



Role of Fast Track Court, Special Courts in Delivering Justice to Women

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ABOUT THE NATIONAL COMMISSION FOR WOMEN

The National Commission for Women was set up as statutory body in January 1992 under the **National Commission for Women Act, 1990 (Act No. 20 of 1990 of Government of India)** to:

- review the Constitutional and Legal safeguards for women;
- recommend remedial legislative measures;
- facilitate redressal of grievances and
- advise the Government on all policy matters affecting women.

In keeping with its mandate, the Commission initiated various steps to improve the status of women and worked for their economic empowerment during the year under report. The Commission prepared Gender Profiles to assess the status of women and their empowerment. It received a large number of complaints and acted suo-moto in several cases to provide speedy justice. It took up the issue of child marriage, sponsored legal awareness programmes, Parivarik Mahila Lok Adalats and reviewed laws such as **Dowry Prohibition Act, 1961, PNDT Act 1994, Indian Penal Code 1860 and the National Commission for Women Act, 1990** to make them more stringent and effective. It organized workshops/consultations, constituted expert committees on economic empowerment of women, conducted workshops/seminars for gender awareness and took up publicity campaign against female feticides, violence against women etc. in order to generate awareness in the society against these social evils.

The vision statement of the National Commission for Women says, “The Indian Woman, secure in her home and outside, fully empowered to access all her rights and entitlements, with opportunity to contribute equally in all walks of life.”

The mission of the NCW is “To strive towards enabling women to achieve equality and equal participation in all spheres of life by securing her due rights and entitlements through suitable policy formulation, legislative measures, effective enforcement of laws, implementation of schemes/policies and devising strategies for solution of specific problems/situations arising out of discrimination and atrocities against women.”

The first head of the commission was Jayanti Patnaik. As of 30 November 2018, Rekha Sharma is the chairperson. The objective of the NCW is to represent the rights of women in India and to provide a voice for their issues and concerns. The subjects of their campaigns have included dowry, politics, religion, equal representation for women in jobs, and the exploitation of women for labour. The commission regularly publishes a monthly newsletter, “Rashtra Mahila”, in both Hindi and English.

The Commission deals with the complaints received from all over the country including those relating to deprivation of rights of women and involving injustice to women. At times the Commission takes *suo motu* cognizance of incidents related to commission of heinous crimes against women.

ABOUT CHANAKYA NATIONAL LAW UNIVERSITY

In the State of **Bihar**, where the seeds of the earliest republic were sown and the crop of democracy cultivated, a need was felt by the government for a university which would provide quality legal education and strive to raise national legal standards to competitive international level and promote legal awareness in the community, which will lead to the realization of goals embodied in the Constitution of India. Thus, on July 15th, 2006 came into being Chanakya National Law University at Patna under the able guidance of its **Vice - Chancellor/Pro - Chancellor, Prof. Dr. A. Lakshminath**, former Dean and Registrar, NALSAR University of Law, Hyderabad. CNLU was established under the **Chanakya National Law University Act, 2006 (Bihar Act No. 24 of 2006)** and included in **section 2(f) & 12(B) of the U.G.C. Act, 1956**.

CNLU provides wide range of facilities on its campus. A well-managed residential accommodation with modern facility provided to students. CNLU has its own Mess & Canteen facilities on campus. University provides a full range of medical services for students & for employees who register as patients. In addition to general practice services, CNLU provides a range of specialist clinics and visiting practitioners. University organised regular careers fairs, training workshops, and one-to-one guidance for students. University provides a wide range of IT services including campus internet access via a wireless network and in student residences.

Number of retired Judges of the Supreme Court, High Courts and lower Judiciary as well as Senior Advocates & Educationalist have offered to assist the CNLU in its teaching and research programmes making education at CNLU a rare and exciting experience to the student body. CNLU admired example of maintaining financial autonomy along with greater accountability. It is equipped with the state-of-art infrastructure for successful imparting of legal education of the highest standards. The faculty at CNLU comprises highly acclaimed and experienced academicians who are proactively involved in grooming the younger generation to take CNLU to greater heights.

The construction work of the university spread on 18 acres of land at Nyaya Nagar, Mithapur near Mithapur Bus stand, Jakkanpur Police Station, Patna.

About Child Rights Center

Child rights center is a specialized research center engaged in assisting various stakeholders and different institutions in protection and development of child rights. The objective of the Child Rights Centre is to engage with Child Rights from multidisciplinary perspective, and among other things, to lobby with state and civil society to enable realization of child rights provided for under progressive laws in India and to contribute to policy, law and practice that will enable compliance with the constitution, CRC, SDGs and other normative frameworks. To this end, the Centre seeks to facilitate research support and logistical back-up to the statutory processes concerning protection of children and provide complementary support to different stakeholders involved in the child rights paradigm. In addition, it seeks to aid institutionalization of best practices through research, collaborations, training, review, policy suggestions, field research, improving thereby, and access to justice for children and promoting research, advanced learning and advocacy and community action to strengthen child rights laws, policies and practices in Bihar and India.

BACKGROUND

(For seminar on Role of Fast Track Courts, Special Court in delivering Justice to Women)

Setting up of Fast Track Courts (FTCs) and its functioning lies within the domain of State Governments in consultation with the respective High Courts. The 14th Finance Commission had recommended the setting up of 1800 FTCs during 2015-20 dealing with cases of heinous crimes; civil cases related to women, children, senior citizens, HIV/AIDS etc. and property related cases pending for more than 5 years. The Commission also urged State Governments to utilize enhanced fiscal space available through tax devolution (32% to 42%) for this purpose. 850 FTCs are functional across the country (November 2022). Total more than 33 lakhs pending cases have been disposed by FTCs since 2014.

Bihar is a state less developed as compared to other states of India. Condition of women in Bihar is also not up to mark since most of the population of this state are belonging to Villages. Fast-track courts address different kinds of cases pertaining to, for instance, crime against women, child trafficking under POCSO Act, crime against senior citizens, crime against the disabled, and heinous crimes, according to this reply in parliament by the Ministry of Law and Justice.

