



West Bengal “Aprajita” Anti-Rape Bill

For Prelims: Rape Crimes, [Criminal Law \(Amendment\) Act 2013](#), [Bharatiya Nyaya Sanhita \(BNS\) 2023](#), the [Bhartiya Nagrik Suraksha Sanhita \(BNSS\) 2023](#), and the [Protection of Children from Sexual Offences Act 2012 \(POCSO\)](#), [Supreme Court](#).

For Mains: Rape Crimes, Related Challenges and Way Forward

[Source: IE](#)

Why in News?

The West Bengal Assembly has passed the **Aparajita Women and Child (West Bengal Criminal Laws Amendment) Bill, 2024** which aims to address issues of violence against women.

- It includes provisions for **capital punishment** and the **harshes penalties for rape and sexual harassment**.

What are the Key Provisions of the Aprajita Bill 2024?

- **Proposes Amendment to BNS 2023, BNSS 2023 and POCSO 2012 Act:** The proposed bill aims to amend several legal provisions, including those in the [Bharatiya Nyaya Sanhita \(BNS\) 2023](#), the [Bhartiya Nagrik Suraksha Sanhita \(BNSS\) 2023](#), and the [Protection of Children from Sexual Offences Act 2012 \(POCSO\)](#). It is intended to apply to survivors and victims across all age groups.
- **Death Penalty for Rape:** The Bill proposes **capital punishment** for individuals convicted of rape if the act results in the victim's death or leaves her in a **vegetative state**.
 - Under [BNS Laws](#), the penalties for rape are as follows: a fine and a minimum of **10 years imprisonment for rape**; a minimum of **20 years imprisonment for gang rape**, which may extend to life imprisonment; and a **minimum of 20 years of rigorous imprisonment for rape resulting in the victim's death or a vegetative state**, with the possibility of life imprisonment or the death penalty.
- **Time-Bound Investigations and Trials:** Investigations into rape cases are mandated to be **completed within 21 days of the initial report and trial to be completed within 30 days**. Extensions are permissible only with written justification from a senior police officer.
 - **Under BNSS laws**, the time limit for investigation and trial is **2 months** from the date of FIR.
- **Establishment of Fast-Track Courts:** It also mandates the **creation of 52 special courts** dedicated to expediting the handling of **sexual violence cases**.
- **Aparajita Task Force:** The Bill calls for the **establishment of a specialized task force at the district level, led by a deputy superintendent of police dedicated to investigation of rape and other atrocities against women and children**.
- **Stricter Penalties for Repeat Offenders:** The legislation proposes **life imprisonment for repeat offenders, with the possibility of the death penalty** if the circumstances warrant it.
- **Protection of Victims' Identities:** The Bill includes provisions to **protect the identities of**

- **victims**, ensuring their privacy and dignity during the legal process.
- **Penalties for Delaying Justice:** It introduces **penalties for police and health officials** who fail to act promptly or tamper with evidence. This aims to hold authorities accountable for any negligence in the judicial process.
- **Publication Restrictions:** The Bill imposes strict penalties for **unauthorised publication of court proceedings** related to sexual offences, with potential imprisonment of 3 to 5 years.

What are the Challenges Related to Aparajita Bill 2024?

- **Constitutional Validity:** The **Aparajita Women and Child (West Bengal Criminal Laws Amendment) Bill, 2024** seeks to amend central laws, raising concerns about its constitutional validity and jurisdictional issues.
 - Under **Article 246** of the Indian Constitution, **states have the authority to legislate on issues listed in the State List**. However, the **concurrent jurisdiction** over criminal laws introduces complexity. If the bill overrides the central law, it needs a President's assent.
- **Unrealistic Timeframe: Completing investigations within 21 days is a significant challenge given the complexity of rape cases and the existing backlog in the legal system.**
- **Legal Challenges:** There have been many instances in which state amendments to central laws have been contested in Courts. For instance:
 - **State of West Bengal v. Union of India (1964):** In this the **Supreme Court** invalidated the **West Bengal Land Reforms Act, 1955**, for conflicting with the central **Land Acquisition Act, 1894**, affirming Parliament's supremacy.
 - **KK Verma v. Union of India (1960):** In this case the **Supreme Court** struck down the **Madhya Pradesh Agricultural Produce Markets Act, 1958**, for **inconsistency with central laws**.
 - These cases underline the judiciary's stance on central legislation's supremacy over state amendments.
- **Implementation Challenges:** The Bill's effective implementation may face hurdles, requiring upgrades to law enforcement infrastructure and specialised training for police and judicial officers.
- **Overburdened Courts:** Indian courts face severe delays, with cases taking an average of over 13 years to resolve. This backlog could hinder timely trials following the expedited investigations.
- **Legal Rights of the Accused:** The legal framework guarantees the right to a fair trial for the accused, which can prolong the process through appeals and mercy petitions.

Note

- **Criminal law** in India is **regulated by both state and central governments**, as it falls under the **concurrent list** of the Constitution, enabling both levels to legislate on the subject.

