



Rape Crimes

For Prelims: Rape Crimes, [Section 375 of the IPC](#), Criminal Law (amendment) Act 2013, POCSO, Supreme Court.

For Mains: Rape Crimes, related Challenges and Way Forward

Why in News?

Recently, Japan has passed a bill that introduces crucial measures to enhance Legal Protections for minors, regarding **Rape and Sexual Crimes**.

What are the Key Points of the New Measures?

- **New Definition of Rape:**
 - Japan has expanded the definition of rape from **"forced sexual intercourse"** to **"non-consensual sexual intercourse"**, aiming to encompass a **wider range of scenarios where victims may be unable to refuse** or express their lack of consent to engage in sexual intercourse.
- **Age of Consent:**
 - Age of consent has been increased to 16 from 13 (the lowest among [G7 countries](#)), which is on par with many US states and European nations including the **UK, Finland and Norway**.
 - The age of consent refers to **the minimum age at which sexual activity is legally allowed**, with any activity below that age considered statutory rape.
- **Visitation Request Offense:**
 - The law introduces a new offense called **"visitation request offense"**, targeting individuals who **use intimidation, seduction, or money** to coerce children under the age of 16 into meeting for sexual purposes.
 - Violators of this offense may face imprisonment of up to one year or a fine of 500,000 yen (USD 3,500).
 - The law revision **also criminalizes "photo voyeurism"** — secretly taking sexual pictures of people — and the **online grooming of children**.

What are the Provisions Against Rape in Indian Context?

- **About:**
 - Rape is forced sexual intercourse, including vaginal, anal, or oral penetration, penetration may be by a **body part or an object**.
 - As per Section 375 of the [Indian Penal Code \(IPC\)](#), rape is committed by a man when **he has sexual intercourse with a woman under any** of the following circumstances:
 - Against her will.
 - Without her consent.
 - With her consent obtained by using fear of death or **hurt against her or someone** she cares about.

- With her consent, knowing that **he is not her husband**, she believes he is another man to whom she is married or believes herself to be lawfully married.
 - With her consent, when she is **unable to understand the nature and consequences of giving consent** due to unsoundness of mind, intoxication, or the administration of stupefying or unwholesome substances.
 - With or without her consent, when she is **under 18 years of age**.
 - When she is unable to communicate consent.
- **Crime of Rape and Punishment:**
 - During a rape, if the **accused injured the women** so badly that she dies, or goes into a vegetative state, he **can be given the [Death Sentence](#)** or lifetime imprisonment.
 - If a woman is raped at the **same time by a group of people**, each of them will be Punished for committing the **crime (section 376D IPC)**.
 - Section 376E of IPC allows the **death sentence to be imposed where a person is convicted for second time** for rape.

Why is Rape Pervasive in India?

- **Gender Inequality:** Deep-rooted gender inequality and **patriarchal attitudes contribute to the objectification and subjugation of women**, creating an environment where sexual violence can occur.
- **Societal Norms and Attitudes:** Regressive societal norms and **attitudes towards women, such as victim-blaming** and the notion of "women's honor," perpetuate a culture of **silence and stigmatization** around sexual assault.
 - This can discourage victims from reporting **incidents and seeking justice**.
- **Lack of Awareness:** Insufficient awareness about **gender equality, consent, and sexual rights**, particularly in rural areas, hampers efforts to prevent and address sexual violence.
 - Comprehensive sex education and awareness campaigns are crucial to challenge misconceptions and promote respectful attitudes.
- **Inadequate Law Enforcement:** Instances of **corruption, negligence, and insensitivity** within the law enforcement and criminal justice systems **hinder the effective investigation, prosecution, and conviction** of rape cases.
 - This **lack of accountability** can embolden perpetrators and deter survivors from seeking legal recourse.
- **Slow Judicial Processes:** Lengthy and complex legal procedures, coupled with a significant backlog of cases, often lead to delayed justice and can discourage victims from pursuing legal action.
 - Establishing **[Fast-Track Courts](#)** and streamlining the judicial process can help expedite rape trials.
- **Social Stigma and Victim Blaming:** Survivors of **rape often face societal stigma, blame, and discrimination**, which can further traumatize them and discourage reporting.
 - **Addressing victim-blaming attitudes** and providing support services for survivors are essential to break this cycle.

