

Maharashtra bill on sexual crime

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In news

Recently, the Maharashtra government presented a draft bill making changes to existing laws on violence against women and children. The Bill proposed to be enacted as Shakti Act, 2020

Reasons for the new law

The main reason given by the government for bringing in the new law is an increase in the number of cases of violence, specifically sexual violence against women and children

Objectives of the bill

Bill states that in order to effectively control the heinous sexual offences against women and children, it is necessary to complete the investigation and the trial of these cases within a time frame, which may deter the perpetrators from committing such offences. Stringent punishment, including heavy fines and death penalty, needs to be prescribed

Key features of the bill

- The bill proposes to make changes to the Indian Penal Code, the Code of Criminal Procedure and the Protection of Children from Sexual Offences Act.
- The changes are proposed in existing sections of rape, sexual harassment, acid attack and child sexual abuse.
- **Death penalty:** The Bill proposes death penalty in cases of rape, gangrape, rape by persons in authority, aggravated sexual assault of minors and in cases of acid attack when grievous injury is caused.
 - The death penalty is proposed in cases which are heinous in nature and where adequate conclusive

evidence is available and circumstances warrant exemplary punishment

- **Fine:** It proposes to add a heavy fine amount of up to Rs 10 lakh on those found guilty.
 - The existing law had provisions for a fine but did not specify the amount in most sections
 - As per the bill, in cases of acid attacks ,where grievous injury is caused to a victim, a fine of up to Rs 10 lakh is proposed to be paid to the victim for treatment including plastic surgery and reconstruction.
- **Increased punishment:** The bill proposed to enhance punishment in the existing law increasing punishment in some sections from five years to seven and from seven to ten years in aggravated cases of sexual violence.
- **Speedier investigation:** proposes amendments to the Criminal Procedure Code, directing for an investigation in these cases to be completed within 15 days after an FIR is filed, extendable only by seven days.
 - If it is not done within this time, the investigating officer will have to explain the reasons in a written report to the commissioner of police or special inspector general.
- **Complete trial in 30 days:** The Bill also states that a trial has to be completed within 30 days after the chargesheet is filed against an accused.
 - An appeal filed before a higher court is proposed to be disposed of within 45 days.
 - It also proposes to set up exclusive courts for this purpose
- **Additional law on social media:** It proposes an additional law to deal with abuse of women on social media.
 - Section 354E is added to include intentional acts creating “a sense of danger, intimidation, fear to a woman” apart from insulting her modesty by any act, deed or words including offensive

communication will be an offence with a maximum punishment of two years and a Rs 1 lakh fine.

- This also includes uploading morphed videos of women or threatening them with uploading of photos, videos which could defame, cause disrepute to them or violate their privacy.
- **The bill makes it mandatory for Internet, telephone providers and social media platforms to share electronic records, data for probes in cases of sexual violence** against women and children within seven days or a punishment of simple imprisonment for one month and fine up to Rs 5 lakh can be imposed.
- **Provisions for “false” information and “implied consent”:**
 - The Bill also makes provision for making a “false complaint” or provides false information in respect of offence committed stating that anyone who does that “solely with the intention to humiliate, extort or threaten or defame or harass” a person shall face imprisonment for a term up to one year or fine or both.
- **The Bill also proposes to add an explanation to Section 375 (rape) of the IPC.**
 - “Rape committed in circumstance including but not limited to some form of assurance including promise of marriage or understanding between the parties, where they are consenting adults, and from conduct it appears that act has been committed with consent or ‘implied consent’ may be presumed that valid consent is given.”
 - The existing law does not have a blanket assumption of consent being implied in such cases.
- **Women and Children Offenders Registry:** The Bill also proposes setting up of a “Women and Children Offenders Registry” linked to the National Registry of Sexual

Offenders

- It will be made available to law enforcement agencies with details of persons convicted of specified offences of sexual violence against women and children.
- A separate police team will also be set up in each district to probe such cases.
- **One Stop Centre:** The Bill also states that the government will set up institutions like the One Stop Centre for providing victims rehabilitation, legal aid, counselling, medical support. Many of these are already proposed under various schemes like Manodhairya in the state.

The Protection of Children from Sexual Offences Act(POCSO), 2012

It is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment and pornography while safeguarding the interests of the child at every stage of the judicial process by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through designated Special Courts.

Recent amendments to the Act

- It increases the minimum punishment from seven years to ten years. It further adds that if a person commits penetrative sexual assault on a child below the age of 16 years, he will be punishable with imprisonment between 20 years to life, with a fine.
- **The amendment adds two more grounds to the definition of aggravated penetrative sexual assault. These include** (i) assault resulting in death of child, and (ii) assault committed during a natural calamity, or in any similar situations of violence.