



**PARLIAMENT OF INDIA  
LOK SABHA**

**COMMITTEE ON EMPOWERMENT OF WOMEN  
(2012-2013)**

**(FIFTEENTH LOK SABHA)**

**NINETEENTH REPORT**

**'VICTIMS OF SEXUAL ABUSE AND TRAFFICKING  
AND THEIR REHABILITATION'**



सत्यमेव जयते

**LOK SABHA SECRETARIAT  
NEW DELHI**

*May, 2013/Vaisakha, 1935 (Saka)*

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AND THEIR REHABILITATION'**

**Presented to Lok Sabha on 8<sup>th</sup> May, 2013  
Laid in Rajya Sabha on 8<sup>th</sup> May, 2013**



**LOK SABHA SECRETARIAT  
NEW DELHI**

*May, 2013/Vaisakha, 1935 (Saka)*

E.W.C. No. 82

PRICE: Rs. \_\_\_\_\_

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Published under .....

## CONTENTS

Page Nos.

COMPOSITION OF THE COMMITTEE  
INTRODUCTION

### **REPORT PART I**

#### NARRATION ANALYSIS

- I. Introductory**
- II. Crime against women**
- III. Human Trafficking**
- IV. Involvement of Juveniles in crime against women**
- V. Administrative and Legal framework**
- VI. Police strength**
- VII. Disposal of cases by Police and Courts**
- VIII. Schemes for victims of sexual abuse and trafficking**
  - (i) Ujjawala
  - (ii) Swadhar and Short Stay Homes
  - (iii) Scheme for Support to Training and Employment Programme for Women (STEP)
  - (iv) Compensation to victims of violence
  - (v) Scheme for Financial Assistance and Support Services to Victims of Rape
  - (vi) Integrated Child Protection Scheme
  - (vii) NGOs
- IX. Gender Budgeting**
- X. Criminal Law (Amendment) Act, 2013**

### **PART II**

#### **Observations/Recommendations of the Committee**

### **ANNEXURES**

- I. State/UT-wise details of incidence of crimes against women in the country during the year 2010 and 2011.
- II. State/UT-wise details of crimes under human trafficking during the year 2010-2011.
- III. Financial assistance and support services to victims of rape: A Scheme for Restorative Justice

- IV. Amendments to the Criminal Law as well as Representation of People Act, 1951 proposed by the Committee headed by Hon'ble Justice (Retd.) J.S. Verma, Former Chief Justice of India.
- V. The Criminal Law (Amendment) Act, 2013
- VI. Main features of the Criminal Law (Amendment) Act, 2013
- VII. Comparative analysis of the amendments proposed by the Committee headed by Hon'ble Justice (Retd.) J.S. Verma, Former Chief Justice of India, Criminal Law (Amendment) Ordinance, 2013 and Criminal Law (Amendment) Act, 2013.

### **APPENDICES**

- I. Minutes of the 4<sup>th</sup> sitting of the Committee (2011-12) held on 9 February, 2012.
- II. Minutes of the 7<sup>th</sup> sitting of the Committee (2011-12) held on 14 May, 2012.
- III. Minutes of the 9<sup>th</sup> sitting of the Committee (2011-12) held on 1 June, 2012.
- IV. Extracts of the Minutes of the 10<sup>th</sup> sitting of the Committee (2011-12) held on 29 August, 2012.
- V. Minutes of the 2<sup>nd</sup> sitting of the Committee (2012-13) held on 10 December, 2012.
- VI. Minutes of the 3<sup>rd</sup> sitting of the Committee (2012-13) held on 2 January, 2013.
- VII. Minutes of the 4<sup>th</sup> sitting of the Committee (2012-13) held on 28 January, 2013.
- VIII. Minutes of the 11<sup>th</sup> sitting of the Committee (2012-13) held on 6 May, 2013.

**COMPOSITION OF THE COMMITTEE ON EMPOWERMENT OF WOMEN  
(2012-2013)**

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**COMPOSITION OF THE COMMITTEE ON EMPOWERMENT OF WOMEN  
(2011-2012)**

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25. Smt. Maya Singh
26. Smt. Vasanthi Stanley
27. Dr. C. P. Thakur
28. Dr. Prabha Thakur
29. \*Vacant
30. \*\*Vacant

*\*Smt. Shobhana Bhartiya ceased to be the Member of the Committee w.e.f from 15<sup>th</sup> February, 2012 on her retirement from Rajya Sabha.*

*\*\* Shri Jabir Husain ceased to be the Member of the Committee w.e.f 2<sup>nd</sup> April, 2012 on his retirement from Rajya Sabha.*

*#Nominated to the Committee w.e.f. 2nd May, 2012 vice Rajkumari Ratna Singh.*

## INTRODUCTION

I, the Chairperson, Committee on Empowerment of Women, having been authorised by the Committee to submit the Report on their behalf, present this Nineteenth Report on the 'Victims of Sexual Abuse and Trafficking and their Rehabilitation'.

2. Taking into account the fact that women constitute about 48.5% of the country's total population and there has been recent spurt in crimes against women, the Committee on Empowerment of Women (2011-12) had selected this subject for detailed examination and Report to the Parliament. In view of vastness of the subject, the complexity of issues and stakeholders and the intricacies involved, the examination of the subject could not be completed during the term of the Committee on Empowerment of Women (2011-12). The Committee on Empowerment of Women (2012-13), therefore, re-selected the subject to continue further for examination. In all, 8 sittings of the Committee lasting about 13 hours were held in connection with the examination of this subject of considerable sensitivity and importance.

3. The Committee wish to express their thanks to the representatives of the Ministry of Women and Child Development, Ministry of Home Affairs, Ministry of Law and Justice, Delhi Police and the NGO – Stop Trafficking and Oppression of Children and Women (STOP) for appearing before the Committee for evidence and furnishing the information, desired by the Committee in connection with the issues relating to the subject.

4. The draft Report was considered and adopted by the Committee at their sitting on 6 May, 2013.

5. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in Part II of the Report.

**NEW DELHI**  
**May 6, 2013**  
**Vaishakha 16, 1935 (Saka)**

**RAJKUMARI RATNA SINGH**  
**Chairperson,**  
**Committee on Empowerment of Women**



## REPORT

### PART I

#### NARRATION ANALYSIS

##### I INTRODUCTORY

As per 2011 Census, women constitute about 48.5 % of the country's total population. Recognising women as an important human resource, the Constitution of India has not only accorded equality to women but also empowered the State to adopt measures of positive discrimination in their favour.

1.2 Gender based violence and discrimination against women has continued to be a pervasive feature of our society. Unequal economic, social and political status and position of women is an outcome of patriarchy and deeply entrenched socio-cultural stereotype about women. While enactment of law is a first step to address violence against women and give them substantial equality, it is equally essential that the law is implemented and enforced in letter and spirit. At the same time, the victim and the survivor of violence need services and support from police, health, legal aid providers and from the State for rehabilitation.

1.3 It is well-known that violence against women attacks the very foundation of her sense of self-esteem and dignity. It shakes her sense of self-worth and self-confidence. Last few years have witnessed a rising graph of crime against women. Delays in investigation by police as well in prosecution by courts have not gone down well with those seeking justice.

1.4 As per allocation of Business Rules, 1961, Ministry of Home Affairs deals with 'Administration of Criminal Justice' in cases of crimes against women and children. Highest importance to the matter of prevention and control of all forms of crime against women and children including sexual abuse and trafficking is, therefore, given by the Government. However, as per Seventh Schedule, 'Police' and 'Public Order' are State subjects under the Constitution, and as such the primary responsibility of prevention, protection, detection, registration, investigation and prosecution of crimes, including crimes against women and children, lies with the State Governments and Union Territory Administrations. The Government of India through the Ministry of Home Affairs augments the efforts of States/ UTs by providing them financial assistance for modernisation of State Police Forces in terms of weaponry, communication equipment, mobility, training and other infrastructure under the Scheme of Modernisation of State Police Forces. The rehabilitation of these victims comes under the domain of Ministry of Women and Child Development.

1.5 Elaborating the legislative and administrative measures initiated with a view to combating crime of sexual abuse and trafficking, the Ministry of Home Affairs in a written note stated that the Union Government has been constantly reviewing and strengthening the existing legislations. Amendments have also been enacted in the Code of Criminal Procedure in 2005 and 2008 to strengthen the law for prevention of crime against women and children and taking measures for safeguarding their interest. The Criminal Procedure Code (Amendment) Act 2008, which came into effect on 31 December, 2009 strengthened the procedural safeguards guaranteed to victims of rape and other crimes against women. In a significant change from the existing law, a victim of rape has been statutorily empowered, with the permission of the court, to engage an advocate of her own choice to assist the prosecution initiated by the State and at the same time, ensure that her interests are protected. The Cr.Pc Amendment Act also provides for safeguards relating to recording of statements of women victims, in camera trials and protection of her identity. Trial for offence of rape and aggravated rape is required to be conducted as far as practicable by women judges. The amendment also mandates a three-month time limit for the completion of investigation of cases of rape and child sexual abuse.

1.6 Notwithstanding the efforts taken by the Union Government and the existence of plethora of laws, special and local laws, the crime against women during the year 2011 has increased by 7.1% over the year 2010 and by 23.4% over the year 2007. The Indian Penal Code (IPC) component of crimes against women has accounted for 95.8% of total crimes and the rest 4.2% were Special and Local Laws (SLL) crimes against women. The proportion of IPC crimes has increased during the last 5 years from 8.8% in the year 2007 to 9.4% during the year 2011.

1.7 Apart from several initiatives taken by the Government of India to contain the incidents of crime against women and children, a horrific incident took place in Delhi on 16 December, 2012 which has put the entire humanity to shame. A 23-year old student of physiotherapy was brutally gang-raped by six men on a moving bus leading to her sad demise. This gruesome incident has touched the pinnacle of cruelty and insensitivity both by police and society which leads a common citizen of the country to think that either the laws are not adequate to infuse an element of fear on these miscreants or more effective steps need to be taken by the Government lest the reported failure of law enforcement agencies becomes the root cause of current unsafe environment eroding the rule of law.

1.8 The Department of Justice also stated that Trafficking of women for commercial sexual exploitation is another area of concern. India has ratified the United Nations Convention against Transnational Organised Crime (UNTOC) including the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children. But the country has yet to have an 'inclusive' definition of trafficking for punishing all forms of trafficking. The Prevention of Immoral Trafficking Act (ITPA) has a definition of 'prostitution' only. The composite definition of

'organised crime', is also required in the law related to trafficking (ITPA) as presently there are only certain provisions made to this effect under the Indian Penal Code.

## **II. CRIME AGAINST WOMEN**

1.9 The global campaign for elimination of violence against women, in the recent years indicates the enormity as well as the seriousness of the atrocities committed against women that are being witnessed the world over. Development along with its progressive changes in personal life style, living standards varied economic growth caused by urbanisation and changes in social ethos contributes to a violent attitude and tendencies towards women which has resulted in an increase in crimes against women. Such incidents are a matter of serious concern and its containment is a necessity so that the Women of India attain their rightful share and live in dignity, freedom, peace and free from crimes and aspersions. The battle against crime against women has to be waged by the various sections of society through campaigns and various programmes with social support along with legal protection, safeguards and reforms in the Criminal Justice System.

1.10 Despite all these safeguards, the women in our country continue to suffer, due to lack of awareness of their rights, illiteracy and oppressive practices & customs. The resultant consequences are many viz. a constant fall in the sex ratio, high infant mortality rate, low literacy rate, high drop out rate of girls from education, low wage rates etc.

1.11 The National Crime Records Bureau (NCRB) has explained that although Women may be victims of any of the general crimes such as 'Murder', 'Robbery', 'Cheating', etc, only the crimes which are directed specifically against Women are characterised as 'Crimes Against Women'. Various new legislations have been brought and amendments have been made in existing laws with a view to handling these crimes effectively. These are broadly classified under two categories.

### **(A) The Crimes under the Indian Penal Code (IPC)**

- (i) Rape (Sec. 376 IPC)
- (ii) Kidnapping & Abduction for specified purposes (Sec. 363 - 373 IPC)
- (iii) Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
- (iv) Torture - both mental and physical (Sec. 498-A IPC)
- (v) Molestation (Sec. 354 IPC)

- (vi) Sexual Harassment (Eve Teasing) (Sec. 509 IPC)
- (vii) Importation of girls (upto 21 years of age) (Sec. 366-B IPC)

**(B) The Crimes under the Special & Local Laws (SLL)**

1.12 While defining the crimes against women covered under Special and Local Laws, the NCRB further explained that although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. The gender specific laws for which crime statistics are recorded throughout the country are –

- (i) Immoral Traffic (Prevention) Act, 1956
- (ii) Dowry Prohibition Act, 1961
- (iii) Indecent Representation of Women (Prohibition) Act, 1986
- (iv) Commission of Sati (Prevention) Act, 1987

1.13 On the specific aspect of crime head-wise details of reported crimes during the year 2007 to 2011, the information as provided by NCRB, is as under:-

Crime Head	Year				
	2007	2008	2009	2010	2011
Rape (Sec. 376 IPC)	20737	21467	21397	22172	24206
Kidnapping & Abduction (Sec. 363 to 373 IPC)	20416	22939	25741	29795	35565
Dowry Death (Sec. 302 / 304 IPC)	8093	8172	8383	8391	8618
Cruelty By Husband and Relatives (Sec. 498-A IPC)	75930	81344	89546	94041	99135
Molestation (Sec. 354 IPC)	38734	40413	38711	40613	42968
Sexual Harassment (Sec. 509 IPC)	10950	12214	11009	9961	8570
Importation of Girls (Sec. 366-B IPC)	61	67	48	36	80
Commission of Sati (Prevention) Act, 1987	0	1	0	0	1
Immoral Traffic (Prevention) Act, 1956	3568	2659	2474	2499	2435
Indecent Representation of Women (Prohibition) Act, 1986	1200	1025	845	895	453
Dowry Prohibition Act, 1961	5623	5555	5650	5182	6619
Total	1,85,312	1,95,856	2,03,804	2,13,585	2,28,650

1.14 From the above, it may be seen that a total of 2,28,650 incidents of crime against women (both under IPC and SLL) were reported in the country during the year 2011 as compared to 2,13,585 incidences in the year 2010 recording an increase of 7.1% during the year 2011. These crimes have continuously increased during 2007 - 2011 with 1,85,312 cases in the year 2007, 1,95,856 cases in the year 2008, 2,03,804 cases in the year 2009 and 2,13,585 cases in the year 2010 and 2,28,650 cases in the year 2011.

1.15 During the course of evidence, a representative of the Ministry of Women and Child Development stated as under:-

*“As per the current statistics, as you had also pointed out earlier, the crimes against women and children and more importantly in the area of trafficking, are on an increasing trend. One is that the crimes are increasing and at the same time, one positive side of it is that they are being reported because there is awareness created by the Government and also by the civil society.”*

1.16 The detailed State/UT-wise details of incidence of various crimes against women in the country during the year 2010 and 2011, as compiled by NCRB, is given in Annexure I. The analysis of crimes against women as reported in the country is given below:-

### **Rape (Sec. 376 IPC)**

(i) An increasing trend in cases of rape has been observed during 2007 – 2008. A mixed trend in the incidence of rape has been observed during the periods 2008 - 2011. These cases have reported an increase of 3.5% in the year 2008 over the year 2007, a decline of 0.3% in the year 2009 over 2008 and an increase of 3.6% in 2010 over 2009 and further an increase of 9.2% in the year 2011 over the year 2010. Madhya Pradesh has reported highest number of Rape cases (3,406) accounting for 14.1% of total such cases reported in the country.

### **Kidnapping & Abduction**

(ii) These cases have reported an increase of 19.4% during the year 2011 as compared to year 2010 (29,795 cases). Uttar Pradesh with 7,525 cases has accounted for 21.2% of the total cases at the National level. Delhi has reported the highest crime rate at 12.4 as compared to the National average of 2.9.

### **Dowry Deaths**

(iii) The cases of Dowry Deaths have increased by 2.7% during the year 2011 over the year 2010 (8,391 cases). 26.9% of the total such cases reported in the country were reported from Uttar Pradesh (2,322 cases) alone followed by Bihar (1,413 cases) (16.4%).

### **Torture (Cruelty by Husband & Relatives)**

(iv) 'Torture' cases in the country have increased by 5.4% over the year 2010 (94,041 cases). 19.9% of these were reported from West Bengal (19,772 cases).

### **Molestation**

(v) Incidents of Molestation in the country have increased by 5.8% over the year 2010 (40,613 cases). Madhya Pradesh has reported the highest incidence (6,665) amounting to 15.5% of total such incidences.

### **Sexual Harassment**

(vi) The number of such cases has decreased by 14.0% during the year 2011 over the year 2010 (9,961 cases). Andhra Pradesh has reported 42.7% (3,658 cases) followed by Maharashtra 12.5% (1,071 cases) of total incidences during the year 2011.

### **Importation of Girls**

(vii) An increase of 122.2% has been observed in Crime Head as 80 cases were reported during the year 2011 as compared to 36 cases in the previous year (2010). Madhya Pradesh (45 cases), Bihar (10 cases) and Karnataka (12 cases) have together contributed more than two-third of total such cases at the National level.

### **Immoral Traffic (Prevention) Act, 1956**

(viii) Cases under this Act have registered a decrease of 2.6% during the year as compared to the year 2010 (2,499). 20.4% (497) cases were reported from Andhra Pradesh followed by Tamil Nadu 17.2% (420 cases).

### **Commission of Sati (Prevention) Act, 1987**

(ix) One case was registered under this Crime Head in Jammu & Kashmir during the year 2011.

### **Indecent Representation of Women (Prohibition) Act**

(x) A decrease of 49.4% was noticed in this crime head during the year 2011 as compared to the year 2010 (895 cases). Andhra Pradesh with 314 cases has accounted for 69.3% of total such cases at the National level.

### **Dowry Prohibition Act**

(xi) The cases under this Act have increased by 27.7% during the year 2011 as compared to the year 2010 (5,182 cases). 28.7% of cases were reported from Andhra Pradesh (1,899) followed by Bihar (1393 cases) accounting for 18.3% of total cases at the National level.

### **Crime against Women in Cities**

1.17 The National Crime Records Bureau analysed a wide range of statistics relating to crime against women in cities. According to them, 53 cities having population over 10 lakh have been identified as Mega cities as per population census 2011. A total of 33,789 cases of crimes against women were reported from these 53 cities during the year 2011 as compared to 24,335 cases (35 mega cities) in the year 2010. The rate of crime in cities at 21.0 was comparatively higher as compared to the National rate of 18.9. Among 53 cities, Delhi (4,489 cases) has accounted for 13.3% of total such crimes followed by Bengaluru (1,890 cases)(5.6%), Hyderabad (1,860 cases) (5.5%) and Vijayawada (1,797 cases) (5.3%). The crime rate was significantly higher in Vijayawada, Kota, Kollam, Jaipur and Asansol at 120.5, 57.5, 54.2, 48.6, and 48.2 respectively as compared to average of mega cities at 21.0.

1.18 It has also been informed that Delhi city has accounted for 17.6% of Rape cases, 31.8% of Kidnapping & Abduction cases, 14.0% of Dowry Deaths and 10.1% of Molestation cases among 53 cities. Hyderabad has reported 12.2% (1,390 cases) of incidences of Cruelty by Husband and Relatives. Vijayawada has reported 18.0% incidence of Eve-teasing. Indore and Jabalpur having 3 cases and 2 cases respectively, have altogether contributed 83.3% of total cases of 'Importation of Girls' at all India level.

1.19 It is worthwhile to mention that Bengaluru, Hyderabad, Mumbai and Patna have booked more cases under Special & Local Laws among the mega cities. 15.5% (191 out of 1,234) of cases under Immoral Traffic (Prevention) Act and 10.1% (553 out of 5501) of cases under Molestation was reported in Mumbai alone. Similarly, 56.0% (42) and 34.7% (26) of 75 cases of Indecent Representation of Women Act was reported in Jaipur and Jodhpur respectively. 70.7% (605) cases under Dowry Prohibition Act during the year 2011 was registered in Bengaluru city alone.

### **III. HUMAN TRAFFICKING**

1.20 Human Trafficking for commercial sexual exploitation is one of the worst forms of crimes against women and children as it exposes them to a life of humiliation and sexual abuse. Trafficking is an organised crime. Poverty, illiteracy, lack of livelihood options, natural/ man made disasters and lack of social and family support, migration are among the factors which make women and children vulnerable to such trafficking. Further, social factors such as low status of women, illiteracy, patriarchal mindsets, objectification of women and continuance of traditional/ cultural practices are some other factors that entrench discrimination and exacerbate women's vulnerability to trafficking and sexual abuse.

1.21 Women and girls are trafficked through coercion, fraud, deception, false promises of better jobs and marriage. A study entitled "Girls and Women in Prostitution in India" (2002-2004) by Gram Niyojan Kendra (GNK), sponsored by the Ministry of Women and Child Development, estimates that the primary means of entry into prostitution/ sex work of about three fourths of the women and children is through trafficking.

1.22 It is difficult to estimate the exact number of girls/ women who may be involved in sex work/ prostitution owing to the clandestine nature of the operations. However, as per a study conducted by NHRC-UNIFEM-ISS titled "Trafficking in Women and Children in India" (2005), 70,000 to 1 million women and children are trafficked into sex work. On the other hand, GNK Study estimates that there are about 2.8 million sex workers in the country of which 36% are children.

#### **International Conventions on Trafficking**

1.23 India has also ratified the United Nations Convention on Transnational Organised Crime (UNTOC) on 5 May, 2011 which has one of its Protocols Prevention, Suppression and Punishment of Trafficking in Persons, particularly Women and Children.

1.24 India has also ratified the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. The Regional Task Force of SAARC for implementation of the SAARC Convention for Preventing and Combating Trafficking in Women and Children for Prostitution met for the first time in New Delhi on 28-29 May 2009 at Shimla. The main achievement of this conference has been the adoption of the SOP on Combating Trafficking in Women and Children for Prostitution by all SAARC Member States. During the Special Session of RTF for implementation of the SAARC Convention at Kathmandu in April, 2010, decision has been taken regarding Uniform Toll Free number for women and children. Fourth Meeting of the Regional Task Force was held in Kabul, Afghanistan from 25-26 November, 2011.



1.25 The statistical data under the following heads of crime which are related to human trafficking is collected and compiled by the National Crime Records Bureau (NCRB).

### IPC Crimes

- (i) Procurement of minor girls (section 366-A IPC)
- (ii) Importation of girls ((Sec. 366-B IPC)
- (iii) Selling of girls for prostitution (Section-372 IPC)
- (iv) Buying of girls for prostitution (Section -373 IPC)

### SLL Crimes

- (i) Immoral Trafficking (Prevention) Act 1956
- (ii) Child Marriage Restraint Act, 1929.

1.26 Cases under following legislations also form part of offences under human trafficking but NCRB is not collecting data specifically relating to these acts.

- (i) Bonded Labour System (Abolition) Act 1976
- (ii) Juvenile Justice (Care and Protection of Children) Act 2000
- (iii) Child Labour (Prohibition and Regulation) Act 1986
- (iv) Transplantation of Human Organs Act 1994.

1.27 On the specific question of crime head-wise incidence of various crimes under Human Trafficking during 2007-2011, the details provided by NCRB, is as under:-

Sl.No.	Crime Head	Year				
		2007	2008	2009	2010	2011
1.	Procurement of Minor Girls	253	224	237	679	862
2.	Importation of Girls	61	67	48	36	80
3.	Selling of Girls for Prostitution	69	49	57	130	113
4.	Buying of Girls for Prostitution	40	30	32	78	27
5.	Immoral Trafficking (Prevention) Act, 1956	3568	2659	2474	2499	2435
	<b>Total</b>	<b>3991</b>	<b>3029</b>	<b>2848</b>	<b>3422</b>	<b>3517</b>

### Reported Incidents of crime

1.28 A total of 3,517 incidents of crimes under various provisions of laws relating to human trafficking were reported in the country during the year 2011 as compared to 3,422 during the year 2010 recording an increase of 2.8% during the year 2011. 3,991 cases relating to human trafficking were reported during 2007 as compared to 3,029 and 2,848 cases reported in 2008 and 2009 respectively.

1.29 The detailed State/UT wise position of crimes under human trafficking during the year 2010 and 2011, as compiled by NCRB, is given in Annexure II. The analysis of these crimes as reported in the country is given below.

### **Procurement of Minor Girls**

(i) 862 cases were reported in the year 2011 as compared to 679 such cases in 2010, accounting for 27.0% increase over 2010. West Bengal has reported 298 such cases indicating a share of 34.6% at National level followed by Bihar (183 cases) (21.2%) and Assam (142 cases)(16.5%). An increasing trend was observed in these cases during the last four years.

### **Importation of Girls**

(ii) An increase of 122.2% has been observed in such cases as 80 cases were reported during the year 2011 as compared to 36 cases in the previous year (2010). Madhya Pradesh (45 cases), Karnataka (12 cases) and Bihar (10 cases) altogether accounting for more than two third (83.4%) of total such cases at the National level.

### **Selling of Girls for Prostitution**

(iii) 113 cases of 'Selling of Girls for Prostitution' were reported in the country during 2011 against 130 such cases in 2010, thereby indicating a decrease of 13.1% over 2010. West Bengal has accounted for 77.0% (87 cases out of 113 cases) of the total cases of 'Selling of Girls for Prostitution' reported in the country.

### **Buying of Girls for Prostitution**

(iv) 27 cases of 'Buying of Girls for Prostitution' were reported in the country during the year 2011. This indicates a 65.4% decrease in the incidence over 2010 when 78 cases were reported in the country. 74.1% cases were reported in Maharashtra alone (20 out of 27 cases).

### **Immoral Traffic (Prevention) Act 1956**

(v) Cases under this Act have registered a decrease of 28.4% during the year 2011 as compared to the previous year (2,499 cases). 20.4% (497) cases were reported from Andhra Pradesh while Tamil Nadu has accounted for 17.2% (420) cases. Daman & Diu reported the highest crime rate of 2.5 as compared to the National average of 0.2.

#### IV. Involvement of Juveniles in crime against women

1.30 The under aged or Juveniles are characterised by low level of maturity, both in physical and in mental capabilities which distinguishes them from adults. They are, therefore, highly vulnerable groups to fall prey to temptations, inducement and mechanizations by vested groups to embark on the path of criminality. Crime committed by Juveniles may range from petty ones to heinous ones. As per the definition of juveniles in the Juvenile Justice Act, 1986, male below the age of 16 years and female below the age of 18 years were considered as juveniles. The Act was amended in 2000 according to which, the age of juvenile males and females was brought at par as below the age of 18 years. The Act provides for adjudication and rehabilitation of Juvenile delinquents.

1.31 The share of IPC crimes committed by juveniles to total IPC crimes reported in the country during 2001 and 2011, as reported by NCRB, is given hereunder:-

S.No.	Year	Incidence of Juvenile crimes	Incidence of total cognizable crimes under IPC
1	2001	16509	1769308
2	2002	18560	1780330
3	2003	17819	1716120
4	2004	19229	1832015
5	2005	18939	1822602
6	2006	21088	1878293
7	2007	22865	1989673
8	2008	24535	2093379
9	2009	23926	2121345
10	2010	22740	2224831
11	2011	25125	2325575

1.32 A detailed account of IPC crimes against women committed by Juveniles in 2011 over 2010 is given below:-

Crime Head	2010	2011
Rape	858	1149
Kidnapping & abduction of women	391	600
Molestation	536	573
Sexual harassment	174	168

### Juveniles apprehended by type of crimes against women

1.33 State/UT wise distribution of juveniles apprehended under various IPC crimes against women in 2010 and 2011 are given as under:-

STATES	Rape		Kidnapping & abduction of women		Molestation		Sexual harassment	
	2010	2011	2010	2011	2010	2011	2010	2011
ANDHRA PRADESH	87	74	35	35	62	80	80	101
ARUNACHAL PRADESH	4	0	0	0	1	1	0	0
ASSAM	37	36	10	34	8	4	0	0
BIHAR	26	17	49	30	9	8	0	1
CHHATTISGARH	70	80	14	14	105	66	16	14
GOA	1	3	1	1	2	0	0	0
GUJARAT	17	1	32	47	18	18	2	1
HARYANA	23	19	15	18	6	6	1	1
HIMACHAL PRADESH	10	9	2	4	8	4	1	2
JAMMU & KASHMIR	1	0	0	0	0	1	0	0
JHARKHAND	6	21	22	24	0	0	0	0
KARNATAKA	6	7	0	14	3	6	0	0
KERALA	10	34	5	8	6	10	3	4
MADHYA PRADESH	197	281	48	109	186	173	46	25
MAHARASHTRA	98	142	33	41	101	124	38	33
MANIPUR	0	0	0	0	0	0	0	0
MEGHALAYA	15	21	0	0	0	1	0	0
MIZORAM	4	3	0	0	0	3	0	0
NAGALAND	1	5	0	0	2	0	0	0
ODISHA	17	48	7	10	10	10	0	0
PUNJAB	13	8	2	2	2	0	0	1
RAJASTHAN	83	92	80	67	26	47	0	0
SIKKIM	4	3	0	1	0	0	0	0
TAMIL NADU	9	16	2	14	17	13	6	0
TRIPURA	3	3	0	0	0	2	2	0
UTTAR PRADESH	99	152	38	76	7	19	0	0
UTTARAKHAND	1	7	7	7	3	0	0	0
WEST BENGAL	45	76	25	60	6	20	0	0
<b>TOTAL (STATES)</b>	<b>887</b>	<b>1173</b>	<b>427</b>	<b>616</b>	<b>588</b>	<b>616</b>	<b>195</b>	<b>183</b>
<b>UNION TERRITORIES</b>								
A & N ISLANDS	3	1	0	0	0	0	1	0
CHANDIGARH	7	1	0	5	0	0	0	0
D & N HAVELI	0	0	2	0	2	1	0	0
DAMAN & DIU	0	0	0	0	0	0	0	0
DELHI	40	56	6	25	8	10	0	3
LAKSHADWEEP	0	0	0	0	0	0	0	0
PUDUCHERRY	0	0	1	0	0	1	0	1
<b>TOTAL (UTs)</b>	<b>50</b>	<b>58</b>	<b>9</b>	<b>30</b>	<b>10</b>	<b>12</b>	<b>1</b>	<b>4</b>
<b>TOTAL (ALL-INDIA)</b>	<b>937</b>	<b>1231</b>	<b>436</b>	<b>646</b>	<b>598</b>	<b>628</b>	<b>196</b>	<b>187</b>

## Profile of Juveniles apprehended

1.34 The age group and sex-wise distribution of Juveniles apprehended for various IPC crimes committed against women in 2011 over 2010 are given as under:-

Crime Head	7-12 years				12-16 years				16-18 years			
	Boys		Girls		Boys		Girls		Boys		Girls	
	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011
RAPE	10	23	0	2	275	364	1	3	645	823	6	16
KIDNAPPING & ABDUCTION OF WOMEN & GIRLS	5	8	0	12	83	123	20	18	297	442	31	43
MOLESTATION	6	5	0	0	190	184	2	1	398	435	2	3
SEXUAL HARASSMENT	2	1	0	0	40	37	0	0	153	149	1	0

## V. ADMINISTRATIVE AND LEGAL FRAMEWORK

1.35 Prevention of crimes and rehabilitation of those who have been victims of such crimes are both equally important. The primary responsibility of prevention, detection, investigation and prosecution of crimes, including crimes against women, lies with the State Governments and Union Territory Administrations. However, the Union Government has taken proactive measures for prevention and control of crime against women. The Government has enacted a number of legislations for the protection of women. While certain provisions contained in the Indian Penal Code provide for punishment for various offences against women there are special legislations to deal with specific crimes. Sections 375, 376 and 376A-D of the Indian Penal Code (IPC) constitute the legal framework that deals with the offence of rape and provides for its punishment. Sections 354 and 509 of the IPC provide penalties for outraging or insulting the modesty of a woman. The Protection of Women from Domestic Violence Act was enacted in 2005 to provide relief to women facing domestic violence. The Immoral Traffic (Prevention) Act, 1956 (ITPA) is the premier legislation for prevention of trafficking for commercial sexual exploitation and prescribes penalties for certain activities relating to prostitution, which includes keeping a brothel, procuring, inducing or taking a person for prostitution etc. The "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal)" Bill has been passed by both the Houses of Parliament and got assented to on 22.4.2013.

1.36 Review of laws is carried out from time to time for amendments to improve their effectiveness. To strengthen the law for prevention of crime against women and to safeguard the interest of women, amendments in the Code of Criminal Procedure (Cr PC) were carried out in the years 2005 and 2008. These amendments, *inter alia*, include - prohibiting arrest of a woman after sunset and before sunrise, in-camera trial of sexual offence cases and detailed provisions regarding investigation and trial of rape cases such as – rape cases to be tried in the court of a woman judge as far as practicable, investigation in child rape cases to be completed within three

months, recording of the statement of the victim to be conducted at the residence of the victim/place of her choice and as far as practicable by a woman police officer etc.

1.37 Amendments to ITPA aimed at preventing re-victimisation of victims and enhancing punishments for traffickers are under consideration of the Government. Comprehensive amendments relating to rape and other sexual offences against women have been included in the "Criminal Law (Amendment) Act, 2013" which has come into force on 3.2.2013.

1.38 To a query about the adequacy of laws in the country to holistically address the issue of trafficking, the representative of 'Stop Trafficking and Oppression of Children and Women (STOP)' stated during evidence:-

*" Whatever laws are prevailing in our country are implemented, then that is more than adequate for whatever is happening. We have got wonderful laws in the whole world, but that is not being implemented."*

1.39 Keeping in view the fact that as per Seventh Schedule, 'Police' and 'Public Order' are State subjects under the Constitution, the Committee wanted to know as to how effective liaison is maintained by the Union Government and various State Governments for effective enforcement of law connected with the safety and security of women. The Ministry of Women and Child Development in a note informed that the Government of India has been advising the State Governments from time to time for improving enforcement of law. The Ministry of Home Affairs (MHA) in consultation with Ministry of Women and Child Development (MWCD) issued detailed advisories to States/ UTs on measures need to curb crimes against women and on preventing and combating crime of human trafficking, respectively. MWCD also issued Advisory to States/ UTs on 12.10.2011 on measures to be taken for combating human trafficking. These advisories, inter alia, lay emphasis on gender sensitization of the police personnel, minimizing delays in investigations of crime against women, setting up 'Crime against Women Cells' in Districts where these do not exist; adopting a victim centric approach in human trafficking cases, creating Special Juvenile Police Units, conducting regular meetings of the State Advisory Committees for preventing and combating trafficking of women and children for commercial sexual exploitation. Also, to strengthen the law enforcement response to trafficking and to sensitize police personnel against trafficking, the Ministry of Home Affairs is in the process of setting up 'Anti-Human Trafficking Units (AHTUs) at the District level. 101 AHTUs throughout the country have been operationalised so far.

1.40 On being asked about the specific role of Ministry of Home Affairs in tackling the problem of crime against women, the Ministry of Home Affairs informed that they have sent a detailed advisory dated 4<sup>th</sup> September, 2009 to all States / UTs wherein they have been advised, inter alia, to make comprehensive review of the effectiveness of the State machinery in tackling the problem of crime against women. The advisory, inter-alia, advised the States / UTs on

gender sensitization of the police personnel, adopting appropriate measures for swift and salutary punishment to the persons found guilty of violence against women, minimizing delays in investigations of crime against women and improving the quality of investigations, setting up 'Crime Against Women Cells' in Districts where these do not exist, setting up of special women courts, improving the safety conditions on road and special steps for security of women working in night shifts of call centers. The advisory specifically advises the States / UTs on how to deal with rape cases and rape victims and has advised as follows:

- (i) Cases should be thoroughly investigated and charge sheets against the accused persons should be filed within three months from the date of occurrence, without compromising on the quality of investigation. Speedy investigation should be conducted in heinous crimes like rape. The medical examination of rape victims should be conducted without delay.
- (ii) Concerned Departments of the State Governments could handle rape victims at all stages from filing a complaint in a police station to undergo forensic examination and in providing all possible assistance including counseling, legal assistance and rehabilitation. Preferably these victims may be handled by women so as to provide a certain comfort level to the rape victims.
- (iii) Direction to set up 'Rape Crisis Centres' (RCCs) and specialized 'Sexual Assault Treatment Units' (SATUs), by the Health department of the State Govts. at appropriate places were given. Rape Crisis Centres (RCCs) set up by the Health Deptt. could assist rape victims and provide appropriate level of coordination between the Police and Health Department facilities for medical examination to establish forensic evidence, SAT Units and medical facilities to treat the after effects of sexual assault. Hence, these RCCs could act as an interface between the victims and other agencies involved.
- (iv) The administration should also focus on rehabilitation of the victims and provide all required support. Counseling is required for victim as well as her family to overcome the trauma of the crime. The police should consider empanelling professional counselors and the counseling should not be done by the police. The effectiveness of schemes developed for welfare and rehabilitation of women who have been victimized should be improved.

1.41 Ministry of Home Affairs has further informed that they have issued three advisories to fight crime against Children:-

- (i) Advisory on Crime against Children dated 14<sup>th</sup> July 2010
- (ii) Advisory on Preventing & Combating Cyber Crime against Children dated 04<sup>th</sup> January, 2012.

- (iii) Advisory on missing children-measures needed to prevent trafficking and trace the children-regarding dated 31<sup>st</sup> January, 2012.

1.42 The advisory on crime against children *inter-alia* mentions the following issues:

- (i) To save the children from the abuse/ crime of child marriage the State Government must appoint Child Marriage Prohibition Officers as required under the Prohibition of Child Marriages Act, 2006. They should also set up State Commissions for Protection of Child Rights in accordance with the Commissions for Protection of Child Rights Act 2005 (CPCR Act).
- (ii) Cases of crime against children should be thoroughly investigated and charge sheets against the accused persons should be filed within three months from the date of occurrence without compromising on the quality of investigation. Proper supervision of such cases should be ensured from recording of FIR to the disposal of the case. Speedy investigation should be conducted in heinous crimes like rape, murder etc. The medical examination of rape victims should be conducted without delay.

1.43 One of the provisions incorporated in the Code of Criminal Procedure (Amendment) Act 2008 is the incorporation of section 357 relating to Victim Compensation Scheme. According to this section "Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or dependents who have suffered loss or injury as a result of the crime and who requires rehabilitation". Hon'ble Punjab and Haryana High Court also gave a direction in this regard *vide* order dated 12.07.2010 in the CWP No. 6319/2008. The Code of Criminal Procedure 1973 has been amended vide Code of Criminal Procedure (Amendment) Act 2008. At this point of time, many of the State Governments and UT Administrations have formulated their Victim Compensation Scheme. As of now, 16 States Governments and 3 Union Territories have notified their Victim Compensation Scheme.

