



## Violence against women in India: A study of the protective role of national human rights commission

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### Abstract

India has an elaborate system of Constitutional provisions and legislative safeguards to protect the rights of women. Despite the existence of Constitution remedies and legislative measures, violence against women, in various forms, such as murder, torture, molestation, dowry demands, dowry deaths, sexual harassment, rape, sale, buying, trafficking, kidnapping and abduction of women, has been consistently rising throughout the country. In such atrocious circumstances, testing an acknowledgeable existence, a dignified survival and versatile development of women in India, the ratified governmental organizations such as the National Human Rights Commission (NHRC) has an active role to play. The NHRC has been performing its mandatory obligations to mitigate violence against women quite reasonably. But a critical analysis of its functioning proves the NHRC possessing a variety of limitations, shortcomings and even inefficiencies, which hinder its task to alleviate violence against women. The NHRC is sturdily required to be equipped with more and actual powers, required staff, and an enthusiastic approach by the government as well as the NHRC officials to minimize violence against women in India.

**Keywords:** discrimination, sexual harassment, rapes, killings, law

### Introduction

Although geographically men and women share the same space, they live in different worlds. Women are often in great danger at all the places where they should feel safe. Since their birth, survival and safety of the women are in jeopardy. Violence against women persists in every country in the world as a pervasive violation of human rights and a major impediment to achieving gender equality. Such violence is unacceptable, whether perpetrated by the State and its agents or by family members or strangers, in the public or private sphere, in peacetime or in times of conflict <sup>[1]</sup>.

### Violence against women

The women of all regions, age groups, and social standings are equally prone to one or the other form of violence against them. As a result, even being equal to men in physical capacity, mental efficiency and specialized virtues, the women as a whole remain underdeveloped due to the ever present threat of violence against them. Violence against women ultimately impoverishes women, their families, communities and eventually the nations <sup>[2]</sup>. In the words of Kofi Annan, former Secretary-General of the United Nations, "Violence against women is perhaps the most shameful human rights violation. And it is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace <sup>[3]</sup>."

### Meaning and Definition of violence against women

Violence against women includes physical, sexual, psychological, and economic abuse. It is often known as 'gender-based' violence also because it evolves in part from women's subordinate status in society <sup>[4]</sup>. The term "violence

against women" refers to many types of harmful behavior directed at women and girls because of their sex. It is one of the most pervasive forms of human rights violations, denying women the equality, security, dignity, self-worth, and their right to enjoy fundamental freedoms <sup>[5]</sup>. However there is no universally accepted definition of violence against women. Some human rights activists prefer a broad-based definition that includes 'structural violence' such as poverty, and unequal access to health and education. Others have argued for a more limited definition in order not to lose or distract the actual descriptive influence of the term <sup>[6]</sup>. In any case, the need to develop a specific operational definition has been realized so that research and monitoring regarding violence against women can become more specific and have greater cross-cultural applicability.

In 1993 the United Nations offered the first official definition of such violence when the General Assembly adopted the 'Declaration on the Elimination of Violence Against Women'. The UN Declaration on the Elimination of Violence Against Women 1993 asserts that "Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women." According to Article 1 of the declaration, violence against women includes, "Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life <sup>[7]</sup>." Article 2 of the UN Declaration clarifies that the definition of violence against women should encompass, but not be limited to, acts of physical, sexual, and psychological violence in the family and the community. These acts include

spousal battering, sexual abuse of female children, dowry-related violence, rape including marital rape, and traditional practices harmful to women, such as female genital mutilation. They also include non-spousal violence, sexual harassment and intimidation at work and in school, trafficking in women, forced prostitution, and violence perpetrated or condoned by the state, such as rape in war <sup>[8]</sup>.

### **Nature of violence against women**

Violence against women is different from interpersonal violence in general. The nature, features causes and patterns of violence against men generally differ from those against women. Contrary to violence against women, the men are more likely to be victimized by a stranger or casual acquaintance. Women are more likely than men to be victimized by a family member or intimate partner <sup>[9]</sup>. The major cause of violence against women is their 'subordinate gender'. The other fact is that women are often emotionally involved with, socially attached through, and financially dependent upon those males who abuse them. The roots of violence against women lie in historically unequal power relations between men and women and pervasive discrimination against women in both the public and private spheres. Patriarchal disparities of power, discriminatory cultural norms and economic inequalities serve to deny women's human rights and perpetuate violence. Violence against women is one of the key means through which male control over women's agency and sexuality is maintained <sup>[10]</sup>. This violence is both of a physical and psychological nature and cuts through all cultures and societies. It is committed within the family setting (battering, sexual abuse of female children, dowry-related violence, marital rape, female genital circumcision, and other traditional practices that have proven to be harmful to women; non-spousal violence, and violence that accompanies various forms of female exploitations) <sup>[11]</sup>; in communities (sexual abuse, harassment, and intimidation in the workplace and educational institutions, trafficking in women, and forced prostitution) <sup>[12]</sup>; as well as in society at large, in cases when the perpetrators are members of state institutions, or because these institutions are unable to protect women, as may be the case during detention and custody and in armed conflicts <sup>[13]</sup>. Whilst traditional forms of gender-based violence centered on religion and customary laws that dominate in developing countries, in developed countries domestic violence with women's partners as perpetrators is the most frequent type of violent behavior <sup>[14]</sup>. Although all women are potential victims, certain groups are more exposed to the violence, such as indigenous women, women from ethnic minority groups, female refugees and internally displaced women, migrant women, women living in rural and remote communities, destitute women, female children and elderly women, and last but not least, women and girls in situations of armed conflicts <sup>[15]</sup>.

### **Worldwide Phenomenon**

Violence against women is the most pervasive yet least recognized human rights abuse in the world. Violence against women continues to be a global catastrophe that kills, tortures, and hurts the women, physically, psychologically, sexually and economically <sup>[16]</sup>. Violence against women is present in

every country, cutting across boundaries of culture, class, education, income, ethnicity and age. However the nature, forms and causes of violence against women may vary as per different regions and societies <sup>[17]</sup>. Even though most societies proscribe violence against women, the reality is that violence against women is often sanctioned under the garb of cultural practices and norms, or through misinterpretation of religious tenets <sup>[18]</sup>. Moreover, when the violence takes place within the home, as is very often the case, it is effectively condoned by the tacit silence and the passivity displayed by the state and the law-enforcing machinery <sup>[19]</sup>. The global dimensions of violence against women are alarming and no society can claim to be free of such violence.

