

## CONCERN OVER RAPE ACQUITTAL, 18 SEP 2009

### Concern Over Rape Acquittal

The Women's Centre for Change, Penang (WCC) views with concern the recent acquittal of a former Malacca Special Branch chief, of the charges of raping a mentally challenged woman six years ago. The judge reportedly said that the then 23 year old victim had "consented to have sex with the accused" and "chose to continue going to the shop to meet the accused. This is against the conduct of a person who had been raped or had sex against her will" (Star 17/9/09 Former Special Branch chief acquitted of rape).

WCC would like to point out that Section 375 of the Penal Code lists seven circumstances under which rape is said to occur. One of these circumstances is Section 375(e) which states that rape is said to occur if, a woman gives her consent when at the time of giving such consent, the woman is unable to understand the nature and consequences of that to which she gives consent.

In this particular case, the victim is a mentally challenged woman. The questions which arise are: Was expert opinion sought over her level of understanding or an assessment made of her intellectual capacity? Was she able to understand the consequences of the situation to which she was said to have consented? The issue of consent must be viewed such that it provides for the protection of those who are vulnerable.

The rising number of reported rapes is one of the most worrying statistics in this country. Yet it is not uncommon for us to read about rape acquittals due to a variety of reasons including lack of evidence. Time and again there are calls for perpetrators of rape to be brought to justice. This can only happen when there is comprehensive investigation, tenacious prosecution, support for the victim and an understanding of the circumstances in which rape occurs.

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