1.44 Accordingly many States have already formulated Victim Compensation Scheme or are in the process of doing so.



### **Administrative Measures and Interventions**

1.45 With a view to tackling the menace of human trafficking, Ministry of Home Affairs, Government of India has undertaken a number of measures such as:-

- Anti-Trafficking Nodal Cell was set up in Ministry of Home Affairs (MHA) (CS Division) to act as a focal point for communicating various decisions and follow up on action taken by the State Governments. It also interfaces with other Ministries and NCRB in the collation and dissemination of information. All the States/ UT Administrations have nominated Anti Trafficking Nodal Officers who coordinate amongst themselves in inter-state trafficking cases. Similarly, Anti-Trafficking nodal cells have been created at District Level headed by Superintendents of Police. Coordination meetings are held with the State Anti-Trafficking Nodal Officers in MHA periodically. Since 2007, fourteen coordination meetings have been held on 5<sup>th</sup> July, 2007, 2<sup>nd</sup> April, 2008, 30<sup>th</sup> January 2009, 28<sup>th</sup> Aug., 2009, 12<sup>th</sup> July, 2010, 3<sup>rd</sup> November, 2010, 18<sup>th</sup> January, 2011, 17<sup>th</sup> March, 2011, 27<sup>th</sup> June, 2011, 30<sup>th</sup> September, 2011, 18<sup>th</sup> January, 2012, 31<sup>st</sup> July, 2012, 2<sup>nd</sup> November, 2012 and 7<sup>th</sup> March, 2013 with Nodal Officers of States/UTs.
- A comprehensive Advisory was issued to all States/UTs for preventing and combating crime of human trafficking by MHA on 9.9.2009. Advisory on human trafficking has specifically asked the States / UTs for adopting victim centric approach and for creating Special Juvenile Police Units. It also advises the States/UTs to deal with crime of trafficking in a holistic manner and to evolve an effective and comprehensive strategy encompassing prevention, protection and rescue of victims besides taking deterrent action against the traffickers. All the States have established Special Juvenile Police Units in all Districts. MHA issued another advisory dated 10<sup>th</sup> September, 2010 on Preventing and Combating Human Trafficking during Commonwealth Games. On 30.04.2013, another advisory was issued by MHA on Human Trafficking as Organized Crime.
- A Project on “Strengthening law enforcement response in India against trafficking in persons through training and capacity building” has been taken up in the Ministry of Home Affairs as a joint initiative of the Government of India and the United Nations Office on Drugs and Crime, in select States (A.P, Goa, Maharashtra, West Bengal

and Bihar) the project began in April, 2006 and has come to end on 31<sup>st</sup> Dec 2009. The joint project has contributed towards developing of 12 very important resource books about Protocols and Standard Operating Procedures (SOPs), and in setting up of Anti Human Trafficking Units (AHTUs) under the police department of the project States. The project has had very positive outcomes in some of the States especially in raising awareness. 396 training programmes had been conducted and more than 13,670 persons (Police and prosecutors) had been trained. Besides, 9 Anti Human Trafficking Units involving government officials and NGOs have been set up in the states of Goa, West Bengal, Andhra Pradesh and Bihar and they are all functional.

- As a sequel to the UNODC – MHA initiative, Ministry of Home Affairs sanctioned a Comprehensive Scheme “Strengthening law enforcement response in India against Trafficking in Persons through Training and Capacity Building, wherein it has established 330 Anti Human Trafficking Units (AHTUs ) throughout the country and impart training to 10,000 police officers through Training of Trainers ( TOTs) component. The Scheme proposed to provide each AHTU with basic infrastructure in the form of dedicated office, vehicle, computers, cameras etc. Each AHTU will consist of One Inspector, Two Sub-Inspectors, two Head Constables and two Constables. Ministry of Home Affairs has released funds as first installment for the year 2010-11 amounting to Rs. 8.72 crores to all the State Governments for establishment of 115 Anti Human Trafficking Units. All the AHTUs have been made operational. Funds to the tune of Rs. 8.338 crores for the year 2011-12 have also been released to the State Governments for establishment of 110 more AHTUs.
- Six Regional level ToTs for Prosecutors have been held throughout the country at Delhi, Haryana, Hyderabad, Kolkata, Maharashtra and Jharkhand.

- A certificate course has been launched by Indira Gandhi National Open University (IGNOU) in partnership with Ministry of Home Affairs. The said course has been made mandatory for the Officers/Officials who are dealing with the subject of human trafficking. In this regard an advisory dated 12<sup>th</sup> January, 2011 has been issued. More than 600 persons have been enrolled in the said course.
- Ministry of Law and Justice (Department of Justice) in collaboration with Ministry of Home Affairs organized a consultation on 12<sup>th</sup> November, 2011 at IGNOU to brainstorm the creation of a module for sensitizing the judges on issue and laws relating to human trafficking. Department of Justice is taking further action in this connection to train and sensitize the Judiciary.
- At the behest of MHA, the National Crime Records Bureau has added a separate new chapter on Human Trafficking statistics in their annual publication “Crime in India” for the first time in 2006. Chapter 6 of the “Crime in India” gives the details of cases registered under the Immoral Traffic Prevention Act and all the relevant sections of the Indian Penal Code as well as the trends.
- At the behest of MHA, the Bureau of Police Research and Development (BPR&D) has prepared a training manual on “Human Trafficking-Handbook for Investigators” for sensitizing police personnel and these handbooks are being used in the National, Regional and State Police Training Institutes. BPR&D have also prepared a syllabus on the subject and circulated to the States. These handbooks have been translated in regional languages. BPR&D is also organizing regional workshops for sensitizing police personnel (SHOs/Dy. SP/ACP) regarding the criminal activity of trafficking. BPR&D is conducting such workshops cum seminars in various cities regularly. All these resource tools for Investigation Officers are on BPR&D website.
- Training of Trainers (TOT) Workshops under pilot project with UNODC: To enhance the capacity building of law enforcement agencies and generate awareness among them, MHA/BPR&D and UNODC have organized the following International, National and Regional ToTs on “Combating Trafficking in Human Beings”:-
  - i. One International Level (for the officers of SAARC member countries) from 27 to 29 May, 2009.
  - ii. A National Level TOT Workshop in June 2008.

iii. Regional level TOT :-

- a) Punjab Police Academy, Phillaur (Punjab) – March, 2009.
- b) Centre for Police Research, Maharashtra Police, Pune – June'2009.
- c) Dr. B.R. Ambedkar Police Academy, Moradabad – August, 2009.
- d) Police Training College, Ashok Nagar, Chennai – July, 2009.
- e) Guwahati or PTC, Deragaon, Assam – March, 2009.

• **Training of Trainers (TOT) workshops under the MHA's Scheme:**

- a) Madhuban, Karnal, Haryana- December, 2010
- b) Jaipur, Rajasthan- January, 2011.
- c) Chennai, Tamil Nadu- February, 2011
- d) Delhi- February, 2011
- e) Bhubaneswar, Orissa-February, 2011.
- f) Bhopal-March, 2011

• **State Level TOTs**

Most of the States have conducted their State Level TOTs and process has been initiated for conduct of District level TOTs.

• **Workshop for nodal officers of all States/UTs**

A workshop/TOT for representatives of SAARC Member Countries was held at New Delhi from 19<sup>th</sup> – 20<sup>th</sup> November, 2012.

- MHA, MWCD and UNICEF prepared draft protocol and SOP for dealing with cross border trafficking between India and Bangladesh to address the various issues relating to prevention of Trafficking, victim identification and repatriation and make the process speedy and victim-friendly. Two bilateral meetings between India and Bangladesh have already been held to discuss the protocol. Task force meeting between Task force, India and Bangladesh was held in Delhi, India on 18<sup>th</sup> and 19<sup>th</sup> October, 2010. Second meeting of the Task Force was held in April, 2012 at Kolkata. Third Meeting of the Task Force was held at Cox's Bazar, Bangladesh from 8<sup>th</sup> – 9<sup>th</sup> December, 2012.

## **International Conventions on Trafficking**

- India has ratified the United Nations Convention on Transnational Organised Crime (UNCTOC) on 5<sup>th</sup> May, 2011 which has as one of its Protocols Prevention, Suppression and Punishment of Trafficking in Persons, particularly Women and Children.
- India has ratified the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. The Regional Task Force of SAARC for implementation of the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution met for the first time in New Delhi on 26<sup>th</sup> June, 07 in New Delhi, second time in July 2008 and third time on 28-29 May 2009 at Shimla. The main achievement of this conference has been the adoption of the SOP on Combating Trafficking in Women and Children for Prostitution by all SAARC Member States. During the Special Session of RTF for implementation of the SAARC Convention at Kathmandu in April, 2010 decision has been taken regarding Uniform Toll Free number for women and children. Fourth Meeting of the Regional Task Force was held in Kabul, Afghanistan from 25-26<sup>th</sup> November, 2011. Fifth meeting of the Regional Task Force was held at Paro, Bhutan from 11<sup>th</sup> – 12<sup>th</sup> April, 2013.

1.46 On being enquired by the Committee about the current status of National Action Plan (NPA) approved in the late 90's to combat trafficking and commercial sexual exploitation of women and children, the Ministry of Women and Child Development in a written note informed:-

*“The National Plan to Combat Trafficking and Commercial Sexual Exploitation of Women and Children was drafted in 1998, which provides a comprehensive strategy for the Central and State Governments to address the multifarious issues related to the subject, especially, prevention, rescue, rehabilitation and reintegration. One of the prescriptions of the National Plan to Combat Trafficking and Commercial Sexual Exploitation of Women and Children, 1998 was to prepare a special module for sensitisation, training and orientation of judicial officials towards the causes of commercial sexual exploitation and the situation of women and child victims. Protocols/Standard Operating Procedures and other guidelines have been prepared thereafter, e.g. Protocol for Pre-Rescue, Rescue and Post-Rescue Operations of Child Victim of Trafficking for Commercial Sexual Exploitation, and Protocol on Inter State Rescue and Post Rescue Activities Relating to Trafficked Persons and these are uploaded in the Ministry website <http://wcd.nic.in>.”*

1.47 When asked to spell out the legal framework available to tackle trafficking and sexual abuse in the major countries in the world as well as in Nepal, Sri Lanka, Pakistan, Afghanistan and Bangladesh, the Ministry of Women and Child Development replied:-

*“Ministry of Women and Child Development does not maintain regular authenticated information about the legal framework obtaining in other countries. However desk research done by the National Mission for Empowerment of Women suggests the following:*

*Afghanistan - The Law Countering Abduction and Human Trafficking (2008): Prescribes penalties of life imprisonment for sex trafficking and “maximum term” imprisonment for labour trafficking, which in practice is between eight and 15 years. These penalties are sufficiently stringent and exceed those prescribed for other serious crimes, such as rape. However, the Elimination of Violence Against Women (EVA W) law, enacted in July 2009, supersedes other laws and can be used to decrease the penalties outlined in Afghanistan’s anti-trafficking law. The prescribed penalty for an offender who abducts a victim and subjects him or her to forced labour is short-term imprisonment not to exceed six months, and a fine, while the prescribed penalty for an offender who forces an adult female into prostitution is at least seven years.*

*Bangladesh - Bangladesh prohibits the trafficking of women and children for the purpose of commercial sexual exploitation or involuntary servitude under the Repression of Women and Children Act of 2000 (amended in 2003), and prohibits the selling and buying of a child under the age of 18 for prostitution in Articles 372 and 373 of its penal code. Prescribed penalties under these sex trafficking statutes range from 10 years’ imprisonment to the death sentence. The most common sentence imposed on convicted sex traffickers is life imprisonment. These penalties are very stringent and commensurate with those prescribed for other serious crimes, such as rape. Article 374 of Bangladesh’s penal code prohibits forced labour, but the prescribed penalties of imprisonment for up to one year or a fine are not sufficiently stringent.*

*Nepal - Nepal also has three domestic laws in place that address girl trafficking and forced child labour, including the Labor Act of 1992, the Human Trafficking Control Act of Nepal of 1986, and the National Human Rights Commission Act of 1993. The Human Trafficking Control Act of Nepal of 1986 explicitly criminalizes the selling and buying of human beings and established provisions for rehabilitation and integration for victims. It defines human trafficking as anything that includes i) selling or buying of a person for any purpose; ii) forcing someone into prostitution with or without taking profit; iii) illegal dismembering of human organs and iv) engaging in prostitution. Those found guilty would be sentenced to up 20 years in prison.*

Sri Lanka - The Sri Lankan government prohibits all forms of trafficking through an April 2006 amendment to its penal code. Trafficking offenses are punishable by up to 20 years' imprisonment; these penalties are commensurate with those assigned for other grave crimes.

Pakistan - Several sections in the Pakistan Penal Code, as well as provincial laws, criminalize forms of human trafficking such as slavery, selling a child for prostitution, and unlawful compulsory labour, with prescribed offenses ranging from fines to life imprisonment. Pakistan prohibits all forms of transnational trafficking in persons with the Prevention and Control of Human Trafficking Ordinance (PACHTO); the penalties range from seven to 14 years' imprisonment.

Australia – In 1999, the Commonwealth amended the Criminal Code Act 1995 to implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime relating to slavery, sexual servitude and deceptive recruiting for sexual services. Offences specifically relating to trafficking in persons were added to the Criminal Code in 2005 with the Criminal Code Amendment (Trafficking in Persons Offences) Act 2005. The amendment inserted people trafficking and debt bondage offences into the Commonwealth Criminal Code and amended the existing provisions related to deceptive recruiting for sexual services. The amendments reflected the growing recognition that people trafficking is not a problem which is restricted to the sex industry. Section 270 of the Criminal Code includes offences and maximum sentences for:

- slavery (25 years)
- sexual servitude (15 years)
- deceptive recruitment for sexual servitude (seven years).

Section 271 of the Criminal Code includes offences and maximum sentences for:

- trafficking in persons (12 years)
- trafficking in children (25 years)
- domestic trafficking in persons (12 years)
- debt bondage (12 months).

*These crimes are considered to be aggravated offences when children are involved, in which case they attract higher penalties.”*

### **Forensic Science Services**

1.48 Forensic Science is a subject dealt with under the Union List of the 7<sup>th</sup> Schedule of the Constitution of India at serial number 65 (Central List). Directorate of Forensic Science Services (DFSS) under the Ministry of Home Affairs is the apex body for forensic science in the country. It administers the work of three Forensic Science Laboratories (CFSLs) at Kolkata, Hyderabad and Chandigarh and three new Central Forensic Institutes at Pune, Bhopal and Guwahati.

1.49 When asked to provide the list of DNA Profiling Centres in the country, the following information was furnished to the Committee by the Ministry of Home Affairs:-

S.No.	Location
1.	Central Forensic Science Laboratory, 30 Gorachand Road, Park Circus, Kolkata.
2.	Central Forensic Science Laboratory, Plot No.2, Sector 36A, Dakshin Marg, Chandigarh.
3.	Central Forensic Science Laboratory, Ramanthapur, Amberpet, Hyderabad.
4.	Central Forensic Science Laboratory, Central Bureau of Investigation, Block 4, CGO Complex, Lodhi Road, New Delhi.
5.	Centre for DNA Fingerprinting & Diagnostics, 4- 87/1, ECIL Road, Nacharam, Hyderabad.
6.	State Forensic Science Laboratory, Near New Basant Vihar Police Station, Police Housing Colony, Dehradun, Uttarakhand.
7.	Forensic Science Laboratory, Junga District.
8.	State Forensic Science Laboratory, Police Training Complex, Madhuban.
9.	Forensic Science Laboratory, Madhuban Chowk, Rohini, New Delhi.
10.	Forensic Science Laboratory, Jaipur.
11.	Directorate of Forensic Science Laboratories, Behind Police Bhawan, Sector 18A, Gandhinagar.
12.	Directorate of Forensic Science Laboratories, Hans Bhugra Marg, Vidyanagari, Kalina, Santacruz (East), Mumbai.
13.	State Forensic Science Laboratory, Post Box No. 9, Mahanagar, Lucknow.
14.	Forensic Science Laboratory, 5, Civil Lines, Sagar.
15.	State Forensic Science Laboratory, State Forensic Science Laboratory, Line Tank Road, Near Old Jail, Ranchi.
16.	State Forensic Science Laboratory, Kahilipara, Guwahati.
17.	Tripura State Forensic Science Laboratory, Agartala.



18.	Forensic Science Laboratories, Red Hills, Opposite Niloufer Hospital, Hyderabad.
19.	Forensic Science Laboratories, Madivala, Bangalore.
20.	Forensic Science Department, 30A Kamarajar Salai, Mylapore, Chennai.
21.	Forensic Science Laboratory, Bank House Compound, Villayambalam, Thiruvanathapuram.

1.50 Asked further as to whether the present number of DNA Profiling Centres are sufficient in view of the increasing number of rape cases in the country, the Ministry of Home Affairs, in their written reply stated that the present number of DNA centres are inadequate to handle large number of rape cases (24,206 as stated in "Crime in India- 2011" of NCRB) alone. About 25 DNA centres have about 50-60 trained manpower in India. Number of DNA centres along with trained manpower needs to be increased many fold. The Directorate of Forensic Science Services is in the process of establishing three new Hi-Tech. Central Forensic Science Institutes at Pune, Bhopal & Guwahati with DNA Profiling Facilities and to upgrade the DNA profiling facilities in the existing three CFSLs at Chandigarh, Kolkata & Hyderabad.

1.51 On this aspect, the representative of Delhi Police, during the course of evidence before the Committee submitted:-

*"Even Delhi does not have adequate Forensic Science Laboratories. The condition of States is very bad. I usually get DNA results in four to five months. Today, I have written to the Home Department saying that it should be made available within 15 days. If DNA result is made available within 15 days, I have issued instructions to charge-sheet such cases within one month's time. But, the DNA profiling facility is very poor. In all rape cases, DNA profiling is a must because that is the conclusive proof."*

1.52 The Committee were keen to know as to how long does it normally take to get DNA result from the Forensic Laboratory and whether delay in getting DNA results from the Forensic Laboratory is a common feature. In a written submission, the Ministry of Home Affairs informed the Committee that Forensic DNA Profiling of biological specimen depends upon the following factors:-

- a) Quantity of DNA & purity
- b) Exposure to environmental elements leading to degradation
- c) Collection, preservation & transportation of specimen
- d) Mixtures, if any
- e) Presence of contaminants and inhibitors
- f) Number of exhibits, etc

1.53 DNA analysis in a case can be completed in 2 days or to a week. In case, there is delay of submission of exhibits to the laboratory, it will lead to the degradation of exhibits. Once case exhibits have been received by the laboratory, degradation will be minimized. They also further submitted that delay (upto a year) due to quantum of expected workload is a common problem in most of the Forensic DNA Profiling centres of India. It is attributable to following factors:-

- a) Establishment of Forensic DNA Profiling facility requires costly equipments & consumables.
- b) Training of manpower to be an expert in Forensic DNA Profiling is another arduous task.
- c) There are about 50 DNA experts in all Forensic DNA Profiling Centres of India. As per the crime scenario of India; it require more than 1,000 Forensic DNA Experts per year to tackle different cases of murders, attempt to murder, sexual assaults, unidentified bodies, missing persons, parentage disputes etc.
- d) Samples are not collected and transported properly from source. The resultant contamination requires fresh collection of DNA sample which delays the whole process.

1.54 When the Committee pointed out that whether creating a national database of criminals, whereby, offenders can be linked to their previous crimes would be helpful in resolving cases of rape/ assault and abuse against women, the Ministry of Home Affairs informed the Committee that National database of offenders is an essential necessity. It will also help in resolving the cases of serial rapes and murders, as well as identifying unknown criminals and their *modus operandi*. DFSS MHA is proposing to create 'DNA Database for missing persons and identified dead bodies' under XII Five Year Plan. On the legal aspects involved in the matter, they further submitted that the collection and use of biometrics for identification of criminals legally began in India during the 1920's with the approval of the Identification of Prisoners Act 1920. The object of the Act is to "provide legal authority for the taking of measurements of finger impression, foot-prints, and photographs of persons convicted or arrested..." This Act is still enforced in India, and in October 2010 was amended by the State Government of Tamil Nadu to include "blood samples" as a type of forensic evidence. Other Indian legislation pertaining to forensic evidence is the Cr PC and the Indian Evidence Act. In 2005 section 53A of the Cr PC was amended to authorize investigating officers to collect DNA samples with the help of a registered medical practitioner, but the Indian Evidence Act fails to manage science and technology issues effectively. The current state of statutes for DNA collection in India is not sufficient as the neglect to lay out precise procedures for collection, processing, storage, and dissemination of DNA samples. One

question to consider though is if the Prisoners Identification Bill, Cr PC, and Indian Evidence Act could be amended to incorporate DNA, and the needed safeguards, as a type of forensic evidence for all of India. At present, India does not have a national law that empowers the government to collect and store DNA profiles.

1.55 According to the Supreme Court, fingerprinting and other physical evidence is not covered by article 20(3). In the case of State of Bombay v. Kathi Kalu Oghad, the courts answered the question of whether or not the freedom against self-incrimination is guaranteed under article 20(3) of the Constitution of India – which is meant to protect a person from torture from the police – can be extended to the collection of DNA. The court answered this question by upholding that:-

*“To be a witness may be equivalent to ‘furnishing evidence’ in the sense of making oral or written statement, but not in the larger sense of the expression so as to include giving of thumb impression or impression of palm or foot or fingers or specimen writing or exposing a part of the body by an accused person for purposes of identification”.*

1.56 When probed further as to whether the Forensic Laboratories in the country face budget constraints and lack of technical persons, the response of the Ministry of Home Affairs was that the Government of India, has allocated Rs. 700 crores to Directorate of Forensic Science Services (DFSS) and its outlying Units under XII Five Year Plan to strengthen the forensic science services in the country. DNA is one of the facilities which will be benefited under this Plan fund. Forensic laboratories in the country face shortage of DNA Experts, due to less number of posts sanctioned in the laboratories. Directorate of Forensic Science Services is establishing three new Hi-Tech Central Forensic Science Institutes at Pune, Bhopal and Guwahati to enhance the capacity and capability of forensic services, including DNA.

### **Legislative Provisions**

#### **(A) Criminal Procedure Code**

1.57 The Criminal Procedure Code (Amendment) Act, 2008 which came into effect on 31 December, 2009 provides for crucial reforms in the criminal justice system by providing better protection to victims of crime. In particular, the amended law strengthens the procedural safeguards guaranteed to victims of rape and other crimes against women. In a significant change from the existing law, a victim of rape has been statutorily empowered, with the permission of the court, to engage an advocate of her own choice to assist the prosecution initiated by the State and at the same time, ensure that her interests are protected. Trial for offence of rape and aggravated rape is required to be conducted as far as practicable by women judges.

1.58 Section 309 of Cr. P. C. provides that every inquiry or trial shall be held as expeditiously as possible and the recording of examination of witnesses shall be continued on day-to-day basis unless the court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded. In this section, a new proviso has been inserted whereby it is provided that when the inquiry or trial relates to an offence under sections 376 to 376D of the Indian Penal Code (rape cases), the inquiry or trial, shall as far as possible, be completed within a period of two months from the date of commencement of the examination of witnesses. It stipulates that no adjournment shall be granted when witnesses are in attendance without examining them *except* for special reasons to be recorded in writing. The terms of adjournment shall include payment of costs.

1.59 Further, the following guidelines relating to adjournment have been incorporated in the Criminal Procedure Code in December, 2009.

- a) No adjournment shall be granted at the request of a party, *except* where the circumstances are beyond the control of that party.
- b) The fact that the pleader of a party is engaged in another court, shall not be a ground for adjournment.
- c) Where a witness is present in court but a party or his pleader is not present or the party or his pleader though present in court, is not ready to examine or cross examine the witness, the court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit for dispensing with the examination – in - chief or cross –examination of the witness, as the case may be.

1.60 A new provision has been inserted in December, 2009 in Section 327 of Code of Criminal Procedure, 1973 providing that '*in Camera trial*' shall be conducted as far as practicable by a woman judge or Magistrate while conducting inquiry or trial of rape or an offence under section 376 to 376D of the Indian Penal Code. Section 157 of Code of Criminal Procedure, 1973 provides that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality.

- It has been provided in Section 54A that the identification process of the arrested person by mentally or physically disable person shall be videographed.

- In Section 154, a proviso has been inserted to provide that the information provided by a woman victim of acid attack, sexual offences against women or rape shall be recorded by a woman police officer or any woman officer. It further provides that in case the woman victim is temporarily or permanently mentally or physically disabled, such information shall be recorded by the police officer at the residence of the person or at any convenient place, in the presence of a special educator or an interpreter. The recordings of such information shall also be videographed.
- The amendment in Section 160 (regarding the powers of police officer to require attendance of witness) provides that women or any male person under the age of 15 years or above the age of 65 years or a physically or mentally disabled person shall not be required to give personal attendance as witness at the place other than his or her place of residence.
- The amendment of Section 161 provides that statement of women victim of sexual offences including the offence of rape shall be recorded by a woman police officer or any woman officer.
- In Section 164, sub-Section 54(a) has been inserted to provide that Judicial Magistrate shall record the statement of the victim of sexual offences including rape, as soon as the commission of the offence is brought to the notice of the police. It further provides that for recording of the statement of temporarily or permanently physically or mentally disabled person, assistance of an interpreter or a special educator shall be taken by the Magistrate and the making of such statement shall be videographed.

1.61 The Victim Compensation Scheme is being framed by the State Governments/ Union Territory Administrations on the basis of the provision available under Section 357 A of the Cr. P.C. which has been inserted in the Cr. P.C. through the Code of Criminal Procedure (Amendment) Act, 2008. At this point of time, many of the State Governments and UT Administrations have formulated their Victim Compensation Scheme. As of now, 16 State Governments and 3 Union Territories have notified their Victim Compensation Scheme.

1.62 The Minister of Law and Justice in his letters dated 26.12.2012 and 08.01.2013 addressed to the Chief Justices of all High Courts has stressed the need for setting up of Fast Track Courts and implementing the provisions made under Sections 157, 309 and 327 of the Code of Criminal Procedure for expeditious trial in rape cases.

1.63 The Criminal Procedure Code (Amendment) Act, 2008 which came into effect on 31 December, 2009 has made for crucial changes by providing better protection to victims of crime. In particular, the amended law strengthens the procedural safeguards guaranteed to victims of rape and other crimes against women. In a significant change from the existing law, a victim of rape has been statutorily empowered, with the permission of the court, to engage an advocate of her own choice to assist the prosecution initiated by the State and at the same time, ensure that her interests are protected. Trial for offence of rape and aggravated rape is required to be conducted as far as practicable by women judges. The Criminal Law (Amendment) Act, 2013 has introduced substantive amendments in Cr. P.C. which may be seen at Annexure V.

### **Amendment of the definition of Rape for enlargement**

1.64 There have been substantive changes in the definition of rape from the Criminal Amendment Bill 2012 to Criminal Law (Amendment) Act, 2013. In the Criminal Law Amendment Bill, the terms 'Sexual Assault' replaced 'Rape'. This provision has been dropped in the Criminal Law (Amendment) Act, 2013. The summary of the new provisions in the Act are as under:-

- The definition of Section 375(Rape) has been widened to include all kinds of sexual acts. While the punishment for rape has been kept at a minimum of seven years extendable to life imprisonment and for aggravated rape at a minimum of 10 years extendable to life imprisonment, the positive feature is that the proviso from section 376 of IPC which gave powers to the court to impose lesser than the prescribed punishment under law, 'for adequate and special reasons' has been deleted. This deletion will ensure that courts will impose stringent punishment to the convicts of sexual offences against women and hence will act as a deterrent.
- The new section 376 widens the ambit of aggravated rape to include the cases of rape on women by police officers in custody, public servant or sub-ordinate public servant, staff and management (of Jails, Remand Home, Children Home, Hospital); relatives, guardian, teachers, rape during communal and sectarian violence, rape on mentally and physically disabled women etc.
- In the case of rape followed by any injury which causes death or causes the victim to be in a persistent vegetative state, a new section 376A has been inserted under which the convicts will be punished with a minimum rigorous imprisonment of twenty years, extendable to imprisonment for life (which shall mean the remainder of that person's natural life) *or with death*. This should serve as a strong deterrent against the perpetrators of horrendous crimes.

- A new section 376B has been inserted which provides that if a man has sexual intercourse with his own wife, living separately under a decree of separation or otherwise; the punishment would be 'a minimum term of two years extendable to seven years and fine'. This provision has been kept as bailable keeping in view that there is still a hope of husband and wife would unite again.
- The punishment under section 376C, for the person who being in a position of authority or in a fiduciary relationship, or a public servant, or superintendent or manager of jail, remand home etc., abuses such position of authority and induce or seduce a woman to have sexual intercourse, not amounting to rape (as there would be consent) is a minimum term of five years, extendable to ten years and fine. This has been increased for 'a term extendable to five years and fine' and hence is a stringent punishment and should act as a deterrent.
- New section 376D on gang rape has been inserted. The punishment for gang rape is a minimum rigorous imprisonment of twenty years, extendable to life and the offenders will pay fine to the victim which shall be just and reasonable to meet the medical expenses and rehabilitation of the victim. The fine imposed will be paid to the victim which would be in addition to the compensation payable by the State Government under Victim Compensation Scheme (under section 357A of Cr. P.C.). The punishment for gang rape convicts has been made more stringent.
- The new section 376E provides for stringent punishment for repeat offenders of the offence of rape. The punishment is imprisonment for life, (which shall mean the remainder of the convict's natural life) *or with death*. This should serve as deterrence against the second time offenders.

### **Setting up of Fast Track Courts**

1.65 It is extremely essential then that the perpetrators of crimes against women are brought to book without delay. For this, it is imperative that both the investigation as well as the criminal trials are fast tracked so that the faith of the people in our criminal justice system is restored. While the Ministry of Home Affairs is taking action for speedy investigation in such cases, the Minister of Law and Justice has written to the Chief Justices of High Courts and the Chief Ministers of States to impress upon the need to fast track trials in all pending rape cases in the district / subordinate courts as well as those pending in the High Courts in appeal.

1.66 On the aspect of State/UT-wise list of fast track courts functioning in the country especially for dealing with cases of violence and sexual abuse against women and children, the Committee were furnished the following information by the Ministry of Home Affairs:-

Sl. No.	States	Number of Functional Fast Track Courts as on 31/3/2011
1	ANDHRA PRADESH	108
2	ARUNACHAL PRADESH	3
3	ASSAM	20
4	BIHAR	179
5	CHHATTISGARH	25
6	GUJARAT *	61
7	GOA	5
8	HARYANA**	6
9	HIMACHAL PRADESH	9
10	JHARKHAND	39
11	KARNATAKA#	87
12	KERALA	38
13	MADHYA PRADESH **	84
14	MAHARASHTRA *	51
15	MANIPUR	2
16	MEGHALAYA	3
17	MIZORAM	3
18	NAGALAND	2
19	ODISHA	35
20	PUNJAB **	15
21	RAJASTHAN	83
22	TAMIL NADU \$	49
23	TRIPURA	3
24	UTTARAKHAND	20
25	UTTAR PRADESH	153
26	WEST BENGAL	109
<b>Total</b>		<b>1192</b>

\* as on February, 2011 \*\* as on December, 2010 # as on August, 2010 \$ as on December, 2008.

1.67 Data of the National Crime Records Bureau shows that in the last three years, the number of cases pending for trial have registered an increasing trend. From 69,533 cases pending for trial in 2009, the number has gone up to 77,855 in 2011. As for the High Courts, it transpires from the information made available by the 17 of the State High Courts in the country in response to a recent question in Parliament that the rate of disposal is slow.

1.68 Both the Chief Justice of India and Minister of Law and Justice have requested the Chief Justices of the High Courts to constitute/designate Fast Track Courts without delay on



the lines of the Delhi High Court for speedy trial of the pending rape cases in district / subordinate courts having a high pendency and also to speed up the disposal of cases pending in appeal in the High Courts.

1.69 Elaborating further, the Secretary, Department of Justice, during the oral evidence before the Committee stated as under:-

*“According to 2001 Census, women constituted about 58.6 crores in absolute number, and in percentage terms, 48.46 per cent of the total population. There has been an appreciable increase in the literacy amongst women, if you kindly see the Census figures – from 54 per cent in 2001 to 65.46 per cent in 2011. But women participation in workforce has shown a decline from 36.38 per cent in 1993-94 to 26 per cent in 2009-10 in rural areas, and from 17 per cent to 13.5 percent in urban areas. This is as per the NSSO data. So also the total number of crimes against women has increased by about 30 per cent between 2006 and 2010. The conviction rates, which is a matter of concern, have continued to remain low. Nearly one-thirds of the women in the age group of 15 to 49 have experienced physical violence, and nearly one in ten has been a victim of sexual involvement. The median age of marriage, I am sure that is one of the areas where the Committee must see, is between the age of 20 to 49 and it ranges from 16.5 to 18.3 years. The trafficking of women and children continues to be real challenge because they are subject to “multiple conditions to exploitation, commercial sexual exploitation, bonded labour etc.*

*Basically, the deep rooted gender bias and discrimination continue to come in the way of empowerment of women. They have poor access to health and education and in the gender inequality index – our country ranks 129 in the 149 countries. The women belonging to SCs and STs, religious minorities, differently able women, single women, widows – they are amongst the most vulnerable. In this background, the 12<sup>th</sup> Plan paper was prepared by me.*

*The 12<sup>th</sup> Plan identifies the problems in detail that are affecting the women and have suggested a number of measures for their empowerment both socially and economically. All the recommendations made in the 12<sup>th</sup> Plan document need to be pursued very seriously and actively in case we really want to mainstream women into the development agenda of our country and in case, we are really serious about ensuring the gender justice in our country.*

*Having said this, as far as the Department of Justice is concerned, we are principally concerned in ensuring speedy justice by the courts. For this, we are assisting the Judicial sector and ensuring the better infrastructure for them. We are providing funds under the*

*centrally sponsored schemes for development of infrastructure for subordinate judiciary. We are assisting in their computerisation across the country. We are also implementing "Access to justice programme" on pilot basis so that we can set up replicable models for the Legal Services Authority to be continued in future at the National and at the State level.*

*Speaking specifically on the action taken by us in the aftermath of the brutal incident of rape in Delhi, we have written to the State Government as well as the Chief Justice of the High Courts for speedy disposal of all the pending rape cases – be they at the subordinate level or in appeal in the High Court. We have requested the Chief Justices specifically to monitor the progress of the disposal of these cases and set up fast track courts for these purposes. We have also requested them to use additional 1800 positions which we have sanctioned on a matching share basis i.e. the Centre will provide 50 per cent of the money while the State will share the 50 per cent of the money for judges, in setting up the fast track courts."*

1.70 The Central Government has been supporting State Governments for establishment of Subordinate Courts through various schemes. The Centrally Sponsored Scheme for infrastructure development for the subordinate judiciary provides funds for building infrastructure for subordinate courts. A provision of Rs.4,867 crore has been made for this Scheme under the 12<sup>th</sup> Five Year Plan. The Central Government also supported establishment of Fast Track Courts for heinous crimes from the period 2000-11, first through the funds made available under the 11<sup>th</sup> Finance Commission and later, by providing Central assistance to States upto 31<sup>st</sup> March, 2011. Assistance is now being provided under 13<sup>th</sup> Finance Commission award for setting up of Special Courts.

1.71 In its Judgment in the case of Brij Mohan Lal and others versus Union of India and others given on 19.04.2012, the Supreme Court directed the States that they shall either bring the Fast Track Courts Scheme to an end or to continue the same on a permanent basis. The Court also directed for regularisation of Judges of Fast Track Courts and creation of 10% additional posts in the Subordinate Judiciary. The Supreme Court further directed that funding requirement for implementation of this decision should be met by the Central and State Governments on a matching basis, and if required, the Central Government may utilize funds for the judiciary given under the 13<sup>th</sup> Finance Commission Award. The Government has decided to provide funds up to Rs. 80 crore per annum for salaries of the 10% additional positions of Judges (about 1800 positions) being created in the Subordinate Judiciary from the 13<sup>th</sup> Finance Commission Award.

1.72 Recently, the Delhi High Court has announced the constitution of 5 Fast Track Courts for speedy trial of rape cases. Punjab & Haryana High Court has designated 8 existing

courts in Punjab and 11 existing courts in Haryana for expeditious disposal of rape cases. Kerala High Court has designated one existing court to hear rape cases. Information on setting up of courts to hear rape cases is being collected from other High Courts and will be provided to the Committee.

### **Increase in Judges Strength**

1.73 The Advisory Council of the National Mission for Justice Delivery and Legal Reforms chaired by the Minister of Law and Justice passed a Resolution on 15<sup>th</sup> May, 2012 to the effect that the number of Judges in the Subordinate Judiciary needs to be doubled in the next five years to liquidate the pendency and arrear of cases from our judicial system. It was further resolved that the expenditure on this account should be shared by the Central and the State Governments on a matching basis. These recommendations had been forwarded to the State Governments and the High Courts. The feedback received shows that State Governments look forward for investment of resources by the Central Government for the Subordinate Judiciary on the long term basis.

1.74 Considering that we have a unified judiciary, the Central Government needs to play a larger role to undertake planned development of the judicial system. The Minister of Law and Justice has proposed for formulating a proposal in the form of a Central Sector Scheme or grant of Additional Central Assistance for funding Subordinate Judiciary.

1.75 When the Committee desired to get specific comments on the total strength of Judges at the Subordinate Judiciary level in the country, the representative of the Department of Justice during the oral evidence before the Committee informed that:-

*“ We have 18000 positions of judges at the Subordinate Judiciary level in India today. This is about 13 Judges for every one million of Indian population. This is against an average of 50 Judges per one million population in developed countries and 35 to 40 in some other emerging markets. So, we are grossly short of Judges. But, we have 18,000. The Brij Mohan Lal case said, ten per cent additional judges may be created. So, 10 per cent of 18,000 is 1800 is what is going to be the accretion in judiciary at the subordinate judiciary level.”*

1.76 Elaborating further, it was stated that :-

*“ We in the Department of Justice, handle the higher judiciary which is the High Courts and the Supreme Courts. In the High Courts, we have a permanent strength of 895 Judges and we have less than 700 Judges at the moment. That means, about 270 positions are vacant at the moment at the High Court level. We have only five positions vacant at the Supreme Court level. The numbers of the*

*subordinate judiciary are decided by the State Governments. We do not maintain that data.*

*Out of 18,800 Judges, we have roughly about three thousand and odd positions vacant. That comes to about 20 per cent. While at the higher level, at the High Court level, out of 895, we have 270 positions which are vacant. What we are trying to emphasise is the following. We have taken two major decisions. One is following the Supreme Court decision of adding ten per cent positions immediately. But the National Mission has decided that we will double the strength of the subordinate courts in the country. Today, out of 18,000, about 15,000 are working courts. We are saying that we will add another 15000 immediately in the next five years and take the number to about 30000 plus. That decision has been made and we are pursuing with the States as to how do we really go about implementing this major decision. We are taking, based on judge-population ratio, 13 Judges for a ten lakh population. This is very small compared to the developed countries like UK, Australia, US where the numbers are far higher. At the same time, the Judiciary believes, and we have discussed with them that you cannot take population as the sole criterion for adding more judges. You have to consider methods like filing ratio, docket ratio etc. The Law Commission of the country is looking at these areas also and they will make a recommendation on the total number that we need to increase. But, till that happens, the Advisory Council has said that we must double up the number and we are working on that.”*

### **Pendency Reduction Drive**

1.77 The Government of India had launched a pendency reduction drive from July 2011 to December, 2011 for clearing long pending cases specially cases relating to marginalised sections of the society and the undertrial prisoners. A similar drive had been launched from July, 2012 to December, 2012 with main focus on making our judicial system ‘five plus free’.