### **Violence against women in India**

States have concrete and clear obligations to address violence against women, whether committed by state agents or by non-state actors, and are accountable to women themselves, to all their citizens and to the international community regarding this prerequisite responsibility. India, while acknowledging that obligation, has made several efforts in its Constitution and the law to improve the status of women. However the constitutional dream of gender equality is miles away from becoming a reality <sup>[20]</sup>. Even today, 'the mainstream remains very much a male-stream'. The dominant tendency has always been to confine women and women's issues in the private domain. The traditional systems of control with its notion of 'what is right and proper for women' still reigns supreme and reinforces the use of violence as a means to punish its defiant female 'offenders' and their supporters <sup>[21]</sup>.

### **Constitutional and Legal provisions to prevent violence against women**

There are several provisions in the Indian law to prevent and prohibit violence against women. Various new legislations have been brought and amendments have been made in existing laws with a view to handle the violence effectively. These are broadly classified under two categories.

#### **1. The Crimes under the Indian Penal Code (IPC)**

1. Rape (Sec. 376 IPC)
2. Kidnapping & Abduction for specified purposes (Sec. 363- 373 IPC)
3. Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
4. Torture - both mental and physical (Sec. 498-A IPC)
5. Molestation (Sec. 354 IPC)
6. Sexual Harassment (Sec. 509 IPC)
7. Importation of girls (up to 21 years of age) (Sec. 366-B IPC)

#### **2. The Crimes under the Special & Local Laws (SLL)**

The gender specific laws which prevent and prohibit violence against women in the country are:

1. Immoral Traffic (Prevention) Act, 1956
2. Dowry Prohibition Act, 1961
3. The Child Marriage Restraint Act, 1929
4. Indecent Representation of Women (Prohibition) Act, 1986
5. Commission of Sati (Prevention) Act, 1987

## 6. Protection of Women from Domestic Violence Act, 2005.

Despite all aforesaid safeguards, the violence against women is on constant rise in the country. Not only the civil society and the NGOs, but even the formally concerned government agencies have been depicting the worrisome consistent growth in the number of cases of violence against women. To elucidate the subject, it is noteworthy to look at some government data presenting the reported cases and complaints of violence against women throughout India.

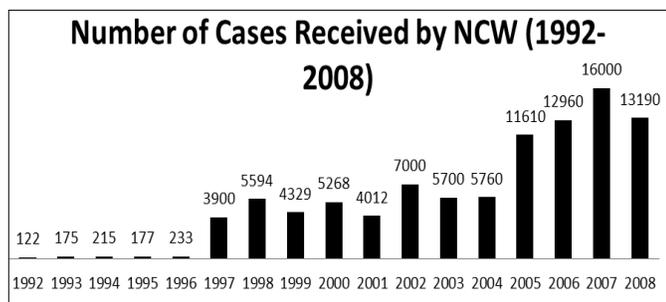
### Statistics of violence against women in India

However, it is an impossible task to trace out the exact number of cases of violence in any society, especially when the violence has been practiced against a vulnerable section of the traditional and bigoted society. Even though, an attempt has been made to collect and compile the statistical data maintained by various governmental organizations concerned to data collection regarding violence against women.

### Statistical data of NCW

In India, the NCW (National Commission for Women) is the nodal and formally ratified agency to redress all types of grievances regarding the violence and crime against women. The NCW, functioning since 1992 for the cause of women rights, has received a massive number of cases in 17 years since 1992 to 2008 [22].

The NCW, in 1992, (year of its inception) had received total 122 cases regarding all types of atrocities against women. The number was 175 cases in 1993, which reached to 215 cases in 1994 and 177 cases in the year 1995. In 1996, the NCW had received 233 cases; while a swift increase in the number of cases was witnessed in the following years and the NCW received respectively 3900 and 5594 cases in the years 1997 and 1998. Total 4329 cases in 1999, 5268 cases in 2000, and 4012 cases in 2001 were received by the NCW. The NCW, in 2002 had received 7000 cases. The number of cases was followed by 5700 cases in 2003, total 5760 cases in 2004, and 11610 cases in 2005. In the year 2006, the NCW received 12690 cases, in 2007, it received record 16000 cases; and in 2008, total 13190 cases were received by the NCW regarding various forms of crime and violence against women.



Source: National commission for women of India.

Fig 1

The data asserts that the NCW had received 96245 complaints

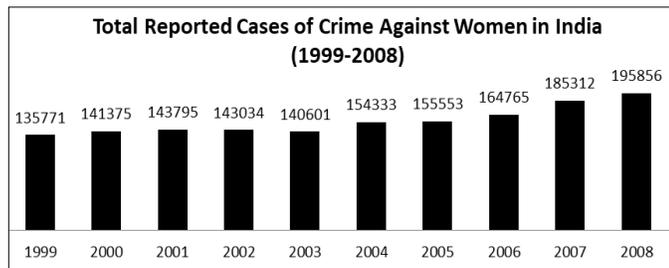
regarding atrocities against women in 17 years (1992-2008). It means that in these 17 years, average 5662 cases are received by the NCW every year. The data further confirms that average 472 cases are received by the NCW in a month, average 118 cases in a week; while average 17 cases are received by the NCW every day. In first five years of its functioning (1992-1996), when the NCW was not much known and acclaimed resort to the grievances of women, had received only 922 complaints which constitutes only 0.95 per cent of the total number of 96245 complaints. In next four years (1997-2000), the NCW had received 19.83 per cent of the total number of complaints. In further four years (2001-2004), the NCW received 23.34 per cent of the total number of complaints. Alarming, in succeeding most recent 4 years (2005-2008), the number of cases received by the NCW was much more than the double (55.85 per cent) of the total cases received in previous 13 years. In these 4 years, the NCW received average 13440 cases in a year; average 1120 cases in a month; average 280 cases in a week; while average 40 cases every day; and average 1 case after every 36 minutes. Worryingly, in the year 2007, the NCW received 16000 cases which confirm that, average 1333.33 cases were received in a month; average 333 cases in a week; average 48 cases every day; and exactly 1 case after every 30 minutes was received by the NCW during 2007.

