

## **Molestation:**

Crimes against women are caused by primarily by patriarchal attitudes. Even as we work towards changing these attitudes, a knowledge of the laws available for redress is necessary. Is it a crime under Indian law to sing songs, flash genitals at a woman? Can you complain against your husband if he forces you to have sex with him? Can you complain against an officer who refuses to register your complaint? These are questions, the answers to which, everyone of all genders and sexes must know. In the wake of the outrage caused by the gang-rape of a physiotherapy student in Delhi in 2012, the government came under pressure to re-examine the laws currently in place for sexual offences. It constituted the Justice Verma Committee to look into how the legal framework could be changed to aid justice for victims of sexual offences. Subsequently, the government effected some changes on the basis of the recommendations of the Committee and past Law Commissions. It passed the Criminal Law (Amendment) Act 2013, with the following changes in the Indian Penal Code 1860, the Criminal Procedure Code (CrPC) and the Indian Evidence Act 1872:

Indian Penal Code Section 166A: This section was added to penalise public officials if they disobeyed the law with regard to investigations and the registering of offences in cases of violence against women. One of the most important aspects of this section is to penalise an official for failing to record any information with regard to molestation, voyeurism, stripping a woman, assault, buying of a person as a slave, acid attacks (specifically under sections 326A, 326B, 354, 354B, 370, 370A, 376, 376A, 376B, 376C, 376D, 376E or 509.) Section 166B: This was added to penalize those in charge of hospitals, whether public or private, who contravene Section 57C of the Criminal Procedure Code, which makes it mandatory for all hospitals to provide first aid and medical treatment to victims of acid attack, rape - including marital sexual intercourse without consent and sexual intercourse by someone in authority. It is punishable by imprisonment of up to 1 year or fine or both. Section 326B: Newly added section which penalizes acid attacks. It is gender neutral for both the perpetrator and the victim. Section 354: For using criminal force to assault a woman, molestation in other words. It was retained as it was in the IPC, but punishment was enhanced to between 1-5 years of imprisonment. Section 354A: Has been newly added to punish sexual harassment under the IPC. It spells out the most common acts of sexual harassment and lists: physical contact and advances involving unwelcome and explicit sexual overtures, demand or request for sexual favours, showing pornography against the will of a woman, making sexually coloured remarks, as sexual harassment. Note: The section is gender-specific, being male with respect

to perpetrator, and female with regard to victim. Section 354B: Disrobing a woman (stripping). This is new section with respect to assault or use of criminal force to woman with intent to disrobe her. Stripping a woman of her clothes can be punished by imprisonment between 3-7 years, or a fine or both. Voyeurism: 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. Section 354 C: This was newly added to penalise stalking defined as: any man who

1. 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; 2. monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking. On first conviction- Imprisonment of either description up to 3 years and Fine. No minimum sentence provided. This offence is bailable. On subsequent conviction, Imprisonment of either description up to 5 years and Fine. No minimum sentence. Non-bailable. Section 375: This section relates to rape and was replaced in 2013. perpetrator is male, and victim is female. Before the amendment, definition of rape was limited to penile penetration of the vagina. After the amendment, rape definition includes penetration of vagina, urethra and anus with the penis or any other part of the body, or any object. Penetration by object or any other body part into mouth does not constitute rape. A case of rape is automatically registered for sexual intercourse with or without the other person's consent, when such other person is under 18 years of age. Indian law still does not include marital rape as women's rights groups have been demanding. Under Indian law, unless the wife is below 15 years of age, is not rape. [Thus, reduced age of consent for wives to 15, while for unmarried girls it's 18.] [There is an anomaly in this provision as POCSO states that any sexual intercourse between minors is illegal and does not make an exception for married couples.] Justice Verma Committee had recommended that marital rape also be recognised as an offence. However, this recommendation was rejected when the IPC was amended. Section 377: It is still illegal of homosexual adults to have consensual sex. Code of Criminal Procedure: Section 160 (1): This relates to the powers of the police over attendance of witnesses. The law states that no male person under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person

will be required to attend except in his or her place of residence. Section 161: Examination of witnesses by Police: In case of sexual offences, the statement shall be recorded by a woman police officer or any woman officer. Section 357C: Treatment of victims. All hospitals whether public or private will provide first aid immediately and free of cost to victims of acid attack and rape ( under Sections 326A, 376, 376A, 376B, 376C, 376D, 376E of the IPC) Indian Evidence Act: Section 53A: In a prosecution for an offence under Section 354, 354A, 354B, 354C, 354D, 376, 376A, 376B, 376C, 376D or 376E of the IPC, 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 in court. Section 114A: With regard to rape, where sexual intercourse by the accused is proved and where the woman states in her evidence before the court that she did not consent, the court shall presume that she did not consent.