### **Training/Sensitisation of Judiciary**

1.78 Under UNDP supported Access to Justice Project, two modules have been developed for training of judges. The first relates to Anti-human trafficking and focuses on trafficking of women for commercial sexual exploitation. The other one is a general module for training the judges on laws and issues related to marginalised people. This includes a detailed section on gender sensitisation and the rights relating to women. The Project will work with and support judicial academies to use the modules prepared under the project.

1.79 National Judicial Academy conducts Workshops/Conferences for training of Judges and Judicial Officers to handle cases involving atrocities against women and children.

### **(B) Indian Penal Code**

1.80 Indian Penal Code, 1860 (IPC) is the comprehensive legislation that deals with crimes and their punishments in general. It also makes provisions to safeguard the interests and provides punishments on crimes committed against women. India is a country where criminal jurisprudence came into existence from the time of *Manu*, who is regarded as the progenitor of mankind, according to ancient Hindu law. *Manusmriti*, which is a compilation of the laws of *Manu* had recognised, *inter alia*, crimes against women such as adultery, rape, etc. It may be seen that IPC originally, recognised the need to control and prevent atrocities against women. Provisions of IPC are applicable to the whole of India, except the State of Jammu and Kashmir. IPC originally had 23 Chapters that prescribe punishments relating to various offences. However, 3 more Chapters have been inserted to accommodate provisions relating to Criminal conspiracy (Chapter VA), Offences relating to elections (Chapter IXA) and the women specific Chapter, namely, Cruelty by husband or relatives of husband (Chapter XXA). It may be noted that IPC has since been amended only sparingly.

### **Gender and sexuality under IPC**

1.81 Section 8 generally explains that the pronoun “he” and its derivatives can be used to denote any person whether male or female. Section 10 explains that the word “man” to denote a male human being of any age and the word “woman” denotes a female human being of any age. IPC applies to all persons irrespective of their being men or women. Hence, it can be stated that IPC is gender neutral legislation. However, it recognises special treatment to women and children, considering their differential social footing, status, sexuality, procreation and marriage, etc.

### **Scheme of legislation of criminal major Acts**

1.82 Since the enactment of IPC, there have been legislature interventions to tackle the growing atrocities against women and children, by making few amendments to IPC itself and by way of special and comprehensive enactments. The Indian Evidence Act, 1872 (Evidence Act) contains provisions relating to evidence that may be adduced to prove an offence committed by persons. The total scheme of legislation of the three major criminal Acts indicates the serious legislative perception about the various offences and their punishments in order to provide justice to the victim and to punish the guilty. The Code of Criminal Procedure (Cr. P.C.) is the enactment that deals with the procedure that may be followed by the police and the courts

in the criminal administration of justice. Under Cr. P.C., serious offences are classified as cognizable and non-bailable. Cognizable means that the police may initiate investigation into the offence on its own motion and arrest the accused without a warrant from a court. In the case of non-cognizable offences, the complainant may also approach the court directly to set the law into motion. If the offence committed is bailable, the accused is entitled, as a matter of right, to be released on bail after arrest.

## VI. POLICE STRENGTH

1.83 The State/UT wise sanctioned as well as actual police strength [(Civil and Armed) (Men and Women)] in the country in 2010 and 2011 are given below:-

S.No.	State/UT	2010		2011	
		Sanctioned	Actual	Sanctioned	Actual
1	ANDHRA PRADESH	112972	95370	101274	69687
2	ARUNACHAL PRADESH	3587	3506	4054	3559
3	ASSAM	30040	28694	30040	28694
4	BIHAR	67619	49915	69181	54196
5	CHHATTISGARH	25716	26046	28039	27597
6	GOA	4320	4038	4432	4196
7	GUJARAT	62383	48648	64200	52598
8	HARYANA	48300	42961	48576	42987
9	HIMACHAL PRADESH	10701	9671	10787	9685
10	JAMMU & KASHMIR	50932	47859	51378	48649
11	JHARKHAND	49021	33806	55472	40579
12	KARNATAKA *	77799	63689	78939	66513
13	KERALA	39703	37368	41038	39231
14	MADHYA PRADESH	58371	52765	63254	53658
15	MAHARASHTRA	179245	165740	191025	169146
16	MANIPUR	17035	10249	17035	10287
17	MEGHALAYA	6429	5898	6533	6019
18	MIZORAM	3765	3562	4709	4062
19	NAGALAND	6013	5637	6013	5637
20	ODISHA	33158	28965	33279	29481
21	PUNJAB	59902	47992	59508	47940
22	RAJASTHAN	66553	59608	71370	64186
23	SIKKIM	2180	1645	2185	1641
24	TAMIL NADU	90116	72886	97415	81814
25	TRIPURA	11197	10671	11197	10671
26	UTTAR PRADESH	324575	111234	331783	155477
27	UTTARAKHAND	14032	13884	17074	14249
28	WEST BENGAL	75928	63906	78166	60450
	<b>TOTAL (STATES)</b>	<b>1531592</b>	<b>1146213</b>	<b>1577956</b>	<b>1202889</b>
	<b>UNION TERRITORIES:</b>				
29	A & N ISLANDS	3728	2933	3728	3239
30	CHANDIGARH	5794	4424	5793	5528
31	D & N HAVELI	315	208	354	306
32	DAMAN & DIU	245	220	351	351
33	DELHI	73558	67268	69805	66686
34	LAKSHADWEEP	556	332	556	422
35	PUDUCHERRY	2410	1721	2410	1896
	<b>TOTAL (UTs)</b>	<b>86606</b>	<b>77106</b>	<b>82997</b>	<b>78428</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>1618198</b>	<b>1223319</b>	<b>1660953</b>	<b>1281317</b>

1.84 It is seen from the above table that the existing (Actual) Police Strength was 12.8 lakhs against the sanctioned strength of 16.6 lakhs of total police force, rendering 22.9% of the posts vacant. Maharashtra (1, 69,146) has the highest actual strength of Civil Police accounting for 13.2% of the total civil police in the country followed by Uttar Pradesh 1,55,477 (12.1%). Delhi has the largest contingent of 66,686 (85%) of the total Police Strength of 78,428 in the seven Union Territories.

## Women Police

1.85 The sanctioned and the actual strength of Women Civil Police (including District Armed Police) during the year(s) 2010 and 2011 are given below:-

S.No.	State/UT	2010		2011	
		Sanctioned	Actual	Sanctioned	Actual
1	ANDHRA PRADESH	2008	2012	1739	1848
2	ARUNACHAL PRADESH	67	473	67	410
3	ASSAM	332	186	332	186
4	BIHAR	105	1154	752	1232
5	CHHATTISGARH	1117	1880	1948	1943
6	GOA	215	333	219	347
7	GUJARAT	3235	1682	3870	2028
8	HARYANA	3043	1918	3045	2563
9	HIMACHAL PRADESH	140	611	140	599
10	JAMMU & KASHMIR	0	1064	0	1015
11	JHARKHAND	0	1485	0	1592
12	KARNATAKA	0	NA	0	3613
13	KERALA	2775	2739	2775	2739
14	MADHYA PRADESH	1770	2207	1770	2191
15	MAHARASHTRA	0	12018	0	24218
16	MANIPUR	2365	606	2365	685
17	MEGHALAYA	44	86	44	137
18	MIZORAM	537	537	0	0
19	NAGALAND	95	66	95	66
20	ODISHA	3281	3281	3675	3675
21	PUNJAB	0	2334	0	2508
22	RAJASTHAN	1993	3663	1150	4885
23	SIKKIM	0	183	0	185
24	TAMIL NADU	13540	10681	13540	11956
25	TRIPURA	935	701	935	701
26	UTTAR PRADESH	2493	2406	2698	2354
27	UTTARAKHAND	703	1302	772	1291
28	WEST BENGAL	2419	2334	3108	2340
	<b>TOTAL (STATES)</b>	<b>43212</b>	<b>57942</b>	<b>45039</b>	<b>77307</b>
<b>UNION TERRITORIES:</b>					
29	A & N ISLANDS	19	274	19	390
30	CHANDIGARH	0	466	0	836
31	D & N HAVELI	9	9	9	9
32	DAMAN & DIU	0	0	0	0
33	DELHI	4649	4556	4411	5180
34	LAKSHADWEEP	8	16	7	16
35	PUDUCHERRY	81	85	81	91
	<b>TOTAL (UTs)</b>	<b>4766</b>	<b>5406</b>	<b>4527</b>	<b>6522</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>47978</b>	<b>63348</b>	<b>49566</b>	<b>83829</b>

1.86 The Actual strength of Women Civil Police including District Armed Police at the National level was 83,829 against the sanctioned strength of 49,566. The maximum strength of Women Civil Police among the States existed in Maharashtra (24,218) followed by Tamil Nadu (11,956), Delhi (5,180), Rajasthan (4,885) and Odisha (3,675), Nine States had strength of less than one thousand. Delhi had the largest contingent of Women Civil Police among UTs with strength of 5,180. 15 States and 5 UTs had more number of women civil police than their sanctioned strength.

1.87 Keeping in view the fact that lack of sufficient number of women police officers is a disadvantage while dealing with cases related to women, the Committee desired to know the reasons for insufficient number of women police officers in the country. The Ministry of Home Affairs in a written reply informed that there is no such empirical study to come to such conclusion. However considering issues relating to gender equity, it is important to have gender equity to create confidence building measures on issues relating to women. Besides other issues relating to infrastructure, attitude and training of police officers at the cutting edge level are equally important in dealing with crimes against women. In the absence of sufficient number of women officers more training would be required.

1.88 In this connection, the representative of the Ministry of Women and Child Development during the course of evidence before the Committee submitted:-

*“As per the information given by the Ministry of Home Affairs, at present, there are over 65,000 women police in our country as members of the police force. There are a total of 409 ‘all woman police stations’.”*

1.89 Adding further, it was stated that:-

*“The strength of women in the Central Police Force was 12,327 as on 1.1.2009 and it was 14,386 as on 1.1.2011. The earlier figure shows an increase of 19.6 per cent. Again as on 1.1.2009, we have 342 police stations in the country and as on 1.1.2011, it has gone up to 442. We have increased 100 women police stations. In order to ensure focused attention on the abuse against women specifically trafficking, it is of utmost concern to us. We have set up Anti-Trafficking Cells in every District.”*



1.90 The Committee also wanted to know the measures being taken by the Government to increase the number of women police officers and the number of women police stations in the country. The Ministry of Home Affairs stated that 'Police' and 'Public Order' are State subjects under the Seventh Schedule to the Constitution of India and, therefore, the State Governments and UT administrations are primarily responsible for maintenance of law and order and crime prevention. The Union Government, however, attaches highest importance to the matter of prevention and control of crime. Ministry of Home Affairs has as mentioned previously recommended that atleast 33% of the police force should be from women as this is the threshold at which the presence of women would have a beneficial impact on the overall police force. The Ministry also supports the National Conference for Women in Police and the NCWP has held five conferences so far since the first one in 2002. Issues concerning women in police are deliberated upon and the findings are advocated strongly in the annual Conference of DGPs. The growth has been steady and figures in 2011 are as follows: Tamil Nadu – 9.62 %, A&N Islands – 8.81%, Delhi – 6.49%, Orissa – 6.16%, Punjab – 3.14%, Andhra Pradesh – 1.43%, Assam – 0.98%, UP – 0.7% and in the Central Armed Police Forces such as CISF – 4.39%, SSB – 2.18%, CRPF – 1.9% and BSF – 0.72%. The current women police strength of 71,756 out of a total sanctioned strength of 20,64,370 is still inadequate and at the present growth rate it will take many years to reach the goal of 33%.

1.91 As per the BPR&D publication, “Data on Police Organisations in India” as on 1<sup>st</sup> January 2011, the total number of women police stations are 442 of which TN alone had the highest number of 196 and some states like Arunachal Pradesh, Bihar, Himachal Pradesh, Maharashtra, Mizoram, Nagaland, Sikkim, Uttarakhand, W Bengal, A&N, Chandigarh, Daman &Diu, Delhi and Lakshadweep did not have any women police stations. The issue was deliberated in the last DGPs Conference 2012 and a number of issues were raised. Issues, like the lack of proximity of the women police stations, familiarity with existing police stations, reluctance on the part of the women to travel long distances to lodge complaints, and even lack of adequate gender sensitivity among the women police were raised.

### **Ratio of Police to Area and Population**

1.92 Just as the crime incidence in an area is not a representative pointer to the crime situation, the absolute strength of police personnel is also not a true indicator of the magnitude of crime and its combating machinery as well as performance of other assigned tasks by police. The number of policemen per 100 Sq. Kms and per 1,00,000 of population is considered to be important indicators in planning for their deployment. The State/UT-wise availability of police strength by various parameters during 2010 and 2011 are as under:-

State/UT	2010				2011			
	Area (in sq. kms)	Estimated mid-Year Population (in 000)	Actual Police Strength	No. of Policemen Per 1 lac of Population	Area (in sq. kms)	Estimated mid-Year Population (in 000)	Actual Police Strength	No. of Policemen Per 1 lac of Population
ANDHRA PRADESH	275045	84129	109904	131	275045	84665	89404	106
ARUNACHAL PRADESH	83743	1235	7445	603	83743	1383	7455	539
ASSAM	78438	30978	54069	175	78438	31169	54069	173
BIHAR	94163	97184	61856	64	94163	103804	67546	65
CHHATTISGARH	135191	24538	41825	170	135191	25540	44107	173
GOA	3702	1743	4699	270	3702	1458	5399	370
GUJARAT	196024	58193	64584	111	196024	60383	71670	119
HARYANA	44212	24590	47496	193	44212	25353	50365	199
HIMACHAL PRADESH	55673	6687	13575	203	55673	6857	14634	213
JAMMU & KASHMIR	101387	13364	77012	576	101387	12549	76805	612
JHARKHAND	79714	30937	46613	151	79714	32966	55147	167
KARNATAKA	191791	58799	71597	122	191791	61131	74699	122
KERALA	38863	34972	40550	116	38863	33388	45003	135
MADHYA PRADESH	308245	72106	76155	106	308245	72598	72505	100
MAHARASHTRA	307713	110049	179955	164	307713	112373	182971	163
MANIPUR	22327	2702	23523	871	22327	2722	23861	877
MEGHALAYA	22429	2609	10247	393	22429	2964	11300	381
MIZORAM	21081	1008	10733	1065	21081	1091	10861	996
NAGALAND	16579	2250	10003	445	16579	1981	10003	505
ODISHA	155707	40828	43445	106	155707	41947	45976	110
PUNJAB	50362	27268	66670	244	50362	27704	67106	242
RAJASTHAN	342239	67106	71570	107	342239	68621	76356	111
SIKKIM	7096	610	3804	624	7096	608	4450	732
TAMIL NADU	130058	67632	86755	128	130058	72139	95745	133
TRIPURA	10486	3610	24259	672	10486	3671	24259	661
UTTAR PRADESH	240928	199028	142132	71	240928	199581	187425	94
UTTARAKHAND	53483	9817	18044	184	53483	10117	18445	182
WEST BENGAL	88752	90222	86097	95	88752	91348	83914	92
<b>TOTAL (STATES)</b>	<b>3155431</b>	<b>1164194</b>	<b>1494617</b>	<b>128</b>	<b>3155431</b>	<b>1190111</b>	<b>1571480</b>	<b>132</b>
<b>UNION TERRITORIES:</b>								
A & N ISLANDS	8249	432	3739	866	8249	380	4043	1064
CHANDIGARH	114	1125	5059	450	114	1055	6156	584
D & N HAVELI	491	283	208	73	491	343	306	89
DAMAN & DIU	112	200	220	110	112	243	351	144
DELHI	1483	18333	73862	403	1483	16753	75117	448
LAKSHADWEEP	32	72	332	461	32	64	422	659
PUDUCHERRY	492	1117	2274	204	492	1244	2276	183
<b>TOTAL (UTs)</b>	<b>10973</b>	<b>21562</b>	<b>85694</b>	<b>397</b>	<b>10973</b>	<b>20082</b>	<b>88671</b>	<b>442</b>
<b>TOTAL (ALL-INDIA)</b>	<b>3166404</b>	<b>1185756</b>	<b>1580311</b>	<b>133</b>	<b>3166404</b>	<b>1210193</b>	<b>1660151</b>	<b>137</b>

1.93 The Committee also wanted to know as to whether the existing strength of police personnel sufficient to deal with the rising crimes against women in the country, the Ministry of Home Affairs in a written reply informed that the existing police population ratio per lakh of population as on 1/1/2011 based on the statistics given in the BPR&D publication "Data on Police Organisations in India" is 137.86 per lakh of population which is still much below the UN recommended 450.

## VII. Disposal of cases by Police and Courts

1.94 The details of police disposal of various IPC crimes committed against women during the year 2011 are given as under:-

Crime Head	Total no. of cases for investigation including pending cases from previous year	No. of cases in which investigation was completed [Charge found false/mistake of fact or law etc + Final report submitted + Charge Sheets submitted]	No. of cases pending investigation at the end of the year
Rape	36151	22898	13221
Kidnapping and abduction of woman and girls	55017	32958	21936
Molestation	54378	42610	11744
Sexual Harassment	10443	8420	2023
Importation of girls	127	92	35
Immoral Traffic (P) Act	3807	2330	1469

1.95 The details of disposal of various IPC cases by courts during the year 2011 are given as under:-

Crime Head	Total no. of cases for Trial including pending cases from previous year	No. of cases in which Trial were completed		No. of cases pending Trial at the end of the year
		Convicted	Acquitted or discharged	
Rape	95056	4072	11350	79468
Kidnapping and abduction of woman and girls	82654	3174	8110	71078
Molestation	192860	6969	18174	162277
Sexual Harassment	34564	3676	4358	25099
Importation of girls	358	5	59	294
Immoral Traffic (P) Act	12127	918	1077	10115

1.96 On the aspect of rate of conviction of cases relating to crimes against women in Delhi vis-à-vis in other States/ UTs, a representative of Delhi Police, during evidence before the Committee stated as under:-

*“The conviction rate in Delhi was much higher as compared to All India figure. In 2009, it was 47 per cent as compared to 26 per cent. I am talking of the rape cases. In 2010, it was 34 per cent as against 26 per cent. In 2011, it was 41 per cent. The number of conviction in molestation cases was much higher. But the main problem in less conviction was due to much delayed decision, and the trial goes for a number of years.”*

1.97 Statement of pending rape cases in Supreme Court of India and High Courts and rape cases disposed of by Supreme Court and High Courts during the last three years is given as under:-

Courts	No. of cases relating to sexual harassment, kidnapping & abduction as on 19.11.2012	No. of cases relating to sexual harassment, kidnapping & abduction disposed from the year 2009 to 11 November, 2012
<b>Supreme Court of India</b>	325	713
<b>High Courts</b>		
Allahabad	8215	39
Punjab & Haryana	2717	536
Chhattisgarh	1533	246
Rajasthan	1164	83
Bombay	1009	239
Jharkhand	822	39
Patna	797	106
Andhra Pradesh	269	57
Karnataka*	243	4522
Madras	179	35
Himachal Pradesh	177	418
Gauhati	174	55
Jammu & Kashmir	28	12
Calcutta	27	14
Uttarakhand	26	5
Sikkim	0	2

\* this includes CrI. A, CrI. RP & CrI. P U/s 438, 439 & 482 of Cr.P.C.

### **VIII. Schemes for victims of sexual abuse and trafficking**

1.98 The Government of India has undertaken measures for rehabilitation of victims of sexual abuse and trafficking for commercial sexual exploitation. In this regard, a number of Schemes and Programmes have been introduced which are as follows:-

#### **(i) Ujjawala**

1.99 As a holistic response to trafficking of women and children, the Ministry of Women and Child Development started the Ujjawala- a Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation, in December 2007. The target group includes women and children who are vulnerable as well as those who are victims of trafficking for commercial sexual exploitation. The Scheme has specific components for preventive activities through formation of community vigilance groups and awareness generation programmes. It also aimed to address the issue of rehabilitation and reintegration of trafficked victims through, amongst others, providing the victims with alternate livelihood options.

1.100 The Scheme comprises the following five components: -

- a. **Prevention**, which consists of formation of community vigilance groups/adolescents groups, awareness and sensitization of important functionaries like police, community leaders and preparation of IEC material, holding workshops, etc.
- b. **Rescue** through safe withdrawal of the victim from the place of exploitation.
- c. **Rehabilitation**, which includes providing safe shelter for victims with basic inputs of food, clothing, counseling medical care, legal aid, vocational training and income generation activities etc.
- d. **Reintegration**, which includes restoring the victim into the family/community (if she so desires) and the accompanying costs.
- e. **Repatriation**, to provide support to cross-border victims for their safe repatriation to their country of origin.

1.101 The Scheme is being mainly implemented through Non Government Organizations (NGOs). As on date, 201 projects are being supported by the Ministry in 21 States. Fresh projects are also sanctioned every year after getting them examined and approved in the meetings of the Project sanctioning Committee (PSC). The rehabilitation component receives the maximum grant under the Scheme. Recognising that the target group envisaged is women and girls who have faced serious emotional, mental, sexual and physical abuse for a long period of time, the rehabilitation component comprises an integrated package. This includes setting up of Protective and Rehabilitation Home with basic amenities such as food, clothing, etc, provision for legal aid and medical care for psychological and emotional rehabilitation and vocational training for economic rehabilitation. 101 Rehabilitation Homes have already been set up in 18 States under the Ujjawala Scheme.

1.102 On the specific question of non-existence of projects under Ujjawala in all the States/ UTs in the country, the Ministry of Women and Child Development furnished the following information:-

*“The States where at least one Ujjawala project for at least one component has been sanctioned are 19 so far. The proposals for Ujjawala project are given by civil society trusts and societies to the State Governments, who in turn consider and recommend the proposals to the Central Government for further consideration. While doing so, the State Government also takes the responsibility of monitoring and inspecting the activities of the implementer. If the State Governments do not proactively identify and/or recommend*

*good proposals for the State concerned, the Central Government is handicapped in getting Ujjawala Project sanctioned/implemented.”*

1.103 When asked to furnish the details of victims of trafficking who have so far been integrated into their families and the mechanism in place to ensure that these victims are not re-victimized, the Ministry of Women and Child Development stated that the State Government inspects and monitors the activities of the implementers. The information on details of the various activities including on reintegration are not centrally maintained. However, the Ministry of Women and Child Development has set up a Committee to prescribe Standard Operating Procedure for home verification of trafficked victims, and the recommendations of the Committee will be made part of the advisory to the States. The Committee has since submitted the Report.

1.104 Keeping in view the fact that the Union Government supports funding for various components of the Ujjawala Scheme, the Secretary, Ministry of Women and Child Development, during evidence before the Committee stated:-

*“Since the launch of this Scheme, we have supported about 201 projects in 21 States; 186 projects have a prevention component, 95 for rescue, 101 for rehabilitation, 66 projects for reintegration and 14 projects for repatriation. Repatriation is actually low because it is repatriating to the neighbouring countries. More projects are now being examined. Some proposals have come from the State Governments and we are examining them. We will be sanctioning more projects in the coming months.”*

## **(ii) Swadhar and Short Stay Homes**

1.105 Recognizing the need to prevent women from exploitation and to support their survival and rehabilitation, the Scheme of *Short Stay Home (SSH)* for women and girls was introduced as a social defense mechanism, by the Ministry of Women and Child Development in 1969. The Scheme is meant to provide temporary accommodation, maintenance and rehabilitative services to women and girls rendered homeless due to family discord, crime, violence, mental stress, social ostracism or who are being forced into prostitution. The scheme through the provisions of shelter, food, clothing, counseling, trainings, clinical and legal aid aims to rehabilitate such women in difficult circumstances.

1.106 Further with the aim to provide primary need of shelter, food, clothing and care to the marginalized women/girls who are without any social and economic support, Swadhar Scheme was launched in the year 2001-02. It also aims to provide emotional support and counseling to them and to rehabilitate them socially and economically through education, awareness, skill up gradation and personality development etc. The target group of the Scheme, inter alia, covers women/girls who have been forced to leave their homes or are driven out as a

result of family tension or discord; victims of crime such as rape, molestation and are facing problems of adjustment in their families and society; forced into prostitution or are victims of child trafficking etc.

1.107 Having noticed that Swadhar and Short Stay Homes are not having a pan-India presence, the Committee asked to clarify as to whether the Government intend to cover every single District in each State of the country under this Scheme, the following information was furnished to the Committee by the Ministry of Women and Child Development:-

*“The Scheme of Swadhar Greh envisages setting up one Swadhar Greh in each district in the Country. In first instance performance of all the existing Swadhar and Short Stay Home will be reviewed for its conversion into Swadhar Greh or otherwise. After that Swadhar Greh will be setup in the unserved District(s) depending upon the receipt of proposal from the State Government after assessing the need of the area.”*

1.108 Asked further about the monitoring mechanism of these Homes, the Ministry of Women and Child Development stated in their written submission to the Committee that all the Swadhar Grehs would be monitored continuously by the District Administration in order to ensure their smooth functioning, and suggesting steps that would lead to their better functioning. For this a District Women’s Welfare Committee (DWWC) would be constituted in every district. State Level/ UT Administration Monitoring Committee would also be constituted under the chairpersonship of the Secretary in-charge of Social Welfare/ Department of Women and Child Development in the State Government/UT Administration.

1.109 As informed by the Ministry of Women and Child Development, Swadhar and Short Stay Home Schemes are proposed to be merged into a new sub-Scheme ‘Swadhar Greh’ (to be implemented as a component of the Centrally Sponsored umbrella scheme on Women Empowerment during the 12<sup>th</sup> plan. The proposed ‘Swadhar Greh’ programme will have improved financial norms in order to reach out to those women who are victims of difficult circumstances and are in need of institutional support for rehabilitation so that they could lead their life with dignity.

1.110 Regarding the need for review of the working of Swadhar and Short Stay Homes, the Secretary, Ministry of Women and Child Development, during evidence before the Committee stated:-

*“We have asked the State Governments to review all the existing Swadhar and Short-Stay Homes Schemes in their States and tell us which are the ones which are running well, which need continued support by which it can be converted into a Swadhar Greh and also if they need any additional proposals. So, the States are now in the process of*

*responding to us. At this point of time, we do not intend stopping funding to the existing schemes which are recommended by the State Governments but we are looking at the complete merger and putting this entire scheme on a better footing than before. As on date, Madam, there are about 322 Swadhar Homes and 353 Short Stay Homes spread across 30 States. The capacity of these homes is about 28,545 but this is the capacity and not the exact number of people in it because there is always movement of people coming in and going out of these homes.”*

1.111 Having noted that destitute women are allowed to remain for a period of three years in Short Stay Homes and for a duration of five years in Swadhar Homes, the Committee asked about the fate of all such women who are not re-integrated into their families after completing the allowed period of stay. The Ministry of Women and Child Development in their written reply stated that as per the scheme inmate can stay in Swadhar and Short Stay Home for 3 years. However, they may be allowed to stay longer till they get rehabilitated or reunited with their family or husband. In the Shelter Home vocational training is provided to the inmates to make them self-reliant.

**(iii) Scheme for Support to Training and Employment Programme for Women**

1.112 Considering that enhancing employability of the marginalized women through skill upgradation is key to reducing their vulnerability, the Ministry of Women and Child Development is also implementing Schemes like Scheme for Support to Training and Employment Programme for Women (STEP) and is also providing micro credit facilities to poor asset less women through the Rashtriya Mahila Kosh (RMK). The “Support for Training and Employment Programme” (STEP) was launched in 1986-1987 as a Central Sector Scheme. The Scheme seeks to upgrade skills of poor, asset less and marginalized women and to provide employment on a sustainable basis by mobilizing them in viable cooperative groups, strengthening marketing linkages, support services and access to credit.

1.113 Keeping in view the fact that this Scheme seeks to upgrade the skills of poor, asset less and marginalised women which is similar to that of Swadhar Scheme, the Committee wanted to know as to what is the added advantage that STEP can provide over Swadhar Scheme. The Ministry of Women and Child Development informed that unlike Swadhar Greh, the STEP scheme advocates the objective of extending training for upgradation of skills and sustainable employment for women through a variety of action oriented projects which employ women in large numbers. STEP aims to make a significant impact on women by upgrading skills for self and wage employment. The sequence of activities is envisaged as mobilizing women in viable groups, improving their skills, arranging for productive assets/ access to wage employment, creating backward and forward linkage, improving/arranging for support services, providing access to credit, awareness generation, gender sensitization, nutrition education,



sensitization of project functionaries etc. Thus, STEP advocates an integrated package of inputs aiming at the self-reliance and empowerment of women by enhancing their productivity and enabling them to take up income generation activities. The ultimate endeavour of each project should be develop the group to thrive on a self- sustaining basis in the market place with the minimal Government support and intervention after the project period is over.

1.114 The Scheme aims at providing as integrated package of the following services to women to enable them economically more viable, independent and raise their socio-economic status.

- Up gradation of skills through training.
- Better and sustainable employment opportunities
- Backward and forward linkages
- Facilitation of organization of women
- Support services with the coverage of
- Health Check-ups
- Referral Services
- Mobile Crèches
- Education facilities

1.115 The target group to be covered under the STEP Programme includes the marginalized, asset less rural women and urban poor. This includes wage labourers, unpaid daily workers, female headed households, migrant labourers, tribal and other dispossessed groups. The beneficiaries under the project will be poor or asset less marginalized women with special focus on SC/ST households, women headed households and families below the poverty line. The Committee also desired to know about the implementing agencies of STEP programmes. The Ministry of Women and Child Development stated as follows:-

*“The scheme is implemented through Public Sector Organizations, District Rural Development Agencies. Federation, Co-operatives and voluntary Organization – Non – Government Voluntary organizations working in rural areas with legal status as a Society registered under the societies Registration Act of 1860 or under the corresponding State Acts. Recipient of financial assistance under STEP are required to be bodies, Organizations or agencies working in rural / urban areas, although their Headquarters may be located in the urban area. They must be registered at least for 3 years (experience/existence in the sector concerned) at the time of approaching for assistance. Implementing agencies will also identify a set of link agencies which would facilitate the implementation of the project through their expertise, resources and experience. Link agencies would also include voluntary Organization; active in the field of employment and women’s development. While selecting non-Government organization as*

*implementing agencies, it is ensured that the selected organizations have adequate infrastructure and technical expertise in the sector, financial soundness with facilities, resource experience and administrative capabilities for undertaking the project. Women Development Corporations wherever they exist, are normally involved in identifying economically viable projects preparing project report, arranging for required training, facilitating access to credit etc. Linkages with State Departments concerned and with the existing programmes of the State and the Central Government are established so as to enable the beneficiaries to optimally utilize their services. The implementing agency is assisted by the State Department involved in Women's Development to effectively co-ordinate to draw upon the resources of existing infrastructure and services under programmes."*

**(iv) Compensation to Victims of Violence**

1.116 Section 357 of the Cr. PC enables the courts to award compensation to victims of various crimes, including to that of rape, molestation and eve teasing. Through the amendments in 2009, a new Section 357A was introduced in the Cr. PC which casts a responsibility on the State Governments to formulate a Scheme in coordination with the Central Government for providing compensation to those who are victims of crime and who require rehabilitation. Some States have already formulated Victim Compensation Schemes. The Government of Andhra Pradesh has been implementing such a Scheme even prior to insertion of this section in the Cr. PC in 2009.

1.117 When the Committee enquired as to whether all the States/ UTs have implemented the Victim Compensation Scheme, the Ministry of Home Affairs informed that as per available information, 16 States / UTs have formulated the Victim Compensation Schemes in accordance with section 357A of Cr. PC. The crimes that are contemplated for compensation by the States are Rape, Loss of injury causing, Severe mental agony, Loss of Life, Grievous Hurt, Loss of Limb, Rape of Minor, Rehabilitation, Simple Loss.

**(v) Scheme for 'Financial Assistance and Support Services to Victims of Rape'**

1.118 Considering that women victims of rape face tremendous physical and emotional trauma, a Scheme for providing 'Restorative Justice and Support Services to Victims of Rape' is being formulated by the Government which aims at providing restorative justice to victims of rape through financial assistance and support services such as medical and legal aid, shelter, trauma counseling, vocational training etc. The scheme proposes to cover women and minor girls who are victims of rape and seeks to put in place Criminal Injuries Relief and Rehabilitation Boards at the Central, State and District levels. It is also to be implemented as a component of the Centrally Sponsored umbrella scheme on Women Empowerment during the 12<sup>th</sup> Plan.

1.119 Having noted that the Scheme as well as individual features of the proposed Scheme need to be approved by the Government for 12<sup>th</sup> Plan, the Committee wanted to know the salient features of the Scheme. In response, the Ministry of Women and Child Development furnished a copy of the proposed Scheme which is at Annexure III.

**(vi) Integrated Child Protection Scheme**

1.120 Ministry of Women and Child Development is implementing the centrally sponsored Integrated Child Protection Scheme (ICPS) since 2009-10 for providing a safe and secure environment for overall development of children who are in need of care and protection and children in conflict with law. The various components of the Scheme also include rescue and rehabilitation of children in difficult circumstances, which includes trafficked and sexually exploited children.

**(a) Childline Services:**

1.121 ICPS supports the Childline services which is a 24 hour toll free telephone number "1098". Any child in need of immediate help, including trafficked and abused children, can dial this number and efforts are made to reach the child within one hour. Childline receives cases of Child abuse directly at 1098 and also through outreach as well as media.

1.122 Childline intervenes in different ways depending on the nature of abuse and the circumstances and support system of the child. This includes activating and coordinating with the allied systems such as Health, Police, Legal Services etc. as well as statutory authorities (Child Welfare Committees) under Juvenile Justice Act to rescue child from conditions of abuse (especially from family in case of incest as well as from work place in case of sexual violence). In many such cases Childline facilitates placement of children in foster-care or children's institutions with orders from Child Welfare Committees.

1.123 Childline also facilitates the process of prosecution that includes filing of FIR, medical of the survivor, recording of statements, follow up of court procedures including efforts to ensure child friendly court procedures. Childline network across the country received approximately 17,231 cases for Protection from Abuse in 2010-11. This includes cases of emotional, physical and sexual abuse of children as well as instances of child labour and child trafficking.

1.124 On being asked about the States/ UTs that do not have Child Helpline Service, the Ministry of Women and Child Development furnished the following information:-

*“ICPS supports the Childline services which is a 24 hour toll free telephone number “1098”. Any child in need of immediate help, including trafficked and abused children, can dial this number and efforts are made to reach the child within one hour. Childline receives cases of Child abuse directly at 1098 and also through outreach as well as media. As of March 2011, Childline operates in 264 cities/districts in 32 States and UTs through its network of approximately 535 partner organisations across India. In terms of information made available in Childline website, Childline network across the country received approximately 17,231 cases for Protection from Abuse in 2010-11. This includes cases of emotional, physical and sexual abuse of children as well as instances of child labour and child trafficking.”*

(b) Open Shelters :

1.125 Under ICPS, ‘Open Shelters’ are also set up and managed by States/UTs either themselves or through NGOs for providing rehabilitation services to children on the street. The Open Shelters make efforts to restore the child to their families, provide the children with facilities such as education, food, shelter, sanitation on a temporary basis and where required, produce the child before CWC. Such contact points are already functioning in railway stations such New Delhi, Bangalore, Lucknow etc. with assistance and cooperation of Railway authorities.

1.126 When the Committee enquired about the contours of the concept of Open Shelter for street children, the Ministry of Women and Child Development informed that under ICPS, ‘Open Shelters’ are set up and managed by States/UTs either themselves or through NGOs for providing rehabilitation services to children on the street. It is observed that in most cases trafficked children are brought from one location to another through Railways/Bus services. Therefore, contact points of such Open Shelters are established at main Railway Stations, Bus Terminals, and Religious places etc. The outreach workers at the contact points look out for children who seem to be trafficked and provide immediate rescue services and shelter to such children. The Open Shelters make efforts to restore the child to their families, provide the children with facilities such as education, food, shelter, sanitation on a temporary basis and where required, produce the child before Child Welfare Committee. Such contact points are already functioning in railway stations such New Delhi, Bangalore, Lucknow etc. with assistance and cooperation of Railway authorities. So far, 111 Open Shelters are functional under ICPS.

1.127 Various measures for prevention of abuse and trafficking of children are being implemented under ICPS. These are as follows:-

- (i) Children on the streets: Children living for a large part of the day on the streets are most vulnerable to abuse and trafficking. Open shelters under ICPS provide them a safe space in the day and night and also links them to education, vocational training and counselling services with the objective of mainstreaming them, thus reducing their vulnerabilities.
- (ii) Children living with families: Children from poor families are more vulnerable to trafficking and abuse. To strengthen the families, financial support may be provided to them under the 'Sponsorship' component of ICPS. Such children are monitored for their well-being, regularity of school attendance and health status through periodic visits by ICPS functionaries. The Guidelines for Sponsorship have been recently finalized after a pilot project in two States and this provision will be gradually extended all over the country.
- (iii) Children without parental support: Children without parental care can either be placed with suitable families through adoption or supported foster-care with kith and kin or in case these options are not possible, placed in Homes set up under the JJ Act.

**(vii) Non-Governmental Organisations**

1.128 The Committee found that the Schemes for women and child development are operated through voluntary sector i.e. the Non-Governmental Organisations. The Committee, therefore, asked to provide a State/ UT-wise list of NGOs in the country who are engaged in rescue and rehabilitation of victims of trafficking. The Ministry of Women and Child Development in a note informed that the Ministry of Women and Child Development does not maintain a State-wise list of NGOs. It was also stipulated that it would not be proper on part of Ministry of Women and Child Development to name any NGO and detail their achievement. Funding of NGO that are not under Government control are nevertheless subject to the general laws of the land like the Income Tax Act, Money Laundering Act etc. It has been provided that all rehabilitation homes for victims of trafficking need to be licensed under Section 21 of ITPA, 1956, and it is now being insisted that all child care homes should be registered under the Juvenile Justices Care and Protection of Children Act, 2000. On being asked about the methodology for seeking proper appraisal reports of NGOs from States which are involved in implementing various programmes, the Ministry of Women and Child Development stated that the States are requested to do due diligence at their level before recommending proposals from NGOs. The States are also enjoined to do periodic inspection.

1.129 Having found that there is a provision of blacklisting the NGOs, the Committee asked the details of NGOs blacklisted by the Ministry of Women and Child Development. The Committee also desired to know as to how many NGOs have been removed from the blacklisted category later on. The Ministry of Women and Child Development informed that the list of blacklisted NGOs are regularly uploaded in the Ministry website, i.e.<http://wcd.nic.in>. No blacklisted NGO has been removed from the list in recent recollection.