The statistics of the total received cases presented by the NCW are far less than actual number of incidents of violence against women taking place in India. That data do not even depict the exact or approximate number of total reported cases of violence against women. The prior reason is that the NCW has not yet been able to establish itself as a prime and most preferred resort of the grievances of the women. Hence only a limited number of complaints of violence against women are received by the NCW. On the other side the NCRB (National Crime Record Bureau of India) under the ministry of Home Affairs, is a most reliable agency which maintains the record of all categories of crimes reported in all police stations throughout India.

### Statistical data of NCRB

The NCRB is the formal government agency which has been consistently (since 1953) maintaining and publishing in its year-wise reports, the exact statistical data of the total number of the incidents of crime reported in all police stations of India. To be acquainted with the gravity and growth of the total reported incidents of 'crime/violence against women [23]', in India, the data of NCRB of recent 10 years (1999-2008), regarding crime against women has been statistically analyzed.

The NCRB, in 1999 had reported 135771 cases of crime against women. In 2000, it reported 141375 cases; while in 2002, the number of total reported cases throughout India was 143034. The number of the cases of crimes against women kept on increasing in the successive years and the NCRB reported 140601 cases in 2003, total 154333 cases in 2004 and 155553 cases in 2005. In the year 2006 the number of cases was 164765; in 2007 it reached to 185856 cases; and in 2008, total 195856 cases of crimes against women were reported by the NCRB of India.



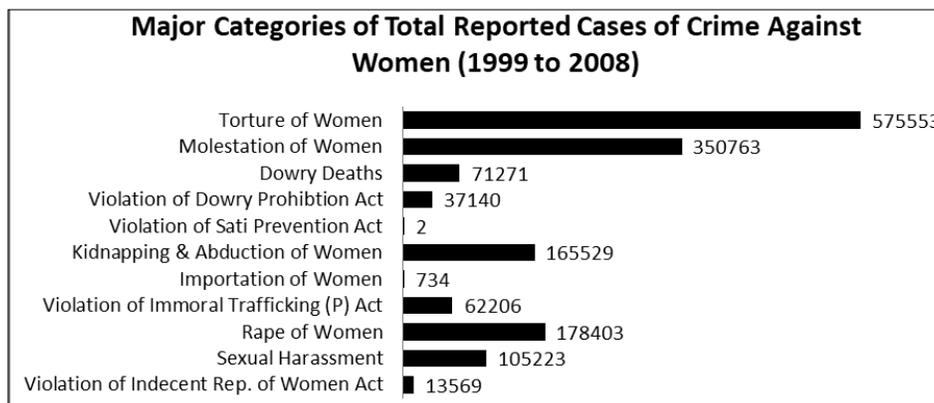
Source: National crime record bureau of India.

Fig 2

The data divulges that total 1560395 cases of crime against women are reported in all police stations throughout India in ten years (1999 to 2008). It confirms that in these ten years, average 156040 cases of crime against women have been reported in India every year; average 13003 cases every month; average 3251 cases every week; average 465 cases every day; average 20 cases every hour; and average 1 case after every 3 minutes has been reported in India regarding crime against women. The statistical analysis of the 10 years' data corroborates that there is a huge increase of 60085 cases in ten years with 135771 cases in 1999 to 195856 cases in 2008, which further confirms that in ten years, there is average increase of 44.25 per cent in the reported crimes against women in India. The analysis of the recent 5 years of the data

establishes that 26.90 per cent growth in the number of reported cases has been witnesses in 2008 in comparison with 2004. Moreover, total 195856 cases of crime against women reported throughout India in the year 2008 confirm that recently average 16321 cases in a month; average 4080 cases in a week; average 583 cases every day; while average 24 cases every hour; and average 1 case after every 90 seconds has been reported in India regarding crime against women.

Further observation of the data of NCRB of India (1999 to 2008) divulges that crimes against women in India have been committed in several separate categories such as rape, kidnapping and abduction, dowry demands/deaths, torture, molestation, sexual harassment. The statistical data of NCRB (1999 to 2008) reveals that 575553 cases of torture, 350763 cases of molestation and 712718 cases of dowry deaths were reported throughout India since 1999 to 2008. Furthermore 37140 cases of dowry demand (Violation of Dowry Prohibition Act), 2 cases of forcing to befall Sati (Violation of Sati Prevention Act), and 165529 cases of kidnapping and abduction of women were reported since 1999 to 2008. Besides that 734 cases importation of girls, 62206 cases immoral trafficking of Women, and 178403 cases rape were reported throughout India. Moreover, 105223 cases of sexual harassment, and 13569 cases of the violation of the Indecent Representation of Women (Prevention) Act were reported by the NCRB throughout India in ten years (1999-2008).



Source: National crime record bureau of India.

Fig 3

The data asserts that cases regarding torture of women constitute 36.38 per cent of total 1560395 reported cases of crime against women which comprises torture as the largest crime against women in India. The crime of molestation stands as the second major crime against women by comprising 22.47 per cent of the total number of cases. Most embarrassing fact for Indian society is that the rape (11.43 per cent), the most vicious crime against women, has been emerging as the third major crime reported against women in India. Kidnapping and abduction occupies 10.60 per cent of the total number of cases and has been noticed as the fourth largest crime against women. Besides that the crime of sexual harassment of women emerges as fifth major crime against women since there are 6.74 per cent cases occurring regarding that unabashed crime among total crime against women. Furthermore, dowry deaths appear as the sixth and immoral

trafficking of women as the seventh largest crime against women as these crimes occupy respectively 4.56 per cent and 3.98 per cent of the total number of crime in the country. Meanwhile, dowry demand (Violation of the Dowry Prohibition Act) with 2.38 per cent of the total reported crime comes out as the eighth major crime against women; while the violation of Indecent Representation of Women Act (2.38 per cent) and importation of women (0.04 per cent) stand as respectively ninth and tenth major crimes reported in India. The crime of befalling Sati appears as the least practiced reported crime in India. But reporting of 2 cases of befalling Sati in 10 years comes into view as a black spot on the boasting face of social development in India.