Their performance has been below par: At the end of 2019, rape cases had a pendency rate--pending cases at the end of the year as a percentage of total cases for trial--of 89.5% and the conviction rate of 27.8%, according to NCRB data. For POCSO cases, 88.8% cases were pending at the end of the year, and of those disposed of, 34.9% ended in a conviction, data show. Overall,

After nearly 20 years of existence, why do India's fast-track courts remain sluggish, defeating the very purpose of their institution--faster disposal of pending cases? Lack of physical infrastructure, shortage of dedicated judicial officials, and clear mandates are the reason, legal experts say, suggesting that increased staff strength and procedural reforms can fix the situation.

Fast track courts (FTCs) were first recommended by the Eleventh Finance Commission in 2000 "to substantially bring down, if not eliminate, pendency in the district and subordinate courts over the next five years". Yet, pending cases more than doubled in nearly two decades--from 4.9 million cases under the Indian Penal Code (IPC) in 2000 to 11.3 million in 2019, according to data from NCRB.

The pendency of cases in district and subordinate courts increased from 26.1 million in 2018 to 31.7 million (comprising 22.8 million criminal cases and 8.9 million civil cases) in January 2020, an increase of 21%, according to a standing committee report from March 2020.

This seminar focused **on Role of Fast Track Courts, Special Court in delivering Justice to Women** particularly in different districts of Bihar.

WELCOME SPEECH BY DR. AMAN KUMAR

(Center Coordinator, Child Rights Centre, Chanakya National Law University)

Setting the stage for discussion Dr. Aman Kumar gave a brief description of the topic of the seminar and at the same time he introduced the organizations involved with the conduction of this seminar on the issue of “Role of Fast Track Courts, Special Courts in delivering Justice to Women”. Considering the political and social structure of Bihar, he said that this topic becomes more important for the local population too. As a majority of those attending this seminar were from a legal background, he also pointed out that in changing times laws have been changing and these days acts like POCSO have a provision for fast-track courts inbuilt in the act itself. At the same time, he encouraged the attending students to ponder upon what more can be done to provide justice to women and those who are most affected by lack or presence of fast-track courts in Bihar and all over India.



Dr. Aman also focused on the role of the National Commission for Women in protecting the rights of women in India. He added that that the educational institutions play an important role in dissemination of information related to the rights of women. In this regard he focused on the role of CNLU and its Child Rights Center that have been doing a commendable work. Outreach of such programmes reaches the grassroot levels as students from these institutions go on to work in corporates, start private practice and work with non-governmental institutions too. He welcomed the guests and speakers at the seminar.

To continue the seminar with a formal opening Dr. Aman Kumar then invited Honorable Justice (Retd.) Mridula Mishra (VC, CNLU), Ms. Mamta Kalyani (ADG, Weaker Sections) and dignitaries on the dais to formally inaugurate the session. Post inaugural session, chief guest Ms. Mamta Kalyani (ADG, Weaker Section) was invited for the welcome address.

INAUGRAL SESSION BY MS. MAMTA KALYANI

(Sr. Dy SP, ADG Weaker Section CID, Bihar)

Ms. Mamta Kalyani began her speech with a thank to Honorable Justice (Retd.) Mridula Mishra (VC, CNLU), dignitaries present on the dais and the institution for inviting her to the national seminar on the role of fast-track courts. As it was also the international day for Prevention of Crime Against Women, she started with reminding participants of that too. She said that in society we find that there are laws in place, a position for women is guaranteed by the Indian Constitution itself, still due to various reasons, at times, women are deprived of justice. She mentioned that “justice delayed is justice denied” is a common adage. She mentioned the data of 2021 for Bihar government contrasting the number of crimes reported and conviction rates. The number of crimes is too high against women and the rate of conviction is too low.

We do have schemes like “Sakshi Yojna” in place to help women get justice through courts, somehow, we still need to ensure a better application, awareness and implementation of such schemes so that benefits of schemes reach the actual beneficiary.

- Ms. Mamta Kalyani (Sr. Dy SP, ADG Weaker Section CID, Bihar)



She moved on to the reasons for this delay or non-availability of justice based on her experience of past five years of her role as ADG, Weaker Sections. The first reason she mentioned was the poverty of victims. She quoted an example case where a poor victim had to reach court again and again. She said that POCSO Act has a provision in section 35, to address this issue. We have a “Sakshi Yojna” in place but its implementation is not proper.

She mentioned delays in legal process like recording of statements, even though laws state that the statement of victims should be recorded within 30 days, often it is not completed. She said that if victim is unable to reach courts, the statements can be recorded through video conferencing. A provision of funds must be made for poor victims who can't bear the cost of getting to court from remote locations.

She said that on theoretical grounds, police and the courts work in co-ordination. As far as cases related to atrocities on women are concerned, there is no dispute on working together. If co-ordination is better, the conviction rates will improve. Such improvement would certainly act as a deterrent too. Ultimately this would result in a reduction of crimes against women.

She ended her address by saying that if reasons like arranging help for poor victims, a better co-ordination between courts and police, and improved conviction rates through ensuring legal work is done we would be able to achieve a better legal status for women and ensuring justice is delivered to the weaker sections of the society.

INAUGURAL SESSION BY PROF. DR. S. P SINGH

(Professor of Political Science, Dean of Social Sciences and Humanities, CNLU, Patna)

Dr. S.P. Singh began his speech with welcoming guests and participants. He mentioned that on occasion of Human Rights Day this national seminar has been organized but this issue of crime against women should not be kept in mind on specific occasions only. He said that we live in a patriarchal society so injustice to women is an everyday event, and considering this we should keep the issue of justice to women in mind every day, every time. Often in such society men make laws for women, and expect all to follow them.

Economic and educational empowerment go hand in hand. Until and unless we make women aware of their rights and start thinking of women empowerment in our day to day lives, providing justice to women would remain difficult.