## **IX. Gender Budgeting**

1.130 Gender Budgeting (GB) involves dissection of the Government budget to establish its gender-differential impacts and to translate gender commitments into budgetary commitments. It does not seek to create a separate budget but to provide affirmative action to address the specific needs of women. GB goes beyond allocation of resources for women, to cover tracking the utilization of allocated resources, impact analysis and beneficiary incidence analysis of public expenditure and policy from a gender perspective.

1.131 In 2004-05, the Ministry of Women and Child Development adopted "Budgeting for Gender Equity" as a Mission Statement. The mainstreaming of gender concerns has been reiterated as an objective of the Ministry in its Strategic Plan Document in 2011-12. Gender Budgeting has also been much emphasized in the National Mission for Empowerment of Women.

1.132 The Ministry of Women and Child Development further stated that in recent years, Gender Budgeting initiatives, both at Central and State Government level, have been gaining focus. The Ministry of Women and Child Development as the nodal agency for Gender Budgeting in India has been following a three pronged strategy to pursue the process of Gender Budgeting in the country:-

- (1) Placing emphasis on and advocating for setting up of gender budgeting structures/ mechanisms in all Ministries/ Departments of the Government;
- (2) Strengthening internal and external capacities and building expertise for undertake gender mainstreaming of policies/ schemes/ programmes; and
- (3) Initiating the exercise of gender auditing of existing programmes, which would then feed into addressing gaps and strengthening service delivery mechanisms.

1.133 The Tenth Plan recognized the importance of gender budgeting by stating that the two effective concepts of Women Component Plan and Gender Budgeting would be tied up to play a complementary role to each other. The Eleventh Plan recognized gender as a

crosscutting theme across all sectors and sought to reinforce the commitment to gender budgeting and specifically stated that gender equity requires adequate provisions to be made in policies and schemes across Ministries and Departments. This would entail strict adherence to gender budgeting across the board.

1.134 Welfare programmes, for women and girls, alone may not lead to gender equality. Problems impeding gender equality are not linear but cut across sectors. Further, the bulk of the public expenditure and policy concerns lie in 'gender neutral' sectors like power, defence, petroleum, transport etc. and the implications for women in these sectors are not recognized or identified. It is increasingly felt that unless gender concerns are also mainstreamed in these sectors, public expenditure will always be skewed disadvantageously towards women. Hence, the imperative need for gender mainstreaming a natural outcome of Gender Budgeting.

1.135 Another important step taken in the direction of Gender Budgeting in the country was the incorporation of the Statement 20 as a part of Expenditure Budget Document Volume I. Herein, the Gender Budgetary allocations are reflected in a two-way classified Gender Budgeting Statement. The first part of the Statement, Part A includes Schemes with 100% allocation for women while Part B of the Statement includes Schemes/ Programmes with 30% allocation for women.

1.136 The allocations for women as reflected in the Gender Budget Statement during 2011-12, 2012-13 and 2013-14 are as under:-

Fiscal year	Total Gender Budget (Rs. in crore)		
	Part A – 100% Women specific programmes	Part B – 30% Women specific programmes	Total
2011-12	20548.35	57702.67	<b>78251.02</b>
2012-13	22968.93	65173.87	<b>88142.80</b>
2013-14	27248.19	69885.51	<b>97133.70</b>

## **X. Criminal Law (Amendment) Act, 2013**

1.137 The Government has been considering the need for strengthening the laws relating to offences against women for some time with utmost seriousness and sensitivity. The Law Commission of India, in its 172<sup>nd</sup> Report of "Review of Rape Laws", recommended changes for widening the definition of the offence of rape in section 375 Indian Penal Code (IPC). Various other changes were also recommended in provisions relating to sexual offences against women.

1.138 After wide ranging consultations by the Ministry of Home Affairs with the State Governments, Ministries of the Central Government, National Women Commission, Non-Governmental Organisations engaged in empowering of women and other stakeholders concerned on the proposals of the Law Commission, a High-Powered Committee headed by the

Home Secretary with Secretaries of other Ministries/ Departments concerned, drafted a Bill on the subject. This Bill was posted on the website of the Ministry and also referred to the State Governments for comments.

1.139 After consultation with all the concerned stakeholders and inter-Ministerial consultations, a draft Criminal Law (Amendment) Bill, 2012 was finalised which was approved by the Cabinet on 19.7.2012. The Criminal Law (Amendment) Bill, 2012 was introduced in the Lok Sabha on 4.12.2012, seeking to amend the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1972. After introduction of the Bill in the House, the same was referred to the Departmentally-related Parliamentary Standing Committee on Home Affairs for examination and report.

1.140 After the horrendous rape case of the 16<sup>th</sup> December, 2012 in Delhi, a Committee headed by Justice J.S. Verma, former Chief Justice of Supreme Court, with Justice (retired) Leila Seth, former Chief Justice of Himachal Pradesh High Court and Shri Gopal Subramanian, former Solicitor General of India, was set up on 23<sup>rd</sup> December, 2012 to give recommendations on amending laws to provide for speedy justice and enhanced punishment for criminals in sexual assault cases of extreme nature. The Justice Verma Committee submitted its Report on the 23<sup>rd</sup> January, 2013. The recommendations made by Justice Verma Committee are at Annexure IV.

1.141 As regards the recommendations regarding amendments of criminal laws, Justice Verma Committee agreed to most of the provisions of the Criminal Law (Amendment) Bill, 2012 and also suggested some amendments in addition to the provisions contained in the said Bill. Hence, there was a broad convergence between the provisions in the Criminal Law (Amendment) Bill, 2012 and the recommendations of Justice Verma Committee.

1.142 The advantage of an Ordinance is that an Ordinance will amend the criminal laws immediately. On the other hand, the changes to the law will take effect only upon the passing of the Bill and the grant of assent by the President and any crime against women committed during the period when the law is in the making will be punishable only under the existing law. There was a wide consensus that the criminal laws relating to sexual offences against the women must be amended immediately. The Government came to the conclusion that there was a strong case to promulgate an Ordinance immediately. Accordingly, the Criminal Law (Amendment) Ordinance, 2012 was promulgated on 3<sup>rd</sup> February, 2013.

1.143 The promulgation of the Criminal Law (Amendment) Ordinance, 2013 rendered the Criminal Law (Amendment) Bill, 2012 redundant. The Parliamentary Standing Committee, which was examining the Criminal Law (Amendment) Bill, 2012, in the meanwhile, tabled its Report in the Parliament on 1.3.2013. Based on the Report of the Justice Verma Committee, the report of the Departmentally related Parliamentary Standing Committee on Home Affairs and the



comments received from various women's group/ organisations, a draft replacement Bill, namely, the Criminal Law (Amendment) Bill, 2013 was prepared and submitted for the consideration of the Cabinet. The Cabinet in its meeting held on 12.3.2013 considered the said Criminal Law (Amendment) Bill, 2013 and referred the same to a Group of Ministers (GoM) for further examination.

1.144 The GoM held two meetings on 12.3.2013 and 13.3.2013 to discuss the issue relating to the replacement Bill. Based on the recommendations of the GoM, the Legislative Department prepared a draft replacement Bill, namely the Criminal Law (Amendment) Bill, 2013. The Cabinet considered the Criminal Law (Amendment) Bill, 2013, recommended by the GoM and approved the same in its meeting held on 14.3.2013.

1.145 A meeting to discuss the Bill was held with various political parties on 18<sup>th</sup> March, 2013. After discussions, amendments like age of consent be retained at 18 years as given in the Ordinance were made in the Bill. The Cabinet accorded its approval to these amendments on 18<sup>th</sup> March, 2013. The Criminal Law (Amendment) Bill, 2013 was thereafter introduced in the Lok Sabha on 19<sup>th</sup> March, 2013 and passed on the same day. The Rajya Sabha passed the Bill on 21<sup>st</sup> March, 2013. Hon'ble President of India accorded his assent to the Bill on 2<sup>nd</sup> April, 2013. This is now called as the Criminal Law (Amendment) Act, 2013 and made effective from 3<sup>rd</sup> February, 2013, the day on which the Criminal Law (Amendment) Ordinance, 2013 was promulgated. A copy of the Criminal Law (Amendment) Act, 2013 is at Annexure V. The main features of the Criminal Law (Amendment) Act, 2013 are given in Annexure VI. A comparative analysis on the amendments in the Criminal Law proposed by the Committee headed by Hon'ble Justice (Retd.) J.S. Verma, former Chief Justice of India, provisions contained in the Criminal Law (Amendment) Ordinance, 2013 alongwith the Criminal Law (Amendment) Act, 2013 has been made at Annexure VII.

## PART II

### OBSERVATIONS/ RECOMMENDATIONS OF THE COMMITTEE

#### Crime against women

2.1 The Committee note that although women may be victims of any of the general crimes such as 'Murder', 'Robbery', 'Cheating' etc, only the crimes which are directed specifically against women are characterised as 'Crimes Against Women'. The Committee find that Rape (Section 376), Kidnapping and Abduction for specified purposes (Section 363-373), Homicide for Dowry, Dowry Deaths or their attempts (Section 302/304-B), Torture-both mental and physical (Section 498-A), Molestation (Section 354), Sexual Harassment (Eve Teasing) (Section 509) and Importation of girls (upto 21 years of age) (Section 366-B) are crimes under the Indian Penal Code which are typified as crimes against women. Similarly, there are several crimes against women which are coming under Special and Local Laws (SLL) viz., Immoral Traffic (Prevention) Act, 1956, Dowry Prohibition Act, 1961, Indecent Representation of Women (Prohibition) Act, 1986 and the Commission of Sati (Prevention) Act, 1987. The Committee have also been informed that a total of 2,28,650 incidents of crime against women were reported in the country during the year 2011 as compared to 2,13,585 incidence in the year 2010, thereby, recording an increase of 7.1% during the year 2011. These crimes have continuously increased during 2007-2011 with 1,85,312 cases in the year 2007, 1,95,856 cases in the year 2008, 2,03,804 cases in the year 2009 and 2,13,585 cases in the year 2010 and 2,28,650 cases in the year 2011. The Committee are astonished to find that on the one hand, the incidents of sexual abuse, in various forms, are increasing at a lightning speed throughout the country and on the other hand, no concrete action plan appear to have been formulated and implemented by the Union Government to genuinely persuade all the States to put a halt to various crimes against women on the grounds that as per Seventh Schedule, 'Police' and 'Public Order' are State subjects under the Constitution. The Committee have apprehension that if the current state of affairs are not handled properly by all the stakeholders, the rate of increase of victims of sexual abuse would be higher than the growth of population rate in the country by the end of year 2013. The Committee, therefore, strongly recommend that all the stakeholders viz., the Union Government and the State Governments should work in tandem to bring about a perceptible decrease in the crimes against women. For this purpose, a special Co-ordination Committee/

Monitoring Mechanism be put in place by the Union Government so that crime prevention techniques and other related aspects could be discussed with the State Governments, on monthly basis, and pro-active measures such as providing financial assistance for modernisation of State Police in terms of weaponry, communication equipment, mobility, training and other infrastructure could be initiated within a stipulated time with a view to encouraging those States where improvements are significant, on the other hand, slow improving areas should be brought in for some harsh remedial measures.

*(Recommendation Sl. No. 1, Para No. 2.1)*

### **Crime against women in Mega cities**

2.2 The Committee find that as per Population Census 2011, 53 cities having population of over 10 lakh have been identified as Mega cities. According to National Crime Records Bureau, a total of 33,789 cases of crimes against women were reported from these 53 cities during the year 2011 as compared to 24,335 cases in the year 2010. The Committee are dismayed to note that among these Mega cities, Delhi has accounted for 13.3% of total such crimes followed by Bengaluru, Hyderabad and Vijayawada. The Committee are also astonished to note that Delhi has accounted for 17.6% of Rape cases, 31.8% of Kidnapping and Abduction cases, 14.0% of Dowry Deaths and 10.1% of Molestation cases among these 53 cities. All these statistical inputs explicitly point out to the fact that all the Mega cities in the country which are equipped with relatively modern police apparatus are being transformed as safe haven for criminals and anti-social elements who have scant regard for laws, law enforcement agencies and the legal system. The crime against women in Mega cities received a further shock and put the concept of modern policing combined with the objective of creating safe environment for women & children in complete jeopardy when a horrific incident took place in Delhi on 16 December, 2012 when a 23 year old student of physiotherapy was brutally gang-raped by six men in a moving bus. Even now, the spate of crimes against women in Mega cities has not been contained and the cases of rape, molestation, abduction of women & children etc., have become almost a daily, shameful affair. The Committee take a serious note of the entire scenario and strongly recommend that the Union Government, in purposeful co-ordination with all the State Governments, should make sincere efforts to overhaul the tattered policing system in the country with a view to giving them a human face

so that women, in distress, could approach them for redressal of their grievances. The Committee, therefore, urge upon the Government to consider setting up an Expert Group to study the challenges being faced by the country in the form of increasing crime against women & children in Mega cities and suggest practical solutions in tune with the requirements of 21<sup>st</sup> century. The Committee are apprehensive that if effective measures are not initiated in the right earnest, all these Mega cities would become dangerous place for women & children.

*(Recommendation Sl. No. 2, Para No. 2.2)*

### Human Trafficking

2.3 The Committee are aware that in May, 2011, India has ratified the United Nations Convention on Transnational Organised Crime (UNCTOC) which has one of its protocols as Prevention, Suppression and Punishment of Trafficking in Persons, particularly women and children. India has also ratified the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. The Committee have, however, observed that inspite of India being a part of global efforts to combat human trafficking, a total of 3517 incidents of crimes under various provisions of laws relating to human trafficking were reported in the country during the year 2011 as compared to 3422 during the year 2010 recording an increase of 2.8% during the year 2011. The Committee appreciate the initiative of various stakeholders, be it the Union Government or the State Governments, in combating human trafficking. However, taking a cue from the information furnished by the Ministry of Women and Child Development that as per a study conducted by NHRC-UNIFEM-ISS titled "Trafficking in Women and Children in India" 70,000 to 1 million women and children are trafficked into sex work as well as the estimation of GNK study that there are about 2.8 million sex workers in the country of which 36% are children. Juxtaposing the same to the statistical data furnished by National Crime Records Bureau to the effect that in the year 2011, 862 cases of procurement of minor girls were reported, 80 cases of importation of girls, 113 cases of selling of girls for prostitution, 27 cases of buying of girls for prostitution were reported but cases under Immoral Traffic (Prevention) Act, 1956 have registered a decrease of 28.4% during the year, the Committee doubt the authenticity of the relevant data provided by the National Crime Records Bureau. Though the Committee are aware that the data is only a partial reflection of the extent of human trafficking in the country as most of the incidents go unreported, they desire that a well thought out strategy be adopted by the Union Government

i.e. the methodology for collection of data by National Crime Records Bureau be made more reliable, compilation of 'Crime in India' be published on half-yearly basis instead of on yearly basis and all the State Governments should be persuaded to issue instructions/ guidelines/standing orders to police authorities to scrupulously register cases of crimes against women and children including that of human trafficking. This is an onerous task and the Committee desire that the Union Government should take all measures to achieve it. The Committee would like to be apprised of a definite roadmap, including targeted dates for each of these activities, at the earliest.

*(Recommendation Sl. No. 3, Para No. 2.3)*

### **Involvement of juveniles in crime against women**

2.4 The Committee observe that as per the definition of juveniles in the Juvenile Justice Act, 1986, male below the age of 16 years and female below the age of 18 years were considered as juveniles. The Act was amended in the year 2000 according to which, the age of juvenile males and females was brought at par as below the age of 18 years. The Juvenile Justice (Care and Protection of Children) Act, 2000 provides for adjudication and rehabilitation of Juvenile delinquents. The Committee have further been apprised that a total of 22740 IPC crimes were committed by juveniles during the year 2010 which increased to 25125 crimes during the year 2011 i.e. an increase of around 10.5%. The crimes against women committed by juveniles have also shown an upward trend. For instance, in the year 2010, juveniles were involved in 858 cases of rape, 391 cases of kidnapping & abduction of women and 536 cases of molestation which rose to 1149 cases of rape, 600 cases of kidnapping & abduction of women and 573 cases of molestation in the year 2011. The Committee also analysed the profile of juveniles apprehended and found that most of the crimes have been committed by male juveniles in the age group of 16-18 years. The reasons for juveniles getting into various forms of crime vary from impulsive disorder, peer pressure, disturbed environment to broken family, aggression, lavish lifestyles and uncontrolled freedom from parents. The Committee would like to caution on the dangerous trend of increased involvement of juveniles in various crimes against women. The involvement of a juvenile in the horrific incident of gang rape in Delhi on 16 December, 2012 is a case in point which requires a serious debate on the remedial measures need to be initiated by various stakeholders including the law

enforcement agencies. The Committee are aware that there was a vociferous demand from various social organizations, women's groups, academicians and a large body of expert people for decreasing the age of male juveniles to 16 years. The Committee also deliberated on this issue taking into account various aspects including the juvenile laws in other countries. The Committee are of considered opinion that inspite of the fact that the Juvenile Justice Act, 1986 was amended in the year 2000 and the age of juvenile males and females was brought at par as below the age of 18 years, it has not produced the desired results. On this issue, the Committee would like to clear their apprehension that had the rape of a 5 year old minor girl in Delhi was committed by a juvenile in the age group of 16-18 years, his crime would have been tried under the Juvenile Justice (Care and Protection of Children) Act, 2000 which provides only for adjudication and rehabilitation of Juvenile delinquents. Notably, the Committee headed by Hon'ble Justice (Retd.) J.S. Verma to look into the possible amendments of the Criminal Law were not inclined to reduce the age of a juvenile to 16 years. Notwithstanding this as well as keeping in view the fact that juvenile crimes that too in the age group of 16-18 years are on the rise, the Committee urge the Government to reconsider the aspect of reduction of age of male juvenile from 18 to 16 years for the purpose of being tried for crimes committed against women and offences under various laws of the country.

*(Recommendation Sl. No. 4, Para No. 2.4)*

### Forensic Science Laboratories

2.5 The Committee find that the Directorate of Forensic Science Services (DFSS) under the Ministry of Home Affairs is the apex body for forensic science in the country. It administers the work of three Forensic Science Laboratories (CFSLs) at Kolkata, Hyderabad and Chandigarh and three new Central Forensic Institutes at Pune, Bhopal and Guwahati. The Committee also find that the present number of DNA Profiling Centres are not sufficient in view of the increasing number of rape cases in the country. The Committee are distressed to notice the recurring malady and insensitive approach of the Government to the effect that a negligible 25 DNA Centres have a meagre 50-60 trained manpower in India. The Committee have been informed that DNA analysis in a case can be completed in 2 days or a week. In case, there is delay in submission of exhibits to the laboratory, it will lead to the degradation of exhibits. Since DNA profiling is considered to be a major piece of evidence for filing a charge sheet in rape cases, the Committee strongly

recommend that the Ministry of Home Affairs should critically review their own performance in setting up of more high-tech Forensic Science Laboratories with adequate trained manpower and work out a concrete action plan to motivate and/or persuade the potential States which have shown lack of interest in setting up of their own Forensic Science Laboratories. The Committee further emphasise that Ministry of Home Affairs should atleast now tighten their belt and work out modalities to quantify the number of Forensic Science Laboratories/ DNA Profiling Centres, additional technical manpower and equipment required by following a yardstick of obtaining DNA results within a period of three weeks in all cases. Once a scientific analysis on this account is undertaken by the Ministry of Home Affairs, if need be, financial assistance may also be provided to various States for expeditious setting up of Forensic Science Laboratories/ DNA Profiling Centres.

*(Recommendation Sl. No. 5, Para No. 2.5)*

#### National Database of Offenders

2.6 The Committee observe that creating a National Database of Offenders, whereby, criminals can be linked to their previous crimes would be helpful in tracking and resolving cases of rape/assault and abuse against women. The Committee have been informed that National Database of Offenders is an essential necessity and it will also help in resolving the cases of serial rapes and murders as well as identifying unknown criminals and their modus operandi. However, at present, India does not have a national law that empowers the Government to collect and store DNA profiles of offenders. Since National Database of Offenders/Criminals will not only facilitate the law enforcement agencies of various States to draw up a unified strategy to prevent various types of crimes including crimes against women and children but also restrict the intra-State mobility of habitual offenders/criminals in fear of being apprehended, the Committee strongly recommend that a time bound road map of the proposal should be formulated by the Ministry of Home Affairs. The Committee also recommend that all the legal glitches standing on the way of fructifying the proposal may be sorted out in consultation with the Ministry of Law and Justice at the earliest possible. The Committee urge upon the Government to take the desired steps and apprise the Committee accordingly.

*(Recommendation Sl. No. 6, Para No. 2.6)*

## Fast Track Courts

2.7 The Committee find that with a view to ensuring that perpetrators of crime against women are brought to book without delay, the Ministry of Home Affairs is taking action for speedy investigation in such cases. Besides, the Ministry of Law and Justice has written to the Chief Justices of High Courts and Chief Ministers of States to impress upon the need to fast track trials of all pending rape cases in the District/ Subordinate Courts as well as those pending in the High Courts in appeal. Accordingly, 1192 Fast Track Courts have been established in the country especially for dealing with cases of violence and sexual abuse against women and children. The statistical data of National Crime Records Bureau shows that in the last three years, the number of cases pending for trial have registered an increasing trend. From 69533 cases pending for trial in 2009, the number has gone up to 77855 in 2011. The Department of Justice also submitted that the Central Government has been supporting State Governments for establishment of Subordinate Courts through various schemes. A provision of Rs. 4867 crore has been made for this scheme under the 12<sup>th</sup> Five Year Plan. Recently, the Delhi High Court has announced the constitution of 5 Fast Track Courts for speedy trial of rape cases. Punjab & Haryana High Court has also designated 8 existing courts in Punjab and 11 existing courts in Haryana for expeditious disposal of rape cases. The Committee are constrained to mention that setting up of Fast Track Courts would not be able to deliver the desired results until and unless these Courts are made permanent and additional posts in the Subordinate Judiciary are created to exclusively man these Courts. Besides, the administration of justice should be visible in true sense by ensuring that requests for frequent adjournments on flimsy grounds need not be entertained and time bound disposal of cases should be adhered to at all cost demonstrating that these are the fast track courts in real sense. The Committee, therefore, recommend that a quick study in co-ordination of State Governments and respective High Courts should be initiated by the Government to pragmatically analyse the State-wise requirement of Fast Track Courts alongwith the number of additional Judges required to man these Courts. While analyzing this, care should also be taken by the Government to make a future projection of the overall requirement of Fast Track Courts commensurate with the anticipated increase in the crimes against women and children and the number of Judges who would be retiring on attaining the age of superannuation. It should also be ensured that constitution of Fast Track Courts may not affect the functioning of normal courts in terms of re-deployment of Judges and court staff



from normal courts to Fast Track Courts. The Committee would like to be kept informed about the progress made in this regard.

*(Recommendation Sl. No. 7, Para No. 2.7)*

### Increase of Judges' strength

2.8 The Committee note that India today has 18000 positions of Judges at the subordinate Judiciary level. This is about 13 Judges for every one million of population. This is against an average of 50 Judges per one million population in developed countries and 35-40 in some other developing countries. The Committee have been apprised that Advisory Council of the National Mission for Justice Delivery and Legal Reforms passed a resolution in May, 2012 to the effect that the number of Judges in the subordinate Judiciary needs to be doubled in the next five years to liquidate the pendency of arrear of cases. The Committee have also been given to understand that in the High Courts, there are 895 permanent Judges, whereas, the actual strength is less than 700 Judges. The Department of Justice, during the course of evidence has also informed that out of 18800 Judges, around three thousand positions are vacant which comes to about 20%. Today, out of sanctioned strength of 18000, about 15000 are presiding the courts and there is a proposal to add another 15000 positions in the next five years and take the number to about 30000. The Committee acknowledge the resolution passed by the Advisory Council and the decision arrived at by the Government in co-ordination with State Governments and respective High Courts to increase the number of Judges and working courts in the country. However, the Committee are of considered opinion that even after increasing the strength of Judges, the Judge-population ratio in the country would be far less than the ratio in other developed/ developing countries. Here, the Committee are constrained to refer to an old dictum that 'Justice Delayed is Justice Denied'. This maxim postulates that an unreasonable delay in the administration of justice constitutes an unconscionable denial of justice which give rise to innumerable socio-economic problems. The Committee feel that by increasing the strength of Judges, not only the framework of a democratic polity would be strengthened but also a perceptible change would be visible in the form of social well being and adherence to law and mores. In the light of the foregoing, the Committee recommend that the Government should make all out efforts to fill up all the existing vacant posts of Judges at the subordinate level as well as in the High Courts. The Committee would also like to be apprised of the concrete steps

taken by the Government for bringing the Judge-population ratio atleast to a level of 35-40 Judges per ten lakh population, if not 50 Judges per one million population as existing in developed countries.

*(Recommendation Sl. No. 8, Para No. 2.8)*

### Police strength

2.9 The Committee find that, as on 31.12.2011, the existing police strength [(Civil and Armed) (Men and Women)] in the country was 12.8 lakhs against the sanctioned strength of 16.6 lakhs, rendering 22.9% posts vacant. Maharashtra has the highest actual strength of Civil Police accounting for 13.2% of the total civil police in the country followed by Uttar Pradesh which is around 1,55,477 personnel (12.1%). Delhi has the largest contingent of 66,686 (85%) of the total police strength of 78,428 in the seven Union Territories. The Committee have been informed that as per BPR&D publication "Data on Police Organisations in India", as on January, 2011, the total number of women police stations were 442 of which Tamil Nadu had the highest number of 196 and some States like Arunachal Pradesh, Bihar, Himachal Pradesh, Maharashtra, Mizoram, Nagaland, Sikkim, Uttarakhand, West Bengal, Andaman & Nicobar Islands, Chandigarh, Daman & Diu, Delhi and Lakshadweep do not have any women police stations. The Committee have also been apprised that the existing police population ratio per lakh of population, as on 1.1.2011 based on BPR&D publication is 137.86 which is still much below the United Nations recommended ratio of 450. Having analysed various aspects in the foregoing paragraphs, be it, the increased number of victims of sexual abuse, crime against women in mega cities, serious problem of human trafficking, involvement of juveniles in crime against women, insufficient number of forensic science laboratories, requirement of Fast Track Courts or availability of Judges, the Committee are dismayed to note that the existing police population ratio in the country is far less than the acceptable level. The Committee are of considered view that the people in distress firstly come in contact with police and only thereafter, a chain of events takes place in the form of medical examination of the victim, recording of statement before the Magistrate, assigning the case to Public Prosecutor and appearance in the Court proceedings. If there is an overall shortage of police personnel including women police stations, the Committee have serious apprehension that all other efforts initiated by the Government would not yield the desired results. The Committee are also amazed to notice that even after more than six decades of our independence and the constitutional dream of securing the

gender equality, we have not been able to bring the women in the mainstream and even today, 'the mainstream remains very much a male stream'. The Committee, therefore, recommend that the Government should come out with a realistic assessment of State-wise number of police personnel required in the country to meet the new challenges in the form of increased crimes against women. Thereafter, the blue-print, so prepared, could be discussed with all the State Governments for urgent implementation. In the process, the Government should also persuade the States where Women Police Stations are either not existing or functioning at a miniscule level, to set up atleast 2-3 Women Police Stations in each District so that the women, in distress, could explain their agony to women police personnel without fear or inhibition. The Committee wish to be apprised of the steps taken by the Government in this regard.

*(Recommendation Sl. No. 9, Para No. 2.9)*

### Disposal of cases by Police and Courts

2.10 The Committee note that performance of police in disposal of various IPC crimes committed against women in the country is far from satisfactory. For instance, a total number of 36151 rape cases in the country were under the investigation of police during the year 2011 which includes pending cases from previous year. During the year 2011, the police could investigate a paltry 22898 cases (63%) resulting in 13221 cases pending investigation at the end of the year. Similarly, out of 55017 cases of kidnapping and abduction of women and girls during the year 2011, the police could investigate 32958 cases (60%). The Committee have also been informed that the rate of conviction in various crimes committed against women viz., rape, kidnapping and abduction of women and girls, molestation, sexual harassment, importation of girls and under the Immoral Traffic (Prevention) Act is also disheartening. To quote a few, during the year 2011, 4072 persons were convicted for rape, whereas, 11350 persons were acquitted or discharged by the courts. 3174 persons were convicted for kidnapping and abduction of women and girls, whereas, 8110 persons were acquitted or discharged. Similarly, 918 persons were convicted under the Immoral Traffic (Prevention) Act, whereas, 1077 persons were acquitted or discharged. In their submission before the Committee, the Ministry of Home Affairs have informed that the conviction rate in rape cases in Delhi was much higher as compared to All India figure. In 2009, it was 47%, in 2010, it was 34% and in 2011, it was 41%. During the

evidence before the Committee, the representative of the Ministry of Home Affairs also stated that the main problem in low conviction was due to delayed pronouncement of judgement as the trial continues for a number of years. Though the representative of the Ministry was candid in accepting that low rate of conviction was due to prolonged trial before the court, the Committee are of firm opinion that low rate of conviction is also attributable to shoddy investigation by the police authorities and/or inherent flaws in charge sheet filed by them. The Committee are surprised to find that the National Crime Records Bureau which is the nodal agency for bringing out annual publication on the crime scenario of the country has not been maintaining statistics on the basis of which it could be gathered that in how many cases, the charge-sheeted person has been acquitted or discharged due to shoddy investigation by the police authorities or inherent flaws in framing of charge sheet by them. The Committee, therefore, urge upon the Government to re-draw their action plan in co-ordination with the State Governments to ensure that the cases of crime against women are investigated by the police authorities at the earliest and the cases should not be carried forward to a later date for want of investigation. The Committee strongly recommend that in case the acquittal of charge-sheeted person(s) is due to shoddy police investigation, the Investigating Officer should be held accountable for the lapse and stern disciplinary action should be initiated against the derelict police official(s) in such cases. The Committee also recommend that National Crime Records Bureau should examine the possibility of including the details of all such cases in which accused has been acquitted or discharged by the courts due to shoddy investigation by the police authorities or inherent flaws in framing of charge sheet by them in their publication titled 'Crime in India'.

*(Recommendation Sl. No. 10, Para No. 2.10)*

### Ujjawala – A scheme for victims of trafficking

2.11 The Committee note that Ujjawala Scheme has been initiated in December, 2007 for prevention of trafficking & rescue, rehabilitation and re-integration of victims of trafficking for commercial sexual exploitation. The target group includes women and children who are vulnerable as well as those who are victims of trafficking for commercial sexual exploitation. The Scheme is being implemented through Non-Government Organizations (NGOs). The rehabilitation component receives the maximum grant under the Scheme. The rehabilitation

package includes setting up of Protective and Rehabilitation Home with basic amenities such as food, clothing etc., provision for legal aid and medical care for psychological and emotional rehabilitation and vocational training for economic rehabilitation. The Committee were also informed that since the launch of this Scheme, the Ministry of Women and Child Development have supported 201 projects in 21 States, 186 projects have a preventive component, 95 for rescue, 101 for rehabilitation, 66 projects for re-integration and 14 projects for repatriation. Thus, it can be safely presumed that since the launch of the Scheme, in 5 ½ years, only 201 projects have been supported by the Ministry. Besides, the Scheme is not spread over the entire country. The Committee find this utterly an unsatisfactory situation and a futile attempt to window-dressing, especially when there is a sudden spurt in crimes against women. The Ministry have attributed the non-existence of projects under Ujjawala in all the States/ UTs to reasons like inability of the State Governments to proactively identify or recommend good proposals etc. The Committee are pained to mention that none of these reasons appears to be so insurmountable as to block the pan-India coverage of such an important endeavour. The Committee, therefore, strongly recommend that the Ministry should make renewed and concerted efforts to convince the State Governments about the impact of this small but very significant effort towards prevention, rescue, rehabilitation, reintegration and repatriation of victims of trafficking. The Committee would also like the Government to ensure that more and more NGOs may be co-opted for making this Scheme visible throughout the country.

*(Recommendation Sl. No. 11, Para No. 2.11)*

### Swadhar and Short Stay Homes Schemes

2.12 The Committee note that the scheme of Short Stay Home (SSH) for women and girls was introduced as a social defense mechanism by the Ministry of Women and Child Development in 1969. The scheme is meant to provide temporary accommodation, maintenance and rehabilitative services to women and girls rendered homeless due to family discord, crime, violence, mental stress, social ostracism or who are being forced into prostitution. The Ministry has stated that with the aim to provide primary need of shelter, food, clothing and care to the marginalised women and girls who are without any social and economic support, Swadhar scheme was launched in the year 2001-02. The Ministry has further informed that Swadhar and Short Stay Home schemes are proposed to be merged

into a new sub-scheme 'Swadhar Greh' which is to be implemented as a component of the Centrally Sponsored umbrella scheme on Women Empowerment during the 12<sup>th</sup> Plan. Though the Committee reserve their observations on the proposed merger of Swadhar and Short Stay Home into a new sub-scheme 'Swadhar Greh', at the same time, they express their concern that various social welfare schemes/ programmes are initially formulated by the Ministry and soon thereafter, without making any realistic assessment of the attainment of objectives, the schemes/ programmes are merged/ renamed on the pretext of improving financial norms. This sort of mechanism becomes all the more serious when the earlier schemes have even not reached to the District level within the country. The Committee are constrained to observe that various Schemes of the Government are merged to camouflage their failure. The Committee, therefore, strongly recommend while integrating the Swadhar and Short Stay Home schemes into a new sub-scheme 'Swadhar Greh', the Ministry should ensure that the scheme reaches each and every District of the country and adequate funds are made available so that the intended benefits are reached to the women and girls in distress.

*(Recommendation Sl. No. 12, Para No. 2.12)*

### Compensation to victims of violence

2.13 The Committee observe that Section 357 of the Code of Criminal Procedure (Cr.PC) enables the courts to award compensation to victims of various crimes, including that of rape, molestation and eve teasing. Through the amendments in 2009 and 2013, new Sections were introduced in the Cr.PC which *inter alia* casts a responsibility on the State Governments to formulate a Scheme in coordination with the Central Government for providing compensation to those who are victims of crime and require rehabilitation. The Committee have also been informed that so far, 16 States/ UTs have formulated the Victim Compensation Scheme. The crimes that are contemplated for compensation by the States are rape, severe mental agony, loss of life, grievous hurt, loss of limb, rape of minor etc. The Committee are flabbergasted to observe that even when new Sections 375B and 357C have been added while effecting amendments to the Cr. PC in March, 2013, no sincere and visible efforts have been made by the Government to ensure that the Victim Compensation Scheme is implemented by all the States/ UTs. The Committee are exasperated by the fact that if the States/ UTs do not have

the requisite apparatus in the form of Victim Compensation Scheme, how the women and girls who are victims of sexual abuse and other forms of crimes would be able to get the structured and effective relief from the Government. The Committee, therefore, urge upon the Government to impress upon all the State Governments/ UTs concerned to formulate the Victim Compensation Scheme at the earliest.

*(Recommendation Sl. No. 13, Para No. 2.13)*

### Childline Services

2.14 The Committee note that Integrated Child Protection Scheme (ICPS) supports Childline services which is a 24-hour toll free telephone number '1098'. Any child in need of immediate help, including trafficked and abused children can dial this number and efforts are made to reach the child within one hour. The Committee has also been informed that as of March, 2011, Childline operates in 200 cities/districts in 30 States and UTs through its network of approximately 535 partner organisations across India. The Childline network across the country received around 17231 cases for Protection from Abuse in 2010-11. While the Committee appreciate the initiative taken by the Ministry of Women and Child Development for introducing the Childline Services, at the same time, they express concern over its limited reach which could be gauged from the fact that out of 640 Districts in the country, the Childline Service is available in a meagre 264 Cities/ Districts. It is also not comprehensible that on the one hand, statistical details of incidents of child abuse indicate an abnormal accretion and on the other hand, the Childline network across the country had received approximately 17231 cases for Protection from Abuse in 2010-11. The Committee, therefore, recommend that Ministry of Women and Child Development should work in tandem with the State Governments/ UTs to ensure that Childline Services are made available in all the 640 Districts in the country. In addition to this, the Committee also urge upon the Government to make wide publicity of Childline Services '1098' through audio, visual and print media so that more and more children in distress could approach for their protection from abuse.

*(Recommendation Sl. No. 14, Para No. 2.14)*

## Gender Budgeting

2.15 The Committee observe that in 2004-05, the Ministry of Women and Child Development adopted 'Budgeting for Gender Equality' as a Mission Statement. The mainstreaming of gender concerns has been reiterated as an objective of the Ministry in its Strategic Plan Document in 2011-12. Gender Budgeting has also been much emphasized in the National Mission for Empowerment of Women. Another important step taken in the direction of Gender Budgeting in the country was the incorporation of the Statement 20 as a part of the Expenditure Budget Document Volume I. The Gender Budgetary allocations are reflected in a two-way classified Gender Budgeting Statement. The first part of the Statement, Part A includes Schemes with 100% allocation for women viz., Universal Service Obligation Scheme, Opening of Crèche, Day Care Centre, Gender Sensitization, Health Care Centre, Women's Rest Room, Women's Hostel, Scheme for Incentive to the Girl Child for Secondary Education etc. Part B of the Statement includes Schemes/ Programmes with 30% allocation for women viz., Technology Mission on Cotton, Village Gramin Bank Scheme, Zonal Culture Centres, National Aids Control Programme etc.. The Committee further observe that the total Gender Budget for the fiscal year 2013-14 for 100% Women Specific Programmes (Part A) is Rs. 27248.19 crore which is Rs. 4279.26 crore higher than the previous fiscal year. Similarly, the total Gender Budget for the current fiscal year for 30% Women Specific Programmes (Part B) is Rs. 69885.51 crore which is Rs. 4711.64 crore higher than the fiscal year 2012-13. While endorsing the Gender Budget allocated by the Government for the current fiscal year, the Committee express hope that the available resources would be efficiently utilized to improve the status of women and the transforming the constitutional dream of gender equality into a reality. However, the Committee wish to express that taking into account that women constitute about 48.5% of the country's total population, the Gender Budget amounting to Rs. 27248.10 crore for 100% Women Specific Programmes for the current fiscal year could be enhanced to ward off the inflationary trends prevailing in the country. In view of the foregoing, the Committee would like the Ministry of Women and Child Development to approach the Planning Commission/ Ministry of Finance to allocate more funds so that time bound implementation and completion of programmes for empowerment of women can be ensured.