The statistics maintained by various agencies regarding violence against women are unfeasible to identify, record and report the exact and accurate number of cases takes place

throughout the country. Violence against women, especially in the socially prejudiced society like India, is generally considered as a private or familial concern. Therefore, the victimized women, most of the times, get hesitated and embarrassed or terrorized and demoralized to conceal the vicious acts of violence against them. Consequently massive number of cases of violence against women remains unreported in India. Development and Communication Studies in Punjab had estimated that for each rape case registered with the police, nearly 70 went unregistered. Likewise, for every reported case of molestation, nearly 375 cases were not registered. Unregistered cases were reported by the victims to *panchayats*, municipalities, *mahila mandals* and voluntary agencies [24].

Violence against women is a lethal form of discrimination and a severe violation of human rights. It causes untold misery, cutting short lives and leaving countless women living in pain and fear. It harms families across the generations, impoverishes communities and reinforces other forms of violence throughout societies. Violence against women stops them from fulfilling their potential, restricts economic growth and undermines development. The scope and extent of violence against women in India are a reflection of the degree and persistence of torture, crime and discrimination that women continue to face. In such atrocious circumstances, testing an acknowledgeable existence, a dignified survival and versatile development of women in India, the ratified governmental organizations such as the National Human Rights Commission (NHRC) has an active role to play to alleviate violence against women. The protective role of NHRC in regard with violence against women is significant because the problem of violence against women is not a gender-specific problem, it should be viewed as violation of broader concept of human rights [25].

### Protective role of national human rights commission

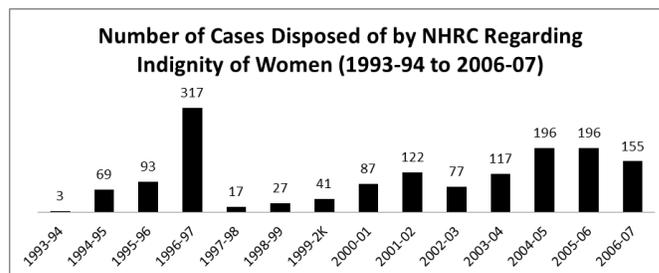
NHRC, constituted under the 'Protection of Human Rights Act 1993', had started its functioning in 1993. Since then, it has been continuously vigorous and vigilant to adjudicate within its limits, all complaints of human rights abuses throughout India. It has been acknowledged as a trustworthy institution among the victims of human rights violations. Besides other victims of human rights violations, it has gained reliance among the women who become victims of violence against them. The NHRC has been formally obligated and dutiful [26] to promote and protect human rights of all Indians including imparting indiscriminate relief and justice to the women throughout India who complain the Commission about violence against them. The statistical data presented in its annual reports reveals that hundreds of reports regarding violence against women have been received and registered by the NHRC every year.

### Statistical analysis of the role of NHRC

While analyzing the annual reports of NHRC since 1993-94 (the year of its inception) till 2006-07 [27], the NHRC, especially during the early years, has been seldom found giving the required and expected attention to cases of violence against women. Its prime focus has been to counter the violation of human rights committed by the State agencies

which unfortunately has distracted the NHRC to combat with the violation of human rights of more vulnerable sections, particularly the women, by the society, individuals and their kin. The observation can be proved from the fact that since 1993-94 till 2003-04, the NHRC, in its annual reports, had not disclosed any statistics of the various categories of violence against women except the cases registered regarding 'Indignity of Women'.

As far as the cases regarding indignity of women are concerned, the NHRC had 'disposed of' [28] only 3 cases in the year 1993-94. The number increased to 69 in 1994-95 which further increased to 93 cases in 1995-96. The NHRC disposed of 317 cases, the highest number in 14 years, during 1996-97; while respectively 17 and 27 cases were disposed of during 1997-98 and 1998-99. The number of cases increased to 41 in 1999-2000, which was followed by 87 cases in the year 2000-01 and 122 cases during 2001-02. The NHRC, during 2002-03, had disposed of 77 cases regarding indignity of women, while 117 cases during 2003-04 were disposed of. The Commission registered 96 each cases during the years 2004-05 and 2005-06. During 2006-07, the NHRC had disposed of 155 cases regarding indignity of women throughout India.



Source: National human rights commission of India.

Fig 4

The data divulges that the NHRC has disposed of total 1517 cases in 14 years (1993-94 to 2006-07). The analysis of the data confirms a number of ups and downs in the year-wise data. Increase of 5066.66 per cent has been witnessed in the data after 14 years, from 3 cases in 1993-94 to 155 cases in 2006-07. Furthermore, in initial 3 years (1993-94 to 1995-96) the NHRC disposed of only 10.87 per cent of the total number of complaints disposed of during 14 years. Worryingly, in the year 1996-97 alone, the NHRC registered 20.89 per cent of the total 1517 complaints. In next 3 years (1997-98 to 1999-2000) the NHRC had disposed of only 5.69 per cent of the total number of complaints. In the succeeding three years (2000-01 to 2002-03), the NHRC disposed of 18.85 per cent of total number of complaints. Noticeably, during successive three years (2003-04 to 2005-06), the Commission disposed of 33.52 per cent of total number of complaints (1517). The number of complaints (155) disposed of during the year 2006-07 depicts that in recent times, the NHRC settles average 13 cases every month and average 1 case of indignity of women after 50 hours. Moreover, overall growth of 1035.69 per cent has been noticed in complaints disposed of by the NHRC regarding indignity of women in 14 years.

It has been since 2004-05 that the NHRC seems to get concerned with the gender issue of violence against women in more versatile manner by considering various categories of

violence against women. Since 2004-05 the statics of various forms of violence against women such as rape, sexual harassment, indignity of women, dowry demands, dowry deaths/attempts, exploitation of women, murder after abduction and rape have been presented by the NHRC in its annual reports. As far as the statics regarding 'Rape of Women' are concerned, the NHRC disposed of 392 cases in the year 204-05, total 453 cases in 2005-06 and 332 cases in 2006-07. Regarding 'Sexual Harassment', the NHRC disposed of 320 cases in 2004-05, while 281 cases in 2005-06, and 150 cases in 2006-07. In the category of 'Indignity of Women', 196 cases each in 2004-05 and 2005-06, while 155 cases in 2006-07 were disposed of by the NHRC. The statics of 'Dowry Deaths and its Attempts' reveal that the NHRC had disposed of 1115 cases in 2004-05, as well as 1196 cases in 2005-06, and 956 cases in 2006-07. Furthermore, 708 cases in 2004-05, while 664 cases in 2005-06, and 330 cases in 2006-07 were disposed of by the NHRC regarding 'Dowry Demands'. Regarding the category of 'Murder after Abduction and Rape', the NHRC had disposed of 634 cases in 2004-05, followed by 783 cases in 2005-06, and 667 cases in 2006-07. The NHRC, in 2004-05, had disposed of 279, in 2005-06, 250 cases; and in 2006-07, it disposed of 174 cases regarding 'Exploitation of Women'.

