

# Standing Committee Report Comparison

## The Criminal Laws (Amendment) Bill, 2012

The Standing Committee of Home Affairs had submitted its report on the Criminal Law Amendment Bill, 2012, on March 1, 2013. The Bill was introduced in Parliament on December 4, 2012. It aimed to substitute the offence of rape with a gender neutral offence of sexual assault that protected both men and women from sexual assault, and sought to penalise public servants for failure to investigate offences as per the requirements of law. After the Delhi gang rape incident of December 16, 2012 the government had constituted an expert committee chaired by Justice Verma to review the laws related to sexual offences. The Committee submitted its report on January 23, 2013, and subsequently on February 3 the government notified the Criminal Law Amendment Ordinance, 2013 through which it brought into effect some provisions of the Bill and recommended amendments to the criminal laws on sexual offences. The Standing Committee of Home Affairs reviewed the provisions of both the Bill and the Ordinance. A comparison of the provisions of the Bill, Ordinance and the Recommendations of the Committee are provided below.

Issue	Criminal Law (Amendment) Bill, 2012	Criminal Law (Amendment) Ordinance 2013	Standing Committee Report
Disobedience of law by a public servant	Knowingly disobeying laws relating to investigation is punishable with imprisonment for one year and/or fine. Bailable, non-cognizable.	Also penalises failure to record information in sexual offence cases of sexual assault and stalking.	Same as the provisions of the Ordinance. But offence is non-bailable, cognizable.
Meaning of sexual assault (SA) or rape	Un-consented penetration of the mouth, anus, urethra or vagina with the penis or other object; un-consented oral sex; the offence is gender neutral.	Same as the provisions of the Bill. Also includes un-consented touching of private parts.	Same as the provisions of the Ordinance.
Medical exception to SA	Un-consented acts for medical or hygienic purpose.	Same as the provisions of the Bill.	Medical exception to apply only to touching of private parts and not penetration of the private parts.
Age of consent	18 years.	18 years.	Same as the provisions of the Ordinance.
Marital SA/ rape	Not an offence against a wife over 16 years.	Same as the provisions of the Bill.	Same as the provisions of the Ordinance.
Punishment for SA/ rape	7 years to life imprisonment and fine.	Same as the provisions of the Bill.	Rigorous imprisonment for the same term and adequate compensation by perpetrator or State.
Punishment for gang rape	10 years to life imprisonment and fine.	20 years to life imprisonment and compensation.	Same as the provisions of the Ordinance.
SA/Rape upon judicially separated wife	Punishable with 2 to 7 years imprisonment.	Punishable with 2 to 7 years imprisonment. Courts to take cognizance if there is <i>prima facie</i> evidence of offence.	Same as the provisions of the Ordinance.
SA/ Rape by armed personnel	No specific provision. IPC penalises rape by public servants with 10 years to life imprisonment.	Specific offence for SA by armed personnel. Penalty remains same. Requirement for sanction not removed.	Same as the provisions of the Ordinance.