*(Recommendation Sl. No. 15, Para No. 2.15)*



### Criminal Law (Amendment) Act, 2013

2.16 The Committee note that after the horrific incident of gang rape of a 23 year old physiotherapy student in Delhi on 16 December, 2012, the Government of India *vide* Notification No. SO(3003)E dated 23 December, 2012 constituted a Committee of Jurists headed by Hon'ble Justice (Retd.) J.S. Verma, former Chief Justice of India with Hon'ble Justice (Retd.) Leila Seth, former Chief Justice of Himachal Pradesh High Court and Shri Gopal Subramanian, former Solicitor General of India to look into the possible amendments of the Criminal Law to provide for quicker trial and enhanced punishment for criminals, accused of committing sexual assault of extreme nature against women. The Committee submitted its Report to the Government on 23 January, 2013 *inter alia* suggesting amendments to the Indian Penal Code (IPC), 1860, the Code of Criminal Procedure, 1973, the Indian Evidence Act, 1872, the Armed Forces (Special Powers) Act, 1958 and the Representation of People Act, 1951. Based on the recommendations of the Committee on amendments to Criminal Law, the President of India promulgated the Criminal Law (Amendment) Ordinance, 2013 on 3.2.2013. Meanwhile, the Parliamentary Standing Committee on Home Affairs presented their Report on Criminal Law (Amendment) Bill, 2012 to Rajya Sabha on 1.3.2013 and laid on the Table of Lok Sabha on 4.3.2013. Accordingly, the Criminal Law (Amendment) Bill, 2013 was passed by Lok Sabha on 19.3.2013 and the said Bill was passed by Rajya Sabha on 21.3.2013 without any amendments. On 2.4.2013, the President of India accorded his assent to the Bill and now it is known as Criminal Law (Amendment) Act, 2013. The Committee take note of the comparative analysis on the amendments in the Criminal Law proposed by the Committee headed by Hon'ble Justice (Retd.) J.S. Verma, former Chief Justice of India, provisions contained in the Criminal Law (Amendment) Ordinance, 2013 alongwith the Criminal Law (Amendment) Act, 2013 at Annexure VI of the Report. The Committee express their happiness over the fact that Government has exhibited their concern in dealing with this issue in tune with the majority of thinking people in the country. However, the Committee wish to delve as to whether framing of stricter laws to contain crimes against women is enough or effective implementation of law that would make the women in India feel safe and protected is more important. The Committee have noticed, in the foregoing paragraphs of the Report, that there are various inadequacies in the overall system of administration of justice viz., increased involvement of male juveniles especially in the age group of 16-18 years in committing crimes against women, ill-equipped Forensic Science Laboratories/

DNA Profiling Centres, absence of National database of offenders, in-sufficient number of Judges at the District/ Subordinate Courts, non-filling of vacancies of Judges at the High Courts, inadequate police strength, low rate of disposal of cases by Police and Courts and, perhaps, shoddy investigation by the law enforcement agencies leading to acquittal of perpetrators of crime against women. The Committee feel that merely addressing the end stage of rape in the form of stricter provisions in the law is not enough. The Government have to address the issue from the initial stages to protect women from sexual abuse and various other atrocities being faced by them in the country. There has always been a question which remained unanswered that even though stricter punishment in the Criminal Law (Amendment) Act, 2013 has been prescribed, innumerable cases of rape have recently been reported from various parts of the country. Against this backdrop, the Committee observe that there is no deficiency of Laws relating to crimes against women in the country but in the opinion of the Committee, it is lack of their proper application, execution and implementation. The Committee, therefore, recommend that the Union Government and all the State Governments should act in unison and formulate an innovative strategy to resolve and address the deficiencies in the system of administration of justice in the country so that criminals and anti-social elements think twice before committing any crime against women.

*(Recommendation Sl. No. 16, Para No. 2.16)*

**NEW DELHI**

6 May, 2013

16 Vaisakha, 1935 (Saka)

**RAJKUMARI RATNA SINGH**

Chairperson,

Committee on Empowerment of Women

**ANNEXURE I**  
**Incidence of crimes committed against women during 2010 and 2011**  
*(vide para 1.16 of the Report)*

Sl. No.	STATE/UT	Rape		Kidnapping & abduction		Dowry deaths		Cruelty by husband & relatives	
		2010	2011	2010	2011	2010	2011	2010	2011
1	ANDHRA PRADESH	1362	1442	1531	1612	588	599	12080	13376
2	ARUNACHAL PRADESH	47	42	46	60	0	0	12	18
3	ASSAM	1721	1700	2767	3192	175	121	5410	5246
4	BIHAR	795	934	2569	3050	1257	1413	2271	2607
5	CHHATTISGARH	1012	1053	279	365	115	104	861	834
6	GOA	36	29	18	17	1	1	17	18
7	GUJARAT	408	439	1290	1442	19	30	5600	6052
8	HARYANA	720	733	714	733	284	255	2720	2740
9	HIMACHAL PRADESH	160	168	162	191	2	4	275	239
10	JAMMU & KASHMIR	245	277	840	1023	9	11	211	286
11	JHARKHAND	773	784	696	660	276	282	650	659
12	KARNATAKA	586	636	586	715	248	267	3441	3712
13	KERALA	634	1132	184	221	22	15	4797	5377
14	MADHYA PRADESH	3135	3406	1030	1088	892	811	3756	3732
15	MAHARASHTRA	1599	1701	1124	1252	393	339	7434	7136
16	MANIPUR	34	53	107	116	0	1	18	39
17	MEGHALAYA	149	130	37	37	0	1	24	21
18	MIZORAM	92	77	0	0	0	0	3	9
19	NAGALAND	16	23	6	3	0	0	1	1
20	ODISHA	1025	1112	912	1008	388	465	2067	2320
21	PUNJAB	546	479	576	517	121	143	1163	1136
22	RAJASTHAN	1571	1800	2477	2713	462	514	11145	12218
23	SIKKIM	18	16	6	10	1	0	3	4
24	TAMIL NADU	686	677	1464	1743	165	152	1570	1812
25	TRIPURA	238	205	91	116	25	30	937	702
26	UTTAR PRADESH	1563	2042	5468	7525	2217	2322	7978	7121
27	UTTARAKHAND	121	129	249	283	75	83	334	307
28	WEST BENGAL	2311	2363	2764	3711	507	510	17796	19772
	<b>TOTAL (STATES)</b>	<b>21603</b>	<b>23582</b>	<b>27993</b>	<b>33403</b>	<b>8242</b>	<b>8473</b>	<b>92574</b>	<b>97494</b>
<b>UNION TERRITORIES:</b>									
29	A & N ISLANDS	24	13	8	12	0	0	9	5
30	CHANDIGARH	31	27	28	46	5	2	41	46
31	D & N HAVELI	3	4	10	8	0	0	3	3
32	DAMAN & DIU	1	1	2	2	0	0	3	2
33	DELHI	507	572	1740	2085	143	142	1404	1575
34	LAKSHADWEEP	0	0	0	0	0	0	0	0
35	PUDUCHERRY	3	7	14	9	1	1	7	10
	<b>TOTAL (UTs)</b>	<b>569</b>	<b>624</b>	<b>1802</b>	<b>2162</b>	<b>149</b>	<b>145</b>	<b>1467</b>	<b>1641</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>22172</b>	<b>24206</b>	<b>29795</b>	<b>35565</b>	<b>8391</b>	<b>8618</b>	<b>94041</b>	<b>99135</b>

ANNEXURE I (Continued)

Incidence of crimes committed against women during 2010 and 2011

Sl. No.	STATE/UT	Molestation		Sexual Harassment (Eve-Teasing)		Importation of girls		Immoral Traffic (P) Act, 1956	
		2010	2011	2010	2011	2010	2011	2010	2011
1	ANDHRA PRADESH	4634	4849	4562	3658	0	0	548	497
2	ARUNACHAL PRADESH	84	51	1	0	0	0	0	0
3	ASSAM	1400	1193	20	8	0	2	25	21
4	BIHAR	534	790	16	11	8	10	24	23
5	CHHATTISGARH	1706	1654	182	174	2	2	12	15
6	GOA	36	29	16	12	0	0	16	18
7	GUJARAT	668	685	110	93	0	0	46	46
8	HARYANA	476	474	580	490	0	0	57	57
9	HIMACHAL PRADESH	350	331	78	62	0	0	1	2
10	JAMMU & KASHMIR	1038	1194	262	350	0	0	4	1
11	JHARKHAND	245	317	16	7	8	6	13	15
12	KARNATAKA	2544	2608	83	81	0	12	242	351
13	KERALA	2936	3756	537	573	0	0	309	197
14	MADHYA PRADESH	6646	6665	918	762	5	45	19	24
15	MAHARASHTRA	3661	3794	1180	1071	0	0	306	390
16	MANIPUR	31	38	0	0	0	0	0	0
17	MEGHALAYA	48	74	0	1	0	3	3	2
18	MIZORAM	75	72	0	1	0	0	0	8
19	NAGALAND	13	9	3	0	0	0	2	2
20	ODISHA	2905	3207	232	235	5	0	25	23
21	PUNJAB	349	282	38	31	0	0	59	50
22	RAJASTHAN	2339	2447	23	9	0	0	82	81
23	SIKKIM	11	24	0	0	0	0	3	1
24	TAMIL NADU	1405	1467	638	464	0	0	567	420
25	TRIPURA	376	294	9	9	0	0	1	2
26	UTTAR PRADESH	2793	3455	11	3	0	0	23	43
27	UTTARAKHAND	125	116	165	72	0	0	4	3
28	WEST BENGAL	2465	2363	163	200	8	0	56	96
	<b>TOTAL (STATES)</b>	<b>39893</b>	<b>42238</b>	<b>9843</b>	<b>8377</b>	<b>36</b>	<b>80</b>	<b>2447</b>	<b>2388</b>
<b>UNION TERRITORIES:</b>									
29	A & N ISLANDS	31	15	10	3	0	0	3	3
30	CHANDIGARH	29	21	4	12	0	0	3	1
31	D & N HAVELI	11	2	2	0	0	0	1	1
32	DAMAN & DIU	2	0	0	0	0	0	6	6
33	DELHI	601	657	80	162	0	0	28	33
34	LAKSHADWEEP	0	0	0	0	0	0	0	0
35	PUDUCHERRY	46	35	22	16	0	0	11	3
	<b>TOTAL (UTs)</b>	<b>720</b>	<b>730</b>	<b>118</b>	<b>193</b>	<b>0</b>	<b>0</b>	<b>52</b>	<b>47</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>40613</b>	<b>42968</b>	<b>9961</b>	<b>8570</b>	<b>36</b>	<b>80</b>	<b>2499</b>	<b>2435</b>

**ANNEXURE I (Concluded)**

**Incidence of crimes committed against women during 2010 and 2011**

Sl. No.	STATE/UT	Dowry Prohibition Act, 1961		Indecent Representation of Women (P) Act, 1986		Commission of Sati (Prevention) Act, 1987	
		2010	2011	2010	2011	2010	2011
1	ANDHRA PRADESH	1186	1899	753	314	0	0
2	ARUNACHAL PRADESH	0	0	0	0	0	0
3	ASSAM	37	19	0	1	0	0
4	BIHAR	997	1393	0	0	0	0
5	CHHATTISGARH	6	18	1	0	0	0
6	GOA	0	0	0	3	0	0
7	GUJARAT	7	28	0	0	0	0
8	HARYANA	11	9	0	0	0	0
9	HIMACHAL PRADESH	0	0	0	0	0	0
10	JAMMU & KASHMIR	2	3	0	0	0	1
11	JHARKHAND	404	402	6	0	0	0
12	KARNATAKA	1077	1210	0	2	0	0
13	KERALA	7	5	37	12	0	0
14	MADHYA PRADESH	67	66	0	0	0	0
15	MAHARASHTRA	40	44	0	1	0	0
16	MANIPUR	0	0	0	0	0	0
17	MEGHALAYA	0	0	0	0	0	0
18	MIZORAM	0	0	0	0	0	0
19	NAGALAND	0	0	0	0	0	0
20	ODISHA	942	1062	0	1	0	0
21	PUNJAB	1	3	0	0	0	0
22	RAJASTHAN	3	4	80	102	0	0
23	SIKKIM	0	0	0	0	0	0
24	TAMIL NADU	199	195	14	10	0	0
25	TRIPURA	1	0	0	0	0	0
26	UTTAR PRADESH	115	124	1	4	0	0
27	UTTARAKHAND	1	3	0	0	0	0
28	WEST BENGAL	53	116	2	2	0	0
	<b>TOTAL (STATES)</b>	<b>5156</b>	<b>6603</b>	<b>894</b>	<b>452</b>	<b>0</b>	<b>1</b>
<b>UNION TERRITORIES:</b>							
29	A & N ISLANDS	0	0	0	0	0	0
30	CHANDIGARH	0	1	0	0	0	0
31	D & N HAVELI	0	0	0	0	0	0
32	DAMAN & DIU	0	0	0	0	0	0
33	DELHI	15	7	0	1	0	0
34	LAKSHADWEEP	0	0	1	0	0	0
35	PUDUCHERRY	11	8	0	0	0	0
	<b>TOTAL (UTs)</b>	<b>26</b>	<b>16</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>5182</b>	<b>6619</b>	<b>895</b>	<b>453</b>	<b>0</b>	<b>1</b>

**ANNEXURE II**  
**Cases Registered under Human Trafficking during 2010**  
*(vide para 1.29 of the Report)*

Sl. No.	STATE/UT	Procurement of minor girls	Importation of girls	Selling of girls for prostitution	Buying of girls for prostitution	Immoral Traffic (P) Act, 1956	Total
1	ANDHRA PRADESH	82	0	3	0	548	633
2	ARUNACHAL PRADESH	0	0	0	0	0	0
3	ASSAM	75	0	3	0	25	103
4	BIHAR	152	8	0	0	24	184
5	CHHATTISGARH	11	2	0	0	12	25
6	GOA	1	0	0	0	16	17
7	GUJARAT	0	0	0	0	46	46
8	HARYANA	0	0	0	0	57	57
9	HIMACHAL PRADESH	3	0	0	0	1	4
10	JAMMU & KASHMIR	0	0	0	0	4	4
11	JHARKHAND	21	8	1	3	13	46
12	KARNATAKA	21	0	0	0	242	263
13	KERALA	6	0	0	0	309	315
14	MADHYA PRADESH	18	5	2	0	19	44
15	MAHARASHTRA	26	0	1	27	306	360
16	MANIPUR	0	0	0	0	0	0
17	MEGHALAYA	0	0	0	0	3	3
18	MIZORAM	0	0	0	0	0	0
19	NAGALAND	0	0	0	0	2	2
20	ODISHA	4	5	0	0	25	34
21	PUNJAB	0	0	1	0	59	60
22	RAJASTHAN	14	0	0	0	82	96
23	SIKKIM	0	0	0	0	3	3
24	TAMIL NADU	13	0	0	0	567	580
25	TRIPURA	32	0	0	0	1	33
26	UTTAR PRADESH	0	0	0	0	23	23
27	UTTARAKHAND	0	0	0	0	4	4
28	WEST BENGAL	200	8	115	48	56	427
	<b>TOTAL (STATES)</b>	<b>679</b>	<b>36</b>	<b>126</b>	<b>78</b>	<b>2447</b>	<b>3366</b>
<b>UNION TERRITORIES:</b>							
29	A & N ISLANDS	0	0	0	0	3	3
30	CHANDIGARH	0	0	0	0	3	3
31	D & N HAVELI	0	0	0	0	1	1
32	DAMAN & DIU	0	0	0	0	6	6
33	DELHI	0	0	4	0	28	32
34	LAKSHADWEEP	0	0	0	0	0	0
35	PUDUCHERRY	0	0	0	0	11	11
	<b>TOTAL (UTs)</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>52</b>	<b>56</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>679</b>	<b>36</b>	<b>130</b>	<b>78</b>	<b>2499</b>	<b>3422</b>

**ANNEXURE II (Concluded)**  
**Cases Registered under Human Trafficking during 2011**

Sl. No.	STATE/UT	Procuration of minor girls	Importation of girls	Selling of girls for prostitution	Buying of girls for prostitution	Immoral Traffic (P) Act, 1956	Total
1	ANDHRA PRADESH	106	0	2	0	497	605
2	ARUNACHAL PRADESH	0	0	0	0	0	0
3	ASSAM	142	2	0	0	21	165
4	BIHAR	183	10	1	1	23	218
5	CHHATTISGARH	15	2	1	0	15	33
6	GOA	0	0	0	0	18	18
7	GUJARAT	4	0	0	0	46	50
8	HARYANA	0	0	2	2	57	61
9	HIMACHAL PRADESH	3	0	0	0	2	5
10	JAMMU & KASHMIR	0	0	0	0	1	1
11	JHARKHAND	15	6	6	1	15	43
12	KARNATAKA	8	12	1	0	351	372
13	KERALA	9	0	0	0	197	206
14	MADHYA PRADESH	20	45	3	2	24	94
15	MAHARASHTRA	20	0	2	20	390	432
16	MANIPUR	0	0	0	0	0	0
17	MEGHALAYA	0	3	0	0	2	5
18	MIZORAM	0	0	0	0	8	8
19	NAGALAND	0	0	0	0	2	2
20	ODISHA	12	0	0	0	23	35
21	PUNJAB	0	0	0	0	50	50
22	RAJASTHAN	19	0	2	0	81	102
23	SIKKIM	0	0	0	0	1	1
24	TAMIL NADU	0	0	0	0	420	420
25	TRIPURA	5	0	0	0	2	7
26	UTTAR PRADESH	0	0	4	1	43	48
27	UTTARAKHAND	0	0	0	0	3	3
28	WEST BENGAL	298	0	87	0	96	481
	<b>TOTAL (STATES)</b>	<b>859</b>	<b>80</b>	<b>111</b>	<b>27</b>	<b>2388</b>	<b>3465</b>
<b>UNION TERRITORIES:</b>							
29	A & N ISLANDS	0	0	0	0	3	3
30	CHANDIGARH	0	0	0	0	1	1
31	D & N HAVELI	0	0	0	0	1	1
32	DAMAN & DIU	0	0	0	0	6	6
33	DELHI	3	0	2	0	33	38
34	LAKSHADWEEP	0	0	0	0	0	0
35	PUDUCHERRY	0	0	0	0	3	3
	<b>TOTAL (UTs)</b>	<b>3</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>47</b>	<b>52</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>862</b>	<b>80</b>	<b>113</b>	<b>27</b>	<b>2435</b>	<b>3517</b>

## ANNEXURE III

### FINANCIAL ASSISTANCE AND SUPPORT SERVICES TO VICTIMS OF RAPE: A SCHEME FOR RESTORATIVE JUSTICE

(vide para 1.119 of the Report)

The Hon'ble Supreme Court in *Delhi Domestic Working Women's Forum Vs. Union of India and others* writ petition (CRL) No.362/93 had directed the National Commission for Women to evolve a "scheme so as to wipe out the tears of unfortunate victims of rape". The Supreme Court observed that having regard to the Directive Principles contained in Article 38(1) of the Constitution, it was necessary to set up a Criminal Injuries Compensation Board, as rape victims besides the mental anguish, frequently incur substantial financial loss and in some cases are too traumatized to continue in employment. The Scheme thus prepared by NCW was deliberated in a series of consultations including a National Consultation that was attended by the CJI, Judges of the Supreme Court, Chief Justices and judges of various High Courts, representatives of Legal Services Authority before it was finalized.

#### Objectives of the Scheme

- a. Financial assistance to victims of rape; and
- b. Support services such as shelter, counselling, medical aid, legal assistance, education and vocational training depending upon the needs of the victim.

#### Target Group/ Beneficiaries

Women/minor girls who are victims of rape.

#### Assistance under the Scheme

##### **(A) Interim under the Scheme**

- a) Interim financial assistance of **Rs.20,000/-** to the affected woman, as far as possible within fifteen (15) days, and in any case, not later than three (3) weeks from the date of receipt of the application;
- b) On assessment of needs of the affected woman and after giving due consideration to the physical injury and emotional trauma faced by her., necessary support services (such as shelter, counselling, medical aid, legal assistance, education and vocational training) costing up to **Rs.50,000/-**



**(B) Final Assistance**

- Within a period of one month from the date on which the affected woman gives her evidence in the criminal trial or within one year from the date of receipt of the application in cases where the recording of evidence has been unduly delayed for reasons beyond her control, whichever is earlier, and amount of **Rs. 1.30 lakh** is payable as final installment.
- The financial assistance can be enhanced from Rs. 2 lakh subject to a maximum of Rs. 3 lakhs

**Authorities Responsible for Implementation of the Scheme**

**(A) District Criminal Injuries Relief and Rehabilitation Board** in every District under DM/Collector responsible for consideration of claims and providing assistance.

**(B) State Criminal Injuries Relief and Rehabilitation Board** in every State/UT, under Pr. Secretary/Secretary of WCD/Welfare Deptt. with primary responsibility of coordination and monitoring the functions of the District Boards in the respective State and consider appeals against the decisions of the District Boards.

**(C) National Criminal Injuries Relief and Rehabilitation Board** under Secretary/Additional Secretary, Ministry of Women & Child Development to give policy directions and monitor functioning of State Boards.

## ANNEXURE IV

### **Amendments to the Criminal Law as well as Representation of People Act, 1951 proposed by the Committee headed by Hon'ble Justice (Retd.) J.S. Verma, Former Chief Justice of India**

*(vide para 1.140 of the Report)*

The Criminal Law (Amendment) Bill, 2012 uses the term sexual assault in lieu of rape to cover a wider gamut of offences including penetrative sexual assault which has thus far been called rape in the Indian Penal Code. However, the Committee found that the Protection of Children from Sexual Offences Act (PoCSOA), 2012 defines the term sexual assault in a limited context. Section 7 of the said Act confines sexual assault to acts that involve physical contact without penetration. Hence if rape were to be redefined as 'sexual assault' in relation to the IPC then there would be a clear contradiction between them and the PoCSOA. Hence the Committee recommends that the term rape be retained in the IPC to denote the highest categorisation of sexual assault, i.e. penetrative sexual assault. This and other modifications in the Bill as being suggested are as under:

#### **CHAPTER 1: PROPOSED AMENDMENTS TO THE INDIAN PENAL CODE**

1. Section 100 of the Code shall be modified as follows:

When the right of private defence of the body extends to causing death:

The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:-

Firstly, Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly, Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault, which shall include a crime punishable under Section 326A of the Indian Penal Code.

Thirdly, An assault with the intention of committing rape

Fourthly, An assault with the intention of gratifying unnatural lust;

Fifthly, An assault with the intention of kidnapping or abducting;

Sixthly, An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

#### **2 Addition of Section 166A:**

After section 166 of the Indian Penal Code the following section shall be inserted, namely: —

**"166A. Public Servant knowingly disobeying direction of law whoever, being a public servant, —**

**(a)** knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or

(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or

(c) in relation to an offence punishable under Section 354, Section 354A, Section 354B, Section 354 C(2), Section 376(1), Section 376(2), Section 376(3), Section 376A, Section 376B(1), Section 376B(2), Section 376C, Section 376D or Section 376F does not record information given to him under Section 154(1) of the Code of Criminal Procedure shall be punished with imprisonment for a term which may extend to five years rigorous imprisonment and fine.

**3. After section 326 of the Penal Code, the following sections shall be inserted, namely:-**

**'326A. Voluntarily causing grievous hurt through use of acid etc:**

Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables any part, or parts of the body of a person, or causes grievous hurt, by throwing acid on, or administering acid to that person, or by using any other means to achieve a similar purpose and effect, with the intention of causing, or with the knowledge that he is likely to cause such injury, or hurt, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to life, and shall also be liable to pay compensation to the victim, adequate to meet at least the medical expenses incurred by the victim.

Explanation 1: "Permanent or partial damage" for the purposes of this section shall include forced circumcision of a female or mutilation of her genitalia.

Explanation 2: For the purposes of this section, permanent or partial damage or deformity shall not be required to be irreversible.

**326B. Voluntarily throwing or attempting to throw acid etc.**

Whoever throws, or attempts to throw acid on any person, or attempts to administer acid to any person, or attempts to use any other means to achieve the purpose of causing permanent or partial damage to any part or parts of the body of a person, shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to pay compensation to the victim adequate to meet at least the medical expenses incurred by the victim.

Explanation 1: —For the purposes of sections 326A and 326B, "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

Explanation 2: "Permanent or Partial Damage" includes deformity, or maiming, or burning, or disfiguring, or disabling any part or parts of the body of a person. Irreversibility will not be a precondition for damage or deformity to be considered as permanent or partial damage.

**4. Section 354 of the Indian Penal Code shall be replaced by the following:**

**354. Sexual Assault and Punishment for sexual assault**

(1) The following acts shall constitute the offence of sexual assault:-

- (a) Intentional touching of another person when such act of touching is of a sexual nature and is without the recipient's consent;

- (b) Using words, acts or gestures towards or in the presence of another person which create an unwelcome threat of a sexual nature or result in an unwelcome advance.

Explanation: For the purposes of this section, 'acts' shall include the display and dissemination of pornographic material.

(2) Any person who commits the offence described in sub-clause (a) of sub-section (1) above shall be punishable with rigorous imprisonment that may extend to five years, or with fine, or both.

(3) Any person who commits the offence described in sub-clause (b) of sub-section (1) above shall be punishable with imprisonment of either description that may extend to one year, or with fine, or both.

**5. After Section 354, the following new sections shall be introduced:**

**354A. Assault or use of criminal force to woman with intent to disrobe her -**

Whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked in any public place, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

**354B. Voyeurism -**

Whoever watches a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator, or by any other person at the behest of the perpetrator shall,

be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but may extend to three years, and with fine, and

be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but may extend to seven years, and also with fine.

Explanation 1: 'Private act', in the context of this provision, is an act carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim's genitals, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2: If the victim consented to capture of the images or other material, but not to their dissemination to third persons, such dissemination shall be considered an offence within this section.

354C (1) - Stalking: Whoever follows a person and contacts, or attempts to contact such person to foster personal interaction repeatedly, despite a clear indication of disinterest by such person, or whoever monitors the use by a person of the internet, email or any other form of electronic communication, or watches or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person, commits the offence of stalking.

Provided that the course of conduct will not amount to stalking if the person who pursued it shows:

- i. that it was pursued for the purpose of preventing or detecting crime and the person accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the state; or,

- ii. that it was pursued under any enactment or rule of law, or to comply with any condition or requirement imposed by any person under any enactment; or,
  - iii. that in the particular circumstances the pursuit of the course of conduct was reasonable
- (2) Whoever commits the offence described in Section 354C(1) shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine.
6. Section 370 shall be replaced with new Sections 370 and 370A, defining and punishing the offence of trafficking, and the offence of employing a trafficked person, respectively.

#### Section 370: Trafficking of a Person

(1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers or (e) receives, a person or persons, by

Firstly, using threats, or

Secondly, using force, or any other form of coercion, or

Thirdly, by abduction, or

Fourthly, by practicing fraud, or deception, or

Fifthly, by abuse of power, or

Sixthly, by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, **commits the offence of trafficking.**

Explanation I: The expression 'exploitation~ shall include, prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the forced removal of organs.

Explanation II: The consent of the victim is immaterial in a determination of the offence of trafficking.

(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and also with fine.

(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and also with fine.

(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life.

(5) Where the offence involves the trafficking of more than one minor at the same time, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years but which may extend to imprisonment for life.

(6) When a public servant or a police officer is involved in the trafficking of a minor then such public servant shall be punished with imprisonment for life, which shall mean the rest of that person's natural life.

(7) If a person is convicted of the offence of trafficking of minors, on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment

for the rest of that person's natural life.

Section 370A: Employing a Trafficked person

(1) Whoever, despite knowing, or having a reason to believe that a child has been trafficked, employs such child in any form of labour, commits the offence of forced labour of a trafficked child, and shall be punished with rigorous imprisonment for a term which shall not be less than five years but may extend to seven years, and with a fine.

(2) Whoever, despite knowing, or having a reason to believe that an adult has been trafficked, employs such adult for labour, commits the offence of forced labour of a trafficked adult, and shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to five years.

7. Section 375 shall be replaced as suggested below:

Section 375: Rape

375. A man is said to commit rape if he —

(a) penetrates the vagina or anus or urethra of a person with—

(i) any part of his body including his penis or,

(ii) any object manipulated by him, except where such penetration is carried out for proper hygienic or medical purposes; or,

(b) manipulates any part of the body of a person so as to cause penetration of the vagina or anus or urethra of another person; or,  
engages in "cunnilingus" or "fellatio",

under the circumstances falling under any of the following six descriptions: —

Firstly. —Against the person's will; or,

Secondly. — Without the person's consent; or,

Thirdly, With the person's consent, where such consent has been obtained by putting the person, or any other person in whom the person is interested, in fear of death or of hurt; or,

Fourthly. — With the person's consent, when the man induces the person to consent to the relevant act by impersonating another man to whom the victim would have otherwise knowingly consented to; or,

Fifthly, With the person's consent, when at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by the man personally or through another of any stupefying or unwholesome substance, the person is unable to understand the nature and consequences of the action to which he/she gives consent; or,

Sixthly, When the person is unable to communicate consent either express or impliedly.

Explanation I. — For the purposes of this section, "penetration" means penetration of the vagina, anus or urethra to any extent.

Explanation II.—For the purposes of this section, "vagina" shall also include labia majora.

Explanation III: Consent will not be presumed in the event of an existing marital relationship between the complainant and the accused.

Explanation IV. - Consent means an unequivocal voluntary agreement when the person by words, gestures or any form of non-verbal communication, communicates willingness to participate in the specific act.

Provided that, a person who does not offer actual physical resistance to the act of penetration is not by reason only of that fact, to be regarded as consenting to the sexual activity.

8. In place of the existing section, Section 376 will be amended in the following manner:

376. (1) Punishment for Rape

Whoever, except in the cases provided for by sub-section (2), commits the offence of rape shall be punished with rigorous imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life, and shall also be liable to pay compensation to the victim, which shall be adequate to meet at least the medical expenses incurred by the victim.

(2) Whoever, —

(a) being a police officer, whether on duty or otherwise, commits rape —

(i) within the limits of the police station to which such police officer is appointed; or,

(ii) in the premises of any station house; or,

(iii) on a person in such police officer's custody, or in the custody of a police officer subordinate to such police officer; or,

(b) being a member of the armed forces is in the area by virtue of deployment by the Central or a State government, and commits rape; or

(c) being a public servant, commits rape of a person in his custody or in the custody of a public servant; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on a patient in that hospital; or

(f) commits rape on a woman knowing her to be pregnant; or

(g) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the person assaulted, commits rape; or

(h) commits rape, where the person assaulted is incapable of giving consent including in circumstances defined under Section 375 Thirdly, Fifthly and Sixthly.

(i) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of the person assaulted; or

(j) commits rape repeatedly on the same person,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to pay compensation to the victim which shall be adequate to meet at least the medical expenses incurred by the victim.

Explanation 1. —For the purposes of this Section, 'rape' shall mean any of the acts mentioned in clauses (a) to (c) of section 375.

Explanation 2. —For the purposes of this Section, "women's or children's institution" includes an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an observation home, beggar home or a halfway home or an institution called by any other name, which is established and maintained for the reception and care of women or children;

Explanation 3. —For the purposes of this Section, "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.

Explanation 4: In sub-clause (a) of clause (2), "police officer" shall have the same meaning as the word "Police" under The Police Act, 1861.

Explanation 5: For the purposes of this section 'custody' includes any form of physical, mental or psychological restraint to inhibit the exercise of free will by the person in custody.

Explanation 6: For the purposes of this section, 'armed forces' means the naval, military and air forces and includes any member of the Armed Forces enumerated in the Schedule, including the paramilitary forces and any auxiliary forces that are under the control of the Central or State Government.

**9. A new Section, Section 376(3) providing for increased punishment for death caused in the course of committing rape shall be added**

**Section 376(3): Punishment for causing death or a persistent vegetative state in the course of committing rape**

Whoever, commits an offence punishable under Section 376(1) or Section 376(2) and in the course of such commission inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but may be for life, which shall mean the rest of that person's natural life.

**10. Section 376A shall be repealed**

**11. Sections 376B, C and D shall be replaced as follows:**

**Section 376A: Intercourse by a person in authority, public servant etc.**

Whoever being, —

**(a)** in a position of authority or in a fiduciary relationship or

**(b)** a public servant; or

**(c)** a superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution, an observation home, beggar home, or an institution called by any other name, which is established and maintained for the reception and care of women or children; or

**(d)** on the management of a hospital or on the staff of a hospital,

abuses such position or fiduciary relationship to induce any person in their custody to have sexual intercourse with them, the act not amounting to rape, shall be punished with rigorous imprisonment for a



term which shall not be less than five years but which may extend to ten years and shall also be liable to a fine.

Explanation 1. —In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (c) of section 375.

Explanation 2.—"Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

Explanation 3. —For the purposes of this Section, "women's or children's institution" includes an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an observation home, beggar home or a halfway home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

Explanation 4. —For the purposes of this Section, "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.

**12. A new Section 376B defining and punishing rape of an underage person shall be added:**

**Section 376B(1): Rape of an underage person:** If a man has sexual intercourse with a person below sixteen years<sup>1</sup> of age with or without that person's consent, he shall be deemed to have committed rape of an underage person, and shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life.

Provided that the existence of a marital relationship between the accused and the underage person shall not be a valid defence.

Explanation: For the purposes of this section, sexual intercourse shall mean any of the acts specified in Section 375 (a) to (c).

Section 376(B)(2): Punishment for causing death or a persistent vegetative state in the course of committing rape of an underage person.

Whoever, commits an offence punishable under Section 376B(1) and in the course of such commission inflicts an injury which causes the death of the person, or causes the person to be in a persistent vegetative state shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but may be for life, which shall mean the rest of that person's natural life.

**13. The offence of gang rape shall be defined and punished by a new Section 376C**

**376C. Gang rape**

Where a person is raped by one or more in a group of persons acting in furtherance of a common intention, each of these persons shall be deemed to have committed the offence of gang rape, regardless of their gender, and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life and shall also be liable to pay compensation to the victim which shall be adequate to meet at least the medical expenses incurred by the victim.

Explanation: For the purposes of this section, imprisonment for life shall mean imprisonment for the rest of that person's natural life.

<sup>1</sup> The Preamble to The Protection of Children from Sexual offences Act, 2012 states "And whereas, the Government of India has acceded on the 11<sup>th</sup> December, 1992 to the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations, which has prescribed a set of standards to be followed by all State Parties in securing the best interests of the child ... and whereas the State Parties to the Convention on the Rights of the Child are required to undertake all appropriate national, bilateral and multilateral measures to prevent - (a) the inducement or coercion of a child to engage in any unlawful sexual activity; (b) the exploitative use of children in prostitution or other unlawful sexual practices; (c) the exploitative use of children in pornographic performances and materials; That further to the above, the Parliament earmarked eighteen as the age of consent for the purposes of Section 375, thereby achieving the result of criminalising all sexual activity whether consensual or non-consensual where one person is below the age of eighteen. That the above Convention was aimed inter alia to protect children from sexual assault and abuse and not to criminalise consensual sex between two individuals even if they are below eighteen years of age. That on the basis of the interpretation of Article 34 of the Convention along with the representation made by various groups this Committee recommends that the age of consent be reduced to sixteen, and necessary amendments be made in the Protection of Children from Sexual Offences Act, 2012 (No. 32 of 2012), in order to avoid contradictions with the Indian Penal Code.

14. A new offence of Gang Rape causing death or a persistent vegetative state shall be added:

376D. Gang Rape followed by death or a persistent vegetative state

Whoever commits gang rape, and in the course of such commission inflicts injury upon the victim which causes the victim's death or causes the victim to be in a persistent vegetative state, shall be punished with imprisonment for life.

Explanation: For the purpose of this section "imprisonment for life" shall mean imprisonment for the rest of that person's natural life.

15. A new section providing for increased punishment for offenders with a prior conviction for rape shall be added:

376E: Punishment for repeat offenders: Whoever has been previously convicted of an offence punishable under Section 376 (1), or Section 376 (2), or Section 376(3), or Section 376 A, or Section 376B(1), or Section 376B(2) or Section 376C or Section 376D and is subsequently convicted of an offence punishable under any of these sections shall be punished with imprisonment for life, which shall mean the rest of that person's natural life.

16. A new section defining and punishing the offence of breach of command responsibility shall be added:

Section 376F: Offence of breach of command responsibility:

(1) Whoever, being a public servant in command, control or supervision of the police or armed forces, as defined in Explanations 1 and 2 to this section, or assuming command whether lawfully or otherwise, fails to exercise control over persons under his or her command, control, or supervision and as a result of such failure offences under Section 354, Section 354A, Section 376(1), Section 376(2)(a), Section 376(2)(b), Section 376(2)(c), Section 376(2)(d), Section 376(2)(e), Section 376(2)(h), Section 376(2)(i), Section 376(2)(~), Section 376(3), Section 376B(1), or Section 376B(2) or Section 376C or Section 376D of the Indian Penal Code are committed, by persons under his or her command, control or supervision, shall be guilty of the offence of breach of command responsibility, where:-

- (i) such public servant either knew or owing to the circumstances should have known that the persons under his or her command, control or supervision would commit such offences; and
- (ii) such public servant failed to take necessary and reasonable measures within his or her power to prevent or repress the commission of the said offences.

(2) Whoever is guilty of the offence of breach of command responsibility shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but may extend to ten years.

Explanation 1: For the purposes of this section, "police officer" shall have the same meaning as the word "Police" under The Police Act, 1861.

Explanation 2: For the purposes of this section, 'armed forces' means the naval, military and air forces and includes any member of the Armed Forces enumerated in the Schedule, including the paramilitary forces and any auxiliary forces that are under the control of the Central or State Government.

**17. Section 509 of the Indian Penal Code shall be repealed.**

**Schedule**

(See Explanation 2 to Section 376F)

Armed Forces and Security Forces Constituted Under

- (a) The Air Force Act, 1950 (45 of 1950)
- (b) The Army Act, 1950 (46 of 1950)
- (c) The Assam Rifles Act, 2006 (47 of 2006)
- (d) The Bombay Home Guard Act, 1947 (3 of 1947)
- (e) The Border Security Force Act, 1968 (47 of 1968)
- (f) The Central Industrial Security Force Act, 1968 (50 of 1968)
- (g) The Central Reserve Police Force, 1949 (66 of 1949)
- (h) The Coast Guard Act, 1978 (30 of 1978)
- (i) The Delhi Special Police Establishment Act, 1946 (25 of 1946)
- (j) The Indo-Tibetan Border Police Force Act, 1992 (35 of 1992)
- (k) The Navy Act, 1957 (62 of 1957)
- (l) The National investigation Agency Act, 2008 (34 of 2008)
- (m) The National Security Guard Act, 1986 (47 of 1986)
- (n) The Railway Protection Force Act, 1957 (23 of 1957)
- (o) The Sahastra Seema Bal Act, 2007 (53 of 2007)
- (p) The Special Protection Group Act, 1988 (34 of 1988)
- (q) The Territorial Army Act, 1948 (56 of 1948)
- (r) The State Police Forces (Including Armed Constabularies) constituted under the State laws to aid the civil powers of the State and empowered to employ force during internal disturbances or otherwise including armed forces as defined in clause (a) of Section 2 of the Armed Forces (Special powers) Act, 1958 (28 of 1958)

## CHAPTER II

### **AMENDMENTS OF THE CODE OF CRIMINAL PROCEDURE, 1973**

**1. The following amendment shall be made to Section 39(1) of the Code:**

Clause (vb) that reads as follows to be added:

Sections 326A, 326B, 354, 354A, 354B, 354 C, 376(1), 376(2), 376A, 376 B(2),376C, 376D or 376F of the Indian Penal Code.