**Table 1:** Various categories of cases disposed of by the NHRC regarding violence against women (2004-05 to 2006-07)

Sl. No.	Categories of cases	2004-05	2005-06	2006-07	Total
1.	Rape of Women	392	453	332	1177
2.	Sexual Harassment	320	281	150	751
3.	Indignity of Women	196	196	155	547
4.	Dowry Deaths & its Attempts	1115	1196	956	3267
5.	Dowry Demands	708	664	330	1702
6.	Murder after Abduction and Rape	634	783	667	2084
7.	Exploitation of Women	279	250	174	703
	Total	3644	3823	2764	10231

**Source:** National Human Rights Commission of India.

The year-wise analysis of the data asserts that total 10231 cases were disposed of by the NHRC in three years (2004-05 to 2006-07). In 2005-06, the NHRC had disposed of 35.61 per cent of the total (10231) cases; while 37.36 per cent of the total number of cases was disposed of in 2005-06; and 27.01 per cent of the total number of cases was disposed of in the year 2006-07. The year 2005-06 witnessed the increase of 4.91 per cent in comparison with the year 2004-05; contrarily the decrease of 27.7 per cent was noticed in 2006-07 in contrast to the year 2005-06. It confirms that total decrease of 22.79 has been noticed in the three years (2004-05 to 2006-07). The data further corroborates that average 3410 cases are disposed of by the NHRC in a year; while average 284 cases every month; average 71 cases every week; average 10 cases every day; and average 1 case after every 2.24 hours has been disposed of by the NHRC regarding violence against women. The category-wise analysis of the data divulges that 31.93 per cent of total 10231 cases disposed of by the NHRC in three years (2004-05 to 2006-07) have been regarding 'Dowry Deaths and its Attempts'. 20.36 per cent of total number of cases has been regarding the category of 'Murder after

Abduction and Rape'. 16.63 per cent of total number of cases is regarding dowry demands; while 11.50 per cent is regarding 'Rape of Women'; and 7.34 per cent is regarding 'Sexual Harassment of the Women'. 6.87 per cent of the total number of cases has been occupied by the category of 'Exploitation of Women' and 5.34 per cent of the total number of cases is regarding 'Indignity of Women'. The data further establishes that in three years there is average decrease of 11.57 per cent in the number of cases regarding rape of women; 28.96 per cent decrease has been noticed in the number of cases regarding sexual harassment of women; while 10.45 per cent decrease has been witnessed in the number of cases regarding indignity of women. Similarly, the cases regarding dowry deaths and its attempts have observed decrease of 12.80; and the decrease of 22.04 per cent in the total number of cases in three years have been witnessed regarding the cases of dowry demands; decrease of 20 per cent has been observed in the number of cases regarding exploitation of women. Noticeably, the crime of murder of women after abduction and rape has increased to 8.69 per cent in these three years.

Besides statistical analysis, the case study analysis of the NHRC is another relevant and appropriate method to evaluate the protective role of NHRC as far as the violence against women in India is concerned.

### Case studies of the NHRC

Examining and analyzing the protective role of the NHRC through case study method is significant and suitable to be exactly acquainted with the method and approach, the NHRC receives, examines, investigates and eventually settles the cases regarding violence against women. Some illustrative cases are studied underneath from the aforesaid viewpoint.

#### Abduction of minor girl of Delhi (Case No. 4524/30/2006-2007-wc) <sup>[29]</sup>

The Commission received a complaint from Nanak Chand of Delhi alleging that his minor daughter *Sangeeta* was kidnapped on February 3, 2007 by a suspect *Rinku* (neighbour). But the police, instead of registering a case of kidnapping against *Rinku*, had lodged only a report of the Missing of *Sangeeta*. The NHRC directed the Investigation Division to carry out spot investigation. After a thorough enquiry, the NHRC got the case of kidnapping registered against the suspect *Rinku* under section 363 IPC at PS (Police Station) OF *Snagam Vihar* of Delhi. The NHRC further, with constant liaison with the Delhi Police, also helped to trace the girl in West Bengal, to the satisfaction of the complainant.

#### Auction of a dalit woman in Palamu, Jharkhand (Case No. 712/34/2005-2006-wc) <sup>[30]</sup>

The Commission received a report from Mr. Suhas Chakma, Director of Asian Centre for Human Rights (NGO) about the alleged auction of Rampyari, 23 year old Dalit woman of Chiro village under Chandwa Block in Palamu District of Jharkhand along with her newly born daughter. It was reported that the woman was reportedly gang-raped by four youth of the same village, which made the woman victim of rape as well as the mother of the daughter an unknown father. The village Panchayat auctioned her for Rs. 6/- to a sixty year old man. The NHRC sent the copy of the complaint to the

Chief Secretary, Govt. of Jharkhand and the DGP of Jharkhand, for their comments. The NHRC has closed the case when it confirmed that criminal case was registered against the accused; the women was rehabilitated by marrying her to Rajesh Lohra of village Balu; and an interim compensation of Rs. 25000/- had been paid to the victim.

**Selling of girls by parents in Andhra Pradesh (Case No. 658/1/2006-2007-wc)** <sup>[31]</sup>

The NHRC, on February 1, 2007, took suo motu cognizance of the news reports captioned ‘parents turn pimps, sell girls’ telecast by CNN-IBN and a similar story published in the Hindustan Times dated January 28, 2007, mentioning that of 41 girls rescued from various vice dens in Maharashtra, 37 among them were from Andhra Pradesh. The preliminary reports mentioned that young as well as minor girls were being sold and turned into sex slaves by their own parents. The Commission further called for the factual report from Chief Secretary and DGP, Govt. of Andhra Pradesh which confirmed the happening of that vicious crime against the women and minor girls. The NHRC further gave directions to the government of Andhra Pradesh for the rehabilitation of the victim girls, appropriate legal action against the culprits, and adequate provisions to prevent the selling and buying of girls in future.

