

# Chapter-17

## LAWS RELATING TO SEXUAL OFFENCE AGAINST WOMEN AND CHILDREN

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## **INTRODUCTION:**

Everyone in every part of the globe is seeing, in some form or another, the current state of affairs, which includes the brutality and the rising number of crimes committed against women and children. It is an indication of the magnitude and seriousness of the atrocities that have been committed against women in recent years. This assertion may be corroborated by the worldwide movement to put an end to all forms of violence against women. Changes in living standards and lifestyle, imbalances in economic development, shifts in social ethos, and a lack of regard for moral principles all lead to a malevolent attitude toward women, which in turn contributes to an increase in the number of crimes committed against women. In addition, the occurrence of such events is cause for serious worry, and the structure in question is unquestionably essential in order for the women of India to be able to live with respect, honor, dignity, freedom, and peace in an environment free from atrocities, denigration, and heinous crimes. There are several legislative requirements that result in the perpetrators of crimes against women and children being subjected to severe punishments. Nevertheless, the Indian Penal Code and the POSCO legislation have provisions that protect women and children who are victims of a variety of sexual offenses. However, there are some offenses that are categorically defined as being committed against women and children and are given the name "Offenses Against Women and Children." Because of the urgent nature of the situation, many new socioeconomic offenses have been legislated, and several adjustments have been made to the laws that are already in place in an effort to tackle these crimes in an effective manner.

### **Sexual Assaults Committed Against Women:**

In the Indian Penal Code, sexual offenses committed against women are classified under a distinct heading. This head includes a comprehensive list of sexual offenses, each of which has **its own section:**

#### **Rape:**

Rape is defined in Section 375, IPC. In its most basic form, the crime of rape refers to the act of sexually assaulting a woman against her will and using coercion, deception, or fear to do so. Carnal knowledge, also known as penetration of any degree of the male reproductive organ, may be defined as the act of any woman being subjected to physical coercion in order to acquire sexual experience against her consent. It is offensive conduct of the greatest degree that violates the right to privacy and sanctity of a woman. It is an act that should not be tolerated. In addition to being an act that is demeaning and perverse, Additionally, it is an unlawful intrusion into a woman's

private life, which is a serious insult to her honour, dignity, reputation, and self-esteem. In addition to causing the victim bodily injury, this heinous crime also violates the victim's integrity as well as character, which are the most precious gems she has, as well as causes pain to them.

### **The Consequences of Sexual Assault:**

A person who commits the terrible crime of rape is subject to the penalties outlined in Section 376. This section is broken up into two sub-sections for your convenience.

Under subsection (1) of Section 376, the offender faces a mandatory minimum term of seven years in prison, which may be increased to a fine or possibly life in prison.

The punishment for violating section 376(2) is a minimum of 10 years in jail, but it may go as high as life in prison or even the death penalty, in addition to a fine.

### **Gang Rape:**

The penalties for gang rape are outlined in Section 376D of the Criminal Code. "When a woman is raped by more than one person who is acting in furtherance of a common purpose, each of those people shall be responsible for the crime of rape and may be punished with rigorous imprisonment for not less than twenty years, which may extend to lifelong imprisonment and fine".

### **Outraging the Modesty of Women:**

The crime of molestation, often known as the assault of a woman with the aim of insulting her modesty, is covered under Section 354 of the Indian Penal Code. The purpose of this section is to safeguard women from any kind of indecent or filthy behavior on the part of others that is considered to be detrimental to their modesty. This transgression is not only a violation of the individual's rights but also of societal norms and the morals of the general public. As a result, anyone who uses criminal force on a woman with the intent of undermining her modesty is subject to a one-year prison sentence, which can be increased to five years, as well as a fine. This sentence must not be less than one year, however, and it may be as long as five years.

The IPC does not provide a clear definition of what exactly constitutes an insult to a woman's modesty. However, the court has provided its interpretation in a number of different circumstances. The Supreme Court has established that modesty is a characteristic that is uniquely linked with feminine human beings as a group. It is

believed that modesty is shocked and offended by such an offense committed by the perpetrator, which is seen as an affront to the decency and dignity of women.

### **Insulting the Modesty of Women:**

Through Section 509, an act that is done with the intent to offend a woman's modesty but may not necessarily require any physical force is covered by this law. This section aims to prevent any kind of violence against a woman's modesty, whether it be by words, actions, or gestures, or by invading her space. This part of the article is often known as the "Eve Teasing Section."

### **Stripping (Disrobing a Woman):**

A violation of Section 354B is punishable by a sentence of at least three years, which may go up to seven years, plus a fine, for attacking or using unlawful force against a woman or for aiding in such an act with the goal of stripping or forcing her to be nude. Only a male may be punished in accordance with this clause since it is a gender-specific offense.