**2. Section 40A that reads as follows shall be added:**

Every officer employed in connection with the affairs of a village, and every person who is part of a village panchayat shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is nearer, any information that he may possess in respect of the commission of, or intention to commit an offence punishable under Sections 326A, 326B, 354, 354A, 354B, 354 C, 376(1), 376(2), 376(3), 376A, 376 B(1), 376B(2), 376C and 376D of the Indian Penal Code.

**3. Amendment to Section 54A:**

The following proviso shall be added to Section 54A:

Provided that, if the person identifying the arrestee is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the arrestee using methods that the person is comfortable with.

Provided further, that if the person identifying the person arrested is mentally or physically disabled, the identification process shall be videographed.

**4. The following proviso shall be introduced to Section 154 of the Code of Criminal Procedure, 1973.**

**Proviso to Section 154:** "Provided that if the information is given by a woman against whom an offence under Section 354, Section 354A, Section 354B, Section 354 C, Section 376(1), Section 376(2), Section 376A, Section 376B(1), or Section 376 C of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, as far as possible, by a woman police officer and such woman shall be provided legal assistance and also the assistance of a healthcare worker, and/ or women's organisation.

Provided further that:

**(1)** in the event that the person against whom an offence under Section 354, Section 354A, Section 354B, Section 354 C, Section 376(1), Section 376(2), Section 376A, Section 376B(1) or Section 376C of the Indian Penal Code is alleged to have been committed or attempted is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of a special educator or an interpreter, as the case may be.

**(2)** The recording of such information shall be videographed.

(3) The police officer shall get the statement of the person recorded by a Judicial Magistrate under Section 164(5)(a) of this Code as soon as possible.

**5. Amendment to the proviso to section 160.**

The proviso to section 160 of the Code of Criminal Procedure, shall be amended as follows: Provided that no male person under the age of eighteen years or above the age of sixty five years, a woman or a physically or mentally disabled person shall be required to attend at any place other than the place in which the person or woman resides.

**6. Amendment to Section 164 Cr.P.C**

Sub-sections (5)(a) and (5)(b) shall be added. It shall read as follows:

**Section 164(5)(a):**

In cases punishable under Section 354, Section 354A, Section 354B, Section 354C(2), Section 376(1), Section 376(2), Section 376A, Section 376B(1), or Section 376C of the Indian Penal Code of 1860, a Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5) of this Section, as soon as the offence is brought to the attention of the police.

Provided that if the person making the statement is temporarily or permanently physically or mentally disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement.

Provided further that if the person making the statement is temporarily or permanently physically or mentally disabled, the statement made by the person, with the assistance of an interpreter or special educator, shall be videographed.

**Section 164(5)(b)**

A statement recorded under Section 164(5)(a) of a person who is temporarily or permanently physically or mentally disabled shall be considered a statement in lieu of examination-in-chief, as prescribed in Section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross-examined on such statement, without the need for re-asserting the same at the time of trial.

**7. Amendment to Section 197(1):**

The following amendment shall be made to Section 197(1) of the Code:

"When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with sanction of the Government, is accused of any offence, alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, except offences punishable under Section 354, Section 354A, Section 354B, Section 354C(2), Section 376(1), Section 370, Section 376(2), Section 376(3), Section 376A, Section 376B(1), Section 376B(2), Section 376C, Section 376D and Section 376F and Section no Court shall take cognizance of such offence except with the previous sanction..."

8. Insertion of Section 198B:

No Court shall take cognizance of an offence under Section 376(1) of the Indian Penal Code where the persons are in a marital relationship, except upon a police report of the facts which constitute an offence or a complaint having been filed or made by the wife against the accused husband.

9. Amendment to Section 273

In section 273 of the Code of Criminal Procedure, before the Explanation, the following proviso shall be inserted, namely: - "Provided that where the evidence of a person below the age of eighteen years who is alleged to have been subjected to an offence punishable under Sections 354, Section 354A, Section 354B, Section 354C(2), Section 376(1), Section 376(2), Section 376A, Section 376B(1), Section 376C or Section 376F, is to be recorded, the court may take appropriate measures to ensure that such person is not confronted by the accused while at the same time ensuring the right of cross examination of the accused."

10. Amendment to Section 327

In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters "trial of rape or an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code", the words, figures and letters "trial of an offence punishable under Sections 354, Section 354A, Section 354B, Section 354C(2), Section 376(1), Section 376(2), Section 376A, Section 376B(1), or Section 376C " shall be substituted.

11. Amendment to Section 357

Sub-section(4) shall be added to Section 357 and the existing sub-sections (4) and (5) shall be renumbered as (5) and (6). The new Section 357(4) shall read as follows:

(4)When a Court imposes a sentence in a case punishable under Section 326B, Section 376(1), Section 376(2), Section 376B(1) or Section 376C, the Court shall when passing judgment order the convicted person to pay by way of compensation an amount adequate to meet at least the medical expenses incurred by the victim.

12. Amendments to the First Schedule

The First Schedule to the Cr.P.C. shall be modified to incorporate the effect of the amendments proposed. All offences defined and made punishable by virtue of this Amendment Bill shall be cognizable and non-bailable.

### CHAPTER III

#### AMENDMENTS OF THE INDIAN EVIDENCE ACT, 1872

##### 1. Addition of Section 53A

After section 53 of the Indian Evidence Act, 1872 the following section shall be inserted, namely:—

"53A. In a prosecution for an offence under Section 354, Section 354A, Section 354B, Section 354C, Section 376(1), Section 376(2), Section 376A, Section 376B(1) or Section 376C of the Indian Penal Code or for attempt to commit any such offence, evidence of the character of the victim or of his or her previous sexual experience with any person shall not be relevant.

##### 2. Amendment to Section 114A

For section 114A of the Evidence Act, the following section shall be substituted, namely:—

'114A. (1) In a prosecution for rape under sub-section (2) of section 376 or for gang rape under Section 376C of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the other person alleged to have been raped and such other person states in his/her evidence before the court that she or he did not consent, the court shall presume that she or he did not consent.

Explanation. —In this

section "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (c) of section 375 of the Indian Penal Code.

##### 3. Amendment to Section 119

In section 119 of the Act the term "dumb witness" shall be substituted by "persons who are unable to communicate verbally."

The following proviso shall be added:

Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of a special educator or interpreter in recording the statement, and such statement shall be videographed.

##### 4. Amendment to Section 146

In section 146 of the Evidence Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that in a prosecution for an offence under Section 376(1), Section 376(2), Section 376A, Section 376B(1) or Section 376C or for attempt to commit any such offence, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to his or her general moral character, or as to his or her previous sexual experience with any person.

**CHAPTER IV****AMENDMENT TO THE ARMED FORCES (SPECIAL POWERS) ACT, 1958**

1. The following amendment shall be made to Section 6 of the Armed Forces (Special Powers) Act, 1958:

No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

Provided that, no sanction shall be required if the person has been accused of committing an offence under Section 354, Section 354A, Section 354B, Section 354C, Section 376(1), Section 376(2), Section 376(3), Section 376A, Section 376B, Section 376C, Section 376D, Section 376D or Section 376E of the Indian Penal Code, 1860.



**APPENDIX 5**PROPOSED AMENDMENTS TO THE REPRESENTATION OF PEOPLE ACT, 1951

The following amendments shall be made to the Representation of the People Act, 1951.

1. A new sub-section (e) shall be introduced in section 4 (Qualifications for membership of the House of the People) as follows:  
 "(e) in all cases, if prior to the conduct of the election he is found to be disqualified under Chapter III."
2. A new sub-section (d) shall be introduced in section 5 (Qualifications for membership of a Legislative Assembly) as follows:  
 "(d) in all cases, if prior to the conduct of the election he is found to be disqualified under Chapter III."
3. A new sub-clause (e) shall be introduced in sub-section (1) of section 5A (Qualifications for membership of Legislative Assembly of Sikkim) as follows:  
 "(e) in all cases, if prior to the conduct of the election he is found to be disqualified under Chapter III."
4. Further, a new sub-clause (e) shall be introduced in sub-section (2) of section 5A (Qualifications for membership of Legislative Assembly of Sikkim) as follows:  
 "(e) in all cases, if prior to the conduct of the election he is found to be disqualified under Chapter III."
5. In place of section 8 (Disqualification on conviction for certain offences), a new section 8 shall be introduced as follows:  
 "8. Disqualification on cognizance or conviction for certain offences.  
 (1) A person, in respect of whose acts or omissions a court of competent jurisdiction has taken cognizance under section 190(1)(a),(b) or (c) of the Code of Criminal Procedure, 1973 (Act 2 of 1974) or, who has been convicted by a court of competent jurisdiction, with respect to an offence punishable under —  
 (a) the Indian Penal Code, 1860 (Act 45 of 1860) listed in Schedule I; or  
 (b) the Protection of Civil Rights Act, 1955 which provides for punishment for the preaching and practice of "untouchability", and for the

enforcement of any disability arising therefrom; or

(c) section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962 (52 of 1962 ); or

(d) sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or

(e) the Foreign Exchange (Regulation) Act, 1973 (76 of 1973 ); or

(f) the Narcotic Drugs and Psychotropic Substances Act, 1985(61of1985); or

(g) Section 3 (offence of committing terrorist acts) or section 4 (offence of committing disruptive activities) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

(h) Section 3 (declaration of an association as unlawful) or any offence enumerated in Chapter IV of the (punishment for terrorist activities) of the Unlawful Activities (Prevention) Act, 1967; or

(i) any provision of the Prevention of Terrorism Act, 2002; or

(j) any offences enumerated in chapter III of the Prevention of Corruption Act, 1988; or (j) section 7 (offence of contravention of the provisions of sections 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988 ); or

(k) section 125 (offence of promoting enmity between classes in connection with the election) or section 135 (offence of removal of ballot papers from polling stations) or section 135A (offence of booth capturing) of clause (a) of sub- section (2) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act; or]

- (l) section 6 (offence of conversion of a place of worship) of the Places of Worship (Special Provisions) Act, 1991, or
- (m) section 2 (offence of insulting the Indian National Flag or the Constitution of India) or section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971 (69 of 1971); or
- (n) any law providing for the prevention of hoarding or profiteering; or
- (o) any law relating to the adulteration of food or drugs; or
- (p) any provisions of the Dowry Prohibition Act, 1961 (28 of 1961); or
- (q) any provisions of the Commission of Sati (Prevention) Act, 1987 (3 of 1988),

shall be disqualified from the date of such taking of cognizance by a court of competent jurisdiction under section 190(1)(a),(b) or (c) of the Code of Criminal Procedure, 1973 (Act 2 of 1974) or conviction, as the case may be, and shall continue to be disqualified for a further period of six years from the date of his release upon conviction. It is clarified that, in the event of acquittal of the candidate, disqualification shall continue to operate from the date of taking cognizance under section 190(1)(a),(b) or (c) of the Code of Criminal Procedure, 1973 (Act 2 of 1974) till the date of acquittal.

~~(2)~~ A person convicted of any offence and sentenced to imprisonment for not less than two years other than any offence referred to in sub-section (1) shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years from his release.

(3) Notwithstanding anything to the contrary in any law for the time being in force, a disqualification under either sub-section (1) or (2) of this section 8 shall, in the case of a person who on the date of the taking of cognizance by a court of competent jurisdiction under section 190(1)(a),(b) or (c) of the Code of Criminal Procedure, 1973 (Act 2 of 1974), or on the date of conviction as referred to in either sub-section (1) or (2) of section 8, is a member of Parliament or the Legislature of a State, take effect immediately upon the taking of cognizance, or upon conviction as referred to in sub-section (1), or conviction as referred to in sub-section (2), as the case may be.

Explanation. —In this section, —

- (a) "law providing for the prevention of hoarding or profiteering" means any law, or any order, rule or notification having the force of law, providing for—
  - (i) the regulation of production or manufacture of any essential commodity;
  - (ii) the control of price at which any essential commodity may be bought or sold;
  - (iii) the regulation of acquisition, possession, storage, transport, distribution, disposal, use or consumption of any essential commodity;
  - (iv) the prohibition of the withholding from sale of any essential commodity ordinarily kept for sale;
- (b) "drug" has the meaning assigned to it in the Drugs and Cosmetics Act, 1940 (23 of 1940);
- (c) "essential commodity" has the meaning assigned to it in the Essential Commodity Act, 1955 (10 of 1955);
- (d) "food" has the meaning assigned to it in the Prevention of Food Adulteration Act, 1954 (37 of 1954)."

**6. A new section 8B. Disqualification for false declaration as to assets and liabilities shall be introduced as follows:  
"8B Disqualification for false declaration as to assets and liabilities**

- (1) Upon the receipt of a report from the Comptroller and Auditor General by the Election Commission of India under Chapter III-A of the Comptroller and Auditor General Act, 1971, the case of every person who is found to have provided false information under section 75A(1) as per the said report, shall be submitted by the Election Commission of India to the President for the taking of consequential action of disqualification;
- (2) Before giving his decision on any question mentioned in sub- section (1), the President shall obtain the opinion of the Election Commission of India on the consequential action of disqualification to be taken and shall act according to such opinion.

Provided that the period for which any person may be disqualified under this section shall in no case exceed six years from the date on which the President conveys the decision to disqualify such person."

- 6. In sub-section (1) of section 11A. (Disqualification arising out of conviction and corrupt practices) after the words "for a period of six years from the date of the conviction or from the date on which the order takes effect" the words "whichever is later in time," shall be inserted.
- 7. A new sub-section (2A) shall be introduced in section 33 (Presentation of nomination paper and requirements for a valid nomination) as follows:

"(2A) Where the candidate stands disqualified under the provisions of section 8, section 8-A or section 8-B and the period of disqualification under any of the applicable aforementioned sections has not elapsed, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the Election Commission of India certifying that the period of disqualification under any of the applicable aforementioned sections has elapsed or that the said candidate has been acquitted.

Provided that prior to the issuance of a certificate as prescribed by sub-section (2A) in respect of disqualification under section 8, the Election Commission of India shall first receive a certificate from the Registrar of the concerned High Court within whose territorial jurisdiction any trial in relation to offences referred to in section 8 is being conducted against such candidate. The certificate to be provided by the Registrar shall state the date on which cognizance under section 190(1)(a),(b) or (c) of the Code of Criminal Procedure, 1973 (Act 2 of 1974) was taken or the date on which such candidate was convicted in respect of any offence referred to in sub-section (2) of section 8 or the date of acquittal, as may be applicable."

7. A new sub-clause (i) shall be introduced after sub-clause (h) in sub-section (7) as follows:

"(i) in the case of election to either House of Parliament or Legislature of a State where a declaration on affidavit is made or ought to have been made in respect of offences referred to in section 8, without a certificate by the Registrar of the concerned High Court within whose territorial jurisdiction any case is pending in relation to the offences referred to in section 8 against such candidate. Such certificate shall state the date on which cognizance under section 190(1)(a),(b) or (c) of the Code of Criminal Procedure, 1973 (Act 2 of 1974) was taken in respect of any offence referred to in sub-section (1) of section 8 or the date on which such candidate was convicted in respect of any offence referred to in sub-section (1) or (2) of section 8 or the date of acquittal, as the case may be."

8. A new sub-clause (iii) in sub-section 1 of section 33A (Right to information) shall be introduced as follows:

"(iii) a court of competent jurisdiction has taken cognizance under section 190(1)(a),(b) or (c) of the Code of Criminal Procedure, 1973 (Act 2 of 1974), or a conviction has occurred, in respect of the offences referred to in sub-section (1) of section 8."

9. In sub-section (1) of section 75A (Declaration of assets and liabilities) after the words "Every elected candidate for a House of Parliament" the words "or any Legislature of a State" shall be inserted. Further after the words "to the Chairman of the Council of States or the Speaker of the House of the People, as the case may be" the words "and to the Election Commission of India" shall be inserted.

10. A new sub-section (6) shall be introduced in section 75A (Declaration of assets and liabilities) as follows:

"(6) The Election Commission of India shall forward all information it receives under sub-section (1) in respect of each candidate seeking to contest

any election for either House of Parliament or Legislature of a State to the Comptroller and Auditor General of India for the preparation of a report in accordance with Chapter III-A of the Comptroller and Auditor General of India Act, 1971, which report shall be submitted to the Election Commission of India in accordance with Chapter III-A of the Comptroller and Auditor General of India Act, 1971. The findings of the report received by the Election Commission of India from the Comptroller and Auditor General of India shall be binding on the Election Commission of India in respect of the matters that it covers, including for the purpose of giving its opinion to the President in accordance with the provisions of section 8-B."

**11.** A new sub-section (ii) shall be introduced in section 125A (Penalty for filing false affidavit, etc.) shall be introduced as follows:

"(ii) fails to furnish information relating to sub-section (1) of section 75A"

**12.** In sub-section (iii) of section 125A (Penalty for filing false affidavit, etc.) after the words "in his affidavit which is required to be delivered under sub-section (2) of section 33A" the words "or in the information to be provided under sub-section (1) of section 75A" shall be inserted. Further, in sub-section (iii) of section 125A (Penalty for filing false affidavit, etc.) after the words "for the time being in force, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both" the words "and shall forthwith stand disqualified from nomination for an election to either House of Parliament or Legislature of a State or from the membership of either House of Parliament or Legislature of a State, as the case may be." shall be inserted.

**13.** A new Schedule I shall be introduced at the end of the Act as follows.

**"SCHEDULE I**

See Section 8(1) (a)

Note: Section titles and numbers include suggestions for amendment to the Indian Penal Code made by the Justice T. S. Verma Committee.

1. Section 115: Abetment of offence punishable with death or imprisonment for life-if offence not committed
2. Section 120A and 120B: Criminal Conspiracy
3. Section 146 and 147: Rioting and punishment for rioting
4. Section 148: Rioting, armed with deadly weapon
5. Section 153A: Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony
6. Section 157: Harboursing persons hired for an unlawful assembly
7. Section 171E: Punishment for Bribery
8. Section 171F: Punishment for undue influence or personation at an election
9. Section 212: Harboursing offender
10. Section 216: Harboursing offender who has escaped from custody or whose apprehension has been ordered
11. Section 216A: Penalty for harboursing robbers or dacoits
12. Section 302: Punishment for murder
13. Section 304: culpable homicide not amounting to murder
14. Section 304B: Dowry death
15. Section 305: Abetment of suicide of child or insane person
16. Section 306: Abetment of suicide
17. Section 307: Attempt to murder
18. Section 312: Causing miscarriage
19. Section 313: Causing miscarriage without woman's consent
20. Section 314: Death caused by act done with intent to cause miscarriage
21. Section 315: Act done with intent to prevent child being born alive or to cause it to die after birth
22. Section 316: Causing death of quick unborn child by act amounting to culpable homicide
23. Section 324: Voluntarily causing hurt by dangerous weapons or means
24. Section 325: Punishment for voluntarily causing grievous hurt
25. Section 326: Voluntarily causing grievous hurt by dangerous weapons or means
26. Section 326A: Voluntarily causing grievous hurt through use of acid etc.
27. Section 326B: Throwing or attempting to throw acid etc.

28. Section 343: Wrongful confinement for three or more days
29. Section 344: Wrongful confinement for ten or more days
30. Section 346: Wrongful confinement in secret
31. Section 353: Assault or use of criminal force to deter a public servant from discharge of his duty
32. Section 354: Sexual Assault
33. Section 354A: Assault or use of criminal force to woman with intent to disrobe her
34. Section 354B: Voyeurism
35. Section 354C: Stalking
36. Section 357: Assault or use of criminal force in an attempt wrongfully to confine a person
37. Section 363: Punishment for kidnapping
38. Section 363A: Kidnapping or maiming a minor for purposes of begging
39. Section 364: Kidnapping or abducting in order to murder
40. Section 364A: Kidnapping for ransom etc.
41. Section 365: Kidnapping or abducting with intent secretly and wrongfully to confine person
42. Section 366: Kidnapping, abducting or inducing woman to compel her marriage, etc.
43. Section 366A: Procreation of minor girl
44. Section 366B: Importation of girl from foreign country
45. Section 367: Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.
46. Section 369: Kidnapping or abducting child under ten years with intent to steal from its person
47. Section 370: Buying or disposing of any person as slave
48. Section 371: Habitual dealing in slave
49. Section 372: Selling minor for purposes of prostitution, etc.
50. Section 373: Buying minor for purposes of prostitution, etc.
51. Section 374: Unlawful compulsory labour
52. Section 376: Punishment for rape
53. Section 376A: Intercourse by a person in authority, public servant etc.
54. Section 376B: Rape of an underage person
55. Section 376C: Gang rape
56. Section 376D: Gang rape followed by death or persistent vegetative state
57. Section 376E: Punishment for Repeat Offenders
58. Section 376F: Offence of command responsibility
59. Section 384: Extortion and Punishment for extortion
60. Section 385: Putting person in fear of injury in order to commit extortion



61. Section 386: Extortion by putting a person in fear of death or grievous hurt
62. Section 387: Putting person in fear of death or of grievous hurt, in order to commit extortion
63. Section 388: Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.
64. Section 389: Putting person in fear of accusation of offence, in order to commit extortion
65. Section 392: Punishment for robbery
66. Section 393: Attempt to commit robbery
67. Section 394: Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery
68. Section 395: Punishment for dacoity
69. Section 396: Dacoity with murder
70. Section 397: Robbery, or dacoity, with attempt to cause death or grievous hurt
71. Section 398: Attempt to commit robbery or dacoity when armed with deadly weapon
72. Section 399: Making preparation to commit dacoity
73. Section 400: Punishment for belonging to a gang of persons associated for the purpose of habitually committing dacoity
74. Section 401: Punishment for belonging to wandering gang of persons associated for the purpose of habitually committing thefts
75. Section 402: Assembling for purpose of committing dacoity
76. Section 403: Dishonest misappropriation of property
77. Section 404: Dishonest misappropriation of property possessed by deceased person at the time of his death
78. Section 406: Punishment for criminal breach of trust
79. Section 409: Criminal breach of trust by public servant, or by banker, merchant or agent
80. Section 413: Habitually dealing in stolen property
81. Section 419: Punishment for cheating by personation
82. Section 420: Cheating and dishonestly inducing delivery of property
83. Section 449: House- trespass in order to commit offence punishable with death
84. Section 450: House- trespass in order to commit offence punishable with imprisonment for life
85. Section 451: House- trespass in order to commit offence punishable with imprisonment
86. Section 452: House- trespass after preparation for hurt, assault or wrongful restraint
87. Section 454: Lurking house- trespass or house- breaking in order to commit offence punishable with imprisonment
88. Section 455: Lurking house- trespass or house- breaking after preparation for hurt, assault or wrongful restraint
89. Section 457: Lurking house- trespass or house- breaking by night in order to commit offence punishable with imprisonment
90. Section 458: Lurking house- trespass or house- breaking by night after preparation for hurt, assault, or wrongful restraint.
91. Section 459: Grievous hurt caused whilst committing lurking house trespass or house-breaking
92. Section 460: All persons jointly concerned in lurking house-trespass or housebreaking by night punishable where death or grievous hurt caused by one of them

- 93. Section 489A: Counterfeiting currency- notes or bank- notes
- 94. Section 498: Enticing or taking away or detaining with criminal intent a married woman
- 95. Section 498A: Husband or relative of husband of a woman subjecting her to cruelty
- 96. Section 505: Statements creating or promoting enmity, hatred or ill- will between classes in place of worship, etc.
- 97. Section 506: Punishment for criminal intimidation
- 98. Section 511: Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment"

## ANNEXURE V

(vide para 1.145 of the Report)

रजिस्ट्री सं० डी० एल०—(एन)04/0007/2003—13

REGISTERED NO. DL—(N)04/0007/2003—13



# भारत का राजपत्र

## The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड I

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 17] नई दिल्ली, मंगलवार, अप्रैल 2, 2013/चैत्र 12, 1935 (साक)  
No. 17] NEW DELHI, TUESDAY, APRIL 2, 2013/CHAITRA 12, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd April, 2013/Chaitra 12, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 2nd April, 2013, and is hereby published for general information:—

## THE CRIMINAL LAW (AMENDMENT) ACT, 2013

No. 13 OF 2013

[2nd April, 2013]

AN ACT further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973, the Indian Evidence Act, 1872 and the Protection of Children from Sexual Offences Act, 2012.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Criminal Law (Amendment) Act, 2013.
- (2) It shall be deemed to have come into force on the 3rd day of February, 2013.

Short title and  
commencement.

## CHAPTER II

## AMENDMENTS TO THE INDIAN PENAL CODE

2. In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 100, after clause *Sixthly*, the following clause shall be inserted, namely:—

“*Seventhly*.—An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act.”

Amendment  
of section  
100.

- Insertion of new sections 166A and 166B.
- Public servant disobeying direction under law.
3. After section 166 of the Penal Code, the following sections shall be inserted, namely:—
- "166A. Whoever, being a public servant,—
- (a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or
- (b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or
- (c) fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973, in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509,
- shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.
- 166B. Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the provisions of section 357C of the Code of Criminal Procedure, 1973, shall be punished with imprisonment for a term which may extend to one year or with fine or with both."
- 2 of 1974.
- Punishment for non-treatment of victim.
4. In section 228A of the Penal Code, in sub-section (1), for the words, figures and letters "offence under section 376, section 376A, section 376B, section 376C or section 376D", the words, figures and letters "offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E" shall be substituted.
- 2 of 1974.
- Amendment of section 228A.
5. After section 326 of the Penal Code, the following sections shall be inserted, namely:—
- 326A. Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:
- Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:
- Provided further that any fine imposed under this section shall be paid to the victim.
- 326B. Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.
- Voluntarily causing grievous hurt by use of acid, etc.
- Voluntarily throwing or attempting to throw acid.
- Explanation 1.*—For the purposes of section 326A and this section, "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.
- Explanation 2.*—For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.'

6. In section 354 of the Penal Code, for the words "shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both", the words "shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine" shall be substituted.

Amendment  
of section  
354.

7. After section 354 of the Penal Code, the following sections shall be inserted, namely:—

Insertion of  
new sections  
354A, 354B,  
354C and  
354D.

354A. (1) A man committing any of the following acts—

- (i) physical contact and advances involving unwelcome and explicit sexual overtures; or
- (ii) a demand or request for sexual favours; or
- (iii) showing pornography against the will of a woman; or
- (iv) making sexually coloured remarks,

Sexual  
harassment  
and  
punishment  
for sexual  
harassment.

shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

354B. Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

Assault or use  
of criminal  
force to  
woman with  
intent to  
disrobe.

354C. Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Voyeurism.

*Explanation 1.*—For the purpose of this section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

*Explanation 2.*—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

354D. (1) Any man who—

- (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

Stalking.

(ii) monitors the use by a woman of the internet, email or any other form of electronic communication,

commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Substitution of  
new sections  
370 and 370A  
for section  
370.

8. For section 370 of the Penal Code, the following sections shall be substituted, namely:—

Trafficking of  
person.

\*370. (1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—

*First.*— using threats, or

*Secondly.*— using force, or any other form of coercion, or

*Thirdly.*— by abduction, or

*Fourthly.*— by practising fraud, or deception, or

*Fifthly.*— by abuse of power, or

*Sixthly.*— by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received,

commits the offence of trafficking.

*Explanation 1.*—The expression "exploitation" shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

*Explanation 2.*—The consent of the victim is immaterial in determination of the offence of trafficking.

(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

(5) Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.

(6) If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

(7) When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

370A. (1) Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.

Exploitation  
of a trafficked  
person.

(2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.

9. For sections 375, 376, 376A, 376B, 376C and 376D of the Penal Code, the following sections shall be substituted, namely:—

Substitution of  
new sections  
for sections  
375, 376,  
376A, 376B,  
376C and  
376D.

'375. A man is said to commit "rape" if he—

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

Rape.

under the circumstances falling under any of the following seven descriptions:—

*First.*—Against her will.

*Secondly.*—Without her consent.

*Thirdly.*—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

*Fourthly.*—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

*Fifthly.*—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

*Sixthly.*—With or without her consent, when she is under eighteen years of age.

*Seventhly.*—When she is unable to communicate consent.

*Explanation 1.*—For the purposes of this section, "vagina" shall also include *labia majora*.

*Explanation 2.*—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

*Exception 1.*—A medical procedure or intervention shall not constitute rape.

*Exception 2.*—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

376. (1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Whoever,—

(a) being a police officer, commits rape—

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

(g) commits rape during communal or sectarian violence; or

(h) commits rape on a woman knowing her to be pregnant; or

(i) commits rape on a woman when she is under sixteen years of age;

or

Punishment  
for rape.

5 a



- (j) commits rape, on a woman incapable of giving consent; or
- (k) being in a position of control or dominance over a woman, commits rape on such woman; or
- (l) commits rape on a woman suffering from mental or physical disability; or
- (m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or
- (n) commits rape repeatedly on the same woman,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

*Explanation.*—For the purposes of this sub-section,—

(a) "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;

(d) "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

376A. Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.

Punishment for causing death or resulting in persistent vegetative state of victim.

376B. Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

Sexual intercourse by husband upon his wife during separation.

*Explanation.*—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

376C. Whoever, being—

(a) in a position of authority or in a fiduciary relationship; or

(b) a public servant; or

(c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or

(d) on the management of a hospital or being on the staff of a hospital, abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

Sexual intercourse by a person in authority.

*Explanation 1.*—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

*Explanation 2.*—For the purposes of this section, *Explanation 1* to section 375 shall also be applicable.

*Explanation 3.*—"Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

*Explanation 4.*—The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in *Explanation* to sub-section (2) of section 376.

Gang rape.

376D. Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

Punishment for repeat offenders.

376E. Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376D and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.

Amendment of section 509.

10. In section 509 of the Penal Code, for the words "shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both", the words "shall be punished with simple imprisonment for a term which may extend to three years, and also with fine" shall be substituted.

### CHAPTER III

#### AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

Amendment of section 26.

11. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in the proviso to clause (a), for the words, figures and letters "offence under section 376 and sections 376A to 376D of the Indian Penal Code", the words, figures and letters "offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code" shall be substituted.

2 of 1974.

45 of 1860.

Amendment of section 54A.

12. In section 54A of the Code of Criminal Procedure, the following provisos shall be inserted, namely:—

"Provided that, if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with:

Provided further that if the person identifying the person arrested is mentally or physically disabled, the identification process shall be videographed."

13. In section 154 of the Code of Criminal Procedure, in sub-section (1), the following provisos shall be inserted, namely:—

Amendment  
of section  
154.

"Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible."

14. In section 160 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words "under the age of fifteen years or woman", the words "under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person" shall be substituted.

Amendment  
of section  
160.

15. In section 161 of the Code of Criminal Procedure, in sub-section (3), after the proviso, the following proviso shall be inserted, namely:—

Amendment  
of section  
161.

"Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer."

16. In section 164 of the Code of Criminal Procedure, after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment  
of section  
164.

"(5A) (a) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:

Provided that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be videographed.

45 of 1860.

45 of 1860.

45 of 1860.

45 of 1860.

	(b) A statement recorded under clause (a) of a person, who is temporarily or permanently mentally or physically disabled, shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial."	1 of 1872.	45 of 1860
Amendment of section 173.	17. In section 173 of the Code of Criminal Procedure, in sub-section (2), in sub-clause (h) of clause (j), for the words, figures and letter "or 376D of the Indian Penal Code", the words, figures and letters "376D or section 376E of the Indian Penal Code" shall be substituted.	45 of 1860.	
Amendment of section 197.	18. In section 197 of the Code of Criminal Procedure, after sub-section (1), the following <i>Explanation</i> shall be inserted, namely:—  " <i>Explanation.</i> —For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, section 376, section 376A, section 376C, section 376D or section 509 of the Indian Penal Code."	45 of 1860.	
Insertion of new section 198B. Cognizance of offence.	19. After section 198A of the Code of Criminal Procedure, the following section shall be inserted, namely:—  "198B. No Court shall take cognizance of an offence punishable under section 376B of the Indian Penal Code where the persons are in a marital relationship, except upon <i>prima facie</i> satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the husband."	45 of 1860.	
Amendment of section 273.	20. In section 273 of the Code of Criminal Procedure, before the <i>Explanation</i> , the following proviso shall be inserted, namely:—  "Provided that where the evidence of a woman below the age of eighteen years who is alleged to have been subjected to rape or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such woman is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused."		
Amendment of section 309.	21. In section 309 of the Code of Criminal Procedure, for sub-section (1), the following sub-section shall be substituted, namely:—  "(1) In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:  Provided that when the inquiry or trial relates to an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible be completed within a period of two months from the date of filing of the charge sheet."	45 of 1860.	
Amendment of section 327.	22. In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letter "or section 376D of the Indian Penal Code", the words, figures and letters "section 376D or section 376E of the Indian Penal Code" shall be substituted.	45 of 1860.	
Insertion of new sections 357B and 357C. Compensation to be in addition to fine under section 326A or section 376D of Indian Penal Code.	23. After section 357A of the Code of Criminal Procedure, the following sections shall be inserted, namely:—  "357B. The compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim under section 326A or section 376D of the Indian Penal Code.	45 of 1860.	
Treatment of victims.	357C. All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident."	45 of 1860.	

SEC. 1]

## THE GAZETTE OF INDIA EXTRAORDINARY

45 of 1860.

24. In the First Schedule to the Code of Criminal Procedure, under the heading "I.-OFFENCES UNDER THE INDIAN PENAL CODE",—

Amendment  
of First  
Schedule.

(a) after the entries relating to section 166, the following entries shall be inserted, namely:—

1	2	3	4	5	6
*166A	Public servant disobeying direction under law.	Imprisonment for minimum 6 months which may extend to 2 years and fine.	Cognizable	Bailable	Magistrate of the first class.
166B	Non-treatment of victim by hospital.	Imprisonment for 1 year or fine or both.	Non-cognizable	Bailable	Magistrate of the first class."

(b) after the entries relating to section 326, the following entries shall be inserted, namely:—

1	2	3	4	5	6
*326A	Voluntarily causing grievous hurt by use of acid, etc.	Imprisonment for not less than 10 years but which may extend to imprisonment for life and fine to be paid to the victim.	Cognizable	Non-bailable	Court of Session.
326B	Voluntarily throwing or attempting to throw acid.	Imprisonment for 5 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Court of Session."

(c) for the entries relating to section 354, the following entries shall be substituted, namely:—

1	2	3	4	5	6
**354	Assault or use of criminal force to woman with intent to outrage her modesty.	Imprisonment of 1 year which may extend to 5 years, and with fine.	Cognizable	Non-bailable	Any Magistrate.
354A	Sexual harassment of the nature of unwelcome physical contact and advances or a demand or request for sexual favours, showing pornography.	Imprisonment which may extend to 3 years or with fine or with both.	Cognizable	Bailable	Any Magistrate.
	Sexual harassment of the nature of making sexually coloured remark.	Imprisonment which may extend to 1 year or with fine or with both.	Cognizable	Bailable	Any Magistrate.

## THE GAZETTE OF INDIA EXTRAORDINARY

[PART II—

1	2	3	4	5	6
354B	Assault or use of criminal force to woman with intent to disrobe.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Any Magistrate.
354C	Voyeurism.	Imprisonment of not less than 1 year but which may extend to 3 years and with fine for first conviction.	Cognizable	Bailable	Any Magistrate.
		Imprisonment of not less than 3 years but which may extend to 7 years and with fine for second or subsequent conviction.	Cognizable	Non-bailable	Any Magistrate.
354D	Stalking.	Imprisonment up to 3 years and with fine for first conviction.	Cognizable	Bailable	Any Magistrate.
		Imprisonment up to 5 years and with fine for second or subsequent conviction.	Cognizable	Non-bailable	Any Magistrate.;

(d) for the entries relating to section 370, the following entries shall be substituted, namely:—

1	2	3	4	5	6
370	Trafficking of person.	Imprisonment of not less than 7 years but which may extend to 10 years and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of more than one person.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of a minor.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of more than one minor.	Imprisonment of not less than 14 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.

SEC. 1]

## THE GAZETTE OF INDIA EXTRAORDINARY

1	2	3	4	5	6
	Person convicted of offence of trafficking of minor on more than one occasion.	Imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
	Public servant or a police officer involved in trafficking of minor.	Imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
370A	Exploitation of a trafficked child.	Imprisonment of not less than 5 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Court of Session.
	Exploitation of a trafficked person.	Imprisonment of not less than 3 years but which may extend to 5 years and with fine.	Cognizable	Non-bailable	Court of Session.":

(e) for the entries relating to sections 376, 376A, 376B, 376C and 376D, the following entries shall be substituted, namely:—

1	2	3	4	5	6
"376	Rape.	Rigorous imprisonment of not less than 7 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.

## THE GAZETTE OF INDIA EXTRAORDINARY

[PART II—

1	2	3	4	5	6
376A	Person committing an offence of rape and inflicting injury which causes death or causes the woman to be in a persistent vegetative state.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life or with death.	Cognizable	Non-bailable	Court of Session.
376B	Sexual intercourse by husband upon his wife during separation.	Imprisonment for not less than 2 years but which may extend to 7 years and with fine.	Cognizable (but only on the complaint of the victim)	Bailable	Court of Session.
376C	Sexual intercourse by a person in authority.	Rigorous imprisonment for not less than 5 years but which may extend to 10 years and with fine.	Cognizable	Non-bailable	Court of Session.
376D	Gang rape.	Rigorous imprisonment for not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine to be paid to the victim.	Cognizable	Non-bailable	Court of Session.
376E	Repeat offenders.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life or with death.	Cognizable	Non-bailable	Court of Session.*;



(f) in entry relating to section 509, in column 3, for the words "Simple imprisonment for one year, or fine, or both," the words and figure "Simple imprisonment for 3 years and with fine" shall be substituted.

## CHAPTER IV

## AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872

- 1 of 1872. 25. After section 53 of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), the following section shall be inserted, namely:—
- Insertion of new section 53A.
- 45 of 1860. "53A. In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent."
- Evidence of character or previous sexual experience not relevant in certain cases.
26. For section 114A of the Evidence Act, the following section shall be substituted, namely:—
- Substitution of new section for section 114A.
- 45 of 1860. "114A. In a prosecution for rape under clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), clause (h), clause (i), clause (j), clause (k), clause (l), clause (m) or clause (n) of sub-section (2) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and such woman states in her evidence before the court that she did not consent, the court shall presume that she did not consent.
- Presumption as to absence of consent in certain prosecution for rape.
- 45 of 1860. *Explanation.*— In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375 of the Indian Penal Code.
27. For section 119 of the Evidence Act, the following section shall be substituted, namely:—
- Substitution of new section for section 119.
- "119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court, evidence so given shall be deemed to be oral evidence:
- Witness unable to communicate verbally.
- Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of an interpreter or a special educator in recording the statement, and such statement shall be videographed."
28. In section 146 of the Evidence Act, for the proviso, the following proviso shall be substituted, namely:—
- Amendment of section 146.
- 45 of 1860. "Provided that in a prosecution for an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent."

## CHAPTER V

## AMENDMENT TO THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

Substitution  
of new  
sections for  
section 42.

29. For section 42 of the Protection of Children from Sexual Offences Act, 2012, the following sections shall be substituted, namely:—

32 of 2012.

Alternate  
punishment.

"42. Where an act or omission constitutes an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376C, 376D, 376E or section 509 of the Indian Penal Code, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.