- Prof. Dr. S.P. Singh (CNLU, Patna)



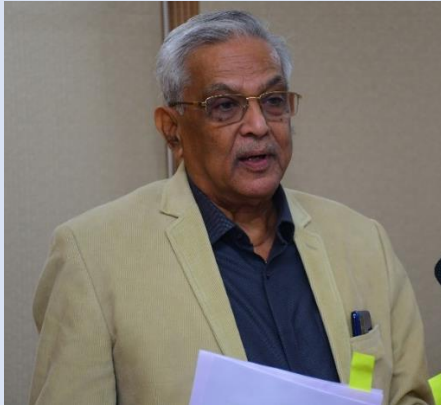
He said that this happens due to cultural issues also. We started as hunter-gatherers where women were dependent on their father in the morning of their life, on husband in the day, and on sons in the evening of their life. This resulted in a social structure where even festivals are done for longevity of sons-husbands, and not for women-folk of the family. At the same time Indian civilization has goddesses too! Somehow when it comes to giving rights we can easily see that mindset of giving equal rights is absent. We need to give more power to women, we have to give a chance, and the women can do most things on their own.

He said that the second thing we need to keep in mind is poverty, as Ms. Mamta Kalyani had already pointed out. Without economic power, education will not come, without education, awareness of rights would be absent. So, we need to think on that front too. He said that when people with a criminal intent face a aware-empowered woman, they think hundred times before committing a crime, poor-uneducated women are comparatively a softer target.

He said that all stakeholders have to work together, whether it's the state government, courts, the police system, educational institution or the NGOs. He said that in 1984 family courts came into being. We see that in Bihar it started with a family court for every commissionaire but today Patna and Katihar districts have two family courts each. He mentioned a news from that day's newspaper to showcase how with coming up of family courts, women have started demanding justice and rights in family and marriage. He ended by saying that wherever we are, in whatever capacity we are in, we take a pledge to give equal rights to women, only then a few years or a few decades later we can talk of equality in the society.

INAUGURAL SESSION BY SHRI MANORANJAN PRASAD SRIVASTAVA

(Retired District Judge), Registrar, Chanakya National Law University



Justice system can be analyzed only after courts are functional. In Bihar for past more than one year such fast-track courts are not functioning. So, it should be our priority to send a message to the stakeholders to set up fast-track courts in Bihar on a priority basis.

- Shri Manoranjan Prasad Srivastava

Shri Manoranjan Prasad Srivastava started by saying that since the order of Supreme Court through which fast-track courts were to be set up, government has released sufficient funds to create such courts. He said that though this is a national seminar but when we concern ourselves with Bihar, we see that zero courts have been set up in past more than one year. Since there are no fast-track courts which can deliver justice in rape or POCSO cases, automatically, justice delayed is justice denied applies to our state. Government and High Courts which have a very important role to play in setting up of such courts should be made aware of this fact.

He said that our academic discussions result in grassroot level changes only when a concrete result or a course of action to be taken comes into being. So first we have to think of how fast-track courts can be established only after that their functioning can be discussed. Once they are in existence we can ear-mark a few for working on women related issue, but first priority should be to get them established and functional. He agreed to the point of financial problems faced by victims that was earlier raised by Ms. Mamta Kalyani (ADG, Weaker Sections).

Adding to it he said that if the investigation is not proper, no court can convict the criminal. The duty of government is also to provide manpower in the investigation wing. Unless proper material is provided how will courts convict? Often within thirty days chargesheet is not filed, this delay results in miscarriage of justice. He pointed out that we have to critically analyze the role of fast-track courts, but where there are no courts, we cannot analyze anything. He ended by saying that conviction and failure of justice system can be discussed only after setting up of courts. So a message should go to the concerned authorities to set up fast-track courts.

INAUGURAL SESSION BY HON'BLE JUSTICE SMT. MRIDULA MISHRA

(Vice-Chancellor, Chanakya National Law University)

To reduce crime, have more conviction, just enactment is not sufficient. Implementation should be there. Contribution of government in creation of fast-track courts is also essential and stakeholders should be reminded of their responsibility as speedy justice is the core of any judicial system.

- Hon'ble Justice Smt. Mridula Mishra



Beginning her address, Hon'ble Justice Smt. Mridula Mishra started with agreeing to the Registrar's comment that for events like seminars to have an actual impact on ground realities, we must ensure right at the beginning what we want to achieve as an objective. Without actual data we cannot say that this much cases should have been disposed within this much time, but now we don't have any data, so any critical examination becomes impossible for Bihar. She said that the dates set for establishing fast track courts was of 2022 but the government has extended the dates to 2023 now. The government has also not specifically mentioned why this extension has been made. Central Government has earmarked funds and there was the provision for some state contribution too. We should take a look into where there is a bottleneck and why such courts have not been set up in Bihar? She said that as an objective we must think of sending a memorandum to the government regarding setting up of fast-track courts in Bihar.

Moving on, she mentioned that way back the Indian judicial system was mostly religious in nature. When Mugals and other rulers came, they set up their own religion based judicial system. We saw a third change during the British empire. Today the judiciary that we see is mostly based on the judicial system from the British colonial era. We have seen immense increase in population since India got independence. Somehow the hierarchy of courts that was set during british era, never changed. This has caused a problem because the nature of cases which were to be decided by a particular court which were decided according to an old hierarchy was never changed. For any developing economy this is a very big problem.

As an example, she mentioned the prohibition act due to which a huge number of new cases came up for hearing in the courts of Bihar. She said that new legislations and acts made up space for new cases and more workload on courts. Changes should have been made accordingly to accommodate these but these have not been made. She mentioned her personal experience on making such changes in the judiciary.

She also added that with the adage of justice delayed is justice denied, we should also keep in mind that memory fades with time. The anguish against the culprit, the zeal to get justice done, dies. She mentioned a case which was related to dowry murder. In that she mentioned that the process took so long that the father of the victim, who was also the informant, lost all interest in getting justice done for his deceased daughter. At the time of the trial, he was gained over. Witnesses are gained over, threatened, lured and even money is involved in such cases. She also mentioned cases where false accusations are made and by the time it goes for hearing, whole frame of the case has changed.

