Mehra Commission submitted its recommendations. However, it is unfortunate that no substantive or effective on-ground development in this regard has taken place in most states. According to Justice Usha Mehra, these One-Stop Crisis Centres will greatly facilitate swift delivery of justice which will act as a deterrent against the crime of rape.

Sir, further in the course of our research we learnt about the trauma that a survivor of rape goes through is heightened when she is made to confront the accused face to face in court and deal with character



assassination and irrelevant, humiliating questions from the defence counsel. This leads to further victimization, sometimes intimidation, and in many cases survivors turning hostile, leading to acquittals of the accused. These practices continue despite the Hon'ble Supreme Court time and again specifically and strongly condemning them.

In 2013, as part of the Vulnerable Witness Project, the judiciary took a very important step by setting up the Vulnerable Witness Deposition Complex, a special courtroom at the Karkardooma Court Complex, New Delhi. The Delhi High Court initiated the creation of this courtroom where survivors can testify in a safe and secure environment. This is a model, exemplary move that goes a long way in restoring the faith and confidence of vulnerable witnesses in the process of justice.

Sir, in the course of our research we also came to understand that rape and sexual assault have serious health consequences on a survivor. Besides the severe psychological trauma as a result of assault, a survivor may have suffered physical injuries, contracted sexually transmitted infections or even be at the risk of an unwanted pregnancy.

It is consequently essential that the survivor receives sensitive and humane treatment when she goes to any public or private hospital. However, the medical examination procedure in India in such cases has been found to be sorely lacking as they are invasive, insensitive and re-traumatizing. Its' focus is invariably on the collection of medico-legal evidence, often ineffectively, and not on helping the survivor recover physically and emotionally. Further, the presence of physical injuries is interpreted as an indication of assault; however, in most cases, survivors may not have visible physical injuries.

Many examining doctors still perform the archaic 'two-finger test', which involves the insertion of two fingers into the vaginal opening to determine the presence or absence of the hymen, the laxity of the vagina or anus and by extension, the survivor's virginity or 'habituation



to sex'. This is, without doubt, an intrusive procedure of which the Supreme Court has been critical and that has been proved to be unscientific and even more crucially, irrelevant in determining whether rape or sexual assault has occurred.

Civil society organizations have been working for many years towards creating a gender-sensitive and comprehensive healthcare response to survivors of rape and sexual assault across India. In view of this, the Ministry of Health and Family Welfare appointed a distinguished committee to frame a set of guidelines. Though the committee finalized these guidelines in December 2013, the Ministry has yet to provide a final decision on these guidelines.

In view of the above mentioned facts and circumstances, we humbly request your immediate intervention by issuance of appropriate directions to ensure:

1. That state governments set up One Stop Crisis Centres in every district of their states as per the guidelines recommended by the Justice Usha Mehra Commission
2. That Vulnerable Witness Deposition Courtrooms are set up across all states at the earliest, along the lines of the Karkardooma Court Complex in Delhi
3. That a gender-sensitive, scientific and humane protocol for the medical examination of rape survivors be uniformly implemented across the country. Survivors must receive medical treatment that is prompt, efficient and scientific, and psychological help that is non-judgmental and helps the survivor overcome the trauma of the assault

With deepest respect, these are question of profound public importance, touching upon the lives of Indian citizens, including many who do not have access to justice. We therefore humbly request your kind and urgent consideration of the issues raised in this letter.

You will be happy to learn that 59,06,477 citizens have lent their voice



to these requests, through Satyamev Jayate's Vote For Change initiative and more support continues to flow in every day.

We believe that these measures are essential in upholding the fundamental right to life and liberty and the fundamental right to equality without gender discrimination for the lakhs of women in this country who face sexual assault.

Yours sincerely,

Aamir Khan

Uday Shankar  
CEO, Star India