

JUSTICE VERMA COMMITTEE AND CRIMINAL LAW AMENDMENT ACT, 2013***SHAIK AMIYAA MUBINN****INTRODUCTION:**

For recommendations to amend the criminal law a committee was constituted called “*Justice Verma committee*”. The main objective for the constitution of this committee is to bring in provisions that make the trials quicker and the provide for enhanced punishment to the criminal accused in cases of sexual assault against women. This committee was head by former chief justice of Supreme court Justice J.S Verma, the other members included Justice Leila Seth, former judge of the High Court and Gopal Subramaniam, former Solicitor General of India.

The recommendations made in the report submitted by the committee constituted of laws relating to rape, trafficking, sexual harassment, child sexual abuse etc. and related aspects were looked into. This committee was formed just few days after brutal gang rape took place in Delhi on December 16, 2012. The committee undertook to perform it just within 30 days looking at it’s significance and urgency. Another reason for constitution of this committee was to retaining the confidence of the public in good governance.

“THE CASE THAT LEAD TO FORMATION OF JUSTICE VERMA COMMITTEE”:

On December 16, 2012 Jyothi Singh, a 23-year-old female while she was travelling in a private bus along with her other male friend, she was tortured, beaten and gang raped by six others present in the bus including the driver while on the other side her male friend was beaten by them. She was then taken to Singapore for emergency treatment where she took her last breath. This case is famously known as “Nirbhaya case”[(2017) 6 SCC 1]. The coverage of this incident slowly started spreading across the globe, also lead to public protest and clashes with the security forces.

SUMMARY OF JUSTICE VERMA COMMITTEE'S REPORT WITH RESPECT TO EACH OF THE OFFENCES¹:

A) RAPE:

- A View of committee was that Rape and sexual assault are not just crimes of passion but are expression of power.
- It also widened the definition of Rape stating that it should not be limited to penetration of vagina, mouth or anus.
- And also added non-consensual penetration of any sexual nature to it.
- It discussed about Rape within a marriage and outside a marriage.
- According to the report, In an inquiry of consent to the sexual act the relation between the victim and the accuse should not matter.

B) SEXUAL ASSAULT:

- *“assault or use of criminal force to a woman with the intent to outrage her modesty” is punishable under Section 354 of the IPC with 2 years imprisonment.*
- However, the term outraging the modesty is not defined under IPC.
- The committee has recommended to define sexual assault and it add to it non-penetrative and non-consensual acts to it.
- It enhanced the punishment, stating that it should be increased to 5 years of imprisonment or fine or both.
- In case of disrobing a woman with criminal force the punishment should be from 3 to 7 years of imprisonment.
- It enhanced punishments not just for all kinds of sexual assault it included verbal sexual assault as well.

C) SEXUAL HARRASSMENT:

- The recommendations that are made regarding sexual harassment are now made part of Sexual harassment at workplace Act.

¹ Justice Verma Committee Report (from www.prsindia.org)
[Shaik Amiyaa Mubinn , 4th year Student of B.com LLB at SRM School of Law]

- Few of the recommendations made were regarding compensating the victim, not compelling the victim to work with the accused on any projects, and she can give her consent to either transfer her or the accused.
- Both the accused and the victim are to attempt to conciliation first , once the complaint is made it cannot be withdrawn.
- A recommendation to constitution of a internal committee to make complaints was also made.

D) ACID ATTACKS:

- Acid attacks have been taking place for many reasons including woman spurring the suitors, rejecting marriage proposals or denying for dowry etc. being few among them.
- The report by committee mentioned a recommendation to the central and state Governments to have a corpus created for the sake of compensating the victims of crimes against women.
- Also recommended to have a distinct definitions for Acid Attack and Attempt to Acid Attack under IPC , and also to increase the sentence of imprisonment for the accused of such offence.

E) TRAFFICKING:

- It is noted that the Immoral Trafficking prevention Act,1956 only criminalised trafficking for the purpose of prostitution but has not well-defined trafficking itself,
- It recommended to make amendments in the IPC in the provisions relating to slavery to criminalised trafficking by way of threat, force or inducement.
- And that High court should take legal guardianship of the juvenile and women protective homes and proper steps are to be taken to make sure they reintegrate the victims into the society.
- It also recommended to criminalise the employment of trafficked persons.

F) CHILD SEXUAL ABUSE:

- It recommended that the terms ‘harm’ and ‘health’ that are defined under the juvenile justice Act,2000 to include the mental, physical harm and health in the Act respectively.
- It also said that States should make an approach in establishing and funding the child protective homes and introduce new schemes for child protection.

- It also stated that child welfare officers are not present in every police station and those stations where they are present the officers are not well trained.
- A recommendation to introduce practical application in social sciences under school curriculums and school counsellors.