Initially the intention of the government was to deal with civil cases only. Fast-track courts were meant to dispose civil cases which were pending for more than five years. This was challenged by one Mr. Brijmohan of UP, and from there it came to High Court to decide on which cases would go on fast-track. With Nirbhaya Case we saw criminal cases being fast-tracked and then criminal cases started coming to fast-track courts. The intention was that such convictions would act as a deterrent. This will act as a deterrent only when justice is swift which is not happening today.

She added that unlike civil cases, when we put criminal cases on fast-track, a lot of issues need to be considered, e.g., how heinous the crime was, or the pendency of the case. What happens in proceedings is that witnesses come from a long distance and for some reason they are not examined. In that case witnesses have to go back and a lot of times it is a huge financial burden. They have no protection and danger to life also might be there. Disposal of cases should be in a timely manner; protection of witnesses should be there and most importantly financial assistance should be there. To reduce crime, have more conviction, just enactment is not sufficient. Implementation should be there. She ended by saying that unless something is done for creation of fast-track courts in Bihar, all discussions in this regard would not result in changes on the grassroot level.

Post inaugural session the felicitation of guests and dignitaries was done after which a summary was presented by Mr. Chandan Kumar (Programme Coordinator, Child Rights Centre, Chanakya National Law University).

TECHNICAL SESSION 1

SEXUAL OFFENCES AGAINST WOMEN AND BARRIERS TO ACCESS TO JUSTICE, A SPECIAL ROLE OF FAST TRACK COURT

Technical session was started by Mr Chandan Kumar (Programme Coordinator, Child Rights Centre, Chanakya National Law University) by introducing the Chair person - Prof. Dr. Subhash Chandra Roy (Professor of Law, Dean of Research and Development, CNLU, Patna), Co-Chairperson - Dr. Vijay Kumar Vimal (Assistant Professor, CNLU, Patna), and Speaker - Ratna Appender, a lawyer, currently practicing in the Supreme Court, High Court, and Trials Court in New Delhi.

Adv. Ratna Appender

Practicing lawyer at the Supreme Court, High Court and Trials Court in New Delhi.

She began with an introduction of what kind of work she does and then moved on the issue of the role of fast-track courts in addressing sexual violence against women. As the basic history of creation of fast-track courts was already discussed in earlier session she moved on directly to the barriers in access to justice. Government of India has already created a fast-track court in Delhi. First such court came up in 2013 and through the years there have been some changes. Hon' Supreme Court took suo moto cognition of setting up of fast-track courts. As right to fair trial has been recognized as a right under Article 21 of the Indian Constitution (Hussain Ara Khatoon Judgement), this makes it very important issue for consideration.



Data shows that setting up of fast-track courts alone has not been sufficient as the number of pending cases and the number of acquittals in both POCSO and rape cases has remained almost same. Overburdened judicial staff and judges can be cited as a reason for this.

- Adv. Ratna Appender

She said that over the decades it has been understood that the victim or the accused both have a right to speedy trial. She mentioned Article 19 to 21 where right to expression, right to life, all form the basis of right to speedy trial. She also reminded participants of CrPc 309 which

says a criminal proceeding (trial) should continue day to day. Now there is a provision added to it which says the hearing should conclude within two months. This is not essentially two months; it might take longer time also but an attempt to run hearing regularly is made in almost all courts.

She mentioned that as per available data, we can see that the number of cases coming up and pendency of cases remains same. The judges and judicial staff is often overworked. Hence only setting up of fast-track courts has not resulted in speedy justice. Acquittal rate also remains almost the same. It is around 40-60% in POCSO cases and in case of rape it is higher (almost 80%). This overemphasis on speedy justice often results in improper investigation and also on the right of the accused. She said that often when reports of trials being completed in record time come in, she and other experienced professionals do know that it's impractical and won't stand when appealed against in a higher court. It also raises a serious question on whether the accused was given

She said that there were multiple barriers to justice for women. Fast-track courts are just one aspect of such barriers. She said that beginning from the filing of a complaint problems arise as there is problem in registering and FIR. She mentioned that under CrPC 154 if there is a cognizable offence, it is mandatory for police to register an FIR. In cases of sexual offences there are certain extra measures that need to be taken care of. CrPC also penalizes the police officer if they refuse to register FIR in cases of sexual offence. Even though this exists, courts have noticed that most of the times they are not used. Similarly wrong sections of laws are applied or names are not mentioned in case FIR is being registered against an influential person, to water down the FIR. To overcome this a provision of video graphing the statement has been made. Additionally recording in front of magistrate has been made. In case of women or physically/mentally challenged victim police has to go to victim's house to record the statement.

Second barrier, Adv. Ratna Appender said, is at the level of investigation. Except for very high-profile cases, there is a problem of investigation in most cases in India. Either delay of recording can be there, delay in collection of medical/scientific evidence can be there, there can be improper storage can be there. Material which is electronic evidence, is often not collected and stored in proper manner. CCTV footage etc are not collected within time. Law does not provide time frame of completing evidence except in cases of sexual offences. Somehow FSL laboratories are also overburdened so they take a couple of months to give a report. Delay in investigation often results in loss of interest, intimidation/threats or allurements.

She mentioned problems at the trial phase too. She mentioned Punjab Vs Gurmeet Kaur (1996) case where it was said that trials would be conducted by female judges. Earlier trials were

conducted where other people were present but now attempts were made to exclude other people from attending rape trials. Eventually these were added to CrPC also. She mentioned how approach of the judge matters for a rape victim. She added that “on camera” means that other people who are not related to case or accused and his relatives, witnesses etc would not be present. She added that upon physical verification, she saw that victims were usually not aware of these rights and “on camera” trials were not being conducted. Completion of trials within two months was also impractical she said. Non-disclosure of victims is often not followed as documents put online and photographs etc that are put on evidence is accessible.