What are the Laws Related to Rape in India?

- **Criminal Law (Amendment) Act 2013:**
 - Under the Act, the minimum sentence of rape was **altered from seven years to ten years**. Furthermore, in cases which resulted in the death of the victim being left in a vegetative state, the **minimum sentence has been duly increased to twenty years**,
- **[Protection of Children from Sexual Offences Act, 2012 \(POCSO\)](#):**
 - The Act was enacted to protect the **children from sexual assault, sexual harassment, and pornography**.
 - The POCSO Act raised the **age of consent to 18 years (which was 16 till 2012)** and criminalizes all sexual activities for those **under 18 even if consent was factually present** between two minors.
 - This Act was also amended in 2019 to make provisions for enhancement of punishment for various offences to ensure safety, security & dignity of a child.
- **Rights of a Rape Victim:**
 - **Right to zero FIR:** The term **[zero FIR](#)** means that the person can file an FIR in any police

- station, irrespective of the place of incident of the jurisdiction.
- **Free Medical Treatment:** According to **section 357C** of code of criminal procedure (CrPC), **no private or government hospitals can charge fees** for the treatment of rape victims.
- **No two-Finger Test:** No doctor shall possess the right to do **Two Finger Tests** while doing the medical examination.
- **Right to Compensation:** A new provision has been introduced as **section 357A of the CrPC**, which states the victim compensation scheme.

What are the Important Judgements Related to Rape in India?

- **Tukaram and Ganpat vs. State of Maharashtra 1972 (Mathura Rape Case):**
 - The judgment of the trial court favored the accused, **stating that Mathura's consent was voluntary** since she was accustomed to sexual intercourse. However, the Bombay High Court set aside the judgment and sentenced the accused to imprisonment.
 - The **Supreme Court (SC)** later acquitted the accused, sparking public outrage. This case highlighted the need for reforms in rape laws.
- **State of Punjab vs. Gurmit Singh 1984:**
 - The Supreme Court advised the **lower judiciary not to describe a victim as having a loose character** even if she is shown to be habituated to sex. The judgment emphasized the need to focus on the act of rape and not on the victim's character.
- **Delhi Domestic Working Women v. Union of India 1995:**
 - The SC laid down important guidelines in this case:
 - Providing legal representation to complainants of sexual assault cases.
 - Ensuring legal assistance and guidance of a lawyer at the police station.
 - Maintaining the anonymity of the victim in rape trials.
 - Establishing a Criminal Injuries Compensation Board.
 - Providing interim compensation to rape victims.
 - Providing medical help and allowing abortion if the victim becomes pregnant due to the rape.
- **B. Gautam v. Shubra Chakraborty 1996:**
 - The SC held that an interim compensation of Rs. 1000 per month should be given to rape victims.
- **Chairman, Railway Board vs. Chandrima Das 2000:**
 - The SC held that **compensation can be granted to rape victims** on the grounds of domestic jurisprudence based on constitutional provisions and human rights jurisprudence based on international recognition.

Way Forward

- There is a need for **stricter laws and harsher sentencing for rape offenders**. Sentences should reflect the severity of the crime and serve as a deterrent. The judicial system should ensure timely and efficient disposal of rape cases to provide justice to the victims.
- Promoting gender **equality, respect, and consent through education** and awareness campaigns is crucial. Comprehensive sex education should be included in school curricula to foster a culture of consent and respect for women's rights.
- Providing **support and empowerment to rape victims** is essential. This includes legal aid, counseling, and rehabilitation services. Anonymity should be maintained for victims, reducing the fear of social stigma and ensuring their safety.
- Training programs for police and judicial personnel should focus on sensitization, gender sensitivity, and victim-centric approaches. Proper investigation procedures and victim-friendly court processes should be implemented.

Source: HT