G) KHAP PANCHAYATS AND HONOUR KILLING:

- A community bodies known as Khap panchayat present mainly in the states of Punjab and Haryana, are known to issuing diktats on marriages and caste related issues.
- The states are to make sure that such institutions do not interfere with any of the choices that are made by the people in respect to marriages.
- Another important aspect of this Khap panchayats is enforcing of Honour killing. However, such a practise is prosecuted under the provisions related to murder.

H) EVE TEASING:

- *“Using of words, acts or gestures towards or in the presence of another person which create an unwelcome threat of sexual nature or result in an unwelcome advance”*. The committee has recommended to make this part of Section 354 IPC that deals with sexual assault.
- Also, to provide punishment of imprisonment for 2 to 5 years.

OTHER IMPORTANT RECOMMENDATIONS:

I) SENTENCING AND PUNISHMENT:

- Mentioning many SC rulings, the report has stressed about providing deterrent punishment. The three types of sentences:
 - i) Term sentence: Changing it minimum from 7 to 10 years.
 - ii) Life sentence: To clarify that life doesn't mean 14 to 20 years in the legislation.
 - iii) Death sentence: mentioned that majority stakeholders feel that death penalty is a regressive one. (recommended to change punishment for rape from death sentence to that of life imprisonment).
- It also recommended to change the age of a juvenile from 18 to 16 years.
- Also rejected the chemical castration proposal.

II) ADEQUATE SAFETY MEASURES AND AMENITIES:

- States should make sure that they should take measures to reduce the rate of crimes as much as possible.
- Also lack of sanitisation in rural areas for women was taken into account.
- Recommendations with respect to public transport, which included providing well-lit streets, police officers being present inside the transport between 5.30 pm to 7.30 am.
- The details of the driver being available inside and outside the bus.
- Few other recommendations relating to safe spaces and shelters for women were also made, which mentioned about provision of suitable residence for the working women who lack a suitable residence.

III) MEDICO-LEGAL EXAMINATION:

- The two-finger test that is conducted to look at the laxity of the vaginal muscles was asked to be discontinued.
- It is mentioned to develop guidelines for doctors, police, courts etc.
- A sexual assault centre designated specially for the victims to be present in the hospitals, a female gynaecologist and a trained councillor to be present and proper facilities for preservation of forensic evidence are to be present.
- Interaction with the councillor to be done first and later the victim should be made aware of the procedure and steps to be taken and contact details of lawyers.
- There should be at least 3 doctors on board, the report should be transmitted through a mail and a post.
- In case of legal proceeding an open a trail except for the cross examination in on order to protect the victim's testimony is to be done, a carefully selected non-hostile environment guidelines are to be selected by the judges.

IV) POLICE REFORMS:

- Proper implementation and enforcement of recommendations made in Prakash Singh Vs. Union of India. [1997 (11) SCC 339]

- Chief minister or the Home minister of state to head the State Security commissions and also should make sure that the state governments do not exercise any power over the commissions.
- A 'Police establishment board' to be established to look after the transfers, postings and promotions of the officers.
- To train volunteers and respected members of the community as special executive magistrate to deal with minor offences.

V) ELECTORAL REFORMS:

- It recommended that any candidates standing in the elections if they have committed any serious offences they are to be disqualified.
- Also recommended for amendment in the Representation of Peoples Act,1951.

VI) EDUCATIONAL REFORMS:

- The report mentioned about equality in providing the education to both girls and boys, also stated that there should not be difference in text books provided to them.
- A clear, well-informed education regarding sexuality or relationship education is to be made based on the human rights.
- Discussions and innovative methods are to be used for the purpose of increasing critical thinking, skills to make good decisions, changing perceptions, norms etc.

CRIMINAL LAW AMENDMENT ACT, 2013²:

With the help of Justice Verma Report this legislation was made. It is a Indian legislation that was passed by both the houses Lok Sabha and Rajya Sabha of the parliament in the year 2013. Amendments were made in important criminal law enactments:

- Indian Penal Code,1860
- Indian Evidence Act,1872
- Code of Criminal Procedure,1973

² Criminal Law Amendment Act,2013 statue.

There are few other Acts like Information Technology Act, 2000; POCSO Act, 2012; SC/ST Prevention of Atrocities Act, 1989 etc.

Few new offences were defined and a punishment has been provided for such offences³:

i. Disobedience of law by a public servant:

If any public servant fails to record any information relating to the sexual offence cases and knowingly disobeys the laws on investigation.

Punishment: Rigorous imprisonment [6 months to 2 years] and fine.

ii. Responsibility of the Hospital:

If the hospitals and doctors fail to provide with proper medical treatment to the sexual offence victims.