45 of 1860.

Act not in  
derogation of  
any other law.

42A. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency."

## CHAPTER VI

## MISCELLANEOUS

Repeal and  
savings.

30. (1) The Criminal Law (Amendment) Ordinance, 2013 is hereby repealed.

Ord. 3 of  
2013.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

45 of 1860.  
2 of 1974.  
1 of 1872.

P.K. MALHOTRA,  
Secretary to the Govt. of India.

## CORRIGENDA

In the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance, 2013 (Ord. 2 of 2013) as published in Gazette of India, Extraordinary, Part II, Section 1, dated the 30th January, 2013 (Issue No. 7):—

1. At page 1, in the long title, for "the inclusion", read "inclusion".
2. At page 2, in line 9, for "Sheduled", read "Scheduled".
3. At page 3,—
  - (i) in line 31, for "disolution", read "dissolution";
  - (ii) in line 37, for "ommission", read "omission";
  - (iii) in line 40, for "expedient", read "expedient".

## CORRIGENDA

The Criminal Law (Amendment) Ordinance, 2013 (Ord. 3 of 2013) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 3rd February, 2013 (Issue No. 8):—

1. At page 11, in line 30, for "proviso", read "provisos".
2. At page 15, in column 3 against section 354C, in line 38, for "year", read "years".
3. At page 16, in line 1, for "sections", read "section".

**ANNEXURE VI**

(vide para 1.145 of the Report)

**Main features of the Criminal Law (Amendment) Act, 2013****(A) Amendments in the Indian Penal Code, 1860**

- Amendment has been made in section 100 to insert the Clause *Seventhly*. This will extend the right to private defense of body against assault of grievous hurt by acid attack.
- A new section 166A has been inserted to provide that a public servant knowingly disobeying any directions of the law (such as not requiring witness like child, women, aged or disabled, to come to police station; recording the information by a woman police officer in acid attack, rape or sexual offences cases; not recording the information of disabled person at his residence etc.,) or fails to record any information (including FIRs) given to him with reference to crimes against women. If the public servant disobeys these directions of law or any other directions of law then he will be punished with imprisonment of a minimum of six months extendable to two years and with fine.
- A new section 166B has been inserted to provide for punishment upto one year, in case the hospitals (public or private) do not provide first aid or medical treatment, free of cost, to the victims of acid attack or rape.
- A new section 326A has been inserted to provide for a minimum 10 years imprisonment for the offence of causing hurt by acid attack, extendable to life, and with fine. The fine shall be just and reasonable to meet the medical expenses of treatment. Any fine levied under this section shall be given to the person on whom acid has been thrown or administered, which will be in addition to any compensation paid to the victim by the State Government under the Victim Compensation Scheme.
- 326B provides a minimum punishment of five years, extendable to seven years and fine for attempt to through or administer acid.

- Section 354 provides for increased punishment for assault or use of criminal force to outrage the modesty of a woman from 'extendable to two years, or fine or with both' to "a minimum punishment of one year extendable to five years and fine". The new insertion would close the option for the courts to letting away the convicts with small fines only.
- New section 354A has been inserted to punish the offenders of sexual harassment (like physical contact and advances involving unwelcome and explicit sexual overtures, demand or request for sexual favours; making sexually coloured remarks; or showing pornography against the will of a woman) with rigorous imprisonment extendable to one year/three years, or with fine, or with both.
- New section 354B, for the offence of assault or use of criminal force to woman (including the abetting of the offence) with the intention of disrobing or compelling her to be naked, has been inserted which will punish the offender with a minimum imprisonment of three years, extendable to seven years and fine.
- New section 354C for the offence of Voyeurism (watching or capturing the image of a woman engaging in a private act and dissemination of such image) has been inserted, with a minimum punishment of one year extendable to three years and for repeat offender, a minimum of three years extendable to seven years and fine.
- New section 354D for the offence of Stalking has been inserted, where offender will be punished with a minimum punishment of one year extendable to three years and for repeat offender, a minimum of three years extendable to seven years and fine.
- The punishment for trafficking of persons and minors has been made deterrent to check the menace of human trafficking. The new section 370 for the offence of trafficking of person and children has been inserted. The trafficking includes trafficking for the purposes of exploitation (physical or any form of sexual exploitation) slavery or forced removal of organs. The offence of trafficking is punishable with –
  - (i) a minimum rigorous imprisonment of seven years and extendable to ten years and fine;

- (ii) trafficking of more than one person with a minimum rigorous imprisonment of ten years extendable to imprisonment for life and fine;
  - (iii) trafficking of a minor with a minimum rigorous imprisonment of ten years extendable to imprisonment for life;
  - (iv) trafficking of more than one minor with a minimum rigorous imprisonment of fourteen years extendable to imprisonment for life;
  - (v) the repeat offenders of trafficking of minors shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life;
  - (vi) the public servant including police officer involved in the trafficking of a minor shall be punishable with the imprisonment for life, which shall mean the remainder of that person's natural life;
  - (vii) engaging a trafficked minor in any form of sexual exploitation is punishable with a minimum rigorous imprisonment of five years extendable to seven years and fine.
  - (viii) engaging a trafficked person for sexual exploitation shall be punished with a minimum rigorous imprisonment of three years extendable to five years and fine.
- The definition of Section 375 (rape) has been widened to include all kinds of sexual acts. While the punishment for rape has been kept at a minimum of seven years extendable to life imprisonment and for aggravated rape at a minimum of 10 years extendable to life imprisonment; the positive feature is that the proviso from section 376 of IPC which gave powers to the court to impose lesser than the prescribed punishment under law, 'for adequate and special reasons' has been deleted. This deletion will ensure that courts will impose stringent punishment to the convicts of sexual offences against women and hence will act as a deterrent.

- The new section 376 widens the ambit of aggravated rape to include the cases of rape on women by police officers in custody, public servant on sub-ordinate public servant, staff and management (of Jails, remand home, children home, hospital); relatives, guardian, teachers, rape during communal and sectarian violence, rape on mentally and physically disabled women, etc.,
- In the case of rape followed by any injury which causes death or causes the victim to be in a persistent vegetative state, a new section 376A has been inserted under which the convicts will be punished with a minimum rigorous imprisonment of twenty years, extendable to imprisonment for life (which shall mean the remainder of that person's natural life) *or with death*. This should serve as a strong deterrent against the perpetrators of horrendous crimes.
- A new section 376B has been inserted which provides that if a man has sexual intercourse with his own wife, living separately under a decree of separation or otherwise; the punishment would be 'a minimum term of two years extendable to seven years and fine'. This provision has been kept as bailable keeping in view that there is still a hope of husband and wife would unite again.
- The punishment under section 376C, for the person who being in a position of authority or in a fiduciary relationship, or a public servant, or superintendent or manager of jail, remand home, etc., abuses such position of authority and induce or seduce a woman to have sexual intercourse, not amounting to rape (as there would be consent) is a minimum term of five years, extendable to ten years and fine. This has been increased from 'a term of extendable to five years and fine' and hence is a stringent punishment and should act as a deterrent.
- New section 376D on gang rape has been inserted. The punishment for gang rape is a minimum rigorous imprisonment of twenty years, extendable to life and the offenders will pay fine to the victim which shall be just and reasonable to meet the medical expenses and rehabilitation of the victim. The fine imposed will be paid to the victim which would be in addition to the compensation payable by the State Government under Victim Compensation Scheme (under section 357A of Cr.P.C.). The punishment for gang rape convicts has been made more stringent.

- The new section 376E provides for stringent punishment for repeat offenders of the offence of rape. The punishment prescribed is imprisonment for life, (which shall mean the remainder of the convict's natural life) or with death. This should serve as deterrence against the second time offenders.
- Under section 509, the punishment for insulting the modesty of a woman by uttering words, making sound or gestures (eve teasing) has been increased from 'simple imprisonment for a term extendable to one year or fine or both' to 'punishment extendable to three years and fine.' This is more stringent punishment.

**(B) Amendments in the Code of Criminal Procedure, 1973**

- It has been provided in section 54A that the identification process of the arrested person by mentally or physically disabled person shall be videographed.
- In section 154, a proviso has been inserted to provide that the information provided by a woman victim of acid attack, sexual offences against women or rape shall be recorded by a woman police officer or any woman officer. It further provides that in case the woman victim is temporarily or permanently mentally or physically disabled, such information shall be recorded by the police officer at the residence of the person or at any convenient place, in the presence of a special educator or an interpreter. The recordings of such information shall also be videographed.
- The amendment in section 160 (regarding the powers of police officer to require attendance of witness) provides that women or any male person under the age of 15 years or above the age of 65 years or a physically or mentally disabled person shall not be required to give personal attendance as witness at the place other than his or her place of residence.

- The amendment of section 161 provides that statement of women victim of sexual offences including the offence of rape shall be recorded by a woman police officer or any woman officer.
- In section 164, sub-section 5A(a) has been inserted to provide that Judicial Magistrate shall record the statement of the victim of sexual offences including rape, as soon as the commission of the offence is brought to the notice of the police. It further provides that for recording of the statement of temporarily or permanently physically or mentally disabled person, assistance of an interpreter or a special educator shall be taken by the Magistrate and the making of such statement shall be videographed.
- An explanation to section 197(1) has been inserted to remove the doubts that no sanction for prosecution shall be required in case of a public servant commits offences of rape on woman. The public servant guilty of offence of not recording FIRs etc. will also require sanction for prosecution.
- The new section 198B provides that no Court shall take cognizance of an offence under marital relationship, except upon *prima facie* satisfaction of the facts and upon a complaint having been filed or made by the wife against the accused husband.
- The amendment in section 273 provides that where a woman below the age of eighteen years has been subjected to sexual assault or any other sexual offence, the court may take appropriate measures to ensure that such woman is not confronted by the accused at the time of recording of her evidence, while at the same time ensuring the right of cross-examination of the accused.
- In section 309, sub-section(1) has been substituted to provide that in rape cases the trial proceedings will be continued on day to day basis until all witnesses have been examined. It further provides that trial in such cases shall be completed as far as possible, within a period of 2 months from the date of filing of the charge sheet. This will ensure speedy trial of rape cases.



- Section 357B has been inserted to provide that compensation provided under the Victim Compensation Scheme by the State Government to the acid attack or gang rape victim shall be in addition to payment of fine to the victim by the offenders.
- Section 357C has been inserted to provide that all hospitals (public or private) shall provide first aid or medical treatment, free of cost, to the victims of acid attack or rape.

**(C) Amendments in the Indian Evidence Act, 1872**

- A new section 53A has been inserted to provide that in cases of sexual offences and rape, past conduct or character of the victim or previous sexual experience with any person shall not be related to the issue of consent or the quality of the consent.
- The section 114A is being substituted to provide that in the prosecution of aggravated rape cases (which is committed by the person in authority etc.) where sexual intercourse by the accused is proved and the question is whether it was without consent of a woman and when such woman in her evidence before the Court states that she did not consent, then the court shall presume that consent was not given by her.
- The substituted new section 119 provides that if a witness is unable to speak, he may give his evidence in any other manner in which he can make it intelligible, by writing or by signs and the evidence so given shall be deemed to be oral evidence. Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of a special educator or interpreter in recording the statement and such statement shall be videographed.
- As per section 146 of Evidence act, lawful questions to injure the character of witness can be asked during cross examination. A proviso in section 146 has been added to provide where the question of consent is an issue, it shall not be permissible to adduce evidence or to put

questions in the cross-examination of the victim as to her general immoral character, or previous sexual experience with any person, for proving such consent or the quality of consent.

- These amendments in the Indian Evidence Act are intended to protect the dignity of the victim and hence are victim friendly. It will save the victims, particularly women and children from the humiliation and character assassination in the courts during the cross-examination. This would also ensure better recording of the evidence.

(D) **Amendment to the Protection of Children from Sexual Offences Act, 2012.**

- The Protection of Children from Sexual Offences Act, 2012 has been amended to harmonize the said Act with the provision of the Act.

## ANNEXURE – VII

**Comparative analysis of the amendments proposed by the Committee headed by Hon'ble Justice (Retd.) J.S. Verma, Former Chief Justice of India, Criminal Law (Amendment) Ordinance, 2013 and Criminal Law (Amendment) Act, 2013**

*(vide para 1.145 of the Report)*

Report of the Committee on amendments to Criminal Law submitted by Justice J.S. Verma (Retd.)	Criminal Law (Amendment) Ordinance, 2013 promulgated by the President on February 3, 2013	The Criminal Law (Amendment) Act, 2013
<b>Amendments to the Indian Penal Code</b>		
<p><b><u>CHAPTER – I</u></b>  <b>Section 100 of the Code shall be modified as follows:</b></p> <p>The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:-</p> <p>Firstly, Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;</p> <p>Secondly, Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault, which shall include a crime punishable under Section 326A of the Indian Penal Code.</p> <p>Thirdly, An assault with the intention of committing rape</p> <p>Fourthly, An assault with the intention of gratifying unnatural lust;</p> <p>Fifthly, An assault with the intention of kidnapping</p>	<p><b><u>CHAPTER – II</u></b>  <b>Amendment of section 100</b></p> <p>In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 100, in the clause <i>Secondly</i>, after the words “grievous hurt”, the words “including the offence of grievous hurt punishable under section 326A” shall be inserted.</p>	<p><b><u>CHAPTER – II</u></b>  <b>Amendment of section 100</b></p> <p>In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 100, after clause <i>Sixthly</i>, the following clause shall be inserted, namely:—</p> <p>“<i>Seventhly</i>.— An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act.”.</p>

<p>or abducting;</p> <p>Sixthly, An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.</p>		
<p><b>Addition of Section 166A:</b></p> <p>After section 166 of the Indian Penal Code the following section shall be inserted, namely:—</p> <p><b>"166A. Public Servant knowingly disobeying direction of law whoever, being a public servant, —</b></p> <p><b>(d)</b> knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or</p> <p><b>(e)</b> knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or</p> <p><b>(f)</b> in relation to an offence punishable under Section 354, Section 354A, Section 354B, Section 354 C(2), Section 376(1), Section 376(2), Section 376(3), Section 376A, Section 376B(1), Section 376B(2), Section 376C, Section 376D or Section 376F does not record information given to him under Section 154(1) of the Code of Criminal Procedure shall be punished with imprisonment for a term which may extend to five years rigorous imprisonment and fine.</p>	<p><b>Insertion of new section 166A</b></p> <p>After section 166 of the Penal Code, the following section shall be inserted, namely:—</p> <p><b>"166A. Public Servant disobeying direction under law —</b></p> <p>“166A. Whoever, being a public servant,—</p> <p>(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or</p> <p>(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or</p> <p>(c) fails to record any information given to him under subsection (1) of section 154 of the Code of Criminal Procedure, 1973 and in particular in relation to cognizable offence punishable under section 354, section 354A, section 354B, section 354C, sub-section (2) of section 354D, section 376, section 376A, section 376B, section 376C, section 376D or section 376E, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.”.</p>	<p><b>Insertion of new sections 166A and 166B</b></p> <p>After section 166 of the Penal Code, the following sections shall be inserted, namely:—</p> <p><b>Public Servant disobeying direction under law—</b></p> <p>“166A. Whoever, being a public servant,—</p> <p>(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or</p> <p>(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or</p> <p>(c) fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973, in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509, shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.</p> <p><b>Punishment for non-treatment of victim</b></p>

		166B. Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the provisions of section 357C of the Code of Criminal Procedure, 1973, shall be punished with imprisonment for a term which may extend to one year or with fine or with both".
		<b>Amendment of Section 228A</b>  In section 228A of the Penal Code, in sub-section (I), for the words, figures and letters "offence under section 376, section 376A, section 376B, section 376C or section 376D", the words, figures and letters "offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E" shall be substituted.
<p><b>After section 326 of the Penal Code, the following sections shall be inserted, namely:-</b></p> <p><b>'326A. Voluntarily causing grievous hurt through use of acid etc:</b></p> <p>Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables any part, or parts of the body of a person, or causes grievous hurt, by throwing acid on, or administering acid to that person, or by using any other means to achieve a similar purpose and effect, with the intention of causing, or with the knowledge that he is likely to cause such injury, or hurt, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to life, and shall also be liable to pay compensation to the victim, adequate to meet at least the medical expenses incurred by the victim.</p> <p>Explanation 1: "Permanent or partial damage" for the purposes of this section shall include forced circumcision of a female or mutilation of her</p>	<p><b>Insertion of new sections 326A and 326B</b></p> <p>After section 326 of the Penal Code, the following sections shall be inserted, namely:—</p> <p><b>Voluntarily causing grievous hurt by use of acid, etc.</b></p> <p>'326A. Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life and with fine which may extend to ten lakh rupees:</p> <p>Provided that any fine imposed under this section shall be given to the person on whom acid was thrown or to whom acid was administered.</p>	<p><b>Insertion of new sections 326A and 326B</b></p> <p>After section 326 of the Penal Code, the following sections shall be inserted, namely:—</p> <p><b>Voluntarily causing grievous hurt by use of acid, etc.</b></p> <p>'326A. Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:</p> <p>Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:</p> <p>Provided further that any fine imposed under this section shall be paid to the victim.</p>

<p>genitalia.</p> <p>Explanation 2: For the purposes of this section, permanent or partial damage or deformity shall not be required to be irreversible.</p> <p><b>326B. Voluntarily throwing or attempting to throw acid etc.</b></p> <p>Whoever throws, or attempts to throw acid on any person, or attempts to administer acid to any person, or attempts to use any other means to achieve the purpose of causing permanent or partial damage to any part or parts of the body of a person, shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to pay compensation to the victim adequate to meet at least the medical expenses incurred by the victim.</p> <p>Explanation 1: —For the purposes of sections 326A and 326B, "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.</p> <p>Explanation 2: "Permanent or Partial Damage" includes deformity, or maiming, or burning, or disfiguring, or disabling any part or parts of the body of a person. Irreversibility will not be a precondition for damage or deformity to be considered as permanent or partial damage.</p>	<p><b>Voluntarily throwing or attempting to throw acid.</b></p> <p>326B. Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.</p> <p><i>Explanation 1.</i>— For the purposes of section 326A and this section, “acid” includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.</p> <p><i>Explanation 2.</i>— “Permanent or partial damage” includes deformity, or maiming, or burning, or disfiguring, or disabling any part or parts of the body of a person.</p> <p><i>Explanation 3.</i>— For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.’.</p>	<p><b>Voluntarily throwing or attempting to throw acid.</b></p> <p>326B. Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.</p> <p><i>Explanation 1.</i>—For the purposes of section 326A and this section, "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.</p> <p><i>Explanation 2.</i>— For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.’.</p>
<p><b>Section 354 of the Indian Penal Code shall be replaced by the following:</b></p> <p><b>354. Sexual Assault and Punishment for sexual assault</b></p>	<p><b>Amendment of section 354.</b></p> <p>In section 354 of the Penal Code, for the words “shall be punished with imprisonment of either description for a term which may extend to two years, or with</p>	<p><b>Amendment of section 354.</b></p> <p>In section 354 of the Penal Code, for the words "shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with</p>

<p>(1) The following acts shall constitute the offence of sexual assault:-</p> <p><b>(c)</b> Intentional touching of another person when such act of touching is of a sexual nature and is without the recipient's consent;</p> <p><b>(d)</b> Using words, acts or gestures towards or in the presence of another person which create an unwelcome threat of a sexual nature or result in an unwelcome advance.</p> <p>Explanation: For the purposes of this section, 'acts' shall include the display and dissemination of pornographic material.</p> <p>(2) Any person who commits the offence described in sub-clause (a) of sub-section (1) above shall be punishable with rigorous imprisonment that may extend to five years, or with fine, or both.</p> <p>(3) Any person who commits the offence described in sub-clause (b) of sub-section (1) above shall be punishable with imprisonment of either description that may extend to one year, or with fine, or both.</p>	<p>fine, or with both”, the words “shall be punished with imprisonment of either description for a term of one year which may extend to five years and shall also be liable to fine” shall be substituted.</p>	<p>both", the words "shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine" shall be substituted.</p>
<p><b>After Section 354, the following new sections shall be introduced:</b></p> <p><b>354C.</b> Assault or use of criminal force to woman with intent to disrobe her –</p> <p>Whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked in any public place, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.</p>	<p><b>Insertion of new sections 354A, 354B, 354C and 354D.</b></p> <p><b>Sexual harassment and punishment for sexual harassment.</b></p> <p>After section 354 of the Penal Code, the following sections shall be inserted, namely:—</p> <p>‘354A. (1) The following acts or behaviour shall constitute the offence of sexual harassment—</p> <p>(i) physical contact and advances involving unwelcome and explicit sexual overtures; or</p>	<p><b>Insertion of new sections 354A, 354B, 354C and 354D.</b></p> <p><b>Sexual harassment and punishment for sexual harassment.</b></p> <p>After section 354 of the Penal Code, the following sections shall be inserted, namely:—</p> <p>‘354A. (1) A man committing any of the following acts—</p> <p>(i) physical contact and advances involving unwelcome and explicit sexual overtures; or</p> <p>(ii) a demand or request for sexual favours; or</p>

<p><b>354D. Voyeurism –Whoever watches a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator, or by any other person at the behest of the perpetrator shall, be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but may extend to three years, and with fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but may extend to seven years, and also with fine.</b></p> <p><u>Explanation 1:</u> 'Private act', in the context of this provision, is an act carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim's genitals, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public.</p> <p><u>Explanation 2:</u> If the victim consented to capture of the images or other material, but not to their dissemination to third persons, such dissemination shall be considered an offence within this section.</p> <p>354C (1) - Stalking: Whoever follows a person and contacts, or attempts to contact such person to foster personal interaction repeatedly, despite a clear indication of disinterest by such person, or whoever monitors the use by a person of the internet, email or any other form of electronic communication, or watches or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person, commits the offence</p>	<p>(ii) a demand or request for sexual favours; or (iii) making sexually coloured remarks; or (iv) forcibly showing pornography; or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.</p> <p>(2) Any person who commits the offence specified in clause (i) or clause (ii) of sub-section (1) shall be punished with rigorous imprisonment which may extend to five years, or with fine, or with both.</p> <p>(3) Any person who commits the offence specified in clause (iii) or clause (iv) or clause (v) of sub-section (1) shall be punishable with imprisonment of either description that may extend to one year, or with fine, or with both.</p> <p><b>Assault or use of criminal force to woman with intent to disrobe.</b></p> <p>354B. Whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked in any public place, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and with fine.</p> <p><b>Voyeurism</b></p> <p>354C. Whoever watches, or captures the image of, a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator shall be punished on first conviction with imprisonment of either description for a term which shall not be less</p>	<p>(iii) showing pornography against the will of a woman; or (iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.</p> <p>(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.</p> <p>(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.</p> <p><b>Assault or use of criminal force to woman with intent to disrobe.</b></p> <p>354B. Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.</p> <p><b>Voyeurism</b></p> <p>354C. Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three</p>
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<p>of stalking.          Provided that the course of conduct will not amount to stalking if the person who pursued it shows:</p> <ul style="list-style-type: none"> <li>i that it was pursued for the purpose of preventing or detecting crime and the person accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the state; or,</li> <li>iv. that it was pursued under any enactment or rule of law, or to comply with any condition or requirement imposed by any person under any enactment; or,</li> <li>v. that in the particular circumstances the pursuit of the course of conduct was reasonable</li> </ul> <p>(2) Whoever commits the offence described in Section 354C(1) shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine.</p>	<p>than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.</p> <p><i>Explanation 1.</i>— For the purposes of this section, “private act” includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim's genitals, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public.</p> <p><i>Explanation 2.</i>— Where the victim consents to the capture of images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.</p> <p><b>Stalking</b></p> <p>354D. (1) Whoever follows a person and contacts, or attempts to contact such person to foster personal interaction repeatedly, despite a clear indication of disinterest by such person, or whoever monitors the use by a person of the internet, email or any other form of electronic communication, or watches or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person, commits the offence of stalking:</p> <p>Provided that the course of conduct will not amount to stalking if the person who pursued it shows—</p>	<p>years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.</p> <p><i>Explanation 1.</i>—For the purpose of this section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.</p> <p><i>Explanation 2.</i>—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.</p> <p><b>Stalking</b></p> <p>354D. (1) Any man who—</p> <ul style="list-style-type: none"> <li>(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or</li> <li>(ii) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking:</li> </ul> <p>Provided that such conduct shall not amount to stalking if the man who pursued it proves that—</p>
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	<p>(i) that it was pursued for the purpose of preventing or detecting crime and the person accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the state; or  (ii) that it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or  (iii) that in the particular circumstances the pursuit of the course of conduct was reasonable.</p> <p>(2) Whoever commits the offence of stalking shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine.’.</p>	<p>(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or  (ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or  (iii) in the particular circumstances such conduct was reasonable and justified.</p> <p>(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.</p>
<p>Section 370 shall be replaced with new Sections 370 and 370A, defining and punishing the offence of trafficking, and the offence of employing a trafficked person, respectively.</p> <p>Section 370: Trafficking of a Person</p> <p><b>(3)</b> Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers or (e) receives, a person or persons, by  Firstly, using threats, or  Secondly, using force, or any other form of coercion, or  Thirdly, by abduction, or  Fourthly, by practicing fraud, or deception, or  Fifthly, by abuse of power, or  Sixthly, by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control</p>	<p><b>Substitution of new sections 370 and 370A for section 370.</b></p> <p><b>Trafficking of person</b></p> <p>For section 370 of the Penal Code, the following sections shall be substituted, namely:—  ‘370. (1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—  <i>First.</i>— using threats, or  <i>Secondly.</i>— using force, or any other form of coercion, or  <i>Thirdly.</i>— by abduction, or  <i>Fourthly.</i>— by practising fraud, or deception, or  <i>Fifthly.</i>— by abuse of power, or  <i>Sixthly.</i>— by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the</p>	<p><b>Substitution of new sections 370 and 370A for section 370.</b></p> <p><b>Trafficking of person</b></p> <p>For section 370 of the Penal Code, the following sections shall be substituted, namely:—  ‘370. (1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—  <i>First.</i>— using threats, or  <i>Secondly.</i>— using force, or any other form of coercion, or  <i>Thirdly.</i>— by abduction, or  <i>Fourthly.</i>— by practising fraud, or deception, or  <i>Fifthly.</i>— by abuse of power, or  <i>Sixthly.</i>— by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person</p>

<p>over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.</p> <p>Explanation I: The expression 'exploitation' shall include, prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the forced removal of organs.</p> <p>Explanation II: The consent of the victim is immaterial in a determination of the offence of trafficking.</p> <p><b>(4)</b> Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and also with fine.</p> <p><b>(8)</b> Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and also with fine.</p> <p><b>(9)</b> Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life.</p> <p><b>(10)</b> Where the offence involves the trafficking of more than one minor at the same time, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years but which may extend to imprisonment for life.</p> <p><b>(11)</b> When a public servant or a police officer is involved in the trafficking of a minor then such</p>	<p>person recruited, transported, harboured, transferred or received, commits the offence of trafficking.</p> <p><i>Explanation 1.</i>— The expression “exploitation” shall include, prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the forced removal of organs.</p> <p><i>Explanation 2.</i>— The consent of the victim is immaterial in a determination of the offence of trafficking.</p> <p>(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.</p> <p>(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.</p> <p>(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life.</p> <p>(5) Where the offence involves the trafficking of more than one minor at the same time, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years but which may extend to imprisonment for life.</p> <p>(6) When a public servant including police officer is involved in the trafficking of a minor then such public</p>	<p>recruited, transported, harboured, transferred or received, commits the offence of trafficking.</p> <p><i>Explanation 1.</i>— The expression "exploitation" shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.</p> <p><i>Explanation 2.</i>— The consent of the victim is immaterial in determination of the offence of trafficking.</p> <p>(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.</p> <p>(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.</p> <p>(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.</p> <p>(5) Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.</p> <p>(6) If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.</p>
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<p>public servant shall be punished with imprisonment for life, which shall mean the rest of that person's natural life.</p> <p><b>(12)</b> If a person is convicted of the offence of trafficking of minors, on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the rest of that person's natural life.</p> <p>Section 370A: Employing a Trafficked person</p> <p><b>(3)</b> Whoever, despite knowing, or having a reason to believe that a child has been trafficked, employs such child in any form of labour, commits the offence of forced labour of a trafficked child, and shall be punished with rigorous imprisonment for a term which shall not be less than five years but may extend to seven years, and with a fine.</p> <p><b>(4)</b> Whoever, despite knowing, or having a reason to believe that an adult has been trafficked, employs such adult for labour, commits the offence of forced labour of a trafficked adult, and shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to five years.</p>	<p>servant shall be punished with imprisonment for life, which shall mean the remainder of that person's natural life.</p> <p>(7) If a person is convicted of the offence of trafficking of minors, on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life.</p> <p><b>"166A. Public Servant knowingly disobeying direction of law whoever, being a public servant, —</b></p> <p><b>Employing a trafficked person</b></p> <p>370A. (1) Whoever, despite knowing, or having reason to believe that a child has been trafficked, employs such child in any form of labour, shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to seven years, and with fine.</p> <p>(2) Whoever, despite knowing or having reason to believe that an adult has been trafficked, employs such adult for labour, shall be punished with rigorous imprisonment for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.'</p>	<p>(7) When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.</p> <p><b>Exploitation of a trafficked person</b></p> <p>370A. (1) Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.</p> <p>(2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.'</p>
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<p>Section 375 shall be replaced as suggested below:</p> <p>Section 375: Rape</p> <p>375. A man is said to commit rape if he —</p> <p>(a) penetrates the vagina or anus or urethra of a person with—</p> <p><b>(iii)</b> any part of his body including his penis or,  <b>(iv)</b> any object manipulated by him, except where such penetration is carried out for proper hygienic or medical purposes; or,</p> <p>(b) manipulates any part of the body of a person so as to cause penetration of the vagina or anus or urethra of another person; or,  engages in "cunnilingus" or "fellatio", under the circumstances falling under any of the following six descriptions: —</p> <p>Firstly. —Against the person’s will; or,</p> <p>Secondly. — Without the person’s consent; or,</p> <p>Thirdly, With the person’s consent, where such consent has been obtained by putting the person, or any other person in whom the person is interested, in fear of death or of hurt; or,</p> <p>Fourthly. — With the person’s consent, when the man induces the person to consent to the relevant act by impersonating another man to whom the victim would have otherwise knowingly consented to; or,</p> <p>Fifthly, With the person’s consent, when at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by the</p>	<p><b>Substitution of new sections for sections 375, 376, 376A, 376B, 376C and 376D</b></p> <p><b>Sexual assault</b></p> <p>For sections 375, 376, 376A, 376B, 376C and 376D of the Penal Code, the following sections shall be substituted, namely:—</p> <p>‘375. A person is said to commit “sexual assault” if that person—</p> <p>(a) penetrates his penis, to any extent, into the vagina, mouth urethra or anus of another person or makes the person to do so with him or any other person; or</p> <p>(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of another person or makes the person to do so with him or any other person; or</p> <p>(c) manipulates any part of the body of another person so as to cause penetration into the vagina, urethra, anus or any part of body of such person or makes the person to do so with him or any other person; or</p> <p>(d) applies his mouth to the penis, vagina, anus, urethra of another person or makes such person to do so with him or any other person;</p> <p>(e) touches the vagina, penis, anus or breast of the person or makes the person touch the vagina, penis, anus or breast of that person or any other person, except where such penetration or touching is carried out for proper hygienic or medical purposes under the circumstances falling under any of the following seven descriptions:—</p> <p>–</p>	<p><b>Substitution of new sections for sections 375, 376, 376A, 376B, 376C and 376D</b></p> <p><b>Rape</b></p> <p>For sections 375, 376, 376A, 376B, 376C and 376D of the Penal Code, the following sections shall be substituted, namely:—</p> <p>‘375. A man is said to commit "rape" if he—</p> <p>(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or</p> <p>(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or</p> <p>(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or</p> <p>(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:—</p> <p><i>First.</i>—Against her will.</p> <p><i>Secondly.</i>—Without her consent.</p> <p><i>Thirdly.</i>—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.</p> <p><i>Fourthly.</i>—With her consent, when the man knows that</p>
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<p>man personally or through another of any stupefying or unwholesome substance, the person is unable to understand the nature and consequences of the action to which he/she gives consent; or,</p> <p>Sixthly, When the person is unable to communicate consent either express or impliedly.</p> <p>Explanation I. — For the purposes of this section, "penetration" means penetration of the vagina, anus or urethra to any extent.</p> <p>Explanation II.—For the purposes of this section, "vagina" shall also include labia majora.</p> <p>Explanation III: Consent will not be presumed in the event of an existing marital relationship between the complainant and the accused.</p> <p>Explanation IV. - Consent means an unequivocal voluntary agreement when the person by words, gestures or any form of non-verbal communication, communicates willingness to participate in the specific act.</p> <p>Provided that, a person who does not offer actual physical resistance to the act of penetration is not by reason only of that fact, to be regarded as consenting to the sexual activity.</p>	<p><i>First.</i>— Against the other person’s will.</p> <p><i>Secondly.</i> — Without the other person’s consent.</p> <p><i>Thirdly.</i> — With the other person’s consent when such consent has been obtained by putting such other person or any person in whom such other person is interested, in fear of death or of hurt.</p> <p><i>Fourthly.</i> — When the person assaulted is a female, with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes to be lawfully married.</p> <p><i>Fifthly.</i>— With the consent of the other person when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by that person personally or through another of any stupefying or unwholesome substance, the other person is unable to understand the nature and consequences of that action to which such other person gives consent.</p> <p><i>Sixthly.</i> — With or without the other person’s consent, when such other person is under eighteen years of age.</p> <p><i>Seventhly.</i> — When the person is unable to communicate consent.</p> <p><i>Explanation 1.</i>— Penetration to any extent is “penetration” for the purposes of this section.</p> <p><i>Explanation 2.</i>— For the purposes of this section, “vagina” shall also include <i>labia majora</i>.</p> <p><i>Explanation 3.</i>— Consent means an unequivocal voluntary agreement when the person by words,</p>	<p>he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.</p> <p><i>Fifthly.</i>—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.</p> <p><i>Sixthly.</i>—With or without her consent, when she is under eighteen years of age.</p> <p><i>Seventhly.</i>—When she is unable to communicate consent.</p> <p><i>Explanation 1.</i>—For the purposes of this section, "vagina" shall also include <i>labia majora</i>.</p> <p><i>Explanation 2.</i>—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:</p> <p>Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.</p> <p><i>Exception 1.</i>—A medical procedure or intervention shall not constitute rape.</p> <p><i>Exception 2.</i>—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.</p>
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	<p>gestures or any form of non-verbal communication, communicates willingness to participate in the specific act:</p> <p>Provided that, a person who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.</p> <p><i>Exception.</i>— Sexual intercourse or sexual acts by a man with his own wife, the wife not being under sixteen years of age, is not sexual assault.</p>	
<p>In place of the existing section, Section 376 will be amended in the following <b>manner:</b></p> <p>376. (1) Punishment for Rape</p> <p>Whoever, except in the cases provided for by sub-section (2), commits the offence of rape shall be punished with rigorous imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life, and shall also be liable <b>to pay compensation to the victim, which shall be adequate to meet at least the medical expenses incurred by the victim.</b></p> <p>(2) Whoever, —</p> <p>(a) being a police officer, whether on duty or otherwise, commits rape —</p> <p><b>(iv)</b> within the limits of the police station to which such police officer is appointed; or,</p> <p><b>(v)</b> in the premises of any station house; or,</p> <p>(vi) on a person in such police officer's custody, or in the custody of a police officer subordinate to such police officer; or,</p>	<p><b>Punishment for sexual assault</b></p> <p>376. (1) Whoever, except in the cases provided for by sub-section (2), commits sexual assault, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years but which may extend to imprisonment for life, and shall also be liable to fine.</p> <p>(2) Whoever,—</p> <p>(a) being a police officer, commits sexual assault –</p> <p>(i) within the limits of the police station to which such police officer is appointed; or</p> <p>(ii) in the premises of any station house; or</p> <p>(iii) on a person in such police officer's custody or in the custody of a police officer subordinate to such police officer; or</p> <p>(b) being a public servant, commits sexual assault on a person in such public servant's custody or in the custody of a public servant subordinate to such public servant; or</p>	<p><b>Punishment for rape</b></p> <p>376. (1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.</p> <p>(2) Whoever,—</p> <p>(a) being a police officer, commits rape—</p> <p>(i) within the limits of the police station to which such police officer is appointed; or</p> <p>(ii) in the premises of any station house; or</p> <p>(iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or</p> <p>(b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or</p>