**Rape of 17 Women in Gujarat after Godhra Train Carnage (Case No. 256/6/2003-2004-wc)** <sup>[32]</sup>

Bilkis Yakub Rasul, a resident of Godhra, Gujarat, by her petition dated April 29, 2003 brought to the notice of the NHRC that during riots, which followed after the Godhra Train Carnage, she, along with 16 other women was raped by some miscreants on February 27, 2002. She pleaded that nothing had been done by the government or the police to bring the culprits to justice in spite of the fact that one year had passed. The NHRC vide its order dated June 16, 2003, directed its Special Rapporteur, Shri Nampoothiri to assist the complainant to pursue legal remedies in the case and also to offer financial and legal assistance to her. With the assistance provided by the NHRC, a writ petition was filed in the Supreme Court in which the Supreme Court passed the orders for carrying a fresh investigation by the CBI (Central Bureau of Investigation). Further, the NHRC asked the Special Rapporteur to engage a competent lawyer to assist the victim and bear all the expenses, after the victim requested through the Special Rapporteur to provide her a lawyer.

**Acid thrown on minor girl by the police constable in Orissa (Case No. 122/18/2001-2002-wc)** <sup>[33]</sup>

The Commission received a complaint from Shri Ashok Shankaran, National President, *Janadhikar*, an NGO, that on April 13, 2001, a 16 old girl, Kumari Budha Boi was severely hurt by Amir Khan, a Constable of the Armed Police Reserve, Sambalpur, by throwing acid on her face when the girl objected the attempt of rape on her by the accused. The NHRC sought a report from the DGP Orissa about the incident and take appropriate legal and departmental action against the culprit along with dismissing him and filing his charge-sheet in the court without any further delay. The Commission further gave directions to the Chief Secretary

Govt. of Orissa to take rehabilitating measures which should include appropriate interim compensation to the victim girl and full expenditures of her treatment including her plastic surgery. As the NHRC believed that its directions were complied with, the case was closed on March 29, 2006.

**Death of Nazia Kousar by beating given by ultras in district Poonch of Jammu & Kashmir (Case No. 68/9/2003-2004 (wc)/FC)** <sup>[34]</sup>

The Commission received a reference dated August 11, 2003, from Dr. Poornima Advani, then Chairperson of NCW inviting attention to a newspaper report published in the ‘The Tribune’ dated August 2, 2003 captioned ‘Two Girls Reportedly Beaten to Death by Ultras’ in the State of Jammu & Kashmir. A prayer was made to the Commission for getting a joint investigation conducted by it along with NCW and the NCM (National Commission for Minorities). The NHRC sought a report regarding the case from the Chief Secretary and DGP of Jammu and Kashmir. The DGP informed that case had been closed as untraced. When asked about, the Chief Secretary informed that Rs. 1,00,000/- to the next of kin of Nazia Kousar who had died, while Rs. 5,000 to Nazia Kousar, who had been injured, were paid as the interim relief as per recommendations of the NHRC in accordance with the Section 18(3) of PHRA, 1993. The case was closed by the NHRC after verifying the record on June 23, 2004.

**Burning to death of a dalit rape victim by the accused (Case No. 1486/12/2006-2007-wc)** <sup>[35]</sup>

The Commission, on December 11, 2006, took suo-motu cognizance of a news item appeared in the ‘Indian Express’ dated 23 November, 2006, highlighting a case of burning of a dalit girl, who refused to drop rape charges against alleged rapist belonging to upper caste of a village in Madhya Pradesh. The NHRC issued notice to the DGP, Madhya Pradesh, calling for a report within four weeks, along with an information to the Commission as to whether any compensation was paid to the victim when she was alive or to the next of kin of the deceased after her death. The NHRC closed the case on March, 27, 2007, while getting satisfied to know from the report of SP, Hoshangabad, Madhya Pradesh vide communication on January 12, 2007; that case under section 307 IPC 3(2)5 S.C./S.T. Act was registered at the PS Pipria; and after the death of the victim Section 302 IPC was added; the accused was arrested and sent to the jail; a challan had also been filed in the court; and moreover, a further interim relief of Rs. 75,000/- under the provision of SC/ST Prevention of Atrocities Act had also been sanctioned, and law set into motion.

**Livelihood and Rehabilitation of bar girls in Maharashtra (Case No. 68/13/2005-2006-wc)** <sup>[36]</sup>

The NHRC received a petition from the President, Bhartiya Bar Girls Union, Thane, Maharashtra stating that the decision of the Maharashtra Government to close dance bars in the State was likely to deprive 75,000 bar girls of their source of livelihood. It further stated that the Maharashtra government did not make any efforts for the rehabilitation of the bar girls as majority of them belong to the States other than Maharashtra. The NHRC directed that the complaint be sent to

the Chief Secretary, Govt. of Maharashtra, to sought his comments on the issue within four weeks. While the matter was pending consideration with the NHRC, it came to know that a criminal writ petition had been filed regarding the same case before the Mumbai High Court by the Mumbai Bar Association. As the High Court of Mumbai was already seized of the matter, no further action by the Commission was necessary as well as validate, as the NHRC is restricted by the PHRA 1993, to not to pursue any case pending at any high court or the Supreme Court.

#### **Atrocities on dalit women by forest department officials (Case No. 2731/96-97/NHRC)** <sup>[37]</sup>

The NHRC taking suo-motu cognisance of a news item entitled "Girls Paraded Naked by the Daroga" published in a newspaper, called for a report from the DGP of Uttar Pradesh, who responded that appropriate legal action as per IPC and Prevention of SC/ Prevention of Atrocities Act, 1989 was taken against the culprits along with discharging, arresting and charge-sheeting the accused Forest Department officials. The NHRC further recommended the U.P. Government to pay Rs. 50,000/- to each victim as interim compensation and asked the DG (Director General) Investigation of the NHRC to monitor the further trial of the case. However, later the NHRC came to know that the errant officials had filed a case in the High Court of Allahabad.