Punishment: Punishable for one year and/or fine.

iii. Rape during communal violence:

Rape during the time of communal violence or sectarian violence.

Punishment: This is a specific offence, punishment is rigorous imprisonment [10 years to life imprisonment].

iv. Punishment for repeat offenders:

If any person who has been already convicted before for any offence like rape, custodial rape or gang rape.

Punishment: This is a specific offence, life imprisonment (rigorous) or death.

v. Voyeurism:

Watching over a woman while she is engaging in a private act including sexual acts, using lavatory or when any private parts are exposed.

Punishment: This is a specific offence

1st time commitment of the offence [imprisonment 1 to 3 years]

2nd time commitment of the offence [imprisonment 3 to 7 years].

vi. Stalking:

Following a woman or trying to foster personal interaction despite the victim showing disinterest, spying or monitoring any electronic communications.

Punishment: This is a specific offence.

1st time commitment of the offence [imprisonment 1 to 3 years (bailable)]

2nd time commitment of the offence [imprisonment up to 5 years (non-bailable)]

vii. Forcibly showing pornography:

³ www.prsindia.org and www.vakilno1.com

If any man shows a woman pornography forcibly.

Punishment: This is a specific offence. Imprisonment of up to 3 years or fine or both.

viii. Acid Attack:

If throwing or administering of acid leads to causing any permanent or partial deformity or burns of any person.

Punishment: This is a specific offence; punishment may be of 10 yrs. or life imprisonment (rigorous) and fine amount depending on the medical expenses.

ix. Rape resulting in death or vegetative state:

If the rape committed lead to death or results in vegetative state of the victim.

Punishment: This is a specific offence. Punishment varies from [20 yrs.- life imprisonment (rigorous) or death penalty].

x. Touching:

Any physical contact that involves unwelcome and explicit sexual overtures.

Punishment: This is a specific offence. Imprisonment [up to 3 yrs. (rigorous) or fine or both].

xi. Demand for sexual favours:

Any demand or request made by a man for sexual favours.

Punishment: This is a specific offence. Imprisonment [up to 3 yrs. (rigorous) or fine or both].

xii. Sexually coloured remarks:

If any sexually coloured remarks made by a man.

Punishment: This is a specific offence. Punishable up to 1 year or fine or both.

xiii. Other forms of rape:

Rape includes any unconsented penetration of mouth, anus, urethra or vagina with the penis or any other object , unconsented oral sex.

Punishment: This is a specific offence. Imprisonment [7 years – life imprisonment (rigorous)].

xiv. Consensual sex by a person in authority:

If any one misuses their position in order to have consensual intercourse with a woman in custody.

Punishment: extends to fiduciary relationships, management or staff in hospital.[5 to 10 years of rigorous imprisonment].

AMENDMENTS MADE WITH RESPECT TO THE MAIN ACTS:**Indian Penal code (IPC), 1860:**

PROVISION	BEFORE CRIMINAL LAW AMENDMENT ACT 2013	AFTER CRIMINAL LAW AMENDMENT ACT 2013
SECTION 166A	Did not exist	Any Public servant who refuses to record a FIR in any cases of crimes against women will be punished.
SECTION 166B	Did not exist	If anyone who is in charge of public or private hospitals if they refuse to give medical treatment to rape victims , they will be punished.
SECTION 326A and 326B	No specific provision existed for Acid Attack but was considered under grievous hurt and a punishment up to 7 years was given.	Punishment was changed between 10 years to life imprisonment and a reasonable amount should be paid as fine so as to meet the medical expenses.
SECTION 354A	No specific provision existed. Any act that outrages a women's modesty or any unwelcoming behaviour. Punishment varied from maximum of 2 years to life imprisonment.	If a women's modesty is outraged then a punishment of 1 to 5 years of imprisonment and fine is taken. Any physical contact or unwelcoming behaviour and explicit sexual overtures will

		be punished with imprisonment up to 3 year or fine or both.
SECTION 370A	Trafficking had no specific provision, it was covered under slavery, abduction and kidnapping if it is for the purpose of prostitution.	It was amended making any form of trafficking and acts relating to it punishable from 7 to 10 years imprisonment and for employment of any person who was trafficked for the purpose of sexual exploitation.
SECTION 375	The definition of Rape was limited to forcible vaginal penetration or sexual intercourse.	They widened the definition of Rape by adding that any man who forces any part of his body or any object into the vagina, urethra, mouth or anus of a woman causing penetration to do so with him or any other person. Consent was added and has been explained that mere silence of the women doesn't lead to consent. And the age of consent was raised from 16 to 18 years of age.
SECTION 376A	Rape upon wife with whom the man is judicially separated, a punishment of	Punishment was increased with a minimum of 2 years to 7 years of imprisonment.