### **Voyeurism:**

This offense was created in the aftermath of the Nirbhaya Rape Case in 2012. It is listed under IPC Section 354C. The term voyeurism refers to the gratification gained from surreptitiously seeing the genital or sexual behaviors of another. This provision is broken into two sections. When a person sees or records a picture of a lady engaged in some intimate behavior and then disseminates or spreads that image,

The first offense is punishable by imprisonment for at least one year with a fine of up to three years. The second offense is punishable by imprisonment for at least three years and a fine of up to seven years.

### **Stalking:**

Section 354D of the IPC discusses the word "stalking," which primarily refers to the act of following or attempting to contact a lady notwithstanding her indifference. There are two offenses under this section. First, when a guy continuously follows, contacts, or seeks to contact a woman despite her evident signal of indifference; and second, "when a man watches a woman's usage of the internet, email, or any other kind of electronic communication.

The penalty for the first conviction is imprisonment for a duration of up to three years plus a fine. A second conviction may result in up to five years in jail and a fine".

### **Sexual Harassment:**

This new rule arose from a "Supreme Court decision dealing with the subject of sexual harassment in the workplace. The Criminal Law (Amendment) Act of 2013 added Section 354A to the IPC, which defines and punishes the offense of sexual harassment.

The penalty for the offenses mentioned in Section 354A (1) I to (iii) is rigorous imprisonment for a period that may extend to three years or a fine or both, and imprisonment for a term that may extend to one year or a fine or both in the case of subclause (iv)".

"The Sexual Harassment of Women at Work (Prevention, Prohibition, and Redressal) Act was passed in 2013 to protect women from sexual harassment at work and to prevent and remedy complaints about sexual harassment or any occurrence related to it".

### **Sexual Abuse of Children in India:**

CSA has always been a secret epidemic in India, generally disregarded by the public debate and the criminal justice system. As stated by the results of the most recent census, India is the world's second most populated country, accounting for 17 percent of the total population of the globe. India is home to about one-fifth of the world's children, making up 42 percent of the nation's overall population. More than half of the nation's youngsters are in need of some kind of care as well as supervision, making India one of the world's most populous countries for children. When India became a signatory to the "United Nations Convention on the Rights of the Child" in 1992, the country made a commitment to protect its children from any kind of sexual exploitation or abuse. Under the terms of the Convention, governments are prohibited from encouraging or pressuring minors to engage in sexually inappropriate conduct of any kind.

### **The POCSO Act:**

The POCSO Act was designed to criminalize a variety of activities against children (those under the age of 18), including "child rape, sexual assault, sexual harassment, and pornography. The legislation requires the establishment of special courts to expedite trials in instances of child sexual abuse. Without a doubt, the passage of POCSO" was a significant step forward in safeguarding children's rights. The law's text and spirit, which defines a child as anybody under the age of 18, is to protect minors from sexual abuse.

The POCSO Act imposes severe penalties that are tiered according to the degree of the offense. The penalties range from simple to harsh incarceration for varied lengths

of time. There is also a provision for a fine, which the court will determine. When a person in a position of trust or responsibility over a kid, such as a member of the security forces, a police officer, a public worker, etc., commits an act, it is considered "aggravated."

The POCSO Act does not utilize the word "rape," nor does it limit penetrative sex to penile penetration. Instead, it broadens the Act's definition of "penetrative sexual assault" oral intercourse, and the inserting of any object into the "anus, mouth, or vagina, in addition to penile penetrative" sex, is intended to be included in this definition.

## **CONCLUSION:**

Despite the number of laws that have been passed to protect and preserve the rights and interests of women and children, the prevalence of crime against women and kids and the number of women& kids who are victims of crime is growing at an alarming pace. It is a well-known proverb that in order to tango, two people are required. It gives the impression that laws alone are not responsible for regulating and controlling the increase in the number of crimes committed against women in our society. The prohibition of "evil eyes" on women and the instillation of social ethics, morality, values, respect and honor in every human being towards women are other factors that may similarly help to lower the frequency of crimes against women. This is urgently needed and may contribute to a decrease in the frequency of crimes against women. However, there is an urgent need for regulations that are more tough and severe so that anybody who is planning to do such crimes won't have the guts to follow through with their plans. The act of sexually abusing a kid is shrouded in mystery. It is very necessary for the child's parents or guardians to get educated about the issue and comprehend the gravity of the situation. In addition to this, it is very important for the parents to provide a safe atmosphere for their children and women and teach them how to defend themselves from any kind of sexual abuse.

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