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## Lok Sabha Passes Bill On Rape Punishment

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The Criminal Law (Amendment) Bill, 2018, that provides for the death sentence for raping girls aged under 12 has been passed by the Lok Sabha.

- The Bill enhances the minimum punishment for rape of a woman from seven years to 10.
- The Bill amends the Indian Penal Code, the Code of Criminal Procedure, the Indian Evidence Act and the Protection of Children from Sexual Offences Act.
- The Bill, once passed by the Rajya Sabha, will replace the Criminal Law (Amendment) Ordinance promulgated in April 2018, following the outcry over the Kathua rape case.

### Key Highlights of the Bill

The minimum punishment for the rape of a girl under 12 will be 20 years of rigorous imprisonment, the maximum being the death sentence or life imprisonment (jail term till the convict's "natural life"). Earlier, the punishment was rigorous imprisonment ranging from 10 years to life imprisonment.

#### **New offences under the IPC, 1860**

<b>Age</b>	<b>Offence</b>	<b>IPC, 1860</b>	<b>2018 Bill</b>
Below 12 years	Rape	<ul style="list-style-type: none"><li>• Minimum: 10 years</li><li>• Maximum: life imprisonment</li></ul>	<ul style="list-style-type: none"><li>• Minimum: 20 years</li><li>• Maximum: life imprisonment or death</li></ul>

Gang Rape	<ul style="list-style-type: none"> <li>• Minimum: 20 years</li> <li>• Maximum: life imprisonment</li> </ul>	<ul style="list-style-type: none"> <li>• Minimum: life imprisonment</li> <li>• Maximum: life imprisonment or death</li> </ul>	
Below 16 years	Rape	<ul style="list-style-type: none"> <li>• Minimum: 10 years</li> <li>• Maximum: life imprisonment</li> </ul>	<ul style="list-style-type: none"> <li>• Minimum: 20 years</li> <li>• Maximum: no change</li> </ul>
Gang Rape	<ul style="list-style-type: none"> <li>• Minimum: 20 years</li> <li>• Maximum: life imprisonment</li> </ul>	<ul style="list-style-type: none"> <li>• Minimum: life imprisonment</li> <li>• Maximum: no provision</li> </ul>	
16 years and above	Rape	<ul style="list-style-type: none"> <li>• Minimum: 7 years</li> <li>• Maximum: life imprisonment</li> </ul>	<ul style="list-style-type: none"> <li>• Minimum: 10 years</li> <li>• Maximum: no change</li> </ul>

**Sources:** Indian Penal Code, 1860; The Criminal Law (Amendment) Bill, 2018; PRS.

- The Bill also provides for completion of investigation of rape cases within two months from the registration of an FIR. While there was no timeline earlier for disposal of an appeal after conviction in a lower court, this would now have to be done within six months.
- The government would set up fast track, special courts for rape cases.

- Under Evidence Act, in determining whether the act was consensual or not, past sexual experience or character of the victim is disregarded. This provision has been extended to cover rape and gang rape of minor girls below 16 years of age.
- The Bill makes the provision of anticipatory bail not applicable to rape and gang rape of minor girls below 16 years of age.
- A court has to give notice of 15 days to a public prosecutor and the representative of the victim before deciding on bail applications in case of rape of a girl under 16 years of age.
- New provision proposes that the court where rape cases are being taken up should be presided by a woman judge. The statement in the rape cases should also be recorded by a woman police officer.

## Concerns

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- The Bill amends the IPC, 1860 to increase the punishment for rape of girls. However, the punishment for rape of boys has remained unchanged. This has resulted in greater difference in the quantum of punishment for rape of minor boys and girls.
- Definition of rape is not gender neutral In the case of rape of minors, according to the POCSO Act, the victim may either be male or female (and the offender could also be of either gender). However, in cases of adults under the IPC, rape is as an offence only if the offender is male and the victim is female. The Law Commission of India (2000) and the Justice Verma Committee (2013) had recommended that this definition of rape should be made gender neutral and should apply equally to both male and female victims. The Bill does not address this issue.