//

WB legislation versus existing law

Punishment for rape and murder

WB Bill: Death sentence if the victim dies or is left in a vegetative state

Existing law: Under BNS, if rape results in the victim's death or leaves her in a vegetative state, death penalty is only one of the punishments besides life term or minimum 20 years in jail

Fast-track courts

WB Bill: Establishment of special courts for cases of sexual violence

Existing law: Under a centrally sponsored scheme, the department of justice provides funds to states for setting up fast track special courts for trial of cases relating to sexual offences

Probe deadlines

WB Bill: Investigation must be concluded within 21 days of the initial report

Existing law: Under BNSS, investigation must be concluded within two months of the filing of FIR. For trial, it specifies framing of charge within 60 days from the first hearing and judgment within 30 days (maximum of 60 days) after arguments conclude

Junior doctors continue their protest in Kolkata.

SAMIR JANA/HT

Disclosing victim's identity

WB Bill: Imprisonment of 3 to 5 years

Under BNS: 2 years imprisonment and fine



What are the Laws Related to Rape in India?

- **Criminal Law (Amendment) Act 2013:** This was enacted for effective legal deterrence against sexual offences.
 - Under the Act, the **minimum sentence for rape was altered from 7 years to 10 years**. Furthermore, in cases that resulted in the death of the victim being left in a vegetative state, the minimum sentence has been duly increased to 20 years.
 - Further, the **Criminal Law (Amendment) Act, 2018** was enacted to prescribe even more stringent penal provisions including the death penalty for the rape of a girl below the age of 12 years.
- **Protection of Children from Sexual Offences Act, 2012 (POCSO):** The Act was enacted to protect children from sexual assault, sexual harassment, and pornography.
 - The Act **raised the age of consent to 18 years** (which was 16 till 2012) and criminalises 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 (**Bharatiya Nagarik Suraksha Sanhita (BNSS)**), 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 provides some amount as compensation to victims.

What are the Challenges in Addressing Security of Womens?

- **High Incidence of Crimes Against Women:** Data from [National Crime Record Bureau \(NCRB\)](#)'s 'Crime in India' reports shows reported **crimes against women increased** from 3.37 lakh in 2014 to 4.45 lakh in 2022, a rise of **over 30%**.
 - The Crime Rate (crimes per lakh women) also increased from 56.3 in 2014 to 66.4 by 2022.
- **Patriarchal Mindset:** Deep-rooted patriarchy fosters **male dominance and entitlement, objectifying women** and creating a hostile environment.
 - This cultural mindset is a major barrier to women's safety and equality.
- **Objectification in Media:** Media portrayals **often commodify women**, undermining their autonomy and **contributing to a culture that disregards women's rights**. This objectification reinforces harmful stereotypes and societal attitudes.
- **Delayed Justice and Legal Challenges:** The **slow legal process and infrequent death penalty impositions** exacerbate trauma for victims.
 - Timely justice remains a critical issue, with ongoing debates about capital punishment's effectiveness.
- **Lack of Awareness and Education:** **Inadequate sex education** and discussions about consent and **gender sensitivity** perpetuate harmful stereotypes and ignorance, preventing effective intervention.
- **Infrastructure and Safety Measures:** Poorly lit streets, **inadequate public transport**, and a lack of safe public toilets increase women's vulnerability. Improving infrastructure and safety measures is essential.

Way Forward

- **Comprehensive Legal Framework:** There is a need to **strengthen penalties for crimes against women** under the Indian Penal Code (**BNS**), introduce **specific legislation for stalking**, cyber harassment, and domestic violence, and **establish specialised courts** and police units for swift justice.
- **Fast-Track Courts:** Establish fast-track courts and enhance punishment for grave cases like rape, as recommended by [Justice Verma Committee](#).
 - Increase women's representation in the judiciary.
- **Social and Cultural Transformation:** There is a need to **integrate gender equality education in schools and colleges**, support community initiatives that raise **awareness about women's rights**, and implement policies for **women's economic empowerment** and decision-making involvement.
- **Effective Law Enforcement and Justice Systems:** Provide **gender-sensitive training** for police, create **specialised units for violence against women**, and establish **victim support centres**.
- **Infrastructure and Technology:** There is a need to **upgrade public transportation systems**, install CCTV cameras in public areas, and develop **safety apps** and **emergency response systems**.
- **Empowerment and Awareness:** **Conduct campaigns to educate women about their rights and encourage reporting of violence**, offer vocational training and skill development, and support women's organisations for stronger advocacy efforts.

Drishti Mains Question:

Despite the presence of legal protections, violence against women in India remains a significant issue. Analyse the factors contributing to the high rates of such crimes and propose comprehensive reforms to effectively tackle these challenges.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Mains

Q. We are witnessing increasing instances of sexual violence against women in the country. Despite

existing legal provisions against it, the number of such incidences is on the rise. Suggest some innovative measures to tackle this menace. **(2014)**

PDF Refernece URL: <https://www.drishtiiias.com/printpdf/west-bengal-aprajita-anti-rape-bill>

