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# A Bill to help rape victims

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**I**t was a severely traumatised nun, who stood before the court to give her testimony. Sister Mina Lata Barwa hid in her pain and agony for two months before she was able to face the world again. A scarf covered her face. Her eyes, barely visible through her spectacles, were frozen in an expression of permanent terror. She bravely testified against the rapists, stopping only to dry her tears — when the memories got too much. Post-rape trauma is often more traumatic than the initial crime.

There will be some respite to these victims when the Code of Criminal Procedure (Amendment) Bill, 2006, becomes legislation. This Bill reflects a sensitivity to victims of rape.

In India, only one in 69 cases of rape gets reported. Police apathy, gender bias, poor quality of investigation, fear of harassment, social stigma and corruption are some of the reasons why victims shy away from reporting sexual abuse. The German woman's constant hesitance and subsequent withdrawal of the charge of rape on her daughter in Goa projects the fear of victimisation. Her fear is not totally unfounded.

**O**ut of 100 cases reported, the rapist gets away in 85 cases. The rate of conviction of rape is alarming, it is between two and 10 per cent. The average length of trial for rape is between four to seven years. Apart from delayed justice, the lengthy duration of the case often wears out the victim and weakens the stand against the rapist, who is often set free to plan his next victim.

According to the Bill, a trial of rape shall be completed within a period of two months from the date of examination of the witnesses. The grounds of obtaining adjournments, the prime cause of lengthy trials is strictly monitored. The pleader cannot give the lame and timeworn excuse that he is engaged in another court, for in such situations an alternate pleader would

## AMENDING CrPC



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need to be arranged. Where a witness is present but the party or his pleader are not present, or is not ready to examine or cross examine the witness, the court may record the statement of the witness and dispense with the examination-in-chief and cross-examination.

**T**here is a provision in the Bill for the rape victim to be investigated in her residence as far as practicable by a woman officer and a woman under 18 years should be questioned in the presence of her parents or a social worker of the locality. A woman judge or magistrate shall "as far as practicable" preside over rape trials.

The Bill also stipulates that in matters of publishing trial proceedings in a rape case, the names or addresses of the parties must not be mentioned. It is increasingly evident that the social stigma attached to a rape victim stops her from reporting the crime. Rape is often treated with horror not because it is a violent crime but because of the disgrace that attaches to its victim. The Supreme Court has directed all high courts and the lower judiciary to conceal the identity of rape victims in the judgments to protect the victim from social stigma.

The Bill is an effort to change the inadequacies of the procedural laws but for it to be a truly effective, the substantial laws relating to rape too could do with a few amendments. The definition of rape needs to be extended to include other forms of sexual abuse, which do not fall within the existing narrow parameters of the definition.

*(The writer is a legal consultant)*