	maximum 2 years imprisonment is given.	
SECTION 376(2)	Armed forces were not added to the section before.	It was expanded to rape committed by any personnel of armed forces in the areas of central or state Government, such person will be punished with rigorous imprisonment.
SECTION 376A	No specific provision for Rape resulting in death or vegetative state.	A specific provision was provided , with a punishment of 20 years of rigorous imprisonment or life imprisonment or death penalty.
SECTION 376D	Punishment for gang rape was 10 years to life imprisonment and fine to be paid.	The punishment was changed to 20 year – life imprisonment (rigorous) and fine amount depending upon reasonable medical expenses of the victim.

Code of Criminal Procedure,1973:

PROVISION	BEFORE CRIMINAL LAW AMENDMENT ACT,2013	AFTER CRIMINAL LAW AMENDMENT ACT,2013
SECTION 154(1)	There was no special provision for women officers to record any information relating to sexual offences.	In certain offences including rape an FIR should be filed by any women police officer or women officer. And this can be recorded at a place of

		victim's choice. It should be done in the presence of any special educator or interpreter and this shall be video graphed.
SECTION 164(5A)	No special provision available.	The judicial magistrate under Section 164 has to record the statement as soon as it is possible by a police officer , in sexual offence cases.
SECTION 197(1)	A sanction is required to prosecute a public servant for any kind of cases against them, even in cases of rape, outraging modesty of a woman.	Requirement of such a sanction was removed. However, the requirement may continue in other laws.
SECTION 375C	No specific provision relating to responsibility of hospitals.	The hospitals (public or private) are to provide free medical treatment to victims of acid attack or rape and inform to the police immediately.

Indian Evidence Act,1872:

PROVISION	BEFORE CRIMINAL LAW AMENDMENT ACT,2013	AFTER CRIMINAL LAW AMENDMENT ACT,2013
SECTION 53A	No specific provision was available for having previous sexual history.	This provision bars any previous sexual history of the victim in rape cases to determine the consent , or any

		evidence or questions in cross examination as to the general immoral character of the victim, or any past sexual history with any person.
SECTION 114A	Victim was required to prove that she didn't give any consent.	If a women states that she has not given any consent then the could will presume that consent has not been given and the onus of proof is shifted to the accused regarding the proof of consent given by the victim.
SECTION 119	No special provision for differently abled people.	An assistance of interpreters is to be taken by the court to take evidence of differently abled people and it shall be considered as oral evidence when given in open court. And such statement is to be video recorded.

AMENDMENTS MADE IN FEW OTHER LAWS:

Information Technology Act,2000:

- The offence of voyeurism protected both women and men, and a punishment of up to 3 years imprisonment or fine of 2 lakh Rupees or both, this was before Criminal Law Amendment Act,2013.
- But after Criminal Law Amendment Act,2013, It only protects the women and for the first time offence it is punishable with 1 to 3 years of imprisonment and fine.

For the second time offence it is punishable with 3 to 7 years of imprisonment.

SC/ST Prevention of Atrocities Act, 1989:

- The offence of disrobing protected both women and men, and it need not take place in a public place before Criminal Law Amendment Act,2013 and was punishable with imprisonment of 6 months to 5 years.
- But after the Criminal Law Amendment Act, 2013, it now only protects the women and it is punishable when it is committed in public place with 3 to 7 years of imprisonment.

Protection of children from sexual offences (POCSO) Act ,2012:

- The punishment for rape under this Act was 7 years to life imprisonment and fine , which was changed as 10 years to life imprisonment and fine after Criminal Law Amendment Act,2013.
- The punishment for gang rape of a child was 10 yeas to life imprisonment and fine which was changed as 20 years to life imprisonment and fine after Criminal Amendment Act,2013.
- The punishment for disrobing a child was punishable with 3 years of imprisonment and fine, which was changed to 3 to 7 years of imprisonment and fine after Criminal Law Amendment Act,2013.

CONCLUSION:

Within few months from the Nirbhaya incident the Justice Verma Committee was formed and it has made recommendations regarding various aspects specifically focusing on making laws in other to protect the women by widening the definitions, increasing the punishments and making them more severe. After the report, the Criminal Law Amendment Act was passed in both the houses of the Parliament, this brought in many changes in the existing law through the recommendations made by the report of Justice Verma committee. However, this Act didn't take into account all the aspect but few, it didn't take the matter of marital rape as suggested by the Justice Verma Committee's report. This increase in longer jail terms and implementing of capital punishment is not enough to enhance safety and security of women in public places, it might however induce a sense of fear among the culprits.