Coming back to fast-track courts she said that not only speedy trial but proper trial is also needed. What public prosecutors present as evidence and how they are legally appreciated is also a factor. She said that workshops for gender sensitization of judges is also being done in different parts of India for this purpose. She mentioned one of the myths associated with rapes that was “medical examination proves rape”. She said that it has been established that “rape is a crime not a medical condition” so it cannot prove rape. To emphasize this, she read a paragraph on conduction of medical examination manual. Only in about 1/3rd cases of forced sexual intercourse an injury is visible on victim. Absence of injuries does not mean that female had consented. She said that mostly in case of child sexual violence injuries are present. Adding to it she said that rape is a crime that’s usually committed in private and does not create any evidence like murder weapon or dead body. So, testimony becomes important in such cases, hence, all these barriers arise.

Adding some perceptions prevalent in society she said that often it is believed that most rape cases are false cases. She discussed why this belief exists and how true that belief might be. She ended by saying that people feel that harsher punishment will deter crime but it is not how harsh the punishment is, which deters a crime. How essentially punishment is given deters crimes.

Co-Chairperson - Dr. Vijay Kumar Vimal

(Assistant Professor, CNLU, Patna)

We are a signatory to the UN Rights Charter and due to it we need to provide equal rights to women as women rights are not something separate from human rights.

- Dr. Vijay Kumar Vimal



Dr. Vijay Kumar Vimal appreciated the remarks on trial procedure made by the speaker. Adding to it he said that we need to make more amendments in the criminal procedure. He reminded the participants that we are a signatory to the UN Rights Charter. He added that IT Act provides guidelines for collection and storage of evidences, there are other guidelines and acts too, which are applicable. Somehow at the level of implementation, these are not being followed and hence we have not achieved a situation where justice can be provided to our women folk too.

Chairperson - Prof. Dr. Subhash Chandra Roy

(Professor of Law, Dean of Research and Development, CNLU, Patna)



Women should be treated as a person, not body. Only in few cases perpetrators are unknown people, mostly in such cases offenders are known to the victim. So we need to train the society too. Starting at rural level we should be imparting training to men and women for how other people whether men or women should be treated. Training towards life and how to live it should be provided.

- Dr. Subhash Chandra Roy

Chairperson Dr. S.C. Roy found the remarks of speaker very critical. He pointed out that most important for this topic is the term “justice to women”. This is important because human beings are born out of women. Still, we have to discuss how to provided justice to women. Track literally means a very narrow path and fast-track would mean having no hurdles in the path. As in general courts issues related to women are not taken up too fast, so a new type of court was created after Hussain Ara Khatoon case. Even after that if we are not able to provide justice to women.

He added that we need more women as judges and for that we need to have more female students studying, which in turn means more girl children getting an education. He said that as teachers we see that women from affluent families only reach law colleges. There are many hurdles to education even, it’s not only the case of finances but also the issue of safety. UP had to create special cells for security of girls going to school-colleges. This is also an issue of social health because we are not providing human right to women who are part of society.

He concluded by saying that fast-track courts are essential and comparatively their cases are disposed faster. Somehow by providing medicine only, illness cannot be treated but we need to have workshops at village level to educate the society to stop crime from happening, only then punishment and courts would be able to provide some respite to this problem.

TECHNICAL SESSION 2

GENDERED REALITIES OF VIOLENCE – A SPECIAL ROLE OF FAST TRACK COURT

The seminar continued post-lunch where Mr. Chandan Kumar (Programme Coordinator, Child Rights Centre, Chanakya National Law University) invited and introduced Chairperson Dr. Priya Darshini (Associate Professor of History, Dean of Social Sciences and Humanities, CNLU, Patna), Co-Chairperson Advocate Santosh Kumar (Advocate, Patna), and speaker Dr. Sangeet Kumar (Assistant Professor, and Head, Marwari College, Bhagalpur) for a discussion on the “**Gendered realities of violence**”.

Dr. Sangeet Kumar

Assistant Professor and Head, Marwari College, Bhagalpur

Gender is more of a social construct and as a society we train males to behave aggressively physically while women tend to be more passive in demonstrating violence. Increasing amount of stress levels have resulted in makin Indian women one of the most aggressive and their conduct is becoming more violent.

- Dr. Sangeet Kumar



Talking about the gender related issues Dr. Sangeet Kumar started by saying that he has been a student of sociology, and while retaining the sanity, self-respect, dignity of victim, giving justice becomes a major concern. He said that biological features distinguish male and female, but gender-based expectations are social construct. He also defined violence according to dictionary and how physical or mental harm is used to manifest violence. We see in our society that men and women are assigned different roles due to which training is such that they do not remain equal while growing up. This segregation results in separation of both genders. He quoted research by American Anthropologist, Margaret Mead who lived with different tribes to see how children were reared. From this research he showcased how in one tribe gender difference was not there in a peaceful tribe. By contrast there was another tribe where children were left to grow up as suspicious, hostile and violent towards each other.

In a third tribe Margaret Mead found gender difference in another tribe. Here women unadorned and their women were generally associated with what is considered masculine trait generally. Adornment and passiveness which are generally considered feminine characters were present in males of this tribe. Based on these sociologists concluded that gender is more of a social construct. Cultural forces are powerful in developing aggressive form of behavior. They are generally learned early in life. Man may feel pressured to act aggressively when challenged publicly.

He also quoted data from National Crimes Bureau of 2021, when India recorded highest number of crimes against women. The number of rapes show a steep rise in this year too. The rape survivors are not treated well. He also mentioned that kidnapping cases are contested because some legal experts believe that people report elopement as kidnapping when marriage is not approved by family for a girl. In number of crimes Bihar stands at the second position. Rapes are fewer but many dowry murders were reported. He pointed out how newer forms of violence are being perpetrated and reported. He also reminded that during COVID-19 related lockdown period, people were supposed to be at home, with their loved ones. Somehow this increase in the number of violent incidents indicate that women are not safe even at their homes.

Concluding his speech Mr. Sangeet Kumar, moved toward the social aspects of this issue. He said that women and children should feel happy and safe in their family and for this we need to impart training. This would result in reduction of the workload on courts.

