

## Women's rights flow from 'ancient traditions', says India at UN

[Manoj Mitta](#), TNN | Aug 13, 2014, 06.19AM IST

NEW DELHI: "Respect for women and their rights flow from the ancient traditions of the Indian civilization and are now enshrined into the Constitution and laws of modern India." No, this is not another pearl of wisdom from Dina Nath Batra, the controversial interpreter of ancient history. It's the position taken by India on July 2 in Geneva while presenting its periodic reports before the UN committee on elimination of discrimination against women (CEDAW).

Such an attribution of statutory safeguards to India's hoary past rather than to modern notions of feminism is contained in the speech delivered by Shankar Aggarwal, secretary to the ministry of women and child development. He did so as the leader of an inter-ministerial delegation appearing before CEDAW.

But, while responding to questions from CEDAW on July 2, the Indian delegation made a contradictory admission, as evident from an eight-page UN press release on the interaction. Asked about the measures to check "sex selection at birth", the delegation said that though it was forbidden by the pre-conception and pre-natal diagnostic techniques Act (PNDT), "it was very hard to monitor the implementation of the Act and to prove that women and their families were practicing it". Unwittingly undermining its own claim that tradition respected women, the delegation added: "This culturally ingrained practice was an issue of great concern to the Government."

The UN press release also shows that this was not the only inconsistent reply given by India. Take the political consensus in India to keep the institution of marriage outside the purview of the stringent rape law enacted in 2013. In a tacit reference to the rejection of the Verma Committee's recommendation in this regard, CEDAW asked India if it still intended to criminalize marital rape. Instead of addressing the deficiency in the criminal law, the Indian delegation cited the civil remedies available to a victim of marital rape. "Concerning marital rape, the delegation stressed that the 2005 Prevention of Domestic Violence Act protected women from all forms of violence, including sexual." But then, even as it protects the wife from sexual violence, the 2005 law does not impose any punishment on the husband.

This legal lacuna, not surprisingly, figured prominently among the findings of UN special rapporteur Rashida Manjoo submitted in April on the basis of her official visit to India earlier in the year. A law professor from South Africa, Manjoo said: "Violence against women in India is systematic and occurs in the public and private spheres." (In its written response on June 6 before the UN human rights council, India vehemently denied this and asserted: "Such a sweeping remark smacks of a highly prejudiced state of mind.")

Reflecting the feedback she got from "numerous interlocutors", the special rapporteur alleged that "the physical, sexual and psychological abuse of women in the private sphere is widely tolerated by the State and the community." She pointed out that the perpetrators included husbands, in-laws and other family members. Again, India brushed this aside as a "general remark" which was "baseless".

Further, it sought to buttress its reply by conflating the violence in the private sphere with the violence in the public sphere. While responding to Manjoo's observations about violence against women within the family, India quoted Manjoo's own remarks saying that in the wake of the Nirbhaya episode which took place on a moving bus, "there was widespread social mobilization of citizens demanding justice, accountability and more protection for women and girls". It added that Manjoo's report also acknowledged "various measures taken by the State in addressing these challenges". Thus, in the bizarre logic of India's reply, the 2013 law met the special rapporteur's concerns about the violence against women in the private sphere although its provisions expressly maintained the exemption of marital rape from the penal code.

Like in the case of the CEDAW interrogation, India's sensitivities over its ancient traditions were tested by Manjoo's strictures on its notoriously lax implementation of the PNDT Act. She said: "Customary practices in the family and community point to a pattern of daughter aversion and son preference." Referring to the declining girl-child sex ratio, she said: "The desire for sons has led to 'policing' of pregnancies by spouses and families through prenatal monitoring systems." The government kept mum on these findings as there was no way it could have shirked responsibility for sex-selective abortions. Nor could it have really de-linked such violence against women from its baggage of ancient traditions.

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