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March 08, 2013

<b>SA by persons of dominance</b>	Includes assault by persons in position of political, social or economic dominance.	Does not include assault by persons of political dominance.	Includes assault by persons in position of political, social or economic dominance.
<b>SA resulting in death or vegetative state</b>	No specific provision.	Specific offence. Punishment 20 years to life imprisonment or death.	Same as the provisions of the Ordinance. Mercy petitions are not be allowed.
<b>Touching</b>	No specific provision.	Outraging a woman's modesty: 1 to 5 years imprisonment and fine. Physical contact involving unwelcome and explicit sexual overtures: up to 5 years imprisonment and or fine. Touching of private parts: 7 years to life imprisonment.	Same as the provisions of the Ordinance. Touching as an assault upon a woman's modesty to also carry a fine of Rs 5,000.
<b>Verbal SA</b>	No specific provision.	Demand/ request for sexual favours: up to 5 years imprisonment. Verbally outraging modesty: up to 3 years imprisonment. Sexually coloured remarks, forcible show of pornography: up to 1 year	Same as the provisions of the Ordinance. Verbally outraging a woman's modesty is punishable with imprisonment for up to three years and fine of Rs 2,000.
<b>Punishment repeat SA offenders</b>	No specific provision.	Specific offence. Life imprisonment or death, except SA by a man on his judicially separated wife.	Same as the provisions of the Ordinance.
<b>Disrobing a woman</b>	No specific provision.	Specific offence. Punishable with 3 to 7 years imprisonment.	Same as the provisions of the Ordinance. Punishment: 5 to 10 years imprisonment.
<b>Voyeurism</b>	No specific provision.	Specific offence penalising watching a woman engage in private acts. Punishable with 1 to 3 years imprisonment.	"Spying" and not "watching" should be penalised. Same as the provisions of the Ordinance.
<b>Stalking</b>	No specific provision.	Specific offence. Punishable with 1 to 3 years imprisonment.	Same as the provisions of the Ordinance.
<b>Acid attack</b>	Specific offence. Punishment: 7 to 10 years imprisonment and up to 10 lakh fine as compensation.	Same as provisions of the Bill.	Same as provisions of the Bill. Sale of concentrated acid only to persons with certification of genuine end use.
<b>Right to private defence in case of acid attack</b>	Not provided under the Bill.	Not specified under the Ordinance.	Should be provided.
<b>Trafficking</b>	No specific provision. The Immoral Trafficking Prevention Act, 1956 penalises trafficking.	Also penalises recruitment, transfer, transport, harbouring a person for the purpose of prostitution, forced labour, organ removal by use of threats or inducement. Punishment: 7 to 10 years imprisonment.	Accepted the provision of the Ordinance with the exception that forced labour should be dealt with under another law. Forced and induced prostitution should be covered.
<b>Videograph of evidence</b>	No specific provision.	In case the person identifying the accused in mentally or physically disabled, the evidence may be videographed.	Mandatorily requires videographing of evidence.
<b>Recording of evidence by woman officer.</b>	As far as possible to be in cases of sexual assault and assault to outrage a woman's modesty.	Required for offences of acid attack and other sexual offences.	Should be mandatorily required for all sexual offence cases.

The Committee also made some overarching recommendations on law related to sexual offences. These are discussed below.

**Compensation to victims of acid attack:** The Committee is of the view that in case the guilty is not in a position to pay compensation to the victim, both the central and state government should take steps to compensate the victim. The Ministry of Women and Child Development may evolve a scheme for this purpose. The Committee was of the opinion that steps should be taken for ensuring that payment of compensation is not stalled till final disposal of the case.

**Better policing system:** All state governments should compulsorily set up women cells in all the police stations. This would enhance the participation of women in the policing system. The Committee opined that the strength of the women in the police force should be increased from 6% to at least be 33 per cent of total strength.

Strict action should be taken for failure to file FIRs. Once an FIR is filed, it must be forwarded to a higher officer for directions and to ensure time bound investigation.

**Judicial reforms:** Adequate funds should be dedicated to the establishment of fast track courts so that trials can take place on a day-to-day basis. Government may consider setting up of fast-track courts in every district wherever the pendency is very high. The Supreme Court's decision in the case Brij Mohan Lal vs. Union of India, dated April 19, 2012, should be implemented. Under the judgment, governments were required to create 10% additional positions for judges for fast track courts.

**Allocations:** For the period 2010 to 2015, an amount of Rs. 5000 crore has been given as grants to the states to undertake initiatives such as increasing court working hours, enhancing support to Lok Adalats and providing additional funds to State Legal Service Authorities. The Committee recommended that the amount of Rs. 5000 crore be enhanced to Rs.10,000 crore.

**Ragging:** The Committee noted that the incidence of ragging is on the rise. It was of the opinion that limiting punishment for ragging to rustication and other disciplinary actions by the educational institutions will not reduce the incidence of ragging. It recommended that ragging be made a cognizable offence attracting provisions of criminal law, especially in relation to ragging that takes the overtones of sexual harassment or assault.

**Responsibility of higher officers:** In cases where an officer is aware of crimes committed by an officer subordinate to him, he should be held

responsible if he does not take timely action against the junior officer. The failure of the superior officer to take timely action should be recorded in his official dossier.

**Repeat offenders:** A suitable mechanism must be developed to keep a watch on habitual and repeat sex offenders. The Committee recommended that after the conviction on first offence, the names of the convicted persons should be brought in public domain. The Central Crime Records Bureau should include the data in their records. The state and union territory governments should set up crime records bureaus and the data, including the names of convicted people must be maintained and updated, from time to time.

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