Co-Chairperson Advocate Mr. Santosh Kumar

(Advocate, Patna)

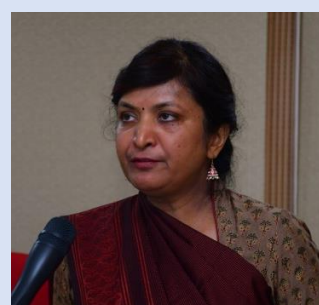


Mr. Santosh Kumar started by presented a few cases from his work experience where women who were witnesses or victims. He started by mentioning a case where right outside the court while the victim and her mother were returning, they were threatened on gunpoint. The police had to be called and victims had to be escorted home. In another case, there was a woman in Patna (Beur Jail) whose bail application was never filed in a 498A (dowry related) case. In twelve years, no one from her family had ever visited her. While living in the jail for no reason at all, she became mentally challenged. Finally, after intervention of some lawyers, he was able to find her brother and then she could get a bail.

Chairperson Dr. Priya Darshini

(Associate Professor of History, Dean of Social Sciences and Humanities, CNLU, Patna),

Dr. Priya Darshini started by asking what role women are playing in such cases? She quoted the example of Bhanwri Devi which is quite famous. She elaborated her point to showcase what role society plays in helping or harassing such women. Agreeing to the speaker Mr. Sangeet Kumar she said, what role man or woman has to play in the society, is culturally decided. Reports indicate that boys and girls both are becoming aggressive hence as human being we have to look at this issue in a broader manner. Concluding her remarks she said as a society, we need reforms and the sooner we realize it, the better it would be.



TECHNICAL SESSION 3

ROLE OF FAMILY COURT IN THE PROTECTION OF WOMEN IN INDIA – ROLE OF FAST TRACK COURTS

For the third technical session Mr. Chandan Kumar invited and felicitated Chair Prof. Dr. Ajay Kumar (Professor of Law, Dean of Academic Affairs, CNLU, Patna), Co-Chair Mrs. Nandita S. Jha (Assistant Professor, CNLU, Patna), and the speaker Dr. Yogendra Kumar Verma, (Head, Department of Law, Patna University) to the stage.

Dr. Yogendra Kumar Verma

Head, Department of Law, Patna University



Personal laws are codified and marriage, divorce, judicial separation, nullity of marriage, restoration of conjugal rights, etc. were formed. The purpose of such laws is to reconcile and save the institution of family. Without a healthy family we cannot think of a healthy society or a healthy nation.

- Dr. Yogendra Kumar Verma

Starting his talk Dr. Yogendra Kumar Verma said that we have been discussing criminal wrongs till now and in this session, we would be discussing civil wrongs. He said that we discussed that we are talking about punishment to the perpetrator but we have not discussed what remedy we would be providing to the aggrieved. The first question is why such things happen and why laws are needed to manage the functioning of this society? Men and women form two wheels and without one society can't function. He then discussed how personal laws are codified and marriage, divorce, judicial separation, nullity of marriage, restoration of conjugal rights, etc. were formed. The purpose of such laws is to reconcile and save the institution of family. Without a healthy family we cannot think of a healthy society or a healthy nation.

He said that during previous sessions we have heard that process of aggression starts in the family. We know that it is taught at home. So, we know that to have fewer court cases it's necessary to save the institution of family. It's the duty of the court to conciliate the matter first and options like divorce are used as the last resort only. It is so because we know that the result of a failed family and associated problems are to be faced by the woman first. He told that under the Family Court Act, about 700 courts were established, and today we have about seven lakh cases pending in such courts. So, we know that even family courts we have not been able to provide a remedy. If we go by percentage, most of the cases more women are aggrieved and, in many cases, the aggrieved are not getting a proper remedy.

He said that it is common that in divorce cases some time is given for conciliation and it results in double punishment for woman. Now it depends on the rationality of judges, as to understand which cases might get resolved and which ones need a remedy. For this Maharashtra has recently started appointing only those judges who have an experience of social welfare. So now we are also judging the capacity of judges to understand which matters can be resolved. We see in western cultures that many orphanages have started. This is a result of failed marriages. We will have to think of the problems that would be created through our acts. We have changes being made in Hindu Succession Act every day, so we will have to see if the instrument we are using, have been successful or not.

He added that we copied institutions from foreign countries but we have never tested if they are properly functioning in our society or not. As of now we have sanctions which prohibit an act through punishments. Someone does wrong we punish him or her which means that the accused is punished but do we provide remedy to the aggrieved? He gave example of changes in succession acts which give right to inherited property to daughters too. This act was amended in 2005 and 17 years have passed since then. It can be a matter of research if this act brought any ground level changes. He said that creating new acts can't prevent wrongs being done. It can only be done through social changes.

He said that court cannot be a remedy for all social evils. We see today that financially stable families have instances of violence because physical violence is not the only form of violence. He pointed out that many times men are also the aggrieved party. As of now we don't have many remedies for them. He insisted that we need to have proper judges, a greater number of judges and also to sensitize the society. He said that we need to train children right from the time of attaining puberty so that we create a society which is more harmonious and such matters reduce in number.

Co-Chair Mrs. Nandita S. Jha

(Assistant Professor, CNLU, Patna)

Mrs. Nandita Jha started by saying that in case of mediation we know that such problems start with power imbalance. She gave example of work where people join as employees. There people try to create a power imbalance because all the risk is taken by the entrepreneur and employee works to get a salary. She asked if we compare corporate mitigations to the family mitigations, can this system work where one party is more powerful compared to other? Are family mediation empowering women? When there's a power imbalance, and it is decided in family courts, it is a great threat to the right of self-determination for women.

There are a lot of sociological aspect related to dispute resolution. Before going to a court of law, there should be a mediation. She encouraged participants to research on how we can improve mediation and status of women through it.



If there is no equality between partners entering any contract, we see arbitrations arising between parties. Similarly, when both the partners in any marriage are not equal partners, litigations and violations of rights are bound to happen. We need to solve this issue not only at legal but also at a social level.

