



drishti

Government Launches Registry of Sexual Offenders

 drishtiias.com/printpdf/government-launches-registry-of-sexual-offenders

Union Home Ministry has launched the National Database on Sexual Offenders (NDSO).

- It is a central database of “sexual offenders” in the country.
- India became the ninth country in the world to have a National Database on Sexual Offenders (NDSO).

Background

- The proposal to set up a registry was suggested after the 2012 Nirbhaya gangrape case in New Delhi.
- According to NCRB, there was a 12% rise in rapes in 2016, as compared to 2015.
- According to government figures released in December 2017, a child is sexually abused every 15 minutes. More than 36 thousand cases were registered in different sections of the POCSO Act in 2016.

National Database on Sexual Offenders

- National Database on Sexual Offenders (NDSO) will be maintained by the **National Crime Record Bureau(NCRB)**.
- The database will include offenders convicted under charges of **rape, gang rape, POCSO and eve teasing**.
- At present, the database contains 4.4 lakh entries. **The State Police will regularly update the database from 2005 onwards.**
- The database includes the name, address, photograph and fingerprint details for each offender.

- The national sex offenders database shall contain records related to offenders across India who have been
 - arrested & charge sheeted for a sexual offense
 - convicted for the sexual offense
 - The above categories are further subdivided into the juvenile offender's list and the adult offender's list, and there is a provision to subdivide the list into various other subcategories such as Pedophile etc. based on flags to be set by District nodal officer.
- **The Information on "Arrested and Charge sheeted" Offenders will be available only to Law Enforcement Agencies, whereas the Data for "Convicted" Offenders will be made accessible to the public.**
- In the United States, the sex offender registry is available to the public, whereas, in countries such as the United Kingdom, Australia, Canada, Ireland, New Zealand, South Africa, and Trinidad & Tobago, the registry is available only to law enforcement agencies.
- The non-sexual offenses committed by the sexual offender will also be integrated into this database so that investigating agencies can have a holistic view of the offender for better profiling.
- **Data Retention Policy**
 - The data for the sexual offenders shall be retained for a period specified in the Tier Definition.
 - **Tier-1** indicates that the person poses a low danger to the community and is not likely to engage in criminal sexual conduct for instances cases related to elopement, consensual sex (with major) etc.
 - **Tier-2** indicates that the person poses a moderate danger to the community and may continue to engage in criminal sexual conduct. This would contain cases of rape by known persons, family, incest etc.
 - **Tier-3** indicates that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct. Crimes habitual offenders, violent criminals and cases related to gang rape, custodial rape, rape and murder, brutalization with rape etc.
 - Tier-wise data retention is as follows
 - Tier-I - 15 Years - On repeat offense, 25 Years.
 - Tier-II - 25 Years - On repeat offense, for Life.
 - Tier-III - for Life.

- **Provision for Removal**

- There is a **provision of removal of the offender from the database after acquittal from the courts** or after the expiry of the time period, the **actual removal shall be done by the District/State nodal officers**.
- There is a provision to retain the record in case the nodal officer is of the opinion that the offender continues to be a threat to the society, even though he is acquitted.

Why it is necessary?

- NDSO is a part of efforts to strengthen the security of women and children.
- NDSO will be helpful to the law enforcement agencies especially in the investigation where offenders commit the crime after migrating into a state.
- The registry can help in better monitoring of an offender after he is out of the prison and it may also act as a deterrence for repeat offenders.
- It can also help in prosecution and fast-tracking of cases.

Concerns

- **Privacy Concerns**

- The data will be available online, thus there are concerns regarding the safety of data and the privacy of data especially regarding juvenile offenders.
- Also, there should be no misuse of data for harassment of individuals after they have completed their sentence.
- The State must ensure that there is no overreach and misuse of the list. The absence of laws to protect privacy and on data protection in India raises concerns.

- **Non-reporting of crime**

- As per the NCRB data for 2016, in more than 94% of reported cases of rape against women and children, the perpetrator is known to the victim. Such a registry offers little protection from such offenders.
- The fear of the offender being included in the registry may exacerbate the problem of underreporting by making people apprehensive about reporting sexual violence involving family members and acquaintances. Children are even more vulnerable due to pressure from family and society.

- **Prevents rehabilitation of an offender**

- There is a possibility that the registry will tarnish a person's life forever even if the person is reformed after serving the legal sentence.
- Offenders in the list may become homeless or be compelled to live in areas far from home where they may face less scrutiny.
- The stigma and ostracisation that such offenders will face may also extend to their families. Studies in the US have shown that a combination of social ostracisation, lack of psychiatric support and the inability to find a job or housing, can even increase chances of recidivism (the tendency of a convicted criminal to re-offend.). Thus, defeating the very purpose of the registry.
- Studies by Human Rights Watch and the American Civil Liberties Union show that sex offender registries in the United States have done more harm than good. Instead of crime prevention, they lead to harassment, ostracism, and violence against former offenders, especially children, and impede their rehabilitation.
- At a time when crowd vigilante related incidents are on the rise, even a rumor of someone being on the registry might be dangerous for their life. In the United States, there have been several instances of vigilante violence, including killings, of sex offenders listed in public registries.

- **Concerns regarding categorization**

Those deemed "low danger" will include everyone arrested, charged, and convicted of "technical rape", a term used by law enforcement to describe consensual sexual activity involving a girl under 18. This means a boy who has consensual sex can be recorded in the database if someone, including the parents of the girl, files criminal charges.

- **Delays in investigation and Prosecution**

- The criminal justice system is over-burdened, under-staffed and under-resourced. Diverting resources to the sex offender registry implies less allocation for other measures to increase public safety, including chances of reform.
- It is also necessary for sensitization of law enforcement agencies regarding the investigation in such cases, as it should not lead to innocent persons being targeted.
- The lengthy time duration for which cases in high courts and Supreme Court lie pending is a cause of concern. Courts take years to reach a conclusion and pass a judgment till then the name of the accused remain in the registry.

Way Forward

- The government should also focus on supporting sexual violence survivors to ensure they can report crimes and receive justice without being stigmatized and threatened, and ensuring a system that provides them protection, legal aid, and adequate medical care. India also required to focus on tackling barriers to reporting, sensitization of law enforcement officials, judicial officials, and medical professionals on the proper handling of sexual violence cases.
- It is also necessary to address the issue of rehabilitation and reintegration of offender in society. India can learn from Japan, which runs successful rehabilitation programmes for offenders alongside a sex offender registry that has resulted in lower rates of sexual crimes against children. In India, this sort of rehabilitation will require a coordination between the police and civil society.