#### **Harassment, misbehaviour and injury caused to an A.N.M. of U.P. (Case No. 29929/24/2000-2001)** <sup>[38]</sup>

The NHRC received a complaint alleging harassment, misbehaviour and injuries caused to Usha Kiran Vajpayee, ANM, while on duty under the Pulse Polio Programme by the policemen of PS Dokar, Dist. Jalaun, U.P. which resulted in the amputation of one of her legs. In response of the notice issued by the NHRC, the U.P. Government sent a report stating that a charge-sheet had been filed in the court against the delinquent police officials. The NHRC further directed the State Government of U.P. to pay an interim relief of 5 Lakh Rupees to the victim, as per Section 18(3) of the PHRA 1993, as the victim was made permanently disabled due to amputation of her leg. The State Government of U.P. stated the award of immediate relief of Rs. 5 Lakhs was excessive and suggested that an interim relief of Rs. 1.00 Lakh, which was already paid to the victim, be considered as reasonable. Not agreeing with the State Government, the NHRC held that the grant of Rs. 5.00 Lakhs as an interim relief in the admitted circumstances of the case was meant and rejected the request of the U.P. Government to reduce the amount. The U.P. Government had to sanction the balance amount of Rs. 4.00 Lakhs to the victim.

#### **Sexual harassment at the work place and suicide of Sangeeta Sharma (Case No. 203/1/2000-2001)** <sup>[39]</sup>

Dr. Kalapana Kannabiran, President, Asmita Resource Centre for Women, Secunderabad, Andhra Pradesh submitted a complaint in July 2001, in respect of the suicide of Sangeeta Sharma, an advocate of Andhra Pradesh High Court, allegedly as a result of sexual harassment by a fellow lawyer and some senior advocates. The report sought from the DGP and the Chief Secretary of Andhra Pradesh had responded that

a criminal writ petition had been filed in the High Court which had initiated a CID inquiry into the case. The NHRC, in a parallel action, took up the wider question of the sexual harassment of women in legal profession and called for the reports/comments from the Secretary, Andhra Pradesh Bar Association, the Secretary, State Bar Council of Andhra Pradesh, the Chairman, Bar Council of India, New Delhi as well as the President, Bar Association of India. Later a High Power Committee was constituted on December 21, 2001, under the Chairmanship of Soli J. Sorabjee, then Attorney General of India to examine into the matter and make suitable recommendations. However, constituting the High Power Committee, there is not any reference in any report of the NHRC, including the successive Annual reports, regarding the further initiatives taken by the NHRC in the concerned case.

#### **Critical Analysis**

Undoubtedly, the NHRC has been dealing quite reasonably all the cases it receives regarding various categories of violence against women. Within limits, it has been able to gratify the victimized women who approach it in the hope of justice and relief. But a critical analysis of its functioning proves the NHRC possessing a variety of limitations, shortcomings and even inefficiencies, which hinder its way to alleviate violence against women. All these deficiencies and restraints of the NHRC are discussed beneath in brief.

#### **Narrow definition of human rights**

The NHRC has limited mandatory powers. As the PHRA 1993 takes a very narrow view of human rights and provides that 'human rights' means the right relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution of India or embodied in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and enforceable by the courts in India. <sup>[40]</sup> So, main drawback of this statutory definition seems to be that it curtails the mandate of the commission by limiting it to the rights enshrined in the two covenants and the constitution. Several international conventions, treaties, declarations concerning women rights along with the verdicts given by the Supreme Court to curtail violence against women are excluded from the definition.

#### **Indian armed forces excluded from the jurisdiction**

Besides having a narrow definition of human rights, Indian armed forces are excluded from the jurisdiction of the NHRC. The NHRC cannot inquire into complaints against them. It has to seek a report from the central government and send its recommendations on such report to the government <sup>[41]</sup>. The terrorism-prone and insurgency-affected regions of India have been witnessing huge violence against women by the Indian Armed Forces. Excluding the armed forces from the jurisdiction of NHRC is a sign of providing armed forces personnel impunity to commit human rights violations including violence against women.

#### **Blocked Composition**

The Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women

are all deemed (ex-officio) three members of the commission [42]. But there is no coordination between the NHRC and National Commissions for Women. As there are seldom arranged any meetings or formal communications between the chairpersons and the officials of NHRC and NCW, the opportunities to look into group complaints of women seem to have been lost. Besides above mentioned three members, there is one Chairperson and other two members; men and women 'who have knowledge and practical experience in matters relating to human rights [43].' Surprisingly, neither a human rights activist nor a woman has been selected under this category. Along with this, in the almost ten years of its existence, the NHRC has only for the second time come to have a woman judge as a commissioner. The NHRC has not manifested its commitment to equity and non-discrimination by ensuring gender balance at all levels of its own staff, not even at the level of Commissioner.

#### **Dearth of female investigating staff**

The NHRC suffers due to the dearth of proper required investigating staff. The cases of violence against women particularly demand the investigation to be conducted by the female investigating staff. But the NHRC, due to the dearth of investigating staff, especially the female staff, most of the times directs the DGP of the concerned State to conduct investigations into the matters of violence against women even if the allegations are against the police officials. These situations, where the grievances of the victim party are investigated by the members of accused party unquestionably prove the mockery of justice to the women.

#### **Unproductive visits in jails**

The NHRC can visit any jail or any other institution under the control of the state government, where persons are detained or lodged for the purposes of treatment, reformation or protection [44]. But the NHRC can visit these institutes under intimation to the concerned state government. The mandatory condition to provide prior information to the authorities for visiting any jail or any other institution under the control of the state government, totally defeats the purpose of protecting the women in jails and women cells from physical and emotional torture and violence. Secondly the NHRC seldom visits the Jails and Women Cells of the all States from time to time to attend to the grievances of women lodged in these places.

#### **Non-registration of complaints**

NHRC does not inquire into any matter after the expiry of one year from the date on which the act of the violation of human rights had allegedly been committed [45]. On the basis of this provision, the NHRC has denied to provide justice to several complaints of violence against women which had occurred before one year at the time of their reporting by the victims or the third party. In majority of the cases the victimized women are not in secure position to complain the violence against them immediately, especially if the culprit is their boss at their working place, any influential person, or any governmental/police/armed forces official. Furthermore, minor and young girls abducted and sold to the brothels for enforced prostitution, women made bonded labourers, and the women kept in the confinement for sexual or other pleasure

are not in the position to complain the violence against them on the spot. But it does not mean that their complaints lose the legitimacy to get justice after the period of one year. However, the NHRC seems to be constituted by the government to bury down, rather than adjudicating the grievances.