<p>(b) being a member of the armed forces is in the area by virtue of deployment by the Central or a State government, and commits rape; or</p> <p>(c) being a public servant, commits rape of a person in his custody or in the custody of a public servant; or</p> <p>(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or</p> <p>(e) being on the management or on the staff of a hospital, commits rape on a patient in that hospital; or</p> <p>(f) commits rape on a woman knowing her to be pregnant; or</p> <p>(g) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the person assaulted, commits rape; or</p> <p>(h) commits rape, where the person assaulted is incapable of giving consent including in circumstances defined under Section 375 Thirdly, Fifthly and Sixthly.</p> <p>(i) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of the person assaulted; or</p> <p>(j) commits rape repeatedly on the same person,</p> <p>shall be punished with rigorous imprisonment for a term which shall not be less than ten years but</p>	<p>(c) being a member of the armed forces is in the area by virtue of deployment by the Central or a State Government, commits sexual assault; or</p> <p>(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits sexual assault on any inmate of such jail, remand home, place or institution; or</p> <p>(e) being on the management or on the staff of a hospital, commits sexual assault on a person in that hospital; or</p> <p>(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards, the person assaulted, commits sexual assault on such person; or</p> <p>(g) commits sexual assault on a woman knowing her to be pregnant; or</p> <p>(h) commits sexual assault on a person when such person is under eighteen years of age; or</p> <p>(i) commits sexual assault, where the person assaulted is incapable of giving consent; or</p> <p>(j) being in a position of economic or social dominance, commits sexual assault on a person under such dominance; or</p> <p>(k) commits sexual assault on a person suffering from mental or physical disability; or</p> <p>(l) while committing sexual assault causes grievous bodily harm or maims or disfigures or endangers the life of a person; or</p>	<p>(c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or</p> <p>(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or</p> <p>(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or</p> <p>(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or</p> <p>(g) commits rape during communal or sectarian violence; or</p> <p>(h) commits rape on a woman knowing her to be pregnant; or</p> <p>(i) commits rape on a woman when she is under sixteen years of age;</p> <p>(j) commits rape, on a woman incapable of giving consent; or</p> <p>(k) being in a position of control or dominance over a woman, commits rape on such woman; or</p> <p>(l) commits rape on a woman suffering from mental or physical disability; or</p> <p>(m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or</p>
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<p>which may extend to imprisonment for life, and shall also be liable to pay compensation to the victim which shall be adequate to meet at least the medical expenses incurred by the victim.</p> <p>Explanation 1. —For the purposes of this Section, "rape" shall mean any of the acts mentioned in clauses (a) to (c) of section 375.</p> <p>Explanation 2. —For the purposes of this Section, "women's or children's institution" includes an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an observation home, beggar home or a halfway home or an institution called by any other name, which is established and maintained for the reception and care of women or children;</p> <p>Explanation 3. —For the purposes of this Section, "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.</p> <p>Explanation 4: In sub-clause (a) of clause (2), "police officer" shall have the same meaning as the word "Police" under The Police Act, 1861.</p> <p>Explanation 5: For the purposes of this section 'custody' includes any form of physical, mental or psychological restraint to inhibit the exercise of free will by the person in custody.</p> <p>Explanation 6: For the purposes of this section, 'armed forces' means the naval, military and air forces and includes any member of the Armed Forces enumerated in the Schedule, including the paramilitary forces and any auxiliary forces that are</p>	<p>(m) commits persistent sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.</p> <p><i>Explanation</i> 1.— For the purposes of this sub-section,—</p> <p>(a) “women’s or children’s institution” means an institution, whether called an orphanage or a home for neglected women or children or a widow’s home or an institution called by any other name, which is established and maintained for the reception and care of women or children;</p> <p>(b) “hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;</p> <p>(c) “police officer” shall have the same meaning as assigned to the expression “police” under the Police Act, 1861;</p> <p>(d) “armed forces” means the naval, military and air forces and includes any member of the Armed Forces constituted under any Act for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government.</p> <p><i>Explanation</i> 2.— Where a person is subjected to sexual assault by one or more persons in a group of persons acting in furtherance of their common intention, each of the persons in the group shall be deemed to have committed sexual assault within the</p>	<p>(n) commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.</p> <p><i>Explanation.</i>—For the purposes of this sub-section,—</p> <p>(a) "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;</p> <p>(b) "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;</p> <p>(c) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;</p> <p>(d) "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.</p>
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under the control of the Central or State Government.	meaning of this sub-section.	
<p><b>A new Section, Section 376(3) providing for increased punishment for death caused in the course of committing rape shall be added</b></p> <p><b>Section 376(3): Punishment for causing death or a persistent vegetative state in the course of committing rape</b></p> <p>Whoever, commits an offence punishable under Section 376(1) or Section 376(2) and in the course of such commission inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but may be for life, which shall mean the rest of that person's natural life.</p>	<p><b>Punishment for causing death or resulting in persistent vegetative state of the victim.</b></p> <p>376A. Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean the remainder of that person's natural life, or with death.</p> <p><b>Sexual assault by husband upon his wife during separation.</b></p> <p>376B. Whoever commits sexual assault on his own wife, who is living separately under a decree of separation or under any custom or usage, without her consent, shall be punished with imprisonment of either description, for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.</p>	<p><b>Punishment for causing death or resulting in persistent vegetative state of the victim.</b></p> <p>376A. Whoever, commits an offence punishable under sub-section (1) or subsection (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.</p> <p><b>Sexual intercourse by husband upon his wife during separation.</b></p> <p>376B. Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.</p> <p><i>Explanation.</i>—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.</p>
<p><b>Section 376A shall be repealed</b></p>		
<p><b>Sections 376B, C and D shall be replaced as follows:</b></p> <p><b>Section 376A: Intercourse by a person in authority, public servant etc.</b> Whoever being, — <b>(c)</b> in a position of authority or in a fiduciary</p>	<p><b>Sexual intercourse by a person in authority</b></p> <p>376C. Whoever,—</p> <p>(a) being in a position of authority or in a fiduciary relationship; or (b) a public servant; or</p>	<p><b>Sexual intercourse by a person in authority</b></p> <p>376C. Whoever, being—</p> <p>(a) in a position of authority or in a fiduciary relationship; or (b) a public servant; or</p>

<p>relationship or  <b>(d)</b>a public servant; or  <b>(e)</b>a superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution, an observation home, beggar home, or an institution called by any other name, which is established and maintained for the reception and care of women or children; or  <b>(f)</b> on the management of a hospital or on the staff of a hospital, abuses such position or fiduciary relationship to induce any person in their custody to have sexual intercourse with them, the act not amounting to rape, shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to ten years and shall also be liable to a fine.</p> <p>Explanation 1. In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (c) of section 375.</p> <p>Explanation 2. "Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.</p> <p>Explanation 3. For the purposes of this Section, "women's or children's institution" includes an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an observation home, beggar home or a halfway home or an institution called by any other name, which is established and maintained for the</p>	<p>(c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or  (d) being on the management of a hospital or being on the staff of a hospital, and abuses such position or fiduciary relationship to induce or seduce any person either in the first mentioned person's custody or under the first mentioned person's charge or present in the premises and has sexual intercourse with that person, such sexual intercourse not amounting to the offence of sexual assault, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years but which may extend to ten years, and shall also be liable to fine.</p> <p><i>Explanation 1.</i>— In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (c) of section 375.</p> <p><i>Explanation 2.</i> — For the purposes of this section, <i>Explanations 1 and 2</i> to section 375 shall also be applicable.</p> <p><i>Explanation 3.</i>— "Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.</p> <p><i>Explanation 4.</i>— The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in Explanation 1 to sub-section (2) of section 376.</p>	<p>(c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or  (d) on the management of a hospital or being on the staff of a hospital, abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.</p> <p><i>Explanation 1.</i>—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.</p> <p><i>Explanation 2.</i> —For the purposes of this section, <i>Explanation 1</i> to section 375 shall also be applicable.</p> <p><i>Explanation 3.</i>—"Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.</p> <p><i>Explanation 4.</i>—The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in <i>Explanation</i> to sub-section (2) of section 376.</p>
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<p>reception and care of women or children.</p> <p>Explanation 4. For the purposes of this Section, "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.</p>		
<p><b>A new Section 376B defining and punishing rape of an underage person shall be added:</b></p> <p><b>Section 376B(1): Rape of an underage person:</b> If a man has sexual intercourse with a person below sixteen years of age with or without that person's consent, he shall be deemed to have committed rape of an underage person, and shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life.</p> <p>Provided that the existence of a marital relationship between the accused and the underage person shall not be a valid defence.</p> <p>Explanation: For the purposes of this section, sexual intercourse shall mean any of the acts specified in Section 375 (a) to (c).</p> <p>Section 376(B)(2): Punishment for causing death or a persistent vegetative state in the course of committing rape of an underage person.</p> <p>Whoever, commits an offence punishable under Section 376B(1) and in the course of such commission inflicts an injury which causes the death of the person, or causes the person to be in a persistent vegetative state shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but may be for life,</p>		

<p>which shall mean the rest of that person's natural life.</p>		
<p>The offence of gang rape shall be defined and punished by a new Section 376C</p> <p>376C. Gang rape</p> <p>Where a person is raped by one or more in a group of persons acting in furtherance of a common intention, each of these persons shall be deemed to have committed the offence of gang rape, regardless of their gender, and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life and shall also be liable to pay compensation to the victim which shall be adequate to meet at least the medical expenses incurred by the victim.</p> <p>Explanation: For the purposes of this section, imprisonment for life shall mean imprisonment for the rest of that person's natural life.</p>	<p><b>Sexual assault by gang.</b></p> <p>376D. Where a person is sexually assaulted by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of sexual assault, regardless of gender and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life and shall pay compensation to the victim which shall be reasonable to meet the medical expenses and rehabilitation of the victim.</p> <p><i>Explanation.—</i> For the purposes of this section, imprisonment for life shall mean imprisonment for the remainder of that person's natural life.</p>	<p><b>Gang rape.</b></p> <p>376D. Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:</p> <p>Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:</p> <p>Provided further that any fine imposed under this section shall be paid to the victim.</p>
<p>A new offence of Gang Rape causing death or a persistent vegetative state shall be added:</p> <p>376D. Gang Rape followed by death or a persistent vegetative state</p> <p>Whoever commits gang rape, and in the course of such commission inflicts injury upon the victim which causes the victim's death or causes the victim to be in a persistent vegetative state, shall be punished with imprisonment for life.</p> <p>Explanation: For the purpose of this section "imprisonment for life" shall mean imprisonment for the rest of that person's natural life.</p>		

<p>A new section providing for increased punishment for offenders with a prior conviction for rape shall be added:</p> <p>376E: Punishment for repeat offenders: Whoever has been previously convicted of an offence punishable under Section 376 (1), or Section 376 (2), or Section 376(3), or Section 376 A, or Section 376B(1), or Section 376B(2) or Section 376C or Section 376D and is subsequently convicted of an offence punishable under any of these sections shall be punished with imprisonment for life, which shall mean the rest of that person's natural life.</p>	<p><b>Punishment for repeat offenders.</b></p> <p>376E. Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376C or section 376D and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life, which shall mean the remainder of that person's natural life or with death.'.</p>	<p><b>Punishment for repeat offenders.</b></p> <p>376E. Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376D and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.'.</p>
<p>A new section defining and punishing the offence of breach of command responsibility shall be added:</p> <p>Section 376F: Offence of breach of command responsibility:</p> <p>(1) Whoever, being a public servant in command, control or supervision of the police or armed forces, as defined in Explanations 1 and 2 to this section, or assuming command whether lawfully or otherwise, fails to exercise control over persons under his or her co~ 134 ~mmand, control, or supervision and as a result of such failure offences under Section 354, Section 354A, Section 376(1), Section 376(2)(a), Section 376(2)(b), Section 376(2)(c), Section 376(2)(d), Section 376(2)(e), Section 376(2)(h), Section 376(2)(i), Section 376(2)(~), Section 376(3), Section 376B(1), or Section 376B(2) or Section 376C or Section 376D of the Indian Penal Code are committed, by persons under his or her command, control or supervision, shall be guilty of the offence of breach of command responsibility, where: -</p>		

<p>(iii) such public servant either knew or owing to the circumstances should have known that the persons under his or her command, control or supervision would commit such offences; and</p> <p>(iv) such public servant failed to take necessary and reasonable measures within his or her power to prevent or repress the commission of the said offences.</p> <p>(2) Whoever is guilty of the offence of breach of command responsibility shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but may extend to ten years.</p> <p>Explanation 1: For the purposes of this section, "police officer" shall have the same meaning as the word "Police" under The Police Act, 1861.</p> <p>Explanation 2: For the purposes of this section, 'armed forces' means the naval, military and air forces and includes any member of the Armed Forces enumerated in the Schedule, including the paramilitary forces and any auxiliary forces that are under the control of the Central or State Government.</p>		
<p>Section 509 of the Indian Penal Code shall be repealed.</p>	<p><b>Amendment of section 509</b></p> <p>In section 509 of the Penal Code, for the words "shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both", the words "shall be punished with simple imprisonment for a term which may extend to three years and shall also be liable to fine" shall be substituted.</p>	<p><b>Amendment of section 509</b></p> <p>In section 509 of the Penal Code, for the words "shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both", the words "shall be punished with simple imprisonment for a term which may extend to three years, and also with fine" shall be substituted.</p>

<b>Amendments to the Code of Criminal Procedure, 1973</b>		
<p><b><u>CHAPTER – II</u></b>  <b>The following amendment shall be made to Section 39(1) of the Code:</b></p> <p>Clause (vb) that reads as follows to be added:</p> <p>Sections 326A, 326B, 354, 354A, 354B, 354 C, 376(1), 376(2), 376A, 376 B(2),376C, 376D or 376F of the Indian Penal Code.</p>		<p><b><u>CHAPTER- III</u></b>  <b>Amendment of section 26.</b></p> <p>In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in the proviso to clause (a), for the words, figures and letters "offence under section 376 and sections 376A to 376D of the Indian Penal Code", the words, figures and letters "offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code" shall be substituted.</p>
<p><b>Section 40A that reads as follows shall be added:</b></p> <p>Every officer employed in connection with the affairs of a village, and every person who is part of a village panchayat shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is nearer, any information that he may possess in respect of the commission of, or intention to commit an offence punishable under Sections 326A, 326B, 354, 354A, 354B, 354 C, 376(1), 376(2), 376(3), 376A, 376 B(1), 376B(2), 376C and 376D of the Indian Penal Code.</p>		
<p><b>Amendment to Section 54A:</b></p> <p>The following proviso shall be added to Section 54A:</p> <p>Provided that, if the person identifying the arrestee is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the arrestee using methods that the person is comfortable with.</p>	<p><b><u>CHAPTER- III</u></b>  <b>Amendment of section 54A.</b></p> <p>In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 54A, the following proviso shall be inserted, namely:—</p> <p>“Provided that, if the person identifying the person arrested is mentally or physically disabled, such</p>	<p><b>Amendment of section 54A.</b></p> <p>In section 54A of the Code of Criminal Procedure, the following provisos shall be inserted, namely:—</p> <p>"Provided that, if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with:</p>



<p>Provided further, that if the person identifying the person arrested is mentally or physically disabled, the identification process shall be videographed.</p>	<p>process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that the person is comfortable with:</p> <p>Provided further, that if the person identifying the person arrested is mentally or physically disabled, the identification process may be videographed.”.</p>	<p>Provided further that if the person identifying the person arrested is mentally or physically disabled, the identification process shall be videographed.”.</p>
<p><b>The following proviso shall be introduced to Section 154 of the Code of Criminal Procedure, 1973.</b></p> <p><b>Proviso to Section 154:</b> "Provided that if the information is given by a woman against whom an offence under Section 354, Section 354A, Section 354B, Section 354 C, Section 376(1), Section 376(2), Section 376A, Section 376B(1), or Section 376 C of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, as far as possible, by a woman police officer and such woman shall be provided legal assistance and also the assistance of a healthcare worker, and/ or women's organisation.</p> <p>Provided further that:</p> <p><b>(1)</b> in the event that the person against whom an offence under Section 354, Section 354A, Section 354B, Section 354 C, Section 376(1), Section 376(2), Section 376A, Section 376B(1) or Section 376C of the Indian Penal Code is alleged to have been committed or attempted is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of a special educator or an interpreter, as the case may be.</p>	<p><b>Amendment of section 154</b></p> <p>In section 154 of the Code of Criminal Procedure, in sub-section (1), the following provisos shall be inserted, namely:—</p> <p>“Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 375, section 376, section 376A, section 376B, section 376C, section 376D, section 376E and section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, as far as possible, by a woman police officer and such woman shall be provided legal assistance and also the assistance of a healthcare worker or women's organisation or both:</p> <p>Provided further that—</p> <p>(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code is alleged to have been committed or attempted is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence</p>	<p><b>Amendment of section 154.</b></p> <p>In section 154 of the Code of Criminal Procedure, in sub-section (1), the following provisos shall be inserted, namely:—</p> <p>"Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:</p> <p>Provided further that—</p> <p>(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the</p>

<p>(2) The recording of such information shall be videographed.</p> <p>(3) The police officer shall get the statement of the person recorded by a Judicial Magistrate under Section 164(5)(a) of this Code as soon as possible.</p>	<p>of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of a special educator or an interpreter, as the case may be;</p> <p>(b) the recording of such information may be videographed.</p> <p>(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.”.</p>	<p>case may be;</p> <p>(b) the recording of such information shall be videographed;</p> <p>(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.”.</p>
<p><b>Amendment to the proviso to section 160</b></p> <p>The proviso to section 160 of the Code of Criminal Procedure, shall be amended as follows: Provided that no male person under the age of eighteen years or above the age of sixty five years, a woman or a physically or mentally disabled person shall be required to attend at any place other than the place in which the person or woman resides.</p>	<p><b>Amendment of section 160.</b></p> <p>In section 160 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words “under the age of fifteen years or woman”, the words “under the age of eighteen years or above the age of sixty-five years or a woman or a physically or mentally disabled person” shall be substituted.</p> <p><b>Amendment of section 161.</b></p> <p>In section 161 of the Code of Criminal Procedure, in sub-section (3), after the proviso, the following proviso shall be inserted, namely:—</p> <p>“Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 375, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, as far as possible, by a woman police officer.”.</p>	<p><b>Amendment of section 160.</b></p> <p>In section 160 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words "under the age of fifteen years or woman", the words "under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person" shall be substituted.</p> <p><b>Amendment of section 161.</b></p> <p>In section 161 of the Code of Criminal Procedure, in sub-section (3), after the proviso, the following proviso shall be inserted, namely:—</p> <p>"Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer.".</p>

<p><b>Amendment to Section 164 Cr.P.C</b></p> <p>Sub-sections (5)(a) and (5)(b) shall be added. It shall read as follows:</p> <p><b>Section 164(5)(a):</b></p> <p>In cases punishable under Section 354, Section 354A, Section 354B, Section 354C(2), Section 376(1), Section 376(2), Section 376A, Section 376B(1), or Section 376C of the Indian Penal Code of 1860, a Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5) of this Section, as soon as the offence is brought to the attention of the police.</p> <p>Provided that if the person making the statement is temporarily or permanently physically or mentally disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement.</p> <p>Provided further that if the person making the statement is temporarily or permanently physically or mentally disabled, the statement made by the person, with the assistance of an interpreter or special educator, shall be videographed.</p> <p><b>Section 164(5)(b)</b></p> <p>A statement recorded under Section 164(5)(a) of a person who is temporarily or permanently physically or mentally disabled shall be considered a statement in lieu of examination-in-chief, as prescribed in Section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross-examined on such statement, without the need for re-asserting the same</p>	<p><b>Amendment of section 164.</b></p> <p>In section 164 of the Code of Criminal Procedure, after sub-section (5), the following sub-section shall be inserted, namely:—</p> <p>“(5A) (a) In cases punishable under section 354, section 354A, section 354B, sub-section (2) of section 354C, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:</p> <p>Provided that if the person making the statement is temporarily or permanently physically or mentally disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:</p> <p>Provided further that if the person making the statement is temporarily or permanently physically or mentally disabled, the statement made by the person, with the assistance of an interpreter or special educator, may be videographed;</p> <p>(b) a statement recorded under clause (a) of a person who is temporarily or permanently physically or mentally disabled shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.</p>	<p><b>Amendment of section 164.</b></p> <p>In section 164 of the Code of Criminal Procedure, after sub-section (5), the following sub-section shall be inserted, namely:—</p> <p>“(5A) (a) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:</p> <p>Provided that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:</p> <p>Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be videographed.</p> <p>(b) A statement recorded under clause (a) of a person, who is temporarily or permanently mentally or physically disabled, shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.”.</p> <p><b>Amendment of section 173.</b></p>
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<p>at the time of trial.</p>		<p>In section 173 of the Code of Criminal Procedure, in sub-section (2), in sub-clause (h) of clause (i), for the words, figures and letter "or 376D of the Indian Penal Code", the words, figures and letters " 376D or section 376E of the Indian Penal Code" shall be substituted.</p>
<p><b>Amendment to Section 197(1):</b></p> <p>The following amendment shall be made to Section 197(1) of the Code:</p> <p>"When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with sanction of the Government, is accused of any offence, alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, except offences punishable under Section 354, Section 354A, Section 354B, Section 354C(2), Section 376(1), Section 370, Section 376(2), Section 376(3), Section 376A, Section 376B(1), Section 376B(2), Section 376C, Section 376D and Section 376F and Section no Court shall take cognizance of such offence except with the previous sanction..."</p>		<p><b>Amendment of section 197.</b></p> <p>In section 197 of the Code of Criminal Procedure, after sub-section (1), the following <i>Explanation</i> shall be inserted, namely:—</p> <p>"<i>Explanation.</i>—For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, section 376, section 376A, section 376C, section 376D or section 509 of the Indian Penal Code."</p>
<p><b>Insertion of Section 198B:</b></p> <p>No Court shall take cognizance of an offence under Section 376(1) of the Indian Penal Code where the persons are in a marital relationship, except upon a police report of the facts which constitute an offence or a complaint having been filed or made by the wife against the accused husband.</p>	<p><b>Insertion of new section 198B.</b></p> <p>After section 198A of the Code of Criminal Procedure, the following section shall be inserted, namely:—</p> <p>"198B. No Court shall take cognizance of an offence under section 376B of the Indian Penal Code where the persons are in a marital relationship, except upon <i>prima facie</i> satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the accused husband."</p>	<p><b>Insertion of new section 198B.</b></p> <p><b>Cognizance of offence.</b></p> <p>After section 198A of the Code of Criminal Procedure, the following section shall be inserted, namely:—</p> <p>"198B. No Court shall take cognizance of an offence punishable under section 376B of the Indian Penal Code where the persons are in a marital relationship, except upon <i>prima facie</i> satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the husband."</p>

<p><b>Amendment to Section 273</b></p> <p>In section 273 of the Code of Criminal Procedure, before the Explanation, the following proviso shall be inserted, namely: - "Provided that where the evidence of a person below the age of eighteen years who is alleged to have been subjected to an offence punishable under Sections 354, Section 354A, Section 354B, Section 354C(2), Section 376(1), Section 376(2), Section 376A, Section 376B(1), Section 376C or Section 376F, is to be recorded, the court may take appropriate measures to ensure that such person is not confronted by the accused while at the same time ensuring the right of cross examination of the accused."</p>	<p><b>Amendment of section 273.</b></p> <p>In section 273 of the Code of Criminal Procedure, before the <i>Explanation</i>, the following proviso shall be inserted, namely:—</p> <p>“Provided that where the evidence of a person below the age of eighteen years who is alleged to have been subjected to sexual assault or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such person is not confronted by the accused while at the same time ensuring the right of cross examination of the accused.”.</p>	<p><b>Amendment of section 273.</b></p> <p>In section 273 of the Code of Criminal Procedure, before the <i>Explanation</i>, the following proviso shall be inserted, namely:—</p> <p>"Provided that where the evidence of a woman below the age of eighteen years who is alleged to have been subjected to rape or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such woman is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused."</p>
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<p><b>Amendment to Section 327</b></p> <p>In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters "trial of rape or an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code", the words, figures and letters "trial of an offence punishable under Sections 354, Section 354A, Section 354B, Section 354C(2), Section 376(1), Section 376(2), Section 376A, Section 376B(1), or Section 376C " shall be substituted.</p>	<p><b>Amendment of section 327.</b></p> <p>In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters "trial of rape or an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code", the words, figures and letters "trial of sexual assault or an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code" shall be substituted.</p>	<p><b>Amendment of section 309.</b></p> <p>In section 309 of the Code of Criminal Procedure, for sub-section (I), the following sub-section shall be substituted, namely:—</p> <p>"(I) In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:</p> <p>Provided that when the inquiry or trial relates to an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible be completed within a period of two months from the date of filing of the charge sheet."</p> <p><b>Amendment of section 327.</b></p> <p>In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letter "or section 376D of the Indian Penal Code", the words, figures and letters "section 376D or section 376E of the Indian Penal Code" shall be substituted.</p>
<p><b>Amendment to Section 357</b></p> <p>Sub-section(4) shall be added to Section 357 and the existing sub-sections (4) and (5) shall be renumbered as (5) and (6). The new Section 357(4) shall read as follows:</p> <p>(4)When a Court imposes a sentence in a case punishable under Section 326B, Section 376(1), Section 376(2), Section 376B(1) or Section 376C, the Court shall when passing judgment order the convicted person to pay by way of compensation</p>		<p><b>Insertion of new sections 357B and 357C.</b></p> <p>After section 357A of the Code of Criminal Procedure, the following sections shall be inserted, namely:—</p> <p>Compensation to be in addition to fine under section 326A or section 376D of Indian Penal Code.</p> <p>"357B. The compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim under section 326A or</p>

<p>an amount adequate to meet at least the medical expenses incurred by the victim.</p>		<p>section 376D of the Indian Penal Code.</p> <p><b>Treatment of victims.</b></p> <p>357C. All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident."</p>																														
<p>Amendments to the First Schedule</p> <p>The First Schedule to the Cr.P.C. shall be modified to incorporate the effect of the amendments proposed. All offences defined and made punishable by virtue of this Amendment Bill shall be cognizable and non-bailable.</p>	<p><b>Amendment of First Schedule.</b></p> <p>In the First Schedule to the Code of Criminal Procedure, under the heading "1.-OFFENCES UNDER THE INDIAN PENAL CODE",—</p> <p>(a) after the entries relating to section 166, the following entries shall be inserted, namely:—</p> <p style="text-align: center;">└─┘ ↓</p>	<p><b>Amendment of First Schedule.</b></p> <p>In the First Schedule to the Code of Criminal Procedure, under the heading "1.-OFFENCES UNDER THE INDIAN PENAL CODE",—</p> <p>(a) after the entries relating to section 166, the following entries shall be inserted, namely:—</p> <p style="text-align: center;">└─┘ ↓</p>																														
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 16.6%;">1</td> <td style="width: 16.6%;">2</td> <td style="width: 16.6%;">3</td> <td style="width: 16.6%;">4</td> <td style="width: 16.6%;">5</td> <td style="width: 16.6%;">6</td> </tr> <tr> <td>"166A</td> <td>Public servant disobeying direction under law</td> <td>Imprisonment for one year or fine or with both</td> <td>Non cognizable</td> <td>Bailable</td> <td>Magistrate of the first class";</td> </tr> </table>	1	2	3	4	5	6	"166A	Public servant disobeying direction under law	Imprisonment for one year or fine or with both	Non cognizable	Bailable	Magistrate of the first class";	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 16.6%;">1</td> <td style="width: 16.6%;">2</td> <td style="width: 16.6%;">3</td> <td style="width: 16.6%;">4</td> <td style="width: 16.6%;">5</td> <td style="width: 16.6%;">6</td> </tr> <tr> <td>"166A</td> <td>Public servant disobeying direction under law.</td> <td>Imprisonment for minimum 6 months which may extend to 2 years and fine</td> <td>Cognizable</td> <td>Bailable</td> <td>Magistrate of the first class.</td> </tr> <tr> <td>166B</td> <td>Non-treatment of victim by hospital</td> <td>Imprisonment for 1 year or fine or both</td> <td>Non cognizable</td> <td>Bailable</td> <td>Magistrate of the first class.</td> </tr> </table>	1	2	3	4	5	6	"166A	Public servant disobeying direction under law.	Imprisonment for minimum 6 months which may extend to 2 years and fine	Cognizable	Bailable	Magistrate of the first class.	166B	Non-treatment of victim by hospital	Imprisonment for 1 year or fine or both	Non cognizable	Bailable	Magistrate of the first class.	
1	2	3	4	5	6																											
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"166A	Public servant disobeying direction under law.	Imprisonment for minimum 6 months which may extend to 2 years and fine	Cognizable	Bailable	Magistrate of the first class.																											
166B	Non-treatment of victim by hospital	Imprisonment for 1 year or fine or both	Non cognizable	Bailable	Magistrate of the first class.																											
	<p>(b) after the entries relating to section 326, the following entries shall be inserted, namely:—</p>	<p>(b) after the entries relating to section 326, the following entries shall be inserted, namely:—</p>																														

1	2	3	4	5	6	1	2	3	4	5	6
"326A	Voluntarily causing grievous hurt by use of acid, etc.	Imprisonment for not less than ten years but which may extend to imprisonment for life and fine of 10 lakh rupees.	Cognizable	Non bailable	Court of Session.	"326A	Voluntarily causing grievous hurt by use of acid, etc..	Imprisonment for not less than 10 years but which may extend to imprisonment for life and fine to be paid to the victim.	Cognizable	Non bailable	Court of Session.
326B	Voluntarily throwing or attempting to throw acid.	Imprisonment for five years but which may extend to seven years and fine.	Cognizable	Non bailable	Court of Session."	326B	Voluntary throwing or attempting to throw acid.	Imprisonment for 5 years but which may extend to 7 years and with fine.	Cognizable	Non bailable	Court of Session."
<b>(c) for the entries relating to section 354, the following entries shall be substituted, namely:—</b>						<b>(c) for the entries relating to section 354, the following entries shall be substituted, namely:—</b>					
1	2	3	4	5	6	1	2	3	4	5	6
"354	Assault or use of criminal force to woman with intent to outrage her modesty.	Imprisonment of 1 year which may extend to 5 years, and with fine.	Cognizable	Non bailable	Any Magistrate.	"354	Assault or use of criminal force to woman with intent to outrage her modesty.	Imprisonment of 1 year which may extend to 5 years, and with fine.	Cognizable	Non bailable	Any Magistrate.
354A	(1) Sexual harassment of the nature of unwelcome physical contact and advances or a demand or request for sexual favours.	Imprisonment which may extend to 5 years or with fine or with both.	Cognizable	Non bailable	Any Magistrate.	354A	Sexual harassment of the nature of unwelcome physical contact and advances or a demand or request for sexual favours, showing pornography	Imprisonment which may extend to 3 years or with fine or with both.	Cognizable	Bailable	Any Magistrate.
	(2) Sexual harassment of the nature of making sexually coloured remark or showing pornography or any other unwelcome physical, verbal or non-verbal conduct of sexual	Imprisonment which may extend to 1 year or with fine or with both.	Non cognizable	Bailable	Any Magistrate.						



	nature.												
354B	Assault or use of criminal force to woman with intent to disrobe.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non bailable	Any Magistrate.			Sexual harassment of the nature of making sexually coloured remarks.	Imprisonment which may extend to 1 years or with fine or with both.	Cognizable	Bailable	Any Magistrate.	
354C	Voyeurism.	Imprisonment of not less than 1 year but which may extend to 3 years and with fine for first conviction.  Imprisonment of not less than 3 year but which may extend to 7 years and with fine for second or subsequent conviction.	Non cognizable  Cognizable	Bailable  Non bailable	Any Magistrate.  Any Magistrate.			354B	Assault or use of criminal force to woman with intent to disrobe.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non bailable	Any Magistrate.
354D	Stalking.	Imprisonment of not less than 1 year but which may extend to 3 years and with fine.	Cognizable	Non bailable	Any Magistrate.”			354C	Voyeurism	Imprisonment of not less than 1 year but which may extend to 3 years and with fine for first conviction.	Cognizable	Bailable	Any Magistrate.
									Imprisonment of not less than 3 years but which may extend to 7 years and with fine for second or subsequent conviction.	Cognizable	Non bailable	Any Magistrate.	
								354D	Stalking	Imprisonment upto 3 years and with fine for first conviction.	Cognizable	Bailable	Any Magistrate.

								Imprisonment up to 5 years and with fine for second or subsequent conviction.	Cognizable	Non bailable	Any Magistrate.”	
						<b>(d) for the entries relating to sections 370, the following entries shall be substituted, namely:—</b>			<b>(d) for the entries relating to section 370, the following entries shall be substituted, namely:—</b>			
	1	2	3	4	5	6	1	2	3	4	5	
	“370	(1)Trafficking of person.	Imprisonment of not less than 7 years but which may extend to 10 years and with fine.	Cognizable	Non bailable	Court of Session.	”370	Trafficking of person	Imprisonment of not less than 7 years but which may extend to 10 years and with fine.	Cognizable	Non bailable	Court of Session.
		(2) Trafficking of more than one person.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non bailable	Court of Session.		Trafficking of more than one person.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non bailable	Court of Session.
		(3) Trafficking of a minor.	Imprisonment of not less than 10 years but which may extend to imprisonment for life.	Cognizable	Non bailable	Court of Session.		Trafficking of a minor.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non bailable	Court of Session.
		(4) Trafficking of more than one minor.	Imprisonment of not less than 14 years but which may extend to imprisonment for life.	Cognizable	Non bailable	Court of Session.		Trafficking of more than one minor.	Imprisonment of not less than 14 years but which may extend to imprisonment for life and with fine.	Cognizable	Non bailable	Court of Session.
		(5) Public servant or a police officer involved in the trafficking of minor.	Imprisonment for life which shall mean the remainder of that person’s natural	Cognizable	Non bailable	Court of Session.						

		life.									
	(6) Person convicted of offence of trafficking of minor on more than one occasion.	Imprisonment for life which shall mean the remainder of that person's natural life.	Cognizable	Non bailable	Court of Session.		Person convicted of offence of trafficking of minor on more than one occasion.	Imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non bailable	Court of Session.
370A	(1) Employing of a trafficked child.	Imprisonment of not less than 5 years but which may extend to 7 years and with fine.	Cognizable	Non bailable	Court of Session.		Public servant or a police officer involved in trafficking of minor.	Imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non bailable	Court of Session.
	(2) Employing of a trafficked adult person.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non bailable	Court of Session.”	370A	Exploitation of a trafficked child.	Imprisonment of not less than 5 years but which may extend to 7 years and with fine.	Cognizable	Non bailable	Court of Session.
							Exploitation of a trafficked person.	Imprisonment of not less than 3 years but which may extend to 5 years and with fine.	Cognizable	Non bailable	Court of Session.”
			<b>(e) for the entries relating to sections 376, 376A, 376B, 376C and 376D, the following entries shall be substituted, namely:—</b>			<b>(e) for the entries relating to sections 376, 376A, 376B, 376C and 376D, the following entries shall be substituted, namely:—</b>					

1	2	3	4	5	6	1	2	3	4	5	6
376	(1) Sexual assault.	Rigorous imprisonment of not less than 7 years but which may extend to imprisonment for life and with fine.	Cognizable	Non bailable	Court of Session.	"376	Rape	Rigorous imprisonment of not less than 7 years but which may extend to imprisonment for life and with fine.	Cognizable	Non bailable	Court of Session.
	(2) Sexual assault by a police officer or a public servant or Member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and sexual assault committed by a person in a position of trust or authority towards the person assaulted or by a near relative of the person assaulted.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non bailable	Court of Session.		Rape by police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non bailable	Court of Session.
376A	Person committing an offence of sexual assault and inflicting injury which causes death or causes the person to be in a persistent vegetative state.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural	Cognizable	Non bailable	Court of Session.		hospital, and rape committed by a person in a position of trust or authority towards the person				



			for the remainder of that person's natural life and with fine to be paid to the victim.			
	376E	Repeat offenders.	Imprisonment for life which shall mean imprisonment for the remainder of person's natural life or with death.	Cognizable	Non bailable	Court of Session.
	(f) entry relating to section 509, in column 3, for the words "Simple imprisonment for one year, or fine, or both," the words "Simple imprisonment for 3 years and with fine" shall be substituted.		(f) in entry relating to section 509, in column 3, for the words "Simple imprisonment for one year, or fine, or both," the words and figure "Simple imprisonment for 3 years and with fine " shall be substituted.			

**AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872**

<p><u>CHAPTER – III</u> Addition of Section 53A</p> <p>After section 53 of the Indian Evidence Act, 1872 the following section shall be inserted, namely:—</p> <p>"53A. In a prosecution for an offence under Section 354, Section 354A, Section 354B, Section 354C, Section 376(1), Section 376(2), Section 376A, Section 376B(1) or Section 376C of the Indian Penal Code or for attempt to commit any such offence, evidence of the character of the victim or of</p>	<p><u>CHAPTER – IV</u> <b>Insertion of new section 53A.</b></p> <p><b>Evidence of character or previous sexual experience not relevant in certain cases.</b></p> <p>After section 53 of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), the following section shall be inserted, namely:—</p> <p>"53A. In a prosecution for an offence under</p>	<p><u>CHAPTER – IV</u> <b>Insertion of new section 53A.</b></p> <p><b>Evidence of character or Previous sexual experience not relevant in certain cases.</b></p> <p>After section 53 of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), the following section shall be inserted, namely:—</p> <p>"53A. In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376,</p>
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<p>his or her previous sexual experience with any person shall not be relevant.</p>	<p>section 354, section 354A, section 354B, section 354C, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.".</p>	<p>section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.".</p>
<p>Amendment to Section 114A</p> <p>For section 114A of the Evidence Act, the following section shall be substituted, namely:—</p> <p>'114A. (1) In a prosecution for rape under sub-section (2) of section 376 or for gang rape under Section 376C of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the other person alleged to have been raped and such other person states in his/her evidence before the court that she or he did not consent, the court shall presume that she or he did not consent.</p> <p>Explanation. —In this section "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (c) of section 375 of the Indian Penal Code.</p>	<p><b>Substitution of new section for section 114A.</b></p> <p><b>Presumption as to absence of consent in certain prosecution for sexual assault.</b></p> <p>For section 114A of the Evidence Act, the following section shall be substituted, namely:—</p> <p>'114A. In a prosecution for sexual assault under clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), clause (h), clause (i), clause (j), clause (k), clause (l) or clause (m) of sub-section (2) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the other person alleged to have been sexually assaulted and such other person states in that person's evidence before the court that such person did not consent, the court shall presume that such person did not consent.</p> <p><i>Explanation.</i>— In this section "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (c) of section 375 of the Indian Penal Code.'</p>	<p><b>Substitution of new section for section 114A.</b></p> <p><b>Presumption as to absence of consent in certain prosecution for rape.</b></p> <p>For section 114A of the Evidence Act, the following section shall be substituted, namely:—</p> <p>'114A. In a prosecution for rape under clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), clause (h), clause (i), clause (j), clause (k), clause (l), clause (m) or clause (n) of sub-section (2) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and such woman states in her evidence before the court that she did not consent, the court shall presume that she did not consent.</p> <p><i>Explanation.</i>— In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375 of the Indian Penal Code.'</p>

<p>Amendment to Section 119</p> <p>In section 119 of the Act the term "dumb witness" shall be substituted by "persons who are unable to communicate verbally."</p> <p>The following proviso shall be added:</p> <p>Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of a special educator or interpreter in recording the statement, and such statement shall be videographed.</p>	<p><b>Substitution of new section for section 119.</b></p> <p><b>Witness unable to communicate verbally.</b></p> <p>For section 119 of the Evidence Act, the following section shall be substituted, namely:—</p> <p>“119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court, evidence so given shall be deemed to be oral evidence:</p> <p>Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of a special educator or interpreter in recording the statement, and such statement may be videographed.”.</p>	<p><b>Substitution of new section for section 119.</b></p> <p><b>Witness unable to communicate verbally.</b></p> <p>For section 119 of the Evidence Act, the following section shall be substituted, namely:—</p> <p>"119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court, evidence so given shall be deemed to be oral evidence:</p> <p>Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of an interpreter or a special educator in recording the statement, and such statement shall be videographed."</p>
<p><u>Amendment to Section 146</u></p> <p>In section 146 of the Evidence Act, for the proviso, the following proviso shall be substituted, namely:—</p> <p>"Provided that in a prosecution for an offence under Section 376(1), Section 376(2), Section 376A, Section 376B(1) or Section 376C or for attempt to commit any such offence, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to his or her general moral character, or as to his or her previous sexual experience with any person.</p>	<p><b>Amendment of section 146.</b></p> <p>In section 146 of the Evidence Act, for the proviso, the following proviso shall be substituted, namely:—</p> <p>“Provided that in a prosecution for an offence under sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent.”.</p>	<p><b>Amendment of section 146.</b></p> <p>In section 146 of the Evidence Act, for the proviso, the following proviso shall be substituted, namely:—</p> <p>"Provided that in a prosecution for an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent."</p>



**AMENDMENT TO THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012**

**CHAPTER – V**

**Substitution of new sections for section 42.**

**Alternate punishment.**

**For section 42 of the Protection of Children from Sexual Offences Act, 2012, the following sections shall be substituted, namely:—**

“42. Where an act or omission constitutes an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376C, 376D, 376E or section 509 of the Indian Penal Code, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.

**Act not in derogation of any other law.**

42A. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.”.

**MISCELLANEOUS****CHAPTER – VI****Repeal and savings.**

(1) The Criminal Law (Amendment) Ordinance, 2013 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.