

Comparison between the Criminal Law (Amendment) Bill, 2012; the Report of the Committee on Amendment to Criminal Laws; and the Criminal Law (Amendment) Ordinance, 2013

In December 2012, the government had introduced the Criminal Law Amendment Bill, 2012 in the Lok Sabha. The Bill sought to redefine the offence of rape and amend the penal laws in line with the recommendations of the Law Commission and the National Commission for Women. Following the Delhi gang-rape incident, the government constituted a three member committee headed by former Chief Justice Verma to suggest amendments to the criminal laws to ensure speedier justice and enhanced punishments in cases of extreme sexual assault. Upon the submission of the Verma Committee Report, the government notified the Criminal Law Amendment Ordinance, 2013 on February 3, 2013. A comparison of some of the key offences covered under the Bill, the Committee Report and the Criminal Law Amendment Ordinance are provided in the following table.

Table 1: Comparison between the Criminal Law (Amendment) Bill, 2012; the Report of the Committee on Amendment to Criminal Laws; and the Criminal Law (Amendment) Ordinance, 2013

Issue	Criminal Law (Amendment) Bill, 2012	Justice Verma Committee Report	Criminal Law (Amendment) Ordinance, 2013
Disobedience of law by a public servant	Knowingly disobeying laws that prohibit a public servant from investigating a person in a certain manner is punishable with imprisonment for one year and/or fine.	The Committee had recommended that failure of a public servant to record information in relation to sexual offences should be specifically penalised under the Bill.	Specifically penalises failure to record information in relation to sexual offences including the 'use of criminal force to outrage a woman's modesty', and the new offences of: 'sexual assault', 'sexual harassment', 'voyeurism', 'stalking', and assault on a woman to disrobe her.
Meaning of sexual assault (Rape)	(a) Un-consented penetration of the mouth, anus, urethra or vagina of a person with the penis or any other object; (b) Un-consented cunnilingus and fellatio.	Same as the provisions of the Bill, excluding penetration of the mouth by an object other than the penis.	Also includes un-consented touching of the vagina, penis, anus, or breast of the person.
Requirement for proving physical resistance	Not specified.	Absence of physical resistance is not to be treated as consent.	Recommendations accepted.
Age of consent	18 years	16 years	18 years
Marital rape	Is not an offence if the wife is over 16 years of age.	Should be an offence regardless of the age of the wife.	Is not an offence if the wife is over 16 years of age.
Punishment for sexual assault or rape	7 years to life imprisonment and fine.	7 years to life imprisonment and compensation to victim to at least meet medical expenses.	7 years to life imprisonment and fine.
Sexual assault/Rape upon judicially separated wife	Punishable with 2 to seven years imprisonment	Punishable with 7 years to life imprisonment and compensation to victim to at least meet medical expenses.	Punishable with 2 to seven years imprisonment
Rape by armed personnel	Penalised as custodial sexual	Specifically penalises rape by	Accepts recommendation to

	assault by public servant on a person within custody of the public servant. Punishment same as under IPC, imprisonment for 10 years or up to life imprisonment.	armed personnel within the area they are deployed in. Armed personnel should be penalised with imprisonment for 7 to 10 years if they knew that sexual offences were being committed by their subordinates. The requirement for sanction to prosecute armed personnel should be removed in relation to sexual offences.	specifically penalise sexual assault by armed personnel within the area they are deployed in.
Sexual assault resulting in death or persistent vegetative state of the victim	This Bill has no specific provision for this offence.	Punishment 20 years up to life imprisonment In case of gang rape resulting in death or persistent vegetative state punishment should extend to life imprisonment.	Punishment 20 years up to life imprisonment or with death.
Gang sexual assault	Punishable with imprisonment for 10 years or up to life.	Punishable with: (a) 10 years or up to life; or (b) 20 years or up to life.	Recommendations accepted. Reasonable compensation will have to be paid to the victim to meet medical expenses and rehabilitation of the victim.
Sexual Harassment	The Bill does not have a specific provision for this offence. Sexual harassment that involves use of criminal force to outrage a woman's modesty is punishable with a maximum of 2 years imprisonment under the IPC. Use of words or gestures to insult a woman's modesty is punishable with one year's imprisonment.	Existing provisions of the IPC should be deleted. Intentional touching of a sexual nature, without the person's consent should be penalised with 5 years rigorous imprisonment. Use of words or gestures towards a person, or in his presence, which create an unwelcome threat of a sexual nature should be punishable with imprisonment for one year and/or fine.	The Ordinance increases the punishment for the existing offence to maximum 5 years imprisonment. It also penalises the following acts with imprisonment for up to five years: (a) physical contact and advances involving unwelcome and explicit sexual overtures; (b) demand or request for sexual favours; (c) making sexually coloured remarks; (d) forcibly showing pornography; (e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
Assault with the aim of disrobing a woman	The Bill does not have a specific provision for this offence.	Recommends penalising assault on a woman with the intention to disrobe her in any public place is punishable with imprisonment of 3 to 7 years and fine.	Recommendations accepted.
Voyeurism	The Bill does not have a specific provision for this offence.	Penalise the act of capturing images of, or watching, a woman engaging in sexual acts or when her genitals are exposed with imprisonment for 1 to 3 years and fine.	Recommendations accepted.

Stalking	The Bill does not have a specific provision for this offence.	Penalise persons who follow, contact, monitor emails or spies upon a person to foster personal interaction repeatedly, despite a clear indication of disinterest by the victim. Such acts should result in a fear of violence or serious alarm or distress in the mind of the victim. Punishment: 1 to 3 years imprisonment and fine.	Recommendations accepted.
Repeat offenders	The Bill does not have a specific provision for this offence.	Person's previously convicted for sexual assault will be punishable with life imprisonment for second offences.	Recommendations accepted. Second offenders may also be liable for death penalty.

Sources: Criminal Laws Amendment Bill, 2012; Report of the Committee on Amendments to Criminal Laws, 2013; Criminal Laws Amendment Ordinance, 2013; Indian Penal Code, 1860; PRS.

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