#### **Lack of follow up for prosecution**

The NHRC in its Annual Report of 1999-2000 had stated that it had provided compensation to the tune of Rs. 7, 67, 83634 in 598 cases throughout India. The noticeable point is that NHRC often recommends the interim compensation but seldom follows up final compensation. In the cases regarding violence against women also, the attitude of NHRC is same. It has been found that in majority of the cases, once compensation is awarded, there is no follow up for prosecution of the culprits. The cases usually end after giving directions of interim compensation.

#### **Only a recommendatory status**

The PHRA 1993 gives the NHRC the investigative powers of a civil court, limiting its enforcement powers. Under Section 18 of PHRA, the NHRC can only make recommendations. Thus the ultimate enforcement of the recommendations rests with the government of the concerned States whether to implement the recommendations of the NHRC or not. The NHRC has itself often criticized the Central government as well as the State governments for needlessly delaying or failing to implement its recommendations. The situation is similar regarding the cases violence against women also. It has happened a number of times that the recommendations or even the directions of providing compensations to the victims by the NHRC are delayed and neglected.

#### **Narrow and Partial approach towards women rights**

It has been observed that the NHRC does not adopt a broad view regarding the nature, types and scope of women rights generally and violence against women particularly. Since 1993-94 till the year 2003-2004, the NHRC did not provide any statistics regarding any type of violence against women except the category of 'indignity of Women'. It was since 2004-2005, that the NHRC has starting acknowledging and mentioning the statistics of various categories of violence against women. In all its annual reports, the NHRC has highlighted only two types of violence against women, i.e. Sexual Harassment at Work Place, Trafficking of Women and "Children". Except these two categories, the NHRC has seldom mentioned any other type of violence against women regarding which it has taken any initiatives. Such kind of partial approach towards women, the semi-part of Indian society, is not expected from the NHRC.

#### **No real coordination with NGOs**

The NHRC is obligated as per the PHRA 1993, to coordinate with the NGO for the promotion and protection of human rights. But the Commission has rarely shown any coordination and concern enough with the NGOs to prevent the violence against women. The complaints, suggestions and inquiries of the NGOs are not properly acknowledged by the NHRC.

#### **Threat of losing credibility**

Unfortunately, the NHRC, instead of gaining more

acknowledgement and trust day by day and year after year, seems to be losing its reliance and credibility among the women victims of various types of violence. The statistical data of the NHRC, while making its comparative analysis with the data of NCW and the NCRB, proves the aforesaid observation. The NHRC, during the years 2004-05 to the year 2006-07, has shown overall decrease of 22.79 per cent in the number of cases disposed of by it. On the other side the statistical data of NCW shows increase of 17.53 per cent and the data of NCRB has also observed increase of 9.17 per cent in the total number of cases regarding violence against women in the same three years. It establishes beyond any doubt that when the cases of violence against women have been increasing in a swift manner in the India society, least victims have been approaching the NHRC. It further confirms that the NHRC has been losing its credibility among the women victims of violence.

Constantly increasing graph of violence against women has become an undoubted, unavoidable and unappreciable feature of Indian society. The NHRC, formally ratified nodal governmental organization has not been yet able to curtail the continually growing number of the cases of violence against women. However, it is still proper time to control the situation, before it gets exploitive and incurable. There are some suggestions and recommendations for the government, civil society, and the NHRC itself, which if acknowledged, can prove a great help to establish the NHRC as a most reliable and effective agency to curb the continuously mounting crisis of violence against women in India.

### Suggestions and Recommendations

- The PHRA 1993 should be amended to make the definition undertaken by the NHRC broader and more women-specific. It should include all major conventions, declarations and treaties acknowledged by the international community to protect the rights and equality of women.
- The Indian Armed Forces should be well included in the jurisdiction of the NHRC.
- There should be proper coordination between the NHRC and the Chairperson of the NCW, who is the ex-officio member of the NHRC, to take collective and collaborative initiatives to alleviate violence against women.
- The NHRC is sturdily required to be equipped with more and actual powers including the power of making mandatory orders to the State and Centre Government, adjudicating severely punitive measures for the culprits of human rights violations including violence against women.
- The NHRC should be given the unrestricted powers, without seeking any prior approval from, and without informing in advance, to any authority to visit all jails, women cells and Mahila Ashrams to check various forms of torture, molestation and violence against women at these places.
- At least 33%, if not 50%, of members, officials including the Commissioner, and the investigating staff of all ranks of the NHRC should be women. At least one special member (female) of the NHRC, along with an

investigating team of female officials, to deal exclusively with crimes against women should be created by amending the PHRA 1993.

- The PHRA 1993 should be amended to remove the clause which restricts the NHRC not to entertain the cases of violations older more than one year.
- The NHRC should acknowledge the complaints and suggestions of NGOs in regard with curtailing the violence against women and coordinate with the NGOs to launch a campaign to enhance reputation for dignity, equality and rights of women.
- The NHRC should consistently carry on the follow-up of prosecution of the cases dealt by it. In spite of closing the case just by giving directions to the concerned governments and authorities to take legal action and provide interim compensation to the victim, it should follow-up the trial till the fair justice is delivered to the victim.
- The NHRC should take immediate initiatives to spread out the awareness generally among common masses, and particularly among the women to prevent, oppose and complain the violence against women; the consequences of violence against women, and the remedial agencies to approach in case of any violence against women.
- The NHRC should work more enthusiastically to counter violence against women so that it can establish itself as one of the most reliable governmental organization to redress the grievances of violence against women.

### Conclusion

It has been established as an undoubted fact that the NHRC is a vigilant and vigorous State agency to counter human rights violations in India including the constantly increasing violence against women. The NHRC, in regard with violence against women in India, has been performing its protective role quite acceptably. However, the narrow vision, biased and blocked composition and lackadaisical functioning have proved the NHRC as an insufficient governmental organization to combat the violence against women. The NHRC is expected to adopt a broader conception of human rights which includes the 'feminine rights' also. It should be re-composed with a noticeable representation of women in its composition. Moreover, it should not function as an agent of Indian State to bury down the complaints of violence against women and silence the victims by paying them only the monetary relief. Instead it should adopt a clinical approach to eradicate the problem of violence against women by examining its root-causes, preventing further occurrence and delivering suitable justice to the victims. The coming 25<sup>th</sup> November, the International Day for the Elimination of Violence against Women,

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