- Mrs. Nandita S. Jha

Chair Prof. Dr. Ajay Kumar

(Professor of Law, Dean of Academic Affairs, CNLU, Patna)

We also have to take a look at social dominance because law treats both male-female as equal, social dominance can be different at different places in India itself.

- Prof. Dr. Ajay Kumar



He said that the proof of burden lies on the person who approaches the court as an aggrieved party. Somehow the family court is more of an arbitrator. Somehow practically they take too much time for judicial separation hence the process becomes the punishment. We do not have a very good provision of pre-conciliation. Multiple reasons for delay happen. There are sociological aspects of divorce, maintenance and custody of children. In different parts of India matriarchal society and patriarchal societies both exist, somehow law is more in favor of women and that applies all over India. He gave example of Meghalaya and Khasi tribes from his personal experience to clarify his points too. He also pointed out how sections like 498A are being misused. He also pointed out that behavioral changes were needed in the system to bring about any change in the society.

QUESTION & ANSWER SESSION

Around **200 participants** actively attended the complete seminar. Hence in the end of every technical session some very pertinent questions related to the fast-track courts and speedy trials were raised. A very important question on how to balance the ethical issue of right to fair trial and the right to speedy justice can be balanced was raised during the Question-and-Answer session.



Serious issues like how we are seeing disintegration of joint family changing into disintegration of nuclear family and what can be done towards that were raised. Concerns regarding status in jails and how women in jails can't voice their concern were also raised. Students also wanted to know what can be done in cases where false allegations are made on a person? How procedural changes are needed and even then, burden of proof lies on accused were also discussed during these sessions.

Once the question answer session moderated by **Dr. Aman Kumar & Mr. Chandan** was over, Dr. Aman Kumar thanked the participants who had patiently participated in the seminar even after it was running over the stipulated time period. He concluded by saying that a certification of attending the seminar would be provided to participants. He called upon **Mr. Chandan Kumar Sinha (Programme coordinator, CNLU)** to present the vote of thanks.

CONCLUDING REMARKS

Some serious questions were raised during the course of the seminar. During the introduction session itself it was decided that although this seminar is national in nature and the speakers were from different parts of the country, some focus should be kept on Bihar as it would benefit the participating students understand the dynamics involving the legal framework in the state. Furthering this, it was discussed that the issue of fast-track courts is a difficult one for Bihar. At national level, for many states, data is available on how many cases were presented, what time it took for disposal of cases and other such matter. Somehow in the case of Bihar fast-track courts are not functional. It was decided that a memorandum would be presented to the proper authorities after studying the status where bottlenecks are there. Elaborating this it was discussed that funds needed from the central government have already been allocated and in all probability, a memorandum to the state government can be presented.

In one of the technical sessions the status of women in jails was discussed. A few participants were of the opinion that the status of women in jails is not too good. They are often not able to present their matter due to male dominance in jails. Some of the speakers agreed that during their experience in courts they have seen that accused is from poor economic condition but still he/she has little faith in the system. Sometime they lack awareness that government can provide free legal aid if they ask for it. Due to this they ask for legal aid only after judges coax them or sometimes even when judges ask if legal aid is required, they deny assistance. On the issue of women prisoners, speakers informed the participants that many non-governmental agencies worked for them and they fought cases pro bono. They can be approached for women prisoners if legal assistance is needed.

A question of false cases also came up where participants wanted to know what is the remedy for false accusations being made? Participants were made aware of how the judicial system works in India. Using comparison from judicial system of countries like Italy it was showcased how burden of proof lies upon the accused in Indian scenario. It was discussed that though there is scope for improvement but that is a very slow process. Only after long discussions it can be changed or improved to a certain extent. Somehow false accusations and misuse of laws would continue and it is upon the sensitization of judges, often in the lower courts, who can identify such cases and deal with them at the beginning stage itself. With longer duration of collection of evidence, it becomes difficult to identify such issues.

VALEDICTORY (VOTE OF THANKS) BY MR. CHANDAN KUMAR SINHA

(Programme Coordinator, Child Rights Centre, Chanakya National Law University)

Mr. Chandan Kumar Sinha, Programme Coordinator, Child Rights Centre, Chanakya National Law University, presented the vote of thanks. He thanked the mentor Hon'ble Justice Smt. Mridula Mishra, vice-chancellor, Chanakya National Law University, Patna. For inaugurating the session in spite of her busy schedule. He also extended gratitude to the respected Mnoranjan Prasad Srivastava, Registrar, Chanakya National Law University Patna for glorifying this programme.



He then thanked Mrs Mamta Kalyani, Sr. Dy. SP, ADG Weaker Section CID, Bihar.Patna for inaugurating the session in her busy schedule. He extended gratitude to the respected Mnoranjan Prasad Srivastava Sir, Registrar, Chanakya National Law University Patna for glorifying this programme. He also extended gratitude towards the respected Prof. Dr. S. P Singh Sir, Professor of Political Science, Dean of Social Sciences and Humanities, Chanakya National Law University Patna for glorifying this programme.

He then thanked all Chairpersons - Prof. Dr. Subhash Chandra Roy, Professor of Law, Dean of Research and Development, CNLU, Patna, Dr. Priya Darshini, Associate Professor, CNLU, Patna, CNLU, Patna and Prof. Dr. Ajay Kumar, Professor of Law, Dean of Academic Affairs, CNLU, Patna. He then sincerely thanked all Co-Chairpersons - Co-Chairperson Advocate Mr. Santosh Kumar, Advocate, Patna, Dr. Vijay Kumar Vimal, Assistant Professor, CNLU, Patna, and Mrs. Nandita S. Jha, Assistant Professor, CNLU, Patna.

He sincerely thanked all Resource Person/ Speakers - Ratna Appender, who is a practicing lawyer in the Supreme Court, High Court, and Trials Court in New Delhi, Dr. Sangeet Kumar, Assistant Professor, and Head, Marwari College, Bhagalpur, and Dr. Yogendra Kumar Verma, Head, Department of Law, Patna University. He then thanked Ms Shikha and student Interns of CRC, CNLU for his/ her endless efforts. All the members of Child Rights Centre, CNLU Prof. Dr. P.P. Rao, Associate Prof. of Law and Senior Research Coordinator CNLU-CRC, Dr. Aman Kumar, Centre Coordinator, CNLU-CRC, Ms. Sugandha Sinha, Assistant Prof. of Law and Research Coordinator, CNLU-CRC, Dr. Fr. Peter Ladis F., Assistant Prof. of Law and Training Coordinator, CNLU- CRC and Ms. Preety Anand, Assistant Prof. of Law and Advocacy and Outreach Coordinator of CNLU-CRC.

He thanked his colleagues, Dr. Aman Kumar (Centre Coordinator, CRC, CNLU). He extended thanks to the CRC, CNLU all student members, and to CNLU support staff members for enthusiastically arranging this programme. He especially thanked all members of the National Commission for Women, Government of India. In the end he thanked around **200 participants**,

without whom this programme would not be a success. He ended by thanking everyone for joining the seminar.

Annexure



Topic: "Role of Fast Track Court, Special Court in delivering Justice to Women"

Date: 10th December 2022, 9AM-5PM

Agenda Programme Schedule

Time- 10:00 am to 5:00 pm, Date- 10th December 2022

Venue- New Moot Court Hall, 2nd Floor, Nishant Nilayam Library Building,
Near Gate Number 03, CNLU, Patna

10:00 am to 11:00	Registration and kit distribution
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Inaugural Session- 11:00 am to 11:35 am

11:00 am to 11:05 am	Welcoming of the Guest	
11:05 am to 11:10 am	Felicitation of Dignitaries and lightning of the Lamp on Dais	
11:10 am to 11:15 am	Welcome Address	Dr. Aman Kumar, Centre Coordinator, CNLU, Patna
11:20 am to 11:25 am	Chief Guest	Mrs Mamta Kalyani Sr. Dy SP, ADG Weaker Section CID, Bihar.
11:25 am to 11:30 am	Introductory Address	Prof. Dr. S. P Singh Professor of Political Science, Dean of Social Sciences and Humanities, CNLU, Patna
11:30 am to 11:35 am	Introductory Address	Mr. Manoranjan Pd. Srivastava Registrar, CNLU, Patna
11:35 am to 11:40 am	Presidential Address	Hon'ble Justice Mridula Mishra, Vice-Chancellor, CNLU, Patna

Technical Session 01 (11:40 am to 1:00 pm)

Sexual Offences against women and barriers to access to justice, A special Role of Fast Track Court

Chair	Prof. Dr. Subhash Chandra Roy Professor of Law, Dean of Research and Development, CNLU, Patna
Co-Chair	Dr. Vijay Kumar Vimal Assistant Professor, CNLU, Patna
Speaker	Ratna Appnender , a lawyer, is practicing in the Supreme Court, High Court, and Trials Court in New Delhi.

Technical Session 02, (1:00 pm to 2:15 pm)

Gendered Realities of Violence- - A special Role of Fast Track Court

Chair	Dr. Priya Darshini Associate Professor of History, Dean of Social Sciences and Humanities, CNLU, Patna
Co-Chair	Advocate Santosh Kumar Advocate, Patna
Speaker	Dr. Sangeet Kumar , Assistant Professor, and Head, Marwari College, Bhagalpur

Lunch- 2:15 pm to 3:00 pm

Technical Session 03, (3:00 pm to 4:15 pm)

Role of Family Court in the protection of Women in India- Role of Fast Track

Chair	Prof. Dr. Ajay Kumar Professor of Law, Dean of Academic Affairs, CNLU, Patna
Co-Chair	Mrs. Nandita S. Jha Assistant Professor, CNLU, Patna
Speaker	Dr. Yogendra Kumar Verma , Head, Department of Law, Patna University

Valedictory Session, 4:15 pm onwards

Vote of Thanks	Chandan Kumar Programme, Coordinator, Child Rights Centre, CNLU, Patna
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Certificate Distribution

News Clipping of the event coverage by different media houses:

स्त्रियों को न्याय दिलवाने में फास्ट ट्रैक कोर्ट की भूमिका पर सेमिनार का आयोजन

पटना। चाणक्या नेशनल लॉ यूनिवर्सिटी के प्रांगन में मानवाधिकार दिवस के अवसर पर स्त्रियों को न्याय दिलाने में फास्ट ट्रैक कोर्ट और विशेष अदालतों की भूमिका विषय पर एक गोष्ठी का आयोजन किया गया। इस सेमिनार का उद्देश्य स्त्रियों को मिलने वाले न्याय में समय से (जल्दी) न्याय मिलने की भूमिका पर चर्चा करना था। न्याय व्यवस्था में देरी, देरी के कारणों, किन तरीकों से इस देरी को कम किया जाये और विशेष रूप से बिहार में इसकी स्थिति पर बाहर से आये कई विद्वानों के साथ बिहार के कई



बुद्धिजीवियों और न्यायविदों ने चर्चा की।

बिहार में फास्ट ट्रैक कोर्ट की जरूरत: जस्टिस मृदुला मिश्रा

पटना. चाणक्या नेशनल लॉ यूनिवर्सिटी के में शनिवार को मानवाधिकार दिवस पर स्त्रियों को न्याय दिलाने में फास्ट ट्रैक कोर्ट और विशेष अदालतों की भूमिका विषय पर सेमिनार आयोजित हुआ. सेमिनार का उद्देश्य स्त्रियों को मिलने वाले न्याय में समय से (जल्दी) न्याय मिलने की भूमिका पर चर्चा करना था. न्याय व्यवस्था में देरी, देरी के कारणों, किन तरीकों से इस देरी को कम किया जाये और विशेष रूप से बिहार में इसकी स्थिति पर बाहर से आये कई विद्वानों के साथ बिहार के कई बुद्धिजीवियों और न्यायविदों ने चर्चा की.

Some photographs from the event:



